

PROPOSED BY: RIENSTRA, SCANLON, GALLOWAY

INTRODUCED: JUNE 9, 2026

ORDINANCE NO. _____

IMPOSING AN INTERIM MORATORIUM ON THE ACCEPTANCE OR PROCESSING OF APPLICATIONS AND PERMITS FOR THE ESTABLISHMENT OF NEW OR EXPANSION OF EXISTING CIVIL DETENTION FACILITIES

WHEREAS, Whatcom County has broad authority under the Washington State Constitution’s police powers, set forth in [Article XI, Section 11](#), to protect the public health, safety, and welfare of its residents; and

WHEREAS, these constitutional provisions, along with Whatcom County’s home rule authority granted by [Article XI, Section 4](#) of the State Constitution and the Washington State Growth Management Act under Revised Code of Washington (RCW) [36.70A](#), authorize Whatcom County to adopt land use controls, inclusive of interim measures, to provide for the regulation of land uses within the county and to provide that such uses be consistent with applicable law; and

WHEREAS, the Whatcom County Council previously adopted and amended Whatcom County Code (WCC) Title 20, Zoning, which regulates land use within unincorporated areas of Whatcom County; and

WHEREAS, while counties planning under the Growth Management Act are required to include a process for identifying the siting of essential public facilities pursuant to RCW [36.70A.200](#), current regulations do not contemplate the expansion of existing or the siting or permitting of new civil detention facilities; and

WHEREAS, Whatcom County is currently updating the Whatcom County Comprehensive Plan as required by RCW 36.70A, a lengthy, multi-year process which, while nearing completion, does not address land use regulations or public health and safety issues that have arisen related to administrative or civil detention facilities, and the county lacks sufficient time to sufficiently and timely address these issues in the comprehensive plan update; and

WHEREAS, RCW [36.70A.390](#) and RCW [36.70.795](#) allow for the adoption of an interim land use moratorium for up to one year as long as a public hearing is held within sixty (60) days of adoption, the Council adopts findings of fact setting forth the basis for the interim measure, and a work plan is developed to study land use regulations appropriate to address civil detention facilities; and

WHEREAS, in February 2025 the United States Immigrations and Customs Enforcement (ICE) agency began a [significant expansion](#) of “at-large” arrests in American communities, including conducting worksite raids and arrests at immigration check-ins and

courthouses, often detaining individuals with [no criminal convictions](#) or those participating legally in the asylum process; and

WHEREAS, it is reported that many such detainees have been held in facilities managed by private, for-profit corporations that contract with the government without access to [adequate medical care, clean drinking water, or sufficient food](#), including [facilities located in Washington](#); and

WHEREAS, there are [more than 220 civil detention sites](#) around the country, with a [total detainee population](#) of 68,000 as of February 2026, up from 40,000 a year earlier; and

WHEREAS, in July 2025 Congress allocated [\\$45 billion in funding for immigrant detention facilities over four years](#), more than ten times the agency's previous budget; and

WHEREAS, in recent months land and warehouses across the country have been purchased to convert into large-scale detention centers under the federal government's [Detention Reengineering Initiative](#); and

WHEREAS, federal agencies or contracted companies have reportedly regularly [failed to communicate with local officials](#) about planned facilities in their jurisdictions and have prohibited government officials from accessing existing facilities; and

WHEREAS, officials at ICE detention facilities have denied or delayed detainees' [constitutional rights to due process](#), a violation of basic civil and human rights, and in so doing have harmed community members and entire communities; and

WHEREAS, a civil detention and processing facility currently sited in Ferndale, Whatcom County, has been the subject of complaints regarding compliance with state and local health and welfare requirements, illustrating the potential community impacts associated with the siting of new or expansion of existing civil or administrative detention facilities; and

WHEREAS, the Council finds that based on the information reported and available, an interim land use moratorium imposed by this ordinance pursuant to RCW 36.70A.390 is necessary for the protection of public health and safety of Whatcom County residents and finds it is in the public's interest to ensure land use impacts are considered comprehensively for such administrative or civil detention facilities; and

WHEREAS, the above actions reported in federal immigration facilities in Whatcom County and in other jurisdictions highlight a need for a comprehensive review of how administrative or civil detention facilities are defined locally, sited, and regulated under county land use code provisions and planning policies; and

WHEREAS, Whatcom County Code does not define "detention facility," it defines "correctional facilities" at WCC [20.97.030](#) as "primarily designed, staffed and used for housing juvenile or adult persons for the purposes of pre-trial custody, punishment, correcting and/or rehabilitation following conviction of a criminal offense;" and

WHEREAS, state law defines “detention facility,” in part, at RCW 70.395.020(3) as facilities in which persons are incarcerated or otherwise involuntary confined prior to trial or sentencing, or to fulfil the terms of a sentence imposed by a court, or for other judicial or administrative processes or proceedings; and

WHEREAS, for purposes of this ordinance, the reference to administrative or civil detention facility excludes correctional facilities pursuant to WCC 20.97.030, facilities used for detentions under the Washington State Involuntary Treatment Act, and the list of uses under RCW 70.395.030(3), except facilities in which persons are civilly detained or involuntarily confined for civil or administrative immigration proceedings; and

WHEREAS, impacts from civil or administrative detention facilities are not contemplated by Whatcom County's development regulations, and an evaluation of potential impacts as well as mitigation measures for any identified impacts should be clearly addressed in the county's development regulations before the filing of any application or permit for a new or expanded civil detention facility is considered; and

