

CLEARANCES	Initial	Date	Date Received in Council Office	Agenda Date	Assigned to:
Author: Matt W. Aamot	MMK	10-15-99	<div style="border: 1px solid black; padding: 5px; display: inline-block;"> <b>RECEIVED</b>                      OCT 19 1999                      WHATCOM COUNTY                      COUNCIL                 </div>	10-26-99	Council Introduction
Division Head: Sylvia Goodwin	SG	10-15-99		11-9-99	Planning & Development Committee
Dept. Head: Michael T. Knapp	MK	10-15-99		11-23-99	PED / COUNCIL
Prosecutor: Dave Grant	DMG	10-15-99			
Purchasing/Budget:	RGD	11/19/99			
Executive: Pete Kremen	PK	10-19			

**SUBJECT:** Ordinance adopting amendments to Light Impact Industrial and Heavy Impact Industrial sections of the zoning code in order to implement the Urban Fringe Plan (File # CMP99-00013).

**ATTACHMENTS:**

- (1) Proposed Ordinance.

SEPA review required? ( x ) Yes ( ) NO	Should Clerk schedule a hearing? ( ) Yes ( x' ) NO
SEPA review completed? ( x ) Yes ( ) NO	Requested Date:
	<sup>1</sup> The Council must hold a hearing if they want to change the Planning Commission's recommendation (WCC 20.10.110 and WCC 20.90.090).

**SUMMARY STATEMENT:** The request is to adopt amendments to the Light Impact Industrial and Heavy Impact Industrial sections of the Official Whatcom County Zoning Ordinance (Title 20) to implement the Urban Fringe Subarea Plan.

The Growth Management Act requires that Comprehensive Plan amendments be considered only once per year, with certain exceptions. All amendments must be considered concurrently. In 1999, the County Council initiated 13 amendments for review under Resolution No. 99-012. The Planning Commission held multiple hearings to consider these amendments. The Planning Commission took a final vote on the package of the 13 amendments on October 14, 1999. The Council is requested to adopt the Planning Commission's recommendations or, alternatively, to hold a hearing and adopt modifications to the Commission's recommendations. The Council can not adopt the amendments until 60 days after they were sent to the State Department of Community, Trade & Economic Development, which occurred on September 23, 1999 (RCW 36.70A.106/WAC 365-195-620). Additionally, the amendments have to be adopted prior to or along with the budget (WCC 20.10.040). Therefore, it appears that the request should be voted on at the Council's November 23, 1999 meeting.

**COUNCIL ACTION TAKEN:**

1999 - 404 10/26/99: Introduced  
 11/9/99: Held in Committee  
 11/23/99: Adopted 5-2, Brenner, Hoag opposed, Ord. #99-078

Related File Numbers: AB99-074

Distribution Request	
Indicate those who should receive a copy after Council action. List specific names to the right.	
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Parks	
Planning	Michael T. Knapp
Prosecutor	
Public Works	
Sheriff	
Superior Court	
Treasurer	
Other	

Ordinance or Resolution Number (this item): **ORD. # 99-078**

SPONSORED BY: Consent  
PROPOSED BY: Planning & Development Services  
INTRODUCTION DATE: 10/26/99

ORDINANCE NO. 99-078

**AMENDING THE WHATCOM COUNTY  
TITLE 20 LII AND HII ZONING TEXT TO IMPLEMENT THE  
URBAN FRINGE PLAN**

**WHEREAS**, The Whatcom County Council passed Resolution 99-012 on March 23, 1999 initiating 13 Comprehensive Plan amendments, and related amendments to the Official Whatcom County Zoning Ordinance (Title 20), for review in 1999; and

**WHEREAS**, One of the proposed amendments is a request to amend the Light Impact Industrial and Heavy Impact Industrial sections of the Zoning Ordinance to implement the Urban Fringe Subarea Plan; and

**WHEREAS**, The Deputy SEPA Official for Whatcom County issued a determination of non-significance on May 11, 1999; and

**WHEREAS**, Pursuant to RCW 36.70.390 and RCW 36.70.590, legal notice was published in the Bellingham Herald on May 27, 1999; and

**WHEREAS**, The Planning Commission held a public hearing on the subject amendment on June 10, 1999 and considered all testimony;

**WHEREAS**, The Planning Commission held a work session on October 14, 1999 to consider all the amendments concurrently, as required by WCC 20.10.100, WCC 20.90.070, and WCC 20.90.040; and

**WHEREAS**, The Planning Commission evaluated the merits of each amendment in relationship to the County Wide Planning Policies and the goals, policies and objectives of the Comprehensive Plan, as required by WCC 20.10.100 and WCC 20.90.070; and

