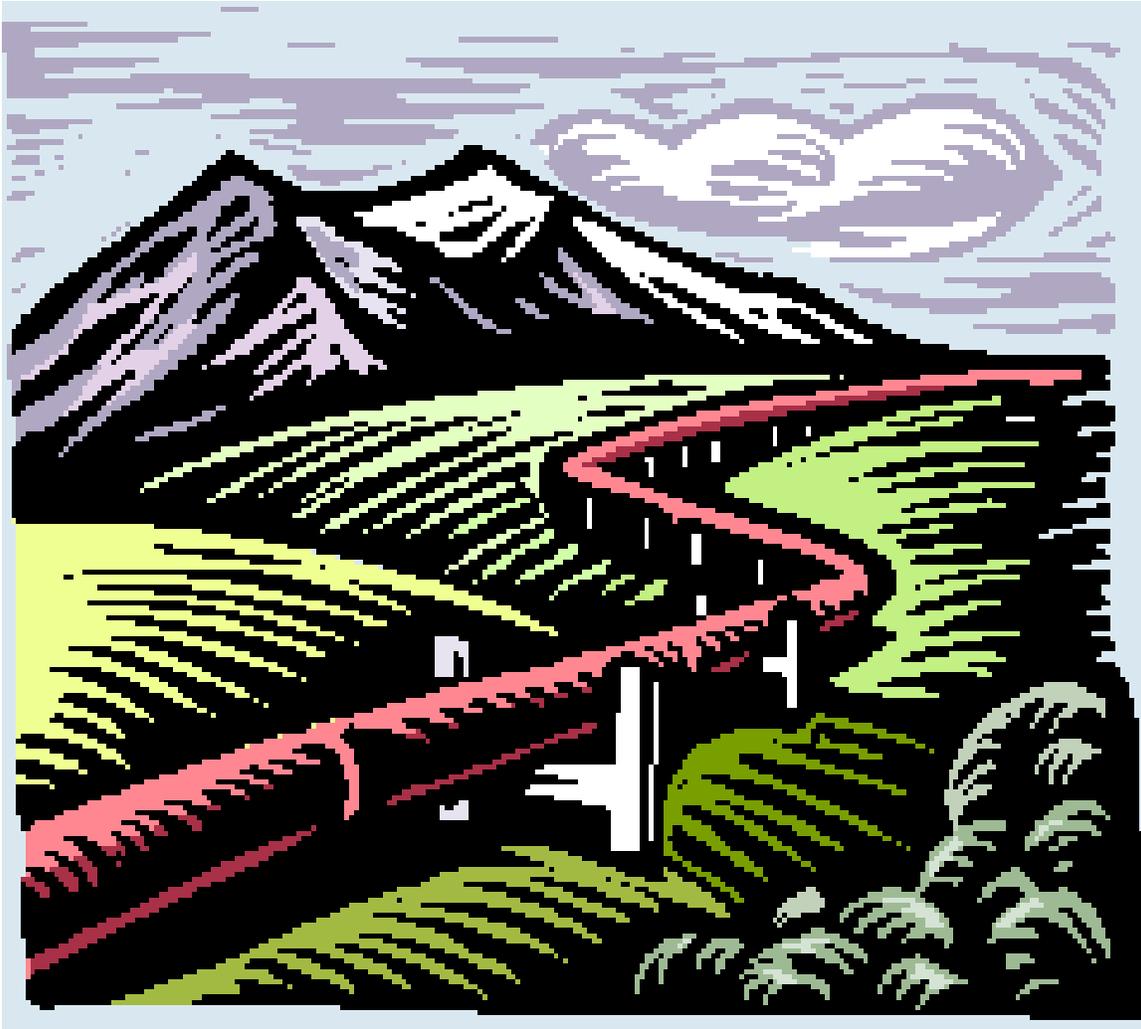


ORDINANCE NO. 35 MEADE COUNTY PIPELINE ORDINANCE



**MEADE COUNTY ORDINANCE NO. 35
PIPELINE ORDINANCE**

Let it be ordained by Meade County for the following Ordinance No. 35 Pipeline Ordinance, the placement of Natural Resource Pipelines.

