

ORDINANCE NO. 170

**CONSUMERS ENERGY COMPANY GAS FRANCHISE ORDINANCE**

AN ORDINANCE, granting to **CONSUMERS ENERGY COMPANY**, its successors and assigns, the right and authority to lay, maintain and commercially operate gas lines and facilities including but not limited to mains, pipes, services and valves on, under, along, and across public places including but not limited to highways, streets, alleys, bridges, and waterways, and to conduct a local gas business in the **VILLAGE OF PINCKNEY, LIVINGSTON COUNTY, MICHIGAN**, for a period of thirty (30) years.

**THE VILLAGE OF PINCKNEY ORDAINS:**

**SECTION 1. GRANT AND TERM.** The VILLAGE OF PINCKNEY, LIVINGSTON COUNTY, MICHIGAN, hereby grants to Consumers Energy Company, its successors and assigns, hereinafter called "Consumers," the right and authority to lay, maintain and commercially operate gas lines and facilities including but not limited to mains, pipes, services and valves on, under, along, and across public places including but not limited to highways, streets, alleys, bridges, and waterways, and to conduct a local gas business in the VILLAGE OF PINCKNEY, LIVINGSTON COUNTY, MICHIGAN, for a period of thirty (30) years.

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

**SECTION 3. CONDITIONS.**

- A. No public place used by Consumers shall be obstructed longer than necessary during construction or repair, and shall promptly be restored to the same order and condition as when work was commenced. All of Consumers' gas lines and related facilities shall be placed as not to unnecessarily interfere with the public's use of public places. Consumers shall have the right to trim or remove trees if necessary in the conducting of such business.
- B. If Consumers fails to complete required restoration within the time required, the Village may, after providing Consumers with a five (5) business day written notice of the Village's intention to do so, perform or secure performance of the required restoration, with the Village's actual and reasonable administrative costs and expenses in doing so to be paid by Consumers to the Village within thirty (30) days of the Village's billing or invoice.
- C. Except as necessary in an emergency or described by Consumers and approved by the Village as necessary in an application for and issuance of a permit to perform work, all of Consumers' 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. Consumers shall construct and maintain Consumers' pipes and mains in accordance with the Michigan Gas Safety Standards, as adopted by the Michigan Public Service Commission.

- E. Consumers 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 Consumers of any of its existing or future rights under state or federal law. Except for emergency and service restoration work, Consumers shall not perform work without first securing any applicable governmental permits and approvals required for that work.
- F. Consumers, 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 Village Council Resolution as being necessary for use of the public area for a public improvement in furtherance of a public purpose of the Village. This provision is not a waiver of Consumers' existing or future rights under state or federal law, and does not restrict or impair Consumers' rights under any applicable laws regarding vacation or relocation of streets.

**SECTION 4. HOLD HARMLESS.** Consumers shall hold the Village free and harmless from all loss, costs and expense to which it may be subject by reason of the negligent construction and maintenance of the lines and related facilities hereby authorized. In case any action is commenced against the Village on account of the permission herein given, Consumers shall, upon notice, defend the Village and its representatives and hold them harmless from all loss, costs and damage arising out of such negligent construction and maintenance.

**SECTION 5. EXTENSIONS.** Consumers shall construct and extend its gas distribution system within said Village, and shall furnish gas service 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.

**SECTION 7. RATES AND CONDITIONS.** Consumers shall be entitled to provide gas service to the inhabitants of the Village at the rates and pursuant to the conditions as approved by the Michigan Public Service Commission. Such rates and conditions shall be subject to review and change upon petition to the Michigan Public Service Commission.

**SECTION 8. REVOCATION.** The franchise granted by this ordinance is subject to revocation upon sixty (60) days written notice by either party. Upon revocation, this ordinance shall be considered repealed and of no effect past, present or future.

**SECTION 9. MICHIGAN PUBLIC SERVICE COMMISSION JURISDICTION.** Consumers remains subject to the reasonable rules and regulations of the Michigan Public Service Commission applicable to gas service in the Village, and those rules and regulations preempt any term of any ordinance of the Village to the contrary.

**SECTION 10. REPEALER.** This ordinance, when enacted, shall repeal and supersede the provisions of any previous Consumers' gas franchise ordinance adopted by the Village, including expressly Village Ordinance No. 45, entitled *CONSUMERS POWER COMPANY GAS FRANCHISE ORDINANCE*, adopted October 21, 1993, and any amendments thereto.

**SECTION 11. COMPLIANCE WITH ORDINANCES.** Consumers, its successors and assigns, shall, in the operation of this franchise, be subject to the Village's duly adopted ordinances; provided, however, that nothing herein shall be construed as a waiver by Consumers of any of its existing or future rights under state or federal law.

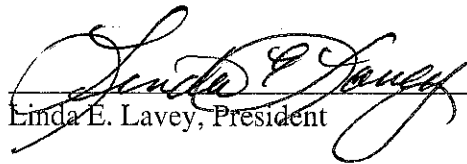
**SECTION 12. SAVINGS CLAUSE.** This ordinance shall in no manner affect pending litigation, either civil or criminal, founded or growing out of any ordinance, resolution, order or parts thereof, hereby repealed, and this ordinance shall in no manner affect any rights, claims, privileges, immunities or causes of action of the Village, County or other person, either criminal or civil, that may have already occurred, accrued or grown out of any ordinance, resolution, order or policy, or any part thereof, hereby repealed. This Ordinance shall in no manner affect pending litigation, either civil or criminal, founded or growing out of any Ordinance, Resolution, Order or parts thereof, hereby repealed.

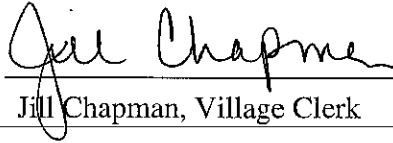
**SECTION 13. VALIDITY AND SEVERABILITY.** Should any portion of this Ordinance be found invalid for any reason, such a holding shall not be construed as affecting the validity of the remaining portions of the Ordinance.

**SECTION 14. ORDINANCE ACCEPTANCE.** Consumers shall file a written acceptance of this Ordinance with the Village Clerk. Upon said acceptance being filed and the publication and effectiveness of this Ordinance, it shall constitute a contract between the Village and Consumers.

**SECTION 15. EFFECTIVE DATE.** This ordinance shall take effect on the date of publication.

We certify that the foregoing Franchise Ordinance was duly enacted by the Village Council of the VILLAGE OF PINCKNEY, LIVINGSTON COUNTY, MICHIGAN, on the 8<sup>th</sup> day of May, 2023.

  
Linda E. Lavey, President

  
Jill Chapman, Village Clerk

Village Council Member Kinczkowski offered the foregoing Ordinance, and moved its adoption. The motion was seconded by Village Council Member Buerman, and upon being put to a vote, the vote was as follows:

Linda E. Lavey, President	<u>4</u>
Justin Bierman, Trustee	<u>4</u>
Jeffrey Buerman, Trustee	<u>4</u>
Stacy Conquest, Trustee	<u>4</u>
Ted Kinczkowski, Trustee	<u>4</u>
Brian Matson, Trustee	<u>4</u>
Jeffrey Spencer, Trustee	<u>4</u>

The President thereupon declared this Ordinance approved and adopted by the Village Council of the Village of Pinckney this 8th day of May 2023.

I hereby certify that the foregoing constitutes a true and complete copy of Ordinance No. 170 adopted by the Village Council of the Village of Pinckney, County of Livingston, Michigan, at a regular meeting held on May 8, 2023.

  
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Jill Chapman, Village Clerk