



# MONTANA-DAKOTA

UTILITIES CO.

A Division of MDU Resources Group, Inc.

LF092805-01

718 Steele Ave.  
P.O. Box 1060  
Rapid City, SD 57709-1060

September 14, 2005

To the city of Rapid City  
Pennington County, South Dakota

Gentlemen:

Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc., a corporation, having its principle place of business at 400 North Fourth Street, Bismarck, North Dakota 58501, hereby makes application for the franchise, granting to it the right to construct, maintain and operate a distribution system to distribute natural or manufactured gas for public and private use in the city of Rapid City, South Dakota. The extent and conditions of such rights and privileges are more fully set forth in the attached copy of a proposed natural gas franchise ordinance.

We earnestly request that you take the necessary legal steps to enact this ordinance.

MONTANA-DAKOTA UTILITIES CO.  
A Division of MDU Resources Group, Inc.

By   
Black Hills Region Manager

STEP BY STEP FRANCHISE PROCEDURE

SOUTH DAKOTA

- Step 1: APPLICATION: File a written application by a letter from the division manager for a franchise with the auditor or clerk. The application should be accompanied by a copy of the proposed franchise ordinance.
- Step 2: FIRST MEETING: Hold the first meeting of the governing body of the municipality for the purpose of giving the title of the franchise its first reading. Before the first meeting the ordinance should be given a number. If possible, the first meeting should be a special meeting held with at least five full days intervening between and prior to a regular meeting of the governing body. There may be definite rules for calling a special meeting, including sending a notice to each member.
- Step 3: SECOND MEETING: The second meeting of the governing board should be held on a regular meeting date of the council or board, with at least five (5) days intervening since the first meeting.
- At this second meeting the council (or board) should give the ordinance its second reading and if it is passed, the mayor or board president should approve the same by endorsing written approval of the ordinance.
- Step 4: PUBLICATION: The ordinance should be published in its entirety once immediately after its passage and approval by the council or board. The minutes of the second meeting should be published in the official newspaper or newspapers of the municipality.
- Step 5: ACCEPTANCE: Within thirty (30) days after Grantee is notified of passage and final approval of this ordinance, Grantee shall file with the clerk or auditor of the municipality its written acceptance of this franchise.
- Step 6: RECORD: The record of franchise proceedings will be executed. There should be three complete sets of the franchise proceedings; one (original) for the city or town file, one for the Division Office records, and one for the General Office records
- Step 7: In case any question arises as to procedure, consult your local attorney if one has been retained, and communicate with the Bismarck General Office.

## SOUTH DAKOTA

### SUMMARY OF STATUTES RELATING TO GAS FRANCHISE PROCEEDINGS SOUTH DAKOTA CODIFIED LAWS

#### I. Chapter 9-35: Utility Franchises and Regulations

- 9-35-1 Municipalities shall have the power to grant and regulate gas franchises.
- 9-35-3 Governing body may not grant a franchise without submitting the proposition of issuing such franchise to vote of the electors thereof at a general or special election. However no franchise election is required when granting a franchise to a natural gas utility which is regulated by the Public Utilities Commission.
- 9-35-6 No franchise shall be granted for a period longer than 20 years.

#### II. Chapter 9-19: Ordinances and Resolutions

- 9-19-1 Ordinance and resolution defined.
- 9-19-5 Ordinance must embrace one subject which shall be expressed in its title.
- 9-19-6 Style of all ordinances shall be as follows: "An ordinance \_\_\_\_\_ (insert title)" followed by: "Be it ordained by (the city or town) of \_\_\_\_\_" (inserting name of municipality)" followed by the substance of the ordinance.
- 9-19-7 Passing of ordinances: The title of all ordinances shall be READ TWICE WITH AT LEAST 5 DAYS INTERVENING. The ordinance shall be signed by the mayor, acting mayor, or president of Board of Trustees, filed with clerk or auditor, AND PUBLISHED ONCE IN ITS ENTIRETY.
- 9-19-8 A resolution may be passed after one reading. It shall be recorded at length in the minutes of the meeting with a statement of the number of votes for and against. It shall be published in full either as part of the minutes or separately.
- 9-19-9 The vote upon all ordinances upon the second reading and the vote to pass an ordinance over a veto shall be taken by yeas and nays and entered upon the minutes.
- 9-19-10 Veto: In municipalities with a common council, the mayor, if he or she disapproves of an ordinance, may veto the same by filing his or her written objections with the auditor within 10 days after its passage upon its second reading.
- 9-19-11 Ordinance may be passed by two two-thirds vote of all aldermen over the mayor's veto.
- 9-19-12 If the mayor shall fail to sign an ordinance or file written objections, it shall be published and become a law without his or her signature.
- 9-19-13 Except for resolutions and ordinances which provide for a hearing, they generally take effect 20 days after passage and publication.
- 9-19-14 After an ordinance takes effect, the auditor or clerk shall record the same with a certificate (affidavit) of the date of its publication in a book known as the Ordinance Book and file the affidavit of publication with the original ordinance.

