

ORDINANCE NO.
EMMET COUNTY HAZARDOUS LIQUIDS PIPELINE
RULES AND PERMITTING ORDINANCE

1. Section 1. Intent.

- a. The intent of these regulations is to strike an appropriate balance between our Nation's need and our state's need to transport hazardous liquids and the county's commitment to protect the public health, safety, and welfare within the zoning jurisdiction of Emmet County, Iowa pursuant to the authority granted to the County by Iowa Code chapters 335 and 479B and any amendments thereto.

2. Section 2. Definitions.

- a. "Agricultural Use" is the cultivation of land for the production of agricultural crops, the raising of poultry, the production of eggs, the production of milk, the production of fruit or other horticultural crops, and grazing or the production of livestock. Farming shall also include the production of timber, forest products, nursery products, or sod.
- b. "Applicant" is any person, company, partnership, or other entity that proposes to construct a Hazardous Liquids Pipeline in Emmet County IA.
- c. "Construction" or "Pipeline Construction" has the same definition as in Iowa Admin. Code 199-9.1(2) and means activity associated with installation, relocation, replacement, removal, or operation or maintenance of a pipeline that disturbs agricultural land, but shall not include work performed during an emergency, tree clearing, or topsoil surveying completed on land under easement with written approval from the landowner. Emergency means a condition involving clear and immediate danger to life, health, or essential services, or a risk of a potentially significant loss of property. When the emergency condition ends, pipeline construction will be in accordance with these rules.
- d. "County" and "the County" mean [Emmet] County IA.
- e. "Facility" is any structure incidental or related to the hazardous liquids pipeline and any space, resource, or equipment necessary for the transportation, pumping of hazardous liquids through Emmet County, including all related substations.
- f. "Hazardous Liquid" has the same meaning as defined in Iowa Code § 479.2(2), and includes crude oil, refined petroleum products, liquefied petroleum gases, anhydrous ammonia, liquid fertilizers, liquefied carbon dioxide, alcohols, and coal slurries.
- g. "In-service date" is the date any hazardous liquid is first transported through any portion of the pipeline located in Emmet County IA.
- h. "Landowner" has the same meaning as in Iowa Code § 479B.4(4) and § 479B.30(7), and includes a person listed on the tax assessment rolls as responsible for the payment of real estate taxes imposed on the property and farm tenants.

- i. “Hazardous Liquids Pipeline,” and for purposes of this Ordinance also “Pipeline,” is a pipeline larger than 1 inch in diameter, intended to transport hazardous liquids as defined by as defined in Iowa Code § 479.2(2), including carbon dioxide, and Class 3, Class 6, Class 8, or Class 9 hazardous materials, as defined by 49 C.F.R. § 173.120, *et seq.*, with any portion proposed to be located within Emmet County IA.
- j. “Occupied Residence” is a structure that has been inhabited any time within the previous twenty-four (24) month period.
- k. “Person” has the same meaning as in Iowa Admin. Code 199-13.1(3), and includes an individual, a corporation, a limited liability company, a government or governmental subdivision or agency, a business trust, an estate, a trust, a partnership or association, or any other legal entity as defined in Iowa Code section 4.1(20).
- l. “Pipeline” has the same meaning as defined in Iowa Code § 479B.2(2), and includes an interstate pipe or pipeline and necessary appurtenances used for the transportation or transmission of Hazardous Liquids.
- m. “Pipeline Company” has the same meaning as defined in Iowa Code § 479B.2(4), and includes a person engaged in or organized for the purpose of owning, operating, or controlling pipelines for the transportation or transmission of any hazardous liquid or underground storage facilities for the underground storage of any hazardous liquid.
- n. “Pipeline Owner” is a person or entity that engages in owning a hazardous liquids pipeline or part of a hazardous liquids pipeline for the transportation of hazardous liquids.
- o. “Pipeline Operator” is a person or entity that engages in operating or managing a hazardous liquids pipeline or part of a hazardous liquids pipeline for the transportation of hazardous liquids.
- p. “Property Owner” is the owner(s) together with his, her, or its heirs, successors and/or assigns, of the land over, under, on, or through which, the pipeline, or any part of it, including any related facilities, may be located.
- q. “Pipeline Permit Application” is the process and related documents any Applicant shall abide by and furnish to Emmet County IA as stated within this ordinance to ensure the health, convenience, order, and welfare of the community is upheld.
- r. “Reclamation” is restoration of the areas through which a pipeline is constructed or from where it is removed as close as reasonably practicable to the condition, contour, and vegetation that existed prior to construction or prior to removal whichever is applicable.
- s. “Reclamation Costs” is the costs to restore and repair any roads, bridges, or county property and the restoration of real and personal property, including, but

not limited to, the costs of restoration of natural resources, the costs of rehabilitation of habitat or wildlife, and the costs of vegetation.

