

**BEFORE THE CITY OF HOQUIAM
LAND USE HEARING EXAMINER**

Eric R. Toews, Land Use Hearing Examiner

RE: HOQUIAM CITY COUNCIL RESOLUTION NO. 2015-09, (TA #15-01)	FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATION TO CITY COUNCIL
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I. INTRODUCTION

The Hoquiam City Council, by way of Council Resolution No. 2015-09, has requested that the Hearing Examiner hold an open record hearing on proposed Text Amendments to Title 10 of the Hoquiam Municipal Code (HMC). The proposed Text Amendments offer two alternative approaches to prohibit the bulk storage and sales of unrefined crude oil within all zoning districts in the City of Hoquiam. The Hearing Examiner is required to hold an open record public hearing, accept public testimony on the proposed amendments, and formulate findings of fact, conclusions of law, and a recommendation for the advice of City Council.

Specifically, proposed alternative Text Amendment Draft "H" presented to the Hearing Examiner proposes to amend the Hoquiam Municipal Code by:

- Adding a new definition §10.09.160(4) HMC for the terms "*oil*" or "*oils*" based on the definition for the same term found in RCW 90.56.010(17), but excepting "*bio-diesel*" or "*other similar products*" from the scope of the definition;
- Amending the definition of "*wholesale liquefied petroleum sales*" set forth in §10.09.240(5) HMC to expressly exclude "*oil*" or "*oils*" as newly defined;
- Adding a new definition §10.09.240(6) HMC for the term "*wholesale oil storage and sales*" that would include facilities that store, transfer or conduct wholesale sales of "*oil*" as newly defined, but exclude facilities that engage in retail sales of the same; and
- Adding a new §10.05.140 that would specifically prohibit "*wholesale oil storage and sales*" as newly defined throughout the City of Hoquiam.

Text Amendment Draft "I", like Draft "H", seeks to prohibit the storage and sales of unrefined crude oil in all zoning districts. However, Draft "I" defines "*oil*" differently and specifically exempts biological oils derived from fish or fish byproducts. Draft "I" would amend the code to:

- Add a new definition §10.09.160(4) HMC for the terms "*oil*" or "*oils*" based on the placard identification system employed by the United States Department of Transportation (USDOT), specifically referencing placard #1267 – petroleum crude oil;

- Amend the definition of “*wholesale liquefied petroleum sales*” set forth in §10.09.240(5) HMC to expressly exclude “*oil*” or “*oils*” as newly defined;
- Add a new definition §10.09.240(6) HMC for the term “*wholesale oil storage and sales*” that would include facilities that store, transfer or conduct wholesale sales of “*oil*” as newly defined, but exclude facilities that engage in retail sales of the same, and also exclude facilities which handle biological oils derived from fish or fish byproducts; and
- Add a new §10.05.140 that would specifically prohibit “*wholesale oil storage and sales*” as newly defined throughout the City of Hoquiam, while incorporating language to again attempt to clarify that the prohibition does not apply to the wholesale storage and sales of biological oils derived from fish or fish byproducts.

Both proposed Text Amendment alternatives are a response to safety and environmental concerns raised by the public and Hoquiam City Councilmembers about “crude-by-rail” operations at the Port of Grays Harbor. Crude-by-rail operations involve the transport in railroad tank cars of unrefined (i.e., “crude”) oil to storage and transfer facilities at coastal ports, and thence onto refineries for processing into finished products.

The City of Hoquiam has been operating under an emergency moratorium prohibiting “*wholesale liquefied petroleum storage and sales*” facilities since March 9, 2015. The moratorium is set to expire on September 9, 2015. Since enactment of the moratorium, the Hoquiam City Council has reviewed and considered nine (9) different alternative Text Amendments to address the concern (i.e., Drafts “A” through “I”). Both versions “H” and “I” presented to the Hearing Examiner propose to permanently prohibit “*wholesale liquefied petroleum storage and sales*” throughout all zoning districts of the City.

On July 13, 2015, the Council passed Resolution No. 2015-09, requesting that the Hearing Examiner “*hold an open public hearing, pursuant to Section 10.07.140(3), to consider the amendment of Title 10 of the Hoquiam Municipal Code, to prohibit the location of Wholesale Liquefied Petroleum facilities, as set forth in the two draft ordinances attached hereto (Draft H and Draft I).*”

After considering the materials submitted by staff, testimony presented at a public hearing conducted on August 6th, 2015, and all additional evidence submitted with respect to this proceeding, the Land Use Hearing Examiner RECOMMENDS APPROVAL of the Text Amendment as set forth herein (TA #2015-1).

II. EXHIBITS

The exhibits listed below were provided to the Hearing Examiner by City of Hoquiam staff prior to the public hearing, or were submitted by individuals testifying at the public hearing, and are formally designated as follows:

- Exhibit "A": Memorandum concerning Oil Terminal Facilities from City of Hoquiam Mayor, Jack Durney, to the Hoquiam City Council, dated March 6, 2015, consisting of nine (9) pages (including an attached draft moratorium on Oil Terminal Facilities, and a draft resolution and Text Amendment referring the same to the Hearing Examiner for public hearing and recommendation).
- Exhibit "B": Letter from Councilmember Richard Pennant to the Hoquiam City Council, undated and unsigned, consisting of seven (7) pages (including attached ordinance draft).
- Exhibit "C": Memorandum concerning Proposed Zoning Changes for Wholesale Liquefied Petroleum Storage and Sales Facilities (Ordinance Drafts "A" through "D") from Hoquiam City Attorney, Steve Johnson, to Mayor, Jack Durney, and City Administrator, Brian Shay, dated May 6, 2015, consisting of twenty (20) pages (including attached ordinance drafts).
- Exhibit "D": Proposed Ordinance Draft "E" prohibiting Crude Oil Storage and Sales Facilities throughout the City, undated, and consisting of four (4) pages.
- Exhibit "E": Proposed Ordinance Draft "F" prohibiting Crude Oil Storage and Sales Facilities in all areas of the City except that portion of the Industrial Zone located east of the Hoquiam River, undated, and consisting of five (5) pages.
- Exhibit "F": Proposed Ordinance Draft "G" prohibiting Crude Oil Storage and Sales Facilities throughout the City, undated, and consisting of five (5) pages.
- Exhibit "G": City Council Resolution No. 2015-09, referring Ordinance Drafts "H" and "I", to the Land Use Hearing Examiner for public hearing and recommendation, consisting of eleven (11) pages including ordinance drafts.
- Exhibit "H": Unsigned Memorandum from the Port of Grays Harbor to the City of Hoquiam, submitted at the City Council's March 23, 2015 public hearing, consisting of three (3) pages including attachments.

- Exhibit "I": Letter from John Plaza, President and CEO of Imperium Renewables, Inc., to Brian Shay, Hoquiam City Administrator, dated April 13, 2015, and consisting of two (2) pages.
- Exhibit "J": Letter from John Plaza, President and CEO of Imperium Renewables, Inc., to the Hoquiam City Council, dated June 8, 2015, and consisting of two (2) pages.
- Exhibit "K": Letter from Gary G. Nelson, Executive Director of the Port of Grays Harbor, to the Hoquiam City Council, dated June 18, 2015, and consisting of two (2) pages.
- Exhibit "L": Letter from John Plaza, President and CEO of Imperium Renewables, Inc., to the Hoquiam City Council, dated June 19, 2015, and consisting of two (2) pages.
- Exhibit "M": Email communication from Al Carter of Ocean Protein to Brian Shay, Hoquiam City Administrator, dated June 22, 2015, and consisting of six (6) pages with attachment (a "redline" version of Ordinance Draft "I" produced by Ocean Protein's attorney, Mark Scheer of Williams Kastner, LLC).
- Exhibit "N": Letter from Geoffrey D. Roberts, Jr., Interim CEO of the Westway Group, LLC, dated August 4, 2015, and consisting of two (2) pages.
- Exhibit "O": Letter from Arthur (R.D.) Grunbaum of Citizens for a Clean Harbor to the Hoquiam City Council, dated August 5, 2015, and consisting of one (1) page.
- Exhibit "P": Letter from Fawn R. Sharp, President of the Quinault Indian Nation to the Hoquiam City Council, dated August 5, 2015, and consisting of one (1) page.
- Exhibit "Q": Letter from Tadus Kisielius of Van Ness Feldman, LLP, Attorneys at Law (representing Imperium Renewables) to the City of Hoquiam Hearing Examiner, dated August 5, 2015, and consisting of nine (9) pages with attachments.
- Exhibit "R": Letter from Gary G. Nelson, Executive Director of the Port of Grays Harbor, to the City of Hoquiam Hearing Examiner, dated August 5, 2015, and consisting of one (1) page.
- Exhibit "S": Letter from Linda Orgel of Citizens for a Clean Harbor to the City of Hoquiam Hearing Examiner, dated August 6, 2015, and consisting of three (3) pages with attachments.

Exhibit "T": Letter from Diane Wolfe to the City of Hoquiam Hearing Examiner, dated August 6, 2015, and consisting of one (1) page.

Exhibit "U": Affidavit of publication from the *Montesano Vidette* newspaper, dated July 23, 2015, setting forth the Notice of Application for the proposed Text Amendments, consisting of one (1) page.

The Land Use Hearing Examiner adopts by reference the exhibits enumerated above as fully as if set forth herein.

III. ORAL TESTIMONY

The Hearing Examiner opened the public hearing at 10:30 a.m. on August 6th, 2015 in the City Council Chambers located at 609 8th Street, Hoquiam, Washington 98550. City Administrator, Mr. Brian Shay, and Tracy Wood, Community Services Coordinator, were in attendance.

The Hearing Examiner noted that two alternative Text Amendment proposals had been referred to him by the City Council under §§1.55.080(1) and 10.07.140(2)(b) HMC. The Hearing Examiner then summarized the essence of both proposals as amending the code to incorporate new and modified definitions in Chapter 10.09 of the zoning code, and to add a new §10.05.140 within the zoning code that would prohibit the bulk storage and transfer of oil within the City, noting that the alternatives defined the term "*oil*" differently.

The Hearing Examiner then proceeded to outline the hearing format and assure those in attendance that the City Council will be scheduling and conducting its own open record public hearing to consider the Hearing Examiner's recommendation and decide whether to approve, deny, or remand the proposed Text Amendment to the Examiner for further review.

Staff Presentation by Mr. Brian Shay, City Administrator:

Mr. Shay then provided an oral Staff Report explaining the procedural history of the proposed Land Use Text Amendment. Mr. Shay stated that the Mayor had sent a memorandum to the City Council in early March proposing that a moratorium be enacted to limit any new applications for crude oil storage. He indicated, however, that the scope of the Mayor's recommendation was somewhat broader than crude oil, and proposed inclusion of a number of related materials, such as butane, natural gas, and other petroleum-based products.

Mr. Shay indicated that the City had taken oral and written testimony at its initial hearing on the proposed moratorium, and written comments had been received thereafter. He stated that a number of ordinance drafts (i.e., drafts "A" through "I") had been prepared by the City Attorney, Steve Johnson, and discussed by the City Council. He explained that as the ordinance crafting process had

progressed, that the Council's intent had narrowed, and was now focused upon prohibiting the storage of crude oil only.

Mr. Shay clarified that it was not the intent of the Mayor or Council to prohibit facilities for the bulk storage of biological oils (e.g., derived from fish or fish byproducts), but rather unrefined crude oil extracted from the ground. Accordingly, he stated that Ordinance Drafts "H" and "I" referred to the Hearing Examiner attempted to limit their focus to crude oil storage facilities. Mr. Shay expressed his expectation that the Hearing Examiner would either recommend that the Council adopt either Ordinance Draft "H" or "I", or perhaps develop and recommend a new alternative text amendment that would clearly prohibit bulk crude oil handling facilities, and provide certainty to the Council, public and applicants.

The Hearing Examiner noted that both ordinance drafts contained somewhat confusing language relating to retailing and wholesaling. He asked Mr. Shay to clarify whether or not the Council's intent was simply to prohibit facilities used for the bulk storage, transfer and distribution of unrefined crude oil, irrespective of the type of sales involved. Mr. Shay responded that the purpose was to restrict bulk crude oil storage facilities, and that the Council's desire was to prohibit tank farms devoted to the temporary storage of crude oil.

The Hearing Examiner then requested that Mr. Shay clearly articulate the public purpose behind the proposed amendments. Specifically, how would the proposed prohibition of bulk crude oil storage and transfer serve the public's health, safety and welfare? Mr. Shay responded that train derailments and explosions across the nation in recent years underscored the health and safety risks to communities posed by crude-by-rail operations, and that the Council wanted to protect its citizens from such dangers. By preventing new applications for bulk crude oil storage facilities, the City would effectively be precluding the movement of crude oil within the City of Hoquiam. He also indicated that there were legitimate concerns about the environmental damage that might be occasioned by a crude oil spill in Grays Harbor.

The Hearing Examiner questioned Mr. Shay as to whether the safety concerns identified were unique to crude oil storage and handling and could be distinguished from refined or partially refined products that might be stored in bulk. Mr. Shay responded that unrefined crude oil presented a much greater safety concern, principally because of the large-scale movement of crude oil via railroad.

The Hearing Examiner then asked Mr. Shay if the proposals had been reviewed for consistency against the policies of the City of Hoquiam's Comprehensive Plan. Mr. Shay responded that he had reviewed the proposals for plan consistency. He stated that while bulk-handling facilities associated with resource extraction, processing, transportation, distribution and wholesaling were

clearly envisioned as appropriate within the Industrial Zone, that prohibiting the storage and transfer of one specific class of commodity would not be inconsistent with the plan. Mr. Shay provided the citation to the applicable provisions of the plan: Section 3.0 Development Strategies and Future Industrial Uses.

The Hearing Examiner next asked Mr. Shay to describe how neighboring jurisdictions regulate bulk crude oil storage facilities. Mr. Shay stated that as far as he could discern from his research, that the City of Hoquiam was in the forefront on this regulatory issue. He noted, however, that the City of Aberdeen had within the past two weeks placed a moratorium on crude oil handling facilities. In response to a question from the Hearing Examiner, Mr. Shay also clarified that no portion of unincorporated Grays Harbor County was zoned for ship terminal use, with such uses being limited to the cities of Hoquiam and Aberdeen. In response to a further clarifying question Mr. Shay noted that there was a major terminal project underway in Clark County, Tesoro Savage. However, to his knowledge, the Clark County Council is not contemplating any zoning changes to prohibit bulk crude oil storage and transfer facilities.

The Hearing Examiner queried staff as to whether programmatic State Environmental Policy Act (SEPA) review had yet been completed for the proposed text amendment alternatives. Mr. Shay stated that SEPA review had not yet been initiated, but would be once the Council had selected a final version for public hearing following receipt of the Hearing Examiner's recommendation. The Hearing Examiner urged staff to initiate and complete SEPA review earlier in the process in future, noting that a completed SEPA analysis, along with public and agency comments, was extremely useful to policy advisors and decision-makers in the legislative process.

After confirming with Mr. Shay that all citizen and agency correspondence had been presented in the record, the Hearing Examiner asked whether City staff had a specific recommendation regarding the proposed text amendment alternatives. Mr. Shay stated staff's preference for a text amendment that would specifically define the term "bulk crude oil storage facilities" without reference to a definition contained in another statute as was the case with Draft "H" which references RCW 90.56.010. Once defined, he recommended that the term be incorporated into the use table within the zoning code and clearly shown as not permitted in any zone. He stated that this was the most straightforward means of addressing the issue, and was preferable to reliance upon a state statutory definition that was subject to change, and necessitated exemptions and exceptions. With respect to Draft "I", Mr. Shay stated that his research revealed that the City of Vancouver had adopted a similar approach that referenced the USDOT placard number. However, he expressed his view that this was not a preferred approach because it required the reader to reference a document outside of the zoning code to understand the meaning of the term, and therefore, did not offer clarity to code users as to what was permitted or prohibited.

Following staff interrogatories and staff responses, the Examiner opened the hearing to receipt of public testimony.

Testimony of Ms. Linda Orgel, Citizens for a Clean Harbor:

Ms. Linda Orgel of 1128 State Route 105, Hoquiam, WA 98550, representing Citizens for a Clean Harbor, testified first. Ms. Orgel indicated that the citizens group to which she belonged was formed in response to concerns about, and opposition to, crude oil facilities being located on Grays Harbor. She stated that she favored the regulatory approach previously recommended by Mr. Shay (i.e., a clear local definition of "bulk crude oil storage facilities" along with inclusion of the term as a prohibited use within the use table). However, if required to choose between Drafts "H" and "I" as presented to the Hearing Examiner, that Citizens for a Clean Harbor would favor version "H". She stated her view that reliance upon the placard number approach employed in Ordinance Draft "I" was too limiting, and would exclude certain types of oil that would be equally or more dangerous than petroleum crude oil under USDOT placard #1267. By way of example, she cited placard #1288, shale oil, which was not included in the definition of oil in Ordinance Draft "I". She suggested that narrowing the definition to conventional petroleum crude oil under placard #1267 would not protect the public from the transport and storage of oil types that posed just as grave a safety risk. Accordingly, she expressed the preference of Citizens for a Clean Harbor for version "H" which adopts a state statutory definition. At the close of her testimony she reiterated that Mr. Shay's recommended approach was well founded.

Testimony of Mr. Al Carter, Ocean Protein, LLC:

Mr. Al Carter of 315 Lawrence Drive, Hoquiam, WA 98550, speaking on behalf of Ocean Protein advocated a regulatory approach that would specifically exempt biological oils. He indicated that Ocean Protein employs processes that use only oils derived from seafood (finfish, shellfish, etc.). He indicated that the industry is evolving, and that he wanted to ensure that the code amendments intended to prohibit crude oil facilities were clearly crafted to exempt biological oils derived from the tissue of fish or fish byproducts.

Testimony of Ms. Diane Wolfe:

Ms. Diane Wolfe of 209 Beacon Hill Drive, Hoquiam WA 98550, spoke in favor of Ordinance Draft "H". She stated that version "H", which would prohibit oil storage facilities throughout the City would protect the public's health, safety and property. She expressed two specific concerns regarding Ordinance Draft "I". First, she stated that the USDOT placard number approach used in that version would link the City's definition of "oil" to a fluid and often changing federal definition that could undermine or overturn Hoquiam's regulatory intent. Second, she referenced and quoted from Emergency Restriction/Prohibition Order,

Docket No. DOT-OST-2014-0025 (Feb. 25, 2014) issued by the United States Secretary of Transportation. She stated that this emergency order sought to ensure that petroleum products be tested and accurately classified prior to being offered into transportation. She stated that USDOT investigations that resulted in issuance of the order had discovered that railroads, shipping companies and oil companies were purposefully mischaracterizing the materials being transported and stored in violation of federal hazardous materials regulations, and that such misidentification of materials represented an imminent hazard to safe transportation of petroleum, and posed grave risks to the public health, safety and environment. Ms. Wolfe proceeded to state that petroleum crude oil may contain dissolved gases or other unanticipated hazardous constituents, and may exhibit corrosive, explosive or toxic properties. She asserted that the flammability of petroleum crude oil being shipped by bulk rail substantially endangers the public health, property, and the environment. Accordingly, she urged approval of Ordinance Draft "H", although she indicated her notional support for the regulatory strategy recommended by Mr. Shay in his staff report.

Testimony of Mr. Tadus Kisielius, Attorney for Imperium Renewables, Inc.:

Mr. Tadus Kisielius of Van Ness Feldman LLP (attorneys at law), 719 Second Avenue, Seattle, WA 98104 testified on behalf of Imperium Renewables. Mr. Kisielius referenced the written testimony previously entered by Imperium into the public record (see Exhibit "Q"). He explained that Imperium presently operates a biodiesel refinery, but has made application to expand its operations to include up to nine (9) tanks that would store a wide range of materials, potentially including crude oil. Mr. Kisielius then summarized the principal points detailed in Imperium's written submittals. First, that consideration be given to adding clarifying language to the text amendment to avoid the creation of nonconforming uses. By way of background, he explained that Imperium's proposed expansion project would not be prohibited under any of the text amendments being contemplated, because project applications had vested under the pre-moratorium Hoquiam Municipal Code. Mr. Kisielius stated that the specific public safety concerns referenced by Mr. Shay in his presentation, at least as they would relate to Imperium's expansion plans, were being addressed through a rigorous environmental review involving both the City of Hoquiam and the Department of Ecology as co-lead. He stated that while the code amendments under consideration would not prohibit construction of Imperium's expansion project if permitted, they could render the new facility a nonconforming use – at least to the extent that the expanded facility handles "oil" may be defined through adoption of one of the text amendment alternatives. Mr. Kisielius stated that his understanding is that the City does not seek to prohibit vested, pending applications, but that clarifying language was nevertheless necessary to avoid the creation of a nonconforming use. He then made reference to specific language proposed in their written submittals which would seek to specifically

exempt sites with existing facilities or pending applications from the scope of the proposed legislation, thus avoiding the creation of nonconforming uses. The second point made by Mr. Kisielius was that, of the two ordinance drafts that his client preferred version "I", precisely because it offered the necessary clarity. He stated that it adopts a specific and federally defined class of materials, as opposed to version "H", which is based upon the State's definition, but then proceeds to carve out exemptions or exceptions to the statutory definition. Mr. Kisielius expressed his view that these attempted exemptions and exceptions were somewhat vague for the purpose of regulatory clarity.

Finally, Mr. Kisielius asserted that both Ordinance Drafts "H" and "I" require further clarification as to the definition of "oil". He stated that definition in version "I" contained an ambiguity in that it made reference to "*petroleum products*" which would suggest a refined material, as opposed to unrefined crude oil. He suggested that this internal inconsistency be resolved if Ordinance Draft "I" were to be recommended. With respect to Ordinance Draft "H" he reiterated the potential confusion occasioned by adopting the State's statutory definition, then crafting exceptions to the definition. Mr. Kisielius referenced their written testimony as an example of language that might be incorporated within version "H" that could provide greater regulatory certainty and exempt feed-stocks used in the biodiesel production process.

Testimony of Ms. Kayla Dunlap, Port of Grays Harbor:

Ms. Kayla Dunlap of the Port of Grays Harbor submitted written testimony on behalf of the Port (see Exhibit "R"), and offered to answer any questions if necessary.

Testimony of Mr. Scott Hedderich, Rural Energy Group, Inc.:

Mr. Scott Hedderich of 416 South Bell Avenue, Ames, Iowa, representing Rural Energy Group (REG) stated that his company was the largest producer of biodiesel in the United States, and indicated that REG had entered into a letter of intent (LOI) to acquire the Imperium Renewables facility at the Port of Grays Harbor. He asserted that the definitions set forth in both versions "H" and "I" before the Hearing Examiner could significantly impact activities occurring at the facility in future. Mr. Hedderich stated that definition of oil set forth in Ordinance Draft "H" would include all sorts of materials used in the biodiesel industry as raw feedstock (e.g., biological oils and blends, oil sludge, oil refuse and oil mixed with wastes and other dredge oil). He stated that REG was very concerned about a broad definition like that in version "H" with associated exemptions and exceptions from the definition. He stated that the industry is evolving, and that it is not possible to know with certainty today what feed-stocks may be used in the production of biodiesel in future. He cited oil from algae as an example of a substance that could be in wide use as a feed-stock in decades hence. Mr.

