

ORDINANCE

PURPOSE: To amend the Ascension Parish Code of Ordinances, Chapter 19, Roads, Bridges and Other Public Ways, Article III. Pipeline Construction.

WHEREAS: Ascension Parish is a local governmental subdivision as defined by Article VI, Section 44 of the Louisiana Constitution of 1974, and

WHEREAS: Ascension Parish is the governing and responsible body over Roads, Bridges and Other Public Ways, and

WHEREAS: Article VI of the Home Rule Charter of Ascension Parish, adopted May 4, 1993, identifies the process and manner in which to adopt ordinances regulating the laws of this parish, and

WHEREAS: the Code of Ordinances of Ascension Parish, Chapter 19, Article III., Section 19-36 through Section 19-45 was adopted on August 2, 2012.

NOW THEREFORE, BE IT ORDAINED by the Ascension Parish Governing Authority that the Code of Ordinances of Ascension Parish, Chapter 19, Roads, Bridges and Other Public Ways, Article III. Pipeline Construction, Section 19-36 through 19-45, be amended as more fully described in Exhibit A, attached hereto and made a part hereof.

EFFECTIVE DATE: This ordinance shall be in full effect as permitted by law.

This ordinance having been submitted to a vote, the vote thereon was as follows:

Yeas: Joel Robert, Chase Melancon, Teri Casso, Alvin Thomas, Aaron Lawler, Dal Waguespack, John Cagnolatti

Nays: None

Not Voting: None

Absent: Travis Turner, Corey Orgeron, Dempsey Lambert, Michael Mason

And this ordinance was passed on this 20th day of April, 2023.

Secretary

President

ARTICLE III. PIPELINE CONSTRUCTION AND DAMAGE PREVENTION

Sec. 19-36. Permit required.

- A. No person, firm, partnership or corporation, public or private, shall construct or cause to be constructed a facility consisting of a pipeline or main of any kind, including, but not limited to, gas, petroleum products, liquids, vapors, water, sewage, drains, cables or any group of segment thereof, on, over, across or through a parish owned road, right-of-way, canal, drainage ditch, levee or any bayou under the jurisdiction of the parish council in the Parish of Ascension, Louisiana (hereinafter referred to as "parish") without having previously obtained a permit from the parish in the manner hereinafter provided.

(Ord. of 8-2-12; Ord of xx-xx-xx)

Sec. 19-37. General conditions under which permit is granted.

- A. Applications for permits required by section 19-36 of this article shall be made in writing to the parish. Underground Pipeline / Excavation Application is available on the Parish website and shall be utilized.
- B. Application fee in the amounts stated in sections 19-44 through 19-45 below.

(Ord. of 8-2-12; Ord of xx-xx-xx)

Sec. 19-38. Permit, issuance or denial.

- A. Within forty five (45) days after receipt of a complete application which meets the requirements of section 19-36 of this article, the applicant shall receive a letter indicating the approval or denial of the application. If approved, a pre-construction meeting shall occur within 2 years of approval and all fees shall be paid and a construction permit can be issued.
- B. A construction permit shall expire 12 months from the date of issuance if no construction has begun. A one year extension may be granted if applied for prior to the date of expiration.

(Ord. of 8-2-12; Ord of xx-xx-xx)

Sec. 19-39. Insurance.

- A. Before construction begins a certificate evidencing liability insurance in the amount of one million dollars (\$1,000,000.00), or satisfactory evidence of financial responsibility in a like amount, shall be furnished to the parish by applicant, as well as, evidence of insurance coverage against all loss, injury, responsibility or peril for claims arising under the workman's compensation laws of the State of Louisiana and/or under any statute of the United States of America.

(Ord. of 8-2-12; Ord of xx-xx-xx)

Sec. 19-40. Specifications.

- A. In addition to the specific requirements set forth in this section, all plans, specifications, materials and the installation of any pipeline for which a permit is required by section 19-36 of this article hereof shall comply with all parish, state and federal guidelines and procedures for construction and safety.