**WHEREAS**, The Planning Commission issued Findings of Fact & Reasons for Actions, Conclusions and Recommendations on the amendments; and

**WHEREAS**, the County Council has considered the Planning Commission's Findings of Fact & Reasons for Action, Conclusions, and Recommendations for all the amendments, as required by WCC 20.10.110 and WCC 20.90.080; and

**WHEREAS**, the County Council has considered all the amendments concurrently so that the cumulative effect of the various proposals can be ascertained, as required by the Growth Management Act (RCW 36.70A.130) and WCC 20.10.010; and

**WHEREAS**, the County Council finds that the amendments to the Official Whatcom County Zoning Ordinance recommended by the Planning Commission are consistent with and implement the Comprehensive Plan; and

**WHEREAS**, the County Council finds the zoning amendments in the best interest of the public health, safety, and welfare, based on the following findings and conclusions:

#### **FINDINGS**

1. Public notice was published in the Bellingham Herald on May 27, 1999.
2. A determination of nonsignificance was issued by the SEPA Official on May 11, 1999.
3. The Urban Fringe Subarea Land Use Plan was adopted by the Whatcom County Council on June 2, 1998 as part of the Whatcom County Comprehensive Plan.
4. The Urban Fringe Subarea Plan includes recommendations regarding allowable uses and development standards within certain portions of the Urban Fringe Subarea.
5. The subject zoning text amendments will implement the portions of the Urban Fringe Subarea Plan which address Light Impact and Heavy Impact uses and development standards.
6. The Light Impact and Heavy Impact Industrial zones and development standards in WCC Chapter 20.80, as amended, include adequate standards regarding setbacks, lot coverage, buffers, signage, landscaping, drainage, and enclosure, and performance standards regarding pollution control and nuisance abatement, heat, light, glare, vibration, odor, dust, dirt, smoke, noise, toxic gases and fumes and liquid pollutants, and no further amendments are necessary to implement the Urban Fringe Subarea Plan .

#### **CONCLUSION**


1. The existing Whatcom County development regulations, amended in accordance with the subject zoning text amendments will implement the portions of the Urban Fringe Subarea Plan which address Light Impact and Heavy Impact uses and development standards.

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


Section 1. The text of the Official Whatcom County Zoning Ordinance (Title 20) is hereby amended as shown on Exhibit 1.

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


ADOPTED this 23 day of November 1999.

ATTEST  
  
Dana Brown-Davis, Council Clerk


WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WASHINGTON

  
Marlene Dawson, Chairperson

APPROVED as to form:

  
Civil Deputy Prosecutor

Approved  Denied

  
Pete Kremen, Executive

Date: 12/2/99

## Exhibit 1

### Section 20.66.200 of Title 20 is amended as follows:

20.66.200 Prohibited uses.

.201 All other uses.

.202 In the urban fringe subarea the following uses are prohibited: petroleum refinery and the primary manufacturing of products thereof, primary manufacturing and processing of rubber, plastics, chemicals, paper, asbestos and products derived thereof; and primary metal industries.

### Section 20.66.350 of Title 20 is amended as follows:

20.66.350 Building setbacks.

Building setbacks shall be administered pursuant to WCC 20.80.200, ~~20.80.286~~ and 20.66.550. *(Numbering will change from 20.80.286 to 20.80.254 if proposed 1998 text amendments are approved.)*

### Section 20.66.550 of Title 20 is amended as follows:

20.66.550 Buffer area.

.551 When a parcel situated within this district adjoins an Urban Residential, Urban Residential Medium Density, Rural or Residential Rural District, or county or state roads designated as or proposed for improvements to principal arterial status, setbacks shall be increased to 50 feet. A minimum of 25 feet shall be landscaped consistent with the requirements of WCC 20.80.345.

.552 If any part of said buffer area is separated from, or sold to any contiguous or adjacent owner, lessee or user, the parcel so separated or sold shall be used only as a buffer area in accordance with the above requirements. (Ord. 89-117, 1989).

.553 Required buffers may be provided off-site by written agreement in the form of a deed restriction on the off-site parcel that runs with the land and shall be filed with the County Auditor. The off-site buffer agreement shall be written so that it may be revised or rescinded in the event that land use or zoning designations are changed in such a way that the buffer becomes no longer necessary.

### The following new Section 20.66.708 is added:

#### 20.66.708 Appearance.

New facilities developed in the Bellingham Urban Fringe Subarea shall be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, and such uses shall not change the essential character of the same area.