Hedderich contended that oil from algae poses few of the dangers inherent in petroleum crude oil.

Mr. Hedderich contrasted the obscurity of the definition of oil in Ordinance Draft "H" with what he perceives to be the clarity of Draft "I". He stated that the USDOT placard system is not arbitrary, nor one readily changed by the USDOT or federal government, but one that dates back to the 1970s, with updates in 2001 and 2008. Mr. Hedderich indicated that the USDOT placard system is keyed to the definitions employed by the United Nations (UN), and that neither the USDOT nor the UN processes for modifying the placard definitions were speedy. He stated that if there was concern that USDOT placard #1267 was too narrow in its definitional scope, that reference could be made within the "oil" definition to other applicable USDOT placard numbers (e.g., the tar sand oil placard). This approach, in Mr. Hedderich's opinion, offers greater certainty than creating exemptions from the broad definition set forth in RCW 90.56.010(17). Mr. Hedderich provided the citation to the placard system at 49 CFR Chapter 1, 2008 edition.

Mr. Hedderich stated that the experiences of other communities around that nation made Hoquiam's concerns regarding crude by rail operations understandable. While REG continues to examine potential acquisition of the Imperium facility, Mr. Hedderich requested that the City of Hoquiam seek to avoid unintentionally defining oil too broadly. The Hearing Examiner then questioned Mr. Hedderich as to whether, in his opinion, reference to additional USDOT placard numbers within Ordinance Draft "I" would suffice, or, whether the actual definitions within the CFR should be incorporated into the City's code. Mr. Hedderich responded that reference to the placard numbers would provide sufficient stability and security.

Mr. Hedderich proceeded to comment that the process of biodiesel manufacture is not simple like that of ethanol, and involves the use of more than thirty-eight (38) different fats and oils, including a small percentage of petroleum derived/refined diesel, and other constituent chemicals. He again recommended inclusion of the tar sands oil USDOT placard number within the definition of "oil" in Ordinance Draft "I", and again restated the stability of the USDOT/UN placard system, and the lengthy rulemaking process necessary to modify the USDOT system.

The Hearing Examiner then sought to clarify whether the relevant distinction lies between finished petroleum products, and materials like tar sands oil, which require some intermediate level of processing to be used as a feed-stock at a petroleum refinery. Mr. Hedderich stated that perhaps the question the Hearing Examiner intended to ask was whether any of those petroleum-based raw materials are used in the manufacture of biodiesel. The Hearing Examiner confirmed that this was his next query. Mr. Hedderich indicated, considering only the manufacture of biodiesel in isolation, that no crude oil from the ground or any

of its unrefined derivatives would be used in the manufacture of bio-diesel, only refined products (e.g., diesel fuel) that must be used to denature their products.

Testimony of Ms. Jude Armstrong:

Ms. Jude Armstrong of 631 Chenault Avenue, Hoquiam Washington 98550 stated that she had followed with interest the City's attempts to protect its citizens and the environment from potentially hazardous materials that are deliberately brought to Hoquiam to be exported to another destination. She expressed her view that, while many of the points made with respect to clarifying the definition of "oil" were important, that definitions adopted by other entities were changeable – whether over the course of months or years. She acknowledged that the advice requested of the Hearing Examiner was "Solomonic", in that it needed to both be clear, and yet broad enough to allow the City to say "*no, we will not allow you to bring this product to our town and store it on our shores.*" She sought to explain and clarify the processes used to make substances like tar sands oil into a material that could be moved through a pipeline or shipped. Ms. Armstrong stated that these processes were not the same as refining a raw material, but simply changed them into a form enabling shipment. Such materials, Ms. Armstrong urged, should not be excluded from the definition of oil adopted by the City.

Ms. Armstrong stated that an earlier question asked by the Hearing Examiner had not been adequately answered, specifically, whether other jurisdictions were seeking to enact regulations to prevent crude by rail operations. She asserted that many citizens of Grays Harbor County, citizens throughout the State of Washington including Seattle, and other municipalities and agencies were seeking to prevent crude oil operations that could adversely affect the public. She indicated that the neighboring City of Aberdeen was likely to follow up their recent moratorium with permanent regulations, and also that the City of Spokane was exploring regulatory responses to address the impacts of the many trains passing through the city carrying crude oil. She stated that communities from Albany, New York to Vancouver, British Columbia were wrestling with these issues, and that the work being undertaken by the City of Hoquiam was extremely important.

The Hearing Examiner then asked if Mr. Shay wished to add any comments to the record. Mr. Shay responded that the testimony simply underscored the need for the City of Hoquiam to be as clear as possible in its legislative response to the issue of crude by rail.

As no other citizens wished to testify, the hearing was closed at approximately 11:35 a.m.

IV. FINDINGS

1. On July 13, 2015, the Hoquiam City Council enacted Resolution No. 2015-09, requesting that the Hearing Examiner "*hold an open public hearing, pursuant to Section 10.07.140(3), to consider the amendment of Title 10 of the Hoquiam Municipal Code, to prohibit the location of Wholesale Liquefied Petroleum facilities, as set forth in the two draft ordinances attached hereto (Draft H and Draft I).*"

2. Alternative Text Amendment "H" and "I" are both responses to safety and environmental concerns raised by the public and Hoquiam City Councilmembers concerning "crude-by-rail" operations that could occur under present zoning at the Port of Grays Harbor. Crude-by-rail operations involve the transport in railroad tank cars of unrefined (i.e., "crude") oil to storage and transfer facilities at coastal ports, and thence onto refineries for processing into finished products.

3. The City of Hoquiam has been operating under an emergency moratorium prohibiting "*wholesale liquefied petroleum storage and sales*" facilities since March 9, 2015. The moratorium is set to expire on September 9, 2015.

4. Since enactment of the moratorium and the referral of Text Amendment Alternatives "H" and "I" to the Hearing Examiner, the Hoquiam City Council has reviewed and considered a total of nine (9) separate alternative Text Amendments to address community concerns (i.e., Drafts "A" through "I"). Both versions "H" and "I" presented to the Hearing Examiner propose to permanently prohibit "*wholesale liquefied petroleum storage and sales*" throughout all zoning districts of the City.

5. A public hearing was held by the City of Hoquiam Hearing Examiner on August 6th, 2015 pursuant to notice duly published in the *Montesano Vidette*, all in accordance with applicable procedures of the Hoquiam Municipal Code and state law.

6. Pursuant to Article 11, § 11 of the Washington State Constitution, the general police powers granted to cities empower and authorize the City of Hoquiam to adopt land use controls to provide for the regulation of land uses within the City and to provide that such uses shall be consistent with applicable law.

7. RCW 35A.63.100 provides the legislative bodies of Code cities wide latitude in developing and adopting zoning regulations that give effect to locally adopted Comprehensive Plans. As provided in RCW 35A.63.100(2), such regulations may provide for: "*Dividing the municipality, or portions thereof, into appropriate zones within which specific standards, requirements, and conditions may be provided for regulating the use of public and private land, buildings, and structures, and the location, height, bulk, number of stories, and size of buildings and structures, size of yards, courts, open spaces, density of population, ratio of*

land area to the area of buildings and structures, setbacks, area required for off-street parking, protection of access to direct sunlight for solar energy systems, and such other standards, requirements, regulations, and procedures as are appropriately related thereto."

8. Consistent with findings #6 and #7, supra, the City of Hoquiam possesses the requisite constitutional and statutory land use regulatory authority to either allow and regulate land uses within the city limits, or to prohibit and ban such uses.

9. Hoquiam Municipal Code (HMC) §10.01.10 sets forth the City's regulations governing nonconforming uses, structures, and lots of record. HMC §10.01.10(2) states in relevant part as follows: *"In order not to cause undue economic hardship to owners of property, nonconforming uses and structures are allowed to continue under the following conditions: (a) An existing nonconforming structure and accessory buildings can be enlarged, altered or repaired, provided the improvements meet minimum setback and lot coverage requirements for the current zone. (b) An existing nonconforming structure that is destroyed by fire or calamity more than fifty percent of its replacement value, as determined by the building official, may be reconstructed to its original size, shape, configuration, and in conformance with the building code; provided, that reconstruction commences within two years of the damage.*

10. Building permit applications for crude oil storage and handling facilities that are deemed by the City to be substantially complete prior to passage of a regulation prohibiting such use would be subject to, and protected by, Washington State's comparatively permissive vesting doctrine. Washington's vested rights doctrine entitles applicants to have development proposals processed under regulations in effect at the time of building permit application, regardless of subsequent changes in zoning or other regulations.

11. According to testimony introduced at hearing by City staff, the alternative Text Amendments referred to the Hearing Examiner by the City Council are intended to prohibit unrefined bulk crude oil storage and handling facilities, and not to prohibit biological oils or refined products for consumer use.

12. Proposed Text Amendment "H" employs the definition of "oil" set forth in the Washington Oil and Hazardous Substance Spill Prevention and Response statute, found at RCW 90.56.010(17), and then proceeds to except from that definition *"bio-diesel, or other similar products."*

13. By contrast, proposed Text Amendment "I" defines "oil" more narrowly as *"petroleum products that require further refinement before its intended use by consumers, identified with USDOT placard number 1267."*

14. The definition of “oil” or “oils” in proposed Text Amendments “H” and “I” rely upon definitions set forth in regulatory enactments separate from, and not incorporated within, the text of the Hoquiam Municipal Code. Reliance upon such outside definitions creates latent ambiguities to users of the City’s zoning code, and creates a more than a theoretical potential for the referenced definitions incorporated from other sources to be changed without staff or elected officials being aware of such changes having occurred at the state or federal level. This ambiguity could be avoided through incorporation of a distinct definition that is unique to the City of Hoquiam.

15. Both proposed Text Amendments “H” and “I” also rely substantially upon new or amended definitions relating to wholesale and retail sales of liquefied petroleum (“*wholesale liquefied petroleum sales*”) or oil (“*wholesale oil storage and sales*”), and neither clearly defines, without reference to the type of sales involved, the precise type of storage and handling facility sought to be prohibited.

16. Both proposed Text Amendments “H” and “I” would also seek to prohibit “*wholesale oil storage and sales*” through inclusion of a new §10.05.140, rather than through the more usual approach of defining a type of use and then listing it within the zoning code’s use tables (in this instance HMC §10.03.116) as not allowed.

17. HMC §10.03.090(2)(a), which provides guidance concerning the interpretation of the code’s use tables, makes plain that “*if no symbol appears in the box at the intersection of the column and the row, the use is not allowed in that district.*”

18. The uses sought to be regulated through Text Amendment Drafts “H” and “I” are plainly industrial uses that would not be permissible within the residential zoning districts of the City of Hoquiam, with or without a code amendment specifically prohibiting them within such districts.

19. The use table set forth at HMC §10.03.116 classifies uses and establishes whether they are permitted, conditional, or not allowed within the commercial, industrial and natural resource zoning districts of the City of Hoquiam.

20. HMC §10.03.112 clearly expresses the purposes of the Industrial zoning district. That code provision states in relevant part as follows: “*Activities within the district may include small-scale manufacturing, processing, fabrication and assembly of products and materials, warehousing, storage, and transport facilities. Marine-related activities may include boat-related haul-out, repair and fabrication, painting services, and associated retail sales. The district accommodates heavy manufacturing activities including processing, assembling of products or bulk storage.*”

21. Greater regulatory clarity and certainty could be achieved by amending HMC §10.09.030 to include a new definition for the term “*bulk crude oil storage and handling facility*”, listing the newly defined use within the use table set forth at HMC §10.03.116, and then classifying the use as not allowed by leaving the boxes in that row of the use table blank to indicate that such facilities are prohibited within the commercial, industrial and natural resource zoning districts of the City of Hoquiam.

22. The Hearing Examiner has reviewed and considered the proposed Text Amendment alternatives against the Development Strategies for Future Industrial Uses set forth in §3.0 of the City of Hoquiam Comprehensive Land Use Plan, and finds that no inconsistencies exist between the guidance provided by the Plan and the proposed legislation.

23. The proposed Text Amendments set forth in versions “H” and “I” referred to the Hearing Examiner, as well as the Text Amendment developed by the Hearing Examiner and set forth within this Recommendation to City Council, meet the definition of a non-project action as that term is defined under WAC 197-11-704(b) (the State Environmental Policy Act (SEPA) Rules), and that the actions that may be taken by the Council are not categorically exempted from SEPA review and threshold determination under WAC 197-11-800. Accordingly, SEPA review must be completed prior to adoption of any proposed Text Amendment.

24. Other than the exhibits incorporated within Section II and the oral testimony summarized in Section III hereinabove, no comment letters or exhibits were submitted into the record in response to the Notice of Application for Text Amendment.

25. Any Finding of Fact, or portion thereof, hereafter determined by a court of competent jurisdiction to be a Conclusion of Law shall be construed as a Conclusion of Law without derogation of any other Finding of Fact.

V. CONCLUSIONS

1. Consistent with the provisions of §§1.55.080 and 10.07.140 of the Hoquiam Municipal Code and City Council Resolution No. 2014-6, authority resides with the Land Use Hearing Examiner to review the proposed zoning code Text Amendment application, conduct an open record public hearing, consider written and oral testimony, and make a recommendation to the City Council concerning the proposal.

2. All procedural requirements pertaining to notice, scheduling and conduct of the public hearing have been met and are satisfied.

3. With the exception of SEPA review and threshold determination as set forth in finding #23, supra, all procedural requirements pertaining to amendment of Title 10 of the Hoquiam Municipal Code have been met and are satisfied.

4. The adoption of the proposed legislation as set forth in this recommendation constitutes an exercise of the general police and regulatory powers of the City of Hoquiam as authorized by, but not limited to: Washington State Constitution Article 11, § 11; Chapter 35A.12 RCW, and RCW 35A.12.100; and the Hoquiam Municipal Code.

5. To the extent that adoption of amended code provisions prohibiting “*bulk crude oil storage and handling facilities*” would create legal nonconforming uses at the time of ordinance adoption, such uses would find substantial safe harbor under HMC §10.01.10. This code provision clearly permits the continuation of nonconforming uses, allows for such uses to be enlarged, altered or repaired, and permits such uses and associated structures to be reconstructed and reestablished in the event of casualty.

6. The Hearing Examiner concludes that the adoption of the proposed legislation embodied within this recommendation substantially advances the public health, safety and welfare of the citizens of the City of Hoquiam, and therefore, should be approved.

7. Any Conclusion of Law, or portion thereof, hereafter determined by a court of competent jurisdiction to be a Finding of Fact shall be construed as a Finding of Fact without derogation of any other Conclusion of Law.

VI. RECOMMENDATION TO CITY COUNCIL

Based upon the forgoing, and after due consideration of all evidence and testimony submitted with respect to this matter, the Land Use Hearing Examiner of the City of Hoquiam hereby recommends that the Hoquiam City Council APPROVE the amendments to the Hoquiam Municipal Code as set forth immediately below, in lieu of either Text Amendment “H” or “I” referred to the Hearing Examiner via City Council Resolution No. 2015-09.

1. HMC §10.03.090 – “B” Definitions, should be amended to incorporate a new definition for the term “*bulk crude oil storage and handling facility*”, which reads as follows:

(17) “Bulk crude oil storage and handling facility” means any structure, group of structures, equipment, ~~pipeline~~ or device that stores or transfers any naturally occurring petroleum extracted from geological formations beneath the earth’s surface which requires further refinement before consumer use, including: conventional crude oil, heavy oil, extra heavy

liquid

oil, and oil sands/bitumen. The term does not include facilities that store and handle finished products derived from petroleum.

2. HMC §10.09.116, the Table of Permitted and Conditional Uses for the Commercial, Industrial and Natural Resources Zoning Districts should be amended to list the term "*bulk crude oil storage and handling facility*", with the uses classified as not allowed by leaving the boxes in that row of the use table blank. The relevant portion of the table would be amended to read as follows:

Commercial, Industrial & Natural Resource Land Use	C-1	C-2	I	NR
Bed and breakfast inns	C	P		
<u>Bulk crude oil storage and handling facilities</u>				
Crematoriums	C		C	

3. No other amendments are necessary or recommended by the Hearing Examiner to accomplish the City Council's apparent purpose, or to ensure that biodiesel facilities, facilities handling biological oils derived from fish or fish byproducts, or wholesale liquefied petroleum sales (as defined in HMC §10.09.240(5)), remain allowable uses within appropriate zoning districts in the City of Hoquiam.

Dated this 17th day of August 2015.

Eric R. Toews
Land Use Hearing Examiner

Exhibit A



Office of the Mayor
CITY OF HOQUIAM
609 – 8th Street, Hoquiam, WA 98550
(360) 532-5700 ext. 219 FAX (360) 538-0938
Email: mayor@cityofhoquiam.com

Memorandum

To: City Council Members
From: Mayor Jack Durney
Date: March 6, 2015
Re: Moratorium on Oil Terminal Facilities

Dear Council Members:

I have been a longtime advocate of national energy independence as well as local economic development. For those reasons, I didn't have any particular opposition to the expansion projects at Imperium Renewables and Westways Terminals in Hoquiam that would add additional storage tanks for crude oil. I also felt that the local, state and federal permitting requirements, along with the environmental review process for the proposed oil terminals would be sufficient safeguards for our community.

However, I have come to the conclusion – as have a lot of people over time – that wholesale liquefied petroleum storage and sales facilities are not compatible with our lifestyle, our safety, or our current and future economy. The unfortunate rail disasters seen in other parts of the country could happen here.

The known fragile local condition of rail infrastructure could result in derailments causing explosions endangering our residents and/or causing major oil spills that could destroy our seafood industry as well as our enjoyment of recreational opportunities on our rivers and streams. The increased rail traffic for crude oil when added to the existing amount of time that trains are blocking streets and entrances to business areas will create unacceptable traffic mobility issues.

I have stated at Council meetings, on the radio, and in presentations to individuals and community groups that the City of Hoquiam land use ordinance permits bulk liquid storage and we have no regulatory authority over the railroads. As co-leads with the State of Washington Department of Ecology, we have been working daily to make sure that the current applicants must comply with all environmental and safety requirements in the environmental impact statement which should be available for public review and comments this summer.

Because Westways Terminals, Imperium Renewables, and US Development have vested rights in their applications for these facilities, we cannot change the past. We are required to evaluate these projects based upon the City, State and Federal laws, rules and regulations that were in place at the time the applications were submitted. **However, we can change the future!**

I am presenting the City council two documents. One is a resolution requesting our land use hearing examiner to hold an open public hearing to consider an amendment to our land use plan to forbid wholesale liquefied petroleum facilities in ANY zone within the City of Hoquiam. The other is a

resolution that I urge the City Council to adopt IMMEDIATELY that establishes a moratorium on the "licensing, regulation, location, and permitting of wholesale liquefied petroleum storage and sales facilities" in any zoning district in the City of Hoquiam while we revise the City land use plan.

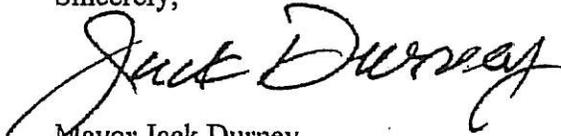
These actions will immediately take the Rayonier-GH Paper, Anderson-Middleton, the Port of Grays Harbor's IDD-1, the Lamb-Grays Harbor, Bowerman Field and other potential sites off the market for future crude oil storage and sales.

And if any of the three current applicants decide not to proceed, their facilities will not be able to be used in the future for this purpose.

I appreciate your consideration of this very important action. Moreover, I believe the cities of Aberdeen, Montesano, and Elma and Grays Harbor County should similarly consider taking this action.

We have far too much to lose if we don't.

Sincerely,

A handwritten signature in black ink that reads "Jack Durney". The signature is written in a cursive, flowing style with a large initial "J".

Mayor Jack Durney
City of Hoquiam

ORDINANCE NO. 2015 – _____

AN ORDINANCE of the City Council of the City of Hoquiam, imposing a moratorium on the licensing, regulation, location and permitting of Wholesale Liquefied Petroleum Storage and Sales facilities, setting a public hearing, and declaring this ordinance a public emergency ordinance and thus effective immediately.

THE CITY COUNCIL OF THE CITY OF HOQUIAM, WASHINGTON DO ORDAIN AS FOLLOWS:

WHEREAS, there are currently two large Wholesale Liquefied Petroleum Storage and Sales facilities located in the industrial zone of the City of Hoquiam, and a third facility is currently being proposed and has applied for permits; and

WHEREAS, the two existing Wholesale Liquefied Petroleum Storage and Sales facilities have applied for permits to expand their facilities; and

WHEREAS, the City Council of the City of Hoquiam has serious concerns that public safety, public services, and public infrastructure could be jeopardized by the addition of new Wholesale Liquefied Petroleum Storage and Sales facilities in the City of Hoquiam; and

WHEREAS, the City Council of the City of Hoquiam has further serious concerns with respect to the potential harm that additional Wholesale Liquefied Petroleum Storage and Sales facilities could cause to the seafood industry, the water quality of Grays Harbor, the Chehalis River, and the Hoquiam River, and to the environment as a whole; and

WHEREAS, the City Council of the City of Hoquiam finds that serious questions regarding the safety of transport of petroleum products by railroad currently exist and need to be addressed by the State of Washington and the Federal Government; and

WHEREAS, RCW 35A.63.222 authorizes the City of Hoquiam to adopt a moratorium; and

WHEREAS, pursuant to WAC 197-11-880, the adoption of this ordinance is exempt from the requirements of a threshold determination under the State Environmental Policy Act; and

WHEREAS, the immediate enactment of a moratorium on the licensing, regulation, location and permitting of Wholesale Liquefied Petroleum Storage and Sales facilities is necessary to protect the public health, safety or welfare and is a legitimate exercise of the City's police power; and

WHEREAS, the City Council adopts the foregoing as its findings of fact justifying adoption of this ordinance, **NOW THEREFORE**

THE CITY COUNCIL OF THE CITY OF HOQUIAM, GRAYS HARBOR COUNTY,

WASHINGTON DO ORDAIN AS FOLLOWS:

SECTION 1. Pursuant to RCW 35A.63.220, a moratorium is hereby imposed prohibiting the licensing, regulation, location and permitting of Wholesale Liquefied Petroleum Storage and Sales facilities.

SECTION 2. This moratorium shall remain in effect for six months from the date of adoption of this ordinance, unless earlier terminated pursuant to the terms of Section 4, below.

SECTION 3. This moratorium shall not effect the three facilities that have previously submitted completed development permit applications to the City of Hoquiam.

SECTION 4. Pursuant to RCW 35A.63.220, a public hearing shall be held on this moratorium on March 23rd, 2015, at 7:00 p.m., in the Council Chambers at the Hoquiam City Hall, 609 – 8th Street, Hoquiam, Washington.

SECTION 5. This Ordinance is hereby declared and designated as a Public Emergency Ordinance necessary for the protection of public health, safety, public property, or the public peace and shall be effective immediately upon adoption.

