PUBLIC NOTICE

The Adair County Board of Supervisors will hold a public hearing the 7th day of December, 2022 at 9:15 a.m. at the Adair County Courthouse, 400 Public Square, Greenfield, Iowa, to have the first reading of Proposed Adair County Ordinance Number 39 – AN ORDINANCE REGULATING THE PLACEMENT OF HAZARDOUS LIQUID PIPELINES ON PROPERTY LOCATED IN THE UNINCORPORATED AREAS OF ADAIR COUNTY, IOWA.

A copy of the complete ordinance can be obtained from the Adair County Auditor's Office at the Adair County Courthouse, 400 Public Square, Ste. 5, Greenfield, Iowa, during regular business hours or can be viewed on the Adair County Website www.adaircounty.iowa.gov.

Proposed Adair County Ordinance #_____

AN ORDINANCE REGULATING THE PLACEMENT OF HAZARDOUS LIQUID PIPELINES ON PROPERTY LOCATED IN THE UNINCORPORATED AREAS OF ADAIR COUNTY, IOWA

BE IT ENACTED BY THE ADAIR COUNTY BOARD OF SUPERVISORS

Purpose and Intent

The purpose of this Ordinance is to establish appropriate conditions and safeguards of any use of land for the purpose of a Hazardous Liquid Pipeline in Adair County, Iowa.

The intent of this Ordinance is to facilitate the construction, installation, and operation of any Hazardous Liquid Pipeline in Adair County in a manner that preserves and protects the rights, privileges, and property of the County and its residents, that ensures the protection of the health, safety, and welfare of the county's residents, and that provides an opportunity for economic growth and development.

All Hazardous Liquid Pipeline projects shall follow this Hazardous Liquid Pipeline Ordinance.

Section 1. Definitions.

For use in this Ordinance, certain words used herein shall be defined as follows:

Affected Person. As defined in Iowa Administrative Code 199-13.1(3) and, unless otherwise defined in that rule, means any Person with a legal right or interest in the property, including but not limited to a landowner, a contract purchaser of record, a Person possessing the property under a lease, a record lienholder, and a record encumbrancer of the property.

Applicant. A Pipeline Company or a Property Owner who applies for a Hazardous Liquid Pipeline Permit pursuant to this Ordinance.

Application. The documents and information an Applicant submits to the County for purposes of obtaining a Hazardous Pipeline Permit as well as the related process and procedures for considering the application pursuant to this Article.

Blast Zone. The geographic area in County that would be subject to a shock wave from rupture of a Hazardous Liquid Pipeline, including of a Carbon Dioxide Pipeline, that could harm or kill persons or animals due solely to physical trauma, for example from flying debris or the physical impact of a pressure wave resulting from a rupture.

Carbon Dioxide Pipeline. A Hazardous Liquid Pipeline intended to transport liquified carbon dioxide and includes a Pipeline of 4 inches or more in diameter used to transport a gas, liquid, or supercritical fluid comprised of 50 percent or more of carbon dioxide (CO2).

DRAFT 3

Hazardous Liquid Pipeline Permit. A permit issued by Adair County, which is required before construction of a Hazardous Liquid Pipeline is allowed in Adair County.

Confidential Information. Information or records allowed to be treated confidentially and withheld from public examination or disclosure pursuant to Iowa Code chapter 22 or other applicable law.

Emergency. As defined in Iowa Administrative Code 199 rule 9.1(2) and, unless otherwise defined in that rule, means a condition involving clear and immediate danger to life, health, or essential services, or a risk of a potentially significant loss of property.

Facility. Any structure incidental or related to the Hazardous Liquid Pipeline and any space, resource, or equipment necessary for the transport, conveyance, or pumping of a Hazardous Liquid through a Hazardous Liquid Pipeline located in Adair County, including all related substations.

Facility Zone. The geographic area in Adair County in which residents of the County would face a significant risk of loss of life due to a rupture of a Hazardous Liquid Pipeline, taking into consideration, in the case of a Carbon Dioxide Pipeline, the dispersion of CO2 from a rupture, taking into consideration CO2 concentration and the duration of exposure.

Hazard Zone. In the case of a Carbon Dioxide Pipeline, the geographic area in the County in which residents of the County would likely become intoxicated or otherwise suffer significant adverse health impacts due to a rupture of a Carbon Dioxide Pipeline, taking into consideration the dispersion of CO2 from a rupture, taking into consideration CO2 concentration and the duration of exposure.

Hazardous Liquid. As defined in Iowa Code § 479B.2 and, unless otherwise defined there, means crude oil, refined petroleum products, liquefied petroleum gases, anhydrous ammonia, liquid fertilizers, liquefied carbon dioxide, alcohols, and coal slurries.

Hazardous Liquid Pipeline. A Pipeline intended to transport Hazardous Liquids, and also includes Class 3, Class 6, Class 8, or Class 9 hazardous materials, as defined by 49 C.F.R. § 173.120, et seq., with any portion proposed to be located within Adair County

In-Service Date. The date any Hazardous Liquid is first transported through any portion of a Pipeline located in Adair County.

Independent Agreement. Alternative provisions regarding land restoration or Line Location contained in agreements independently executed by a Pipeline Company and a Landowner or a Property Owner as described in Iowa Code § 479B.2(10).

IUB. The Iowa Utilities Board created within the Iowa Department of Commerce pursuant to Iowa Code chapter 474.

Landowner. As defined in Iowa Code §§ 479B.4(4) and 479B.30(7), and, unless otherwise defined there, means a Person listed on the tax assessment rolls as responsible for the payment of real estate taxes imposed on the property and includes a farm tenant.

DRAFT 3

Line Location. The location or proposed location or route of a Pipeline on a Landowner's property.

Occupied Structure. A Building or Structure that has been inhabited or used for residential, commercial, industrial, or agricultural purposes at any time during the twelve (12) months preceding an application for a Hazardous Liquid Pipeline Permit pursuant to this Ordinance.

PHMSA. The Pipeline and Hazardous Materials Safety Administration of the United States Department of Transportation

Person. As defined in Iowa Administrative Code 199-13.1(3) and, unless otherwise defined in that rule, means an individual, a corporation, a limited liability company, a government or governmental subdivision or agency, a business trust, an estate, a trust, a partnership or association, or any other legal entity as defined in Iowa Code section 4.1(20).

Pipeline. As defined in Iowa Code § 479B.2 and, unless otherwise defined there, means an interstate pipe or pipeline and necessary appurtenances used for the transportation or transmission of hazardous liquids.

Pipeline Company. As defined in Iowa Code § 479B.2 and, unless otherwise defined there, means any Person engaged in or organized for the purpose of owning, operating, or controlling Pipelines for the transportation or transmission of any Hazardous Liquid or underground storage facilities for the underground storage of any Hazardous Liquid.

Pipeline Construction. As defined in Iowa Administrative Code 199-9.1(2) and, unless otherwise defined in that rule, means activity associated with installation, relocation, replacement, removal, or operation or maintenance of a pipeline that disturbs agricultural land, but shall not include work performed during an emergency, tree clearing, or topsoil surveying completed on land under easement with written approval from the landowner.

Property Owner. The owner or owners, together with his, her, its or their heirs, successors and/or assigns, of the land or property over, under, on, or through which, a Pipeline, or any part of it, including any related facilities, may be located and which is subject to the regulations and restriction of this Ordinance. Property Owner includes a Landowner and also includes a Person with whom a Pipeline Company negotiates or offers to execute an Independent Agreement with respect to a Pipeline.

Reclamation. The restoration and repair of damaged real property, personal property, land or other areas through which a Pipeline is constructed or from where it is removed as close as reasonably practicable to the condition, contour, and vegetation that existed prior to the construction or prior to the removal of the Pipeline, as applicable.

Reclamation Cost. The cost of Reclamation and includes the cost to restore or repair roads, bridges, or county property as well as the cost to restore or repair all real and personal property of Property Owners and Affected Persons.

DRAFT 3

Section 2. <u>Permit Application Requirements</u>.

The applicant for the siting and construction of a Hazardous Liquid Pipeline shall file an application with the County Engineer or their designee, within seven (7) days of filing their petition with the IUB, unless the petition was filed with the IUB prior to the effective date of this Ordinance, in which case the Pipeline Company shall submit an application under this Ordinance within seven (7) days of the effective date of this Ordinance.

The application shall contain the following documents and information:

1. A complete copy of the application for a permit filed with the IUB pursuant to Iowa Code chapter 479B. This requirement is an ongoing requirement, and as the application for the IUB permit is amended or changed, the Pipeline Company shall provide updated information and documents to Adair County.

2. A map identifying each proposed crossing of an Adair County road or other Adair County property.

3. A map and a list containing the names and addresses of all Affected Persons in the County. The map and list shall include all Property Owners who have executed an Independent Agreement or who have been or will be contacted about the execution of an Independent Agreement.

4. A set of plans and specifications showing the dimensions and locations of the Pipeline, including plans and specifications for all related facilities and above-ground structures, such as pumps, lift-stations, or substations.

5. A copy of the standard or template Independent Agreement the Pipeline Company proposes to execute with Property Owners in Adair County. The standard or template for the Independent Agreement shall include terms and conditions that comply with the Abandonment, Discontinuance, and Removal requirements of section 6 of this Ordinance.

6. An Emergency Response and Hazard Mitigation Plan as required pursuant to section 5 of this Ordinance.

7. All applicable fees and assessments required pursuant to section 4 of this Ordinance.

8. A statement identifying any Confidential Information in the Application and a request, if any, to withhold such information from public examination or disclosure as provided in, and to the extent permitted by, Iowa Code chapter 22. A failure to identify Confidential Information in the Application may result in Adair County treating such information as a public record.

DRAFT 3

Upon receipt of an Application for Hazardous Liquid Pipeline Permit from a Pipeline Company, the County Engineer or their designee shall consider the Application according to the process and standards as set forth in this Ordinance. Upon the determination by the Adair County Engineer that the requirements of this Ordinance have been satisfied, the completed Hazardous Liquid Pipeline Permit Application and any/all necessary supporting documentation shall be presented to the Adair County Board of Supervisors for approval. The Adair County Board of Supervisors, upon approval of the application, shall provide any necessary permits for the Hazardous Liquid Pipeline. If there are changes to the information as provided as a part of the application that occur from the time of the application until the time of the construction of the pipeline, the applicant shall submit a new application together with the updated information and any such change shall be in compliance with this Ordinance. The Adair County Engineer shall present the amended and completed Hazardous Liquid Pipeline Permit Application to the Adair County Board of Supervisors using the process described above.

Section 3. <u>Separation Requirements for Hazardous Liquid Pipelines</u>.

A Hazardous Liquid Pipeline shall not be constructed, used, sited, or located, in violation of the separation requirements listed below. In addition, the terms of an Independent Agreement regarding a Line Location shall conform to the separation requirements listed below. All distances shall be measured from the centerline of the proposed Hazardous Liquid Pipeline to the portion of the existing use nearest the centerline of the proposed Hazardous Liquid Pipeline.

The minimum separation distances for a Hazardous Liquid Pipeline are:

1. From the city limits of an incorporated city, not less than two miles.

2. From a church, school, nursing home, long-term care facility, or hospital, not less than one half of one mile.

3. From a public park or public recreation area, not less than one quarter of one mile.

4. From any occupied structure, not less than 1,000 feet.

5. From a confined animal feeding operation or facility, not less than 1,000 feet.

6. From an electric power generating facility with a nameplate capacity of 5MW or more, an electric transmission line operating at 69kV or higher, or a public wastewater treatment plant, not less than 1,000 feet.

7. From an operational private water well, not less than 250 feet.

Section 4. <u>Fees & Assessments for Hazardous Liquid Pipelines</u>.

A Pipeline Company seeking a permit shall pay the following fees and assessments:

1. An application fee of $5,000.00.

DRAFT 3

2. A permit fee for each County Road under which the pipeline will travel of $500.00.

3. An annual assessment of $200.00 per mile of Pipeline constructed, operated, and maintained in the County, or an amount equal to the most current user fee assessed to the operators of Hazardous Liquid Pipelines by PHMSA, whichever is greater. This assessment shall be due each year on the anniversary of the Pipeline's In-Service Date, and the County shall apply this assessment towards its emergency planning and hazard mitigation costs, including expenses for law enforcement and emergency response personnel.

Section 5. <u>Emergency Response & Hazard Mitigation Plans for Hazardous Liquid Pipelines</u>.

The goals of this Ordinance are consistent with the County's legal obligation under Iowa Code chapter 29C to engage in emergency response and hazard mitigation planning and with the need to protect the health and welfare of both residents and emergency response personnel. For these reasons, the County requires Hazardous Liquid Pipelines to provide information to assist in emergency response and hazard mitigation planning pursuant to this section.

If the Pipeline is a Carbon Dioxide Pipeline and PHMSA has adopted regulations specifically related to emergency preparedness, emergency response, and hazard mitigation planning for Carbon Dioxide Pipelines, then the Pipeline Company operating the Carbon Dioxide Pipeline shall submit a plan that meets the requirements of this section. A plan submitted in compliance with this section shall include: (1) documentation of compliance with the PHMSA regulations; and (2) a detailed plan describing how the Pipeline Company will work with the County's law enforcement, emergency management personnel, and first responders in the event of a spill, leak, rupture or other emergency or disaster related to the Pipeline.

If the Pipeline is a Carbon Dioxide Pipeline and PHMSA has not adopted regulations specifically related to emergency preparedness, emergency response, and hazard mitigation planning for Carbon Dioxide Pipelines, then the Pipeline Company operating the Carbon Dioxide Pipeline shall submit a plan that meets the requirements of this section. A plan submitted in compliance with this section shall include the following:

1. A map and legal description of the proposed route for a Carbon Dioxide Pipeline showing all human occupied structures and animal husbandry facilities, by type, within two miles of the centerline of the proposed route, including addresses.

2. A description of the health risks resulting from exposure of humans and animals to carbon dioxide released from a pipeline, considering the concentrations of carbon dioxide in the air near to a rupture, the duration in time of exposure, and the presence of other harmful substances released from a rupture. The description shall identify the exposure level and duration of time that may cause a fatality of persons or animals, and the exposure level and duration that may cause intoxication or other significant adverse health effects.

DRAFT 3

3. An estimate of the worst-case discharge of carbon dioxide released in metric tons and standard cubic feet from a rupture of a pipeline considering the interior volume of the pipeline, the location of emergency valves that limit release of carbon dioxide, the location of crack arrestors, operating pressures, operating temperatures, and other relevant factors.

4. A rupture dispersion modeling report containing the results of computational fluid dynamic computer model estimates of the maximum geographic ranges of the Fatality Zone and Hazard Zone for the Carbon Dioxide Pipeline in the event of its rupture in a range of weather conditions and representative topography in County, as well as in low elevation areas of the County where released carbon dioxide may settle.

5. A computer model report showing the Blast Zone for the Carbon Dioxide Pipeline.

6. A list of structures and facilities within the Hazard Zone, Fatality Zone, and Blast Zone for the proposed route of a Carbon Dioxide Pipeline that in the preceding year have contained humans or livestock, and an estimate of the numbers of persons and livestock in each structure and facility.

7. A list of High Consequence Areas. A High Consequence Area is any area within the Hazard Zone, the Fatality Zone, or the Blast Zone where a single rupture would have the potential to adversely affect 10 or more persons or a facility with 100 or more livestock.

8. A description of the potential adverse impacts of a rupture of a Carbon Dioxide Pipeline on the humans, livestock, and other real and personal property within the Hazard Zone, the Fatality Zone, and the Blast Zone for the route of a Carbon Dioxide Pipeline.

9. Identification of alternative routes through the County designed to minimize risks to humans and animals from a rupture of the Carbon Dioxide Pipeline with County, and an analysis of the risks of these alternative routes relative to the proposed route.

10. All information needed by county first responders, emergency response personnel, and law enforcement personnel in order to engage in local emergency management and hazard mitigation planning, equipment, and training needs. Such information includes but is not limited to:
    1. A material data safety sheet for the materials transported in the Carbon Dioxide Pipeline;
    2. Agency-specific response plans for law enforcement, emergency medical responders, and other response agencies;
    3. Carbon dioxide detectors and evacuation plans for each human occupied structure;
    4. Response equipment needs for emergency response personnel, such as

DRAFT 3

carbon dioxide and other chemical detectors; respirators; personal protective equipment; communications equipment; road barriers and traffic warning signs; and non- internal combustion engine evacuation vehicles;

5. A Carbon Dioxide Pipeline rupture emergency response training program to ensure safe and effective response by county and municipal law enforcement, emergency medical services, and other responders during the operational life of the Carbon Dioxide Pipeline.

11. Identification of residential and business emergency response needs, including but not limited to:
    1. a Mass Notification and Emergency Messaging System;
    2. evacuation plans;
    3. evaluation equipment needs especially for mobility impaired individuals;
    4. carbon dioxide detectors, and respirators.

If the Pipeline is a Hazardous Liquid Pipeline of a type other than a Carbon Dioxide Pipeline, then the Pipeline Company operating the Pipeline shall submit a plan that meets the requirements of this section. A plan submitted in compliance with this section shall include: (1) documentation of compliance with PHMSA regulations for the applicable type of Pipeline; and (2) a detailed plan describing how the Pipeline Company will work with the County's law enforcement, emergency management personnel, and first responders in the event of a spill, leak, rupture or other emergency or disaster related to the Pipeline.

Section 6. <u>Abandonment, Discontinuance, & Removal of Hazardous Liquid Pipelines</u>.

In addition to the requirements set by Iowa Code § 479B.32, a Hazardous Liquids Pipeline in Adair County that is abandoned shall comply with the requirements of this section. A Hazardous Liquid Pipeline shall be deemed abandoned for purposes of this section whenever the use of the Hazardous Liquid Pipeline has been discontinued such that there is no longer regulatory oversight of the Pipeline by PHMSA.

For purposes of the land restoration standards of Iowa Code § 479B.20, the term "construction" includes the removal of a previously constructed pipeline, and Adair County will treat the removal of a Pipeline in the same manner as the Pipeline's original construction for purposes of the County's obligations under Iowa Code chapter 479B.

A Pipeline Company granted a Hazardous Liquid Pipeline Permit pursuant to this Ordinance shall by certified mail notify the County and all Affected Persons in the County of the Pipeline Company's intent to discontinue the use of the Pipeline. The notification shall state the proposed date of the discontinuance of use.

Upon abandonment or discontinuance of use, the Pipeline Owner shall offer to each Property Owner the option to have the Pipeline and all related facilities physically dismantled and removed, including both the below and above ground facilities. The removal of the Pipeline and the related Reclamation and Reclamation Costs shall be the Pipeline Company's responsibility and shall be

DRAFT 3

completed within one-hundred eighty (180) days from the date of abandonment or discontinuation of use unless a Property Owner agrees to extend the date of removal. Such an extension must be by written agreement between the Pipeline Company and the Property Owner, and the agreement shall be filed at the Adair County Recorder's office and a copy delivered to the County by the Pipeline Owner.

A Property Owner shall not be required to have the Pipeline removed, but if the Property Owner agrees to the removal and Reclamation, the Property Owner shall allow the Pipeline Company reasonable access to the property.

Upon the removal of the Pipeline and the Reclamation, the Pipeline Owner shall restore the land according to the requirements of Iowa Code § 479B.20 and the rules adopted thereunder at 199-9.1(479, 479B), including all amendments thereto.

Section 7. Applicability and Compliance.

The permit requirement in section 2 and the separation requirements in section 3 of this Ordinance shall not apply to (1) a Hazardous Liquid Pipeline that is already permitted, constructed, and placed in-service on or before the effective date of this Ordinance; however, a Pipeline Company shall comply with the abandonment, reclamation and decommissioning requirements for a Pipeline that is decommissioned on or after the effective date of this Ordinance.

Section 8. Transfer.

A Hazardous Liquid Pipeline Permit granted to a Pipeline Company pursuant to this Ordinance is not transferrable to any Person. A Pipeline Company, or its successors in interest, shall apply for a new Hazardous Liquid Pipeline Permit whenever the Hazardous Liquid Pipeline is transferred, or its use is materially or substantially changed or altered.

Section 9. Severability.

Should any section or provisions of this Ordinance be declared by the courts to be invalid or unconstitutional, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part so declared to be invalid or unconstitutional.

Section 10. Penalty.

Any person, persons, firms, partnerships or corporations, whether acting alone or in concert with any other, who violates this Ordinance, shall be guilty of a simple misdemeanor as authorized by Iowa Code section 331.302.

Section 11. Effective Date.

This Ordinance shall be in effect after its final passage, approval, and publication as required by law.

DRAFT 3

Passed and approved this ____ day of _____, 2022.

_____
Matt Wedemeyer, Chairperson
Adair County Board of Supervisors

Attest: _____
Mandy Berg, County Auditor

DRAFT 3