BOARD OF YAKIMA COUNTY COMMISSIONERS

ORDINANCE NO. 1-2012

IN THE MATTER OF AMENDING THE YAKIMA COUNTY COMPREHENSIVE PLAN - PLAN 2015 AND YCC TITLE 15, THE ZONING ORDINANCE OF YAKIMA COUNTY RELATED TO LINEAR TRANSMISSION FACILITIES

WHEREAS, RCW 36.70A, the Growth Management Act (GMA) requires Yakima County to review and evaluate its comprehensive plan and development regulations and to take legislative action, if needed, to revise its plan and development regulations to ensure they comply with the requirements of, and time periods in, RCW 36.70A; and,

WHEREAS, Yakima County Planning Division has proposed a new chapter and definition changes to YCC Title 15 - Zoning Ordinance and two utility policy changes to the Yakima County Comprehensive Plan - Plan 2015 regarding Linear Transmission Facilities; and,

WHEREAS, Yakima County Planning Division submitted for Planning Commission consideration a proposed new chapter and definition changes to YCC Title 15 - Zoning Ordinance and two utility policy changes to Plan 2015 both regarding Linear Transmission Facilities.

WHEREAS, on June 1, July 13, August 10 and September 14, 2011 the Planning Commission conducted study sessions to consider the proposed Linear Transmission Facilities text amendments; and,

WHEREAS, the Department of Commerce was supplied with notice of the proposal more than sixty days prior to the public hearing as required by law; and,

WHEREAS, on September 20, 2011, a Notice of Public Hearing and Notice of Environmental Review were mailed to interested parties and agencies with environmental expertise on the proposed Linear Transmission Facilities text amendments; and,

WHEREAS, a legal notice was published in the Yakima Herald-Republic on September 30, 2011 informing the public of the opportunity to submit written comments on the proposed text amendments to Plan 2015 and YCC Title 15 up to the date of the scheduled Planning Commission public hearing, which also included an opportunity for verbal comments; and,

WHEREAS, the Planning Commission conducted a properly advertised public hearing on October 18, 2011 at the Yakima Convention Center to hear testimony on the proposed text amendments. The Planning Commission received and accepted two written comments. Minutes of the hearings were taken and are on file; and,
WHEREAS, Yakima County staff prepared a SEPA Threshold Determination of Non-Significance which analyzed the environmental impacts of all proposed text amendments and issued it on November 7, 2011; and,

WHEREAS, the Planning Commission held a deliberation meeting on the proposed Linear Transmission Facilities on November 9, 2011, and after careful review of each page and making revisions to the October 18, 2011 draft, concluded in its Findings and Recommendations that the proposed Linear Transmission Facilities text amendments will adequately address the future siting and development of linear transmission facilities in Yakima County; and; and

WHEREAS, On November 30, 2011 the Planning Commission submitted its Findings and Recommendations to the Board of Yakima County Commissioners for its consideration; and,

WHEREAS, the Board of Yakima County Commissioners held a properly advertised open record public hearing on February 21, 2012 at 10:30 a.m. in the Yakima City Hall Hearing Room, 129 N. 2nd Street Yakima, WA, for the purpose of taking testimony on the proposed Linear Transmission Facilities text amendments; and,

WHEREAS the Board received and has carefully considered written and oral public testimony and recommendations from staff on the proposed amendments; and,

WHEREAS, the Board is now satisfied that this legislative matter has been sufficiently considered, and that the process leading to the Linear Transmission Facilities text amendments has been open, and afforded opportunity to all who wanted to participate or offer testimony; and,

WHEREAS, the Board has, at a properly advertised agenda, deliberated on the proposed amendments, weighed the evidence presented, balanced the goals of the GMA and the desires of the citizens of Yakima County in a final set of text amendments to YCC Title 15 and the Comprehensive Plan; and,

WHEREAS, the Board further finds and concludes that adoption and implementation of the amendments to the YCC Title 15 and the Comprehensive Plan - Plan 2015 to be in the public interest and necessary to maintain compliance with State law; now, therefore,

BE IT HEREBY ORDEIGNED:

Section 1. Findings. The Board of Yakima County Commissioners enters the following findings:

A. The Board finds that all statutory and County prerequisites for the review and evaluation of YCC Title 15 and the Comprehensive Plan - Plan 2015, as well as the requirements for ensuring adequate public notification and opportunities for comment and participation in the amendment process, have been met.
B. The Board hereby adopts the Findings and Recommendations of the Yakima County Planning Commission, dated November 30, 2011 attached hereto as Exhibit G.

C. The SEPA Responsible Official has reviewed the potential adverse environmental impacts of the proposed amendments in accordance with the provisions of YCC Title 16, culminating in the decision to retain the Determination of Non-significance issued on November 7, 2011. The Board finds that environmental review is complete and adequate.

D. The Board of Yakima County Commissioners finds that it has fully considered the evidence presented in the public process of amending YCC Title 15 and the Comprehensive Plan - Plan 2015 to fulfill the requirements of State law. The Board reaffirms that it finds the record to be compelling in adoption of the Linear Transmission Facilities text amendments and the balancing of the public and private interests.

E. The following findings respond to the written and oral testimony provided for the public hearing:

1. The Board of Yakima County Commissioners finds that the suggested text change to the proposed Linear Transmission Facility definition (15.08.341) and the proposed Transmission Line definition (15.08.611) submitted by John Klingele in writing at the February 21st, 2012 Board hearing is necessary to ensure consistency with standard electric industry terminology.

