

1 **SECTION 37 PIPELINE ORDINANCE**

2 **SECTION I TITLE**

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4 The title of this ordinance is the Faribault County Pipeline Ordinance

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6 **SECTION 2 PURPOSE**

7 The purpose of this Pipeline Ordinance shall be to set forth a process to allow for the permitting of  
8 Pipelines, as defined herein, which will discharge into protected waters, to assure the health,  
9 safety and general welfare of the citizens of Faribault County.

10 This ordinance does not apply to pipelines regulated under Minnesota Statutes Chapter 216G,  
11 Private Ag. Drainage, or Public Ag. Drainage Systems under Minnesota Statutes Chapter 103E.

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13 **SECTION 3 INTERPRETATION**

14 In interpreting and applying the provisions of this Ordinance, they shall be held to the minimum  
15 requirements for the promotion of the public health, safety, and general welfare. Where the  
16 provisions of this Ordinance impose greater restriction than those of any statute, other ordinance  
17 or regulations, the provisions of this Ordinance shall be controlling. Where the provisions of any  
18 statute, other ordinance or regulation impose greater restrictions than this Ordinance, the  
19 provisions of such statute, other ordinance or regulation shall be controlling.

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21 **SECTION 4 DEFINITIONS**

22 **Antidegradation Assessment** – An assessment required under Minnesota Rules 7050. The  
23 Assessment shall include, at a minimum, a description of the anticipated impacts to the existing  
24 water quality, an alternative analysis, and a justification for lowering of high water quality based on  
25 the necessity for important social and economic development.

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27 **Applicant** - Any person, provider, firm, partnership or company who files an application for any  
28 permit required for the construction, replacement, or alteration of a pipeline or any component  
29 thereof.

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31 **Commercial Use** – The principal use of land or buildings for the sale, lease, rental, or trade of  
32 products, goods, and services.

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34 **Conditional Use** - A land use or development as defined by ordinance that would not be  
35 appropriate generally but may be allowed with appropriate restrictions as provided by official  
36 controls upon a finding that (1) certain conditions as detailed in this Ordinance exist, and (2) the  
37 use or development conforms to the Comprehensive Land Use Plan (CLUP) of the County and (3)  
38 is compatible with the existing neighborhood.

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40 **County Board** – The Faribault County Board of Commissioners

41 **Cultivated Agricultural land** - Land which is used to raise agricultural crops, is capable of  
42 use for that purpose or is plowed, fallow or contains harvested crop residue or is pasture  
43 land.

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45 **Decommissioning Plan** – A plan developed and submitted to the Department outlining the steps  
46 and schedule for decommissioning the proposed pipeline or pipeline system.

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48 **Department** - The Faribault County Planning and Zoning Department, or other entity designated  
49 by the County Board to administer and implement this Ordinance.

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51 **Development Agreement** - The Development Agreement and all other agreements entered into  
52 between the County Board and/or the Townships, the Drainage Authority and the Developer that  
53 are incorporated into this agreement. The Development Agreement may also include Drainage  
54 System and Road Use Agreements.

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56 **Developer** – The Company, its employees, agents, successors and assigns, including, but not  
57 limited to, contractors and subcontractors engaged to do any of the work outlined in this  
58 agreement.

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60 **Disposal or dispose** - The discharge, deposit, injection, dumping, spilling, leaking, or placing of  
61 any waste into or on any land or water so that the waste or any constituent thereof may enter the  
62 environment or be emitted into the air, or discharged into any waters, including ground waters.

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64 **Drainage Authority** – The board or joint county drainage authority having jurisdiction over a  
65 drainage system or project.

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67 **Drainage System** – “Drainage system” means a system of ditch or tile, or both, to drain property,  
68 including laterals, improvements, and improvements of outlets, established and constructed by a  
69 drainage authority. “Drainage system” includes the improvement of a natural waterway used in the  
70 construction of a drainage system and any part of a flood control plan proposed by the United  
71 States or its agencies in the drainage system.

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73 **Dwelling** - A building or portion thereof, designed exclusively for residential occupancy; the term  
74 does not include hotels, motels, tents, tent trailers or recreational vehicles.

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76 **Easement** - A grant by a property owner for the use of a strip of land for the purpose of  
77 constructing and maintaining utilities, including but not limited to sanitary sewers, water mains,  
78 electric lines, telephone lines, storm drainage ways and gas lines.

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80 **Essential Services** - Overhead or underground electrical, gas, steam or water transmission or  
81 distribution systems and structures, or collection, communication, supply or disposal systems and  
82 structures, used by public utilities, rural electric cooperatives or governmental departments or  
83 commissions or as are required for protection of the public health, safety, or general welfare,  
84 including towers, poles, wires, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call  
85 boxes, and accessories in connection therewith, but not including buildings.

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87 **Industrial Use** – The use of land or buildings for the production, manufacture, warehousing,  
88 storage, or transfer of goods, products, commodities, or other wholesale items.

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**Pipeline** – A long tubular conduit or series of such conduits with pumps and valves for flow control used to transport liquids or pressurized gasses that are not considered an essential service.

**Protected Waters – Public Waters** - Any waters as defined in Minnesota Statutes, Section 103G.005.

**Public Roadway** - Roadways and appurtenance right-of-ways that are under the jurisdiction of a County or Township, and including without limitation roadway ditches.

**Shore Impact Zone** - Land located between the Ordinary High Water Level (OHWL) of a public water and a line parallel to it at a setback of fifty percent (50%) of the structure setback.

**Shoreland** - Land located within the following distances from public waters: one thousand (1,000) feet from the OHWL of a lake, pond or flowage; and three hundred (300) feet from a river or stream or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the Commissioner of the DNR.

**Waste** – Solid waste, sewage sludge, and hazardous waste (MN Stats. 115A.03, subd 34).

**Waste By- Products** - The liquids or gases or other residues resulting from Industrial processing, treatment activities, or waste disposal.

**Zoning Ordinance** - The Faribault County Zoning Ordinance

## **SECTION 5 REQUIRED PERMITS, AGREEMENTS AND ASSOCIATED FEES**

No person, business, firm or corporation shall construct, install, alter or extend any Pipeline which will discharge into protected waters in Faribault County without first obtaining appropriate permits, as adopted and amended, from the Department. This may include but is not limited to signing the Faribault County Development Agreement.

### **Subdivision 1 Building/Zoning Permit Requirements**

All Pipeline applicants are required to complete a permit application and all required attachments as adopted and amended by the County Board.

Application includes, 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

- 131 5. MN local, state, or federal application forms if applicable or required by Department
- 132 6. Copies of all negotiated Landowner Easement Agreements
- 133 7. Engineers' Certification
- 134 8. Detailed Decommissioning Plan
- 135 9. NPDES Stormwater Permit (if required)
- 136 10. Any additional agreements, including Development Agreement and other permits
- 137 required by the County.
- 138 11. Type of installation (boring, trenching)
- 139 12.

140 **Subdivision 2 Conditional Use Permits (CUP)**

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142 Conditional Use Permits are required for all Pipelines. The CUP only authorizes the use as  
143 specifically described in the CUP application.

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145 **Subdivision 3 Development Agreement**

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147 Applicant is responsible to complete the Development Agreement prior to applying for a CUP and  
148 other associated permits that may be required by the Department or the County Board.

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150 **Subdivision 4 Fees**

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152 The fee schedule shall be established, and may be reviewed and revised periodically, by the  
153 County Board.

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155 **SECTION 6 PLACEMENT and SETBACKS**

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- 157 1. Any Pipeline placed in the Right of Way (ROW) must obtain appropriate permits from the
  - 158 appropriate road authority.
  - 159 2. Any Pipeline must be 500' from existing Dwellings.
  - 160 3. Drainage system setbacks will be addressed through the Faribault County Development
  - 161 Agreement.

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163 **SECTION 7 REQUIREMENTS AND STANDARDS**

164 **Subdivision 1 Antidegradation (fka Nondegredation) Assessment.**

165 Applicant shall complete the Antidegradation Assessment if required by the MN Pollution Control  
166 Agency and shall provide the Department with a copy of all documents filed in support of the  
167 Assessment and the result of any Agency Preliminary Decision and Final Determination prior to  
168 making an Application for a Conditional Use Permit.

169 **Subdivision 2 Inspections**

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171 Upon issuance of a Conditional Use Permit, applicant is responsible to report to the Department  
172 any inspections that are identified in the CUP or Development Agreement.

173 **Subdivision 3 Bank Erosion Plan**

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Upon issuance of a Conditional Use Permit, applicant is responsible to report to the Department any plans that are identified in the CUP or Development Agreement.

**Subdivision 4 Orderly Development**

Upon issuance of a Conditional Use Permit, it is the applicant who is responsible to ensure that the entire Pipeline route is listed with all appropriate agencies including but not limited to Gopher One.

**Subdivision 5 Fire Protection and Emergency Services**

Prior to initiating construction activity related to the project, the applicant will communicate and coordinate with local fire, emergency services, and Faribault County their needs and plans related to all aspects of the pipeline project to assure adequate preparedness and response is executed in the event these services are required. An E-911 address will be issued if required.

**Subdivision 6 Safety and Design Standards**

Engineering Certification is required within the Development Agreement. Manufacturer's engineer or another qualified engineer shall certify that the Pipeline is within accepted professional standards, given local soil and climate conditions.

**Subdivision 7 Signage**

All Pipelines shall be posted with appropriate signage as determined by the Department.

**Subdivision 8 Storage of Equipment and Materials During Construction**

All materials and equipment must be stored and parked within the bounds of the waste by-products pipeline right of way so as to minimize interference with traffic and emergency response vehicles, unless an agreement is approved through the appropriate county permitting authority.

**Subdivision 9 Other Applicable Standards**

Other standards as set forth by the Conditional Use Permit or the Development Agreement.

**SECTION 8 DISCONTINUATION, DECOMMISSIONING, AND MODIFICATION PLANS**

**Subdivision 1 Discontinuation**

All Pipelines shall be considered as a discontinued use after six (6) months without transportation of any materials, liquids or gases, unless a plan is developed and submitted to the Department outlining the steps and schedule for returning the pipeline to service. All Pipelines and accessory facilities shall be removed entirely from the ground within ninety (90) days of the discontinuation of use or as soon there after as permitted by the Department.

**Subdivision 2 Decommissioning Plan**

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Each Pipeline shall have a Decommissioning Plan outlining the anticipated means and cost of removing the Pipeline at the end of its serviceable life or upon becoming a discontinued use. This plan must include the following:

1. The cost estimates shall be made by a competent party; such as a Professional Engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning.
2. The plan shall also identify the financial resources that will be available to pay for the decommissioning and removal of the pipeline and accessory facilities.
3. Timeframe.

**Subdivision 3 Modification Plans**

If at any time the Pipeline is modified beyond the original Conditional Use Permit, a modification plan must be developed and submitted to the Department, reviewed by the Planning Commission for recommendation, and forwarded to the County Board for final decision.

**SECTION 9 AVOIDANCE AND MITIGATION OF DAMAGES TO PUBLIC INFRASTRUCTURE AND AGRICULTURAL LAND**

**Subdivision 1 Development Agreement**

Any applicant of a Pipeline as described in this ordinance shall be required to complete the Faribault Development Agreement that includes sign off by the County Highway Engineer, and the Public Drainage System Protection Agreement. These agreements or other required agreements shall be completed, and included at the time of application for a Conditional Use Permit to the Department.

**Subdivision 2 Associated Facilities**

Location of all above ground facilities associated with the operation of a Pipeline including but not limited to pump stations, shall be consistent with the following criteria:

1. Associated facilities such as pump stations, check valves, and access points shall be required to be located so as to minimize interference with productive use of cultivated agricultural land, irrigation, etc., by placing in corners of fields, on fence lines, etc.
2. To minimize interference with existing road and highway right of ways.

**SECTION 10 PRE CONSTRUCTION MEETING**

Applicant for a Pipeline will be required to conduct a Pre-Construction meeting prior to construction commencement. Written notice identifying the date, time and place of the meeting shall be sent by the applicant to the following individuals a minimum of fourteen (14) days prior to said meeting:

- a. Township Chairmen
- b. Faribault County Engineer
- c. Faribault County Sheriff
- d. Faribault County Zoning Administrator

- e. County Commissioner of the District and/or entire County Board
- f. Others as deemed necessary

**SECTION 11 ENFORCEMENT, VIOLATIONS, REMEDIES AND PENALTIES**

Enforcement of the Pipeline Ordinance shall be done in accordance with process and procedures established in Section 30 of the Faribault County Zoning Ordinance.

**SECTION 12 REPEAL AND RECOMMENDATIONS**

It is not intended by this Ordinance to repeal any Ordinance. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail. All other Ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

**Subdivision 1 Public Hearing and Planning Commission Recommendation**

The Faribault County Planning Commission, after proper notice and publication, held a public hearing on the adoption of this Ordinance on the 12th day of February, 2013 at the Faribault County Ag Center Conference Room. After hearing public testimony and with due deliberation, the Planning Commission voted unanimously to recommend adoption of this Ordinance to the Faribault County Board of Commissioners.

**SECTION 13 ADOPTION**

The Faribault County Board of Commissioners, on the 5<sup>th</sup> day of March, 2013 at their regular scheduled meeting, after reviewing public testimony and the recommendation of the Faribault County Planning Commission, with due deliberation, the Faribault County Board of Commissioners voted unanimously to adopt this Ordinance.

This Ordinance shall be in full force and effect 30 days after its passage and publication, as provided by law.

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Chairman, County Board

Passed this fifth day of March, 2013 State of Minnesota, County of Faribault

Attest: \_\_\_\_\_, John Thompson, County Auditor