


**WHATCOM COUNTY COUNCIL AGENDA BILL**

NO. 2018-235

CLEARANCES	Initial	Date	Date Received in Council Office	Agenda Date	Assigned to:
Originator:	CE	7/24/2018	<div style="text-align: center;">  </div>	8/8/18	Introduction Natural Resources
Division Head:				9/11/18	
Dept. Head:	WP	7-26-18		9/11/18	Council
Prosecutor:	X.S.	7-26-18		9/25/2018	Nat Res./Council
Purchasing/Budget:					
Executive:	TS	7.31.18			

**TITLE OF DOCUMENT:** Request to amend the PDR Program Guidelines as recommended by the Purchase of Development Rights Oversight Committee

**ATTACHMENTS:** Memo, Draft Updated PDR Program Guidelines, Recommended Ordinance with Exhibit

SEPA review required? ( ) Yes ( ) NO  
SEPA review completed? ( ) Yes ( ) NO

Should Clerk schedule a hearing? ( ) Yes ( ) NO  
Requested Date:

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Development pressure in Whatcom County continues to impact agricultural areas, but pressure is also being applied to working forestlands and important ecosystem areas. Based on the receipt of multiple applications from property owners voluntarily applying to sell development rights on properties that would protect additional values such as working forestlands or important ecosystem areas, in addition to consideration of other prioritization considerations, the Purchase of Development Rights Oversight Committee reviewed the currently approved PDR Program Guidelines. The PDR Oversight worked on updating the PDR Program Guidelines for the entire year of 2017 and would like to request Council approval of the updated guidelines and accompanying ordinance.

**COMMITTEE ACTION:**

9/11/2018: Held in Committee

**COUNCIL ACTION:**

8/8/2018: Introduced 6-0, Ballew absent  
9/11/2018: Held in Committee

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

**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](http://www.co.whatcom.wa.us/council).

**WHATCOM COUNTY**

Planning & Development Services  
5280 Northwest Drive  
Bellingham, WA 98226-9097  
360-778-5900, TTY 800-833-6384  
360-778-5901 Fax



**Mark Personius, AICP**  
Director

## Memorandum

TO: Honorable County Councilmembers  
Honorable Executive Louws

THROUGH: Mark Personius, PDS Director *MP*

FROM: Chris Elder, PDR Program Administrator *CE*

DATE: 7/23/2018

SUBJECT: Request to amend the PDR Program Guidelines as recommended by the Purchase of Development Rights Oversight Committee

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The Purchase of Development Rights Oversight Committee worked on updating the PDR Program Guidelines during regular committee meetings for the entire year of 2017. Based on the receipt of numerous applications from property owners voluntarily applying to sell development rights on properties that would protect other values such as working forestlands or the protection of important ecosystem areas, the PDR Oversight Committee amended the PDR Program Guidelines to be able to effectively receive, process, and support these applications. Development pressure in Whatcom County continues to impact agricultural areas, but pressure is also being applied to working forestlands and important ecosystem areas. The Program guidelines and scoring criteria, as presented in the attached documents, prioritize the protection of agricultural applications.

Several Comprehensive Plan policies also support this broadened program scope including the following:

Policy 8G-5: Support conservation of working forest land base through cooperation between landowners, private organizations, and public agencies, and through incentives such as the current use tax assessment provisions of RCW 84.33, and RCW 84.34.

Policy 10K-7: Promote voluntary fish and wildlife habitat enhancement projects through educational and incentive programs, such as purchase of development rights or habitat conservation easements. These projects, which can be done by individuals, organizations, and businesses, will buffer and expand fish, plant, and wildlife habitat.

The PDR Oversight Committee and PDR Program staff recommend these updated guidelines and the attached ordinance. We look forward to discussing these recommended changes with you.

Please call Chris Elder, PDR Program Administrator, with any questions or concerns.

ORDINANCE NO. \_\_\_\_\_

**ADOPTING AMENDMENTS TO THE  
PURCHASE OF DEVELOPMENT RIGHTS PROGRAM**

**WHEREAS,** Whatcom County government recognizes agriculture and forestry as major contributors to the local economy, and agriculture, forestry, and ecosystem functions and values as contributing to a high quality of life for Whatcom County citizens; and

**WHEREAS,** The Growth Management Act and the County Comprehensive Plan support the retention of agricultural and forestry lands of long term commercial significance and protection of ecosystem functions and values, and encourage the use of innovative techniques to do so; and

**WHEREAS,** Ordinance #92-002 enacted a property tax levy known as the Conservation Futures Tax as authorized by RCW 84.34.230 to provide a funding source to assist in acquiring open space, wetlands, farm and agricultural land, and timber land; and

**WHEREAS,** Ordinance #2002-054 established the Whatcom County Agricultural Purchase of Development Rights Program; and

**WHEREAS,** The Whatcom County Council has identified the Purchase of Development Rights Program as an effective tool to protect community values by compensating willing property for the voluntary sale of development rights, and

**WHEREAS,** The Whatcom County Purchase of Development Rights Program has received several voluntary applications from non-agricultural property owners wishing to protect their working forestlands and important ecosystem areas, and

**WHEREAS,** Additional sources of matching funds are available to support acquisition of conservation easements on properties that protect forestry and ecosystem values, and

**WHEREAS,** The Purchase of Development Rights Oversight Committee has updated the program guidelines so as to maintain the protection of agricultural lands as the primary purpose of the program, and

**WHEREAS,** The Purchase of Development Rights Oversight Committee voted unanimously on January 26, 2018 to recommend approval of the updated guidelines.

1           **NOW, THEREFORE, BE IT ORDAINED** by the Whatcom County Council that  
2  
3 Whatcom County Code 3.25A is hereby amended as outlined in Exhibit A to this ordinance.  
4

5           **BE IT ALSO ORDAINED** by the Whatcom County Council that the PDR Program  
6  
7 Guidelines are also amended as outlined in Exhibit B to this ordinance.  
8

9           **ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2018.  
10

11  
12  
13 ATTEST:

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WASHINGTON

14  
15  
16 \_\_\_\_\_  
Dana Brown-Davis, Clerk of the Council

\_\_\_\_\_  
Rud Browne, Council Chair

17  
18  
19 WHATCOM COUNTY EXECUTIVE  
20 APPROVED AS TO FORM:

WHATCOM COUNTY, WASHINGTON

21  
22   
23 \_\_\_\_\_  
24 Civil Deputy Prosecutor

\_\_\_\_\_  
Jack Louws, County Executive

(    ) Approved            (    ) Denied

Date Signed: \_\_\_\_\_

# EXHIBIT A

Chapter 3.25A  
**AGRICULTURAL, FORESTRY, AND ECOLOGICAL PURCHASE  
OF DEVELOPMENT RIGHTS PROGRAM**

Sections:

**3.25A.010 Short title.**

**3.25A.020 Purpose.**

**3.25A.030 Applicability.**

**3.25A.040 Definitions.**

**3.25A.050 Designation of program administrator – Powers and duties.**

**3.25A.060 Purchase of development rights oversight committee established – Powers and  
duties.**

**3.25A.070 Eligibility criteria.**

**3.25A.080 Ranking system.**

**3.25A.090 Conservation easement terms and conditions.**

**3.25A.100 Application and evaluation procedure.**

**3.25A.110 Purchase of development rights procedure.**

**3.25A.120 Restriction on buy-back – Extinguishment and exchange of easements.**

**3.25A.130 Authorization.**

**3.25A.010 Short title.**

This chapter shall be known and may be cited as the “Agricultural, Forestry, and Ecological Purchase of Development Rights Program.” For the purpose of this chapter this program shall be known as the “PDR” program. (Ord. 2013-015 Exh. A; Ord. 2002-054 § 1).

**3.25A.020 Purpose.**

To establish a voluntary agricultural, forestry, and ecological purchase of development rights program for Whatcom County which will enhance the protection of the county’s farmland, forestland, and important ecosystem areas, enhance the long-term viability of the agricultural and forestry enterprises within the county and provide public benefit by retaining properties in permanent resource use, in addition to the protection ecosystem functions and values. (Ord. 2002-054 § 1).

**3.25A.030 Applicability.**

The PDR program shall be available for all qualifying lands, as identified in the PDR program guidelines, except those lands under the ownership or control of the United States of America, the state of

Washington or an agency or instrumentality thereof. Any conservation easement acquired pursuant to this chapter shall be voluntarily offered by the owner. (Ord. 2002-054 § 1).

3.25A.040 Definitions.

The following definitions shall apply in the interpretation and implementation of this chapter:

“Administrator” is that person placed in a managerial position over the daily operations of the PDR program. The administrator shall serve as a direct liaison to the program.

“Conservation easement” means a nonpossessory interest in one or more parcels by one or more qualified easement holders under WCC 3.25A.090(B) acquired under RCW 64.04.130, whether the easement is appurtenant or in gross, voluntarily offered by an owner and acquired by purchase or donation pursuant to the PDR program guidelines, imposing limitations or affirmative obligations for the purpose of retaining or protecting agricultural, forestry, and ecosystem values of the parcel or parcels.

“Owner” means the owner or owners of the fee simple interest of the parcel.

“Development rights” means an interest in and the right to use and subdivide land for any and all residential, commercial and industrial purposes and activities which are not incident to agricultural, forestry, and/or ecosystem uses.

“Parcel” means a legal lot of record, lawfully recorded in the Whatcom County auditor's office. A conservation easement may contain one or more parcels; for purposes of this chapter the term “parcel” shall include all parcels covered by, or proposed to be covered by, the conservation easement.

The “PDR program guidelines” shall be adopted by county council and contain the rules and regulations under which the PDR program operates. They include eligibility criteria, site selection criteria, a standard conservation easement and other procedures and information necessary to ensure fair and consistent administration of the PDR program.

“Qualifying lands” means those properties meeting the eligibility criteria established in the PDR program guidelines for which development rights may be purchased pursuant to this chapter. (Ord. 2002-054 § 1).

3.25A.050 Designation of program administrator – Powers and duties.

A. Designation. The administrator shall be designated by and report to the director of planning and development services.

B. Powers and Duties. The administrator or his or her designee shall administer the PDR program and shall have powers and duties to:

61 1. Establish reasonable and standard procedures and forms consistent with this chapter and the  
62 PDR program guidelines for the administration and implementation of the program.

63 2. Promote the program in cooperation with the PDR oversight committee by providing educational  
64 materials to the public and conducting informational meetings.

65 3. Investigate and pursue, in conjunction with the county, state, federal and other programs  
66 available, to provide additional public and private resources to fund the program and to maximize  
67 private participation.

68 4. Evaluate and rank all applications to determine their eligibility and provide assistance to the PDR  
69 oversight committee in ranking properties.

70 5. Coordinate the preparation of appraisals.

71 6. Negotiate conservation easement terms and value with the owner or owners.

72 7. Provide staff support to the county council, the PDR oversight committee, and the county's  
73 authorized appraiser.

74 8. For each conservation easement accepted into the program, establish baseline data, and assure  
75 that the terms and conditions of the easement are monitored and complied with by coordinating a  
76 monitoring program with each easement holder. (Ord. 2002-054 § 1).

77 *3.25A.060 Purchase of development rights oversight committee established – Powers and duties.*

78 A. Establishment. The PDR oversight committee is hereby established, as follows:

79 1. The committee shall consist of seven members appointed by the county executive and confirmed  
80 by county council. Each member shall be a resident in and of Whatcom County. The committee  
81 shall be comprised of three farmers, one individual representing farm-supporting businesses, one  
82 individual possessing real estate experience, one citizen (nonfarmer) from the unincorporated  
83 county, and one citizen (nonfarmer) from an incorporated city. No members may have an  
84 ownership interest in any of the lands submitted for purchase pursuant to this chapter.

85 2. The members of the committee shall serve at the pleasure of the county council. The initial terms  
86 of the members shall be as follows: two members shall be for two years; three members shall be  
87 for three years; and two members shall be for four years. Each term after the initial term shall be for  
88 four years.



89 3. The members of the committee shall serve without pay, but the county council may, at its  
90 discretion, reimburse members for actual and necessary expenses incurred in the performance of  
91 their duties.

92 4. The committee shall elect a chairperson, vice-chairperson and secretary at its first meeting each  
93 calendar year. The secretary need not be a member of the committee.

94 5. The administrator shall be an ex-officio member of the committee.

95 B. Purpose. To provide oversight and evaluation for the county PDR program. The PDR oversight  
96 committee's role is to advise the council in the selection of eligible lands offered for PDR acquisition.

97 C. Powers and Duties. The PDR oversight committee shall have the powers and duties to:

98 1. Promote the program, in cooperation and under the guidance of the administrator, by providing  
99 educational materials to the public and conducting informational meetings.

100 2. Review and make recommendations to the administrator and the county council as to which  
101 conservation easements should be purchased.

102 3. Annually review the PDR program guidelines and recommend to the county council any changes  
103 needed to maintain the program's consistency with the comprehensive plan, or to improve the  
104 administration, implementation and effectiveness of the program.

105 4. Provide an annual report of program accomplishments to county council and county executive.

106 D. Organization – Meetings. Meetings of the committee shall be open and accessible to the public and  
107 shall be subject to the Open Public Meetings Act. The committee shall determine its own meeting  
108 schedule but shall meet at least annually. A public comment period will be provided at each meeting.  
109 Written records of meetings, decisions, findings and recommendations shall be kept and such records  
110 shall be public. The committee shall adopt its own rules and procedures for the conduct of business. The  
111 committee shall elect a chairperson from among its members who shall preside at its meetings. A quorum  
112 shall consist of four members present and the committee shall operate on a "majority rule" basis.

113 E. Technical Advisory Committee. A technical advisory committee, without voting privileges, may be  
114 formed to advise the PDR oversight committee on technical/scientific matters as needed. Representatives  
115 may include but not be limited to individuals from the following agencies: Cooperative Extension Service,  
116 National Resource Conservation Service and Whatcom Conservation District. (Ord. 2002-054 § 1).

3.25A.070 Eligibility criteria.

In order for a parcel to be eligible for a conservation easement, it must be located outside of an established urban growth area and within Rural 2A, Rural 5A\*, Rural 5A, Rural 10A, Residential Rural, Rural Residential – Island, Rural Forestry, or Agriculture zoned land and meet any additional eligibility criteria as defined in the PDR program guidelines. (Ord. 2011-025 § 1 Exh. A; Ord. 2002-054 § 1).

\*The asterisk refers to Rural 5A areas depicted on the official zoning maps with an asterisk that are subject to WCC 20.36.252, Rural residential density overlay.

3.25A.080 Ranking system.

In order to effectuate the purposes of this chapter, parcels for which conservation easement applications have been received shall be evaluated by utilizing the site selection criteria as contained in the PDR program guidelines. The ranking system shall be used to prioritize the acquisition of conservation easements. (Ord. 2002-054 § 1).

3.25A.090 Conservation easement terms and conditions.

Each conservation easement shall conform with the requirements of this chapter. The deed of easement shall be in a form approved by the county attorney, and shall contain, at a minimum, the provisions incorporated in the standard agricultural conservation easement. Central to the purpose of the PDR program are the following:

A. Allowable Uses. Uses that are compatible with the long-term productivity of the soil for the pursuit of farming or forestry enterprises and/or protection of ecosystem functions and values.

B. Designation of Easement Holders. The county shall be the easement holder, and if designated by the county council, one or more other public bodies or qualified organizations, as defined in RCW 64.04.130.

C. Conservation Easement Duration. A conservation easement acquired under the terms of this chapter shall be in perpetuity. (Ord. 2002-054 § 1).

3.25A.100 Application and evaluation procedure.

Beginning in the first year following the adoption of the ordinance codified in this chapter and continuing thereafter, the county shall conduct a voluntary property selection process generally as follows and pursuant to the PDR program guidelines.

A. Application. Owners of qualifying lands will be invited to make application for purchase of development rights by the county by giving notice in one newspaper of general circulation. Application materials will be provided by the administrator and will include, at a minimum, a standard application form and information

about the PDR program. Applications shall be submitted to the administrator and reviewed for completeness.

B. Evaluation. The administrator shall review and determine eligibility and priority classification of applications. The applications ranked by the administrator shall be forwarded to the PDR oversight committee. The committee shall review the applications and establish parcels for easement purchase based on selection criteria contained in PDR program guidelines. The committee shall then forward the parcels to the county council which shall review and prioritize parcels on which it will seek to purchase conservation easements.

C. Appraisal. For those applications that meet the requirements of subsection B of this section, the committee shall cause an appraisal of the applicant's development rights to be made in accordance with PDR program guidelines.

D. Requirements and Deadlines May Be Waived. Any requirement or deadline set forth in this chapter or the PDR program guidelines may be waived by the county council if, for good cause, it is shown that urgent circumstances exist that warrant consideration of an application. Under such circumstances the council may purchase a conservation easement at any time and through any process it deems necessary.

E. Reapplication. An owner of a parcel not selected by the county council for purchase of a conservation easement may reapply in ~~any the future open application period~~. (Ord. 2013-015 Exh. A; Ord. 2002-054 § 1).

### ~~3.25A.110 Purchase of development rights procedure.~~

Each application for a conservation easement shall be processed and evaluated pursuant to the requirements as contained in the PDR program guidelines which will include at a minimum the following:

A. Development Rights Sale. Based on anticipated funding the administrator shall estimate the number of development rights that can be acquired from the initial pool of parcels identified in WCC 3.25A.100(B). The administrator shall coordinate negotiations with the property owners. Upon completion of negotiations, the administrator shall arrange for an appraisal of the development rights by an independent county-authorized appraiser. The PDR oversight committee and administrator shall review the results of the appraisal. The administrator shall, in writing, invite property owners to sell to the county development rights for the amount of the appraised value of such development rights, subject to the terms and conditions of a proposed deed of easement. Property owners desiring to sell and/or donate development rights shall submit a written offer to sell. Nothing in this chapter shall compel an owner to submit an offer to sell.

B. Acceptance. An offer to sell development rights shall be forwarded to the county council for acceptance.

C. Conservation Easement Established. A conservation easement shall be established when the owner and an authorized representative of the holder of the easement have each signed the deed of easement. The deed shall be recorded in the Whatcom County auditor's office.

D. Offers Not Made – Offers Not Accepted – Invitation to Other Owners. If an owner invited to sell elects not to do so, then the county administrator may send an invitation to sell to the owner(s) of the next highest prioritized parcel(s) remaining on the list of parcels.

E. Costs. If the county council accepts an offer to sell development rights, the county may pay all other costs including environmental site assessments, surveys, recording costs, if any, and other charges associated with closing. However, the county shall not pay expenses or fees incurred by the property owner for independent appraisals or legal, financial, or other advice, or expenses or fees in connection with the release and subordination of liens to the easement purchased by the county. (Ord. 2002-054 § 1).

3.25A.120 Restriction on buy-back – Extinguishment and exchange of easements.

If circumstances arise that render the purpose of this easement impossible to accomplish, the easement can be extinguished only by judicial proceedings. In the event of such an extinguishment or the taking of the property by the exercise of the power of eminent domain, grantors shall pay to Whatcom County an amount determined by subtracting the fair market value of the property subject to this easement from the fair market value of the property unrestricted by this easement, at the time of extinguishment or condemnation if Whatcom County is not compensated for its property interests at the time of the extinguishment or condemnation. Other details regarding restrictions on buy-back or extinguishment as may be deemed necessary shall be contained in the PDR program guidelines, and/or the easement deed. (Ord. 2013-015 Exh. A; Ord. 2002-054 § 1).