Section 2. Adoption. The document attached hereto as Exhibit A entitled Draft Linear Transmission Facilities Chapter 15.50 Text Changes amending YCC Title 15, the Zoning Ordinance for Yakima County, Washington, is hereby adopted. The document attached hereto as Exhibit B entitled Draft Plan 2015 Utility Policies Text Changes amending the Yakima County Comprehensive Plan - Plan 2015 Utility Element, is hereby adopted. The document attached hereto as Exhibit C entitled Draft Land Use Table 15.18 Text Changes amending YCC Title 15, the Zoning Ordinance for Yakima County, Washington, is hereby adopted. The document attached hereto as Exhibit D entitled Draft Chapter 15.20 Text Changes amending YCC Title 15, the Zoning Ordinance for Yakima County, Washington, is hereby adopted. The document attached hereto as Exhibit E entitled Draft Linear Transmission Facilities Fee Changes amending YCC Title 20, the Fee Schedule for Yakima County, Washington, is hereby adopted. The document attached hereto as Exhibit F entitled Proposed changes to the YCC Title 15 Definitions Chapter for Yakima County, Washington, is hereby adopted. The text amendments made to Plan 2015's Utility Element, YCC Title 15 and to YCC Title 20 shall hereafter apply to all unincorporated lands under Yakima County's land use jurisdiction.

Section 3. Sections not modified by this ordinance remain as originally adopted in Ordinance 8-1985 and codified in Yakima County Code Chapter 2.23, or as originally adopted in Ordinance 1-1990 and codified in Yakima County Code Chapter 20.00, together with all amendments to date.

Section 4. Severability. The provisions of this ordinance are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, sections, or
portion of this ordinance, or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of the ordinance, or the validity of its application to any other persons or circumstances.

Section 5. Effective date. This ordinance shall be effective at 12:00 P.M. on March __, 2012.

Dated this ___ day of March, 2012.

Attest:

Tiera Girard, Clerk of the Board

BOARD OF YAKIMA COUNTY COMMISSIONERS

Excused

J. Rand Elliott, Chairman

Michael D. Leita, Commissioner

Kevin J. Bouchey, Commissioner

Constituting the Board of County Commissioners for Yakima County, Washington
Chapter 15.50

LINEAR TRANSMISSION FACILITIES

Sections:

15.50.010 Purpose
15.50.020 Applicability
15.50.030 Application Requirements
15.50.040 Review Process for Linear Transmission Facility
15.50.050 Review Criteria
15.50.060 Lot Size/Right of Way
15.50.070 Basic Standard of Operation
15.50.080 Compliance with Project Conditions

15.50.010 Purpose. This chapter establishes standards and criteria for development and expansion of linear transmission facilities (as defined 15.08.341) and accessory uses. The purpose is to achieve a predictable but sensitive permitting process that effectively and efficiently addresses project impacts. Specifically, these standards and criteria are provided to:

(1) Assure that each linear transmission facility project will be subjected to individualized review and the imposition of conditions will be based on site specific information;

(2) Ensure uniform, coordinated development of linear transmission facility operations and to ensure the general health, welfare and safety of the residents that may be located within the impact areas of the operations developed under these standards.

15.50.020 Applicability. Linear transmission facility operations, as indicated in Table 15.18, are subject to the requirements of this chapter in addition to the requirements of the zoning districts and other provisions of this title, except as may be otherwise stated herein.

15.50.030 Application Requirements. In addition to the required application contents specified for Type II applications in Chapter 15.12 and this chapter, the applicant shall submit a supplement to the SEPA environmental checklist and other documents as follows:

(1) The supplemental checklist shall (in addition to being consistent with the SEPA Checklist required under YCC Title 16) provide analysis of impacts to elements of the environment as noted in the SEPA Checklist required by Title 16 and WAC Chapter 197-11, and explain the mitigation proposed to minimize those impacts. Site specific studies, including but not limited to, impacts to habitat/wildlife (including avian impacts), a road impact assessment, cultural resource impacts, and a grading and stormwater management plan complying with state best management practices stormwater quality standards, shall be attached to the
supplemental checklist. All terrestrial habitat, critical area assessments, and cultural resource studies required shall be conducted within identified study corridors of sufficient width and dimension to enable comprehensive environmental assessment while allowing flexibility in the final layout.

(2) The supplemental checklist shall include sufficient information, including a preliminary site plan, to adequately describe the proposal and its impacts, including but not limited to, information on the total square footage of buildings to be constructed, probable sources/quantities of aggregate to be used in construction, the maximum height and number of transmission towers (etc.), expected noise generation levels, the length and width of new roads and the length of power lines, sources of water (for dust suppression, concrete batch plant, etc.) and transportation impacts. Survey corridor locations shall be described and included on the site plan.

(3) Where the applicant is required to prepare an Environmental Impact Statement (EIS), the supplemental checklist may not be required, as this information may be provided as part of the EIS.

(4) If an EIS has been prepared under NEPA, the applicant shall document the sufficiency of that EIS’s compliance with the requirements of this title and YCC Title 16. Nothing in this section shall preclude the SEPA Responsible Official from requiring additional studies or supplemental documentation to describe or mitigate potentially significant adverse environmental impacts.

(5) An application for review under this chapter shall not be deemed complete until the identified reports are provided. Upon a clear showing by the applicant that a study is not applicable or is unnecessary, the Administrative Official/SEPA Responsible Official may waive specific application requirements. Such a determination shall be documented in writing in the project file.

15.50.040 Review Process for Linear Transmission Facilities.

The review process for linear transmission facilities shall be as listed in Chapter 15.18 and as follows:

(1) Pre-application conference required. A pre-application conference as described in YCC Title 16B of this code is required prior to submitting an application for linear transmission facilities. Pre-application conferences for linear transmission facilities are required prior to the community meeting described in subsection 2 below. The submittal requirements for pre-application conferences shall include a site plan of the entire project, a written narrative describing the proposal, draft environmental checklist, other information as specified by the Administrative Official, and any additional information that the applicant wishes to provide.

(2) Community meeting required.

(a) Prior to application submittal for linear transmission facilities, the applicant shall conduct a community meeting to discuss the proposal to ensure that potential applicants pursue early and effective citizen participation in conjunction with their proposal, giving the project proponent the opportunity to understand and try to mitigate any real and perceived impact their proposal may have on the neighborhood and ensure that the citizens and property owners of the area have an adequate opportunity to learn about the proposal that may affect them and to work with project proponents to
resolve concerns at an early stage of the application process. The
community meeting may be combined with other required public meetings.
The community meeting shall meet the following requirements:

(i) Notice of the community meeting shall be provided by the applicant by
first-class mail or postcard and shall include the date, time and location
of the community meeting and a description of the project, zoning of
the property, site and vicinity maps and the land use applications that
would be required.

