

CLEARANCES	Initial	Date	Date Received in Council Office	Agenda Date	Assigned To:
Originator: County Council		01/23/96		1/23/96	Council
Division Head:					
Dept. Head:					
Prosecutor:					
Purchasing/Budget:					
Executive:					

**SUBJECT:**

Emergency ordinance declaring the adoption of interim urban growth areas

**ATTACHMENTS:**

Ordinance

**SUMMARY STATEMENT:** *Please complete sections of box as appropriate & explain the item below.*

Related County Contract #:	Should clerk schedule a hearing? (Y/N) N	Requested Date:
----------------------------	------------------------------------------	-----------------

An emergency ordinance declaring the adoption of iterim urban growth areas in accordance with the Growth management act as amended.

**CLERK'S RECOMMENDED MOTION (for final action):**

I move to approve....

**COUNCIL ACTION TAKEN:**

1/23/96: Adopted as amended 7-0.

Related File Numbers:

96-019

*Ordinance or Resolution Number (this item only):*

96-006

ORDINANCE NO. 96-006

AN EMERGENCY ORDINANCE DECLARING THE ADOPTION OF INTERIM URBAN GROWTH AREAS IN ACCORDANCE WITH THE GROWTH MANAGEMENT ACT AS AMENDED

WHEREAS, Chapter 16.04 of the Whatcom County Code (WCC) established the Planning Goals and Policies for the 1970 Whatcom County Comprehensive Plan; and

WHEREAS, said goals include (1) concentrating urban development to prevent sprawl and assure adequate public facilities; (2) recognizing that development in rural areas should be low density and should complement the rural character; (3) conserving agricultural and forestry lands; (4) limiting the demand for urban services; and (5) developing land use regulations intended to implement the adopted goals; and

WHEREAS, from 1981 through 1994, the County adopted subarea plans that included more specific policies to limit urban sprawl and to specify that development in rural areas should be low density that complements the existing rural character; and

WHEREAS, RCW 36.70A 110 (5) of the Growth Management Act requires Counties to adopt Interim Urban Growth Areas (IUGAs); and

WHEREAS, the Cities proposed IUGAs and the County considered these areas along with various alternatives for growth areas not associated with Cities; and

WHEREAS, the County prepared an Environmental Impact Statement (EIS) on the IUGAs including four alternatives and issued a final EIS on January 11, 1994, and subsequently prepared a second Draft Supplemental Environmental Impact Statement, May 16, 1994; and

WHEREAS, Ordinance 94-033, establishing interim urban growth areas, was adopted by the Whatcom County Council on May 24, 1994; and

WHEREAS, subsequent to adoption of IUGAs, County Planning staff completed the draft *Whatcom County Comprehensive Plan*, dated November 1994; and

WHEREAS, Community Value Statements, included in the draft *Whatcom County Comprehensive Plan*, are based on an extensive public participation process, as required in

1 RCW 36.70A.140, and are the foundation upon which the policies in the plan are  
2 formulated; and

3 WHEREAS, the draft *Whatcom County Comprehensive Plan* includes the land  
4 capacity analysis for city urban growth areas as required in the Growth Management Act;  
5 and

6 WHEREAS, the draft *Whatcom County Comprehensive Plan* includes a section on  
7 County unincorporated urban growth areas that establishes policy basis and discussion of the  
8 unincorporated growth area categories; and

9 WHEREAS, the County prepared a draft EIS, dated February 15, 1995, on the draft  
10 *Whatcom County Comprehensive Plan*; and

11 WHEREAS, the County held a series of joint County Council/Planning Commission  
12 introductory work sessions in November and December 1994 and four public hearings from  
13 January through March 8, 1995 on the draft *Whatcom County Comprehensive Plan*; and

14 WHEREAS, the public record was held open for written comments on the draft plan  
15 until March 17, 1995; and

16 WHEREAS, all comments were collected and compiled by topic area, including  
17 proposed urban growth areas; and

18 WHEREAS, the Planning Commission has held 35 work sessions since March 1995  
19 reviewing the draft Comprehensive Plan, chapter by chapter; and

