

## INTERIM ORDINANCE NO. 2019-04-02

**An interim ordinance pursuant to RCW 35.63.200 and RCW 36.70A.390 relating to land use; re-enacting certain Urban Growth Areas in the Clark County Comprehensive Growth Management Plan 2015-2035; providing for severability; providing an effective date; and requiring notice.**

### **Section 1. RECITALS.**

1.1 Pursuant to the Growth Management Act (GMA), the Board of Clark County Councilors, now known as the Clark County Council (Board or Council, as appropriate), adopted Amended Ordinance 2016-06-12 on June 28, 2016, completing the required 2016 update of the county's comprehensive plan (2016 Plan Update).

1.2 The 2016 Plan Update took effect on July 8, 2016.

1.3 The 2016 Plan Update reflects principles and values adopted by the Board at the outset of the update process (Resolution No. 2014-06-17, as amended by Resolution No. 2015-04-05, Table 3). One of those principles is to equalize land allocation and the jobs to population ratio so that the cities within Clark County have an equitable share of jobs and a diverse job base (Resolution No. 2015-04-05, Table 3).

1.4 The Board Principles and Values adopted for the 2016 Plan Update recognized that "La Center needs greater economic diversification opportunities and multi-family land use designations" (Resolution No. 2015-04-05, Table 3).

1.5 As provided in RCW 36.70A.110, the County adopted population projections based on the range of estimates from the State Office of Financial Management (OFM) (Resolution Nos. 2014-01-09; 2016-03-01).

1.6 The County examined its Urban Growth Areas (UGAs) to ensure a 20-year land supply to accommodate population and job growth (Resolution No. 2014-04-01).

1.7 The 2016 Plan Update is based on 2035 population estimates for the City of La Center and the City of Ridgefield of 7,642 people and 25,494 people, respectively. These population projections are goals, not merely future estimates or guidelines, which must be reflected in the respective 20-year plans of the jurisdictions. Clark County Comprehensive Plan 2015-2035 at 27.

1.8 The 2016 Plan Update is based on the final Planning Assumptions and Population and Employment Allocations set forth in Resolution No. 2016-03-01. The County assumed 2.66 people per household, and a one-to-one ratio of jobs to households.

1.9 In Issue Paper 7, Preferred Alternative—Urban VBLM and Rural Capacity Estimates, the County evaluated its capacity to accommodate the projected 20-year population and employment growth under the Preferred Alternative selected by the Board of County Councilors on February 23, 2016. Using the vacant buildable lands model (VBLM), the County determined that, in the aggregate, the Preferred Alternative would be sufficient to accommodate the 20-year projected population growth of 128,586 (Issue Paper 7, Table 1). However, the VBLM analysis showed that the cities of La Center and Ridgefield did not have sufficient capacity to accommodate their respective growth allocations (Issue Paper 7 at 2).

1.10 In the 2016 Plan Update, after considering information on countywide agricultural resources and trends, including the Agricultural Preservation Strategies Report (2010), the Rural Lands Study: Assessment of Agriculture and Forestry in Clark County (BERK 2012), and the updated Clark County Agriculture and Forest Land Inventory and Analysis (BERK 2016), the County considered agricultural resource land analyses for areas adjacent to the City of Ridgefield and the City of La Center.

1.11 The Board considered whether approximately 111 acres located adjacent to the city limits of the City of Ridgefield (Ridgefield Annexation Area) continued to meet the GMA definition of “agricultural land” as defined in *Lewis County v. W. Wash. Growth Mgmt. Hearings Bd.*, 157 Wn.2d 488 (2006). The Board concluded that a substantial change in the land had occurred since the 1994 designation of “agricultural lands of long-term commercial significance” (ALLTCS) of the Ridgefield Annexation Area based on a 2014 agricultural resource land analysis report. This report documented that the area and surrounding parcels were not primarily devoted to commercial agriculture in 2014, were subject to intense pressure for conversion to non-agricultural use, could easily be converted to urban use, and did not have significant commercial agricultural potential for the future. In addition, the area adjoins urban uses. The 2016 Plan Update removed the ALLTCS designation of the Ridgefield Annexation Area and expanded the Urban Growth Area for the City of Ridgefield to include the Ridgefield Annexation Area.

1.12 The effect of adding the Ridgefield Annexation Area to the Ridgefield UGA was to increase the VBLM population capacity in Ridgefield to 16,542 additional people (Issue Paper 7, Table 2).