WHEREAS, the presence of existing detention infrastructure in western Washington and the fact that other local governments within the state have recently enacted moratoriums on new or expanded detention facilities may compel ICE, private contractors, or other related contractors to look to Whatcom County to site new facilities or expand existing facilities; and

WHEREAS, while Whatcom County land use regulations do not explicitly allow for civil or administrative detention facilities, current land use regulations would not preclude an entity from seeking permission or pathways to establish or expand an existing facility for such use under the Whatcom County code; and

WHEREAS, the Council deems a moratorium necessary because the acceptance or approval of applications for new or expanded civil or administrative detention facilities, in the absence of clear zoning and development standards consistent with the Whatcom County Comprehensive Plan, may result in siting and permitting decisions that are harmful to public health, safety, and welfare and may not sufficiently mitigate against community and environmental concerns; and

WHEREAS, the Council finds that an interim moratorium imposed by this ordinance is necessary for the protection of public health and safety; and

WHEREAS, new or expanded civil or administrative detention facilities would likely have significant impacts on water, sewage and wastewater, transportation and parking, public safety, and public health, and would draw significant public interest which would likely require a long-term security plan and a short-term construction staging plan; and

WHEREAS, the Department of Planning and Development Services provided a threshold State Environmental Policy Act (SEPA) determination of nonsignificance

(SEPA2026-00049) on June 1, 2026 for this proposed non-project action (see attached Exhibit A incorporated by reference herein); and

WHEREAS, pursuant to WAC 197-11-340(2)(a) as adopted pursuant to WCC 16.08.065, the Council shall not authorize this ordinance less than fourteen days after the SEPA determination if the designation of nonsignificance related to this proposed ordinance is considered a growth management action; and

WHEREAS, Whatcom County requires time to analyze and determine how best to update its land-use regulations to address the issues related to any expansion of existing or permitting of new civil detention facilities in Whatcom County, including evaluation of appropriate siting, cumulative impacts, and community burden, and to identify and consider mitigation measures most appropriate to address impacts; and

WHEREAS, the Council does not intend for this ordinance to impact the actions of or diminish support for the Whatcom County Sheriff's Department or the local police departments of Whatcom County's cities, which lawfully abide by the Keep Washington Working Act, or the county's ongoing efforts to reshape its justice system through the design and construction of a new county jail, a new behavioral care center, and the expansion of services for behavioral health and substance use disorder treatment; and

WHEREAS, the Council recognizes the limits to its authority over actions imposed by federal statutes and the United States Constitution and finds that this temporary action is within its constitutional police powers and land use authority as outlined in state law and the Whatcom County Charter as necessary to provide time to evaluate and implement appropriate land use regulations consistent with the county's comprehensive plan in a manner that protects the health and well-being of residents.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that an interim development moratorium is hereby established and imposed pursuant to the county's constitutional authority and RCW 36.70A.390, prohibiting the filing, acceptance, processing, or approval of any permit or application to establish, site, or expand civil or administrative detention facilities in all zoning designations within unincorporated Whatcom County, regardless of whether the use is permanent, temporary, primary, or accessory; and

NOW, THEREFORE, BE IT FINALLY ORDAINED by the Whatcom County Council that:

SECTION 1. Purpose. This interim land use moratorium will allow the county sufficient time to comprehensively review and analyze the land use policy and regulations appropriate for siting and regulating civil detention facilities in addition to determining cumulative impacts of such facilities in order to identify necessary mitigation regulations that should be considered and implemented prior to consideration of requests to site, expand, or establish new or existing civil or administrative detention facilities.

SECTION 2. Exceptions. This ordinance shall not apply to the existing Whatcom County Jail, the proposed new Whatcom County jail, or any existing facilities or planned behavioral health care centers or crisis centers or facilities used for the detention under the Washington Involuntary Treatment Act, nor does it apply to any project already vested.

SECTION 3. Effective Date. This interim moratorium shall take effect and be in force and effect for one (1) year from the effective date of this ordinance and shall automatically expire after a period of one (1) year, unless extended as provided for by statute or until the Council adopts amendments to Title 20 of the Whatcom County Code addressing this subject matter, whichever date occurs first. Any land use or permit application that is accepted during this moratorium period as a result of error or by use of vague or deceptive descriptions is null and void and will be without legal force or effect.

SECTION 4. Findings of Fact. The Whatcom County Council adopts the above WHEREAS recitals as findings of fact incorporated by reference herein as the basis for passing this interim land use moratorium, as required by RCW 36.70A.390 and RCW 36.70.795.

SECTION 5. Public Hearing Required. Pursuant to RCW 36.70A.390, the Whatcom County Council shall hold a public hearing within sixty (60) days of the passage of this interim land use moratorium ordinance.

SECTION 6. Work Plan. During the moratorium, the County Executive will seek to develop a work plan to evaluate the appropriate land use regulation, mitigation, and zoning considerations for civil detention facilities, including impacts to public health, welfare, and safety, and upon completion of the evaluation and any proposals, will provide this information to the Council to consider what, if any, new land use regulation and zoning ordinances are appropriate and consistent with the county's comprehensive plan and applicable state laws for establishing new or expanding existing civil or administrative detention facilities. Ten months after this interim moratorium ordinance is passed, the County Executive shall update the Council on the progress or findings of this work plan.