**Section 20.68.050 of Title 20 is amended as follows:**

**20.68.050 Permitted uses.**

Unless otherwise provided herein, permitted and accessory uses shall be administered pursuant to the applicable provisions of Chapter 20.80 WCC (Supplementary Requirements) and Chapter 20.84 WCC (Variances, Conditional Uses and Appeals), the Whatcom County SEPA Ordinance, the Whatcom County Subdivision Ordinance and the Whatcom County Shoreline Management Program. The purpose of the SIC numbers listed within this chapter is to adopt by reference other activities similar in nature to the use identified herein. (Policies of the subarea comprehensive plan may preclude certain permitted uses to occur in particular subareas. Please refer to the policies of the applicable subarea plan to determine the appropriateness of a land use activity listed below.)

.051 The manufacture and processing of food including meat, dairy, fruits, vegetables, seafood, grain mill, large scale bakery, sugar and beverage products.

.052 Manufacturing and processing of textiles including weaving cotton, synthetic, silk or wool fabrics; knitting yarn and thread mills; textile bleaching, dyeing and printing; and carpet manufacture.

.053 The manufacture and processing of lumber and wood including sawmills; planing mills; millwork; veneer, plywood and prefabricated wood products; wooden containers and cooperage.

.054 The following are permitted uses except as otherwise prohibited:

(1) The manufacture and process of paper including pulp, paper and paperboard mills; and building paper and board mill products.

(2) The manufacture and processing of chemicals and allied products including industrial inorganic and organic chemicals; synthetic resins, rubber, fibers and plastic materials; soap, detergents and cleaning preparations; paint, linseed oil, shellac, lacquer and allied products; chemicals from gum and wood; and agricultural chemicals.

(3) Refining and storage of petroleum and asphalt.

(4) The manufacture and processing of rubber and plastic products.

(5) Leather tanning and finishing.

(6) The manufacture and processing of cement and glass; and concrete, gypsum, plaster, abrasive, asbestos and nonmetallic mineral products.

(7) Primary metal industries including blast furnaces and steel works; mills for primary smelting, secondary smelting, refining, reducing, finishing, rolling, drawing, extruding, and casting of ferrous and nonferrous metals; and the manufacture of miscellaneous metal products.

.055 The fabrication of metal products including metal cans, hardware, hand tools, cutlery, heating apparatus, plumbing fixtures, structural metal and stamping.

.056 The manufacture of machinery including engines; turbines; farm machinery and equipment; construction, mining and materials handling equipment; machine tools and dies; and special and general industrial equipment.

.057 The manufacture of electrical machinery including transmission and distribution equipment, and industrial apparatus.

.058 The manufacture of transportation equipment including automobiles, trucks, buses, airplanes, boat building and repair, railroad equipment, bicycles and motorcycles.

.059 Bulk commodity storage facilities, and truck, rail, vessel and pipeline transshipment terminals and facilities.

.060 Stationary thermal power plants with generating capacity of less than 250,000 kilowatts, floating thermal power plants with generating capacity of less than 50,000 kilowatts, and other power plants utilizing renewable resources from solar, wind or water sources.

.061 Heavy construction contractors.

.062 Public uses and community facilities including police and fire stations, libraries, community centers, recreation facilities and other similar noncommercial uses. (Ord. 91-075, 1991; Ord. 88-13, 1988; Ord. 87-12, 1987; Ord. 87-11, 1987; Ord. 84-38, 1984).

.063 Uses allowed in the Light Impact Industrial zone as permitted uses, WCC 20.66.100, shall be permitted outright within Areas 1A, 1B, and 1C of the Shoreline Industrial Area designated on Map 1 of the Urban Fringe Subarea Plan.

**Section 20.68.150 of Title 20 is amended as follows:**

20.68.150 Conditional uses.

.151 Solid waste disposal facilities and sites of a permanent nature including, but not limited to, landfills, incinerators, and transfer stations, excluding sewage sludge permitted by the Whatcom County department of public health in accordance with WAC 173-304-300; provided that the hearing examiner determines that the proposed facility or site meets the following conditions;

(1) The facility or site will not be located within any area identified in an adopted critical areas ordinance or 100-year floodplain unless outside of the floodplain and at least three feet in elevation higher than the floodway elevation;

(2) Filling or excavation, structures, or non-mobile machinery for all facilities except inert, demolition, and wood waste landfills will not be located within 1,000 feet of any zone district other than Agriculture or Industrial Zoning Districts, nor any public park, recreation area, wildlife refuge, archaeological and historic areas, shoreline under the jurisdiction of the Shoreline Management Program, unless temporary and of less than 12 months duration; structures used for offices, storage areas for equipment, and weigh scales may be located within 1,000 feet, but no closer than 100 feet or the district setbacks, whichever is greater, if impacts on the adjoining use are shown to be in keeping with the existing and permitted uses in the area;

