

ORDINANCE NO. 2023-01

AN ORDINANCE ENTITLED, AN ORDINANCE TO AMEND ARTICLE II “DISTRICT REGULATIONS”, ARTICLE IV “SUPPLEMENTAL REQUIREMENTS”, AND ARTICLE V “DEFINITIONS”, ADOPTED BY ORDINANCE 2020-02, AS AMENDED, OF THE ZONING ORDINANCE OF MOODY COUNTY.

BE IT ORDAINED by the Board of County Commissioners of Moody County, South Dakota: that Article II, “DISTRICT REGULATIONS” Chapter 2.04 “Agricultural District” Section 2.04.05 “Conditional Uses”, adopted by Ordinance 2020-02, as amended, of the Zoning Ordinance of the Moody County be amended by adding language in bold and underline:

**#42. Pipeline Facility provided they meet the requirements of Chapter 4.36.**

BE IT FURTHER ORDAINED by the Board of County Commissioners of Moody County, South Dakota: that Article IV, “SUPPLEMENTAL REQUIREMENTS” Chapter 4.36. Pipelines, adopted by Ordinance 2020-02, as amended, of the Zoning Ordinance of the Moody County be amended by deleting the strikeout language and adding language in bold and underline:

CHAPTER 4.36. PIPELINES **FACILITY.**

**1.** Any pipeline **facility** requiring South Dakota Public Utilities Commission approval shall also require a conditional use permit. A conditional use permit shall be issued by the Board of Adjustment if the applicant adheres to all requirements of the South Dakota Public Utilities Commission which may include various Moody County recommendations regarding such issues such as but not limited to **setback/separation requirements**, right-of-way, haul roads, building permits, etc. **A pipeline facility cannot be approved until it meets the following standards:**

**2. Setbacks.**

- a. **Minimum setback shall be one thousand three hundred twenty (1,320) feet from cautionary uses. Exception: Municipal Corporation boundaries shall be five thousand two hundred eighty (5,280) feet. Setback shall be the minimum horizontal distance measured from the closest municipal parcel boundary to the center line of the proposed pipeline.**
- b. **The setback shall be the minimum horizontal distance measured from the wall line of the neighboring “cautionary use” to the center line of the proposed pipeline or wall line of any above ground pipeline facility structure.**
  - i. **Exception: The Board of Adjustment may allow setback/separation distances to be less than the established distance identified if the applicant obtains waiver(s) from owners of property where the “cautionary use” is within the required separation/setback distance. If approved, such agreement is to be recorded and filed with the County Register of Deeds. Said agreement shall be binding upon the heirs, successors, and assigns of the title holder and shall pass with the land.**

- 3. Transferability. If a Pipeline Facility, which has a previously issued county permit, changes ownership, the new owner has sixty (60) calendar days in which to apply for a transfer of ownership in order to keep the current permit valid. The new owner will be required to abide by the permit requirements and letter of assurances that were issued under the permit application. If no transfer is completed within sixty (60) calendar days, the new owner will be required to submit a new application for approval.**
- 4. The following required information is to be submitted and reviewed by the Board of Adjustment prior to the issuance, or as a condition to the issuance, of a conditional use permit for any pipeline facility:**

  - a. Owner's/Applicant(s) name, address, and telephone number.**
  - b. Final route of proposed pipeline facility;**
  - c. Site map related to any above-ground pipeline facility structures;**
  - d. Map of easements for pipeline facilities;**
  - e. Affidavit attesting that necessary easement agreements with landowners have been obtained;**
  - f. Map showing any "cautionary uses" within one (1) mile of the project area and ability to meet required setback/separation requirements;**
  - g. Preliminary map of sites for which haul road agreements will need to be secured;**
  - h. Location of other pipeline facilities within one (1) mile of proposed pipeline facility;**
  - i. Project schedule.**
  - j. Documentation of notification, by certified mail, of all landowners within one (1) mile of proposed pipeline facility.**
  - k. Documentation of notification, by certified mail, of all Road Authorities (municipal, township and State) where pipeline facility will traverse said Road Authority's right-of-way;**
  - l. As a condition of approval for any pipeline facility by the Board of Adjustment, the documentation of an approved permit from the South Dakota Public Utilities Commission (SDPUC) is required. A conditional use permit may be issued by the Board of Adjustment prior to and conditioned upon SDPUC approval;**
  - m. Any other information as contained in the application and requested by the Administrative Official or Board of Adjustment;**
  - n. Final haul road agreements are to be submitted prior to construction;**
  - o. Proof of right-of-way easement for pipeline facility to be submitted prior to construction.**

- p. A set of plans and specifications showing the dimensions and locations of the pipeline facility, including plans and specifications for all related facilities, and above-ground structures, including without limitation: pump, valve sites and shutoff valves.

BE IT FURTHER ORDAINED by the Board of County Commissioners of Moody County, South Dakota: that ARTICLE V "Definitions", adopted by Ordinance 2020-02 as amended, of the Zoning Ordinance of the Moody County be amended by adding language in bold and underline:

**Cautionary Uses (In reference to a pipeline facility): means schools, daycares, churches, dwellings, manufactured homes and Class A and Class B Concentrated Animal Feeding Operations.**

**Gas: means any flammable, toxic or corrosive gas not subject to the Natural Gas Act (15. U.S.C. 717 et seq.).**

**Hazardous liquids: means petroleum or a petroleum product, nonpetroleum fuel, including biofuel, that is flammable, toxic, or corrosive; or would be harmful to the environment if released in significant quantities; carbon dioxide transported by a hazardous liquid pipeline facility; and any substance the Secretary of Transportation decides may pose an unreasonable risk to life or property when transported by a hazardous liquid pipeline facility in a liquid state; not subject to the Natural Gas Act (15. U.S.C. 717 et seq.).**

**Pipeline Facility: means a pipeline, facility, or building used in transporting or treating hazardous liquid, gas, or carbon dioxide not subject to the Natural Gas Act (15. U.S.C. 717 et seq.).**

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2023.

ATTEST:

\_\_\_\_\_  
Chairperson  
Moody County Board of County Commissioners

\_\_\_\_\_  
Moody County Auditor