

ORDINANCE NO. _____

**IMPOSING AN 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 be completed in 2025; 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

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46 **WHEREAS**, Chapter 2 of the Comprehensive Plan designates the vast majority of Heavy
47 Impact Industrial zoning in the Cherry Point UGA, recognizing that heavy industries are
48 incompatible with residential uses; and
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50 **WHEREAS**, the Urban Fringe Subarea Plan indicates that the Heavy Impact Industrial
51 zoning designation in the Urban Fringe Subarea is to acknowledge existing heavy industrial uses
52 situated in that area; and
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54 **WHEREAS**, heavy impact industries may present public health problems and nuisances
55 for residents within immediate proximity to heavy industries, including noise, dust, heavy
56 vehicle traffic, odor, and air emissions; and
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58 **WHEREAS**, certain light industrial uses that have significant potential public health
59 impacts on surrounding residential areas such as noise, dust, traffic, odors, and air emissions are
60 allowed only as conditional uses in the Light Impact Industrial Zone, but may also be allowed in
61 the Heavy Impact Industrial Zone; and
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63 **WHEREAS**, pursuant to the Washington State Constitution, the general police powers
64 granted to the counties empower and authorize Whatcom County to adopt land use controls to
65 provide for the regulation of land uses within the County and to provide that such uses shall be
66 consistent with applicable law; and
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68 **WHEREAS**, the Council finds that the interim moratorium imposed by this ordinance
69 under RCW 36.70A.390 is necessary for the protection of public health and safety; and
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71 **WHEREAS**, it is necessary to have this ordinance take effect in order to prevent heavy
72 industrial development applications proximate to urban residential areas from vesting under
73 current law prior to the pending Comprehensive Plan Update that will review the compatibility
74 of land use designations; and
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76 **WHEREAS**, the Council adopts all of the above statements as findings of fact supporting
77 the adoption of this ordinance.
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79 **NOW, THEREFORE, BE IT ORDAINED** by the Whatcom County Council that an interim
80 moratorium is hereby imposed for six (6) months prohibiting the filing, acceptance, and
81 processing of new applications for permits related to new heavy impact industrial uses under
82 WCC 20.68 in Heavy Impact Industrial Zones (including metal shredding or recycling) within a
83 city's unincorporated UGA, unless the applications:
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- 85 1. Were filed and complete prior to the effective date of this ordinance and vested
86 pursuant to law;
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2. Are for building permits for remodels, maintenance, or expansions or repairs of existing structures, and/or expansions of uses legally established prior to the effective date of this ordinance;

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 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 _____, 2024.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Cathy Halka, 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: _____