OKANOGAN COUNTY COMMISSIONERS’

ORDINANCE 2020-4

An ordinance adopting interim land use controls applicable to water resource inventory area #48 with the exception of the Columbia River influence that prohibits the subdivision of land according to the provisions of OCC Title 16 and RCW 58.17 repealing Ordinance 2019-11 and schedules a public hearing in accordance with Revised Code of Washington 36.70.795.

WHEREAS: In November of 2016 the Washington State Supreme Court issued a decision cited as Whatcom-Hirst, 186 Wn.2d 648, 381 P.3d 1 (2016) which further defined the role of Counties in determining the legal and physical availability of water for building permits and land division applications that propose to use a permit exempt well as authorized in Revised Code of Washington 90.44.050 as the source of potable water, and

WHEREAS: Whatcom-Hirst, 186 Wn.2d 648, 381 P.3d 1 (2016) decision has been codified in 90.94 RCW, 58.17.110 RCW, and 19.27.097 RCW, and

WHEREAS: On December 18, 2019, the Board of County Commissioners determined that a water availability study pursuant to Okanogan County Code (OCC) 17A Zoning should be applied to WRIA 48 as an interim control as provided under RCW 38.70.795 to determine legal water availability; and

WHEREAS, in reviewing the water availability study provisions contained in OCC 17A, the Board of County Commissioners feels that a more direct approach is necessary to clearly comply with the provisions of RCW 36.70.795; and

WHEREAS: The Board of County Commissioners finds that additional information is necessary before it can be determined legal water is available for NEW group domestic use in WRIA 48 with the exception of the Columbia River influence, not including restricted areas under WAC 173-548-050 provided by the Department of Ecology as depicted in the map found as Attachment A to this ordinance. Areas restricted under WAC 173-548-050 are not included as they do not have water available for further appropriation unless one of the narrow exceptions under 173-548-050 applies; and

WHEREAS: The Board of County Commissioners finds that additional information is necessary before it can be determined sufficient groundwater is legally accessible in WRIA #48 to meet the requirements of RCW 58.17. Poor water quality or inadequate supply of potable water for land division proposals except for those land divisions where an existing residence with an existing water supply can create one additional lot; and

WHEREAS: The Board of County Commissioners finds that additional information is necessary before it can be determined if sufficient groundwater is legally accessible in WRIA #48 to meet the requirements of RCW 58.17. Poor water quality or inadequate supply of potable water for land division proposals except for those land divisions where an existing residence with an existing water supply can create one additional lot; and