

**ORDINANCE NO. 1466-04**

**AN INTERIM ORDINANCE ESTABLISHING A MANDATORY MINIMUM SETBACK FOR BUILDINGS AND STRUCTURES FROM HAZARDOUS PIPELINES, RECORDING OF NOTICE OF THE CORRIDOR ON PLATS, AND THE PLACEMENT OF PERMANENT MARKERS INDICATING THE SET-BACK LINE FOLLOWING CONSTRUCTION, DECLARING AN EMERGENCY AND SETTING A PUBLIC HEARING.**

Whereas, the City Council finds that locating new high consequence land uses near a hazardous pipeline corridor represents an unusually high risk to life and property. Proposed expansions of land uses located near pipeline corridors should at a minimum be designed to avoid increasing the level of risk.

Whereas, the City Council finds that the location of developments near a hazardous pipeline corridor should trigger the identification of the corridor and related setbacks on the plat documents and on the ground, for the benefit of the new owners, and

Whereas, the City Council finds that the enactment of these simple requirements will benefit the public health, safety and welfare, until it can more comprehensively identify measures to protect the public, life and property, and

Whereas, the City Council finds that this condition constitutes an emergency, requiring the enactment of these requirements prior to a public hearing, but that a public hearing should be set within sixty days, now therefore,

THE CITY COUNCIL OF THE CITY OF SEDRO-WOOLLEY, WASHINGTON, DO HEREBY ORDAIN AS FOLLOWS:

**Section 1. Purpose.**

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

- (1) Minimize the likelihood of accidental damage to hazardous 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 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.

## **Section 2. Development Application Submittal Requirements.**

- (1) Applicants shall show the hazardous pipeline corridors and applicable setbacks on site plans and subdivision plats when proposed development is located within 150 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) The City shall require evidence that applicants and designees for private and public development have notified utilities through the one-call locator service before issuing development permits for land disturbance or other significant work on sites contiguous to the pipeline corridor.
- (3) All other applicable development application submittal requirements apply.

## **Section 3. Setback Requirements.**

- (1) Hazardous Pipeline Corridor. No significant land disturbance or construction or expansion of structures are allowed within the hazardous pipeline corridor.
- (2) Areas Along the Hazardous Pipeline Corridor:
  - (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 the hazardous pipeline corridor.
  - (B) The Building Official may measure the setback from a hazardous pipeline when measurement from the corridor is not appropriate due to site-specific conditions, such as an open easement.
  - (C) The Building Official 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 Building Official 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 Building Official reduces the setback or measures it from a hazardous pipeline, the following applies:

- (i) The setback shall be a minimum of 30 feet from the nearest hazardous pipeline and shall comply with subsection 1.
- (ii) The setback shall be measured from the nearest edge of the hazardous pipeline.
- (iii) Applicants shall show the location of the hazardous pipeline and setback on site plans and subdivision plats.

(3) Exemptions. Streets, utilities, trails and similar uses shall be exempt from this ordinance.

(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 Building Official. Upon recording of the plat, subdivision, PD, PRD, or BSP, or upon completion of construction, the Applicant shall set permanent monuments on the lot line boundaries marking the intersection of the setback line with the lot line boundaries.

(5) Reasonable Use Provision.

(A) The required setback from the hazardous pipeline corridor shall not deny all reasonable economic use of property. If an applicant demonstrates to the satisfaction of the Planning Commission 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.

#### **Section 4. Definitions**

**A. Hazardous Pipeline.** “Hazardous pipeline” means all parts of a pipeline consisting of lines 12 inches in diameter or greater, through which a hazardous liquid or gas (including propane, natural gas, or petroleum product) moves in transportation, including, but not limited to, line pipe, valves, and other appurtenances connected to line pipe, pumping units, fabricated assemblies associated with pumping units, metering and delivery stations and fabricated assemblies therein, and breakout tanks. Pipeline or pipeline system does not include process or transfer pipelines.

**B. Hazardous Pipeline Corridor.** “Hazardous Pipeline Corridor” means the pipeline pathway in which the pipelines and facilities of a hazardous pipeline operator are located, including public rights-of-way and easements over and through public or private property. The Williams

**C. Structure.** “Structure” includes any fence, building, shed, garage, carport, pole, mobile home, cement pad, and any construction which requires excavation greater than 12 inches in depth. “Structure” does not include streets, utilities, trails and similar uses.

#### **Section 5. Duration of Ordinance.**

This ordinance shall be in effect for a period of six months, and shall apply to land use applications filed with fees paid beginning on the date of the adoption of this ordinance until its expiration, unless extended by the City Council. During the period of application, Sedro-Woolley Municipal Code Titles 15, 16 and 17, shall be amended to the extent inconsistent with this ordinance. After the expiration of this ordinance, Sedro-Woolley Municipal Code Titles 15, 16 and 17 as previously enacted shall again govern subsequent applications, unless amended by the City Council. This ordinance shall not be codified.

**Section 6. Public Hearing on Ordinance.** Pursuant to RCW 36.70A.390, the City Council shall hold a public hearing on this ordinance within 60 days of its adoption, and enter findings of fact supporting this interim regulation, or repeal it, following said hearing.

**Section 7. Severability.** If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

**Section 8. Declaration of Emergency.** The City Council hereby declares that an emergency exists necessitating that this ordinance takes effect immediately upon passage.

**Section 9. Effective Date.** This ordinance shall be effective upon passage and approval by the Mayor.

Passed and approved this \_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY