

ORDINANCE BILL NO. 3 FOR 1992

ORDINANCE NO. 1041

AN ORDINANCE GRANTING A NON-EXCLUSIVE GAS UTILITY FRANCHISE TO NORTHWEST NATURAL GAS COMPANY, FIXING TERMS, CONDITIONS AND COMPENSATION OF SUCH FRANCHISE, AMENDING ORDINANCE 858 AND DECLARING AN EMERGENCY.

The City of Sweet Home does ordain as follows:

Section 1. Section 10 of Ordinance 858 is hereby amended to read as follows:

Section 10. Street Excavations and Restorations.

(1) Subject to the provisions of this ordinance, the Grantee may make necessary excavations for the purpose of construction, installing, maintaining and operating its facilities. Except in emergencies, prior to making an excavation in any street, bridge or public place (traveled or untraveled portion), the Grantee shall obtain from the City approval of the proposed excavation of its location. The Grantee shall give notice to the City by telephone, electronic data transmittal or other appropriate means at least 24 hours prior to the commencement of services or maintenance work and as soon as is practicable after the commencement of work performed under emergency conditions.

(2) Except as provided in subsection (3) of this section, when any excavation is made by the Grantee, the Grantee shall promptly restore the affected portion of the street, bridge, or public place to the same condition in which it was prior to the excavation. The restoration shall be in compliance with specifications, requirements and regulations of the City in effect at the time of such restoration. If the Grantee fails to restore promptly the affected portion of a street, bridge or public place to the same condition in which it was prior to the excavation, the City may make the restoration, and the cost thereof shall be paid by the Grantee.

(3) At its option, the City may restore or resurface the affected portion of any street, bridge or public place excavated by the Grantee, and the cost thereof shall be paid by the Grantee.

Section 2. Subsection 12(1) and 12(2) of Ordinance 858 are hereby amended to read as follows:

Section 12. Compensation.

(1) As compensation for the franchise granted by this

ordinance, the Grantee shall pay to the City an amount equal to five per cent (5%) of the gross revenue collected by the Grantee from its customers for gas consumed within the City. Gross revenue shall be computed by deducting from the total billings of the Grantee the total net writeoff of uncollectible accounts, revenues derived from the sale of gas supplied for industrial purposes under an interruptible tariff schedule, and sales of gas at wholesale by the Grantee to any public utility or public agency where the public utility or public agency purchasing such gas is not the ultimate consumer.

(2) During the first year of the franchise agreement, the City may, upon 30 days prior written notice, initiate the renegotiation of the level of compensation. During the nine remaining years of the franchise agreement, the compensation may be subject to annual renegotiation at or before the anniversary date of the term of the franchise hereby granted, and provided the Grantee is notified, in writing, at least 30 days prior to the anniversary date.

Section 3. Section 18 of Ordinance 858 is hereby amended to read as follows:

Section 18. Termination of Franchise for Cause.

Upon the willful failure of the Grantee, after sixty (60) days notice and demand in writing to perform promptly and completely each and every term, condition or obligation imposed upon it under or pursuant to this ordinance, the City may terminate this franchise, subject to Grantee's right to a court review of the reasonableness of such action.

Section 4.

The City of Sweet Home hereby grants to Northwest Natural Gas a non-exclusive utility gas franchise for a period of ten (10) years from and after the effective date of this ordinance on the terms and conditions as set forth in Sweet Home Ordinance 858 as amended hereby.

Section 5.

The Grantee shall, within thirty (30) days from the date this ordinance takes effect, file with the City its written unconditional acceptance of this franchise and if the Grantee fails so to do, this ordinance shall be void. Inasmuch as it is necessary for the peace and health and safety of the citizens of Sweet Home, an emergency is hereby declared and this ordinance is put in full force and effect immediately upon its passage by the Council and approval by

the Mayor.

Passed by the Council and approved by the Mayor this
25th day of February, 1992.

Craig J. Hartman
Mayor

ATTEST:

Dan J. Dean
City Manager - Ex-Officio City Recorder