

## TITLE 17.29 HAZARDOUS LIQUID PIPELINE (HLP)

### Chapter 17.29 Hazardous Liquid Pipeline (HLP)

- 17.2901      Intent. The intent of this Ordinance is to set forth guidelines for routing or location of HLP as allowed by 49 U.S.C. 60104€.
- 17.2902      Applicability. The requirements of this Ordinance shall apply to all HLPs proposed after the effective date of this Ordinance. HLPs for which a permit has been issued prior to the effective date of this ordinance by the South Dakota Public Utilities Commission under South Dakota Codified Law Chapter 49-41B shall not be required to meet the requirements of this Ordinance; provided, that any such pre-existing HLP, which does not provide transportation services for a continuous period of twelve (12) months, shall meet the requirements of this Ordinance prior to recommencing transportation services.
- 17.2903      More Stringent Standards Required. In the event that a permit granted by the South Dakota Public Utilities Commission imposes a similar standard to a County standard, a HLP owner or operator shall comply with the more stringent standard, unless the Public Utilities Commission expressly finds under South Dakota Codified Law Section 49-41B-28 that the County standard is unreasonably restrictive.
- 17.2904      Conditional Use Permit Required. A Pipeline Company that has filed a verified petition with the PUC, Public Utility Commission, asking for a permit to construct, maintain, and operate a new HLP along, over, or across land in Spink County shall submit an Application to the County Zoning Administrator for a Conditional Use Permit.
- 17.2905      Conditional Uses. After notice, the Zoning Board of Adjustment (BOA) and County Commission may permit a Hazardous Liquid Pipeline as Conditional Uses in the following Districts:
1. Ag District
  2. Commercial District
  3. Highway Commercial District
  4. Industrial District
- 17.2906      Minimum Setback Requirements.
1. An HLP shall be setback a minimum of half a mile or 2,640 feet from the following: schools, daycares, churches, residential dwelling, livestock facilities, or any structure that has residential living quarters within.

- a) The setback distance shall be measured from the center line of the proposed HLP to the closest measurement of a parcel's property line.
2. The setback distance for High Consequences Areas shall be a minimum of two (2) miles measured from the center line of the proposed HLP to the parcel property line of the High Consequence Area.

17.2907 Setback Waiver or Variance.

1. With the exception of setbacks from High Consequence areas, the developer of a HLP may apply for a reduction of the minimum setback, in the form of a setback waiver or setback variance, which is set forth in Section 17.2906.
2. Variance from Setback Distance. The developer of an HLP may apply for a setback variance as part of its application for a conditional use permit. The setback variance must be submitted as part of the developer's application for a conditional use permit. The procedure for requesting a setback variance as part of an HLP is as follows:
  - a) After a review of all project plans, and the presentation to the Zoning Board of Adjustment, the Zoning Board of Adjustment will make a recommendation to the Spink County Commission regarding each setback variance.
  - b) The County Commission may approve or deny each submittal of a setback variance based on the project location, area, size, and the property use.
  - c) If the HLP project is approved, any setback variance submitted and approved as part of the conditional use permit application must be filed at the Spink County Register of Deeds Office by the developer towards each individual parcel's legal description for a setback variance to be approved, final and permanent.
3. Setback Waiver. The developer of an HLP may obtain a setback waiver from an individual property owner. The setback waiver must be submitted as part of the developer's application for a conditional use permit. The procedure for submitting a setback waiver is as follows:
  - a) After a review of all project plans and the presentation to the Zoning Board of Adjustment, the Zoning Board of Adjustment will make a recommendation to the Spink County Commission regarding each setback waiver.

- b) The County Commission may approve or deny each individual submittal of a setback waiver based on the project location, area, size, and the property use.
- c) If the HLP project is approved, any setback waiver submitted and approved as part of the conditional use permit application must be filed at the Spink County Register of Deeds Office by the owner towards each individual parcel's legal description for a setback waiver to be approved, final and permanent.

17.2908

Permit Application Requirements for HLP

1. A n HLP Company applying for a Conditional Use Permit for a Hazardous Liquid Pipeline pursuant to this Article shall submit the following documents and information to the Planning & Zoning Administrator:
  - a) The information required for a Conditional Use Permit as described in APPLICATION FOR CONDITIONAL USE form, including all required forms listed in 17.2907.
  - b) A complete copy of the application for a permit filed with the PUC. This requirement is an ongoing requirement, and as the application for the PUC permit is amended or changed, the Pipeline Company shall provide updated information and documents to Spink County.
  - c) A map identifying each proposed crossing of any road or property located in Spink County.
  - d) A map and a list containing the names and addresses identifying each landowner of proposed HLP crossing in Spink County. The map and list shall include and identify all Property Owners who have executed an Easement, Waiver from Setback or who have been or will be contacted about the execution of a Waiver from Setback.
  - e) A map showing locations for all related facilities and above-ground structures, such as pumps, lift-stations, or substations.
  - f) All application fees for the Conditional Use Permit, Building Permit, or any other fees associated with HLP permit, must be paid at time of filing.
2. Complete Application Required. Upon receipt of an application, the Spink County Planning & Zoning Director will review the information provided and follow the guidelines set forth in the PROCEDURE FOR FILING CONDITIONAL USE PERMIT. In the event the application is deficient, the Planning and Zoning Director will reject the application and provide applicant with a list of deficiencies. Applicant may submit a revised application including the omitted information within 10 days of notification.

- a) No HLP may be constructed in Spink County until the County has approved a Conditional Use Permit for the HLP.
- b) A Conditional Use Permit granted to a HLP Company pursuant to this Article is not transferrable to any Person. A Pipeline Company, or its successors in interest, shall apply for a new Conditional Use Permit whenever the Hazardous Liquid Pipeline is transferred, or its use is materially or substantially changed or altered.