

VILLAGE OF GILBERTS

ORDINANCE NO. 18-2019

GAS ORDINANCE

AN ORDINANCE AUTHORIZING NORTHERN ILLINOIS  
GAS COMPANY (d/b/a NICOR GAS COMPANY) ITS  
SUCCESSORS AND ASSIGNS, TO CONSTRUCT, OPERATE  
AND MAINTAIN A GAS DISTRIBUTING SYSTEM IN AND  
THROUGH THE VILLAGE OF GILBERTS, ILLINOIS.

BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF  
THE VILLAGE OF GILBERTS, ILLINOIS:

SECTION 1. That the right, permission and authority be and the same are hereby granted to NORTHERN ILLINOIS GAS COMPANY (d/b/a NICOR GAS COMPANY), an Illinois corporation, its successors and assigns (hereinafter referred to as the “Grantee”), to construct, operate and maintain in and through the VILLAGE OF GILBERTS (hereinafter referred to as the “Municipality”), in the State of Illinois, for a term of Fifty (50) years, a system for the production, distribution and sale of gas for fuel, heating, power, processing and other purposes within and outside the corporate limits of the Municipality, and to construct, lay, maintain and operate such gas pipes, mains, conductors and other devices, apparatus and equipment as may be necessary or convenient for such system in, under, along and across each and all of the streets, alleys, avenues and other public places in the Municipality, subject to the conditions and regulations hereinafter set forth.

SECTION 2. All pipes, mains, conductors and other appliances, including connections with service pipes, hereafter laid in streets, alleys, avenues or other public places, shall be laid under the supervision of the Committee on Streets and Alleys of the Municipality, or such other duly authorized agent of the Municipality as the Board of Trustees may from time to time designate. All pipes, mains, conductors and other appliances shall be so located as not to injure unnecessarily any drains, sewers, catch basins, water pipes, pavements or other like public improvements, but should any drain, sewer, catch basin, water pipe, pavement or other like public improvement be injured by such location, the Grantee shall forthwith repair the damage caused by such injury to the satisfaction of the Committee on Streets and Alleys, or such other duly authorized agent, and in default thereof the Municipality may repair such damage and charge the cost thereof to, and collect the same from, the Grantee. The Grantee shall be subject to all reasonable regulations which may now or hereafter be prescribed by general ordinance of the Municipality with respect to the use of the public streets, alleys, avenues and other public places of the Municipality.

SECTION 3. The Grantee shall indemnify, become responsible for and forever save harmless the Municipality from any and all judgments, damages, decrees, costs and expenses, including attorneys' fees, which the Municipality may legally suffer or incur, or which may be legally obtained against the Municipality, for or by reason of the use and occupation of any street, alley, avenue or other public place in the Municipality by the Grantee pursuant to the terms of this ordinance or legally resulting from the exercise by the Grantee of any of the privileges herein granted; except that the indemnity provided for in this Section 3 shall not apply to any liability, judgments, damages, decrees, costs and expenses determined by a court of

competent jurisdiction to have resulted from the negligence or intentional acts or omissions of Municipality, its agents and employees.

SECTION 4. After the passage of this ordinance, and within thirty (30) days after passage, this ordinance, if accepted, shall be accepted by the Grantee by its filing with the Village Clerk of the Municipality an unconditional written acceptance hereof, to be duly executed according to law, and a failure of the Grantee to so accept this ordinance within said period of time shall be deemed a rejection hereof by the Grantee, and the rights and privileges herein granted shall after the expiration of said period of thirty (30) days, if not so accepted, absolutely cease and determine, unless said period of time shall be extended by the Municipality by ordinance duly passed for that purpose and before the expiration of said period of thirty (30) days.

SECTION 5. All provisions of this ordinance which are obligatory upon, or which inure to the benefit of, said NORTHERN ILLINOIS GAS COMPANY (d/b/a NICOR GAS COMPANY) shall also be obligatory upon and shall inure to the benefit of any and all successors and assigns of said Company, and the word "Grantee" wherever appearing in this ordinance shall include and be taken to mean not only said NORTHERN ILLINOIS GAS COMPANY (d/b/a NICOR GAS COMPANY), but also each and all of such successors and assigns.

SECTION 6. Grantee shall provide an amount of natural gas during each billing year, without charge to the Municipality, in accordance with its policy existing from time to time and applicable to other municipalities, as expressed in and pursuant to the terms of a "Gas Letter," in the form of Exhibit A, attached hereto and incorporated herein, and as may from time to time hereafter be modified by Grantee. Notwithstanding the first sentence of this Section,

Municipality and Grantee agree that no gas without charge or other payment or benefit is payable, due or owing for any period prior to December 1, 2019.