SECTION 6. SEVERABILITY. Each and every provision of this ordinance shall be deemed severable. If any provision of this Ordinance should be deemed to be unconstitutional or otherwise contrary to law by a court of competent jurisdiction, then it shall not affect the validity of the remaining sections so long as the intent of the Ordinance can be fulfilled without the illegal section.

ADOPTED by the Mayor and City Council on _____, 2015.

JACK DURNEY – MAYOR

ATTEST:

MIKE FOLKERS – FINANCE DIRECTOR

PUBLISHED:

RESOLUTION NO. 2015 – _____

A **RESOLUTION** of the City Council of the City of Hoquiam, Washington, relating to an amendment of Title 10, pursuant to Section 10.07.140 of the Hoquiam Municipal Code concerning the development and adoption of zoning regulations and development standards for Wholesale Liquefied Petroleum Storage and Sales facilities.

WHEREAS, Section 10.07.140 provides that an amendment to the Zoning Code – Title 10 of the Hoquiam Municipal Code – may be initiated by resolution of the City Council requesting the land use hearing examiner to set the matter for hearing, **NOW THEREFORE**,

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF HOQUIAM, WASHINGTON, IN REGULAR MEETING DULY ASSEMBLED, AS FOLLOWS:

SECTION 1. The City Council of the City of Hoquiam requests the land use hearing examiner to hold an open public hearing, pursuant to Section 10.07.140(3), to consider the amendment of Title 10 of the Hoquiam Municipal Code, to prohibit the location of Wholesale Liquefied Petroleum facilities, as set forth in the draft ordinance attached hereto.

ADOPTED by the Mayor and City Council on _____, 2015.

Jack Durney – Mayor

ATTEST:

Mike Folkers – Finance Director

DRAFT

ORDINANCE NO. 2015 -- _____

AN ORDINANCE relating to zoning; amending Section 10.03.116 of the Hoquiam Municipal Code; amending Section 10.09.240 of the Hoquiam Municipal Code; and adding a new Section 10.05.140 to Chapter 10.05 of the Hoquiam Municipal Code.
THE CITY COUNCIL OF THE CITY OF HOQUIAM, WASHINGTON DO ORDAIN AS FOLLOWS:

SECTION 1. Section 10.03.116 of the Hoquiam Municipal Code is amended to read as follows:

10.03.116 Table of Permitted and Conditional Uses – Commercial, Industrial and Natural Resources

Accessory buildings and uses	P	P	P	
Adult entertainment businesses	C			
Asphalt, rock crushing, and concrete batch plants			P	
Assembly halls and community clubs	P	P		
Automobile, heavy maintenance and repair shops	P	C	P	
Automobile, RV, boat sales	P	P		
Automobile service stations	P	P		
Automobile wrecking, towing, or junk yards			P	
Banks and financial services	P	P		
Bars, cocktail lounges, and taverns	P	P		
Bed and breakfast inns	C	P		
Crematoriums	C		C	
Cluster Density Subdivision	C	C	C	
Community facilities	P	P	P ^v	
Contractor yards	P		P	
Day care centers	P	P		
Drive through facilities	P		P	
Dwellings, multifamily with five or more units	C ^w	P ³	P ^w	
Dwellings, multifamily with four or less units	C ^w	P ³	P ^w	
Dwellings, single-family	P ^l	P ^l	P ^v	

Farmers Market	P	P	P	
Food processing	P	P	P	
Freight terminals	P		P	
Hazardous waste storage and treatment	C		C	
Hospitals, medical and dental clinics	P	P	P	
Industry, heavy			P	
Industry, light and within a structure	P		P	
Live work Unit	P	P		
Manufactured office buildings	P		P	
Marijuana Processing Businesses				P
Marijuana Producing Businesses				P
Marijuana Retailing Businesses				P
Martina facilities	P ^W	P ^W	P	
Mini-storage facilities				P
Motels and hotels	P	P	P ^W	
Office and business parks	P		C	
Outdoor storage	P		P	
Parking areas, public and private	P		C	P
Parks, public	P	P	P ^W	P
Personal services	P		P ^W	
Places for religious worship	P	P	P ^W	
Planned unit developments	C		C	C C
Professional services	P	P	P ^W	
Public utilities	p ²	p ²	p ²	p ²
Recreational facilities	P	P	P ^W	C
Residential care facilities	P		P C ^W	
Restaurants	P	P	P ^W	
Restaurants, drive-in	P		C ^W	
Retail sales	P	P	P ^W	
Retirement Home	P		P	
Small engine sales, service, and repair	P	P	P	

Ship terminals, slips, and repair facilities				P
Timberland Production				P
Truck and heavy equipment sales and services	P			P
Veterinary hospitals and kennels	P	C	P	
Warehousing	P			P
Wholesale liquefied petroleum sales			P	
Wholesale sales and product distribution centers				P
Serving the owner, manager, or caretaker of a permitted or conditional use				
² Public utilities that exceed the height limitations of a district require a conditional use permit.				
Only if located above a ground floor commercial use.				
^W Waterfront overlay district only as part of a PUD or mixed use development				
Consistent with the requirements of HMC 10.05.020.				

SECTION 2. Section 10.09.240 of the Hoquiam Municipal Code is amended to read as follows:

10.09.240 “W” definitions.

- (1) “Wall” means any member, or group of members, which defines the exterior boundaries of a building and which has a slope of sixty degrees or greater with the horizontal plane. The height of a wall shall be measured as the two-dimensional height from the average finished grade of the particular architectural building elevation adjacent to the wall to the finished roof plane.
- (2) “Wall sign” means any sign attached to or painted directly on the wall, or erected against the wall of a building being parallel or approximately parallel to said wall, and does not exceed a distance of fifteen inches from said wall.
- (3) “Warehouse/warehousing” means a facility generally dealing with the active reception and dispersal of goods that are oriented to manufactured products and household goods. A warehouse usually consists of a large multistoried building with loading docks. “Warehouse/warehousing” includes distribution and transfer such as rail-to-truck and truck-to-truck transfer facilities.
- (4) “Wholesale sales” means the sale of goods or commodities, usually in bulk or large quantities and usually at lower cost, to a retailer for resale. Such sales activity takes place in establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; or to

other wholesalers, acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or businesses.

(5) "Wholesale liquefied petroleum storage and sales" means a facility that stores and/or sells a substance used as a gas for fuel, including but not limited to crude oil, diesel, bio-diesel, gasoline, and butane. The product is stored in the liquid state at the facility.

(6) "Wholesale sales and production distribution centers" means commodities stored for sale to businesses or brokers.

(7) "Wind turbine" means a machine with turbine apparatus (rotor blades, nacelle and tower) capable of producing electricity by converting the kinetic energy of wind into rotational, mechanical and electrical energy; provided, the term does not include electrical distribution of transmission lines, or electrical substations.

(8) "Wind turbine farm" means two or more wind turbines on one parcel.

(9) "Wind turbine height" means the distance measured from the ground level to the highest point on a wind turbine, including the rotor blades

NEW SECTION. SECTION 3. A new Section 10.05.140 is added to Chapter 10.05 of the Hoquiam Municipal Code is amended to read as follows:

10.05.140 Wholesale Liquefied Petroleum Storage and Sales -- prohibited.
Wholesale liquefied petroleum storage and sales facilities as defined in Hoquiam Municipal Code Section 10.09.240 are prohibited in any zoning district in the City.

ADOPTED by the Mayor and City Council on _____,
2015.

JACK DURNEY – MAYOR

ATTEST:

MIKE FOLKERS – FINANCE DIRECTOR

PUBLISHED:

Exhibit B

Fellow Council Members:

In 2012, Initiative 502 legalizing recreational use of marijuana by adults passed in this state. It passed by an appreciable margin here in Hoquiam. Yet the Mayor and Council created and repeatedly extended a moratorium on marijuana that flew in the face of both common sense and the clearly stated position of the majority of our citizens.

It is no secret how vehemently opposed I am to Crude By Rail coming anywhere near Grays Harbor. I am hard-pressed to understand how anyone not affiliated with the Port, the Railroad or the companies involved could feel any other way.

We have been elected by our fellow citizens to look out for their best interests. It is a responsibility not to be taken lightly, and I doubt we will ever have a more important opportunity to prove ourselves up to the task.

In the Memorandum that accompanied his proposed Moratorium on Oil Terminal Facilities, Mayor Durney made several undeniably true statements. I quote him now:

"The known fragile condition of rail infrastructure could result in derailments causing explosions endangering our residents and/or causing major oil spills that could destroy our seafood industry as well as our enjoyment of recreational opportunities on our rivers and streams. The increased rail traffic for crude oil when added to the existing amount of time that trains are blocking streets and entrances to business areas will create unacceptable traffic mobility issues."

All very correct, and well stated.

Accompanying this letter is a revised Ordinance NO. 2015. Please look this over and consider it the "Option C" Mayor Durney referenced at the workshop. It is up to us, the Hoquiam City Council, to make the call. Not the Mayor, not the City Manager, not the City Attorney. Us.

We blew it with marijuana, but at least the only price to be paid for that was looking a bit foolish. It all worked out eventually and no harm no foul. The stakes here are so much higher. Five years after the oil disaster, the Gulf of Mexico is still reeling. Let's not be next on the sucker list.

We have one last best chance to protect the future of Grays Harbor and its people. This is it.

Richard Pennant

ORDINANCE NO. 2015 -- _____

AN ORDINANCE relating to public health, safety, and welfare, zoning, and shoreline protection and uses; amending Sections 10.09.160 and 10.09.240 of the Hoquiam Municipal Code; adding a new Section 10.05.140 to Chapter 10.05 of the Hoquiam Municipal Code; amending Sections 11.04.060 and 11.04.140 of the Hoquiam Municipal Code.

WHEREAS, There are no currently operating wholesale oil storage and sales facilities, where crude oil is brought in by train, stored, and then shipped out by barge or oil tanker, in Hoquiam and Grays Harbor.

WHEREAS, To serve wholesale oil storage and sales facilities in Hoquiam, lengthy trains consisting of 100-120 tank cars of crude oil would travel along the Chehalis River and along the shoreline of Grays Harbor after traversing the length of Washington from the eastern border outside Spokane.

WHEREAS, Residents of Hoquiam have been horrified by the regular and devastating series of oil train derailments, accidents, oil spills, and explosions, including Lac Mégantic, Quebec (July 5, 2013), Aliceville, Alabama (November 8, 2013), Casselton, North Dakota (December 30, 2013), Lynchburg, Virginia (April 30, 2014), Mount Carbon, West Virginia (February 16, 2015), and two in Ontario, Canada (February 14 and March 7, 2015).

WHEREAS, The increase in frequency and numbers of rail cars carrying crude oil and other petroleum products through Hoquiam along the Chehalis River, to storage terminals on our fragile and vital marine shoreline, to be shipped out through Grays Harbor in barges and oil tankers, will increase the public's vulnerability to a serious accident.

WHEREAS, Increased rail traffic, when added to the existing amount of time that trains are blocking streets and entrances to business areas, will create unacceptable traffic mobility and traffic safety issues.

WHEREAS, The Chehalis River and Grays Harbor, on or along which rail cars, ships, and barges would travel, are unique ecological, cultural, economic, natural, and recreational resources upon which residents of Hoquiam rely, making these waterways especially vulnerable to spills of crude oil and other petroleum products.

WHEREAS, An oil spill in the Chehalis River or Grays Harbor could destroy Hoquiam's seafood industry and devastate commercial, tribal, and recreational fishing, a major economic factor for Hoquiam and Grays Harbor County, as well as limit enjoyment of recreational opportunities on rivers, streams, and marine waters.

WHEREAS, An oil spill in the Chehalis River or Grays Harbor would have a devastating impact on tourism, a major economic factor for Hoquiam and Grays Harbor County.

WHEREAS, The Quinault Indian Nation, which has called the Grays Harbor area home since time immemorial, holds U.S. treaty-protected fishing and gathering rights in the waters of Grays

Harbor. These rights, and the Quinault Indian Nation's economic, spiritual, and cultural resources, would be destroyed by an oil spill in the Chehalis River or Grays Harbor.

WHEREAS, The river and marine waters of Grays Harbor are home to many species of marine mammals and birds as visitors, migrants, or residents that will be harmed by increased vessel traffic in and out of the harbor. Some of these species are protected under federal law. The Grays Harbor National Wildlife Refuge in Hoquiam is one of four major staging areas for migrating shorebirds in the Pacific Flyway. Up to one million shorebirds gather here in spring and fall to feed and rest, and the Refuge hosts thousands of visitors.

WHEREAS, An oil spill in the Chehalis River or Grays Harbor would have a devastating impact on those ecosystems and all aquatic and terrestrial wildlife that depends on those ecosystems.

WHEREAS, The Washington Department of Ecology Spills Program has stated that Washington is unprepared for crude-by-rail accidents, spills, and explosions.

WHEREAS, Based on the above concerns, wholesale oil storage and sales facilities are not compatible with Hoquiam's lifestyle, safety, or current and future economy.

WHEREAS, In order to protect the public health, safety, and welfare of Hoquiam residents and business community, protect the safety of existing commercial and recreational marine vessel traffic, prevent interference with the historical and current uses and enjoyment of shoreline property, prevent the disruption of current harbor traffic, honor the U.S. treaty-protected fishing and harvesting rights of the Quinault Indian Nation, protect marine, river, and terrestrial species, protect the resources and ecology of Hoquiam's shorelines, favor long-term over short-term benefits regarding uses of Hoquiam's shorelines, and promote the economic vitality of Hoquiam's fishing, seafood, and tourism industries, the City Council amends the Hoquiam Municipal Code.

WHEREAS, amendment of the Hoquiam Municipal Code is a legitimate exercise of the City's police power and is necessary to protect the public health, safety, and welfare, the City Council adopts the foregoing as its findings of fact justifying the adoption of this ordinance.

THE CITY COUNCIL OF THE CITY OF HOQUIAM, WASHINGTON DO ORDAIN AS FOLLOWS:

SECTION 1. Section 10.09.160 of the Hoquiam Municipal Code is amended by added a new subsection (4) to read as follows:

10.09.160 "O" Definitions

- (1) "Off-premises sign" means a permanent sign not located on the premises of the use or activity to which the sign pertains.
- (2) "Off-premises directional sign" means an off-premises sign designed to guide the public to an area, place, business or service without arterial or collector frontage within the city and is consistent with standards in HMC 10.05.130.

(3) "Office and business park" means a large tract of land planned, developed, and operated as an integral facility for a number of separate office buildings and supporting ancillary uses with special attention given to circulation, parking, utility needs, aesthetics, and compatibility.

(4) "Oil" or "oils" means oil of any kind that is liquid at twenty-five degrees Celsius and one atmosphere of pressure, including, but not limited to, crude oil, bitumen, synthetic crude oil, natural gas well condensate, petroleum, gasoline, fuel oil, diesel oil, biological oils and blends, oil sludge, oil refuse, and oil mixed with wastes other than dredged spoil.

(5) "Open record public hearing" means a hearing conducted by a single hearing body or officer authorized by the city of Hoquiam. The purpose of the hearing is to create a record through testimony, submission of evidence, and information under procedures prescribed by ordinance or resolution.

(6) "Outdoor storage" means a defined area rented to individuals where equipment or machinery is stored in a secured, fenced area. (Ord. 10-25 § 37, 2010; Ord. 04-07 § 52, 2004).

SECTION 2. Section 10.09.240 of the Hoquiam Municipal Code is amended by added a new subsection (6) to read as follows:

10.09.240 "W" Definitions

(1) "Wall" means any member, or group of members, which defines the exterior boundaries of a building and which has a slope of sixty degrees or greater with the horizontal plane. The height of a wall shall be measured as the two-dimensional height from the average finished grade of the particular architectural building elevation adjacent to the wall to the finished roof plane.

(2) "Wall sign" means any sign attached to or painted directly on the wall, or erected against the wall of a building being parallel or approximately parallel to said wall, and does not exceed a distance of fifteen inches from said wall.

(3) "Warehouse/warehousing" means a facility generally dealing with the active reception and dispersal of goods that are oriented to manufactured products and household goods. A warehouse usually consists of a large multistoried building with loading docks. "Warehouse/warehousing" includes distribution and transfer such as rail-to-truck and truck-to-truck transfer facilities.

(4) "Wholesale sales" means the sale of goods or commodities, usually in bulk or large quantities and usually at lower cost, to a retailer for resale. Such sales activity takes place in establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; or to other wholesalers, acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or businesses.

(5) "Wholesale liquefied petroleum sales" means a facility that sells a substance used as a gas for fuel. The product is stored in the liquid state at the facility.

(6) "Wholesale Oil Storage and Sales" means a facility that stores, transfers, and/or conducts wholesale sales of oil as defined in Hoquiam Municipal Code Section 10.09.160. Wholesale Oil Storage and Sales excludes facilities that store, transfer, and/or sell oil (as defined in HMC 10.09.160) solely for the purpose of retail sales.

(7) "Wholesale sales and production distribution centers" means commodities stored for sale to businesses or brokers.

(8) "Wind turbine" means a machine with turbine apparatus (rotor blades, nacelle and tower) capable of producing electricity by converting the kinetic energy of wind into rotational, mechanical and electrical energy; provided, the term does not include electrical distribution of transmission lines, or electrical substations.

(9) "Wind turbine farm" means two or more wind turbines on one parcel.

(10) "Wind turbine height" means the distance measured from the ground level to the highest point on a wind turbine, including the rotor blades. (Ord. 10-25 § 43, 2010; Ord. 04-07 § 60, 2004).

SECTION 3. A new Section 10.05.140 is added to Chapter 10.05 of the Hoquiam Municipal Code as follows:

10.05.140 Wholesale Oil Storage and Sales – prohibited.

Wholesale oil storage and sales facilities as defined in Hoquiam Municipal Code Section 10.09.240 are prohibited in any zoning district in the City.

SECTION 4. Section 11.04.060 of the Hoquiam Municipal Code is amended to read as follows:

(1) This section regulates site selection for various kinds of land and water uses, and is primarily intended to preserve shorelines for those uses which are more in need of shoreline sites than those which are not. Within the confines of the specific environment regulations found in HMC 11.04.140 the following uses are deemed as permitted uses for shorelines. All Other uses, as specified herein, may be considered as conditional uses, unless listed as prohibited uses in subsection (4).

(2) Permitted Shoreline Uses.

- (a) Residences;
- (b) Parks, public and private;
- (c) Public access areas, routes and devices;
- (d) Hotels, motels, condominiums;
- (e) Restaurants, taverns;
- (f) Docks, piers and other water-land connectors;
- (g) Water control devices and structures;
- (h) Water-related commercial uses;
- (i) On-premises outdoor advertising;
- (j) Marinas and boat basins;
- (k) Shipyards and other water craft industries;
- (l) Port facilities;
- (m) Water-related industries (these industries do not include onshore support facilities for ocean oil and gas uses and activities, and-ocean mining, and wholesale oil storage and sales);
- (n) Aquacultural uses and structures;
- (o) Agriculture;
- (p) Fishing and other water sports;
- (q) Mobile home parks;
- (r) Watercraft of all kinds;
- (s) Necessary bridges;
- (t) Log storage;
- (u) Public utilities;
- (v) Bulkheads and other protective devices not associated with landfills as part of another use or for protection of uplands;

- (w) Dredging and mineral extraction;
- (x) Parking lots for vista purposes only;
- (y) Pollution control facilities.

(3) Conditional Shoreline Uses. The following is a list of conditional uses. These and other unlisted uses may be allowed as conditional uses only.

- (a) Parking lots – Nonvista;
- (b) Nonwater-related industry;
- (c) Nonwater-related commercial uses;
- (d) Landfills – Water-related;
- (e) Landfills – Nonwater-related fills landward of the ordinary high water mark as defined in RCW 90.58.030;
- (f) Solid waste disposal;
- (g) Off-premises outdoor advertising;
- (h) Wood waste landfills;
- (i) Timber harvesting and management;
- (j) Ocean mining onshore support facilities;
- ~~(k) Ocean oil and gas onshore support facilities;~~
- (l) Bulkheads associated with landfills. (Ord. 91-35 § 1, 1991).

(4) Prohibited Shoreline Uses. The following is a list of prohibited uses.

- (a) Wholesale oil storage and sales facilities;
- (b) Ocean oil and gas onshore support facilities.

SECTION 5. Section 11.04.140 of the Hoquiam Municipal Code is amended to read as follows:

11.04.140 Urban environment regulations.

(1) Purpose. The urban environment is intended for the most intensive human use of the shoreline. All forms of human development and activity which make use of shoreline areas ~~are~~ may be appropriate for the urban environment.

(2) Uses. All uses listed as permitted in Section 11.04.060 are permissible outright in the urban environment. Conditional uses, as specified in Section 11.04.060, are permissible subject to the obtaining of a conditional use permit. (Ord. 91-35 § 1, 1991). Prohibited uses, as specified in Section 11.04.060, are not permissible.

SECTION 6. Effective Date and Notice.

This ordinance shall become effective immediately upon passage. The amendments to Hoquiam Municipal Code Section 11 take effect under the requirements of the Shorelines Management Act, Chapter 90.58 RCW. Pursuant to Hoquiam Municipal Code 11.04.230(5), the Department of Ecology shall be notified of the revision.

SECTION 7. Severability

If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or its application of the provision to other persons or circumstances is not affected.

ADOPTED by the Mayor and City Council on _____, 2015.

JACK DURNEY—MAYOR

ATTEST:

MIKE FOLKERS—FINANCE DIRECTOR

PUBLISHED:



THE CITY OF HOQUIAM
OFFICE OF THE CITY ATTORNEY
609 8th STREET, HOQUIAM, WA 98550
(360) 532-5700, EXTENSION #231
E-MAIL: SJOHNSON@CITYOFHOQUIAM.COM



MEMO

DATE: May 6, 2015

TO: Jack Durney, Mayor
Brian Shay, City Administrator

FROM: Steve Johnson, City Attorney

SUBJECT: *Proposed Zoning Changes for Wholesale Liquefied Petroleum Storage and Sales Facilities; Drafts A, B, C, & D*

In order to give the City Council some alternatives to consider with respect to the zoning of bulk liquid "tank farms," Brian suggested that we have four draft ordinances available. Attached hereto are Drafts A, B, C & D.

Draft A is the original proposed ordinance that I drafted and which was submitted to the City Council in March. Draft A amends the definition of "wholesale liquefied petroleum" storage and sales to add "including but not limited to crude oil, diesel, bio-diesel, gasoline and butane." It also prohibits wholesale liquefied storage and sales facilities in all zoning districts in the City.

Draft B has some of the language proposed by the Quinault Indian Nation and Earthjustice (it does *not* include amendments to the City's Shoreline Management Master Program Regulations – HMC Title 11.04). Draft B adds a definition of "oil", which includes "crude oil, bitumen, synthetic crude oil, natural gas well condensate, petroleum, gasoline, fuel oil, diesel oil, biological oils and blends, oil sludge, oil refuse, and oil mixed with wastes other than dredged spoil." Draft B then adds a definition of "wholesale oil storage and sales," and prohibits those facilities in all zoning districts in the City.

