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ORDINANCE NO. 2009-013

AN ORDINANCE ESTABLISHING A SENSITIVE UTILITY CORRIDOR OVERLAY DISTRICT

The La Center City Council adopts the following findings:

WHEREAS, natural gas transmission pipelines are a crucial part of our national energy infrastructure; and

WHEREAS, just as natural gas transmission pipelines pose a risk to their surroundings, so does human activity in the vicinity of pipelines pose a risk to pipelines; and

WHEREAS, the best way to balance the interests of property owners, developers, and natural gas transmission pipeline operators is to make sure that all relevant parties are aware of the plans, concerns and interests of the other parties; and

WHEREAS, risk-informed approaches are being used effectively in other domains (e.g., natural hazard mitigation, industrial hazard mitigation, nuclear reactor and waste disposal programs, tanker safety); and

WHEREAS, the City conducted a public participation program which included six public hearings and an open house conducted on September 2, 2009; and

WHEREAS, Washington State Department of Community, Trade and Economic Development (CTED) has certified that the City of La Center has met the requirements of RCW 36.70A.106; and

WHEREAS, the La Center Planning Commission conducted duly advertised public hearings on March 10, April 14, May 12, June 9, September 22, 2009; and

WHEREAS, the La Center City Council conducted a duly advertised public hearing and received public testimony on November 24, 2009; and

WHEREAS, the City Council finds the adoption of this ordinance to be in the public's interest;

1 **NOW THEREFORE**, based on the foregoing findings, the La Center City Council
2 ordains as follows:

3 **SECTION 1 - Amendment:** Section 1 of Ordinance 2006-17 and Title 18 LCMC,
4 is hereby amended to include a new Chapter 18.157 LCMC as shown in Exhibit 1,
5 attached hereto and incorporated herein by this reference.

6 **SECTION 2 - Severability:** If any portion of this ordinance is found to be invalid
7 or unenforceable for any reason, such finding shall not affect the validity or
8 enforceability of any other provision of this ordinance.

9 **SECTION 3 - Transmittal:** The City Clerk is hereby directed to transmit a copy of
10 this ordinance and associated exhibits to the Washington State Department of
11 Community, Trade and Economic Development, and the Washington Utilities and
12 Transportation Commission within ten days of adoption.

13 **SECTION 4 - Effective Date:** This ordinance shall go into effect ten days after
14 adoption.

15 Approved and adopted this 24th day of November, 2009 by a majority of the La
16 Center City Council.


17 AYES: 5
18 NAYS: 0
19 ABSTAIN: 0
20 ABSENT: 0



Mayor of La Center

21
22
23 ATTEST:

APPROVED AS TO FORM:

24
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26 
27 _____
28 Suzanne Levis, Finance Director/Clerk



Daniel Kearns, City Attorney

Chapter 18.157
SENSITIVE UTILITY CORRIDOR OVERLAY DISTRICT

Sections:

<u>18.157.010</u>	<u>Purpose</u>
<u>18.157.020</u>	<u>Applicability</u>
<u>18.157.030</u>	<u>Definitions</u>
<u>18.157.060</u>	<u>Development Standards</u>

18.157.010 PURPOSE.

This chapter is intended to:

- (1) Minimize accidental damage to major pipelines due to external forces, such as construction equipment.
- (2) Avoid exposing uses requiring evacuation assistance to risk of injury or damage in the event of a pipeline failure.
- (3) Help reduce adverse impacts in the event of a major pipeline failure.
- (4) Supplement existing federal and state regulations related to natural gas transmission pipeline corridor management.

The provisions of this section are intended to protect the health, safety and welfare of the general public and are not intended to protect any particular individual, class of individuals, or organization.

18.157.020 APPLICABILITY.

Regulations in this chapter apply to all existing and proposed land uses within the Sensitive Utility Corridor Overlay District. Applications within the Sensitive Utility Corridor Overlay District shall be processed as Type II applications, excepting minor modifications to existing structures that do not involve significant land disturbance on-site or changes to off-site improvements. A variance request affected the dimensions of a restricted pipeline area shall be processed as a Type III application.