20 WHEREAS, on November 9, 1994, the Growth Management Hearings Board  
21 ordered the County to establish IUGAs at municipal boundaries that were not to be  
22 extended without proper analysis of current data and without appropriate public  
23 participation; and

24 WHEREAS, the Growth Management Hearings Board, further ordered the County  
25 to adopt development regulations that prohibit new urban growth in areas outside properly  
26 established IUGAs; and

27 WHEREAS, the Growth Management Hearings Board ruled on February 23, 1995,  
28 that the County had taken no steps to rectify the noncompliance and that the original  
29 noncompliance continued; and

30 WHEREAS, the Growth Management Hearings Board issued a second compliance  
31 order on December 28, 1995, remanding the matter to Whatcom County with direction to  
32 achieve compliance by January 19, 1996; and

1           WHEREAS, the Growth Management Hearings Board set a further hearing on  
2 January 30, 1996, to address whether the County IUGA ordinance should be found invalid,  
3 pursuant to the standards found in RCW 36.70A.300(2); and

4           WHEREAS, the representatives of the County Council and the County Executive met  
5 with officials of the Washington State Department of Community, Trade, and Economic  
6 Development and agreed to work toward compliance with the order of the Growth  
7 Management Hearings Board; and

8           WHEREAS, the County Council, at a public meeting on January 4, 1996, expressed  
9 its intent to comply with the Growth Management Hearing's Board order to achieve  
10 compliance in the matter of IUGAs by adopting new IUGAs; and

11           WHEREAS, the draft Comprehensive Plan proposes final UGAs; and

12           WHEREAS, RCW 36.70.795 establishes a procedure for Counties to adopt interim  
13 official controls; and

14           WHEREAS, in order to meet the date designated by the Growth Hearings Board,  
15 the Council deemed it necessary to proceed with adopting an interim official control to  
16 establish new IUGAs based on proposed final UGAs in the draft *Whatcom County*  
17 *Comprehensive Plan*; and

18           WHEREAS, the Planning Commission issued a report on January 11, 1996, to the  
19 County Council on the proposal to adopt the draft *Comprehensive Plan* proposed final  
20 UGAs as new interim UGAs; and

21           WHEREAS, pursuant to RCW 36.70.590, legal notice was published in the  
22 Bellingham Herald on January 13, 1996; and

23           WHEREAS, the Council held a public hearing on January 23, 1996; and

24           WHEREAS, consistent with County-wide Planning Policies, the draft Comprehensive  
25 Plan recommends growth boundaries to accommodate a population of 189,100 people in  
26 2010, plus a market factor of 150%, resulting in a need for growth boundaries to  
27 accommodate 215,000 people; and

28           WHEREAS, the Office of Financial Management has revised growth projections for  
29 Whatcom County. The OFM's Medium Series (most likely) Projection for the year 2010 is  
30 192,506, reducing the market factor to less than 123%; and

31           WHEREAS, the Office of Financial Management's Medium Series (most likely)  
32 Projection for the year 2015 is 208,242 and Cities have planned urban growth boundaries  
33 to the years 2014 and 2015, further reducing the market factor; and

1           WHEREAS, RCW 36.70A.110 (2) was amended to allow Cites and Counties  
2 discretion to set a reasonable land market supply factor; and

3           WHEREAS, a further analysis has been prepared for County Unincorporated Urban  
4 Growth Areas as contained in findings; and

5           WHEREAS, each of Whatcom County's Cities prepared findings to justify their  
6 IUGAs as contained in Findings, that are adopted as Exhibit B; and

7           WHEREAS, the Council finds the amendments to be in the best interests of the  
8 public health, safety, and welfare; and

9           Declaration of Emergency

10          WHEREAS, the Council adopts the following Findings and Conclusions:

11          Findings

- 12          1.     Due to the activity by the Growth Hearings Board, including the January 19,  
13                 1996, compliance deadline, and the threat of a finding of invalidity, it is  
14                 necessary for this ordinance to take effect as soon as possible.
- 15          2.     The public welfare could be severely jeopardized by a finding of invalidity by  
16                 the board.

17          Conclusion

18                 This ordinance is necessary for the immediate preservation of the public  
19                 peace, health, or safety, and/or the support of the County government.