- t. "Screening Fence" is a wall, fence, or barrier constructed of brick, stone, reinforced concrete products, or other approved materials by the County supervisors board or its designee to sufficiently block unsightly and hazardous materials, equipment, and noise from the public found at or emanating from any substation, control equipment, or pipeline related facility.

3. Section 3. Exemptions.

- a. Only Hazardous Liquids Pipelines as defined above are bound by this Ordinance. Any Hazardous Liquids Pipeline within the County that is completely constructed and operational prior to the effective date of this Ordinance shall be exempt from all pre-construction and construction requirements of this Ordinance but shall be bound by any and all reclamation and repair provisions related to the abandonment, decommissioning, or removal of the pipeline and related structures and facilities.

4. Section 4. Pipeline Permit Application.

- a. Section 4.1 - Pre-Construction Filing Requirements.
 - i. Any Applicant desiring to construct a Hazardous Liquids Pipeline as defined by this Ordinance anywhere in Emmet County IA. must file with County Zoning Authority or its designee the Pipeline Permit Application Form including all information as outlined in Iowa Code §§ 479B.4-479B.5 and any amendments thereto as well as: all associated plans of the proposed Pipeline, State and Federal approval documentation, if any; all copies of the most recent Material Safety Data Sheets related to the product(s) contemplated to be transported through the Hazardous Liquids Pipeline; proposed County Road crossings; the current Facility Response Plan filed with PHMSA and a County-specific spill response plan; a County-wide economic risk and benefit analysis; a County-wide water risk analysis; a County carbon pollution estimate; a County-wide water testing schedule; proposed County haul routes, and voluntary submittal of other information that would assist the County Zoning Authority or its designee in evaluation of the proposed Pipeline project as Pre-Construction Requirements. A list of permit applications that Applicant must acquire prior to construction of the Hazardous Liquids Pipeline required by Iowa, the United States government, Emmet County IA, and should they be required, any applications submitted to counties immediately adjacent to Emmet County IA. shall be included. This list shall be updated throughout the planning and construction process.

- ii. Applicant must also file with the County Zoning Authority or its designee the location of the Pipeline right-of-way or easement area by recording a “Notice of Location” referring to the right-of-way and setting forth the legal description of the right-of-way and the location of the pipeline contained therein, which description shall be set forth by GIS/GPS mapping attached to the Notice of Location. A copy of the Notice of Location shall promptly be delivered to each Property Owner affected by the proposed route. No construction or installation of the Pipeline shall occur until the GIS/GPS mapping Notice of Location has been filed with the County Zoning Authority or its designee and delivered to Property Owner. Prior to construction, Property Owner will be contacted by Applicant’s project manager or designated agent to review the timing of construction and discuss site-specific issues and implementation of mitigation and reclamation measures.
- iii. Each Pipeline Permit Application shall be accompanied by at least two (2) sets of plans showing dimension and locations of the Pipeline, related items or facilities within the subject right-of-way or easement, and all proposed lift stations, pumps or other service structures related to such Pipeline, and the location, type and size of all existing utilities, drainage, right-of-way, and roadway improvements. Also required for submittal are:
 1. Cross-section drawings for all public street right-of-way and easement crossings;
 2. The maximum design capacity of the proposed transmission facility;
 3. Changes in flow in the transmission facilities connected to the proposed facility; and
 4. The proposed maximum operating pressure and the manufacturer’s recommended operating pressure, expressed in pounds per square inch (psi).
 5. SOP Safe Operating Procedure, manuals with all construction and operating phases covered.
- iv. The filing of the Pipeline Permit Application Form and all required attachments and documentation shall be accompanied by a one-time nonrefundable Permit Review Fee of, \$2,500.00 for each mile of pipeline on the application, with a minimum of \$15,000.00 payable to the Emmet County treasurer. This fee is fair and reasonable to offset county review of the application, organization and holding of public consulting with third parties, and other additional costs incurred related to Pipeline project.
- v. Such payments are necessary and reasonable for the County to promote the health, convenience, order, and welfare of the present and future

inhabitants of Emmet County including, but not limited to, providing adequate light and air, protecting the tax base, and protecting property against blight and depreciation.

b. Section 4.2 - Post-Construction Filing Requirements.