18.157.030 DEFINITIONS.

In this chapter:

- (1) CONSULTATION ZONE means the area within 641 feet from the centerline of a hazardous pipeline. This distance is the "Potential Impact Radius" used in the gas transmission pipeline integrity management regulations (49 CFR 192.903). The boundary of the consultation zone shall be the boundary of the Sensitive Utility Corridor Overlay District.
- (2) DEVELOPMENT means the placement, erection, or removal of any fill, solid material, or structure on land, in or under the water, discharge or disposal of any dredged material or of any liquid or solid waste; or the grading, removing, dredging, mining, or extraction

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of any materials, including mineral resources; the construction, reconstruction, removal, or demolition of any structure; or the removal or harvesting of vegetation. Development includes activities related to or undertaken in conjunction with the cultivation, or use of land for agricultural purposes.

- (3) DEVELOPER means any person, firm, or corporation undertaking development;
- (4) SENSITIVE PIPELINE means a "transmission line" designed for the transmission of natural gas as defined by Title 49, Code of Federal Regulations, Section 192.3 with an inside diameter of eight inches or more.
- (5) NEW CONSTRUCTION means the construction of a new structure, the construction of an addition to an existing structure and the reconstruction of a portion of an existing structure. Provided the existing building footprints are utilized, the term excludes an addition to, reconstruction or replacement of, a structure existing on November 24, 2009, used for:
 - (a) single-family residential use;
 - (b) duplex residential use;
 - (c) manufactured homes
 - (d) accessory structures and appurtenances
 - (e) temporary sales offices in conjunction with a subdivision
- (6) RESTRICTED PIPELINE AREA means an area within a Sensitive Pipeline easement.
- (7) USE REQUIRING EVACUATION ASSISTANCE means the following uses:
 - (a) congregate living;
 - (b) convalescent services;
 - (c) detention facilities;
 - (d) day care services (commercial);
 - (e) hospital (general);
 - (f) hospital (limited);
 - (g) medical offices exceeding 5,000 square feet of gross floor area;
 - (h) private primary educational facilities;
 - (i) private secondary educational facilities;
 - (j) public primary educational facilities;
 - (k) public secondary educational facilities; and
 - (l) retirement housing (large site).
 - (m) Other uses as determined by the City Planner that, because of proximity to a Sensitive Pipeline, pose a safety concern due to characteristics of the occupants, development, or site.

18.157.040 DEVELOPMENT STANDARDS.

(1) Within the consultation zone:

- (a) All uses specifically “permitted”, but not “limited” or “conditional”, in the Low Density Residential base-zoning district shall continue to be permitted in accordance with the review procedures of this chapter.
- (b) In calculating minimum lot area under this chapter, the restricted pipeline area is excluded.
- (c) A person who seeks to convey a lot containing a restricted pipeline area shall, before title is transferred, deliver to the proposed grantee a document describing the restricted pipeline area, the limitations on its development, and the name and address of the pipeline owner or operator.

(d) Developers shall:

- (i) Show the restricted pipeline area and consultation zone on all site plans and plats and include the following disclosure on the face of the site plan or plat when proposed development is located within a consultation zone¹; and

“The subject property is located within the potential impact radius of a significant natural gas pipeline. This disclosure is pursuant to Chapter 18.157 LCMC and is for notification purposes only. By approving this land division, the City of La Center assumes no responsibility for the safety, maintenance, or nuisance potential that may arise due to the proximity of the pipeline to this property.”

- (ii) Contact the sensitive pipeline operator and provide documentation detailing the proposed development activity and location;
- (iii) Provide written evidence with their development permit application that the sensitive pipeline operator reviewed the documents for compatibility with continued safe operation of the sensitive pipeline;
- (iv) Submit a SEPA environmental checklist with their development permit application involving any parcel that is within a consultation zone²; and
- (v) The restricted pipeline area and consultation zone shall be indicated on all engineering and construction drawings. The restricted pipeline area must be marked by a temporary construction fence and clearly flagged subject to review by the City Planner and shall be maintained until completion of all work.

