

ORDINANCE 2021-01

An Ordinance amending Ordinance 2020-03 establishing a methodology for the creation of pipeline permits and establishing penalties for violations of said ordinance within the city limits of Beach City, Texas.

Whereas, the City of Beach desires to create a permit program and permit fee to authorize pipeline construction, relocation and operation within the City of Beach City including activities on any private property and/or City of Beach City Easements or Rights of Way, and

Whereas, No person, except one supplying natural gas for domestic or manufacturing purposes to structures within the City of Beach City shall commence construction or relocation of a pipeline within the City of Beach City without first obtaining a permit as provided for herein, therefore

Be it enacted,

1) Permit Required

- a. The person or entity that wishes to construct, relocate and operate a pipeline within the City of Beach City shall submit an application to the City Council for a permit in accordance with this ordinance.
- b. An exception to any of the requirements of this ordinance requires the express approval of the City Council, and the person desiring the exception shall apply to the City Council for an exception in accordance with the application.

2) Requirements for construction through public rights-of-way and easements.

- a. The pipeline shall be constructed in such a manner and with such material that it will not be a source of danger to or interfere with present or future street pavement or utilities or other pipelines or the City's property, including drainage installations, or the safe operation thereof.
- b. The pipeline shall be constructed in accordance with all DOT/PHMSA applicable requirements.
- c. All pipelines shall cross public streets, public properties and public rights-of-way at a right 90-degree angle or as represented in the permit application. During construction all public streets and roads shall be bored under, not cut or disturbed, unless otherwise provided in the permit application. Street cuts must be made and repaired in a manner acceptable to the Mayor or his designee.

3) Bonding and insurance for construction.

a. If streets are to be cut, a performance bond and liability insurance will be required in the permit application in amounts determined by the City Council, county and/or the State, as appropriate. The permittee shall file with the City of Beach City written notice that all bonding and insurance requirements have been met at the time of permit approval. The City shall be named as an insured and the minimum amount of the bond will be as currently established or as hereafter adopted by resolution of the City Council from time to time. Minimum insurance requirements will be as currently established or as hereafter adopted by resolution of the City Council from time to time.

- b. The City Council shall require the applicant to file with the City Secretary proof of bonding and insurance as required by subsection (a) of this paragraph

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before the permit is issued. The City Council shall have the power at any time to reject any proposed policy form, insurance carrier, procedure for insurance and/or certificates of self-insurance if the City Council determines that such proposed coverage does not adequately protect the health, safety and well-being of the residents and citizens of the City.

c. Bonding and insurance for street construction shall be sufficient to provide for restoration. The permittee will be responsible for the settling of backfill to its original condition before construction for a period of five years from the date of completion of construction.

4) Signs to be Posted.

a. The permittee shall mark the location of the pipeline with a sign according to DOT regulations and wherever the pipeline crosses public property or public easements. The signs shall identify the name and 24-hour emergency telephone number of the pipeline owner.

5) Putting Pipelines into Service

a. A permittee may flare a product, water test or bleed a pipeline as may be reasonably necessary for placing the pipeline in service, but only when conducted in compliance with industry standards and applicable Federal and State regulations. All pipelines must be tested before being put into service as determined by DOT/PHMSA regulations

6) Abandonment

- a. If the permittee abandons the pipeline, the pipeline must be removed and the surface restored to its original condition as much as practicable within a reasonable time after abandonment, not to exceed 12 months
- b. If the pipeline is installed at a depth greater than 6 feet (i.e. installed using a horizontal directional drilling method), the City Council may grant an exemption to the requirement to remove the pipeline specified in paragraph a.