- i. Once installation of the Pipeline is complete, Pipeline Owner will deliver to the Emmet County Board of Supervisors or its designee within six (6) months of completion, an “as-built” map that will show exactly where the Pipeline is located, in addition to any other improvements or facilities, whether located above-ground or below-ground, and further to include any modifications to any improvements or facilities owned by Property Owner, such as waterlines or fences.

c. Section 4.3 Hearings

- i. Appearance before the County Board of Supervisors or its designee is required for any Pipeline project. The County Zoning Authority or its designee will review the permit information and will recommend approval or denial, and require any modifications and/or conditions, to the Emmet County Board of Supervisors. The Emmet County Board of Supervisors ability to approve, deny, and/or direct any modifications pursuant to Pipeline Permit Application shall be limited to county zoning powers, powers related to county roads, powers related to drainage per Iowa Code chapter 468, and any/all other powers vested within the county not preempted by State or Federal law. The Pipeline Permit Application must be reviewed by the Emmet County Board of Supervisors or its designee in any case at their next scheduled meeting following the County Zoning Authority’s recommendation.
- ii. After a review of the Pipeline Permit Application along with accompanying documents and maps, a Public Hearing date will be set by the Emmet County Board of Supervisors or its designee. Two (2) weeks prior to the Public Hearing date, a notice shall be published in a legal newspaper of the County and written notification of the hearing shall be mailed to all affected Property Owners, at a cost to the Applicant.
 1. The Applicant must have the public notice approved by the Emmet County Board of Supervisors or its designee prior to publishing the notice.
 2. An affidavit of publication must be presented during the Public Hearing.
- iii. The Applicant has the burden of proof to establish that the proposed Pipeline complies with all applicable ordinances along with applicable laws and regulations and that the proposed route is the least disruptive to the property owners of Emmet County IA. when taking into consideration

all economic, environmental, and social impacts pursuant to route review requirements found at Iowa Code §§ 479B.1, *et seq.*, along with any amendments thereto.

d. Section 4.4 Confidential Information.

- i. At the time of filing of the Pipeline Permit Application the Applicant shall identify any information within its application that it considers confidential business information, provide an explanation that describes the confidentiality of the information, and request that such information be treated as confidential by the County. The Applicant has the burden to prove that information is confidential. The County Board of Supervisors or its designee shall determine whether or not such information is public information or confidential information. The County may release confidential information subject to protective order.

5. Section 5. Public Road Impacts.

- a. The Emmet County Board's general supervision and control of county roads shall ensure the appropriate and timely maintenance of all county roads pursuant to Iowa Code § 306.4 and any amendments thereto.
- b. The Applicant shall complete a County Road and Right of Way Application Form including each county, township, or municipal road or street to be crossed under, over, or across for the purposes of transporting hazardous liquids, pipelines, substation parts, or equipment for transportation, construction, and/or maintenance.
- c. The Applicant shall, in coordination with representative from Emmet County IA. and other appropriate jurisdictions, conduct a pre-construction survey of roadways and related improvements, drainage pipes and similar structures, and bridge conditions that may be used during construction, including haul roads, and any roads used for alternative routes. Such survey shall include photographs and written agreement documenting the condition of the public roads, to determine all county, township, or municipal roads or streets to be used for the purposes of transporting pipelines, substation parts, equipment for construction and/or maintenance, and to determine all applicable weight and size permits from the impacted jurisdictions prior to construction. The Pipeline Owner shall be responsible for, at its sole expense, restoring the roads, streets and bridges to pre-construction conditions. A County representative shall determine the need for and extent of repair and direct Pipeline Owner to make such repairs.
- d. No Hazardous Liquids Pipeline or associated facility shall be constructed so as to adversely affect the design, construction, operation, maintenance or stability of a road or highway or any proposed or existing highway facility, and applicant shall

indemnify the county to hold the County harmless from all damages to claims on this account.

- e. The Pipeline Owner shall pay a one-time nonrefundable Road Survey Application fee of \$5,000 per roadway crossed by the Pipeline, simultaneously at the time it submits its pre-construction survey. An annual renewal fee of \$1000.00 per roadway crossed by the Pipeline or any related structure shall be paid by the Pipeline Owner on the anniversary of the In-Service date of the Pipeline in Emmet County IA. This fee shall be paid every year that any portion of the pipeline or related facilities is located in the County. All payments shall be delivered to the Emmet County Treasurer, payable to Emmet County IA.
- f. Such payments are necessary and reasonable for the County to promote the health, convenience, order, and welfare of the present and future inhabitants of Emmet County including, but not limited to, providing adequate light and air, protecting the tax base, and protecting property against blight and depreciation.