Draft C adds a definition of "wholesale bulk liquid storage and sales," as follows: "[A] facility that stores any liquid substance in tanks for wholesale sales, including wholesale liquefied petroleum sales facilities, but does not include a facility that is a production, processing or manufacturing facility that stores bulk liquid as part of its operations, and does not include a facility that stores liquids for retail sales." Draft C then prohibits wholesale bulk liquid storage and sales facilities in all zoning districts in the city.

Draft D is identical to Draft C, except that it allows wholesale bulk liquid storage and sales facilities in "those portions of the Industrial Zone that are located east of the Hoquiam River."

DRAFT A

ORDINANCE NO. 2015 -- _____

AN ORDINANCE relating to zoning; amending Section 10.03.116 of the Hoquiam Municipal Code; amending Section 10.09.240 of the Hoquiam Municipal Code; and adding a new Section 10.05.140 to Chapter 10.05 of the Hoquiam Municipal Code.

THE CITY COUNCIL OF THE CITY OF HOQUIAM, WASHINGTON DO ORDAIN AS FOLLOWS:

SECTION 1. Section 10.03.116 of the Hoquiam Municipal Code is amended to read as follows:

10.03.116 Table of Permitted and Conditional Uses – Commercial, Industrial and Natural Resources

Accessory buildings and uses	P	P	P	
Adult entertainment businesses	C			
Asphalt, rock crushing, and concrete batch plants			P	
Assembly halls and community clubs	P	P		
Automobile, heavy maintenance and repair shops	P	C	P	
Automobile, RV, boat sales	P	P		
Automobile service stations	P	P		
Automobile wrecking, towing, or junk yards			P	
Banks and financial services	P	P		
Bars, cocktail lounges, and taverns	P	P		
Bed and breakfast inns	C	P		
Cemeteries	C		C	
Cluster Density Subdivision	C	C	C	
Community facilities	P	P	P	
Contractor yards	P		P	
Day care centers	P	P		
Drive through facilities	P		P	
Dwellings, multi-family with five or more units	C	P	P	
Dwellings, multifamily with four or less units	C ^w	P ³	P ^w	

DRAFT A

Dwellings, single-family	P	P	P	
Farmers Market	P	P	P	
Food processing	P	P	P	
Freight terminals	P		P	
Hazardous waste storage and treatment	C		C	
Hospitals, medical and dental clinics	P	P	P	
Industry, heavy			P	
Industry, light and within a structure	P		P	
Live-work units	P	P		
Manufactured office buildings	P		P	
Marijuana Processing Businesses			P	
Marijuana Producing Businesses			P	
Marijuana Retailing Businesses	P	P	P	
Mart/retailers	D	D	D	
Mini-storage facilities			P	
Motels and hotels	P	P	P	
Office and business parks	P		C	
Outdoor storage	P	P	P	
Parking areas, public and private	P	C	P	
Parks, public	P	P	P	
Personal services	P	P	P ^W	
Places for religious worship	P	P	P	
Planned unit developments	C	C	C	C
Professional services	P	P	P	
Public utilities	P ²	P ²	P ²	P ²
Recreational facilities	D	D	D	C
Residential care facilities	P	P	C ^W	
Restaurants	P	P	P	
Restaurants, drive-in	P		C ^W	
Retail sales	P	P	P	
Retirement Home	P	P		

DRAFT A

Small engine sales, service, and repair	P	P	P	
Ship terminals, slips, and repair facilities	P			
Timberland production				P
Truck and heavy equipment sales and services	P		P	
Veterinary hospitals and kennels	P	C	P	
Warehousing	P		P	
Wholesale refined petroleum sales			P	
Wholesale sales and product distribution centers	P			
Serving the owner, manager, or caretaker of a permitted or conditional use				
² Public utilities that exceed the height limitations of a district require a conditional use permit.				
Only if located above a ground floor commercial use				
^W Waterfront overlay district only as part of a PUD or mixed use development				
Consistent with the requirements of HMC 10.05.020				

SECTION 2. Section 10.09.240 of the Hoquiam Municipal Code is amended to read as follows:

10.09.240 “W” definitions.

- (1) “Wall” means any member, or group of members, which defines the exterior boundaries of a building and which has a slope of sixty degrees or greater with the horizontal plane. The height of a wall shall be measured as the two-dimensional height from the average finished grade of the particular architectural building elevation adjacent to the wall to the finished roof plane.
- (2) “Wall sign” means any sign attached to or painted directly on the wall, or erected against the wall of a building being parallel or approximately parallel to said wall, and does not exceed a distance of fifteen inches from said wall.
- (3) “Warehouse/warehousing” means a facility generally dealing with the active reception and dispersal of goods that are oriented to manufactured products and household goods. A warehouse usually consists of a large multistoried building with loading docks. “Warehouse/warehousing” includes distribution and transfer such as rail-to-truck and truck-to-truck transfer facilities.
- (4) “Wholesale sales” means the sale of goods or commodities, usually in bulk or large quantities and usually at lower cost, to a retailer for resale. Such sales activity takes place in establishments or places of business primarily engaged in selling merchandise to

DRAFT A

retailers; to industrial, commercial, institutional, or professional business users; or to other wholesalers, acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or businesses.

(5) "Wholesale liquefied petroleum storage and sales" means a facility that stores and/or sells a substance used as a gas for fuel, including but not limited to crude oil, diesel, bio-diesel, gasoline and butane. The product is stored in the liquid state at the facility.

(6) "Wholesale sales and production distribution centers" means commodities stored for sale to businesses or brokers.

(7) "Wind turbine" means a machine with turbine apparatus (rotor blades, nacelle and tower) capable of producing electricity by converting the kinetic energy of wind into rotational, mechanical and electrical energy; provided, the term does not include electrical distribution of transmission lines, or electrical substations.

(8) "Wind turbine farm" means two or more wind turbines on one parcel.

(9) "Wind turbine height" means the distance measured from the ground level to the highest point on a wind turbine, including the rotor blades

NEW SECTION. SECTION 3. A new Section 10.05.140 is added to Chapter 10.05 of the Hoquiam Municipal Code is amended to read as follows:

10.05.140 Wholesale Liquefied Petroleum Storage and Sales -- prohibited.
Wholesale liquefied petroleum storage and sales facilities as defined in Hoquiam Municipal Code Section 10.09.240 are prohibited in any zoning district in the City.

ADOPTED by the Mayor and City Council on _____,
2015.

JACK DURNEY – MAYOR

ATTEST:

MIKE FOLKERS – FINANCE DIRECTOR

PUBLISHED:

DRAFT B

ORDINANCE NO. 2015 -- _____

AN ORDINANCE relating to zoning; amending Section 10.03.116 of the Hoquiam Municipal Code; amending Section 10.09.160 of the Hoquiam Municipal Code; amending Section 10.09.240 of the Hoquiam Municipal Code; and adding a new Section 10.05.140 to Chapter 10.05 of the Hoquiam Municipal Code.

THE CITY COUNCIL OF THE CITY OF HOQUIAM, WASHINGTON DO ORDAIN AS FOLLOWS:

SECTION 1. Section 10.03.116 of the Hoquiam Municipal Code is amended to read as follows:

10.03.116 Table of Permitted and Conditional Uses – Commercial, Industrial and Natural Resources

Accessory buildings and uses	P	P	P	
Adult entertainment businesses	C			
Asphalt, rock crushing, and concrete batch plants			P	
Assembly halls and community clubs	P	P		
Automobile, heavy maintenance and repair shops	P	C	P	
Automobile, RV, boat sales	P			
Automobile service stations	P	P		
Automobile wrecking/dismantling of inventory				
Banks and financial services	P	P		
Bar/cocktail lounges and taverns	P	P		
Bed and breakfast inns	C	P		
Crematoriums	C			
Cluster Density Subdivision	C	C	C	
Community facilities	P	P		
Contractor yards	P		P	
Day care centers	P	P		
Drive through facilities	P		P	
Dwellings, multifamily with five or more units	C	P		
Dwellings, multifamily with four or less units	C ^W	P ³	P ^W	

DRAFT B

Dwellings, single-family	P	P	P	
Farmers Market	P	P	P	
Food processing	P	P	P	
Freight terminals	P		P	
Hazardous waste storage and treatment	C		C	
Hospitals, medical and dental clinics	P	P	P	
Industry, heavy				
Industry, light and within a structure	P		P	
Live work/Unit	P	P		
Manufactured office buildings	P		P	
Marijuana Processing Businesses			P	
Marijuana Producing Businesses			P	
Marijuana Retailing Businesses	P	P	P	
Manufacturing	P	P	P	
Mini-storage facilities			P	
Motels and hotels	P	P	P	
Office and business parks	P		C	
Outdoor storage	P	P	P	
Parking areas, public and private	P	C	P	
Parks, public	P	P	P	
Personal services	P	P	P ^W	
Places for religious worship	P	P	P	
Planned unit developments	C	C	C	C
Professional services	P	P	P	
Public utilities	P ²	P ²	P ²	P ²
Recreational facilities	P	P	P	
Residential care facilities	P	P	C ^W	
Restaurants, full-service	P	P	P	
Restaurants, drive-in	P		C ^W	
Retail sales	P	P	P	
Retirement Home	P	P		

DRAFT B

Small engine sales, service, and repair	P	P	P	
Ship terminals, slips, and repair facilities			P	
Timberland production				
Truck and heavy equipment sales and services	P		P	
Veterinary hospitals and kennels	P	C	P	
Warehousing	P		P	
Wholesale home and petroleum sales			P	
Wholesale sales and product distribution centers			P	
Serving the owner, manager, or caretaker of a permitted or conditional use				
² Public utilities that exceed the height limitations of a district require a conditional use permit.				
O ₁ Only located above a ground floor commercial use				
^W Waterfront overlay district only as part of a PUD or mixed use development				
Consistent with the requirements of HMC 10.05.020				

SECTION 2. Section 10.09.160 of the Hoquiam Municipal Code is amended to read as follows:

10.09.160 "O" definitions.

(1) "Off-premises sign" means a permanent sign not located on the premises of the use or activity to which the sign pertains.

(2) "Off-premises directional sign" means an off-premises sign designed to guide the public to an area, place, business or service without arterial or collector frontage within the city and is consistent with standards in HMC 10.05.130.

(3) "Office and business park" means a large tract of land planned, developed, and operated as an integral facility for a number of separate office buildings and supporting ancillary uses with special attention given to circulation, parking, utility needs, aesthetics, and compatibility.

(4) "Oil" or "oils" means oil of any kind that is liquid at twenty-five degrees Celsius and one atmosphere of pressure, including, but not limited to, crude oil, bitumen, synthetic crude oil, natural gas well condensate, petroleum, gasoline, fuel oil, diesel oil, biological oils and blends, oil sludge, oil refuse, and oil mixed with wastes other than dredged spoil.

(4) (5) "Open record public hearing" means a hearing conducted by a single hearing body or officer authorized by the city of Hoquiam. The purpose of the hearing is to create a

DRAFT B

record through testimony, submission of evidence, and information under procedures prescribed by ordinance or resolution.

(5) (6) "Outdoor storage" means a defined area rented to individuals where equipment or machinery is stored in a secured, fenced area.

SECTION 3. Section 10.09.240 of the Hoquiam Municipal Code is amended to read as follows:

10.09.240 "W" definitions.

- (1) "Wall" means any member, or group of members, which defines the exterior boundaries of a building and which has a slope of sixty degrees or greater with the horizontal plane. The height of a wall shall be measured as the two-dimensional height from the average finished grade of the particular architectural building elevation adjacent to the wall to the finished roof plane.
- (2) "Wall sign" means any sign attached to or painted directly on the wall, or erected against the wall of a building being parallel or approximately parallel to said wall, and does not exceed a distance of fifteen inches from said wall.
- (3) "Warehouse/warehousing" means a facility generally dealing with the active reception and dispersal of goods that are oriented to manufactured products and household goods. A warehouse usually consists of a large multistoried building with loading docks. "Warehouse/warehousing" includes distribution and transfer such as rail-to-truck and truck-to-truck transfer facilities.
- (4) "Wholesale sales" means the sale of goods or commodities, usually in bulk or large quantities and usually at lower cost, to a retailer for resale. Such sales activity takes place in establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; or to other wholesalers, acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or businesses.
- (5) "Wholesale liquefied petroleum sales" means a facility that sells a substance used as a gas for fuel. The product is stored in the liquid state at the facility.
- (6) "Wholesale Oil Storage and Sales" means a facility that stores, transfers, and/or conducts wholesale sales of oil as defined in Hoquiam Municipal Code Section 10.09.160. Wholesale Storage and Sales excludes facilities that store, transfer, and/or sell oil (as defined in HMC 10.09.160) solely for the purpose of retail sales.

DRAFT B

(6) (7) "Wholesale sales and production distribution centers" means commodities stored for sale to businesses or brokers.

(7) (8) "Wind turbine" means a machine with turbine apparatus (rotor blades, nacelle and tower) capable of producing electricity by converting the kinetic energy of wind into rotational, mechanical and electrical energy; provided, the term does not include electrical distribution of transmission lines, or electrical substations.

(8) (9) "Wind turbine farm" means two or more wind turbines on one parcel.

(9) (10) "Wind turbine height" means the distance measured from the ground level to the highest point on a wind turbine, including the rotor blades

NEW SECTION. SECTION 3. A new Section 10.05.140 is added to Chapter 10.05 of the Hoquiam Municipal Code is amended to read as follows:

10.05.140 Wholesale Oil Storage and Sales -- prohibited.
Wholesale oil storage and sales facilities as defined in Hoquiam Municipal Code Section 10.09.240 are prohibited in any zoning district in the City.

ADOPTED by the Mayor and City Council on _____,
2015.

JACK DURNEY – MAYOR

ATTEST:

MIKE FOLKERS – FINANCE DIRECTOR

PUBLISHED:

DRAFT C

ORDINANCE NO. 2015 -- _____

AN ORDINANCE relating to zoning; amending Section 10.03.116 of the Hoquiam Municipal Code; amending Section 10.09.240 of the Hoquiam Municipal Code; and adding a new Section 10.05.140 to Chapter 10.05 of the Hoquiam Municipal Code.
THE CITY COUNCIL OF THE CITY OF HOQUIAM, WASHINGTON DO ORDAIN AS FOLLOWS:

SECTION 1. Section 10.03.116 of the Hoquiam Municipal Code is amended to read as follows:

10.03.116 Table of Permitted and Conditional Uses – Commercial, Industrial and Natural Resources

Accessory buildings and uses	P	P	P	
Adult entertainment businesses	C			
Asphalt, rock crushing, and concrete batch plants			P	
Assembly halls and community clubs	C			
Automobile, heavy maintenance and repair shops	P	C	P	
Automobile, TV, boat sales	P			
Automobile service stations	P	P		
Automobile wrecks, towing, car parts and accessories	C			
Banks and financial services	P	P		
Bars, taverns, lounges and taverns	C			
Bed and breakfast inns	C	P		
Caregivers	C		C	
Cluster Density Subdivision	C	C	C	
Commercial facilities	P	P	P	
Contractor yards	P		P	
Dance clubs	C			
Drive through facilities	P		P	
Dwellings, multi-family with five or more units	C ^W	P ³	P ^W	
Dwellings, multifamily with four or less units	C ^W	P ³	P ^W	
Dwellings, single-family	P	P	P	

DRAFT C

Farmers Market	P	P	P	
Food processing	P	P	P	
Freight terminals	P		P	
Hazardous waste storage and treatment	C		C	
Hospitals, medical and dental clinics	P	P	P	
Industry, heavy			P	
Industry, light and within a structure	P		P	
Live work unit	P	P		
Manufactured office buildings	P		P	
Marijuana Processing Businesses			P	
Marijuana Producing Businesses			P	
Marijuana Retailing Businesses	P	P	P	
Martini facilities	P	P	P	
Mini-storage facilities			P	
Motels and hotels	P	P	P	
Office and business parks	P		C	
Outdoor storage	P	P	P	
Parking areas, public and private	P	C	P	
Public utilities	P	P	P	P
Personal services	P	P	P ^W	
Place for religious worship	P	P	P	
Planned unit developments	C	C	C	C
Professional services	P	P	P	
Public utilities	P ²	P ²	P ²	P ²
Recreational facilities	P	P	P	C
Residential care facilities	P	P	C ^W	
Restaurants	P	P	P	
Restaurants, drive-in	P		C ^W	
Retail sales	P	P	P	
Retirement Home	P	P		
Small engine sales, service, and repair	P	P	P	

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Ship terminals, slips, and repair facilities	P
Timberland production	P
Truck and heavy equipment sales and services	P P
Veterinary hospitals and kennels	P C P
Warehousing	P P
Wholesale food and beverage sales	P P
Wholesale sales and product distribution centers	P
Serving the owner, manager, or caretaker of a permitted or conditional use	
² Public utilities that exceed the height limitations of a district require a conditional use permit.	
Only if located above a ground floor commercial use	
^W Waterfront overlay district only as part of a PUD or mixed use development	
Consistent with the requirements of IMC 10.05.020	

SECTION 2. Section 10.09.240 of the Hoquiam Municipal Code is amended to read as follows:

10.09.240 "W" definitions.

- (1) "Wall" means any member, or group of members, which defines the exterior boundaries of a building and which has a slope of sixty degrees or greater with the horizontal plane. The height of a wall shall be measured as the two-dimensional height from the average finished grade of the particular architectural building elevation adjacent to the wall to the finished roof plane.
- (2) "Wall sign" means any sign attached to or painted directly on the wall, or erected against the wall of a building being parallel or approximately parallel to said wall, and does not exceed a distance of fifteen inches from said wall.
- (3) "Warehouse/warehousing" means a facility generally dealing with the active reception and dispersal of goods that are oriented to manufactured products and household goods. A warehouse usually consists of a large multistoried building with loading docks. "Warehouse/warehousing" includes distribution and transfer such as rail-to-truck and truck-to-truck transfer facilities.
- (4) "Wholesale sales" means the sale of goods or commodities, usually in bulk or large quantities and usually at lower cost, to a retailer for resale. Such sales activity takes place in establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; or to

DRAFT C

other wholesalers, acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or businesses.

(5) “Wholesale Bulk Liquid Storage and Sales” means a facility that stores any liquid substance in tanks for wholesale sales, including wholesale liquefied petroleum sales facilities, but does not include a facility that is a production, processing or manufacturing facility that stores bulk liquid as part of its operations, and does not include a facility that stores liquids for retail sales.

(5) (6) “Wholesale liquefied petroleum sales” means a facility that sells a substance used as a gas for fuel. The product is stored in the liquid state at the facility.

(6) (7) “Wholesale sales and production distribution centers” means commodities stored for sale to businesses or brokers.

(7) (8) Wind turbine” means a machine with turbine apparatus (rotor blades, nacelle and tower) capable of producing electricity by converting the kinetic energy of wind into rotational, mechanical and electrical energy; provided, the term does not include electrical distribution of transmission lines, or electrical substations.

(8) (9) “Wind turbine farm” means two or more wind turbines on one parcel.

(9) (10) “Wind turbine height” means the distance measured from the ground level to the highest point on a wind turbine, including the rotor blades

NEW SECTION. SECTION 3. A new Section 10.05.140 is added to Chapter 10.05 of the Hoquiam Municipal Code is amended to read as follows:

10.05.140 Wholesale Bulk Liquid Storage and Sales -- prohibited.

Wholesale bulk liquid storage and sales facilities as defined in Hoquiam Municipal Code Section 10.09.240, including Wholesale Liquefied Petroleum facilities as defined in Hoquiam Municipal Code Section 10.09.240, are prohibited in any zoning district in the City.

ADOPTED by the Mayor and City Council on _____
2015.

JACK DURNEY – MAYOR

DRAFT C

ATTEST:

MIKE FOLKERS – FINANCE DIRECTOR

PUBLISHED:

DRAFT D

ORDINANCE NO. 2015 -- _____

AN ORDINANCE relating to zoning; amending Section 10.03.116 of the Hoquiam Municipal Code; amending Section 10.09.240 of the Hoquiam Municipal Code; and adding a new Section 10.05.140 to Chapter 10.05 of the Hoquiam Municipal Code.
THE CITY COUNCIL OF THE CITY OF HOQUIAM, WASHINGTON DO ORDAIN AS FOLLOWS:

SECTION 1. Section 10.03.116 of the Hoquiam Municipal Code is amended to read as follows:

10.03.116 Table of Permitted and Conditional Uses – Commercial, Industrial and Natural Resources

Accessory buildings and uses	P	P	P	
Adult entertainment businesses	C	C	C	
Asphalt, rock crushing, and concrete batch plants			P	
Assembly halls and community clubs	C	C	C	
Automobile, heavy maintenance and repair shops	P	C	P	
Automobile RV, boat sales	P	C	C	
Automobile service stations	P	P		
Automobile wrecking, towing, and yards	C	C	C	
Banks and financial services	P	P		
Bars, pubs, lounges, and taverns	C	C	C	
Bed and breakfast inns	C	P		
Crematoriums	C	C	C	
Cluster Density Subdivision	C	C	C	
Community centers	C	C	C	
Contractor yards	P		P	
Day care centers	P	C	C	
Drive through facilities	P		P	
Dwellings, multifamily with five or more units	C ^W	P ³	P ^V	
Dwellings, multifamily with four or less units	C ^W	P ³	P ^V	
Dwellings, single-family	P	P	P	

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Farmers Market	P	P	P	
Food processing	P	P	P	N
Freight terminals	P		P	
Hazardous waste storage and treatment	C		C	
Hospitals, medical and dental clinics	P	P	P	
Industry, heavy			P	
Industry, light and within a structure	P		P	
Live work units	P	P	P	
Manufactured office buildings	P		P	
Marijuana Processing Businesses				P
Marijuana Producing Businesses				P
Marijuana Retailing Businesses	P	P	P	
Manufactures	P	P	P	P
Mini-storage facilities				P
Motels and hotels	P	P	P	
Office and business parks	P		C	
Outdoor storage	P	P	P	
Parking areas, public and private	P	C	P	
Parks, public	P	P	P	P
Personal services	P	P	P ^W	
Places for religious worship	P	P	P	
Planned unit developments	C	C	C	C
Professional services	P	P	P	
Public utilities	P ²	P ²	P ²	P ²
Recreational facilities	P	P	P	C
Residential care facilities	P	P	C ^W	
Restaurants	P	P	P	
Restaurants, drive-in	P	C ^W		
Retail sales	P	P	P	
Retirement Home	P	P		
Small engine sales, service, and repair	P	P	P	

DRAFT D

Ship terminals, slips, and repair facilities	P
Timberland Production	
Truck and heavy equipment sales and services	P P
Veterinary hospitals and kennels	
Warehousing	P P
Wholesale, liquidated, or off-inventory sales	
Wholesale sales and product distribution centers	P
Serving the owner, manager, or caretaker of a permitted or conditional use	
² Public utilities that exceed the height limitations of a district require a conditional use permit.	
Only if located above a ground floor commercial use	
^W Waterfront overlay district only as part of a PUD or mixed use development	
Consistent with the requirements of IMC 10.05.020	

SECTION 2. Section 10.09.240 of the Hoquiam Municipal Code is amended to read as follows:

10.09.240 “W” definitions.