3.25A.130 Authorization.

A. The county is hereby authorized to acquire development rights from lands described and prioritized in WCC 3.25A.080. Such acquisition may be accomplished by purchase, gift, grant, bequest, devise, covenant or contract but only at a price which is equal to or less than the appraised value determined as provided in this chapter and the PDR program guidelines.

B. If the owner so elects, the county is authorized to pay the purchase price in a lump-sum single payment at time of closing, or to enter into contract for installment payments against the purchase price. When installment purchases are made, the county is authorized to pay interest on the declining unpaid

210 principal balance at a legal rate of interest consistent with prevailing market conditions at the time of  
211 execution of the installment contract and adjusted for the tax-exempt status of such interest.

212 C. After county acquisition of development rights, the county may purchase the remaining agricultural,  
213 forestry, or ecosystem -rights or other property interests in such land only when requested by the owner  
214 and when such acquisition is necessary to maintain agricultural, forestry, or ecosystem uses of the  
215 property. (Ord. 2002-054 § 1).

# EXHIBIT B

# **Whatcom County Agricultural, Forestry, and Ecological Purchase of Development Rights PROGRAM GUIDELINES**

Revised version adopted April 9, 2013,  
Second revision adopted XX, 2018

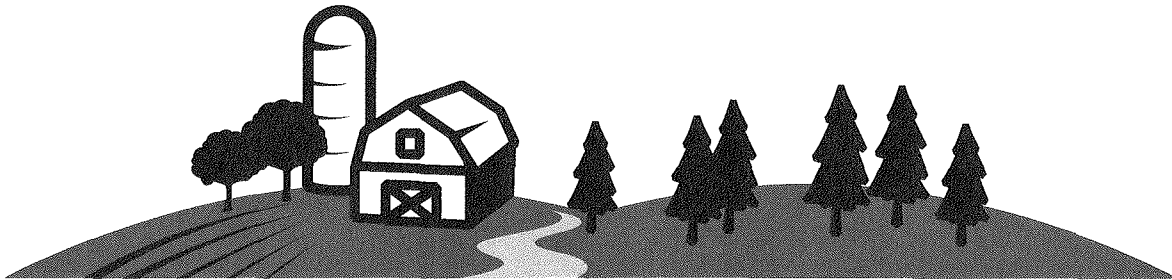


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## **PURCHASE OF DEVELOPMENT RIGHTS PROGRAM**

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# I. INTRODUCTION

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These Program Guidelines are authorized under WCC Title 3.25A and serve as rules and procedures for administering the Whatcom County Agricultural, Forestry, and Ecological Purchase of Development Rights (PDR) Program.

The Guidelines serve two functions:

- A. To provide an overview of the land preservation process for the property owner. Specifically, this information can be found in Section V.
- B. To establish the rules and operational procedures that the PDR Oversight Committee and the Administrator must follow when operating a Purchase of Development Rights program.

## II. PDR PROGRAM OBJECTIVE AND PRINCIPLES

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Responding to the loss of County farmland, the Whatcom County Executive initiated the development of a Purchase of Development Rights (PDR) program in September of 2001. A PDR Advisory Committee comprised of farmers, citizens and conservation organizations was formed and tasked with assisting County staff in the development of a proposal for County Council consideration. The Purchase of Development Rights Program was enacted through Ordinance 2002-054 in September of 2002.

Since that time Whatcom County continues to experience a rapid development rate. Responding to the continued loss of agricultural land and of other land types such as forest resource lands and areas of ecological importance, these program guidelines have been updated accordingly.

### A. Objective

The primary objective of the Whatcom County Purchase of Development Rights Program, in conjunction with other tools, is the protection of farmland. The secondary objective of the PDR Program is the protection of forestland and areas of ecological importance. The Whatcom County Purchase of Development Rights Program will help to sustain the farming and forestry enterprises as well as support healthy ecosystem function throughout Whatcom County.

### B. Principles

The PDR Program provides a strategic tool to protect County farmland, forestland, and areas of ecological importance.

#### 1. Preserve the County's Agricultural lands, Forestlands and Areas of Ecological Importance

Encourage the protection of a critical mass of agricultural and forestry land to sustain the farm-related and forestry-related businesses and activities that are necessary to support the agricultural and forestry industries in Whatcom County. Additionally the Program will encourage the protection of areas of ecological importance necessary to sustain ecosystem health and function.

##### **The primary PDR Program emphasis will be:**

- a. Reduce conversion of land to non-agricultural uses within the Agricultural District;
- b. Provide a buffer to discourage encroachment into the Agricultural District;
- c. Consolidate and protect areas of agricultural land; and
- d. Protect agricultural lands located outside the Agricultural District that are under increased pressure of development.

##### **The secondary PDR Program emphases will be:**

- a. Reduce conversion of land to non-forestry uses within the Forestry Districts;
- b. Provide a buffer to encroachment of the Forestry Districts;
- c. Consolidate and protect areas of forestry land;

- d. Address commercially significant forestry lands outside the Forestry Districts that are under pressure of development.
- e. Protect areas of ecological importance and support and enhance ecosystem functions within agricultural and forestry lands;
- h. Improve and support habitat connectivity and protection of critical habitat corridors.

## 2. Offer Effective Program Design

Maintain a voluntary tool for the preservation of productive agricultural and forestry lands, as well as areas of ecological importance in the County that will:

- a. Provide farmers and foresters with the market based economic value for agricultural and forestry land without selling the land;
- b. Provide property owners with the market based economic value for areas of ecological importance without selling the land.
- c. Support and promote ongoing agricultural and forestry activities by offering an attractive option for farmers, foresters, and landowners;
- d. Support and promote ecosystem function by offering an attractive option for landowners; and
- e. Provide for ongoing monitoring and enforcement.

## 3. Leverage Program Impact and Efficiency

Enhance and support a coordinated approach to the preservation of the agricultural and forestry lands, as well as areas of ecological importance that will:

- a. Create community support for agricultural and forestry preservation initiatives;
- b. Create community support for the protection of areas of ecological importance;
- c. Complement and foster other County programs and policies to preserve farming and agricultural lands;
- d. Complement and foster other County programs and policies to preserve forestry and forestry lands;
- e. Complement and foster other County programs and policies to enhance ecosystem function and protect areas of ecological importance; and
- c. Leverage other public and private funding sources and provide or increase property owner incentives and program effectiveness.

### III. ELIGIBILITY CRITERIA

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#### A. Priority Consideration

Areas around the county have been identified to receive priority consideration for PDR Program participation.

Agricultural priority areas (Appendix A) include a combination of the twelve initial PDR Target Areas, Ten Rural Study Areas, Watershed Improvement District areas, in addition to the lands within the Agriculture Zone. Preservation of these areas protect designated agricultural lands and can establish a perimeter of PDR farmlands to protect against development encroachment into large blocks of agricultural lands. These lands, due to their soils, land use, and proximity to core agricultural areas, are deemed priority farmlands for program participation due to their vulnerability for conversion to non-agricultural uses.

Forestry priority areas (Appendix B) include lands located within the Rural Forestry zone and areas designated by the Washington State Department of Natural Resources as being priority for protection from conversion under Washington's Forest Action Plan.

Ecological priority areas (Appendix C) include lands containing a mapped Habitat Conservation Area or within 165' of habitat conservation feature. This includes fish bearing streams, areas identified under the Washington State Department of Fish and Wildlife's Priority Habitats and Species, and the Chuckanut Wildlife Corridor. Additionally the mapped FEMA Floodplain and Flood Hazard areas have been included in addition to a 300' buffer of the Historic Meander Zone.

#### B. PDR Program Eligibility

Two factors will be important in determining eligibility:

1. Availability of funding to expand the program and
2. Advancement of PDR Program objectives. Priority lands will continue to receive preference over other lands through weighted selection criteria.

**All applicants for PDR Program participation must be within an Agriculture, Rural, Rural Residential, or Rural Forestry zoning designations. Properties located in Urban Growth Areas are ineligible to participate in the program, unless coordination with cities is a component of an application.**

**Applications received on parcels smaller than 10 acres may not retain any development rights.**

## IV. SITE SELECTION CRITERIA

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All valid applications will be reviewed to determine if the acquisition of development rights will promote the PDR program's goals and priorities. Selection criteria have been developed to guide, but not control, the review and assessment of eligible properties during selection.

Valid and accepted offers on eligible properties of greater points shall be considered for purchase with available funds before properties receiving lower scores. The criteria, which will be used to evaluate the applications, are outlined below.

*Rating instructions: The selection criteria allow for a score of up to 100, with all five criteria sections assessed. Each criteria section is rated and assigned a point value. Then each section is assigned a weight factor. The five weight factors add up to 1.0. When total point values for a section are multiplied by the weight factor, a score will be reached for that section. The total of the 5 section scores result in the final applicant score. Staff performs the ranking, with review and adjustment by the PDR Oversight Committee.*

### 1. Site Evaluation

The points for each criteria are based on a 100 point scale. Higher points are given to site characteristics that are more desirable, such as parcel size, characteristics that reflect a site's threat of conversion, and characteristics that make a site more desirable to farming, such as available water rights.

#### A. Total size of parcel(s) (nominal acres)

a. 0 – 10.....	0 points
b. 10 – 20 .....	15 points
c. 20-49.9.....	30 points
d. 50-79.9.....	70 points
e. >80.....	100 points

#### B. Number of existing development rights offered under current zoning

a. 1-2.....	20 points
b. 3.....	40 points
c. 4.....	60 points
d. 5.....	80 points
e. >=6.....	100 points

#### C. Adjacent land is conserved by easement or other means (Whatcom Land Trust, NRCS CREP Program, or owned by a municipality or NGO)

a. >1 mile.....	0 points
b. ½ to 1 mile.....	25 points
c. ¼ to ½ mile.....	50 points

- d. < ¼ mile..... 75 points
- e. Adjacent..... 100 points

D. Percent of parcel actively farmed

- a. 0-25% ..... 25 points
- b. 26-50% ..... 50 points
- c. 51-75% ..... 75 points
- d. >75% ..... 100 points

E. Number of legal lots of record

- a. 0-2..... 20 pts
- b. 3..... 40 pts
- c. 4..... 60 pts
- d. 5..... 80 pts
- e. >= 6..... 100 pts

F. Legal water availability documentation

- a. Certified Water Right/Access to public water..... 100 pts
- b. Water Claim or documented water use..... 50 pts
- c. No Water documentation or legal water access..... 0 pts

G. Proximity to major roads or road intersections

*(For purposes of this evaluation, “major roads” means roads with a daily traffic volume of 3,000 or more trips. A list of roads currently meeting this definition is included as Appendix D to this report.)*

- a) Property is at an intersection of major roads..... 100 Points
- b) Property is within 1,500 feet of the intersection  
of two major roads..... 75 Points
- c) Property fronts on a major road..... 50 Points
- d) Property is within 2,500 feet of a major road..... 25 Points

H. Threat of Conversion/Parcelization

Total Number of Parcels in surrounding ¼ mile

- a) Less than 20 parcels..... 50 Points
- b) 20 – 50 parcels..... 100 Points
- c) 50 – 100 parcels..... 50 Points
- d) more than 100 parcels..... 0 Points

*Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Site Evaluation section has been 0.35, but is subject to ongoing review by the Committee).*

## 2. Land Evaluation

Productive farming, forestry and associated activities depend on soil capability (the suitability of soils for most types of field crops and/or timber production). Therefore, emphasis should be placed on the property's soil characteristics. The scoring system uses the NRCS Prime Farmland classifications, LESA classifications and APO soils classifications, including classification of soils of statewide importance as well as consideration given to site index score for forest soils. Highest points are assigned to better agricultural soils and lower points to poorer agricultural soils. Forest soils also receive additional points. Points are assigned based on the productivity and/or characteristics of the soil (profile, texture, slope, other). A soils chart is included as Appendix D. If a soil has a site index rating and a prime soil rating, the rating with the highest number of points will be applied.

Below is a table detailing the soil point system:

LESA Rating	APO or Non-APO Prime 1	Non-APO - Prime 2-8	Soils of Statewide Importance	Site Index
1	100	90	0	0
2	95	85	0	0
3	90	80	0	0
4	85	75	0	0
No Rating	80	70	50	0
<b>Site Index Rating</b>				
1	0	0	0	60
2	0	0	0	50
3	0	0	0	40
4	0	0	0	30
5	0	0	0	20

Farm applications receive points for this section proportional to the percentage of each soil type that exists on the property. An example of how this would work follows: A farm under review is 40 acres, of which 29.79 acres (about 75%) is soil 179-Whatcom Silt Loam 4-9% slopes, which is classified as LESA 4, APO Prime 1; and 10.21 acres (about 25%) is soil 180-Whatcom Silt Loam 9-15% slopes, which is not classified as APO or Prime, but is a soil of Statewide Importance. This farm would score a total of 76.07 points for this Section, as shown:

A	B	C	D	E	F	G	H	I	J	K
Soil #	Area (in acres)	% (B/Total area)	APO Soil	Prime 1- 6?	LESA Rating	Prime Rating	Statewide Soil	Site Index	Points	score (J*C)
179	29.79	74.48%	Y	Y	4	1	0	2	85	63.30
180	10.21	25.53%	N	N	0	0	yes	2	50	12.76
<b>Total area</b>	<b>40</b>									<b>76.07</b>

*Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Land Evaluation section has been 0.35, but is subject to ongoing review by the Committee).*



### 3. Ecological Evaluation

The Washington State Department of Ecology Watershed Characterization report has identified recommendations for addressing water flow processes within sub-watersheds.

- A. Protection (Overall importance to Water flow processes)
  - a. Highest protection..... 100 pts
  - b. Protection..... 75 pts
  - c. Protection/Restoration..... 50 pts
  - d. Conservation (no change)..... 25 pts
- B. Water Flow Restoration ~ Is property owner willing to restore ecosystem processes beyond the minimum required practices?
  - a. Yes..... 50 pts
  - b. Maybe/No..... 0 pts
- C. Site contains conservation values (viewsheds, wetlands, notable wildlife habitat, other critical areas)
  - a. Yes..... 50 pts
  - b. No..... 0 pts

*Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Ecological Evaluation section has been 0.10, but is subject to ongoing review by the Committee).*

### 4. Special Considerations

- A. Site contains heritage/historical significance, i.e. Heritage Barn Registry
  - 1. Yes..... 50 pts
  - 2. No..... 0 pts
- B. Bargain Sale Opportunity below market value
  - 1. 91%-Full Value..... 0 pts
  - 2. 71%-90% ..... 33 pts
  - 3. 50%-70% ..... 66 pts
  - 4. < 50% Full Value..... 100 pts
- C. Removal of all remaining development rights?
  - 1. All removed..... 100 pts
  - 2. Development rights remaining ..... 0 pts
- D. Is located within a priority area :
  - a. In priority area..... 100 pts
  - b. Not in a priority area..... 0 pts

*Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Special Considerations Points section has been 0.10, but is subject to ongoing review by the Committee).*

## 5. Matching Funds Secured

- |                      |         |
|----------------------|---------|
| 1. 100% secured..... | 100 pts |
| 2. 75% secured.....  | 75 pts  |
| 3. 50% secured.....  | 50 pts  |
| 4. 25% secured.....  | 25 pts  |
| 5. 0% secured.....   | 0pts    |

*Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Bonus Points section has been 0.10, but is subject to ongoing review by the Committee).*

## 6. Final Score

The points for each section are added up and multiplied by a weight factor, which indicates the importance that is placed on a particular characteristic. The weighted scores are then added to provide an overall score (0-100). The higher the score, the more closely the property meets the goals of the program and hence is a higher priority for purchase and preservation. Properties which score less than 40 (forty) points will not be recommended for program participation. The PDR Oversight Committee retains the ability to add or subtract up to 5 points on any application. A write-up of committee opinion will be included in all council proceedings.

## V. OVERVIEW OF PDR PROGRAM PROCEDURES

---

### A. Outreach and Publicity

Step 1: The County shall annually give notice in one newspaper of general circulation in each area where eligible lands are located which may be acquired. The notice shall include the properties eligible to participate, the application process and applicable timeframes and extensions.

The Administrator may identify each property with potential development rights within priority consideration areas and provide written notification to the property owners.

### B. Application and Ranking

Step 2: Voluntary pre-application screening. Interested property owners may meet with the County PDR Program Administrator (Administrator) to review their eligibility and special circumstances, if any.

Step 3: Application. An owner of land eligible for PDR Program participation submits and application for County acquisition of property or development rights. The application must be submitted on the form provided by the County. Lot of Record application must be submitted simultaneously unless determination has already been completed.

Step 4: Lot of Record/Density Determination. An owner of land eligible for PDR Program participation submits a Lot of Record application and signs a Letter of Intent that states that payment for this service must be made upon closing of the easement or should the applicant wish to withdraw their application. This application determines legal status of lots being considered and determines that number of development rights remaining on said lots. PDR Program application may be submitted simultaneously.

Step 5: The Administrator reviews each application for completeness, determines if the subject property meets minimum eligibility criteria and assigns a preliminary score based upon the PDR site selection criteria.

Step 6: The PDR Oversight Committee reviews PDR Program applications and recommends proposed development rights acquisition utilizing the selection criteria. Recommendations for development right acquisition are prepared and forwarded to County Council to approve, deny, or recommend modification.

Step 7: The Administrator estimates the number of appraisals that can be initiated based on available funds and chooses the top ranked parcels from the County Council's list of parcels. The property owner is notified in writing of eligibility status.

- Step 8: Property owners disputing their ranking may request a reconsideration of their ranking to the PDR Oversight Committee within 14 days after receiving written notice. The Committee shall review the reconsideration request at the next regularly scheduled meeting. Special consideration will be given if applicant modifies the original offer to include a bargain sale. The PDR Oversight Committee may, at its discretion, change the site's rank, recommend the site for subsequent consideration, or deny the request.

### C. Title

- Step 9: The Administrator initiates a title search. Closing is conditioned on the resolution of all unapproved title exceptions, within the County's sole discretion, which may require the receipt of subordination agreements or payoff letter.

### D. Pricing Estimate and Appraisal

- Step 10: The Administrator or designee provides preliminary estimate of value, and notifies the property owner of an estimated range of value within which the appraisal will likely fall. The Administrator or designee sends the applicant a letter of intent, including range of expected value. The letter calls for the signature of property owner(s), and spells out conditions under which costs for further due diligence and the lot of record must be reimbursed to the county if the property owner chooses to withdraw from the program within a specified period of time.
- Step 10: The Administrator or designee proceeds to verify assumptions through official county processes, such as a formal Lot of Record and density determination, and conduct other due diligence as necessary (such as water rights research and Title research and clearing).
- Step 11: Unless Council and the Executive specifically authorize an alternate approach to determine value, the Administrator commissions a full appraisal by a County authorized appraiser to appraise the development rights value of the land proposed for development rights sale. The development rights value is the difference between the market value of full ownership of the land, and the agricultural value.
- Step 12: The appraiser submits the completed appraisal (or the alternate determination of value is conducted and submitted) to the Administrator and the Oversight Committee for their review.
- Step 13: The Administrator or designee meets with the property owner to review the appraisal (or alternate determination of value), state the offer, review the conservation easement provisions, agreement terms and conditions, and to answer the property owner's questions.
- Step 14: If the property owner believes that the land has not been adequately appraised or valued, the owner may, within the time allowed in the schedule, commission an appraisal at the owner's expense.