20          WHEREAS, the Council adopts the following Findings and Conclusions:

21          Findings

- 22          1.     Whatcom County has an extensive growth management based comprehensive  
23                 planning history including the adoption of 1979 County Planning Goals and the  
24                 completion of ten subarea plans.
- 25          2.     The proposed *Whatcom County Comprehensive Plan*, currently in draft form,  
26                 (hereinafter referred to as the "Plan,"), completed November 17, 1994, includes an  
27                 analysis of urban growth areas that is based on the proposed boundaries by the cities  
28                 of Whatcom County. The proposed Plan recommends preliminary, final Urban  
29                 Growth Areas that considers the in-fill capacity of each city, twenty year growth  
30                 needs, the in-fill capacity of proposed urban growth areas, and the resulting densities.

1 The analysis is based on the year 2010 as a target year, but includes discussion of city  
2 projected needs and boundaries for a range of years from 2010 to 2015.

3 3. The Plan is based on a population projection of 189,100 in the year 2010, as adopted  
4 in the County-wide Planning Policies (CWPPs).

5 4. Subsequent to adoption of the CWPPs and the completion of the Plan, the Office of  
6 Financial Management issued revised population figures for the county. The new  
7 numbers projected a mid-range population of 192,506 for the year 2010 and a mid-  
8 range population of 208,242 in 2015.

9 ***City UGAs***

10 5. The City of Bellingham's findings support proposed interim UGA slightly smaller  
11 than the area proposed in the draft *Whatcom County Comprehensive Plan*.

12 6. The City of Blaine's findings support a proposed interim urban growth area  
13 consistent with the one proposed in the draft *Whatcom County Comprehensive Plan*,  
14 and includes a conditional area identified as a water resource protection area. Policy  
15 2R-1 in the Plan requires adoption of a Critical Aquifer Recharge Protection Plan  
16 as a prerequisite for inclusion of the conditional area as part of Blaine's urban  
17 growth area.

18 7. The City of Ferndale's findings support a proposed interim urban growth area slightly  
19 different from the one proposed in the draft *Whatcom County Comprehensive Plan*.  
20 The findings support Ferndale's UGA as a whole, with the exception of the area east  
21 of Ferndale, but do not specifically address the differences from the proposed Final  
22 UGAs in the Plan. Additional findings with regard to the area east of Ferndale are  
23 as follows:

24 A) The area east of Ferndale consists of a unique small community known  
25 historically as North Bellingham, which is mixed in types of housing  
26 and very independent in nature, having its own school, grange, grocery  
27 stores, churches, gas stations, and fire station.

28 B) Throughout extensive public process, testimony for the Final UGAs  
29 overwhelmingly supported exclusion of the North Bellingham area  
30 from Ferndale's UGA.

31 C) The North Bellingham area is the only buffer between Bellingham and  
32 Ferndale.

33 D) Northwest Road, which cuts through the North Bellingham area, is a  
34 good alternate north-south connector for those wishing to avoid Guide  
35 Meridian. It takes some burden off Guide Meridian. Increased  
36 densities would serve to congest this major arterial.

- 1 E) Ferndale's IUGA is more regular by eliminating the North Bellingham  
2 area.
- 3 F) The residents of the North Bellingham area have overwhelmingly  
4 supported maintaining their unique identity, separate from Bellingham  
5 or Ferndale.
- 6 G) Retaining North Bellingham's unique character is consistent with  
7 finding #34 of the substitute ordinance.
- 8 8. The Cities of Everson, Lynden and Nooksack's findings support an interim urban  
9 growth area the same as the one proposed in the Plan.
- 10 9. The City of Sumas is surrounded by floodplain. Goal 2W states that Sumas should  
11 set an Urban Growth Area which accommodates future growth needs and recognizes  
12 the unique constraints imposed by flooding of the Sumas and Nooksack Rivers. The  
13 County proposed UGA includes a conditional area suggested by Sumas as being  
14 inappropriately classified as floodplain. Policy 2W-2 requires completion and  
15 adoption of a flood study for the area due east of Sumas prior to inclusion in the  
16 final urban growth boundary.