- (1) “Wall” means any member, or group of members, which defines the exterior boundaries of a building and which has a slope of sixty degrees or greater with the horizontal plane. The height of a wall shall be measured as the two-dimensional height from the average finished grade of the particular architectural building elevation adjacent to the wall to the finished roof plane.
- (2) “Wall sign” means any sign attached to or painted directly on the wall, or erected against the wall of a building being parallel or approximately parallel to said wall, and does not exceed a distance of fifteen inches from said wall.
- (3) “Warehouse/warehousing” means a facility generally dealing with the active reception and dispersal of goods that are oriented to manufactured products and household goods. A warehouse usually consists of a large multistoried building with loading docks. “Warehouse/warehousing” includes distribution and transfer such as rail-to-truck and truck-to-truck transfer facilities.
- (4) “Wholesale sales” means the sale of goods or commodities, usually in bulk or large quantities and usually at lower cost, to a retailer for resale. Such sales activity takes place in establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; or to

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other wholesalers, acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or businesses.

(5) “Wholesale Bulk Liquid Storage and Sales” means a facility that stores any liquid substance in tanks for wholesale sales, including wholesale liquefied petroleum sales facilities, but does not include a facility that is a production, processing or manufacturing facility that stores bulk liquid as part of its operations, and does not include a facility that stores liquids for retail sales.

(5) (6) “Wholesale liquefied petroleum sales” means a facility that sells a substance used as a gas for fuel. The product is stored in the liquid state at the facility.

(6) (7) “Wholesale sales and production distribution centers” means commodities stored for sale to businesses or brokers.

(7) (8) Wind turbine” means a machine with turbine apparatus (rotor blades, nacelle and tower) capable of producing electricity by converting the kinetic energy of wind into rotational, mechanical and electrical energy; provided, the term does not include electrical distribution of transmission lines, or electrical substations.

(8) (9) “Wind turbine farm” means two or more wind turbines on one parcel.

(9) (10) “Wind turbine height” means the distance measured from the ground level to the highest point on a wind turbine, including the rotor blades

NEW SECTION. SECTION 3. A new Section 10.05.140 is added to Chapter 10.05 of the Hoquiam Municipal Code is amended to read as follows:

10.05.140 Wholesale Bulk Liquid Storage and Sales -- prohibited.
Wholesale bulk liquid storage and sales facilities as defined in Hoquiam Municipal Code Section 10.09.240, including Wholesale Liquefied Petroleum facilities as defined in Hoquiam Municipal Code Section 10.09.240, are prohibited in any zoning district in the City except those portions of the Industrial Zone that are located east of the Hoquiam River.

ADOPTED by the Mayor and City Council on _____
2015.

JACK DURNEY – MAYOR

DRAFT D

ATTEST:

MIKE FOLKERS – FINANCE DIRECTOR

PUBLISHED:

ORDINANCE NO. 2015 -- _____

AN ORDINANCE relating to zoning; amending Section 10.03.116 of the Hoquiam Municipal Code; amending Section 10.09.240 of the Hoquiam Municipal Code; and adding a new Section 10.05.140 to Chapter 10.05 of the Hoquiam Municipal Code.

THE CITY COUNCIL OF THE CITY OF HOQUIAM, WASHINGTON DO ORDAIN AS FOLLOWS:

SECTION 1. Section 10.03.116 of the Hoquiam Municipal Code is amended to read as follows:

10.03.116 Table of Permitted and Conditional Uses – Commercial, Industrial and Natural Resources

Accessory buildings and uses	P	P	P	
Adult entertainment businesses	C			
Asphalt, rock crushing, and concrete batch plants			P	
Assembly halls and community clubs	P	P		
Automobile, heavy maintenance and repair shops	P	C	P	
Automobile, RV, boat sales	P	P		
Automobile service stations	P	P		
Automobile wrecking, towing or junkyards			P	
Banks and financial services	P	P		
Bars, cocktail lounges, and taverns	P	P		
Bed and breakfast inns	C	P		
Crematoriums	C		C	
Cluster Density Subdivision	C	C	C	
Community facilities	P	P	P	
Contractor yards	P		P	
Day care centers	P	P		
Drive through facilities	P		P	
Dwellings, multifamily with five or more units	C ^W	P ³	P ^W	
Dwellings, multifamily with four or less units	C ^W	P ³	P ^W	

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Dwellings, single-family	P	P	P ^v	
Farmers Market	P	P	P	
Food processing	P	P	P	
Freight terminals	P		P	
Hazardous waste storage and treatment	C		C	
Hospitals, medical and dental clinics	P	P	P	
Industry, heavy			P	
Industry, light and within a structure	P		P	
Live work unit	P	P		
Manufactured office buildings	P		P	
Marijuana Processing Businesses			P	
Marijuana Producing Businesses			P	
Marijuana Retailing Businesses	P	P	P	
Marina facilities	P ^v	P ^v	P	
Mini-storage facilities			P	
Motels, and hotels	P	P	P ^v	
Office and business parks	P		C	
Outdoor storage	P		P	
Parking areas, public and private	P	C	P	
Parks, public	P	P	P ^v	P
Personal services	P	P	P ^w	
Places for religious worship	P	P	P ^v	
Planned unit developments	C	C	C	C
Professional services	P	P	P ^v	
Public utilities	P ²	P ²	P ²	P ²
Recreational facilities	P	P	P ^v	C
Residential care facilities	P	P	C ^w	
Restaurants	P	P	P ^v	
Restaurants, drive-in	P		C ^w	
Retail sales	P	P	P	
Retirement Home	P	P		

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Small engine sales, service, and repair	P	P	P	
Ship terminals, slips, and repair facilities			P	
Timberland Production				P
Truck and heavy equipment sales and services		P	P	
Veterinary hospitals and kennels	P	C	P	
Warehousing		P	P	
Wholesale liquidated petroleum sales			P	
Wholesale sales and product distribution centers			P	
¹ Serving the owner, manager, or caretaker of a permitted or conditional use				
² Public utilities that exceed the height limitations of a district require a conditional use permit.				
Only if located above a ground-floor commercial use.				
^W Waterfront overlay district only as part of a PUD or mixed use development				
Consistent with the requirements of HMC 10.05.020.				

SECTION 2. Section 10.09.240 of the Hoquiam Municipal Code is amended to read as follows:

10.09.240 “W” definitions.

- (1) “Wall” means any member, or group of members, which defines the exterior boundaries of a building and which has a slope of sixty degrees or greater with the horizontal plane. The height of a wall shall be measured as the two-dimensional height from the average finished grade of the particular architectural building elevation adjacent to the wall to the finished roof plane.
- (2) “Wall sign” means any sign attached to or painted directly on the wall, or erected against the wall of a building being parallel or approximately parallel to said wall, and does not exceed a distance of fifteen inches from said wall.
- (3) “Warehouse/warehousing” means a facility generally dealing with the active reception and dispersal of goods that are oriented to manufactured products and household goods. A warehouse usually consists of a large multistoried building with loading docks. “Warehouse/warehousing” includes distribution and transfer such as rail-to-truck and truck-to-truck transfer facilities.
- (4) “Wholesale sales” means the sale of goods or commodities, usually in bulk or large quantities and usually at lower cost, to a retailer for resale. Such sales activity takes place in establishments or places of business primarily engaged in selling merchandise to

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retailers; to industrial, commercial, institutional, or professional business users; or to other wholesalers, acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or businesses.

(5) "Wholesale liquefied petroleum storage and sales" means a facility that stores and/or sells a substance used as a gas for fuel, including but not limited to crude oil, diesel, bio-diesel, gasoline and butane. The product is stored in the liquid state at the facility. "Wholesale liquefied petroleum storage and sales does not include a facility that is a production, processing or manufacturing facility that stores bulk liquid as part of its operations, and does not include a facility that stores liquids for retail sales.

(6) "Wholesale sales and production distribution centers" means commodities stored for sale to businesses or brokers.

(7) "Wind turbine" means a machine with turbine apparatus (rotor blades, nacelle and tower) capable of producing electricity by converting the kinetic energy of wind into rotational, mechanical and electrical energy; provided, the term does not include electrical distribution of transmission lines, or electrical substations.

(8) "Wind turbine farm" means two or more wind turbines on one parcel.

(9) "Wind turbine height" means the distance measured from the ground level to the highest point on a wind turbine, including the rotor blades

NEW SECTION. SECTION 3. A new Section 10.05.140 is added to Chapter 10.05 of the Hoquiam Municipal Code is amended to read as follows:

10.05.140 Wholesale Liquefied Petroleum Storage and Sales -- prohibited.
Wholesale liquefied petroleum storage and sales facilities as defined in Hoquiam Municipal Code Section 10.09.240 are prohibited in any zoning district in the City.

ADOPTED by the Mayor and City Council on _____,
2015.

JACK DURNEY – MAYOR

ATTEST:

MIKE FOLKERS – FINANCE DIRECTOR

PUBLISHED:

DRAFT F

ORDINANCE NO. 2015 -- _____

AN ORDINANCE relating to zoning; amending Section 10.03.116 of the Hoquiam Municipal Code; amending Section 10.09.240 of the Hoquiam Municipal Code; and adding a new Section 10.05.140 to Chapter 10.05 of the Hoquiam Municipal Code.

THE CITY COUNCIL OF THE CITY OF HOQUIAM, WASHINGTON DO ORDAIN AS FOLLOWS:

SECTION 1. Section 10.03.116 of the Hoquiam Municipal Code is amended to read as follows:

10.03.116 Table of Permitted and Conditional Uses – Commercial, Industrial and Natural Resources

Accessory buildings and uses	P	P	P	
Adult entertainment businesses	C			
Asphalt, rock crushing, and concrete batch plants			P	
Assembly halls and community clubs	P	P		
Automobile, heavy maintenance and repair shops	P	C	P	
Automobile, RV, boat sales	P	P		
Automobile service stations	P	P		
Automobile wrecking, towing, or junkyards			P	
Banks and financial services	P	P		
Bars, cocktail lounges, and taverns	P	P		
Bed and breakfast inns	C	P		
Crematoriums	C		C	
Cluster Density Subdivision	C	C	C	
Community facilities	P	P	P ^W	
Contractor yards	P		P	
Day care centers	P	P		
Drive through facilities	P		P	
Dwellings, multifamily with five or more units	C ^W	P ³	P ^W	
Dwellings, multifamily with four or less units	C ^W	P ³	P ^W	

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Dwellings, single-family	P	P	P ^V	
Farmers Market	P	P	P	
Food processing	P	P	P	
Freight terminals	P		P	
Hazardous waste storage and treatment	C		C	
Hospitals, medical and dental clinics	P	P	P	
Industry, heavy			P	
Industry, light and within a structure	P		P	
Live work unit	P	P		
Manufactured office buildings	P		P	
Marijuana Processing Businesses			P	
Marijuana Producing Businesses			P	
Marijuana Retailing Businesses	P	P	P	
Martini facilities	P ^V	P ^V	P	
Mini-storage facilities			P	
Motels and hotels	P	P	P ^V	
Office and business parks	P		C	
Outdoor storage	P		P	
Parking areas, public and private	P	C	P	
Parks, public	P	P	P ^V	P
Personal services	P	P	P ^W	
Places for religious worship	P	P	P ^V	
Planned unit developments	C	C	C	C
Professional services	P	P	P ^V	
Public utilities	P ²	P ²	P ²	P ²
Recreational facilities	P	P	P ^V	C
Residential care facilities	P	P	C ^W	
Restaurants	P	P	P ^V	
Restaurants, drive-in	P		C ^W	
Retail sales	P	P	P ^V	
Retirement Home	P	P		

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Small engine sales, service, and repair	P	P	P	
Ship terminals, slips, and repair facilities			P	
Timberland Production				P
Truck and heavy equipment sales and services	P		P	
Veterinary hospitals and kennels	P	E	P	
Warehousing	P		P	
Wholesale liquefied petroleum sales			P	
Wholesale sales and product distribution centers			P	
Serving the owner, manager, or caretaker of a permitted or conditional use				
² Public utilities that exceed the height limitations of a district require a conditional use permit.				
Only if located above a ground floor commercial use				
^W Waterfront overlay district only as part of a PUD or mixed use development				
Consistent with the requirements of HMC 10.05.020				

SECTION 2. Section 10.09.240 of the Hoquiam Municipal Code is amended to read as follows:

10.09.240 “W” definitions.

- (1) “Wall” means any member, or group of members, which defines the exterior boundaries of a building and which has a slope of sixty degrees or greater with the horizontal plane. The height of a wall shall be measured as the two-dimensional height from the average finished grade of the particular architectural building elevation adjacent to the wall to the finished roof plane.
- (2) “Wall sign” means any sign attached to or painted directly on the wall, or erected against the wall of a building being parallel or approximately parallel to said wall, and does not exceed a distance of fifteen inches from said wall.
- (3) “Warehouse/warehousing” means a facility generally dealing with the active reception and dispersal of goods that are oriented to manufactured products and household goods. A warehouse usually consists of a large multistoried building with loading docks. “Warehouse/warehousing” includes distribution and transfer such as rail-to-truck and truck-to-truck transfer facilities.
- (4) “Wholesale sales” means the sale of goods or commodities, usually in bulk or large quantities and usually at lower cost, to a retailer for resale. Such sales activity takes place in establishments or places of business primarily engaged in selling merchandise to

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retailers; to industrial, commercial, institutional, or professional business users; or to other wholesalers, acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or businesses.

(5) "Wholesale liquefied petroleum storage and sales" means a facility that stores and/or sells a substance used as a gas for fuel- including but not limited to crude oil, diesel, bio-diesel, gasoline and butane. The product is stored in the liquid state at the facility. "Wholesale liquefied petroleum storage and sales does not include a facility that is a production, processing or manufacturing facility that stores bulk liquid as part of its operations, and does not include a facility that stores liquids for retail sales.

(6) "Wholesale sales and production distribution centers" means commodities stored for sale to businesses or brokers.

(7) "Wind turbine" means a machine with turbine apparatus (rotor blades, nacelle and tower) capable of producing electricity by converting the kinetic energy of wind into rotational, mechanical and electrical energy; provided, the term does not include electrical distribution of transmission lines, or electrical substations.

(8) "Wind turbine farm" means two or more wind turbines on one parcel.

(9) "Wind turbine height" means the distance measured from the ground level to the highest point on a wind turbine, including the rotor blades

NEW SECTION. SECTION 3. A new Section 10.05.140 is added to Chapter 10.05 of the Hoquiam Municipal Code is amended to read as follows:

10.05.140 Wholesale Liquefied Petroleum Storage and Sales -- prohibited.
Wholesale liquefied petroleum storage and sales facilities as defined in Hoquiam Municipal Code Section 10.09.240 are prohibited in any zoning district in the City except those portions of the Industrial Zone that are located east of the Hoquiam River.

ADOPTED by the Mayor and City Council on _____,
2015.

JACK DURNEY – MAYOR

ATTEST:

MIKE FOLKERS – FINANCE DIRECTOR

DRAFT G

ORDINANCE NO. 2015 -- _____

AN ORDINANCE relating to zoning; amending Section 10.03.116 of the Hoquiam Municipal Code; amending Section 10.09.160 of the Hoquiam Municipal Code; amending Section 10.09.240 of the Hoquiam Municipal Code; and adding a new Section 10.05.140 to Chapter 10.05 of the Hoquiam Municipal Code.
THE CITY COUNCIL OF THE CITY OF HOQUIAM, WASHINGTON DO ORDAIN AS FOLLOWS:

SECTION 1. Section 10.03.116 of the Hoquiam Municipal Code is amended to read as follows:

10.03.116 Table of Permitted and Conditional Uses – Commercial, Industrial and Natural Resources

Accessory buildings and uses	P	P	P	
Adult entertainment businesses	C			
Asphalt, rock crushing, and concrete batch plants			P	
Assembly halls and community clubs	P	P		
Automobile, heavy maintenance and repair shops	P	C	P	
Automobile, RV, boat sales	P	P		
Automobile service stations	P	P		
Automobile wrecking, towing, or junkyards			P	
Banks and financial services	P	P		
Bars, cocktail lounges, and taverns	P	P		
Bed and breakfast inns	C	P		
Crematoriums	C		C	
Cluster Density Subdivision	C	C	C	
Community facilities	P	P	P	
Contractor yards	P		P	
Day care centers	P	P		
Drive through facilities	P		P	
Dwellings, multifamily with five or more units	C ^w	P ³	P ^w	
Dwellings, multifamily with four or less units	C ^w	P ³	P ^w	

DRAFT G

Dwellings, single-family	P	P	P ^W	
Farmers Market	P	P	P	
Food processing	P	P	P	
Freight terminals	P		P	
Hazardous waste storage and treatment	C		C	
Hospitals, medical and dental clinics	P	P	P	
Industry, heavy			P	
Industry, light and within a structure	P		P	
Live-work unit	P	P		
Manufactured office buildings	P		P	
Marijuana Processing Businesses			P	
Marijuana Producing Businesses			P	
Marijuana Retailing Businesses	P	P	P	
Manna facilities	P ^W	P ^W	P	
Mini-storage facilities			P	
Motels and hotels	P	P	P ^W	
Office and business parks	P		C	
Outdoor storage	P		P	
Parking areas, public and private	P	C	P	
Parks, public	P	P	P ^W	P
Personal services	P	P	P ^W	
Places for religious worship	P	P	P ^W	
Planned unit developments	C	C	C	C
Professional services	P	P	P ^W	
Public utilities	P ²	P ²	P ²	P ²
Recreational facilities	P	P	P ^W	C
Residential care facilities	P	P	C ^W	
Restaurants	P	P	P ^W	
Restaurants, drive-in	P		C ^W	
Retail sales	P	P	P ^W	
Retirement Home	P	P		

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Small engine sales, service, and repair	P	P	P	
Ship terminals, slips, and repair facilities			P	
Timberland Production				P
Truck and heavy equipment sales and services	P		P	
Veterinary hospitals and kennels	P	C	P	
Warehousing	P		P	
Wholesale liquefied petroleum sales			P	
Wholesale sales and product distribution centers			P	
Serving the owner, manager, or caretaker of a permitted or conditional use				
² Public utilities that exceed the height limitations of a district require a conditional use permit.				
Only if located above a ground floor commercial use				
^W Waterfront overlay district only as part of a PUD or mixed use development				
Consistent with the requirements of HMC 10.05.020				

SECTION 2. Section 10.09.160 of the Hoquiam Municipal Code is amended to read as follows:

10.09.160 "O" definitions.

- (1) "Off-premises sign" means a permanent sign not located on the premises of the use or activity to which the sign pertains.
- (2) "Off-premises directional sign" means an off-premises sign designed to guide the public to an area, place, business or service without arterial or collector frontage within the city and is consistent with standards in HMC 10.05.130.
- (3) "Office and business park" means a large tract of land planned, developed, and operated as an integral facility for a number of separate office buildings and supporting ancillary uses with special attention given to circulation, parking, utility needs, aesthetics, and compatibility.
- (4) "Oil" or "oils" means oil as defined in RCW 90.56.010 (17).
- (4) (5) "Open record public hearing" means a hearing conducted by a single hearing body or officer authorized by the city of Hoquiam. The purpose of the hearing is to create a record through testimony, submission of evidence, and information under procedures prescribed by ordinance or resolution.

~~(5)~~ (6) "Outdoor storage" means a defined area rented to individuals where equipment or machinery is stored in a secured, fenced area.

SECTION 3. Section 10.09.240 of the Hoquiam Municipal Code is amended to read as follows:

10.09.240 "W" definitions.

(1) "Wall" means any member, or group of members, which defines the exterior boundaries of a building and which has a slope of sixty degrees or greater with the horizontal plane. The height of a wall shall be measured as the two-dimensional height from the average finished grade of the particular architectural building elevation adjacent to the wall to the finished roof plane.

(2) "Wall sign" means any sign attached to or painted directly on the wall, or erected against the wall of a building being parallel or approximately parallel to said wall, and does not exceed a distance of fifteen inches from said wall.

(3) "Warehouse/warehousing" means a facility generally dealing with the active reception and dispersal of goods that are oriented to manufactured products and household goods. A warehouse usually consists of a large multistoried building with loading docks. "Warehouse/warehousing" includes distribution and transfer such as rail-to-truck and truck-to-truck transfer facilities.

(4) "Wholesale sales" means the sale of goods or commodities, usually in bulk or large quantities and usually at lower cost, to a retailer for resale. Such sales activity takes place in establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; or to other wholesalers, acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or businesses.

(5) "Wholesale liquefied petroleum sales" means a facility that sells a substance used as a gas for fuel other than oil as defined in Hoquiam Municipal Code Section 10.09.160. The product is stored in the liquid state at the facility.

(6) "Wholesale Oil Storage and Sales" means a facility that stores, transfers, and/or conducts wholesale sales of oil as defined in Hoquiam Municipal Code Section 10.09.160. Wholesale Storage and Sales excludes facilities that store, transfer, and/or sell oil (as defined in HMC 10.09.160) solely for the purpose of retail sales.

~~(6)~~ (7) "Wholesale sales and production distribution centers" means commodities stored for sale to businesses or brokers.

DRAFT G

~~(7)~~ (8) "Wind turbine" means a machine with turbine apparatus (rotor blades, nacelle and tower) capable of producing electricity by converting the kinetic energy of wind into rotational, mechanical and electrical energy; provided, the term does not include electrical distribution of transmission lines, or electrical substations.

~~(8)~~ (9) "Wind turbine farm" means two or more wind turbines on one parcel.

~~(9)~~ (10) "Wind turbine height" means the distance measured from the ground level to the highest point on a wind turbine, including the rotor blades

NEW SECTION. SECTION 3. A new Section 10.05.140 is added to Chapter 10.05 of the Hoquiam Municipal Code is amended to read as follows:

10.05.140 Wholesale Oil Storage and Sales -- prohibited.

Wholesale oil storage and sales facilities as defined in Hoquiam Municipal Code Section 10.09.240 are prohibited in any zoning district in the City.

ADOPTED by the Mayor and City Council on _____,
2015.

JACK DURNEY – MAYOR

ATTEST:

MIKE FOLKERS – FINANCE DIRECTOR

PUBLISHED:

RESOLUTION NO. 2015 – _____

A RESOLUTION of the City Council of the City of Hoquiam, Washington, relating to an amendment of Title 10, pursuant to Section 10.07.140 of the Hoquiam Municipal Code concerning the development and adoption of zoning regulations and development standards for Wholesale Oil Storage and Sales facilities.

