THURSDAY, MARCH 16, 2023

## Legal Notice

ORDINANCE NO. 2023-01 AN ORDINANCE AMENDING VARIOUS SECTIONS OF **THE 2013 EMMET COUNTY** ZONING ORDINANCE FOR THE PURPOSE OF REGULATING AND RESTRICTING THE USE OF LAND FOR THE TRANSPORT OF HAZARDOUS LIQUID THROUGH A HAZARDOUS LIQUID PIPELINE

WHEREAS, the Supervisors

and

Emmet County Iowa ("the County"), under the authority of IA CONST Art. 3, § 39A, Iowa Code§ 331.301, and Iowa Code§ 335.3, the County has adopted the Emmet County Zoning Ordinance (effective on March 13, 2013) pertaining to county zoning and land use controls ("the Ordinance"); and WHEREAS, the County may by ordinance lawfully regulate and restrict the use of land for trade, industry, residence, or other purposes in accordance with a comprehensive plan and designed to further the considerations and objectives set forth in Iowa Code§ 335.5; and WHEREAS, the County adopted a comprehensive plan in 2002, which among other things sets forth (1) a master land use plan; (2) goals and objectives for agriculture and natural resources, residential and commercial development, industrial activities. utilities. recreation, environment, land use, and the role of the government; and (3) an implementation plan for achieving the goals of the plan; and WHEREAS, the comprehensive plan identified a number of goals for planning designed to provide guidance to development plans for the future of Emmet County, among which are (1) to "minimize the number of conflicting land uses while preserving the character of urban and rural development areas": (2) to "recognize and achieve a progressive balance between urban and rural land uses that facilitates the economicdevelopment potential of the county": (3) to

"preserve the irreplaceable natural resources of the county" (4) to "facilitate the provision of required services and facilities to the residents of the county"; (5) to protect and utilize "vast areas of prime agricultural lands ... for farm production uses"; (6) to permit restricted industrial uses to be allowed in agricultural zones but only after "careful examination and approval from planning and zoning, in order to keep residential uses at safe distances"; (7) to "increase the county's existing tax base through the promotion of new opportunities in the county"; (8) to protect "environmentally sensitive areas"; (9) to "ensure that the best interests of all citizens of Emmet County are protected and advanced"; and WHEREAS, the considerations and objectives of land use and zoning regulations under Iowa Code§ 335.5 require counties to design the regulations (1) to secure safety from fire,

flood, panic, and other dangers; (2) to protect health and the general welfare; (3) to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirement; and WHEREAS, the County and the several municipalities within the County employ a number of emergency response personnel, including local sheriffs, police, firefighters, and emergency medical service responders, and are responsible for ensuring the safety of these public servants through adequate training, knowledge, and access to personal protective equipment; and WHEREAS, the State of lowa through Iowa Code chapter 29C requires the County and the several cities within the County to participate in and fund county-level and regional emergency response planning for both natural and humancaused disasters through its joint countymunicipal local emergency management commission and agency, to support response to disasters in other Iowa counties, and to establish emergency communication measures to alert County residents of threats to their lives and wellbeing; and WHEREAS, the County has authority under Iowa law to require information from a company that proposes to construct a hazardous liquid pipeline in the County that will enable the County to fulfill its statutorily required emergency planning duties and protect county emergency response personnel; and WHEREAS, the County, in coordination with the State of lowa, other counties, and the several cities within the County, has adopted a Comprehensive Emergency Management Plan in order to provide for a coordinated response to a disaster or emergency in Emmet County; and WHEREAS, the existing emergency response plan for the County does not currently evaluate the risk of or plan for the County's response to a rupture of a carbon dioxide pipeline passing through the County; and WHEREAS, the transport of hazardous liquid through a hazardous liquid pipeline constitutes a threat to public health and the general welfare such that the Pipeline and Hazardous Materials Safety Administration of the United States Department of Transportation ("PHMSA'-") has the authority to prescribe safety standards for such pipelines; and WHEREAS, the federal Pipeline Safety Act in 49 U.S.C. § 60101 et seq. authorizes the United States Department of Transportation to regulate safety standards for the design, construction, operation, and maintenance of hazardous liquid pipelines, including those that transport supercritical carbon dioxide, but§ 60104(e) of this law provides that "[t]

