

CITY OF COHASSET

ORDINANCE NO. 44

REQUIRING A FRANCHISE AND THE PAYMENT
OF A FRANCHISE FEE FOR THE OPERATION
OF A DESIGNATED PIPELINE

The City Council of the City of Cohasset does hereby ordain as follows:

1. **SECTION 1: FINDINGS OF THE CITY COUNCIL.**

- A The laws of the State of Minnesota as adopted by the legislature (in Chapters 300 and 216B, *inter alia*) and as interpreted by the courts, as well as by the powers granted to Minnesota cities by the constitution of the State of Minnesota and other related legislation and decisional law, have uniformly and traditionally afforded to Minnesota cities the right and obligation to license, franchise, or permit the operation of pipelines within a city as a condition and requirement of such operation.
- B By virtue of the Minnesota Pipeline Safety Act of 1987, Chapter 353, 1987 Minnesota Laws (the "Act"), the routing of certain pipelines has been vested with the Minnesota Public Utilities Commission.
- C The Act requires routing permits for the following kinds of pipelines: "(1) pipe with a nominal diameter of six inches or more that is designed to transport hazardous liquids, but does not include pipe designed to transport a hazardous liquid by gravity, and pipe designed to transport or store a hazardous liquid within a refining, storage, or manufacturing facility; or (2) pipe designed to be operated at a pressure of more than 275 pounds per square inch and to carry gas." Minn. Stat. § 216G.02 Subd. 1. Pipes falling within this statutory definition shall hereafter be referred to as "Designated Pipelines."
- D As recognized by the Minnesota legislature in passing the Minnesota Pipeline Safety Act, Designated Pipelines may present a danger to the surrounding populace and environment, and local governmental units, such as the City of Cohasset, are relied on to provide emergency first response, fire, and police protection.
- E The public interest is served by requiring any owner or operator of a Designated Pipeline to obtain a franchise from the City of Cohasset

and to pay a franchise fee in return for the owner/operator availing itself of the privileges and benefits of operating the Designated Pipeline within the City and, further, to facilitate the funding of the necessary fire, police and first response protections for such pipeline and the surrounding community and environment.

2. SECTION 2: FRANCHISE REQUIRED. Except pursuant to a franchise granted by the City, no person shall:

- A Own, construct, maintain, or operate a Designated Pipeline within the City of Cohasset; or
- B Own, construct, maintain, or operate a Designated Pipeline along, underneath, or intersecting any street, highway, or other public property within the City of Cohasset; or
- C Furnish services within the City of Cohasset via a Designated Pipeline, or cause such services to be furnished.

3. SECTION 3: REQUIRED TERMS OF FRANCHISE.

- A. Any franchise required by this Ordinance must be issued the specific franchisee pursuant to a separate ordinance, the terms of which have been provided the franchisee in advance of promulgation with an opportunity to comment.
- B. No exclusive or perpetual franchise or privilege shall be granted or created, nor shall any franchise or privilege be granted for a term of more than twenty-five (25) years.
- C. As part of any franchise granted pursuant to this Ordinance, the City of Cohasset shall impose a fee of 1% of the fair market value of the gas or liquid delivered via the Designated Pipeline to end users within the City of Cohasset, plus an additional 1% of the fair market value of the transportation of such gas or liquid within the City of Cohasset. In the event the end user is the same entity that owns or operates the Designated Pipeline or is affiliated or related in any way to that owner/operator, then the ordinance granting the franchise shall provide for a method of calculating and/or imputing the fair market value of the basis used for calculating the above franchise fee.
- D. The franchise fee may be changed by ordinance from time to time if done pursuant to a valid and proper exercise of Cohasset's police powers in light of a substantial change in circumstances or hardship. No change may be adopted until at least 30 days after

written notice enclosing such proposed ordinance has been served upon the grantee of a franchise by certified mail.

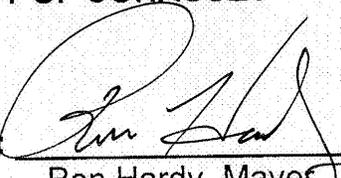
- E. If, for whatever reason, a franchise ordinance, as required by Section 2, is not in force, a franchise fee shall nonetheless be due and payable to the City. The franchise fee, in such circumstances, shall be calculated by the City Administrator in a manner consistent with Section 3(C).

4. **SECTION 4: EFFECTIVE DATE.** This ordinance shall be effective upon adoption and publication.

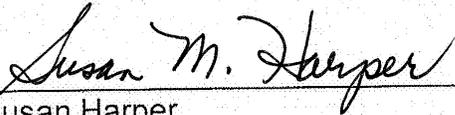
Dated this 23rd day of September, 2008.

CITY OF COHASSET

BY


Ron Hardy, Mayor

Attest:


Susan Harper
City Administrator