-
1. Any pipeline or segment thereof, on, over, across, or through a parish owned road or right-of-way shall be laid to a depth of at least six (6) feet to the top of the pipe or casing, a depth more than six (6) feet may be required based on the individual application, alternatively, the applicant may case the pipeline to the specifications of the parish if it desires not to place the pipe deeper than six (6) feet to the top of the pipe or casing beneath the roadway surface. If excavations are required they shall be backfilled and tamped in six-inch layers. Adequate drainage shall be maintained at all times during the installation of pipelines. Markers shall be installed to mark the location of all pipelines on parish owned roads and rights-of-way or other public project.
 2. Pipelines crossing a parish owned drainage ditch, canal or any bayou under the jurisdiction of the parish shall be laid to a depth of at least five (5) feet to the top of the pipe or casing beneath the lowest point of such ditch, canal or bayou, a depth more than five (5) feet to the top of the pipe or casing may be required based on the individual applicant, alternatively, the applicant may case the pipeline to the specifications of the parish if it desires not to place the pipe deeper than five (5) feet to the top of the pipe or casing beneath the ditch, canal or bayou . Markers shall be installed to mark the location of any such pipeline crossing.
 3. Any pipeline which crosses a parish owned levee shall be constructed in accordance with the latest applicable regulations and specifications of the applicable Drainage District.
 4. The owner of any pipeline constructed hereunder shall conduct an annual inspection of its facility, and upon doing so, owner shall notify the Office of Homeland Security and Emergency Preparation for Ascension Parish in writing that this inspection has been made.
 5. Any pipeline which crosses a parish owned roadway will have a minimum wall thickness of five-tenths (0.5) inches of un-seamed pipe.
- B. The parish or its delegate may grant a special exception to any requirement of sub-section (a) of this section, upon a showing that the fulfillment of such requirement would impose undue hardship upon the owner of the pipeline, or that such requirement is inappropriate due to the existence of special conditions. Any exception granted by the parish or its delegate may be conditioned in any manner it deems necessary or appropriate.

(Ord. of 8-2-12; Ord of xx-xx-xx)

Sec. 19-41. Notice of completion.

- A. Within thirty (30) days after the completion of any facility for which a permit is required by section 19-36 hereof, the permittee shall file with the parish or its delegate, a sworn declaration of completion properly identified with the application and permit, certifying that the facility and its construction and installation are in accordance with the plans and specifications approved by the permit, or any supplemental permit which may have been issued. The declaration of completion shall be accompanied by a map or plat, in a form acceptable to the parish of its delegate, showing the location of the portion or portions of the facility which are located on public projects.

(Ord. of 8-2-12; Ord of xx-xx-xx)

Sec. 19-42. Inspection.

- A. Any project or facility for which a permit is required by section 19-36 hereof shall be inspected by the parish or its delegate, both during and after completion. If any such inspection reveals substantial deviation from the requirements of this article, or from the plans and specification submitted with the

application or supplemental application, the permittee shall be required to rectify such deviations at his sole cost and expense, and the parish or its delegate shall supervise and inspect the remedial work. Should the permittee fail to commence remedial work within thirty (30) days following written notification or where said remedial work has been timely started by has not been completed within a reasonable time, the parish, or its delegate may have the work performed at the expense of the permittee.

(Ord. of 8-2-12; Ord of xx-xx-xx)

Sec. 19-43. Relocation expenses.

- A. When any public project for the parish is initiated, which requires the relocation, raising or lowering of a segment of a pipeline which has been constructed on an existing parish owned road, right-of-way, canal, drainage ditch, levee or any bayou under the jurisdiction of the parish said relocation or change shall be at the sole cost and expense of the owner of the pipeline.

(Ord. of 8-2-12; Ord of xx-xx-xx)

Sec. 19-44. Fees.