his chapter does not authorize inch diameter carbon dioxide the Secretary of Transportation pipeline ruptured approximately to prescribe the location or one (1) mile from the town of Satartia, Mississippi ("the routing of a pipeline facility," such that no federal regulation Satartia Incident"), and caused a number of residents to become determines the location or route of a hazardous liquid pipeline; unconscious required the hospitalization of therefore, the State of Iowa may determine the route or forty-six (46) persons and the location of a federally regulated evacuation of more than three hazardous liquid pipeline based hundred (300) persons, and also put the lives and welfare of local on such policy factors that the emergency response personnel State of Iowa deems relevant; at risk; and WHEREAS, on May WHEREAS, the State of Iowa and its political subdivisions may 26, 2022, PHMSA announced and must consider the risks of a new safety measures to protect hazardous liquid pipeline when Americans from carbon dioxide pipeline failures after the Satartia selecting a route for it, so as to prevent its construction overly Incident, including (1) initiating near to residential buildings. a new rulemaking to update standards for CO2 pipelines, existing and future public and private infrastructure, high including requirements related to emergency preparedness, and vulnerable population buildings such as schools and response; (2) issuing an advisory nursing homes, future housing bulletin to remind owners and or industrial developments, and operators of gas and hazardous confined animal facilities; and liquid pipelines, particularly WHEREAS, in Iowa, the Iowa those with facilities located onshore or in inland waters. Utilities Board ("the IUB") has authority pursuant 49 U.S.C. about the serious safety-related § 60104( e) of the Hazardous issues that can result from earth movement and other geological Liquid Pipeline Safety Act and under Iowa Code chapter 4 79B hazards; and (3) conducting to implement certain controls research strengthen pipeline safety of CO2 over hazardous liquid pipelines, including the authority to pipelines; and WHEREAS, the approve the location and routing rulemaking initiated by PHMSA of hazardous liquid pipelines; and to update safety and emergency preparedness standards for CO2 WHEREAS, under Iowa Code§ 479B.4, a pipeline company pipelines is not yet complete; and WHEREAS, the IUB does not must file a verified petition with have jurisdiction over emergency the IUB asking for a permit to response in Iowa and has no construct, maintain, and operate expertise in emergency response a new pipeline along, over, or planning; and WHEREAS, the across the public or private highways, grounds, waters. County does not have access and streams of any kind in this to scientific assessments of the state; and WHEREAS. Jowa area of risk that would result Code § 479B.5 requires that each from a rupture of the carbon dioxide pipeline proposed to be petition for a permit must state constructed in the County, which the relationship of the proposed can be estimated through the project to the present and future use of computer modeling; and land use and zoning ordinances: and WHEREAS, Iowa Code§ WHEREAS, the County seeks to require the preparation of 479B.20: (1) specifically provides an estimate of the hazard zone for the application of provisions for resulting from a rupture of a protecting or restoring property that are different than the carbon dioxide pipeline proposed provisions of section 4 79B.20 and to pass through the County, for the purpose of facilitating the the administrative rules adopted thereunder, if those alternative least dangerous route through the County; and WHEREAS, provisions are contained in independently the County may adopt land use agreements executed by the pipeline and zoning restrictions (1) for company and the landowner; (2) purposes of regulating the use of land in the County, including specifically contemplates that such agreements will pertain to the execution of independent "line location;" (3) specifically agreements between landowners requires the County to hire a and pipeline companies regarding "county inspector" to enforce land restoration and line location; all land restoration standards, and (2) for purposes of planning including the provisions of the County's emergency response and of facilitating the least the independently executed agreements; and (4) specifically dangerous route through the that County of a hazardous liquid independent requires agreements on "line location" pipeline, including requiring between the landowner and the completion of an emergency the pipeline company must be response and hazard mitigation plan; and WHEREAS. the provided in writing to the county adoption of such land use inspector; and WHEREAS, the and zoning regulations is (1) construction of a hazardous consistent with Iowa Code liquid pipeline constitutes a use of land for trade, industry, or chapter 479B, including Iowa Code§§ 479B.5(7) and 479B.20, other purposes which the County

