

CLERK OF THE COUNCIL
Dana Brown-Davis, C.M.C.

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COUNCILMEMBERS
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Barry Buchanan
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Todd Donovan
Ben Elenbaas
Carol Frazey
Kathy Kershner

WHATCOM COUNTY COUNCIL REVISED AGENDA REVISION NOTICE FOR APRIL 6, 2021

**VIRTUAL MEETING
AGENDA REVISED 4.5.2021 AND 4.6.2021
(TO PARTICIPATE, SEE INSTRUCTIONS AT
www.whatcomcounty.us/joinvirtualcouncil
OR CALL 360.778.5010)**

THE FOLLOWING ITEMS HAVE BEEN ADDED TO THE COUNCIL AGENDA:

ITEMS ADDED BY REVISION

1. [AB2021-209](#) Resolution regarding permanent affordability of childcare in Whatcom County (**paperwork attached**)

ITEM ADDED 4.5.2021 (FROM COMMITTEE OF THE WHOLE)

ITEMS ADDED BY REVISION

2. [AB2021-230](#) Ordinance imposing an interim moratorium on the acceptance and processing of permit applications for new or expanded recreational cannabis growing and/or processing facilities which are proposed to operate outdoors or in greenhouses (**paperwork attached**)

ITEM ADDED 4.6.2021 (FOR INTRODUCTION)

RESOLUTION NO. _____

PERMANENT AFFORDABILTY OF CHILD CARE IN WHATCOM COUNTY

WHEREAS, the impact of COVID-19 on families and early childhood development has been significant, has placed families and children under great stress and providing quality child care is a key component to helping reduce the long-term impacts of our current crisis; and

WHEREAS, on February 4, 2020, Whatcom County Health Board adopted the [Child and Family Action Plan](#), which states, "Whatcom County government has an important role to play in realizing the community's vision, which begins with making a commitment to promote the health and well-being of all children and families in Whatcom County, with a special focus on the critical first years of life, and families that experience disproportionate challenges due to social and economic factors, discrimination, and health issues"; and

WHEREAS, by adopting the Child and Family Action Plan, Whatcom County has committed to adopting "a "children and families first" approach for county policy and funding decisions, build county infrastructure to embed a focus on child and family well-being across county government, and contribute to community efforts to stabilize and expand access to child care and early learning opportunities"; and

WHEREAS, according to the [2019 Child Care Supply, Cost, and Demand in Whatcom County](#), "Child care is the greatest expense many families face" frequently exceeding the cost of housing for a young family of four or more; and

WHEREAS, according to [The Mounting Costs of Child Care](#), in Washington State, 49% of parents found it difficult or very difficult to find, afford, and keep child care, 27% left school or training due to child care issues, and 9% were fired or let go due to child care issues; and

WHEREAS, according to [The Mounting Costs of Child Care](#), in Washington State, as for employers, an estimated loss of \$2.08 billion due to turnover and missed work due to child care issues and an estimate of \$6.5 billion in direct costs due to employee child care issues; and

WHEREAS, while local employers have correctly identified housing affordability as a major constraint to attracting additional workers to the area; and

WHEREAS, child care affordability is actually a greater overall financial burden on low income families which, if reduced, would enable thousands of existing local residents (particularly women) to reenter the workforce, much sooner than it would take to build a substantial number of additional workforce housing units; and

WHEREAS, spending money on local child care facilities will have significant multiplier effect on the local economy and will create local construction jobs, raise family incomes by allowing a second parent to work, and increase the ability to pay the wages necessary to retain qualified childcare workers; and

WHEREAS, most of the increase in incomes will be spent locally which will increase incomes of other local businesses; and

WHEREAS, high quality child care promotes healthy child development, which is proven to reduce rates of incarceration, homelessness, and poverty in later life; and

WHEREAS, providing affordable, high quality childcare will have long-term benefits for children and families, our economy, and society as a whole.

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2 **NOW, THEREFORE, BE IT RESOLVED** by the Whatcom County Council that the
3 majority of the funds received through the H.R.1319 - American Rescue Plan Act of 2021 be
4 allocated to land, buildings, and capital projects for child care facilities.
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6 **BE IT FURTHER RESOLVED** that the land, buildings, and capital projects obtained
7 through the funding from H.R.1319 - American Rescue Plan Act of 2021 be purchased,
8 renovated/constructed as high-quality facilities to increase overall community capacity by 5,000
9 new child care slots, including 2 facilities that will provide extended hours to accommodate
10 children of shift workers.
11

12 **BE IT FURTHER RESOLVED** that these facilities be permanently owned by the County
13 (or a participating local jurisdiction) and made available for lease to qualified child care
14 providers at no cost (or the lowest possible cost allowed by law) under the following guidelines:
15

