

**EAST GOSHEN TOWNSHIP  
PLANNING COMMISSION  
Meeting Agenda  
Wednesday, March 4, 2020  
7:00 PM**

- A. Call to Order / Pledge of Allegiance and Moment of Silence
- B. Chairman will ask if anyone is going to record the meeting
- C. Review of Tracking Log / Determine need for Workshop Meeting**
- D. Public Comment on Non-Agenda Items
- E. Approval of Minutes**
  - 1. February 5, 2020**
- F. Subdivision and Land Development Applications
- G. Conditional Uses and Variances
- H. Ordinance Amendments
- I. Old Business**
  - 1. Zoning Ordinance Review**
    - a. Incubator Ordinance (FYI)**
- J. New Business**
  - 1. Review Model ordinances for Pipelines**
- K. Any Other Matter
- L. Liaison Reports
- M. Correspondence
- N. Announcements

**Bold Items indicate new information to review or discuss.**

East Goshen Township Planning Commission  
Application Tracking Log

March 4, 2020 PC Meeting

Application Name	Application (CU,LD,ZO, SD,V, SE, CA)	Type (Sk, P, F)	Date Filed	Start Date	Date to Township Engineer	Date to CCPC	Date to Abutting Prop. / ABC's	Extension	PC NLT Action Date	BOS NLT Action Date	Hearing Date	Drop Dead date	Comments
No Applications													

**Bold = New Application or PC action required**

**Completed in 2019**

Paoli Pike TND Overlay District Ord.	ZO	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	12/17/2019	NA	Continued
ZEKS, 1302 Goshen Parkway	CU	Sk	8/27/2019	8/27/2019	NA	NA	8/29/2019		10/2/2019	10/29/2019	10/15/2019	10/25/2019	APPVD.
ESKE Development / Ducklings	LD	P/F	1/18/2019	2/6/2019	2/23/2019	2/23/2019	2/29/2019		4/3/2019	4/9/2019	NA	5/6/2018	APPVD.
PECO Gas Gate	CU	Sk	2/26/2019	2/26/2019	2/28/2019	NA	2/28/2019	1	4/3/2019	6/5/2019	5/14/2019	6/25/2019	APPVD.
													APPVD.
CZ Woodworking / 1422 Ardleigh Cir.	CU	Sk	3/29/2019	3/29/2019	NA	NA	4/22/2019	1	6/5/2019	6/18/2019	6/18/2019	6/27/2019	W Conds.
1351 Paoli Pike / The Hankin Group	ZO	SK	5/31/2019	NA	NA	NA	5/31/2019	NA	NA	NA	NA	NA	DENIED
1339 Enterprise Drive	CU	Sk	5/30/2019	5/30/2019	NA	NA	6/11/2019		7/10/2019	7/16/2019	7/16/2019	7/29/2019	APPVD.

**DRAFT**  
**EAST GOSHEN TOWNSHIP**  
**PLANNING COMMISSION MEETING**  
**February 5, 2020**

The East Goshen Township Planning Commission held a regular meeting on Wednesday, February 5, 2020 at 7:00 p.m. at the East Goshen Township building.

Members present are highlighted:

**Chair – Ernest Harkness**

**Vice Chair – John Stipe**

**Dan Daley**

**Edward Decker**

**Michael Koza**

**Mark Levy**

**Michael Paganella (New Member)**

Also present were:

**Mark Gordon, Zoning Officer**

David Shuey, Township Supervisor

**Martin Shane, Township Supervisor**

**COMMON ACRONYMS:**

*BOS – Board of Supervisors*

*BC – Brandywine Conservancy*

*CB – Conservancy Board*

*CCPC – Chester Co Planning Commission*

*CPTF – Comprehensive Plan Task Force*

*CVS – Community Visioning Session*

*SWM – Storm Water Management*

*ZHB – Zoning Hearing Board*

**A. FORMAL MEETING – 7 p.m.**

1. Ernie called the meeting to order at 7:00 pm. He led the Pledge of Allegiance and a moment of silence to remember our first responders and military.
2. Ernie asked if anyone would be recording the meeting and if there were any public comments about non-agenda items. There was no response.
3. Ernie checked the log.
4. The minutes of the January 8, 2020 meeting were approved.

**B. OLD BUSINESS**

Ernie spoke about the goals for 2020 which include Business Park Ordinance enhancement and pipeline safety. Mark Gordon mentioned that in 2016 the Planning Commission conducted a comprehensive review of Articles II, III, IV and V of the Zoning Ordinance. He provided copies of the list of recommendations that was sent to the BOS. He feels that Article IV, which is the Business Park Ordinance, should be the first to review. Ernie agreed and assigned each member a part of Article IV to review for discussion at the next meeting.

