

**ORDINANCE NO. 469-09**

**AN ORDINANCE OF THE TOWN OF BARTONVILLE, TEXAS, AMENDING CHAPTER 4 OF THE CODE OF ORDINANCES BY REPEALING ARTICLE 4.200, OIL AND GAS PIPELINE STANDARDS, IN ITS ENTIRETY AND REPLACING WITH A NEW ARTICLE 4.200, SECTIONS 4.201 THROUGH 4.237, OIL AND GAS PIPELINE STANDARDS; PROVIDING FOR GENERAL REQUIREMENTS AND MINIMUM DESIGN STANDARDS; PROVIDING FOR NEW PERMITS; PROVIDING FOR PUBLIC EDUCATION; PROVIDING FOR PIPELINE INFORMATION REPORTING REQUIREMENTS; PROVIDING FOR PIPELINE MARKERS; PROVIDING FOR THE ONE CALL SYSTEM; PROVIDING FOR INACTIVE AND IDLED PIPELINES; PROVIDING FOR EMERGENCY RESPONSE PLANS AND EMERGENCY INCIDENT REPORTING; PROVIDING FOR PIPELINE REPAIRS AND MAINTENANCE; PROVIDING FOR STREET AND RIGHT-OF-WAY USE; PROVIDING A REQUIREMENT FOR BOND AND INSURANCE; PROVIDING FOR TERMINATION OF THE PERMIT; PROVIDING FOR DEFINITIONS; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Bartonville is a Type A General Law Municipality located in Denton County, Texas, created in accordance with provisions of the Texas Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and,

**WHEREAS**, in 2004, the Town Council adopted Ordinance No. 341-04 which was subsequently amended by Ordinance 374-05 and incorporated into the current Code of Ordinances as Article 4.200 and which provided for oil and gas pipeline standards; and

**WHEREAS**, the Town Council finds it necessary to amend the oil and gas pipeline standards to protect the health, safety, and general welfare of the public; and,

**WHEREAS**, the Town Council does further find and determine that providing new standards related to oil and gas pipelines, by adoption of this Ordinance, is in the best interest of the public health, safety, and general welfare of the Town;

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BARTONVILLE, TEXAS:**

**SECTION 1.** The Code of Ordinances of the Town of Bartonville, Texas, be and the same is hereby amended by repealing Article 4.200, Oil and Gas Pipeline Standards, and replacing with a new Article 4.200 containing new provisions for Oil and Gas Pipeline Standards, which shall read as follows:

**“ARTICLE 4.200 OIL AND GAS PIPELINE STANDARDS”**

**Division 1. Adoption; Penalty**

**Sec. 4.201 Adoption**

The oil and gas pipeline standards as set forth below are hereby adopted by the Town Council as the oil and gas pipeline standards for the town.

**Sec. 4.202 Penalty**

Any person, firm or corporation violating any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined, except as otherwise provided herein, a sum in accordance with the general penalty provision set forth in Section 1.109 of this code for each offense, and a separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

**Secs. 4.203-4.220 Reserved**

**Division 2. Standards**

**Sec. 4.221 General Requirements and Minimum Design Standards**

- (a) An oil and gas pipeline permit is required as follows:
- (1) It shall be unlawful for any person, acting either for himself or as an agent, employee, independent contractor or servant of any other person, to commence to construct, install, operate or reconstruct a pipeline or any section of a pipeline or to operate any pipeline or to assist in the construction, installation, operation or reconstruction of a pipeline if a lawful oil and gas pipeline permit has not been obtained.
  - (2) Any applications to construct, lay, rework, wrap or otherwise lower or replace existing pipelines or install monitoring or recovery wells shall be submitted to the town in a form prescribed by the town.
  - (3) Each application for an oil and gas pipeline permit shall be accompanied by fourteen (14) sets of plans showing the dimensions and locations of the pipelines and related items or facilities within the subject right-of-way or easement, 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.

- (b) No pipeline for the transportation of gas, oil or hydrocarbons from wells to be drilled shall be constructed or laid except on rights-of-way or easements owned by the owners or operators of wells or third party pipeline companies, or upon designated drilling tracts and upon rights-of-way or easements necessary to connect future well sites to present lines.
- (c) In order to enable the holder of each permit to move gas, oil, water or other products to or from the location of a well, the holder of each permit shall apply to the Town for a right-of-way permit or a license on, over, under, along or across the Town streets, sidewalks, alleys, and other Town property for the purpose of constructing, laying, maintaining, operating, repairing, replacing, and removing pipelines so long as production or operations may be continued under any permit issued pursuant to this division; provided, however, such permittee shall:
  - (1) Not interfere with or damage existing water, sewer or gas lines or the facilities of public utilities located on, under or across the course of such right-of-way.
  - (2) Furnish to the Town Secretary a plat showing the location of such pipelines for the transport of gas, oil or hydrocarbons. Said plat shall conform to the town's standards for oil and gas well development plats.
  - (3) Construct such lines or cause same to be constructed out of new pipe.
  - (4) Grade, level, and restore such property to the same surface condition, as nearly practicable, as existed when operations were first commenced.
- (d) Pipeline trenches shall be backfilled and pipelines shall be constructed so as to maintain a minimum depth of thirty-six (36) inches below the finished grade except in public rights-of-way, where minimum cover to the top of the pipe shall be forty-eight (48) inches below the bottom of the adjacent roadside ditch. Public roads may not be crossed by open cut unless approved by the Town Council.
- (f) In all cases in which residential lots in a proposed subdivision are crossed or come by or come within one hundred (100) feet of any existing oil or gas pipeline or pipeline easement, the subdivider shall provide a note on the face of the preliminary plat and final plat stating that the subdivision is crossed or is located within one hundred (100) feet of an existing oil or gas pipeline.
- (g) Construction, repair and/or maintenance of all pipelines, gathering lines, and production lines shall meet or exceed the minimum criteria established by the statutory or regulatory requirements of the state and federal governments for oil and gas pipelines.
- (h) Transmission pipelines, gathering lines and production lines within the Town limits or extraterritorial jurisdiction shall be constructed in accordance with the

