

Model Ordinance for Land Use and Construction Near Transmission Pipelines  
Appendix B from PIPA Report  
“Partnering to Further Enhance Pipeline Safety In Communities Through Risk-  
Informed Land Use Planning”  
November 17, 2010

**Appendix B: Model Ordinance**

The following model ordinance may be used by cities or other jurisdictions with planning authority (e.g., counties, townships, villages) as a starting point for development of an ordinance to incorporate or promote recommended practices for protecting communities and underground utility infrastructure. Although the model ordinance as written refers directly to transmission pipelines located in a *city*, it may be used by other jurisdictions (with appropriate changes). It is expected that each specific jurisdiction would change the text of the ordinance to fit the circumstances of that jurisdiction.

Bill No. \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE PROVIDING FOR MINIMUM REQUIREMENTS PERTAINING TO LAND USE,  
CONSTRUCTION, AND PUBLIC SAFETY NEAR GAS TRANSMISSION AND/OR HAZARDOUS  
LIQUID TRANSMISSION PIPELINES WITHIN THE CITY

WHEREAS, the United States economy is heavily dependent on gas transmission and hazardous liquids pipelines to transport and distribute energy and raw materials; and

WHEREAS, gas transmission and/or hazardous liquid transmission pipelines extend through portions of the City of; and

WHEREAS, these pipelines, if ruptured or damaged, may pose a risk to public safety and/or the environment; and

WHEREAS, new development in proximity to pipelines should incorporate design features to minimize possible public safety and/or environmental risks; and

WHEREAS, the [Board of Aldermen] [City Council] wishes to minimize risk of rupturing or damaging these pipelines; and

WHEREAS, the National Transportation Safety Board has recognized that third-party damage and pipeline right-of-way encroachment are significant threats to pipeline safety; and

WHEREAS Title 49, Code of Federal Regulations, Parts 192 & 195 provide regulations for transmission pipelines; and

WHEREAS, the City has been encouraged by the U.S. Department of Transportation to adopt policies and regulations intended to reduce the likelihood of accidental damage to gas and hazardous liquid pipelines and to reduce adverse impacts of pipeline failures located within its jurisdiction; and

WHEREAS, the City desires to amend the City Code by adopting policies and regulations intended to reduce the likelihood of accidental damage to the gas and hazardous liquid pipelines and to help reduce adverse impacts in the event of a pipeline failure; and

[WHEREAS, the City held a Public Hearing on these proposed City Code amendments; and]

[WHEREAS, at the Public Hearing, all interested persons and citizens were given an opportunity to be heard on these proposed amendments to the City Code; and]

**NOW THEREFORE, BE IT ORDAINED BY THE [BOARD OF ALDERMEN] [CITY COUNCIL]  
OF THE CITY OF \_\_\_\_\_ , AS FOLLOWS:**

**SECTION 1.** That Section of the City Code shall be and is hereby amended by adding the following definitions:

**CONSULTATION ZONE** means an area within \_\_\_\_\_ feet of a transmission pipeline. See Section 2 below. [Refer to PIPA Recommended Practice BL05.]

**DEVELOPMENT PERMIT** means, for the purposes of the consultation zone requirements, any permit for activity that involves construction, grade modification, excavation, blasting, land clearing, or the deposit of earth, rocks or other materials that places an additional load upon the soil. Construction that involves work totally within an existing building footprint, such as residential remodeling projects, is specifically exempted from these consultation zone requirements.

**GAS TRANSMISSION PIPELINE** means a “transmission line” as defined by Title 49, Code of Federal Regulations, Section 192.3.

**HAZARDOUS LIQUID PIPELINE** means a pipeline designed for the transmission of a “hazardous liquid”, as defined by Title 49, Code of Federal Regulations, Section 195.2.

**PERSON** means any individual, firm, joint venture, entity, partnership, corporation, association or cooperative.

**PIPA REPORT** means a report prepared by the U. S. Department of Transportation Pipeline and Hazardous Materials Safety Administration (PHMSA) through the Pipelines and Informed Planning Alliance (PIPA) initiative with support from many participating stakeholders. The report was initially released in 2010 and will be updated as needed. It is available on the PHMSA Pipeline Safety Stakeholder Communications web site at <http://primis.phmsa.dot.gov/comm/>.

**PIPELINE** means the same as is defined by Title 49, Code of Federal Regulations, Sections 195.2 and 192.3.

**PIPELINE FACILITY** means the same as is defined by Title 49, Code of Federal Regulations, Sections 195.2 and 192.3.

**PLANNING AREA** means an area around a transmission pipeline that is defined, based on characteristics of the pipeline and the surrounding area, to determine where the requirements of Section 6 below apply. [Refer to PIPA Recommended Practice BL06.]