17 ***County Unincorporated UGAs***

- 18 10. The Plan categorizes County Unincorporated UGAs as follows:  
19 A) Areas which are already platted and will be allowed to continue to  
20 build out, but will not be encouraged to expand;  
21 B) Areas which are already platted and/or presently have zoning and  
22 adequate provision for utilities which could allow future expansion;  
23 C) Existing or proposed major industrial areas which, because of specific  
24 location needs, are not contiguous to cities; and  
25 D) Hamlets or small unincorporated urban areas with partial services  
26 which will be designated and encouraged to grow subject to need and  
27 when a full range of services are provided.
- 28 11. RCW 36.70A.110(3) suggest that urban growth should be located in the following  
29 priority:  
30 A) Areas already characterized by urban growth that have adequate public  
31 facilities.  
32 B) Areas already characterized by urban growth that will be served  
33 adequately by a combination of both existing public facilities and  
34 services and any additional needed public facilities that are provided  
35 by either public or private sources.  
36 C) Other urban growth areas.
- 37  
38 12. The Planning Division's Staff Report, dated February 8, 1995, provided analysis of

1 the capability of water service provision to the County's Unincorporated UGAs and  
2 indicated that all urban growth areas should include some strategy for the delivery  
3 of water services.

- 4  
5 13. The proposed County Unincorporated UGAs were developed as a result of an  
6 extensive public process specifically articulated in the Visioning Value Statements  
7 and reflected throughout the Land Use Chapter of the Plan and were evaluated  
8 against the Growth Management Act requirements.

9 *County Unincorporated Residential UGAs*

- 10 14. Population distribution for the County Unincorporated Residential Urban Growth  
11 Areas (UGAs) for the next twenty years project the need to accommodate 3,282  
12 more people within four major residential areas, with the potential for several small  
13 Hamlets.

- 14 15. County UGAs are based on subarea planning efforts developed between the years  
15 1981 and 1994. These plans identified urban reserve areas located in areas which are  
16 either adjacent to existing, specified municipalities, or are satellite areas that are of  
17 sufficient size to adequately accommodate the projected demands for residential and  
18 commercial growth. They are located in areas where a range of urban services  
19 presently exist or can be economically and efficiently provided in the near future.  
20 Zoning densities in these areas are limited to one unit per five acres until such time  
21 as both water and sewer can be provided. In no case have any additional growth  
22 areas been proposed beyond those identified in this earlier planning effort.

- 23 16. By the year 2010, potential population distribution among the unincorporated  
24 residential UGAs indicates the Birch Bay UGA (Map A-8a-I) will absorb 1,149  
25 people; the Sudden Valley UGA (Map A-8d-I) will absorb 1,213 people; the Paradise  
26 Lakes/Peaceful Valley UGA (Map A-8b-I) will absorb 361 people; and the Point  
27 Roberts UGA (Map A-8c-I) will absorb 459 people. The remaining 100 people will  
28 be accommodated within the creation of small Hamlets.

- 29 17. County unincorporated residential UGAs contain a total of 9,279 acres.

- 30 18. The Birch Bay UGA (Map A-8a-I) is based on zoning established by Birch  
31 Bay/Blaine Subarea Plan, adopted in September 1987. This zoning pattern is  
32 intended to accommodate historical development patterns and estimated future  
33 demands. There are 4,166 acres of land designated for residential use; 39 acres for  
34 industrial use; and 480 acres for commercial use. In 1990, the area contained a  
35 population of 2,307 with 2,471 dwelling units. Using a market factor of 150%, the  
36 area must accommodate an additional 1,846 dwelling units. Densities are expected  
37 to increase by 43%. The Birch Bay area has traditionally been an area of  
38 recreational use with over 50% of the parcels in Canadian ownership. The  
39 speculative nature of development in the area and the close link to the Canadian

1 economy have made predicting residential demands very difficult. The area is served  
2 with water and sewer by the Birch Bay Water and Sewer District.