## E. Offer to Purchase Easement and Agreement

- Step 15: A written offer to purchase development rights based on appraised or determined value is made to the property owner following budget authorization by the County Council, and approval by the County Executive.
- Step 16: Within 30 days, the property owner accepts, rejects or makes a counter offer. Counter offers will be reviewed and evaluated by the Oversight Committee and the County's authorized appraiser.
- Step 17: Property owners desiring to sell their development rights sign a Purchase and Sale Agreement.

## F. Adjacent Property Owner Notification

- Step 18: Neighboring property owners are notified that adjacent land is in the process of being preserved.

## G. Approval

- Step 19: Review materials are presented to the County Executive for review and approval, rejection, or recommendation for modification.
- Step 20: Review materials are sent to other participating entities for partially or wholly funded conservation easements several days prior to any deadline.

## I. Settlement

- Step 21: Settlement will occur following County Executive approval of transaction terms and is contingent upon a title search and any other evidence, such as a land survey, that may be necessary to establish clear title.
- Step 22: Payment will be in full at time of settlement unless the County and property owner agree to an installment sale.
- Step 23: Checks are requested from the Finance Manager and settlement is scheduled within a week or two of approval. Federal or state money is dispersed according to federal or state regulation.

## J. Recording

- Step 24: The conservation easement will be recorded at the County Auditor's office. The County or its designee will monitor the properties under easement at least annually to ensure compliance with the easement.

## VI. CONSERVATION EASEMENTS

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### A. Description

A conservation easement deed is a legally binding document, which is recorded by the County Auditor, forever restricting the property to agricultural and directly associated uses, and for which compensation may be paid. As an easement in gross in perpetuity, restrictions are binding upon the owner and future owners, and run with the land.

### B. PDR Program Conservation Easements

At the time of acquisition of development rights from a participating property, a conservation easement is placed on the property permanently restricting development of the site and protecting/preserving the agricultural, forestry, and ecological values associated with the site. The conservation easement must be signed by both the property owner(s) and the County Executive or his/her designee and recorded with the property records for the property. A model conservation easement deed is included in these guidelines as attachment D.

#### 1. Conservation Easement Requirements

Conservation easements shall be on a form approved by the Whatcom County Prosecuting Attorney and shall meet the following basic requirements:

- a. The deed shall be in recordable form and contain an accurate legal description setting forth the metes and bounds of the area subject to the easement;
- b. Restriction is granted in favor of Whatcom County, or if designated by the organizations as defined in RCW64.04.130;
- c. Restriction is granted in perpetuity, and shall bind existing and future property owners; and
- d. Unless specifically provided for, nothing in the restrictions shall be construed to convey to the public a right of access or use of the property, and the owner of the property, his/her heirs, successors and assigns shall retain exclusive right to such access or use subject to the terms of the easement.

#### 2. Filing

After the conservation easement is signed and notarized, it must be recorded with the Whatcom County Auditor's Office.

### C. Conservation Easement Conveyance

Conservation easements may be either donated or sold, or a combination of both.

1. Conservation Easement Donation

- a. A donation of a total parcel will not be subject to eligibility except as below in section c. Partial parcel donation shall be considered under the same rule as for development rights sales. Notwithstanding the eligibility of the property, acceptance of a fee interest or partial donation is within the discretion of the County Council.
- b. Whatcom County will accept voluntary donations or bequests of development rights as perpetual easements in gross if meeting eligibility criteria (except priority area criteria) and within the discretion of the County Council.
- c. All properties offered for development rights donation must meet the following minimum eligibility criteria:
  - 1. The PDR Oversight Committee will consider each offer on a case by-case basis, considering the property's consistency with current and future land uses, and
  - 2. The property must be at least 1 acre in size, and
  - 3. Be in agricultural or forestry use or contain ecological values and has not been irrevocably devoted to a use inconsistent with the above values,
  - 4. Cannot be located within an Urban Growth Area, unless coordination with the proximal small city is a component of the donation.

2. Conservation Easement Sale

- a. Whatcom County will purchase perpetual conservation easements on qualified properties in accordance with the policies and procedures of the Whatcom County Agricultural, Forestry, and Ecological Purchase of Development Rights Program, with Federal, State, County, and/or private funds and any combination thereof.
- b. All properties offered for conservation easement sale must meet minimum eligibility criteria as contained in Section III.

## VII. OPERATIONAL PROCEDURES FOR ACQUIRING PDR EASEMENTS

---

### A. Outreach and Publicity

Annually, notice shall be published in one newspaper of general circulation. Application opening and closing dates, if any, will be determined by the PDR Oversight Committee. The Committee shall have the discretion to consider applications in rounds, or individually on a rolling basis. If selection deadlines are extended, the committee will provide public notice of the extension.

### B. Application and Ranking

1. Property owner(s) voluntarily submits an application(s) to the County. The application must be submitted to the County on the form provided by the PDR Program, and according to the relevant public notice. Applicants are to include at a minimum:
  - a. Name(s) and address(es) of the property owner(s) of the site;
  - b. Legal description and parcel number(s);
  - c. Copy of the property deed and title;
  - d. Total acreage of farmland to be included in the PDR Program;
  - e. Current land use and soils;
  - f. Number of dwelling units;
  - g. Description of the farming operation;
  - h. Other information necessary to evaluate property eligibility;
  - i. Lot of Record/Density Determination application and payment, or Lot of Record/Density Determination application and signed Letter of Intent agreeing to terms of payment at the time of easement closing or upon withdrawal from program, or completed Lot of Record/Density Determination; and
  - j. Acknowledgement of intent to grant to Whatcom County a conservation easement in a form provided by the County.
2. The Administrator shall review each application to determine completeness and eligibility.
3. Applications meeting all minimum eligibility criteria shall be evaluated and scored by the administrator and Oversight Committee according to the site selection criteria. (See Section IV)
4. The PDR Oversight Committee shall provide the County Council with information and scoring of properties recommended for conservation easement acquisition by the committee. County Council shall approve or deny pursuit of conservation easement acquisitions on the parcels.



5. The Administrator shall then arrange appraisals (or alternate determination of value) of eligible applicant properties as determined by the County Council.
6. The PDR Oversight Committee and Administrator shall provide updates to the County Council discussing recommended purchases, possible program changes, and anticipated budget needs.

### C. Appraisal

1. Appraisals for eligible properties shall be conducted to determine the value of development rights of parcels in the order of acquisition priority until acquisition funds are expended.
  - a. The appraisals are to be made by an independent appraiser qualified to appraise agricultural, forestry, and/or ecological land for development rights purchases. An appraiser is deemed qualified if he or she possesses a State of Washington certification as a State Certified General Real appraiser, MAI designation by the Appraisal Institute (or equivalent), and at least five years agricultural lands appraisal experience. Appraisers shall supply a narrative or UAAR form report, which contains information as required by the Uniform Standards of Professional Appraisal Practice (USPAP), Uniform Appraisal Standards of Federal Land Acquisition (UASFLA) and as specified in any contract with the County.
  - b. An appraisal report is an objective report of market facts. The appraisal report must estimate both the unrestricted fee market value of the land only, excluding the value of buildings, and the agricultural value of the land only, of which the difference is the development rights value.
  - c. Both values shall be based primarily on an analysis of comparable sales. If comparable sales data is not available for agricultural lands, the appraiser may use local farmland rental values or capitalized production values to determine the agricultural values of the land.
  - d. A description of the buildings or other improvements shall appear in the appraisal report; however, the buildings will not be valued and therefore will not be considered in determining the development rights value.
  - e. The appraiser shall report whether the subject property has any land use restrictions, public or private and/or physical attributes, which limit the developmental capability of the land.
  - f. The appraiser shall be advised that conservation easements are perpetual. The perpetual nature of the easement shall take precedent over any agricultural zoning status.
  - g. The appraisal shall be in writing and may be discussed with the owners prior to the submission of written offers.

- h. If the property owner believes the property has not been adequately appraised, the owner may, within the time allotted, request that a review appraisal be made at the owner's expense. This appraisal must be completed in accordance with the guidelines set forth herein. If the review (owner's) appraisal is not completed within the allotted time, the application will be delayed for future committee consideration. If a review appraisal is completed, the appraisals will be reviewed by the County's Appraiser. The County's Appraiser in consultation with the Program Administrator and the PDR Oversight Committee will accept, modify or reject the review appraisal. The determination of the County's Appraiser is final.
  - i. The maximum value of development rights purchased by the County shall be no more than the easement value contained in an appraisal report. The easement value is the difference between the farmland's value before and after the voluntary conservation easement.
- 2. Council and the Executive may specifically authorize an alternate approach to determine value in accordance with state and local laws, in which case the conditions of that approach would substitute for the appraisal guidelines as set forth in C.1., above.

#### D. Title and Survey Issues

- 1. The Administrator shall request a title report confirming that applicant is the owner of the property and has unrestricted legal right to transfer the development rights (i.e. there must be clear title to transfer the property). The title report will be provided to the County Attorney for review.
- 2. All encumbrances (including but not limited to: liens, mortgages and judgments) against the property must be subordinated, satisfied or removed prior to development rights acquisition. Mortgage and/or lien holder subordination and releases may be required acknowledging that a conservation easement will be placed on the property and subordinating their interest in the property to the deed restriction.
- 3. At settlement for a County or joint development rights purchase, the PDR Oversight Committee or applicant shall provide a title insurance policy issued by a title insurance company authorized to conduct business in Washington State by the Washington State Office of Insurance Commissioner. The cost of such title insurance shall be a shared cost, with the county's portion considered a cost incident to the development rights purchase and a reimbursable expense from the County's Conservation Futures Fund.
- 4. It is the property owner's responsibility to survey (or provide a legal description that meets specific standards) any exceptions from the easement and any graveyards or cellular towers that may be located on the property. It is the property owner's responsibility to provide a legal description for any commercial

operation on the farm that is not incidental to the overall farming operation, in order to exclude it from the easement. Surveys shall be conducted by a licensed surveyor in accordance with state and federal regulations.

E. Development Rights Value and Purchase Price

1. The maximum value of development rights purchased by the County shall be no more than the easement value contained in an appraisal report. The easement value is the difference between the land's value before and after the voluntary conservation easement.
2. Development rights may only be purchased in perpetuity.

F. Recommendation of Development Rights Purchases by the PDR Oversight Committee

1. The PDR Oversight Committee, in making recommendations concerning applications and purchase offers, shall consider the following:
  - a. Evaluation according to the site selection criteria
  - b. Consistency with County Comprehensive
  - c. Cost relative to total allocations and appropriations
  - d. Proximity to other land subject to protection easements
2. Upon receiving the recommendations of the PDR Oversight Committee and the Administrator, the County Executive shall review the recommendations and shall take final action to authorize or deny proposed purchase terms and offers, consistent with authorization by the County Council.
3. If a property is approved for development rights purchase, the Administrator will meet with the property owner and review the terms, conditions and amount of the County's offer. A written offer will be provided to the property owner. Written notice shall also be provided to land not approved for development rights purchase.
4. Within 30 days of receipt of a written offer from the County an applicant must indicate in writing which of the following actions they intend to pursue:
  - a. Accept the offer.
  - b. Reject the offer.
    1. Reject offer outright
      - a. no further action
      - b. participate in future review
    2. Submit a counter offer within 90 days of written notice of offer by the County.
  - c. Failure to notify the County within 30 days shall constitute rejection of the offer.

5. If the offer is accepted, the Administrator shall prepare a Purchase and Sale agreement. USDA or State Funds must be paid as lump sum. The method of payment shall be specified from the options listed below:
  - a. Lump Sum
  - b. Installment Purchase Agreement (IPA)
  - c. Like-Kind Exchange
  - d. Or a combination of the above
6. For development rights purchase utilizing the Installment Purchase Agreement (IPA) program, the County Council at settlement shall provide an opinion of legal counsel that the County's obligations to make installment payments of principal and tax-exempt interest over time are legal, valid, and binding. And that such payments are a general obligation of the County for which its full faith, credit, and taxing power are pledged. Interest paid by the County is exempt from federal income taxes.
7. All Agreements of Sale and Conservation Easements require the County Council's approval.

#### G. Grant of the Agricultural, Forestry, and/or Ecological Protection Conservation Easement

Before the purchase of development rights can be finalized, a conservation easement in a form approved by the County Attorney and consistent with the policies of the PDR Program Guidelines, must be placed on the property permanently restricting development of the site and preserving its agricultural, forestry and/or ecological values.

The principal interest of the County is to ensure that lands are preserved and subsequently stewarded in a manner that maintains and enhances their farmland, forestland, and/or ecological values. There may be some instances where there is a public interest in another public entity or non-profit organization to hold the conservation easement, for continued stewardship and protection of the land. The County will consider:

1. The preferences of the donor or seller;
2. Administrative, monitoring, and enforcement issues associated with the conservation easement and the resources available to address these issues;
3. Requirement of Federal, State or County funding sources utilized to purchase development rights.

#### H. Development Rights Purchase Recommendations/Submission Requirements

1. County Council: Each recommendation for development rights purchases with County funds, State funds, Federal funds, private donor funds or a combination of funds shall be presented to the County Council at a regularly scheduled public meeting.

2. Letters of Notification: Letters of notification for development rights purchases will be sent to adjoining property owners by the Administrator.

## VIII. CONSERVATION FUTURES FUND

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### A. Intent

This fund was established in 1992 to be used solely to acquire right and interests in open space land, farm and agricultural land, and timber land, so as to protect, preserve, maintain, improve, restore, limit the future use of, or otherwise conserve the property for public use and enjoyment.

### B. Fund Sources

This Conservation Futures Fund is funded by a real property tax applied to all real property within Whatcom County at a rate determined by the county administration and county council.

### C. Fund Source Accounts

Council shall annually consider an allocation of Conservation Futures Fund to be placed in a Purchase of Development Rights Account.

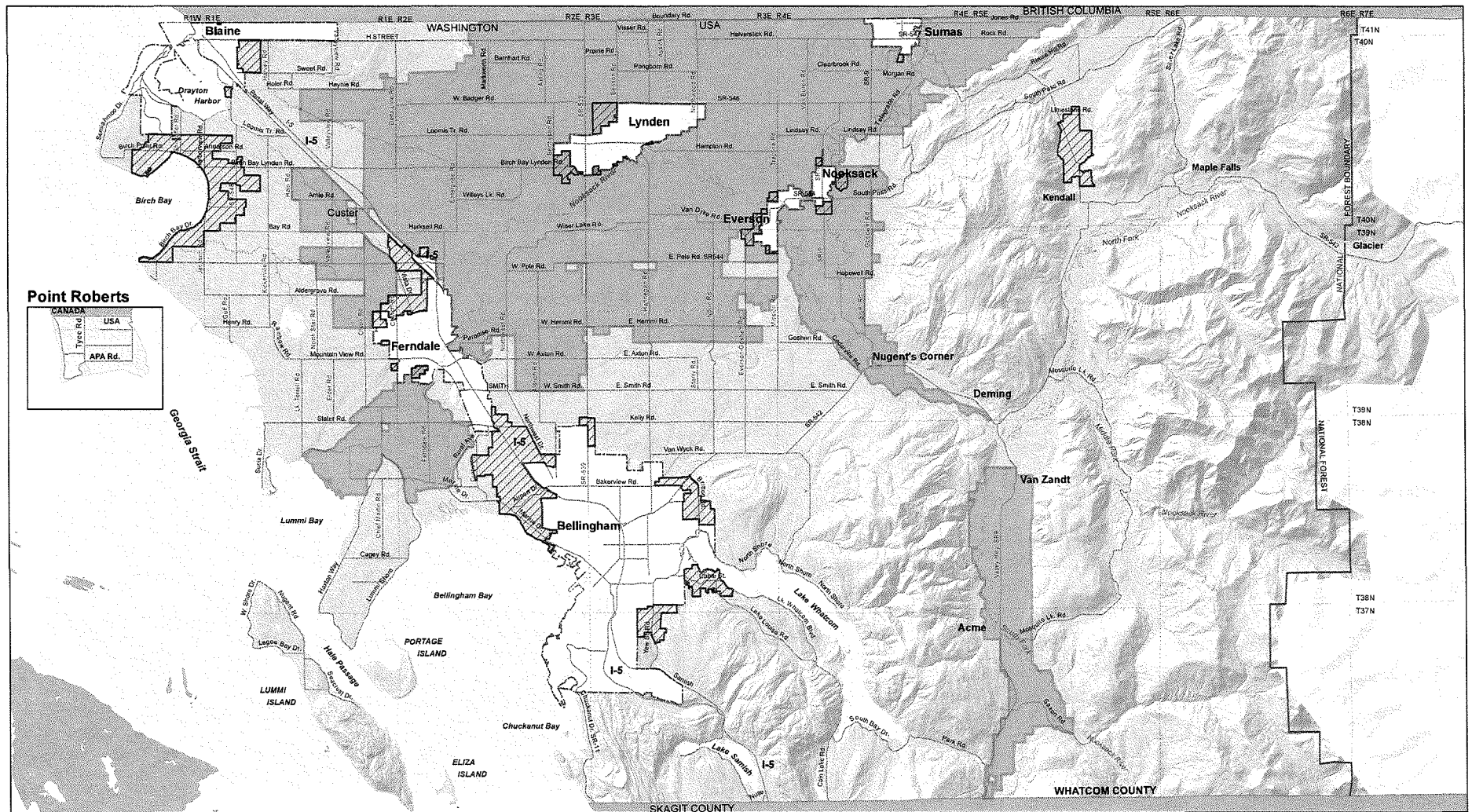
### D. Installment Payment Fund

1. The intent of installment payment funds, which are established by the County, is to encumber and invest committed funds for which recipient property owners have elected annual installment payments for a period, which may vary according to the wishes of the property owner.
2. The full consideration of any transaction for which installment payments of five years or less have been elected shall be placed in the fund, less the amount of any first installment to be paid at settlement. This amount shall be invested and annual installment payments shall include the interest accrued.
3. Annual installment payments shall be made on or before January 20<sup>th</sup> of each year.
4. A property owner may enter into an Installment Purchase Agreement for fifteen (15) to thirty (30) years at an interest rate to be negotiated between the property owner and the County. The property owner will receive semi-annual interest payments that are tax exempt. Principal will be paid in one lump sum at the end of term. The property owner will also receive a security representing the Installment Purchase Agreement. The property owner may sell or assign this Agreement.




## E. Public Expenditures

1. All public expenditures from the Conservation Futures Fund are subject to approval by Whatcom County Council and will be made in accordance with approved disbursement procedures.
2. Expenditures from the PDR Program Account shall be limited to interests in qualified agricultural, forestry, and/or ecological land participating in Whatcom County's Agricultural, Forestry, and Ecological Purchase of Development Rights Program, and other expenses necessary to the acquisition of conservation easements authorized under RCW 84.34.200-.240.
3. The annual appropriation to the PDR Program by the County Council shall be available for the calendar year in which the appropriation was made and or the subsequent calendar year.

