

**STATE OF MICHIGAN
COUNTY OF OAKLAND
CITY OF FARMINGTON
ORDINANCE NO. C-781-2016**

CONSUMERS ENERGY COMPANY GAS FRANCHISE ORDINANCE

AN ORDINANCE, granting to CONSUMERS ENERGY COMPANY, its successors and assigns, the right, power and authority to lay, maintain and operate gas mains, pipes and services on, along, across and under the highways, streets, alleys, bridges, waterways, and other public places, and to do a local gas business in the CITY OF FARMINGTON, OAKLAND COUNTY, MICHIGAN, for a period of thirty (30) years.

THE CITY OF FARMINGTON ORDAINS:

SECTION 1. GRANT, TERM. The CITY OF FARMINGTON, OAKLAND COUNTY, MICHIGAN, ("City") hereby grants to the Consumers Energy Company, a Michigan corporation, its successors and assigns, hereinafter called the "Grantee," the right, power and authority to lay, maintain and operate gas mains, pipes and services on, along, across and under the highways, streets, alleys, bridges, waterways, and other public places, and to do a local gas business in the CITY OF FARMINGTON, OAKLAND COUNTY, MICHIGAN, for a period of thirty (30) years ("Franchise").

SECTION 2. CONSIDERATION. In consideration of the rights, power and authority hereby granted, said Grantee shall faithfully perform all things required by the terms hereof.

SECTION 3. CONDITIONS.

(a) No highway, street, alley, bridge, waterway or other public place used by said Grantee shall be obstructed longer than necessary during the work of construction, maintenance, or repair, and unless weather or other factors outside Grantee's control prevent it, shall be promptly restored within a reasonable time to the same order and condition as when said work was commenced. If Grantee fails to complete required restoration within the time required, the City may, after providing Grantee with a five (5) business day written notice of the City's intention to do so, perform or secure performance of the required restoration, with the City's actual and reasonable administrative costs and expenses in doing so to be paid by Grantee to the City within 30 days of the City's billing or invoice.

(b) Grantee shall comply with all current and future federal, state, and local laws applicable to the installations and business for which this Franchise is granted, provided, however, that nothing herein shall be construed as a waiver by Grantee of any of its existing or future rights under state or federal law. Except for emergency and service restoration work, Grantee shall not perform work without first securing any applicable governmental permits and approvals required for that work.

(c) Except as necessary in an emergency or described by Grantee and approved by the City as necessary in an application for and issuance of a permit to perform work, all of Grantee's pipes and mains shall be so placed in the highways and other public places as not to interfere with the use thereof for highway uses and purposes, and other public uses and purposes that are existing.

(d) Grantee, at its own cost and expense, shall relocate or remove its installations in a public area for which this Franchise is granted, whenever such relocation or removal is required by a City Council Resolution as being necessary for use of the public area for a public improvement in furtherance of a public purpose of the City. This provision is not a waiver of Grantee's existing or future rights under state or federal law, and does not restrict or impair Grantee's rights under any applicable laws regarding vacation or relocation of streets.

SECTION 4. HOLD HARMLESS. Said Grantee shall at all times keep and save the City free and harmless from all loss, costs and expense to which it may be subject by reason of the negligent

Ordinance No. C-781-2016

construction, repair, or maintenance of the structures and equipment hereby authorized. In case any action is commenced against the City on account of the permission herein given, said Grantee shall, upon notice, defend the City and save it free and harmless from all loss, cost and damage arising out of such negligent construction, repair, or maintenance.

SECTION 5. EXTENSIONS. Said Grantee shall construct and extend its gas distribution system within said City and shall furnish gas to applicants residing therein in accordance with applicable laws, rules and regulations.

SECTION 6. FRANCHISE NOT EXCLUSIVE. The rights, power and authority herein granted, are not exclusive. Either manufactured or natural gas may be furnished hereunder.

SECTION 7. RATES. Said Grantee shall be entitled to charge the inhabitants of said City for gas furnished therein, the rates as approved by the Michigan Public Service Commission, for so long as said Commission or its successors has the authority and jurisdiction to fix and regulate gas rates and rules regulating such service in said City. Such rates and rules shall be subject to review and change at any time upon petition therefor being made by either said City, acting by its City Council, or by said Grantee.

SECTION 8. REVOCATION. The franchise granted by this ordinance is subject to revocation upon sixty (60) days written notice by the party desiring such revocation.

SECTION 9. MICHIGAN PUBLIC SERVICE COMMISSION, JURISDICTION. Said Grantee shall, as to all other conditions and elements of service not herein fixed, be and remain subject to the reasonable rules and regulations of the Michigan Public Service Commission or its successors, applicable to gas service in said City.

SECTION 10. SALE, ASSIGNMENT, AND TRANSFER OF FRANCHISE. Grantee shall not sell, assign, sublet, or transfer this Franchise without the written consent of the City, which shall not be unreasonably withheld.

SECTION 11. PRIOR ORDINANCE. This ordinance is intended to replace the franchise granted by Consumers Power Company Gas Franchise Ordinance No. C-538-86, that was adopted by the City Council on October 20, 1986, and took effect ten (10) days after publication, with that Ordinance repealed upon the effective date of this Ordinance.

SECTION 12. EFFECTIVE DATE. This ordinance shall be effective on October 1, 2016; provided, however, it shall cease and be of no effect after thirty (30) days from its adoption unless within said period the Grantee shall accept the same in writing filed with the City Clerk. Upon acceptance and publication hereof, this ordinance shall constitute a contract between said City and said Grantee.

CERTIFICATION

I, the undersigned, the qualified and acting City Clerk of the City of Farmington, Oakland County, Michigan, do certify that the foregoing is a true and complete copy of the Ordinance adopted by the City Council of the City of Farmington at a meeting held on the 19th day of September, 2016, the original of which is on file in my office.

SUSAN K. HALBERSTADT, City Clerk
City of Farmington

Ordinance No. C-781-2016

Introduced: August 15, 2016
Adopted: September 19, 2016
Effective: October 1, 2016
Published: September 25, 2016