

ORDINANCE NO. 18-03-01

AN ORDINANCE GRANTING TO OHIO GAS COMPANY, ITS SUCCESSORS AND ASSIGNS, THE RIGHT TO MAINTAIN A GAS DISTRIBUTION SYSTEM AND TO LAY, EXTEND, MAINTAIN, OPERATE, REPAIR, AND REMOVE MAINS AND PIPE IN, THROUGH, OR UNDER THE STREETS, ALLEYS, PUBLIC PLACES OF THE VILLAGE OF Sherwood, Defiance COUNTY, OHIO, FOR SUPPLYING GAS TO THE VILLAGE AND ITS INHABITANTS, AND THE TRANSPORTATION THEREOF IN AND THROUGH THE VILLAGE.

BE IT ORDAINED BY THE COUNCIL of the Village of Sherwood, Defiance County, Ohio:

Section 1: That subject to the terms, conditions, and provisions hereinafter stated and set forth there is hereby granted to Ohio Gas Company ("Company"), its successors and assigns, the right to maintain and operate a gas distribution system within the corporate limits of the Village of Sherwood, Ohio ("Village"), for supplying gas to the Village and its inhabitants, and the transportation of gas in and through the Village, and is hereby granted the use of right-of-way along, through and under the streets, avenues, alleys, lanes, sidewalks, public squares, and public places in the Village for the purpose of laying, constructing, maintaining, removing, using and operating one or more lines of gas main and branch pipe with the necessary feeders, service pipes, valves, regulators, meters, and other devices necessary or convenient to the successful operation of such lines and pipes for supplying gas to the Village and its inhabitants and the transportation of gas in and through the Village.

Section 2: The existing locations and construction of all pipes, mains, conduits, attachments, fixtures and appurtenances, both above and below the public

thoroughfares or in other places in the Village are hereby approved and shall be maintained and operated under and subject to the provisions of this Ordinance.

Section 3: Pursuant to this Ordinance, the Company is exempt from any future ordinances, rules, or other instruments enacted by the Village, including any ordinances, rules, or other instruments enacted pursuant to Chapter 4939 of the Ohio Revised Code, that modify or increase the fees charged or collected by the Village for use of the right-of-way along, through and under the streets, avenues, alleys, lanes, sidewalks, public squares, and public places in the Village for the purpose of laying, constructing, maintaining, removing, using and operating one or more lines of gas main and branch pipe with the necessary feeders, service pipes, valves, regulators, meters, and other devices necessary or convenient to the successful operation of such lines and pipes in the supplying, storing, conducting and delivering of gas to the Village and its inhabitants and the transportation of gas in and through the Village.

Section 4: The Company, before the laying of any pipes, mains, or conduits, shall within a reasonable period of time make a report to the Village Administrator showing the location or locations within the Village limits where such pipes, mains, and conduits are proposed to be laid, and likewise stating whether or not any excavating will be done in connection therewith, with the exception that such report need not be made or given when there is a leak or break so as to put a financial burden on the Company or to endanger life, limb or property.

Section 5: The Company, after doing any excavating, shall replace all materials, except surface materials or pavement, which have been removed, and shall leave the fill in a neatly graded condition, and thereafter the Company shall continue to fill any and all such excavations so made with material proper for such purpose to the extent required by the settlement thereof. After the excavations have been sufficiently filled and are ready for repaving and resurfacing, the Village or a contractor chosen by the Village shall promptly undertake the resurfacing or repaving, and shall do the same in a proper and workmanlike manner and shall promptly invoice the Company. All expenses properly incident to the cost of repaving or resurfacing shall be borne by the Company. The Company shall promptly pay the Village the amount thereof within a reasonable time after receipt by the Company of invoices covering the same. In the event that the Village is not able or does not desire to undertake such resurfacing or repaving, the Company, at its expense, shall undertake such resurfacing or repaving. The Company shall, during construction, repair or renewal of all work performed hereunder, maintain such barriers and danger signals as will reasonably avoid damage to life, limb and property.

Section 6: All pipes, mains, and conduits laid subsequent to the effective date of this Ordinance by the Company in the streets, alleys, avenues, parkways, and other public places in the Village shall be laid not less than two (2) feet below the surface of the street or other public place where laid, and in every case, shall be so placed, maintained, and performed as not to interfere unreasonably with ordinary travel on the streets and highways of the Village or with any water or sewer pipes, drains, conduits, or electric cables now existing, or which may hereafter be laid provided, however, that

any water or sewer pipes, drains, conduits, or electric cables as may be laid by the Village hereafter shall not unreasonably interfere with any gas pipes, mains, or conduits installed prior thereto under the terms of this Ordinance. In the case of bringing to grade or change of grade of any street or alley, the Company shall change its structures so as to conform thereto, shall pay all the costs necessarily incurred in connection with the changes made, and shall not be entitled to damages by reason of any change of grade of any street or alley. In laying pipes, mains, and conduits, the Company shall, wherever practicable, bore the same under the surface of the pavement of all streets, alleys, avenues, parkways, and other public places; provided, however, that where such methods shall be impracticable, the Company shall have the right to remove the surface or pavement and to make all necessary excavations for the purpose of laying such pipes, mains, and conduits.

