

Whatcom County, Washington (2008)

Proposed Pipeline Safety & Development Changes

Docket #ZON2007-00014

Purpose.

The purpose of this section is to help prevent and minimize unnecessary risk to the public health, safety, and welfare due to hazardous liquid and gas transmission pipelines. Recognizing it is impossible to eliminate risk entirely, this section is intended to:

- (1) Minimize the likelihood of accidental damage to hazardous liquid and gas transmission pipelines due to external forces, such as construction equipment.
- (2) Avoid exposing land uses with high on-site populations that are difficult to evacuate and land uses that serve emergency functions to risk of injury or damage in the event of a pipeline failure.
- (3) Help reduce adverse impacts in the event of a pipeline failure.
- (4) Supplement existing federal and state regulations related to hazardous liquid and gas transmission pipeline corridor management.

The provisions of this section are intended to protect the health, safety and welfare of the general public and are not intended to protect any particular individual, class of individuals, or organization.

Development Application Submittal Requirements.

- (1) Applicants shall show hazardous liquid and gas transmission pipeline corridors and applicable setbacks on site plans and subdivision plats when proposed development is located within 660 feet 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.
- (2) Consultation Zone along hazardous liquid and gas transmission pipeline corridors
 - (A) Consultation Zone Distance. The consultation requirement applies to development permits involving any parcel that is within 660 feet of the centerline of a hazardous liquid and gas transmission pipeline corridor. The 660 foot consultation zone distance may be lessened for certain development activities if the distance changes are first reviewed with the pipeline operator(s) and found to be consistent with prudent pipeline operation given the local conditions, such as terrain, soil types, etc. There must be written documentation from the pipeline operator(s) showing their agreement to any lessening of the consultation zone distance for certain types of development permits. The intent of this section is to provide flexibility and to avoid unnecessary paperwork and delays in the permitting process while also making sure that all activities that may impact the integrity of a hazardous liquid or gas transmission pipeline are thoroughly reviewed.
 - (B) Consultation Zone Notification
Whenever any individual applies for a development permit within the consultation zone

established for hazardous liquid and gas transmission pipelines, the staff at the permit counter shall notify the individual that they are within the consultation zone, explain the relevant application procedures, and provide contact information for the applicable pipeline operator(s). This same procedure shall be followed whenever an individual inquires about development regulations or zoning restrictions for property within the consultation zone.

(C) Complete Application for Development Permit within Consultation Zone.

A complete application for any development permit within the designated consultation zone must include written verification from the applicant that:

(i) The applicant has contacted the pipeline operator(s) and has provided the pipeline operator(s) with documentation detailing the proposed development activity and where the activity is to take place; and

(ii) The pipeline operator(s) has reviewed the documents for compatibility with continued safe operation of the hazardous liquid or gas transmission pipeline (s).

(iii) The written verification required by this section can be in any form acceptable to the county, including electronic communications, so long as it is clear that the pipeline operator(s) has received and reviewed documentation showing the proposed activity and its location.

(3) A SEPA checklist submitted by an applicant for a development permit involving any parcel that is within 660 feet of the centerline of a hazardous liquid or gas transmission pipeline easement must reference the transmission pipeline(s) and provide information concerning any impact the activity will have upon the integrity of the hazardous liquid or gas transmission pipeline (s).

(4) All other applicable development application submittal requirements apply.

Setback Requirements.

(1) Hazardous Liquid and Gas Transmission Pipeline Corridor. No significant land disturbance or construction or expansion of structures are allowed within hazardous liquid or gas transmission pipelines corridors.

(2) Areas Along Hazardous Liquid and Gas Transmission Pipeline Corridors:

(A) Construction or expansion of structures or other activities involving significant land disturbance shall be setback a minimum of 25 feet from the edge of hazardous liquid and/or gas transmission pipelines corridors.

(B) The Code Administrator may measure the setback from a hazardous liquid and/or gas transmission pipeline when measurement from the corridor is not appropriate due to site-specific conditions, such as an open easement.

(C) The Code Administrator may expand the setback when necessary to meet the purpose of this section due to site-specific conditions, such as extraordinary land disturbance.

(D) The Code Administrator may reduce the setback due to site-specific conditions and an applicant's demonstration that the purpose of this section will be met. Factors that may

be considered include but are not limited to:

- (i) Pipeline location as determined using normal locating procedures.
- (ii) Type of construction proposed.