A. Application

1. Application fee is due at the time of submittal. The amount of the fee shall be based on the number of public road ROW and public drainage ROW crossings.
 - a. If there are no crossings, the application fee shall be Five Hundred Dollars (\$500.00)
 - b. Three Thousand Dollars (\$3,000.00) per crossing

B. Pre-Construction Deposit requirements.

1. The amount of guarantee deposit required in connection with this permit for pipelines shall be as follows:
 - a. A guarantee deposit of five thousand dollars (\$5,000.00) per crossing to insure the satisfactory completion of the work shall accompany the permit fee for pipelines installed either by boring or jacking. A guarantee deposit of fifty thousand dollars (\$50,000.00) per crossing to insure the satisfactory completion of the work shall accompany the permit fee for pipelines installed by the open cut method where approved by the parish road or drainage supervisor. The guarantee deposit shall be in the form of a certified check made payable to the Parish of Ascension and shall be refunded upon written request of the applicant and approval of the parish road or drainage supervisor.
 - b. In lieu of a deposit, a bond may be issued that meets the following standards: For a period of 18 months after completion of the work, applicant shall file with the Parish, a Maintenance Surety Bond furnished by companies listed in the U.S. Department of Treasury Circular 570 securing to the Parish the public infrastructure associated with the application for a period of 18 months from the date of such bond. The form of the bond shall be approved by the local government's parish attorney. The bond shall be subject to cancellation only upon written approval of the Parish Engineer. The amount of the bond shall be equivalent to the deposit amount as noted in Section 19-44 B.1.a and as approved by the Parish Engineer or his designee.

C. *Permit and inspection fees.* The amount of permit and inspection fees required in connection with this permit for pipelines is:

1. Three Thousand Dollars (\$3,000.00) per crossing.
2. No permit or inspection fees will be required if there are no road ROW or Drainage ROW crossings. [The amount of deposit, permit and inspection fees shall be stated on the permit application.]
3. This permit is to be available at the site when and where work is being done.

(Ord. of 8-2-12; Ord of xx-xx-xx)

Sec. 19-45. Underground pipeline damage prevention

- A. *Purpose.* It is the public policy of this parish to promote the protection of property, workmen, and citizens in the immediate vicinity of an underground pipelines from damage, death, or injury and to promote the health and well-being of the community by preventing the interruption of essential services which may result from the destruction of, or damage to, underground facilities or utilities.
- B. *Definitions.* Terms used in this section are defined in R.S. 40:1749.12 with the exception of those terms specifically defined in this section.
- C. *Compliance with state law.* Excavation and demolition, notice, compliance with regional notification center requirements, location activities, emergency evacuation activities, precautions to avoid damages, and repairs to damage shall be in accordance with the provisions of R.S. 40:1479.13-18, inclusive, as may be amended.
- D. This section shall not apply to activities by operators or land owners excavating their own underground utilities or facilities on their own property or operators' exclusive right-of-way provided there is no encroachment on the rights-of-way of any operator.
- E. For excavation of existing pipelines, a permit for excavation, in accordance with section 19-36, must be obtained from the Ascension Parish Office of Homeland Security and Emergency Preparedness prior to beginning operations.
- F. *Excavation and demolition; prohibitions.*
 1. Except as provided in this section, no person shall excavate or demolish in any street, highway, public place or servitude of any operator, or near the location of an underground utility or facility, or on the premises of a customer served by an underground utility or facility without having first ascertained in the manner prescribed in subsection (f)(2) of this section, the specific location as provided in subsections (g) and (h) of this section of all underground utilities or facilities in the area which would be affected by the proposed excavation or demolition.
 2. Except as provided in R.S. 40:1749.15, prior to any excavation or demolition, each excavator or demolisher shall serve telephonic or electronic notice of the intent to excavate or demolish to the regional notification center or centers serving the area in which the proposed excavation or demolition is to take place. For Ascension Parish, the official regional notification center is LA One Call in Baton Rouge, LA. Such notice shall be given to the notification center at least forty-eight (48) hours, but not more than one hundred twenty (120) hours, excluding weekends and holidays, in advance of the commencement of any excavation or demolition activity. Holidays shall consist of the following: New Year's Day; Good Friday; Independence Day; Labor Day; Thanksgiving Day; and Christmas Day, and/or or those days that these holidays are observed by the state.
 3. This notice shall contain the name, address, and telephone number of the person filing the notice of intent, and, if different, the person responsible for the excavation or demolition,

the starting date, anticipated duration, and description of the specific type of excavation or demolition operation to be conducted, the specific location of the proposed excavation or demolition and a statement as to whether directional boring or explosives are to be used. If the excavation or demolition is part of a larger project, the notice shall be confined to the actual area of proposed excavation or demolition that will occur during the twenty-day time period under subsection (g) of this section.

