

05/07/2015

ORDINANCE NO. _____

AN ORDINANCE TO ADD NEW ARTICLE VI PIPELINES TO EXISTING CHAPTER 94, STREETS, SIDEWALKS, AND CERTAIN OTHER PUBLIC PLACES, OF THE CODE OF ORDINANCES OF THE CITY OF ROCHESTER HILLS, OAKLAND COUNTY, MICHIGAN, TO REGULATE THE CONSTRUCTION AND PERMITTING OF PIPELINES IN THE CITY, REPEAL CONFLICTING OR INCONSISTENT ORDINANCES, AND PRESCRIBE A PENALTY FOR VIOLATIONS.

THE CITY OF ROCHESTER HILLS ORDAINS:

Section 1. New Article VI, Pipelines shall be added to Chapter 94 of the Code of Ordinances, as follows:

Article VI. Pipelines

Sec. 94-200. Definitions.

City Regulated Pipelines means those pipelines within the City that under federal and state laws and regulations are not exempt from City regulations and ordinances regarding mapping, inventorying, locating or relocating of pipelines, including, but not limited to, pipelines over, under, along, or across a public street or alley, pipelines from the well to the first point of custody transfer or in Residential Areas in the City.

Pipeline means all parts of those physical facilities through which oil, gas, other hydrocarbons, hazardous liquids, fresh water, salt water, or chemicals are transported, including but not limited to, pipe, valves, other appurtenance attached to pipe, and ancillary equipment such as pigging stations and compressors, whether or not laid in public or private easement or public or private right-of-way in the City, and also including but not limited to flow lines, gathering lines, production lines and transmission lines. This definition does not include pipelines associated with franchise utilities.

Pipeline Construction means the initiation of any excavation or other disturbance of property for the purpose of installation, construction, maintenance, repair, replacement, modification or removal of a pipeline.

Pipeline Emergency means a pipeline incident that is required to be reported to the Michigan Department of Environmental Quality, or any other federal, state, or local regulatory agency, and/or which may endanger the health, safety or welfare of persons or property.

Pipeline Operator means any person owning, operating or responsible for operating a pipeline.

Residential Area means any area in the City zoned or used for single or multi-family residential use.

Wellhead means the assemblage of equipment attached to the opening of an oil or gas well.

Well site means the physical location where an oil or gas well is drilled.

Sec. 94-201. City Regulated Pipelines – Permit Required.

- (a) City Regulated Pipelines shall adhere to all standards outlined in Section 94-202. Federal and state statutory or regulatory requirements shall apply to Pipelines between the well and/or wellhead and the point of custody transfer. Prior to the transport of gas, oil, liquids or hydrocarbons, the Pipeline Operator shall provide to the City certification from a registered professional engineer that the design and installation of the Pipelines meet all state and federal requirements.
- (b) Prior to Pipeline Construction and the issuance of notice required in subsection 94-202(d) of this Article, a Pipeline Operator shall obtain a Pipeline Permit from the City Engineer for all City Regulated Pipelines. An exception to this permitting is construction necessary to respond to a Pipeline Emergency.
- (c) At the same time the Pipeline Operator submits an oil or gas well drilling permit application to the State pursuant to Part 615 of the Natural Resources and Environmental Protection Act, MCL 324.61501 et seq., and the administrative rules promulgated thereunder, the Pipeline Operator shall submit to the City a proposed Pipeline route from the well bore, wellhead and/or well site to the transmission line, for all City Regulated Pipelines.
- (d) The Pipeline Operator shall be required to submit an application for a Pipeline Permit to the City and obtain a pipeline permit prior to making any offer or initiating any negotiation or action to acquire any easement or other property right to construct, install, maintain, repair, replace, modify, remove or operate a Pipeline in Residential Areas. Prior to commencing pipeline construction, the Pipeline Operator shall provide to the City a copy of any easements obtained. A condition of the permit is that the Pipeline Operator shall relocate the Pipeline at its sole cost as directed and in the sole discretion of the City.
- (e) Review and approval by the City Council for all proposed Pipelines through Residential Areas shall be required prior to the issuance of a permit for the commencement of Pipeline Construction.
- (f) A Pipeline Permit application shall be required as follows:

- (1) Applications for a City Regulated Pipeline or other activities regulated by this Subsection shall be submitted to the City in a form prescribed by the City.
- (2) Plans submitted with each application for a Pipeline Permit shall be in a format approved by the City showing the dimensions and locations of the Pipeline and related items or facilities, as well as all proposed lift stations, pumps or other service structures related to such Pipeline and the location, type and size of all existing utilities, drainage, Right-of-way and roadway improvements. The plans must additionally show the elevation and location of all known public utilities within fifteen (15) feet of the centerline of the proposed Pipeline. Any application that fails to meet these requirements will be returned unfiled to the applicant.
- (3) The following information shall be provided in the application:
 - a. The name, business addresses and telephone numbers of the Pipeline Operator;
 - b. The names, titles and telephone numbers of the following:
 - i. The person signing the application on behalf of the Pipeline Operator;
 - ii. The person designated as the principal contact for the submittal; and
 - iii. The person(s), located within Oakland County, Michigan, designated as the twenty-four (24) hour emergency contact;
 - c. The origin point and the destination of the proposed subject Pipeline;
 - d. A text description of the general location of the proposed subject Pipeline
 - e. A description of the substance to be transported through the proposed subject Pipeline;
 - f. A copy of the GHS (Globally Harmonized System) safety data sheet;
 - g. Engineering plans, drawings and/or maps with summarized specifications showing the horizontal location, covering depths and location of shutoff valves of the proposed subject Pipeline. To the extent that information can be obtained, drawings shall show the location of other Pipelines and utilities that will be crossed or paralleled within fifteen (15) feet of the proposed subject Pipeline Right-of-way;
 - h. A description of the consideration given to matters of public safety and the avoidance, as far as practicable, of existing Habitable Structures and Private Residential Areas;

- i. Detailed cross section drawings for all public street Right-of-way and easement crossings;
- j. The proposed method or methods to be used for the installation of the Pipeline;
- k. Methods to be used to prevent both internal and external corrosion:
- l. A binder or certificates of all bonds and insurance; and
- m. A proposed alignment strip map showing name and address of all affected and adjacent property owners.

Sec. 94-202. General Regulations.

- (a) As determined in the sole, but reasonable, discretion of the City, Pipelines shall not interfere with or damage existing utilities, including but not limited to: water, sewer or gas lines, storm drains, electric lines, telecommunications, public lighting, traffic control devices or equipment, or the facilities of any public utilities located in public rights-of-way, utility easements or other City-owned property or in Residential Areas.
- (b) The Pipeline Operator shall backfill all trenches and compact such trenches to ninety five percent (95%) standard density proctor in eight inch (8") lifts and construct the Pipeline so as to maintain a minimum depth of ten feet (10') below the finished grade except in public rights-of-way, where minimum cover to the top of the pipe shall be at the discretion of the City based on existing or planned utilities. During the backfill of any Pipeline excavations in open cut sections, the Pipeline Operator shall bury a magnetic buried pipeline warning tape one foot (1') above any such Pipeline to warn future excavators of the presence of a buried Pipeline. The City may also require that a proposed or existing Pipeline be relocated at the sole cost of the Pipeline Operator should it conflict with the proposed alignment and depth of a gravity dependent utility.
- (c) The Pipeline Operator shall equip all City Regulated Pipelines with an automated pressure monitoring system that detects leaks and shuts off any line or any section of line that develops a leak.
- (d) The Pipeline Operator shall be responsible to grade, level and restore the property affected by Pipeline Construction to the same surface condition, as nearly practicable, as existed before operations were first commenced.
- (e) The Pipeline Operator shall construct, repair and/or maintain all Pipelines so as to meet or exceed the applicable minimum criteria established by the statutory or regulatory requirements of the state and federal governments for such Pipeline.
- (f) At least twenty (20) days prior to the commencement of any Pipeline Construction, the Pipeline Operator shall give written notification to all persons to whom real property is assessed within 300 feet of the proposed Pipeline and to the occupants of all structures within 300 feet of the proposed Pipeline.