WHEREAS, Section 10.07.140 provides that an amendment to the Zoning Code – Title 10 of the Hoquiam Municipal Code – may be initiated by resolution of the City Council requesting the land use hearing examiner to set the matter for hearing, NOW THEREFORE,

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF HOQUIAM, WASHINGTON, IN REGULAR MEETING DULY ASSEMBLED, AS FOLLOWS:

SECTION 1. The City Council of the City of Hoquiam requests the land use hearing examiner to hold an open public hearing, pursuant to Section 10.07.140(3), to consider the amendment of Title 10 of the Hoquiam Municipal Code, to prohibit the location of Wholesale Oil Storage and Sales facilities, as set forth in the two draft ordinances attached hereto (Draft H and Draft I)

SECTION 2. A public hearing before the land use examiner has been scheduled for August 6, 2015, at 10:30 a.m., in the Council Chambers. ✓

ADOPTED by the Mayor and City Council on _____, 2015.

Jack Durney – Mayor

ATTEST:

Mike Folkers – Finance Director

DRAFT H

ORDINANCE NO. 2015 -- _____

AN ORDINANCE relating to zoning; amending Section 10.03.116 of the Hoquiam Municipal Code; amending Section 10.09.160 of the Hoquiam Municipal Code; amending Section 10.09.240 of the Hoquiam Municipal Code; and adding a new Section 10.05.140 to Chapter 10.05 of the Hoquiam Municipal Code.

THE CITY COUNCIL OF THE CITY OF HOQUIAM, WASHINGTON DO ORDAIN AS FOLLOWS:

SECTION 1. Section 10.03.116 of the Hoquiam Municipal Code is amended to read as follows:

10.03.116 Table of Permitted and Conditional Uses – Commercial, Industrial and Natural Resources

Accessory buildings and uses	P	P	P	
Asphalt, rock crushing, and concrete batch plants			P	
Automobile, heavy maintenance and repair shops	P	C	P	
Automobile service stations	P	P		
Banks and financial services	P	P		
Bed and breakfast inns	C	P		
Cluster Density Subdivision	C	C	C	
Contractor yards	P		P	
Drive through facilities	P		P	
Dwellings, multifamily with four or less units	C ^W	P ³	P ^W	

DRAFT H

Farmers Market	P	P	P	
Freight terminals	P		P	
Hospitals, medical and dental clinics	P	P	P	
Industry, light and within a structure	P		P	
Manufactured office buildings	P		P	
Marijuana Processing Businesses			P	
Marijuana Producing Businesses			P	
Marijuana Retailing Businesses	P	P	P	
Mini-storage facilities			P	
Office and business parks	P		C	
Parking areas, public and private	P	C	P	
Personal services	P	P	P ^W	
Planned unit developments	C	C	C	C
Public utilities	P ²	P ²	P ²	P ²
Residential care facilities	P	P	C ^W	
Restaurants, drive-in	P		C ^W	
Retirement Home	P	P		

Ship terminals, slips, and repair facilities					P
Truck and heavy equipment sales and services					P P
Warehousing					P P
Wholesale sales and product distribution centers					P
² Public utilities that exceed the height limitations of a district require a conditional use permit.					
^W Waterfront overlay district only as part of a PUD or mixed use development					

SECTION 2. Section 10.09.160 of the Hoquiam Municipal Code is amended to read as follows:

10.09.160 "O" definitions.

(1) "Off-premises sign" means a permanent sign not located on the premises of the use or activity to which the sign pertains.

(2) "Off-premises directional sign" means an off-premises sign designed to guide the public to an area, place, business or service without arterial or collector frontage within the city and is consistent with standards in HMC 10.05.130.

(3) "Office and business park" means a large tract of land planned, developed, and operated as an integral facility for a number of separate office buildings and supporting ancillary uses with special attention given to circulation, parking, utility needs, aesthetics, and compatibility.

(4) "Oil" or "oils" means oil as defined in RCW 90.56.010 (17), but does not include bio-diesel, or other similar products.

(4) (5) "Open record public hearing" means a hearing conducted by a single hearing body or officer authorized by the city of Hoquiam. The purpose of the hearing is to create a record through testimony, submission of evidence, and information under procedures prescribed by ordinance or resolution.

(5) (6) "Outdoor storage" means a defined area rented to individuals where equipment or machinery is stored in a secured, fenced area.

SECTION 3. Section 10.09.240 of the Hoquiam Municipal Code is amended to read as follows:

10.09.240 "W" definitions.

(1) "Wall" means any member, or group of members, which defines the exterior boundaries of a building and which has a slope of sixty degrees or greater with the horizontal plane. The height of a wall shall be measured as the two-dimensional height from the average finished grade of the particular architectural building elevation adjacent to the wall to the finished roof plane.

(2) "Wall sign" means any sign attached to or painted directly on the wall, or erected against the wall of a building being parallel or approximately parallel to said wall, and does not exceed a distance of fifteen inches from said wall.

(3) "Warehouse/warehousing" means a facility generally dealing with the active reception and dispersal of goods that are oriented to manufactured products and household goods. A warehouse usually consists of a large multistoried building with loading docks. "Warehouse/warehousing" includes distribution and transfer such as rail-to-truck and truck-to-truck transfer facilities.

(4) "Wholesale sales" means the sale of goods or commodities, usually in bulk or large quantities and usually at lower cost, to a retailer for resale. Such sales activity takes place in establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; or to other wholesalers, acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or businesses.

(5) "Wholesale liquefied petroleum sales" means a facility that sells a substance used as a gas for fuel other than oil as defined in Hoquiam Municipal Code Section 10.09.160. The product is stored in the liquid state at the facility.

(6) "Wholesale Oil Storage and Sales" means a facility that stores, transfers, and/or conducts wholesale sales of oil as defined in Hoquiam Municipal Code Section 10.09.160. Wholesale Oil Storage and Sales excludes facilities that store, transfer, and/or sell oil (as defined in HMC 10.09.160) solely for the purpose of retail sales.

(6) (7) "Wholesale sales and production distribution centers" means commodities stored for sale to businesses or brokers.

DRAFT H

~~(7)~~ (8) "Wind turbine" means a machine with turbine apparatus (rotor blades, nacelle and tower) capable of producing electricity by converting the kinetic energy of wind into rotational, mechanical and electrical energy; provided, the term does not include electrical distribution of transmission lines, or electrical substations.

~~(8)~~ (9) "Wind turbine farm" means two or more wind turbines on one parcel.

~~(9)~~ (10) "Wind turbine height" means the distance measured from the ground level to the highest point on a wind turbine, including the rotor blades

NEW SECTION. SECTION 3. A new Section 10.05.140 is added to Chapter 10.05 of the Hoquiam Municipal Code is amended to read as follows:

10.05.140 Wholesale Oil Storage and Sales -- prohibited.

Wholesale oil storage and sales facilities as defined in Hoquiam Municipal Code Section 10.09.240 are prohibited in any zoning district in the City.

ADOPTED by the Mayor and City Council on _____
2015.

JACK DURNEY – MAYOR

ATTEST:

MIKE FOLKERS – FINANCE DIRECTOR

PUBLISHED:

DRAFT I

ORDINANCE NO. 2015 -- _____

AN ORDINANCE relating to zoning; amending Section 10.03.116 of the Hoquiam Municipal Code; amending Section 10.09.160 of the Hoquiam Municipal Code; amending Section 10.09.240 of the Hoquiam Municipal Code; and adding a new Section 10.05.140 to Chapter 10.05 of the Hoquiam Municipal Code.

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Banks and financial services	P	P		
Bed and breakfast inns	C	P		
Cluster Density Subdivision	C	C	C	
Contractor yards	P		P	
Drive through facilities	P		P	
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DRAFT I

Farmers Market	P	P	P	
Freight terminals	P		P	
Hospitals, medical and dental clinics	P	P	P	
Industry, light and within a structure	P		P	
Manufactured office buildings	P		P	
Marijuana Processing Businesses			P	
Marijuana Producing Businesses			P	
Marijuana Retailing Businesses	P	P	P	
Mini-storage facilities			P	
Office and business parks	P		C	
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Residential care facilities	P	P	C ^W	
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Retirement Home	P	P		

Ship terminals, slips, and repair facilities					P
Truck and heavy equipment sales and services		P		P	
Warehousing		P		P	
Wholesale sales and product distribution centers					P
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(4) "Oil" or "oils" means petroleum products that require further refinement before its intended use by consumers, identified with USDOT placard number 1267.

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- (5) "Wholesale liquefied petroleum sales" means a facility that sells a substance used as a gas for fuel other than oil as defined in Hoquiam Municipal Code Section 10.09.160(4). The product is stored in the liquid state at the facility.
- (6) "Wholesale Oil Storage and Sales" means a facility that stores, transfers, and/or conducts wholesale sales of oil as defined in Hoquiam Municipal Code Section 10.09.160(4). Wholesale Oil Storage and Sales excludes facilities that store, transfer, and/or sell oil (as defined in HMC 10.09.160(4) solely for the purpose of retail sales.
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Wholesale oil storage and sales facilities as defined in Hoquiam Municipal Code Section 10.09.240 are prohibited in any zoning district in the City.

ADOPTED by the Mayor and City Council on _____,
2015.

JACK DURNEY – MAYOR

ATTEST:

MIKE FOLKERS – FINANCE DIRECTOR

PUBLISHED:

Public Hearing 3/23/2015 Exhibit H
Memo from The Port of Grays Harbor

To: City of Hoquiam

Re: Moratorium and zoning change to exclude petroleum storage and transfer

If the intent is to exclude the storage and transfer of crude oil in the future then we suggest that you identify the excluded commodity by its USDOT placard number so that there is no question for potential investors about what is allowed within City limits.

The universal placard for transport of crude oil is 1267. That number must be displayed on trains, tanker trucks and other forms of transportation. The USDOT and the United Nations both use 1267 as the placard number for Crude Oil.

If intent is to exclude crude handling from future uses then recommend the following specific changes to City Code.

- Change the two proposed resolutions that use the phrase "Wholesale Liquefied Petroleum Storage and Sales facilities" to read "Wholesale storage or sale of petroleum products that require further refinement before its intended use by consumers, identified with USDOT placard number 1267".
- Change proposed ordinance and the table in Hoquiam Code at 10.03.116 as follows:
 - Don't remove Wholesale Sales and product distribution centers

Change at 10.09.240 (5) the existing definition of "Wholesale Liquefied Petroleum Storage and Sales" to read:

- "Wholesale Liquefied Petroleum Storage and Sales" means a facility that stores and/or sells a substance used as a gas for fuel. The term shall not include wholesale storage or sale of petroleum products that require further refinement before its intended use by consumers, identified with USDOT placard number 1267.



DOT PLACARD 1219
ISOPROPANOL
Starting at \$2.95



DOT PLACARD 1230
METHANOL
Starting at \$2.95



DOT PLACARD 1263 PAINT
(FLAMMABLE)
Starting at \$2.95



DOT PLACARD 1267
PETROLEUM CRUDE OIL
Starting at \$2.95



DOT PLACARD 1268
PETROLEUM DISTILLATES
n.o.s.
Starting at \$2.95



DOT PLACARD 1294 TOLUENE
Starting at \$2.95



DOT PLACARD 1307 XYLENES
Starting at \$2.95



DOT PLACARD 1863 FUEL,
AVIATION, TURBINE ENGINE
Starting at \$2.95



DOT PLACARD 1866 RESIN
SOLUTION
Starting at \$2.95



DOT PLACARD 1987
ALCOHOLS, DENATURED
ALCOHOL
Starting at \$2.95



DOT PLACARD 1993
FLAMMABLE LIQUIDS n.o.s.,
FUEL OIL
Starting at \$2.95



DOT PLACARD 1993
COMBUSTIBLE LIQUIDS
Starting at \$2.95



DOT PLACARD 1993
COMBUSTIBLE LIQUID,
RESIDUE
Starting at \$2.95



DOT PLACARD 1999 TARS,
LIQUID
Starting at \$2.95



DOT PLACARD 2055 STYRENE
MONOMER, STABILIZER
Starting at \$2.95



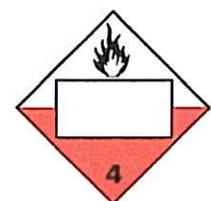
DOT PLACARD 3295,
HYDROCARBONS, LIQUID
Starting at \$2.95



DOT PLACARD 3475 ETHANOL
& GAS MIXTURES
Starting at \$2.95



DOT PLACARD
SPONTANEOUSLY
COMBUSTIBLE CLASS 4
Starting at \$2.95



BLANK DOT PLACARD
SPONTANEOUSLY
COMBUSTIBLE CLASS 4
Starting at \$2.95



DOT PLACARD 3488 SELF-
HEATING SOLID, ORGANIC
CLASS 4
Starting at \$2.95



DOT PLACARD FLAMMABLE
GAS (BLANK BOX) CLASS 2



DOT PLACARD FLAMMABLE
LIQUID (BLANK BOX) CLASS 3



DOT PLACARD COMBUSTIBLE
LIQUIDS (BLANK BOX) CLASS



DOT PLACARD FLAMMABLE
LIQUIDS RESIDUE (BLANK



FUEL HAULER PLACARD HOLDER 6 LEGEND FLIP SET
Our Price: \$48.95



DOT PLACARD - NON-FLAMMABLE GAS - CLASS 2
Starting at \$2.95



DOT PLACARD 1005 AMMONIA, ANHYDROUS
Starting at \$2.95



DOT PLACARD 1065 NEON COMPRESSED
Starting at \$2.95



DOT PLACARD 1072 OXYGEN COMPRESSED
Starting at \$2.95



DOT PLACARD 1073 OXYGEN, REFRIGERATED LIQUID
Starting at \$2.95



DOT PLACARD 1977 NITROGEN, Refrigerated Cryogenic Liquid
Starting at \$2.95



DOT PLACARD - RADIOACTIVE - CLASS 7
Starting at \$2.95



DOT PLACARD DANGEROUS (RED TRIANGLE TOP & BOTTOM)
Starting at \$2.95



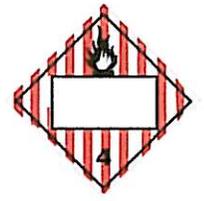
DOT PLACARD - DANGEROUS WHEN WET - Class 4
Starting at \$2.95



BLANK - DOT PLACARD - DANGEROUS WHEN WET - Class 4
Starting at \$2.95



DOT PLACARD - FLAMMABLE SOLID - CLASS 4
Starting at \$2.95



BLANK - DOT PLACARD - FLAMMABLE SOLID - CLASS 4
Starting at \$2.95



DOT PLACARD - ORGANIC PEROXIDE - CLASS 5
Starting at \$2.95



DOT PLACARD 1049 HYDROGEN, COMPRESSED
Starting at \$2.95



DOT PLACARD 1075 BUTANE, LPG, PROPANE
Starting at \$2.95



DOT PLACARD 1090 ACETONE
Starting at \$2.95



DOT PLACARD 1120 BUTANOLS
Starting at \$2.95



DOT PLACARD 1170 ETHYL ALCOHOL, ETHANOL
Starting at \$2.95



DOT PLACARD 1193 ETHYL METHYL KETONE
Starting at \$2.95



DOT PLACARD 1202 GAS, OIL, DIESEL FUEL, HEATING OIL
Starting at \$2.95



DOT PLACARD 1203 GASOLINE, GASOHOL, PETROL
Starting at \$2.95



DOT PLACARD 1206 HEPTANES
Starting at \$2.95



DOT PLACARD 1208 HEXANES
Starting at \$2.95



568 1st Ave South, Suite 600, Seattle, WA 98104 voice +1.206.254.0203 fax +1.206.254.0204
Innovating renewables for the future www.imperiumrenewables.com

April 13th, 2015

Brian Shay
City Administrator
City of Hoquiam
609 8th St.
Hoquiam, WA 98550

Dear Mr. Shay,

I am writing on behalf of Imperium Renewables ("Imperium") in response to the City's moratorium on "licensing, regulation, location and permitting of Wholesale Liquefied Petroleum Storage and Sales facilities." While we understand that the moratorium does not affect three applications currently pending before the City, one of which is Imperium's application to build new tanks and rail capacity that will be able to handle a range of bulk liquids including crude oil, we feel it is important to address a few concerns that could arise from this moratorium.

We are writing to request that the City consider refining the language in the moratorium to avoid unintended consequences related solely to biofuel and/or biochemical operations. Specifically, while we understand that the purpose of the moratorium is to limit new applications for facilities that handle products such as crude oil derived from petroleum, Imperium is concerned that the moratorium could inadvertently preclude future applications for any facility upgrades, expansions or improvements to Imperium's current renewable fuels operations. While Imperium has no current plans to file new applications for improvements or expansion of its biodiesel production facility, Imperium wants to be able to respond to changing market conditions, and may eventually pursue improvements or expansions to Grays Harbor's existing biodiesel production operations to include future biofuel or biochemical production technologies. Imperium is concerned that the existing language in the moratorium could be interpreted to preclude City consideration of new applications for those types of facility changes that are unrelated to storing and transloading crude oil.

Accordingly, Imperium requests that the City consider revising the moratorium to specifically exclude from its prohibition the following types of facilities:

Production and storage facilities for Renewable and Alternative fuels, chemicals and energy including:

- Renewable liquid and gaseous fuels, chemicals and electricity derived from renewable biomass energy sources including, but not limited to: biomass-based diesel, biomass based gasoline and renewable jet fuels, cellulosic biofuels and advanced biofuels.

- Alternative fuels and chemicals derived from waste streams or renewable biomass sources including gaseous fuels such as hydrogen, natural gas, and propane; alcohols such as ethanol, methanol, and butanol; vegetable and waste-derived oils; and municipal solid waste derived liquid and gaseous fuels and chemicals.

This change would confirm that Imperium Renewables can grow and expand the existing Imperium Grays Harbor biodiesel production operations if market conditions support increased production capacity for renewable and alternative fuel.

We appreciate your consideration of our request.

Sincerely,

A handwritten signature in black ink, appearing to be 'John Plaza', written in a cursive style.

John Plaza
President & CEO,
Imperium Renewables, Inc.



568 1st Ave South, Suite 600, Seattle, WA 98104 voice +1.206.254.0203 fax +1.206.254.0204
Innovating renewables for the future www.imperiumrenewables.com

Hoquiam City Council
City Hall Building
609 8th Street
Hoquiam, WA

June 8, 2015

Honorable members of the City Council:

I am writing on behalf of Imperium Renewables to offer our comments on the two most recent ordinances (Versions "H" and "I") prepared for the Council's consideration related to storage of oil in the City of Hoquiam. We appreciate your consideration of the issues we raised in our prior comments to the Council. Of the two new draft ordinances, Imperium encourages the general approach reflected in version "I" which incorporates the Department of Transportation (DOT) placard identification number. However, both of the ordinances require clarification and revisions because both continue to contain language that purports to impact Imperium's existing business and pending application and could create risk of unnecessary litigation. Accordingly, we ask the Council to consider three changes.

First, if the Council intends to proceed with either version "H" or "I," we request that the Council incorporate an exception for existing operations and applications. We understand from Council comments that the Council does not intend any ordinance under consideration to impact or apply to Imperium's existing business operations or the pending applications to expand the facility. We request that the City consider the following language to capture that intent:

Wholesale oil storage and sales facilities as defined in Hoquiam Municipal Code Section 10.09.240 are prohibited in any zoning district in the City **except for existing facilities or pending applications as of the date of the adoption of this Ordinance on sites in the Industrial Zone located east of the Hoquiam River.**

This additional clarification is important because the ordinances, as drafted, would render Imperium's new facilities non-conforming uses once constructed.¹

¹ The language in each of the two ordinances purports to prohibit the Imperium Terminal Services application under consideration, to the extent that crude oil is among the products Imperium could handle at its facility. As we indicated in our prior correspondence, this ban would not be the only relevant authority for determining Imperium's rights related to its application that the City has been processing for years and at a significant expense to Imperium. Imperium has established rights to proceed with its application and has also relied on the City's

Second, the definition of "oil" in version "I" includes internal inconsistencies that should be removed. The hazardous material identified by USDOT placard number 1267 is "petroleum crude oil." The definition could simply incorporate that category of hazardous material with the following language:

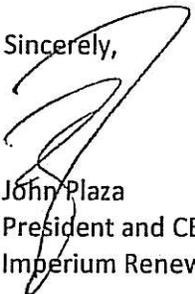
"Oil" or "oils" means petroleum crude oil ~~products that require further refinement before its intended use by consumers, identified with by~~ USDOT placard number 1267.

The additional phrase "petroleum products" in the existing language unnecessarily confuses the definition because "petroleum products" typically refers to refined products.

Third, if the City chooses to pursue the approach reflected in version "H," which includes an exemption for "bio-diesel or other similar products," we request that the City consider language to clarify. The phrase "biodiesel" is too limited to capture the range of liquids Imperium currently handles at its existing facility. Imperium Grays Harbor utilizes a wide range of products in its facility to create biofuels and bio-chemicals. We understand that the City seeks to grant flexibility with the phrase "or other similar products." However, that language is ambiguous. Accordingly, we request that the City clarify by replacing the phrase "bio-diesel or other similar products" with the following: "biofuels or bio-chemicals that are produced from biomass including, but not limited to bio-diesel, non-petroleum diesel, and any associated feedstocks or additives."

We appreciate your consideration of our comments.

Sincerely,



John Plaza
President and CEO
Imperium Renewables, Inc.

direction regarding the proposed expansion over the past several years at significant expense. However, unless it is further clarified to reflect what we understand to be the Council's intent, the ban could create needless litigation and would render the new facilities non-conforming uses once constructed.



Port of Grays Harbor

On Washington's Pacific Coast

111 South Wooding Street

PO Box 660

Aberdeen, Washington 98520

Tel ~ 360.533.9528

Fax ~ 360.533.9505

Email ~ harbor@portgrays.org

www.PortofGraysHarbor.com

June 18, 2015

Hoquiam City Council
609 – 8th Street
Hoquiam, WA 98550

Dear Councilmember,

As you consider the potential zoning change language on the agenda for Monday's council meeting, we respectfully request that you first consider whether such action is necessary, and if so, that you carefully consider its wording so that it accurately reflects your intent. We are concerned that a broadly worded moratorium or zoning change will inhibit our mutual efforts to attract investment and employers to Hoquiam or, as you heard from Imperium, deter existing businesses from expanding. If the permanency of a zoning change is the direction you decide, we ask that you be specific with your wording so that you limit the products you are concerned about without unintentionally impacting other prospective business development.

Developable, industrial property is a major asset for the City of Hoquiam in attracting investment and employment opportunities. In the global market, Hoquiam's availability of rail and marine served industrial property makes us unique on the West Coast. The unintended message that is sent to out-of-area businesses when moratoriums and zoning restrictions are enacted should not be underestimated. While locally we may understand the intent and history of events leading up to a moratorium, those on the outside merely read a headline about moratoriums and permanent zoning changes and perceive that Hoquiam is not open for business or is no longer business friendly. Consistent and predictable processes are key for major investments of all types.

 Commissioners

Jack Thompson

Chuck Caldwell

Stan Pinnick

While you contemplate a zoning change, we would encourage you to amend the current moratorium to focus on the commodity of concern, crude oil, so that unintended consequences can be minimized during your zoning deliberations. As we have suggested, if your intent is to prohibit the wholesale bulk storage of crude oil, make the language specific to crude oil by identifying it by its USDOT placard number 1267.

