

ORDINANCE NO. 2001-03-013

AN INTERIM ORDINANCE RELATING TO LAND USE CONTROLS, ESTABLISHING A MORATORIUM ON PERMITTING FOR PERMANENT, THERMAL-ENERGY GENERATION SYSTEMS, PROVIDING FOR SITING THOSE SYSTEMS EXCLUSIVELY THROUGH THE PLANNED DEVELOPMENT PROCESS, AND DECLARING AN EMERGENCY.

WHEREAS, the current energy shortage in the western states has resulted in increasing costs of electric power for industrial energy users in the City of Bellingham causing those energy users to consider installation and operation of several permanent, thermal-energy generation systems in the near future; and,

WHEREAS, industrial energy users in the City of Bellingham are uniquely burdened by the threat of rolling blackouts or other interruptions in energy supply; and,

WHEREAS, shortages in energy supplies forecast for the Pacific Northwest have caused industrial energy users in the City of Bellingham to take measures to secure reliable sources of energy at reasonable cost without undue delay; and,

WHEREAS, the City of Bellingham has adopted goals and policies to safeguard the quality of the air, control the level of noise, and protect other environmental conditions to which residents of the City may be exposed; and,

WHEREAS, impacts from installation and operation of several large, permanent, thermal-energy generation systems at various locations within the City of Bellingham pose substantial and immediate risk to the health and welfare of the residents of the City; and,

WHEREAS, impacts from the installation and operation of several, large, permanent, thermal-energy generation systems at various locations within the City of Bellingham may be limited by determining appropriate siting, including advantages to grouping or consolidating thermal-energy generation systems; and,

WHEREAS, processing and evaluating applications for installation and operation of several, permanent, thermal-energy generation systems will substantially burden the administrative and financial resources of the City of Bellingham; and,

WHEREAS, it is the purpose and intent of the City's planned development ordinances to provide for flexible development to minimize detrimental effects of industrial development by promoting efficient use of land and more economic arrangement of buildings and utilities, addressing site specific opportunities and concerns, lessening development impacts to adjacent areas through site design and necessary mitigating measures, and by accommodating certain industrial uses in areas where special consideration and sensitivity must be taken for physical site conditions and their relationship to less intense surrounding uses,

NOW, THEREFORE THE CITY OF BELLINGHAM DOES ORDAIN:

City of Bellingham

CITY ATTORNEY

210 Lottie Street

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Section 1.

A moratorium is established for permitting of permanent, thermal-energy generating systems in areas zoned for light, heavy, planned, and marine industrial development pursuant to BMC 20.36.010 *et seq.*, except as follows:

- 1) for energy plants within the jurisdiction of the Energy Facility Site Evaluation Council as provided by RCW 80.50.010 *et seq.*; and,
- 2) with respect to subareas 2, 21, 23, 25, and 26 of the Mt. Baker Neighborhood Plan; and,
- 3) for gas-fired, thermal-energy generating systems that produce 5.0 megawatts of energy or less, so long as provisions are made to minimize noise impacts to adjacent to areas zoned or developed for residential uses; and,
- 4) for a gas-fired, thermal-energy generating system that provides energy for a specific, adjacent industrial use, as long as installation and operation of that system supplants an on-site point source and results in a substantial reduction of existing environmental impacts.

Section 2.

Installation and operation of thermal-energy generating systems in areas zoned for light, heavy, planned, and marine industrial development pursuant to BMC 20.36.010 *et seq.*, are prohibited, except as follows:

- 1) for energy plants within the jurisdiction of the Energy Facility Site Evaluation Council as provided by RCW 80.50.010 *et seq.*; and,
- 2) with respect to subareas 21, 23, 25, and 26 of the Mt. Baker Neighborhood Plan; and,
- 3) for gas-fired, thermal-energy generating systems that produce 5.0 megawatts of energy or less, so long as provisions are made to minimize noise impacts to adjacent to areas zoned or developed for residential uses; and,
- 4) for a gas-fired, thermal-energy generating system that provides energy for a specific, adjacent industrial use, as long as installation and operation of that system supplants an on-site point source and results in a substantial reduction of existing environmental impacts.

Section 3.

Consistent with the planned development process, BMC 20.38.010 *et seq.*, evaluation of applications for siting permanent, thermal-energy generating systems in areas zoned for industrial development shall include determination and consideration of the appropriate factors and conditions for siting such systems, including the advantages to grouping or consolidating such systems at a single location, in order to limit the impacts attributable to installation or operation of such systems within the City. Considerations for evaluating applications for siting permanent, thermal-energy generating systems in areas zoned for industrial development shall include, but are not limited to:

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- 1) minimizing impacts to the Bellingham waterfront; and,
- 2) minimizing impacts to hospitals and health care facilities; and,
- 3) minimizing impacts to urban residential concentrations; and,
- 4) preference given to areas adjacent to or with reasonable access to existing corridors for energy transmission systems such as natural gas pipelines and electric power lines; and,
- 5) facilities are sized to meet local industrial energy needs.

Section 4.

Provision for public notice and hearings as required for moratoria and interim zoning ordinances pursuant to the Growth Management Act, RCW 36.70A.140, 390, and as required for the planned development process pursuant to BMC 20.38.010 *et seq.*, shall be made separately.

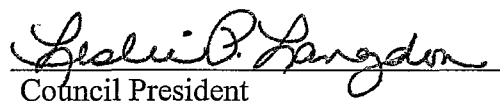
Section 5.

With regard to applications for siting permanent, thermal-energy generating systems only, as a condition to acceptance of any such application, an applicant must agree to reimburse of the City of Bellingham for the reasonable, actual costs of processing and evaluating the application, including but not limited to the cost of consultants and experts retained by the City.

Section 6.

An emergency exists in that imminent construction of several permanent, thermal-energy generating systems at various locations within the City of Bellingham poses an immediate and substantial risk to the health and welfare of the residents of the City. Installation and operation of such systems pose a significant threat to the quality of the air, freedom from noise pollution, and other environmental conditions and constitute an immediate and substantial hazard to the health and welfare of the residents of the City. An immediate moratorium on acceptance of applications for installation of permanent, thermal-energy generating systems is necessary to prevent vesting of applications under current land use laws and regulations of the City and to afford an opportunity to amend those laws and regulations as necessary to protect the health and welfare of the residents of the City. Identification of appropriate areas for location of permanent, thermal-energy generating systems shall proceed under the planned development process for all areas zoned for industrial uses in order to provide a means by which industrial energy users may secure reliable supplies of energy at reasonable cost without undue delay.

PASSED by the Council this 12TH day of MARCH, 2001.


Council President

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APPROVED by me this 21st day of March,

Mayor

ATTEST:

APPROVED AS TO FORM:

Office of the City Attorney

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