

**Lee County Board
Dixon, Illinois**

ORDINANCE NO. _____

**AN ORDINANCE REGULATING DEVELOPMENT OF
PRIVATE PIPELINES**

A. Applicability. The purpose of this ordinance is to facilitate the construction, installation, and/or alteration of Private Pipelines in Lee County to ensure the protection of health, safety, and welfare while also avoiding adverse impacts to important areas such as agricultural lands, endangered species habitats, conservation lands, and other sensitive lands. This ordinance is not intended to replace safety, health, or environmental requirements contained in other applicable codes, standards, or ordinances. The provisions of this ordinance shall not be deemed to nullify any provisions of local, state or federal law.

B. Definitions.

1. Agricultural Impact Mitigation Agreement: An agreement negotiated between a land owner and a utility company focused on the restoration aspect of impacts that result from utility projects being constructed across a landowner's productive agricultural land.
2. Agricultural Land: Land used for cropland, hayland, pastureland, managed woodlands, truck gardens, farmsteads, commercial ag-related facilities, feedlots, livestock confinement systems, land on which farm buildings are located, and land in government set-aside programs.
3. Applicant: Any person, provider, firm, partnership or Company who files an application for any permit required for the construction, replacement, or alteration of a pipeline or any component thereof.
4. "As-built" Drawings: A revised set of drawing submitted by a contractor upon completion of a project or a particular job. They reflect all changes made in the specifications and working drawings during the construction process, and show the exact dimensions, geometry, and surveyed location of all elements of the work completed under the contract.
5. Company: Pipeline company, utility company, and any contractor or sub-contractor in the employ of the Company for the purpose of completing the pipeline or any mitigative actions contained within the required building permit.
6. Cropland: Land used for growing row crops, small grains, or hay; includes land that was formerly used as cropland but is currently in a government set-aside program and pastureland comprised of prime farmland.
7. County Appointed Third Party Engineer: An Illinois licensed, professional engineer selected by the County and paid for by the Applicant to perform reviews and inspections of applicable project plans and sites.

8. Drainage Tile: Artificial subsurface drainage system including, but not limited to, clay and concrete tile, vitrified sewer tile, corrugated plastic tubing, and stone drains.
9. Dwelling: A building, or portion thereof, occupied or intended to be occupied exclusively for residential purposes, but not including recreational vehicles, travel trailers or tents, which complies with the use regulations set out in the various districts provided for in this title.
10. Private Pipeline: Any transmission pipeline for gases, including within a storage field that is not owned or operated by a public agency. Pipeline means all parts of those physical facilities through which gas moves in transportation, including pipe, valves, and other appurtenance attached to pipe, compressor units, metering stations, regulator stations, delivery stations, holders, and fabricated assemblies. This definition does not apply to either service lines for local service to individual buildings or distribution lines, as defined in 49 CFR 192.3.
11. Landowner: Person(s) holding legal title to property on the pipeline route from whom the Company is seeking, or has obtained, a temporary or permanent easement, or any person(s) legally authorized by a landowner to make decisions regarding the mitigation or restoration of agricultural impacts to such landowner's property.
12. Pipeline, Gas: Any transmission pipeline for gases including within a storage field. This definition does not apply to either service lines for local service to individual buildings or distribution lines, as defined in 49 CFR 192.3.
13. Pipeline, Hazardous Liquid: Any pipeline used for the transmission of anhydrous, ammonia, petroleum, or petroleum products such as propane, butane, natural gas liquids, benzene, gasoline, jet fuel, fuel oil, and kerosene.
14. Pipeline Impact Radius: The distance within which the potential failure of a gas pipeline or a hazardous liquids pipeline could have significant impact to people and property.
15. Prime Farmland: Agricultural land comprised of soils that are defined by the USDA Natural Resources Conservation Service as being "prime" soils (generally considered the most productive soils with the least input of nutrients and management).
16. Right-of-way: The land opened, reserved or dedicated for a public street or alley including sewer and water lines, walkways, drainage courses or other public purposes.
17. Right-of-way, Pipeline: Includes the permanent and temporary easements that the Company acquires for the purpose of constructing and operating the pipeline.
18. Topsoil: The uppermost layer of the soil that has the darkest color or the highest content of organic matter, more specifically defined as the "A" horizon.

