

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.
*NATURAL OIL OTHER
GAS N.A.*
- (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~~ 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.

Must meet all reqs

(D) A person may not place a structure or excavate within a restricted pipeline area. (with 20' or more clearance)

- (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. *SUBDIVISION REQS.*

- (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 \$10,000,00

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
Gustavo L. Garcia *Mayor*
Mayor *Pho Tem*

APPROVED:

Sedora Jefferson
Sedora Jefferson
City Attorney

ATTEST:

Shirley A. Brown
Shirley A. Brown
City Clerk

RULE NO.: R161-15e

NOTICE OF EMERGENCY RULE ADOPTION

ADOPTION DATE:

By: Toby Futrell, City Manager

The City Manager has adopted the following emergency rule. This notice is issued under Chapter 1-2 of the City Code.

EFFECTIVE DATE OF EMERGENCY RULE

The rule adopted by this notice is effective on May 1, 2003 and expires on August 30, 2003 (not later than the 121st day after the effective date). The rule may be renewed one time after the expiration date. If the rule is renewed, it will expire on the 61st day after the renewal date.

TEXT OF EMERGENCY RULE

Section 4.2.0 of the Fire Criteria Manual is amended to add a new Table 103.1, "Minimum Construction within 200 Feet of a Hazardous Pipeline," as shown on the attached page.

NATURE OF EMERGENCY

The City Council adopted Ordinance No. 030410-12 on April 10, 2003. The ordinance regulates construction within specified distances of a hazardous liquids pipeline more than eight inches in diameter. This rule is necessary to implement the ordinance. The effective date of the ordinance is less than 31 days before the effective date of this rule.

AUTHORITY FOR ADOPTION OF RULE

The authority and procedure for the adoption of a rule to assist in the implementation, administration, or enforcement of a provision of City Code is established in Chapter 1-2 of the City Code. The authority to regulate construction near hazardous liquids pipelines is established in Ordinance 030410-12.

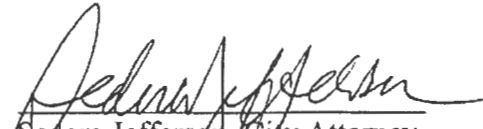
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CERTIFICATION BY CITY ATTORNEY

By signing this Notice of Emergency Rule Adoption (Rule 161-15e), the City Attorney certifies that the City Attorney has reviewed the rule and finds adoption of the rule to be a valid exercise of the City Manager's authority.

REVIEWED AND APPROVED


Toby Futrell, City Manager


Sedora Jefferson, City Attorney


Gary Warren, Fire Chief
Austin Fire Department

This NOTICE OF THE EMERGENCY RULE ADOPTION was posted on a central bulletin board at City Hall at the following date and time:

Date: 5/1/03
Time: 12:30 p.m.

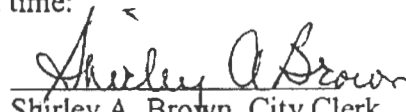

Shirley A. Brown, City Clerk

TABLE 103.1
MINIMUM CONSTRUCTION WITHIN 200 FEET OF A HAZARDOUS PIPELINE¹

The following shall apply to exterior walls within 200 feet of the pipeline.

DISTANCE TO CENTER OF PIPELINE	<50 FEET		50 FEET TO <100 FEET		100 FEET TO 200 FEET		150 FEET TO 200 FEET
	Wall	No Wall	Wall	No Wall	Wall	No Wall	
EASEMENT BARRIER	V-H ²	II-H	V-N ²	V-H ²	V-N	V-N ²	Requirements May be Reduced Through A Case By Case Review By AFD.
CONSTRUCTION TYPE	Protected	NP	Note 3	Note 3	UBC	UBC	
OPENING PERMITTED	NC	NC	Class A or B	Class A or B	Class A or B	Class A or B	
ROOFING MINIMUM							

1. This rule in no way lessens the provisions of the Building Code (25-12-1) for type of construction, height, area, or opening protection.
2. Exterior surfaces shall be of noncombustible or limited combustible material approved by the Fire Chief (e.g. masonry or HardiBoard ©)
3. Openings less than 100 feet from the center of the pipeline shall be of solid core doors or double pane, tinted windows.
4. NP means not permitted.
5. NC means noncombustible.