(E) If the Code Administrator reduces the setback or measures it from hazardous liquid or gas transmission pipeline, the following applies:

(i) The setback shall be a minimum of 30 feet from the nearest hazardous liquid or gas transmission pipeline.

(ii) The setback shall be measured from the nearest edge of the hazardous liquid or gas transmission pipeline.

(iii) Applicants shall show the location of the hazardous liquid and gas transmission pipelines and setback on site plans and subdivision plats.

(3) Exemptions. Streets, utilities, trails and similar uses shall be exempt from setback requirements (1) and (2).

(4) Setback Protection. Setbacks 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) Reasonable Use Provision.

(A) The required setback from hazardous liquid and gas transmission pipeline corridors shall not deny all reasonable economic use of property. If an applicant demonstrates to the satisfaction of the Hearing Examiner that strict application of the required setback would deny all reasonable economic use of the property, the setback may be lessened subject to appropriate conditions.

(B) An applicant for relief from strict application of the required setback shall demonstrate the following:

(i) No reasonable economic use of the applicant's property can be made if the required setback is strictly applied; and

(ii) The proposed setback is the minimum necessary to provide the applicant with a reasonable economic use of the property; and

(iii) All reasonable mitigation measures have or will be implemented or assured; and

(iv) The inability to derive any reasonable economic use is not the result of the applicant's actions or those of the applicant's predecessors in title; and

(v) The pipeline location has been definitively determined.

(C) As a condition of any relief granted under this section, the applicant shall be required to record an instrument against the title of the property notifying all subsequent purchasers of the fact that a lesser setback from the pipeline has been approved and of any and all conditions placed on the grant of relief.

Requirements for Land Use Compatibility.

(1) High Consequence Land Uses.

(A) New high consequence land uses proposed for location within 500 feet of a hazardous liquid or gas transmission pipeline corridor are prohibited.

(B) Proposed expansions to existing high consequence land uses located within 500 feet of a hazardous liquid or gas transmission pipeline corridor shall at a minimum be designed to avoid increasing 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:

(i) 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 gas transmission pipeline and anticipated blast zones or flow paths for leaking hazardous materials.

(ii) Building features, such as design to avoid a significant increase in on-site population or to expedite evacuation.

(iii) 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.

(iv) Operational features, such as emergency plans and education programs for occupants and employees concerning pipeline safety, developed in accordance with the procedures in (2)(B)(ii).

Minor modifications to existing buildings are exempt from this requirement.

(2) Other Development.

(A) Applicants for the following types of new or expanded development shall use appropriate mitigation measures to help reduce adverse impacts in the event of a pipeline failure:

(i) Commercial or industrial.

(ii) Multi-family.

(iii) Religious facilities.

(iv) Other developments as required by the Code Administrator that, because of proximity to a hazardous liquid or gas transmission pipeline corridor, pose a safety concern due to characteristics of the occupants, development, or site.

(B) Mitigation measures intended to reduce risk and minimize impact in the event of a pipeline failure include but are not limited to:

(i) Site and building design techniques such as maximizing the distance between new or expanded development and anticipated blast zones or flow paths for leaking hazardous materials and controlling ignition sources.

(ii) Emergency procedures such as emergency plans and guides, employee training and drills, and education programs for occupants and employees concerning pipeline safety, such as what to be aware of and how to respond in the event of a problem.

(a) Applicants shall consult with the Fire Marshal regarding the level of emergency planning and procedures appropriate for the proposed development. Based on the nature, occupancy, or location of a proposed development, the Fire Marshal may require emergency plans and procedures for any occupancy classifications.

(b) Emergency plans and procedures shall be consistent with the Fire Code and shall be approved by the Fire Marshal.

Definitions

Gas Transmission Pipeline means a “transmission line” as defined in 49 CFR § 192.3

Hazardous Liquid Pipeline means a “pipeline” as defined in 49 CFR § 195.2

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:

(1) Land uses that involve a high-density on-site population that are more difficult to evacuate. These uses include schools (through grade 12), hospitals, clinics, multi-family housing or other facilities exclusively for elderly or handicapped, stadiums or arenas, and day care centers, and does not extend to family day care or adult family homes.

(2) Land uses that serve critical “lifeline” or emergency functions, such as fire and police facilities, utilities providing regional service, or water supplies if exposed to a significant risk that will curtail its lifeline function for a critical period of time.

(3) Uses with similar characteristics as determined by the Code Administrator.

Pipeline Corridor means the pipeline pathway 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.