 Executive Director

Gary G. Nelson

We assume that limiting or adversely impacting the growth of businesses in Hoquiam is not the Council's intent, therefore we urge you to carefully consider the

language used to craft both the moratorium and any future zoning changes to insure the desired outcome and mitigate unintended consequences on the community.

When the Hometown Hoquiam process began we proudly participated during the creation of your Economic Development Plan. The need to enhance industry and jobs was emphasized; a key attribute was to be business friendly and development ready. We have worked diligently to identify strong investment partners who have a need to utilize the assets located in Hoquiam. Regardless of the outcome of your decision, we will continue to work as a partner in economic development with you.

We thank you for your consideration and would be happy provide you with more information or answer any questions you may have.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary G. Nelson". The signature is fluid and cursive, with the first name "Gary" being the most prominent.

Gary G. Nelson, Executive Director
PORT OF GRAYS HARBOR

Cc: Mayor Jack Durney
Brian Shay, City Administrator
Steve Johnson, City Attorney

Exhibit N

Brian Shay

From: Brian Shay
Sent: Wednesday, August 05, 2015 4:52 PM
To: Eric Toews (eric@cascadiaplanningservices.com)
Subject: FW: Wholesale Liquefied Petroleum Storage and Sales Zoning Ordinance.2015 (Draft I).doc
Attachments: Wholesale Liquefied Petroleum Storage and Sales Zoning Ordinance.2015 (Draft I).doc

From: Al Carter [<mailto:alcarter55@gmail.com>]
Sent: Monday, June 22, 2015 4:39 PM
To: Brian Shay; Steve Johnson
Subject: Wholesale Liquefied Petroleum Storage and Sales Zoning Ordinance.2015 (Draft I).doc

Brian,

We had our attorney look at the drafts and produced some suggestions to protect Ocean Protein's interest.

I wanted to share with you to consider.

Thanks,

Al Carter

----- Forwarded message -----

From: "Scheer, Mark" <MScheer@williamskastner.com>
Date: Jun 22, 2015 1:04 PM
Subject: Wholesale Liquefied Petroleum Storage and Sales Zoning Ordinance.2015 (Draft I).doc
To: "Al Carter" <alcarter55@gmail.com>, "Mark Rydman" <mrydman@ocean.onmicrosoft.com>
Cc:

Al,

Attached, in redline, is a first cut of additional language to protect the interests Ocean Protein. My revisions are to Draft I.

Please advise should you have any questions or comments.

Thanks.

Mark Scheer

Williams Kastner | Attorney at Law

601 Union Street, Suite 4100

Seattle, WA 98101-2380

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SEATTLE PORTLAND

DRAFT I

ORDINANCE NO. 2015 -- _____

AN ORDINANCE relating to zoning; amending Section 10.03.116 of the Hoquiam Municipal Code; amending Section 10.09.160 of the Hoquiam Municipal Code; amending Section 10.09.240 of the Hoquiam Municipal Code; and adding a new Section 10.05.140 to Chapter 10.05 of the Hoquiam Municipal Code.

THE CITY COUNCIL OF THE CITY OF HOQUIAM, WASHINGTON DO ORDAIN AS FOLLOWS:

SECTION 1. Section 10.03.116 of the Hoquiam Municipal Code is amended to read as follows:

10.03.116 Table of Permitted and Conditional Uses – Commercial, Industrial and Natural Resources

Commercial, Industrial & Natural Resource Land Use	C- 1	C- 2	I	NR
Accessory buildings and uses	P	P	P	
Adult entertainment businesses	C			
Asphalt, rock crushing, and concrete batch plants			P	
Assembly halls and community clubs	P	P		
Automobile, heavy maintenance and repair shops	P	C	P	
Automobile, RV, boat sales	P	P		
Automobile service stations	P	P		
Automobile wrecking, towing, or junkyards			P	
Banks and financial services	P	P		
Bars, cocktail lounges, and taverns	P	P		
Bed and breakfast inns	C	P		
Crematoriums	C		C	
Cluster Density Subdivision	C	C	C	
Community facilities	P	P	P ^W	
Contractor yards	P		P	
Day care centers	P	P		
Drive through facilities	P		P	
Dwellings, multifamily with five or more units	C ^W	P ³	P ^W	
Dwellings, multifamily with four or less units	C ^W	P ³	P ^W	

DRAFT I

Dwellings, single-family	P ¹	P ¹	P ^w	
Farmers Market	P	P	P	
Food processing	P	P	P	
Freight terminals	P		P	
Hazardous waste storage and treatment	C		C	
Hospitals, medical and dental clinics	P	P	P	
Industry, heavy			P	
Industry, light and within a structure	P		P	
Live work Unit	P	P		
Manufactured office buildings	P		P	
Marijuana Processing Businesses				P
Marijuana Producing Businesses				P
Marijuana Retailing Businesses	P	P	P	
Marina facilities	P ^w	P ^w	P	
Mini-storage facilities				P
Motels, and hotels	P	P	P ^w	
Office and business parks	P		C	
Outdoor storage	P		P	
Parking areas, public and private	P	C	P	
Parks, public	P	P	P ^w	P
Personal services	P		P ^w	
Places for religious worship	P	P	P ^w	
Planned unit developments	C	C	C	C
Professional services	P	P	P ^w	
Public utilities	p ²	p ²	p ²	p ²
Recreational facilities	P	P	P ^w	C
Residential care facilities	P		C ^w	
Restaurants	P	P	P ^w	
Restaurants, drive-in	P		C ^w	
Retail sales	P	P	P ^w	
Retirement Home	P		P	

DRAFT I

Small engine sales, service, and repair	P	P	P	
Ship terminals, slips, and repair facilities	P			
Timberland Production				P
Truck and heavy equipment sales and services	P		P	
Veterinary hospitals and kennels	P	C	P	
Warehousing	P		P	
Wholesale liquefied petroleum sales			P	
Wholesale sales and product distribution centers	P			
¹ Serving the owner, manager, or caretaker of a permitted or conditional use				
² Public utilities that exceed the height limitations of a district require a conditional use permit.				
³ Only if located above a ground floor commercial use.				
^W Waterfront overlay district only as part of a PUD or mixed use development				
*Consistent with the requirements of HMC <u>10.05.020</u> .				

SECTION 2. Section 10.09.160 of the Hoquiam Municipal Code is amended to read as follows:

10.09.160 “O” definitions.

(1) “Off-premises sign” means a permanent sign not located on the premises of the use or activity to which the sign pertains.

(2) “Off-premises directional sign” means an off-premises sign designed to guide the public to an area, place, business or service without arterial or collector frontage within the city and is consistent with standards in HMC 10.05.130.

(3) “Office and business park” means a large tract of land planned, developed, and operated as an integral facility for a number of separate office buildings and supporting ancillary uses with special attention given to circulation, parking, utility needs, aesthetics, and compatibility.

(4) “Oil” or “oils” means petroleum products that require further refinement before its intended use by consumers. identified with USDOT placard number 1267.

(4) (5) “Open record public hearing” means a hearing conducted by a single hearing body or officer authorized by the city of Hoquiam. The purpose of the hearing is to create a record through testimony, submission of evidence, and information under procedures prescribed by ordinance or resolution.

DRAFT I

(5) (6) “Outdoor storage” means a defined area rented to individuals where equipment or machinery is stored in a secured, fenced area.

SECTION 3. Section 10.09.240 of the Hoquiam Municipal Code is amended to read as follows:

10.09.240 “W” definitions.

(1) “Wall” means any member, or group of members, which defines the exterior boundaries of a building and which has a slope of sixty degrees or greater with the horizontal plane. The height of a wall shall be measured as the two-dimensional height from the average finished grade of the particular architectural building elevation adjacent to the wall to the finished roof plane.

(2) “Wall sign” means any sign attached to or painted directly on the wall, or erected against the wall of a building being parallel or approximately parallel to said wall, and does not exceed a distance of fifteen inches from said wall.

(3) “Warehouse/warehousing” means a facility generally dealing with the active reception and dispersal of goods that are oriented to manufactured products and household goods. A warehouse usually consists of a large multistoried building with loading docks. “Warehouse/warehousing” includes distribution and transfer such as rail-to-truck and truck-to-truck transfer facilities.

(4) “Wholesale sales” means the sale of goods or commodities, usually in bulk or large quantities and usually at lower cost, to a retailer for resale. Such sales activity takes place in establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; or to other wholesalers, acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or businesses.

(5) “Wholesale liquefied petroleum sales” means a facility that sells a substance used as a gas for fuel other than oil as defined in Hoquiam Municipal Code Section 10.09.160(4). The product is stored in the liquid state at the facility.

(6) “Wholesale Oil Storage and Sales” means a facility that stores, transfers, and/or conducts wholesale sales of oil as defined in Hoquiam Municipal Code Section 10.09.160(4). Wholesale Oil Storage and Sales excludes facilities that store, transfer, and/or sell oil (as defined in HMC 10.09.160(4) solely for the purpose of retail sales and those facilities which are solely for the purpose of holding, preparing and/or manufacturing of fish oil and related products derived solely from fish or fish byproducts. Fish oil means any oil that comes from the tissue of fatty fish, including, without limitation, Pacific whiting, salmon, tuna and mackerel.

DRAFT I

(6) (7) "Wholesale sales and production distribution centers" means commodities stored for sale to businesses or brokers.

(7) (8) "Wind turbine" means a machine with turbine apparatus (rotor blades, nacelle and tower) capable of producing electricity by converting the kinetic energy of wind into rotational, mechanical and electrical energy; provided, the term does not include electrical distribution of transmission lines, or electrical substations.

(8) (9) "Wind turbine farm" means two or more wind turbines on one parcel.

(9) (10) "Wind turbine height" means the distance measured from the ground level to the highest point on a wind turbine, including the rotor blades

NEW SECTION. SECTION 3. A new Section 10.05.140 is added to Chapter 10.05 of the Hoquiam Municipal Code is amended to read as follows:

10.05.140 Wholesale Oil Storage and Sales -- prohibited.

Wholesale oil storage and sales facilities as defined in Hoquiam Municipal Code Section 10.09.240-are prohibited in any zoning district in the City. This prohibition does not include those Oil Storage and Sales facilities which are solely for the purpose of holding, preparing and/or manufacturing of fish oil, fish meal and related products which are derived solely from the tissue of fish or fish byproducts. Fish oil means any oil that comes from the tissue of fish, including, without limitation, Pacific whiting, salmon, tuna and mackerel.

ADOPTED by the Mayor and City Council on _____,
2015.

JACK DURNEY – MAYOR

ATTEST:

MIKE FOLKERS – FINANCE DIRECTOR

PUBLISHED:



Westway Group, LLC
365 Canal Street, Suite 2900
New Orleans, LA 70130
(504) 525-9741 Main · (504) 636-4316 Fax

August 4, 2015

Hoquiam City Council
City Hall Building
609 8th Street
Hoquiam, WA 98550

RE: Change in Zoning for Wholesale Oil Storage

Honorable Members of the City Council:

Westway Terminal Company LLC (“Westway”) would like to comment on the ordinance being developed by the City Council that would change the City’s zoning for wholesale oil storage. We understand that the City’s hearing examiner will be holding a public hearing on two versions of the ordinance (versions “H” and “I”). Westway asks that the hearing examiner and the City Council revise whichever version of the ordinance advances through the process to expressly recognize and exclude pending oil storage applications from the zoning change.

Westway has a clearly established right to proceed with the pending expansion of its existing bulk liquid storage terminal to receive and store crude oil, regardless of any zoning change the City may now make. In December 2012, Westway applied to the City to expand and has a vested right to develop its proposed crude oil storage project. The City issued a shoreline substantial development permit for the project in April 2013 and a conditional use permit in May 2013. Westway submitted complete building permit applications for the proposed storage tanks in June 2013.

In January 2014, after the Shorelines Hearings Board remanded Westway’s shoreline permit to the City for additional SEPA analysis, Westway amended its shoreline permit application and formally requested that the City and Ecology proceed with development of a full environmental impact statement (“EIS”) for the crude oil project. For more than 18 months, Westway has been working with the City and Ecology, in good faith and at great expense, to develop a Draft EIS, which Westway understands is to be released for public comment in several weeks.

Despite Westway having worked with the City on the pre-application and permitting process for its crude oil project for almost three years, both versions of the zoning change currently under consideration would cause Westway’s project to be a “nonconforming use.” Paradoxically, that could make it more difficult to incorporate improvements on the original project proposal through the ongoing SEPA and shoreline permitting process, and could limit Westway’s ability to make future improvements or incorporate new safety measures.



Westway Group, LLC
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New Orleans, LA 70130
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The current ordinance drafts also are inconsistent with the position the City expressed when it adopted a moratorium on new wholesale oil terminals earlier this year. The moratorium ordinance, adopted on March 9, 2015, specifically stated that “this moratorium shall not affect the three facilities that have previously submitted completed development permit applications to the City of Hoquiam.” The current versions of the draft ordinance, which make no distinction for pending applications, are not consistent with the Council’s intent as expressed in the moratorium ordinance.

In light of the above, Westway encourages the Council to revise the current versions of the draft ordinance (or future versions, if more are generated) to include an exception for existing operations and pending applications. Specifically, the new Section 10.05.140 that both current versions would add to the Hoquiam Municipal Code could be modified by adding the following underlined text:

Wholesale oil storage and sales facilities as defined in Hoquiam Municipal Code Section 10.09.240 are prohibited in any zoning district in the City except for sites with existing facilities or pending applications as of the date of the adoption of this Ordinance.

This revision would achieve the City’s objective of preventing any new applications for wholesale oil storage facilities. It also would avoid declaring “nonconforming” the expansion projects at existing businesses that have expended substantial resources in reliance upon the City’s current zoning.

Thank you for considering Westway’s comments. We would be pleased to answer any questions you may have regarding this or other alternatives for addressing pending applications.

Sincerely,

A handwritten signature in black ink, appearing to read "G. D. Roberts, Jr.", written in a cursive style.

Geoffrey D. Roberts, Jr.
Interim CEO

Exhibit 0



August 5, 2015

Hoquiam City Council
City Hall Building
609 8th Street
Hoquiam, WA 98550

Dear Members of the City Council:

We write on behalf of many citizens of Hoquiam and the surrounding communities to offer our support for enacting one of the two draft ordinances ("H" or "I") related to the storage of crude oil in our city. We have three basic points.

First, we applaud the City Council for taking this step to protect the health and safety of its citizens. The dangers to people and the places where we live and work caused by crude oil transportation and storage is simply too great for our community, and we share a strong commitment to shaping our lives around multiple uses of our shorelines and waters while at the same time protecting our heritage and values. The Council is acting to protect its citizens, and we are strongly supportive of this effort.

Second, we believe that the current versions of drafts H and I, neither of which create explicit exemptions for pending applications, are the correct way to deal with this issue. It is important for the ultimate ordinance adopted to be as clear as possible, not create unintended loopholes, and not appear to be favoring a particular entity. Imperium has urged the Council to explicitly recognize its pending application in the city code; we believe this would be unwise and unnecessary. Whether any ordinance eventually applies to any pending project application will be decided as a matter of law as that project moves forward in the permitting process. It would place the City Council in an awkward and arguably improper position to affirmatively favor one project over others in the zoning code.

Third, in its June 8, 2015 letter on this subject, Imperium made clarification suggestions to the proposed definition of crude oil in both versions H and I. Those suggested edits seem appropriate to us. Because draft H defines "oil" with reference to the current state law definition in RCW 90.56.010(17) as opposed to the USDOT placard number, we believe H is the preferable draft for clarity and familiarity reasons.

Thank you again for taking up this important issue; we appreciate your consideration of our comments.

Sincerely,

Arthur (R.D.) Grunbaum
Citizens for a Clean Harbor
PO Box 35
Hoquiam, Washington 98550-0035

Exhibit P



Quinault Indian Nation

POST OFFICE BOX 189 □ TAHOLAH, WASHINGTON 98587 □ TELEPHONE (360) 276 - 8211

August 5, 2015

Hoquiam City Council
City Hall Building
609 8th Street
Hoquiam, WA 98550
bshay@cityofhoquiam.com

Honorable City Council Members:

The Quinault Indian Nation wishes to voice its support for the two draft ordinances (H and I) related to the storage of crude oil that will be considered by the hearing examiner tomorrow. We thank the City Council for proposing city code amendments to protect the health and safety of its citizens. The Quinault people have called Grays Harbor home since time immemorial, and we share the Council's concern for the harm posed by crude oil transportation and storage to our people and way of life.

We believe the ordinances as written accurately reflect the intent of the Council to prevent new crude oil storage facilities in the city. We disagree with suggestions made by Imperium that the Council should explicitly exempt its pending application in the city code amendment. The draft ordinances are clear as written, and Imperium should not be given special favors in the drafting of city-wide legislation. It seems that more litigation, not less, will be engendered by creating loopholes in the ordinance, as opposed to letting the law play out in specific applications for particular projects when that time comes.

Both drafts H and I advance the same goals. Between the two versions, we find draft H's definition of "oil" (with reference to RCW 90.56.010(17)) clearer, as the reference in draft I to the USDOT placard number may be unfamiliar to more people.

Thank you for considering our comments.

A handwritten signature in black ink, appearing to read "F. Sharp".

Fawn R. Sharp, President
Quinault Indian Nation

Exhibit Q



719 Second Avenue, Suite 1150
Seattle, WA 98104-1728
206-623-9372
vnf.com

August 5, 2015

Hearing Examiner Toews
City of Hoquiam
609 8th Street
Hoquiam, WA 98550

Re: Draft Ordinances "H" and "I"

Dear Examiner Toews:

On behalf of Imperium Renewables, I am writing to offer comments on the two ordinances under consideration related to storage of oil, referred to as versions "H" and "I." Imperium currently operates an existing biodiesel refinery in the City of Hoquiam known as Imperium Grays Harbor. In addition, the City is currently reviewing Imperium's application for its expansion project known as Imperium Terminal Services (ITS).

Imperium has previously submitted comment letters directly to the City Council that include more detailed description of Imperium's concerns with the ordinances. We have attached copies of those letters and request that the City incorporate into its record, to the extent they are not already included.

In summary, Imperium has requested several changes to the draft regulations to address its concerns:

1. Add Language to Avoid Creation of Non-Conforming Uses.

First, Imperium requests additional language to avoid creation of non-conforming uses. The ordinances, if adopted would render the ITS facility a "nonconforming use" upon construction (to the extent that the ITS expansion project will handle "oil").¹ Status as a nonconforming use

¹ Both of the draft ordinances on their face purport to prohibit facilities like the ITS expansion project currently under consideration; however, neither would legally prohibit the ITS project because Imperium has clearly established rights to proceed with its pending application.

does not prohibit its operation, but it has significant business consequences. Accordingly, Imperium requests that the City include the following revisions to avoid those consequences:

Wholesale oil storage and sales facilities as defined in Hoquiam Municipal Code Section 10.09.240 are prohibited in any zoning district in the City except for sites with existing facilities or pending applications as of the date of the adoption of this Ordinance.

2. Reference to "DOT placard 1267" In Version "I" Is Preferable to the Ambiguous Exemption in Version "H"

Second, while Imperium generally opposes the overall policy approach expressed in either of the ordinances, Imperium prefers the general approach in version "I" over that of version "H."

Version "I" incorporates the Department of Transportation placard identification number to specify the products that are the subject of the City's policy concerns. By contrast, version "H" utilizes the state definition of "oil" which is broader and includes biofuels, like the ones manufactured at the Imperium Grays Harbor facility. Version "H" seeks to avoid that result by exempting "bio-diesel or other similar products"; however, the phrase "bio-diesel" is too limited to capture the range of liquids Imperium handles at its existing facility and the reference to "other similar products" is vague. Imperium therefore encourages the use of the specific reference in DOT placard expressed in version "I" over that more generalized and vague approach expressed in version "H."

3. Clarify Definition of "Oil."

~~The definition of "oil" under either version of the ordinance requires clarification.~~

While version "I" includes Imperium's preferred reference to the DOT placard, the definition nevertheless includes internal inconsistencies that could create confusion and should be removed. USDOT placard number 1267 refers to "petroleum crude oil." The additional phrase "petroleum products" in the existing language unnecessarily confuses the definition because "petroleum products" typically refers to refined products, despite the fact that the following sentence suggests otherwise. Accordingly, Imperium proposes the following clarification:

"Oil" or "oils" means petroleum crude oil ~~products that require further refinement before its intended use by consumers,~~ identified with by USDOT placard number 1267.

In Version "H," the City's exemption for "biodiesel or other similar products" is vague. While we understand and appreciate that the City's intent is to create flexibility for renewable fuels production, we are concerned that it could create regulatory confusion. Accordingly, to the extent that the City considers version "H," we propose the following clarification:

“Oil” or “oils” means oil as defined in RCW 90.56.010(17), but does not include biofuels or biochemicals that are produced from biomass including, but not limited to, bio-diesel, or other similar products non-petroleum diesel, and any associated feedstocks or additives.”

We appreciate your consideration of our comments.

Very truly yours,

VAN NESS FELDMAN LLP

A handwritten signature in black ink, appearing to read 'Tadas Kisielius', written over a horizontal line.

Tadas Kisielius

Enclosures:

1. Letter from Imperium Renewables to Hoquiam City Council (June 1, 2015)
2. Letter from Imperium Renewables to Hoquiam City Council (June 8, 2015)
3. Letter from Imperium Renewables to Hoquiam City Council (June 19, 2015)



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Innovating renewables for the future www.imperiumrenewables.com

Hoquiam City Council
City Hall Building
609 8th Street
Hoquiam, WA
June 1st, 2015

Honorable members of the City Council:

With this letter, Imperium Renewables would like to offer our comments on the seven different ordinances currently under consideration by the City Council that are designed to limit development of tank farms in Hoquiam. More generally, we understand that the City is considering these various draft ordinances in response to community concerns related to deliveries of crude-by-rail. We appreciate the City's consideration of our past comments by letter dated April 13, 2015. Of the various options under consideration, we are writing to encourage the City to adopt either of two versions of the draft ordinances (Versions "D" and "F") and to express our concerns related to the remaining versions.

As you know, Imperium Renewables operates an existing biodiesel refinery in the City of Hoquiam known as "Imperium Grays Harbor." IGH has been in operation since 2007 and employs 45 people. It is a vibrant and thriving biofuels business that contributes to the community in many ways. In addition, the City of Hoquiam and Washington State Department of Ecology, the "Co-leads", are currently nearing completion of their lengthy environmental review of Imperium's expansion proposal known as Imperium Terminal Services. Imperium first filed a SEPA Checklist to initiate the Co-lead's review of the Imperium Terminal Services proposal in approximately February, 2013. After proceedings that occurred with the Shorelines Hearings Board in September of 2013, Imperium agreed, at the Co-lead's request, to a Determination of Significance in January, 2014. The Determination of Significance triggered the requirement to complete an Environmental Impact Statement ("EIS"). Shortly after issuing the Determination of Significance the Co-leads hired a consultant to write an EIS at Imperium's expense. The EIS will thoroughly address a very broad scope of potential impacts of the project and the findings of the Shoreline Hearings Board. This substantial level of effort to complete the permitting process has been ongoing since 2014 and is nearing completion. With the filing of the SEPA Checklist and agreeing to proceed with the Determination of Significance as suggested by the co-leads, Imperium has incurred significant expenses in the pursuit of our permits.