6. Section 6. Related Structures and Facilities.

- a. The Pipeline Owner shall provide a description of pump or compressor stations or other facilities associated with the proposed Hazardous Liquids Pipeline, including both a physical description of such facilities, an estimate of the volume of noise or other light or pollution emissions of any kind produced by such facilities, the distance of such facilities to homes, businesses, and other structures, and means to limit the volume of noise or other light or pollution emissions from such facilities.
- b. Screening of substations, other control equipment, and any related facilities from public roads and occupied buildings on abutting properties shall be provided by means of Screening Fence and/or landscaping or a combination thereof in accordance with the definitions in this Ordinance. The wall, fence, or barrier shall be a maximum of fifty (50) percent open material, such as chain-link. If greater than thirty (30) percent open, landscaping or trees for additional blockage is required.
- c. The pipeline facility systems shall not exceed sixty (60) decibels using the “A” scale (dBA), as measured at the property lines, except during short-term events such as emergency repairs.
- d. A sound level analysis for all substations and related pipeline facilities within Emmet County IA. shall be conducted by a third party engineer selected by the County to ensure noise compliance. Pipeline Owner shall reimburse the County for any and all expenses related to the third party engineer.
- e. A Screening Fence inspection fee of \$750.00 per substation or related pipeline structure or facility shall be paid by Pipeline Owner. Such fee is payable the

County at the commencement of construction on any substation or related pipeline structure or facility.

- f. An annual facility inspection fee of \$250.00 per substation or related pipeline structure or facility then existing shall be paid by Pipeline Owner on the anniversary of the In-Service Date of the Pipeline in the County. This fee shall be paid every year any portion of a substation or related facilities is located in the County. All payments shall be delivered to Emmet County Treasurer, payable to Emmet County IA.
- g. Such inspections are necessary and reasonable to permit the County to promote the health, convenience, order, and welfare of the present and future inhabitants of Emmet County IA. including, but not limited to, providing adequate light and air, protecting the tax base, and protecting property against blight and depreciation.

7. Section 7. Easement and Right-of-Way Agreements.

- a. A copy of any Easement or Right-of-Way Agreement that Pipeline Owner, Pipeline Operator, or its agents intend to have any Property Owner of Emmet County IA. execute must be supplied to the Emmet County Board of Supervisors or its designee at the time of Pipeline Permit Application submittal. Any such Easements or Right-of-Way Agreements will be made available for public viewing.
- b. Pipeline Owner is required to provide an updated list to the Emmet County board of supervisors of all property owners, showing the names and addresses of such owners, of land on which Pipeline Owner or its agents or affiliates has acquired easements, leases, options, or other interest in land related to the Hazardous Liquids Pipeline. This list will be made available for public viewing.
- c. Should Pipeline Owner, or its assigns or successors in interest, or any other person or entity intend to locate additional pipelines of any kind within the Hazardous Liquids Pipeline easement, a new easement or right-of-way agreement must be negotiated with the Property Owner per additional pipeline to the extent that Iowa Code § 479B.26 permits.
- d. The County shall not approve of a Right-of-Way crossing County property or easement, including roads, unless ninety percent (90%) of impacted landowners have agreed to grant easements to the Pipeline Company for a Hazardous Liquids Pipeline.

8. Section 8. Emergency Services and Spill Response

- a. The Applicant shall provide a copy of the project description and site plan to the local fire department and rescue service having jurisdiction over the project area and shall coordinate with such local entities in the development of an emergency response plan.

- b. The plan shall include a description of the numbers, locations, and training of personnel necessary to respond to a worst-case discharge in Emmet County IA. The plan shall also include all Material Safety Data Sheets for all substances that are approved under tariff for shipment in the pipeline.
- c. The plan shall include evidence that the spill response plan for the Hazardous Liquids Pipeline will comply with U.S. Pipeline and Hazardous Materials Safety Administration Standards for spill response for a worst-case discharge in Emmet County IA.
- d. A comprehensive spill response plan shall be made by each company proposing pipeline construction. The plan shall be submitted to the Board of Supervisors or its designee not less than [30] days before construction is to begin.
- e. The plan shall include a list of all spill response equipment; showing the type, capability, and the ZIP code location of all equipment.
- f. The Applicant shall be responsible for providing any emergency response equipment necessary to respond to an incident arising from the construction or operation of the Pipeline. This would include, but not be limited to, electric vehicles due to the inability of internal combustion engines to operate in the event of a carbon dioxide release.
- g. All spill response equipment must be located within the county borders or within 30 minutes of any potential spill site.

