

TOWNSHIP OF HARDYSTON

ORDINANCE 2025-08

ORDINANCE OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX, STATE OF NEW JERSEY AUTHORIZING ELIZABETHTOWN GAS COMPANY, ITS SUCCESSORS AND ASSIGNS, TO CONSTRUCT, LAY, MAINTAIN, AND OPERATE FOR A PERIOD OF 25 YEARS, THE NECESSARY MAINS, CONDUCTORS, PIPES AND CONCOMITANT APPURTENANCES FOR THE PURPOSE OF CONVEYING, STORING, SUPPLYING AND DISTRIBUTING GAS FOR LIGHT, HEAT, POWER AND OTHER PURPOSES FOR PUBLIC AND PRIVATE USE AND CONSUMPTION ALONG AND UNDER ALL THE STREETS, AVENUES, PARKS, PARKWAYS, HIGHWAYS OR OTHER PUBLIC PLACES WITHIN THE TOWNSHIP OF HARDYSTON IN THE COUNTY OF SUSSEX AND STATE OF NEW JERSEY.

WHEREAS, Elizabethtown Gas Company, a corporation of the State of New Jersey and a public utility subject to the jurisdiction of the New Jersey Board of Public Utilities was granted Municipal Consent to construct, maintain, and operate a gas line for the distribution of natural and mixed gas throughout Hardyston Township (hereinafter, the "Service") pursuant to Ordinance number 94-2 adopted on March 15, 1994 (hereinafter, "Municipal Consent," or the "Franchise"); and

WHEREAS, the Service provided by Elizabethtown Gas Company pursuant to the Franchise has generally been acceptable to the Township; and

WHEREAS, Elizabethtown Gas Company has made application to extend the Township's Municipal Consent for the Service; and

WHEREAS, the Township of Hardyston has received, reviewed and considered additional information provided by Elizabethtown Gas Company and its request to extend the Township's Municipal Consent for the Service; and

WHEREAS, the Township Council has determined that it is reasonable and necessary for Elizabethtown Gas Company to continue to provide the Service throughout the Township; and

WHEREAS, the Township of Hardyston desires to extend its Municipal Consent to Elizabethtown Gas Company.

NOW, THEREFORE BE IT ORDAINED by the Township Council of the Township of Hardyston, County of Sussex, State of New Jersey, as follows:

SECTION 1. Grant of Municipal Consent

Pursuant to N.J.S.A. 48:3-11, the Mayor and Township Council of the Township of Hardyston hereby grant Elizabethtown Gas Company, a Corporation of the State of New Jersey (hereinafter "Elizabethtown") with principal offices located at 520 Green Lane, Union, New Jersey 07083, its successors and assigns, a nonexclusive consent, right and privilege for the use, without impairment of, or obstruction to the public use, of the roads, streets, parks, avenues, ways, and other public places of the Township of Hardyston to construct, lay, maintain, and operate for a period of twenty-five (25) years, the necessary

mains, conductors, pipes and concomitant appurtenances for the purpose of conveying, storing, supplying and distributing natural and mixed gas for heat, power, light and other purposes for public and private use and consumption, along in, or under the following described Service Area: all of the streets, avenues, alleys, parks, parkways, highways, or other public places within the Township, and other public places that now exist or may be hereinafter be laid out by the municipal authorities of the said Township or dedicated to said Township.

SECTION 2. Conditions on Grant of Municipal Consent

The Municipal Consent granted herein is expressly conditioned upon the following:

- (a) the written acceptance of Elizabethtown of the terms and conditions of this municipal Consent Ordinance within thirty (30) days of its final adoption.
- (b) the New Jersey Board of Public Utilities (hereinafter "N.J.B.P.U.") approval of the Consent herein granted and the issuance of such other grants or approvals as determined by the N.J.B.P.U.
- (c) Elizabethtown shall satisfy all Statutory requirements of N.J.S.A. 48:13-1 et seq. regarding the proper organization and operation of Public Utilities engaged in the distribution of natural and mixed gas, and shall remain subject to the jurisdiction of and comply with all Rules and Regulations of the United States Department of Transportation, Office of Pipeline Safety and the N.J.B.P.U. as well as the Ordinances of the Township of Hardyston.
- (d) Elizabethtown shall construct and continuously maintain and operate its distribution line within the service area in a safe and efficient manner, and maintain such gas distribution lines in a state of good operation and repair and including all streets, roads, and public rights-of-way within the Township of Hardyston wherein its lines are located.
- (e) the construction, operation and maintenance of the gas distribution system within the rights-of-way of the Township of Hardyston shall in no way place any obligation, financial or otherwise, or any liability of any kind, upon the Township of Hardyston and no obligation is to attach for the construction, operation and maintenance of the said gas distribution system to the Township.
- (f) any and all regulating pits and venting structures or like facilities shall not be located along the public rights-of-way comprising the Service Area.

SECTION 3. Construction; Installation; Restoration.

- A. Construction. In each and every case in which road openings or excavation of any nature are required or made for the purposes aforesaid, Elizabethtown shall restore, all such public and private lands or facilities to as good a condition as existed at the commencement of the said work or such better condition, at its sole cost and expense. All such openings and installation and maintenance shall be undertaken in strict compliance with the standards imposed by the N.J.B.P.U., any other regulatory agency, and all applicable Township Ordinances, with such work to be done in a careful, prudent

and workmanlike manner, and within such time limitations as shall be best for the proper safeguard of the public.