**C. LIASION REPORTS**

1. Board of Supervisors – Marty commented that the Hershey’s Mill Dam should be completed this year. The house has been sold. The permits for the Milltown Dam should be received this year. Regarding the TND Overlay, Michele Truitt suggested having several sessions with the plans available so the residents can see what the actual plan is.

**D. ANY OTHER MATTER**

1. Pipeline – Ernie mentioned that he and Ed Decker are attending the Pipeline Task Force meetings. There were 3 assessment studies done with proposed changes to the ordinance for pipeline safety. They are going to ask the BOS for copies for the PC members. Marty spoke about emergency services which is

1 the responsibility of the county and Sunoco. He spoke about the progress of the pipeline and location of  
2 the 2 valves near East Goshen.  
3 2. Business Park – Marty’s concern is the Business Parks. There are 2 ordinances for BP and IP (1 & 2).  
4 They should be reviewed. He and David Shuey are interviewing the business owners to see what they  
5 need for the future. Traffic will always be a concern of the residents. Mark Gordon will email an  
6 inventory of the businesses in each of the parks to the PC members.  
7 3. Paoli Pike Trail – Mark Gordon reported that they had a meeting with the contractor who will start  
8 work on sections C, D, & E on February 10<sup>th</sup>. This goes from Rt. 352 to Reservoir Road. It should be  
9 done in November. The groundbreaking will be Tuesday March 3 at 5:00 p.m. Section A goes from the  
10 YMCA to the High School. They received appraisals for this. Section B will include a metal bridge  
11 through the wetland and flood plain. Five property owners are involved.  
12  
13  
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15 **E. ADJOURNMENT**

16 There being no further business, Mike Koza made a motion to adjourn the meeting. Mark Levy  
17 seconded the motion. The meeting was adjourned at 7:40 pm. The next regular meeting will be held on  
18 Wednesday, March 4, 2020 at 7:00 p.m.  
19  
20


21 Respectfully submitted, \_\_\_\_\_  
22 *Ruth Kiefer, Recording Secretary*

# Memorandum

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**East Goshen Township**  
**1580 Paoli Pike**  
**West Chester, PA 19380**  
Voice: 610-692-7171  
Fax: 610-692-8950  
E-mail: [mgordon@eastgoshen.org](mailto:mgordon@eastgoshen.org)

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Date: 2/27/2020  
To: Planning Commission  
From: Mark Gordon, Township Zoning Officer   
Re: Industrial (I) and Business Park (BP) Zoning Ord. / Incubators

Dear Commissioners,

Please find the enclosed Incubator Ordinance which was adopted in October of 2019. The Codified Zoning Ordinance does not reflect this amendment yet. The amendment has been forwarded to General Code and will be included in the next supplement.

**TOWNSHIP OF EAST GOSHEN**  
**CHESTER COUNTY, PENNSYLVANIA**

**ORDINANCE NO. 129-D-2019**

**AN ORDINANCE AMENDING THE EAST GOSHEN TOWNSHIP ZONING ORDINANCE OF 1997, AS AMENDED, SECTION 240-6 TO ADD DEFINITIONS OF "BUSINESS INCUBATOR" AND "LIGHT INDUSTRY"; PROVIDE FOR BUSINESS INCUBATOR BY CONDITIONAL USE IN THE I-1 LIGHT INDUSTRIAL DISTRICT (SECTION 240-19), IN THE I-2 PLANNING BUSINESS, RESEARCH, LIMITED INDUSTRIAL USE DISTRICT (SECTION 240-20) AND IN THE BP BUSINESS PARK DISTRICT (SECTION 240-21); AND PROVISIONS IN SECTION 240-31.C.3 (CONDITIONAL USES) TO PROVIDE CRITERIA FOR A BUSINESS INCUBATOR.**

BE IT ENACTED AND ORDAINED by the Board of Supervisors of East Goshen Township, that the East Goshen Township Zoning Ordinance of 1997, as amended, which is codified in Chapter 240 of the East Goshen Township Code, titled, "Zoning", shall be amended as follows:

**SECTION 1.** Section 240-6, titled, "Definitions", shall be amended to include the following definitions:

**BUSINESS INCUBATOR**—A building or portion thereof that offers shared or partially shared office, light industry and manufacturing and/or laboratory space, common facilities and shared support services to multiple entrepreneurial companies, the purpose of which is to nurture and develop start-up businesses into profitable enterprises.

**LIGHT INDUSTRY**—Manufacturing and production establishments with no outside storage of materials, equipment or products.

**SECTION 2.** Section 240-19.C of the East Goshen Township Zoning Ordinance of 1997, as amended, shall be amended by adding a new subparagraph (33) as follows:

(33) Business Incubator with uses and services that are permitted in this section by right or by conditional use and when specifically approved pursuant to §240-31.C.3.ww.