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE GRANTING TO MONTANA-DAKOTA UTILITIES CO., A DIVISION OF MDU RESOURCES GROUP, INC., A CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE FRANCHISE AND RIGHT TO CONSTRUCT, MAINTAIN AND OPERATE WITHIN AND UPON, IN AND UNDER THE STREETS, ALLEYS AND PUBLIC GROUNDS OF THE

---

A GAS DISTRIBUTION SYSTEM FOR TRANSMITTING AND DISTRIBUTING NATURAL OR MANUFACTURED GAS, OR A MIXTURE OF BOTH, FOR PUBLIC AND PRIVATE USE.

BE IT ORDAINED BY

---

SECTION I. For convenience, herein, said municipal corporation is designated and referred to as "Municipality" and Montana-Dakota Utilities Co. is designated and referred to as "Grantee." Any reference to either includes their respective successors and assigns.

SECTION II. There is hereby granted to Montana-Dakota Utilities Co, a Division of MDU Resources Group, Inc., a corporation, its successors and assigns, subject to the limitations herein stated, the right and franchise to occupy and use the streets, alleys and public grounds of the municipality as now, or hereafter constituted, for the purpose of constructing, maintaining, and operating, within, upon, in and under the same, a gas distribution system for transmitting and distributing natural or manufactured gas, or a mixture of both, for public and private use.

SECTION III. Grantee shall maintain an efficient distribution system for furnishing natural or manufactured gas, or a mixture of both for public and private use at such reasonable rates as may be approved by the Public Utilities Commission of the state wherein said municipality is located and under such orders, rules or regulations as may be issued by any federal or state agency having jurisdiction thereof.

SECTION IV. This franchise shall not be exclusive and shall not be construed to prevent the Municipality from granting to any other party the right to use the streets, alleys, and public grounds of the Municipality for like purposes.

SECTION V. The Municipality reserves any right it may have, under its police power, or otherwise, to control or regulate the use of said streets, alleys, and public grounds by Grantee.

SECTION VI. Grantee shall indemnify and save and hold the Municipality harmless from any loss or damage due to the construction, installation, and maintenance of its distribution system, and its use of the streets, alleys, and public grounds of the Municipality.

SECTION VII. Grantee shall have the right to assign this franchise to any party, or corporation, but all obligations hereunder shall be binding upon its successors and assigns.

SECTION VIII. Within thirty (30) days after Grantee is notified of passage and final approval of this Ordinance, Grantee shall file with the clerk or auditor of the Municipality its written acceptance of this franchise.

SECTION IX. This franchise shall continue and remain in full force and effect for a period of twenty (20) years from the date upon which this ordinance shall become effective as provided by law.

Passed the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

ATTEST: \_\_\_\_\_  
Auditor

\_\_\_\_\_  
Mayor-President

(Seal of the Municipality)

NOTICE OF SPECIAL MEETING

TOWN BOARD/CITY COUNCIL OF \_\_\_\_\_, SOUTH DAKOTA  
\_\_\_\_\_, 19 \_\_\_\_\_

PLEASE TAKE NOTICE that a special meeting of the Town Board/City Council is hereby called to be held on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock p.m. in the usual meeting place of the governing body at the Town/City Hall for the purpose of considering and taking action upon a proposal to grant a gas franchise to Montana-Dakota Utilities Co. according to the terms and provisions, and in the form contained in a proposed ordinance now on file with the undersigned.

Dated \_\_\_\_\_, 19 \_\_\_\_\_

\_\_\_\_\_  
Town Clerk/City Auditor

\*\*\*\*\*

W A I V E R

FOR SPECIAL MEETING

TOWN BOARD/CITY COUNCIL OF \_\_\_\_\_, SOUTH DAKOTA  
\_\_\_\_\_, 19 \_\_\_\_\_

We, the undersigned, being all of the members of the Town Board/City Council, Town/City of \_\_\_\_\_, \_\_\_\_\_ County, South Dakota.

DO HEREBY WAIVE all requirements of notice of the time, place and purpose, and consent to holding of a special meeting of the governing body at the usual meeting place in the Town/City Hall on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, for the purpose of considering and taking action upon a proposal to grant a gas franchise to Montana-Dakota Utilities Co. according to the terms and provisions, and in the form contained in a proposed ordinance now on file with the Town Clerk/ City Auditor.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

\_\_\_\_\_  
Mayor-President

\_\_\_\_\_  
Town Clerk-City Auditor

\_\_\_\_\_  
Councilman-Commissioner

\_\_\_\_\_  
Councilman-Commissioner

\_\_\_\_\_  
Councilman-Commissioner

EXTRACT OF MINUTES FOR FIRST READING

Pursuant to due notice and call, a \_\_\_\_\_ meeting of the Board/Council of the Town/City of \_\_\_\_\_, \_\_\_\_\_ County, South Dakota, was duly held at the regular meeting place of the Board/Council on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ m.

