

ORDINANCE NO. 522

AN ORDINANCE OF THE CITY OF BRECKENRIDGE, MINNESOTA, AMENDING CITY CODE, LISTING OF UNCODED ORDINANCES IN EFFECT, AND IN PARTICULAR, CITY CODE ORDINANCE NO. 457, ADOPTED SEPTEMBER 6, 2005, GRANTING A GAS FRANCHISE TO GREAT PLAINS NATURAL GAS CO., A DIVISION OF MONTANA-DAKOTA UTILITIES CO. ("GREAT PLAINS").

THE COUNCIL OF THE CITY OF BRECKENRIDGE, MINNESOTA DOES ORDAIN:

WHEREAS, Minnesota Statutes 216B.36, authorizes Minnesota municipalities to require public utilities who furnish at retail natural, manufactured or mixed gas or electric services to or for the public to obtain a license, permit, right or franchise in accordance with the terms, conditions and limitations of regulatory acts of the municipality; and

WHEREAS, Minnesota Statutes 216B.36, further provides that a utility may be obligated by municipalities to pay to the municipality fees to raise revenue to defray increased municipal costs accruing as a result of utility operations, or both; and

WHEREAS, by Ordinance No.457, adopted September 6, 2005, the City of Breckenridge, Minnesota (the "City") granted Great Plains a franchise in which the City reserved the right to implement, by passage of a separate ordinance, a gas franchise fee to be collected and remitted by Great Plains to the City; and

WHEREAS, the City Council for the City finds it necessary to impose a 3% franchise fee with the adoption of this Ordinance; and

WHEREAS, the City Council intends that any public utility who furnishes gas utility services within the City be obligated to pay such a franchise fee unless otherwise exempted by the City;

NOW, THEREFORE, the City Council of the City of Breckenridge, Minnesota, does ordain as follows:

Section 1. That Chapter DL-1, Disposition of Legislation, and Ordinance No. 457, adopted September 6, 2005, is hereby amended to add the following sections regardless of numbering herein which shall read as follows:

1. Public Utility Franchise Fee

Subd. 1 Purpose. The Breckenridge City Council has determined that it is in the best interest of the City to impose a franchise fee on those public utility companies that provide or engage in the retail sale of natural, manufactured or mixed gas services in the City of Breckenridge.

Subd. 2 Franchise Fee. Any public utility furnishing natural, manufactured or mixed gas utility services in the City shall pay to the City a franchise fee in an amount equal to 3% of the gross operating revenues received during the period of operations in the City, provided however that the amount of franchise fee applicable and chargeable to any one customer shall not exceed \$1,500.00 per month.

Subd. 3 Payment. The franchise fee payments required by this ordinance shall be payable monthly and shall be based on the gross operating revenues of the public utility during the preceding calendar month. Said payments shall be due and payable no later than 30 days after the last business day of the preceding month.

Subd. 4. Proof of Company Gross Revenues. Each public utility subject to the franchise fee shall make each payment when due and shall monthly furnish a complete and correct statement of gross revenues for said month.

Subd. 5. Acceptance of Payment and Recomputation. No acceptance of any payment shall be construed as an accord by the City that the amount paid is, in fact, the correct amount, nor shall any acceptance of payments be construed as a release of any claim the City may have for further additional sums payable or for the performance of any other obligation of the public utility.

Subd. 6. No Exemption From Other Fees, Taxes or Charges. Payment of the franchise fee under this ordinance shall not exempt any public utility from the payment of any other license fee, tax or charge on the business, occupation, property, or income of the public utility that may be imposed by the City, except as may otherwise be provided in the ordinance imposing such other license fee, tax, or charge.

Subd. 7. Effective Date of Franchise Fee. The effective date of the fee collected under Subd. 2 of this ordinance herein above shall be the first day of the month following ninety (90) days after the adoption of this ordinance.

Subd. 8. Enforcement. Any dispute, including enforcement of a default regarding this ordinance, will be resolved in accordance with Ordinance 457.

Section 2. All other provisions of Ordinance No. 457 shall remain in full force and effect.

Section 3. Effective Date. This ordinance shall become effective from and after its passage and publication according to law.

Russell Wilson, Mayor

ATTEST:

Lori Conway, City Administrator

First Reading:	<u>October 3, 2022</u>
Posted after 1 st reading:	<u>October 7, 2022</u>
Second Reading:	<u>November 7, 2022</u>
Adopted & Passed:	<u>November 7, 2022</u>
Published:	<u>November 12, 2022</u>
Posted after published:	<u>November 14, 2022</u>