



Whatcom County

COUNTY COURTHOUSE
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Agenda Bill Master Report

File Number: AB2021-424

File ID:	AB2021-424	Version:	1	Status:	Adopted
File Created:	07/15/2021	Entered by:	CStrong@co.whatcom.wa.us		
Department:	Planning and Development Services Department	File Type:	Ordinance Requiring a Public Hearing		
Assigned to:	Council	Final Action:	06/21/2022		
Agenda Date:	06/21/2022	Enactment #:	ORD 2022-048		

Primary Contact Email: cstrong@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Ordinance adopting amendments to the Whatcom County Code Title 20, Zoning to allow and regulate Battery Energy Storage Systems

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Proposed amendments to WCC Title 20 (Zoning) amendments to the Whatcom County Code Title 20 (Zoning) to allow and regulate Battery Energy Storage Systems in Whatcom County

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
07/27/2021	Council	INTRODUCED FOR PUBLIC HEARING Aye: 7 Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner Nay: 0 Absent: 0	Council
08/10/2021	Council	HEARD PUBLIC TESTIMONY AND REFERRED TO COMMITTEE Aye: 5 Buchanan, Byrd, Donovan, Frazey, and Kershner Nay: 2 Browne, and Elenbaas Absent: 0	Council Planning and Development Committee

Agenda Bill Master Report Continued (AB2021-424)

09/28/2021	Council Planning and Development Committee	HELD IN COMMITTEE	Council Planning and Development Committee
09/28/2021	Council	HELD IN COMMITTEE	Council Planning and Development Committee
		Aye: 7	Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner
		Nay: 0	
		Absent: 0	
06/07/2022	Council	INTRODUCED FOR PUBLIC HEARING	Council
		Aye: 6	Buchanan, Byrd, Donovan, Frazey, Galloway, and Kershner
		Nay: 1	Elenbaas
		Absent: 0	
06/21/2022	Council	ADOPTED	
		Aye: 7	Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner
		Nay: 0	
		Absent: 0	

Attachments: Staff Memo, Staff Report, Draft Ordinance, Exhibit A, Application

ORDINANCE NO. 2022-048

ADOPTING AMENDMENTS TO WHATCOM COUNTY CODE TITLE 20 ZONING TO ALLOW AND REGULATE BATTERY ENERGY STORAGE SYSTEMS

WHEREAS, NextEra Resources Development, LLC, has submitted an application for amendments to WCC Title 20 Zoning to allow Battery Energy Storage Systems (BESS).

WHEREAS, as BESS is a new technology not anticipated when our code was written, BESS are not a specified use in Title 20 and thus prohibited and a code amendment is necessary to allow such use; and,

WHEREAS, The Whatcom County Council reviewed and considered Planning Commission recommendations, staff recommendations, and public comments on the proposed amendments; and,

WHEREAS, The County Council hereby adopts the following findings of fact:

FINDINGS OF FACT

1. NextEra Resources Development, LLC, has submitted an application for amendments to WCC Title 20 Zoning to allow Battery Energy Storage Systems as a conditional use in the Rural district.
2. After consideration of the application, and in order to accommodate future anticipated BESS facilities, PDS, has expanded on NextEra's request and proposes to allow BESS in several zoning districts, along with adding some standards so as to minimize impacts on surrounding residences and other adjacent uses, to which the applicant agrees.
3. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on May 27, 2021.
4. Notice of the subject amendment was submitted to the Washington State Department of Commerce on June 02, 2021, for their 60-day review.
5. The Planning Commission held a public hearing on the proposed amendments on July 8, 2021, notice of which was published in the Bellingham Herald on June 25, 2021.
6. The County Council held a duly noticed public hearing on the proposed amendments on August 10, 2021 and June 21, 2022.
7. The amendments are consistent with Comprehensive Plan Policy 5B-1, which supports the facilitation of the use of new technologies by allowing flexibility in regulations and policies affecting utility facilities when it can be shown that a net benefit to the public is likely to result.
8. The amendments are consistent with Comprehensive Plan Policy 5B-2, which supports development and use of new technologies
9. The amendments are consistent with Comprehensive Plan Policy 5F-1, which supports periodically reviewing existing regulations to identify and eliminate unintended or unreasonable constraints on the provision of necessary utilities as defined in this section.

