

**WHATCOM COUNTY COUNCIL AGENDA BILL**

NO. AB2010-238

CLEARANCES	Initial	Date	Date Received in Council Office	Agenda Date	Assigned to:
Originator: Doug Goldthorp	<i>AG</i>	5/25/10	RECEIVED  JUN 01 2010  WHATCOM COUNTY COUNCIL	6/8	Council Introduction
Division Head: Wain Harrison	<i>WHR</i>	5/26/10		7/27/2010	Planning and Development Committee
Dept. Head: David Stalheim	<i>WHR</i>	5/26/10		7/27/2010	Council
Prosecutor: Royce Buckingham	<i>RWB</i>	5-26-10			
Purchasing/Budget: Brad Bennett					
Executive: Pete Kremen	<i>PK</i>	6-1-10			

**TITLE OF DOCUMENT:** Pipeline Safety Ordinance

**ATTACHMENTS:**

- (1) Proposed Zoning Code Amendment
- (2) Whatcom County Planning Commission Findings of Fact and Reasons for Action

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.)

Proposed amendment to the Whatcom County Zoning Code, Title 20. The proposed amendment is: to minimize the likelihood of accidental damage to pipelines by ensuring early communication between those developing property and pipeline operators; to limit exposure of land uses with high on-site populations that are difficult to evacuate and land uses that serve emergency functions to the risk of injury or damage in the event of a pipeline failure; and to ensure that there is adequate protection of existing pipelines from inadvertent damage during nearby construction.

**COMMITTEE ACTION:**

7/27/2010: Forwarded to Council for approval

**COUNCIL ACTION:**

6/08/2010: Introduced  
 7/27/2010: Council Amended & Adopted 6-1  
 Crawford opposed  
 Ord. 2010-033

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

Ord. 2010-033

**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).**

SPONSORED BY: Consent  
PROPOSED BY: PDS  
INTRODUCTION DATE: 6/8/2010

ORDINANCE NO. 2010-033

**AMENDING WCC TITLE 20, TO ADD PIPELINE SAFETY REGULATIONS**

**WHEREAS**, Whatcom County Planning and Development Services responded to a 2007 Whatcom County Council proposal, Resolution Number 2007-034, to amend the zoning code to include pipeline safety and development changes, as processed under case file number ZON2007-00014.

**WHEREAS**, due to other priorities, Whatcom County Planning and Development Services first reviewed this amendment and public hearing in early 2010.

**WHEREAS**, Pursuant to RCW 36.70A.106, a Notification for 60-Day Review of Development Regulation Amendment was submitted to the State of Washington, Department of Commerce on February 2, 2010.

**WHEREAS**, a determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on February 8, 2010, case number SEP2010-00012.

**WHEREAS**, the SEPA DNS Legal Notice was published one time in the Bellingham Herald on February 8, 2010.

**WHEREAS**, Notice of the proposed Planning Commission Public Hearing was published in the Bellingham Herald on March 14, 2010.

**WHEREAS**, Planning staff prepared a staff report dated March 15, 2010, summarizing the proposal, background information, amendment analysis, findings of fact and reasons for action, conclusions, and recommendations of ordinance language.

**WHEREAS**, the Whatcom County Planning Commission held a public hearing on March 25, 2010, and voted to form a subcommittee to prepare draft ordinance language for consideration.

**WHEREAS**, the Whatcom County Planning Commission subcommittee held public meetings on March 29<sup>th</sup>, April 7<sup>th</sup>, and April 14<sup>th</sup>, 2010, and prepared a draft ordinance for review by the Planning Commission at their April 22, 2010 public hearing.

**WHEREAS**, the Whatcom County Planning Commission held a public hearing on April 22, 2010, and modified the draft ordinance and invited further public comment.

**WHEREAS**, the Whatcom County Planning Commission held a public hearing on May 13, 2010, and voted unanimously to recommend approval to the Whatcom County Council for the proposed zoning text amendment.

**FINDINGS OF FACT AND REASONS FOR ACTION**

1. Most of the transmission pipelines in the county were built in rural areas. Many of those rural areas are now being faced with increased development, and some pipelines are now within UGAs and five year review areas. As new homes and businesses are increasingly placed in close proximity to pipelines it is important for the county to do what it can to ensure the safety of its citizens and the environment.
2. Both the Washington Utilities and Transportation Commission and the federal Pipeline and Hazardous Materials Safety Administration have recognized the growing problem of development encroaching on existing pipelines, and are encouraging local government to act proactively in their planning near pipelines.
3. By Resolution Number 2007-034, the Whatcom County Council initiated a formal review of a proposal as included within Attachment A of that resolution.
4. The SEPA DNS was distributed on February 8, 2010 to: WA Department of Ecology SEPA Unit (Olympia), WA Department of Ecology (Bellingham), WA Department of Fish and Wildlife, WA Department of Archaeology and Historic Preservation, WA Department of Natural Resources, Lummi Nation (Natural and Cultural Resources Departments), Nooksack Indian Tribe (Natural and Cultural Resources Departments), Applicant Carl Weimer, Williams Pipeline, Trans Mountain Pipeline, Olympic Pipeline, Kinder-Morgan Pipeline, City of Blaine, City of Ferndale, City of Sumas, City of Everson, City of Nooksack, Whatcom County Emergency Management, Whatcom County Fire Districts (1, 4, 5, 7, 8, 11, 14, 16, 17, 18, 19, and 21), South Whatcom Fire Authority, Building Industry Association of Whatcom County, Federal Energy Regulation Commission, State Utility and Transportation Commission.
5. Public notification generated the following written responses: A letter of support from Williams Northwest Pipeline dated March 4, 2010, a letter of support from the Olympic Pipe Line Company, dated March 22, 2010, a letter of concern regarding the potential impacts to forest practices from the Washington State Department of Natural Resources dated March 22, 2010, a letter of support from the State of Washington Utilities and Transportation Commission dated March 23, 2010, a letter of support from BP Corporation dated March 23, 2010, a letter of concern regarding the potential impacts to forest practices from the Great Western Lumber Company dated March 24, 2010, a letter of support from the Washington State Citizens Committee on Pipeline Safety dated March 25, 2010, an email of concerns from Mr. Tim Surratt dated March 25, 2010, a letter of concern from the Building Industry Association of Whatcom County dated March 25, 2010, a letter of concern from Mr. Richard Gilda dated March 25, 2010, a letter of concern from Mr. Jerry and Mrs. Lurline Hammer dated March 25, 2010, a letter

of support from Kinder Morgan Canada Inc. dated March 25, 2010, an email of concern from Mr. Greg Brown dated March 25, 2010, an email of concern from Mr. Chris Hatch through Mr. Jeff Rainey dated March 26, 2010, a letter from Trygve Construction, Inc. dated March 26, 2010, and a letter of support from the Puget Sound Energy dated May 12, 2010.

6. The Whatcom County Comprehensive Plan Goal 5M and Policy 5M-3 support developing information/education and notification programs to alert the public of pipeline locations and safety when making land development decisions adjacent to transmission pipelines.
7. The Whatcom County Comprehensive Plan Goal 5N and Policy 5N-7 discourages new pipelines from certain more intense levels of development. This proposed amendment provides a process for consultation with pipeline companies when new development is proposed that moves closer to pipelines.
8. The Whatcom County Planning Commission voted unanimously on May 13, 2010, to recommend a draft ordinance to the Whatcom County Council, as presented in Exhibit A.

## **CONCLUSION**

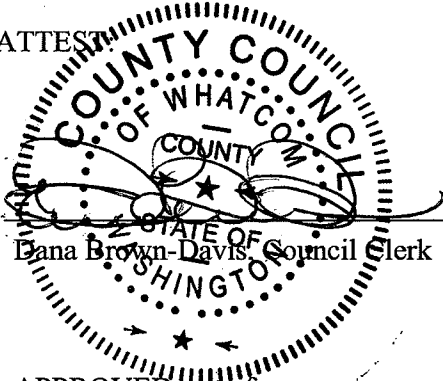
The proposal meets all of the legal requirements as noted within the Findings of Fact and Reasons for Action. The proposed amendment is compatible with the Growth Management Act, Whatcom County Comprehensive Plan Goals and Policies, along with policies within Whatcom County's County Wide Planning Policies. Approval of this amendment is in the public interest.

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

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

ADOPTED this 27th day of July, 2010.

ATTEST



Dana Brown-Davis, Council Clerk

APPROVED as to form:

*Civil Deputy Prosecutor*

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WASHINGTON

  
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Sam Crawford, Chairperson

Approved     Denied

*Pete Kremen, Executive*

Date: 8-3-10

## EXHIBIT A

### Pipeline Safety Ordinance

#### Section 1: Purpose

The purpose of this chapter is to help minimize unnecessary risk to the public from hazardous liquid and natural gas transmission pipelines by:

- (1) Minimizing the likelihood of accidental damage to pipelines by ensuring early communication between those developing property and pipeline operators.
- (2) Limiting exposure of land uses with high on-site populations that are difficult to evacuate and land uses that serve emergency functions to the risk of injury or damage in the event of a pipeline failure.
- (3) Ensuring that there is adequate protection of existing pipelines from inadvertent damage during nearby construction.