(ii) The notice shall be provided at a minimum to property owners of real
property, as listed on the most current Yakima County assessor records,
located 660 feet from each side of the exterior limits of the Linear
Transmission Facility, to interested or affected public agencies with
jurisdiction, to affected Indian tribes, to cities and towns affected by the
proposal, and to the Yakima County Planning Division.

(iii) The notice for linear transmission facility proposals must be placed as a
display ad in the Yakima Herald-Republic.

(iv) The notice shall be postmarked 10 to 14 days prior to the community
meeting.

(v) The community meeting shall be held within the geographic boundary
of Yakima County.

(vi) The community meeting shall be held anytime between the hours of 5:30
and 9:30 p.m. on weekdays or anytime between the hours of 9:00 a.m.
and 9:00 p.m. on weekends.

(vii) The community meeting agenda shall cover the following items: (a)
introduction of community meeting organizer (i.e., developer, property
owner, etc.); (b) description of proposed project; (c) listing of permits
that are anticipated for the project; (d) description of how comments
made at the community meeting are used; (e) provide meeting
attendees with the County’s contact information; and (f) provide a sign-
up sheet for attendees.

(b) The applicant shall provide to the Planning Division a written summary of the
community meeting prior to application submittal. The summary shall include
the following:

(i) A copy of the mailed and published notice of the community meeting
with a mailing list of property owners who were notified.

(ii) Who attended the meeting (list of persons and their addresses).

(iii) A summary of concerns, issues, and problems expressed during the
meeting.

(iv) A summary of concerns, issues, and problems the applicant is unwilling
or unable to address and why.

(v) A summary of proposed modifications, or site plan revisions, addressing
concerns expressed at the meeting.

(c) The applicant shall post online and send electronically the summary of the
community meeting to those who attended the community meeting, signed
in and provided a legible email address and provide Yakima County with
proof of the web posting and a list of email recipients. Attendees without
email access may request the summary of the meeting by mail.
(3) Review of applications for linear transmission facilities shall be according to the procedures for Type II review as provided by Chapters 15.12, 15.18 and Section 168.03.030 of this code and as follows:

(a) Following a pre-application conference and a community meeting the applicant may apply in accordance with this chapter and this code.

(b) Notice of the proposal shall be sent to all property owners located 660 feet from either side of the exterior limits of Linear Transmission Facility.

(c) Type II review of an application may be conducted in conjunction with SEPA. The Administrative Official shall require necessary safeguards, conditions and SEPA mitigation to ensure the project complies with comprehensive plan policy, this title and other regulations.

(4) Micro-siting. Actual final locations of all applicable linear facilities shall be established during the micro-siting process, occurring after project permit approval and prior to or during actual construction. During the micro-siting process (when the final, exact locations of the applicable facilities and other project elements and equipment are determined) the applicant shall provide information regarding a number of technical and engineering factors, including, as applicable:

(a) Limitations imposed by the terrain, feasibility of access, setbacks (internally established or based on permit requirements),

(b) Geotechnical considerations (subsurface conditions),

(c) Environmental restrictions (avoidance of sensitive habitat),

(d) Inadvertent Discovery Plan, in accordance with 15.50.070(12),

(e) On-site Health and Safety Plan and Spill Prevention/Emergency Cleanup Plan, in accordance with 15.50.070(15),

(f) Road Impact Assessment, in accordance with 15.50.070(16),

(g) Cultural/archaeological restrictions,

(h) Telecommunications constraints (line of sight microwave paths),

(i) FAA requirements, and

(j) Other site-specific studies as determined by the Administrative Official.

The Administrative Official shall review final project lay-out prior to issuance of a Certificate of Zoning Review, which must be completed before construction activities occur. If the linear transmission facility extends beyond the initial corridors approved in the preliminary approval, before completing review, the Administrative Official shall provide at least two weeks’ notice to parties who have requested notice with respect to the project. The lay-out must be consistent with the permit conditions and all other applicable County requirements.

(5) Minor Revisions. The Administrative Official may approve minor revisions, as defined in Section 15.08.426, to the Type II decision text or project area. Minor revisions include the addition of property to a project which does not realign the corridor or increase the permitted project area by ten percent. A survey may be required to confirm the acreage. Any minor revision that involves expansion or realignment of the project area which may impact wildlife/habitat values shall include WDFW consultation.
Certificate of Zoning Final Operational Layout Review Required.

(a) It is the affirmative duty of a project permit holder and the land owner to comply with the any safeguards and conditions made a part of the terms under which the approval of a project permit was granted as authorized by this Title.

(b) The Administrative Official shall review final linear facility operational layout prior to issuance of a Certificate of Zoning Review authorizing issuance of building permits to ensure compliance with permit conditions. When the safeguards and conditions of the project permit have been met within the timeframe specified by the decision and any subsequent extension authorized by this Title, the Administrative Official shall issue a Certificate of Zoning Review to letter documenting operational layout review compliance.

(c) No development permit may be issued without the prior issuance of a Certificate of Zoning Review by the Administrative Official for the proposed development or modification to development indicating that the proposal has been through the review procedures of this ordinance and conforms to its requirements. The Certificate of Zoning Final operational layout Review review issued by the Administrative Official which may include by reference or otherwise, any terms and conditions of approval for the project together with any approved final site plan. No linear transmission facility shall be entitled to a development permit until and unless the Administrative Official approves a final site plan and authorizes issuance of a Certificate of Zoning Review. The Certificate of Zoning Final operational layout Review is not a building or development permit and does not by itself authorize the construction or occupancy of any use or structure.

15.50.050 Review Criteria.

(1) The Reviewing Official shall only approve applications for linear transmission facilities that meet all of the following criteria. Linear transmission facilities shall:

(a) Be designed to serve a broader community or regional area or to increase reliability or capacity to customers;

(b) Accommodate the anticipated type and level of traffic for the construction and maintenance of the linear transmission facility project by ensuring state and local transportation systems and private access and service road(s) are adequate;

(c) Be compatible with existing or planned land use patterns in the area.