C. Construction of Private Pipelines. No person, business, firm, corporation or Company shall construct or operate a Private Pipeline without having fully complied with all the provisions of this ordinance.

D. Permits Required. No person, business, firm, corporation or Company shall construct or operate a Private Pipeline without first obtaining both a special use permit and a building permit from Lee County.

E. Special Use. A Private Pipeline may be permitted in all districts, except within Residential Zoning Districts or Platted Subdivisions, as a special use, in accordance with the following regulations and performance standards.

A petition for special use permit for a private pipeline must be on a form approved by the County Zoning Administrator.

Performance standards. The performance standards and bulk regulations listed in §10-15-1: Lighting of the Lee County Code; §10-15-8: Fire and Explosion of the Lee County Code, and Chapter 13 Landscaping , shall be suspended for a Private Pipeline and the following regulations shall apply instead. All other performance standards and bulk regulations of the district shall apply.

1. Other Standards and Codes. All Private Pipelines shall comply with any applicable local, state and federal regulatory standards, including but not limited to the Illinois Gas Pipeline Safety Act (220 ILCS 20).
2. The Agricultural Impact Mitigation Agreement (AIMA) executed between the owner and operator of the Private Pipeline shall be minimum standards applied to all construction and deconstruction activities. The owner and operator, contractors, and subcontractors must, at a minimum, comply with the design and construction standards specifications of the AIMA. Where those standards conflict with standards outlined within, the more restrictive shall apply.
3. Setbacks.
 - a. Pipelines may be constructed and operated in the Public Right-of-way and on private property as long as they comply with all conditions contained within this ordinance.
 - b. Pipelines shall be setback a minimum of 150' from any primary residence or a distance as determined by the pipeline impact radius, whichever is the more restrictive of the two.
4. Pipeline Impact Radius. The pipeline impact radius for a gas pipeline is similar to the potential impact radius identified by Title 49 of the Code of Federal Regulations Part 192.903. Potential impact radius as defined by 49 CFR 192.903 is determined by the formula $r = 0.69 * (\text{square root of } (p * d^2))$, where 'r' is the radius of a circular area in feet surrounding the point of failure, 'p' is the maximum allowable operating pressure in the pipeline segment in pounds per square inch and 'd' is the nominal diameter of the pipeline in inches. Maximum allowable operating pressure and nominal diameter will be provided by the pipeline operator to the County at the time of the application. The pipeline impact radius indicated in these regulations is not necessarily the same as the potential impact radius used by the Illinois Commerce Commission to enforce 49 CFR 192.903. Both the pipeline impact radius and potential impact radiuses are approximations of the effect of any given potential failure event.
 - a. The pipeline impact radius for a hazardous liquid pipeline is 150 feet.

- b. No use, building, or structure established or built after the effective date of this ordinance shall be located within a pipeline impact radius except as provided in paragraph IV.C.3.
 - c. Exemptions.
 - i. Agricultural or an accessory use, accessory building, or accessory structure to agriculture.
 - ii. Any pipeline, wellhead, or use that is an accessory use, accessory building, or accessory structure to a gas pipeline or hazardous liquid pipeline or a wellhead.
 - iii. Enlargement, repair, and replacement of conforming uses, buildings and structures that were lawfully established and existed on the effective date of this ordinance.
 - iv. Uses, buildings, and structures established after the effective date of this ordinance, on conforming lots of record that existed on the effective date of this ordinance.
 - v. Any outlot or street creation in any residential zone or residential platted subdivision.
 - vi. Any portion of a lot containing a driveway and construction of a driveway on any lot in any residentially zoned district.
 - d. Notice of pipeline impact radius.
 - i. The County Zoning Administrator shall provide notice of the existence of a pipeline impact radius to any landowner that submits a Zoning Use Permit Application on any of the following:
 - i. land that is located within a pipeline impact radius; or
 - ii. land that is subject to an easement for underground gas storage; or
 - iii. land within 150 feet of an easement for underground gas storage.
 - ii. The notice shall include the following information:
 - i. the approximate location and type of the relevant pipeline; and
 - ii. the dimension of the pipeline impact radius including the approximate location on the proposed LOT; and
 - iii. the last known point of contact for the relevant pipeline operator.
5. Signage. All Private Pipelines shall follow the local, state and federal guidelines for signing and marking an underground pipeline and its appurtenances.
6. Lighting. If lighting is provided at any aboveground facilities, lighting shall be shielded with a full cut-off fixture to minimize light pollution on adjacent parcels.
7. The Applicant shall comply with all applicable Performance Standards of the applicable zoning district as provided in §10-15 of the Lee County Code.
8. Construction Standards. The Applicant shall comply with all Construction Standards and Policies as identified in the Agricultural Impact Mitigation Agreement as provided by the Illinois Department of Agriculture when applicable. When AIMA is not applicable, the standards outlined herein, as well all any local, state and federal construction standards shall apply. Where conflict occurs, the more restrictive shall apply.