XXVII, and X VIII, respectively, and all of their numbered sections and subsections are renumbered accordingly.

or intoxicated,

solicitations

and (2) necessary to facilitate

the IUB's approval of a permit,

in whole or in part upon terms,

conditions, and restrictions as to

location and route that are "just

and proper;" and WHEREAS,

in Exhibit F to the application

for the Permit, Summit states

that it will "work with local

county officials to verify if any

additional permits or approvals

are needed prior to construction

of the Project..."; and WHEREAS,

the County intends to establish a

SECTION -TEXT AMENDMENT - The Ordinance is amended by adding the following new Article XXV in place of the former Article XXV which is being renumbered: ARTICLE XXV: HAZARDOUS

LIQUID PIPELINES 25 .1 Purposes This Article prescribes and imposes the appropriate conditions and safeguards when using land in this County for purposes of a Hazardous Liquid Pipeline.

The purposes of the regulations provided in this Article are: 1.T o lawfully regulate and restrict the use of land in the County for the transp01t of Hazardous Liquid through a Hazardous Liquid Pipeline in a manner that is in accordance with the County's current comprehensive plan and that is designed to implement the purposes of county zoning pursuant to Iowa Code chapter 335, including all of the following: (1) to secure safety from fire, flood, panic, and other dangers; (2) to protect health and the general welfare; (3) to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirement. 2. To implement Section 25.1(1) with regard to the community planning and land use goals of the County, including cities, as contemplated in the County's Comprehensive Plan and as provided in Iowa Code chapter 335. In particular, the purpose of this Article is to further the following specific goals of the County: (1) to minimize the number of conflicting land uses while preserving the character of urban and rural development areas; (2) to recognize and achieve a progressive balance between urban and rural land uses that facilitates  $_{\rm the}$ economic development potential of the county; (3) to preserve the irreplaceable natural resources of the county; (4) to facilitate the provision of required services and facilities to the residents of the county; (5) to protect and utilize vast areas of prime agricultural lands ... for farm production uses; (6) to permit restricted industrial uses to be allowed in agricultural zones but only after careful examination and approval from planning and zoning, in order to keep residential uses at safe distances; (7) to increase the county's existing tax base through promotion opportunities in the county; (8) to protect environmentally sensitive areas; (9) to ensure that the best interests of all citizens of Emmet County are protected and advanced. 3. To implement Section 25.1(1) with regard to the County's legal obligation to engage in emergency response and hazard mitigation planning, including furthering comprehensive plan's goals and objectives for assessing ongoing mitigation, evaluating mitigation alternatives, and ensuring there is a strategy for implementation and including the need to protect the health and welfare of both residents and emergency response 4. To implement personnel. Section 25.1 (1) in a manner that is not inconsistent with or preempted by federal or state law, including the United States Constitution, the federal Pipeline Safety Act in 49 U.S.C. § 60101 et seq., the Iowa Constitution, and Iowa Code chapters 29C, 479B, 331, and 335. 5. To implement Section 25.1(1) in a manner that treats all Hazardous Liquid Pipelines in a similar manner, to the extent they are similarly situated, and to utilize to the greatest extent feasible the land use and zoning regulations and processes already utilized in the County. 6. To implement Section 25.1(1) in a manner (1) that facilitates the approval of a permit by the Iowa Utilities Board, in whole or in part upon terms, conditions, and restrictions as to location and route that are "just and proper;" and (2) that creates a process that allows a Hazardous Liquid Pipeline operator to work with local county officials to obtain all local permits or approvals prior to the construction of the pipeline. 25.2 **Definitions** For purposes of this Article, unless the context "Affected otherwise requires: person" means the same 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" means a Pipeline Company or a Property Owner who applies for a Conditional Use Permit for a Hazardous Liquid Pipeline pursuant to this Article. 'Application" means the documents and information an Applicant submits to the County for purposes of obtaining a Conditional Use Permit as well as the related process and procedures for considering the application pursuant to this Article. "Blast Zone" means 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. "Board of Adjustment" means the Emmet County Board of Adjustment established pursuant to Iowa Code chapter 335 and this Zoning Ordinance. "Carbon Dioxide Pipeline" means a Hazardous Liquid Pipeline intended to transport liquified

carbon dioxide and includes a an emergency, tree clearing, or Pipeline of 4 inches or more in diameter used to transport liquid, or supercritical fluid comprised of 50 percent or more of carbon dioxide (CO2). "Conditional Use Permit" means a special or conditional use, or a use limitation, authorized and approved by the Board of Adjustment in the manner and according to the guidelines, requirements, and standards provided in Article XXIV of this Zoning Ordinance. "Confidential Information" means information or records allowed to be treated confidentially and withheld from public examination or disclosure pursuant to Iowa Code chapter 22 other applicable law. "Conservation Area" means a County park, natural resource area, wildlife area, or similar areas established or designated for such purposes by the County prior to the effective date of this Article. "County" or "the County" means Emmet County, Iowa. "Emergency" means the same 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" is any structure incidental or related to the Hazardous Liquid Pipeline and any space, resource, or equipment necessary for the conveyance, transport, pumping of a Hazardous Liquid through a Hazardous Liquid Pipeline located in the County, including all related substations. "Fatality Zone" means the geographic area in the 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" means, 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 CO<sub>2</sub> concentration and the duration of exposure. "Hazardous Liquid" means the same as defined in Iowa Code§ 479B.2 and, unless otherwise defined there, means crude oil, refined petroleum products, liquefied gases, petroleum anhydrous ammonia. liquid fertilizers. liquefied carbon dioxide, alcohols, and coal slurries. "Hazardous Liquid Pipeline," means 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 the County "In-service date" is the date any Hazardous Liquid is first transported through any portion of a Pipeline located in the "Independent County. Agreement" means 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 § 4 79B.20(10). "IUB" means the Iowa Utilities Board created within the Iowa Department of Commerce pursuant to Iowa Code chapter 474. "Landowner" means the same 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. "Line Location" means the location or proposed location or route of a Pipeline on a Landowner's property. "Occupied Structure" means 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 Conditional Use Permit pursuant to this Article. "PHMSA" means Pipeline and Hazardous Materials Safety Administration of the United States Department of Transportation. "Person" means the same 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 in the County. The separation requirements of this section are association, or any other legal entity as defined in Iowa Code§ designed to further the goals 4.1(20). "Pipeline" means the and objectives of the County's same as defined in Iowa Code§ comprehensive zoning plan, 479B.2 and, unless otherwise including to protect public defined there, means an interstate health and welfare, to preserve pipe or pipeline and necessary existing infrastructure and future appurtenances used for the development, and to maintain transportation or transmission of property values. hazardous liquids. "Pipeline A Hazardous Liquid Pipeline Company" means the same as shall not be constructed, used, defined in Iowa Code§ 479B.2 sited, or located, in violation of the and, unless otherwise defined separation requirements listed there, means any Person engaged below. In addition, the terms in or organized for the purpose of of an Independent Agreement owning, operating, or controlling regarding a Line Location Pipelines for the transportation shall conform to the separation or transmission of any Hazardous requirements listed below. All Liquid or underground storage distances shall be measured from facilities for the underground the centerline of the proposed storage of any Hazardous Liquid. Hazardous Liquid Pipeline to the "Pipeline Construction" means portion of the existing use nearest the centerline of the proposed the same as defined in Iowa Hazardous Liquid Pipeline. Administrative Code 199-9 .1 (2) The minimum separation and, unless otherwise defined in that rule, means activity distances for a Hazardous Liquid associated with installation. Pipeline are: 1. relocation, replacement, removal, city limits of an incorporated city, or operation or maintenance not less than two miles. of a pipeline that disturbs 2.From a church, school, nursing agricultural land, but shall not home, long-term care facility, or include work performed during hospital, not less than one half of

