

## **CHAPTER 14-6 GAS ENERGY**

### **14-6-1**

#### **ORDINANCE**

Chapter 14-6 of this Code is an ordinance granting to MidAmerican Energy Company, its successors and assigns, a non-exclusive franchise, right and privilege to acquire, construct, erect, maintain and operate in the City of Brandon, Minnehaha County, South Dakota, a natural gas system and to furnish and sell natural gas to the City and its inhabitants for a period of 20 years.

**Legislative History:**  
Ordinance #411, 9-18-07.

**Authority:**  
SDCL § Ch. 9-35  
SDCL § 9-21-11

### **14-6-2**

#### **DEFINITIONS AND TERMS**

There is hereby granted to MidAmerican Energy Company, hereinafter called "Company", and to its successors and assigns the right and non-exclusive franchise to acquire, construct, erect, maintain and operate in the City of Brandon, South Dakota, hereinafter called the "City", a gas distribution system, to furnish natural gas along, under and upon the streets, avenues, alleys and public places to serve customers within and without the City and to furnish and sell natural gas to the City and its inhabitants. This franchise shall be effective for a twenty (20) year period from and after the effective date of this ordinance.

**Legislative History:**  
Ordinance #411, 9-18-07.

**Authority:**  
SDCL § Ch. 9-35  
SDCL § 9-21-11

### **14-6-3**

#### **FURNISHING NATURAL GAS**

During the term of this franchise, the Company shall furnish natural gas in the quantity and quality consistent with applicable South Dakota laws and regulations.

**Legislative History:**  
Ordinance #411, 9-18-07.

**Authority:**  
SDCL § Ch. 9-35  
SDCL § 9-21-11

### **14-6-4**

#### **EXTENSION OF SERVICE**

The Company shall and hereby agrees to make such reasonable extensions of its mains from time to time, in accordance with the applicable regulations of the South Dakota Public Utilities Commission or its successors, as may be required to furnish service to parties making application therefor, located within the corporate limits of the City; provided, however, that Company shall not be required to make any such extension of its mains for the purpose of serving any new customer or customers where the estimated revenue to be derived from such service is not sufficient to show an adequate return upon the investment required to serve such customer or customers.

**Legislative History:**  
Ordinance #411, 9-18-07.

**Authority:**  
SDCL § Ch. 9-35  
SDCL § 9-21-11

## 14-6-5

### **PUBLIC RIGHT-OF-WAY**

The Company shall have the right to excavate in any public street for the purpose of laying, relaying, repairing or extending gas pipes, mains, conduits, and other facilities provided that the same shall be so placed as not to interfere with the construction of any water pipes, drain or sewer or the flow of water therefrom, which have been or may hereafter be located by authority of the City.

**Legislative History:**  
Ordinance #411, 9-18-07.

**Authority:**  
SDCL § Ch. 9-35  
SDCL § 9-21-11

## 14-6-6

### **RESTORATION**

In making excavations in any streets, avenues, alleys and public places for the installation of gas pipes, conduits or apparatus, Company shall not unreasonably obstruct the use of the streets and shall replace the surface and base to the satisfaction of the City of Brandon at the expense of MidAmerican Energy. If other entities participate in or enjoy the benefits of the excavation, the restoration expenses may be apportioned to all participating entities.

**Legislative History:**  
Ordinance #411, 9-18-07.

**Authority:**  
SDCL § Ch. 9-35  
SDCL § 9-21-11

## 14-6-7

### **INSTALLATION**

All utility facilities and equipment of the Company shall be located, constructed, installed and maintained so as not to endanger or unnecessarily interfere with the usual and customary traffic, travel and use of the public ground.

**Legislative History:**  
Ordinance #411, 9-18-07.

**Authority:**  
SDCL § Ch. 9-35  
SDCL § 9-21-11

## 14-6-8

### **RELOCATION OF INSTALLATIONS**

The Company shall, at its cost and expense, locate and relocate its installations in, on, over or under any public street or alley in the City in such manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement of, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City has a reasonable alternative route for the street, alley or public improvements or an alternative construction method, which would not cause the relocation of the Company installations, the City shall consider but is not required to select said alternative route, or construction method. If relocation of the Company facilities could be avoided by relocating other franchisee's or facility user's equipment and facilities or by using a different method to perform the street and/or curbing construction, and said other cost of construction or relocation is less than the Company's, the City shall consider but is not required to select the route or method that is less expensive. If project funds from a source other than the City are available to pay for the relocation of utility facilities, the City shall attempt to secure said funds and provide them to the Company to compensate the Company for the costs of relocation.

**Legislative History:**  
Ordinance #411, 9-18-07.

**Authority:**  
SDCL § Ch. 9-35  
SDCL § 9-21-11

## 14-6-9

### **INDEMNIFICATION OF CITY**

The Company shall indemnify and save harmless the City from any and all claims, suits, losses, damages, costs or expenses on account of injury or damage to any person or property, caused or occasioned, or allegedly caused or occasioned, in whole or in part, by Company's negligence in construction, reconstruction, excavation, operation or maintenance of the gas utilities authorized by this franchise, provided, however, that the Company shall not be obligated to defend, indemnify and save harmless the City for any costs or damages arising from the negligence of the City, its officers, employees or agents.

**Legislative History:**  
Ordinance #411, 9-18-07.

**Authority:**  
SDCL § Ch. 9-35  
SDCL § 9-21-11

## 14-6-10

### **SEPARABILITY**

If any portion of this ordinance is found to be invalid by a court of competent jurisdiction, the validity of the rest of this ordinance shall not be affected and shall remain in full force and effect.

**Legislative History:**  
Ordinance #411, 9-18-07.

**Authority:**  
SDCL § Ch. 9-35  
SDCL § 9-21-11

## 14-6-11

### **EFFECTIVE DATE**

This ordinance and the rights and privileges herein granted shall become effective and binding upon its approval and passage by the City Council in accordance with South Dakota law and the written acceptance by the Company. The Company shall, within (30) thirty days after the City Council approval of this ordinance, file in the office of the City Finance Officer, its acceptance in writing of all the terms and provisions of this ordinance. This ordinance shall be published in the Brandon Valley Challenger, the official newspaper for the City of Brandon, South Dakota. The effective date of this ordinance shall be twenty (20) days after the date of publication if the ordinance is not referred to a public vote. In the event that MidAmerican Energy Company does not file its written acceptance of this ordinance within 30 days after its approval by the City Council this ordinance shall be void and of no effect.

**Legislative History:**  
Ordinance #411, 9-18-07.

**Authority:**  
SDCL § Ch. 9-35  
SDCL § 9-21-11 SDCL § Ch. 9-35  
SDCL § 9-21-11

## 14-6-12

### **DELETION OF PRIOR FRANCHISES**

Upon the effective date of this ordinance, all prior gas franchises granted to Company to furnish natural gas service to the City and its inhabitants are hereby repealed and all other ordinances or parts of ordinances in conflict herewith are also hereby repealed.

**Legislative History:**  
Ordinance #411, 9-18-07.

**Authority:**  
SDCL § Ch. 9-35  
SDCL § 9-21-11