

ARTICLE 1. AMENDMENT TO THE CODE.

The Seabrook City Code is hereby amended by adding a new Chapter 62 entitled "Pipelines" as indicated below.

Section 62-1. Declaration of policy.

The City Council declares that the policy of the city in the manner of granting to any person the privilege to construct, operate and maintain any pipe or pipeline within the jurisdiction of the city for the purpose of thereby transporting oil, gas, brine or any other liquid or gaseous substance whatsoever shall be stated in this chapter. The provision of this article shall be administered by the Director of Community Development or designee.

Section 62-2. Definition of terms.

All terms used herein shall be taken in their ordinary signification except the following:

City shall mean the City of Seabrook now incorporated and as hereafter expanded by annexation or consolidation.

Commodity shall mean any liquid or gaseous substance or other product capable of being transported through a pipeline and which is, or may become, flammable, toxic or otherwise hazardous to human, animal or plant health and/or life.

Director shall mean the director of community development or designee.

Permittee shall mean the person to whom a permit is issued under the provisions of this ordinance.

Person shall mean an individual, corporation, partnership, association or any other entity, however organized.

Pipeline shall mean any pipeline or part thereof, including pipe, valves and any appurtenances thereto, which is used for the transportation of a commodity into, across, under or over the city.

Relocation shall mean the horizontal or vertical movement of a pipeline.

Reposition shall mean the movement of a pipeline when such movement is necessary for the public construction or public improvement: construction, maintenance and improvement of streets, water lines, sanitary sewer lines, storm sewers, ditches and public utilities.

Review Committee shall mean the director of community development, the building official, the city engineer, the fire chief/marshal, the director of public works, and the emergency management coordinator or their designees.

Section 62-3. Exemption.

This chapter shall not extend to:

- (1) Any person now or hereafter providing natural gas service for residential and business use only within the city pursuant to a franchise from the city as a gas distribution utility;
- (2) Raw or potable water pipelines, valves and appurtenances; or
- (3) City, county or state agencies for storm drainage or sanitary sewer service pipelines, valves and appurtenances, except industrial wastes transported by pipeline to treatment facilities outside the corporate city limits.

Section 62-4. Permit required.

No person shall commence the construction, relocation or reposition of a pipeline within the city without a permit being obtained from the city for such pipeline under the terms of this chapter.

Section 62-5. Application for permit.

A person desiring a permit shall submit a written application to the director and concurrently there with shall pay a non-refundable fee to the city. The application form, which can be obtained from the director, shall be submitted to the director, in duplicate, with the following information contained thereon:

- (1) The name, business address and telephone number of the pipeline owner and operator.
- (2) The names, titles and telephone numbers of the following persons:
 - a. The person submitting the information;
 - b. The principal contact for submittal of information; and
 - c. The 24-hour emergency contact (and an alternate 24-hour contact), who
 1. Can initiate appropriate actions to respond to a pipeline emergency;
 2. Has access to information on the location of the closest shutoff valve to any specific point in the city or its jurisdiction; and
 3. Can furnish the common name of the material then being carried by the pipeline.
- (3) The origin point and destination of the pipeline being constructed, adjusted, relocated, replaced, repositioned or repaired.