10. The amendments are consistent with Comprehensive Plan Policy 7C-3, which supports working with service providers for a dependable electric power supply, alternative energy sources, communications, and evolving technology to support existing and future business development.

CONCLUSIONS

1. The amendments to the zoning code are the public interest.
2. The amendments are consistent with the Whatcom County Comprehensive Plan.

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

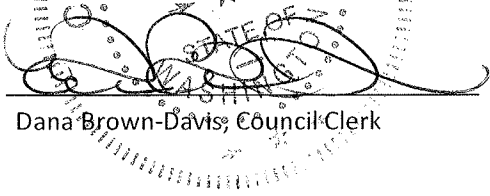
Section 1. Amendments to the Whatcom County Code are hereby adopted as shown in Exhibit A.

Section 2. Staff is authorized to work with Code Publishing to correct and update any cross-references made ineffective by these amendments.

ADOPTED this 21st day of June, 2022.

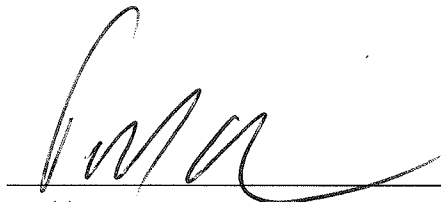
WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

ATTEST:



The seal of the Whatcom County Council, State of Washington, is circular. It features a central five-pointed star surrounded by a wreath. The words "WHATCOM COUNTY" are written in a circle around the star, and "STATE OF WASHINGTON" is written in a larger circle below it. The word "ATTEST:" is printed at the bottom of the seal.

Dana Brown-Davis, Council Clerk



A handwritten signature in black ink, appearing to read "T. Donovan", written over a horizontal line.

Todd Donovan, Council Chair

APPROVED as to form:

Approved () Denied

/s/ Royce Buckingham (approved via e-mail 6.22.22) / JL
Civil Deputy Prosecutor



A handwritten signature in black ink, appearing to read "Satpal Sidhu", written over a horizontal line.

Satpal Sidhu, Executive

Date: June 20, 2022

EXHIBIT A

Proposed Battery Energy Storage Systems (BESS) Amendments to the Whatcom County Code

WCC Title 20 Zoning

Chapter 20.32 RESIDENTIAL RURAL (RR) DISTRICT

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20.32.130 Administrative approval uses.

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.136 Battery energy storage systems with up to 5 MW of storage capacity, provided:

- (1) Any structures shall be no closer than 25 feet from any property line.
- (2) The proposed use shall be compatible with the general appearance and character of the surrounding area. Landscape screening shall be required pursuant to the requirements of WCC 20.80.345.
- (3) Any lights used to illuminate the facility shall be so arranged as to direct the light away from the adjoining properties and the public roads.
- (4) The facility shall comply with state noise level standards under Chapter 173-60 WAC, as amended. The applicant shall provide information detailing the expected noise level and any proposed abatement measures. This may require noise attenuation devices or other mitigation measures to minimize impacts.

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Chapter 20.34 RESIDENTIAL RURAL-ISLAND (RRI) DISTRICT

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20.34.130 Administrative approval uses.

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.135 Battery energy storage systems with up to 5 MW of storage capacity, provided:

- (1) Any structures shall be no closer than 25 feet from any property line.
- (2) The proposed use shall be compatible with the general appearance and character of the surrounding area. Landscape screening shall be required pursuant to the requirements of WCC 20.80.345.
- (3) Any lights used to illuminate the facility shall be so arranged as to direct the light away from the adjoining properties and public roads.