1.13 The Board considered whether approximately 56.55 acres located adjacent to the city limits of the City of La Center at the Interstate 5/Northwest La Center Road junction (La Center Annexation Area) continued to meet the GMA definition of “agricultural land” as defined in *Lewis County v. W. Wash. Growth Mgmt. Hearings Bd.*, 157 Wn.2d 488 (2006). The Board concluded that a substantial change in the land had occurred since the 1994 ALLTCS designation of the La Center Annexation Area, in that by 2016, the area adjoined the City of La Center to the east and south, and Interstate 5, with the Ilani Casino and Resort of the Cowlitz Indian Tribe under construction across an overpass, and immediately to the west. The 2016 Plan Update removed the

ALLTCS designation of the La Center Annexation Area and expanded the Urban Growth Area for the City of La Center to include the La Center Annexation Area. Ilani opened on April 24, 2017, and has brought significantly increased commercial opportunities to the area near it.

1.14 The effect of adding the La Center Annexation Area to the La Center UGA was to increase the VBLM employment capacity in La Center to 2,052 new jobs (Issue Paper 7, Table 3). The 20-year employment allocation for the City of La Center in the 2016 Plan Update is 2,873 jobs.

1.15 Pursuant to RCW 35A.14.120, the owners of record of 100 percent of the assessed value of the La Center Annexation Area submitted a Notice of Intent to Annex and Petition for Annexation to the City of La Center. After a duly noticed public hearing, on August 10, 2016 the La Center City Council enacted Ordinance No. 2016-08, approving the annexation of the La Center Annexation Area. The City of La Center's annexation of the La Center Annexation Area became effective on August 29, 2016. On September 2, 2016, the City of La Center transmitted a certified copy of La Center Ordinance No. 2016-08 to the Board. No judicial challenge was filed to the City of La Center's annexation of the La Center Annexation Area.

1.16 Pursuant to RCW 35A.14.120, the owners of record of at least 60 percent of the assessed value of the Ridgefield Annexation Area submitted a Notice of Intent to Annex and Petition for Annexation to the City of Ridgefield. After a duly noticed public hearing, on September 8, 2016 the Ridgefield City Council enacted Ordinance No. 1216, approving the annexation of the Ridgefield Annexation Area. Futurewise appealed Ridgefield Ordinance No. 1216 to the superior court, which dismissed Futurewise's claims. On January 29, 2019, the Washington Court of Appeals affirmed the superior court's dismissal. On April 10, 2019, the Court of Appeals denied a motion for reconsideration filed by Futurewise.

1.17 Futurewise and Friends of Clark County appealed the 2016 Plan Update, including the County's ALLTCS de-designations and UGA expansions affecting the Ridgefield Annexation Area and the La Center Annexation Area, to the Growth Management Hearings Board (GMHB).

1.18 On February 8, 2017, the GMHB held a hearing on the merits of the appeal by Futurewise and Friends of Clark County in Case No. 16-2-0005c.

1.19 On March 23, 2017, the GMHB issued a Final Decision and Order finding and concluding that portions of the 2016 Plan Update, including the County's actions with respect to the Ridgefield Annexation Area and La Center Annexation Area, had violated the GMA. The GMHB remanded Amended Ordinance No. 2016-06-12 to the County to achieve compliance with the GMA.

1.20 The Board considered the remanded issues and potential responses to them in public meetings on March 29, 2017, April 25, 2017, June 7, 2017, June 20, 2017, July 11, 2017, and September 26, 2017.

1.21 In response to the GMHB’s Final Decision and Order, on July 11, 2017, the Board adopted Ordinance 2017-07-04, amending the 20-Year Clark County Comprehensive Growth Management Plan 2015-2035, and on September 26, 2017, the Board adopted Resolution 2017-09-13, amending the 2015 Buildable Lands Report.

1.22 On January 10, 2018, the GMHB issued an Order on Compliance and Order on Motions to Modify Compliance Order, Rescind Invalidity, Stay Order, and Supplement the Record, finding the County in continuing noncompliance, in part based upon the UGA expansions and agricultural land de-designations of the Ridgefield Annexation Area and La Center Annexation Area. The GMHB found that Clark County had taken no action to either revise or re-enact the UGA boundaries for the cities of Ridgefield and La Center, and that if Clark County “determined new information arose after the date of FDO issuance that now justifies the invalidated UGAs, then the County could have re-enacted those UGAs by ordinance with appropriate findings in support of re-enactment” (GMHB Order on Compliance at 15).

1.23 On October 17, 2018, the GMHB issued a Second Order Finding Continuing Noncompliance, finding the County in continuing noncompliance with the GMA “by failing to take any corrective legislative action” to address the GMHB’s orders.

1.24 Five years have elapsed since the County adopted population projections for the 2016 Plan Update. The Council has reviewed more recent data on population growth and density in Clark County, Ridgefield, and La Center to address the GMHB’s rulings with respect to the Ridgefield Annexation Area and the La Center Annexation Area.

1.25 According to OFM, population growth since January 2014, measured each year on April 1, has been:

Year	Clark County		Ridgefield		La Center	
	Population	% Increase	Population	% Increase	Population	% Increase
2014	442,800	1.68%	6,035	8.84%	3,050	1.16%
2015	451,820	2.04%	6,400	6.05%	3,100	1.64%
2016	461,010	2.03%	6,870	7.34%	3,140	1.29%
2017	471,000	2.17%	7,235	5.31%	3,195	1.75%
2018	479,500	1.80%	7,705	6.50%	3,320	3.91%

**Average Increase      1.94%                                  6.81%                                  1.95%**

1.26 The average annual rate of population growth in the County and in the cities of Ridgefield and La Center since January 2014 exceeds the 1.12% estimate adopted in Resolution No. 2014-01-09.

1.27 The Council has reviewed subdivision and planning information submitted by the City of Ridgefield in response to the GMHB's Final Decision and Order, including information incorporated into Appendix E of the 2015 Vacant Buildable Lands Report under Resolution No. 2017-09-13. Between March 23, 2017 and April 15, 2019, Ridgefield approved final plats or site plans resulting in 1,231 single-family residential lots on 187.63 net developable acres, for an average residential density of 6.56 lots or units per net developable acre. In the same period, Ridgefield has issued preliminary approvals for plats or site plans to result in 2,246 residential lots or units on 276.87 net developable acres, for an average residential density of 8.11 lots or units per net developable acre. Staff Memo on Residential Density Update, dated April 15, 2019. The total number of lots and units receiving preliminary or final approval since March 23, 2017, is 3,477, which lots and units occupy 464.5 net developable acres for an average residential density of 7.49 lots or units per net developable acre. Council finds that the average residential density for the projects receiving preliminary or final approval in the City of Ridgefield since the Board issued its Final Decision and Order on March 23, 2017, has exceeded the residential density targets in the 2016 Plan Update, and that residential density in Ridgefield as a whole is increasing.

1.28 The Council has reviewed subdivision and planning information submitted by the City of La Center in response to the GMHB's Final Decision and Order, including information incorporated into Appendix E of the 2015 Vacant Buildable Lands Report under Resolution No. 2017-09-13. By May 1, 2019, the average residential density within La Center is projected to increase from 1.94 units per acre to more than 3.875 units per acre, which is substantially consistent with the city's residential density goal. The Council finds that the residential density targets for the City of La Center in the 2016 Plan Update will be met without utilizing any land in the La Center Annexation Area for residential development.

1.29 The County uses the VBLM as a tool for monitoring growth patterns and potential capacity during interim periods between comprehensive plan updates. The Council has reviewed VBLM monitoring data for 2016, 2017, and 2018 in response to the GMHB's Final Decision and Order, Order on Compliance, and Second Order Finding Continuing Noncompliance in Case No. 16-2-0005c.

1.30 To predict employment capacity, the VBLM assumes 9 employees per acre for commercial lands and 20 employees per acre for industrial lands. The 2016 Plan Update does not set any employment density targets.

1.31 VBLM monitoring data for 2018 show that the City of Ridgefield has the capacity for 15,797.9 additional persons, 5,739.1 additional commercial jobs, and 4,109.8 additional industrial jobs.

1.32 VBLM monitoring data for 2018 show that the City of La Center has the capacity for 3,972.6 additional persons, 1,523.8 additional commercial jobs, and 331.4 additional industrial jobs. The Council has reviewed commercial and industrial land inventory data submitted by the City of La Center demonstrating that actual employment density within La Center is approximately 17 employees per acre.

1.33 The existing UGA for the City of Ridgefield in the 20-Year Clark County Comprehensive Growth Management Plan is appropriately sized.

