

Summary of Public Engagement on 2022-0258 Provided by Executive Staff

Public Engagement. A comment period on a Public Review Draft of the proposed ordinance (PO) was held from March 30 to April 22, 2022. Staff conducted outreach to interested parties in 2022 leading up to the comment period to support potential future public comment, including virtual presentations and discussion with:

- Four Creeks Unincorporated Area Council (UAC; 2/8)
- Greater Maple Valley UAC (2/7)
- North Highline UAC (2/2).
- West Hill Community Association (2/15)

Presentation responses:

- Four Creeks UAC: Members of the public acknowledged the presentation contents and asked questions about the topic, but did not raise concerns regarding the PO.
- Greater Maple Valley UAC: Members of the public acknowledged the presentation contents and asked questions, including email follow-up to clarify zoning code interpretations, but did not raise concerns regarding the PO.
- North Highline UAC: Members of the public raised concerns about the possibility of fossil fuel facilities being developed in nearby industrial zones; general discussion followed. However, no concerns were raised regarding the PO itself.
- West Hill Community Association: Members of the public acknowledged the presentation contents but did not ask questions or raise concerns regarding the PO.

Presentations were offered to, but were not accepted by:

- Fall City Community Association (FCAA; last email on topic 3/25/22)
- Vashon-Maury Island Community Council (last email on topic 11/30/21)

Responses:

- In their last communique on the invitation, the FCCA chair said, “it’s near unlikely that a new fossil fuel facility would ever be in fall city...”
- Vashon did not reply to the offer to provide a presentation and discussion on the proposed ordinance

In drafting the proposed legislation, email communications occurred with multiple entities, including:

- Center for Sustainable Economy re: fossil fuel financial assurance mechanisms
- Sightline re: oil train regulation in Washington
- WA Department of Ecology re:
 - Brownfield funding prioritization (state, federal); State Brownfields Redevelopment Trust Fund; average industrial brownfield cleanup costs;

liability of governmental entities for brownfields (*not liable if not a contaminant contributor*)

- Coal mine oversight and bonding status
- WA oil refineries and production levels; oil transport modes and volumes; oil legislation and rulemaking
- WA Department of Natural Resources re: coal mine oversight and cleanup costs
- Utilities Transportation Commission re: WA Energy Facility Site Evaluation Council

Public Comments. No comments were received during the official comment period for the ordinance Public Review Draft. However, outside of the official comment period, staff from the environmental nonprofits Sightline and the Center for Sustainable Economy (CSE) requested the County go further in some ordinance provisions and in the [report](#) developed concurrently in support of the ordinance. Both entities recommended the ordinance be changed to:

- Require applicants to provide proof of financial coverage against brownfield development; the original draft ordinance reviewed by these entities only required financial coverage against explosions and a brownfield decommissioning plan.
 - The proposed ordinance was changed to include this provision.
 - Originally, financial coverage for brownfields was considered less of a concern given the lower level of projected potential impact costs, and the exclusion of local government liability from brownfields, when not a contaminating party, in state and federal brownfield legislation (MTCA and CERCLA). However, CSE noted the previous language downplayed the risks of abandoned infrastructure, and that financial assurance could improve decommission planning.

Independently, Sightline provided the additional following recommendations pertaining to the ordinance:

- Do not allow self-insurance when defined as self-bonding.
 - The proposed ordinance was changed to include this provision.
 - Previous research had defined self-insurance as when a corporate entity sets aside funds against specific risks of damages, which has not drawn criticism as a financial assurance mechanism. Additional research following the Sightline comment identified that self-bonding is sometimes also referred to as self-insurance in some regulatory reviews. In such cases, self-bonding does not necessarily set aside funds but rather promises the value of assets (such as a fossil fuel production facility) as collateral for potential damages – which would not provide sufficient financial coverage if the asset value drops sharply due to market changes or facility damage (such as in an explosion). This form of “self-insurance” has come under scrutiny in the coal mine industry; as such, a specific provision disallowing self-bonding was added.

- Consider requiring additional financial assurance for oil production facilities.
 - The proposed ordinance was not changed to include this provision.
 - This comment cited concern with Washington State financial responsibility requirements, and a statement that Washington state Department of Ecology has not enforced state requirements to date. However, the [report](#) developed concurrently in support of this ordinance reviewed financial responsibility requirements at the federal level as well, and found the federal financial coverage requirements sufficient regardless of state coverage requirements.