9. Outdoor Storage. Only the outdoor storage of materials, vehicles and equipment that directly support the construction, operation and maintenance of a Private Pipeline shall be allowed. The Zoning Administrator or their designee shall have the discretion to determine whether outdoor storage complies with this provision.
10. During construction of a Private Pipeline, construction activities shall commence no earlier than 6:00 A.M. and shall be discontinued no later than 9:00 P.M.
11. Revocation. The Special Use Permit may be revoked by the County at any time for non-compliance of any of the conditions found within this Ordinance. Any Lee County Zoning Board of Appeals recommendation to revoke the Special Use for the inoperable/abandoned Private Pipeline Project facility shall be forwarded to the full Lee County Board for consideration of the recommended revocation of the Special Use Petition. Decommissioning of a Private Pipeline Project facility must occur in the event they are not utilized for twelve (12) consecutive months and/or the landowner does not receive payment for six (6) months. The last day of this twelve (12) month period shall be considered the termination date. The operating company shall complete decommissioning of the Private Pipeline Project facility within twelve (12) months of the termination date, or the County will perform decommissioning at the operating company's expense.
 - a. In the case of revocation of the Special Use Petition for the Private Pipeline Project facility by the Lee County Board, the Lee County Zoning Administrator shall notify the Applicant and the landowner that an updated Decommissioning Plan must be submitted to the Lee County Zoning Office within sixty (60) days of the certified revocation date.
 - b. All decommissioning and restoration work conducted pursuant to revocation of the Special Use Petition by the Lee County Board shall be completed in a timely manner not to exceed two hundred forty (240) days after the date of the revocation order by the Lee County Board. Up to one hundred eighty (180) days of additional time to accomplish decommissioning and restoration may be granted by the Lee County Zoning Administrator if the Lee County Zoning Administrator determines that additional time is in the best interests of Lee County, landowners and area highway authorities.

F. Application Requirements. The required information must be submitted either with the application or during the hearing on the application before the Zoning Board of Appeals. The Applicant shall provide ten (10) paper copies and one (1) digital copy of all required submittals to the Zoning Office. However, the Applicant shall only be required to submit two (2) copies of all documents proving ownership or interest in project parcels. The Applicant shall be required to seek a special use permit for parcels of real estate on which any aboveground, or underground, pipeline facilities are located.

Application shall include, but is not limited to, the following information:

1. Applicant information.
2. Pipeline location map.

3. Description of project.
4. Detailed description of materials being transported through the pipeline.
5. Application forms and permits for all applicable local, State and Federal agencies, including but not limited to Illinois Commerce Commission; Illinois Department of Natural Resources – State Ecological Review, Wetland/Floodplain Evaluation, and Illinois Historic Preservation Review; U.S. Army Corps of Engineers; U.S. Fish and Wildlife Service; Illinois Environmental Protection Agency; Illinois Department of Agriculture; Illinois Department of Transportation Utility Permits.
6. Copies of all negotiated Landowner Easement Agreement.
7. Detailed Decommissioning Plan.
8. Any additional agreements, including Road Use and Repair Agreements and other permits required by the County and/or the Township in which the Private Pipeline development is to occur.
9. Type of installation (boring, trenching).
10. A site plan with existing conditions showing the following:
 - a. Existing property lines from the exterior boundaries, including the names of adjacent property owners and current use of those properties.
 - b. Location of the Pipeline Impact Radius.
 - c. Existing public and private roads, showing widths of the roads and any associated easements.
 - d. A contour map showing topography at two-foot intervals of the project site.
 - e. Existing vegetation (list type and percent of coverage: i.e., cropland, grassland, wooded areas etc.).
 - f. Waterways, streams, and rivers.
 - g. A copy of the current FEMA FIRM map that shows the subject property.
 - h. Mapped soils according to the Lee County Soil Survey.
 - i. Surface water drainage patterns, and to the extent possible, subsurface drainage lines.
 - j. Existing pipelines and utilities.
 - k. Sign locations.
 - l. Elevations of proposed pipeline.
11. A site plan for the Private Pipeline showing the following:
 - a. Planned location of pipeline.
 - b. Planned location of all aboveground facilities.
 - c. Planned location of taps.
12. Manufacturers' Specifications. The Applicant shall provide standard manufacturer's specifications and recommended installation methods for all major equipment for both aboveground and underground Private Pipeline facilities. Specifications for the actual

