

Egg Harbor Township

Ordinance No. 9

2015

AN ORDINANCE GRANTING RENEWED CONSENT AND PERMISSION TO SOUTH JERSEY GAS COMPANY TO USE THE PUBLIC STREETS TO FURNISH GAS FOR LIGHT, HEAT, AND POWER IN THE TOWNSHIP OF EGG HARBOR, COUNTY OF ATLANTIC AND STATE OF NEW JERSEY

WHEREAS, South Jersey Gas Company, a corporation of the State of New Jersey, provides natural gas service to customers located within the municipal boundaries of the Township of Egg Harbor pursuant to a municipal consent heretofore granted to South Jersey Gas Company by Ordinance adopted on November 3, 1947; and

WHEREAS, the consent to the use of streets, alleys, squares and public places within the Township of Egg Harbor (the "Municipal Consent") is limited by N.J.S.A. 48:3-15 to a term of fifty (50) years which expired in November of 1997; and

WHEREAS, notwithstanding the expiration of the term of the Municipal Consent, the South Jersey Gas Company has continued to provide service to customers within the Township of Egg Harbor in compliance with its statutory obligation under Title 48 of the New Jersey Statutes applicable to utility companies generally and gas utility companies specifically; and

WHEREAS, letter petition dated February 3, 2014, South Jersey Gas Company now seeks, pursuant to N.J.S.A. 48:3-15, to renew the Municipal Consent for an additional term; and

WHEREAS, pursuant to N.J.S.A. 48:3-15 a municipality is authorized to grant such consent for the right to use the street(s) petitioned for, by ordinance and not otherwise, for a period not exceeding fifty (50) years; and

WHEREAS, N.J.S.A. 48:3-13 requires that public notice shall be given by publication once a week for at least two weeks in one or more newspapers published and circulated in the municipality and by posting notice in five (5) of the most public places in the municipality for at least fourteen (14) days before the meeting of the governing body at which the application shall be considered; and

WHEREAS, having given due and proper consideration to the petition submitted on behalf of South Jersey Gas Company, having published and posted the notices required by law and having provided the opportunity for public comment;

NOW, THEREFORE, BE IT ORDAINED, by the Township Committee of the Township of Egg Harbor, County of Atlantic and State of New Jersey as follows:

SECTION 1. That consent and permission is hereby renewed and granted to South Jersey Gas Company (the "Company") to lay and construct its pipes and mains and related appurtenances and facilities within the streets, alleys, squares and public places within the Township of Egg Harbor in the manner prescribed by N.J.S.A. 48:9-21, and subject to reasonable regulations imposed by ordinance or resolution with respect to the opening of streets and public places, including street opening moratoriums.

SECTION 2. This consent is granted to the Company for the entire geographical area of the Township of Egg Harbor extending to the boundaries thereof, and shall remain in effect for a period ending November 3, 2047 being fifty (50) years from the expiration of the consent in 1997, subject to the right of the Company to seek such changes herein as it may deem necessary and reasonable from time to time prior to the expiration of said period.

SECTION 3. Throughout the full term of this ordinance, the Company, for itself, its successors and assigns, agrees to maintain its property within the Township of Egg Harbor in good order and shall furnish safe, adequate and proper service within the Township at just and reasonable rates as approved from time to time by the New Jersey Board of Public Utilities. At and after expiration of the term of this ordinance, the Company shall safeguard the public interest in continuous and uninterrupted services within the Township until such time as the Municipal Consent shall be renewed.

SECTION 4. As a condition of this Municipal Consent, whenever a curb line shall be established on streets where one does not now exist, or where an established curb line shall be relocated in order to change the width or realign an existing street in conjunction with road construction being performed by or at the direction of the Township, the Company shall change the location of its belowground facilities covered by this ordinance, so that the same shall be back of, and adjacent to, the new curb line so long as the Township has acted in accordance with applicable law and with reasonable care in establishing the new curb line and providing notice thereof. This requirement includes that the Township owns the existing or acquired right-of-way where the Company is being requested to locate or relocate facilities, and that the new curb line is properly established by ordinance, filed map and/or official map.

The Company shall bear the costs of such relocation so long as the relocation is for the purpose of construction, reconstruction, improvement or repair to streets, sidewalks, sewers, water mains, storm drains, and other Township utilities and infrastructure, and not solely for aesthetic

purposes or in, on, along, over or under any sewerage facility project as governed by N.J.S.A. 40A:26A-8.

SECTION 5 Following final passage of this ordinance, the Township Clerk shall provide the Company with written notice thereof by certified mail.

SECTION 6. As provided by N.J.S.A. 48:2-14 and all other applicable law, this ordinance shall not become effective until acceptance thereof by the Company and approval thereof by the State of New Jersey Board of Public Utilities.

SECTION 7. This ordinance shall cancel and supersede all prior consent ordinances between the Township and the Company regarding the subject matter hereof.

SECTION 8: All ordinances or parts of ordinances which are inconsistent with the provisions of this Ordinance are, to the extent of such inconsistency, hereby repealed.

SECTION 9: Should any section, clause, sentence, phrase or provision of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.

SECTION 10: This Ordinance shall take effect upon final passage, adoption and publication in the manner prescribed by law.

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED AT A MEETING OF MARCH 18, 2015 AND WILL BE FURTHER CONSIDERED FOR FINAL PASSAGE AFTER A PUBLIC HEARING THEREON AT A REGULAR MEETING OF SAID TOWNSHIP COMMITTEE TO BE HELD IN THE TOWNSHIP HALL, IN SAID TOWNSHIP ON APRIL 22, 2015 AT 5:30 P.M.

Dated: March 18, 2015

Eileen M. Tedesco, RMC
Township Clerk