(3) Inert, demolition, and wood waste landfills will not have any filling or excavation areas, structures, or machinery located within 500 feet of any zone district other than Agriculture or Industrial Zoning Districts, nor any public park, recreation area, wildlife refuge, archaeological and historic areas, shoreline under the jurisdiction of the Shoreline Management Program, unless temporary and of less than 12 months duration; structures used for offices, storage areas for equipment, and weigh scales may be located within 1,000 feet, but no closer than 100 feet or the district setbacks, whichever is greater, if impacts on the adjoining use are shown to be in keeping with the existing and permitted uses in the area;

(4) The facility or site will not result in filling or excavation, location of structures or buildings, driveways or machinery use except for vegetation maintenance within 100 feet of any property line and except for driveways within 150 feet of any county or state road right-of-way;

(5) The facility or site will have vehicular approaches designed to minimize conflict between automobile and truck traffic, will maintain the carrying capacity of county roads, and will be located on a road classified as all weather, except where use is shown to be intermittent and easily delayed until emergency conditions have passed;

(6) The facility or site has complied with the provisions of WCC 20.84.200 and all other ordinances and laws regulating solid waste facilities and sites, such as but not limited to WCC Title 24, the Whatcom County SEPA Ordinance, as well as state and federal regulations concerning solid waste facilities and sites;

(7) All landfills have a final closure plan meeting the requirements of WCC Title 24 and of Chapter 173-304 WAC, and the closure plan includes:

(a) Reclamation in two to 10 acre increments, as appropriately responsive to the size and intensity of the particular activity, with seeding to be accomplished annually but no later than September 30th; and

(b) Permanent vegetative cover that will maintain in healthy growing condition with the level of maintenance that is covered through the financial assurance for post-closure activities.

(8) The buffer areas and visual screening shall include a minimum of 50 feet wide of landscaping meeting the requirements of WCC 20.80.300 (Landscaping);

(9) In addition, the Whatcom County hearing examiner may impose conditions of approval which may be necessary to protect the value and enjoyment of existing adjacent uses.

.152 Uses allowed in the Light Impact Industrial zone as permitted uses, WCC 20.66.100, subject to the following:

(1) Outside of the Urban Fringe Subarea, approval shall be supported by a A finding by the hearing examiner that allowing the use will not limit the supply of land available to meet the demand for future heavy industrial uses.

(2) Filing of a deed restriction acknowledging that heavy industrial uses are the preferred uses in the zone and agreeing not to protest proposed heavy industrial uses allowed in the zone in accordance with Chapter 20.68 WCC, and to refrain from legal action against any heavy industrial use in compliance with the regulations of WCC Title 20 and any conditions of approval which might have been proposed.

.153 Transitory solid waste facilities for treatment, storage, or collection including, but not limited to: recycle centers and drop boxes for household materials excluding large items such as automobiles or major appliances; noncommercial composting and mulching facilities; and including but not limited to the type of facilities operated by neighborhood or public service organizations.

.154 Treatment and storage facilities for hazardous wastes subject to the following:

(1) The eight criteria for a conditional use listed under WCC 20.84.200.

(2) The most current state siting criteria under Chapter 173-303 WAC.

(3) It shall be the responsibility of the applicant to document to the satisfaction of the approving body the anticipated sources, types, volumes and final disposition of hazardous wastes to be collected and the type of treatments associated with those wastes. The permit shall be limited exclusively to those types of wastes and treatments as documented and approved.

(4) Total off-site facility capacity shall be limited to that needed to treat and store wastes generated within Whatcom County by generators requiring off-site management of hazardous wastes; provided, however, waste streams may be sourced from other jurisdictions through interagency zone designation agreements as approved by the county council, not to exceed 10 percent of the total local hazardous waste stream.

(5) Prior to occupancy of the facility, the State Department of Ecology shall certify to the county that the facility has been constructed consistent with state requirements.

(6) As a condition of approval, the applicant shall be required to keep and maintain accurate and current records of the types, amounts, sources, and final disposition of hazardous wastes collected. The applicant shall provide such records annually to the county, or sooner upon county

request. If the facility is found to be exceeding the waste stream limitations or permit restrictions, the county staff shall so report to the approving body who shall have the authority to revoke the permit, following a public hearing, if the limitation has been exceeded absent an emergency situation. Any emergency must be documented by county staff.