Of the various versions of the moratorium under consideration, only versions D and F do not purport to prohibit uses like Imperium Terminal Services expansion proposal or Imperium Grays

Harbor's existing operations at our existing location and under current zoning use designations. While both versions D and F broadly define a use related to wholesale liquid storage and sales, the prohibition on that use expressly excludes projects on properties where Imperium Grays Harbor is currently located and where the proposed expansion project is proposed to be constructed (on the portions "of the Industrial Zone that are located east of the Hoquiam River."). This regulatory approach adequately achieves the City's identified interest in prohibiting proliferation of tank farms while appropriately recognizing existing uses and Imperium's project proposal. Importantly, both of these draft ordinances also allow Imperium Renewables to grow and expand the existing Imperium Grays Harbor biofuel production operations if market conditions support increased production capacity for renewable and alternative fuels. This flexibility is crucial to maintaining a viable biofuels production facility and our business's ability to continue to be an economic engine for the community.

The remaining versions (A, B, C, E and G) of the moratorium would purport to prohibit the Imperium Terminal Services expansion project. Indeed, versions A, B, and G would even purport to broadly prohibit uses like the existing Imperium Grays Harbor facility, rendering the existing facility a "non-conforming use" and this could have irreparable negative consequences to our existing biofuels business.

It is important to note that any moratorium adopted by the City is not the only relevant authority for determining Imperium's rights related to its existing operations or its application that the City has been processing for years and at a significant expense to Imperium. Other established rights and our reliance on the City's direction regarding the proposed expansion over the past several years are also relevant to establishing Imperium's rights moving forward. However, the moratorium, especially one that creates non-conforming uses and seeks to broadly preclude a business's ability to expand, is important, not only because it could prompt avoidable litigation but more generally because it sends a strong signal to the business community at large regarding the City's inclination to support or discourage business investment for the long term. If the Council feels compelled to pursue a moratorium beyond that which it has already adopted, we respectfully request that this Council choose either version D or F. Either version D or F seeks to achieve the City's policy approach, but not at the expense of our existing business.

Sincerely,



John Plaza
President and CEO
Imperium Renewables, Inc



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Innovating renewables for the future www.imperiumrenewables.com

Hoquiam City Council
City Hall Building
609 8th Street
Hoquiam, WA

June 8, 2015

Honorable members of the City Council:

I am writing on behalf of Imperium Renewables to offer our comments on the two most recent ordinances (Versions "H" and "I") prepared for the Council's consideration related to storage of oil in the City of Hoquiam. We appreciate your consideration of the issues we raised in our prior comments to the Council. Of the two new draft ordinances, Imperium encourages the general approach reflected in version "I" which incorporates the Department of Transportation (DOT) placard identification number. However, both of the ordinances require clarification and revisions because both continue to contain language that purports to impact Imperium's existing business and pending application and could create risk of unnecessary litigation. Accordingly, we ask the Council to consider three changes.

First, if the Council intends to proceed with either version "H" or "I," we request that the Council incorporate an exception for existing operations and applications. We understand from Council comments that the Council does not intend any ordinance under consideration to impact or apply to Imperium's existing business operations or the pending applications to expand the facility. We request that the City consider the following language to capture that intent:

Wholesale oil storage and sales facilities as defined in Hoquiam Municipal Code Section 10.09.240 are prohibited in any zoning district in the City except for existing facilities or pending applications as of the date of the adoption of this Ordinance on sites in the Industrial Zone located east of the Hoquiam River.

This additional clarification is important because the ordinances, as drafted, would render Imperium's new facilities non-conforming uses once constructed.¹

¹ The language in each of the two ordinances purports to prohibit the Imperium Terminal Services application under consideration, to the extent that crude oil is among the products Imperium could handle at its facility. As we indicated in our prior correspondence, this ban would not be the only relevant authority for determining Imperium's rights related to its application that the City has been processing for years and at a significant expense to Imperium. Imperium has established rights to proceed with its application and has also relied on the City's

Wholesale oil storage and sales facilities as defined in Hoquiam Municipal Code Section 10.09.240 are prohibited in any zoning district in the City except for sites with existing facilities or pending applications as of the date of the adoption of this Ordinance.

This language would directly articulate what we understand to be the Council's intent. The City would achieve its objective of preventing any new applications for wholesale oil storage and sales facilities in the City of Hoquiam while simultaneously avoiding the creation of nonconforming uses with the existing businesses that have expended significant resources based on the current City of Hoquiam zoning ordinances.

We greatly appreciate your consideration of our comments and welcome the opportunity to answer any questions you have about our position.

Sincerely,

A handwritten signature in black ink, appearing to be 'John Plaza', written in a cursive style.

John Plaza
President and CEO
Imperium Renewables, Inc



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Hoquiam City Council
City Hall Building
609 8th Street
Hoquiam, WA
June 19th, 2015

Honorable members of the City Council:

I am writing on behalf of Imperium Renewables to offer additional comments on the two most recent ordinances (Versions "H" and "I") related to storage of oil in the City of Hoquiam. We have previously submitted comments on versions "H" and "I" on June 8th and we request that the Council again consider the clarifications proposed in that letter. I am sending this letter to reiterate our request and to add more explanation supporting our specific request that the Council incorporate revisions to expressly recognize Imperium's pending application for the Imperium Terminal Services development proposal.

Imperium has clearly established rights to proceed with its pending application and has also relied on the City's direction regarding the proposed expansion over the past several years at significant expense. Thus, even though each of the two ordinances purports to prohibit facilities like the Imperium Terminal Services facility, the ordinance would not legally prohibit the proposal.

Nevertheless, either ordinance as currently drafted would render the Imperium Terminal Services facility a "nonconforming use" upon construction (to the extent that Imperium Terminal Services facility handles "oil"). While this "nonconforming" status would not preclude the ongoing operation of the new facility, it may have significant business consequences. Specifically, status as a "nonconforming use" potentially jeopardizes investment in the business, impacts ability to obtain insurance and financing, and could limit our ability for future improvements or new safety measures to be added the facility.

To avoid these potential consequences, we request that the Council include revisions to any zoning ordinance modifications must incorporate an exception for existing operations and applications. In our June 8th, 2015, letter we included specific language that carried forward the "geographic exclusion" presented in two earlier draft ordinances. The City could alternatively choose a more targeted and narrower approach by including express recognition of only pending applications, as follows:

Second, the definition of "oil" in version "I" includes internal inconsistencies that should be removed. The hazardous material identified by USDOT placard number 1267 is "petroleum crude oil." The definition could simply incorporate that category of hazardous material with the following language:

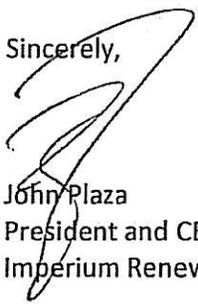
"Oil" or "oils" means petroleum ~~crude oil products that require further refinement before its intended use by consumers,~~ identified with by USDOT placard number 1267.

The additional phrase "petroleum products" in the existing language unnecessarily confuses the definition because "petroleum products" typically refers to refined products.

Third, if the City chooses to pursue the approach reflected in version "H," which includes an exemption for "bio-diesel or other similar products," we request that the City consider language to clarify. The phrase "biodiesel" is too limited to capture the range of liquids Imperium currently handles at its existing facility. Imperium Grays Harbor utilizes a wide range of products in its facility to create biofuels and bio-chemicals. We understand that the City seeks to grant flexibility with the phrase "or other similar products." However, that language is ambiguous. Accordingly, we request that the City clarify by replacing the phrase "bio-diesel or other similar products" with the following: "biofuels or bio-chemicals that are produced from biomass including, but not limited to bio-diesel, non-petroleum diesel, and any associated feedstocks or additives."

We appreciate your consideration of our comments.

Sincerely,



John Plaza
President and CEO
Imperium Renewables, Inc.

direction regarding the proposed expansion over the past several years at significant expense. However, unless it is further clarified to reflect what we understand to be the Council's intent, the ban could create needless litigation and would render the new facilities non-conforming uses once constructed.

Exhibit R



Port of Grays Harbor

On Washington's Pacific Coast

111 South Wooding Street
PO Box 660
Aberdeen, Washington 98520
Tel ~ 360.533.9528
Fax ~ 360.533.9505
Email ~ harbor@portgrays.org
www.PortofGraysHarbor.com

August 5, 2015

Eric Toews
City of Hoquiam Land Use Hearings Examiner
609 - 8th Street
Hoquiam, WA 98550

Dear Hearings Examiner,

The Port of Grays Harbor respectfully requests the Hearings Examiner and council consider the impacts that this permanent zoning change would have on our mutual efforts to attract investment and employers to Hoquiam. Developable industrial property is a major asset for the City of Hoquiam for attracting investment and employment opportunities. In the maritime industry, Hoquiam's rail-served, industrial waterfront property makes it unique on the West Coast.

While the permanency of a zoning change can have negative impacts on business development efforts, Draft I includes specific wording that addresses the concern of the council by limiting the product they seem most concerned about without unintentionally impacting other prospective business development opportunities.

The specific language in Draft I will also be much easier for the development staff and regulatory decision makers of the City to interpret, communicate, enforce, and make land use decisions related to development applications. It would also reduce the potential for disputes and appeals over interpretations of the more general wording and definitions found in Draft H.

Again, if the intent is to prohibit the wholesale bulk storage of crude oil, then make the language specific to crude oil by identifying it by mandating the use of its USDOT placard number 1267.

We thank you for your consideration and opportunity to comment. We would be happy to provide additional information or answer any questions you may have.

Sincerely,

Gary G. Nelson, Executive Director
PORT OF GRAYS HARBOR

 Commissioners
Jack Thompson
Chuck Caldwell
Stan Pinnick

 Executive Director
Gary G. Nelson

August 6, 2015

City of Hoquiam Hearings Examiner:

I am requesting that you approve Ordinance H rather than Ordinance I.

Ordinance I limits the definition to a number on a placard. By relying on only a placard number for the definition of oil products, the ordinance would be so specific it would exclude other crude oils that would be just as dangerous or more so to our communities and the environment. Also, it is possible the numbers could change and then the ordinance would be useless for its intended purpose.

As seen on the list of UN numbers, there are other products that we could consider as crude oil that have a different number. For example:

1267 Petroleum crude oil

Crude oil is liquid petroleum that is found accumulated in various porous rock formations in Earth's crust and is extracted for burning as fuel or for processing into chemical products.

1288 Shale oil

Shale oil is an unconventional oil produced from oil shale rock fragments. The term "shale oil" is interchangeable, as it is used as well for crude oil produced from shales of other very low permeability formations. (World Energy Council 2013)

As you can see, by passing an ordinance that only refers to 1267, the City of Hoquiam and the general public would have no protection from the transport and storage of crude oil products.

By adopting Ordinance H, we would be following Washington State code and would be more likely to prohibit the type of crude oils that were intended by the moratorium.

Linda Orgel
Citizens for a Clean Harbor

EnvironmentalChemistry.com

Environmental, Chemistry & Hazardous Materials News, Careers & Resources

Emergency Response Guidebook (ERG)

This is an [online](#) version of the 2008 Emergency Response Guidebook (ERG) which is produced by the USDOT for first responders during the initial phase of a Dangerous goods/Hazardous Materials incident. Have you ever wondered what those four digit numbers on the placards on the side of trucks and rail cars mean? Our online ERG will give you your answer.

UN Numbers 1259 through 1322

UN#	Guide	Name of Material	ISO
1259	131	Nickel carbonyl	Yes
1261	129	Nitromethane	
1262	128	Isooctane	
1262	128	Octanes	
1263	128	Paint (flammable)	
1263	128	Paint related material (flammable)	
1264	129	Paraldehyde	
1265	128	Isopentane	
1265	128	n-Pentane	
1265	128	Pentanes	
1266	127	Perfumery products, with flammable solvents	
1267	128	Petroleum crude oil	
1268	128	Petroleum distillates, n.o.s.	
1268	128	Petroleum distillates, n.o.s.	
1268	128	Petroleum products, n.o.s.	
1268	128	Petroleum products, n.o.s.	
1270	128	Oil, petroleum	
1270	128	Petroleum oil	
1270	128	Petroleum oil	
1272	129	Pine oil	
1274	129	n-Propanol	
1274	129	normal Propyl alcohol	
1274	129	normal Propyl alcohol	
1274	129	Propyl alcohol, normal	
1275	129	Propionaldehyde	
1275	129	Propionaldehyde	
1276	129	n-Propyl acetate	
1276	129	n-Propyl acetate	
1277	132	Monopropylamine	
1277	132	Propylamine	
1278	129	1-Chloropropane	
1278	129	Propyl chloride	
1279	130	1,2-Dichloropropane	

1279	130	Dichloropropane	
1279	130	Propylene dichloride	
1280	127P	Propylene oxide	
1281	129	Propyl formates	
1282	129	Pyridine	
1286	127	Rosin oil	
1287	127	Rubber solution	
1288	128	Shale oil	
1289	132	Sodium methylate, solution in alcohol	
1292	129	Ethyl silicate	
1292	129	Tetraethyl silicate	
1293	127	Tinctures, medicinal	
1294	130	Toluene	
1295	139	Trichlorosilane	
1296	132	Triethylamine	
1297	132	Trimethylamine, aqueous solution	
1298	155	Trimethylchlorosilane	
1298	155	Trimethylchlorosilane	
1299	128	Turpentine	
1300	128	Turpentine substitute	
1301	129P	Vinyl acetate, stabilized	
1302	127P	Vinyl ethyl ether, stabilized	
1303	130P	Vinylidene chloride, stabilized	
1304	127P	Vinyl isobutyl ether, stabilized	
1305	155P	Vinyltrichlorosilane	
1305	155P	Vinyltrichlorosilane, stabilized	
1306	129	Wood preservatives, liquid	
1307	130	Xylenes	
1307	130	Xylenes	
1308	170	Zirconium metal, liquid suspension	
1308	170	Zirconium suspended in a flammable liquid	
1308	170	Zirconium suspended in a liquid (flammable)	
1309	170	Aluminum powder, coated	
1310	113	Ammonium picrate, wetted with not less than 10% water	
1312	133	Borneol	
1313	133	Calcium resinate	
1314	133	Calcium resinate, fused	
1318	133	Cobalt resinate, precipitated	
1320	113	Dinitrophenol, wetted with not less than 15% water	
1321	113	Dinitrophenolates, wetted with not less than 15% water	
1322	113	Dinitroresorcinol, wetted with not less than 15% water	
Current as of: Oct. 2, 2011			

Data Source for our online 2008 ERG

August 6, 2015

Dear Sir:

My name is Diane Wolfe and I live at 309 Beacon Hill Drive in Hoquiam. I am here today to speak in favor of proposed zoning ordinance Draft H which will result in a moratorium on oil storage facilities in Hoquiam. We need this to protect the health, safety and property of the citizens of Hoquiam. I am concerned that the definition used in Draft I, which relies on USDOT placard designation UN1267, would be problematic for two reasons.

The first is that it ties the city's definition to a fluid and often changing federal definition which could have the unintended consequence of voiding or substantially altering the intent of the city of Hoquiam.

The second is the finding by the Secretary of Transportation on March 6, 2014 in Docket No. DOT-OST-2014-0025 which encapsulated the AMENDED AND RESTATED EMERGENCY RESTRICTION/PROHIBITION requiring persons who offer bulk quantities of petroleum crude oil for transportation in commerce by rail in rail tank cars to ensure that the material is properly tested and classed and prohibiting persons who ordinarily offer petroleum crude oil for shipment as UN 1267, from reclassifying such crude oil with the intent to circumvent the requirements of this Amended Order. End quote

In other words, USDOT investigations had discovered that the railroads, shipping companies and oil companies were lying about what they were transporting.

The Secretary goes on to state: "Upon information derived from recent railroad accidents and subsequent investigations and testing, the Secretary of Transportation has found violations of the Federal Hazmat rules... and unsafe practices related to the classification and packaging of petroleum crude oil, are causing or otherwise constitute an imminent hazard to the safe transportation of UN 1267, Petroleum crude oil, Class 3, PG I, II, or III."

Secretary Foxx further stated that such oil is " an imminent hazard" and "presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable completion date of a formal proceeding begun to lessen the risk that death, illness, injury or endangerment may occur. Misclassification is one of the most dangerous mistakes to be made when dealing with hazardous materials because proper classification is the critical first step in determining how to package, handle, communicate about, and safely transport hazardous materials. Misclassification may indicate larger problems with company management, oversight, and quality control. Petroleum crude oil may contain dissolved gases or other unanticipated hazardous constituents, may exhibit corrosive properties and also may exhibit toxic properties. Additionally, the flammability of petroleum crude oil being shipped by bulk rail poses a significant risk of substantial endangerment to health, property, or the environment when an explosion occurs."

I urge you to approve Draft H. Thank you.

Diane Wolfe



Westway Group, LLC
365 Canal Street, Suite 2900
New Orleans, LA 70130
(504) 525-9741 Main • (504) 636-4316 Fax

August 4, 2015

Hoquiam City Council
City Hall Building
609 8th Street
Hoquiam, WA 98550

RE: Change in Zoning for Wholesale Oil Storage

Honorable Members of the City Council:

Westway Terminal Company LLC (“Westway”) would like to comment on the ordinance being developed by the City Council that would change the City’s zoning for wholesale oil storage. We understand that the City’s hearing examiner will be holding a public hearing on two versions of the ordinance (versions “H” and “I”). Westway asks that the hearing examiner and the City Council revise whichever version of the ordinance advances through the process to expressly recognize and exclude pending oil storage applications from the zoning change.

Westway has a clearly established right to proceed with the pending expansion of its existing bulk liquid storage terminal to receive and store crude oil, regardless of any zoning change the City may now make. In December 2012, Westway applied to the City to expand and has a vested right to develop its proposed crude oil storage project. The City issued a shoreline substantial development permit for the project in April 2013 and a conditional use permit in May 2013. Westway submitted complete building permit applications for the proposed storage tanks in June 2013.

In January 2014, after the Shorelines Hearings Board remanded Westway’s shoreline permit to the City for additional SEPA analysis, Westway amended its shoreline permit application and formally requested that the City and Ecology proceed with development of a full environmental impact statement (“EIS”) for the crude oil project. For more than 18 months, Westway has been working with the City and Ecology, in good faith and at great expense, to develop a Draft EIS, which Westway understands is to be released for public comment in several weeks.

Despite Westway having worked with the City on the pre-application and permitting process for its crude oil project for almost three years, both versions of the zoning change currently under consideration would cause Westway’s project to be a “nonconforming use.” Paradoxically, that could make it more difficult to incorporate improvements on the original project proposal through the ongoing SEPA and shoreline permitting process, and could limit Westway’s ability to make future improvements or incorporate new safety measures.



Westway Group, LLC
365 Canal Street, Suite 2900
New Orleans, LA 70130
(504) 525-9741 Main • (504) 636-4316 Fax

The current ordinance drafts also are inconsistent with the position the City expressed when it adopted a moratorium on new wholesale oil terminals earlier this year. The moratorium ordinance, adopted on March 9, 2015, specifically stated that “this moratorium shall not affect the three facilities that have previously submitted completed development permit applications to the City of Hoquiam.” The current versions of the draft ordinance, which make no distinction for pending applications, are not consistent with the Council’s intent as expressed in the moratorium ordinance.

In light of the above, Westway encourages the Council to revise the current versions of the draft ordinance (or future versions, if more are generated) to include an exception for existing operations and pending applications. Specifically, the new Section 10.05.140 that both current versions would add to the Hoquiam Municipal Code could be modified by adding the following underlined text:

Wholesale oil storage and sales facilities as defined in Hoquiam Municipal Code Section 10.09.240 are prohibited in any zoning district in the City except for sites with existing facilities or pending applications as of the date of the adoption of this Ordinance.

This revision would achieve the City’s objective of preventing any new applications for wholesale oil storage facilities. It also would avoid declaring “nonconforming” the expansion projects at existing businesses that have expended substantial resources in reliance upon the City’s current zoning.

Thank you for considering Westway’s comments. We would be pleased to answer any questions you may have regarding this or other alternatives for addressing pending applications.

Sincerely,

A handwritten signature in blue ink, appearing to read "G. D. Roberts, Jr.", is written over a light blue horizontal line.

Geoffrey D. Roberts, Jr.
Interim CEO

Affidavit of Publication

The Vidette

Montesano, Washington

STATE OF WASHINGTON)
County of Grays Harbor)ss
)

Brittnee Morris, being first duly sworn on oath, deposes and says: That she is the **legal clerk** of THE VIDETTE, a weekly newspaper, which has been established, published in the English language, and circulated continuously as a weekly newspaper in the City of Montesano, and in said County and State, and of general circulation in said county for more than six (6) months prior to the date of the first publication of the Notice hereto attached, and that the said Vidette was on the 23rd day of June, 1941, approved as a legal newspaper by the Superior Court of said Grays Harbor County, and that the annexed is a true copy of

NofApp. Case#TA15-01 City of Hoquiam

as it appeared in the regular and entire issue of said paper itself and not in a supplement thereof, for a period of **2** consecutive weeks commencing on the **16th** day of **July**, 2015, and ending on the **23rd** day of **July**, 2015 and that said newspaper was regularly distributed to its subscribers during all of this period. That the amount of **\$135.85** is the total cost for publication of this notice.

City of Hoquiam

**CITY OF HOQUIAM
DEPARTMENT OF PUBLIC
WORKS
609 EIGHTH STREET
HOQUIAM, WASHINGTON
98550-3511
PHONE (360)532-5700 /
FAX (360) 538-0938
NOTICE OF APPLICATION
FOR TEXT AMENDMENT
Case #TA15-01**

NOTICE IS HEREBY GIVEN that on July 13, 2015, the Hoquiam City Council adopted a resolution asking for a hearing to amend Section 10.03.116 of the Hoquiam Municipal Code; amend Section 10.09.160 of the Hoquiam Municipal Code; adding a new Section 10.05.140 to Chapter 10.05 of the Hoquiam Municipal Code; and amending Section 10.09.240 of the Hoquiam Municipal Code.

The proposed ordinance will amend the table of permitted and conditional uses that relate directly to wholesale oil storage and sales facilities. The ordinance would also add a number of definitions.

The City of Hoquiam Land Use Hearing Examiner will conduct a public hearing to consider the request on Thursday, August 6, 2015 at 10:30 AM in the City Council Chambers. All interested persons are invited to attend the public hearing or submit written comments on the proposal to the City of Hoquiam, Department of Public Works, 609 8th Street, Hoquiam, Washington 98550. All written correspondence must be received by the City prior to the public hearing. Additional information may be obtained by contacting the City at phone number 360-538-3971.

Brittnee Morris
Subscribed and sworn to me before
this **23rd** day of **July**, 2015.

Leslie Beich
Notary Public in and for the State of Washington,
Residing at Aberdeen