SECTION 7. State Environmental Policy Act (SEPA) Requirement. This interim moratorium ordinance is not exempt from a threshold determination of State Environmental Policy Act (SEPA) requirements under RCW 43.21C, Washington Administrative Code (WAC) 197-11, and WCC [16.08](#). The Whatcom County Planning and Services Department issued a threshold determination of nonsignificance on June 1, 2026. (See SEPA2026-00049 attached Exhibit A and incorporated into this ordinance by reference).

Additional SEPA review shall be completed as legally required following the development of appropriate land use regulations once analysis and proposals for necessary land use code changes for civil or administrative detention facilities are complete.

SECTION 8. Severability. If any section, sentence, clause, or phrase of this moratorium ordinance is held unconstitutional or unlawful by a court of competent jurisdiction or is preempted by state or federal law or regulation, the remainder of the ordinance or application of the provision to any persons or circumstance shall not be affected. Moreover, if any 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 _____, 2026

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Cathy Halka, Clerk of the Council

Kaylee Galloway, Council Chair

APPROVED AS TO FORM:

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

Kimberly Thulin by email (6/2/26 ks)
Civil Deputy Prosecutor

Satpal Sidhu, County Executive

() Approved () Denied

Date Signed: _____



WHATCOM COUNTY

WASHINGTON

Planning & Development Services
5280 Northwest Drive
Bellingham, WA 98226
PDS@co.whatcom.wa.us
360-778-5900

SEPA Distribution List
SEPA2026-00049
Date of Issuance: 06/01/2026

Please review this determination. If you have further comments or questions, phone the responsible official at (360) 778-5900. Please submit your response by the comment date noted on the attached notice of determination.

WA State Department of Archaeology and Historic Preservation via email
Dennis Wardlaw - Dennis.Wardlaw@dahp.wa.gov
SEPA@dahp.wa.gov

SEPA Unit, WA State Department of Ecology, Olympia via online portal

WA State Department of Fish and Wildlife
Alex Richard via email - R4Nplanning@dfw.wa.gov

WA State Department of Natural Resources via email
Rochelle Goss, sepacenter@dnr.wa.gov
Brenda Werden, Brenda.werden@dnr.wa.gov

SEPA Unit, WA State Department of Transportation, Burlington via email
Roland Storme, stormer@wsdot.wa.gov

Lummi Nation Natural Resources
Merle Jefferson, Sr. via email - merlej@lummi-nsn.gov
Lena A. Tso - LenaT@lummi-nsn.gov
Gregg Dunphy via email - GreggD@lummi-nsn.gov

Nooksack Indian Tribe
George Swanaset, JR via email - george.swanasetjr@nooksack-nsn.gov
Trevor Delgado via email - tdelgado@nooksack-nsn.gov

Skagit River System Cooperative
Nora Kammer via email - nkammer@skagitcoop.org

City of Bellingham
Kurt Nabbeffeld via email - knabbefeld@cob.org
Chris Behee via email - cbehee@cob.org
Paul Reed via email - preed@cob.org

City of Blaine
Alex Wenger via email - AWenger@cityofblaine.com

City of Everson
Rollin Harper via email - rollinh@sehome.com

City of Ferndale
Community Development Director Michael Cerbone via email - michaelcerbone@cityofferndale.org
Public Works Director Kevin Renz via email - kevinrenz@cityofferndale.org

City of Lynden
Heidi Solano via email - solanoh@lyndenwa.org

City of Nooksack
Rollin Harper via email - rollinh@sehome.com

City of Sumas
Rollin Harper via email - rollinh@sehome.com

Point Roberts All Points Bulletin via email - editor@allpointbulletin.com

Puget Sound Energy
Emily Hagin via email - emily.hagin@pse.com

Northwest Clean Air Agency
Agata McIntyre, P.E. via email - agatam@nwcleanairwa.gov

Applicant
Kristin Smith, Whatcom County Council, via email - KSmith@co.whatcom.wa.us
Kimberly Thulin, Whatcom County Prosecuting Attorney's Office via email - KThulin@co.whatcom.wa.us



SEPA Determination of Nonsignificance (DNS)

File: SEPA2026-00049

Project Description: A non-project action to adopt a one-year interim moratorium on the acceptance or processing of applications and permits for the establishment of new or expansion of existing civil detention facilities.

Proponent: Whatcom County Council – Contact: Kristin Smith

Address and Parcel #: County-Wide

Lead Agency: Whatcom County Planning & Development Services

Zoning: County-Wide **Comp Plan:** County-Wide **Shoreline Jurisdiction:** County-Wide

The lead agency for this proposal has determined that no significant adverse environmental impacts are likely. This proposal will also be reviewed for compliance with all applicable Whatcom County Codes (WCC) which regulates development activities, including but not limited to: WCC 15 – Buildings and Construction, WCC 16.16 – Critical Areas, WCC 17 – Flood Damage Prevention, WCC 20 – Zoning, WCC 21 - Land Division Regulations, WCC 23 – Shoreline Management Program, the Whatcom County Development Standards and/or the Washington State Stormwater Manual. Mitigation may be a requirement of Whatcom County Code. Pursuant to RCW 43.21C.030(2)(c), an environmental impact statement (EIS) is not required. This decision was made following review of a completed SEPA environmental checklist and other information on file with the lead agency. This information is available to the public on request.

Pursuant to WAC 197-11-340(2), the lead agency will not act on this proposal for 14 days from the date of issuance indicated below. Comments must be received by 4:00 p.m. on June 15, 2026 and should be sent to Planning & Development Services at PDS@co.whatcom.wa.us.

