

ORDINANCE NO. _____

A BURLEIGH COUNTY ORDINANCE FOR SAFETY REGULATIONS WHEN TRANSPORTING HAZARDOUS LIQUID THROUGH A HAZARDOUS LIQUID PIPELINE

NOW THEREFORE, BE IT ENACTED BY THE COUNTY COMMISSIONERS OF BURLEIGH COUNTY, NORTH DAKOTA:

SECTION 1. – **Hazardous Liquid Pipelines**

I. Definitions

1. “County” or “the County” means Burleigh County, North Dakota.
2. “Hazardous Liquid” means the same as crude oil, refined petroleum products, liquefied petroleum gases, anhydrous ammonia, liquid fertilizers, liquefied carbon dioxide, alcohols, coal slurries, and or other products that may be considered quantifiable as a hazardous liquid.
3. “Hazardous Liquid Pipeline,” means a Pipeline intended to transport Hazardous Liquids, and also includes 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 the County
4. “Landowner” means a Person listed on the tax assessment rolls as responsible for the payment of real estate taxes imposed on the property and includes a farm tenant.
5. “NDCC” means North Dakota Century Code.
6. “Occupied Structure” means a Building or Structure that has been inhabited or used for residential, commercial, industrial, or agricultural purposes at any time during the twelve (12) months preceding the enactment of this ordinance.
7. “Person” means 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.
8. “PHMSA” means Pipeline and Hazardous Materials Safety Administration of the United States Department of Transportation.
9. “Pipeline” means an interstate pipe or pipeline and necessary appurtenances used for the transportation or transmission of hazardous liquids.
10. “Pipeline Company” means any 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.

II. Purposes

The purposes of this ordinance are:

1. To implement this ordinance with regard to the County's legal obligation under N.D.C.C. Ch. 37-17.1 to engage in emergency response and hazard mitigation planning, including furthering the comprehensive plan's goals and objectives for assessing ongoing mitigation, evaluating mitigation alternatives, and ensuring there is a strategy for implementation and including the need to protect the health and welfare of both residents and emergency response personnel.
2. To implement this ordinance in a manner that is consistent with federal or state law, including the United States Constitution, the federal Pipeline Safety Act in 49 U.S.C. § 60101 et seq., NDCC Chapters 38-22, 49-02 and 49-19 or applicable provisions within NDCC.
3. To implement this ordinance in a manner that treats all Hazardous Liquid Pipelines in a similar manner, to the extent they are similarly situated, and to utilize to the greatest extent feasible the processes already utilized in the County.

III. Public Safety Plan.

1. The Pipeline Company shall provide its safety procedures and protocols, upon request, to Landowners within the site boundaries and to interested persons. The Pipeline Company may provide any necessary safety measures, such as warning signs and gates for traffic control or to restrict public access to pipeline access roads. The Pipeline Company shall comply with provisions outlined in their public safety plan.

IV. Emergency Action Plan- Information Disclosure Requirements

1. Prior to construction, the Pipeline Company shall provide a copy of its Emergency Action Plan to Burleigh County Emergency Management.

V. Emergency Response and Hazard Mitigation Plans for Hazardous Liquid Pipelines

1. If PHMSA has adopted regulations specifically related to emergency preparedness, emergency response, and hazard mitigation planning for the Hazardous Liquid Pipeline, then the Pipeline Company operating the Hazardous Liquid Pipeline shall submit a copy of the emergency response and hazard mitigation plan to Burleigh County Emergency Management.
2. If PHMSA has not adopted regulations specifically related to emergency preparedness, emergency response, and hazard mitigation planning for the Hazardous Liquid Pipeline, then the Pipeline Company shall submit a copy of any emergency response and hazard mitigation plan required under local zoning ordinances to Burleigh County Emergency Management.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any section provision or part of this ordinance shall be adjudged invalid or unconstitutional such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

First Reading Passed: _____

Second Reading Passed: _____

Passed and adopted this 6th day of March 2023.

Becky Matthews, Chairperson

ATTEST:

Leo Vetter, County Auditor