Ordinances and shall be designed and constructed to the latest standards mandated by the Federal Department of Transportation (DOT) and Railroad Commission of Texas for pipelines operating within a Class 3 location in accordance with § 192.111 CFR 49.

- (i) Lines subject to this division shall be constructed with an automated, pressure monitoring system that detects leaks and shuts off any line or any section of line that develops a leak. In lieu of such system, the pipeline operator may have 24 hour pressure monitoring of the pipeline system which provides monitoring of the pipeline within the Town limits and extraterritorial jurisdiction. Any monitoring system(s) shall be keyed to or required to notify the Town's emergency response providers in order to provide them with immediate notice of any leak.
- (j) Construction on the pipeline must commence within six (6) months of approval by the Town otherwise the permit expires. A one year extension of time may be granted if existing conditions are the same. Once construction has commenced, the permit shall continue until the pipeline covered by the permit is complete and the site restored or within one year of the approval date of the permit by the Town Council, whichever comes first.

#### **Sec. 4.222 New Pipeline Permit Application**

- (a) A pipeline owner or operator shall submit an application in accordance with the Town's submission schedule and pay a fee, as established by the adopted fee schedule, for an oil and gas pipeline permit to the town pursuant to its intention to construct the pipeline and shall submit the following information:
  - (1) The name, business address, and telephone numbers of the pipeline owner.
  - (2) The names, titles, and telephone numbers of the following:
    - (A) The person submitting the applications and petitions for the pipeline construction;
    - (B) The person designated as the principal contact for the submittal;
    - (C) The person designated as the twenty-four-hour emergency contact; and
    - (D) The person or firm that will operate the pipeline.
  - (3) The origin point and the destination of the segment of the pipeline to be constructed.
  - (4) A text description of the general location of the planned pipeline.

- (5) A description of the substance to be transported through the pipeline.
- (6) A copy of the substance material safety data sheet (MSDS).
- (7) The maximum allowable operating pressure on the pipeline, along with the Specified Minimum Yield Strength (SMYS) of the pipe, its pressure class, and design calculations in accordance with § 192.105 CFR 49, assuming a Class 3 or better location.
- (8) The normal operating pressure range of the pipeline, not to exceed the maximum allowable operating pressure as designated above.
- (9) Engineering plans, drawings and/or maps with summarized specifications showing the horizontal pipeline location, pipeline covering depths, and location of shutoff valves. (Location of shutoff valves must be known in order for emergency responders to clear area for access valves.) To the extent that information can be reasonably obtained, drawings shall show the location of other pipelines and utilities that will be crossed or paralleled within five (5) feet of the proposed pipeline.
- (10) A description of the consideration given to matters of public safety and the avoidance, as far as practicable, of existing inhabited structures and congregated areas.
- (11) Detailed cross section drawings for all public street right-of-way and easement crossings.
- (12) Methods to be used to prevent both internal and external corrosion.
- (13) A binder or certificates of all bonds and insurance as required under this Article.

**Sec.4.223 Permit Approval**

- (a) The applicant shall submit an application as described in Sec. 4.222 and on forms and in accordance with a submittal schedule as provided by the Town. Any application submitted that is determined to be administratively incomplete shall be returned to the applicant within five (5) days of the submittal date along with a letter documenting the deficiencies of the application. The following is an example of a typical permit process:
  - (1) Application submitted to the Town.
  - (2) Within five (5) days the applicant will be notified of his/or her appointment with the Development Review Committee OR rejection of the application for administrative incompleteness.
  - (3) DRC meets with Applicant to review the application.

- (4) Public review period.
  - (5) Applicant mails hearing notices to property owners.
  - (6) Public Hearing is held before the Planning and Zoning Commission.
  - (7) 2<sup>nd</sup> Public Hearing is held before the Town Council and Permit is approved.
  - (8) Bonds and Insurance are submitted.
  - (9) Permit is issued.
  - (10) Pre Construction meeting is held at Town and Construction may begin.
  - (11) As built plans are submitted to the Town.
- (b) The Town's Development Review Committee (DRC) and pipeline owner or operator shall review the application and associated plans and documents for completeness and make technical comment. At that time, the DRC shall also make comments relating to conditions or requirements of the Town's Right-of-Way Regulations on use of public property. The Town may appoint one or more consultants to provide technical expertise in the construction, maintenance, or operation of the pipelines.
- (c) The Town shall give notice that the information provided in Section 4.222(a) is available to the public for comment and review. Notice to the public shall be made in the Town's official newspaper. Such notice shall be provided in the public notice section of at least two (2) issues and posted on the Town's website and include the following information:
- (1) General description of the planned pipeline including, but not limited to, the proposed materials or product to be conveyed through the pipeline;
  - (2) Proposed pipeline construction;
  - (3) Type of material to be used for the pipeline;
  - (4) Pipeline owner;
  - (5) Pipeline operator;
  - (6) General location of the pipeline(s);
  - (7) The Town's address in which to submit written comments to; and
  - (8) Scheduled location and time for the public hearings.
- (d) Prior to the tenth (10th) day before the hearing date specified in subsection (c) above, the pipeline owner or operator shall provide written notice to each owner, as indicated on the most recently approved municipal tax roll, of real property within six hundred and sixty (660) feet of the centerline of the proposed pipeline site. The notice may be served by its deposit in the United States mail with notices being properly addressed and with postage paid. Said notice shall contain the same information specified in subsection (c) above. Copies of the notices must be submitted to the Town prior to the first public hearing. The applicant is encouraged to send a draft notice to the Town for review prior to mailing.