- (g) The Pipeline Operator shall provide the City the following information, including GPS (global positioning system) information sufficient to locate the Pipelines in the future, including the beginning and end points of the Pipeline and sufficient points in between the Pipeline route and the depth of cover information. This information shall be submitted to the City in a format compatible with the City's own GIS (geographic information system) system.
- (1) As-built or record drawings of the Pipelines. Accuracy of the record drawings shall meet a survey level of one foot (1') to fifty thousand feet (50,000'). The scale of the record drawings shall be a minimum of one inch (1") to forty feet (40'). The drawings shall also be supplied in a DFF (digital file format) with the location tied to at least one (1) nearby GPS City monument. If the new Pipeline length exceeds one thousand feet (1,000') within the City, the Pipeline shall be tied to at least two (2) GPS City monuments;
 - (2) The origin point and the destination of the Pipeline;
 - (3) The substance to be transported;
 - (4) A copy of the GHS safety data sheet;
 - (5) Engineering plans, drawings and/or maps with summarized specifications showing the horizontal location, covering depths, and location of shutoff valves of the subject Pipeline. Drawings shall show the location of other Pipelines and utilities that are crossed or paralleled within fifteen (15') feet of the Pipeline Right-of-way;
 - (6) Detailed cross-section drawings for all public rights-of-ways and easement crossings on City property as permitted by the City; and
 - (7) A list of the names and mailing addresses of all the property owners, residents and tenants adjacent to the Pipeline Construction.
- (h) A Pipeline Operator that transports gas, oil, liquids or hydrocarbons through a Pipeline located in the City shall be a member in good standing with the Miss Dig System or other approved excavation monitoring system as required by state law. The Pipeline Operator that transports gas, oil, liquids or hydrocarbons through a Pipeline shall contract for service with the selected underground utility coordinating system for a minimum of five (5) years unless there is an agreement to change to an alternate system between the City and the Pipeline Operator. The Pipeline Operator shall maintain such services without interruption for the life of the Pipeline Permit and as required under this Section.
- (i) At the time of permitting and each year thereafter that the Pipeline remains active, each Pipeline Operator shall provide to the Mayor, City Engineer, Fire Chief and Oakland County Sheriff the names, mailing and email addresses and telephone numbers of at least two (2) primary persons, officers or contacts who will be available on a twenty-four (24) hour basis and at least two (2) alternative persons, officers or contacts to be reached in the event that the primary contacts are unavailable who:

- (1) Can initiate appropriate actions to respond to an emergency;
- (2) Have access to information on the location of the closest shutoff valve to any specific point in the City; and
- (3) Can furnish the common name of the material then being carried by the Pipeline.

Any change in the above information must be provided to the City by contacting the GasInspector prior to such change.

- (j) Each Pipeline Operator shall file a copy of all initial or follow-up reports provided to state or federal agencies about unsafe Pipeline conditions, Pipeline emergencies, Pipeline releases, Pipeline safety violations or Pipeline incidents in the City concurrently with the City.
- (k) A Pipeline shall not be located closer than 1,000 feet from a residential dwelling, place of worship, school, child care center or public park.

Sec. 94-203. City Engineer Review.

After the filing of an administratively complete application, the City Engineer shall review all applications. If deemed necessary by the City, a third-party technical consultant may be engaged by the City. The costs associated with the consultant shall be borne by the Pipeline Operator. Any decision by the City Engineer is final.

Sec 94-204. Abandoned Pipelines.

- (a) All Pipelines shall be maintained in an active condition unless abandoned according to applicable state and federal regulations. The Pipeline Operator shall notify the City of abandonment of any Pipeline.
- (b) Reactivation of abandoned Pipelines shall require notification to the City and a new permit pursuant to the standards and requirements of this Article at the time of the new permit application. Reactivation shall require pressure testing for integrity and compliance with state and federal regulations.

Sec. 94-205. Emergency Response Plans and Emergency Incident Reporting.

- (a) Each Pipeline Operator shall maintain written procedures to minimize the hazards resulting from an emergency. The Pipeline Operator must provide a copy of the written procedures to the City prior to commencement of Pipeline construction. These procedures shall at a minimum provide for the following:
 - (1) Prompt and effective response to emergencies including but not limited to the following:
 - a. Leaks or releases that can impact public health safety or welfare;

- b. Fire or explosions at or in the vicinity of a Pipeline or Pipeline easement;
 - c. Natural disaster;
 - d. Effective procedures and protocols to notify and communicate required and pertinent information to local fire, police, public officials and affected residents during an emergency;
 - e. The availability of personnel, equipment, tools and materials as necessary at the scene of an emergency;
 - f. Measures to be taken to reduce public exposure to injury and probability of accidental death or dismemberment;
 - g. Emergency shut down and pressure reduction of a Pipeline;
 - h. The safe restoration of service following an emergency or incident;and
 - i. A follow-up incident investigation to determine the cause of the incident and require the implementation of corrective measures.
- (b) Upon discovery of a Pipeline emergency or incident, any affected Pipeline Operator shall as soon as practical communicate to the City's 911 system the following information:
- (1) A general description of the emergency or incident;
 - (2) The location of the emergency or incident;
 - (3) The name and telephone number of the person reporting the emergency or incident;
 - (4) The name of the Pipeline Operator;
 - (5) Whether or not any hazardous material is involved and identification of the hazardous material so involved; and
 - (6) Any other information as requested by the emergency dispatcher or other such official at the time of reporting the emergency or incident.

Sec. 94-206. Protection and Painting of Structures.

A Pipeline Operator shall keep protected and painted all Pipeline risers and all appurtenances related to Pipeline construction and operations which are composed of materials which are generally protected or painted. Such Operator shall repaint all such items at sufficiently frequent intervals to maintain same in good condition. It shall be a violation of this Article for any Pipeline Operator to permit any Pipeline riser and/or appurtenances related to Pipeline Construction and operations to be in a state of disrepair or to have chipped, peeling or unpainted portions.