equipment to be used shall be required prior to the issuance of a building permit. All reports, plans and specifications must be up-to-date prior to the issuance of a building permit.

13. Fire Protection and Emergency Services. Prior to the issuance of a building permit, the Applicant shall communicate and coordinate with local fire, emergency services, and Lee County, to develop a fire protection and emergency services plan to assure adequate preparedness and response is executed in the event these services are required. An E-911 address will be issued if required. Additionally, at the Applicant's expense, the Applicant shall supply the Fire Protection District with any special equipment, chemicals, or associated materials needed to suppress a fire involving a pipeline and must replace expired equipment, chemicals, and associated materials as needed.

14. Endangered Species and Wetlands.

- a. The Applicant shall be required to initiate a natural resource review consultation with the Illinois Department of Natural Resources ("IDNR") through the Department's online EcoCat Program. The Applicant shall include a copy of the Agency Action Report and the response from the IDNR. Areas reviewed through this process will be endangered species and wetlands. The cost of the EcoCat consultation shall be borne by the Applicant.
- b. The Applicant shall adhere to any and all requirements or recommendations by IDNR in their EcoCat report to ensure the preservation and protections of any endangered species or wetlands.
- c. The Private Pipeline shall be located, designed, constructed, and operated so as to avoid and, if necessary, mitigate the impacts to wildlife to a sustainable level of mortality.

15. Road Use and Repairs Agreements.

- a. Road Use and Repairs Agreements Approval Requirements. All Road Use and Repairs Agreements shall be approved by the Applicant and the Lee County Board prior to the hearing on the application for Special Use Permit.
- b. Agreement Contents. The contents of the Road Use and Repair Agreements shall include, but not be limited to the following:
 - i. Transportation Impact Analysis (TIA) that details the expected construction routes and the ESAL count per roadway segment. Core samples, or non-destructive testing methods, as approved by the County Engineer, shall be used to determine the base and surface thicknesses of each public roadway used. In addition, all bridges and culvers on the construction routes shall be identified and evaluated for structural adequacy. Adequate exhibits shall be included so that the full impact to the public roadways within the project footprint can be determined.
 - ii. Requirements that regulate the construction traffic impacts.
 - iii. Requirements for repairing damages to the roadway base, surface and appurtenances, in addition to providing for roadway surface upgrades.
 - iv. Governing practices regarding utility installations on or near the rights of way.