ARTICLE I: APPLICATION OF THIS ORDINANCE

Section 1.1: The Meade County Commissioners referred in this ordinance as the Commission, working through the Equalization and Planning Department, shall require the filing of a pipeline construction permit form for pipeline(s) that are proposed to be placed in regard to the development of natural resources within and through Meade County.

Section 1.2: A pipeline, per this ordinance, shall be defined as any line that would transport oil, gas, chemicals, refined products and chemical or petroleum slurries that leave or exit at an approved production site. (Not residential or commercial service lines).

Section 1.3: Pipelines that are directly regulated under the South Dakota Public Utilities Commission are exempt from the permit, permit fees, and bonding requirements of this Ordinance.

Section 1.4: This Ordinance applies to production pipelines only however, State and Federal Rules and Regulations and other Meade County Ordinances may be applicable.
Prescription

ARTICLE II: PROCEDURE AND REQUIREMENTS

Section 2.1: Applicants must file with the Equalization and Planning Department the Pipeline Construction Permit Form including all associated plans of the proposed pipeline, and submit property owners names and addresses, for acquired easement or leases, State approval documentation, proposed County Road crossings, proposed County haul routes and voluntary submittal of other information that would assist the Planning Staff in evaluation of the proposed pipeline project as Pre-Construction Requirements.

- A. Each pipeline construction permit application shall be accompanied by five (5) sets of plans showing dimensions and locations of the pipelines, related items or facilities within the subject right-of-way or easement, and 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. Also required for submittal are:
1. Detailed cross section drawings for all public street right-of-way and easement crossings.
 2. A flow diagram showing daily design capacity of the proposed transmission facility;
 3. Changes in flow in the transmission facilities connected to the proposed facility;
 4. The proposed maximum operating pressure, expressed in pounds per square inch gauge (psig).

An application fee must accompany the Pipeline Construction Permit Form and be delivered to the Equalization and Planning Department at the time of the Pre-Construction filing requirement. The application fee is set by the Meade County Commission by Resolution. Pipelines that are directly regulated under the South Dakota Public Utilities Commission are exempt from the permit and permit fees.

Section 2.2: Pipeline owners, operators and/or contractors must have an approved Meade County Haul Road Agreement which includes bonding requirements for haul routes that will be used in Meade County; the amount of the bonding will set by the Meade County Commission by Resolution. Meade County must approve all crossings within Meade County public right-of-ways and each crossing of a Meade County public road will count as equal to one (1) mile of haul road, either gravel or asphalt depending on the surface material at the crossing. The bond will insure the County for any damage that may occur beyond the normal wear to public roads and will be in effect for one year after the pipeline project is completed to cover unforeseen damages to roads used for haul routes or crossings within Meade County. Pipelines that are directly regulated under the South Dakota Public Utilities Commission requiring road/street bonding statewide are exempt from bonding requirements under this Ordinance; if the South Dakota Public Utilities Commission requires a statewide bond which insures Meade County.

A. Pipeline owners, operators and/or contractors must provide detailed maps of all cross-cuts and haul routes on roads within Meade County, which will need to be reviewed by the Highway Superintendent and approved by the Commission. The pipeline owner representative must tour and review the roads with the Meade County Highway Superintendent and inspect the haul roads and crossings before and after the project; inspection notes will be in writing.

Section 2.3: Appearance before the Planning Commission is required for the pipeline project. The Planning Commission will review the permit information and will recommend approval or denial to the Commission. The Pipeline Construction Permit must be reviewed by the Commission in any case at their next scheduled meeting following the Planning Commissioners Meeting. After a review of the Pipeline Construction Permit along with accompanying documents and maps, a Public Hearing Date will be set by the Commission. Two weeks prior to the Public Hearing Date a notice shall be published in two legal newspapers of the County and written notification of the hearing shall be mailed to all active natural resource pipeline companies located in Meade County, at a cost to the applicant.