4. Telephonic notice shall be recorded on tape or stored into an electronic data bank by the regional notification center and a record of the notice shall be retained for a three-year period from the date of notification. A record of an electronic notice shall also be retained by the regional notification center for a three-year period from the date of notification.
5. Notice shall be given and shall include a specific location request for excavation or demolition work to be performed at least forty-eight (48) hours, but not more than one hundred twenty (120) hours, excluding weekends and holidays, in advance of actual work commencement. Holidays shall consist of the following: New Year's Day; Good Friday; Independence Day; Labor Day; Thanksgiving Day; and Christmas Day, and/or the days on which those holidays are observed by the state. The markings of an operator's facility or utility shall be provided for excavation or demolition purposes only.
6. The excavator or demolisher shall wait at least forty-eight (48) hours, beginning at 7:00 a.m. on the next working day, following notification before commencing any excavation or demolition activity, except in the case of an emergency as defined in the provisions of this part or if informed by the regional notification center that no operators are to be notified.
7. This part shall not apply to activities by operators or land owners excavating their own underground utilities or facilities on their own property or operators' exclusive right-of-way provided there is no encroachment on the right-of-way of any operator.
8. Excavators may use white paint as marking under American Public Works Association guidelines.

G. *Regional notification center.*

1. Each operator of an underground utility or facility, including all state agencies and political subdivisions of the state, shall become a member of, participate in, and share the cost of a regional notification center, except as provided for in R.S. 40:1749.19. Each regional notification center shall have the capability to receive emergency locate requests twenty-four (24) hours a day and to disseminate the information as soon as it is received to the appropriate operators and all affected regional notification centers in this state.
2. A regional notification center receiving a notice of intent to excavate shall notify all members operators having underground utilities or facilities in or near the site of the proposed excavation, except for the operator who provided the notice of intent and requested not to receive such notification. All member operators shall furnish the regional notification center with current emergency contact or notification information, including twenty-four-hour telephone numbers.
3. Each operator of an underground utility or facility, after having received the notification request from the regional notification center of an intent to excavate, shall supply, prior to the proposed excavation, the following information to the person responsible for the excavation:
 - a. The specific location and type of all of its underground utilities or facilities which may be damaged as a result of the excavation or demolition.
 - b. Unless otherwise required by federal or state statutes, the specific location and type of underground utility or facility may, at the operator's option, be marked to locate the utilities or facilities. If the utilities or facilities are visibly marked by the operator, they

-
- shall be marked by the operator by color coded paint, flags, or stakes or similar means using the American Public Works Association color code.
- c. The location of underground fiber optic cables shall be identified in accordance with the provisions of this subparagraph and such identification shall also include an added special marking that is uniquely associated with fiber optic cables.
 - d. When the utility or facility operator has marked the location of underground utilities or facilities, the marking shall be deemed good as long as visible but not longer than twenty (20) calendar days, including weekends and holidays, from the "mark by" time. An additional notice to the regional notification center shall be given by the excavator or demolisher in accordance with the provision of this part when the marks are no longer visible or if the excavation or demolition cannot be completed within twenty (20) calendar days from the mark by time, whichever occurs first.
 - e. The excavator shall use all reasonable and prudent means, within common industry practice, to protect and preserve all marks of the underground utility or facility.
 - f. In the case whereby a forestry excavator or agricultural excavator has requested that the utilities and facilities be marked for location, the operator of a utility or facility shall mark the area of their utilities or facilities. The markings provided by the operator shall be deemed good as long as the markings are visible or up to thirty (30) calendar days from the time the markings were made, whichever is shorter.
 - i. If the operator does not visibly mark the location of these utilities or facilities, the operator shall provide information to enable an excavator using reasonable and prudent means to determine the approximate location of the utility or facility. The information provided by the operator shall include a contact person and a specific telephone number for the excavators to call. After the operator has received the notification request, the information on location, size, and type of underground utility or facility must be provided by the operator to the excavator prior to excavation.
 - ii. In the event of inclement weather as defined in this part, the mark by time shall be extended by duration equal to the duration of the inclement weather. The owner or operator shall notify the excavator or demolisher before the expiration of the mark by time of the need for such extension.
- H. For the purpose of this section, the specific location of the underground facilities is defined as an area not wider than the width of the underground facility or utility as marked plus eighteen (18) inches on either side.
- I. An excavator or demolisher who has given notice and otherwise complied with the provisions of this section shall be immune from civil liability for damages in the area of the proposed excavation or demolition caused by such excavation or demolition to any owner or operator who:
- 1. Was required by the provisions of this section to become a member, participate in, or share the cost of a regional notification center, and failed to do so.
 - 2. Failed to mark or provide information as required by the provisions of this section.
 - 3. The immunity provided by this subsection shall not apply to civil liability for damages caused by the negligence of the excavator or demolisher.
- J. Should an owner or operator file suit against an excavator or demolisher for damages to underground utilities or facilities and the court finds in favor of the owner or operator, in addition to damages provided for by this section, the owner or operator shall be entitled to recover reasonable attorney fees and costs. If the court finds in favor of the excavator or demolisher, the excavator or demolisher shall be entitled to recover reasonable attorney fees and costs.