TRANSMISSION PIPELINE means gas transmission pipeline or hazardous liquid pipeline as defined above.

**SECTION 2.** That Section \_\_\_\_\_ of the City Code shall be and is hereby amended by adding Subsection thereto, which Subsection shall read as follows:

## **CONSULTATION ZONE**

### **a. Consultation Zone Distance**

A consultation zone is hereby established for any parcels within \_\_\_\_\_ feet of the centerline of a transmission pipeline. [Refer to PIPA Recommended Practice BL05.]

### **b. Consultation Zone Notification**

At application for a development permit, staff at the permit counter shall notify the individual they are within the consultation zone, explain the relevant application procedures, and provide contact information for the applicable pipeline operator(s). This same procedure shall be followed whenever an individual inquires about development regulations or zoning restrictions for property within the consultation zone.

### **c. Application Process within Consultation Zone**

Complete application for development permit within a designated consultation zone must include written verification from applicant that:

1. Applicant has contacted the pipeline operator(s) and has provided them with documentation detailing the proposed development type and place of the activity; and
2. The pipeline operator(s) has reviewed the documents.
3. The written verification required by this section can be in any form acceptable to the City, including electronic communications, so long as it is clear that the pipeline operator(s) has received and reviewed documentation showing the proposed information concerning any impact the activity will have upon the integrity of the transmission pipeline(s). The verification should include all comments received from the operator or a notice from the operator indicating that the operator has no comments.
4. If the operator does not respond within 30 days after being contacted and provided information by the developer pursuant to c.1 above, then the City may waive the requirement for written verification given under c.3 above.

**SECTION 3.** That Section \_\_\_\_\_ of the City Code shall be and is hereby amended by adding Subsection thereto, which Subsection shall read as follows:

## PLANNING AREA

### a. Planning Area Distance

Planning areas are hereby established within the following distances of the pipeline centerlines, for the following transmission pipeline(s).

Pipeline A – YYY feet

Pipeline B – ZZZ feet

Pipeline C –Etc. [See PIPA Report Recommended [Practice BL06](#)]

### b. Applicability of Planning Area

At application for a development permit, staff at the permit counter shall notify the individual they are within the planning area and explain the relevant requirements.

Development within the planning area shall meet the requirements under Section 6 below.

**SECTION 4.** That Section \_\_\_\_\_ of the City Code shall be and is hereby amended by adding Subsection thereto, which Subsection shall read as follows:

The plat must provide a note that all existing gas transmission and/or hazardous liquid pipelines or pipeline facilities through the subdivision have been shown, or that there are no known existing gas transmission and/or hazardous liquid pipelines or pipeline facilities within the limits of the subdivision.

The location of all transmission pipelines and related easements shall be shown on all preliminary plat, zoning, building, and record plat maps when proposed development is within the planning area.

For proposed development within the consultation zone around pipeline(s), developer shall forward all site or subdivision plans for review comments to the Pipeline Operators by certified mail, return receipt requested, to be supplied to the City as proof of notification prior to plan approval.

**SECTION 5.** That Section \_\_\_\_\_ of the City Code shall be and is hereby amended by adding Subsection thereto, which Subsection shall read as follows:

*[Insert selected PIPA Recommended Practices for protecting transmission pipelines]*

**SECTION 6.** That Section of the \_\_\_\_\_ Code shall be and is hereby amended by adding Subsection thereto, which Subsection shall read as follows:

*[Insert selected PIPA Recommended Practices ND11 through ND23, as appropriate, indicating requirements within the planning area]*

**SECTION 7.** Severability. If any term, condition, or provision of this Ordinance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective and each and every remaining provision hereof shall be valid and shall be enforced to the fullest extent permitted by law, it being the intent of the Board of Aldermen (or City Council) that it would have enacted this Ordinance without the invalid or unenforceable provisions. In the event of a subsequent change in applicable law so that the provision that had been held invalid is no longer invalid, said provision shall thereupon return to full force and effect without further action by the City and shall thereafter be binding.

**SECTION 8.** Effective Date. This Ordinance shall be in full force and take effect from and after the date of its final passage and approval.

**SECTION 9.** Savings. Nothing contained herein shall in any manner be deemed or construed to alter, modify, supersede, supplant or otherwise nullify any other Ordinance of the City or the requirements thereof whether or not relating to or in any manner connected with the subject matter hereof, unless expressly set forth herein.

Read two times and passed this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_.

\_\_\_\_\_  
As Presiding Officer and as Mayor

Attest: \_\_\_\_\_

City Clerk

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Mayor

Attest: \_\_\_\_\_

City Clerk