- (e) Within thirty (30) calendar days of action by the Planning and Zoning Commission, a public hearing shall be scheduled before the Town Council for final approval or denial. In the event that all applicable federal, state, county, and local laws, standards, ordinances, and regulations are met, the Town shall approve an oil and gas pipeline permit. If there are substantive, nonresolvable technical issues concerning matters that do not fall within the exclusive jurisdiction of the state department of transportation or the state railroad commission, an administrative hearing shall be held fourteen (14) days as provided in subsection (f) below.
- (f) An administrative hearing shall be conducted to seek resolution of any substantive, non-resolvable technical issues. The hearing shall be conducted before the pipeline review committee which shall consist of the Town Engineer, Town Attorney, three (3) appointed technical experts recognized as competent. The cost associated with the technical consultants shall be borne by the applicant. A quorum of at least three (3) members must be present to conduct a hearing with at least one (1) of the members present at the hearing having emergency management expertise. The public hearing process before the Planning and Zoning Commission and Town Council as specified in subsection (e) above shall commence within thirty (30) calendar days of the date of such administrative hearing.
- (g) From time to time the Town may need to hire an independent study or analysis of an application or petition to construct a new pipeline. The Town, upon approval by the Town Council after recommendation by the pipeline review committee, shall engage a duly qualified independent consultant or contractor to conduct such special study or analysis as required to fully evaluate and act upon an application for a new pipeline. Cost for said consultant or contractor shall be billed directly to the applicant for all direct expenses to the Town.
- (h) The pipeline owner or operator shall give notice forty-eight (48) hours prior to the commencement of pipeline construction to all residents and business establishments that are located within six hundred and sixty 660 feet of the proposed centerline of the pipeline.
- (i) Upon completion of pipeline construction the pipeline owner or operator shall provide the Town with as-built or record drawings of the pipelines within one hundred twenty (120) calendar days. Accuracy of the as-built or record drawings shall meet a survey level of one (1) foot to fifty thousand (50,000) feet. The drawings shall also be supplied in a DXF digital file format with the location tied to one (1) nearby GPS (global positioning system) Town monument. If the new pipeline length exceeds one thousand (1,000) feet within the Town or its extraterritorial jurisdiction, the pipeline shall be tied to at least two (2) GPS Town monuments.

- (j) Any change in service of a pipeline not previously addressed by this division to gas, hazardous liquid, or chemical service must be reviewed in accordance with the new pipeline review procedure outlined in subsections (a)—(h) as if it were new pipeline construction.

#### **Sec. 4.223 Public Education**

In keeping with the Natural Gas Pipeline Safety Act of 1968, CFR 192.614, Damage Prevention, 192.615 Emergency Plans, the Hazardous Liquids Safety Act of 1979, 49 CFR 195.408, Communications, 195.440, Education, and the Community Right-to-Know Act:

- (a) Each pipeline owner or operator shall maintain a public education program that is communicated to residents and business establishments within six hundred sixty (660) feet of the centerline of a pipeline.
- (b) Pipeline information communicated per subsection (1) shall contain the following subjects:
  - (1) Pipeline location;
  - (2) Material transported within the pipeline;
  - (3) Pipeline markers;
  - (4) How to recognize a pipeline;
  - (5) How to report a pipeline emergency;
  - (6) Contact information regarding underground utility locations;
  - (7) Additional requirements for excavations near a home or business; and,
  - (8) Response needs during a pipeline emergency, including instructions for sheltering in the event of an emergency.
- (c) Public education information shall be communicated at least annually in both English and Spanish.

#### **Sec. 4.224 Pipeline Information Reporting Requirements**

- (a) Each pipeline owner or operator shall provide to the Town Secretary, the Fire Department, and Denton County Sheriff's Office the names, mailing addresses, and telephone numbers of at least two (2) primary persons, officers or contacts available on a twenty-four-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 Town or its jurisdiction; 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 Town by contacting the Town Secretary prior to such change.