9. Section 9. Public Inquiries and Complaints.

- a. The Pipeline Owner and Pipeline Operator shall maintain a publicly available telephone number and identify a responsible person or position for the public to contact with inquiries or complaints throughout the life of the project. Pipeline Owner and Pipeline Operator shall make a reasonable effort to respond to the public's inquiries and complaints and shall maintain a database of such inquiries and complaints, together with actions taken and dates thereof and shall make such database available to the County Board of Supervisors or its designee. The County shall make this information available to the public upon request.

10. Section 10. Abandonment of Pipeline.

- a. In addition to requirements set by Iowa Code § 479B.32, Hazardous Liquids Pipelines in Emmet County IA. shall be deemed abandoned under the following circumstances:
 - i. So as to protect future development, at such time a Pipeline is set to be abandoned or discontinued thus ceasing oversight by the U.S. Pipeline and Hazardous Material Safety Administration, the Pipeline Owner or Pipeline Operator shall in writing notify the County Board of Supervisors or its

designee of the proposed date of abandonment or discontinuance of operation.

- ii. Upon abandonment or discontinuation of use, the Pipeline Owner shall physically dismantle all below and above ground components of the operation within one-hundred eighty (180) days from the date of abandonment or discontinuation of use. Such removal and dismantling can be left in place by the landowners request in writing after the pipeline has been thoroughly cleaned. Any agreement to abandon the pipe in place between Pipeline Owner and Property Owner must be filed at the Registrar of Deeds office and a copy delivered by pipeline owner to the County Board of Supervisors or its designee.
- iii. The 180-day period can be extended upon written agreement between Pipeline Owner and Property Owner but in no event can this period extend beyond one (1) year from the date of abandonment or discontinuation of use. Any agreement to extend between Pipeline Owner and Property Owner must be filed at the Registrar of Deeds office and a copy delivered by pipeline owner to the County Board of Supervisors or its designee.
- iv. In the event the Pipeline Owner fails to give notice of abandonment or discontinuation of use, Pipeline shall be considered to be abandoned or discontinued if the Pipeline located within the County is out-of-service for twenty-four (24) consecutive months. After such twenty-four (24) consecutive month period the County Board of Supervisors or its designee shall issue a written Notice of Abandonment by certified mail to the Pipeline Owner at the address indicated in the County Treasurers Office. The Pipeline Owner shall have the right to respond to the Notice of Abandonment within thirty (30) days from the date of receipt of such notice to present evidence that the Pipeline has not been abandoned or discontinued. The County Board of Supervisors or its designee shall review any such response to determine if the Pipeline has been abandoned or discontinued. If it is determined the Pipeline has not been abandoned or discontinued, the Notice of Abandonment shall be withdrawn and notice of same shall be provided to Pipeline Owner. If, after review of Pipeline Owner's response, it is determined that said Pipeline has been abandoned or discontinued, notice of such finding shall be provided by certified mail to Pipeline Owner.
- v. If Pipeline Owner fails to respond to the Notice of Abandonment or, after review of any response from the Pipeline Owner, the Board of Supervisors determines that the Pipeline has been abandoned or discontinued for five (5) consecutive years, the Pipeline Owner shall have one hundred twenty (120) days from the date of receipt of such notice to dismantle all above

and below ground components of the Pipeline. If Pipeline Owner fails to dismantle the Pipeline within the prescribed time period, such shall be considered a violation of this ordinance and shall be subject to the penalties set forth within Emmet County's Handbook.

11. Section 11. Drainage District's and Tile

- a. All tile repairs will be done by the tile contractor that the land owners request. All work will be done in a way that does not cause harm to the drainage infrastructure. If the land owner does not want to choose a contractor the Pipeline Owner will have a drainage contractor that will do the repair work to the Engineers standards. Any repair work done by any contractor in the easement area within ten (10) years of any disturbance of the drainage infrastructure private or Drainage district, will be paid by the pipeline owner, operator or successor owner within 30 days.
- b. No Drainage District infrastructure and or easements will be allowed to be crossed without a voluntary easement participation of at least 90% of the land owners.

12. Section 12. Engineering

- a. The county will appoint two engineering firms to watch over the construction of the pipeline. One will specialize in drainage and one in the restoration of the land. All cost of both will paid by the pipeline owner within 30 days of every billing. This will include but not be limited to Engineering time and expenses, the engineers' inspectors, office workers to do the billing. (Engineers office and in the courthouse) and mileage for the above and the county Supervisors and secondary roads department. The pipeline owner will also reimburse the county for all secondary roads workers and engineering staff that is needed at any time to ensure the safety and protection of all secondary roads and right of ways.
- b. Construction related debris and material which is not an integral part of the Pipeline will be promptly removed from the Property Owner's property at Pipeline Owner's expense. Such material to be removed includes all litter generated by Applicant's employees, agents, contractors, or invitees, including construction crews. Following the completion of Pipeline Owner's construction activities on the Property Owner's property, Applicant shall keep the Property Owner's property clean and free of all trash and litter which may have been produced or caused by Applicant or its employees, agents, contractors or invitees or its operations on the property. Under no circumstances will Applicant bury or

burn any trash, debris or foreign material of any nature on the Property Owner's property.

