

Tri-County Regional Planning Commission

PIPELINE SAFETY

MODEL ORDINANCE

INTRODUCTION

Pipeline rights-of-way serve as areas for the placement and maintenance of pipelines. According to the Federal Energy Regulatory Commission's (FERC) Citizen Guide, rights-of-way are "...generally 75-100 feet in width."¹ In the Tri-County Region, staff has found some of the Region's pipeline rights-of-way covering upwards of 150' in width.

For the public in general, too many individuals perceive the visible pipeline right-of-way as an area of equal protection. Not only will it allow ample space for facilities care but the area will cover the extent of damage if the underground facilities fail or are compromised. This thought could not be further from the truth. Underground pipeline failures, while not very common, are still extremely dangerous, having caused damage to structures as well as human life.

This model ordinance was created to help protect the public from such damage by reducing risk in an effort to enhance public safety. By eliminating encroachment within a certain distance of the right-of-way corridors, municipal officials can

protect their citizens from unnecessary harm to life and property. The purpose of the ordinance is to regulate a safe separation distance of all new buildings/structures and their proximity to existing or in some cases proposed pipelines. The model ordinance has considered information from the states of Texas, Washington, and several Pennsylvania counties, including some faced with an increasing number of pipelines resulting from the Marcellus Shale gas play.

The model ordinance is intended as an amendment to either a zoning or subdivision and land development ordinance. Municipalities should review this ordinance, examine their



Digital Photograph: Photobucket Corporation, Copyright 2011. All rights reserved.

local situation, and adopt the regulations that make the most sense for their municipality, modifying anything they deem appropriate. All provisions in the model ordinance which specifically target land use must only be applied to the zoning ordinance as permitted by the Pennsylvania Municipalities Planning Code (MPC).² Each of these sections has been purposefully marked with just such a cautionary note.

This model ordinance is intended to be advisory only and is not intended to be relied upon as legal advice. A municipality is not required to adopt this ordinance. Municipal officials are urged to seek legal advice from their solicitor before enacting such an ordinance. In addition, municipal officials are encouraged to contact field safety representatives with the pipeline company to engage them in discussion before commencing with ordinance preparation.

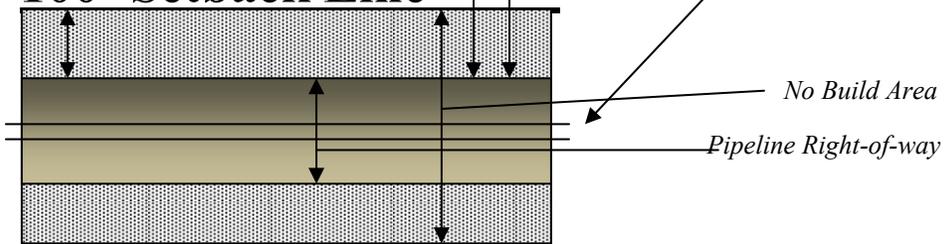
ORDINANCE CONSIDERATIONS

The Ordinance considers and applies a uniform set of building setback distances to all buildings and structures. A reduction to the setback distance is offered for accessory buildings (sheds, storage buildings, and garages). Diagram 1 displays the applied setback distances for the TCRPC model ordinance.

1,500'

500' Setback Line

100' Setback Line



*Pipeline Consultation Zone and
Deed Covenant Area*

*No Build Area for buildings or
structures with high population
totals*

Pipeline

No Build Area

Pipeline Right-of-way

Diagram 1.
(Not to Scale)

[Optional Ordinance Exhibit]

¹ Federal Energy Regulatory Commission (FERC), *A Citizens Guide: An Interstate Natural Gas Facility on My Land? What Do I Need to Know?* July, 2010 Update, Pg. 6

² Pennsylvania Municipalities Planning Code (MPC), Act of 1968, P.L. 805, No. 247, as Reenacted and Amended, Pg. 47

**PIPELINE SAFETY
MODEL ORDINANCE**

ORDINANCE NO __-__

AN ORDINANCE OF [MUNICIPALITY], PENNSYLVANIA, PURSUANT TO ARTICLE V OF THE PENNSYLVANIA MUNICIPALITIES PLANNING CODE AMENDING THE [ZONING OR SUBDIVISION AND LAND DEVELOPMENT (Select one)] ORDINANCE BY PROVIDING FOR PLAN SUBMISSION, BUFFER, SETBACK, SIGNAGE, AND LANDSCAPING FOR NEW DEVELOPMENT ADJACENT TO PIPELINES & EFFECTIVE DATE.

