

**PROPOSED BY: DONOVAN, BUCHANAN**  
**INTRODUCTION DATE: \_\_\_\_\_**

**ORDINANCE NO. \_\_\_\_\_**

**IMPOSING AN EMERGENCY INTERIM MORATORIUM ON THE ACCEPTANCE AND PROCESSING OF APPLICATIONS AND PERMITS FOR NEW USES IN AREAS ZONED HEAVY IMPACT INDUSTRIAL WITHIN A CITY'S DESIGNATED URBAN GROWTH AREA**

**WHEREAS**, the Whatcom County Council (Council) previously adopted Title 20-Zoning in the Whatcom County Code (WCC) which regulates land use; and

**WHEREAS**, the Council adopted the Whatcom County Comprehensive Plan (Comprehensive Plan), which considers goals, objectives, and policies regarding land use; and

**WHEREAS**, the Comprehensive Plan considers the compatibility of land uses, and environmental considerations; and

**WHEREAS**, the Comprehensive Plan includes definitions of where future urban and residential development will occur in a city's Urban Growth Area (UGA); and

**WHEREAS**, the Comprehensive Plan was last updated in 2016, with the next update scheduled to begin in late 2023; and

**WHEREAS**, the Comprehensive Plan update provides an opportunity to coordinate with cities while examining the compatibility and potential incompatibility of different land use designations; and

**WHEREAS**, there are Heavy Impact Industrial zones in UGAs that are now adjacent to or nearly immediately adjacent to unincorporated areas zoned Urban Residential Mixed (UR-MX), Urban Residential (UR), and adjacent to incorporated areas zoned single-family residential; and

**WHEREAS**, WCC 20.24.010 states that the purpose of the UR-MX zone is to provide urban development that encourages a range of residential densities and dwelling unit types; and

**WHEREAS**, WCC 20.20.010 states that the purpose of UR zoned areas is to encourage land uses and associated densities in designated UGAs which will be complementary with future urban densities; and

**WHEREAS**, Chapter 20.68 WCC currently defines permitted uses in Heavy Impact Industrial zones within a city's designated UGA, or adjacent to, or nearly adjacent to urban residential zoned areas to include: slaughterhouses, thermal power plants, floating thermal powerplants, and other heavy impact activities; and

1           **WHEREAS**, Chapter 2 of the Comprehensive Plan designates the vast majority of  
2 Heavy Impact Industrial zoning in the Cherry Point UGA, recognizing that heavy industries  
3 are incompatible with residential uses; and  
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5           **WHEREAS**, the Urban Fringe Subarea Plan indicates that the Heavy Impact  
6 Industrial zoning designation in the Urban Fringe Subarea is to acknowledge *existing* heavy  
7 industrial uses situated in that area; and  
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9           **WHEREAS**, heavy impact industries may present public health problems and  
10 nuisances for residents within immediate proximity to heavy industries, including noise,  
11 dust, heavy vehicle traffic, odor, and air emissions; and  
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13           **WHEREAS**, certain light industrial uses that have significant potential public health  
14 impacts on surrounding residential areas such as noise, dust, traffic, odors, and air  
15 emissions are allowed only as conditional uses in the Light Impact Industrial Zone, but may  
16 also be allowed in the Heavy Impact Industrial Zone; and  
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18           **WHEREAS**, pursuant to the Washington State Constitution, the general police  
19 powers granted to the counties empower and authorize Whatcom County to adopt land use  
20 controls to provide for the regulation of land uses within the County and to provide that  
21 such uses shall be consistent with applicable law; and  
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23           **WHEREAS**, the Council finds that the emergency interim moratorium imposed by  
24 this ordinance under RCW 36.70A.390 and WCC 2.02.135 is necessary for the protection of  
25 public health and safety; and  
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27           **WHEREAS**, it is necessary to have this ordinance take effect immediately in order to  
28 prevent heavy industrial development applications proximate to urban residential areas from  
29 vesting under current law prior to the pending Comprehensive Plan Update that will review  
30 the compatibility of land use designations; and  
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32           **WHEREAS**, the Whatcom County Council is required by RCW 36.76A.390 to hold a  
33 public hearing within sixty (60) days of passage of this ordinance; and  
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35           **WHEREAS**, the Council adopts all of the above statements as findings of fact  
36 supporting the adoption of this ordinance.  
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38           **NOW, THEREFORE, BE IT ORDAINED** by the Whatcom County Council that an  
39 emergency interim moratorium is hereby imposed for sixty (60) days prohibiting the filing,  
40 acceptance, and processing of new applications for permits related to new uses in Heavy  
41 Impact Industrial Zones within a city's unincorporated UGA, unless the applications:  
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43           1. Were filed and complete prior to the effective date of this ordinance and vested  
44 pursuant to law;  
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46           2. Are for building permits for remodels, maintenance, or expansions or repairs of  
47 existing structures, and/or expansions of uses legally established prior to the effective date  
48 of this ordinance;  
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3. Are for outright permitted Light Impact Industrial uses under WCC 20.68.064;

4. Are necessary to protect health and safety of the community.

**BE IT FURTHER ORDAINED** that the Whatcom County Council finds that a public emergency exists based on the foregoing findings of fact necessitating that this emergency interim ordinance shall take effect immediately and shall expire as of the sixty-first day following the date on which this ordinance becomes law, unless previously repealed or extended.

**BE IT FINALLY ORDAINED** that if a section, paragraph, sentence, clause or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction; such decision shall not affect the validity of the remaining portions of this ordinance, and if the provisions of this ordinance are found to be inconsistent with other provisions of the Whatcom County Code, this ordinance shall control.

**ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2023.

ATTEST:

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WASHINGTON

\_\_\_\_\_  
Dana Brown-Davis, Clerk of the Council

\_\_\_\_\_  
Barry Buchanan, Council Chair

APPROVED AS TO FORM:

WHATCOM COUNTY EXECUTIVE  
WHATCOM COUNTY, WASHINGTON

\_\_\_\_\_  
Civil Deputy Prosecutor

\_\_\_\_\_  
Satpal Sidhu, County Executive

( ) Approved ( ) Denied

Date Signed: \_\_\_\_\_