

CLEARANCES	Initial	Date	Date Received in Council Office:	Agenda date	Assigned to:
Originator: Jeff Griffin	JG	6/6/97	<b>RECEIVED</b>  JUL 11 1997  WHATCOM COUNTY COUNCIL	6/17/97	Introduction
Division Head: Sylvia Goodwin	SG	6/6/97		7/1/97	Planning / Council
Dept. Head: Michael Knapp					
Prosecutor:	PR	6/5/97			
Purchasing/Budget:					
Executive:	PR	6-10-97			

**SUBJECT:** An interim ordinance extending CAO Emergency Ordinance 97-018, 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 six months 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 - 226 6/17/97: Introduced  
 7/1/97: Adopted 5 - 2, Brown and Sutter opposed. Ord. #97-032

**Related File Numbers:**

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

Ord. # 97-032

ORDINANCE NO. 97-032

**AN INTERIM ORDINANCE 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 to the Board's ruling; and

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

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

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

5 WHEREAS, the County determined that an emergency ordinance containing the original Critical  
6 Areas Ordinance (#92-032) would be the most expedient compliance move; and

7 WHEREAS, a Determination of Non-Significance was issued for Ordinance #92-032 on January  
8 14, 1992 and no changes have been made to the ordinance submitted herein; and

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

12 WHEREAS, The County Council extended the above emergency ordinance for an additional  
13 sixty day period on May 6, 1997 through Ordinance #97-018; and

14  
15 WHEREAS, after two public hearings and five work sessions the Planning Commission requires  
16 further time to formulate a recommendation on the final critical areas ordinance; and

17 WHEREAS, RCW 36.70.795 provides for the adoption of interim official controls for effective  
18 periods of up to six months, and allows the adoption of interim official controls prior to a public hearing  
19 if such hearing is held within 60 days of its adoption, and

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

21 FINDINGS

- 22 1. Over the course of two years, staff, working with technical assistance, community advice and  
23 public input, produced a Critical Areas Ordinance (Ordinance No. 92-032).
- 24 2. Substantial public and technical input took place in the CAO development process of Ordinance  
25 No.92-032 including 21 TAC meetings, 14 CAC meetings, 5 five Agriculture meetings, 3  
26 workshop - Wetlands, 2 town meetings - Wetlands, 1 workshop - Geologically Hazardous Areas,  
27 1 town meeting Geologically Hazardous Areas, 1 workshop - Aquifer Recharge Areas, 1 town  
28 meeting - Aquifer Recharge Areas, 1 workshop -Fish Habitat Conservation Areas, 1 town  
29 meeting - Fish Habitat Conservation Areas, 22 special interest meetings, 5 class presentations,  
30 4 CAO presentations at conferences,
- 31 3. Substantial public input was considered by the Planning Commission during three (3) Public  
32 Hearings and seven (7) work sessions addressing Ordinance No.92-032.
- 33 4. Substantial public input was considered by the County Council during three (3) town meetings  
34 and two (2) public hearings addressing Ordinance No.92-032.

35 CONCLUSION

36 The proposed ordinance will provide adequate protection to Critical Areas and bring Whatcom County  
37 into compliance with the Growth Management Act. The adoption process has been sufficient to comply

1 with the public participation requirements of the GMA.

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

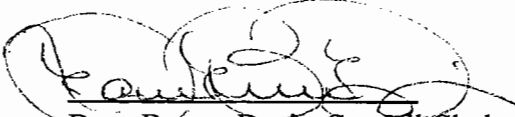
3 Section 1. Whatcom County hereby extends Ordinance No. 97-018 for six months on an  
4 interim basis.

5 Section 2. The Whatcom County Planning Commission shall hold a public hearing and  
6 prepare findings of fact concerning the interim development regulations within sixty (60) days from  
7 adoption of this Ordinance.

8 Section 3. Adjudication of invalidity of any of the articles, sections, clauses, or provisions  
9 of this Ordinance shall not affect or impair the validity of the ordinance as a whole or any part thereof  
10 other than the part so declared to be invalid.

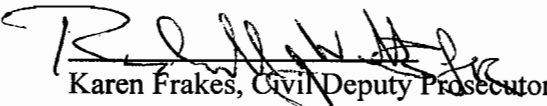
11 ADOPTED this 1 day of July, 1997.

12 WHATCOM COUNTY COUNCIL  
13 ATTEST: WHATCOM COUNTY, WASHINGTON

14   
15 Dana Brown-Davis, Council Clerk

  
L. Ward Nelson, Chairperson

16 APPROVED as to form: (X) Approved ( ) Denied

17   
18 Karen Frakes, Civil Deputy Prosecutor

  
Pete Kremen, Executive

19 Date: 7-9-97