

.ORDINANCE NO.380
FRANCHISE

MICHIGAN GAS UTILITIES

AN ORDINANCE GRANTING TO MICHIGAN GAS UTILITIES CORPORATION, A DELAWARE CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE RIGHT, POWER, AUTHORITY AND PERMISSION TO USE HIGHWAYS, STREETS, AND ALLEY OF THE VILLAGE OF BERRIEN SPRINGS, COUNTY OF BERRIEN, STATE OF MICHIGAN, (OR OTHER PUBLIC PLACES IF THE CONSENT OR APPROVAL OF THE VILLAGE IS FIRST OBTAINED) FOR THE PURPOSE OF LAYING AND MAINTAINING GAS PIPES, MAINS, CONDUITS, VALVES, DRIPS AND ALL NECESSARY APPURTENANCES IN, UNDER AND ALONG OF SAID VILLAGE (OR OTHER PUBLIC PLACES IF THE CONSENT OR APPROVAL OF THE VILLAGE IS FIRST OBTAINED), AND THE RIGHT, POWER, AND PERMISSION TO CONDUCT AND OPERATE A GENERAL GAS BUSINESS AND DISTRIBUTION SYSTEM IN SAID VILLAGE FOR A PERIOD OF THIRTY (30) YEARS.

THE VILLAGE COUNCIL OF THE VILLAGE OF BERRIEN SPRINGS, COUNTY OF BERRIEN, STATE OF MICHIGAN HEREBY ORDAINS:

Section 1. Granting of Franchise to Use Highways, Streets, Alleys and Public Places. The Village of Berrien Springs, County of Berrien, State of Michigan, (hereinafter called the "Village"), hereby grants to Michigan Gas Utilities Corporation, a Delaware corporation (hereinafter called "Grantee"), its successors and assigns, a franchise to use the highways, Streets and alleys of the Village (or other public places if the consent or approval of the Village is first obtained) for the purpose of constructing, maintaining and operating a gas distribution system in said Village with full right, power and authority to establish, construct, maintain, extend and operate a plant, stations, mains, pipes, conduits, valves, drips and all other appurtenances, apparatus and appliances within the corporate limits of the Village, for the purpose of supplying and distributing to said village and its inhabitants gas heating and other purposes and, for such purposes, to enter upon and use the highways, streets, alleys of said Village (or other public places if consent or approval of the Village is first obtained) and lay, maintain, operate, repair and extend therein, through and thereunder such mains, pipes, conduits, valves, drips, apparatus, appliances and other appurtenances as may be necessary and proper for the distribution of gas throughout and beyond said Village and for the purpose of conducting and operating a gas business in said Village subject to the terms and conditions thereafter provided.

Section 2. Non-Disturbance of Public Travel; Restoration; Construction Maintenance. In laying its pipes, mains and other appurtenances and repairing and maintaining the same, Grantee shall interfere as little as possible with public travel. No public ways used by Grantee shall be obstructed any longer than necessary to complete the construction or repair work. All of Grantee's Facilities shall be so placed in the public ways as not to unnecessarily interfere with the use thereof for highway purposes.

After opening any portion of the highways, streets and alleys (or other public places if the consent or approval of the Village is first obtained), Grantee shall within a reasonable time restore the same as nearly as possible to the same condition as prevailed before opening. While any portion of the highways, streets, or alleys is open (or other public place if the consent or approval of the Village is first obtained), Grantee shall maintain reasonable barriers and lights at night and other warnings to the users of said highways, streets or alleys (or other public place if the consent or approval of the Village is first obtained). If the Grantor elects to alter or change the grade of or otherwise improve any street, alley, public way, public property or public right-of-way, or construct, repair, or reconstruct any sewer or water system therein, Grantee, upon reasonable notice by Grantor, shall remove, relay, and relocate its facilities or equipment at the cost and expense of the Grantee. However, if the Grantor orders the Grantee to relocate its facilities or equipment for non-public purposes or for the sole benefit of a private project, the Grantee shall have the right to receive reimbursement for the reasonable cost of such relocation.

Section 3. Hold Harmless. Said Grantee shall at all times keep, indemnify, and save the Village free and harmless from all loss, costs and expenses, including attorneys' fees, to which it may be subject by reason of the laying, constructing, maintenance and use of said mains, pipes, conduits and appurtenances and any actions, omissions, or negligent constructions and maintenance of the Facilities hereby authorized. In case any action is commenced against the Village on account of the permission herein given, said Grantee shall, upon notice, indemnify and defend the Village, and save it free and harmless from all loss, cost and damage, including attorney fees, arising out of such actions, omissions, negligent construction and maintenance.