- 16 1. Facility numbers and overall capacity shall be sized and located based on the population
17 density of young families throughout the County and located in urbanized areas of the
18 jurisdictions that contribute a proportionate amount of their H.R.1319 funds, and;
- 19 2. A minimum of 60% of the child care spots shall be prioritized for families at or below the
20 ALICE (Asset Limited, Income Constrained, and Employed) threshold, and;
- 21 3. The fees the Lessee charges all parents shall be based on the state reimbursement rate,
22 and;
- 23 4. To ensure the children are likely to be cared for by qualified staff the Lessee must pay
24 employees at or above market wages, and;
- 25 5. To ensure the County does not create an ongoing liability to fund operating costs the
26 Lessee shall pay a monthly amount to cover all normal operating costs, taxes,
27 maintenance (including a capital cost allowance to fund major future repairs such as
28 roof replacement), commensurate with what would be normal and customary if they
29 were to lease the facility from a private commercial landlord.
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35 **BE IT FINALLY RESOLVED** that the cities of Bellingham, Blaine, Everson, Ferndale,
36 Lynden, Nooksack, Sumas and the Nations of Lummi and Nooksack be invited to participate in
37 funding of the land, buildings, and capital projects for child care facilities with H.R.1319 -
38 American Rescue Plan Act of 2021 funds to allow for affordable child care in Whatcom County in
39 perpetuity.
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41 **APPROVED this ____ day of _____, 20__.**
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45 ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

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48 _____
Dana Brown-Davis, Clerk of the Council

(Barry Buchanan), Council Chair

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50 APPROVED AS TO FORM:
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53 _____
54 Karen Frakes, Civil Deputy Prosecutor

ORDINANCE NO. _____

**IMPOSING AN INTERIM MORATORIUM ON THE ACCEPTANCE AND PROCESSING
OF PERMIT APPLICATIONS FOR NEW OR EXPANDED RECREATIONAL CANNABIS
GROWING AND/OR PROCESSING FACILITIES WHICH ARE PROPOSED TO OPERATE
OUTDOORS OR IN GREENHOUSES**

WHEREAS, on November 6, 2012, Initiative 502 was passed by the voters of the State of Washington, amending Chapter 69.50 RCW and providing the regulatory framework for cannabis producers, processors, and retailers to become licensed by the Washington State Liquor and Cannabis Board ("WSLCB"); and,

WHEREAS, on November 16, 2013, the WSLCB adopted final cannabis licensing rules as codified in Chapter 314-55 WAC. During the period between November 18, 2013 and December 18, 2013, the WSLCB accepted cannabis license applications for cannabis production, processing and retail facilities. Whatcom County began receiving notifications of proposed cannabis facilities from the WSLCB in midDecember 2013, and the WSLCB began issuing cannabis producer, processor, and retail licenses to qualified applicants in March of 2014; and,

WHEREAS, on January 16, 2014, the Washington State Attorney General issued an opinion stating that Initiative 502 does not preempt counties from banning or placing additional regulatory requirements on cannabis related businesses within their jurisdictions; and,

WHEREAS, the Prosecuting Attorney and Planning and Development Services (PDS) had at the time implemented a zoning interpretation policy, which stated that PDS would regulate cannabis proposed uses as allowed by Initiative 502 in the same way as any other commodity that is grown, processed, or sold in Whatcom County, it became evident that many of those proposed locations could conflict with other surrounding uses; and,

WHEREAS, on February 11, 2014, the Whatcom County Council adopted Ordinance 2014-011, an emergency ordinance imposing a moratorium on the acceptance of all building and/or land use applications that pertain to cannabis producers, processors, retailers and medical cannabis collective gardens; and,

WHEREAS, the County developed and implemented several sets of interim regulations during that time, though none were deemed appropriate by the Council as permanent regulations; and,

WHEREAS, on March 31, 2015, the Whatcom County Council adopted Ordinance 2015-006, which contains the current County zoning regulations for recreational cannabis type uses, treating cannabis similar to other agricultural products; and,

WHEREAS, Whatcom County Code (WCC) 20.97.227 defines marijuana production as a facility licensed by the state Liquor and Cannabis Board to produce, harvest, trim, dry, cure, and package marijuana, and sell marijuana at wholesale to state-licensed marijuana processors and other statelicensed marijuana producers; and,

WHEREAS, WCC 20.97.227 states marijuana production may take place either indoors within a fully enclosed secured facility or a greenhouse with rigid walls, a roof and doors, or outdoors in non-rigid greenhouses, other structures or an expanse of open or cleared ground fully enclosed by a physical barrier; and,