¹ Minor modifications to existing structures that do not involve significant land disturbance on-site or changes to off-site improvements are exempt from this requirement

² The environmental checklist must reference the sensitive pipeline and provide information concerning any impact the activity will have upon the integrity of the transmission pipeline(s)

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- (vi) Comply with all other applicable requirements of this title.
- (e) The City shall:
 - (i) Not issue permits on any site within the consultation zone unless it has received written verification from the sensitive pipeline operator regarding consultation. Written verification can be in any form acceptable to the city, including electronic communications, so long as it is clear that the pipeline operator has received and reviewed documentation showing the proposed activity and its location.
 - (ii) Include data indicating the location of the restricted pipeline area and consultation zone on every map prepared by the planning or engineering staff that contains data concerning the location of roads or other infrastructure.
 - (iii) Every informational brochure or permit issued by the City concerning an activity involving potential excavation must contain clear, concise information regarding the state "one call" requirements. This would include, for example, any brochures or permits involving fence regulations or the installation of irrigation systems, since those activities may involve digging deeper than 12 inches.
 - (iv) Notify any individual applying for a development permit within the consultation zone that they are within the consultation zone, explain the relevant application procedures, and provide contact information for the sensitive pipeline operator. This same procedure shall be followed whenever an individual inquires about development regulations or zoning restrictions for property within the consultation zone.
- (2) Uses requiring evacuation assistance are prohibited within 250 feet of a sensitive pipeline. Uses requiring evacuation assistance may be permitted within the consultation zone as Conditional Uses under a Type III process provided the hearings examiner determines, after receiving a recommendation from the Clark County Fire Marshal, that:
 - (a) the structure can protect any occupants from the immediate effects of a catastrophic pipeline explosion at its closest point of approach to the structure.
 - (b) the structure has a performance-based design that provides an adequate time period for occupant evacuation to a safe place in the event of a pipeline leak or fire associated with the pipeline, after considering:
 - (i) the requirements of the *International Fire Code*, as locally adopted;
 - (ii) the site and structure design;
 - (iii) the structure's building materials;
 - (iv) the structure's distance from the pipeline;

- (v) the use of radiant energy barriers;
 - (vi) access to the site and the structure by emergency responders;
 - (vii) available on-site resources for emergency responders;
 - (viii) the topography and other natural features;
 - (ix) the use of the structure; and
 - (x) the evacuation capability of the occupants;
- (c) the structure incorporates a system for the early detection and notification of a pipeline leak, if the Clark County Fire Marshal determines that an appropriate system is commercially available; and
- (d) the performance-based design for occupant evacuation and the early detection and notification system are certified and sealed by an engineer registered in Washington.
- (e) Emergency procedures are in place 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.
- (i) Applicants shall consult with the Clark County Fire Marshal regarding the level of emergency planning and procedures appropriate for the proposed development. Based on the nature, occupancy, or location of a proposed development, the Clark County Fire Marshal may require emergency plans and procedures for any occupancy classification.
 - (ii) Emergency plans and procedures shall be consistent with the International Fire Code as locally adopted and shall be approved by the Clark County Fire Marshal.
- (3) Within the restricted pipeline area:
- (a) Construction or expansion of structures or other activities involving land disturbance shall be prohibited within the restricted pipeline area unless:
 - (i) The sensitive pipeline operator provides written approval for said encroachment within any restricted pipeline area.
 - (ii) This prohibition does not apply to:
 - (A) The pipeline or an appurtenance;
 - (B) A facility that produces, consumes, processes, or stores the product transported by the pipeline, including a power generation facility;
 - (C) A utility line that crosses the restricted pipeline area, including an appurtenance to the line;

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- (D) A utility service connection;
- (E) A road; or
- (F) A surface parking lot.