(d) Demonstrate the need for the particular location proposed to the satisfaction of the Administrative Official, including a full accounting of alternative locations and sites;

(e) Certify compliance with all Federal Energy Regulatory Commission (FERC) requirements and the National Electrical Safety Code (NESC) requirements;

(f) Comply with the requirements of Section 15.50.070, Basic Standards of Operations; and

(g) Incorporate measures identified through environmental review to mitigate impacts as follows:
(i) The applicant shall evaluate the physical, economic and aesthetic impacts of such facilities, and measures to mitigate these impacts provided and implemented;
(ii) Incorporate project specific mitigation measures and conditions to mitigate adverse project impacts. The conditions and mitigation measures shall be based on site specific studies provided by the applicant and other relevant environmental review.
(iii) Conditions shall be designed to address each element of the environment discussed in the supplement to the environmental checklist (or EIS), including but not limited to surface/groundwater; plants; habitat/wildlife (including avian impacts); cultural resources; health and safety; and traffic/transportation.

15.50.060 Lot size/Right of Way. Minimum lot size or right of way for establishing a linear transmission facility operation shall be sufficient to demonstrate the following:
(1) The linear transmission facilities shown on the site plan and allowed by this chapter may be accommodated on the lot, or contiguous lots;
(2) The applicant shall secure the necessary property or right-of-way to assure for the proper construction, maintenance, and general safety of properties adjoining the linear transmission facility.
(3) Sufficient right of way is acquired to accommodate the linear transmission facility in order to maintain minimum National Electrical Safety Code (NESC) and Federal Energy Regulatory Commission (FERC) clearances.
(4) Where practical and feasible, developers should use common/adjacent transmission easements and facilities.

15.50.070 Basic Standards of Operation. All linear transmission facilities authorized by this chapter must conform to the following standards:
(1) Site Plan: Linear transmission facility operations shall be conducted in accordance with an approved site plan as indicated in the application requirements in Section 15.50.030 and conditions of permit approval. The site plan shall indicate the following:
   (a) Survey of the property showing existing features such as contours, large trees, buildings, structures, roads (rights-of-way), utility easements, land use, zoning district, ownership of property, and vehicular access;
   (b) The location of proposed transmission towers, underground and overhead conductors (including the depth of underground conductors), access roads (including width), substations and accessory structures;
   (c) Excluded areas resulting from critical area buffers or other setbacks and other requirements of local, state or federal law that may impact the proposal.
   (d) A description of the routes to be used by construction and delivery vehicles and of any road improvements that will be necessary in the County to accommodate construction vehicles, equipment or other deliveries, caused by construction of the linear transmission facility operation;
   (e) Engineering and design information concerning construction of the facility and its foundation;
   (f) Anticipated construction schedule; and

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(g) Description of operations, including anticipated regular and unscheduled maintenance.

(2) Responsible Party: The owner and operator of the facilities shall be held responsible for compliance with this Title. The owner and operator of the facilities shall be required to maintain in the County’s file a designated agent residing within Washington State to receive notice in compliance matters and to address complaints.

(3) Water Quality: Linear transmission facility operations shall be operated in compliance with all applicable local, state and federal water quality regulations.

(4) Air Quality: Linear transmission facility operations shall be operated in compliance with all applicable local, state and federal air quality regulations.

(a) Re-vegetate any disturbed areas that are not permanently occupied by the project features.

(b) Maintain a water truck on-site during construction for dust-suppression.

(c) Control, to the greatest extent practicable, the emission of gases or matter that are odorous at any point beyond the property line of the use emitting the odor shall be controlled to the greatest extent practicable, as may be usual and customary for the specific use or industry.

(d) Comply with the requirements of the Washington State Department of Ecology or Yakima Regional Clean Air Agency requirements.

(5) Noise:

(a) Maintain sound levels at project boundaries that are under the maximum levels for the adjacent receiving properties based on the receiving properties’ environmental designation for noise abatement per WAC 173-60.

(b) Comply with applicable state and federal noise control regulations and YCC Title 6.28.

(6) Vegetation and Wildlife:

(a) Limit construction disturbance by flagging the limits of construction and conduct ongoing environmental monitoring during construction to assure that flagged areas are avoided.

(b) Projects located within agricultural areas must develop and utilize a reseeding/restoration and weed management plan in consultation with the Washington State or Yakima County Noxious Weed Control Board during construction of the project.

(c) Overhead collector lines and transmission lines (see definition 15.08.171 and 15.08.611) should be constructed consistently with the existing Avian Power Line Interaction Committee (APLIC) recommendations for raptor protection on power lines (including minimum conductor spacing and the use of anti-perch guards).

(7) Critical Areas and Shorelines: Structural foundations and towers shall be designed in accordance with National Electrical Safety Code (NESC), YCC Title 16C and, as applicable, YCC Title 16D.

(8) Water Resources: Water availability shall be demonstrated as needed for the project. For all projects, water required for onsite use shall be obtained in accordance with state and local requirements.

(9) Cultural Resources:
(a) Complete a cultural resource survey of areas of the project site that will be disturbed temporarily or permanently. The cultural resource survey shall be submitted to the County Planning Division and the Washington State Department of Archaeology and Historic Preservation for review at least 60 days prior to any kind of land disturbing activities.

(b) During construction, flag and avoid cultural resources, and monitor construction activities to ensure that all cultural properties are avoided.

(c) An approved Inadvertent Discovery Plan (IDP) shall be prepared for each project. The IDP will outline the procedures to be followed in the case of Inadvertent archaeological finds and/or human remains. The IDP shall include training for construction workers on the need to avoid cultural properties and procedures to follow if previously unidentified cultural properties, including Indian graves, are encountered during construction.

(d) If any previously unidentified cultural resource properties are encountered during construction, cease construction activities in the immediate vicinity of the site pending evaluation by a professional archaeologist and consultation with the County Planning Division and the Washington State Department of Archaeology and Historic Preservation to identify appropriate mitigation measures such as avoidance or scientific data recovery.