- (b) Every owner or operator of a pipeline subject to this division shall be required to present to the Town Council in a public meeting a safety report and file with the Town an annual verified safety report in letter form on or before June 30 of each year to cover a reporting period of June 1 through May 31. Said written safety report shall contain the following information and said information shall be presented to the Town Council by every owner or operator of a pipeline subject to this division in the required public hearing before the Town Council:

- (1) A statement that the pipeline has no outstanding safety violations as determined in an inspection or audit by either the state railroad commission and/or the U.S. Department of Transportation with regard to any pipeline operating within the Town or its jurisdiction. Alternatively, if there are any safety violations as determined by the state railroad commission and/or the U.S. Department of Transportation that have not been corrected, these shall be described to the Town with an action plan to correct the safety violations. Said action plan shall include a timeline for corrective action and the individual or firm responsible for each action.
- (2) Evidence that the pipeline owner or operator has current liability insurance covering each respective pipeline in the minimum amount of five million dollars (\$5,000,000) or has a self-insured signed program, verified by an independent certified public accountant, which program and verification will be reviewed and judged to determine equivalency by the Town. Insurance carriers must be licensed to conduct business in the state and possess at least an "A" rating by the A.M. Best Company.
- (3) A statement that the pipeline information specified in subsection (a) is correct. Alternatively, in the event that the required information on file with the Town is no longer correct, updated or corrected information shall be submitted within five (5) calendar days of the change and the updated information shall be submitted with the annual safety report.
- (4) Owners or operators of any unregulated pipeline who shall experience no reporting responsibility to the state railroad commission or the U.S.

Department of Transportation and who may otherwise operate outside the safety regulation of either of these agencies shall additionally provide the following pertaining to the preceding reporting period of June 1 through May 31:

- (A) Copies of internal reports of responses to pipeline emergencies, as pipeline emergency is defined in this article;
  - (B) Current operations and maintenance logs; and
  - (C) Current emergency action plan.
- (5) A log of all the maintenance and monitoring activities conducted on all lines subject to this article for the reporting period shall be made available upon request by the Town.
- (6) The designated owner or operator shall submit the annual safety report with respect to all pipelines subject to the ordinances of the Town of Bartonville. The safety report and verification shall be executed by an officer or a person who is authorized to sign such safety report letter and make verification. The prescribed form of verification on the safety report letter shall read:

“Verification

I, NAME, TITLE, of OWNER/OPERATOR, am authorized to make and have made the foregoing annual safety report letter to the Town for oil and gas pipelines. Any attachments made to this letter are true and correct copies of originals and the information provided in this letter is true and correct to the best of my knowledge and is information based on the standard of inquiry and investigation as would be made by a reasonably prudent pipeline owner or operator within the Town of Bartonville or within the Town’s jurisdiction.

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Signature of Officer or Person Authorized to Sign Letter

STATE OF TEXAS §  
COUNTY OF [Place Where Safety Letter is Prepared] §

The foregoing annual safety report letter was sworn to and subscribed before me by (signatory of letter) on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Signed:

\_\_\_\_\_  
Notary Public for the State of Texas

Printed Name: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_”

- (7) An annual fee in the amount of one hundred dollars (\$100) for administrative costs shall be remitted by each owner or operator for each pipeline on or before June 30 of each year with the annual safety report letter as required herein.
  
- (8) A copy of all initial or follow-up reports provided to the U.S. Department of Transportation or the state railroad commission on unsafe pipeline conditions, pipeline emergencies, or pipeline incidents within the Town’s jurisdiction must be filed concurrently with the Town. In addition, any initial or follow-up reports filed with state and federal environmental regulatory agencies pertaining to pipeline releases within the Town’s jurisdiction that threaten to impact the environment, public health or safety must be filed concurrently with the Town.
  
- (9) Upon written request the pipeline owner or operator shall make available during normal business hours and at the pipeline owner or operator’s local office, documents for review that are required for submittal to or to be maintained on file for the U.S. Department of Transportation and the state railroad commission such as:
  - (A) Operations and maintenance;
  - (B) Employee training;
  - (C) Annual inspection;
  - (D) Repair records;
  - (E) Operating records; and
  - (F) Insurance.

In the case of unregulated pipelines, the Town may request any such additional information that the Town deems may be necessary to the best interests of the Town and to be necessary to protect the public health, safety, and welfare.

**Sec. 4.225 Pipeline Markers**

- (a) In accordance with U.S. Department of Transportation and state railroad commission requirements, pipeline owners or operators are to place and maintain permanent line markers as close as practical over the pipeline(s) at each crossing of a public street, utility easement or railroad. Marker(s) will also be maintained

along each pipeline that is located above ground in an area accessible to the public. The markers shall be of permanent type construction and contain labeling identifying the:

- (1) Pipeline owner or operator;
  - (2) Twenty-four-hour contact telephone number; and
  - (3) A general description of the product transported in the pipeline; i.e. natural gas, oil, petroleum.
- (b) No person shall tamper with, deface, damage or remove any pipeline marker, except the pipeline owner or operator.
- (c) Upon specific reasonable request of the owner of a residential property, the pipeline owner or operator shall install temporary pipeline markers or flagging to reduce the possibility of pipeline damage or interference in accordance with this Ordinance.

#### **Sec. 4.226 One Call System**

- (a) The owner or operator of any pipeline that transports gas, oil, liquids or hydrocarbons that is located in the Town's jurisdiction shall be a member in good standing with the One Call system or other approved excavation monitoring system as required by State Law. The owner or operator of any pipeline that transports gas, oil, liquids or hydrocarbons subject to this section 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 an alternate system between the Town and the pipeline owners or operators. Said services shall be maintained without interruption for the life of the oil and gas pipeline permit. The selected underground utility coordinating system may be different than the one used by the Town for other underground utility services.
- (b) Prior to beginning any excavation, trenching or digging using powered equipment or hand tools that may damage a pipeline, any person in the Town's jurisdiction shall be required to contact the One Call System and any other appropriate underground utility coordinating systems and determine if there are any pipelines or public utilities in the vicinity of the proposed activities.
- (c) If physical contact is made with a pipeline during any excavation, trenching or digging, the pipeline company must be notified by the person or agency making the physical contact with the pipeline for any necessary pipeline inspection or repair.