3 19. The Sudden Valley UGA (Map A-8d-I) is based on zoning established by the Lake  
4 Whatcom Subarea Plan adopted in August 1982. The zoning pattern is intended to  
5 accommodate historical development patterns and estimated future demands. There  
6 are 1,694 acres of land designated for residential use and 20 acres designated for  
7 commercial use. In 1990, the area contained a population of 2,592 and 1,388  
8 dwelling units. Using a market factor of 150%, the area must accommodate an  
9 additional 974 dwelling units. Densities are expected to increase 41%. Platting  
10 patterns in the area were established in the 1970s. Well over 90% of the land area  
11 within the UGA is already platted. The area is served with water and sewer by  
12 Water District 10. The Sudden Valley UGA is consistent with findings #34; the  
13 existing pattern of zoning represents prior zoning commitments to residents, and was  
14 an important consideration in setting urban growth boundaries.

15 20. The Paradise Lakes/Peaceful Valley UGA (Map A-8b-I) is based on zoning  
16 established by the Foothills Subarea Plan adopted in November 1988. The zoning  
17 pattern is intended to accommodate historical development patterns and estimated  
18 future demands. There are 1,055 acres of land designated for residential use. In  
19 1990, the area contained 726 people and 970 dwelling units. Using a market factor  
20 of 150%, the area must accommodate an additional 723 dwelling units. Densities are  
21 expected to increase by 43%. 75% of the UGA area consists of platted lots. It has  
22 potential to be served by water and sewer.

23 21. The Point Roberts UGA (Map A-8c-I) is based on zoning established by the Point  
24 Roberts Subarea Plan adopted in 1990. The zoning pattern is intended to  
25 accommodate historical development patterns and estimated future demands. There  
26 are 1,899 acres of land within the area designated for urban levels of development,  
27 of which, 1,572 acres are residential, 316 acres are commercial, and 11 acres are  
28 industrial. In 1990, the area contained 923 people and 1,798 dwelling units. Using  
29 a market factor of 150%, the area must accommodate an additional 1,341 dwelling  
30 units. The density is expected to increase by 43%. Point Roberts is a particularly  
31 unique area of the United States. While it is part of Whatcom County, it is not  
32 contiguous to the US border, but exists as a peninsula. Travel into Point Roberts  
33 requires crossing through Customs at the Canadian border; thus, the Canadian  
34 economy has very heavily influence Point Roberts growth and development patterns.  
35 The area is a popular Canadian resort and over 80% of the land is owned by  
36 Canadian citizens. Much of the area has already been platted. It is served by water  
37 and sewer.

38 22. The remaining Unincorporated Residential UGAs, the Acme and Glacier areas  
39 (Maps A-8d-III and A-8b-IV), are envisioned as potential Hamlet areas that are not  
40 intended to absorb major population allocations.

1 23. The proposed County Unincorporated Residential UGAs reflect existing  
2 development patterns which are a result of the unique location of Whatcom County  
3 adjacent to the Canadian border. Large resort areas exist for Canadian citizens,  
4 making it difficult to predict market demands and population projections.

5 ***County Unincorporated Commercial UGAs***

6 Maps A-8a-IV, A-8a-V, A-8a-VI, A-8a-VII, A-8b-I, A-8b-II, A-8b-III, A-8c-II, A-8d-IV

7 24. There are 486 acres of land designated as County Unincorporated Commercial UGA.  
8 Of this number, 404 acres are designated General Commercial, intended to provide  
9 a range of retail goods and services to the surrounding community; 40 acres are  
10 designated Tourist Commercial, intended to serve the traveling public; and 42 acres  
11 are designated Neighborhood Commercial, intended to provide goods and services  
12 to persons residing within a neighborhood trade or service area.

13 25. Commercial zoning was established in various subarea plans based on existing  
14 development patterns and future demands for rural services.

15 26. Commercial areas along Guide Meridian (Maps A-8a-V, A-8a-VI, A-8-VII) have  
16 been under study in the Whatcom County Council of Government and the  
17 Washington State Department of Transportation *Guide Meridian Corridor Study*. The  
18 draft study considers access management plans for Guide Meridian and addresses the  
19 issues of traffic safety, circulation and access, infrastructure, and business  
20 competition. There has been an extensive public involvement process for owners of  
21 property along the Guide Meridian Corridor. The study suggests that no downzoning  
22 occur, a "cottage industry corridor" be encouraged using existing zoning and transfer  
23 of development rights, and the preservation of the floodplain and agricultural areas  
24 north of Lynden. Existing zoning is consistent with this proposal.