(10) Setbacks:

(a) Linear transmission facilities shall observe the minimum setbacks allowed through the National Electrical Safety Code (NESC) and the Federal Energy Regulatory Commission (FERC).

(i) Additional setback distance may be required for the purpose of addressing public safety or based upon other project impacts as determined by the reviewing official as a result of the environmental review. Substations, transformers, and other components of linear transmission facilities shall be subject to greater setbacks as determined necessary to provide compatibility with existing uses.

(b) Especially Sensitive Land Uses shall observe the following minimum setbacks.

(i) Construction or expansion of Especially Sensitive Land Uses shall be setback a minimum of 25 feet from the edge of the linear transmission facility easement.

(ii) Additional setback distance may be required for Especially Sensitive Land Uses for the purpose of addressing public safety or based upon project impacts as determined by the reviewing official as a result of the application review.

(iii) The Administrative Official may reduce the setback due to site-specific conditions and an applicant’s demonstration that the purpose of this section will be met.

(iv) If the Administrative Official reduces the setback, the following applies:

(1) The setback shall be a minimum of 30 feet from the nearest linear transmission facility and shall comply with applicable National Electrical Safety Code (NESC) and Federal Energy Regulatory Commission (FERC) setback requirements.

(2) The setback shall be measured from the nearest edge of the linear transmission facility.
(3) Applicants shall show the location of a linear transmission facility and setback on site plans and subdivision plats.

(v) Setback Protection. Setbacks shall be identified and protected during construction of Especially Sensitive Land Uses by placement of a temporary barricade and on-site notices. Barricades and on-site notices are subject to review by the Building Official.

(vi) As a condition of any relief granted under this section, the applicant shall be required to a declarative covenant notifying all subsequent purchasers of the fact that a lesser setback from the linear transmission facility has been approved and of any and all conditions placed on the grant of relief.

(11) Height Limits:
Height limits are not set for utility towers and transmission lines. However, the County may place reasonable limitations on height (or impose other alternative mitigation) if necessary to mitigate impacts to existing uses or if necessary to address impacts to public safety.

(12) Public Safety:
(a) The applicant shall develop and maintain an On-Site Health and Safety Plan that informs and trains employees and others on site what to do in case of emergencies, including the locations of fire extinguishers and nearby hospitals, telephone numbers for emergency responders, first aid techniques, and other safety procedures and information.

(b) For projects in which hazardous substances are stored or used, a Spill Prevention and Emergency Cleanup Plan will be designed to assist on-site workers with accidental releases. Any large spill will require emergency response through the local fire department or designated contractor.

(c) Signs warning of electrical dangers with emergency contact numbers (e.g. phone numbers of emergency responders) must be posted in compliance with all applicable standards.

(13) Roads:
(a) When required, a Road Impact Assessment shall be prepared by an independent qualified consultant selected by Yakima County and paid for by the applicant for roads to be used by the project. The Assessment shall include an analysis of project-related traffic routes to be used during phases of construction, project operation and decommissioning (i.e. traffic volumes, weights, frequency, time of year of use, etc.); the Plan shall include an assessment of existing road conditions (e.g. pavement width, intersection designs, subgrade condition, surface conditions, existing traffic use/volumes). The Assessment should also address project-related developments of new surface aggregate mines and batch plants necessary for road construction.

(b) A Road Haul Agreement addressing impacts to county-maintained roads may be prepared in consultation with the County Engineer and approved prior to preliminary approval.

(14) Requirements for Land Use Compatibility within Pipeline Corridors:
(a) Especially Sensitive Land Uses. New and expanded Especially Sensitive Land Uses, as defined in 15.08.240, proposed for location within 500 feet of a pipeline corridor shall at a minimum be designed by a qualified design
professional to avoid increasing the level of risk in the event of a pipeline failure, and where feasible, reduce the risk compared to the existing development (see Section 15.20.080).

(b) Other Development.
   
   (i) Applicants for the following types of new or expanded development in Urban Growth Areas, RT and RS zoning districts shall use appropriate mitigation measures to help reduce adverse public safety impacts in the event of a pipeline failure:
      
      (1) Commercial or Industrial.
      (2) Especially Sensitive Land Uses proposed for locations not covered by 15.50.070(17)(a) above.
      (3) Other uses developments as required by the Administrative Official that, because of proximity to a pipeline corridor, pose a safety concern due to characteristics of the occupants, development, or site.
   
   (ii) Mitigation measures intended to reduce risk and minimize impact in the event of a pipeline failure include but are not limited to:
      
      (1) Site and building design techniques such as maximizing the distance between new or expanded development and anticipated flow paths for leaking hazardous materials and controlling ignition sources.
      
      (2) Emergency procedures such as emergency plans and guides, employee training and drills, and education programs for occupants and employees concerning pipeline safety, such as what to be aware of and how to respond in the event of a problem.
      
      (a) Applicants shall consult with the Fire Marshal regarding the level of emergency planning and procedures appropriate for the proposed development. Based on the nature, occupancy, or location of a proposed development, the Yakima County Fire Marshal may require emergency plans and procedures for any occupancy classifications.
      
      (b) Emergency plans and procedures shall be consistent with the Yakima County Fire Code and shall be approved by the Yakima County Fire Marshal.

15.50.080 Compliance with Project Conditions

(1) Compliance with project conditions and code requirements is required prior to issuance of a Certificate of Zoning Review. In addition to such other remedies available under law, any County division or other decision maker issuing any decision, environmental determination (such as a mitigated determination of non-significance), approval, authorization, or other determination, including a determination on the conditions to apply to a particular project under this chapter ("authorization"), shall have the authority to rescind or expire such authorization for failure to substantially comply with any required conditions, mitigation, or code requirement.
A written request may be filed with the Administrative Official prior to the expiration date for extension of the time period specified in the project permit as set forth in YCC 15.12.040(3).

