

**An Ordinance Adopting a New Skagit County Code Section 14.16.835
Requiring Consultation with Pipeline Operators for Development
within Pipeline Consultation Areas**

Whereas Skagit County received a federal grant from the Pipeline & Hazardous Material Safety Administration for development of a proposal to amend Skagit County Code to address safety issues related to development near hazardous liquid and natural gas transmission pipelines;

Whereas Whatcom County has adopted a pipeline ordinance with significant setbacks and other requirements;

Whereas, on May 17, 2011, the Planning & Development Services Department issued a Determination of Non-Significance pursuant to the State Environmental Policy Act for the proposed code amendments;

Whereas, on May 19, 2011, the Department released a staff report and proposed code amendments that included significant setbacks from transmission pipelines for development and land divisions, and opened a public comment on the proposal until June 6, 2011;

Whereas, on June 7, 2011, the Planning Commission held a public hearing on the proposed code amendments and extended the public comment period to June 24;

Whereas, on July 19, 2011, the Planning Commission deliberated and adopted a recommendation to the Board of County Commissioners to not adopt the proposed code amendments;

Whereas the Board of County Commissioners provided additional opportunities for public comment on the general topic of pipelines safety at an evening public hearing on September 12, 2011, and through a written comment period that continued through September 19, 2011;

Whereas, on October 4, 2011, the Board of County Commissioners directed staff to draft a new, simplified proposal using plain language that included only consultation zones, protection of pipeline easements during construction, and title notice, and did not include any setbacks, dimensional standards, or mitigation requirements;

Whereas, on October 24, 2011, the Board of County Commissioners held an evening public hearing on to take comments on the October 7 draft;

Whereas, on November 8, 2011, the Board of County Commissioners met in regular session to the review public comments and make changes to the pipeline code proposal and set another written comment period from November 10 through November 28, 2011;

Whereas the County solicited additional comments on the proposal from the transmission pipeline operators in Skagit County and the Pipeline Safety Trust;

Whereas, on December 6, 2011, the Board of County Commissioners met in regular session to deliberate on the proposal and approve the following findings of fact, reasons for action, and changes to Skagit County Code;

Now Therefore Be It Ordained:

Section 1. The Board of County Commissioners adopts the following Findings of Fact and Reasons for Action:

- (a) Pipelines for the transmission of hazardous liquids and natural gas are a largely safe method of handling those materials and fuels.
- (b) Precautions are warranted when development occurs in the vicinity of transmission pipelines due to the possibility of damaging the pipeline, the uncertainty surrounding the exact location of a buried pipeline, and the possibility that activities that do not directly contact the pipeline may still damage it.
- (c) The Pipelines and Informed Planning Alliance November 2010 Final Report, sponsored by the Pipeline and Hazardous Materials Safety Administration's Office of Pipeline Safety, part of the U.S. Department of Transportation recommends local governments require early consultation between property developers and pipeline operators, before a project is approved, to "avoid situations where transmission pipeline operators learn of proposed land use and development projects only after the design is complete or construction begins. In those situations, it is often difficult or impossible to make cost-effective changes that may be needed to enhance public safety and ensure operator access to the pipeline facilities."
- (d) Some pipeline operators request that property owners inform them of any construction or development activity, or activity that disturbs the ground surface in anyway, within 100 feet of either side of the pipeline, and at that distance it is appropriate for the County to ensure that consultation with the operator takes place before approving a land division or issuing a development permit.
- (e) The proposed regulations provide value in addition to that provided by the Call-Before-You-Dig laws (e.g. RCW 19.122).

Section 2. The Board of County Commissioners adopts amendments to Skagit County Code Title 14 as shown in Attachment 1.

Section 3. The Board of County Commissioners directs the Department of Emergency Management to provide public education materials about pipeline safety and plan for emergency response coordination for pipeline failures.

Witness Our Hands and the Official Seal of Our Office this 5th day of December, 2011.

**Board of County Commissioners
Skagit County, Washington**

Ron Wesen

Ron Wesen, Chair

Kenneth A. Dahlstedt

Kenneth A. Dahlstedt, Commissioner

Sharon D. Dillon

Sharon D. Dillon, Commissioner



ATTEST:

Linda Hammons

Linda Hammons, Clerk
Skagit County Board of Commissioners

APPROVED AS TO FORM:

Ryan Walters

Ryan Walters, Civil Deputy
Skagit County Prosecutor's Office

Attachment A

New Section 14.16.835 Pipeline Safety

- (1) Pipeline Consultation Area. The Pipeline Consultation Area is the area within 100 feet of any hazardous liquid or natural gas transmission pipeline as depicted on the Skagit County Pipeline Consultation Area map on file in the Department and available on the official County website.
- (2) Permit Requirements. The Department must not issue any permit for a land division or development permit for a project area wholly or partially within the Pipeline Consultation Area unless it meets the following requirements.
 - (a) Consultation. Within three business days after determining the application complete, the Department must send a request for consultation to the operator of any pipeline within the Pipeline Consultation Area. The request for consultation must include a project description, site plan, contact information for the applicant, and any required SEPA checklist. The Department must provide the applicant with a copy of the request for consultation and any response from the pipeline operator. The Department may only wait up to 15 days for a response from the pipeline operator before proceeding with processing the application. Consultation provides no additional authority to the Department to require changes to the application.
 - (b) SEPA. Any required SEPA environmental checklists must include reference to pipeline(s) within the Pipeline Consultation Area and provide information concerning any impact the project will have on the pipeline(s).
 - (c) Title Notice. The applicant must record a title notice with the County Auditor that contains the following language: “The above-referenced property is located wholly or partially within the Skagit County Pipeline Consultation Area, defined by Skagit County Code as the area within 100 feet of any hazardous liquid or natural gas transmission pipelines.” Forms for this title notice are available from the Department.
 - (d) Boundary Markers. To provide visual awareness of the easement boundary to a property owner and contractor during construction activities near the pipeline, easements must be identified and protected prior to and during construction, by placement of temporary visual markers and on-site notices marking the boundary line of the easement area. Markers and on-site notices are subject to review by the Department prior to and during construction. Temporary screening, ground marking, or other similar methods satisfy the visual boundary marker requirement.
- (3) Compliance with this section does not relieve an applicant of the obligation to comply with state Call-Before-You-Dig laws (e.g. RCW 19.122).