PROPOSED BY: GALLOWAY & DONOVAN
INTRODUCTION DATE:_____

ORDINANCE NO._____

ORDINANCE AMENDING WHATCOM COUNTY CODE 20.82, PUBLIC UTILITIES, TO INCREASE ALLOWABLE POWER LINE VOLTAGE TO 230 KILOVOLTS IN ZONES CURRENTLY LIMITED TO 115 KILOVOLTS

WHEREAS, in 1990, Initiative 4-90 was approved by Whatcom County voters, prompting the Whatcom County Council to pass Ordinance 1990-124 restricting new high voltage power transmission lines over 115,000 volts or 115 kilovolts (kV) to industrial zones; and

WHEREAS, Ordinance 1990-124 was invalid, as any ordinance proposed by initiative which would repeal a portion of county zoning ordinance is outside the scope of initiative power as decided in *Save Our State Park v. Board of Clallam County Commissioners*, 74 Wash. App. 637, 875 P.2d 673 (1994); and

WHEREAS, the language of this section of code has changed multiple times since 1990, with major changes occurring via Ordinance 2000-002 and Ordinance 2004-041; and

WHEREAS, power lines are critical infrastructure for transporting energy from where it is produced to where it is consumed; and

WHEREAS, voltage is a power line's potential to move electricity across distances, with a higher voltage corresponding to the potential to move more electricity at faster speeds and with greater efficiency; and

WHEREAS, allowing higher voltage power lines is needed to modernize our electric grid and meet Whatcom County's growing electricity demands; and

WHEREAS, increasing the potential for electricity transport allows Whatcom County to take advantage of state and federal investments in energy infrastructure, increase safety and grid reliability, build infrastructure needed to support a clean energy transition, and promote climate resiliency; and

WHEREAS, in 2019, the Washington State legislature passed Engrossed Second Substitute Senate Bill 5116, known as the Clean Energy Transformation Act (CETA), requiring all retail energy sales of electricity to be greenhouse gas neutral by 2030; and

WHEREAS, Whatcom County's energy provider, Puget Sound Energy (PSE), must acquire more than 6,700 megawatts of CETA-compliant resources by 2030 to comply with state law according to PSE's 2023 Electric Progress Report; and

WHEREAS, Whatcom County is the only county in PSE's service area which prohibits 230 kV transmission lines; and

WHEREAS, continuing to limit power line voltage to 115 kV may prevent PSE from making new renewable energy investments and supporting long-term growth in Whatcom County, as current transmission lines may not have high enough voltage to accommodate increased energy transport; and

WHEREAS, amending the code to allow for higher voltage power lines will incentivize new industrial economic opportunities within Whatcom County and ensure adequate infrastructure is planned for and can be sited appropriately; and

WHEREAS, amending the code to allow for higher voltage power lines can open opportunities to provide needed infrastructure in areas where heavy industry may expand; and

WHEREAS, existing power line infrastructure can be upgraded from 115 kV to 230 kV without having to build new transmission infrastructure, reducing costs for PSE and ratepayers, construction disturbances, and devaluation of property; and

WHEREAS, WCC 20.82.030(9)(a-c) is in conflict with goals contained in the Whatcom County Comprehensive Plan, including:

- Goal 5F: Identify and remove impediments to effective siting of necessary utility facilities
- Goal 5H: Support cost-effective renewable energy projects and implement policies that promote renewable energy projects
- Goal 5L: Support direct and indirect economic benefits to Whatcom County originating with energy or utilities in general; and

WHEREAS, amending WCC 20.82.030(9)(a-c) will further support the goals, strategies, and actions outlined in the Whatcom County Climate Action Plan; and

WHEREAS, the World Health Organization found that "based on a recent in-depth review of the scientific literature, the WHO concluded that current evidence does not confirm the existence of any health consequences from exposure to low level electromagnetic fields;" and

WHEREAS, Goal 5K of the Whatcom County Comprehensive Plan reads: Be responsive to new information on electric and magnetic field (EMF) research progress; and

WHEREAS, the Whatcom County Council believes amending WCC 20.82 is in the best interest of Whatcom County residents.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the Whatcom County Code 20.82 is hereby amended as described in Exhibit A, attached.

ADOPTED this _____ day of _____, 2024.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

_____
Cathy Halka, Clerk of the Council

_____
Barry Buchanan, Council Chair

APPROVED AS TO FORM:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON
( ) Approved ( ) Denied

_____
George Roche, Civil Deputy Prosecutor

_____
Satpal Sidhu, County Executive

Date Signed: _____

EXHIBIT A

This exhibit includes only sections of Chapter 20.82, Public Utilities, that are being edited.

20.82.010 Intent.

The provisions of this chapter regulate the installation, maintenance and operation of public utility lines, sanitary sewer, pipelines for oil and gas, railroads (but not included switching yards or round houses), or maintenance facilities. ~~The citizen initiative, enacted through Ordinance 90-124, regarding power line placement, Comprehensive Plan land use designations, Comprehensive Plan policy directives and the specific provisions of this chapter, shall be the basis for decisions regarding utility development.~~ This chapter applies to all zoning districts unless stated otherwise. The uses listed in this chapter are subject to the development standards of the underlying zoning district unless stated otherwise in this chapter. (Ord. 2016-011 § 1 (Exh. K), 2016; Ord. 2012-032 § 2 Exh. B, 2012; Ord. 2011-013 § 2 Exh. B, 2011; Ord. 2004-041 § 1, 2004; Ord. 2004-014 § 2, 2004; Ord. 96-056 Att. A § T1, 1996; Ord. 87-12, 1987; Ord. 87-11, 1987).