1.34 The existing UGA for the City of La Center in the 20-Year Clark County Comprehensive Growth Management Plan is appropriately sized.

1.35 RCW 36.70A.110(1) requires that each city located within Clark County be included within a UGA. Clark County cannot lawfully eliminate land inside a city's boundaries from that city's UGA; such an action would be inconsistent with RCW 36.70A.110(1).

1.36 Clark County lacks authority under the GMA or any other provision of law to exercise its police power by planning for the use and development of lands within the corporate limits of the City of Ridgefield; the County may not move the Ridgefield UGA to a location within the city limits, and it may not designate agricultural resource lands within the Ridgefield city limits.

1.37 Clark County lacks authority under the GMA or any other provision of law to exercise its police power by planning for lands within the corporate limits of the City of La Center; the County may not move the UGA to a location within the La Center city limits, and it may not designate agricultural resource lands within the La Center city limits.

NOW, THEREFORE, THE COUNTY COUNCIL OF AND FOR CLARK COUNTY, STATE OF WASHINGTON, hereby ordains, resolves, and decrees as follows:

**Section 2. FINDINGS AND CONCLUSIONS.**

2.1 The Clark County Council hereby adopts Recitals 1.1 through 1.37, above, as findings and conclusions in support of this ordinance.

2.2 The Council finds and concludes that re-enactment of the Urban Growth Area designation for the City of Ridgefield is appropriate in light of the foregoing findings, is in the public interest, and will further the public health, safety, and welfare.

2.3 The Council further finds and concludes that re-enactment of the Urban Growth Area designation for the City of La Center is appropriate in light of the foregoing findings, is in the public interest, and will further the public health, safety, and welfare.

### **Section 3. COMPREHENSIVE PLAN UGA RE-ENACTMENT.**

3.1 The 20-Year Clark County Comprehensive Growth Management Plan 2015-2035 La Center Urban Growth Area Map (Figure 14 of Appendix B) attached as Exhibit 1 is hereby re-enacted.

3.2 The 20-Year Clark County Comprehensive Growth Management Plan 2015-2035 Ridgefield Urban Growth Area Map (Figure 15 of Appendix B) attached as Exhibit 2 is hereby re-enacted.

### **Section 4. SEVERABILITY.**

If any section, clause, or phrase of this ordinance should be held invalid or unconstitutional by the Growth Management Hearings Board or a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

### **5. EFFECTIVE DATE.**

This ordinance shall go into effect on April 26, 2019, ten (10) days after its adoption.

### **6. INSTRUCTIONS TO THE CLERK.**

The Clerk of the Council shall:

6.1 Transmit a copy of this ordinance to the Washington Department of Commerce within ten days of its adoption, pursuant to RCW 36.70A.106;

6.2 Record a copy of this ordinance with the Clark County Auditor;

6.3 Cause notice of adoption of this ordinance to be published forthwith pursuant to RCW 36.70A.290;

6.4 Transmit a copy of this ordinance to Clark County Geographic Information Systems, Community Planning, Public Works, and Community Development; and

6.5 Transmit a copy of this ordinance to the cities of Ridgefield and La Center.

**Section 7. INSTRUCTIONS TO STAFF.**

Community Planning staff shall make arrangements to bring this ordinance before the Planning Commission and before the Council again, in a public hearing pursuant to RCW 35.63.200 and RCW 36.70A.390, within 60 days of this date.

**8. ROLL CALL VOTE**

The following persons voted in favor of the above ordinance:

Temple Lentz, Julie Olson, John Blom,  
Gary Medvigy, Eileen Quiring,

The following persons voted in opposition to the above ordinance:

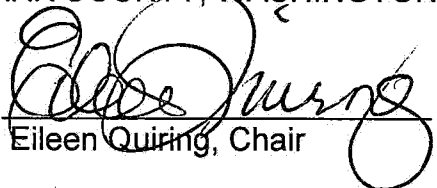
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ADOPTED this 16<sup>th</sup> day of April, 2019.