#### Section 2: Definitions

- 2.1. **Transmission Pipeline** means a pipeline carrying hazardous liquids, and all natural gas pipelines equal to or larger than 12 inches in diameter that operate at over 500 psi.
- 2.2. **Hazardous liquid** means petroleum, petroleum products, or anhydrous ammonia.
- 2.3. **High Consequence Land Use** means a land use that if located in the vicinity of a hazardous liquid or gas transmission pipeline represents an unusually high risk in the event of a pipeline failure due to characteristics of the inhabitants or functions of the use. High consequence land uses include:
  - 2.3.1. Land uses that involve a high-density on-site population that is more difficult to evacuate. These uses include schools, hospitals, multi-family housing or other facilities exclusively for the elderly or handicapped housing or facilities, stadiums, and day care centers. Day care centers do not extend to family day care or adult family homes.
  - 2.3.2. Land uses that serve critical "lifeline" or emergency functions, such as fire and police facilities.
- 2.4. **Pipeline Corridor** means the pipeline pathway defined by rights-of-way and easements in which the pipelines and facilities of a hazardous liquid or gas transmission pipeline operator are located, including rights-of-way and easements over and through public or private property.
- 2.5. **Essential public facilities** are those facilities "typically difficult to site, such as airports, state education facilities and state or regional transportation facilities as defined in RCW 47.06.140, state and local correctional facilities, solid waste handling facilities, and in-patient facilities including substance abuse facilities, mental health facilities group homes, and secure community transition facilities as defined in RCW 71.09.020" (RCW 36.70A.200, Siting of essential public facilities). The county has also designated telecommunication towers, water treatment plants, sewer treatment plants, and water storage facilities as essential public facilities; however, telecommunication towers are exempt from the provisions of this ordinance.

### **Section 3: Development notice when adjacent to transmission pipeline**

The purpose of this section is to improve communication between property owners and transmission pipeline owners to minimize the risk of inadvertent damage to transmission pipelines and to provide guidance to property owners about minimizing further risk through site design or construction.

#### **3.1. Land divisions, high consequence land uses and essential public facilities**

- 3.1.1. Applicants for divisions of land creating new lots, high consequence land uses and essential public facilities shall show hazardous liquid and gas transmission pipeline corridors and other required construction limits on applications when proposed development is located within 500 feet of the centerline of the pipeline corridor. Minor modifications to existing structures that do not involve significant land disturbance on-site or changes to off-site improvements are exempt from this requirement.
- 3.1.2. Whatcom County should notify the transmission pipeline owner at the earliest possible stage of application review. Whatcom County shall provide the transmission operator fifteen (15) days to provide comments to Whatcom County on the development application prior to approval. Any comments provided by the pipeline operators will be passed on to the applicant.

#### **3.2. Other development**

- 3.2.1. Development applications not addressed by Section 3.1 above are not required, but encouraged to show transmission pipeline corridors that are on or abuts to the proposed development property.
- 3.2.2. Whatcom County should notify the pipeline transmission pipeline operator at the earliest possible stage of application review. Whatcom County may issue development permits without written response from the transmission pipeline owner. Any comments provided by the pipeline operator will be passed on to the applicant.

### **Section 4: Ensuring land use compatibility with pipelines**

The purpose of this section is to limit exposure of land uses with high on-site populations that are difficult to evacuate and land uses or essential public facilities from the risk of injury or damage in the event of a pipeline failure.

#### **4.1. High Consequence Land Uses and Essential Public Facilities**

- 4.1.1. New structures for high consequence land uses and essential public facilities proposed for within 500 feet of a hazardous liquid or natural gas transmission pipeline corridor are prohibited.
- 4.1.2. Proposed expansions to existing high consequence land uses or essential public facilities located within 500 feet of a hazardous liquid or natural gas transmission pipeline corridor will be designed to avoid a significant increase in the level of risk in the event of a pipeline failure, and where feasible, reduce the risk compared to the existing development. Potential techniques to minimize or reduce risk include but are not limited to:
  - (a) Site design features, such as maintaining or increasing the distance between occupied structures, or structures that provide critical lifeline functions, and the hazardous liquid or natural gas transmission pipeline.

- (b) Building features, such as building design to avoid a significant increase in risk to on-site populations or to expedite evacuation.
- (c) Technological features, such as accelerated notice of a pipeline failure to the high consequence land use to facilitate evacuation or features that help to avoid damage in the event of a pipeline failure.
- (d) Operational features, such as emergency plans and education programs for occupants and employees concerning pipeline safety.

Modifications to existing buildings that do not increase the onsite population or hinder evacuation, or change evacuation routes are exempt from this requirement.

### **Section 5: Pipeline Corridor Protection Requirements.**

The purpose of this section is to ensure that the pipeline pathway defined by rights-of-way and easements are protected during construction in the manner set forth below.

- 5.1. No significant land disturbance or construction or expansion of structures is allowed within defined right-of-way or easements of transmission pipelines corridors without the express written consent of the pipeline operator.
- 5.2. Pipeline corridors shall be identified and protected during construction by placement of a temporary barricade and on-site notices. Barricades and on-site notices are subject to review by the Code Administrator.
- 5.3. On sites that directly abut or are located within the pipeline corridor, the County shall verify that applicants and designees have notified utilities through the one call locator service by checking the website [www.managetickets.com](http://www.managetickets.com) before issuing development permits for land disturbance or other significant work.