Section 4. Unless an emergency exists where Grantee determines that there is an immediate and serious threat to the health, safety or welfare of a customer, or the general public, and which requires immediate action, Grantee shall not open or excavate any road street, alley or highway in the Village for the purpose of laying or maintaining natural gas transmission or distribution facilities and other necessary equipment, except upon application to the Michigan Department of Transportation, the Village or other public authority having jurisdiction over the public way, stating the nature of the proposed work and the route. Grantee shall obtain a permit from the public authority having jurisdiction over the highway, street, alley, bridge and other public place for all proposed work within the Village. Prior to any application to construct underground natural gas transmission or distribution facilities and other necessary equipment within the Village, the Village may require a written notice from Grantee within a reasonable time. This notice shall be for the purpose of locating other utilities within the underground trench or excavation where Grantee's natural gas transmission or distribution equipment are being installed or constructed.

Section 5. Rates Established by Michigan Public Service Commission. The rates to be charged by Grantee and all rules of service shall be those which are established from time to time by the Michigan Public Service Commission or such other

body which shall succeed to the jurisdiction, rights, powers and authority of said Commission.

Section 6. Term. The rights and authority herein granted shall be and continue for a period of thirty (30) years from and after the effective date of this Ordinance; provided, however, the Grantor may cancel this franchise on the tenth (10th) or twentieth (20th) anniversary of this agreement by notifying Grantee in writing of its desire to do so, said notification to be given not more than thirty (30) days before the tenth (10th) or twentieth (20th) anniversary, respectively, of this agreement. If Grantee is not notified of the cancellation by the tenth (10th) or twentieth (20th) anniversary, then this franchise shall continue without cancellation until the thirtieth (30th) year. The anniversary date shall be the date this franchise is accepted by Grantee or otherwise effective by operation of law.

Section 7. Franchise Revocable; Irrevocability Upon Approval of Electors. The franchise herein granted shall be revocable at the will of the governing body of this Village, PROVIDED, however, that the same shall become irrevocable if and when confirmed by a three-fifths (3/5) majority of the electors voting upon the question at the next general election or at any special election called for that purpose. Such special election shall be held at the request of said Grantee.

Section 8. Expenses of Election Paid by Grantee. In the event of a special election, the expenses thereof shall be deposited with the Clerk of this Village by the Grantee.

Section 9. Tree Removal. In the case of removal of a tree by Grantee that is approved by the Village, the Grantee shall pay the Village \$250.00 X 3 to help with the costs to replace the one tree with three trees and to cover administrative costs.

Section 10. Publication. The Village Clerk is hereby directed to cause a true copy of this ordinance to be published in the Journal Era, a newspaper circulating within the Village within thirty (30) days hereof.

Section 11. Recording of Ordinance. Within one (1) week after the publication of this ordinance, the Clerk of the Council shall record the publication of this ordinance in the Record of Ordinances book kept by the Clerk for such purpose. Such record shall include the date of passage hereof, the names of the members voting hereon and how each member voted, and the ordinance shall be authenticated by the Village Council President and the Clerk by affixing their official signatures on the record.

Presented by: Barry Gravitt

Seconded by: Sandy Swartz

Voting in Favor: Barry Gravitt, Lonna Johnson,
Sheila Snyder, Sandy Swartz,
Kristin von Maur and President Jesse Hibler.

Voting Against: None

Absent: None

We hereby attest that the foregoing Ordinance was adopted by the Village Council of the Village of Berrien Springs, County of Berrien, State of Michigan at a regular meeting held on the 19th day of July, 2021.

Dated: 07/19/2021



Jesse Hibler, Berrien Springs Village President

Dated: 07/19/2021



Sheri Kesterke, Berrien Springs Village Clerk

We further certify that the foregoing Ordinance was published and filed as follows:

Published in:

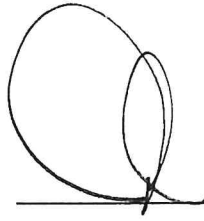
The Journal Era

Date of Publication:
(newspaper Proof of
Publication attached)

July 28, 2021

Ordinance No. : 380

Dated: July 28, 2021



Jesse Hibler, Berrien Springs Village President

Dated: July 28, 2021



Sheri Kesterke, Berrien Springs Village Clerk