SECTION 7. This ordinance, if accepted by the Grantee as hereinabove provided, shall be in full force and effect as of December 3, 2019, and from and after the effective date shall supersede, cancel, repeal and be in lieu of any and all other existing or prior grants of right, permission and authority by said Municipality to said Grantee or any predecessor companies or assignors of the Grantee to construct, operate and maintain any system for the production, distribution and sale of gas for fuel, heating, power, processing and any other purposes within the corporate limits of this Municipality, and this ordinance shall likewise cancel all of the obligations under said existing or prior grants.

PASSED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF GILBERTS, ILLINOIS, THIS 3 DAY OF December, 2019.



Courtney Baker, Village Clerk


APPROVED BY THE PRESIDENT OF THE VILLAGE OF GILBERTS, ILLINOIS, THIS 3 DAY OF December, 2019.



Rick Zirk, Village President



ATTEST:



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Courtney Baker, Village Clerk

**EXHIBIT "A"**  
**"Form of Gas Letter"**

Village of Gilberts, Illinois

The undersigned, Northern Illinois Gas Company (d/b/a Nicor Gas Company) (the "Company"), for and in consideration of the adoption by the authorities of the Village of Gilberts, Illinois (the "Municipality"), of an ordinance granting the Company the right to construct, operate and maintain a gas distribution system in the Municipality for a term of 50 years from **[OPEN: TO BE COMPLETED BY NICOR]** (the "**Franchise Ordinance**"), hereby agrees for itself, its successors and assigns, that so long as said ordinance shall remain in full force and effect, Company will during each billing year (start and finish of each year shall begin and end with regular meter reading date nearest to January 1) throughout the remainder of the life of said ordinance, supply without charge to the Municipality, an amount of gas not to exceed **[OPEN: TO BE COMPLETED BY NICOR]** therms ("Therm Allocation"), to be used in buildings which may be occupied from time to time by the Municipality solely for municipal purposes, or such part thereof as may from time to time be so occupied, and not for purposes of revenue.

The Therm Allocation is calculated using the municipality's population of **[OPEN: TO BE COMPLETED BY NICOR]** based on the most recent decennial census data. The Therm Allocation will be adjusted by the Company based on each decennial census count. Between decennial census counts, Therm Allocation may be increased on the basis of changes in population of the Municipality as shown by revised or special census. Upon the submission of a written request by the Municipality accompanied by the official State notification of census change, the Therm Allocation will be adjusted by the Company.

For so long as the Franchise Ordinance shall remain in full force and effect, the Municipality's Therm Allocation will be based on the following revised formula:

First 10,000 of population	3.60 therms per capita;
Next 10,000 of population	2.40 therms per capita;
Next 80,000 of population	1.20 therms per capita;
Next 20,000 of population	1.45 therms per capita;
Over 120,000 of population	1.80 therms per capita.

None of said gas to be supplied without charge to the Municipality, shall be resold for any purpose whatsoever, and in the event the Municipality uses less than the above-mentioned number of therms of gas in any billing year, there shall be no payment due to the Municipality from the Company, or its successors and assigns, for gas not used during that billing year, nor shall any such unused therms be carried over for the following year's use.

In the event the Company's policy in regard to the practice of supplying gas without charge to municipalities in its present service area is changed at any time in the future, or in the event that the Company in the future provides any other gas utility service benefit as a matter of general policy to all municipalities in such service area, it will inform the Municipality of any such change and, upon acceptance by the Municipality, will grant the Municipality the benefits of such change or benefits under the same conditions applicable to other municipalities.

The Company, for itself, its successors and assigns, reserves the option, however, to reduce the total amount of gas supplied during any one billing year without charge as aforesaid by the amount of any fees which the Municipality may charge the Company for permits, street or parkway openings, or inspections of any kind. Such reduction will be arrived at by the use of the Company's applicable rate for such calculation.

This agreement shall supersede, replace and be in lieu of the provisions as to the supply of gas without charge to the Municipality contained in a letter of the Company addressed to the **[OPEN: TO BE COMPLETED BY NICOR]**.

**END OF EXHIBIT**

STATE OF ILLINOIS )  
COUNTY OF KANE ) SS.  
VILLAGE OF GILBERTS )

I, Courtney Barker, Village Clerk of the Village of Gilberts, Illinois, do hereby certify that the foregoing is a true and correct copy of an Ordinance duly passed by the Board of Trustees of said Village on the 3 day of December, 2019, and duly approved by the President of said Village on the 3 day of December, 2019, the original of which Ordinance is now on file in my office.

I do further certify that I am the legal custodian of all papers, contracts, documents and records of said Village.

WITNESS my hand and the official seal of said Village this 3 day of December, 2019.

(SEAL)



Courtney Barker  
Village Clerk  
Gilberts, Illinois