

An ordinance amending the Sanborn County Zoning Ordinance. Be it ordained by the Sanborn County Commission that in order to protect the public health, safety, and general welfare of the county, The Board of County Commissions hereby amends the Sanborn County Zoning ordinance as follows:

Proposed Sanborn County Zoning Amendments

DEFINITIONS

Hazardous Materials Pipeline Facility - A pipeline, a right of way, a facility, a building, or equipment used in transporting gas, carbon dioxide, or a regulated substance or for treating such gas or regulated substance during its transportation. This term does not include gas pipeline facilities used to transport “natural gas” as defined by the Natural Gas Act, 15 U.S.C. §717 et seq, as in effect on July 1, 2023.

Setback - The minimum horizontal distance from a wall of the building, exclusive of permitted projections. In unique situations the following shall apply:

1. Distances noted throughout the Ordinance other than those specifically addressing yards shall be measured from the closest main wall or similar structural elements such as a post, beam, and berm to the same from which the setback is so required.

Solar Collector - A device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy.

Solar Energy - Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

Solar Energy System (SES) - A commercial facility that converts sunlight into electricity, whether by photovoltaics (PV), concentrating solar thermal devices (CST), or other conversion technology, for the primary purpose of wholesale sales of generated electricity. A SES is the principal land use for the parcel on which it is located. A SES site may include an array of devices, or structural design features, the purpose of which is to provide for generation of electricity, the collection, storage, and distribution of solar energy.

CONDITIONAL USES

Section 507

51. Hazardous Materials Pipeline Facilities, pursuant to Section 523

52. Solar Energy Systems

Section 523 Pipeline Facility Performance Standards

Hazardous Materials Pipeline Facilities are considered conditional uses and shall comply with the Conditional Use Process, all applicable state and federal requirements, and the applicable requirements as defined in this section:

Any applicant who has filed an application with the South Dakota Public Utilities Commission (PUC) for a permit to construct, maintain, and operate hazardous materials pipeline facilities shall submit building permit and conditional use permit applications to the County Zoning Administrator within thirty (30) days of filing an application with the PUC.

1. Every transmission pipeline application pursuant to this Section shall submit the following documents and information to the Zoning Administrator at the time of building permit and conditional use application.
 - a) All required forms prescribed by the County, in addition to all proposed surveyed route information prepared by a professional land surveyor licensed in South Dakota clearly indicating the center line of the transmission pipeline.
 - b) A complete copy of the application for a permit filed with the PUC pursuant to or within applicable statutory provisions, and as the application for the PUC permit is amended or changed, the applicant shall simultaneously provide updated information and documents to the County.
 - c) A map identifying each entry into the County's right-of-way, and each proposed crossing of a County road, Township road or other County property.
 - d) A map and a list containing the names and addresses of all affected property owners in the County.
 - e) A copy of the proposed easement language.
 - f) A set of plans and specifications showing the dimensions and locations of the transmission pipeline, including plans and specifications for all related facilities, and above-ground structures, including without limitation: pumps, valve sites and shutoff valves.

- g) A copy of applicant's emergency response and hazard mitigation plan as may be required pursuant regulations adopted by Pipeline and Hazardous Materials Safety Administration (PHMSA) emergency preparedness, emergency response, and hazard mitigation.
- h) A statement identifying any confidential information in the application and a request, if any, to withhold such information from public examination or disclosure. Any request to withhold such information from public examination or disclosure shall include the statutory basis for such claimed exemption. A failure to identify confidential information in the application may result in the County treating such information as a public record.
- i) Should applicant's application to the PUC for a permit to construct, maintain, and operate a new transmission pipeline along, over, or across land in the jurisdiction of Sanborn County be denied, applicant's application pursuant to the Article will be denied as moot.
- j) The exact content and all known dangers of the regulated substance, the flammable, toxic or corrosive gas or substance being transported in the transmission pipeline.
- k) A copy of applicant's emergency response and hazard mitigation plan as may be required pursuant regulations adopted by Pipeline and Hazardous Materials Safety Administration (PHMSA) emergency preparedness, emergency response, and hazard mitigation.
- l) The names, phone numbers, and contact information of the applicant's emergency response personnel and personnel authorized by the applicant to receive service and respond to all notices, demands, complaints, concerns, or other requests; and
- m) Applicant shall notify the Sanborn County Office of Emergency Management within ten (10) days if any of the information required under this Section changes. The requirements of this Section shall be binding upon applicant's heirs, successors, assigns and agents.
- n) A road haul agreement approved by the Board of Adjustment shall be submitted and approved prior to construction commencing.
- o) At the completion of the project, all roads will be inspected and approved by the Board of Adjustment's designated person. This includes county and township roads.
- p) Minimum 48 inches of cover must be provided for CO2 pipelines.
- q) Pipeline operator responsible (for the life of the pipeline) for repair of drain tile (and reclamation and restoration of topsoil) damaged by operator.