- A. The applicant must have the public notice approved by the Director of Equalization and Planning or designee prior to publishing said notice.
- B. Affidavit of publications must be presented during the Public Hearing.
- C. Exemption for approval or denial: if the pipeline falls under the jurisdiction of the South Dakota Public Utilities Commission, approval or denial of the project will not be required however, the applicant shall appear before the Planning Commissioners and the Commission to present the project.
- D. The applicant has the burden of proof to establish that:
 - 1. The proposed facility must comply with all applicable ordinances along with applicable laws and regulations;
 - 2. The facility shall not pose a threat of serious injury to the environment nor to the social and economic condition of the public or expected or projected public in the siting area;

3. The facility shall not substantially impair the health, safety or welfare of the public; and
4. The facility shall not unduly interfere with the orderly development of the area or region with due consideration having been given to the views of the Commission and/or public.

Section 2.4: Meade County will keep detailed information filed (not including the plans or permit form), restricted from public access for security purposes, to protect proprietary information, and to protect commercial interests of the applicant.

Section 2.5: Pipeline owners, operators and/or contractors must comply with all applicable local, state and federal laws and regulations in construction and operation of the pipeline.

Section 2.6: Pipeline owners, operators and/or contractors must meet and coordinate with the Meade County Emergency Manager and submit a copy of its Emergency Preparedness Plan for any and all emergencies that may result in an accidental or failure incident regarding the pipeline or any supplemental equipment. Pipeline owner shall designate a responsible local emergency response official and a direct 24-hour emergency phone number. Pipeline owner shall, after being notified of an emergency, cooperate with Meade County officials and make every effort to respond as soon as possible to protect the public's health, safety and welfare.

- A. The Meade County Emergency Manager or designee must be present at the Public Hearing(s) when the contingency and evacuation plan is presented to the public and the Board of Meade County Commissioners by the applicant.

Section 2.7: Construction and Temporary Disruptions:

The pipeline owner, operator and/or contractor shall give documented notice forty-eight (48) hours prior to the commencement of pipeline construction to effected residents, businesses (including agricultural business) and to the dispatch center in the sheriff's office.

- A. Meade County private property owners must have access to their property at all times. Property owners must be notified 48 hours in advance in writing and orally before any planned disruption.
- B. Adequate water supply that meets South Dakota DENR standards must be provided for any disruption to private, public or rural water supplies in advance for any planned disruptions and within 24 hours of any accidental disruptions.
- C. Planned disruptions for businesses including agricultural operations must be kept at a minimum and the property or business owner must be notified 48 hours in advance in writing and orally before any planned disruptions and shall be discussed and agreed upon by all parties before any planned disruption.

Section 2.8: General Inspections: The County shall inspect various haul roads for possible damage and will inspect and investigate complaints made by its citizens at the discretion of the County and shall bill the applicant for the cost of said inspections. Costs for inspections shall be set by the Commission and adopted by Resolution.

- A. Haul Road Inspections may be as many as four (4) per month but may be increased if damage is occurring;
- B. Citizen Complaint Inspections will be on an as needed basis;
- C. Requested Inspections by the applicant and/or representative.

Section 2.9: Temporary Housing

Information must be submitted for temporary housing for workers during the construction of the pipeline project including an estimated number of workers and family, location of proposed housing, water and sewer management, site map showing access lane widths for emergency vehicles and temporary addressing of each housing unit (RV's, trailers, tents etc.) and on site security.

Section 2.91: Drainage

Any discharge of water in the Meade County right-of-way from dewatering the pipeline trenches or pipeline must be approved by Equalization and Planning Department and the Highway Superintendent.

Section 2.92: Setback Requirements

Setback requirements from production transmission shall be a minimum of 25 feet from the centerline of the pipeline to the edge of the pipeline easement

Section 2.93: Abandoned and Inactive Pipelines

Abandoned or 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.

