

**ORDINANCES**  
MILES CITY, MONTANA

ORDINANCE NO. 1352

~~AN ORDINANCE GRANTING TO MONTANA DAKOTA UTILITIES CO., A CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE FRANCHISE AND RIGHT TO CONSTRUCT, MAINTAIN AND OPERATE, WITHIN AND UPON, IN AND UNDER THE STREETS, ALLEYS AND PUBLIC GROUNDS OF THE~~

~~CITY OF MILES CITY, CUSTER COUNTY, MONTANA~~

~~A NATURAL GAS DISTRIBUTION SYSTEM FOR TRANSMITTING AND DISTRIBUTING NATURAL OR MANUFACTURED GAS, OR A MIXTURE OF BOTH, FOR PUBLIC AND PRIVATE USE.~~

BE IT ORDAINED BY

~~THE CITY COUNCIL, CITY OF MILES CITY, CUSTER COUNTY, MONTANA:~~

~~SECTION I. For convenience, herein, said municipal corporation is designated and referred to as "Municipality" and Montana-Dakota Utilities Co. is designated and referred to as "Grantee." Any reference to either includes their respective successors and assigns.~~

~~SECTION II. There is hereby granted to Montana-Dakota Utilities Co., a corporation, its successors and assigns, subject to the limitations herein stated, the right and franchise to occupy now and use the streets, alleys and public grounds of the Municipality as now, or hereafter constituted, for the purpose of constructing, maintaining, and operating, within, upon, in and under the same, a natural gas distribution system for transmitting and distributing natural or manufactured gas, or a mixture of both, for public and private use.~~

~~SECTION III. Grantee shall maintain an efficient distribution system for furnishing natural or manufactured gas, or a mixture of both, for public and private use at such reasonable rates as may be approved by the Public Service Commission of the State of Montana and under such orders, rules or regulations as may be issued by a federal or state agency having jurisdiction thereof.~~

~~SECTION IV. This franchise shall not be exclusive and shall not be construed to prevent the Municipality from granting to any other party the right to use the streets, alleys, and public grounds of the Municipality for like purposes.~~

~~SECTION V. The Municipality reserves any right it may have, under its police power, or otherwise, to control or regulate the use of said streets, alleys, and public grounds by Grantee.~~

~~SECTION VI. Unless otherwise provided in any permit or regulation of the Municipality under separate ordinance, Grantee may trim trees and shrubs in and over the streets, alleys and public grounds to the extent Grantee determines is necessary to avoid interference with the construction, operation, maintenance and repair of the natural gas distribution facilities, provided Grantee shall hold the Municipality harmless from any liability arising therefrom.~~

~~SECTION VII. Grantee shall indemnify and save and hold the Municipality harmless from any loss or damage due to the construction, installation, and maintenance of its distribution system, and its use of the streets, alleys, and public grounds of the Municipality. The Municipality shall not be indemnified or held harmless for losses, claims, or causes of action caused through its own negligence or that of its agents, employees, or contractors.~~

~~SECTION VIII. Grantee shall have the right to assign this franchise to any party, or corporation, but all obligations of Grantee hereunder shall be binding upon its successors and assigns.~~

~~SECTION IX. Within thirty (30) days after Grantee is notified of passage and final approval of this Ordinance, Grantee shall file with the clerk or auditor of the Municipality its written acceptance of this franchise.~~

~~SECTION X. This franchise shall continue and remain in full force and effect for a period of twenty-five (25) years from the date upon which this ordinance shall become effective as provided by law.~~

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SECTION XI. This Ordinance shall become effective thirty (30) days after its final passage.

Said Ordinance read and put on its passage this 22<sup>nd</sup> day of March, 2022.

ATTEST:

Mary Rowe  
Mary Rowe, City Clerk

John Hollowell  
John Hollowell, Mayor

FINALLY PASSED AND ADOPTED this 26<sup>th</sup> day of April, 2022.

ATTEST:

Mary Rowe  
Mary Rowe, City Clerk

John Hollowell  
John Hollowell, Mayor

RECORD OF FRANCHISE PROCEEDINGS  
CERTIFIED TO BY CITY CLERK

STATE OF MONTANA )  
                          ) SS  
COUNTY OF CUSTER )

I, the undersigned, City Clerk of the City of Miles City, Custer County, Montana;

DO HEREBY CERTIFY, that I compared the attached copies of proceedings and documents pertaining to the natural gas franchise granted to Montana-Dakota Utilities Co. by said municipality as evidenced by Ordinance No. 1352 passed by the governing body of said municipality on the 26<sup>th</sup> day of April, 2022, with the originals of which said documents purport to be true and complete transcripts, and that each of the attached copies is a true and exact copy of such original instruments, viz:

1. Application of Montana-Dakota Utilities Co. for a natural gas franchise.
2. Affidavit of publication of the notice of public hearing for Ordinance No. 1352.
3. The meeting minutes of the City Council for the dates of March 22<sup>nd</sup> and April 26<sup>th</sup>, 2022, confirming first and second reading and passage of said Ordinance, along with the record of discussion and protests as to the same.
4. Acceptance of franchise, including this official's certification of filing the same.

I HEREBY FURTHER CERTIFY that all of the originals of the above-mentioned documents are on file in my office and that insofar as I have knowledge or am informed all of the legal requirements of the by-laws of the governing body of said City of Miles City and the statutes of the State of Montana governing the enactment of such ordinance granting such a franchise have been fully and properly complied with.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said City of Miles City, this 10<sup>th</sup> day of May, 2022.

*Mary Rowe*

\_\_\_\_\_  
Mary Rowe, City Clerk  
City of Miles City, Custer County, MT



ACCEPTANCE OF FRANCHISE

Montana-Dakota Utilities Co., a corporation, hereby accepts the terms and conditions of that certain Ordinance No. 1352 enacted by the governing body of the City of Miles City, Custer County, Montana, the same being an ordinance granting to Montana-Dakota Utilities Co., its successors and assigns, a franchise to construct, maintain and operate, within and upon, in and under the streets, alleys and public grounds of said City of Miles City, Custer County, Montana, a natural gas distribution system for transmitting and distributing natural or manufactured gas, or a mixture of both, for public and private use, and defining the extent and conditions of such rights and privileges, which ordinance was duly and finally passed, adopted and approved by the governing body of the City of Miles City on the 26<sup>th</sup> day of April, 2022.

Dated this 6<sup>th</sup> day of May, 2022.

Montana-Dakota Utilities Co.

By   
Eric P. Martuscelli  
Vice President - Field Operations

ATTEST:  
  
Secretary

\*\*\*\*\*  
Tierney Becho  
I, the undersigned, being the City Clerk of the City of Miles City, State of Montana, do hereby certify that I received the within Acceptance of Franchise on this 10<sup>th</sup> day of May, 2022, and on said date duly filed the same in my office.

  
Mary Royce, City Clerk