SECTION 1. TITLE

This ordinance shall be known and may be cited as the Pipeline Safety Ordinance.

SECTION 2. AUTHORITY

The [Council – Board] of [Municipality], under, and by virtue of and pursuant to the authority granted by Act 247, the Pennsylvania Municipalities Planning Code, as reenacted and amended, does hereby enact and ordain this ordinance.

SECTION 3. APPLICABILITY

- (A) This ordinance applies to all buildings or structures proposed to be constructed along existing and certain proposed pipeline corridors.
- (B) Considers pipelines in existence prior to the effective date of this ordinance.
- (C) Considers pipelines proposed to be constructed after the effective date of this ordinance, including those processed to the point of advertisement for the Federal Energy Regulatory Commission (FERC) final public hearing.

SECTION 4. PURPOSE

The purpose of this ordinance is to protect the health safety and general welfare of the general public from unnecessary risk associated with gathering and transmission pipelines. While it would be overburdening and impractical to apply regulations to eliminate all losses stemming from a pipeline break or rupture, this ordinance intends to address the following:

- A. Reduce the susceptibility of people to injury by minimizing the frequency of risk.

- B. ***Note to ordinance preparer: This section should only be placed in a zoning ordinance.***

Reduce the susceptibility of damage to buildings or structures with large on-site populations potentially needing evacuation consideration. These uses include but are not limited to:

1. Educational facilities
2. Hospitals
3. Care facilities like daycare
4. Nursing homes
5. Jails or prisons
6. Development which in the opinion of the [Governing Body] may endanger human life, such as facilities needing an evacuation plan, or sites where hazardous materials might be stored

C. Minimize the likelihood of damage to the pipeline

D. Help mitigate the degree of impact from a pipeline failure

SECTION 5. DEFINITIONS

PIPELINE - As defined by Title 49, Code of Federal Regulations, Section 192.3 and 195.2. Recommend add the definition here. Recommend include the source.

GATHERING PIPELINES - Any pipeline that transports from a current production facility to a transmission pipeline.

TRANSMISSION PIPELINES - Include, but not limited to, pipelines designed for the transmission of a “gas”, or “petroleum gas”, except a “service line”, as those terms are defined by Title 49, Code of Federal Regulations, Section 192.3; also includes pipelines designed for the transmission of a “hazardous liquid”, as defined by Title 49, Section 195.2. Recommend put in italics the definition of “hazardous liquid” and cite the source.

SECTION 6. REGULATIONS

This ordinance applies to three principal areas of proximity with respect to an existing or publicly known proposed pipeline. They include a no-build setback area; a setback area for larger populated buildings’ and a consultation zone. Deed covenants are required to be placed on any subdivision or land development plan for all three areas advising of the dangers of construction activity in close proximity to pipelines. The following covenant is required to be placed on all subdivision and land development plans affecting property within 1,500’ of a pipeline right-of-way.

Current and prospective landowners are advised of the dangers of improving properties in close proximity to the pipeline right-of-way. The potential exists for facilities within

close proximity to the right-of-way to become compromised. Individuals are forewarned with any construction activity in these areas, there is inherent risk to both property and human health.

- A. The no-build building setback distance applies to all structures, excluding accessory, and shall be a distance of 100' from the pipeline right-of-way. Accessory buildings shall adhere to a 50' setback distance from the pipeline right-of-way. This section also includes proposed rights-of-way that have proceeded to the point of advertisement for the Federal Energy Regulatory Commission (FERC) final public hearing. No hazardous or highly volatile materials are allowed to be stored within this initial setback area.

- B. The no-build building setback distance requirement applies to buildings or structures with high population totals within 500' of a pipeline right-of-way, including proposed rights-of-way that have proceeded to advertisement of the FERC final public hearing. ***[Note to the ordinance preparer: The parameters of "large populated buildings or structures" will need to be stated. The TCRPC recommends special consideration for educational facilities, care facilities like daycare, hospitals, and nursing homes. The municipal officials may also consider preventing the storage of hazardous and/ or highly volatile materials in this area]***

- C. Individuals intent on subdividing or developing in the area running from the pipeline right-of-way to a distance of 1,500' will be required to provide documentation confirming they have met with the applicable pipeline company staff on the structural improvements they are proposing and are aware of any risks.

SECTION 7. SEVERABILITY ***[Note to ordinance preparer: Include this section only if not in the present applicable ordinance.]***

If any section, clause, provision, or portion of these regulations shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect any other section, clause, provision, or portion of these regulations. It is hereby declared to be the intent of the [Governing Body] that this Ordinance would have been adopted if such invalid or unconstitutional section, clause, provision or portion had not been included herein.