- v. County requirements that include providing permits when proper information is provided by the Applicant.
 - vi. Requirement for a Certificate of Liability Insurance for ten million dollars (\$10,000,000) per occurrence.
 - vii. Requirement for a Security instrument in the amount of one hundred twenty-five percent (125%) of the estimated roadway base damage repair and roadway surface repairs and upgrades.
16. Consulting Fund. Not less than thirty (30) days after zoning has been granted, an initial engineering and legal fee of no less than one hundred thousand dollars (\$100,000) shall be deposited into the County Treasury (the Consulting Fund) to cover all engineering consulting and legal fees incurred by the County for the duration of the project from conception to completion. The amount of the initial engineering and legal fee may be adjusted at the discretion of the County Engineer based on the size of the proposed project. Additional funds shall be required, as deemed necessary by the County Engineer. Monies remaining in the Consulting Fund at the completion of the project will be refunded back to the pipeline project.
17. Storm Water Management, Retention of Topsoil and Minimized Disturbance to Prime Farmland. At a minimum, the Applicant shall adhere to the standards outlined in the AIMA, even if no AIMA is required, addressing soil retention and restoration issues.
- a. Storm Water Management. A storm water management plan and drainage permit in accordance with the County's Storm Water Management Ordinance (Lee County Code §11-4) shall be approved by the County Engineer before the issuance of the project building permit. The plan shall be signed and sealed by an Illinois Licensed Professional Engineer.
 - b. Retention of all Topsoil. No topsoil may be removed, stripped, or sold from the proposed pipeline site pursuant to or as part of the construction of the SES.
 - c. Minimizing Disturbance of Prime Farmland as defined by the U.S. Department of Agriculture. The disturbance to prime farmland caused by construction, operation, and deconstruction of the pipeline shall be minimized at all times consistent with good engineering practice.
18. Drainage. The Applicant shall commit to repairing or restoring all drainage tiles damaged during construction and deconstruction to the same or better condition as to when construction began, specifically outlined in the AIMA, whether or not an AIMA is required. The Applicant shall also contact local drainage districts before the start of any construction to locate drainage district tiles and provide the County of Lee with documentation of the contact prior to issuance of a permit.
19. Duration of Permit. Notwithstanding the provisions of Section 10-2A-3 of the Lee County Code, the Zoning Administrator shall revoke a special use permit granted for any pipeline when a building permit has not been secured within three (3) years from the date the special use was granted. The County Board may extend this three-year period for such time as it

shall determine, for good cause and without further hearing before either the Zoning Board of Appeals or the County Board.

G. Operational Standard Conditions.

1. Material Handling, Storage and Disposal.
 - a. All solid wastes related to the construction, operation and maintenance of the pipeline shall be removed from the site promptly and disposed of in accordance with §10-15-10: Waste Material of the County Code or in accordance with federal, state and local laws; whichever of are more restrictive or stringent.
 - b. All hazardous materials related to the construction, operation and maintenance of the Private Pipeline shall be handled, stored, transported and disposed of in accordance with §10-15-12: Hazardous Materials of the County Code or in accordance with federal, state and local laws; whichever of are more restrictive or stringent.
2. Points of Contact. The Applicant of the Private Pipeline shall maintain with the Zoning Administrator and Lee County Sheriff's Department, a primary, and two (2) secondary, points of contact. This information shall be kept current at all times, and changes shall be reported immediately or as soon as possible.
3. Duration of Special Use Permit. Notwithstanding the provisions of Section 10-2A-3 of the Lee County Code, the Zoning Administrator shall revoke a special use permit granted for any SES when a building permit has not been secured within thirty-six (36) months from the date the special use was granted. The County Board may extend this three-year period for such time as it shall determine, for good cause and without further hearing before either the Zoning Board of Appeals or the County Board. If no building permit is secured by the end of the thirty-six (36) months, then the Special Use Permit automatically becomes null and void. After the construction is complete, the Applicant shall provide certified "as-built" drawing to the Lee County Zoning Administrator and the Lee County Assessor showing the locations of the SES, roads, transmission lines, and other improvements related to the SES Project and a legal description of the land utilized for the improvements.

H. Reports.

1. Annual Report. A written report shall be submitted to the Zoning Administrator by June 30 of each year the private pipeline is under commission. This written report shall provide a summary of all activities of the pipeline for the previous year.
 - a. Emergency contact information, including primary and secondary points of contact
 - b. Letter of credit
 - c. Administration fee for letter of credit
 - d. Facility Maintenance and Operations Reports
1. Maintenance Report. The Applicant of the Private Pipeline Project shall submit, on an annual basis, due by June 30, a summary of the maintenance report to Lee County Zoning Office including all maintenance performed on the systems. In addition to the above annual summary, the Applicant shall furnish such maintenance report as Lee County reasonably requests. Requirements include, but are not limited to:
 - i. Emergency contact information for the Private Pipeline

- ii. Letter of credit for the Pipeline project
 - iii. Administration fee for letter of credit
- 2. Operation Report. The Applicant shall provide an annual certification report due to the Zoning Administrator by June 30 of each year. The report is to include operational summaries for the pipeline systems including, but not limited to:
 - b. The date the pipeline(s) became inoperable.
 - c. The date it came back into service or the expected date for the pipeline(s) to return to service.