- r) and the pipeline operator shall indemnify and hold the surface owner harmless from any loss, claim, or damage resulting from the installation, construction, operation, maintenance, repair, leaks, ruptures, and other failures of the pipeline facility, other than for gross negligence or willful misconduct of the surface owner.

2. Pipeline Facilities shall comply with the following setbacks:

- a) Dwellings (livable per DOE standards), Churches, Businesses, Public Parks, and Schools 1,500 feet
- b) All Cities, Towns, and Unincorporated areas 1,500 feet
- c) Animal Confinement facilities of no less than 999 animal units 1,500 feet

Any individual or municipal governing body may request the Board of Adjustment to review pipelines or facilities and the Board may, by variance, waive or decrease the required separation distance. **A covenant running with the land or similar instrument** must then be recorded with the County Register of Deeds upon all properties party to the agreement **for** any future owners of either property to be informed.

Said conditional use is void if the transmission pipeline fails to obtain the necessary permit(s) and authorization from the South Dakota Public Utilities Commission or other applicable federal agency for the construction of such transmission pipeline within five years after the effective date of the variance.

Any term used herein which is not defined shall have the same meaning and definition as set forth in SDCL 49-41B-2, as amended and ARSD 20:10:22:01 as amended.

3. Fees

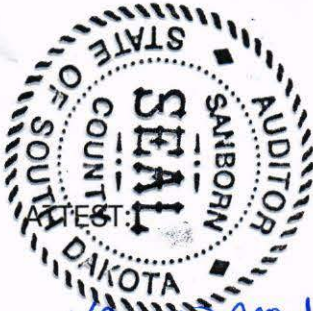
- a) A fee of \$25,000.00 shall be charged when filing a conditional use permit application for a transmission pipeline.
- b) A pipeline surcharge of \$1.00 per linear foot of installed hazardous materials pipeline shall be assessed during any tax year that the carbon dioxide pipeline company claims a tax credit pursuant to 26 U.S.C. § 45Q (January 1, 2024) or as amended.
- c) If any use commences actual construction, for which a conditional use permit is required, prior to the application for a conditional use permit, the application fee shall be double the regular fee.

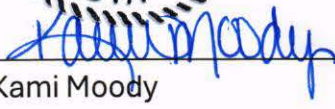
Vote of Sanborn County Commission: Yay: 5

Nay: 0

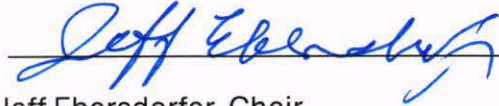
Absent: 0

Passed and adopted this 2nd day of July 2024.





Kami Moody
Sanborn County Auditor



Jeff Ebersdorfer, Chair

Sanborn County Board of Commissioners

This ordinance shall become effective twenty days after publication of this notice in the official newspaper, thereby repealing all ordinances or parts thereof in conflict herewith unless a referendum in timely involved prior thereto.

First Reading: June 18, 2024

Second Reading: July 2, 2024

Adopted: July 2, 2024

Published: June 27, 2024

Effective Date: July 22, 2024