### TITLE OF DOCUMENT:
Ordinance amending the lot clustering provisions of the Urban Residential, Urban Residential Medium Density, and Rural zoning districts in the Official Whatcom County Zoning Ordinance (Title 20).

### ATTACHMENTS:
1. Proposed ordinance
2. Planning Commission Findings of Fact & Reasons for Action, Conclusions, and Recommendations
3. Planning Commission minutes

Note: Background materials are available for review at the County Council office.

### SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:
Amend the Official Whatcom County Zoning Ordinance to require lot clustering on parcels that are zoned Urban Residential, Urban Residential Medium Density, and Rural when the property is within (1) the short term planning area portion of an Urban Growth Area if public water & sewer are not available, or (2) the long term planning area portion of an Urban Growth Area. The mandatory lot clustering provisions would apply to parcels 10 acres or greater. Other amendments include requiring certain reserve tracts in clustered land divisions to be at least 80% of the parcel, authorizing re-division of reserve tracts when property is within a short term planning area, and modifying minimum lot sizes, minimum lot widths, and other requirements for cluster divisions and reserve tracts.

### COMMITTEE ACTION:
4/12/2005: Committee recommends adoption

### COUNCIL ACTION:
3/29/2005: Introduced
4/12/2005: Adopted 6-0, Nelson absent
Ord. #2005-041

### Related County Contract #:

### Related File Numbers:

### Ordinance or Resolution Number:
Ord. #2005-041

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
SPONSORED BY: Consent
PROPOSED BY: Planning
INTRODUCTION DATE: 3/29/2005

ORDINANCE # 2005-041

ADOPTING AMENDMENTS TO THE
CLUSTERING PROVISIONS OF THE
URBAN RESIDENTIAL, URBAN RESIDENTIAL MEDIUM
DENSITY, AND RURAL ZONING DISTRICTS

WHEREAS, It is appropriate to ensure that portions of Urban Growth Areas, that currently
do not have public water & sewer or are not zoned for urban densities, are developed in a manner
that will not preclude future urban densities; and

WHEREAS, Subdividing an Urban Growth Area into 5-acre parcels can make it more
difficult to achieve urban densities at a later date when the area is rezoned for urban densities and
public water & sewer become available; and

WHEREAS, Requiring development to cluster on a relatively small portion of a parcel, and
retaining the reserve tract for future development, can be an effective method to ensure that urban
densities are not precluded in the future; and

WHEREAS, Legal notice was published in the Bellingham Herald; and

WHEREAS, The Planning Commission held public hearings on the proposal; and

WHEREAS, The Planning Commission has evaluated the proposed amendments; and

WHEREAS, the County Council has considered the Planning Commission’s Findings of
Fact & Reasons for Action, Conclusions and Recommendations.

The Council makes the following findings of fact and conclusions:

FINDINGS OF FACT

1. Notice of the Planning Commission hearings for the subject amendment was posted on
the County’s website on January 28 and February 14, 2005.

2. Notice of the Planning Commission hearings for the subject amendment was published in
the Bellingham Herald on January 30 and February 14, 2005.
3. Notice of the Planning Commission hearings for the subject amendment was sent to city planners and Tribal representatives on January 27 and February 14, 2005.

4. Notice of the subject amendment was sent to state agencies, including the Department of Community, Trade and Economic Development (CTED), on February 3 and February 14, 2005.

5. A determination of non-significance (DNS) was issued pursuant to the State Environmental Policy Act (SEPA) on February 9, 2005.

6. The Planning Commission held public hearings relating to the subject amendment on February 10 and February 24, 2005.

7. Growth Management Act (GMA) planning goal # 1, relating to urban growth, is to “Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner” (RCW 36.70A.020(1))

8. Growth Management Act (GMA) planning goal # 2, relating to sprawl, is to “Reduce the inappropriate conversion of undeveloped land into sprawling, low-density development” (RCW 36.70A.020(2)).