A request to transfer a linear transmission facility development authorization to a new permit holder requires confirmation of compliance with project conditions, and may require re-execution of agreements or other documents entered into during and after project permitting to address impacts or related issues.

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UT 2.3
Assist and facilitate the siting of linear transmission facilities and utility-related infrastructure in a manner consistent with Plan 2015 through land use planning and development review policies and procedures.

UT 2.4
Develop and adopt an Energy Resources Element no later than 2010. The new Element would evaluate the natural energy resources of the County and establish goals and policies for accessing and utilizing wind, solar, geothermal, biomass, natural gas and other petroleum-based energy resources consistent with Plan 2015. Identify and designate a Wind Energy Overlay for those areas of the County that would be appropriate for windfarms. Establish review criteria through development of the programmatic Environmental Impact Statement and subsequent amendment of County Code. Encourage energy resource development in locations within Yakima County that take advantage of the County’s energy resources, existing infrastructure, and also are sited to minimize environmental impacts.
## Table 15.18 Allowable Land Uses

<table>
<thead>
<tr>
<th>Utilities</th>
<th>AG</th>
<th>FW</th>
<th>MR</th>
<th>VR</th>
<th>R/EL</th>
<th>RT</th>
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<th>C</th>
<th>HC</th>
<th>I</th>
<th>MIN</th>
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<tbody>
<tr>
<td>Impoundment of water, including dams and frost ponds</td>
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<td>II</td>
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<td>I</td>
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<tr>
<td>Linear Transmission Facility*</td>
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<tr>
<td>Power generating facilities</td>
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<td>Sewage treatment plants</td>
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<td>(substations, reservoirs, etc.), when no building or series of buildings exceeds 120 sq. ft. and the SEPA</td>
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<td>(substations, reservoirs, etc.), when the building or series of buildings exceeds 120 sq. ft. or the SEPA</td>
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<tr>
<td>Wastewater Lagoons and sprayfields*</td>
<td>III</td>
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</tr>
</tbody>
</table>

### LEGEND:

1. (*) refers to a definition in Chapter 15.08.
2. A higher level of review may be required if the use is in an overlay district, in which case refer to the overlay chapter.
3. In limited situations, Type II uses may be subject to a public hearing before the Hearing Examiner, see 15.12.020(5).
4. Indented listings are subsections of a group.

I= Type I Use, see Chapter 15.12  
II= Type II Use, see Chapter 15.12  
III= Type III Use, see Chapter 15.12  
IV= Type IV Uses, See Chapter 15.12  
where the use is listed elsewhere in the table.

= Not permitted

(REV. ORD. 1-2009 June 2, 2009) ORV
Chapter 15.20

GENERAL ZONING DISTRICT REGULATIONS

Sections:

15.20.033 Requirements for uses near pipeline corridors in UGAs, Rural Transitional and Rural Settlement zoning districts

15.20.080 Review Criteria for Especially Sensitive Land Uses

A new Section 15.20.033 of the Yakima County Code is hereby created to read as follows:

15.20.033 Requirements for uses near pipeline corridors in Urban Growth Areas, RT and RS zoning districts. All uses in Urban Growth Areas, Rural Transitional (RT) and Rural Settlement (RS) zoning districts shall be reviewed in accordance with Section 15.50.070(17).

The existing text of Section 15.20.080 of the Yakima County Code, adopted by Ordinance 1-2000, is amended to read:

15.20.080 Review Criteria for Especially Sensitive Land Uses. Proposals for especially sensitive land uses, as defined in Section 15.08.240, shall be reviewed as provided in this section.

(1) Especially Sensitive Land Uses, other than the first dwelling to be located on a lot in an AG or FW zone, shall be reviewed according to the following criteria:

(a) The proposal will not adversely impact, or interfere with accepted farm, forest or mining practices on adjacent or nearby AG or FW zoned land, or mineral resource designated land, respectively. Consideration shall include the type of agricultural, forest or mining activities that are in the area and the relative susceptibility to nuisance complaints;

(b) The proposal uses mitigation measures to effectively reduce the potential for land use conflicts and separate the site from active agricultural, forest or mining activities, such as: landscape buffers; special setbacks; screening; site design using physical features such as rock outcrops, ravines, roads, irrigation canals or critical areas; or proximity to established dwellings, small lots or other especially sensitive land uses;
(c) In addition, when located in an AG zone, the especially sensitive land use should generally be located on the least productive portion of the property.

(2) Especially Sensitive Land Uses proposed or located near pipeline corridors shall be reviewed in accordance with Section 15.50.070(14).
**Section 4. Fee schedule.** Yakima County Code Section 20.00.010, adopted by Ordinance No. 1-1990, and amended by Ordinance No. 1-2010, is amended as follows. Much of the existing text is unchanged, but omitted in the presentation for this ordinance for clarity. Notes following tables and subsection headings in brackets in this section shall not be inserted into the text of the County Code:

**20.00.010 Schedule of Fees.**
The schedule of fees and charges adopted by the Board of County Commissioners and established in this chapter for the processing of the numerous and variety of applications required by the county, pursuant to the Yakima County Code, may be altered or amended only by the Board of County Commissioners.

No application shall be accepted, processed or approved unless or until such fees and charges listed in this title have been paid in full.

