

APPENDIX A

GAS FRANCHISE ORDINANCE

DEDICATION OF LANDS FOR PARKS

ORDINANCE WITH NORTHERN STATES POWER COMPANY

AN ORDINANCE GRANTING TO MINNEAPOLIS GAS COMPANY,
ITS SUCCESSORS AND ASSIGNS,
THE RIGHT TO MANUFACTURE, IMPORT, TRANSPORT, SELL AND
DISTRIBUTE GAS FOR HEATING, ILLUMINATING AND
OTHER PURPOSES IN THE CITY OF
DEEPHAVEN AND TO USE THE STREETS,
ALLEYS, AND AVENUES THEREOF FOR
THAT PURPOSE.

THE CITY COUNCIL OF DEEPHAVEN DO ORDAIN AS FOLLOWS:

SECTION 1. GRANT OF AUTHORITY. There is hereby granted to Minneapolis Gas Company, hereinafter called the "Company," its successors and assigns, for a period of twenty (20) years after the adoption hereof, the right to manufacture, import, transport, sell, and distribute gas for heating, illuminating and other purposes within the limits of this City, hereinafter called the "City," as the same now exist or as they may be extended in the future, and for that purpose to establish the necessary facilities and equipment, and to maintain a manufacturing plant, gas mains, service pipes, and any other appurtenances necessary to the manufacture, sale, and distribution of gas in and along the streets, alleys, avenues, and other public places of said municipality, and to do all things which are reasonable, necessary or customary in the accomplishment of this objective; subject, however, to the further provisions of this franchise. Provided, however, that before the said company will establish any plant in said City for the manufacture of gas, the approval of the City Council of the location thereof, in the exercise of a reasonable discretion by said Council, will be first obtained by said Company. No such plant will be constructed or operated in violation of the zoning and building ordinances of the City.

SECTION 2. OBSTRUCTING STREETS. The Company will exercise its privileges hereunder subject at all times to the police power of the City and will not unnecessarily or unreasonably obstruct the use of or injure any street, avenue, or alley, and will, upon the completion of any construction or repair, restore all streets, avenues, and alleys of the municipality which will be opened by it or its agents or employees for the purpose of laying, placing, or repairing its aforesaid gas mains or service pipes to as nearly the same order and condition as they were before the excavation was made as is reasonably possible, and will maintain, repair, and keep in good condition for a period of three (3) months all portions of said streets, avenues, and alleys disturbed by it or its agents; provided that the three-month period will be computed from the time of the closing of the excavation; but in case of frost before the three-month period has expired, the same will continue for the stated period after the frost leaves the ground. Any obstruction of any street, alley, park, boulevard, bridge, or other public place, or any failure properly to fill and maintain a street after excavation, after proper notice demanding removal or repair, as the case may be, will be taken care of by the City and the cost thereof will be charged against the company and may be deducted from any payments due it from the City.

SECTION 3. PLATS. The Company, prior to the laying or relaying of any mains under this franchise, will present to the Council a complete plat showing the location, size, and estimated cost of all proposed mains. The Company, before laying or relaying any mains, will

obtain approval from the Council, or its agent, in the exercise of a reasonable discretion by them. Failure of the City to insist upon this provision will not be deemed a waiver thereof.

SECTION 4. DAMAGE CLAIMS. The Company will indemnify, keep, and hold the City free and harmless from liability on account of injury or damage to persons or property growing out of the construction, maintenance, repair, or operation of its property, and in the event that suit will be brought against the City, either independently or jointly with the Company, on account thereof, the Company, upon notice to it by the City, will defend the City in any suit, at the cost of the Company; and in the event of a final judgment being obtained against the City, either independently or jointly with the Company, the Company will pay such judgment, with all costs, and will hold the City harmless therefrom.

SECTION 5. STANDARDS OF SERVICE. The Company will at all times furnish an adequate, safe and continuous supply of gas to the City and its inhabitants, subject, however, to the further provisions of this section.

The Company will not be liable to the City or its inhabitants, nor will the City, or any inhabitant who is a customer of the Company, be liable to the Company hereunder by reason of the failure of the Company to deliver, or of the City or a customer to receive natural gas as the result of acts of God, or public enemy, inability of pipe line supplier to furnish an adequate supply due to an emergency, an order or decision of a public regulatory body, or other acts beyond the control of the party affected.