## **Sec. 4.227 Inactive and Idled Pipelines**

### (a) Inactive Pipelines.

- (1) All reporting records specified in Section 4.224 of this division shall be maintained and kept current on inactive pipelines.
- (2) Inactive pipelines shall be purged of gas, hazardous liquids, and chemicals, and physically isolated if such action does not adversely effect the pipeline owner or operators right-of-way easement and does not prevent the pipeline owner or operator from maintaining the physical integrity of the pipeline. These pipelines shall be maintained to prevent deterioration.
- (3) The means used to physically isolate, if such action is taken, the inactive pipeline shall be included in the information retained on file with the Town for reporting as specified in Section 4.224 of this division.

### (b) Idled Pipelines.

- (1) An entry shall be made to the required reporting records as required in Section 4.224 of this division that the pipeline has been idled.
- (2) Idled pipelines shall be purged, disconnected from all sources or supplies of gas, hazardous liquids, and chemicals, and capped or sealed at the ends.
- (3) Reactivation of idled pipelines shall require notification of the Town pursuant to the standards and requirements specified in Section 4.224 of this division. Reactivation shall require pressure testing for integrity and compliance with state railroad commission and/or U.S. Department of Transportation regulations.

## **Sec. 4.228 Emergency Response Plans and Emergency Incident Reporting**

- (a) Each pipeline owner or operator shall maintain written procedures to minimize the hazards resulting from an emergency. These procedures shall at a minimum provide for:
  - (1) Prompt and effective response to emergencies:
    - (A) Leaks or releases that can impact public health, safety, welfare;
    - (B) Fire or explosions at or in the vicinity of a pipeline or pipeline easement; or

- (C) Natural disasters;
  - (2) Effective means to notify and communicate required and pertinent information to local fire, police, and public officials during an emergency;
  - (3) The availability of personnel, equipment, tools, and materials as necessary at the scene of an emergency;
  - (4) Measures to be taken to reduce public exposure to injury and probability of accidental death or dismemberment;
  - (5) Emergency shut down and pressure reduction of a pipeline;
  - (6) The safe restoration of service following an emergency or incident;
  - (7) A follow-up incident investigation to determine the cause of the incident and require the implementation of corrective measures.
- (b) Each pipeline owner or operator shall meet annually with representatives of the Town to review emergency response plans. These reviews shall be in accord with U.S. Department of Transportation and state railroad commission requirements and the owner or operator will:
- (1) Furnish or update a copy of the emergency response plan described in subsection (a);
  - (2) Review the responsibilities of each governmental organization in response to an emergency or incident;
  - (3) Review the capabilities of the pipeline owner or operator to respond to an emergency or incident;
  - (4) Identify the types of emergencies or incidents that will result in or require contacting the Town; and
  - (5) Plan mutual activities that the Town and the pipeline owner or operator can engage in to minimize risks associated with pipeline operation.

At this meeting, the Town shall provide the pipeline owner or operator with a list of additional contacts that should be made in the event of a pipeline emergency or incident. The Town will inform the pipeline owner or operator of the emergency response groups that will be contacted through 911.

- (c) Upon discovery of a pipeline emergency or incident, the following communications are to be initiated by the affected pipeline owners or operators:
  - (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 owner or 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.
- (d) The pipeline owner or operator shall contact any other emergency response groups that are necessary that may not be activated through the county 911 system.
- (e) The pipeline owner or operator shall contact the Denton County Emergency Planning Committee (DCEPC) no later than one (1) hour after the discovery of any incident.
- (f) Notwithstanding anything any provision in this Article, each pipeline, containing natural gas which contains hydrogen sulfide in concentrations of more than one hundred (100) parts per million, shall be constructed with an audible alarm system that will provide an alarm to the general public in the event of a leak from any pipeline, gathering or flow line subject to this division. Said audible alarm system shall be of a type and design approved by the Town.

- (g) Within two (2) years of the effective date of the pipeline permit and every two (2) years thereafter, the pipeline owner or operator shall conduct an on-site, emergency drill that includes, but shall not be limited to, the personnel operating the pipeline, local law enforcement personnel, and officials of the Town.

**Sec. 4.229 Pipeline Repairs and Maintenance**

- (a) All repairs and maintenance are to be performed in accordance with U.S. Department of Transportation, state railroad commission mechanical integrity requirements. This requirement applies to all pipelines covered by this division, unregulated as well as those operating under federal rules.
- (b) If non-emergency repairs necessitate excavation of the pipeline, prior notification is required to occupants of business establishments and residential dwellings located within three hundred (300) feet from the centerline of the pipeline to be excavated; however, if non-emergency repairs require excavation of a pipeline located within twenty-five (25) feet of another pipeline prior notice obligations shall be expanded to five hundred (500) feet.
- (c) Aboveground non-emergency repairs that are not routine maintenance necessitate prior notification to occupants of businesses and residential dwellings located within three hundred (300) feet from the centerline of the pipeline section to be repaired.
- (d) Without limitation of the methods of giving the notice required in subsections (b) and (c), the leaving of a written notice on the front door of a residence or business establishment or the posting of a written notice at the entry or four (4) corners of any recreational area or place of public assembly to be noticed shall be deemed compliance with this section.
- (e) Inspection of the interior of all lines subject to these standards shall follow Federal DOT and Texas Railroad Commission rules.