# Appendix A



## Whatcom County Agricultural Priority Areas Agriculture Zone, Rural Study Areas, Initial PDR Target Areas, and Watershed Improvement Districts

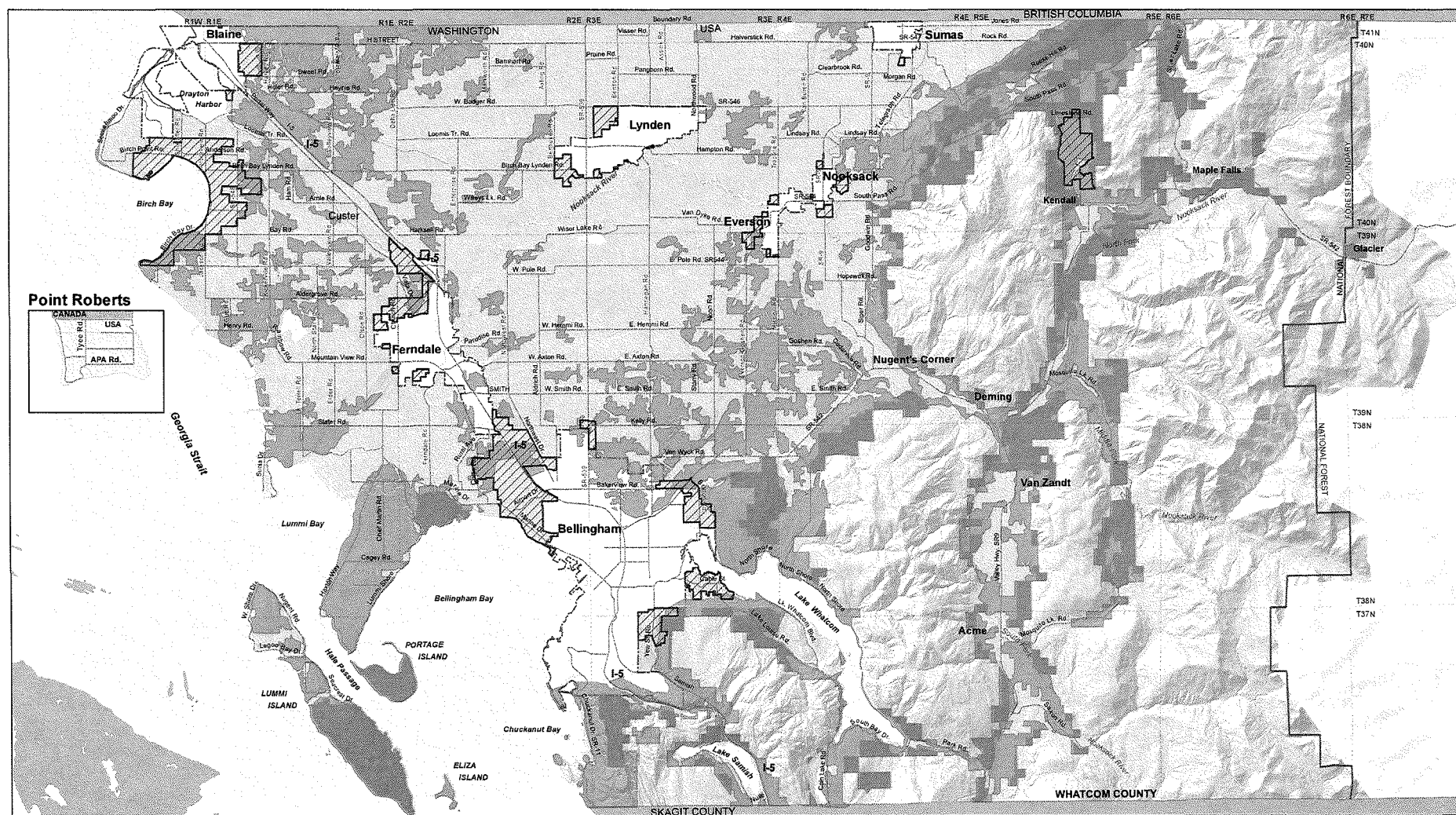
-  Urban Growth Areas
-  Ag. Zone/Rural Study Areas/PDR Target Areas/WIDs
-  Incorporated City

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

0 0.5 1 2 3 4 Miles





## Whatcom County Forestry Priority Areas

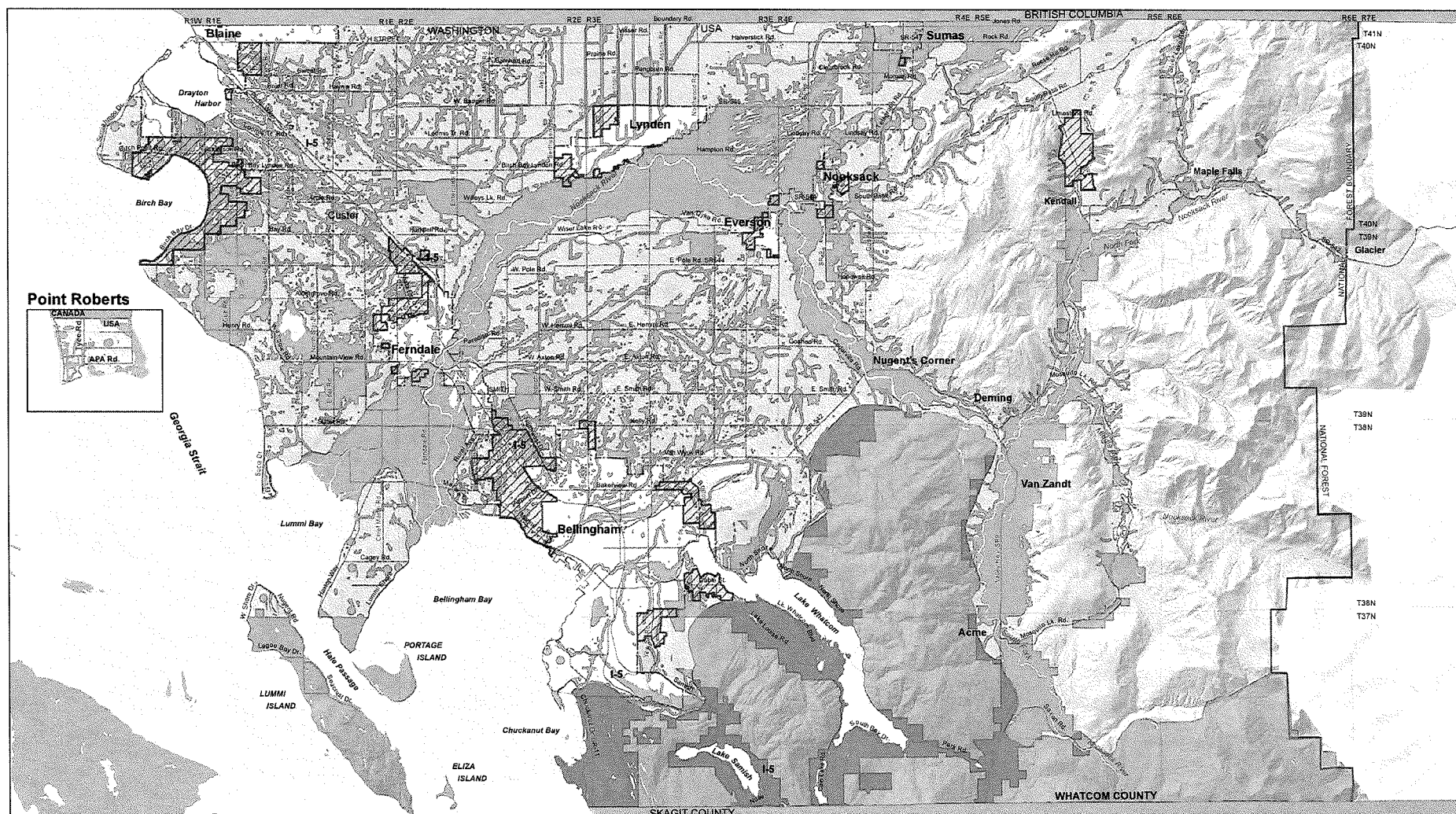
### Rural Forestry Zone and Washington Forest Action Plan Priority Conservation Areas (outside Commercial Forestry Zone)

-  Forestry Priority Areas  
 Urban Growth Areas  
 Incorporated City




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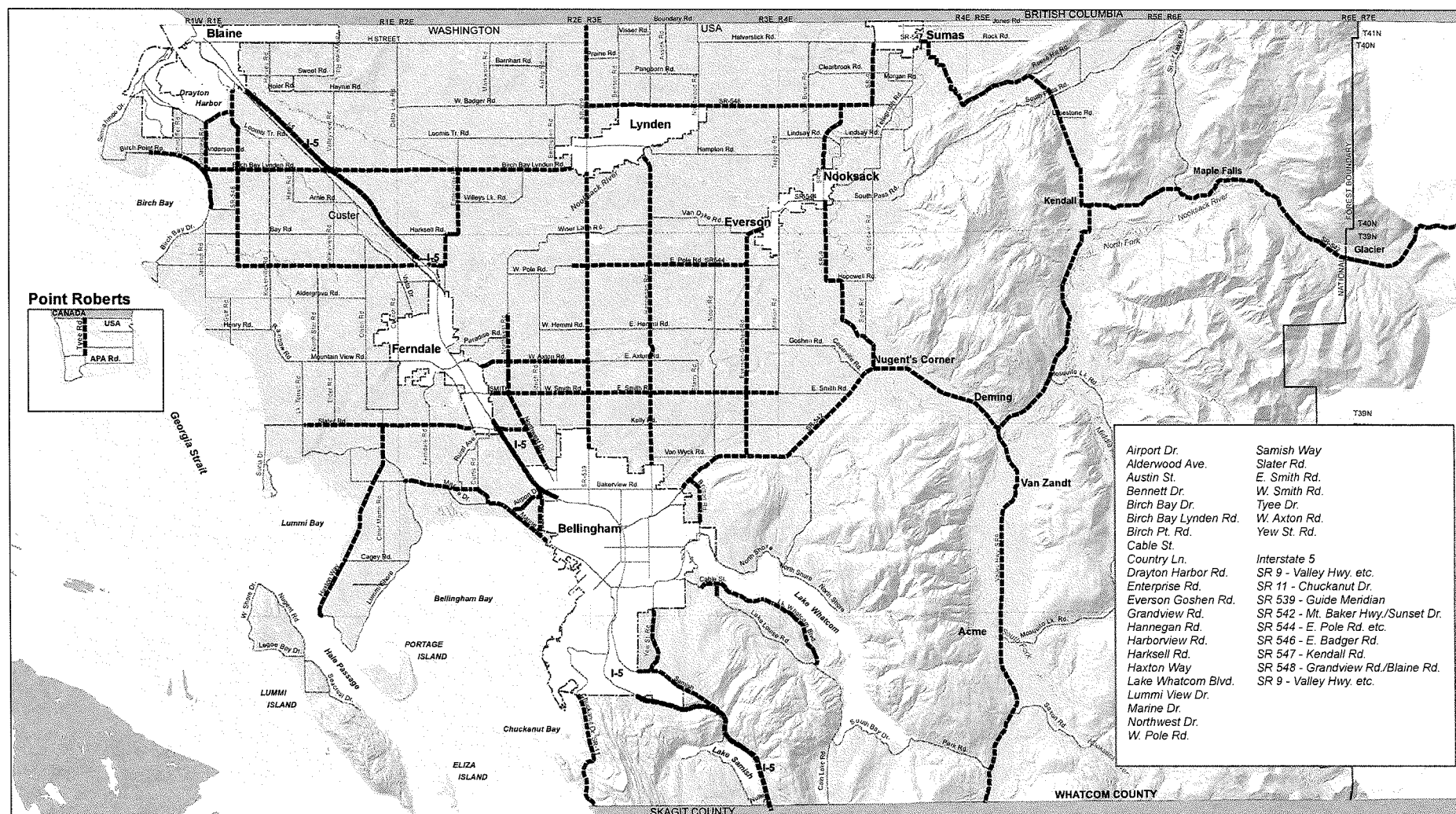
# **Whatcom County Ecological Priority Areas** **Habitat Conservation Areas and FEMA Floodplain** **(outside of Commercial Forestry Zone)**

-  Hab. Conservation Areas/Fema Floodplain
-  Urban Growth Areas
-  Incorporated City

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0 0.5 1 2 3 4 Miles

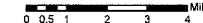
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## Whatcom County

### Major Roads - >3,000 Average Daily Trips

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# APPENDIX E

## Soils List

Soil #	Soil Name	APO y/n	LESA Group	PRIME	STATEWIDE IMPORTANCE	Site Index
1	ANDIC CRYOCHREPTS - 60 TO 90% SLOPES	N	0	0		
2	ANDIC CRYOCHREPTS-ROCK OUTCROP COMPLEX - 60 TO 90% SLOPES	N	0	0		
3	ANDIC XEROCHREPTS - 60 TO 90% SLOPES	N	0	0		3
4	ANDIC XEROCHREPTS-ROCK OUTCROP COMPLEX - 60 TO 90% SLOPES	N	0	0		3
5	ANDIC XEROCHREPTS-COOL ROCK OUTCROP COMPLEX-60 TO 90% SLOPES	N	0	0		4
6	BARNESTON GRAVELLY LOAM - 0 TO 8% SLOPES	N	0	0		2
7	BARNESTON VERY GRAVELLY LOAM - 8 TO 15% SLOPES	N	0	0		2
8	BARNESTON VERY GRAVELLY LOAM - 15 TO 30% SLOPES	N	0	0		2
9	BARNESTON VERY GRAVELLY LOAM - 30 TO 60% SLOPES	N	0	0		2
10	BARNHARDT GRAVELLY LOAM - 0 TO 5% SLOPES	N	4	4		3
11	BELLINGHAM SILTY CLAY LOAM - 0 TO 2% SLOPES	N	0	2		
12	BIRCHBAY SILT LOAM - 0 TO 3% SLOPES	Y	1	1		3
13	BIRCHBAY SILT LOAM - 3 TO 8% SLOPES	Y	1	1		3
14	BIRCHBAY SILT LOAM - 8 TO 15% SLOPES	N	0	0	yes	3
15	BLAINEGATE SILTY CLAY - 0 TO 1% SLOPES	N	0	0		
16	BLAINEGATE-URBAN LAND COMPLEX - 0 TO 1% SLOPES	N	0	0		
17	BLETHEN GRAVELLY LOAM - 5 TO 15% SLOPES	N	0	0	yes	3
18	BLETHEN GRAVELLY LOAM - 15 TO 30% SLOPES	N	0	0	yes	3
19	BLETHEN GRAVELLY LOAM - 30 TO 60% SLOPES	N	0	0		3
20	BLETHEN VERY BOULDERY LOAM - 5 TO 40% SLOPES	N	0	0		3
21	BOROSAPRISTS - 0 TO 2% SLOPES	N	0	0		
22	BRISCOT SILT LOAM DRAINED - 0 TO 2% SLOPES	Y	3	5		
23	BRISCOT ORIDIA AND SUMAS SOILS - 0 TO 2% SLOPES	N	0	5		
2	CHUCKANUT LOAM - 3 TO 8% SLOPES	N	0	1		
25	CHUCKANUT LOAM-BEDROCK SUBSTRATUM - 5 TO 15% SLOPES	N	0	0	yes	2
26	CHUCKANUT LOAM-BEDROCK SUBSTRATUM - 15 TO 30% SLOPES	N	0	0	yes	2
27	CHUCKANUT LOAM-BEDROCK SUBSTRATUM - 30 TO 60% SLOPES	N	0	0		2
28	CHUCKANUT-SHALCAR COMPLEX - 0 TO 15% SLOPES	N	0	0	yes	2
29	CHUCKANUT-URBAN LAND COMPLEX - 5 TO 20% SLOPES	N	0	0		2
30	CLENDENEN GRAVELLY SILT LOAM - 5 TO 30% SLOPES	N	0	0		
31	CLIPPER SILT LOAM-DRAINED - 0 TO 2% SLOPES	Y	2	2		
32	COMAR SILT LOAM - 5 TO 15% SLOPES	N	0	0	yes	2
33	COMAR SILT LOAM - 15 TO 30% SLOPES	N	0	0	yes	2
34	COMAR SILT LOAM - 30 TO 60% SLOPES	N	0	0		2
35	CRINKER VERY CHANNERY SILT LOAM - 30 TO 60% SLOPES	N	0	0		
36	CUPPLES GRAVELLY LOAM - 5 TO 30% SLOPES	N	0	0		2
37	CUPPLES GRAVELLY LOAM - 30 TO 60% SLOPES	N	0	0		2
38	DEKAPEN LOAM - 8 TO 25% SLOPES	N	0	0		3
39	DEMING GRAVELLY SILT LOAM - 5 TO 30% SLOPES	N	0	0		
40	DEMING GRAVELLY SILT LOAM - 30 TO 60% SLOPES	N	0	0		
41	DIOBSUD GRAVELLY SILT LOAM - 30 TO 60% SLOPES	N	0	0		
42	EDFRO VERY GRAVELLY SILT LOAM - 8 TO 30% SLOPES	N	0	0		
43	EDFRO VERY GRAVELLY SILT LOAM - 30 TO 60% SLOPES	N	0	0		

