

CLEARANCES	Initial	Date	Date Received in Council Office:	Agenda date	Assigned to:
Originator: Jeff Griffin	JG	4/30/97			
Division Head: Sylvia Goodwin	SG	4/30/97			
Dept. Head: Michael Knapp	MK	4/30/97			
Prosecutor:	K.F.	4/30/97			
Purchasing/Budget:					
Executive:					

SUBJECT: An emergency ordinance extending CAO Emergency Ordinance 97-012, which amends Chapter 16.16, Whatcom County Code, "Critical Areas" to comply with the Washington State Growth Management Act.

ATTACHMENTS:

Proposed Ordinance

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

Related County contract #: n/a	Should Clerk schedule a hearing? NO /x/ YES // Requested date:
Amount budgeted for this item/project: \$ n/a	Is it (or will it be) within budget? YES / / NO / / (Please explain below) n/a
Budget line item number(s): n/a	

The request is to extend the critical areas emergency ordinance for sixty days to provide additional time for Planning Commission to formulate a recommendation on the final critical areas ordinance.

ORIGINATOR'S RECOMMENDED ACTION: The Planning and Development Services Director recommends that Council accept the recommendation and adopt the proposed ordinance.

COMMITTEE ACTION TAKEN:

COUNCIL ACTION TAKEN:

1997 - 178 5/6/97: Adopted 7 - 0. Ord. #97-018

Related File Numbers:

Ordinance or Resolution Number (this item only):

Ord. 97-018

ORDINANCE NO. 97-018

AN EMERGENCY ORDINANCE REPLACING ORDINANCE #96-017, WHICH AMENDS CHAPTER 16.16, WHATCOM COUNTY CODE, "CRITICAL AREAS" TO COMPLY WITH THE WASHINGTON STATE GROWTH MANAGEMENT ACT.

WHEREAS, the Washington State Legislature passed the Growth Management Act in 1990 and amended it in 1991, requiring counties and cities to define, identify, and manage environmentally critical areas and ecosystems; and

WHEREAS, on May 26, 1992 at a public meeting, the Council unanimously approved the unanimous recommendations of the Planning Commission to adopt a Critical Areas Ordinance (92-032); and

WHEREAS, in November, 1992, the County Auditor validated over 11,000 signatures to a petition to strike certain provisions from the original CAO and put the petition on the ballot as Referendum 92-3, and on November 2, 1993, a majority voted to support the referendum version of the CAO; and

WHEREAS, the referendum process was appealed to the Growth Hearings Board; and

WHEREAS, on June 30, 1994 the Growth Hearings Board ruled that SEPA must be applied to the amended CAO; and further ruled that the referendum process did not comply with the expanded public participation required by GMA and remanded the CAO back to the County for compliance; and

WHEREAS, in April, 1995 at a public meeting, the Council approved the recommendations of the Planning Commission to bring the Critical Areas Ordinance (#95-019) into compliance with the Growth Management Act; and

WHEREAS, the April, 1995 CAO (#95-019) was appealed to the Growth Hearings Board; and

WHEREAS, on Dec 20, 1995 the Growth Hearings Board invalidated Articles IX (Wetlands), X (River and Streams), XI (Fish Habitat Conservation Areas), and XII (Wildlife Habitat Conservation Areas) citing non-compliance with the Growth Management Act and remanded the CAO back to the County for compliance within 120 days of the order; and

WHEREAS, in January, 1996, the County Council reaffirmed its intent to pursue negotiations with State representatives in order to achieve agreement on the content of the Whatcom County Critical Areas regulations; and

WHEREAS, in a series of five work sessions, the County met with State representatives to better understand and respond to the December 20, 1995, Growth Hearings Board ruling and the State's concerns and, subsequently, developed a response