Responsible Official: Mark Personius, mpersoni@co.whatcom.wa.us

Title: Director

Telephone: 360-778-5937

Address: 5280 Northwest Drive
Bellingham, WA 98226

Date of Issuance: June 1, 2026 **Signature:**  _____

An aggrieved agency or person may appeal this determination to the Whatcom County Hearing Examiner. Application for appeal must be filed on a form provided by and submitted to the Whatcom County Current Planning Division located at 5280 Northwest Drive, Bellingham, WA 98226, during the ten days following the comment period, concluding June 25, 2026.

You should be prepared to make a specific factual objection. Contact Whatcom County Current Planning Division for information about the procedures for SEPA appeals.



WHATCOM COUNTY

WASHINGTON

Planning & Development Services

5280 Northwest Drive
Bellingham, WA 98226
PDS@co.whatcom.wa.us
360-778-5900

SEPA Determination of Nonsignificance (DNS) Legal Notice

To be published one time only on: Sunday, May 31, 2026

CHARGE TO: Whatcom County Planning & Development Services
5280 Northwest Drive
Bellingham, Washington 98226
Acct #AP25580

WHATCOM COUNTY GIVES PUBLIC NOTICE THAT THE FOLLOWING SEPA THRESHOLD DETERMINATION OF NON-SIGNIFICANCE (DNS) HAS BEEN ISSUED TODAY SUBJECT TO THE 14 DAY COMMENT PERIOD CONCLUDING ON JUNE 15, 2026.

File: SEPA2026-00049

Project Description: A non-project action to adopt a one-year interim moratorium on the acceptance or processing of applications and permits for the establishment of new or expansion of existing civil detention facilities.

Proponent: Kristin Smith – Whatcom County Council

Address and Parcel #: County-Wide

Lead Agency: Whatcom County Planning & Development Services

Zoning: County-Wide

Comp Plan: County-Wide

Shoreline Jurisdiction: County-Wide

ANY PERSON OR AGENCY MAY APPEAL THE COUNTY'S COMPLIANCE WITH WAC 197-11 BY FILING AN APPEAL WITH THE WHATCOM COUNTY PLANNING AND DEVELOPMENT SERVICES LOCATED AT 5280 NORTHWEST DRIVE, BELLINGHAM, WA 98226. APPEALS MUST BE MADE WITHIN 10 DAYS AFTER THE END OF THE COMMENT PERIOD.



SEPA Environmental Checklist

Purpose of Checklist

Governmental agencies use this checklist to help determine whether the environmental impacts of your proposal are significant. This information is also helpful to determine if available avoidance, minimization, or compensatory mitigation measures will address the probable significant impacts or if an environmental impact statement will be prepared to further analyze the proposal.

Instructions for Applicants

This environmental checklist asks you to describe some basic information about your proposal. Please answer each question accurately and carefully, to the best of your knowledge. You may need to consult with an agency specialist or private consultant for some questions. **You may use "not applicable" or "does not apply" only when you can explain why it does not apply and not when the answer is unknown.** You may also attach or incorporate by reference additional studies reports. Complete and accurate answers to these questions often avoid delays with the SEPA process as well as later in the decision-making process.

The checklist questions apply to **all parts of your proposal**, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

Use of Checklist for Non-Project Proposals

For non-project proposals (such as ordinances, regulations, plans and programs), complete the applicable parts of sections A and B, plus the Supplemental Sheet for Non-project Actions (Part C). Please completely answer all questions that apply and note that the words "project," "applicant," and "property or site" should be read as "proposal," "proponent," and "affected geographic area," respectively. The lead agency may exclude (for non-projects) questions in "Part B: Environmental Elements" that do not contribute meaningfully to the analysis of the proposal.



WHATCOM COUNTY

WASHINGTON

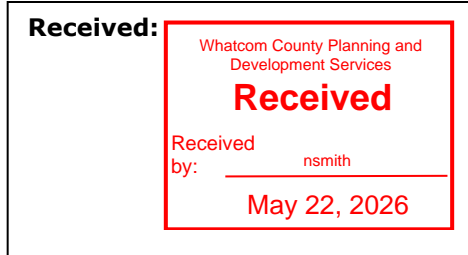
Planning & Development Services

5280 Northwest Drive
Bellingham, WA 98226
360-778-5900

SEPA _____ - _____

Parent Case: _____ - _____

Part A - Background



1. Name of proposed project, if applicable:

2. Name of Applicant:
Applicant Phone:
Applicant Address:

3. Name of Contact (Agent/Consultant):
Contact Phone:
Contact Address:

4. Date checklist prepared:

5. Agency requesting checklist:
Council

6. Proposed timing of schedule (including phasing, if applicable):

7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal?
 Yes No
If yes, explain:
Future action may occur as Whatcom County requires time to analyze and determine how best to update its land-use regulations to address the issues related to any expansion of existing or permitting of new civil detention facilities in Whatcom County, including evaluation of appropriate siting, cumulative impacts, and community burden, and to identify and consider mitigation measures most appropriate to address impacts. NAS

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal?
 Yes No
If yes, explain:

10. List any government approvals or permits that will be needed for your proposal, if known.

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. ***There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page.***

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and Section, Township, and Range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

This is a non-project action to adopt a one-year interim moratorium on the acceptance or processing of permit applications for the establishment of new or expansion of existing civil detention facilities within all unincorporated areas of Whatcom County. NAS

1. Earth

a. General description of the site:

Select One Descriptor:

<input type="checkbox"/>	Flat	<input type="checkbox"/>	Steep Slopes
<input type="checkbox"/>	Rolling	<input type="checkbox"/>	Mountainous
<input type="checkbox"/>	Hilly	<input type="checkbox"/>	Other: _____

b. What is the steepest slope on the site (approximate percent slope)?