44	EDFRO VERY STONY SILT LOAM - 30 TO 60% SLOPES	N	0	0		
45	EDMONDS-WOODLYN LOAMS - DRAINED - 0 TO 2% SLOPES	Y	3	3		
46	ELIZA SILT LOAM - DRAINED - 0 TO 1% SLOPES	N	0	0		
47	ELIZA-TACOMA SILT LOAMS - 0 TO 1% SLOPES	N	0	0		
48	EVERETT GRAVELLY SANDY LOAM-HARD SUBSTRATUM - 2 TO 8% SLOPES	N	0	0		3
49	EVERETT VERY GRAVELLY SANDY LOAM - 8 TO 15% SLOPES	N	0	0		3
50	EVERETT VERY GRAVELLY SANDY LOAM - 15 TO 35% SLOPES	N	0	0		3
51	EVERETT COMPLEX - 2 TO 8% SLOPES	N	0	0		3
52	EVERETT-URBAN LAND COMPLEX - 5 TO 20% SLOPES	N	0	0		3
53	EVERSON SILT LOAM-DRAINED - 0 TO 2% SLOPES	N	2	2		
54	FISHTRAP MUCK-DRAINED - 0 TO 2% SLOPES	Y	3	2		
55	GALLUP SILT LOAM - 30 TO 60% SLOPES	N	0	0		
56	GALLUP SILT LOAM - 60 TO 80%	N	0	0		
57	GALLUP SILT LOAM-COLD - 30 TO 60% SLOPES	N	0	0		
58	GALLUP SILT LOAM-COLD - 60 TO 80% SLOPES	N	0	0		
59	GETCHELL LOAM - 3 TO 30% SLOPES	N	0	0		
60	GETCHELL LOAM - 30 TO 60% SLOPES	N	0	0		
61	HALE SILT LOAM - 0 TO 2% SLOPES	N	0	2		4
62	HALE SILT LOAM-DRAINED - 0 TO 2% SLOPES	Y	2	2		4
63	HALLENTON SILT LOAM-DRAINED - 0 TO 1% SLOPES	N	0	2		
64	HANNEGAN VERY GRAVELLY LOAM - 15 TO 40% SLOPES	N	0	0		
65	HARTNIT SILT LOAM-COLD - 5 TO 30% SLOPES	N	0	0		
66	HARTNIT SILT LOAM-COLD - 30 TO 60% SLOPES	N	0	0		
67	HARTNIT-GALLUP-ROCK OUTCROP COMPLEX - 50 TO 80% SLOPES	N	0	0		
68	HEISLER VERY GRAVELLY SILT LOAM - 8 TO 30%	N	0	0		2
69	HEISLER VERY GRAVELLY SILT LOAM - 30 TO 60% SLOPES	N	0	0		2
70	HINKER VERY CHANNERY SILT LOAM - 5 TO 30% SLOPES	N	0	0		
71	HINKER VERY CHANNERY SILT LOAM - 30 TO 60% SLOPES	N	0	0		
72	HISTOSOLS-PONDED - 0 TO 1% SLOPES	N	0	0		
73	HOVDE SILT LOAM - 0 TO 2% SLOPES	N	0	0		
74	HOZOMEEN GRAVELLY LOAM - 20 TO 45% SLOPES	N	0	0		
75	HYDRAQUENTS-TITAL - 0 TO 1% SLOPES	N	0	0		
76	JACKMAN GRAVELLY SILT LOAM - 30 TO 60% SLOPES	N	0	0		
77	JORGENSEN GRAVELLY SILT LOAM - 3 TO 15% SLOPES	N	0	0		
78	JUG VERY GRAVELLY LOAM - 3 TO 15% SLOPES	N	0	0		2
79	KICKERVILLE SILT LOAM - 0 TO 3% SLOPES	Y	1	1		2
80	KICKERVILLE SILT LOAM -3 TO 8% SLOPES	Y	1	1		2
81	KICKERVILLE SILT LOAM - 8 TO 15% SLOPES	N	0	0	yes	2
82	KICKERVILLE-URBAN LAND COMPLEX - 0 TO 3% SLOPES	N	0	0		2
83	KINDY GRAVELLY SILT LOAM - 8 TO 30% SLOPES	N	0	0		4
84	KINDY GRAVELLY SILT LOAM - 30 TO 60% SLOPES	N	0	0		4
85	KINDY-OSO COMPLEX - 5 TO 40% SLOPES	N	0	0		
86	KLAWATTI VERY GRAVELLY LOAM - 30 TO 60% SLOPES	N	0	0		
87	KLAWATTI V. GRAVELLY SANDY LOAM-SERPENTINE-10 TO 30% SLOPES	N	0	0		
88	KLAWATTI V. GRAVELLY SANDY LOAM-SERPENTINE-10 TO 30% SLOPES	N	0	0		
89	KLAWATTI-ROCK OUTCROP COMPLEX - 60 TO 80% SLOPES	N	0	0		
90	KLINE GRAVELLY SANDY LOAM - 2 TO 8% SLOPES	N	0	0		3
91	KULSHAN LOAM - 5 TO 30% SLOPES	N	0	0		
92	KILSHAN LOAM - 30 TO 60% SLOPES	N	0	0		
93	LABOUNTY SILT LOAM - 0 TO 2% SLOPES	N	4	2		



94	LABOUNTY SILT LOAM-DRAINED - 0 TO 2% SLOPES	N	0	2		
95	LARUSH SILT LOAM - 0 TO 3% SLOPES	Y	3	3		2
96	LAXTON LOAM - 0 TO 30% SLOPES	Y	1	1		2
97	LAXTON LOAM - 3 TO 8% SLOPES	Y	1	1		2
98	LAXTON LOAM - 8 TO 15% SLOPES	N	0	0	yes	2
99	LYNDEN SANDY LOAM	Y	1	4		3
100	LYNDEN SANDY LOAM - 3 TO 7% SLOPES	Y	1	4		3
101	LYNDEN-URBAN LAND COMPLEX - 0 TO 5% SLOPES	N	0	0		3
102	LYNNWOOD SANDY LOAM - 0 TO 5% SLOPES	N	0	0		3
103	LYNNWOOD SANDY LOAM - 5 TO 20% SLOPES	N	0	0	yes	3
104	MONTBORNE GRAVELLY LOAM - 5 TO 30% SLOPES	N	0	0		3
105	MONTBORNE GRAVELLY LOAM - 30 TO 60% SLOPES	N	0	0		3
106	MONTBORNE-RINKER COMPLEX - 30 TO 60% SLOPES	N	0	0		3
107	MT. VERNON FINE SANDY LOAM - 0 TO 2% SLOPES	Y	2	3		2
108	NATI LOAM - 5 TO 15% SLOPES	N	0	0	yes	2
109	NATO LOAM = 15 TO 30% SLOPES	N	0	0	yes	2
110	NATI LOAM - 30 TO 60% SLOPES	N	0	0		3
111	NEPTUNE VERY GRAVELLY SANDY LOAM- 0 TO 3% SLOPES	N	0	0		3
112	OAKES VERY GRAVELLY LOAM - 8 TO 30% SLOPES	N	0	0		2
113	OAKES VERY GRAVELLY LOAM - 30 TO 60% SLOPES	N	0	0		2
114	OAKES VERY GRAVELLY LOAM - 60 TO 80% SLOPES	N	0	0		4
115	ORIDIA SILT LOAM-DRAINED - 0 TO 2% SLOPES	Y	3	5		
116	PANGBORN MUCK-DRAINED - 0 TO 2% SLOPES	Y	3	2		
117	PICKETT-ROCK OUTCROP COMPLEX - 5 TO 30% SLOPES	N	0	0		4
118	PICKETT-ROCK OUTCROP COMPLEX - 30 TO 60% SLOPES	N	0	0		4
119	PILCHUCK LOAMY FINE SAND - 0 TO 3% SLOPES	N	0	0		3
120	PITS	N	0	0		
121	POTCHUB LOAM - 8 TO 30% SLOPES	N	0	0		
122	POTCHUB LOAM - 30 TO 60% SLOPES	N	0	0		
123	PUGET SILT LOAM-DRAINED - 0 TO 2% SLOPES	Y	3	5		
124	PUYALLUP FINE SANDY LOAM - 0 TO 2% SLOPES	Y	2	3		2
125	REVEL LOAM - 5 TO 30% SLOPES	N	0	0		4
126	REVEL LOAM - 30 TO 60% SLOPES	N	0	0		4
127	REVEL-WELCOME-ROCK OUTCROP COMPLEX - 30 TO 60% SLOPES	N	0	0		4
128	RINKER VERY CHANNERY SILT LOAM - 8 TO 30% SLOPES	N	0	0		3
129	RINKER VERY CHANNERY SILT LOAM - 30 TO 60% SLOPES	N	0	0		3
130	RIVERWASH	N	0	0		
131	ROCK OUTCROP	N	0	0		
132	ROCK OUTCROP-KULSHAN COMPLEX - 60 TO 90% SLOPES	N	0	0		
133	RUBBLE LAND	N	0	0		
134	SAAR GRAVELLY SILT LOAM - 5 TO 30% SLOPES	N	0	0		
135	SAAR GRAVELLY SILT LOAM - 30 TO 60% SLOPES	N	0	0		
136	SAAR-HARTNIT COMPLEX - 5 TO 40% SLOPES	N	0	0		
137	SANDUN VERY GRAVELLY SANDY LOAM - 5 TO 30% SLOPES	N	0	0		
138	SANDUN VERY GRAVELLY SANDY LOAM - 30 TO 60% SLOPES	N	0	0		
139	SEHOME LOAM - 2 TO 8% SLOPES	Y	0	1		2
140	SEHOME LOAM - 8 TO 15% SLOPES	N	0	0	yes	2
141	SEHOME GRAVELLY LOAM - 15 TO 30% SLOPES	N	0	0	yes	2
142	SEHOME GRAVELLY LOAM - 30 TO 60% SLOPES	N	0	0		2
143	SHALCAR MUCK-DRAINED - 0 TO 2% SLOPES	Y	3	2		

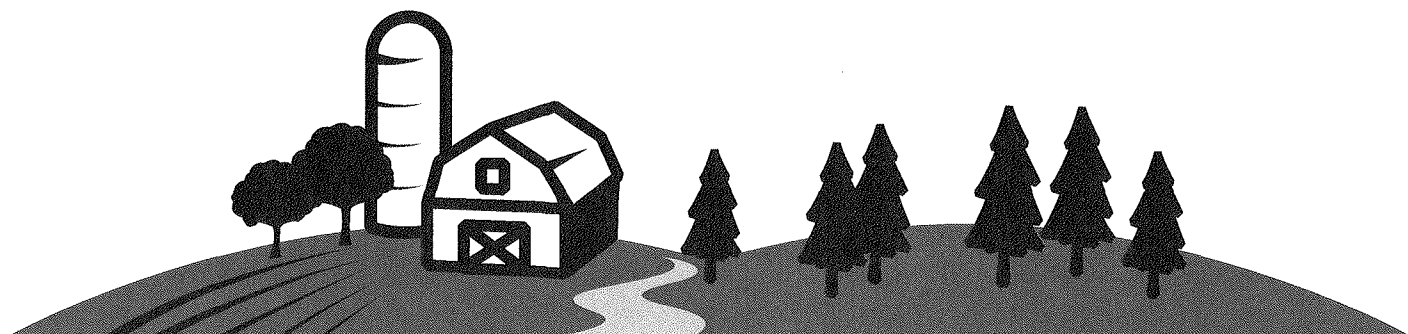
144	SHALCAR AND FISHTRAP SOILS - 0 TO 2% SLOPES	N	0	2		
145	SHUKSAN GRAVELLY SILT LOAM - 5 TO 30% SLOPES	N	0	0		
146	SHUKSAN GRAVELLY SILT LOAM - 30 TO 60% SLOPES	N	0	0		
147	SHUKSAN-KULSHAN-ROCK OUTCROP COMPLEX - 50 TO 80% SLOPES	N	0	0		
148	SKIPOPA SILT LOAM - 0 TO 8% SLOPES	Y	0	1		3
149	SKIPOPA-BLAINEGATE COMPLEX - 0 TO 8% SLOPES	N	0	0		3
150	SKYKOMISH VERY GRAVELLY LOAM - 3 TO 30% SLOPES	N	0	0		3
151	SNOHOMISH SILT LOAM-DRAINED - 0 TO 2% SLOPES	Y	3	5		
152	SNOQUALMIE GRAVELLY LOAMY SAND - 0 TO 3% SLOPES	N	0	0		3
153	SORENSEN VERY GRAVELLY SILT LOAM - 8 TO 30% SLOPES	N	0	0		2
154	SORENSEN VERY GRAVELLY SILT LOAM - 30 TO 60% SLOPES	N	0	0		2
155	SPRINGSTEEN VERY GRAVELLY LOAM - 30 TO 60% SLOPES	N	0	0		
156	SQUALICUM GRAVELLY LOAM - 5 TO 15% SLOPES	N	0	0	yes	2
157	SQUALICUM GRAVELLY LOAM - 15 TO 30% SLOPES	N	0	0	yes	2
158	SQUALICUM GRAVELLY LOAM - 30 TO 60% SLOPES	N	0	0		2
159	SQUALICUM-URBAN LAND COMPLEX - 5 ATO 20% SLOPES	N	0	0		2
160	SQUIRES VERY CHANNERY LOAM - 5 TO 30% SLOPES	N	0	0		2
161	SQUIRES VERY CHANNERY LOAM - 30 TO 60% SLOPES	N	0	0		2
162	SUMAS SILT LOAM-DRAINED - 0 TO 2% SLOPES	Y	3	5		
163	TACOMA SILT LOAM - 0 TO 1% SLOPES	N	0	0		
164	TACOMA SILT LOAM-DRAINED - 0 TO 1% SLOPES	N	0	0		
165	TROMP LOAM - 0 TO 2% SLOPES	Y	1	1		3
166	TWINSI VERY GRAVELLY LOAM - 30 TO 60% SLOPES	N	0	0		
167	TWINSI VERY STONY LOAM - 30 TO 60% SLOPES	N	0	0		
168	TYPIC CRYORTHODS - 60 TO 90% SLOPES	N	0	0		
169	TYPIC CRYORTHODS-ROCK OUTCROP COMPLEX - 60 TO 90% SLOPES	N	0	0		
170	TYPIC PSAMMAQUENTS-TIDAL - 0 TO 1% SLOPES	N	0	0		
171	URBAN LAND	N	0	0		
172	URBAN LAND-WHATCOM-LABOUNTY COMPLEX - 0 TO 8% SLOPES	N	0	0		2
173	VANZANDT VERY GRAVELLY LOAM - 5 TO 15% SLOPES	N	0	0		2
174	VANZANDT VERY GRAVELLY LOAM - 15 TO 30% SLOPES	N	0	0		2
175	VANZANDT VERY GRAVELLY LOAM - 30 TO 60% SLOPES	N	0	0		2
176	WELCOME LOAM - 5 TO 30% SLOPES	N	0	0		3
177	WELCOME LOAM - 30 TO 60% SLOPES	N	0	0		3
178	WHATCOM SILT LOAM - 0 TO 3% SLOPES	Y	2	1		2
179	WHATCOM SILT LOAM - 3 TO 8% SLOPES	Y	4	1		2
180	WHATCOM SILT LOAM - 8 TO 15% SLOPES	N	0	0	yes	2
181	WHATCOM SILT LOAM - 30 TO 60% SLOPES	N	0	0		2
182	WHATCOM-LABOUNTY SILT LOAMS - 0 TO 8% SLOPES	N	4	2		2
183	WHATCOM-LABOUNTY SILT LOAMS - 0 TO 15% SLOPES	N	0	0		2
184	WHITEHORN WILT LOAM - 0 TO 2% SLOPES	Y	3	2		
185	WICKERSHAM CHANNERY SILT LOAM - 0 TO 8% SLOPES	N	4	4		2
186	WINSTON SILT LOAM - 0 TO 3% SLOPES	Y	0	1		2
187	WINSTON LOAM - 3 TO 15% SLOPES	N	0	0	yes	2
188	WINSTON LOAM - 15 TO 40% SLOPES	N	0	0	yes	2
189	WISEMAN VERY CHANNERY SAND LOAM - 0 TO 8% SLOPES	N	0	0		3
190	WOLLARD GRAVELLY SILT LOAM - 30 TO 60% SLOPES	N	0	0		
191	YELM LOAM - 3 TO 8% SLOPES	Y	1	1		2
192	YELM-URBAN LAND COMPLEX - 0 TO 3% SLOPES	N	0	0		2

## APPENDIX F

### Model Conservation Easement Deed

A sample Conservation Easement Deed based on the assumption of matching funds from the USDA-NRCS Agricultural Conservation Easement Program, is included in the following pages.





# **PURCHASE OF DEVELOPMENT RIGHTS PROGRAM**

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# **Whatcom County Agricultural-, Forestry, and Ecological Purchase of Development Rights PROGRAM GUIDELINES**

Revised version adopted April 9, 2013,



Second revision adopted XX, 2018

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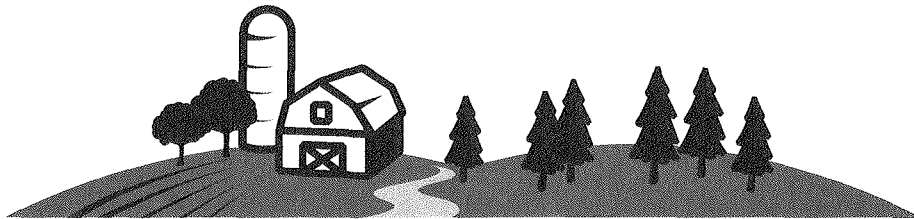
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## PURCHASE OF DEVELOPMENT RIGHTS PROGRAM

## I. INTRODUCTION

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These Program Guidelines are authorized under WCC Title 3.25A and serve as rules and procedures for administering the Whatcom County Agricultural, Forestry, and Ecological Purchase of Development Rights (PDR) Program.

The Guidelines serve two functions:

- A. To provide an overview of the ~~farmland~~land preservation process for the property owner. Specifically, this information can be found in Section V.
- B. To establish the rules and operational procedures that the PDR Oversight Committee and the Administrator must follow when operating a Purchase of Development Rights program.

## II. -PDR PROGRAM OBJECTIVE AND PRINCIPLES

Responding to the loss of County farmland, the Whatcom County Executive initiated the development of a Purchase of Development Rights (PDR) program in September of 2001. A PDR Advisory Committee comprised of farmers, citizens and conservation organizations was instructed to assist ~~formed and tasked with assisting~~ County staff in ~~developing~~ the development of a proposal for County Council consideration. The Purchase of Development Rights Program was enacted through Ordinance 2002-054 in September of 2002.

Since that time Whatcom County continues to experience a rapid development rate. Responding to the continued loss of agricultural land and of other land types such as forest resource lands and areas of ecological importance, these program guidelines have been updated accordingly.

### A. Objective

~~In conjunction with other tools for protecting farmland,~~ The primary objective of the Whatcom County Purchase of Development Rights Program, in conjunction with other tools, is the protection of farmland. The secondary objective of the PDR Program is the protection of forestland and areas of ecological importance. The Whatcom County Purchase of Development Rights Program will contribute ~~help to sustain~~ sustain the farming enterprise in and forestry enterprises as well as support healthy ecosystem function throughout Whatcom County.

### B. Principles

~~The PDR Program is to provide~~ provides a strategic tool to protect critically located County farmland, forestland, and areas of ecological importance.

#### 1. ~~Contribute to the Preservation of~~ Preserve the County's Agricultural Land Bases, Forestlands and Areas of Ecological Importance

~~Encourage the retention~~ protection of a critical mass of agricultural and forestry land to sustain the farm-related and forestry-related businesses and activities that are necessary to support the agricultural industry and forestry industries in Whatcom County. Additionally the Program will encourage the protection of areas of ecological importance necessary to sustain ecosystem health and function.

#### The primary PDR Program emphasis will be:

- a. Reduce conversion of land to non-agricultural uses within the Agricultural District;
- b. Provide a buffer to discourage encroachment of into the agricultural core ~~Agricultural District;~~
- b. ~~Reduce development potential within the agricultural core;~~
- c. Consolidate and protect large areas of agricultural land; and
- d. Address unique and regionally important farming activities. Protect agricultural lands located outside the agricultural core ~~Agricultural District that are under increased pressure of development.~~

**The secondary PDR Program emphasis will be:**

- a. Reduce conversion of land to non-forestry uses within the Forestry Districts;
- b. Provide a buffer to encroachment of the Forestry Districts;
- c. Consolidate and protect areas of forestry land;
- d. Address commercially significant forestry lands outside the Forestry Districts that are under pressure of development.
- e. Protect areas of ecological importance and support and enhance ecosystem functions within agricultural and forestry lands;
- h. Improve and support habitat connectivity and protection of critical habitat corridors.

2. Offer Effective Program Design

Maintain a voluntary tool for the preservation of productive agricultural ~~land~~ and forestry lands, as well as areas of ecological importance in the County that will:

- a. Provide farmers and foresters with the market based economic value for agricultural and forestry land without selling the land;
- b. Provide property owners with the market based economic value for areas of ecological importance without selling the land.
- c. Support and promote ongoing agricultural activity and forestry activities by offering an attractive option for farmers, foresters, and landowners; and
- d. Support and promote ecosystem function by offering an attractive option for landowners; and
- e. Provide for ongoing monitoring and enforcement.

3. Leverage Program Impact and Efficiency

Enhance and support a coordinated approach to the preservation of the agricultural ~~land~~ and forestry lands, as well as areas of ecological importance that will:

- a. Create community support for agricultural and forestry preservation initiatives;
- b. Create community support for the protection of areas of ecological importance;
- c. Complement and foster other County programs and policies to preserve farming and agricultural lands; and
- d. Complement and foster other County programs and policies to preserve forestry and forestry lands;
- e. Complement and foster other County programs and policies to enhance ecosystem function and protect areas of ecological importance; and
- c. Leverage other public and private ~~fund~~ funding sources and provide or increase property owner incentives and program effectiveness.