(7) Annual inspections of the facility shall be a minimum requirement. The applicant shall be required to forward copies of all facility inspection reports to the county. If deficiencies are found, the operator shall, within 15 days, submit to the county for approval an implementation schedule of corrective measures. Such schedule shall include specific completion dates and inspection reporting procedures.

If the state does not inspect the facility within the year, the applicant shall be required to arrange and bear all costs for an inspection by a qualified and independent inspection agency satisfactory to the county.

(8) Should the facility be found to consistently operate in a manner unsatisfactory to the county in regard to the public health and safety, the permit may be revoked by the approving body following a public hearing. (Ord. 91-075, 1991; Ord. 91-013, 1991; Ord. 88-76, 1988).

**Chapter 20.68.200 Prohibited uses is amended as follows:**

20.68.200 Prohibited uses.

.201 All other uses.

.202 In the urban fringe subarea the following uses are prohibited: petroleum refinery and the primary manufacturing of products thereof, primary manufacturing and processing of rubber, plastics, chemicals, paper, asbestos and products derived thereof; and primary metal industries. (Ord. 91-075, 1991).

**Chapter 20.68.350 Building Setbacks is amended as follows:**

20.68.350 Building setbacks.

Building setbacks shall be administered pursuant to WCC 20.80.200, 20.80.286 (*will change to 20.80.254 if 1998 amendment is approved by County Council*) and 20.68.550.

**Chapter 20.68.550 Buffer Area is amended as follows:**

20.68.550 Buffer area.

.551 The industrial user shall establish a buffer, for building sites adjoining the boundary of the Heavy Impact Industrial District (HII), which shall be located adjacent to the district boundary. The purpose of the buffer is to optimize the visual appearance of the site by obscuring industrial activity from view by passing motorists, to contribute to on-site and off-site impact abatement, and to move towards attaining compatibility with surrounding nonindustrial land uses and character.

.552 To implement the buffer requirements of this district, minimum setbacks for heavy industrial buildings and accessory structures shall be established consistent with the following options:

(1) If a planting screen is not provided by the industrial user and no natural vegetative screening exists, the minimum setback(s) shall be 660 feet, as measured from the edge of the district boundary. The setback area may be used for security roads, parking, or open space.

(2) If natural sight-obscuring and dense vegetation exists, the minimum setback(s) shall be 250 feet, as measured from the district boundary; provided, that a minimum width of 50 feet of natural vegetation is retained. The remainder of the setback(s) may be used for security roads, parking, or open space.

(3) If a 50-foot buffer planting screen is established, pursuant to WCC 20.80.345, the minimum setback(s) shall conform to the setback requirements of WCC 20.80.200, as measured from the district boundary. In addition, security roads may be situated within the minimum buffer setback; provided that the 50-foot wide buffer planting is established.

(4) When a parcel situated within this district is located within the Bellingham Urban Fringe subarea and adjoins an Urban Residential District or residential district within the City Limits, setbacks for heavy industrial buildings and/or uses shall be increased to 100 feet and landscaped in accordance with the requirements of WCC 20.80.345.

(5) (4) In no case shall the northern and western boundaries of the Cherry Point Heavy Industrial area not contiguous to another industrial zone be less than 660 feet, nor the natural vegetation removed except for parking and security or protective uses in accordance with Heavy Impact Industrial Policy 1.05 of the Cherry Point-Ferndale Subarea Comprehensive Plan.

.553 Uses other than heavy industrial will conform to the normal setback requirements as set forth in WCC 20.80.200 and 20.80.286(3) (*numbering of 20.80.286 may change to 20.80.254*) and the buffering requirements for light impact industrial uses WCC 20.66.551.

.554 If any part of said buffer area is separated from, or sold to any contiguous or adjacent owner, lessee or user, the parcel so separated or sold shall be used only as a buffer area in accordance with the above requirements. (Ord. 97-057 1, 1997; Ord. 96-046 1, 1996; Ord. 89-117, 1989; Ord. 87-12, 1987; Ord. 87-11, 1987).

**The following new section 20.68.657 is added to the HII zoning text:**

**20.68.657 Enclosure.**

All manufacturing or fabrication processes which have the potential to produce physical off-site impacts of a detrimental nature, including light, glare, odors and noise impacts, shall be sufficiently enclosed to mitigate the impacts.

**The following new Section 20.68.708 is added:**

**20.66.709 Appearance.**

New facilities developed in the Bellingham Urban Fringe Subarea shall be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, and such uses shall not change the essential character of the same area.