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them, and note any agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils.

d. Are there surface indications or history of unstable soils in the immediate vicinity?

Yes No

If yes, describe:

e. Describe the purpose, type, total area, and approximate quantities, and total affected area of any filling, excavation, and grading proposed:

Indicate source of fill:

Indicate where excavation material will go:

f. Could erosion occur because of clearing, construction, or use?

Yes No

If so, generally describe:

g. Approximately what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any.

2. Air

- a. What types of emissions to the air would result from the proposal during construction, operation, and maintenance when the project is completed?

If any, generally describe, and give approximate quantities if known:

- b. Are there any off-site sources of emissions or odor that may affect your proposal?

Yes No

If so, generally describe:

- c. Describe proposed measures to reduce or control emissions or other impacts to air, if any:

3. Water

- a. Surface Water:

- (1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)?

Yes No

If yes, describe type and provide names; if appropriate, state what stream or river it flows into:

- (2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters?

Yes No

If yes, please describe and attach available plans:

- (3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected:

Indicate the source of fill material:

(4) Will the proposal require surface water withdrawals or diversions?

Yes No

Give a general description, purpose, and approximate quantities if known:

(5) Does the proposal lie within a 100-year floodplain?

Yes No

If so, note its location on the site plan.

(6) Does the proposal involve any discharges of waste materials to surface waters?

Yes No

If so, describe the type of waste and anticipated volume of discharge:

b. Ground Water:

(1) Will groundwater be withdrawn from a well for drinking water or other purposes?

Yes No

If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well:

Will water be discharged to groundwater?

Yes No

Give a general description, purpose, and approximate quantities if known:

(2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (domestic sewage; industrial, containing the following chemicals...; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve:

c. Water Runoff (including stormwater):

(1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known).

Where will this water flow? Will this water flow into other waters? If so, describe:

(2) Could waste materials enter ground or surface waters?

Yes No

If so, generally describe:

(3) Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site?

Yes No

If so, describe:

d. Describe proposed measures to reduce or control surface, ground, and runoff water, and drainage pattern impacts, if any:

4. *Plants*

a. Select all vegetation types found on the site:

<input type="checkbox"/>	Shrubs	<input type="checkbox"/>	Wet Soil Plants	Cattail, Buttercup, Bulrush, Skunk Cabbage, other
<input type="checkbox"/>	Pasture	<input type="checkbox"/>	Water Plants	Water Lily, Eelgrass, Milfoil, other
<input type="checkbox"/>	Orchards, Vineyards, or other Permanent Crops	<input type="checkbox"/>	Deciduous Trees	Alder, Maple, Aspen, other
<input type="checkbox"/>	Grass	<input type="checkbox"/>	Evergreen Trees	Fir, Cedar, Pine, other
<input type="checkbox"/>	Crop or Grain	<input type="checkbox"/>	Other Types of Vegetation	

b. What kind and amount of vegetation will be removed or altered?

c. List threatened and endangered species known to be on or near the site:

d. Describe proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

e. List all noxious weeds and invasive species known to be on or near the site:

5. *Animals*

- a. Select or list any birds and other animals that have been observed on or near the site or are known to be on or near the site:

	Birds		Mammals		Fish
<input type="checkbox"/>	Hawk	<input type="checkbox"/>	Deer	<input type="checkbox"/>	Bass
<input type="checkbox"/>	Eagle	<input type="checkbox"/>	Bear	<input type="checkbox"/>	Trout
<input type="checkbox"/>	Heron	<input type="checkbox"/>	Elk	<input type="checkbox"/>	Salmon
<input type="checkbox"/>	Songbirds	<input type="checkbox"/>	Beaver	<input type="checkbox"/>	Shellfish
<input type="checkbox"/>	Other:	<input type="checkbox"/>	Other:	<input type="checkbox"/>	Other:

- b. List any threatened and endangered species known to be on or near the site:

- c. Is the site part of a migration route?

Yes No

If so, explain:

- d. Proposed measures to preserve or enhance wildlife, if any:

- e. List any invasive animal species known to be on or near the site:

6. *Energy and Natural Resources*

- a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.:

- b. Would your project affect the potential use of solar energy by adjacent properties?

Yes No

If so, generally describe:

- c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:

7. *Environmental health*

- a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur because of this proposal?

Yes No

If so, describe:

(1) Describe any known or possible contamination at the site from present or past uses:

(2) Describe existing hazardous chemicals/conditions that might affect project development and design. This includes underground hazardous liquid and gas transmission pipelines located within the project area and in the vicinity.

(3) Describe any toxic or hazardous chemicals that might be stored, used, or produced during the project's development or construction, or at any time during the operating life of the project:

(4) Describe special emergency services that might be required:

(5) Describe proposed measures to reduce or control environmental health hazards, if any:

b. Noise

(1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?

(2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site)?

(3) Proposed measures to reduce or control noise impacts, if any:

8. Land and shoreline use

- a. What is the current use of the site and adjacent properties? Will the proposal affect current land uses on nearby or adjacent properties?

Yes No

If yes, describe:

- b. Has the project site been used as working farmlands or working forest lands?