- (4) A description of the commodity(s) to be transported through the pipeline. A copy of the material safety data sheets for the commodity(s) shall be included with the submittal if the owner or operator is required by federal or state law to have material safety data sheets available.
- (5) The maximum allowable operating pressure on the pipeline as determined according to the U.S. Department of Transportation and State Railroad Commission procedures or the maximum design strength for unregulated pipelines, if applicable.
- (6) The normal operating pressure range of the pipeline.
- (7) The maximum allowable temperature under which the substance or product may be pumped or otherwise caused or permitted to flow through any and all of the particular portions of the pipeline, if applicable.
- (8) Engineering plans, drawings, maps with summarized specifications showing the horizontal pipeline location, the pipeline covering depths and location of shutoff valves within the corporate limits of the city. A minimum of two (2) emergency shut off valves shall be required at entry and exit points for new construction. The location of shutoff valves must be known in order for emergency responders to clear the area for access to the 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 feet.
- (9) A summary description of the time, location, manner, means and methods of the proposed construction, including but not limited to the following:
 - a. Detailed cross section/profile drawings for all public way crossings if requested by the Director;
 - b. A plan accurately showing the location, course and alignment of the proposed pipeline, including valve locations (existing and proposed), and all public ways in which the proposed pipeline shall be laid, provided that the degree of accuracy shall not be required to exceed the accuracy which can be practicably achieved by using United States Geological Survey (USGS) maps.
- (10) A statement that the pipeline will comply with the applicable standards required by this chapter as well as all applicable federal, state and local laws and regulations.
- (11) A statement that the permittee shall, at any time in the future, where such pipeline or portion thereof crosses or is laid within, under or across any street, road or utility right of- way, drainage way or public way existing or projected at the time the permit is issued, reposition such pipeline (which shall include lowering or raising the pipeline, as well as casing it, if required) at the permittee's sole expense, when the city reasonably requires such action incidental to public construction or public improvement: Construction, maintenance and improvement of streets, water lines, sanitary sewer lines, storm sewers, ditches and public

utilities. The city shall give the permittee prior written notice of the need for repositioning location, and such notice shall be mailed certified mail, return receipt requested, to the permittee as designated in the application. The permittee shall have six months to complete such repositioning.

- (12) A statement that the permittee shall notify the director at least 48 hours prior to performing any scheduled repairs or maintenance on the pipeline. For unscheduled emergency repairs or maintenance, taken to protect the public health, safety or welfare, the permittee shall notify the city police department dispatcher as soon as practical but no later than one hour after commencing repairs or maintenance.

The director expressly reserves the right to require the submission of additional information if the director reasonably deems the information necessary to meet the requirements of this chapter. Such supplemental information shall be submitted by the permittee to the director within ten days, excluding weekends and city holidays, of the permittee's receipt of the director's written request. While awaiting the requested information, the period in which the city must process the application shall be suspended.

Section 62-6. City Council Consideration.

- (a) Within 30 days from the date on which the completed permit application and associated fees are received at the official address for the director, the review committee shall advise the applicant whether, based on the committee's professional judgment, the contemplated installation, adjustment, relocation or replacement is in compliance with this chapter. If the committee does not deem the contemplated installation to be in compliance with this chapter, the committee shall specifically notify the applicant of any deficiencies found.
- (b) After the notice described in subsection (a) of this section is given to the applicant, the director, based upon the assessment of the committee as to compliance with this chapter, shall report to the city council upon their examination of such application and plans, including such changes in the plans as the applicant may have made upon their suggestion, with their recommendations as to the granting or denying of the permit application, based upon compliance or noncompliance with this chapter, at the next regularly scheduled council meeting for which adequate notice may be given. The director shall in such report and recommendation state whether the proposed course or alignment of the line and depth at which it is proposed to be laid through undeveloped or unplatted areas is, to the extent economically feasible, consistent with the probable future development of such areas, location and opening of future streets, and laying of water, sanitary sewer and storm sewer lines incident to such probable future development.
- (c) After the report and recommendation is made to the city council, the city council shall promptly approve such application if it meets all applicable city, state and federal requirements as well as all of the terms and conditions of this chapter and shall thereupon issue a permit.

Section 62-7. Permits.

Upon approval, permits shall be executed in duplicate originals by the director. One duplicate original shall be delivered to the permittee and the other shall be retained by the city. A copy of the

permit shall be conspicuously displayed at each point where the pipeline construction, relocation or repositioning intersects any public street, right-of-way, easement or public property within the corporate limits of the city.

Section 62-8. Permit transference.

