

**BOROUGH OF MOUNTAIN LAKES  
MORRIS COUNTY, NEW JERSEY**

**ORDINANCE 10-16**

**ORDINANCE AMENDING CHAPTERS 245 AND 102 OF THE REVISED  
GENERAL ORDINANCES OF THE BOROUGH OF MOUNTAIN LAKES  
AND PROVIDING LAND USE REGULATIONS APPLICABLE TO  
PIPELINES**

**BE IT ORDAINED** by the Borough Council of the Borough of Mountain Lakes, in the County of Morris and State of New Jersey, as follows:

**Section 1.** Chapter 245 of the Revised General Ordinances of the Borough of Mountain Lakes, Section 245-3 entitled "Definitions," shall be amended by the inclusion of the following additional definitions:

**ESSENTIAL PUBLIC FACILITIES** — Those public facilities which are required in order to provide basic health and safety services to residents and visitors of the Borough, including, without limitation, water sanitation plants, water treatment plants, sewer treatment plants, water storage facilities, telecommunication towers, police stations, fire stations, jails, courthouses, public health facilities, and emergency operations centers.

**HAZARDOUS SUBSTANCE** — Any substance designated under 40 CFR 116 pursuant to Section 311 of the Federal Water Pollution Control Act Amendments of 1972 (Clean Water Act, Public Law 92-500; 33 U.S.C. § 1251 et seq.), the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq., or Section 4 of the New Jersey Water Pollution Control Act (N.J.S.A. 58:10A-4). Substances listed include petroleum, petroleum products, pesticides, solvents and other substances.

**HAZARDOUS SUBSTANCE TRANSMISSION PIPELINE CORRIDOR or TRANSMISSION PIPELINE CORRIDOR** — The pipeline pathway defined by rights-of-way and easements in which the pipelines and facilities of a hazardous substance transmission pipeline are located, or proposed to be located, including rights-of-way and easements over and through public or private property.

**HAZARDOUS SUBSTANCE TRANSMISSION PIPELINE or TRANSMISSION PIPELINE** — A pipeline, whether above or below ground, which transports or is designed to transport a hazardous substance. As used herein, a transmission pipeline includes all parts of those physical facilities through which a hazardous substance moves in transportation, including pipes, valves, and other appurtenances attached to pipes, compressor units, pumping stations, metering stations, regulator stations, delivery stations, emergency response terminals, holders, breakout tanks, fabricated assemblies, and other surface pipeline appurtenances.

**HIGH-CONSEQUENCE LAND USE** — A land use that, if located in the vicinity of a hazardous materials transmission pipeline, represents an unusually high risk to life in the event of a transmission pipeline failure due to the characteristics of the inhabitants or functions of the use. High-consequence land uses include:

- (1) Child care;
- (2) Houses of worship, including churches and other religious institutions;
- (3) Hospitals;
- (4) High-rise buildings, including hotels, dormitories, apartment complexes, and office buildings, which may not lend themselves to a timely evacuation;
- (5) Open space uses, including Green Acres and Borough-owned lands designated as open

- space preservation areas, farmland preservation areas, historic preservation areas, Blue Acres preservation areas, active recreation areas, and passive recreation areas;
- (6) National-Park Service designated National Natural Landmarks;
- (7) New Jersey Department of Environmental Protection (NJDEP) designated New Jersey Natural Areas and Natural Heritage Priority Sites;
- (8) Residential care facilities;
- (9) Institutional uses, including public and private schools, day-care facilities, and public or quasi-public buildings; and
- (10) Essential public facilities.

**TRANSMISSION PIPELINE OPERATOR** — The company or person responsible for the operation, maintenance and management of the transmission pipeline.

**WETLAND** — An area delineated and approved as a wetland by the New Jersey Department of Environmental Protection ("DEP") or other governmental authority.

**Section 2.** Chapter 245 of the Revised General Ordinances of the Borough of Mountain Lakes, shall be amended by the inclusion of new Section 245-18A which shall be entitled "Pipelines," and which shall read in its entirety as follows:

**Section 245-18A. Pipelines.**

- A. Applicability. The provisions in this section that apply to transmission pipelines apply to all proposed pipelines. To the extent any regulations within this section conflict with state or federal regulations or laws regulating hazardous substance transmission pipelines, those state or federal regulations and laws shall take precedence over these regulations. The Borough hereby adopts by reference the definitions set forth in the Hazardous Liquid Pipeline Safety Act of 1979, as amended, and recodified in 49 U.S.C. § 601 and 49 CFR 190 to 199.
- B. Pipelines uses. Pipelines not distributing services to end users within the Borough which are not otherwise regulated by the New Jersey Board of Public Utilities are prohibited in all residential zones and districts within the Borough and shall constitute conditional uses in all other zones and districts within the Borough.
- C. Requirements and standards for development and construction of new hazardous substance transmission pipelines. The following requirements and standards shall apply for the development and construction of new hazardous substance transmission pipelines:
  - (1) Approvals required; application. A resolution of approval by the Borough Planning Board shall be required prior to the commencement of any work to install a transmission pipeline within the Borough. An original application for a pipeline approval and permit shall be submitted to the Borough Planning Board Secretary and a copy submitted to the Borough Engineer. Each application shall be accompanied by three sets of plans showing dimensions and locations of the pipelines, related items or facilities within the subject right-of-way and roadway improvements. Also required for submittal are:
    - (a) Detailed cross-section drawings for all public street right-of-way easements, wetland and waterway crossings;
    - (b) A flow diagram showing daily design capacity of the proposed transmission pipeline;
    - (c) Changes in flow in the transmission pipeline; and
    - (d) The proposed maximum operating pressure, expressed in pounds per square inch gauge (psig) at all points of change in elevation greater than 500 feet, or every 500 feet in length as a minimum.
  - (2) Hazardous substance transmission pipeline corridor. Any easements or rights- of-way

obtained by the pipeline owner or operator shall be recorded in the office of the County Clerk for all new hazardous substance transmission pipelines.

- (3) Setbacks. In order to mitigate the aesthetic and environmental impacts of hazardous substance transmission pipelines, while minimizing potential damage or interruption to essential public facilities caused by transmission pipelines, the following setbacks shall be observed:
  - (a) Except as set forth in this section or unless approved by the Borough Engineer as part of the approval and permit process, where adequate mitigation measures have been demonstrated by the applicant to the satisfaction of the Borough Engineer, hazardous substance transmission pipeline corridors shall not be located within the vicinity of a wellhead protection area ("WPA"), as is defined in Chapter 102, Section 102-32.1, and shall not be located closer than 2,500 feet in a Tier 1 WPA, 1,000 feet in a Tier 2 WPA, and 500 feet in a Tier 3 WPA. However, conditions such as slope and terrain may require additional mitigation as identified in the permit and approvals process.
  - (b) Except as otherwise set forth in this section, hazardous substance transmission pipelines shall not be located closer than 100 feet from:
    - [1] Any wetland;
    - [2] Any year-round naturally occurring creek, stream, river, private or public well, or pond, unless approved by the Borough Engineer as part of the permit and approvals process where adequate mitigation measures have been demonstrated by the applicant; or
    - [3] Any property in a business district or where a business is located.
  - (c) A hazardous substance transmission pipeline, facility or appurtenance shall not be located closer than:
    - [1] One thousand feet from any high-consequence land use lot or essential public facility structure;
    - [2] One hundred fifty feet from any residential property, zone or district on level grade; or
    - [3] Two hundred fifty feet from any residential property, zone or district where the residential property, zone or district is located downhill from the transmission pipeline, facility or appurtenance at a grade equal to or greater than 5%, except that no transmission pipeline shall be located on slopes of a grade equal to or greater than 15%.
  - (d) An emergency response terminal shall not be located closer than:
    - [1] Two thousand five hundred feet from any high-consequence land use lot or essential public facility structure; or
    - [2] Two thousand five hundred feet from any residential property, zone or district on level grade.
- (4) Submittal of information. Preliminary as-built information, including, without limitation, as-built drawings or additional information as may be requested by the Borough Engineer about the transmission pipeline, including a copy of GIS shapefiles of the pipelines and all appurtenances within the Borough, will be filed within 90 days before the pipeline is commissioned with the Borough Engineer. Updated as-built information, including, without limitation, as-built drawings or additional information as may be requested by the Borough Engineer about the transmission pipeline, including a copy of

GIS shapefiles of the pipelines and all appurtenances within the Borough, will be filed within 60 days after the pipeline is commissioned with the Borough Engineer.

- (5) Hazardous substance transmission pipeline construction. The transmission pipeline owner, operator and/or contractor shall give documented notice 48 hours prior to the commencement of pipeline construction to the affected residents, businesses (including agricultural businesses) and to the Borough Police Department. Private property owners and business owners shall have access to their property at all times during construction.

