

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 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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WHEREAS, Chapter 2 of the Comprehensive Plan designates the vast majority of Heavy Impact Industrial zoning in the Cherry Point UGA, recognizing that heavy industries are incompatible with residential uses; and

WHEREAS, the Urban Fringe Subarea Plan indicates that the Heavy Impact Industrial zoning designation in the Urban Fringe Subarea is to acknowledge existing heavy industrial uses situated in that area; and

WHEREAS, heavy impact industries may present public health problems and nuisances for residents within immediate proximity to heavy industries, including noise, dust, heavy vehicle traffic, odor, and air emissions; and

WHEREAS, certain light industrial uses that have significant potential public health impacts on surrounding residential areas such as noise, dust, traffic, odors, and air emissions are allowed only as conditional uses in the Light Impact Industrial Zone, but may also be allowed in the Heavy Impact Industrial Zone; and

WHEREAS, pursuant to the Washington State Constitution, the general police powers granted to the counties empower and authorize Whatcom County to adopt land use controls to provide for the regulation of land uses within the County and to provide that such uses shall be consistent with applicable law; and

WHEREAS, the Council finds that the emergency interim moratorium imposed by this ordinance under RCW 36.70A.390 and WCC 2.02.135 is necessary for the protection of public health and safety; and

WHEREAS, it is necessary to have this ordinance take effect immediately in order to prevent heavy industrial development applications proximate to urban residential areas from vesting under current law prior to the pending Comprehensive Plan Update that will review the compatibility of land use designations; and

WHEREAS, the Whatcom County Council is required by RCW 36.70A.390 to hold a public hearing within sixty (60) days of passage of this ordinance; and

WHEREAS, the Council adopts all of the above statements as findings of fact supporting the adoption of this ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that an emergency interim moratorium is hereby imposed for sixty (60) days prohibiting the filing, acceptance, and processing of new applications for permits related to new uses in Heavy Impact Industrial Zones within a city's unincorporated UGA, unless the applications:

- 88 1. Were filed and complete prior to the effective date of this ordinance and vested
89 pursuant to law;
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91 2. Are for building permits for remodels, maintenance, or expansions or repairs of
92 existing structures, and/or expansions of uses legally established prior to the effective
93 date of this ordinance;
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95 3. Are for outright permitted Light Impact Industrial uses under WCC 20.68.064;
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97 4. Are necessary to protect health and safety of the community.
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99 **BE IT FURTHER ORDAINED** that the Whatcom County Council finds that a public
100 emergency exists based on the foregoing findings of fact necessitating that this emergency
101 interim ordinance shall take effect immediately and shall expire as of the sixty-first day following
102 the date on which this ordinance becomes law, unless previously repealed or extended.
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104 **BE IT FINALLY ORDAINED** that if a section, paragraph, sentence, clause or phrase of this
105 ordinance is declared unconstitutional or invalid for any reason by any court of competent
106 jurisdiction; such decision shall not affect the validity of the remaining portions of this
107 ordinance, and if the provisions of this ordinance are found to be inconsistent with other
108 provisions of the Whatcom County Code, this ordinance shall control.
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110 **ADOPTED** this ____ day of _____, 2024.
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113 ATTEST:
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115 _____
116 Cathy Halka, Clerk of the Council
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WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Barry Buchanan, Council Chair

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119
120 APPROVED AS TO FORM:
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122 _____
123 Civil Deputy Prosecutor
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WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

Satpal Sidhu, County Executive
() Approved () Denied

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126 Date Signed: _____
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