13. Section 13. Reclamation Obligations.

- a. Following the completion of the Pipeline construction, or upon removal of the Pipeline at the expiration, termination, or surrender of the Pipeline, Pipeline Owner will restore the area disturbed by construction as best as practicable to its original preconstruction topsoil, vegetation, elevation, and contour.
- b. Pipeline Owner at its own expense shall, unless otherwise requested by Property Owner, abide by all guidelines and recommendations of the local or regional field office of the United States Natural Resources Conservation Service or the Construction, Mitigation and Reclamation Plan, whichever is more stringent, regarding the removal, storage, and replacement of top soil.
 - i. At a minimum, Pipeline Owner shall strip the topsoil from the ditch line in the Pipeline right-of-way or easement area and segregate all topsoil from the other excavated soil material, prior to construction and installation of any section of the Pipeline placed in the Pipeline right-of-way or easement area. Following the construction and installation of each section of the Pipeline, the top soil shall be replaced, to the extent feasible, as near as practicable to its original location and condition. Topsoil deficiency shall be mitigated with imported topsoil that is consistent with the quality of topsoil on the Property. In areas where the topsoil was stripped, soil decompaction shall be conducted prior to topsoil replacement in accordance with recommendations of the United States Natural Resources Conservation Service.
- c. The County shall ensure that Pipeline Owner which owns, constructs, operates, or manages a pipeline through Emmet County IA. for the transportation of hazardous liquids is financially responsible for reclamation costs relating to the construction, operation, management, and removal of the Pipeline.
- d. A Pipeline Owner owning, operating, or managing a pipeline or part of a Pipeline for the transportation of hazardous liquids in Emmet County IA shall be responsible for all reclamation costs necessary as a result of constructing the Pipeline as well as reclamation costs resulting from maintaining, operating, and removing the Pipeline, except if the proximate cause necessitating the reclamation efforts is unrelated party's intentional bad acts.
- e. The Pipeline Owner shall commence reclamation of the area through which a Pipeline is constructed, either post construction or post removal as applicable, as soon as reasonably practicable, as provided:
 - i. Pipeline Owner shall complete final grading, topsoil replacement, installation of erosion control structures, seeding, and mulching within

thirty days after backfill except when weather conditions, extenuating circumstances including landowner preference of delay due to personal or agricultural land use, or unforeseen developments do not permit the work to be done within such thirty-day period.

- ii. Pipeline Owner shall ensure that all reclamation, including, but not limited to, choice of seed mixes, method of reseeding, and weed and erosion control measures and monitoring, is conducted in accordance with the Federal Seed Act, 7 U.S.C § 1551 *et seq.*, the Noxious Weed Act, 7 U.S.C. § 2801 *et seq.*, and Iowa Code § 199 *et seq.*
- iii. Pipeline Owner shall ensure that genetically appropriate and locally adapted native plant materials and seeds are used based on site characteristics surrounding vegetation as determined by a pre-reclamation site inventory.
- iv. Pipeline Owner shall ensure that mulch is installed as required by site contours, seeding methods, or weather conditions or when requested by a landowner.
- v. Pipeline owner and or operator shall be responsible for all field drain tile repair, Private and Drainage District in the easement area for a period of Ten {10} years. Following each operation that disturbs the tile.
- f. In addition to the above, Pipeline Owner shall comply with all abandonment, reversion, and nonuse provisions of the Iowa Code § 479B.32 as approved by the Engineer to the land owner's request. and any amendments thereto.
- g. A Pipeline Owner's obligation for reclamation and maintenance of the Pipeline right-of-way shall continue until the pipeline is permanently decommissioned or until all post-removal duties are complete as approved by the Engineer to the land owner's request.

14. Section 14. Variances.

- a. Section 14.1. Hardship.
 - i. Where the Emmet County Board of Supervisors or its designee finds that extraordinary hardships, due to unusual topographic or other conditions, beyond the control of the Applicant, may result from strict compliance with these regulations, they may vary the regulations so that substantial justice may be done and the public interest secured; provided that such variation will not have the effect of nullifying the intent or purpose of the Pipeline Permit Application, and will not be detrimental to the public health, safety or welfare or injurious to other property in the county in which Pipeline is situated.
- b. Section 14.2. Application Required.