topsoil surveying completed on land under easement with written approval from the landowner. "Property Owner" means 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 Zoning 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" means 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 Pipeline, as applicable. "Reclamation Cost" means 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. "Sensitive Area" means any area designated for inclusion in Emmet County's Floodplain Management Ordinance, 2016-1. "Zoning Ordinance" or "the Zoning Ordinance" means the collection of land use and zoning regulations known as the Zoning Ordinance of Emmet County, as provided and made effective in the Zoning Ordinance of Emmet County. 25.3 Conditional Use Class **Created and Use Limitations** Imposed on Hazardous Liquid **Pipelines** All land in the County must

be used in accordance with this Zoning Ordinance. As provided in Article XXIV of this Zoning Ordinance, the County may create a class of uses that have conditions or other use limitations attached to approval. Such conditions are established in order to protect the health, wellbeing, and welfare of the public and to preserve property values. 2. The County hereby establishes a class of use for Hazardous Liquid Pipelines, and no land or property interest in this County, regardless of the zone or area, shall be used for purposes of a Hazardous Liquid Pipeline except in conformity with this Article.

25.2 Conditional Use Permits Required 1. A Pipeline Company that has filed a verified petition with the IUB asking for a permit to construct, maintain, and operate a new Pipeline along, over, or across land in this County shall submit an Application to the County Zoning Administrator for a Conditional Use Permit. The Pipeline Company shall submit the Application for a Conditional Use Permit within thirty (30) days of filing the petition with the IUB, unless the petition was filed with the IUB prior to the effective date of this Article in which case the Pipeline Company shall submit an application for a Conditional Use Permit under this Article within thirty (30) days of the effective date of this Article. The Zoning Administrator may extend the time for filing the Application for good cause shown. However, any extension of more than 30 days must be approved by the Board of Adjustment. 2. A Property Owner that intends to negotiate or sell an easement to a Pipeline Company by means of an Independent Agreement shall submit an application to the County Zoning Administrator for a Conditional Use Permit before executing the Independent Agreement with the Pipeline Company. If a Property Owner executes an Independent Agreement with a Pipeline Company on or after the effective date of this Article without obtaining a Conditional Use Permit, the County may exercise all-lawful remedies as provided elsewhere in this Zoning Ordinance. 3. Upon receiving an Application for a Conditional Use Permit from a Pipeline Company or from a Property Owner, the County Zoning Administrator and the Board of Adjustment shall consider the Application according to the process and standards set forth in this Article and Article XXIV of this Zoning Ordinance. 25.5 Separation Requirements The use of land for purposes of transporting Hazardous Liquids through Pipelines poses a threat to the public health and welfare, to the productivity of agricultural lands, and to the property values of residential, commercial, and industrial Property Owners