**Sec. 4.230 No Grant of Town Easement; No Assumption of Responsibility by Town**

- (a) Nothing in this division grants permission for the use of any street, way or property of the Town, and any such use shall be subject to the Town at its sole discretion.
- (b) Nothing in this division shall be construed as an assumption by the Town of any responsibility of an owner or operator of a pipeline not owned by the Town, and

no Town officer, employee or agent shall have authority to relieve an owner or operator of a pipeline from their responsibility under this article or by any other law, ordinance or resolution.

#### **Sec. 4.231 Protection and Painting of Structures**

All pipeline risers and all appurtenances related to pipeline construction and operations composed of materials generally protected or painted shall be protected and painted and shall be repainted at sufficiently frequent intervals to maintain same in good condition.

#### **Sec. 4.232 Street and Right-of-Way Use**

- (a) In the event an oil or gas pipeline is placed within any public right-of-way under the jurisdiction of the Town, the owner/operator shall comply with the right-of-way regulations as provided in the Town of Bartonville Code of Ordinances and obtain an appropriate license for the use of such right of way.
- (b) To the extent that these regulations conflict with the right of way use ordinance, Section 3.1200 of the Town of Bartonville Code of Ordinances, these regulations shall apply.

#### **Sec. 4.233 Violations**

- (a) Any pipeline owner or operator subject to this division, who shall have failed to comply with this division, shall be deemed to maintain a nuisance.
- (b) It shall be a violation of this division for a person to knowingly make a misrepresentation of any information to be reported pursuant to this division. It shall also be a violation of this division if the person makes such misrepresentation as a result of failure to exercise such due diligence of investigation or inquiry, as would a reasonable prudent pipeline owner or operator conducting business in the jurisdiction of the Town.
- (c) Each violation of any section, subsection or part of this division shall be a separate offense. Each day of ongoing violation shall be a separate offense, and shall carry with it a fine of not less than one thousand dollars (\$1,000) per day nor more than two thousand dollars (\$2,000) per day.
- (d) The Town shall be entitled to injunctive relief in a court of appropriate jurisdiction to prevent violation of or to compel compliance with this division.

#### Sec. 4.234 Bond and Insurance Required

- (a) In the event that a permit is issued for a pipeline or other operations under this division, no actual operation shall be commenced until the permittee shall file with the Town Secretary a bond and a certificate of insurance as follows:
- (1) No person shall begin the construction or operation of any pipeline until he has filed with the Town Secretary a duly executed bond executed by the applicant as principal with an **AM Best "A" rated** surety company that is acceptable to the Town and is licensed to conduct business in the state as surety, payable to the Town and the policy shall name the Town as an additional insured and such surety company shall maintain an **A.M. Best "A"** rating for the policy period. Said bond shall include conditions that the applicant, his heirs, assigns and successors will do the following:
    - (A) Comply with the terms and conditions of the application and this division in the construction, operation and maintenance of the pipeline and related structure(s).
    - (B) That all streets and sidewalks and all other public places and all public utilities that may be injured or damaged in the operation will be restored to their former condition.
    - (C) That all litter, machinery, buildings, trash, and waste used, accumulated or allowed in the construction of any pipeline will be removed within thirty (30) days of the completion of said construction.
    - (D) That all litter, machinery, buildings, trash, and waste used, accumulated or allowed in the operation of any pipeline will be removed within thirty (30) days of the completion of said operations.
    - (E) Such bond shall be in the sum of \$50,000 or \$10.00 per foot of pipe, whichever is greater, and before the permit shall be issued, the bond shall be approved by the Town and filed with the Town Secretary. Such bond shall become effective upon the granting of the permit and shall remain in full force and effect until all work under the terms of such permit has been completed. Such bond may later be amended to include other pipelines, under provisions of other applications, or other permits.
  - (2) In addition to the bond required in subsection (a) (1) above, each person desiring to construct a pipeline or to conduct any other work under the provisions of this division shall be required to carry public liability insurance with a carrier **rated "A" or better by A.M. Best** in a minimum amount of \$1,000,000.00 for one person and \$5,000,000.00 for one accident and property damage insurance in the amount of \$10,000,000.00 for one accident, which shall remain in full force and effect and be carried

so long as such pipeline is operated. A certificate of insurance shall be furnished annually by the permittee or the subsequent owner and operator of such pipeline showing that such insurance is and continues in effect.