COUNTY COUNCIL  
CLARK COUNTY, WASHINGTON

Attest:

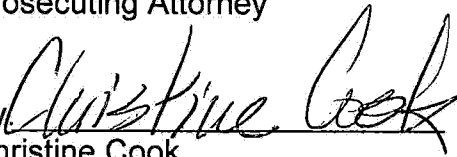
  
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Clerk to the Council

By:   
Eileen Quiring, Chair

By: \_\_\_\_\_  
Temple Lentz, District 1

Approved as to Form Only:  
Anthony F. Golik  
Prosecuting Attorney

By: \_\_\_\_\_  
Julie Olson, District 2

By:   
Christine Cook  
Senior Deputy Prosecuting  
Attorney

By: \_\_\_\_\_  
John Blom, District 3

By: \_\_\_\_\_  
Gary Medvigy, District 4







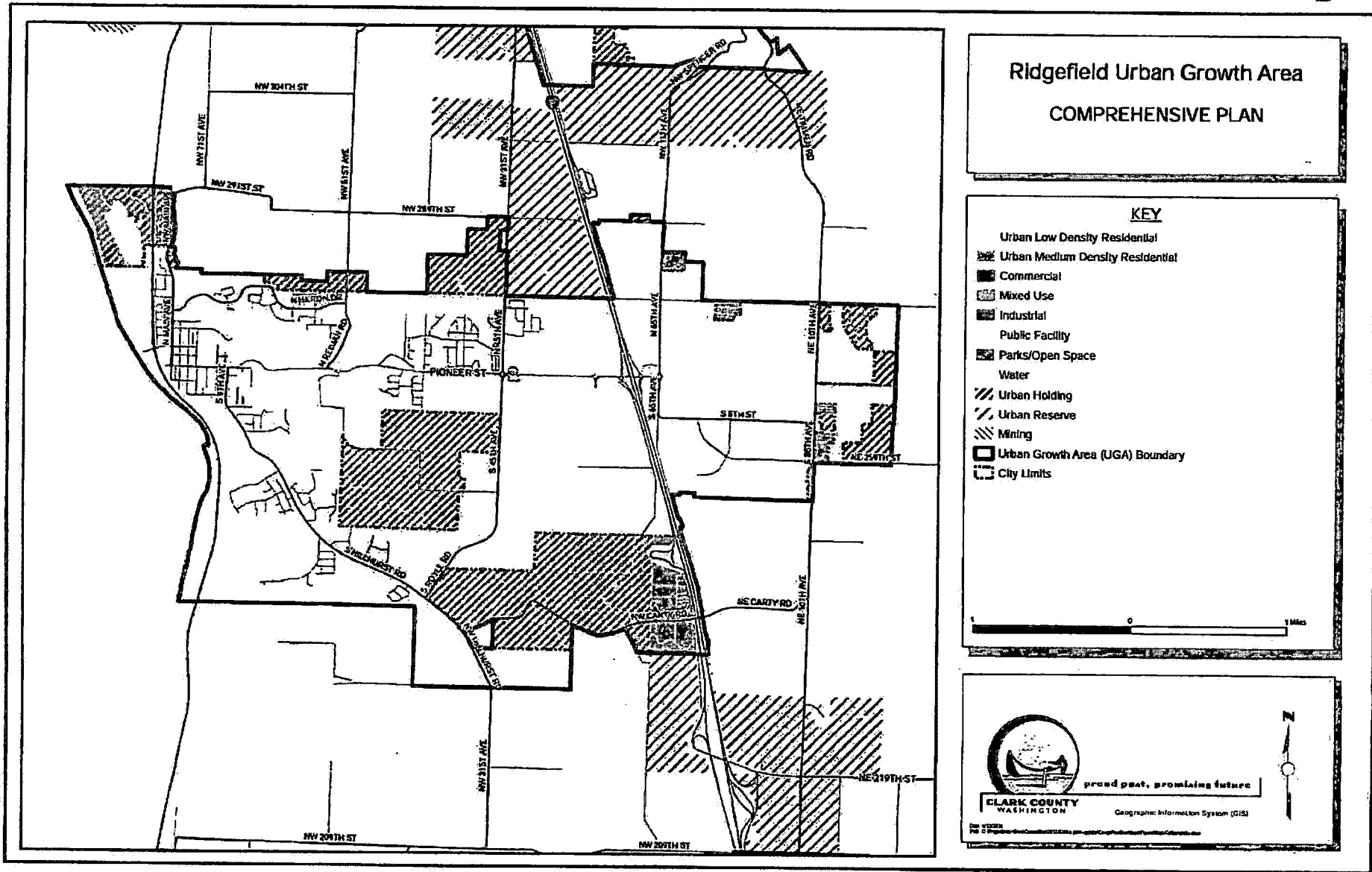


FIGURE 15