7) Permitting Procedures

a. Purpose and Scope

- i. The purpose of this section is to provide a permitting scheme for all permits required under this ordinance.

b. Application Fee

- i. Nonrefundable application fees as currently established or as hereafter adopted by resolution of the City Council from time to time are required to be paid in full at the time the application is submitted to the City Secretary.

c. Application information to be submitted utilizing the approved checklist as a coversheet to document completeness of application

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- i. A general description of the pipeline, including pipe specifications, operating pressure, maximum test pressure, and the depth of the pipeline wherever it is buried more than 48 inches, or less than 24 inches, from the surface of the earth.
 - ii. A description of the products to be transported.
 - iii. The proposed date of commencement of construction and the date of estimated completion.
 - iv. A description of the probable impact upon the flow of traffic on city streets of movement of equipment and vehicles, specifying the dates and times when public streets and sidewalks are scheduled to be closed.
 - v. The name and telephone number of a contact person available at all times to call in event of emergency.
 - vi. An agreement to remove at the owner's sole expense any portion of the pipeline which is laid within, under or across any street, road or utility Right-of-Way or public place, when the City reasonably requires such action to construct, maintain, or improve public improvements, including streets, water lines, sanitary sewer lines, storm sewers, ditches or public utilities.
 - vii. The map provided shall be a reproducible drawing in the form required by the Mayor showing the proposed location, course, distance and alignment of the pipeline. The pipeline shall be identified with the owner's name and the products to be transported therein.
 - viii. A complete copy of this Pipeline Ordinance
 - ix. A check in the amount of **\$3,000** made out to the City of Beach City to cover the permitting fee.
- d. Technical Evaluation of the Permit Application
- i. Upon receipt of a complete application by the City Secretary, the City Secretary will place the initial review of the application as an agenda item on the next City Council meeting.
 - ii. At the council meeting when the initial review of the application is being conducted, the city council may request supplemental information, including but not limited to, appropriate information dealing with projected dust, or noise, or temporary or permanent fencing, or other similar information dealing with the environmental and nuisance aspects of the application before forwarding the application to an engineering consultant with expertise in pipeline design and construction to review the application and provide a report including a recommendation to approve/improve/deny the application.

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iii. The permit application fee will be used to pay the engineering consultant for the technical review and report and to cover administrative costs incurred by the City.

e. Public Notice Requirements

On the day of the filing of any application, the applicant shall post a sign for at least 30 days regarding the location of the proposed pipeline in letters at least two inches tall wherever the proposed pipeline route intersects the city limits of the City of Beach City in the following general format:

PROPOSED LOCATION OF A PIPELINE

CONTENTS OF THE PIPELINE

CONTACT INFORMATION OF THE PIPELINE COMPANY FOR CITIZENS TO OBTAIN MORE INFORMATION

A DETAILED SITE MAP CAN BE REVIEWED AT THE BEACH CITY OFFICE

COMMENTS WILL BE RECEIVED BY THE CITY SECRETARY FOR 30 DAYS FROM THE DATE OF THE FILING OF THE APPLICATION

IF THE PIPELINE INSTALLATION WILL UTILIZE ANY CITY EASEMENT OR RIGHTS OF WAY, A PUBLIC HEARING IS REQUIRED

- i. The processing of the permit application will not begin, nor shall any time period to run, until the \$3,000 application fee is received, and such sign has been posted by the applicant. Following the filing of the application and the posting of the sign, interested citizens shall have 30 calendar days to make comments regarding the application. In addition, all applications materials shall be available for inspection during regular business hours at the Beach City office.

f. Public Hearing

i. If the pipeline installation will utilize any City easements or Rights of Way including crossing an easement or Right of Way, City Council shall hold a public hearing on the application to gather public comment associated with the proposed pipeline construction project. If the pipeline installation does not utilize a City easement or Right of Way including crossing an easement or Right of Way, a public hearing is not required.

ii. At least 15 days before the hearing on the application conducted by the City Council, the applicant, at the applicant's expense, shall publish notice of the hearing in a local newspaper of general circulation. The substance of the notice and the procedure for publishing same shall be approved by the Mayor prior to publication. The applicant shall obtain a certificate of publication from the newspaper following publication of the notice and shall file the certificate with the City Secretary.