**SECTION 3.** Section 240.20.D of the East Goshen Township Zoning Ordinance of 1997, as amended, shall be amended by adding a new subparagraph (29) as follows:

(29) Business Incubator with uses and services that are permitted in this section by right or by conditional use and when specifically approved pursuant to §240-31.C.3.ww.

**SECTION 4.** Section 240.21.C of the East Goshen Township Zoning Ordinance of 1997, as amended, shall be amended by adding a new subparagraph (27) as follows:

(27) Business Incubator with uses and services that are permitted in this section by right or by conditional use and when specifically approved pursuant to §240-31.C.3.ww.

**SECTION 5.** Section 240.31.C.3 of the East Goshen Township Zoning Ordinance of 1997, as amended, shall be amended by adding a new subparagraph (ww) as follows:

(ww) Business Incubator in the I-1 District pursuant to § 240-19.C(33), in the I-2 District pursuant to § 240-20.D(29) and in the BP District pursuant to § 240-21.C(27). The following shall apply if an existing building, or a portion thereof, is to be converted or if a new building, or portion thereof, is built for a Business Incubator:

[1] The applicant shall list all anticipated future uses as part of its conditional use application.

[2] Each tenant of a Business Incubator shall be required to have a Use and Occupancy permit prior to leasing space in the Business Incubator, but no separate conditional use application shall be required for any tenant, provided that any proposed use is consistent with the uses outlined in the original conditional use application.

[3] No use shall be permitted in a Business Incubator that would cause the building to exceed the minimum off-street parking requirements pursuant to § 240-33.

**SECTION 6. Severability.** If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts hereof. It is hereby declared as the intent of the Board of Supervisors that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

**SECTION 7. Repealer.** All ordinances or parts of ordinances conflicting with any provision of this Ordinance are hereby repealed insofar as the same affects this Ordinance.


**SECTION 8. Effective Date.** This Ordinance shall become effective in five days from the date of adoption.

ENACTED AND ORDAINED this 1<sup>st</sup> day of OCTOBER, 2019.

ATTEST:


  
\_\_\_\_\_  
Louis F. Smith, Secretary

**EAST GOSHEN TOWNSHIP  
BOARD OF SUPERVISORS**

  
\_\_\_\_\_  
Janet L. Emanuel, Chair

  
\_\_\_\_\_  
E. Martin Shane, Vice-Chair

\_\_\_\_\_  
Carmen R. Battavio, Member

  
\_\_\_\_\_  
Michael P. Lynch, Member

\_\_\_\_\_  
David E. Shuey, Member



# Memorandum

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**East Goshen Township**  
**1580 Paoli Pike**  
**West Chester, PA 19380**  
Voice: 610-692-7171  
Fax: 610-692-8950  
E-mail: [mgordon@eastgoshen.org](mailto:mgordon@eastgoshen.org)

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Date: 2/27/2020  
To: Planning Commission  
From: Mark Gordon, Township Zoning Officer *alb*  
Re: Model Ordinance Review  
Land Development Ordinance Standards for Transmission Pipelines  
Zoning Ordinance Standards for Transmission Pipelines

Dear Commissioners,

Please find the enclosed model land development and zoning ordinances presented by the Chester County Association of Township Officials (CATO) to Chester County Municipalities. These model ordinances propose use, buffering, and setback standards for new construction from existing and proposed transmission pipelines, along with other regulations.

The PC has identified a 2020 goal to review the Township ordinances for appropriate legislation changes concerning transmission pipelines.

The Pipeline Taskforce has been invited to attend the PC Meeting. Please read the attached MODEL ordinances in preparation for a discussion on the topic.

**PLAN SUBMISSION, BUFFERING AND SETBACK FROM  
TRANSMISSION PIPELINES**

Note: The sections of this ordinance are intended to be enacted as part of a Township's Subdivision and Land Development Ordinance.

**AN ORDINANCE PURSUANT TO ARTICLE V OF THE PENNSYLVANIA MUNICIPALITIES PLANNING CODE, AMENDING CHAPTER \_\_\_ OF THE CODE OF ORDINANCES OF \_\_\_\_\_ TOWNSHIP, BEING THE SUBDIVISION AND LAND DEVELOPMENT ORDINANCE BY PROVIDING FOR PLAN SUBMISSION, BUFFER, SETBACK, SIGNAGE AND LANDSCAPING PROVISIONS FOR NEW DEVELOPMENT ADJACENT TO TRANSMISSION PIPELINES. EFFECTIVE FIVE DAYS FROM ENACTMENT.**

**Section 1.** The Code of the Township of \_\_\_\_\_, Chapter \_\_\_ thereof, being the \_\_\_\_\_ Township Subdivision and Land Development Ordinance, as amended (the "Subdivision Chapter"), Article \_\_\_, Plan Requirements and Procedures, Sections \_\_\_, Plan Content for Preliminary and Final Plan Submissions, is amended by adding a new subsection \_\_\_, to read as follows:

The location, center line right-of-way, and limits of easements for all transmission pipelines on the tract or on any abutting property.