- i. The Emmet County Board of Supervisors or its designee shall hear and decide appeals and requests for variances from the terms of this Ordinance. The Emmet County Board of Supervisors or its designee shall base their determination on technical justifications, and has the right to attach such conditions to variances as they deem necessary to further the purposes and objectives of this Ordinance. Variance application per variance shall be submitted in writing by the Applicant at the time the Pre-Construction Requirements are filed with the Emmet County Board of Supervisors or its designee, and shall state fully and clearly all facts relied upon by the Applicant and shall be supplemented with maps, plans or other additional data which may aid the Emmet County Board of Supervisors or its designee in the analysis of the proposed project.
- ii. Applications for the variance shall be considered with the Pipeline Permit Application, and the Emmet County Board of Supervisors or its designee will render their decision on the applied-for variance no later than thirty (30) days after the meeting at which the proposed Pipeline project application and request for variance was submitted.
- iii. Variance application fee of seven hundred fifty dollars (\$750) per variance shall be made simultaneously with accompanying application documents to Emmet County Treasurer, payable to Emmet County IA. Such payment is necessary and reasonable for the County to promote the health, convenience, order, and welfare of the present and future inhabitants of Emmet County IA. including, but not limited to, providing adequate light and air, protecting the tax base, and protecting property against blight and depreciation.

c. Section 14.3. Conditions.

- i. In granting any variance, modification, and approvals, the County Zoning Authority may require such conditions as will, in their judgment, secure substantially the objectives or the standards and requirements so varied, modified, or approved. In granting any variance, the County Zoning Authority shall prescribe only conditions that they deem necessary to, or desirable for, the public interest. These conditions may include, without being limited to personal, surety, performance, or maintenance bonds, or other legal instruments.
- ii. In making their findings, as required herein, the County Zoning Authority shall take into account the nature of the existing use of the land in the vicinity of the Pipeline right-of-way or easement area, and any probable effects of the proposed Pipeline on the health, safety and welfare of the surrounding residents and environment.

- iii. The County Board of Supervisors or its designee must ensure the preservation and enjoyment of the property rights of the Property Owner. The County is responsible for promoting the health, convenience, order, and welfare of the present and future inhabitants of Emmet County IA, including, but not limited to, providing adequate light and air, protecting the tax base, and protecting property against blight and depreciation.
- d. Section 14.4. Requirements for Granting a Variance.
 - i. The Board of Supervisors or its designee shall have the final authority to grant or deny a variance under this section. For each variance application, the Emmet County Board of Supervisors or its designee shall report at the Emmet County Board of Supervisors meeting their findings and recommendations. The Emmet County Board of Supervisors, in conjunction with their regularly scheduled monthly meetings, shall set aside time for a public hearing on all proposed variances under this Section.

15. Section 15. Indemnification.

- a. The Pipeline Owner and/or Pipeline Operators and their heirs and assigns and successor owner and/or operators shall indemnify, defend and hold harmless Emmet County IA. and any Property Owners from any and all liability, loss, damage, cost, expense, and claim of any kind, including reasonable attorneys' and experts' fees incurred by Emmet County IA. and/or the Property Owner in defense thereof, arising out of or related to, directly or indirectly, the installation, construction, operation, use, location, testing, repair, maintenance, removal, or abandonment of the pipeline and/or related facilities, and the products contained transferred through, related or escaped from said pipeline and appurtenant facilities, including the reasonable costs of assessing such damages and any liability for costs of investigation, abatement, correction, cleanup, fines, penalties, or other damages arising under any law, including all applicable environmental laws. This shall be true in all instances except for those individuals or companies who damage the Pipeline or related facility through their intentional bad acts. No Property Owner or tenant thereof will be held responsible for a Pipeline leak that occurs as a result of his/her/its related Agricultural Use over the top of or near the Pipeline or related facilities, provided no tillage or other agricultural method is used which penetrates the soil by more than two (2) feet from the undisturbed surface and they do not physically strike or impact the surface structures such as valves, etc. with machinery, equipment, or other objects. This shall in no way relieve any Property Owner or tenant, agent, or contractor of such Property Owner from their obligation to comply with the Iowa One Call notification law and any

amendments thereto (Iowa Code §480.1, *et seq.*), or relieve them of liability for their failure to do so.

16. Section 16. Insurance

- a. Insurance. Before starting construction and to the extent of Applicant’s indemnity obligations hereunder, Certificates of Insurance or self-insurance naming the Drainage District as an additional insured for the Project shall be filed by the Applicant for itself and for the Applicant Parties, with the County Auditor and shall contain a provision that the policies will not be canceled or materially changed until at least ten (10) days prior written notice has been given to the Board. If the Project involves a pipeline as defined under Iowa Code section 479, 479A, or 479B, Applicant shall also certify that the insurance does not contain exclusion for environmental pollution or Applicant shall provide an alternative environmental pollution policy that meets the minimum requirements as defined below.