9. The GMA requires that development regulations, such as zoning ordinances, must be consistent with the comprehensive plan.

10. The Whatcom County Comprehensive Plan divided Urban Growth Areas into short term planning areas and long term planning areas.

11. Whatcom County Comprehensive Plan GOAL 2A is to “Ensure provision of sufficient land and densities to accommodate the growth needs of Whatcom County and protect the qualities that make the county a desirable place to live.”

12. Whatcom County Comprehensive Plan Policy 2A-1 is to “Concentrate urban levels of development within designated urban growth areas.”

13. Whatcom County Comprehensive Plan Policy 2S-2 limits development that is within the Urban Growth Area, but outside of the short term planning area, including:

   • All development in urban growth areas shall be done in a manner which will not preclude development at urban levels of density when the area is annexed into the city.

   • No residential development shall occur at greater than one unit per five acres.

   • All residential development on parcels greater than 20 acres shall be clustered on no more than 20 percent of the property.
14. The Urban Residential, Urban Residential Medium Density and Rural zoning districts should be amended in order to be consistent with and implement Comprehensive Plan Goal 2A and Policies 2A-1 & 2S-2 and to ensure urban densities will not be precluded in urban growth areas.

CONCLUSION

The subject amendment is consistent with the Growth Management Act and Whatcom County Comprehensive Plan.

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

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

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 12 day of April, 2005

ATTEST

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Laurie Caskey-Schreiber, Chairperson

APPROVED as to form:

Civil Deputy Prosecutor

( ) Approved  ( ) Denied

Pete Kremen, Executive

Date: 4/14/05
Amend the Urban Residential (UR) District text as follows:

20.20.251 Minimum lot size.

For the purpose of creating new building lots within the Urban Residential District, several land use densities are herein provided. The minimum lot size requirements for new construction vary according to the method of subdivision, as well as whether or not public sewer, water, and, where identified by the appropriate Comprehensive Plan policies, stormwater collection and detention facilities serve the project site. Where the lot cluster land division method is used, the minimum lot size is based on consideration of the zoning district’s setback requirements and the Whatcom County Health Code regulations for sewage systems and drinking water, but shall not be less than that shown below. (Ord. 98-083 Exh. A § 11, 1998; Ord. 87-12, 1987; Ord. 87-11, 1987; Ord. 82-58, 1982).
20.20.252 Maximum density and minimum lot size.

<table>
<thead>
<tr>
<th>District</th>
<th>Gross Density</th>
<th>Minimum Lot Size</th>
<th>Min. Reserve Area (Cluster Subdivisions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>UR: all densities without public sewer and water</td>
<td>1 dwelling unit/5 acres</td>
<td>5 acres</td>
<td>1 acre</td>
</tr>
<tr>
<td>UR: all densities outside short term planning areas, small towns and resort recreational subdivisions</td>
<td>1 dwelling unit/5 acres</td>
<td>5 acres</td>
<td>1 acre without public water and sewer</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>12,500 sq. ft. with public water or sewer</td>
</tr>
<tr>
<td>UR: with public sewer or water</td>
<td>1 dwelling unit/5 acres</td>
<td>5 acres</td>
<td>12,500 sq. ft.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>45,000 sq. ft.</td>
</tr>
<tr>
<td>UR-3: in short term planning areas, small towns or resort recreational subdivisions with public sewer and water, and stormwater collection and detention facilities</td>
<td>3 dwelling units/1 acre</td>
<td>12,000 sq. ft.</td>
<td>8,000 sq. ft.</td>
</tr>
<tr>
<td>UR-4: in short term planning areas, small towns or resort recreational subdivisions with public sewer and water, and stormwater collection and detention facilities</td>
<td>4 dwelling units/1 acre</td>
<td>8,000 sq. ft.</td>
<td>6,000 sq. ft.</td>
</tr>
</tbody>
</table>

(Ord. 98-083 Exh. A § 12, 1998; Ord. 87-12, 1987; Ord. 87-11, 1987; Ord. 84-38, 1984; Ord. 82-58, 1982).
20.20.305 Lot clustering.