**Section 2.** The Code of the Township of \_\_\_\_\_, Chapter \_\_\_ thereof, being the \_\_\_\_\_ Township Subdivision and Land Development Ordinance, as amended (the "Subdivision Chapter"), Article \_\_\_, Design Standards, Section \_\_\_, is amended by adding a new section \_\_\_, to read as follows:

Section \_\_\_. Buffer Standards and Setbacks from Transmission Pipelines

A. Purpose

The purpose of this section is to help prevent and minimize unnecessary risk to the public health, safety and welfare due to transmission pipelines and ensure consistency with the intent of the Township's Comprehensive Plan. Recognizing it is impossible to eliminate risk entirely, this section is intended to:

- (1) Minimize the likelihood of accidental damage to transmission pipelines due to external forces, such as construction activity and equipment.
- (2) Avoid exposing land uses with high on-site populations that are difficult to evacuate.
- (3) Help reduce adverse impacts in the event of a pipeline failure.

- (4) Ensure compliance with and supplement existing federal and state regulations related to transmission pipeline corridor management, among them the Federal Energy Regulatory Commission (FERC) and the Pennsylvania Oil and Gas Act.

B. Applicability

- (1) **Setbacks.** New residential buildings and all new commercial, industrial and institutional uses other than those surface uses affiliated with transmission pipelines shall be set back a minimum of three hundred (300) feet from any existing or proposed transmission pipeline right-of-way; such uses shall be set back from natural gas compressor stations or other surface land uses affiliated with transmission pipelines a minimum of seven hundred and fifty (750) feet or five hundred (500) feet from the nearest lot line of natural gas compressor stations or other surface land uses affiliated with transmission pipelines, whichever is greater. Other unoccupied residential or non-residential accessory uses such as but not limited to detached garages, parking areas, storage facilities or garden sheds shall not be located within two hundred (200) feet of any pipeline right-of-way.

Setbacks may be modified by the Township pursuant to the type of material being transported in the pipeline and whether the applicant proposes high on-site populations. The Township shall, on a case-by-case basis determine whether increased setbacks are warranted consistent with the “Potential Impact Radius” (PIR), defined by the relationship between the diameter of the adjacent pipeline and its maximum operating pressure (see Exhibit 1), whether high on-site populations are proposed, and whether more than one transmission pipeline (such as coupled lines) exist (or are proposed). The PIR approach is applicable only to “gas” or “petroleum gas” transmission pipelines as defined by Title 49, Code of Federal Regulations, Section 192.3. Transmission pipelines carrying "hazardous liquids", as defined by Title 49, Code of Federal Regulations, Section 195.2 shall adhere to the setback standards contained in this subsection.

*Note: Although Act 13’s setbacks were 750 feet from compressor stations, the Act also provided DEP latitude to reduce such setbacks if waived by the owner of adjacent buildings or adjoining lots. The setbacks offered here are graduated to apply to different types of uses and settings. Municipalities wishing to consider larger setbacks for transmission pipelines (including petroleum or other hazardous liquid pipelines not addressed by the PIR approach) should only do so if they believe they can justify the need for larger setbacks to protect High Consequence Areas (areas with high on-site populations) or Unusually Sensitive Areas (areas with unique natural resource constraints). Any increase or decrease in setbacks should be reviewed by the municipal solicitor.*

No activity or grading within the pipeline setback shall create depressions or areas in which flammable or explosive materials may collect or accumulate; examples include but are not limited to grading for structures, stormwater management facilities or landscape beds. Furthermore, pipeline rights-of way shall be identified and protected during construction by erecting suitable temporary barricades (non disturbance fencing or silt fencing) and posting notices on-site.

*Note: Given the regulatory process undertaken to permit new pipelines, the economic variables that influence pipeline location, and the changing market for materials transported through pipelines, it is often very difficult to determine whether a "proposed" pipeline will be constructed. The intent of requiring applicants to plan for proposed pipelines is to ensure applicants undertake due diligence in their land planning activities - communicating with pipeline companies/operators about intended development, informing and involving municipal officials in such communications, and making informed decisions regarding the likelihood of proposed pipelines being constructed. Municipalities may wish to consider adding ordinance language such as the following:*

"Applicants undertaking development in proximity to proposed transmission pipeline rights-of-way shall determine the likelihood of the pipeline being installed through proactive communications with the pipeline company/operator; such communications shall involve municipal officials and a determination shall be made as to the likelihood of the pipeline being constructed. In the event the developer and municipality disagree regarding the likelihood of the pipeline being constructed, the applicant shall indicate the extent of the disagreement on the plan, shall provide a minimum 100 foot buffer from the proposed right-of-way, and shall indicate on both the property and lot deeds the inherent risks of being in close proximity to a pipeline should it be constructed in the future."

