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IN THE OFFICE OF
PLANNING & ZONING

Chapter 156: Lincoln County CO2 Pipeline Setback Ordinance

Section 156.01: Title and Precedence

This chapter is titled "CO2 Pipeline Setback Regulations of Lincoln County." In cases where projects relate to a CO2 Pipeline and there arises a discrepancy between the ordinances in this chapter and any other ordinance, the ordinances in this chapter will have precedence.

Section 156.02: Purpose and Intent

The primary purpose of this chapter is to formulate guidelines and standards that govern the secure and accountable installation, operation, and upkeep of carbon dioxide (CO2) pipelines within the boundaries of Lincoln County. These regulations are designed with the aim of safeguarding public safety, upholding property values, and conserving the environment.

Section 156.03: Definitions

- A. CO2 Pipeline: Refers to a conduit predominantly utilized for the transport of carbon dioxide, in its gaseous or supercritical phase.
- B. Setback: Denotes the mandatory minimum distance that should exist between a CO2 pipeline and any present structure, property boundary, or specific land use.

Section 156.04: Agricultural Practices and Cultivation Depth Considerations

Lincoln County acknowledges agricultural practices within the county, including but not limited to cultivation practices such as drainage tiling, plowing, and decompaction, and the potential long-term impacts of soil erosion. The default depth of cultivation on agricultural lands within the county is set at 6.5 feet below grade. Landowners may assert that the level of cultivation extends deeper than 6.5 feet upon presentation of supporting evidence to the Applicant and the county. Conversely, a landowner may choose to waive the default level of cultivation to a depth shallower than 6.5 feet.

Section 156.05: Setback Standards

- A. Residential Structures: CO2 pipelines are required to have a setback of a minimum of 1,855 feet from the lot line of existing residential structures.
- B. Sensitive Institutions: A minimum setback of 1,855 feet is enforced for institutions, encompassing churches, commercial buildings, public or private schools, hospitals, care homes, and similar establishments.
- C. Transmission Pipelines can only be sited and located outside of sites of historical or archaeological significance, or farms designated as Century Farms by the State of South Dakota Department of Agriculture and Natural Resources, and therefore may not be built upon without the explicit written consent of the landowner.

Section 156.06: Compliance and Enforcement

- A. Submission of Plans: Prior to initiating the construction or making alterations to a CO2 pipeline, detailed plans indicating the proposed route and its compliance with the setback requirements must be submitted to the Lincoln County Planning and Zoning Board.
- B. Violations: Non-compliance with these regulations can result in penalties, including fines, cease and desist orders, and mandatory rerouting of the pipeline segment.

Section 156.07: Periodic Review

Every five years, the Lincoln County Planning and Zoning Board will review the provisions and standards

of this chapter to ensure they remain relevant given the ongoing advancements in safety practices, technology, and environmental awareness.

Section 156.08: Lincoln County Application Requirements

1. Submission to Lincoln County Board: Any person who has filed an application ("Applicant") with the South Dakota Public Utilities Commission (PUC) for a permit to construct, maintain, and operate a new Transmission Pipeline along, over, or across land in Lincoln County shall apply to the Lincoln County Board to verify the Applicant's conformance with the conditions prescribed in this Article. The Applicant shall submit the application to the Lincoln County Board within thirty (30) days of filing the petition with the PUC. If the application was filed with the PUC prior to the effective date of this Article, the Applicant shall apply and submit its application under this chapter within thirty (30) days of the effective date of this chapter.
2. Review by Lincoln County Board: Upon receiving an application, the Lincoln County Board shall review the application according to the requirements set forth in this section.

Section 156.09: Notification of Changes

A. Announcement Period: The Lincoln County Commission must provide a 120-day notice before making any modifications to the ordinances within this chapter.

B. Notification Process:

1. The Lincoln County Planning Department shall send detailed written notifications of the proposed changes to all registered landowners within 5,280 feet of all properties potentially affected by CO2 pipelines.
2. At the same time, the proposed changes should be announced on the official Lincoln County website and published in at least one popular local newspaper.

C. Public Participation: During this 120-day notice period, stakeholders and the public have the right to submit written comments, concerns, or objections to the Lincoln County Planning Department. All such submissions will be considered during the decision-making process for the proposed changes. Failure to adhere to the notification process will invalidate any modifications to the ordinances in this chapter.

Section 156.10: Implementation Date

This chapter will become effective thirty days after its official approval by the Lincoln County Commission.

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|--------------------------|--------------------------|
| Applicant (Print): _____ | Applicant (Print): _____ |
| Signature: _____ | Signature: _____ |
| Date: _____ Phone: _____ | Date: _____ Phone: _____ |
| Address: _____ | Address: _____ |
| _____ | _____ |
| City State Zip | City State Zip |
| Email: _____ | Email: _____ |