- (3) Permittee shall provide and maintain in full force and effect during the term of its permit insurance with the following minimum limits:
  - (A) Worker's compensation at statutory limits;
  - (B) Employer's liability, including bodily injury by accident and by disease, for \$500,000.00 combined single limit per occurrence and a twelve-month (12-month) aggregate policy limit of \$1,000,000.00;
  - (C) Commercial general liability coverage, including blanket contractual liability, products and completed operations, personal injury, bodily injury, broad form property damage, operations hazard, pollution, explosion, collapse and underground hazards for \$5,000,000.00 per occurrence and a twelve-month (12-month) aggregate policy limit of \$10,000,000.00; and
  - (D) Automobile liability insurance (for automobiles used by the permittee in the course of its performance under the permit, including employer's non-ownership and hired auto coverage) for \$2,000,000.00 combined single limit per occurrence.
- (b) The Town shall adjust the above minimum liability limits every five (5) years during the term of the permit to compensate for the effects of inflation and with the objective to reestablish the value of coverage required as of the effective date of this division.
- (c) Each policy or an endorsement thereto, except those for worker's compensation and employer's liability, shall name the Town and its officers, assigns, employees and agents as additional insured parties, but limited to risks indemnified pursuant to this section. If any such policy is written as "claims made" coverage and the Town is required to be carried as an additional insured, then the permittee shall purchase policy period extensions so as to provide coverage to the Town for a period of at least two (2) years after the last date that the permit is in effect. No deductible shall exceed ten percent (10%) of the minimum limits of liability or one percent (1%) of the consolidated net worth of the permittee and its permitted affiliates, whichever is greater.

- (d) Permittee shall assume and bear any claims or losses to the extent of deductible amounts and waives any claim it may ever have for the same against the Town and its officers, assigns, agents or employees in respect of any covered event.
- (e) All such policies and certificates shall contain an agreement that the insurer shall notify the Town in writing not less than thirty (30) days before any material change, reduction in coverage or cancellation of any policy. Permittee shall give written notice to the Town within five (5) days of the date upon which total claims by any party against permittee reduce the aggregate amount of coverage below the amounts required by the oil and gas pipeline permit.
- (f) Each policy must contain an endorsement to the effect that the insurer waives any claim or right in the nature of subrogation to recover against the Town, its officers, assigns, agents or employees.
- (g) Each policy must contain an endorsement that such policy is primary insurance to any other insurance available to the Town as an additional insured with respect to claims arising thereunder.

#### **Sec. 4.235 Termination of Permit**

Any violation of the provisions of any or all sections of this division shall be grounds for the termination of any oil and gas pipeline permit. The termination of any oil and gas pipeline permit shall require the immediate cessation of all operations subject to the permit and shall require the pipeline owner or operator to reapply for a new oil and gas pipeline permit in full accordance with the provisions of this division.

#### **Sec. 4.236 Definitions**

The following words and terms, when used in these regulations, shall have the following meanings, unless the context clearly indicates otherwise.

Applicant. Any person applying to the Town for a permit and/or certificate for an oil or gas pipeline permit.

Commercial Facility. Any structure used for providing, distributing, and selling goods or services in commerce including but not limited to hotels, restaurants, bars, rental operations, and rental properties.

Commission. The Town Planning and Zoning Commission.

Construction. Causing or carrying out any building, bulk heading, filling, clearing, excavation, or substantial improvement to land or the size of any structure. “Building”

includes, but is not limited to, all related site work and placement of construction materials on the site. “Filling” includes, but is not limited to, disposal of excavated materials. “Excavation” includes, but is not limited to, scraping or grading a site. “Substantial improvements to land or the size of any structure” include, but are not limited to, creation of vehicular or pedestrian trails and increasing the size of any structure.

Dedication. Includes but is not limited to a permanent easement or a fee simple acquisition of land for a specific purpose.

Development Review Committee. That group of Town officials as designated by the Town that are charged with the responsibility of meeting with applicants who are submitting applications or petitions for zoning, platting, and other development or land use related applications prior to the scheduling of a public hearing. Development review committee meetings are for the purpose of disclosing to an applicant(s) the technical issues pertaining to their respective application(s) and to direct the applicant to address technical deficiencies prior to a public hearing.

Exempt Pipeline. A pipeline associated with exploration for, production, and gathering of oil and gas, provided that the pipeline is located no farther than two (2) miles from the well being served.

FEMA. The United States Federal Emergency Management Agency. This agency administers the National Flood Insurance Program and publishes the official flood insurance rate maps.

Habitable Structures. Structures suitable for human habitation including, but not limited to, single or multifamily residences, hotels, condominium buildings, and buildings for commercial purposes. Each building of a condominium regime is considered a separate habitable structure, but if a building is divided into apartments, then the entire building, not the individual apartments, is considered a single habitable structure. Additionally, a habitable structure includes porches, gazebos, and other attached improvements.

Hazardous Liquid. As defined by the state railroad commission at 16 Texas Administrative Code, Section 7.80, Definitions, shall mean petroleum or any petroleum product, and any substance or material which is in a liquid state, when transported by pipeline facilities and which has been determined by the United States Secretary of Transportation to pose an unreasonable risk to life or property when transported by pipeline facilities. The term shall be enlarged to include liquefied natural gas and anhydrous ammonia should such materials at any time be introduced into any pipeline subject to this division. It shall also include carbon dioxide, defined at 49 CFR 192.2 as a fluid consisting of more than ninety (90) percent carbon dioxide molecules compressed to a supercritical state.

Idled Pipeline. A pipeline that has been inactive for a least two (2) years even though there may be no specific plans to reactivate the pipeline.

Inactive Pipeline. A pipeline that has temporarily been taken out of service for a period of at least six (6) months for hazardous materials or hazardous liquids and one (1) year for natural gas with the expectation that the pipeline may be reactivated within two (2) years even though there may be no specific plans to reactivate the pipeline.