I. Modifications.

- 1. Any and all modifications to the private pipeline design after approval will require a full resubmittal and review by the County Board and Staff.

J. Decommissioning. At a minimum, the Applicant shall adhere to the AIMA decommissioning (deconstruction) requirements regardless of if an AIMA is or is not required.

- a. Before a Special Use Permit can be granted, the Applicant must present a decommission plan to ensure that all Private Pipeline facilities are properly and safely decommissioned after their useful life. This includes, but is not limited to:
 - i. flushing the pipeline with inert gas, preferably nitrogen;
 - ii. cleaning the pipeline with pig devices;
 - iii. disconnecting the retiring pipelines from product supply sources; and / or
 - iv. in-situ abandonment or pipeline recovery, and reuse in alternative processes.
 - b. For pipelines located within Public Rights-of-way, full removal and site reconstruction is required.
- 1. The Facility Owner shall, at its expense, complete Deconstruction of a Private Pipeline Facility within eighteen (18) months after the end of the Useful Life of the facility.

Restoration of the area occupied by the project improvements shall be returned to as near as practicable to the same condition that existed immediately before construction of such improvements.

- 4. Failure to file an Annual Report within four hundred twenty-five (425) total days of the date of initial commercial operation or the last filed Annual Report shall be cause for the Lee County Zoning Administrator to request the Lee County Zoning Board of Appeals to convene a public hearing to determine whether abandonment of the facilities has occurred. The Applicant shall be provided the opportunity to present evidence demonstrating that the Project facilities are operable and not abandoned.
- 5. Any Pipeline unit which has been inoperable for three hundred sixty-five (365) consecutive days or four hundred twenty-five (425) total days in two (2) consecutive calendar years shall be presumed inoperable and abandoned. A determination or finding of presumed inoperability/abandonment by the Lee County Zoning Administrator is grounds for the Lee

County Zoning Board of Appeals to conduct a public hearing to consider revocation of the Special Use Petition covering the Pipeline in question. The Lee County Zoning Administrator shall notify the Applicant and the Pipeline site landowner of their intention to seek revocation of the Special Use at least thirty (30) days prior to issuance of a notice of public hearing by the Lee County Zoning Board of Appeals of such recommendation. The Applicant shall be provided an opportunity to present evidence demonstrating that the Pipeline(s) are operable and not abandoned.

6. Revocation

- a. Any Lee County Zoning Board of Appeals recommendation to revoke the Special Use for the inoperable/abandoned Private Pipeline(s) shall be forwarded to the full Lee County Board for consideration of the recommended revocation of the Special Use Petition.
- b. In the case of revocation of the Special Use Petition for the Private Pipeline(s) by the Lee County Board, the Lee County Zoning Administrator shall notify the Applicant and the landowner that an updated Decommissioning Plan must be submitted to the Lee County Zoning Office within sixty (60) days of the certified revocation date.
- c. All decommissioning and restoration work conducted pursuant to revocation of the Special Use Petition by the Lee County Board shall be completed in a timely manner not to exceed eighteen (18) months after the date of the revocation order by the Lee County Board. Up to one hundred eighty (180) days of additional time to accomplish decommissioning and restoration may be granted by the Lee County Zoning Administrator if the Lee County Zoning Administrator determines that additional time is in the best interests of Lee County, landowners and area highway authorities.

7. Permits

- a. Prior to the issuance of building permits for any Private Pipeline(s), the Applicant shall submit a Project Decommissioning Plan to the Lee County Zoning Administrator. Said plan, prepared by an independent Illinois Certified Professional Engineer, shall be acceptable to the County Appointed Third Party Engineer and the Lee County Zoning Administrator, such acceptance not to be unreasonably withheld, and shall include the following information:
 - i. Description of the circumstances that will trigger decommissioning.
 - ii. Description of the methodology and cost to remove all required pipeline facilities covered by the approved Special Use Petition.
 - iii. Methodology and cost to restore all areas used for construction, operation and access to a condition supporting land use similar to the land use prior to the Private Pipeline Project construction.
 - iv. A schedule of work and a list of permits necessary to accomplish the work.