1
2 **WHEREAS**, Ordinance 2015-006 allows for the production and processing of
3 cannabis in the Rural (administrative uses), Rural Forestry (permitted uses) and Agriculture
4 zone districts (permitted uses), subject to a proposed facility meeting several stated use
5 standards. Such standards include odor controls (for indoor grows only), lighting, traffic and
6 parking control measures, as well as setbacks of 1,000 feet from community centers and
7 300 feet from residences not located on the same property. The ordinance also allowed for
8 the production and processing of marijuana in the Rural Industrial and Manufacturing, Light
9 Impact Industrial, and Heavy Impact Industrial districts as permitted uses, subject to odor
10 control measures (for indoor grows); and,

11
12 **WHEREAS**, the WSLCB is no longer issuing new licenses, existing licenses
13 throughout Washington State can be transferred and Whatcom County was notified by the
14 WSLCB of approximately 30 recreational marijuana production and/or processing renewal
15 licenses last year (2020) within unincorporated Whatcom County; and,

16
17 **WHEREAS**, while earlier licensees were small, local producers, their licenses now
18 appear to be being transferred to larger operators with more capital who are buying up the
19 earlier licenses and expanding and/or changing operations and/or locations; and,

20
21 **WHEREAS**, over the last few weeks the Council, Executive, Planning Commission,
22 and PDS have received complaints from residents adjacent to existing and proposed
23 cannabis facilities regarding excessive odor, lighting, and potential water usage, suggesting
24 that the County's cannabis regulations may not be sufficient; and,

25
26 **WHEREAS**, on March 23, 2021, the County Council adopted the 2021 Docket, a
27 component of the PDS work plan, including item PLN2021-00009, to "*Review and revise*
28 *Whatcom County Code relating to marijuana growing and processing in rural areas.*
29 *Consider impacts of marijuana growing and processing facilities in rural areas, and evaluate*
30 *growing and processing facilities as an agricultural or non-agricultural use. Consider*
31 *compatibility with GMA and County Comprehensive Plan.*" However, due to the pandemic,
32 the Planning Commission and County Council have backlogs of other issues to address, and
33 PDS will need time to work with the community to properly develop and process any
34 potential regulatory amendments; and,

35
36 **WHEREAS**, pursuant to the Washington State Constitution, the general police
37 powers granted to counties empower and authorize Whatcom County to adopt land use
38 controls to provide for the regulation of land uses within the County and to provide that
39 such uses shall be consistent with applicable law; and,

40
41 **WHEREAS**, RCW 36.70A.390 authorizes a county governing body to adopt moratoria
42 and provides that such a moratorium may be effective for up to one year if a work plan is
43 developed and further that such a moratorium may be renewed for one or more six-month
44 periods if a subsequent public hearing is held and findings of fact are made prior to each
45 renewal; and

46
47 **WHEREAS**, the County Council finds that the interim moratorium imposed by this
48 interim ordinance is necessary for the protection of public health and safety; and,

49
50 **WHEREAS**, it is necessary to adopt an interim moratorium to prevent development
51 applications from vesting under current law and thus subverting the purpose of the
52 proposed update to the policies and regulations for cannabis growing and processing
53 operations; and ,

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

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2 **NOW, THEREFORE, BE IT ORDAINED** that the Whatcom County Council adopts
3 the above "WHEREAS" recitals as findings of fact in support of its action as required by RCW
4 36.70A.390.

5
6 **BE IT FURTHER ORDAINED** by the Whatcom County Council that an interim
7 moratorium is hereby imposed prohibiting the filing, acceptance, or processing of new
8 applications for conversion of land or water, new building or structure permits, or other
9 County permits or authorizations for recreational marijuana production and/or processing
10 facilities which are proposed to operate in any of the following: (1) open or cleared ground,
11 (2) a non-rigid greenhouse, (3) a greenhouse with rigid walls, a roof and doors, or (4)
12 similar type greenhouse structures. The interim moratorium shall not apply to applications
13 that were filed and determined to be complete prior to the effective date of this ordinance
14 and vested pursuant to Washington statutes, or those for minor tenant improvement
15 permits associated with existing, permitted facilities. For the purposes of this ordinance, a
16 minor tenant improvement permit may include new or replaced equipment or other
17 structural alterations that do not expand the area of the facility or change the use from
18 previous County approvals.

19
20 **BE IT FURTHER ORDAINED** that if a section, subsection, paragraph, sentence,
21 clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by
22 any court of competent jurisdiction; such decision shall not affect the validity of the
23 remaining portions of this ordinance, and if the provisions of this ordinance are found to be
24 inconsistent with other provisions of the Whatcom County Code, this ordinance shall control.

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26 **APPROVED** this _____ day of _____, 2021.

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28 **ATTEST:**

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

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31 _____
32 Dana Brown Davis, Clerk of the Council

Barry Buchanan, Council Chair

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35 **APPROVED AS TO FORM:**

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

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39 _____
40 Civil Deputy Prosecutor

Satpal Sidhu, County Executive

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42 () Approved () Denied

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45 Date Signed: _____
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