Conservation Area, Sensitive requirements of this Article are area, or public recreation area. met and shall make a report to the Board of Adjustment not less than one quarter of one mile. 4. From any Occupied recommending approval, denial, Structure, not less than 1000 feet. or modification of the Application 5.From a confined animal feeding Upon the verification and report of operation or facility, not less than the County Zoning Administrator, 1000 feet. 6. From an electric the Board of Adjustment shall power generating facility with a set the date of one or more nameplate capacity of 5MW or public hearings in the County more, an electric substation, a on the question of granting a Conditional Use Permit to the public drinking water treatment plant, or a public wastewater Pipeline Company. Once the public hearing dates have been treatment plant, not less than 1,000 feet. 7. From any public set, the Board of Adjustment water system or any nonpublic shall publish notice in a local water supply well subject to the newspaper pursuant to Iowa Code § 331.305, and the Pipeline rules of the Iowa Department of Natural Resources pursuant to Company shall send notice of 567 IAC chapter 43 or 567 IAC each scheduled public hearing to chapter 49, not less than 200 each Affected Person identified in feet. 25.6 Permit Application the Application by United States Requirements for Pipeline Mail. 2. A public hearing shall **Companies** A Pipeline Company not be required in the case of a applying for a Conditional Use Property Owner applying for a Permit for a Hazardous Liquid Conditional Use Permit. Upon Pipeline pursuant to this Article receipt of an application for a shall submit the following Conditional Use Permit from a Property Owner, the County documents and information to the County Zoning Administrator: Zoning Administrator shall The information required verify that the Property Owner for a Conditional Use Permit as permit application requirements described in Article XXIV of this are met and shall make a report Zoning Ordinance, including all to the Board of Adjustment required forms prescribed by the recommending approval, denial, County Zoning Administrator. 2. or modification of the Application A complete copy of the application Upon the verification and for a permit filed with the IUB report of the County Zoning pursuant to Iowa Code chapter Administrator, the Board of 479B. This requirement is an Adjustment shall consider the ongoing requirement, and as the application at a regular meeting application for the IUB permit is the Board of Adjustment. amended or changed, the Pipeline Once the application, public Company shall provide updated hearing, and other requirements of this Article are met, the Board information and documents to the County. 3. A map identifying each of Adjustment shall consider each proposed crossing of a County application for a Conditional Use road or other County property Permit according to the standards and map identifying each crossing of Conservation Areas set forth in Article XXIV. Section 24.5 of this Zoning Ordinance or Sensitive Areas. 4. A map and the standards and findings and a list containing the names ordinarily required of special or and addresses of all Affected conditional uses. The Board of Persons in the County. The map Adjustment shall issue a permit and list shall include all Property if the Board of Adjustment finds Owners who have executed an that all applicable standards are Independent Agreement or who met. The burden of establishing have been or will be contacted that all applicable standards are about the execution of an met shall be on the Applicant for Independent Agreement. 5. A the Conditional Use Permit, 4. A Conditional Use Permit granted to set of plans and specifications showing the dimensions and a Pipeline Company pursuant to of the Pipeline, this Article is not transferrable to including plans and specifications any Person. A Pipeline Company. for all related facilities and aboveor its successors in interest, shall ground structures, such as pumps, apply for a new Conditional Use lift-stations, or substations. 6. A Permit whenever the Hazardous copy of the standard or template Liquid Pipeline is transferred Independent Agreement the or its use is materially or Pipeline Company proposes to substantially changed or altered. 25.10 Appeals and Variances A Pipeline Company or a Property

one mile. 3. From a public park,

execute with Property Owners in the County. The standard or template for the Independent Agreement shall include terms determination on a Conditional and conditions that comply Use Permit, or may seek a with Abandonment. special exception or variance the Discontinuance, and Removal from the Board of Adjustment, as provided in Article XXIII of requirements of section 25, 13 of this Article.7. The emergency this Zoning Ordinance. 25.11 **Applicability and Compliance** response and hazard mitigation information required pursuant to The permit requirement in section 25.12 of this Article. Section 25.4 and the separation 8. All applicable fees required requirements in Section 25.5 of this Article shall not apply to pursuant to section 25.8 of this Article.9. A statement identifying (1) a Hazardous Liquid Pipeline any Confidential Information in that is already permitted the Application and a request, if constructed, and placed in-service

