

**ORDINANCE NO. 030410-12**

**AN ORDINANCE AMENDING THE CITY CODE TO ADD A NEW CHAPTER 8-18 RELATING TO INSURANCE REQUIREMENTS FOR PIPELINES, ADD A NEW SECTION 25-2-516 RELATING TO DEVELOPMENT NEAR HAZARDOUS PIPELINES, ADD A NEW SECTION 25-2-948 RELATING TO NONCONFORMING USES, AMEND SECTION 25-3-5 RELATING TO PLATTING REQUIREMENTS, ADD A NEW SECTION 25-4-134 RELATING TO HAZARDOUS PIPELINES, PROVIDE GRACE PERIODS FOR COMPLIANCE WITH SECTIONS 8-18-3 AND 25-2-516, AND CREATE OFFENSES; AND AMEND ORDINANCE NUMBER 020910-04 RELATING TO BUILDING PLAN REVIEW FEES.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1.** The City Code is amended to add a new Chapter 8-18 to read as follows:

**CHAPTER 8-18. PIPELINES.**

**§ 8-18-1 DEFINITIONS.**

In this chapter:

- (1) **DIRECTOR** means the director of the Financial and Administrative Services Department.
- (2) **HAZARDOUS PIPELINE** means a pipeline designed for the transmission of a “hazardous liquid”, as defined by Title 49, Code of Federal Regulations, Section 195.2, with an inside diameter of eight inches or more.
- (3) **PIPELINE COMPANY** means a person engaged in or organized for the purpose of owning, operating, or controlling a pipeline.

**§ 8-18-2 APPLICABILITY.**

This chapter applies in the full-purpose limits of the city.

**§ 8-18-3 INSURANCE REQUIRED.**

- (A) Before a pipeline company may install, relocate, or operate a hazardous pipeline, the pipeline company must provide the director with a certificate of insurance stating that the pipeline company has in effect a commercial general liability policy with a minimum limit of \$50 million.
- (B) Before a pipeline company may operate a hazardous pipeline, the pipeline company must provide the director with a certificate of insurance stating that the pipeline company has in effect an environmental impairment liability policy with a minimum limit that equals:
  - (1) \$40 million; and
  - (2) except as provided in Subsections (C) and (D), an additional \$1 million for each mile of pipeline within the full-purpose limits of the city.
- (C) A pipeline company may request that the director reduce the amount of insurance required by Paragraph (B)(2) for each mile of pipeline.
- (D) The director may reduce the amount to not less than \$500,000 for each mile of pipeline after determining that the pipeline incorporates measures that mitigate the potential environmental, property, or personal injury damage.
- (E) The director shall by rule adopt a schedule of mitigation measures and the corresponding reductions in required insurance.
- (F) An insurance policy required by this section must:
  - (1) be in a form approved by the director; and
  - (2) require the insurance company to notify the director in writing of a proposed change to the policy at least 30 days before the change takes effect.
- (G) A pipeline company shall continuously maintain in effect the insurance required by this section.
- (H) The insurance required by this section does not limit a pipeline company's liability for the covered risks.

**§ 8-18-4 OFFENSES.**

A pipeline company commits an offense punishable in accordance with Code Section 1-1-99 (*General Penalty*) if the pipeline company performs an act prohibited by

this chapter or fails to perform an act required by this chapter. Each instance of a violation of this chapter is a separate offense.

**PART 2.** Section 25-2-516 is added to the City Code to read as follows:

**§ 25-2-516 DEVELOPMENT NEAR A HAZARDOUS PIPELINE.**

(A) In this section:

- (1) **HAZARDOUS PIPELINE** means a pipeline designed for the transmission of a “hazardous liquid”, as defined by Title 49, Code of Federal Regulations, Section 195.2, with an inside diameter of eight inches or more.
- (2) **NEW CONSTRUCTION** means the construction after April 20, 2003 of a structure intended for human occupancy, and includes the construction of a new structure, the construction of an addition to an existing structure and the reconstruction of a portion of an existing structure. The term excludes an addition to or the reconstruction or replacement of a structure existing on April 21, 2003 used for:
  - (a) single-family residential use;
  - (b) small lot single-family residential use;
  - (c) single-family attached residential use;
  - (d) duplex residential use;
  - (e) two-family residential use;
  - (f) mobile home residential use; or
  - (g) in a neighborhood plan combining district:
    - (i) cottage special use;
    - (ii) urban home special use; or
    - (iii) secondary apartment special use.
- (3) **RESTRICTED PIPELINE AREA** includes an area within 25 feet of a hazardous pipeline and an area within a hazardous pipeline easement.
- (4) **USE REQUIRING EVACUATION ASSISTANCE** includes the following uses:

- (a) congregate living;
- (b) convalescent services;
- (c) detention facilities;
- (d) day care services (commercial);
- (e) hospital (general);
- (f) hospital (limited);
- (g) medical offices exceeding 5,000 square feet of gross floor area;
- (h) private primary educational facilities;
- (i) private secondary educational facilities;
- (j) public primary educational facilities;
- (k) public secondary educational facilities; and
- (l) retirement housing (large site).

(B) A use requiring evacuation assistance is prohibited in a structure intended for human occupancy that is located within 500 feet of a hazardous pipeline. This prohibition does not apply to a structure that is located between 200 and 500 feet of a hazardous pipeline if by resolution the Council determines, after receiving a recommendation from the fire chief, that:

- (1) the structure has a performance-based design that provides an adequate time period for occupant evacuation to a safe place in the event of a pipeline leak or fire associated with the pipeline, after considering:
  - (a) the requirements of Chapter 25-12, Article 7 (*Uniform Fire Code*) and the 2000 edition of the National Fire Protection Association 101 Life Safety Code;
  - (b) the site and structure design;
  - (c) the structure's building materials;
  - (d) the structure's distance from the pipeline;
  - (e) the use of radiant energy barriers;
  - (f) access to the site and the structure by emergency responders;

- (g) available on-site resources for emergency responders;
  - (h) the topography and other natural features;
  - (i) the use of the structure; and
  - (j) the evacuation capability of the occupants;
- (2) the structure incorporates a system for the early detection and notification of a pipeline leak, if the fire chief determines that an appropriate system is commercially available; and
  - (3) the performance-based design for occupant evacuation and the early detection and notification system are certified and sealed by an engineer registered in Texas.
- (C) A person may not build new construction within 200 feet of a hazardous pipeline unless:
- (1) the fire chief determines that:
    - (a) the new construction has a performance-based design that provides a minimum one-hour time period for occupant evacuation to a safe place in the event of a pipeline leak or a fire associated with the pipeline, in accordance with Chapter 25-12, Article 7 (*Uniform Fire Code*) or the 2000 edition of the National Fire Protection Association 101 Life Safety Code;
    - (b) the new construction incorporates a system for the early detection and notification of a pipeline leak, if the fire chief determines that an appropriate system is commercially available; and
    - (c) the performance-based design for occupant evacuation and the early detection and notification system are certified and sealed by an engineer registered in Texas; or
  - (2) the new construction complies with the standards for construction near a pipeline prescribed by the Fire Criteria Manual.
- (D) A person may not place a structure or excavate within a restricted pipeline area.
- (1) This prohibition does not apply to:
    - (a) the pipeline or an appurtenance;

- (b) a facility that produces, consumes, processes, or stores the product transported by the pipeline, including a power generation facility;
  - (c) a utility line that crosses the restricted pipeline area, including an appurtenance to the line;
  - (d) a utility service connection;
  - (e) a road;
  - (f) a surface parking lot; or
  - (g) a structure or excavation that the director determines does not disturb the pipeline or impede its operation.
- (2) Before a person may place a road, surface parking lot, or utility line in a restricted pipeline area, the person must deliver to the director a certification by a registered engineer stating that the proposed construction activity and structure are designed to prevent disturbing the pipeline or impeding its operation.

**PART 3.** Chapter 25-2 of the City Code is amended to add a new Section 25-2-948 to read as follows:

**§ 25-2-948 CERTAIN USES NEAR HAZARDOUS PIPELINES.**

- (A) This section applies to a use that is nonconforming because of its proximity to a hazardous pipeline under Section 25-2-516(B) (*Development Near A Hazardous Pipeline*).
- (B) Proximity to a hazardous pipeline does not cause a structure or area to be noncomplying under Article 8 (*Noncomplying Structures*).
- (C) Except as provided by Subsection (C), the use is governed by Group “D” regulations prescribed by Section 25-2-947 (*Nonconforming Use Regulation Groups*).
- (D) If there is a conflict between the regulations prescribed by this section and the regulations as determined by Section 25-2-946 (*Determination Of Nonconforming Use Regulation Group*), the more restrictive regulations apply.