Sec. 94-207. Markers.

It is the joint and several responsibility of the owner and the Pipeline Operator of any and all Pipeline to maintain markers in accordance with this Article. The location of all new or replacement pipe and Pipelines shall be marked by the owner(s) thereof or by the person installing or operating such Pipelines as follows:

- (a) Marker signs shall be placed at all locations where pipe or Pipelines cross property boundary lines and at each side of a public street or road right-of-way which the pipe or Pipeline crosses;
- (b) The top of all marker signs shall be a minimum of four (4) feet above ground level, and the support post must be sufficient to support the marker sign and shall be painted yellow or such other color as may be approved by the City Engineer or his designee;
- (c) All marker signs shall be a minimum of twelve (12) inches square and shall be marked as "Gas Pipe Line;"
- (d) All marker signs shall contain the name of the owner and operator of the Pipeline and a twenty-four (24) hour local contact number;
- (e) Pipelines shall be marked along their entire length with a buried magnetic metal wire and metallic flag tape;
- (f) All signs shall also contain a "Call Before You Dig" statement; and
- (g) The Pipeline Operator shall annually replace signage that has been lost, damaged or removed.

Sec. 94-208. Performance Guarantee.

Prior to issuance of a Pipeline Permit, the Pipeline Operator shall provide to the City, and thereafter keep in force, a cash or surety bond or irrevocable bank letter of credit acceptable to the City as a performance guarantee that the Pipeline Operator will comply with the provisions of this Article. The City shall be authorized to draw upon the cash or surety bond or irrevocable bank letter of credit to recover the cost of correcting or remedying any default or violation by the Pipeline Operator of any provision of this Article, including but not limited to the cost of repair and replacement of any property damaged or destroyed as a result of the construction of the Pipeline or a pipeline emergency.

Sec. 94-209. No Implied Grant of Use of Public Rights-of-Way, Utility Easements or other Cityowned Property.

Nothing in this Subsection grants permission for the use of any street, public rights-of-way, utility easements, or City-owned property. In the event a Pipeline Operator wishes to undertake any Pipeline Construction on, over, under, along, or across any public rights-of-way,

utility easements or other City-owned property, the Pipeline Operator shall apply for and execute a written agreement with the City governing the terms and conditions for such use; obtain all required permits and comply with any other applicable provisions of the City Code.

Sec. 94-210. Expiration of Pipeline Permit.

If construction of a Pipeline has not commenced within one (1) year of the date of issuance of the Pipeline Permit, or if the Pipeline has not been completed and the surface restored within two (2) years, the Pipeline Permit shall expire; provided, however, that the City Engineer may grant an extension of time not to exceed an additional one (1) year if the City Engineer determines weather or other unforeseen conditions justify such an extension.

Sec. 94-211. No Assumption of Responsibility by City; Hold Harmless.

Nothing in this Subsection shall be construed as an assumption by the City of any responsibility of a Pipeline Operator of a Pipeline not owned by the City. Further, by accepting a permit under this Chapter, the Pipeline Operator agrees to hold harmless the City from any claims or causes of action which arise out of the construction or operation of the Pipeline.

Section 2. Severability. This ordinance and each article, section, subsection, paragraph, subparagraph, part, provision, sentence, word and portion thereof are hereby declared to be severable, and if they or any of them are declared to be invalid or unenforceable for any reason by a court of competent jurisdiction, it is hereby provided that the remainder of this ordinance shall not be affected thereby.

Section 3. Penalty. All violations of this ordinance shall be misdemeanors and upon conviction thereof shall be punishable by a sentence of not more than ninety (90) days of confinement to jail or by a fine of not more than \$500, or both, in the court's discretion.

Section 4. Repeal, Effective Date, Adoption.

(1) Repeal. All regulatory provisions contained in other City ordinances, which are inconsistent with the provisions of this ordinance, are hereby repealed.

(2) Effective Date. This ordinance shall become effective on _____, 2015, following its publication in the *Oakland Press*.

(3) Adoption. This ordinance was adopted by the City Council of the City of Rochester Hills at a meeting thereof held on _____, 2015.

Bryan K. Barnett, Mayor
City of Rochester Hills

CERTIFICATE

I HEREBY CERTIFY THAT THE FOREGOING ORDINANCE WAS ADOPTED BY THE CITY COUNCIL OF THE CITY OF ROCHESTER HILLS AT A MEETING THEREOF ON _____, 2015.

Tina Barton, Clerk
City of Rochester Hills