Permits may be transferred after prior written notice to the director, on a form provided by the director, which notice shall set forth the full name and address of the transferee, the full name and address of the transferee's registered agent or owner (if an unincorporated entity) and an agreement that the transferee shall be bound by all provisions of the application and permit as originally acted upon and granted by the city. The transfer application shall be signed by an authorized officer, owner or representative of both the transferor and transferee and shall be accompanied by a non-refundable transfer fee.

Section 62-9. Permit fees .

- (a) Every permit requested under the terms and conditions of this chapter, with the exception of those permits necessitated due to a repositioning of a pipeline at the request or required by the city or another governmental entity, shall provide for the payment by the applicant to the city of a non-refundable application fee of \$1,000.00 per pipeline.
- (b) Every permit granted under the terms and conditions of this chapter shall provide for the payment of an annual fee thereafter in the amount of \$2,500.00 per pipeline per year, payable annually in advance on or before July 1 of each year.
- (c) Every permit transfer request shall be accompanied by a non-refundable transfer fee of \$500.00.

Section 62-10. Permit expiration.

If construction, relocation or reposition of the pipeline does not commence within one year from the date of the permit, the permit shall be void unless the permittee makes written application for an extension. The city council may grant an extension for no more than one additional year.

Section 62-11. Abandonment.

- (a) If a permit is not renewed by payment of the required fees as provided in Section 62-9 and current proof of insurance/financial responsibility as provided in Section 62-14 and subject to sixty (60) days notification to the permittee, all facilities owned by the permittee within the city will be deemed to have been abandoned.
- (b) Pipelines abandoned by permittee after the date of this chapter shall have their permit voided and shall not thereafter be subject to the terms of this chapter except as follows:
 - (1) The owner or operator shall report to the director, in writing, the abandonment of a pipeline that has been permitted in accordance with this chapter.
 - (2) all known abandoned pipelines shall be purged, disconnected from all sources or suppliers of gas, hazardous liquids and chemicals and shall be capped or sealed at each end within the city limits.

Section 62-12. Construction requirements.

All pipelines shall be constructed in accordance with the following guidelines:

- (1) All pipelines shall be constructed in accordance with the latest applicable minimum standards, if applicable, established by the United States Department of Transportation, Texas Railroad Commission, or any other entity having regulatory authority over pipeline safety and construction matters.
- (2) All pipelines shall be buried to specified depths, as follows:
 - a. Pipelines which run under or within 20 feet of any street or streets and/or any proposed street which has been designated on the master plan for the city or the official city map of the city, shall be buried to a depth of at least six feet measured between the top of the pipeline and the natural surface of the ground.
 - b. Pipelines which run under any ditch and/or drainage area or structure shall be buried to a depth of at least five feet measured between the top of the pipeline and the ultimate channel or structure depth. Permittee is responsible for determining the ultimate depths from the appropriate agency and reporting said information with permit application.
 - c. Pipelines for areas not mentioned in subsections a or b above shall be buried to a minimum depth of four feet measured between the top of the pipeline and the natural surface of the ground. Provided further, if at any particular point or points the director determines that a greater or lesser depth be required, such permit shall not be granted except upon agreement by the permittee to comply with such depth requirement.
- (3) All pipelines shall cross public streets, public properties and public rights-of-way as closely as possible to a right (90°) angle.
- (4) All public streets, roads and ways in existence at the time of construction of a pipeline shall be bored under and shall not be cut for the purpose of constructing, relocating or repositioning a pipeline.
- (5) All pipeline related excavations in any public right-of-way shall be backfilled in a manner satisfactory to the city; and if after once refilling such excavation the earth within the excavated area settles so as to leave a depression, the permittee shall be required to make further necessary fills as ordered by the city. All areas shall be graded and maintained so as to provide drainage of the area.
- (6) The permittee shall be required to repair all portions of any street across or along and under which pipelines are laid and place the same in as good a state of repair and condition as they were at the time the construction, repair or removal was commenced, such repairs to be to the satisfaction of the city.
- (7) Upon completion of the pipeline, the permittee shall provide the director with three as built (or record) drawings of the pipeline, showing the route, distances and shut-off valve locations. These drawings shall be submitted in digital format acceptable to the city.