K. *Emergency excavation; notice required; penalty.*

1. The notice required pursuant to subsection (f) of this section shall not apply to any person conducting an emergency excavation. Oral notice of the emergency excavation shall be given as soon as practicable to the regional notification center or each operator having underground utilities and facilities located in the area and, if necessary, emergency assistance shall be requested from each operator in locating and providing immediate protection to its underground utilities and facilities.
2. The excavator shall orally certify that the situation poses an imminent threat or danger to life, health, or property and requires immediate action and that the excavator has a crew on site.

L. There is a rebuttable presumption that the excavator failed to give notice as required pursuant to this section if the excavator failed to give any notice to the regional notification center within the following time periods:

1. Within four (4) hours of the beginning of the emergency excavation.
2. In the case of a gubernatorially declared state of emergency due to a tropical storm or hurricane event, within twelve (12) hours of the beginning of the emergency excavation within the parishes to which the emergency declaration applies.
3. In the case of a wildfire, within twenty-four (24) hours after control of the emergency.

M. *Precautions to avoid damage.* In addition to the notification requirements in subsection (f) and (g) of this section and the emergency notification requirements in subsection (k) of this section, each person responsible for an excavation or demolition operation shall do the following:

1. Plan the excavation or demolition to avoid damage to or minimize interference with underground utilities and facilities in and near the construction area.
2. Maintain a safe clearance between the underground utilities or facilities and the cutting edge or point of any power or mechanized equipment, considering the known limit of control of the cutting edge or point to avoid damage to utilities or facilities.
3. Provide support for underground utilities or facilities in and near the construction area, during excavation and back filling operations, as may be reasonably necessary to protect the facility.
4. Dig test pits to determine the actual location of utilities or facilities handling electricity, gas, natural gas, oil, petroleum products, or other flammable, toxic, or corrosive fluid/gases if these utilities or facilities are to be exposed.
5. For excavation of existing pipelines, or for pipelines that fall within identified zones within the parish, a permit for excavation must be obtained prior to beginning operations.

N. *Excavation or demolition; repair of damage.*

1. Each person responsible for any excavation or demolition operations which result in any damage to an underground utility or facility shall, immediately upon discovery of that damage, notify the owner or operator of the utility or facility of the location and nature of the damage and shall allow the owner or operator reasonable time to accomplish necessary repairs before continuing the excavation, demolition, or back filling in the immediate area of damage.
2. Each person responsible for an excavation or demolition operation which results in damage to an underground utility or facility permitting the escape of any flammable, toxic, or corrosive fluids/gases shall, immediately upon discovery of that damage:

-
- a. Notify the owner or operator of the utility or facility and all other appropriate emergency response personnel, including 911 and the local law enforcement and fire departments and allow the owner or operator reasonable time to accomplish necessary repairs before continuing the excavation, demolition, or back filling in the immediate area of damage.
 - b. Take any other action as may be reasonably necessary to protect persons and property and to minimize hazards until arrival of the owner or operator's personnel and police or fire department.
 - c. Comply with any other notification process required by law or regulation.
 - d. After discovery of the damage, each day that an excavator or demolisher fails to comply with the provisions of this section shall be considered a separate violation.