Section 7: The Company shall have full and exclusive control of the operation of its gas distribution system. No other persons, company, or corporation shall at any time tap, alter, change, or perform any work on its gas mains, services, pipes, regulators, or meters for any purpose whatsoever, except under the discretion of the Company.

Section 8: The Company shall have the right to temporarily shut off gas, to be supplied hereunder for any of the purposes permitted by this Ordinance, from its mains and service pipes, or any part thereof; provided, however, that such action shall in each case be taken for the sole and express purpose of making repairs or extensions to works, mains, or service pipes, or for safety reasons, and Company shall not be liable to the Village or to any customer or consumer of gas for any damage caused by such

temporary suspension of the supply of gas; provided further, however, that the repairs and extensions are made with due diligence by the Company and that notice be given when possible by the Company to any customer who may be affected by such temporary suspension of the supply of gas except where it is not feasible to give such notice for safety reasons.

Section 9: The Company, its successors, and assigns shall at all times hold and save the Village harmless from any and all liability, loss, costs, damage, or expenses that may accrue to the Village by reason of the negligence, default, or misconduct of the Company in the construction, operation, or maintenance of its facilities hereunder.

Section 10: The Company, its successors, and assigns, hereby agrees to make available to the Village and its inhabitants an adequate supply of gas for normal purposes, except that the Company shall not be responsible or liable for delay or failure in the performance of the promises and agreements on its part to be performed under any section or sections of this Ordinance if such delay or failure be due to any cause beyond its control, such as, but not limited to strikes, fires, floods, storms, accidents, breakage of lines or machinery, governmental regulations or orders, acts of public enemies, mobs or rioters, and acts of God, or inability of the Company to obtain adequate gas from its pipeline suppliers.

Section 11: The gas supplied, sold, or transported under the terms of this Ordinance shall be of such quality as provided in Ordinance or Ordinances governing rates to be

charged to the Village, or, if no such Ordinance is entered and accepted in writing by the Company, as provided in tariffs approved by the Public Utilities Commission of Ohio.

Section 12: Upon request, the Company shall provide to the Village its most current Village Distribution map.

Section 13: The Company shall have the power to make all needful rules and regulations for the collection of its revenues, the prevention of waste of its property and gas supply, and the conduct and management of its business as it may from time to time deem necessary, and the Village shall enact all needful and requisite ordinances necessary to protect the Company and its works and properties from damage, imposition and frauds, and to prevent unnecessary waste of gas supplied for any of the purposes permitted by this Ordinance.

Section 14: The Village has the right to purchase from the Company the distribution system that now exists or shall hereafter be erected within the Village by the Company that serves the Village, in accordance with Ohio law, provided, however, that the Village may not purchase the Company's main operation system that does not serve the Village. This provision is applicable only to distribution plant within Village corporation boundaries through which natural gas flows to end-users.

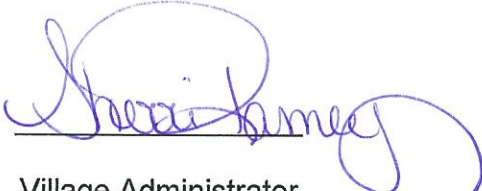
Section 15: In the event that the Public Utilities Commission of Ohio or any other body, board, commission, or court of competent jurisdiction shall adjudge any provision or provisions of this Ordinance invalid or illegal, or direct a change by the Company in any

matter or thing herein contained, such invalidity, illegality, or change shall in no way affect the remaining provisions of this Ordinance, or their validity or legality, and this Ordinance in all other respects shall continue in full force and effect, as if the provision or provisions had not been so adjudged invalid or illegal or such change directed.

Section 16: This Ordinance shall take effect and be in force from and after the earliest date allowed by law and its acceptance by the Company, in writing, and shall continue in effect for a preliminary term of five (5) years continuing thereafter from year to year subject to cancellation (subsequent to the preliminary term) by either party on twelve (12) months' written notice.

Section 17: Notices or correspondence in accordance with this agreement should be sent by regular mail to:

VILLAGE :


Village Administrator
P.O. Box 4545
Sherwood, OH 43556

COMPANY: Vice President of Operations

Ohio Gas Company

P.O. Box 528

Bryan, Ohio 43506

Section 18: The Company shall within 30 days after passage of this ordinance file with the Village Administrator, its written acceptance of the terms and provisions of this ordinance.

PASSED: March 19, 2018

W. H. Hake
President of Council

ATTEST:

Dawn Buskirk
Mayor
Clerk