Yes No

If so, describe:

How much agricultural or forest land of long-term commercial significance will be converted to other uses because of the proposal, if any?

If resource lands have not been designated, how many acres in farmland or forest land tax status will be converted to nonfarm or non-forest use?

- (1) Will the proposal affect or be affected by surrounding working farm or forest land normal business operations, such as oversize equipment access, the application of pesticides, tilling, and harvesting?

Yes No

If so, how?

- c. Describe any structures on the site:

- d. Will any structures be demolished?

Yes No

If so, what?

- e. What is the current zoning classification of the site?

- f. What is the current comprehensive plan designation of the site?

- g. If applicable, what is the current shoreline master program designation of the site?

- h. Has any part of the site been classified as a critical area by the city or county?

Yes No

If so, specify:

- i. Approximately how many people would reside or work in the completed project?
- j. Approximately how many people would the completed project displace?
- k. Describe proposed measures to avoid or reduce displacement impacts, if any:
- l. Describe proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:
- m. Describe proposed measures to reduce or control impacts to agricultural and forest lands of long-term commercial significance, if any:

9. Housing

- a. Approximately how many units would be provided, if any?

Indicate whether high, middle, or low-income housing:

- High Income
- Middle Income
- Low Income

- b. Approximately how many units, if any, would be eliminated?

Indicate whether high, middle, or low-income housing:

- High Income
- Middle Income
- Low Income

- c. Describe proposed measures to reduce or control housing impacts, if any:

10. Aesthetics

- a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?
- b. What views in the immediate vicinity would be altered or obstructed?
- c. Proposed measures to reduce or control aesthetic impacts, if any:

11. *Light and glare*

- a. What type of light or glare will the proposal produce? What time of day would it mainly occur?
- b. Could light or glare from the finished project be a safety hazard or interfere with views?
- c. What existing off-site sources of light or glare may affect your proposal?
- d. Proposed measures to reduce or control light and glare impacts, if any:

12. *Recreation*

- a. What designated and informal recreational opportunities are in the immediate vicinity?
- b. Would the proposed project displace any existing recreational uses?
 Yes No
If so, describe:
- c. Describe proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:

13. *Historic and cultural preservation*

- a. Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state, or local preservation registers?
 Yes No
If so, specifically describe:
- b. Are there any landmarks, features, or other evidence of Indian or historic use or occupation? This may include human burials or old cemeteries.
 Yes No
Are there any material evidence, artifacts, or areas of cultural importance on or near the site?
 Yes No
Please list any professional studies conducted at the site to identify such resources:

- c. Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples include consultation with tribes and the department of archeology and historic preservation, archaeological surveys, historic maps, GIS data, etc.
- d. Describe proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required.

14. Transportation

- a. Identify (and, if any, show on site plans) public streets and highways serving the site or affected geographic area and describe proposed access to the existing street system:

- b. Is the site or affected geographic area currently served by public transit?

Yes No

If so, generally describe:

If not, what is the approximate distance to the nearest transit stop?

- c. How many parking spaces would the completed project have?

How many would the project eliminate?

- d. Will the proposal require any new or improvements to existing roads, streets, pedestrian, bicycle, or state transportation facilities, not including driveways?

Yes No

If so, generally describe (indicate whether public or private):

- e. Will the project or proposal use (or occur in the immediate vicinity of) water, rail, or air transportation?

Yes No

If so, generally describe:

- f. How many vehicular trips per day would be generated by the completed project or proposal?

If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and non-passenger vehicles). What data or transportation models were used to make these estimates?

- g. Will the proposal interfere with, affect, or be affected by the movement of agricultural and forest products on roads or streets in the area?

Yes No

If so, generally describe:

- h. Proposed measures to reduce or control transportation impacts, if any:

15. Public services

- a. Would the project result in an increased need for public services (for example: fire protection, police protection, public transit, health care, schools, other)?

Yes No

If so, generally describe:

- b. Describe proposed measures to reduce or control direct impacts on public services, if any:

16. Utilities

- a. Select utilities currently available at the site:

<input type="checkbox"/>	Electricity	<input type="checkbox"/>	Telephone
<input type="checkbox"/>	Natural Gas	<input type="checkbox"/>	Sanitary Sewer
<input type="checkbox"/>	Water	<input type="checkbox"/>	Septic System
<input type="checkbox"/>	Refuse Service	<input type="checkbox"/>	Other:

- b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed:

Signature

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.



May 26, 2026

Applicant Signature

Date

OFFICE USE ONLY

Reviewed by Whatcom County Planning & Development Services Staff:

Nick Smith - Senior Planner

May 26, 2026

Staff Signature

Date

Part C – Supplemental Sheet for Non-project Actions

(It is not necessary to use this sheet for project actions)

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment (Part B).

When answering these questions, be aware of the extent the proposal or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?

Proposed measures to avoid or reduce such increases are:

2. How would the proposal be likely to affect plants, animals, fish, or marine life?

Proposed measures to protect or conserve plants, animals, fish, or marine life are:

3. How would the proposal be likely to deplete energy or natural resources?

Proposed measures to protect or conserve energy and natural resources are:

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?

Proposed measures to protect such resources or to avoid or reduce impacts are:

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

Proposed measures to avoid or reduce shoreline and land use impacts are:

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

Proposed measures to reduce or respond to such demand(s) are:

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.