ARTICLE III: VIOLATIONS

Section 3.1: Penalties

1. The provisions of this ordinance shall be administered and enforced by a County Ordinance Enforcement Officer appointed by the Meade County Board of County Commissioners, who shall have the power to make inspections of haul roads, complaints or the job site necessary to carry out his duties in enforcement of the ordinance.
2. The County Ordinance Enforcement Officer shall have the power to appoint deputies to assist in his duties, such deputies to be approved by the Meade County Board of County Commissioners;
3. The County Ordinance Enforcement Officer, and any deputies appointed, shall have authority to issue an ordinance violation notice (ticket) which shall specify, in addition to other information as discretion of such officer, the following
 - A. the date of violation;
 - B. the nature of violation;
 - C. the amount of penalty or fine associated with the violation;
 - D. the date the individual is required to appear in court unless the designated fine is paid prior thereto; and
 - E. the signature, or noted refusal to sign, of the violator.
4. An ordinance violation notice issues under authority of this ordinance shall be

enforced as a civil proceeding before a magistrate court.

5. Violations of this ordinance may also be subject to an action for injunctive relief brought by Meade County.

ARTICLE IV: SUBMITTAL OF INFORMATION

Section 4.1: Updated as-built information upon completion of the pipeline, including a copy of GIS shapefiles of the pipelines and all appurtenances within Meade County, will be filed within ninety (90) days before the pipeline is put into production or use, in the Equalization and Planning Department of Meade County.

ARTICLE V: INDEMNIFICATION

Section 5.1: General Indemnification. The pipeline owner(s) shall indemnify, defend and hold harmless Meade County from any and all liability, loss, damage, cost, expense, and claim of any kind, including reasonable attorneys' and experts' fees incurred by Meade County in defense thereof, arising out of or related to, directly or indirectly, the installation, construction, operation, use, location, testing, repair, maintenance, removal, or abandonment of the pipeline owner(s) pipeline(s) and/or facilities, or from the existence of the pipeline owner(s) pipeline and other appurtenant facilities, and the products contained in, transferred through, released or escaped from said pipeline and appurtenant facilities, including the reasonable costs of assessing such damages and any liability for costs of investigation, abatement, correction, cleanup, fines, penalties, or other damages arising under any environmental laws. If any action or proceeding is brought against Meade County by reason of the pipeline(s) or its appurtenant facilities, the pipeline owner(s) shall defend Meade County at the pipeline owners complete expense, provided that, for uninsured actions or proceedings, defense attorneys shall be approved by Meade County, which approval shall not be unreasonably withheld.

ARTICLE VI: VARIANCES

Section 6.1: Hardship

Where the Commission finds that extraordinary hardships, due to unusual topographic or other conditions, beyond the control of the applicant, may result from strict compliance with these regulations, it may vary the regulations so that substantial justice may be done and the public interest secured; provided that such variation will not have the effect of nullifying the intent or purpose of the Pipeline Ordinance, and will not be detrimental to the public.

The Meade County Planning Board shall initially hear requests for variances from the terms of this ordinance. The board shall base its recommendations on technical justifications, and has the right to attach such conditions to variances as it deems necessary to further the purposes and objectives of this ordinance.

Section 6.2: Application Required

- A. Applications for any such variance shall be submitted in writing by the pipeline or property owner at the time when the preliminary plat is filed for consideration by the Commission/ stating fully and clearly all facts relied upon by the petitioner and shall be supplemented with maps, plans or other additional data which may aid the Commission in the analysis of the proposed project. The plans for such development shall include such covenants, restrictions other legal provisions necessary to guarantee the full achievement of the plan.
- B. Applications for variance shall be considered with the permit application, and the Planning Commission will render its decision no later than thirty (30) days after the meeting at which the proposed pipeline project and request for a variance was submitted.