25 ***County Unincorporated Industrial UGAs***

26 27. The Whatcom County Industrial Lands Inventory was completed August 30, 1995.  
27 The inventory indicates there are a total of 10,385 acres of land zoned for industrial  
28 development in unincorporated Whatcom County. Of that area, there are 4,371 acres  
29 unconstrained by wetlands and available for development. Only 99 acres are served  
30 with water, sewer, and all weather roads.

31 28. County Unincorporated Industrial UGAs include 8,109 acres of industrially zoned  
32 land. Of this, 6,578 acres are zoned for Heavy Industrial use; 1,156 acres are zoned  
33 for Light Impact Industrial use; 26 acres for General Manufacturing; and 225 acres  
34 of Gateway Industrial.

35 29. Industrial zoning was established in various subarea plans based on existing  
36 development patterns and the need to provide a reasonable supply of land for  
37 ancillary uses to the manufacturing and commercial sectors, as well as the need to

- 1 provide large areas away from urban development for heavy industrial uses.
- 2 30. The underlying rationale of Gateway Industrial (Map A-8a-III) is to supply a  
3 reasonable amount of land for displaying industrial capabilities and to allow for  
4 phased expansion in areas so that each phase presents a healthy economic image.  
5 Locational criteria requires proximity to major international transportation routes,  
6 potential availability of sewer, water and storm drainage facility and labor pool  
7 supply within 45 minute commute.
- 8 31. The Light Impact Industrial zone at Custer (Map A-8a-III) was established with a  
9 zoning amendment adopted in March 1995. Findings for the rezone included  
10 reference to earlier Birch Bay/Blaine Subarea Plan language that indicated a need  
11 for industrial land adjacent to rail access and changed circumstances since the  
12 subarea plan's adoption which indicated a need for additional land in this location,  
13 including the re-establishment of Amtrak Service, recognition of the need for  
14 industrial jobs, and the availability of gas and electrical power. This is a unique  
15 transportation area. The zoning amendment underwent SEPA review and extensive  
16 public participation. The results of the Visioning Process established that Whatcom  
17 County citizens support industrial development along the I-5 corridor.
- 18 32. The proposed County Unincorporated Industrial Areas include sufficient land area  
19 to cover a reasonable market supply factor for the short-term, but do not propose  
20 any additional areas to address long-term needs. In the long-term, it will be  
21 necessary to consider the creation of additional industrial zoning to enhance the tax  
22 base for rural school districts and to provide sufficient variety of parcel sizes and  
23 serviced industrial land.
- 24 33. The majority of developable acres within County unincorporated UGAs are located  
25 in the Cherry Point area which will be considered as a major industrial development  
26 in Final UGAs.
- 27 34. The existing pattern of zoning, representing prior zoning commitments to residents  
28 was an important consideration in setting urban growth boundaries.
- 29 35. The Plan, including the proposed UGAs, developed in conjunction with and in  
30 response to a lengthy public involvement process that included the creation of citizen  
31 committees, a fair booth at the August 1993 Northwest Washington Fair, sixteen  
32 Town Hall meetings, 12,000 written surveys, a statistically-valid phone survey,  
33 development of Community Value Statements and Land Use Alternatives, and an  
34 additional fourteen Town Hall meetings.
- 35 36. RCW 36.70A.060 requires Counties to assure the conservation of agricultural, forest,  
36 and mineral resource lands through the adoption of designations and development  
37 regulations.