Jurisdiction of the Town of Bartonville or Town, as used in this Ordinance. The area within the corporate boundaries of the town and its extraterritorial jurisdiction as created under authority of the Texas Local Government Code, section 42.001, to promote and protect the general health, safety, and welfare of persons residing in the adjacent to municipalities, and to define nuisance under authority of the Texas Local Government Code, section 217.042.

New Pipelines. As referred to in Section 4.222, shall mean pipelines constructed after the effective date of this article but shall not include (a) the replacement or repair of any existing pipeline; (b) the realignment of a portion of an existing pipeline to a position that is not greater than fifty (50) feet from its original position; or (c) surface appurtenances added to existing pipelines.

Nonexempt Pipelines. Pipelines other than those subject to state and federal regulation.

Owner or Operator. Any person owning, operating, or responsible for operating an oil or gas pipeline for the purpose of transporting oil, gas, or other gasses or liquids related to the production of oil, gas or other hydrocarbons.

Permittee. Any person authorized to act under a permit or a certificate issued by the Town.

Person. An individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, the United States government, a state, a municipality, commission, political subdivision, or any international or interstate body or any other governmental entity.

Pipeline. All parts of those physical facilities through which gas, hazardous liquids, or chemicals move in transportation, including, but not limited to, pipe, valves, and other appurtenance attached to pipe, compressor units, metering stations, pumping units, regulator stations, delivery stations, terminals, holders, and fabricated assemblies and

breakout tanks whether or not laid in public or private easement or public or private right-of-way within the Town or its jurisdiction.

Pipeline Emergency. Shall refer to a pipeline incident in which any of the following has occurred or is occurring:

- (1) Fire or explosion not initiated by the owner/operator as part of its operations (in accordance with accepted safety practices).
- (2) Release of a gas, hazardous liquid, or chemical that could adversely impact the environment or health of individuals, livestock and/or domestic animals, and wildlife, within the Town or its jurisdiction.
- (3) Death of any person or individual directly attributable to the operations of the pipeline.
- (4) Bodily harm of any person that results in loss of consciousness, the need to assist a person from the scene of the incident, or the necessity of medical treatment in excess of first aid.
- (5) Damage to private or public property not owned by the pipeline owner or operator in excess of five thousand dollars (\$5,000.00) in combined values.
- (6) The rerouting of traffic or the evacuation of buildings.

Pipelines. Excluded from this division are pipelines with normal operating pressures below twenty (20) pounds per square inch gauge. Also exempted are those pipelines that meet all of the following three (3) conditions:

- (1) The pipelines serve as private infrastructure to refineries/petrochemical plants, and storage areas, and terminals;
- (2) The refinery/petrochemical plant infrastructure, storage area, or terminal incorporating the pipeline(s) serves a manufacturing or refining function exclusive to the respective refinery/petrochemical plant; and
- (3) The pipeline is within the premises boundary of the refinery/petrochemical plant, storage area, or terminal.

Practicable. In determining what is practicable, the Town Council shall consider the effectiveness, scientific feasibility, and commercial availability of the technology or technique. The Town Council shall also consider the cost of the technology or technique.

Production and Gathering Facilities. The equipment used to recover and move oil or gas from a well to a main pipeline, or other point of delivery such as a tank battery, and to place such oil or gas into marketable condition. These facilities include, but are not limited to, pipelines used as gathering lines, pumps, and tank batteries.

Street. The entire width between the boundary lines of the street right-of-way that is open to the use of the public for purposes of vehicular travel.

Street Right-of-Way. That land dedicated by easement or by fee simple for the use and construction of a street or roadway.

Structure. Includes, without limitation, any building or combination of related components constructed in an ordered scheme that constitutes a work or improvement constructed on or affixed to land.

Town. The Town of Bartonville, Denton County, Texas.

Unregulated Pipeline. Those pipelines within the Town or its jurisdiction that enjoy exemptions under federal and state rules that exclude such lines from construction standards, safety standards, or reporting requirements of either or both federal and state governments.”

**SECTION 2.** That all provisions of the Ordinances of the Town of Bartonville, Texas, in conflict with the provisions of this ordinance be, and the same are hereby amended, repealed, and all other provisions of the Ordinances of the Town not in conflict with the provisions of this ordinance shall remain in full force and effect.

**SECTION 3.** That should any word, sentence, paragraph, subdivision, clause, phrase or section of this ordinance, or of the Code of Ordinances, as amended hereby, be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance or the Code of Ordinances, as amended hereby, which shall remain in full force and effect

**SECTION 4.** An offense committed before the effective date of this ordinance is governed by prior law and the Code of Ordinances of the Town of Bartonville, as previously amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

**SECTION 5.** That any person, firm or corporation violating any of the provisions or terms of this ordinance shall be subject to the same penalty as provided for in the Code of Ordinances of the Town of Bartonville, Texas, as heretofore amended, and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand Hundred (\$2,000.00) Dollars for each offense; and each and every day such violation shall continue shall be deemed to constitute a separate offense.

**SECTION 6.** This ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law in such case provides; and,

**IT IS SO ORDAINED.**

**DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE  
TOWN OF BARTONVILLE, TEXAS, THE 17<sup>TH</sup> DAY OF FEBRUARY, 2009.**

**APPROVED:**

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Mayor

**ATTEST:**

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Town Secretary