- (2) Consultation zone. Any application, other than those surface uses affiliated with transmission pipelines, for new residential structures and all new commercial, industrial and institutional uses (whether Class 1, 2, 3 or 4 locations pursuant to Exhibit 1), proposed within six hundred sixty (660) feet of any existing or proposed transmission pipeline right-of-way shall include written verification from the applicant that:
- (a) The applicant has contacted the pipeline operator(s) and has provided the pipeline operator(s) with documentation detailing the proposed development activity and where the activity is to take place;
  - (b) The applicant has made sufficient access to the pipeline available to the pipeline operator(s) for routine maintenance and emergency operations; and
  - (c) The pipeline operator(s) has reviewed the documents for compatibility with continued or proposed safe operation of the transmission pipeline(s).

It shall be clear in the written notification submitted with the application that the pipeline operator(s) has received and acknowledged documentation showing the proposed activity and its location.

*Note: The 660 feet designation for consultation zones (above) and high on-site populations (below) is based upon "best practices" developed by the Pipelines and Informed Planning Alliance (PIPA), a planning committee formed by Pipeline and Hazardous Materials Safety Administration (PHMSA) (see the "Planning Near Pipelines" Introduction for more information).*

- (3) Land uses with high on-site populations. Applicants for land uses with high on-site populations within six hundred sixty (660) feet of a transmission pipeline shall develop appropriate mitigation measures to help reduce adverse impacts in the event of a pipeline failure. Such measures and/or corresponding plans shall be submitted to the Township for review. Land uses with high on-site populations include schools (through grade 12, trade schools, advanced education institutions, etc.), hospitals, clinics, multi-family housing, retirement and/or life care facilities, stadiums or arenas, day care centers, or large scale commercial, industrial or institutional uses of fifty (50) or more persons.

Mitigation measures intended to reduce risk and minimize impact in the event of a pipeline failure include but are not limited to: emergency procedures such as emergency plans and guides, employee training and drills, and education programs for occupants and employees concerning pipeline safety, such as what to be aware of and how to respond in the event of a problem. Applicants shall consult with the local Fire Marshal regarding the level of emergency planning and procedures appropriate for the proposed development; the Fire Marshall may also require submission of plans for review and approval where deemed appropriate.

- C. Land Development Design, Buffering and Screening. Applicants shall consider existing or proposed pipelines in their design and placement of lots, structures and roads. Specifically, consideration shall be given to incorporating the linear appearance of the pipeline right-of-way into the overall development design or landscaping in a manner that works with or minimizes the linear appearance of the pipeline right-of-way. Attempts shall be made to avoid creating a bisecting and unnatural linear space that does not relate to the land development.

The applicant shall provide a plan prepared by a landscape architect licensed in Pennsylvania showing landscaping proposed to be installed to minimize the linear appearance of the pipeline right-of-way and screen and buffer new development from transmission pipelines in the event of an accident or failure. Landscaping can be used both to minimize the linear appearance of the pipeline right-or-way and buffer structures from those remedial activities associated with pipeline failure and clean-up.

The landscape plan shall incorporate a mix of native vegetation, including evergreens, shrubbery and trees, which shall be of sufficient density to meet the objectives outlined herein while permitting suitable points of access for pipeline personnel providing routine maintenance. Existing vegetation in proximity to transmission pipelines shall be preserved to the greatest extent possible. All proposed landscaping shall comply with the requirements of this Ordinance.

- D. Signage. Applicants shall consult with transmission pipeline operators to determine the need for, number of, and placement of utility identification signs, appropriate warning signs and owner identification signs. The number and placement of signs and their content shall be shown on plan submissions.



**Section 3.** The Code of the Township of \_\_\_\_\_, Chapter \_\_\_\_ thereof, being the \_\_\_\_\_ Township Subdivision and Land Development Ordinance, as amended (the "Subdivision Chapter"), Article \_\_, Section \_\_, Definitions, is amended by adding the following terms and definitions therefore in the correct alphabetical sequence:

**Pipeline** – As defined by Title 49, Code of Federal Regulations, Sections 195.2 and 192.3.

**Surface land uses affiliated with transmission pipelines** – Above-ground transmission pipeline facilities including, but not limited to, compressor stations, pumping stations, regulator stations, launcher/receiver stations, and other surface pipeline appurtenances.