- 1 37. Outside of proposed urban growth areas, the County has 86,619 acres of agricultural  
2 land designation, restricting densities to one dwelling unit per 40 acres; 187,552 acres  
3 of forestry designation with development regulations prohibiting residential  
4 development; 33,703 acres of forestry designation, restricting development to one  
5 dwelling unit per twenty acres; and 1,252 acres of mineral resource land designation,  
6 restricting development to one unit per twenty acres, and there exists over 940,000  
7 acres of public owned land in Whatcom County, in addition to the land previously  
8 cited.
- 9 38. Inside proposed urban growth areas, there are 1,759 acres of land presently zoned  
10 for agriculture, no areas designated as forestry resource lands, and 120 acres of land  
11 designated as mineral resource.
- 12 39. Whatcom County Code, Chapter 16, adopted in 1979, contains Planning Goals for  
13 Whatcom County which require concentration of urban growth, elimination of sprawl,  
14 protection of resource lands and rural character. Chapter 16 also requires adoption  
15 of land use regulations to implement these policies. Title 20, Whatcom County  
16 Zoning Code, was revised specifically to implement the Planning Goals.
- 17 40. RCW 36.70A 070 (5) requires Counties to include a rural element which permits  
18 land uses that are compatible with the rural character of such lands and provides for  
19 a variety of rural densities.
- 20 41. Outside of proposed urban growth areas, the County presently has 26,861 acres zoned  
21 Rural Ten Acre (R10A), restricting densities to one unit per ten acres; 77,357 acres  
22 zoned Rural Five Acres (R5A), restricting densities to one unit per five acres; 5,213  
23 acres zoned Rural Two Acre (R2A), restricting densities to one unit per two acres;  
24 1,867 acres zoned Rural Residential One (RR1), restricting densities to one unit per  
25 acre; 4,124 acres zoned Rural Residential Two (RR2), restricting densities to one  
26 unit per acre unless either public water or sewer is available, in which case two units  
27 per acre is allowed; 542 acres zoned Rural Residential Three (RR3), restricting  
28 densities to one unit per acre unless public water or sewer is available, in which case  
29 three units per acre are allowed; and 2,612 acres zoned Rural Residential Island  
30 (RRI), restricting densities to one unit per five acres when located in an aquifer  
31 recharge area and one dwelling unit per three acres when not in an aquifer recharge  
32 area.
- 33 42. The citizens of Whatcom County have made it clear that they do not support  
34 downzoning. Many arguments have been made by local citizens against downzoning  
35 including: (1) property owners' expectations based upon existing zoning, and  
36 legitimate claims of entitlement to that zoning, (2) the need to ensure stability,  
37 fairness, and predictability in land use planning, (3) the Growth Management Act's  
38 goal to avoid arbitrary and discriminatory actions or takings of property without just  
39 compensation, RCW 36.70A.020(6), and (4) the County's duty to avoid violating the

1 Taking, Equal Protection, and Due Process clauses of the U.S. Constitution, Fifth  
2 and Fourteenth Amendment, corresponding provisions of the Washington State  
3 Constitution, and the County's recent Charter Amendment No. 2, and the adverse  
4 effects upon County taxpayers which could result from claims being asserted against  
5 the County under these provisions.

- 6 43. Planning Commission and Council work schedules to complete the comprehensive  
7 plan, most likely, will prohibit any further rezones from receiving final Council  
8 approval before adoption of final UGA boundaries.

9 Conclusions

- 10 1. The analysis of proposed final UGAs included in the draft *Whatcom County*  
11 *Comprehensive Plan* (Plan), in conjunction with the further analysis prepared for  
12 adoption of this ordinance, is based on population projections and market factors  
13 consistent with the requirements of the Growth Management Act and is sufficient to  
14 meet the land capacity analysis required by the act.
- 15 2. The land capacity analysis findings submitted by the cities, and further findings by the  
16 County support the size and location of the Interim Urban Growth Areas for cities.  
17 The Interim Urban Growth Area adopted by this ordinance for the City of  
18 Bellingham is smaller than included in the proposed Whatcom County  
19 Comprehensive Plan. The Interim Urban Growth Area adopted by this ordinance for  
20 the City of Ferndale is the same as that cited in the proposed Whatcom County  
21 Comprehensive Plan and as modified in Finding #7 herein, although Ferndale  
22 proposed a slightly different boundary.
- 23 3. The land capacity analysis and the policy basis of the Plan support the size and  
24 location of the County unincorporated Urban Growth Areas (UGAs).
- 25 4. There has been sufficient public process to meet the requirements of the Growth  
26 Management Act in considering the proposed final urban growth areas of the Plan.  
27 This process has included the Comprehensive Plan Visioning Process, four public  
28 hearings, and multiple work sessions.
- 29 5. The existing Whatcom County Development regulations limit uses sufficiently to  
30 prevent new urban development from occurring outside logically established IUGAs  
31 until the Plan is completed.
- 32 6. These densities and uses outside urban growth areas are rural for purposes of this  
33 ordinance, and it is the intent of this ordinance to allow development and use of  
34 property in these zones in accordance with existing zoning. To avoid litigation on  
35 these issues, and in response to the overwhelming desire of the citizenry, downzoning  
36 is not being proposed. Existing zoning is consistent with a coherent rural vision for