Section 6.3: Application Costs

- A. Variances require the completion of a Non-Hardship Variance application and the payment will be based on fees set forth by the Meade County Commission, adopted by Resolution, which will be a non-refundable application fee. (Example set-back variance).
 - 1. The payment of the application fee does not guarantee approval. Approval must come from the Planning Commission and the Commission.

Section 6.4: Requirements for Granting a Variance

The Board of County Commissioners shall have the authority to give a Variance. The person requesting the Variance has the burden of showing:

- A. That the granting of the Variance will not be contrary to the public interest;
- B. That the literal enforcement of the Ordinance will result in unnecessary hardship;
- C. That by granting the Variance contrary to the provisions of the Ordinance the spirit of the Ordinance will be observed; and
- D. That by granting the Variance, justice will be done.

Section 6.5: Recommendations to the Commission

For each application for a Variance, the County Planning Board and/or the planning staff shall report to the Board of County Commissioners its findings and recommendations. The Board of Meade County Commissioners, in conjunction with their regularly scheduled monthly meetings, shall set aside time for a public hearing on all proposed variances.

ARTICLE VII: SEVERABILITY AND SEPARABILITY

Section 7.1: Should any Article, Section, or Provision of this Ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of this Ordinance as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.

ARTICLE VIII: EFFECTIVE DATE

The Revised Ordinance No. 35 shall take effect and be in force from and after 20 days from the date of completed publication. Adopted this 5th day of October, 2011;

Dated at Sturgis, South Dakota, this 5th day of October, 2011;

Chairman Alan Aker: _____
Meade County Commissioner

Attested: _____
Lisa Schieffer, Meade County Auditor

First Reading: 1-7-2009 & 2-4-2009 Second Reading: 4-8-2009 Adopted: 4-8-2009 Effective Date: 5-2009	First Reading of Revised Ordinance: 8/3/2011 Second Reading of Revised Ordinance: 10/5/2011 Adopted: October 5th, 2011 Published: October 12th & 19th, 2011 Effective Date: November 8th, 2011
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MEADE COUNTY PIPELINE CONSTRUCTION PERMIT FORM

1. APPLICANT (OWNER OF PIPELINE)

Name: _____ Phone No. _____

Address: _____

CONTRACTOR (if applicable)

Name: _____ Phone No. _____

Address: _____

2. LOCATION OF PIPELINE (attach separate sheet if necessary)

Section: _____ Township: _____ Range: _____

3. SURFACE OWNER OF RECORD (INCLUDE LESSOR OF PROPERTY ALSO) FOR LOCATION OF PIPELINE (attach separate sheet if necessary): _____

ROAD CROSS-CUT AND HAUL ROAD INFORMATION:

In general, Public roads shall not be crossed by open cut.

PROPOSED CROSS-CUTS (ROAD NAMES):

_____ (Include detailed map).

ROAD HAUL ROUTES FOR CONSTRUCTION:

_____ (Include detailed map).

IF FILING IS TO MOVE OR EXPAND CURRENT PIPELINE, DESCRIBE WORK BEING PROPOSED:

_____.

4. PROPOSED STARTING DATE OF CONSTRUCTION: _____

ANTICIPATED COMPLETION DATE: _____

5. I certify that the information herein and attached hereto, to my best belief and knowledge is true and correct.

____/____/____/____
Date Applicant Signature Title

Address: _____
Phone Number: _____

Permit application reviewed by Director of Equalization and/or designee

Date Reviewed: ____/____/____ By: _____
Name

Additional Information Required:

_____.

Signed by: _____

Date scheduled for Planning Commission: ____/____/____

Date scheduled for Commission: ____/____/____

Permit application reviewed by Highway Superintendent and/or designee

Date Reviewed: ____/____/____ By: _____
Name

Additional Information Required:

_____.

Bond will be set at \$ _____

Signed by: _____

Meade County Emergency Manager has reviewed and approved the Emergency Contingency and Evacuation Plan: Yes (Date: ____/____/____) No

Concerns:

_____.

Copy of Insurance Policy Received and Approved: Yes No