**Transmission Pipelines** – Transmission pipelines include, but are not limited to, pipelines designed for the transmission of a "gas" or "petroleum gas", except a "service line", as those terms are defined by Title 49, Code of Federal Regulations, Section 192.3; also included are pipelines designed for the transmission of a "hazardous liquid", as defined by Title 49, Code of Federal Regulations, Section 195.2.

## ORDINANCE GUIDELINES

### SURFACE LAND USES AFFILIATED WITH TRANSMISSION PIPELINES

Note: The purpose of these guidelines is to provide a framework for an ordinance to be enacted as part of a Municipality's Zoning Ordinance, preferably within a "Supplementary Regulations" section. All contents of these ordinance guidelines, as well as any modifications made by local municipalities consistent with local planning objectives, are subject to review by a municipal solicitor consistent with the Pennsylvania Municipalities Planning Code, Act 247 of 1968, as amended, and the Pennsylvania Oil and Gas Act (including amendments contained in Act 13 of 2012 and subsequent findings of the PA Commonwealth Court and PA Supreme Court of challenges to Act 13).

**AN ORDINANCE PURSUANT TO ARTICLE VI OF THE PENNSYLVANIA MUNICIPALITIES PLANNING CODE, AMENDING CHAPTER \_\_\_ OF THE CODE OF ORDINANCES OF \_\_\_\_\_ TOWNSHIP, BEING THE ZONING ORDINANCE BY PROVIDING FOR THE REGULATION OF SURFACE LAND USES AFFILIATED WITH TRANSMISSION PIPELINES. EFFECTIVE FIVE DAYS FROM ENACTMENT.**

**Section 1.** The Code of the Township of \_\_\_\_\_, Chapter \_\_\_ thereof, being the \_\_\_\_\_ Township Zoning Ordinance, as amended (the "Zoning Chapter"), Article \_\_\_, Supplementary Regulations, Section \_\_\_, is amended by adding a new section \_\_\_, to read as follows:

- A. Surface Land Uses Affiliated with Transmission Pipelines. The purpose of this section shall be to:
- (1) Accommodate the need for surface land uses affiliated with transmission pipelines consistent with the desire to protect the health, safety and welfare of the citizens of the Township.
  - (2) Minimize aesthetic, nuisance and visual impacts of surface land uses affiliated with transmission pipelines through design, siting and vegetative screening.
  - (3) Ensure the location of surface land uses affiliated with transmission pipelines in compliance with applicable industry standards and requirements, Federal law, and Pennsylvania State law, including the Federal Energy Regulatory Commission (FERC), the Pennsylvania Oil and Gas Act (as amended), and Pennsylvania case law.
  - (4) Preserve the rural, suburban and urban character of neighborhoods adjacent to surface land uses affiliated with transmission pipelines.

B. Use provisions.

- (1) Surface land uses affiliated with transmission pipelines shall be permitted as a principal use by right in the *Industrial District* where underground pipelines exist or are proposed. Such uses shall meet the dimensional requirements, including but not limited to area and bulk standards, of the *Industrial District*. Applicants are required to demonstrate to the satisfaction of the Township that the requirements of Section C, Standards for surface land uses affiliated with transmission pipelines, can be met.

*Note: Municipalities may wish to permit surface land uses as conditional uses within their Industrial District (rather than as by right uses); if so, the standards contained in Subsection C, below, would become the "conditional use standards" by which the land use would be permitted.*

*Note: Municipalities may wish to designate other areas where surface uses are permitted as conditional uses, such as zoning districts within which existing pipeline corridors already exist, or other special use districts (such as a defined "pipeline corridor district") appropriate for such uses. Each municipality will need to carefully consider whether additional or special use districts are appropriate for surface land uses affiliated with transmission pipelines in their community. Sample language for permitting surface land uses affiliated with existing transmission pipelines follows and could be inserted here as Subsection B.2; –*

- (2) Except as otherwise designated in Subsection (3) below, surface land uses affiliated with transmission pipelines shall be permitted as a principal use in \_\_\_\_\_ zoning districts where underground pipelines exist as of the date of adoption of this Section when authorized as a conditional use pursuant to Section C, Standards for surface land uses affiliated with transmission pipelines and (*insert reference to municipal Conditional Use Approval Standards*). In addition, such uses shall meet the dimensional requirements, including but not limited to area and bulk standards, of the underlying district.

- (3) Surface land uses affiliated with transmission pipelines shall be prohibited in the *Historic Preservation Overlay District*.