(1) The purpose of lot clustering is to provide an alternative method of creating economical building lots with spatially efficient sizes. Clustering is intended to reduce development cost, increase energy efficiency and reserve areas of land which are suitable for agriculture, forestry, open space or possible future development.

(2) The clustering option is also intended to help preserve open space and the character of areas and reduce total impervious surface area thereby reducing runoff while assuring continued viable undeveloped natural vegetated corridors for wildlife habitat, protection of watersheds, preservation of wetlands, preservation of aesthetic values including view corridors, and preservation of potential trail and recreation areas. (Ord. 90-45, 1990).

(3) Lot clustering is required for residential developments on parcels 10 acres or greater when:
   (a) The property is located within a short term planning area and public water and sewer are not available; or
   (b) The property is located within a long term planning area.

20.20.320 Reserve tract.

For the purposes of this section, “reserve tract” is defined as that portion of a proposed subdivision or short subdivision which is intended for agricultural, forestry, open space or future development purposes. All “reserve tract” created through the subdivision process shall be subject to the following provisions:

(1) After a site is initially subdivided pursuant to this chapter, the “reserve tract” may be retained by the subdivider, conveyed to residents of the subdivision or conveyed to a third party.

(2) The “reserve tract” may be considered as a building lot; provided that such lot is included in the overall density calculation of the original parcel of record.

(3) The “reserve tract” may be further subdivided only through the long subdivision process and only under one of the following circumstances:
   (a) The county finds that in developing adjacent tracts it would help to further the objectives listed in WCC 20.20.305(2) above by dividing the reserve tract and increasing the area of reserve proportionately on the adjacent land being subdivided so that there is no net reduction in reserve area; and when the reserve tract is owned by the original developer or a third party, no property owner within the original subdivision will be significantly adversely affected or suffer a substantial decrease of property value as a result of dividing the reserve tract; or
   (b) When the Comprehensive Plan and zoning have been updated as part of the normal process (other than a revision initiated by the private sector or done for a specific area) and the public process has been gone through, subject to findings that there is no adverse impact to critical areas
and when the reserve tract is owned by the original developer or a third party, no property owner within the original subdivision will be significantly adversely affected or suffer a substantial decrease of property value as a result of dividing the reserve tract; or

(c) The site is within a short term planning area and public water and sewer serve the proposed development on the reserve tract.

(4) The purpose of the reserve tract as stated in WCC 20.20.320, paragraphs (1), (2) and (3) shall be communicated in writing on the face of the plat or short plat. The number of developable building sites remaining (if any) with the original parcel of record, based on the assigned density, shall also be prominently displayed on the plat or short plat. Whatcom County shall make every effort to assist all agents in communicating clearly such information to all purchasers and prospective purchasers of building lots or “reserve tracts.”

(5) That the above stated requirements (2) to (4) shall be recorded as a deed restriction at the time of filing of the final plat or short plat, and shall constitute an agreement between Whatcom County and the owner of record. Said deed restriction may be amended by mutual agreement between said parties after review for consistency and compliance with the Official Whatcom County Zoning Ordinance, the Whatcom County Subdivision Ordinance and the Whatcom County Comprehensive Plan. (Ord. 98-083 Exh. A § 14, 1998; Ord. 90-45, 1990; Ord. 82-58, 1982).
Amend the Urban Residential Medium Density (URM) District text as follows:

20.22.252 Maximum/minimum density and minimum lot size – General.

<table>
<thead>
<tr>
<th>(1) District</th>
<th>Gross Density</th>
<th>Minimum Lot Size – Conventional</th>
<th>Minimum Lot Size – Cluster</th>
<th>Minimum Reserve Area (Cluster Divisions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>URM: all densities without public sewer and water</td>
<td>1 dwelling unit/5 acres</td>
<td>5 acres</td>
<td>One acre</td>
<td>80%</td>
</tr>
<tr>
<td>URM: all densities outside short term planning areas</td>
<td>1 dwelling unit/5 acres</td>
<td>5 acres</td>
<td>One acre without public water and sewer</td>
<td>80%</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>12,500 square feet with public water or public sewer</td>
<td></td>
</tr>
<tr>
<td>URM: all densities with public sewer or water</td>
<td>1 dwelling unit/5 acres</td>
<td>5 acres</td>
<td>12,500 square feet</td>
<td>80%</td>
</tr>
<tr>
<td>URM-6: with public sewer and water, and stormwater collection and detention facilities</td>
<td>6 dwelling units/1 acre</td>
<td>7,200 sq. ft.</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>URM-12: with public sewer and water, and stormwater collection and detention facilities</td>
<td>12 dwelling units/acre</td>
<td>7,200 sq. ft.</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>URM-18: with public sewer and water, and stormwater collection and detention facilities</td>
<td>18 dwelling units/acre</td>
<td>7,200 sq. ft.</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>URM-24: with public sewer and water, stormwater collection and detention facilities and transferable development rights pursuant to the provisions of Chapter 20.89 WCC and subsection (4) of this section</td>
<td>Minimum net density: 10 dwelling units/acre. Maximum density: 24 dwelling units/gross acre.</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

(2) Where the lot clustering land division method is used, the minimum lot size is based on consideration of the zoning district’s setback requirements and the Whatcom County Health Code regulations for sewage systems and drinking water, but shall not be less than that shown above.
Where the Whatcom County Comprehensive Plan policies call for restricting densities and allow for the transfer of densities and where the provisions of Chapter 20.89 WCC are met, then the maximum allowable density shall be equal to that established by the Comprehensive Plan, provided that public sewer and water are available.

In the URM-24 zones in the Bellingham Urban Growth Area, minimum density shall be calculated as net density, after deducting the areas restricted from development by critical area regulations and infrastructure requirements.

In the URM-24 zones in the Bellingham Urban Growth Area, transferable development rights (TDRs) from the Lake Whatcom watershed sending area, must be used, pursuant to the provisions of Chapter 20.89 WCC, Density Transfer Procedure, in order to develop at the prescribed densities. Each development right transferred from the Lake Whatcom watershed may be used to develop three dwelling units in the UGA. For the purpose of using TDRs, the base density is considered to be four dwelling units per acre. TDRs must be used to attain any density greater than four per acre as illustrated in the following table:

<table>
<thead>
<tr>
<th>TDR Base Density</th>
<th>Transfer of Development Rights (1 TDR = 3 dwelling units per acre)</th>
<th>Allowed Density (range from 10 to 24 dwelling units per acre)</th>
</tr>
</thead>
<tbody>
<tr>
<td>4 dwelling units/acre</td>
<td>2 TDRs</td>
<td>10 dwelling units/acre</td>
</tr>
<tr>
<td>4 dwelling units/acre</td>
<td>3 TDRs</td>
<td>13 dwelling units/acre</td>
</tr>
<tr>
<td>4 dwelling units/acre</td>
<td>4 TDRs</td>
<td>16 dwelling units/acre</td>
</tr>
<tr>
<td>4 dwelling units/acre</td>
<td>5 TDRs</td>
<td>19 dwelling units/acre</td>
</tr>
<tr>
<td>4 dwelling units/acre</td>
<td>6 TDRs</td>
<td>22 dwelling units/acre</td>
</tr>
</tbody>
</table>


20.22.305 Lot clustering.

Lot clustering is required for residential developments on parcels 10 acres or greater when:

(a) The property is located within a short term planning area and public water and sewer are not available; or

(b) The property is located within a long term planning area.

Lot clustering shall be subject to the requirements of WCC 20.20.305, 20.20.310, and 20.20.320.