PROPOSED BY: RIENSTRA, SCANLON, GALLOWAY
INTRODUCED: JUNE 2, 2026

ORDINANCE NO. _____

IMPOSING AN INTERIM MORATORIUM ON THE ACCEPTANCE OR PROCESSING OF APPLICATIONS AND PERMITS FOR THE ESTABLISHMENT OF NEW OR EXPANSION OF EXISTING CIVIL DETENTION FACILITIES

WHEREAS, Whatcom County has broad authority under the Washington State Constitution’s police powers, set forth in [Article XI, Section 11](#), to protect the public health, safety, and welfare of its residents; and

WHEREAS, these constitutional provisions, along with Whatcom County’s home rule authority granted by [Article XI, Section 4](#) of the State Constitution and the Washington State Growth Management Act under Revised Code of Washington (RCW) [36.70A](#), authorize Whatcom County to adopt land use controls, inclusive of interim measures, to provide for the regulation of land uses within the county and to provide that such uses be consistent with applicable law; and

WHEREAS, the Whatcom County Council previously adopted and amended Whatcom County Code (WCC) Title 20, Zoning, which regulates land use within unincorporated areas of Whatcom County; and

WHEREAS, while counties planning under the Growth Management Act are required to include a process for identifying the siting of essential public facilities pursuant to RCW [36.70A.200](#), current regulations do not contemplate the expansion of existing or the siting or permitting of new civil detention facilities; and

WHEREAS, Whatcom County is currently updating the Whatcom County Comprehensive Plan as required by RCW 36.70A, a lengthy, multi-year process which, while nearing completion, does not address land use regulations or public health and safety issues that have arisen related to administrative or civil detention facilities, and the county lacks sufficient time to sufficiently and timely address these issues in the comprehensive plan update; and

WHEREAS, RCW [36.70A.390](#) and RCW [36.70.795](#) allow for the adoption of an interim land use moratorium for up to one year as long as a public hearing is held within sixty (60) days of adoption, the Council adopts findings of fact setting forth the basis for the interim measure, and a work plan is developed to study land use regulations appropriate to address civil detention facilities; and

WHEREAS, in February 2025 the United States Immigrations and Customs Enforcement (ICE) agency began a [significant expansion](#) of “at-large” arrests in American communities, including conducting worksite raids and arrests at immigration check-ins and courthouses, often detaining individuals with [no criminal convictions](#) or those participating legally in the asylum process; and

WHEREAS, it is reported that many such detainees have been held in facilities managed by private, for-profit corporations that contract with the government without access to [adequate medical care, clean drinking water, or sufficient food](#), including [facilities located in Washington](#); and

WHEREAS, there are [more than 220 civil detention sites](#) around the country, with a [total detainee population](#) of 68,000 as of February 2026, up from 40,000 a year earlier; and

WHEREAS, in July 2025 Congress allocated [\\$45 billion in funding to ICE for immigrant detention facilities over four years](#), more than ten times the agency's previous budget; and

WHEREAS, in recent months ICE has been [purchasing warehouses across the country](#) to convert into large-scale detention centers under its [Detention Reengineering Initiative](#); and

WHEREAS, ICE has regularly [failed to communicate with local officials](#) about planned facilities in their jurisdictions and has prohibited government officials from accessing existing facilities; and

WHEREAS, officials at ICE detention facilities have denied or delayed detainees' [constitutional rights to due process](#), a violation of basic civil and human rights, and in so doing have harmed community members and entire communities; and

WHEREAS, a federal immigration detention facility currently sited in Ferndale, Whatcom County, has been the subject of complaints regarding compliance with state and local health and welfare requirements, illustrating the potential community impacts associated with the siting of new or expansion of existing detention facilities; and

WHEREAS, incidents of unsanitary conditions and inhumane treatment by individuals detained at the Ferndale detention facility include:

- A family of five, including four minor children who are United States citizens, was detained by the United States Border Patrol and [held](#) for more than two weeks without access to legal representation or charges being filed (the mother was transferred to another facility and [released](#) after four months in detention when a judge rejected the case against her),
- Facility officials have refused to disclose information to family members and the public regarding the [whereabouts of detainees](#) confined at the facility,
- Facility officials have [denied legal counsel to detainees or the opportunity to review legal paperwork](#) pertaining to their arrest,
- Members of Congress have been denied [access to detainees](#) and the detention facility; and

WHEREAS, the Council finds that based on the information reported and available, an interim land use moratorium imposed by this ordinance pursuant to RCW 36.70A.390 is necessary for the protection of public health and safety of Whatcom County residents and to ensure land use impacts are considered comprehensively; and

WHEREAS, the above actions by ICE in Whatcom County and in other jurisdictions highlight a need for a comprehensive review of how such facilities are defined, sited, and regulated under county land use code provisions and planning policies; and

WHEREAS, Whatcom County Code does not define “detention facility,” defining “correctional facilities” at WCC [20.97.030](#) as “primarily designed, staffed and used for housing juvenile or adult persons for the purposes of pre-trial custody, punishment, correcting and/or rehabilitation following conviction of a criminal offense;” and

WHEREAS, impacts from large-scale civil detention facilities are not contemplated by Whatcom County's development regulations, and an evaluation of potential impacts as well as mitigation measures for any identified impacts should be clearly addressed in the county's development regulations before the filing of any application or permit for a new or expanded civil detention facility is considered; and

WHEREAS, the presence of existing detention infrastructure in western Washington and the fact that other local governments within the state have recently enacted moratoriums on new or expanded detention facilities may compel ICE or contractors for ICE to look to Whatcom County to site new facilities or expand existing facilities; and