Section 62-13. Pipeline location.

- (a) Where feasible, a new pipeline shall be located within existing pipeline corridors. The feasibility of locating new pipelines in established corridors in the city shall be considered from the perspective of the pipeline owner or operator, taking into consideration the following:
- (1) The availability and cost of corridor space;
 - (2) The availability and cost of right-of-way to and from the corridor;
 - (3) Technical, environmental, safety, efficiency and cost issues related to building, operating and maintaining both the portion of the pipeline that would be located in the corridor and the lengths of pipeline required to gain access to and from routing through a corridor;
 - (4) Any delays in right-of-way acquisition or pipeline construction that may result from routing through a corridor;
 - (5) The availability of an alternative right-of-way to the owner or operator; and
 - (6) All other matters that a prudent pipeline owner or operator would consider in selecting the route for a new pipeline.

Provided that the owner or operator has considered in good faith the use of existing corridors within the city, the determination of the owner or operator as to the feasibility shall be determinative, unless there is clear and convincing evidence that contradicts the conclusion of the owner or operator as determined by the city.

- (a) When it is not feasible for a new pipeline to be located within an existing corridor, the pipeline shall, to the extent practical:
- (1) Follow property boundaries of fee parcels or existing easements to avoid unnecessary fragmentation of land and avoid diagonal routes that would create slivers of land between public ways, except if following:
 - a. Manmade or topographical features is in the public interest;
 - b. Boundary lines or existing easements is impractical under the circumstances;
 - c. Boundary lines or existing easements poses safety concerns; or
 - d. Boundary lines or existing easements would not be feasible.
 - (2) Avoid areas of unique recreational or aesthetic importance, environmentally sensitive areas and areas of historical or cultural significance, unless appropriate mitigation measures are undertaken to the satisfaction of the director; and
 - (3) Avoid conflict with existing or planned urban development's as well as the location of planned future streets and laying of planned water, sanitary sewer and storm sewer lines, structures and ditches incident to such future development.

Section 62-14. Liability.

A condition of granting any permit shall include that the permittee indemnify and hold harmless the city, to defend, indemnify, and hold harmless the city from all damages, costs, expenses, and attorney fees for all claims and suits including claims for death, personal injury, and property damage, arising out of, or connected with, the construction, relocation, repositioning, maintenance, operation, repair or removal of any part or all of such pipeline within any public right-of-way or easement, whether or not caused in whole or in part by the negligence of the city, its agents, or employees.

- (1) Except in an emergency, the permittee shall notify the director 48 hours before commencing at any time excavation in any portion of any said unpaved or unimproved street, and not wholly close any street, but shall at all times maintain a route of travel along and within such roadway area, to the extent such travel was allowed prior to the excavation.
- (2) In the event of an emergency, it being evident that immediate action is necessary for the protection of the public and to minimize property damage and loss of investment, the permittee may, at his/her own responsibility and risk, make necessary emergency repairs, notifying the city police dispatch of this action as soon as practical, but not later than one hour after commencing repairs or maintenance.

Section 62-15. Insurance and bonding requirements.

- (a) A permittee shall furnish, prior to any construction, repair, adjustment, relocation, reposition, replacement or transfer in ownership, and shall further maintain at all times during the life of the permit, commercial general liability insurance for bodily injury and property damage, including explosion, collapse and underground hazard, coverage in the minimum combined single limit amount of \$10,000,000 as it pertains to all pipelines or other facilities owned by the permittee in the public way in the jurisdiction. Such policy shall name the city, its officers, agents and employees as additional insureds.
- (b) A certificate of insurance, or policy of insurance if requested by city, specifying the coverage required in subsection (a) of this section with an insurance company having acceptable insurance rating shall be furnished to the director prior to the issuance of any permit. Such certificates of insurance shall provide that at least 30 days prior written notice for the termination or modification of the required insurance shall be given to the city.
- (c) In lieu of liability insurance, a permit applicant shall furnish evidence of financial responsibility which demonstrates the applicant's qualifications as a self-insurer. Such evidence may take the form of the most recent corporate financial report which is acceptable to the city council as giving assurance of the applicant's financial ability to comply with the requirements of this section.

