

EXHIBIT 1

AMENDMENTS TO CHAPTER 5 OF APPENDIX B

GUIDELINES & REGULATIONS FOR AREAS & ACTIVITIES OF
STATE INTEREST OF THE EL PASO COUNTY LAND DEVELOPMENT CODE

_____, 2018

I. Amend Section 5.103 (Definitions) as follows:

- Amend definition of “major facilities of a public utility” to read:
 - 5.103(2) *Major facilities of a public utility* means major transmission lines, minor transmission lines, power plants, substations, major pipelines minor pipelines, and storage areas of utilities as herein separately defined.
- Adopt the following two definitions:
 - *Major transmission line* means electrical lines and appurtenant facilities which emanate from a power plant or a substation/transmission site and terminate at a substation/transmission site and which are designed to transmit electrical voltage of 69KV or greater.
 - *Minor transmission line* means electrical lines and appurtenant facilities which are designed to transmit electrical voltages of less than 69KV from a substation/transmission site to individual commercial or residential customers.
- Adopt definitions of “minor pipeline” and of “major pipeline” to read:
 - *Major pipeline* means a pipeline and appurtenant facilities of twelve (12) inches or more in diameter which creates a hoop stress of twenty (20) percent or more at its specified minimum yield strength, and designed for, or capable of, transporting natural gas, manufactured gas or other petroleum derivatives.
 - *Minor pipeline* means a pipeline and appurtenant facilities of less than twelve (12) inches in diameter which creates a hoop stress of less than twenty (20) percent at its specified minimum yield strength, and designed for, or capable of, transporting natural gas, manufactured gas or other petroleum derivatives.
- Amend definition of “transmission line” to read:
 - *Transmission line* includes major transmission lines and minor transmission lines.
- Amend definition of “pipeline” to read:
 - *Pipeline* means and includes major pipelines and minor pipelines.
- Adopt definition of “Protection Zone” to read:
 - *Protection Zone* means an area within 105 feet of centerline of any existing or planned County road with a current or proposed classification as arterial or expressway or within 45 feet of the centerline of any County road with a current

or proposed classification as collector as those classifications are set forth in the El Paso County Major Transportation Corridors Plan or in the El Paso County Engineering Criteria Manual or other completed and/or adopted master plan elements.

- Amend definition of “site selection and construction” to read:
 - *Site selection and construction* means and includes the initial site selection and construction of a major facility of a public utility as well as any subsequent relocation, reconstruction or upgrade of such facility.
- Adopt definition of “County road” to read:
 - *County road* means roadways owned and maintained by El Paso County, including the built road surface, bridges, abutments, culverts, and appurtenant supporting facilities and infrastructure.

II. Amend Section 5.104 (Applicability) as follows:

- Subsection 5.104(2) is repealed and reenacted to read in its entirety as follows:
 - No major transmission line or major pipeline shall be constructed, located, relocated, reconstructed, enlarged or upgraded within the Protection Zone.
 - Outside of the Protection Zone, a permit under this Chapter 5 is required to construct, locate, relocate, reconstruct, enlarge or upgrade any major transmission line and appurtenant facilities and any major pipeline and appurtenant facilities anywhere within the unincorporated area of El Paso County pursuant to the review criteria in 5.202.
- Subsection 5.104(4) is repealed and reenacted to read:
 - (a) A permit under this Chapter 5 is not required to construct, locate, relocate, reconstruct, enlarge or upgrade any minor transmission line and appurtenant facilities and any minor pipeline and appurtenant facilities anywhere within the unincorporated area of El Paso County outside of the Protection Zone.
 - (b) Minor transmission lines and appurtenant facilities and minor pipelines and appurtenant facilities may be allowed in the Protection Zone with a permit under this Chapter 5 pursuant to the review criteria in Section 5.204 and the procedures in Section 5.205.
 - (c) Minor transmission lines and appurtenant facilities and minor pipelines and appurtenant facilities may be allowed in the Protection Zone without a permit under this Chapter 5 if one or more of the following exceptions apply:
 - Location in the Protection Zone is necessary in order to cross a County road at or near a perpendicular angle or to provide service to an individual utility customer; or
 - Approval has been granted pursuant to the El Paso County Engineering Criteria Manual at Chapter 4 and Sections 5.3 and 5.5.

Comment [GS1]: 1.Road crossings should be an exception.
2. Setbacks necessarily will cause more intrusion into adjacent properties and may conflict with 5.202 as outlined in IV below in some cases.
3. There should be an exception for damage (fire, accident, etc) that would allow a line to be reconstructed or repaired in place.
4. There should be an opportunity for waiver as contemplated by 5.205 in VII below.

Comment [GS2]: It doesn't make sense to go through a siting approval process to reconstruct an existing line. I also don't know what reconstruct means. Is it pole replacement? Just one pole? All of them? Replacing the conductor? Adding fiber?

- o A county, municipal, rural transportation authority or state public construction, relocation, realignment, or improvement project results in partially or completely overtaking a private easement or a deeded or platted public utility easement located in the Protection Zone and occupied by the minor transmission line or minor pipeline.