O. *Violations; penalties.*

1. A person who is required by this section to become a member of, participate in, or share the cost of, a regional notification center and who fails to do so shall be subject to a civil penalty of not more than two hundred fifty dollars (\$250.00) for the first violation and not more than one thousand dollars (\$1,000.00) for each subsequent violation. A subsequent violation shall be deemed to have occurred if the person fails to become a member of, participate in, or share the cost of, a regional notification center as required within ninety (90) days after issuance of a citation for the previous violation.
 2. A person who participates in a regional notification center and who fails to mark or provide information regarding the location of underground utilities and facilities shall be subject to a civil penalty of not more than one thousand dollars (\$1,000.00). A subsequent violation shall be deemed to have occurred if a person fails to provide information or markings within two (2) years of the issuance of a prior citation for the same or similar conduct.
 3. A person who is required by law to participate in a regional notification center and who fails to provide information or markings to indicate hazardous material as defined in Title 30 of the Louisiana Revised Statutes of 1950 shall be subject to the following:
 - a. For the first violation, a civil penalty of not more than two hundred fifty dollars (\$250.00).
 - b. For a second violation, a civil penalty of not more than five hundred dollars (\$500.00).
 - c. For a third violation, a civil penalty of not more than one thousand dollars (\$1,000.00).
 - d. For a fourth and each subsequent violation, a civil penalty of not less than two thousand dollars (\$2,000.00) nor more than twenty-five thousand dollars (\$25,000.00).
- P. An excavator or demolisher who violates the provisions of subsections (f), (m), or (n)(2), shall be subject to the following:
1. For the first violation, a civil penalty of not more than two hundred fifty dollars (\$250.00).
 2. For a second violation of a similar nature within a two-year period from the previous violation, a civil penalty of not more than five hundred dollars (\$500.00).
 3. For a third violation of a similar nature within a two-year period from a previous violation, a civil penalty of not more than one thousand dollars (\$1,000.00).
 4. For a fourth and each subsequent violation of a similar nature within a two-year period from the previous violation, a civil penalty of not less than two thousand dollars (\$2,000.00) nor more that twenty-five thousand dollars (\$25,000.00).

-
5. Any violation involving hazardous materials as defined in Title 30 of the Louisiana Revised Statutes of 1950, a civil penalty of not less than two thousand dollars (\$2,000.00) nor more than twenty-five thousand dollars (\$25,000.00).
 6. An excavator or demolisher who is issued a citation for a violation shall immediately stop all excavation or demolition activity until the requirements of this section are met. Failure to do so shall subject the excavator or demolisher to an additional citation and civil penalty of not more than twenty-five thousand dollars (\$25,000.00) for each such subsequent citation issued.
- Q. An excavator or demolisher who violates the provisions of subsection (k) of this section shall be subject to the following:
1. For the first violation, a civil penalty of not more than fifty dollars (\$50.00).
 2. For a second violation of a similar nature within a two-year period from the previous violation, a civil penalty of not more than two hundred dollars (\$200.00).
 3. For a third violation of a similar nature within a two-year period from a previous violation, a civil penalty of not more than five hundred dollars (\$500.00).
 4. For a fourth and each subsequent violation of a similar nature within a two-year period from the previous violation, a civil penalty of not less than five hundred dollars (\$500.00) nor more than five thousand dollars (\$5,000.00).
- R. A person may be cited with a violation and held liable for a civil penalty pursuant to this section although the commission of the offense did not occur in the presence of a law enforcement officer if the evidence is sufficient to establish that the defendant has committed the offense.
- S. *Miscellaneous provisions.*
1. Except as otherwise specifically provided herein, the provisions of this section shall not affect any civil remedies for personal injury or property damage, including damage to underground utilities or facilities.
- T. *Pipeline permitting, Ascension Parish.*
1. Any owner-operator, contractor, or subcontractor installing a new gas or liquid pipeline in Ascension Parish must apply for a permit in accordance with section 19-36.

-(Ord. of 6-6-13, Exh. A; Ord. of 11-21-13, Exh. A; Ord of xx-xx-xx)