- v. Methodology to identify and manage any hazardous or special materials.
 - vi. Certification that all decommissioning and restoration work will be performed in accordance with any standards and conditions in the applicable WECS Project Road Agreement.
 - vii. Confirmation by affidavit that the obligation to decommission the WECS Project is included in the lease agreement for every parcel included in the Petition.
 - viii. The amount of financial security as outlined in section **J.8.d.**
- b. As a condition of receiving a permit from the County, the facility owner must pay the cost of hiring a County Approved Third Party Engineer to provide a certified estimate of decommissioning costs. The amount shall be provided in its entirety at the time of application for the construction permit. Security financing must be in the form of an irrevocable letter of credit or a cash escrow, unless the County Board, in its sole discretion, agrees to accept a performance bond.
 - c. The Decommissioning Plan shall be binding upon the Applicant at the time of submission and any subsequent Owner/Operator of the Private Pipeline Project facilities.
 - d. The Estimated Decommissioning Cost is intended to cover the projected cost to secure completion of decommissioning the Private Pipeline in its entirety and complete site restoration.
 - i. The facility owner shall provide decommissioning security financing of 125% of the estimated cost of decommissioning and restoring as determined by the County Appointed Third Party Engineer. To determine that amount, the Project Owner/Operator will provide a list of at least two (2) construction/demolition companies capable of completing a decommissioning of the proposed Pipeline Project to the Lee County Zoning Administrator and the County Appointed Third Party Engineer. The County may choose a company from the provided list or another company of its choice. All costs to secure the bids will be borne by the Applicant. The County Appointed Third Party Engineer and the Lee County Zoning Administrator will review the two bids and decide if one is acceptable, if not a third company can be asked to bid. The County Appointed Third Party Engineer and the Lee County Zoning Administrator will then decide to accept one of the bids to approve the amount of financial security to be received. The decommissioning costs shall be reduced or altered by the estimated costs of salvage and/or resale values. This financial assurance shall not release the surety from liability until the Financial Assurance is replaced.
 - ii. The amount of the financial security shall be equal to 125% of the Estimated Decommissioning Cost in accordance with the approved Special Use Petition.
 - iii. For Escrow accounts, financial security shall be phased in over the first 11 years of the Project's operation as follows:

1. On or before the first anniversary of the Commercial Operation Date, the Facility Owner shall provide the County with Financial Assurance to cover ten (10) percent of the amount of security for decommissioning of the project as determined in the Decommissioning Plan.
 2. On or before the sixth anniversary of the Commercial Operation Date, the Facility Owner shall provide the County with Financial Assurance to cover fifty (50) percent of the amount of security for decommissioning of the project as determined in the updated Decommissioning Plan and Decommissioning Cost Estimate provided during the sixth year of commercial operation.
 3. On or before the eleventh anniversary of the Commercial Operation Date, the Facility Owner shall provide the County with Financial Assurance to cover one hundred (100) percent of the estimated costs of decommissioning of the project as determined in the updated Deconstruction Plan provided during the tenth year of commercial operation.
- iv. Prior to the completion of every sixth (6th) year of operation, and every fifth (5th) year thereafter for the life of the project, or as deemed necessary by the Lee County Zoning Administrator, the Owner/Operator shall provide an updated Decommissioning Plan to the Lee County Zoning Administrator with an updated Estimated Decommissioning Cost to be reviewed and approved by the County Appointed Third Party Engineer.
 - v. If this revised sum is greater than the prior Estimated Decommissioning Cost projected sum of all decommissioning and restoration work less salvage value and/or resale value of any equipment or materials, then the Owner/Operator shall provide any difference in the prior Annual Financial Security Amounts within sixty (60) days, and the following Annual Financial Security Amounts due shall be in accordance with this new sum and the remaining projected operational duration.
 - vi. If at any point, during the life of the project, the Annual Financial Security Amounts paid to date exceed the new Estimated Decommissioning Cost, then the County shall reimburse or reduce the total Annual Financial Security Amounts within sixty (60) days, and the following Annual Financial Security Amounts due shall be in accordance with this new sum.
- e. Any interest accruing to the financial security will be included in the calculation of Total Financial Security being held by the Owner/Operator for the purposes of decommissioning and may therefore be used to offset contributions made by the Pipeline Owner/Operator toward the Estimated Decommissioning Cost. Once the project has been fully decommissioned in accordance with the requirements of this section, any remaining security shall be reduced or returned to the Pipeline Owner/Operator.
 - f. All deposits with the Escrowee under the Decommissioning Plan section shall be to an escrow or trust account to be held by the Escrowee pursuant to a written trust