locations

any, to withhold such information on or before the effective date of from public examination or this Article; however, a Pipeline disclosure as provided in, and Company shall comply with to the extent permitted by, Iowa the abandonment. Reclamation Code chapter 22, A failure to and identify Confidential Information in the Application may result in the County treating such information as a public record. 25.7 **Permit** Application a public utility that is furnishing

requirements for a Pipeline that is decommissioned on or after the effective date of this Article; (2) a Pipeline owned and operated by service to or supplying customers

in the County; or (3) a Property

Owner that has already executed

an Independent Agreement with

a Pipeline Company prior to the

2. If a Property Owner has executed

an Independent Agreement prior

to the effective date of this Article

and the Independent Agreement

does not meet the separation

requirements of this Article, then

notwithstanding the Independent

separation requirements of this

Article. 3. If a Property Owner

has executed an Independent

Agreement prior to the effective

the Company shall comply with the

Agreement,

Pipeline

effective date of this Article.

decommissioning

Owner may appeal an adverse

Company permit application

carbon dioxide ("CO2") annually from participating industrial facilities in Iowa, as well as CO2 from facilities in Minnesota, North Dakota, South Dakota, and Nebraska to a sequestration site in North Dakota, where the CO2 will be permanently stored; and WHEREAS, Navigator Heartland Greenway, LLC ("Navigator") has also submitted to the IUB a Petition for a Hazardous Liquid Pipeline Permit ("the Petition") and proposes to build and operate a large-scale carbon capture pipeline system spanning approximately 1,300 miles across five states in the Midwest, including 811 miles in Iowa, that will capture carbon dioxide from local facilities before it reaches the atmosphere, convert it to a liquid form, and transport it via pipeline to a permanent underground sequestration site; and WHEREAS, Summit and Navigator have filed with the IUB, certain maps indicating that the proposed pipelines would be located in and pass through the County; and WHEREAS, the IUB has not yet issued a permit to Summit or to Navigator; and WHEREAS, there are several factors that would influence human safety in the event of a rupture of such a pipeline, including CO2 parts per million (ppm) concentration, wind speed and direction, velocity of the gas exiting the pipe, and thermodynamic variables; and WHEREAS, (1) a sudden rupture of a CO2 pipeline may lead to asphyxiation of nearby people and animals, (2) CO2 is lethal if inhaled for 10 minutes at a concentration larger than 10% by volume, (3) the National Institute for Occupational Safety and Health ("NIOSH") has set the Immediate Dangerous to Life and Health (IDLH) limit of CO2 at 4% by volume; and (4) at concentrations of 25% volume, CO2 is lethal to humans within 1 minute; and WHEREAS, the rupture of a carbon dioxide pipeline, in the County would likely release large amounts of carbon dioxide that could rise to dangerous levels near the rupture and that could threaten the health and lives of county residents, emergency response personnel, and animals, including but not limited to valuable livestock in confined animal feeding facilities; and WHEREAS, a rupture of a carbon dioxide pipeline near a populated area could cause a mass casualty event; and WHEREAS, on February 22, 2020, a 24-

has not heretofore regulated or

restricted through the use of

zoning or other ordinances; but

which constitutes an industrial

use of the land that is not

currently a permitted use in any

of the County's zoning districts;

and WHEREAS, Summit Carbon

Solutions, LLC ("Summit")

has submitted to the IUB a

Petition for a Hazardous Liquid

Pipeline Permit ("the Permit")