### III.- ELIGIBILITY CRITERIA

---

#### A. Priority Consideration

Areas around the county have been identified to receive priority consideration for PDR Program participation.

Twelve Agricultural priority areas (Appendix A) include a combination of the twelve initial PDR Target Areas (shown in Appendix A) are priority farmlands that are located within designated areas of Everson, Beard Road, Ten Mile Road, east Hemmi Road, Laurel, south Custer, north Custer, Stein Road, west Lynden, north Lynden and northeast Lynden Rural Study Areas, Watershed Improvement District areas, in addition to the lands within the Agriculture Zone. Preservation of these areas protect designated agricultural lands and can establish a perimeter of PDR farmlands to protect against development encroachment into large blocks of agricultural lands.

Ten Rural Study Areas (shown in Appendix B) are priority farmlands that are located in Rural-zoned areas of Guide/Aldrich, Grandview, Ten Mile, Loomis Trail, Custer, Harksell, East Badger, Minaker, Lawrence, and South Fork. These lands, due to their soils, land use, and proximity to core agricultural areas, are also deemed priority farmlands for program participation:

In addition, the lands zoned Agricultural in Whatcom County are also priority farmlands due to their vulnerability for program participation. Lands immediately adjacent to Ag lands or Rural Study Area lands will also be given priority through the selection process conversion to non-agricultural uses.

Forestry priority areas (Appendix B) include lands located within the Rural Forestry zone and areas designated by the Washington State Department of Natural Resources as being priority for protection from conversion under Washington's Forest Action Plan.

Ecological priority areas (Appendix C) include lands containing a mapped Habitat Conservation Area or within 165' of habitat conservation feature. This includes fish bearing streams, areas identified under the Washington State Department of Fish and Wildlife's Priority Habitats and Species, and the Chuckanut Wildlife Corridor. Additionally the mapped FEMA Floodplain and Flood Hazard areas have been included in addition to a 300' buffer of the Historic Meander Zone.

#### B. PDR Program Eligibility

Two factors will be important in determining eligibility:

1. Availability of funding to expand the program and
- 2.

4-2. Advancement of PDR Program objectives. Priority farmland~~s~~lands will continue to receive preference over other farmland~~s~~lands through weighted selection criteria.

**All applicants for PDR Program participation must be within an Agriculture, Rural, Rural Residential, or Rural Forestry zoning designationdesignations. Properties located in Urban Growth Areas are ineligible to participate in the program, unless coordination with cities is a component of an application.**

**Applications received on parcels smaller than 10 acres may not retain any development rights.**

## IV. SITE SELECTION CRITERIA

All valid applications will be reviewed to determine if the acquisition of development rights will promote the PDR program's goals and priorities. Selection criteria have been developed to guide, but not control, the review and assessment of eligible properties during selection.

In all selection rounds, valid and accepted offers on eligible properties of greater points shall be considered for purchase with available funds before properties receiving lower scores. The criteria, which will be used to evaluate the applications, are outlined below.

*Rating instructions: The selection criteria allow for a score of up to 100, with all five criteria sections assessed. Each criteria section is rated and assigned a point value. Then each section is assigned a weight factor. The five weight factors add up to 1.0. When total point values for a section are multiplied by the weight factor, a score will be reached for that section. The total of the 5 section scores result in the final applicant score. Staff performs the ranking, with review and adjustment by the PDR Oversight Committee.*

### 1. Site Evaluation

The points for each criteria are based on a 100 point scale. Higher points are given to site characteristics that are more desirable, such as parcel size, characteristics that reflect a site's threat of conversion, and characteristics that make a site more desirable to farming, such as available water rights.

#### A. Total size of parcel(s) (nominal acres)

a. 0 – 10.....	0 points
b. 10 – 20 .....	15 points
c. 20-49.9.....	30 points
d. 50-79.9.....	70 points
e. >80.....	100 points

#### B. Number of existing development rights offered under current zoning

a. 1-2.....	20 points
b. 3.....	40 points
c. 4.....	60 points
d. 5.....	80 points
e. >=6.....	100 points

#### A-C. Adjacent land is conserved by easement or other means (Whatcom Land Evaluation Trust, NRCS CREP Program, or owned by a municipality or NGO)

a. >1 mile.....	0 points
b. ½ to 1 mile.....	25 points
c. ¼ to ½ mile.....	50 points

d. < ¼ mile.....	75 points
e. Adjacent.....	100 points

D. Percent of parcel actively farmed

a. 0-25% .....	25 points
b. 26-50% .....	50 points
c. 51-75% .....	75 points
d. >75% .....	100 points

E. Number of legal lots of record

a. 0-2.....	20 pts
b. 3.....	40 pts
c. 4.....	60 pts
d. 5.....	80 pts
e. >= 6.....	100 pts

F. Legal water availability documentation

a. Certified Water Right/Access to public water.....	100 pts
b. Water Claim or documented water use.....	50 pts
c. No Water documentation or legal water access.....	0 pts

G. Proximity to major roads or road intersections

*(For purposes of this evaluation, "major roads" means roads with a daily traffic volume of 3,000 or more trips. A list of roads currently meeting this definition is included as Appendix D to this report.)*

a) Property is at an intersection of major roads.....	100 Points
b) Property is within 1,500 feet of the intersection of two major roads.....	75 Points
c) Property fronts on a major road.....	50 Points
d) Property is within 2,500 feet of a major road.....	25 Points

H. Threat of Conversion/Parcelization

Total Number of Parcels in surrounding ¼ mile

a) Less than 20 parcels.....	50 Points
b) 20 – 50 parcels.....	100 Points
c) 50 – 100 parcels.....	50 Points
d) more than 100 parcels.....	0 Points

*Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Site Evaluation section has been 0.35, but is subject to ongoing review by the Committee).*

## 2. Land Evaluation

Productive farming, forestry and associated activities depend on soil capability (the suitability of soils for most types of field crops) and/or timber production). Therefore, emphasis should be placed on the property's soil characteristics. The scoring system uses the NRCS Prime Farmland classifications, LESA classifications and APO soils classifications, as well as including classification of soils of statewide importance. Higher as well as consideration given to site index score for forest soils. Highest points are assigned to better agricultural soils and lower points to poorer agricultural soils. Forest soils also receive additional points. Points are also assigned based on the productivity and/or characteristics of the soil (profile, texture, slope, other). A soils chart is included as Appendix C-D. If a soil has a site index rating and a prime soil rating, the rating with the highest number of points will be applied.

Below is a table detailing the soil point system:

LESA Rating	APO or Non-APO Prime 1	Non-APO Prime 2-68	Soils of Statewide Importance	NoneSite Index
1	100	90	0	0
2	95	85	0	0
3	90	80	0	0
4	85	75	0	0
No Rating	80	70	50	0
Site Index Rating				
1	0	0	0	60
2	0	0	0	50
3	0	0	0	40
4	0	0	0	30
5	0	0	0	20

Farm applications receive points for this section proportional to the percentage of each soil type that exists on the property. An example of how this would work follows: A farm under review is 40 acres, of which 29.79 acres (about 75%) is soil 179-Whatcom Silt Loam 4-9% slopes, which is classified as LESA 4, APO Prime 1; and 10.21 acres (about 25%) is soil 180-Whatcom Silt Loam 9-15% slopes, which is not classified as APO or Prime, but is a soil of Statewide Importance. This farm would score a total of 76.07 points for this Section, as shown:

A	B	C	D	E	F	G	H	I	J	K
Soil #	Area (in acres)	% (B/Total area)	APO Soil	Prime 1- 6?	LESA Rating	Prime Rating	Statewide Soil	Site Index	Points	score (IJC)
179	29.79	74.48%	Y	Y	4	1	0	2	85	63.30
180	10.21	25.53%	N	N	0	0	yes	2	50	12.76
Total area	40									76.07

Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Land Evaluation section has been 0.3335, but is subject to ongoing review by the Committee).

## 2. ~~Site~~ 3. Ecological Evaluation

The points for each criteria are based on a 100 point scale. Higher points are given to site characteristics that are more desirable, such as parcel size, characteristics that reflect a site's threat of conversion, and characteristics that make a site more desirable to farming, such as available water rights.

B. Total size of parcel(s) (nominal acres)

- |                  |              |                  |        |
|------------------|--------------|------------------|--------|
| <del>_____</del> | a. 20-49.9   | <del>_____</del> | 30 pts |
| <del>_____</del> | b. 50-79.9   | <del>_____</del> | 70 pts |
| <del>_____</del> | c. $\geq 80$ | <del>_____</del> |        |

The Washington State Department of Ecology Watershed Characterization report has identified recommendations for addressing water flow processes within sub-watersheds.

A. Protection (Overall importance to Water flow processes)

- |   |                          |
|---|--------------------------|
| a. Highest protection.....                        | 100 pts                  |
| b. Protection.....                                | 75 pts                   |
| c. Protection/Restoration.....                    | 50 pts                   |
| d. <del>_____</del> Conservation (no change)..... | <del>_____</del>         |
| <del>_____</del>                                  | <del>_____</del> 100 pts |

~~C. A. Number of existing development rights offered under current zoning~~

- |                  |             |                  |         |
|------------------|-------------|------------------|---------|
| <del>_____</del> | a. 1-2      | <del>_____</del> | 20 pts  |
| <del>_____</del> | b. 3        | <del>_____</del> | 40 pts  |
| <del>_____</del> | c. 4        | <del>_____</del> | 60 pts  |
| <del>_____</del> | d. 5        | <del>_____</del> | 80 pts  |
| <del>_____</del> | e. $\geq 6$ | <del>_____</del> | 100 pts |

D. Adjacent land is conserved by easement or other means (Whatecom Land Trust or NRCS CREP Program)

- |                        |  |                  |        |
|------------------------|--|------------------|--------|
| <del>_____</del>       | a. $\geq 1$ mile                       | <del>_____</del> | 0 pts  |
| <del>a. d. _____</del> | b. $\frac{1}{2}$ to 1 mile             | <del>_____</del> | 25 pts |
| <del>_____</del>       | c. $\frac{1}{4}$ to $\frac{1}{2}$ mile | <del>_____</del> |        |

B. Water Flow Restoration ~ Is property owner willing to restore ecosystem processes beyond the minimum required practices?

- |                  |                         |                  |         |
|------------------|-------------------------|------------------|---------|
| a. Yes.....      | 50 pts                  |                  |         |
| <del>_____</del> | d. $< \frac{1}{4}$ mile | <del>_____</del> | 75 pts  |
| <del>_____</del> | e. Adjacent             | <del>_____</del> | 100 pts |

~~E. A. Percent of parcel actively farmed~~

~~\_\_\_\_\_ a. b.~~

~~Maybe/No..... 0-25%~~

~~\_\_\_\_\_ 25 pts~~

**C. Site contains conservation values (viewsheds, wetlands, notable wildlife habitat, other critical areas)**

~~a. Yes.....~~

~~b. 26-50% ..... 50 pts~~

~~c. 51-75% ..... 75 pts~~

~~d. >75% ..... 100 pts~~

**F.A. Number of legal lots of record**

~~b. No..... 0 pts~~

~~a. 0-2 ..... 20 pts~~

~~b. 3 ..... 40 pts~~

~~c. 4 ..... 60 pts~~

~~d. 5 ..... 80 pts~~

~~e. >6 ..... 100 pts~~

**G. Water Rights documentation available**

~~a. Yes ..... 100 pts~~

~~b. No ..... 50 pts~~

*Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Site Ecological Evaluation section has been 0.3310, but is subject to ongoing review by the Committee).*

**34. Special Considerations**

**A. Site contains heritage/historical significance, i.e. Heritage Barn Registry**

~~a. 1. Yes.....~~

~~..... 50 pts~~

~~2. No..... 0 pts~~

**B. Bargain Sale Opportunity below market value**

~~2. 1. 91%-Full Value.....~~

~~b. No ..... 0 pts~~

**H. Site contains conservation values (viewsheds, wetlands, wildlife habitat, other)**

~~a. Yes ..... 50 pts~~

~~2. b. No ..... 71%-90%~~

~~..... 33 pts~~

~~3. 50%-70% ..... 66 pts~~

4. < 50% Full Value..... 100 pts

C. Removal of all remaining development rights?

1. All removed..... 100 pts

2. Development rights remaining ..... 0 pts

D. Is located within a priority area :

0 pts

a. In priority area..... 100 pts

b. Not in a priority area..... 0 pts

Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Special Considerations Points section has been 0.0310, but is subject to ongoing review by the Committee).

~~4. Bargain Sale Opportunity~~

~~I. Sale below market value~~

~~a. 91% Full Value ..... 0 pts~~

~~b. 71% -90% ..... 33 pts~~

**5. Matching Funds Secured**

1. 100% secured..... 100 pts

2. 75% secured..... 75 pts

~~3. 50% - 70% ..... 66%~~

secured..... 50 pts

d. < 50% Full Value ..... 100 pts

Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Bargain Sale Opportunity section has been 0.09, but is subject to ongoing review by the Committee).

~~5. Bonus Points~~

Increases the amount of preserved farmland in target or rural study area to:

~~a. Not in target area ..... 0 pts~~

~~b. <25% ..... 25 pts~~

secured..... 25 pts

5. 0% secured..... 0pts

~~c. 25-50% ..... 50 pts~~

~~d. 51-75% ..... 75 pts~~

~~e. >75% ..... 100 pts~~



*Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Bonus Points section has been 0.2210, but is subject to ongoing review by the Committee).*

## **6. Final Score**

The points for each section are added up and multiplied by a weight factor, which indicates the importance that is placed on a particular characteristic. The weighted scores are then added to provide an overall score (0-100). The higher the score, the more closely the property meets the goals of the program and hence is a higher priority for purchase and preservation. Properties which score less than 40 (forty) points will not be recommended for program participation. The PDR Oversight Committee retains the ability to add or subtract up to 5 points on any application. A write-up of committee opinion will be included in all council proceedings.

## V. OVERVIEW OF PDR PROGRAM PROCEDURES

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### A. Outreach and Publicity

Step 1: The County shall annually give notice in one newspaper of general circulation in each area where eligible lands are located which may be acquired. The notice shall include the properties eligible to participate, the application process and applicable timeframes and extensions.

The Administrator may identify each property with potential development rights within priority consideration areas and provide written notification to the property owners.

### B. Application and Ranking

Step 2: Voluntary pre-application screening. Interested property owners may meet with the County PDR Program Administrator (Administrator) to review their eligibility and special circumstances, if any.

Step 3: Application. An owner of land eligible for PDR Program participation submits and application for County acquisition of property or development rights. The application must be submitted on the form provided by the County. Lot of Record application must be submitted simultaneously unless determination has already been completed.

~~Step 4~~ Step 4: Lot of Record/Density Determination. An owner of land eligible for PDR Program participation submits a Lot of Record application and signs a Letter of Intent that states that payment for this service must be made upon closing of the easement or should the applicant wish to withdraw their application. This application determines legal status of lots being considered and determines that number of development rights remaining on said lots. PDR Program application may be submitted simultaneously.

Step 5: The Administrator reviews each application for completeness, determines if the subject property meets minimum eligibility criteria and assigns a preliminary score based upon the PDR site selection criteria.

Step 56: The PDR Oversight Committee reviews PDR Program applications and recommends proposed development rights acquisition utilizing the selection criteria. Recommendations for development right acquisition are prepared and forwarded to County Council to approve, deny, or recommend modification.

Step 67: The Administrator estimates the number of appraisals that can be initiated based on available funds and chooses the top ranked parcels from the County Council's list of parcels. The property owner is notified in writing of eligibility status.

- | Step 78: Property owners disputing their ranking may request a reconsideration of their ranking to the PDR Oversight Committee within 14 days after receiving written notice. The Committee shall review the reconsideration request at the next regularly scheduled meeting. Special consideration will be given if applicant modifies the original offer to include a bargain sale. The PDR Oversight Committee may, at its discretion, change the site's rank, recommend the site for subsequent consideration, or deny the request.

#### C. Title

- | Step 89: The Administrator initiates a title search. Closing is conditioned on the resolution of all unapproved title exceptions, within the County's sole discretion, which may require the receipt of subordination agreements or payoff letter.

#### D. Pricing Estimate and Appraisal

- | Step 910: The Administrator or designee ~~initiates the pricing estimation process using the formula developed by a consulting appraiser and periodically updated OR~~ provides preliminary estimate of value, and notifies the property owner of an estimated range of value within which the appraisal will likely fall. The Administrator or designee sends the applicant a letter of intent, including range of expected value. The letter calls for the signature of property owner(s), and spells out conditions under which costs for further due diligence and the appraisal lot of record must be reimbursed to the county if the property owner chooses to withdraw from the program within a specified period of time.
- Step 10: The Administrator or designee proceeds to verify assumptions through official county processes, such as a formal Lot of Record and density determination, and conduct other due diligence as necessary (such as water rights research and Title research and clearing).
- Step 11: Unless Council and the Executive specifically authorize an alternate approach to determine value, the Administrator commissions a full appraisal by a County authorized appraiser to appraise the development rights value of the land proposed for development rights sale. The development rights value is the difference between the market value of full ownership of the land, and the agricultural value.
- Step 12: The appraiser submits the completed appraisal (or the alternate determination of value is conducted and submitted) to the Administrator and the Oversight Committee for their review.
- Step 13: The Administrator or designee meets with the property owner to review the appraisal (or alternate determination of value), state the offer, review the conservation easement provisions, agreement terms and conditions, and to answer the property owner's questions.

- | Step 14: If the property owner believes that the ~~farmland~~land has not been adequately appraised or valued, the owner may, within the time allowed in the schedule, commission an appraisal at the owner's expense.

#### E. Offer to Purchase Easement and Agreement

- Step 15: A written offer to purchase development rights based on appraised or determined value is made to the property owner following budget authorization by the County Council, and approval by the County Executive.
- Step 16: Within 30 days, the property owner accepts, rejects or makes a counter offer. Counter offers will be reviewed and evaluated by the Oversight Committee and the County's authorized appraiser.
- Step 17: Property owners desiring to sell their development rights sign a Purchase and Sale Agreement.

#### F. Adjacent Property Owner Notification

- Step 18: Neighboring property owners are notified that adjacent land is in the process of being preserved.

#### G. Approval

- Step 19: Review materials are presented to the County Executive for review and approval, rejection, or recommendation for modification.
- Step 20: Review materials are sent to other participating entities for partially or wholly funded conservation easements several days prior to any deadline.

#### I. Settlement

- Step 21: Settlement will occur following County Executive approval of transaction terms and is contingent upon a title search and any other evidence, such as a land survey, that may be necessary to establish clear title.
- Step 22: Payment will be in full at time of settlement unless the County and property owner agree to an installment sale.
- Step 23: Checks are requested from the Finance Manager and settlement is scheduled within a week or two of approval. Federal or state money is dispersed according to federal or state regulation.

#### J. Recording

Step 24: The conservation easement will be recorded at the County Auditor's office. The County or its designee will monitor the properties under easement at least annually to ensure compliance with the easement.

## VI. CONSERVATION EASEMENTS

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### A. Description

A conservation easement deed is a legally binding document, which is recorded by the County Auditor, forever restricting the property to agricultural and directly associated uses, and for which compensation may be paid. As an easement in gross in perpetuity, restrictions are binding upon the owner and future owners, and run with the land.

