

**Ordinance amending the Code of Ordinances, City of Corpus Christi, Section 55-3 regarding gas purchase exemptions for large gas users within the city limits; and providing for publication.**

**Be it ordained by the City Council of the City of Corpus Christi, Texas:**

**SECTION 1.** That City of Corpus Christi, Code of Ordinances, Section 55-3, regarding gas franchises is revised, by adding the underlined text and deleting any struck-through text as follows:

**“Sec. 55-3. - Franchises required to construct or maintain gas lines or to provide gas for end-use consumption within the corporate limits of the city.**

(a) It shall be unlawful for any person to build, lay, construct or maintain any pipeline for conveying gas for any purpose or anywhere within the city, unless such person is now operating under a franchise or permit heretofore granted by the city or shall hereafter secure such franchise or permit from the city to build, lay, construct or maintain such line for conveying gas.

(b) No owner or operator of a pipeline or pipeline system shall use a pipeline or pipeline system under its ownership, operation or control, any part of which is located in any right-of-way or property of the city, for transportation of its or another person's natural gas to consumers, whether industrial, commercial, or residential, within the corporate limits of the city, unless a franchise or permit is first obtained by said owner or operator, which franchise or permit specifically authorizes the use. No owner or seller of natural gas shall use city right-of-way or property by conveying or causing to be conveyed natural gas through a pipeline or pipeline system owned by itself or another, any part of which is located in any right-of-way or property of the city, to customers, whether industrial, commercial, or residential, within the corporate limits of the city, unless a franchise or permit is first obtained by said owner, which franchise or permit specifically authorizes such use. No person shall purchase natural gas for use in the city limits except from the city's gas distribution system or from a seller that has a franchise or permit as required by this subsection. For purposes of this subsection (b), "right-of-way" shall mean any street, road, alley, sidewalk, bridge, or similar way, or public utility easement owned or controlled by the city within the city limits. In considering whether to grant a franchise or permit for sale of gas to customers in the city limits, the city council shall consider whether the granting will likely lead to impairment of the city's ability to adequately and reliably serve existing and anticipated customers at reasonable cost, including the effect on low income residential customers and small businesses; the city's and its ratepayers' investment in its gas distribution and combined utility system; compliance with bond covenants of the city's combined utility system; whether the proposal would undertake to serve all or a substantial portion of the city's retail gas-using population on a fair competitive basis with the city's gas utility system; the reliability and adequacy of gas service to existing and future customers; and the benefit or detriment to the health, welfare, and safety of the public. In considering whether to grant a franchise or permit for transportation, the city council shall consider whether regulatory rules for common carriers make it illegal or impractical to regulate transportation to customers in the city limits so that the public's interest is best addressed by regulation through granting or denying franchises or permits to sellers of gas.

(c) Construction, maintenance, or use of a pipeline or pipeline system in violation of this section shall constitute unauthorized use of public property, and the violator shall be liable to the city for the fair value of the public property used, interest, attorney fees, and injunctive relief. In addition, the violator shall be liable to the city for any other remedy which may be available under law.

(d) A person adjudged guilty of a violation of this section in the municipal court of the city shall be punished by a fine of five hundred dollars (\$500.00). Each day any violation shall continue shall constitute a separate offense. Provided, however, that if the offense is one for which a penalty is fixed by state law, the penalty for such offense shall be the same as that fixed by such state law.

**(e) Exemption. The provisions of this section do not apply for 20 years from the date the director of utilities certifies that the customer is:**

- (i.) an industrial customer;**
- (ii.) is constructing or has constructed a facility with a minimum capital investment in the City of at least \$150 million dollars subject to ad valorem taxes;**
- (iii.) said facility consumes at least 2,400 MM BTU per day with the exception of temporary maintenance periods of 90 days or less which may be extended upon written notice to the director of utilities; and**
- (iv.) the City gas distribution system is unable to meet all of the needs of the industrial customer met by a contract with another gas supplier.**

**The director of utilities may not revoke the aforementioned certification during the 20-year term of said certification. Upon expiration of the aforementioned term of the certification, the director of utilities must annually extend the aforementioned certification if (i) through (iv) above continue to apply and the City is still unable to meet all of the needs of the industrial customer that are met by a contract with another gas supplier. ”**

(Code 1958, § 38-3; Ord. No. 24042, § 1, 5-23-2000; Ord. No. 25606, § 1, 12-16-2003)

**SECTION 2.** If for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word, or provision of this ordinance, for it is the definite intent of this City Council that every section, paragraph, subdivision, clause, phrase, word or provision of this ordinance be given full force and effect for its purpose.

**SECTION 3.** A violation of this ordinance or requirements implemented hereunder shall constitute an offense, punishable as provided in Section 55-3 of the City Code of Ordinances.

**SECTION 4.** Publication shall be made in the official publication of the City of Corpus Christi as required by the City Charter of the City of Corpus Christi. This ordinance takes effect on date of final approval.

That the foregoing ordinance was read for the first time and passed to its second reading on this the \_\_\_\_\_ day of \_\_\_\_\_, 2015, by the following vote:

Nelda Martinez	_____	Brian Rosas	_____
Rudy Garza	_____	Lucy Rubio	_____
Chad Magill	_____	Mark Scott	_____
Colleen McIntyre	_____	Carolyn Vaughn	_____
Lillian Riojas	_____		

That the foregoing ordinance was read for the second time and passed finally on this the \_\_\_\_\_ day of \_\_\_\_\_, 2015, by the following vote:

Nelda Martinez	_____	Brian Rosas	_____
Rudy Garza	_____	Lucy Rubio	_____
Chad Magill	_____	Mark Scott	_____
Colleen McIntyre	_____	Carolyn Vaughn	_____
Lillian Riojas	_____		

PASSED AND APPROVED, this the \_\_\_\_\_ day of \_\_\_\_\_, 2015.

ATTEST:

\_\_\_\_\_  
Rebecca Huerta  
City Secretary

\_\_\_\_\_  
Nelda Martinez  
Mayor