- (4) The facility shall comply with state noise level standards under Chapter 173-60 WAC, as amended. The applicant shall provide information detailing the expected noise level and any proposed abatement measures. This may require noise attenuation devices or other mitigation measures to minimize impacts.

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**Chapter 20.36
RURAL (R) DISTRICT**

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20.36.130 Administrative approval uses.

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.139 Battery energy storage systems with up to 5 MW of storage capacity, provided:

- (1) Any structures shall be no closer than 25 feet from any property line.
- (2) The proposed use shall be compatible with the general appearance and character of the surrounding area. Landscape screening shall be required pursuant to the requirements of WCC 20.80.345.
- (3) Any lights used to illuminate the facility shall be so arranged as to direct the light away from the adjoining properties and public roads.
- (4) The facility shall comply with state noise level standards under Chapter 173-60 WAC, as amended. The applicant shall provide information detailing the expected noise level and any proposed abatement measures. This may require noise attenuation devices or other mitigation measures to minimize impacts.

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20.36.150 Conditional Uses.

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.198 Battery energy storage systems with more than 5 MW of storage capacity, provided:

- (1) The facility is located within one mile of an existing electrical substation.
- (2) Any structures shall be no closer than 25 feet from any property line.
- (3) The proposed use shall be compatible with the general appearance and character of the surrounding area. Landscape screening shall be required pursuant to the requirements of WCC 20.80.345.
- (4) Any lights used to illuminate the facility shall be so arranged as to direct the light away from the adjoining properties and the public roads.
- (5) The facility shall comply with state noise level standards under Chapter 173-60 WAC, as amended. The applicant shall provide information detailing the expected noise level and any proposed abatement measures. This may require noise attenuation devices or other mitigation measures to minimize impacts.

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20.36.450 Lot coverage (Adopted by reference in WCCP Chapter 2.)

Except as follows, ~~no~~ No structure or combination of structures shall occupy or cover more than 5,000 square feet or 20% of the total lot area, whichever is greater, ~~of the total lot area~~, not to exceed 25,000 square feet, except as follows:-

1. Public community facilities that serve a predominantly rural area shall occupy or cover no more than 35% of a lot, with no limitation on structure (or combination of structures) size.
2. Battery energy storage systems with more than 5 MW of storage capacity approved pursuant to WCC 20.36.198 shall occupy or cover no more than 20% of the total lot area, with no limitation on structure (or combination of structures) size.
- ~~3.~~ Buildings used for livestock or agricultural products shall be exempt from this lot coverage requirement.

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**Chapter 20.66
LIGHT IMPACT INDUSTRIAL (LII) DISTRICT**

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20.66.050 Permitted uses.

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.095 Battery energy storage systems of any storage capacity.

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**Chapter 20.68
HEAVY IMPACT INDUSTRIAL (HII) DISTRICT**

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20.68.050 Permitted uses.

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.109 Battery energy storage systems of any storage capacity.

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**Chapter 20.82
PUBLIC UTILITIES**

20.82.040 Other applicable regulations

- (1) Solid waste facilities and large scale electrical generating plants are not conditional uses under the name "public utilities" but are restricted to where they have been named as uses.
- (2) The provisions of this chapter shall not apply to wireless communications services and facilities which are regulated under Chapter 20.13 WCC.
- (3) The provisions of this chapter shall not apply to Battery Energy Storage Systems (BESS), which are regulated under the applicable zoning district.

Chapter 20.97
DEFINITIONS

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20.97.026 Battery Energy Storage System (BESS).

“Battery energy storage system” (BESS) means an energy storage system that can store and deploy generated energy, typically a group of batteries that charge (i.e., collect energy) and store electrical energy from the grid or energy generation facility and then discharge that energy at a later time to provide electricity or other grid services when needed. BESS generally consist of batteries, battery storage containers, on-site switchyard, inverters, associated interconnection transmission line, and supervisory control and data acquisition system.