### B. PDR Program Conservation Easements

At the time of acquisition of development rights from a participating property, a conservation easement is placed on the property permanently restricting development of the site and protecting/preserving the agricultural, forestry, and ecological values associated with the site. The conservation easement must be signed by both the property owner(s) and the County Executive or his/her designee and recorded with the property records for the property. A model conservation easement deed is included in these guidelines as attachment D.

#### 1. Conservation Easement Requirements

Conservation easements shall be on a form approved by the Whatcom County Prosecuting Attorney and shall meet the following basic requirements:

- a. The deed shall be in recordable form and contain an accurate legal description setting forth the metes and bounds of the farmland-area subject to the easement;
- b. Restriction is granted in favor of Whatcom County, or if designated by the organizations as defined in RCW64.04.130;
- c. Restriction is granted in perpetuity, and shall bind existing and future property owners; and
- d. Unless specifically provided for, nothing in the restrictions shall be construed to convey to the public a right of access or use of the property, and the owner of the property, his/her heirs, successors and assigns shall retain exclusive right to such access or use subject to the terms of the easement.

#### 2. Filing

After the conservation easement is signed and notarized, it must be recorded with the Whatcom County Auditor's Office.

### C. Conservation Easement Conveyance

Conservation easements may be either donated or sold, or a combination of both.

## 1. Conservation Easement Donation

- a. A donation of a total parcel will not be subject to eligibility except as below in section c. Partial parcel donation shall be considered under the same rule as for development rights sales. Notwithstanding the eligibility of the property, acceptance of a fee interest or partial donation is within the discretion of the County Council.
- b. Whatcom County will accept voluntary donations or bequests of ~~agricultural~~ development rights as perpetual easements in gross if meeting eligibility criteria (except priority area criteria) and within the discretion of the County Council.
- c. All properties offered for development rights donation must meet the following minimum eligibility criteria:
  1. The PDR Oversight Committee will consider each offer on a case by-case basis, considering the property's consistency with current and future land uses, and
  2. The ~~farm~~ property must be at least ~~4 acres~~ 1 acre in size, and
  3. Be in agricultural or forestry use or contain ecological values and has not been irrevocably devoted to a use inconsistent with ~~agricultural uses, and that has a high potential for returning to commercial agriculture, and the above values,~~
  4. ~~Consist primarily of productive agricultural soils (APO soils) and,~~
  54. Cannot be located within an Urban Growth Area, unless coordination with the proximal small city is a component of the donation.

## 2. Conservation Easement Sale

- a. Whatcom County will purchase perpetual conservation easements on qualified properties in accordance with the policies and procedures of the Whatcom County Agricultural, Forestry, and Ecological Purchase of Development Rights Program, with Federal, State, County, and/or private funds and any combination thereof.
- b. All properties offered for conservation easement sale must meet minimum eligibility criteria as contained in Section III.

## VII. -OPERATIONAL PROCEDURES FOR ACQUIRING PDR EASEMENTS

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### A. Outreach and Publicity

Annually, notice shall be published in one newspaper of general circulation. Application opening and closing dates, if any, will be determined by the PDR Oversight Committee. The Committee shall have the discretion to consider applications in rounds, or individually on a rolling basis. If selection deadlines are extended, the committee will provide public notice of the extension.

### B. Application and Ranking

1. Property owner(s) voluntarily submits an application(s) to the County. The application must be submitted to the County on the form provided by the PDR Program, and according to the relevant public notice. Applicants are to include at a minimum:
  - a. Name(s) and address(es) of the property owner(s) of the site;
  - b. Legal description and parcel number(s);
  - c. Copy of the property deed and title;
  - d. Total acreage of farmland to be included in the PDR Program;
  - e. Current land use and APO-soils;
  - f. Number of dwelling units;
  - g. Description of the farming operation;
  - h. Other information necessary to evaluate property eligibility; and
  - i. Lot of Record/Density Determination application and payment, or Lot of Record/Density Determination application and signed Letter of Intent agreeing to terms of payment at the time of easement closing or upon withdrawal from program, or completed Lot of Record/Density Determination; and
  - j. Acknowledgement of intent to grant to Whatcom County a conservation easement in a form provided by the County.
2. The Administrator shall review each application to determine completeness and eligibility.
3. Applications meeting all minimum eligibility criteria shall be evaluated and scored by the administrator and Oversight Committee according to the site selection criteria. (See Section IV)
4. The PDR Oversight Committee shall provide the County Council with information and scoring of properties recommended for conservation easement acquisition by the committee. County Council shall approve or deny pursuit of conservation easement acquisitions on the parcels.



5. The Administrator shall then arrange appraisals (or alternate determination of value) of eligible ~~farmland~~-applicant properties as determined by the County Council.
6. The PDR Oversight Committee and Administrator shall provide ~~an annual update~~updates to the County Council discussing recommended purchases, possible program changes, and anticipated budget needs.

### C. Appraisal

1. Appraisals for eligible properties shall be conducted to determine the value of development rights of parcels in the order of acquisition priority until acquisition funds are expended.
  - a. The appraisals are to be made by an independent appraiser qualified to appraise agricultural, forestry, and/or ecological land for development rights purchases. An appraiser is deemed qualified if he or she possesses a State of Washington certification as a State Certified General Real appraiser, MAI designation by the Appraisal Institute (or equivalent), and at least five years agricultural lands appraisal experience. Appraisers shall supply a narrative or UAAR form report, which contains information as required by the Uniform Standards of Professional Appraisal Practice (USPAP), Uniform Appraisal Standards of Federal Land Acquisition (UASFLA) and as specified in any contract with the County.
  - b. An appraisal report is an objective report of market facts. The appraisal report must estimate both the unrestricted fee market value of the land only, excluding the value of buildings, and the agricultural value of the land only, of which the difference is the development rights value.
  - c. Both values shall be based primarily on an analysis of comparable sales. If comparable sales data is not available for agricultural lands, the appraiser may use local farmland rental values or capitalized production values to determine the agricultural values of the land.
  - d. A description of the buildings or other improvements shall appear in the appraisal report; however, the buildings will not be valued and therefore will not be considered in determining the development rights value.
  - e. The appraiser shall report whether the subject property has any land use restrictions, public or private and/or physical attributes, which limit the developmental capability of the land.
  - f. The appraiser shall be advised that conservation easements are perpetual. The perpetual nature of the easement shall take precedent over any agricultural zoning status.

- g. The appraisal shall be in writing and may be discussed with the owners prior to the submission of written offers.
  - h. If the property owner believes the property has not been adequately appraised, the owner may, within the time allotted, request that a review appraisal be made at the owner's expense. This appraisal must be completed in accordance with the guidelines set forth herein. If the review (owner's) appraisal is not completed within the allotted time, the application will be delayed for future committee consideration. If a review appraisal is completed, the appraisals will be reviewed by the County's Appraiser. The County's Appraiser in consultation with the Program Administrator and the PDR Oversight Committee will accept, modify or reject the review appraisal. The determination of the County's Appraiser is final.
  - i. The maximum value of development rights purchased by the County shall be no more than the easement value contained in an appraisal report. The easement value is the difference between the farmland's value before and after the voluntary conservation easement.
2. Council and the Executive may specifically authorize an alternate approach to determine value in accordance with state and local laws, in which case the conditions of that approach would substitute for the appraisal guidelines as set forth in C.1., above.

#### D. Title and Survey Issues

1. The Administrator shall request a title report confirming that applicant is the owner of the property and has unrestricted legal right to transfer the development rights (i.e. there must be clear title to transfer the property). The title report will be provided to the County Attorney for review.
2. All encumbrances (including but not limited to: liens, mortgages and judgments) against the property must be subordinated, satisfied or removed prior to development rights acquisition. Mortgage and/or lien holder subordination and releases may be required acknowledging that a conservation easement will be placed on the property and subordinating their interest in the property to the deed restriction.
3. At settlement for a County or joint development rights purchase, the PDR Oversight Committee or applicant shall provide a title insurance policy issued by a title insurance company authorized to conduct business in Washington State by the Washington State Office of Insurance Commissioner. The cost of such title insurance shall be a shared cost, with the county's portion considered a cost incident to the development rights purchase and a reimbursable expense from the County's Conservation Futures Fund.
4. It is the property owner's responsibility to survey (or provide a legal description that meets specific standards) any exceptions from the easement and any

graveyards or cellular towers that may be located on the property. It is the property owner's responsibility to provide a legal description for any commercial operation on the farm that is not incidental to the overall farming operation, in order to exclude it from the easement. Surveys shall be conducted by a licensed surveyor in accordance with state and federal regulations.

**E. Development Rights Value and Purchase Price**

1. The maximum value of development rights purchased by the County shall be no more than the easement value contained in an appraisal report. The easement value is the difference between the ~~farmland's~~land's value before and after the voluntary conservation easement.
2. Development rights may only be purchased in perpetuity.

**F. Recommendation of Development Rights Purchases by the PDR Oversight Committee**

1. The PDR Oversight Committee, in making recommendations concerning applications and purchase offers, shall consider the following:
  - a. Evaluation according to the site selection criteria.
  - b. Consistency with County Comprehensive Plan ~~(and Rural and Agriculture zoning designations).~~
  - c. Cost relative to total allocations and appropriations.
  - d. Proximity to other land subject to ~~agricultural~~ protection easements.
2. Upon receiving the recommendations of the PDR Oversight Committee and the Administrator, the County Executive shall review the recommendations and shall take final action to authorize or deny proposed purchase terms and offers, consistent with authorization by the County Council.
3. If a ~~farm~~property is approved for development rights purchase, the Administrator will meet with the property owner and review the terms, conditions and amount of the County's offer. A written offer will be provided to the property owner. Written notice shall also be provided to ~~farmland~~land not approved for development rights purchase ~~during the current application round.~~

4. Within 30 days of receipt of a written offer from the County an applicant must indicate in writing which of the following actions they intend to pursue:
  - a. Accept the offer.
  - b. Reject the offer.
    1. Reject offer outright
      - a. no further action
      - b. participate in future review
    2. Submit a counter offer within 90 days of written notice of offer by the County.
  - c. Failure to notify the County within 30 days shall constitute rejection of the offer.
5. If the offer is accepted, the Administrator shall prepare a Purchase and Sale agreement. USDA or State Funds must be paid as lump sum. The method of payment shall be specified from the options listed below:
  - a. Lump Sum
  - b. Installment Purchase Agreement (IPA)
  - c. Like-Kind Exchange
  - d. Or a combination of the above
6. For development rights purchase utilizing the Installment Purchase Agreement (IPA) program, the County Council at settlement shall provide an opinion of legal counsel that the County's obligations to make installment payments of principal and tax-exempt interest over time are legal, valid, and binding. And that such payments are a general obligation of the County for which its full faith, credit, and taxing power are pledged. Interest paid by the County is exempt from federal income taxes.
7. All Agreements of Sale and Conservation Easements require the County Council's approval.

| G. Grant of the Agricultural, Forestry, and/or Ecological Protection Conservation Easement

Before the purchase of development rights can be finalized, a conservation easement in a form approved by the County Attorney and consistent with the policies of the PDR Program Guidelines, must be placed on the property permanently restricting development of the site and preserving its agricultural, forestry and/or ecological values.

The principal interest of the County is to ensure that ~~agricultural~~ lands are preserved and subsequently stewarded in a manner that maintains and enhances their farmland, forestland, and/or ecological values. There may be some instances where there is a public interest in another public entity or non-profit organization to hold the conservation easement, for continued stewardship and protection of the land. The County will consider:

1. The preferences of the donor or seller;
2. Administrative, monitoring, and enforcement issues associated with the conservation easement and the resources available to address these issues;
3. Requirement of Federal, State or County funding sources utilized to purchase development rights.

#### H. Development Rights Purchase Recommendations/Submission Requirements

1. County Council: Each recommendation for development rights purchases with County funds, State funds, Federal funds, private donor funds or a combination of funds shall be presented to the County Council at a regularly scheduled public meeting.
2. Letters of Notification: Letters of notification for development rights purchases will be sent to adjoining property owners by the Administrator.
3. ~~All eligible applications not selected for PDR Program participation may choose to be reviewed during the next application period or withdrawn. Within 30 days following receipt of written notice from the county, the property owner must notify the administrator in writing requesting review in the next selection period.~~

## VIII.- CONSERVATION FUTURES FUND

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### A. Intent

This fund was established in 1992 to be used solely to acquire right and interests in open space land, farm and agricultural land, and timber land, so as to protect, preserve, maintain, improve, restore, limit the future use of, or otherwise conserve the property for public use and enjoyment.

### B. Fund Sources

This Conservation Futures Fund is funded by a real property tax applied to all real property within Whatcom County at a rate determined by the county administration and county council.

### C. Fund Source Accounts

Council shall annually consider an allocation of Conservation Futures Fund to be placed in a Purchase of Development Rights Account.

### D. Installment Payment Fund

1. The intent of installment payment funds, which are established by the County, is to encumber and invest committed funds for which recipient property owners have elected annual installment payments for a period, which may vary according to the wishes of the property owner.
2. The full consideration of any transaction for which installment payments of five years or less have been elected shall be placed in the fund, less the amount of any first installment to be paid at settlement. This amount shall be invested and annual installment payments shall include the interest accrued.
3. Annual installment payments shall be made on or before January 20<sup>th</sup> of each year.
4. A property owner may enter into an Installment Purchase Agreement for fifteen (15) to thirty (30) years at an interest rate to be negotiated between the property owner and the County. The property owner will receive semi-annual interest payments that are tax exempt. Principal will be paid in one lump sum at the end of term. The property owner will also receive a security representing the Installment Purchase Agreement. The property owner may sell or assign this Agreement.

E. Public Expenditures

1. All public expenditures from the Conservation Futures Fund are subject to approval by Whatcom County Council and will be made in accordance with approved disbursement procedures.
2. Expenditures from the PDR Program Account shall be limited to interests in qualified agricultural, forestry, and/or ecological land participating in Whatcom County's Agricultural, Forestry, and Ecological Purchase of Development Rights Program, and other expenses necessary to the acquisition of ~~agricultural~~ conservation easements authorized under RCW 84.34.200-.240.
3. The annual appropriation to the PDR Program by the County Council shall be available for the calendar year in which the appropriation was made and or the subsequent calendar year.

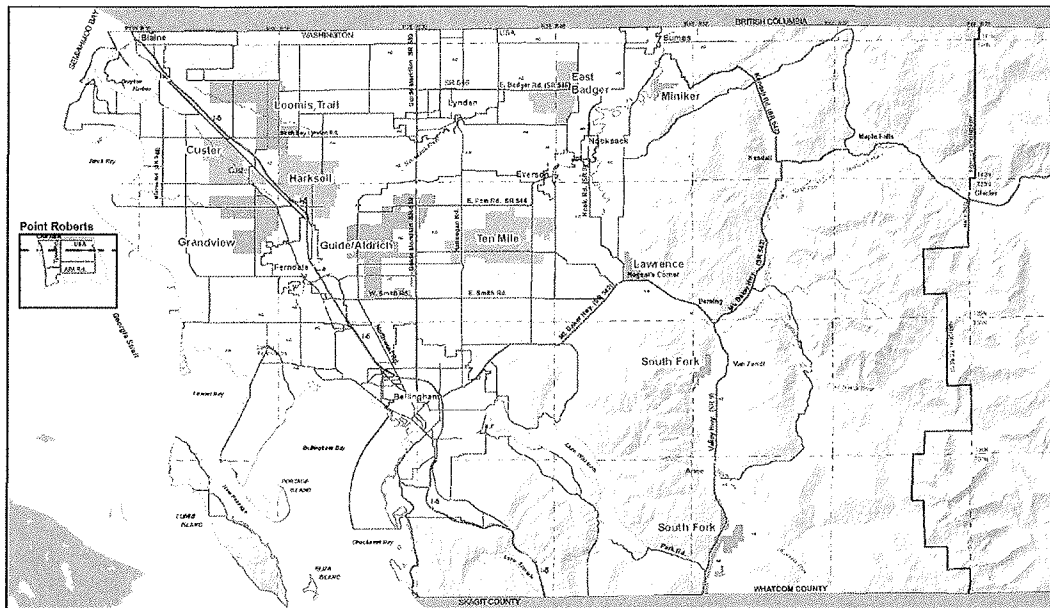
### Purchase of Development Rights Agricultural Target Areas





## APPENDIX B

### Rural Study Forestry Priority Areas



### Whatcom County

-Rural Study Areas and Agricultural Zone

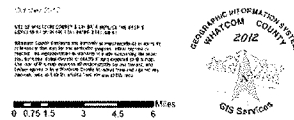


Figure 2

**APPENDIX C**  
**Ecological Priority Areas**

## **APPENDIX D**

### **Major Roads**

## APPENDIX E

### Soils List

Soil #	Soil Name	APO y/n	LESA Group	PRIME	STATEWIDE IMPORTANCE	Site Index
1	ANDIC CRYOCHREPTS - 60 TO 90% SLOPES	N	0	0	-	
2	ANDIC CRYOCHREPTS-ROCK OUTCROP COMPLEX - 60 TO 90% SLOPES	N	0	0	-	
3	ANDIC XEROCHREPTS - 60 TO 90% SLOPES	N	0	0	-	3
4	ANDIC XEROCHREPTS-ROCK OUTCROP COMPLEX - 60 TO 90% SLOPES	N	0	0	-	3
5	ANDIC XEROCHREPTS-COOL ROCK OUTCROP COMPLEX-60 TO 90% SLOPES	N	0	0	-	4
6	BARNESTON GRAVELLY LOAM - 0 TO 8% SLOPES	N	0	0	-	2
7	BARNESTON VERY GRAVELLY LOAM - 8 TO 15% SLOPES	N	0	0	-	2
8	BARNESTON VERY GRAVELLY LOAM - 15 TO 30% SLOPES	N	0	0	-	2
9	BARNESTON VERY GRAVELLY LOAM - 30 TO 60% SLOPES	N	0	0	-	2
10	BARNHARDT GRAVELLY LOAM - 0 TO 5% SLOPES	N	4	4	-	3
11	BELLINGHAM SILTY CLAY LOAM - 0 TO 2% SLOPES	N	0	2	-	
12	BIRCHBAY SILT LOAM - 0 TO 3% SLOPES	Y	1	1	-	3
13	BIRCHBAY SILT LOAM - 3 TO 8% SLOPES	Y	1	1	-	3
14	BIRCHBAY SILT LOAM - 8 TO 15% SLOPES	N	0	0	yes	3
15	BLAINEGATE SILTY CLAY - 0 TO 1% SLOPES	N	0	0	-	
16	BLAINEGATE-URBAN LAND COMPLEX - 0 TO 1% SLOPES	N	0	0	-	
17	BLETHEN GRAVELLY LOAM - 5 TO 15% SLOPES	N	0	0	yes	3
18	BLETHEN GRAVELLY LOAM - 15 TO 30% SLOPES	N	0	0	yes	3
19	BLETHEN GRAVELLY LOAM - 30 TO 60% SLOPES	N	0	0	-	3
20	BLETHEN VERY BOULDERY LOAM - 5 TO 40% SLOPES	N	0	0	-	3
21	BOROSAPRISTS - 0 TO 2% SLOPES	N	0	0	-	
22	BRISCOT SILT LOAM DRAINED - 0 TO 2% SLOPES	Y	3	5	-	
23	BRISCOT ORIDIA AND SUMAS SOILS - 0 TO 2% SLOPES	N	0	5	-	
24	CHUCKANUT LOAM - 3 TO 8% SLOPES	N	0	1	-	
25	CHUCKANUT LOAM-BEDROCK SUBSTRATUM - 5 TO 15% SLOPES	N	0	0	yes	2
26	CHUCKANUT LOAM-BEDROCK SUBSTRATUM - 15 TO 30% SLOPES	N	0	0	yes	2
27	CHUCKANUT LOAM-BEDROCK SUBSTRATUM - 30 TO 60% SLOPES	N	0	0	-	2
28	CHUCKANUT-SHALCAR COMPLEX - 0 TO 15% SLOPES	N	0	0	yes	2
29	CHUCKANUT-URBAN LAND COMPLEX - 5 TO 20% SLOPES	N	0	0	-	2
30	CLENDENEN GRAVELLY SILT LOAM - 5 TO 30% SLOPES	N	0	0	-	
31	CLIPPER SILT LOAM-DRAINED - 0 TO 2% SLOPES	Y	2	2	-	
32	COMAR SILT LOAM - 5 TO 15% SLOPES	N	0	0	yes	2
33	COMAR SILT LOAM - 15 TO 30% SLOPES	N	0	0	yes	2
34	COMAR SILT LOAM - 30 TO 60% SLOPES	N	0	0	-	2
35	CRINKER VERY CHANNERY SILT LOAM - 30 TO 60% SLOPES	N	0	0	-	
36	CUPPLES GRAVELLY LOAM - 5 TO 30% SLOPES	N	0	0	-	2
37	CUPPLES GRAVELLY LOAM - 30 TO 60% SLOPES	N	0	0	-	2
38	DEKAPEN LOAM - 8 TO 25% SLOPES	N	0	0	-	3
39	DEMING GRAVELLY SILT LOAM - 5 TO 30% SLOPES	N	0	0	-	
40	DEMING GRAVELLY SILT LOAM - 30 TO 60% SLOPES	N	0	0	-	
41	DIOSUD GRAVELLY SILT LOAM - 30 TO 60% SLOPES	N	0	0	-	
42	EDFRO VERY GRAVELLY SILT LOAM - 8 TO 30% SLOPES	N	0	0	-	
43	EDFRO VERY GRAVELLY SILT LOAM - 30 TO 60% SLOPES	N	0	0	-	

44	EDFRO VERY STONY SILT LOAM - 30 TO 60% SLOPES	N	0	0	-	
45	EDMONDS-WOODLYN LOAMS - DRAINED - 0 TO 2% SLOPES	Y	3	3	-	
46	ELIZA SILT LOAM - DRAINED - 0 TO 1% SLOPES	N	0	0	-	
47	ELIZA-TACOMA SILT LOAMS - 0 TO 1% SLOPES	N	0	0	-	
48	EVERETT GRAVELLY SANDY LOAM-HARD SUBSTRATUM - 2 TO 8% SLOPES	N	0	0	-	3
49	EVERETT VERY GRAVELLY SANDY LOAM - 8 TO 15% SLOPES	N	0	0	-	3
50	EVERETT VERY GRAVELLY SANDY LOAM - 15 TO 35% SLOPES	N	0	0	-	3
51	EVERETT COMPLEX - 2 TO 8% SLOPES	N	0	0	-	3
52	EVERETT-URBAN LAND COMPLEX - 5 TO 20% SLOPES	N	0	0	-	3
53	EVERSON SILT LOAM-DRAINED - 0 TO 2% SLOPES	N	2	2	-	
54	FISHTRAP MUCK-DRAINED - 0 TO 2% SLOPES	Y	3	2	-	
55	GALLUP SILT LOAM - 30 TO 60% SLOPES	N	0	0	-	
56	GALLUP SILT LOAM - 60 TO 80%	N	0	0	-	
57	GALLUP SILT LOAM-COLD - 30 TO 60% SLOPES	N	0	0	-	
58	GALLUP SILT LOAM-COLD - 60 TO 80% SLOPES	N	0	0	-	
59	GETCHELL LOAM - 3 TO 30% SLOPES	N	0	0	-	
60	GETCHELL LOAM - 30 TO 60% SLOPES	N	0	0	-	
61	HALE SILT LOAM - 0 TO 2% SLOPES	N	0	2	-	4
62	HALE SILT LOAM-DRAINED - 0 TO 2% SLOPES	Y	2	2	-	4
63	HALLENTON SILT LOAM-DRAINED - 0 TO 1% SLOPES	N	0	2	-	
64	HANNEGAN VERY GRAVELLY LOAM - 15 TO 40% SLOPES	N	0	0	-	
65	HARTNIT SILT LOAM-COLD - 5 TO 30% SLOPES	N	0	0	-	
66	HARTNIT SILT LOAM-COLD - 30 TO 60% SLOPES	N	0	0	-	
67	HARTNIT-GALLUP-ROCK OUTCROP COMPLEX - 50 TO 80% SLOPES	N	0	0	-	
68	HEISLER VERY GRAVELLY SILT LOAM - 8 TO 30%	N	0	0	-	2
69	HEISLER VERY GRAVELLY SILT LOAM - 30 TO 60% SLOPES	N	0	0	-	2
70	HINKER VERY CHANNERY SILT LOAM - 5 TO 30% SLOPES	N	0	0	-	
71	HINKER VERY CHANNERY SILT LOAM - 30 TO 60% SLOPES	N	0	0	-	
72	HISTOSOLS-PONDED - 0 TO 1% SLOPES	N	0	0	-	
73	HOVDE SILT LOAM - 0 TO 2% SLOPES	N	0	0	-	
74	HOZOMEEN GRAVELLY LOAM - 20 TO 45% SLOPES	N	0	0	-	
75	HYDRAQUENTS-TITAL - 0 TO 1% SLOPES	N	0	0	-	
76	JACKMAN GRAVELLY SILT LOAM - 30 TO 60% SLOPES	N	0	0	-	
77	JORGENSEN GRAVELLY SILT LOAM - 3 TO 15% SLOPES	N	0	0	-	
78	JUG VERY GRAVELLY LOAM - 3 TO 15% SLOPES	N	0	0	-	2
79	KICKERVILLE SILT LOAM - 0 TO 3% SLOPES	Y	1	1	-	2
80	KICKERVILLE SILT LOAM - 3 TO 8% SLOPES	Y	1	1	-	2
81	KICKERVILLE SILT LOAM - 8 TO 15% SLOPES	N	0	0	yes	2
82	KICKERVILLE-URBAN LAND COMPLEX - 0 TO 3% SLOPES	N	0	0	-	2
83	KINDY GRAVELLY SILT LOAM - 8 TO 30% SLOPES	N	0	0	-	4
84	KINDY GRAVELLY SILT LOAM - 30 TO 60% SLOPES	N	0	0	-	4
85	KINDY-OSO COMPLEX - 5 TO 40% SLOPES	N	0	0	-	
86	KLAWATTI VERY GRAVELLY LOAM - 30 TO 60% SLOPES	N	0	0	-	
87	KLAWATTI V. GRAVELLY SANDY LOAM-SERPENTINE-10 TO 30% SLOPES	N	0	0	-	
88	KLAWATTI V. GRAVELLY SANDY LOAM-SERPENTINE-10 TO 30% SLOPES	N	0	0	-	
89	KLAWATTI-ROCK OUTCROP COMPLEX - 60 TO 80% SLOPES	N	0	0	-	
90	KLINE GRAVELLY SANDY LOAM - 2 TO 8% SLOPES	N	0	0	-	3
91	KULSHAN LOAM - 5 TO 30% SLOPES	N	0	0	-	
92	KILSHAN LOAM - 30 TO 60% SLOPES	N	0	0	-	
93	LABOUNTY SILT LOAM - 0 TO 2% SLOPES	N	4	2	-	

94	LABOUNTY SILT LOAM-DRAINED - 0 TO 2% SLOPES	N	0	2	-	
95	LARUSH SILT LOAM - 0 TO 3% SLOPES	Y	3	3	-	2
96	LAXTON LOAM - 0 TO 30% SLOPES	Y	1	1	-	2
97	LAXTON LOAM - 3 TO 8% SLOPES	Y	1	1	-	2
98	LAXTON LOAM - 8 TO 15% SLOPES	N	0	0	yes	2
99	LYNDEN SANDY LOAM	Y	1	4	-	3
100	LYNDEN SANDY LOAM - 3 TO 7% SLOPES	Y	1	4	-	3
101	LYNDEN-URBAN LAND COMPLEX - 0 TO 5% SLOPES	N	0	0	-	3
102	LYNNWOOD SANDY LOAM - 0 TO 5% SLOPES	N	0	0	-	3
103	LYNNWOOD SANDY LOAM - 5 TO 20% SLOPES	N	0	0	yes	3
104	MONTBORNE GRAVELLY LOAM - 5 TO 30% SLOPES	N	0	0	-	3
105	MONTBORNE GRAVELLY LOAM - 30 TO 60% SLOPES	N	0	0	-	3
106	MONTBORNE-RINKER COMPLEX - 30 TO 60% SLOPES	N	0	0	-	3
107	MT. VERNON FINE SANDY LOAM - 0 TO 2% SLOPES	Y	2	3	-	2
108	NATI LOAM - 5 TO 15% SLOPES	N	0	0	yes	2
109	NATO LOAM - 15 TO 30% SLOPES	N	0	0	yes	2
110	NATI LOAM - 30 TO 60% SLOPES	N	0	0	-	3
111	NEPTUNE VERY GRAVELLY SANDY LOAM - 0 TO 3% SLOPES	N	0	0	-	3
112	OAKES VERY GRAVELLY LOAM - 8 TO 30% SLOPES	N	0	0	-	2
113	OAKES VERY GRAVELLY LOAM - 30 TO 60% SLOPES	N	0	0	-	2
114	OAKES VERY GRAVELLY LOAM - 60 TO 80% SLOPES	N	0	0	-	4
115	ORIDIA SILT LOAM-DRAINED - 0 TO 2% SLOPES	Y	3	5	-	
116	PANGBORN MUCK-DRAINED - 0 TO 2% SLOPES	Y	3	2	-	
117	PICKETT-ROCK OUTCROP COMPLEX - 5 TO 30% SLOPES	N	0	0	-	4
118	PICKETT-ROCK OUTCROP COMPLEX - 30 TO 60% SLOPES	N	0	0	-	4
119	PILCHUCK LOAMY FINE SAND - 0 TO 3% SLOPES	N	0	0	-	3
120	PITS	N	0	0	-	
121	POTCHUB LOAM - 8 TO 30% SLOPES	N	0	0	-	
122	POTCHUB LOAM - 30 TO 60% SLOPES	N	0	0	-	
123	PUGET SILT LOAM-DRAINED - 0 TO 2% SLOPES	Y	3	5	-	
124	PUYALLUP FINE SANDY LOAM - 0 TO 2% SLOPES	Y	2	3	-	2
125	REVEL LOAM - 5 TO 30% SLOPES	N	0	0	-	4
126	REVEL LOAM - 30 TO 60% SLOPES	N	0	0	-	4
127	REVEL-WELCOME-ROCK OUTCROP COMPLEX - 30 TO 60% SLOPES	N	0	0	-	4
128	RINKER VERY CHANNERY SILT LOAM - 8 TO 30% SLOPES	N	0	0	-	3
129	RINKER VERY CHANNERY SILT LOAM - 30 TO 60% SLOPES	N	0	0	-	3
130	RIVERWASH	N	0	0	-	
131	ROCK OUTCROP	N	0	0	-	
132	ROCK OUTCROP-KULSHAN COMPLEX - 60 TO 90% SLOPES	N	0	0	-	
133	RUBBLE LAND	N	0	0	-	
134	SAAR GRAVELLY SILT LOAM - 5 TO 30% SLOPES	N	0	0	-	
135	SAAR GRAVELLY SILT LOAM - 30 TO 60% SLOPES	N	0	0	-	
136	SAAR-HARTNIT COMPLEX - 5 TO 40% SLOPES	N	0	0	-	
137	SANDUN VERY GRAVELLY SANDY LOAM - 5 TO 30% SLOPES	N	0	0	-	
138	SANDUN VERY GRAVELLY SANDY LOAM - 30 TO 60% SLOPES	N	0	0	-	
139	SEHOME LOAM - 2 TO 8% SLOPES	Y	0	1	-	2
140	SEHOME LOAM - 8 TO 15% SLOPES	N	0	0	yes	2
141	SEHOME GRAVELLY LOAM - 15 TO 30% SLOPES	N	0	0	yes	2
142	SEHOME GRAVELLY LOAM - 30 TO 60% SLOPES	N	0	0	-	2
143	SHALCAR MUCK-DRAINED - 0 TO 2% SLOPES	Y	3	2	-	

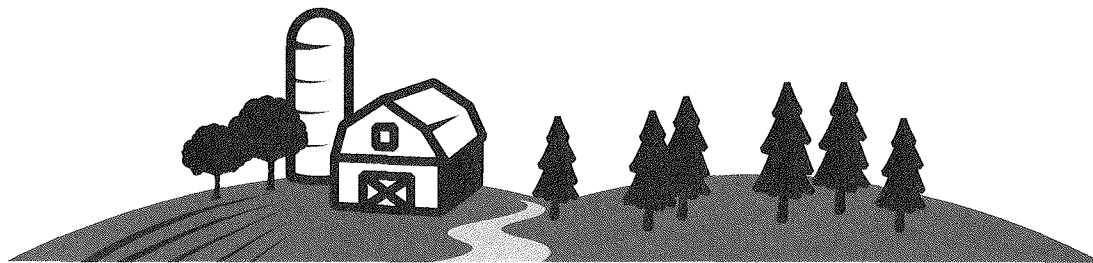
144	SHALCAR AND FISHTRAP SOILS - 0 TO 2% SLOPES	N	0	2	-	
145	SHUKSAN GRAVELLY SILT LOAM - 5 TO 30% SLOPES	N	0	0	-	
146	SHUKSAN GRAVELLY SILT LOAM - 30 TO 60% SLOPES	N	0	0	-	
147	SHUKSAN-KULSHAN-ROCK OUTCROP COMPLEX - 50 TO 80% SLOPES	N	0	0	-	
148	SKIPOPA SILT LOAM - 0 TO 8% SLOPES	Y	0	1	-	3
149	SKIPOPA-BLAINEGATE COMPLEX - 0 TO 8% SLOPES	N	0	0	-	3
150	SKYKOMISH VERY GRAVELLY LOAM - 3 TO 30% SLOPES	N	0	0	-	3
151	SNOHOMISH SILT LOAM-DRAINED - 0 TO 2% SLOPES	Y	3	5	-	
152	SNOQUALMIE GRAVELLY LOAMY SAND - 0 TO 3% SLOPES	N	0	0	-	3
153	SORENSEN VERY GRAVELLY SILT LOAM - 8 TO 30% SLOPES	N	0	0	-	2
154	SORENSEN VERY GRAVELLY SILT LOAM - 30 TO 60% SLOPES	N	0	0	-	2
155	SPRINGSTEEN VERY GRAVELLY LOAM - 30 TO 60% SLOPES	N	0	0	-	
156	SQUALICUM GRAVELLY LOAM - 5 TO 15% SLOPES	N	0	0	yes	2
157	SQUALICUM GRAVELLY LOAM - 15 TO 30% SLOPES	N	0	0	yes	2
158	SQUALICUM GRAVELLY LOAM - 30 TO 60% SLOPES	N	0	0	-	2
159	SQUALICUM-URBAN LAND COMPLEX - 5 TO 20% SLOPES	N	0	0	-	2
160	SQUIRES VERY CHANNERY LOAM - 5 TO 30% SLOPES	N	0	0	-	2
161	SQUIRES VERY CHANNERY LOAM - 30 TO 60% SLOPES	N	0	0	-	2
162	SUMAS SILT LOAM-DRAINED - 0 TO 2% SLOPES	Y	3	5	-	
163	TACOMA SILT LOAM - 0 TO 1% SLOPES	N	0	0	-	
164	TACOMA SILT LOAM-DRAINED - 0 TO 1% SLOPES	N	0	0	-	
165	TROMP LOAM - 0 TO 2% SLOPES	Y	1	1	-	3
166	TWINSI VERY GRAVELLY LOAM - 30 TO 60% SLOPES	N	0	0	-	
167	TWINSI VERY STONY LOAM - 30 TO 60% SLOPES	N	0	0	-	
168	TYPIC CRYORTHODS - 60 TO 90% SLOPES	N	0	0	-	
169	TYPIC CRYORTHODS-ROCK OUTCROP COMPLEX - 60 TO 90% SLOPES	N	0	0	-	
170	TYPIC PSAMMAQUENTS-TIDAL - 0 TO 1% SLOPES	N	0	0	-	
171	URBAN LAND	N	0	0	-	
172	URBAN LAND-WHATCOM-LABOUNTY COMPLEX - 0 TO 8% SLOPES	N	0	0	-	2
173	VANZANDT VERY GRAVELLY LOAM - 5 TO 15% SLOPES	N	0	0	-	2
174	VANZANDT VERY GRAVELLY LOAM - 15 TO 30% SLOPES	N	0	0	-	2
175	VANZANDT VERY GRAVELLY LOAM - 30 TO 60% SLOPES	N	0	0	-	2
176	WELCOME LOAM - 5 TO 30% SLOPES	N	0	0	-	3
177	WELCOME LOAM - 30 TO 60% SLOPES	N	0	0	-	3
178	WHATCOM SILT LOAM - 0 TO 3% SLOPES	Y	2	1	-	2
179	WHATCOM SILT LOAM - 3 TO 8% SLOPES	Y	4	1	-	2
180	WHATCOM SILT LOAM - 8 TO 15% SLOPES	N	0	0	yes	2
181	WHATCOM SILT LOAM - 30 TO 60% SLOPES	N	0	0	-	2
182	WHATCOM-LABOUNTY SILT LOAMS - 0 TO 8% SLOPES	N	4	2	-	2
183	WHATCOM-LABOUNTY SILT LOAMS - 0 TO 15% SLOPES	N	0	0	-	2
184	WHITEHORN WILT LOAM - 0 TO 2% SLOPES	Y	3	2	-	
185	WICKERSHAM CHANNERY SILT LOAM - 0 TO 8% SLOPES	N	4	4	-	2
186	WINSTON SILT LOAM - 0 TO 3% SLOPES	Y	0	1	-	2
187	WINSTON LOAM - 3 TO 15% SLOPES	N	0	0	yes	2
188	WINSTON LOAM - 15 TO 40% SLOPES	N	0	0	yes	2
189	WISEMAN VERY CHANNERY SAND LOAM - 0 TO 8% SLOPES	N	0	0	-	3
190	WOLLARD GRAVELLY SILT LOAM - 30 TO 60% SLOPES	N	0	0	-	
191	YELM LOAM - 3 TO 8% SLOPES	Y	1	1	-	2
192	YELM-URBAN LAND COMPLEX - 0 TO 3% SLOPES	N	0	0	-	2

## APPENDIX ~~D~~E

### Model Conservation Easement Deed

A sample Conservation Easement Deed based on the assumption of matching funds from the USDA-NRCS ~~Farm and Ranch Lands Protection~~ Agricultural Conservation Easement Program, is included in the following pages.





**PURCHASE OF DEVELOPMENT RIGHTS PROGRAM**

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