**PART 4.** Section 25-3-5(C)(9) of the City Code is amended to read as follows:

- (C) (9) Chapter 25-4, Article 3 (*Platting Requirements*), except for Section 25-4-134 (*Hazardous Pipelines*).

**PART 5.** Section 25-4-134 is added to the City Code to read as follows:

**§ 25-4-134 HAZARDOUS PIPELINES.**

(A) In this section:

- (1) HAZARDOUS PIPELINE means a pipeline designed for the transmission of a “hazardous liquid”, as defined by Title 49, Code of Federal Regulations, Section 195.2, that has an inside diameter of eight inches or more.
- (2) RESTRICTED PIPELINE AREA includes an area within 25 feet of a hazardous pipeline and an area within a hazardous pipeline easement.

(B) A subdivider shall determine whether a hazardous pipeline crosses a proposed subdivision.

(C) A subdivider shall depict on the plat a restricted pipeline area, if any.

(D) A residential lot that is less than one acre in size may not include a restricted pipeline area.

(E) In calculating minimum lot area under this chapter, a restricted pipeline area is excluded.

(F) A person may not place a structure or excavate within a restricted pipeline area.

(1) This prohibition does not apply to:

- (a) the pipeline or an appurtenance;
- (b) a facility that produces, consumes, processes, or stores the product transported by the pipeline, including a power generation facility;
- (c) a utility line that crosses the restricted pipeline area, including an appurtenance to the line;
- (d) a utility service connection;
- (e) a road;
- (f) surface parking lot; or
- (g) a structure or excavation that the director determines does not disturb the pipeline or impede its operation.

- (2) Before a person may place a road, surface parking lot, or utility line in a restricted pipeline area, the person must deliver to the director a certification by a registered engineer stating that the proposed construction activity and structure are designed to prevent disturbing the pipeline or impeding its operation.
- (G) A person who seeks to convey a lot containing a restricted pipeline area shall, before title is transferred, deliver to the proposed grantee a document describing the restricted pipeline area, the limitations on its development, and the name and address of the pipeline owner or operator.
- (H) For a plat that includes a restricted pipeline area, a plat note restating Subsection (G) is required.

**PART 6.** Notwithstanding the requirements of Section 8-18-3, a pipeline company that is constructing or operating a pipeline on April 21, 2003 has until October 21, 2003 to comply with the insurance requirement of Section 8-18-3. This part is an affirmative defense to prosecution under Chapter 8-18.

**PART 7.** Sections 25-2-516(C) and (D) do not apply to development under a building permit that is issued before April 21, 2003.

**PART 8.** Ordinance 020910-04, Exhibit A, is amended to add a new “Building Plan Review Fee” for the Watershed Protection And Development Review Department to read as follows:

**Hazardous Pipeline Review**

≤ \$2,500 valuation (labor and materials)	\$3.00
\$2,501 to \$5,000 valuation (labor and materials)	\$6.00
\$5,001 to \$10,000,000 valuation (labor and materials)	\$12.00 plus \$0.10 for each \$1,000
> \$10,000,000 valuation (labor and materials)	\$1,200 plus \$0.10 for each \$10,000 above \$10,000,000

**PART 9.** Each provision of this ordinance is severable, and if a provision or the application of a provision is determined to be unconstitutional, void, or otherwise invalid, the validity of the remainder of the ordinance is not affected by the determination.

**PART 10.** The Council waives the requirements of Sections 2-2-3 and 2-2-7 of the City Code for this ordinance.



**PART 11.** Except for Parts 4 and 5, this ordinance takes effect on April 21, 2003. Parts 4 and 5 take effect on the effective date of a Travis County Commissioners' Court order enacting subdivision regulations that are substantially the same as those in Parts 4 and 5.

**PASSED AND APPROVED**

\_\_\_\_\_ April 10 \_\_\_\_\_, 2003

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Gustavo L. Garcia  
Mayor

**APPROVED:** \_\_\_\_\_  
Sedora Jefferson  
City Attorney

**ATTEST:** \_\_\_\_\_  
Shirley A. Brown  
City Clerk