III. Amend Section 5.201: Application Submission Requirements, to add the following additional paragraphs:

(12) Cost estimates to relocate transmission line(s) or pipeline(s) if it becomes necessary to relocate the same, including cost estimates to acquire additional easement(s) if necessary.

(13) Cost estimates to relocate transmission line(s) or pipeline(s) if it becomes necessary to relocate the same in the future, and what costs are projected to be borne by the applicant or other parties.

(14) Information addressing impact of the proposed project on adjacent properties.

(15) Information describing the relationship of the proposed facilities to the County’s long-range and capital maintenance improvement programs.

(16) Information and map or depiction addressing adequacy of the proposed project to account for or to accommodate terrain changes.

Comment [GS3]: This seems to be asking for the same information twice.

IV. Amend Section 5.202 to retitle as “Review Criteria , General,” and amend to read in its entirety as follows:

Section 5.202 Review Criteria: General

A permit to conduct site selection and construction of a major facility of a public utility shall be approved if the Permit Authority, or in the case of an Administratively Approved Permit, the Director, finds the application complies with the following criteria in this Section and Section 5.203 and 5.204. If the Permit Authority finds the application does not comply, the application shall be denied or may be approved with conditions.

- (1) All reasonable alternatives to the proposed action, including use of existing rights-of-way and joint use of rights-of-way wherever uses are compatible, have been adequately assessed and the proposed action represents the best interests of the people of this County and presents the best utilization of resources in the impact area.
- (2) A satisfactory program to mitigate and minimize adverse impacts has been presented.
- (3) Transmission lines and pipelines shall be located so as to discourage traffic congestion, incompatible uses, and expansion of the demand for government services beyond the reasonable capacity of the community or region, and to avoid unreasonable or burdensome expenditure of public resources.
- (4) Major facilities of a public utility shall be administered so as to minimize disruption of the service provided by the utility and preserve desirable existing community patterns.

V. **Adopt new Section 5.203 “Review Criteria – Major Transmission Lines and Major Pipelines” to read as follows:**

In addition to the criteria at 5.202, major transmission lines and major pipelines must comply with the following review criteria:

- (1) The nature and proposed location of the major transmission line or major pipeline within the County and the need to locate the same within the County support the permit.
- (2) The effect, if any, the proposed location may have on existing and planned County roads.
- (3) The existing developed conditions in the area to be served by the proposed major transmission line or major pipeline support the permit.
- (4) The anticipated future development in the area to be served by the proposed major transmission line or major pipeline supports the permit.

VI. **Adopt new Section 5.204 “Review Criteria: Minor Transmission Lines & Minor Pipelines Within the Protection Zone” to read:**

Minor transmission lines and minor pipelines may be permitted within the Protection Zone under the following conditions, applied by the County on a case-by-case basis, and in consideration of the degree to which, in the reasonable discretion of the Permit Authority, or in the case of an Administratively Approved Permit, the Director, the following conditions are relevant and if so, are met in the individual case:

- (1) Nature and proposed location of the minor transmission line or minor pipeline within the Protection Zone and the need to locate the same within the Protection Zone support the permit.
- (2) Location of the proposed facility is warranted based on the location of existing County road.
- (3) Existing developed conditions in the area served by the County road support the permit.
- (4) Anticipated future development in the area served by the County road supports the permit.
- (5) Existence of current utility facilities in the desired location and the capacity of each utility facility.
- (6) Projected width, at buildout, of the County road in proximity to the minor transmission line or minor pipeline.
- (7) Necessity for preservation of the full width of the Protection Zone at this location.
- (8) Projected cost of relocation if it becomes necessary to relocate the minor transmission line or minor pipeline, including projected cost to acquire additional easement(s) if necessary.

- (9) Degree to which any costs of future location or relocation of the minor transmission line or minor pipeline will be borne by the applicant or other parties.
- (10) Presence or absence of any recorded utility easement(s).
- (11) Impact of the proposed project on adjacent properties.
- (12) Location and nature of development to be served by the project.
- (13) Phasing plans, if any, for the project and/or the development to be served.
- (14) Relationship of the proposed facilities to the County's long-range and capital maintenance improvement programs.
- (15) Relative cost impacts to the applicant and to the County of maintaining the location, or of relocating, the minor transmission line or minor pipeline within or outside the Protection Zone.
- (16) Safety issues presented by the proposed project and whether mitigation measures adequately address those issues.
- (17) Adequacy of the proposed project to account for or to accommodate terrain changes.

VII. Adopt new Section 5.205 "Review Procedure for Minor Transmission Lines & Minor Pipelines in the Protection Zone" to read:

1. Applications for minor transmission lines and minor pipelines in the Protection Zone shall follow the procedure in 5.201, provided however; all applications shall initially be evaluated to determine whether they may be considered for administrative approval under 2.202.
2. Prior to review, the applicant shall meet with the Director and the County Engineer to explore alternatives for approval of the project, in consideration of the criteria in 5.204, including the potential for permitting the project in the Protection Zone in each particular case.