Insurance shall be written for not less than the following limits (These limits shall be adjusted every 5 years to reflect the changes over that time in the U.S. Bureau of Labor Statistics’ CPI-U index):

i. Workers’ Compensation Limits	Statutory
ii. Contractor’s Liability and Property Damage	
Bodily Injury	\$1,000,000
Each person	\$1,000,000
Each Accident	\$5,000,000
iii. Property Damage	
Each Accident Aggregate	\$5,000,000
iv. Automobile	
Liability and Property Damage	\$1,000,000
Bodily Injury	\$5,000,000
Each Person	\$1,000,000
Each Accident	\$5,000,000
Property Damage	\$1,000,000
Each Accident Aggregate	\$5,000,000
v. Commercial General Liability (CGL) and Umbrella Liability Insurance	\$10,000,000

Applicant shall maintain Commercial General Liability (“CGL”) Insurance in a limit of not less than \$10,000,000 for each occurrence. This required minimum limit may be met through a combination of primary and excess liability policies. The CGL Insurance shall cover liability arising from premises operation, independent

contractors, personal injury, and liability assumed under an insured contract, including the tort liability of another assumed in a business contract.

If the Project involves a pipeline as defined under Iowa Code section 479, 479A, or 479B, Applicant shall obtain coverage for liability arising from pollution, explosion, collapse, underground property damage caused by Applicant, its employees, contractors, representatives, and agents to the extent of its indemnity obligations hereunder. Included in the CGL Policy or a separate Policy, Applicant must have insurance for sudden and accidental environmental pollutant liability caused by Applicant, its contractors, representatives, and agents in connection with the project and use of the easement. Coverage shall be maintained in an amount of at least \$10,000,000 per loss event.

- vi. Remedies available to the Board: In the event that Applicant should fail to comply with any provision of the insurance section of this ordinance, then the Board may provide Applicant with a written notice by service of process as allowed by the Iowa Rules of Civil Procedure upon Applicant or by certified mail upon Applicant at Applicant's last known address. Such notice shall specify the default and shall allow Applicant 30 days to cure the default and/or contest that a default exists. In the event that Applicant fails to cure the default within such time, the Board may seek an injunction from the Iowa District Court against the Applicant concerning the operation of a Project and shall be entitled to enjoin any and all operations until such time as the Applicant shall cure said default.

The Board shall be entitled to collect from Applicant all reasonable attorney's fees and expenses relating to any injunction as arising under this subsection.

The above remedies are not exclusive. The Board shall be entitled to use or devise any other remedy to the Board at law or in equity.

- vii. Proof of Insurance: Applicant shall cause certificates of insurance evidencing all of the above insurance policies and coverage to be provided promptly to the County upon request by the Board but no more than one time annually.

All of the above required insurance policies shall reflect that the Board will receive thirty (30) days prior written notice of cancellation in coverage and shall reflect that the insurer has waived any right of subrogation against the Board.

- viii. Term: These insurance requirements shall remain in effect for the term of the easement.

17. Section 17. Markers

b. Permanent markers will be placed by the pipeline at all change of property owners and fence lines. Unless the Land owner request it not be placed on there property.

18. Section 18. Payment Adjustments.

- a. Any and all permit or application fees found anywhere throughout this ordinance shall be adjusted every three (3) years based upon the corresponding cost of living index. This adjustment and recalculation shall be based upon the fee and permit amount defined as of the effective date of this ordinance or any subsequent three (3) year period, whichever is applicable. Such adjustment will be measured by the Consumer Price Index for the accompanying period of adjustment.

19. Section 19. Compliance with Applicable Laws.

- a. Pipeline Owners, operators and/or contractors, and their employees, agents, contractors, and invitees, must comply with all applicable local, state and federal laws and regulations in construction and operation of the Pipeline
- b. Any time any of the rules and laws set forth to stand over the installation and operation of the pipeline are not followed it will cause an instant stop to all pipeline operations and or installation. Not until all the Engineers and the County Supervisors approve of the correction to the malfeasance can any installation or operation continue.

20. Section 20. Severability and Separability.

- a. Should any portion of this act be deemed unlawful for any reason or conflict with any existing state or federal law, that fact shall not affect any other portion or section of this act and any unaffected sections or portions of this act shall stand in effect.

21. Section 21. Effective Date.

- a. This Ordinance shall take effect and be in force from and after the date of adoption by the _____