1           Whatcom County which provides for a variety of uses and densities, including a  
2           variety of residential options, see, e.g. RCW 36.70A.020(4).

3           **NOW THEREFORE BE IT ORDAINED BY THE WHATCOM COUNTY COUNCIL:**

4           Section 1.    This ordinance is imposed on an emergency basis to protect the public health,  
5                       safety, and general welfare and will take effect immediately upon passage and  
6                       will be effective until Ordinance No. ~~96-004~~ becomes effective.

7           Section 2.    The Interim Urban Growth Area for the City of Bellingham as presented in  
8                       the attached map (Exhibit A-1) be accepted.

9           Section 3.    The Interim Urban Growth Area for the City of Blaine as presented in the  
10                      attached map (Exhibit A-2) be accepted.

11          Section 4.    The Interim Urban Growth Area for the City of Blaine will include the  
12                      conditional areas as identified in the attached map (Exhibit A-2).

13          Section 5.    The Interim Urban Growth Area for the City of Everson as presented in the  
14                      attached map (Exhibit A-3) be accepted.

15          Section 6.    The Interim Urban Growth Area for the City of Ferndale as presented in the  
16                      attached map (Exhibit A-4) be accepted.

17          Section 7.    The Interim Urban Growth Area for the City of Lynden as presented in the  
18                      attached map (Exhibit A-5) be accepted.

19          Section 8.    The Interim Urban Growth Area for the City of Nooksack as presented in the  
20                      attached map (Exhibit A-6) be accepted.

21          Section 9.    The Interim Urban Growth Area for the City of Sumas as presented in the  
22                      attached map (Exhibit A-7) be accepted.

23          Section 10.   The Interim Urban Growth Area for the City of Sumas will include the  
24                      conditional area as identified in the attached map (Exhibit A-7).

25          Section 11.   The Interim Urban Growth Areas for Unincorporated Whatcom County as  
26                      presented in the attached map (Exhibit A-8, [a-d]) be accepted.

27          Section 12.   The County will oppose any annexation outside the boundaries of an IUGA  
28                      until the IUGA has been amended or replaced by a final UGA.

29          Section 13.   The IUGAs are intended to be in effect until such time as final urban growth  
30                      areas are recommended by the Planning Commission and approved by the County Council,

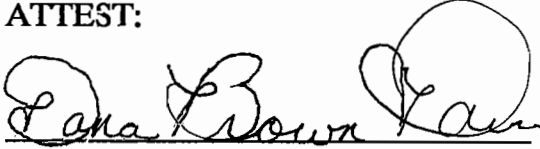
1 not to exceed eight months from time of adoption of this ordinance as provided in the work  
2 plan attached as Exhibit C.


3 Section 14. Adoption of this ordinance replaces Ordinance # 94-033.

4 Section 15. Adjudication of invalidity of any of the sections, clauses, or provisions of this  
5 Ordinance shall not affect or impair the validity of the Ordinance as a whole  
6 or any part thereof other than the part so declared to be invalid.

7 ADOPTED this 23 day of January, 1996.

8 WHATCOM COUNTY COUNCIL  
9 ATTEST: WHATCOM COUNTY, WASHINGTON

10   
11 Dana Brown Davis, Council Clerk

10   
11 Ward Nelson, Chairperson

12 APPROVED as to form & content:  Approved  Denied

13   
14 Senior Civil Deputy Prosecutor

13   
14 Pete Kremen, Executive

15 Date: \_\_\_\_\_