WHEREAS, the Council deems a moratorium necessary because the acceptance or approval of applications for new or expanded civil detention facilities, in the absence of clear zoning and development standards consistent with the Whatcom County Comprehensive Plan, may result in siting and permitting decisions that are harmful to public health, safety, and welfare and may not sufficiently mitigate against community and environmental concerns; and

WHEREAS, the Council finds that an interim moratorium imposed by this ordinance is necessary for the protection of public health and safety; and

WHEREAS, new or expanded detention facilities would likely have significant impacts on water, sewage and wastewater, transportation and parking, public safety, and public health, and would draw significant public interest which would likely require a long-term security plan and a short-term construction staging plan; and

WHEREAS, the Department of Planning and Development Services will provide a threshold State Environmental Policy Act (SEPA) determination prior to adoption of this interim moratorium ordinance; and

WHEREAS, Whatcom County requires time to analyze and determine how best to update its land-use regulations to address the issues related to any expansion of existing or permitting of new civil detention facilities in Whatcom County, including evaluation of appropriate siting, cumulative impacts, and community burden, and to identify and consider mitigation measures most appropriate to address impacts; and

WHEREAS, the Council does not intend for this ordinance to impact the actions of or diminish support for the Whatcom County Sheriff's Department or the local police departments of Whatcom County's cities, which lawfully abide by the Keep Washington Working Act, or the county's ongoing efforts to reshape its justice system through the

design and construction of a new county jail, a new behavioral care center, and the expansion of services for behavioral health and substance use disorder treatment; and

WHEREAS, the Council recognizes the limits to its authority over actions imposed by federal statutes and the United States Constitution and finds that this temporary action is within its constitutional police powers and land use authority as outlined in state law and the Whatcom County Charter to provide time to evaluate and implement appropriate land use regulations consistent with the county's comprehensive plan in a manner that protects the health and well-being of residents.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that an interim development moratorium is hereby established and imposed pursuant to the county's constitutional authority and RCW 36.70A.390, prohibiting the filing, acceptance, processing, or approval of any permit or application to establish, site, or expand civil or administrative detention facilities in all zoning designations within unincorporated Whatcom County, regardless of whether the use is permanent, temporary, primary, or accessory; and

NOW, THEREFORE, BE IT FINALLY ORDAINED by the Whatcom County Council that:

SECTION 1. Purpose. This interim land use moratorium will allow the county sufficient time to comprehensively review and analyze the land use policy and regulations appropriate for siting and regulating civil detention facilities in addition to determining cumulative impacts of such facilities in order to identify necessary mitigation regulations that should be considered and implemented prior to consideration of siting, expansion or establishment of new or existing civil or administrative detention facilities.

SECTION 2. Exceptions. This ordinance shall not apply to the existing Whatcom County Jail, the proposed new Whatcom County jail, or any existing facilities or planned behavioral health care centers or crisis centers, nor does it apply to any project already vested.

SECTION 3. Effective Date. This interim moratorium shall take effect and be in force and effect for one (1) year from the effective date of this ordinance and shall automatically expire after a period of one (1) year, unless extended as provided for by statute or until the Council adopts amendments to Title 20 of the Whatcom County Code (WCC) addressing this subject matter, whichever date occurs first. Any land use or permit application that is accepted during this moratorium period as a result of error or by use of vague or deceptive descriptions is null and void and without legal force or effect.

SECTION 4. Findings of Fact. The Whatcom County Council adopts the above WHEREAS recitals as findings of fact incorporated by reference as the basis for passing this interim land use moratorium, as required by RCW 36.70A.390 and RCW 36.70.795.

SECTION 5. Public Hearing Required. Pursuant to RCW 36.70A.390, the Whatcom County Council shall hold a public hearing within sixty (60) days of the passage of this interim moratorium ordinance.

SECTION 6. Work Plan. During the moratorium, the County Executive will seek to develop a work plan to evaluate the appropriate land use regulation, mitigation, and zoning considerations for civil detention facilities, including impacts to public health, welfare, and safety, and, upon completion of the evaluation and any proposals, will provide this information to the Council to consider what, if any, new land use regulation and zoning ordinances are appropriate and consistent with the county's comprehensive plan and applicable state laws for establishing new or expanding existing civil detention facilities. Ten months after this interim moratorium ordinance is passed, the County Executive shall update the Council on the progress or findings of this work plan.

SECTION 7. State Environmental Policy Act (SEPA) Requirement. This interim moratorium ordinance is not exempt from a threshold determination of State Environmental Policy Act (SEPA) requirements under RCW 43.21C, Washington Administrative Code (WAC) 197-11, and WCC [16.08](#). The Whatcom County Planning and Services Department issued a threshold determination on _____ finding:

Additional SEPA review shall be completed as legally required following the development of appropriate land use regulations once analysis and proposals for necessary land use code changes for civil or administrative detention facilities are complete.

SECTION 8. Severability. If any section, sentence, clause, or phrase of this moratorium ordinance is held unconstitutional or unlawful by a court of competent jurisdiction or is preempted by state or federal law or regulation, the remainder of the ordinance or application of the provision to any persons or circumstance shall not be affected. Moreover, if any 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 _____, 2026

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Cathy Halka, Clerk of the Council

Kaylee Galloway, Council Chair

APPROVED AS TO FORM:

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

Kimberly Thulin by email 5/22/26 (ks)
Civil Deputy Prosecutor

Satpal Sidhu, County Executive

() Approved () Denied

Date Signed: _____

