

CITY OF VERNON CENTER

ORDINANCE NO. 61

AN ORDINANCE GRANTING TO GORHAMS', INC., A MINNESOTA CORPORATION, D/B/A NORTHWEST NATURAL GAS, ITS LESSEES, SUCCESSORS AND ASSIGNS, A NON-EXCLUSIVE RIGHT AND AUTHORITY FOR A PERIOD OF TWENTY-FIVE YEARS TO ERECT AND MAINTAIN A GAS PLANT AND/OR GAS SYSTEM AND ANY OR ALL NECESSARY MAINS, PIPES, SERVICES AND OTHER APPLIANCES THEREUNTO APPERTAINING IN, UPON, OVER, ACROSS AND ALONG THE STREETS, ALLEYS, BRIDGES AND PUBLIC PLACES OF THE CITY OF VERNON CENTER, MINNESOTA, FOR THE TRANSMISSION, DISTRIBUTION AND SALE OF NATURAL AND/OR PROPANE GAS FOR HEATING, INDUSTRIAL AND ALL OTHER USES AND PURPOSES IN SAID CITY AND DESCRIBING THE TERMS AND CONDITIONS UNDER WHICH THE GRANTEE IS TO OPERATE.

The City Council of the City of Vernon Center, Minnesota, does ordain as follows:

Section 1. Gorhams', Inc., a Minnesota Corporation, d/b/a Northwest Natural Gas, its lessees, successors and assigns, hereinafter referred to as Grantee, be and is hereby granted a non-exclusive authority for a period of twenty-five years to erect and maintain a gas plant and/or gas system and any and all necessary mains, pipes, services and other appliances thereunto appertaining in, upon, over, across, and along the streets, alleys, bridges, and public places in the City of Vernon Center, Minnesota, hereinafter referred to as City, for the transmission, distribution and sale of natural and/or propane gas for heating, industrial and all other uses and purposes in the City.

Section 2. Whenever the Grantee, in the construction or maintenance of its system or in the installation of any extension thereto, shall cut into or take up any pavement or shall make any excavation in any street, avenue, alley or public places, within the City, the same shall be done in a manner as not to interfere

with the use of such thoroughfares by the public. The Grantee shall use such safeguards as may be necessary to prevent injury to persons or property during such construction work, and upon its completion, all pavement shall be replaced in as good condition as it was before taken up. All excavations shall be refilled and all obstructions shall be removed at the expense of the Grantee and to the satisfaction of the City. In the event that the Grantee shall fail to comply with the provisions of this section after having been given reasonable notice, the City may do such work as may be needed to properly repair said thoroughfares and the cost thereof shall be repaid to the City by the Grantee.

Section 3. The Grantee in erecting and maintaining said gas distribution system, and in entering and using said streets, highways, avenues, alleys and public places in the City and in laying its gas equipment, shall not in any manner interfere with or injure any improvement which the City now has or may hereafter have upon any of its streets, alleys, highways or public places.

Section 4. Grantee agrees for and on behalf of itself, its lessees, successors and assigns, that for and during the term and period of this grant, it will maintain in the City an adequate, modern, standard and sufficient gas system and will maintain and operate the same in a modern and adequate fashion to meet the necessities and requirements of the City and its industries and inhabitants. Provided, however, that no obligation shall extend to, or be binding upon the Grantee, to construct or extend its

system or furnish natural and/or propane gas or gas service within the City if Grantee is, for any reasons, unable to obtain delivery of natural and/or propane gas at or near the corporate limits of the City or an adequate supply thereof to warrant the construction or extension of its system. Provided, further that when the amount of natural and/or propane gas supplied to Grantee at or near the limits of this City is insufficient to meet the additional requirements of connected or new consumers Grantee shall have the right to prescribe reasonable rules and regulations for allocating the available supply of natural and/or propane gas for such additional requirements to domestic, commercial and industrial consumers in that order of priority.

Section 5. Grantee agrees that all authority and rights in this Ordinance shall at all times be subject to all rights, power and authority now or hereafter possessed by said City to regulate rates, to control the manner in which Grantee shall use the streets, alleys, bridges and public places of the City and to regulate the manner in which Grantee shall use and enjoy the franchise granted.

Section 6. The Grantee shall, at all times, maintain an adequate supply of clean, standard gas of British Thermal Unit heating value as fixed in its rate schedule filed from time to time with the City; plus or minus fifty (50) British Thermal Units per cubic foot of gas. Should the monthly average of British Thermal Units vary more than fifty (50) from the value in the rate schedule, the rate then in effect shall be automatically

and correspondingly adjusted during any period or periods of time in which such different British Thermal Unit value shall be furnished. The City shall have the right to request Grantee to furnish satisfactory proof of the British Thermal Unit content of the gas.

Section 7. The Grantee shall hold the City harmless from any and all claims and actions, litigation or damage, arising out of the passage of this Ordinance or the construction, erection, installation, maintenance or operation of the system operated by authority of this Ordinance within the limits of the City or the negligence of its employees in the operation thereof, including Court costs and reasonable attorney fees in making defense against such claims. A copy of the process served upon the City shall be served by the City upon the Grantee. The Grantee shall have the right to defend in the name of the City and to employ counsel for such purposes.

Section 8. The Grantee shall not be required at its own cost to extend its gas distribution system more than one hundred (100) feet to serve a customer.

Section 9. If the Grantee shall be in default in the performances of any of the terms and conditions of this Ordinance and shall continue in default for more than thirty days after receiving notice from the City Council of such default, the City Council may, by ordinance duly passed and adopted, terminate all rights granted under this Ordinance to the Grantee. The notice of default shall specify the provision or provisions in the

performance of which it is claimed the Grantee is in default. Said notice shall be in writing and served in the manner provided by the laws of Minnesota for the service of original notices in civil actions.

Section 10. The right and authority herein granted shall be non-exclusive and shall be and continue for a period of twenty-five (25) years from and after the date of the legal enactment of this Ordinance.

Section 11. This Ordinance shall be in full force and effect from and after its passage and publication as required by law.

Section 12. The Grantee shall use its best efforts to obtain natural gas for distribution pursuant to this Ordinance.

Passed, adopted and approved this 22nd day of

June, 1992.

A. Cabot B. aut
Mayor

Patricia Krosh

Clerk