Whenever any of the occurrences named above take place, the Company will have the right and authority and it will be its duty to adopt reasonable rules and regulations in connection with limiting, curtailing or allocating extensions of service or supplying of gas to any customers or prospective customers and withholding the supplying of gas to new customers, provided that such rules and regulations will be uniform as applied to each class of customers; classifications of customers will be reasonable and will be non-discriminatory as between communities.

The Company will have the right to contract for the sale of gas for industrial use on an interruptible basis, requiring the customer to have standby equipment for use upon notice by the Company. The Company's rules, regulations, schedules or contracts for curtailing interruptible gas service will be uniform as applied to each class of interruptible customers.

If service is temporarily suspended because of any of the reasons set forth above, occurring through no fault or negligent act on the part of the Company, such suspension will not be made the basis of any action proceeding to terminate this franchise. The quality of the gas sold in the City will be the same as that sold to the Company's customers in the City of Minneapolis.

SECTION 6. EXTENSIONS OF SERVICE. The Company agrees to lay such of its mains and pipes as come within its requirements for suburban service as soon as reasonably possible to do so. The Council of the City will have the right to make such reasonable rules and regulations as may be necessary to provide adequate and proper service.

SECTION 7. RATES. The Company agrees for and in behalf of itself, its lessees, successors, and assigns that all authority and rights in this ordinance contained will at all times be subject to all right, power, and authority now or hereafter possessed by said City or any other regulatory tribunal having jurisdiction thereover to regulate, fix, and control just, reasonable and compensatory gas rates, except as hereinafter limited. The City recognizes that the entire suburban area adjacent to any near the City of Minneapolis, which includes the City or Deephaven may be regarded as a single zone for rate-making purposes and agrees that the Company has the right to insist upon a uniform rate for all of its consumers in said suburban area. All rates charged under this ordinance will at all times be fair, just and reasonable.

SECTION 8. ACCOUNTING REPORTS. The Company agrees to file with the City Clerk, on or before July 1 of each year, a copy of its annual report to its security holders for the preceding calendar year, together with a balance sheet and income statement of the suburban division and a balance sheet and income statement for the City of Deephaven on an allocated basis.

SECTION 9. FORFEITURE. If the Company will be in default in the performance of any of the material terms and conditions of this ordinance and will continue to default for more than ninety (90) days after receiving notice from the City of such default, the City Council may, by ordinance duly passed and adopted, terminate all rights granted under this ordinance to the Company. The said notice of default will be in writing and will specify the provisions of this ordinance in the performance of which it is claimed that the Company is in default. Such notice will be served in the manner provided by the laws of the State of Minnesota for the service of original notices in civil actions. The reasonableness of any ordinance so passed declaring a forfeiture of the rights and privileges granted by this franchise ordinance will be subject to review by the United States District Court for the District of Minnesota, Fourth Division.

SECTION 10. NON-EXCLUSIVE. The rights and privileges hereby granted are not exclusive, and the City expressly reserves the right to grant rights and privileges to other persons or corporations.

SECTION 11. CHANGE OF GOVERNMENT. Any change in the form of government of the City into a city or otherwise as authorized by the State of Minnesota will not affect the validity of this franchise. Any municipal corporation succeeding the City will, without the consent of the Company, succeed to all the rights and obligations of the City provided in this franchise.

SECTION 12. ACCEPTANCE. The Company will, within thirty (30) days after the passage and publication of this ordinance, file with the City Clerk its acceptance of the same in writing, signed by its proper officers and attested by its corporate seal.

SECTION 13. EFFECTIVE DATE. This ordinance will take effect and be in force from and after its passage and publication.

AN ORDINANCE RELATING TO THE DEDICATION OF CERTAIN LANDS
FOR PARK PURPOSES

The City Council of the City of Deephaven, Minnesota, ordains:

SECTION 1. The following described parcel of land situated in the City of Deephaven, County of Hennepin, State of Minnesota is hereby dedicated for park, recreational and other public purposes, to-wit:

“That part of Lot 5, Section 24, Township 117, Range 23 described as follows: Beginning at a point in the South line of Government Lot 5 distant 430 feet West from Southeast corner thereof, thence North 190 feet thence East 100 feet, thence North 457.1 feet, thence West 101 feet, thence North 80 feet, thence West 165 feet, thence at an angle to the right of 22 degrees a distance of 150 feet; thence at an angle to the right 68 degrees a distance of 165 feet, thence at an angle to the right of 40 degrees a distance of 120 feet, thence at an angle to the right of 40 degrees a distance of 85 feet, thence at an angle to the left of 80 degrees a distance of 106.5 feet to the Southwesterly line of Railroad right-of-way, thence Southwesterly along said right-of-way line to the West line of Lot 5, thence South along the West line thereof to the South line of Lot 5, thence East to point of beginning.