or escrow agreement between the Pipeline Project Owner/Operator and the Escrowee. The written agreement shall include the provisions of this Decommissioning Plan section and such other terms and conditions as are not inconsistent herewith. The Pipeline Owner/Operator shall provide copy of the executed written agreement to the Lee County Zoning Administrator prior to the issuance of a Building Permit. All disbursements from the escrow or trust account for costs, fees or expenses of decommissioning a Pipeline Project facility shall require approval of the Lee County Zoning Administrator and Lee County Treasurer, who shall not unreasonably withhold or delay said approval. Upon the completion of the decommissioning of a Pipeline Project facilities, any excess funds held in escrow or trust account will be returned to the Pipeline Owner/Operator. The Pipeline Owner/Operator will be solely responsible for all costs, fees and expenses of decommissioning a Pipeline Project facility in excess of the amount held in the escrow or trust account. The written agreement between the Pipeline Owner/Operator and the Escrowee shall be binding upon and insure to the benefit of the assignees and successors in interested or the Pipeline Owner/Operator and the Escrowee. The Pipeline Owner/Operator shall be solely liable and responsible for all costs, fees and expenses of establishing and maintaining the escrow or trust account.

g. Other forms of financial security may be utilized if approved by the County Board.

K. Inspections. The Applicant will provide Lee County with copies of any and all approved required inspections by local, state or federal authorities.

L. Third Party Review Required. All applicable reviews and inspections required for the construction and continued use of a Private Pipeline, including but not limited to, Civil Engineer, Mechanical Engineer, Electrical Engineer, Plumbing Engineer, and Environmental Engineer, shall be covered by the Applicant and approved or appointed by Lee County.

M. Liability Insurance. The Applicant of the Private Pipeline shall maintain a current general liability policy covering bodily injury and property damage and naming Lee County as an additional insured with limits of at least five million dollars (\$5,000,000) per occurrence and five million dollars (\$5,000,000) in the aggregate with a deductible of no more than five thousand dollars (\$5,000).

Standard Condition for Liability Insurance

1. General Liability Insurance

- a. The County of Lee, Illinois, its officers and employees shall be included as an additional insured on the General Liability policy on a primary and non-contributory basis for both ongoing and completed operations. A minimum of a three (3) year extended reporting period is required for all claims-made policies.
- b. The County of Lee, Illinois, its officers and employees shall be named as additional insured with a waiver of subrogation on the Commercial Liability policy.

- c. Any Commercial Umbrella utilized shall be a “Following Form” policy.
 - c. All policies must contain no more than a thirty (30) day notice of cancellation.
 - e. Current copies of the insurance policies and certificates of insurance shall be kept on file with the Zoning Administrator and included in the Annual Report.
2. Maintenance of General Liability Insurance
- a. The Applicant of the private pipeline shall maintain a current general liability policy covering bodily injury and property damage with minimum limits of a least five million dollars (\$5,000,000) per occurrence and five million dollars (\$5,000,000) in the aggregate.
 - b. The Applicant of the private pipeline shall maintain a current Commercial Auto policy of at least one million dollars (\$1,000,000).
 - c. The Applicant of the private pipeline shall maintain Workman's Compensation insurance in the following amounts:
 - i. One million dollars (\$1,000,000) per accident;
 - ii. Occupational Disease: One million dollars (\$1,000,000) per employee with a policy limit of one million dollars (\$1,000,000).
3. Pollution liability insurance shall be maintained in the amount of five million dollars (\$5,000,000) per policy.
4. The general liability policy shall identify landowners included in the Special Use Permit as additional insured.

N. Administration and enforcement. Prior to obtaining a building permit, the Applicant of the Private Pipeline, at its expense, shall coordinate with the Zoning Administrator to develop a system for logging and investigating complaints related to the Private Pipeline.

This ordinance shall be in full force and effect from and after its passage, approval, and publication as required by law.

PASSED BY THE LEE COUNTY BOARD

This _____ day of _____, 2021.

BY: _____

Lee County Board Chair

ATTEST:

Lee County Clerk