…

20.82.030 Conditional uses.

The following uses shall require a conditional use permit ~~or major project permit~~ and shall be subject to a threshold determination in accordance with Chapter 16.08 WCC:

(1) Transmission pipelines, or pipelines termed a distribution pipeline but having characteristics that fit the definition of a transmission pipeline, carrying petroleum and petroleum products other than natural gas when such pipelines will be located outside the zoning district classified as Heavy Impact Industrial.

(2) Regional transmission pipelines for the bulk conveyance of natural gas, or pipelines termed a distribution pipeline but having characteristics that fit the definition of a transmission pipeline. Except for the above conditions, natural gas pipelines which are owned and operated by a gas utility company regulated by the State Utilities and Transportation Commission and which are distribution lines owned by the utility that provide natural gas service directly to county citizens and businesses shall not be considered regional transmission lines.

(3) New water lines with a nominal pipe size greater than eight inches except for the following, which are permitted outright:

(a) New water lines located and installed by a public utility or municipality within urban growth areas or limited areas of more intensive rural development (LAMIRDs); or

(b) New water lines outside urban growth areas or limited areas of more intensive rural development (LAMIRDs) in conformance with a state approved water comprehensive plan pursuant to RCW 43.20.260 and consistent with the Whatcom County Comprehensive Plan, so long as they are water transmission lines (as defined in Chapter 20.97 WCC), or provide service at an intensity historically and typically found in rural areas, per RCW 36.70A.030(17), including but not limited to agricultural uses. Water service for uses or densities not permitted in rural or resource areas shall not be extended or expanded outside urban growth areas or limited areas of more intensive rural development (LAMIRDs), except where necessary to protect basic public health and safety and the environment and when such services are financially supportable at rural densities and do not permit urban development, per RCW 36.70A.110(4).

(4) New sewer lines with an inside diameter of six inches or greater and length of 150 feet or greater, except for new sewer lines located and installed within urban growth areas or limited areas of more intensive rural development (LAMIRDs), and in conformance with a state approved sewer and/or water comprehensive plan and consistent with the Whatcom County Comprehensive Plan, which shall be permitted outright. Sewer lines shall not be extended to serve lots outside urban growth areas unless such extensions are shown to be necessary to protect basic public health and safety and the environment, and when such services are financially supportable at rural densities and do not permit urban development. Sewer lines may pass through areas outside urban growth areas provided they do not provide sewer service to any lot in the nonurban areas.

(5) Electronic communications structures and telecommunication towers including associated maintenance and operations structures, provided this section shall not apply to personal wireless service facilities and associated structures regulated under Chapter 20.13 WCC nor to structures or towers in the public right-of-way.

(6) Water storage reservoirs with volumes exceeding 50,000 gallons, those with height in excess of 12 feet above the ground level measured within 20 feet in all directions of the tank. The following height standards shall apply:

(a) The height limit on the water storage reservoir shall be the minimum necessary to accomplish its intended purpose. The applicant shall provide technical documentation that the height proposed is the minimum necessary.

(b) The height of the water storage reservoir may exceed the height limit of the underlying zone; provided, that all other criteria in WCC 22.05.026 are satisfied.

(7) Utility structures located above ground such as pump stations, equipment buildings and similar structures greater than 200 square feet in area.

(8) Sewer and water treatment plants, except that sewer treatment plants are prohibited in the Airports Operations Zone.

(9) Electrical substations and new electrical power lines operating at voltages greater than 55 kV (55,000 volts); provided, applications for such substations and power lines shall be processed as a ~~major development~~conditional use permit (pursuant to Chapter 20.88 WCC); provided, that no further ~~major development~~ permit shall be granted for such lines which~~:~~

~~(a) O~~operate at greater than ~~115~~ 230 kV (~~115~~230,000 volts) except on land where such permits have already been granted or in those districts classified as industrial.~~; or~~

~~(b) Operate at 115 kV (115,000 volts) and carry greater than 160 mw (160 megawatts) average loading, except on land where such permits have already been granted or in those districts classified as industrial. For purposes of this section, "average loading" means the average power in megawatts carried by a power line over any 12-month period; provided, that loading at full line carrying capacity may not extend beyond any 90-day period;~~

~~(c) Are dedicated to provision of transmission service to (from) an electrical generating plant having a generating capacity greater than 160 mw (160 megawatts), except on lands where such permits have already been granted or in those districts classified as industrial.~~

(10) Electrical substations and new electrical power lines with height in excess of the zoning district's height limitations. The following height standards shall apply:

(a) The height limit on the substation or power line shall be the minimum necessary to accomplish its intended purpose. The applicant shall provide technical documentation that the height proposed is the minimum necessary.

(b) The height of the substation or power line may exceed the height limit of the underlying zone; provided, that all other criteria in WCC 22.05.026 are satisfied. (Ord. 2023-042 § 1 (Exh. A), 2023; Ord. 2022-069 § 2 (Exh. B), 2022; Ord. 2016-035 § 1 (Exh. A), 2016; Ord. 2016-011 § 1 (Exh. C), 2016; Ord. 2013-028 § 2 Exh. B, 2013; Ord. 2012-032 § 2 Exh. B, 2012; Ord. 2011-013 § 2 Exh. B, 2011; Ord. 2004-041 § 1, 2004; Ord. 2004-014 § 2, 2004; Ord. 2002-017 § 1, 2002; Ord. 2000-006 § 7, 2000; Ord. 99-067, 1999; Ord. 96-056 Att. A § T1, 1996; Ord. 90-124, 1990; Ord. 88-29, 1988; Ord. 87-12, 1987; Ord. 87-11, 1987).