“Also that part of Lot 5, Section 24, Township 117, Range 23 described as follows: Beginning on the South line of said Lot 5, distant 297 feet West from the Southeast corner thereof thence West on said Section line a distance of 133 feet, thence North parallel to the East line of said Section a distance of 190 feet, thence East parallel to the South line of said Section a distance of 100 feet, thence South parallel with the East line of said Section a distance of 119.9 feet, thence South 25 degrees 14 minutes East 77.6 feet to the point of beginning, together with the easement as reserved in deed of record in Book 2045 of Deeds, page 118.”

SECTION 2. The name of said park will be Burton Park.

SECTION 3. This ordinance will take effect and be in force from and after its passage and publication.

Passed by the City Council on October 7, 1959.

AN ORDINANCE GRANTING PERMISSION TO NORTHERN STATES POWER COMPANY, A MINNESOTA CORPORATION, ITS SUCCESSORS AND ASSIGNS, TO CONSTRUCT, OPERATE, REPAIR, AND MAINTAIN, IN THE CITY OF DEEPHAVEN, MINNESOTA, AN ELECTRIC DISTRIBUTION SYSTEM AND TRANSMISSION LINES, INCLUDING NECESSARY POLES, POLE LINES, AND FIXTURES AND APPURTENANCES, FOR THE FURNISHING OF ELECTRIC ENERGY TO THE CITY AND ITS INHABITANTS, AND OTHERS, AND TRANSMITTING ELECTRIC ENERGY INTO AND THROUGH THE CITY AND TO USE THE STREETS, ALLEYS, AND PUBLIC GROUNDS OF SAID CITY FOR SUCH PURPOSES

THE CITY COUNCIL OF THE CITY OF DEEPHAVEN, HENNEPIN COUNTY, MINNESOTA, ORDAINS AS FOLLOWS:

SECTION 1. There be and hereby is granted to Northern States Power Company, a Minnesota corporation, its successors and assigns, hereinafter referred to as "Company", during the period of 20 years from the date hereof, the right and privilege of constructing, operating, repairing, and maintaining, in, on, over, under, and across the streets, alleys, and public grounds of said City, an electric distribution system and electric transmission lines, including all poles, pole lines, and fixtures and appurtenances, usually, conveniently, or necessarily used in connection therewith, for the purpose of transmitting and furnishing electric energy for light, heat, power, and other purposes for public and private use in and to said City and the inhabitants thereof, and others, and for the purpose of transmitting into and through said City such electric energy, provided that such electric distribution system and transmission lines will be so located as in no way to interfere with the safety and convenience of ordinary travel along and over said streets, alleys, and public grounds, and provided that Company, in the construction, operation, repair, and maintenance of such poles, pole lines, and fixtures and appurtenances, will be subject to such reasonable regulation as may be imposed by the City Council.

SECTION 2. The rates to be charged by Company for the electric energy sold within said City will be reasonable and will not exceed Company's standard schedule of rates and minimum charges effective for and in communities of like size in adjoining territory which are similarly served and situated.

SECTION 3. There is also granted to Company, during the term hereof, permission and authority to trim all trees and shrubs in the streets, alleys, and public grounds of said City interfering with the proper construction, operation, repair, and maintenance of any poles, pole lines, and fixtures and appurtenances, installed in pursuance of the authority hereby granted, provided that Company will save said City harmless from any liability in the premises.

SECTION 4. Nothing contained in this Ordinance will be construed as giving to Company any exclusive privileges in, on, over, under, or across the streets, alleys, or public grounds of said City.

SECTION 5. Company will have full right and authority to assign to any person, persons, firm, or corporation all the rights conferred upon it by this Ordinance, provided that the

assignee of such rights, by accepting such assignment, will become subject to the terms and provisions of this Ordinance.

SECTION 6. Company will, if it accepts this Ordinance and the rights hereby granted, file a written acceptance of the rights hereby granted with the City Clerk within 90 days from the date of the publication of this Ordinance.

SECTION 7. This Ordinance will be in full force and effect from and after its passage and publication, as provided by law.

SECTION 8. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

Passed and approved by the City Council on August 8, 1972.