*Note: The example in Subsection B.3 above prohibits surface land uses in historic districts. Municipalities may also wish to prohibit or otherwise regulate such uses in other special districts or resource protection areas such as scenic corridor overlay districts, water resource protection areas (critical aquifer recharge areas, source water protection areas, wellhead protection areas, etc.), natural resource protection areas (wetlands, riparian buffer areas, rare habitat areas), etc.*



- (4) All other uses ancillary to surface land uses affiliated with transmission pipelines are prohibited unless otherwise permitted in the zoning district in which the use is located.

*Note: Ancillary uses could include signage or others types of outbuildings.*

- C. Standards for surface land uses affiliated with transmission pipelines. The following standards will be considered by the Township prior to permitting surface land uses affiliated with transmission pipelines:

- (1) **Setbacks.** Unless otherwise approved by the Board of Supervisors upon recommendation of the Township Planning Commission, the applicant shall demonstrate that the setbacks for surface land uses affiliated with transmission pipelines and all supporting equipment and structures to any property line or right-of-way shall be consistent with the minimum setback in the underlying zoning district. In addition, surface land uses affiliated with transmission pipelines and all supporting equipment and structures shall be setback a minimum of seven hundred and fifty (750) feet from residential buildings and all commercial, industrial and institutional uses or a minimum of five hundred (500) feet from the nearest lot line, whichever is greater.

Setbacks may be increased by the Township pursuant to the type of material being managed at the surface land use affiliated with transmission pipelines and whether the use is adjacent to areas of high on-site population. Land uses with high on-site populations include schools (through grade 12, trade schools, advanced education institutions, etc.), hospitals, clinics, multi-family housing, retirement and/or life care facilities, stadiums or arenas, day care centers, or large scale commercial, industrial or institutional uses of fifty (50) or more persons.

The Township shall, on a case-by-case basis determine whether increased setbacks are warranted consistent with the "Potential Impact Radius" (PIR), defined by the relationship between the diameter of the adjacent pipeline (and appurtenances) and its maximum operating pressure (see Exhibit 1), whether high on-site populations are located in close proximity, and whether more than one transmission pipeline (such as coupled lines) will be managed at the surface land use affiliated thereto. The PIR approach is applicable only to surface land uses affiliated with "gas" or "petroleum gas" transmission pipelines as defined by Title 49, Code of Federal Regulations, Section 192.3. Surface land uses affiliated with transmission pipelines carrying "hazardous liquids", as defined by Title 49, Code of Federal Regulations, Section 195.2, shall adhere to the setback standards contained in this subsection.

*Note: Although Act 13's setbacks were 750 feet from compressor stations, the Act also provided PADEP latitude to reduce such setbacks if waived by the owner of adjacent buildings or adjoining lots. Municipalities wishing to consider larger setbacks for surface land uses affiliated with petroleum or other hazardous liquid pipelines should only do so if they believe they can justify the need for larger setbacks to protect High Consequence Areas (areas with high on-site populations) or Unusually Sensitive Areas (areas with unique natural resource constraints). Any increase or decrease in setbacks should be reviewed by the municipal solicitor. The municipality should consider retaining special counsel to present the case for larger setbacks when/if the conditional use process is utilized.*

- (2) Landscaping. The applicant shall provide a plan prepared by a landscape architect licensed in Pennsylvania showing landscaping proposed to be installed to screen and buffer surface land uses affiliated with transmission pipelines. The landscape plan shall incorporate the use of an eight-foot decorative fence surrounded by a mix of native vegetation, including evergreens, shrubbery and trees, which shall not be less than the height of the fence and shall be of sufficient density to screen the facility. Existing vegetation in proximity to surface land uses affiliated with transmission pipelines shall be preserved to the greatest extent possible. All proposed landscaping shall comply with the requirements of the Township's Subdivision and Land Development Ordinance (*or substitute the location of any landscaping provisions of the Township Code*). Applicants shall submit a visual survey from mutually agreed upon vantage points in order to support the proposed landscaping plan's mitigation of visual impacts.

*Note: Municipalities could consider whether they wish to ask that the fence provide screening (less than fifty percent open) for surface land uses. In addition, the word "decorative" could be deleted if it is viewed as too subjective.*

- (3) Noise. Sound produced by the surface land use affiliated with transmission pipelines shall not result in noise or vibration exceeding the average intensity of noise or vibration occurring from other causes as measured at the property line at any time in a 24 hour period; in no case shall the sound pressure level exceed 60 dB(A) (according to the American National Standards Institute (ANSI) "a" weighted scale) at the property line closest to the land use.
- (4) Odors. Odor, vapors or particulate matter produced by the surface land use affiliated with transmission pipelines shall not exceed the permissible emission of such substances occurring from other causes as measured at the property line. Specific contaminants shall be regulated by PA Code, Title 25, Environmental Protection, Part 1, Subpart C, Article III, Air Resources.
- (5) Signage. All signs, other than utility identification signs, appropriate warning signs, or owner identification signs, shall be prohibited. There shall be no

antennae, advertising, or other items or material affixed to or otherwise placed on surface land uses affiliated with transmission pipelines, except as permitted by the Township, pursuant to its sign ordinance.