Those present and consenting to the transaction of the business before the Council or Board were: \_\_\_\_\_

\_\_\_\_\_.

Those absent were: \_\_\_\_\_

\_\_\_\_\_.

As Montana-Dakota Utilities Co. applied for a gas franchise and proposed Ordinance No. \_\_\_\_\_, having been prepared and submitted for consideration herewith, it was moved by \_\_\_\_\_, and seconded by \_\_\_\_\_, that said Ordinance No. \_\_\_\_\_, the full title of which Ordinance is:

"An Ordinance granting to Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc., a corporation, its successors and assigns, the franchise and right to construct and maintain and operate, within and upon, in and under the streets, alleys, and public grounds of the Town/City of \_\_\_\_\_, \_\_\_\_\_ County, South Dakota, a gas distribution system for transmitting and distributing natural or manufactured gas, or a mixture of both, for public and private use."

be given its first reading.

Thereupon the presiding officer of the meeting put the motion to vote and the following vote was recorded:

Voting Yes: \_\_\_\_\_

\_\_\_\_\_.

Voting No: \_\_\_\_\_

\_\_\_\_\_.

The presiding officer then declared the motion duly passed.

\_\_\_\_\_  
Mayor-President

ATTEST: \_\_\_\_\_  
Clerk-Auditor

(Seal of Municipality)

EXTRACT OF MINUTES OF SECOND READING AND FINAL PASSAGE

Pursuant to due notice and call, a \_\_\_\_\_ meeting of the Board/Council of the Town/City of \_\_\_\_\_, \_\_\_\_\_ County South Dakota, was duly held at the regular meeting place of the Board/Council on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock, \_\_\_\_\_ m.

Those present were: \_\_\_\_\_

Those absent were: \_\_\_\_\_

As Montana-Dakota Utilities Co. applied for a gas franchise and proposed Ordinance No. \_\_\_\_\_, having been prepared and submitted for consideration in connection therewith, and said Ordinance having passed its first reading more than one week prior hereto, it was moved by \_\_\_\_\_ and seconded by \_\_\_\_\_, that said Ordinance No. \_\_\_\_\_, the full title of which Ordinance is:

"An Ordinance granting to Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc., a corporation, its successors and assigns, the franchise and right to construct and maintain, and operate, within and upon in and under the streets, alleys and public grounds of the Town/City of \_\_\_\_\_, \_\_\_\_\_ County, South Dakota, a gas distribution system for transmitting and distributing natural or manufactured gas, or a mixture of both, for public and private use."

be read the second time and given final passage, being thereby adopted, passed and approved.

Thereupon the presiding officer of the meeting, the Clerk having read the ordinance for the second time, put the motion to vote and the following vote was recorded: (For second reading and final passage)

Voting Yes: \_\_\_\_\_

Voting No.: \_\_\_\_\_

The presiding officer then declared the motion duly passed and said Ordinance duly and finally passed. Thereupon the Clerk was directed to enter the same in the Ordinance Book.

\_\_\_\_\_  
Mayor-President

ATTEST: \_\_\_\_\_  
Clerk/Auditor

(Seal of Municipality)

FURNISH  
AFFIDAVIT OF PUBLISHING  
MINUTES OF FIRST AND SECOND READING

Note: Have the publisher furnish us usual affidavits of publication of minutes of meetings.



ACCEPTANCE OF FRANCHISE

MONTANA-DAKOTA UTILITIES CO., a Division of MDU Resources Group, Inc., a corporation, hereby accepts the terms and conditions of that certain Ordinance No. \_\_\_\_\_ enacted by the governing body of the City of \_\_\_\_\_, \_\_\_\_\_ County, \_\_\_\_\_ the same being an ordinance granting to said Company, its successors and assigns, a franchise to construct, maintain and operate within and upon, in and under the streets, alleys and public grounds of said city, a gas distribution system for transmitting and distributing natural or manufactured gas, or a mixture of both, for public and private use, which ordinance was duly passed, adopted and approved by the governing body of said city on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

MONTANA-DAKOTA UTILITIES CO.  
A Division of MDU Resources Group, Inc.

By \_\_\_\_\_  
President & Chief Executive Officer

(Corporate Seal)

ATTEST:

\_\_\_\_\_  
Secretary

\*\*\*\*\*

I, the undersigned, the duly elected, qualified and acting

Auditor/Clerk of the City of \_\_\_\_\_, State of \_\_\_\_\_,

do hereby certify that I received the within Acceptance of Franchise this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, and on said date

duly filed the same in my office

\_\_\_\_\_  
Auditor-Clerk

(Seal of Municipality)