## 20.22.254 Minimum lot width and depth

<table>
<thead>
<tr>
<th>District</th>
<th>Width at Street Line - Conventional</th>
<th>Width at Street Line - Cluster</th>
<th>Width at Bldg. Line</th>
<th>Minimum Mean Depth</th>
</tr>
</thead>
<tbody>
<tr>
<td>URM: all districts without public sewer and water and transferable development rights (TDRs)</td>
<td>300'</td>
<td>70'</td>
<td>80'</td>
<td>0'</td>
</tr>
<tr>
<td>URM: with public sewer and water and transferable development rights (TDRs)</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>30' on a cul-de-sac only</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(Ord. 2004-021 § 1, 2004)
Amend the Rural (R) District text as follows:

20.36.251 Minimum lot size and maximum density.

For the purpose of creating new building lots within the Rural District, several land use densities are herein provided. The minimum lot size and maximum density requirements for new construction vary according to the method of subdivision design. Where the conventional subdivision method is used to create new building lots, the minimum lot size shall be two, five or 10 acres, depending on the specific zone classification and whether public water is available. Where the lot cluster subdivision method is used, the minimum lot size is based on the consideration of the zoning district’s setback requirements (WCC 20.80.200) and the Bellingham-Whatcom County Health Code department regulations for on-site septic sewage systems disposal and drinking water, but shall not be less than that shown below. Where the cluster subdivision method is used, dwelling unit densities may be increased according to the cluster bonus schedule in WCC 20.36.252 below, provided, that all of the applicable cluster subdivision requirements are met. Lots for public facilities approved under WCC 20.36.151 are not subject to minimum lot size requirements. (Ord. 98-060 § 1, 1998; Res. 98-033 Exh. A, 1998; Ord. 96-056 Att. A § H4, 1996; Ord. 90-45, 1990; Ord. 87-12, 1987; Ord. 87-11, 1987).

Note: Text in bold was approved by the Planning Commission on 1/27/05 under file # ZON2004-00019.
20.36.253 Maximum density and minimum lot size.

<table>
<thead>
<tr>
<th>District</th>
<th>Gross Density</th>
<th>Minimum Lot Size</th>
<th>Min. Reserve Area (Cluster Subdivisions outside of urban growth areas)</th>
<th>Min. Reserve Area (Cluster Subdivisions in Urban Growth Areas)</th>
</tr>
</thead>
<tbody>
<tr>
<td>R-2A without public water</td>
<td>1 dwelling unit/5 acres</td>
<td>5 acres</td>
<td>1 acre</td>
<td>20%</td>
</tr>
<tr>
<td></td>
<td>1 dwelling unit/2 acres</td>
<td>2 acres</td>
<td>12,500 sq. ft.</td>
<td>65%</td>
</tr>
<tr>
<td>R-2A with public water</td>
<td>1 dwelling unit/2 acres</td>
<td>2 acres</td>
<td>15,000 sq. ft.</td>
<td>75%</td>
</tr>
<tr>
<td>R-5A without public water</td>
<td>1 dwelling unit/5 acres</td>
<td>5 acres</td>
<td>1 acre</td>
<td>55%</td>
</tr>
<tr>
<td>R-5A subject to Agricultural Protection Overlay (Chapter 20.38 WCC)</td>
<td>1 dwelling unit/5 acres</td>
<td>Not applicable</td>
<td>12,500 sq. ft.</td>
<td>75%</td>
</tr>
<tr>
<td>R-5A with public water</td>
<td>1 dwelling unit/5 acres</td>
<td>5 acres</td>
<td>15,000 sq. ft.</td>
<td>75%</td>
</tr>
<tr>
<td>R-10A without public water</td>
<td>1 dwelling unit/10 acres</td>
<td>10 acres</td>
<td>1 acre</td>
<td>70%</td>
</tr>
<tr>
<td>R-10A subject to Agricultural Protection Overlay (Chapter 20.38 WCC)</td>
<td>1 dwelling unit/10 acres</td>
<td>Not applicable</td>
<td>15,000 sq. ft.</td>
<td>75%</td>
</tr>
<tr>
<td>R-10A with public water</td>
<td>1 dwelling unit/10 acres</td>
<td>10 acres</td>
<td>12,500 sq. ft.</td>
<td>80%</td>
</tr>
<tr>
<td>Public facilities approved under WCC 20.36.151</td>
<td>Not applicable</td>
<td>No minimum</td>
<td>No minimum</td>
<td>Not applicable</td>
</tr>
</tbody>
</table>