### (D) YAKIMA COUNTY CODE
**TITLE 15 - ZONING ORDINANCE**

| (8) Linear Transmission Facilities | $10,000 minimum deposit plus 100% processing and regulatory costs, plus 100% fee charged by Hearing Examiner for review, if applicable |

* "Processing and regulatory costs" means actual costs, including, but not necessarily limited to, staff wages, benefits, review, regulatory inspections, overhead, consultant services or other expenses incurred during the review of the project. The hourly costs include, but are not necessarily limited to, wages, benefits, review, regulatory inspections, and overhead for planning, managerial, licensing, enforcement and clerical staff, and are assessed based on the time expended by Yakima County staff only. Processing and regulatory costs accrued by the County will be drawn from the deposit. When the initial deposit is below $2,000, the applicant shall be notified by the Administrative Official that an additional deposit not to exceed $10,000 is required to continue processing the project review. Any remaining funds not billable to the project will be refunded to the applicant once the project review is complete and any appeals have been resolved. |

[Note: The remainder of the table is unchanged, omitted here for clarity.]
## (F) YAKIMA COUNTY CODE
### TITLE 16 - SEPA

<table>
<thead>
<tr>
<th>Service Description</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Environmental Checklists with DNS</td>
<td>$ 220.00</td>
</tr>
<tr>
<td>Environmental Checklists with MDNS, Environmental Impact Statement (DS),</td>
<td>100% Processing</td>
</tr>
<tr>
<td>and County Completed Environmental Checklists (Sections 16.04.280 &amp;</td>
<td>Cost</td>
</tr>
<tr>
<td>16.04.120)</td>
<td></td>
</tr>
<tr>
<td>Planning Department Processing Costs (EIS)</td>
<td>$ 45.00/ hr</td>
</tr>
<tr>
<td>Hearing Examiner Conducted SEPA Public Meeting on Scoping, DEIS, SEIS or FEIS (in</td>
<td>HE Contract Fee</td>
</tr>
<tr>
<td>addition to Planning Division ((Department)) processing and regulatory costs)</td>
<td></td>
</tr>
</tbody>
</table>

"Processing and regulatory costs" means actual costs, including, but not necessarily limited to, staff wages, benefits, review, regulatory inspections, overhead, consultant services or other expenses incurred during the review of the project. The hourly costs include, but are not necessarily limited to, wages, benefits, review, regulatory inspections, and overhead for planning, managerial, licensing, enforcement and clerical staff, and are assessed based on the time expended by Yakima County staff only. Processing and regulatory costs accrued by the County will be drawn from the deposit. When the initial deposit is below $2,000, the applicant shall be notified by the Administrative Official that an additional deposit not to exceed $10,000 is required to continue processing the project review. Any remaining funds not billable to the project will be refunded to the applicant once the project review is complete and any appeals have been resolved. “Processing cost” means actual costs including, but not limited to staff wages, benefits, overhead, consultant services or other expenses incurred in the processing of the review of the project subject to an MDNS or EIS. The hourly rate listed below includes wages, benefits, and overhead for planning, managerial, and clerical staff, and is assessed based on the time expended by the project planner only.

| Appeals                                                                 | See subsection (I)  |

G:\Long Range\Linear Transmission Facilities\Drafts\Final_BOCC_Docs\Fees Section 2011 updated_LTF_exhibit_E.doc
Chapter 15.08
DEFINITIONS

Sections:

15.08.171 Collector Lines
15.08.240 Especially sensitive land uses
15.08.341 Linear transmission facility
15.08.426 Minor Revision
15.08.611 Transmission Lines
15.08.630 Utility Services

C

15.08.171 Collector Lines. "Collector lines" means electrical lines necessary to deliver power from a commercial energy resource facility to electric substations or interconnection facilities associated with existing or proposed transmission lines.

E

15.08.236 Energy resource facility. "Energy resource facility" means those land uses involved in the production, distribution and sale of energy products by utilizing either renewable or nonrenewable energy resources such as; wind, solar, hydroelectric, geothermal, biomass, coal, oil or natural gas.

15.08.240 Especially sensitive land uses. "Especially sensitive land uses" mean those which are, by their nature, especially sensitive to farm, forest or mineral resource, linear transmission facilities and management practices. These land uses include dwellings, schools, day care facilities, medical facilities such as hospitals, clinics and convalescent care facilities, outdoor recreational facilities and similar uses.

15.08.241 External property line. "External property line" means the boundary along legal lot lines surrounding the project, which encompasses all property within the project. A project's internal lot lines are those property or lot lines which are inside the project's boundaries, and which do not abut property located outside the project area.
15.08.341  Linear Transmission Facility.  "Linear transmission facility" consists of those physical facilities necessary for the distribution of energy resources to serve a broader community or regional area, including but not limited to:

(1) Electrical transmission lines 115 kV, or greater;
(2) Pipelines for petroleum or petroleum products with an inside diameter of six (6) inches or greater and exceeding five (5) miles in length;
(3) Pipelines for natural gas, synthetic natural gas, or liquid propane gas with an inside diameter of twelve (12) inches or greater and exceeding five (5) miles in length;
(4) Underground gas storage facilities with capacity exceeding 100x10^6 standard cubic feet per day; and
(5) Other similar utility or energy facilities not meeting the definition of "Utility Services" (15.08.630).

15.08.426 Minor Revision.  "Minor revision" means revisions which are within the scope of previous environmental review, are generally consistent with permit conditions, and do not constitute a major deviation from the permit. If multiple requests for minor revisions to the same project are submitted, they shall be considered cumulatively.

15.08.611 Transmission Lines.  "Transmission lines" means 115 kV or greater electric voltage lines, carry the bulk transfer of electrical energy, from generating power plants (in this case, the energy resource facilities) to substations.

15.08.630 Utility services.  "Utility services" means electric substations, gas metering stations, sewer lift stations, telephone and communications relay or switching stations, municipal/public water works (including pumping stations and reservoirs), power booster or conversion plants, and similar utility facilities, all with their necessary
buildings, apparatus or appurtenances thereto. For purposes of
this title, "Utility services" does not include linear
transmission facilities, local transmission and collection
lines, pipes, conductors, or utilities located underground.
Utility services are not subject to the minimum lot size
requirements of the zoning district in which they are located
(except as required for domestic water, sewage disposal and soil
percolation rates), provided that they meet all other
requirements of the zoning district in which they are located.
IN THE MATTER OF CONSIDERING TEXT AMENDMENTS TO PLAN 2015 AND YAKIMA COUNTY CODE TITLE 15 - ZONING ORDINANCE

FINDINGS OF FACT AND RECOMMENDATION
File No: TXT11-03/SEP11-30/PRJ11-733

Pursuant to RCW 36.70.400, RCW 36.70.500, RCW 36.70.600, and RCW 36.70.610, the Planning Commission makes the following statements and recommendations:

I. REASONS FOR ACTION

The Yakima County Planning Division submitted for Planning Commission consideration a proposed new chapter and definition changes to Yakima County Code (YCC) Title 15 - Zoning Ordinance and two utility policy text amendments to the Yakima County Comprehensive Plan - Plan 2015 regarding Linear Transmission Facilities. Following public testimony and deliberations the Planning Commission has determined which of the proposed amendments are needed to correct errors, address deficiencies or more closely correspond to the goals, policies and intent of Plan 2015.