D. Reserved

- E. Hazardous substance transmission pipeline failure and remediation. In the event that a leak or failure has occurred with the transmission pipeline, the transmission pipeline operator shall notify the Borough Engineer, Borough Police Department, and all property owners within 1,000 feet of the affected pipeline area within four hours of discovery. Transmission pipeline operators shall, after being notified of an emergency, cooperate with Borough officials and make every effort to respond as soon as possible to protect the public's health, safety, and welfare. All leak or spill remediation plans shall be made in consultation with the Borough, and no remediation may be deemed complete without final approval thereof by the Borough. In the event that a transmission pipeline is shut down due to a leak or failure, the transmission pipeline operator shall not restart the transmission pipeline without the written approval of the Borough Engineer.
- F. Hazardous substance transmission pipeline repair and maintenance. Following any repair of a transmission pipeline, any areas disturbed by such repair shall be revegetated in accordance with the applicable provisions of the Borough Code.
- G. Hazardous substance transmission pipeline marking. Markers shall be installed and maintained to identify the location of transmission pipelines in accordance with all federal and state pipeline marking requirements.
- H. Emergency preparedness plan. Prior to commissioning a transmission pipeline, the pipeline operator shall meet with the Borough Police Department and submit a copy of an emergency preparedness plan for any and all emergencies that may result in an accidental leak or failure incident regarding the pipeline or any supplemental equipment. The essential requirements stated in 49 CFR 195.402 and 195.403 shall be covered by the emergency preparedness plan. No transmission pipeline shall be commissioned, nor shall any hazardous substance be introduced into the pipeline prior to the pipeline operator receiving written approval of its emergency preparedness plan by the Chief of Police or his designee. Transmission pipeline operators shall designate a responsible local emergency response official and a direct twenty-four-hour emergency phone number.
- I. Insurance required. No transmission pipeline owner or operator shall commission any transmission pipeline or introduce any hazardous substance into a transmission pipeline without first securing insurance policies covering general liability, environmental incidents and contamination, and property damage in an aggregate amount to be determined by the Borough and based upon reasonable estimates of potential liability and property damage that would result from a leak, spill or other failure of a transmission pipeline. Prior to commissioning any transmission pipeline and every year in which the transmission pipeline is in operation thereafter, the pipeline owner or operator shall submit proof its insurance coverage to the Borough, and the Borough shall be named as an additional insured on all required policies.
- J. Indemnification and hold harmless. Prior to commissioning a transmission pipeline, the pipeline operator shall agree in writing to indemnify and hold harmless the Borough, as well as its officers, officials, supervisors, employees, agents, contractors, and assigns, from any and all liability relating to or arising from the transmission pipeline, including, but not limited to, any failure, leak, spill, contamination, cleanup, remediation, property damage, and personal injury. The indemnification and hold-harmless agreement shall include a provision for the

payment of the Borough's reasonable attorney's fees and litigation costs.

**Section 3.** Chapter 102 of the Revised General Ordinances of the Borough of Mountain Lakes, Section 102-32.4 entitled "Potential Pollutant Sources," shall be amended by the inclusion of the following additional potential pollutant source:

A(20) Transmission pipelines, including hazardous substance transmission pipelines, as defined by Chapter 245.

**Section 4.** If any section or provision of this Ordinance shall be held invalid in any Court of competent jurisdiction, the same shall not affect the other sections or provisions of this Ordinance, except so far as the section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

**Section 5.** All Ordinances or parts of Ordinances, which are inconsistent herewith, are hereby repealed to the extent of such inconsistency.

**Section 6.** This Ordinance shall take effect immediately after final passage and publication in the manner provided by law.

Introduced: 9/26/16

Adopted: 11/14/2016

Name	Motion	Second	Aye	Nay	Absent	Abstain	Motion	Second	Aye	Nay	Absent	Abstain
Albergo			X					X	X			
Barrett			X						X			
Happer			X						X			
Lester	X		X				X		X			
McWilliams		X	X						X			
Borin						X						X
Holmberg			X						X			

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Valerie Egan  
Borough Clerk

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Peter Holmberg, Mayor

**LEGAL NOTICE OF FINAL ADOPTION**

NOTICE is hereby given that the above Ordinance was introduced and passed on first reading at a meeting of the Borough Council of the Borough of Mountain Lakes, in the County of Morris, State of New Jersey, held in the municipal building on the 26<sup>th</sup> day of September 2016, and the same came up for final passage at a meeting of the said Borough Council on the 14th day of November 2016 at which time, after persons interested were given an opportunity to be heard concerning said ordinance, the same was passed and will be in full force in the Borough according to law. By order of the Borough Council of the Borough of Mountain Lakes, County of Morris and State of New Jersey.

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Valerie A. Egan, Municipal Clerk