Note: Text in bold was approved by the Planning Commission on 1/27/05 under file # ZON2004-00019.
20.36.305 Lot clustering.

(1) The purpose of lot clustering is to provide an alternative method of creating economical building lots with spatially efficient sizes. Clustering is intended to reduce development cost, increase energy efficiency and reserve areas of land which are suitable for agriculture, forestry, open space or possible future development.

(2) The clustering option is also intended to help preserve open space and the character of areas and reduce total impervious surface area thereby reducing runoff while assuring continued viable undeveloped natural vegetated corridors for wildlife habitat, protection of watersheds, preservation of wetlands, preservation of aesthetic values including view corridors, and preservation of potential trail and recreation areas. (Ord. 90-45, 1990).

(3) Lot clustering is required for residential developments on parcels 10 acres or greater when:
   (a) The property is located within a short term planning area and public water and sewer are not available; or
   (b) The property is located within a long term planning area.

20.36.320 Reserve tract.

For the purposes of this section, “reserve tract” is defined as that portion of a proposed subdivision or short subdivision which is intended for agricultural, forestry, open space or future development purposes. All “reserve tracts” created through the subdivision process shall be subject to the following provisions:

(1) After a site is initially subdivided pursuant to this section, the “reserve tract” may be retained by the subdivider, conveyed to residents of the subdivision or conveyed to a third party.

(2) The “reserve tract” may be considered as a building lot; provided that such lot is included in the overall density calculation of the original parcel of record.

(3) The “reserve tract” may be further subdivided only through the long subdivision process and only under one of the following circumstances:
   (a) The county finds that in developing adjacent tracts it would help to further the objectives listed in WCC 20.36.305(2) above by dividing the reserve tract and increasing the area of reserve proportionately on the adjacent land being subdivided so that there is no net reduction in reserve area; and when the reserve tract is owned by the original developer or a third party, no property owner within the original subdivision will be significantly adversely affected or suffer a substantial decrease of property value as a result of dividing the reserve tract; or
   (b) When the Comprehensive Plan and zoning have been updated as part of the normal process (other than a revision initiated by the private sector or done for a specific area) and the public process has been gone
through, subject to findings that there is no adverse impact to critical areas and when the reserve tract is owned by the original developer or a third party, no property owner within the original subdivision will be significantly adversely affected or suffer a substantial decrease of property value as a result of dividing the reserve tract; or

(c) The site is within a short term planning area and public water and sewer serve the proposed development on the reserve tract.

(4) The purpose of the reserve tract as stated in WCC 20.36.320, paragraphs (1), (2) and (3), shall be communicated in writing on the face of the plat or short plat; also, the number of developable building sites remaining (if any) with the original parcel of record, based on the assigned density, shall also be prominently displayed on the plat or short plat. Whatcom County shall make every effort to assist all agents in communicating clearly such information to all purchasers and prospective purchasers of building lots or "reserve tracts."

(5) That the above stated requirements (2) to (4) shall be recorded as a deed restriction at the time of filing of the final plat or short plat, and shall constitute an agreement between Whatcom County and the owner of record. Said deed restriction may be amended by mutual agreement between said parties after review for consistency and compliance with the Official Whatcom County Zoning Ordinance, the Whatcom County Subdivision Ordinance and the Whatcom County Comprehensive Plan. (Ord. 98-083 Exh. A § 43, 1998; Ord. 90-45, 1990; Ord. 82-58, 1982).