

Chapter 13.60
NATURAL GAS SERVICES CODE

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13.60.010 Title.

This Ordinance shall be referred to and cited as the “Natural Gas Services Code.”
(History: Ord. GF-2583 §1, 2006)

13.60.020 Definitions.

City – shall mean the City of Overland Park, Kansas.

Distribution System or Distribution Facilities – shall mean a pipeline or system of pipelines, including without limitation, mains, pipes, boxes, reducing and regulating stations, laterals, conduits, and services extensions, together with all necessary appurtenances thereto, or any part thereof located within the Right-of-Way, for the purpose of supplying natural gas for light, heat, power, and all other purposes.

Entity - shall mean any individual persons, governmental entity, business, corporation, company, partnership, firm, limited liability corporation, limited liability partnership, unincorporated association, joint venture or trust and shall include all forms of business enterprise not specifically listed above.

Franchise - shall mean the grant of authority by the City to transport, distribute or sell natural gas to the inhabitants of the City and to operate a Distribution System or Distribution Facilities. The grant of authority shall be in accordance with the provisions of K.S.A. 12-2001, et seq., as amended and City ordinances.

Franchise Fee - shall mean consideration paid in the form of a charge upon the Franchisee as prescribed in the Ordinance granting the Franchise.

Franchisee – shall mean any Entity that has been granted a Franchise by the City for the transportation, distribution or sale of natural gas within the Rights-of-Way of the City in accordance with the provisions of K.S.A. 12-2001, et seq., as amended and City ordinances.

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Right-of-Way – shall mean the area on, below or above the present and future streets, avenues, alleys, bridges, boulevards, roads or highways dedicated to or acquired by the City as Right-of-Way by the City. The “Right-of-Way” shall not include property owned by the City outside of the Right-of-Way.

(History: Ord. GF-2583 §2, 2006)

13.60.030 Applicability.

The requirements of this Natural Gas Services Code shall apply from and after the effective date of this Ordinance and shall apply to the full extent of the terms herein. The provisions of this Natural Gas Services Code shall be deemed incorporated in each Franchise.

(History: Ord. GF-2583 §3, 2006)

13.60.040 Preservation of Police Power Authority.

Any rights granted pursuant to this Code and pursuant to any Franchise required hereunder are subject to the authority of the City to adopt and enforce ordinances necessary to the health, safety and welfare of the public. Franchisees shall be subject to and comply with all applicable laws enacted by the City, provided nothing in this Code shall be deemed to waive a right, if any, that an Entity might have to seek judicial or regulatory review as provided by law.

(History: Ord. GF-2583 §4, 2006)

13.60.050 Unlawful to Operate Without a Franchise.

It shall be unlawful for any Entity to construct, operate or maintain a natural gas Distribution System or Distribution Facilities or to provide, transport or sell natural gas in the City without first obtaining a Franchise authorizing the same and the payment of any Franchise Fee. Any Entity violating this Section shall be subject to a fine of \$500 per day. The payment of such fine notwithstanding, all such violators shall be subject to all other applicable provisions of this Natural Gas Services Code to the fullest extent allowed by law, including, but not limited to, the payment of a Franchise Fee. This Section shall not apply to privately owned gas wells used for personal, non-commercial purposes. However, Chapter 13.12 of the Overland Park Municipal Code regarding management of street rights-of-way applies.

(History: Ord. GF-2737 §1, 2008; GF-2583 §5, 2006)

13.60.060 Nature of Rights Granted by any Franchise.

Franchises shall not convey title, equitable or legal, in the Public Right-of-Way or any other public property, and shall give only the right to occupy the Right-of-Way, for the purposes of providing natural gas and as may be further authorized by the Franchise. No Franchise shall grant the right to use facilities owned or controlled by the City or a third-party, without the consent of such party, nor shall a Franchise excuse Franchisee from obtaining appropriate access or attachment agreements before locating its facilities on the facilities owned or controlled by the City or a third-party. Any Franchise granted by the City shall be nonexclusive.

(History: Ord. GF-2583 §6, 2006)

13.60.070 Initial Franchise Applications.

Any Entity desiring an initial Franchise shall first file an application with the City. A nonrefundable application fee as may be hereinafter established by the City shall accompany the application, which shall not be considered or credited against the collection of applicable Franchise Fees. Upon receipt of any application for an initial Franchise, the designated City official shall prepare a report and make his or her recommendations respecting such application to the City Council.

(History: Ord. GF-2583 §7, 2006)

13.60.080 Franchise Renewal.

Franchise renewals shall be in accordance with applicable law. The City and Franchisee, by mutual consent or as otherwise provided in the Franchisee's Franchise, may enter into renewal negotiations.

(History: Ord. GF-2583 §8, 2006)

13.60.090 Savings Clause.

If any clause, sentence, or section of this Ordinance shall be held to be invalid, it shall not affect the remaining provisions of this Ordinance.

(History: Ord. GF-2583 §9, 2006)

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