II. FINDINGS OF FACT

1. RCW 36.70A.130(4) requires that Yakima County, a “fully planning” county, shall update its comprehensive plan and development regulations, as necessary, to reflect local needs, new data, and current laws.

2. Yakima County Planning Division submitted for Planning Commission consideration a proposed new chapter and definition changes to YCC Title 15 - Zoning Ordinance and two utility policy changes to Plan 2015 both regarding Linear Transmission Facilities.

3. On June 1, July 13, August 10 and September 14, 2011 the Planning Commission conducted study sessions to consider the proposed Linear Transmission Facilities text amendments.

4. On September 20, 2011, a Notice of Public Hearing and Notice of Environmental Review were mailed to interested parties and agencies with environmental expertise on the proposed Linear Transmission Facilities text amendments.

5. A legal notice was published in the Yakima Herald-Republic on September 30, 2011 informing the public of the opportunity to submit written comments on the proposed text amendments to Plan 2015 and YCC Title 15 up to the date of the scheduled
6. The Planning Commission conducted a properly advertised public hearing on October 18, 2011 at the Yakima Convention Center to hear testimony on the proposed text amendments. The Planning Commission received and accepted two written comments. Minutes of the hearings were taken and are on file.

7. Yakima County staff prepared a SEPA Threshold Determination of Non-Significance which analyzed the environmental impacts of all proposed text amendments and issued it on November 7, 2011.

8. The Planning Commission held a deliberation meeting on the proposed Linear Transmission Facilities on November 9, 2011, and after careful review of each page and making revisions to the October 18, 2011 draft as follows:

a. The Planning Commission voted 5 to 0 to amend the draft Linear Transmission Facilities language in section 15.50.040(2)(a)(ii) from a 1 mile property notification distance to 660 feet on each side of the facility. The change is based on the comments received from PacifiCorp that 1 mile was too onerous and a comment from Williams Natural Gas stating that the Federal Standard is only 660 feet and that should apply.

b. The Planning Commission voted 5 to 0 to amend the draft Linear Transmission Facilities language in section 15.50.040(3)(b) regarding email notification process to also include an option of a general mailing to those property owners without email services.

c. The Planning Commission voted 5 to 0 to delete the draft Linear Transmission Facilities language in section 15.50.070(3) pertaining to visual impacts because the existing language was primarily intended to address visual impacts associated with wind towers and that the environmental process will adequately consider those impacts.

d. The Planning Commission voted 5 to 0 to delete the draft Linear Transmission Facilities language in section 15.50.070(9)(a)(b)(c) regarding stormwater because the existing language was primarily intended to address stormwater impacts associated with wind towers and that the stormwater concerns will be handled through the environmental process.

e. The Planning Commission voted 5 to 0 to amend the draft Linear Transmission Facilities language in section 15.50.070(10)(vi) regarding the recording of an "instrument against the title" to now read "declarative covenant" because the County standard process is termed "declarative covenant."

f. The Planning Commission voted 5 to 0 to delete the draft Linear Transmission Facilities language in section 15.50.080 regarding the reference to the right of entry provision to avoid duplication because it is already listed in YCC 15.84.
The Planning Commission voted 5 to 0 to amend the draft Linear Transmission Facilities definition (15.08.341) to delete "or larger" and replace with "or greater."

III. FACTORS CONSIDERED AT AND AFTER THE PUBLIC HEARING

The following comments were provided at the public hearing on October 18, 2011 and considered by the Planning Commission:

9. Written comments provided by PacifiCorp recommended numerous edits to the proposed Linear Transmission Facility chapter and definitions and were addressed during deliberations.

10. Written comment provided by the US Department of Army recommended a minor text change to reflect that the operator of the linear transmission facility should be held responsible for permit compliance, not both the landowner and operator of the facility.

11. Oral testimony provided at the hearing recommended numerous edits to the proposed Linear Transmission Facility language and were addressed during deliberations.

IV. ANALYSIS OF FINDINGS CONSIDERED TO BE CONTROLLING

The Planning Commission considers that the following findings regarding to the proposed Linear Transmission Facilities and Plan 2015 text amendments to be controlling:

12. The proposed new Linear Transmission Facilities chapter and text amendments to YCC Title 15, attached as Exhibit A, will adequately address the future siting and development of linear transmission facilities in Yakima County.

13. The two minor utility policy amendments to Plan 2015, attached as Exhibit B, are needed to provide adequate policy guidance for the implementation of the new Linear Transmission Facility chapter to YCC Title 15.

V. RECOMMENDATION

14. The Yakima County Planning Commission, in view of the above Reasons for Action, Findings of Fact, Factors Considered at and after the Public Hearing, and Analysis of Findings Considered to be Controlling, is satisfied that these matters have been sufficiently considered, and has made many changes to the October 18, 2010 draft text amendments. The Planning Commission hereby recommends as follows:

15. Adoption, by the Board of Yakima County Commissioners, of the Linear Transmission Facilities and Plan 2015 text amendments as approved by the Planning Commission on November 9, 2011.
VI. MOTION

16. By motion and vote described in Section II. Findings of Fact, the Planning Commission recommends that the Board of Yakima County Commissioners approve the proposed Linear Transmission Facilities chapter and associated text amendment to YCC Title 15 and the two utility policy amendments to Plan 2015.

Voting in favor of the findings and recommendation:

Ed Burns, Chair
Zella West
Patrick Rawn Absent
Nancy Charron
Michael Aquilino, Excused absence
Vice Chair
John Crawford
Al Schwegge

Attest:  
Steven M. Erickson, Secretary

Voting against the findings and recommendation:

Dated: November 30, 2011