1 to the Board's ruling; and

2
3 WHEREAS, on April 30, 1996, voted to approve Ordinance #96-017; and

4 WHEREAS, the referendum process was appealed to the Growth Hearings Board;
5 and

6 WHEREAS, The Growth Hearings Board ruled on September 12, 1996 to
7 invalidated Articles IX (Wetlands), X (River and Streams), XI (Fish Habitat Conservation
8 Areas), and XII (Wildlife Habitat Conservation Areas) citing non-compliance with the
9 Growth Management Act and remanded the CAO back to the County for compliance
10 within 180 days of the order; and

11 WHEREAS, County resources have been focused on the Comprehensive Plan, time
12 has been short, staff limited, and the weather bad, the County determined that an
13 emergency ordinance containing the original Critical Areas Ordinance (#92-032) would
14 be the most expedient compliance move; and

15 WHEREAS, This will allow staff and the Planning Commission the necessary time
16 to meet the public process requirements of RCW37.70A for the final Critical Areas
17 Ordinance; and

18 WHEREAS, a Determination of Non-Significance was issued for Ordinance #92-032
19 on January 14, 1992 and no changes have been made to the ordinance submitted herein;
20 and

21 WHEREAS, pursuant to RCW 36.70.590, legal notice was published in the
22 Bellingham Herald on February , 1997 for the County Council Hearing; and

23 WHEREAS, The County Council held a regular Public Hearing on March 11, 1997,
24 and re-adopted Ordinance No. 92-032 as Ordinance No. 97-012 on an emergency basis
25 for a sixty day period; and

26 WHEREAS, the Planning Commission has held two public hearings and three work
27 sessions and requires further time to formulate a recommendation on the final critical
28 areas ordinance; and

29 WHEREAS, the Council has adopted the following Findings and Conclusions:

30 FINDINGS

- 31 1. Whatcom County has a number of areas subject to natural hazards, or which, in
32 their natural state, carry, hold or purify water and/or support unique or fragile
33 natural resources. These areas are identified as Critical Areas.
- 34 2. Whatcom County is mandated by the Growth Management Act to protect these
35 areas as well as protect the community from hazards associated with these areas.
- 36 3. Over the course of two years, staff, working with technical assistance, community
37 advice and public input, produced a Critical Areas Ordinance (Ordinance No. 92-
38 032).

1 4. Substantial public and technical input took place in the CAO development process
2 of Ordinance No.92-032 including 21 TAC meetings, 14 CAC meetings, 5 five
3 Agriculture meetings, 3 workshop - Wetlands, 2 town meetings - Wetlands, 1
4 workshop - Geologically Hazardous Areas, 1 town meeting Geologically Hazardous
5 Areas, 1 workshop - Aquifer Recharge Areas, 1 town meeting - Aquifer Recharge
6 Areas, 1 workshop -Fish Habitat Conservation Areas, 1 town meeting - Fish Habitat
7 Conservation Areas, 22 special interest meetings, 5 class presentations, 4 CAO
8 presentations at conferences,

9 5. Substantial public input was considered by the Planning Commission during three
10 (3) Public Hearings and seven (7) worksessions addressing Ordinance No.92-032.

11 6. Substantial public input was considered by the County Council during three (3)
12 town meetings and two (2) public hearings addressing Ordinance No.92-032.

13 **CONCLUSION**

14 These Critical Areas Regulations will provide adequate protection to Critical Areas and
15 bring Whatcom County into compliance with the Growth Management Act. The adoption
16 process has been sufficient to comply with the public participation requirements of the
17 GMA.

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

19 Section 1. Whatcom County hereby extends Ordinance No. 97-012 for sixty days on
20 an emergency basis.

21 Section 2. Adjudication of invalidity of any of the articles, sections, clauses, or
22 provisions of this Ordinance shall not affect or impair the validity of the ordinance as a
23 whole or any part thereof other than the part so declared to be invalid.

24 **ADOPTED** this 6 day of May, 1997.

25 **ATTEST:**

26 
27 _____
28 Dana Brown-Davis, Council Clerk

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON


_____ L. Ward Nelson, Chairperson

29 **APPROVED** as to form:

() Approved () Denied

30 
31 _____
Karen Frakes, Civil Deputy Prosecutor


_____ Pete Kremen, Executive

32 Date: 5-8-97