and proposes to build a carbon

capture and sequestration project

("Project") that would transport process under the Ordinance for up to 12 million metric tons of permitting and approving the use of land in Emmet County for the transport of hazard liquid through a hazard liquid pipeline that is not inconsistent with federal law, including the Hazardous Liquid Pipeline Safety Act, and not inconsistent with Iowa law, including Iowa Code chapters 479B, 331, and 335. WHEREAS, the County Planning and Zoning Commission held a public hearing on the Ordinance on 2-8-2023 and recommended approval of the Ordinance. NOW THEREFORE, BE IT ENACTED BY THE SUPERVISORS OF EMMET COUNTY, IOWA: SECTION 1. TEXT AMENDMENT Article IV, Section 4.6 -General Regulations, is amended by repealing the introductory paragraph of the section and replacing it with the following: Except as hereinafter provided, no building, structure or land shall hereafter be used and no building or part thereof or structure shall be erected, constructed, reconstructed, occupied, moved, altered, or repaired, except in conformity with the regulations herein prescribed for the district in which such building, structure or land is situated and a zoning compliance permit is issued by the zoning administrator. SECTION 2. -TEXT AMENDMENT-Article XIV: General Regulations of the Ordinance, is amended by adding the following new section to the Article: 14.19 Hazardous Liquid Pipelines -No person or property owner shall use land in any area or district in this county for purposes of transporting hazardous liquid through a hazardous liquid pipeline except under the conditions and restrictions provided hereinafter in Article XXV -Hazardous Liquid Pipelines. For purposes this Ordinance, "hazardous liquid" and "hazardous liquid pipeline" shall have the meanings defined in Article XXV. SECTION 3. -TEXT AMENDMENT-Article III: Definition of Terms, Section 3.2.5: Industrial Land Use Definitions. is amended by inserting after paragraph 7 the following new definition: 7 A. Hazardous Liquid Pipeline: A building, structure or land used for 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 the County SECTION 4. -TEXT AMENDMENT -Articles XXV, XXVI, and XXVII are renumbered as Articles XXVI, Requirements for Property Owners A Property Owner applying for a Conditional Use Permit for a Hazardous Liquid Pipeline pursuant to this Article shall submit the following documents and information to the County Zoning Administrator: The information required 1

for a Conditional Use Permit as described in Article XXIV of this Zoning Ordinance, including all required forms prescribed by the County Zoning Administrator. A copy

of the Independent Agreement the Property Owner proposes to execute with the Pipeline Company, including a map and a legal description of the proposed Line Location and a statement of verification of compliance with the separation requirements of this Article.

A 1 1 applicable fees required pursuant to section 25.8 of this Article. 25.8 Fees The following fees and assessments apply to a Conditional Use Permit for a Hazardous Liquid Pipeline pursuant to this Article: A Pipeline Company seeking a Conditional Use Permit shall pay the following fees and assessments:

An application fee in the amount of \$100 for each Affected Person identified in the Application.

An annual fee in the amount of \$116.92 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 fee 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.

c. All other applicable user or permit fees required for obtaining Conditional Use Permits under Article XXIV. Section 24.3 and for crossing County roads or using the public right-of-way in the County.

A Property Owner seeking a Conditional Use Permit shall pay application fee as provided in Article XXIV, Section 24.3.

From the

25.9 Public Hearing Requirements and Permit Approval 1. Upon receipt of an application for a Conditional Use Permit by a Pipeline Company, the County Zoning Administrator

date of this Article, and the Independent Agreement provides for separation requirements that are greater than the separation requirements this Article. then the Pipeline Company shall comply with the terms of Independent Agreement the Property Owner. 25.12 Emergency Response and Hazard Mitigation Information for Hazardous Liquid Pipelines As stated in the Purposes section of this Article, this Article is intended to implement local zoning regulations in a manner designed to facilitate the comprehensive plan's goals and the County's objectives for assessing ongoing mitigation, evaluating mitigation alternatives, and ensuring there is a strategy for implementation. This goal is 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 the County in its emergency response and hazard mitigation planning as required by Iowa Code chapter 29C. The requirement to provide emergency response and hazard mitigation information pursuant to this section is not intended to constitute a safety standard and is not intended to conflict with any PHMSA safety standards applicable to a Pipeline Company which regulate the design, installation, inspection, emergency plans and procedures, testing, construction, extension, operation, replacement, and maintenance of pipeline facilities 1. If an Applicant for a permit pursuant to this Article is a Pipeline Company and if the shall verify that the Pipeline proposed pipeline is a Carbon