

**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 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

**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

1           **WHEREAS**, the Urban Fringe Subarea Plan indicates that the Heavy Impact  
2 Industrial zoning designation in the Urban Fringe Subarea is to acknowledge *existing* heavy  
3 industrial uses situated in that area; and  
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5           **WHEREAS**, heavy impact industries may present public health problems and  
6 nuisances for residents within immediate proximity to heavy industries, including noise,  
7 dust, heavy vehicle traffic, odor, and air emissions; and  
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9           **WHEREAS**, certain light industrial uses that have significant potential public health  
10 impacts on surrounding residential areas such as noise, dust, traffic, odors, and air  
11 emissions are allowed only as conditional uses in the Light Impact Industrial Zone, but may  
12 also be allowed in the Heavy Impact Industrial Zone; and  
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14           **WHEREAS**, pursuant to the Washington State Constitution, the general police  
15 powers granted to the counties empower and authorize Whatcom County to adopt land use  
16 controls to provide for the regulation of land uses within the County and to provide that  
17 such uses shall be consistent with applicable law; and  
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19           **WHEREAS**, the Council finds that the interim moratorium imposed by this ordinance  
20 under RCW 36.70A.390 is necessary for the protection of public health and safety; and  
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22           **WHEREAS**, the work plan for the County’s Comprehensive Plan update, which will  
23 include an evaluation of where presently designated land uses may be compatible or  
24 incompatible, will be executed over a period longer than six months; and  
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26           **WHEREAS**, it is necessary to have this ordinance take effect now in order to prevent  
27 heavy industrial development applications proximate to urban residential areas from vesting  
28 under current law prior to the pending Comprehensive Plan Update that will review the  
29 compatibility of land use designations; and  
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31           **WHEREAS**, the Whatcom County Council is required by RCW 36.76A.390 to hold a  
32 public hearing within sixty (60) days of passage of this ordinance; and  
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34           **WHEREAS**, the Council adopts all of the above statements as findings of fact  
35 supporting the adoption of this ordinance.  
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37           **NOW, THEREFORE, BE IT ORDAINED** by the Whatcom County Council that an  
38 interim moratorium is hereby imposed for one (1) year prohibiting the filing, acceptance,  
39 and processing of new applications for permits related to new uses in Heavy Impact  
40 Industrial Zones within a city’s unincorporated UGA, unless the applications:  
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42           1. Were filed and complete prior to the effective date of this ordinance and vested  
43 pursuant to law;  
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45           2. Are for building permits for remodels, maintenance, or expansions or repairs of  
46 existing structures and/or expansions of uses legally established prior to the effective date  
47 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 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:

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

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WASHINGTON

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

APPROVED AS TO FORM:

\_\_\_\_\_  
/s/Karen Frakes approved via email on 9/27/2023/MR  
Civil Deputy Prosecutor

WHATCOM COUNTY EXECUTIVE  
WHATCOM COUNTY, WASHINGTON

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

( ) Approved ( ) Denied

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