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iii. At least 15 days before the hearing, the applicant shall, by certified mail, return receipt requested, give notice of the hearing to the owners of all real property located within 400 feet of the boundaries of the proposed pipeline, or activity, showing the addresses as prepared by the Chambers County Central Appraisal District, or such other address as is actually known by the applicant. The notice of hearing will also include a general description of the pipeline, proposed location, contents of the pipeline, proposed date of commencement of construction, date of estimated completion and contact information of pipeline representative to obtain additional information.

g. City Council Action on Permit Applications

i. The City Council shall consider granting the application under such terms and conditions as are necessary for the public safety of its citizens and the good order of the City.

ii. Following receipt of the initial application, at the City Council meeting at which the permit application is considered, the City Council shall conduct a hearing on the application as set forth in section 7.f of this ordinance. The burden of proof of all matters considered in the hearing shall be upon the applicant. At the hearing, anyone may speak for or against granting the application. The City Council members may question anyone who speaks.

h. Granting of Permit

i. After the Engineering Consultant has returned a report on the application, the City Secretary will provide written notice to the applicant within seven days of receipt of the report, stating the Engineering Consultant's recommendation for approval of the application and issuance of a permit or denial.

ii. Permits shall be issued within 15 days after receipt of the Engineering Consultant's report recommending approval of the application and issuance of a permit. The permit shall contain such terms and conditions as are consistent with the Engineering Consultant's approval. All application materials shall be a part of the permit, although the terms and conditions of the permit supersede all items of the application, in the event of conflict.

iii. Permits shall be executed in two duplicate originals. They shall be signed by the Mayor or the Mayor's designee. An original shall be delivered to the permittee and the other retained.

i. Permit Denial and Application Refiling

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i. An application that has been denied approval by the Engineering Consultant shall not be refiled. A preconstruction meeting shall be conducted where all deficiencies must be corrected prior to approval and recommendations to approve by the Engineering Consultant.

j. **Permit Amendment**

- i. If it becomes necessary to alter the specifications, construction, location or any other material feature of the pipeline, including the kind or character of the products shipped within the pipeline, the permittee shall refile a complete new application.
- ii. An application for an amendment shall require the same procedure as an original application and shall not be granted unless the Engineering Consultant recommends approval of the application and issuance of a permit.

8) Commencement and Completion of Construction

- a. After a permit is issued, construction of the permitted facilities must begin within a reasonable time period and must be pursued diligently to the completion of the construction.
- b. Completion of construction must occur within one year of the date of permit, issuance, except that upon written and sworn request by the permittee and payment of a fee as currently established or as hereafter adopted by resolution of the City Council from time to time, the time to complete construction may be extended for an additional year.

9) Penalties

Penalties in the amount of \$10,000 plus any engineering costs, including, but not limited to, inspections and/or legal costs, including but not limited to, enforcement of this ordinance, incurred by the city shall be assessed for any of the following:

- a. Commencement of construction without first obtaining a permit in accordance with this ordinance.
- b. Construction deviates from representations made in the application or during the preconstruction meeting, if applicable, as part of the permit process outlined in Section 7 "Permitting Procedures" of this ordinance.
- c. Any other noncompliance with this ordinance deemed material by the City Council of the City of Beach City.

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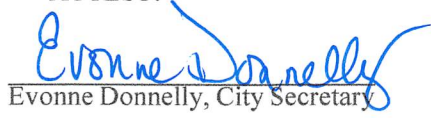
DULY PASSED and approved by the City Council of the City of Beach City, Texas on this the 23rd day of February, 2021.

APPROVED:

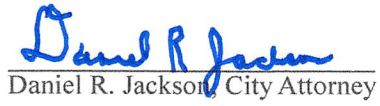


Ryan Dagley, Mayor

ATTEST:



Evonne Donnelly, City Secretary



Daniel R. Jackson, City Attorney