SECTION 8. REPEALER ***[Note to ordinance preparer: Include this section only if not in the present applicable ordinance.]***

- A. Any Ordinance or part thereof inconsistent herewith is hereby repealed to the extent of such inconsistency.

- B. Nothing in this Ordinance hereby adopted shall be construed to affect any suit or legal proceeding now pending in any court, or any rights accrued or liability incurred, or any cause of action accrued or existing under any Ordinance hereby

repealed; nor shall any right or remedy of any character be lost, impaired or affected.

SECTION 9. MUNICIPAL EXEMPTION FROM LIABILITY [*Note to ordinance preparer: Include this section only if not in the present applicable ordinance.*]

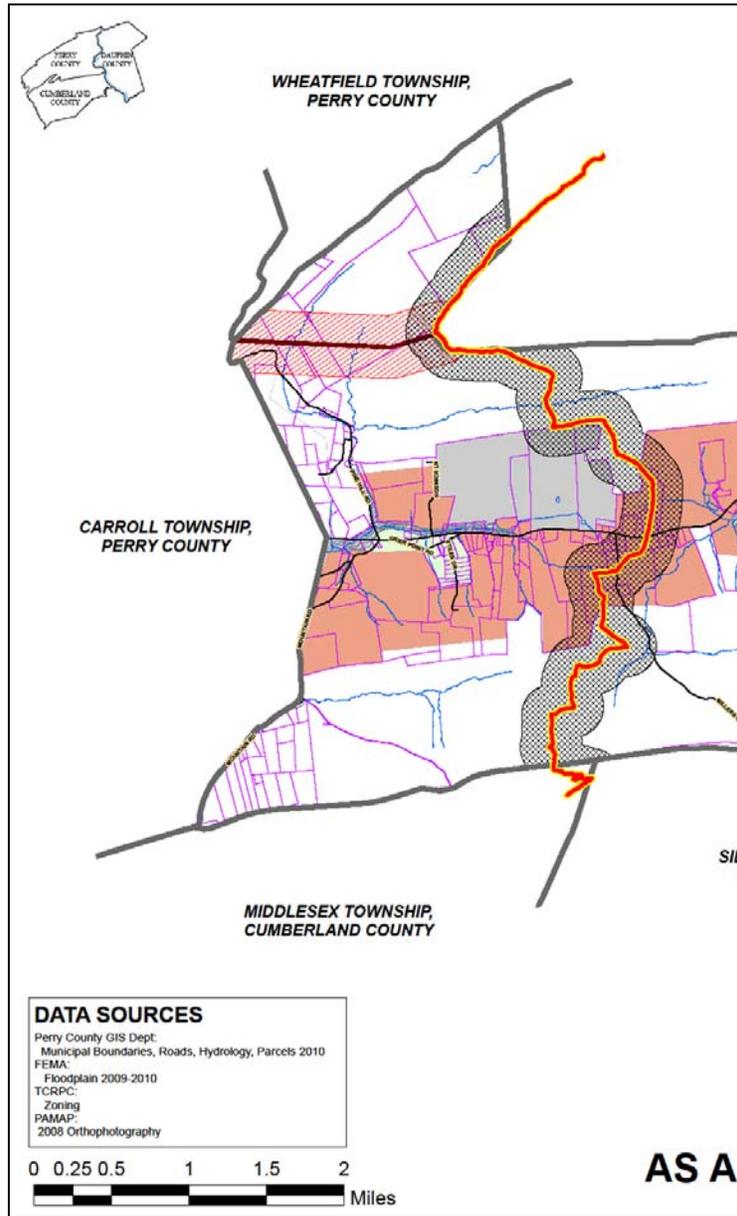
[Municipality] and its agents, officials and representatives shall not under any circumstances be liable or responsible for damages caused to any person or property by reason of the issuance of any permit under the provisions of this ordinance, or by reason of construction in compliance with the terms of this ordinance.

SECTION 10. EFFECTIVE DATE

This ordinance shall become effective on the ____ day of _____, 20__.

[Note to ordinance preparer: Although it is not required in the case where the ordinance will be used to amend a zoning ordinance, municipal officials are encouraged to include the changes as an overlay district(s) and revise the zoning map.]

The following image displays a portion of a Zoning Map, which makes use of a pipeline buffer as an overlay district.



Tri-County Regional Planning Commission, Portion of Rye Township Zoning Map, 2011