Section 62-16. Pipeline permit updates.

It shall be the responsibility of the permittee to provide, in writing, updated information on the following aspects of each permit:

- (1) Name and mailing address of the pipeline owner.

- (2) Name and telephone number of two officers or persons available on a 24-hour basis who can furnish or obtain immediately, information as to the pressure at the point or points of input nearest to the city and the common name of the commodity carried by the pipeline.
- (3) A description of the commodity(s) being transported through the pipeline. A copy of the material safety data sheets for the commodity(s) shall be included with the update if the owner or operator is required by federal or state law to have material safety data sheets available.

This information will be provided with the annual update or upon transference or any change in ownership.

Section 62-17. Pipeline signs

Every pipeline, new or existing, within the corporate limits of the city, shall bear at all times, in plain, indelible lettering, signs denoting the ownership of said pipeline, permanently affixed in the pipeline right-of-way where said pipeline right-of-way crosses public streets, public properties or public rights-of-way.

Section 62-18. Penalty.

Any violation of any section, subsection or part of this chapter shall be deemed a misdemeanor and such violation thereof during all or any portion of any day shall be a separate offense and misdemeanor; and upon final conviction, every person, firm, association, corporation or partnership guilty of such violation shall be fined in a sum not more than \$2,000.00 per each day of violation, a fine not to exceed \$5,000.00 for violation of any provision relating to point source effluent limitations or discharge of pollutant, or the maximum amount provided by law, whichever is greater.

Section 62-19. No grant of city easement; no assumption of responsibility by city.

- (1) Nothing in this chapter grants permission for the use of any street, right-of-way or property of the city, and any such use shall be subject to the city at its sole discretion.
- (2) Nothing in this chapter shall be construed as an assumption by the city of any responsibility of an owner or operator of a pipeline not owned by the city, and no city officer, employee or agent shall have authority to relieve an owner or operator of a pipeline from their responsibility under this chapter.

ARTICLE 2. PENALTY CLAUSE; INCLUSION INTO THE CODE.

This Ordinance is hereby incorporated into and made a part of the Seabrook City Code. Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount as provided in Section 1-15 "General Penalties; Continuing Violations", the City Council specifically finding that this Ordinance governs public health and safety. Each day of violation shall constitute a separate offense.

ARTICLE 3. REPEAL OF CONFLICTING ORDINANCES.

All ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

ARTICLE 4. SEVERABILITY.

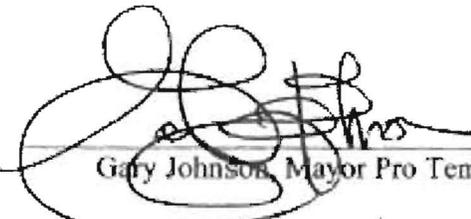
In the event any clause, phrase, provision, sentence, or any part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Seabrook, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

ARTICLE 5. NOTICE BY PUBLICATION.

The City Secretary shall give notice of the enactment of this Ordinance by promptly publishing it or its descriptive caption and penalty after final passage, in the official newspaper of the City. The Ordinance shall take effect upon publication.

Approved on first reading this 3rd day of June 2014.

Approved on second and final reading this 17th day of June 2014.



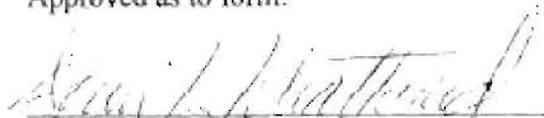
Gary Johnson, Mayor Pro Tem

ATTEST:



Michele L. Glaser, TRMC
City Secretary

Approved as to form:



Steven L. Weathered
City Attorney