- (6) **Parking.** If the surface land use affiliated with transmission pipelines is fully automated, adequate parking shall be required for maintenance workers. If the site is not automated, the number of parking spaces shall be equal to the number of people on the largest shift. Parking spaces shall be located within the decorative fence and landscape buffer area so they are substantially concealed when viewed from surrounding properties.
- (7) **Access.** Sufficient access shall be provided to surface land uses affiliated with transmission pipelines for routine maintenance and emergency operations. Such access shall be sufficient to accommodate emergency vehicles, shall be all weather accessible, and shall provide sufficient area to safely deploy emergency equipment.
- (8) **Lighting.** No surface land use affiliated with pipeline utilities shall be artificially lighted except as required for emergency night time access. Any such lights shall be shielded so as to prevent intrusion upon neighboring properties and shall not be directed in such a way as to create a nuisance to users of adjoining streets and property or subject them to direct glare or hazardous interference of any kind.
- (9) **Engineered drawing submission.** Applications for a land use affiliated with transmission pipelines shall be accompanied by engineering drawings prepared by an engineer licensed in Pennsylvania. The applicant shall show that all applicable Commonwealth of Pennsylvania and U.S. standards for the construction, operation, and maintenance of the proposed facility have been met.
- (10) **Design.** The applicant proposing a surface land use affiliated with transmission pipelines must demonstrate that the structure has been designed to blend in with or mimic existing structures in the landscape such as residential outbuildings, farm structures, or other uses permitted in the underlying districts.
- (11) **Visual impact.** Any surface land use affiliated with transmission pipelines shall be designed and constructed so as to mitigate the visual impact from public roads and nearby uses. In addition, the color and other visual features of the land use affiliated with pipeline utilities shall be designed and installed in such a manner so as to create the least visual impact practicable. The applicant shall demonstrate compliance with this section, by among other things, providing photographic perspectives of the proposed site from all sides of the property, adjacent road ways and neighboring properties (with permission of the owners). Mitigation of visual impact shall be consistent with the landscaping requirements of Subsection C (2), above.

- (12) **Need.** The applicant for a surface land use affiliated with transmission pipelines is required to demonstrate, using scientific and technological evidence, that the facility must be located where it is proposed in order to satisfy its function in the company's pipeline system and demonstrate that there is a need for this facility at the location where it will be located.
- (13) **State and Federal Regulation.** All applicants, whether commercial pipeline companies or otherwise, must demonstrate the submission of sufficient filings and/or receive sufficient approvals, as required, through the Federal Energy Regulatory Commission (FERC), the Pipeline and Hazardous Materials Safety Administration (PHMSA), and the Commonwealth of Pennsylvania [the Pennsylvania Department of Environmental Protection (PADEP) and/or the Pennsylvania Public Utilities Commission (PA PUC)]. Such documentation is not required as part of the initial application to the Township, but must be included with the final as-built plans submitted upon approval by the Township.
- (14) **Removal of surface land uses affiliated with transmission pipelines.** Any surface land uses affiliated with transmission pipelines, including access roads and related infrastructure, that are no longer licensed and active shall be removed and the site restored to its original condition at the owner's expense within 60 days of the last date that the facility was licensed by the PADEP and FERC. A bond or escrow account shall be posted with the Township in an amount sufficient to ensure such removal and site restoration prior to the construction of the facility. The applicant shall have prepared and submit to the Township to accompany the bond or escrow account, an estimate of the cost necessary to remove the surface land use facility associated with the pipeline and restore the site to its preconstruction condition.

**Section 2.** The Code of the Township of \_\_\_\_\_, Chapter \_\_\_\_ thereof, being the \_\_\_\_\_ Township Zoning Ordinance, as amended (the "Zoning Ordinance"), Article \_\_, Section \_\_, Definitions, is amended by adding the following terms and definitions therefore in the correct alphabetical sequence:

**Pipeline** – As defined by Title 49, Code of Federal Regulations, Sections 195.2 and 192.3.

**Surface land uses affiliated with transmission pipelines** – Above-ground transmission pipeline facilities including, but not limited to, compressor stations, pumping stations, regulator stations, launcher/receiver stations, and other surface pipeline appurtenances.

**Transmission Pipelines** – Transmission pipelines include, but are not limited to, pipelines designed for the transmission of a "gas" or "petroleum gas", except a "service line", as those terms are defined by Title 49, Code of Federal Regulations, Section 192.3; also included are pipelines designed for the transmission of a "hazardous liquid", as defined by Title 49, Code of Federal Regulations, Section 195.2.