- B. Relocation. If at any time during the period of this Municipal consent, the Township of Hardyston finds it necessary to alter or change the grade of any street, road or other public right-of-way or area, Elizabethtown shall, upon reasonable notice by the Municipality, remove and relocate its distribution line and pipes at the expense of Elizabethtown.
- C. Restoration. In the event that Elizabethtown shall refuse or neglect, after ten (10) days notice in writing by a representative of the Township, to restore any disturbed area at its cost and expense, and in compliance with all applicable Municipal Ordinances in effect at the time, to its pre-existing or better condition, any street, road, pavement, driveway or other reserves after having made an opening or excavation, the necessary work to accomplish such restoration may be done by the Township of Hardyston, and thereafter, Elizabethtown shall be liable for the actual and necessary costs thereof, and shall immediately pay such costs to the Township upon receiving notice thereof.
- D. Preconditions to Undertaking Construction. Elizabethtown shall give to the Township of Hardyston, through its duly designated representative, written notice of its intention to open or excavate any street or other public place in accordance with the Township of Hardyston's Ordinance regulating the excavation and opening of streets, roads and highways, with the exception that such notice requirement shall be waived in the event of an emergent circumstance such that such emergency will affect public health or safety. As soon as practically possible after the occurrence of such emergent circumstance, Elizabethtown shall give prompt written notice to the Township of any emergency opening or excavation that Elizabethtown shall undertake.

SECTION 4. Indemnification, Performance Bond, Liability.

- A. Indemnification. Elizabethtown, its successors and assigns, by the acceptance of the grants, rights and privileges conferred by this ordinance, shall at all times and does hereby and will indemnify and hold harmless, the Township of Hardyston and all of its subsidiary agencies, officials and employees for any and all claims of whatsoever kind or nature arising from or relating to the construction, installation, maintenance, laying, repairing, inspecting, or altering of maintains conductors, pipes and appurtenances thereto, and any other facilities, and including, but not by way of limitation, any damages, penalties, costs, attorney's fees and charges for personal injury, property damage or otherwise, based upon Elizabethtown's negligence or the negligence of its agents, servants, employees or independent contractors.
- B. Performance Bond. Prior to the commencement or any construction or installation under this Municipal Consent, Elizabethtown shall execute and deliver to the Clerk of the Township and subject to prior review and approval by the Township Attorney, a Bond in the amount of \$10,000.00 guaranteeing the faithful performance of all of its obligations and undertakings under this Ordinance, which Bond shall be enlarged or renewed from time to time as the Council may require.

- C. Liability Insurance. Elizabethtown agrees to maintain and keep in full force and effect, at its sole expense, and at all times during the terms and duration of this Municipal Consent, sufficient liability insurance naming the Township of Hardyston as an additional insured party, and insuring and indemnifying the Township against any loss by any such claim, suite, judgment, execution or as follows:
- a. Elizabethtown shall carry Worker's Compensation Insurance with Statutory limits.
 - b. Elizabethtown shall at all times, maintain a Comprehensive General Liability Insurance Policy with a single limit amount of \$1,000,000.00 covering liability for any death, personal injury, property damage or other liability arising out of its construction and operation of the gas distribution systems herein and in addition, an excess liability (or "umbrella") policy in the amount of \$3,000,000.00.
 - c. Elizabethtown shall furnish to the Township of Hardyston a certified copy or Certificate of Insurance of each of the Policies as set forth herein.

SECTION 5. Duration of Consent

- A. Term. The Municipal consent granted to Elizabethtown herein is for a period of twenty-five (25) years from the effective date of this Ordinance.
- B. Public Hearing. Immediately prior to the twenty-five (25) year expiration of this Consent, the Township of Hardyston shall conduct public hearings regarding the performance of Elizabethtown with the terms of this Municipal Consent. The public hearing shall be duly advertised and shall provide any opportunity for all interested persons to participate.
- C. Extension. Upon the conclusion of the public hearings as set forth herein, the Township of Hardyston shall consider such extension and such additional conditions as the record of the public hearings may warrant.
- D. Notice of Proceedings. Elizabethtown shall give the Municipality timely written notice of at least fifteen (15) days in advance of all proceedings initiated by Elizabethtown or the N.J.B.P.U. or other Regulatory Agency, when such proceedings may affect the commitments, this Municipal Consent or relationship between Elizabethtown and the Municipality, whether or not such notice is required by law. All submissions provided to such Regulatory Agency by Elizabethtown shall also be provided to the Township of Hardyston.

SECTION 6. Severability.

If the provision of any article, section, subsection, paragraph, subdivision or clause of this Ordinance shall be judged invalid by any Court or Competent jurisdiction, such Order or Judgment shall not effect or invalidate this remainder of any such article, section, subsection, paragraph or clause, and, to this end, the provisions of this Ordinance are hereby declared to be severable.

SECTION 7. All ordinances of the Township of Hardyston which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 8. Effective Date.

This Municipal Consent Ordinance shall become effective upon adoption and publication according to law, and only upon written acceptance of this Municipal Consent by Elizabethtown, which written acceptance shall be filed with the Clerk of the Municipality within thirty (30) days of the date after which Elizabethtown receives notice of the passage of this Ordinance, and approval of the franchise hereby granted by the New Jersey Board of Public Utilities.

Brian Kaminski, Mayor

ATTEST:

Jane Bakalarczyk, RMC, Municipal Clerk

NOTICE

PLEASE TAKE NOTICE that notice is hereby given that the above ordinance was introduced and passed at the regular meeting of the Hardyston Township Council held at the Municipal Building, 149 Wheatsworth Road, Hardyston, New Jersey, on July 23, 2025. The same came up for final adoption at a meeting of the Township Council of the Township of Hardyston held on August 27, 2025, and after all persons present were given the opportunity to be heard concerning the same, it was finally passed, adopted and will be in full force and effect in the Township according to law.

Jane Bakalarczyk
Municipal Clerk

