

ORDINANCE NO.005

AN ORDINANCE OF THE CITY OF HIGHLAND HAVEN, TEXAS GRANTING PEDERNALES ELECTRIC COOPERATIVE, INC., ITS SUCCESSORS AND ASSIGNS AN ELECTRIC LIGHT, HEAT AND POWER FRANCHISE.

WHEREAS, the citizens of Highland Haven, Texas have need for electric power for their health and welfare and;

WHEREAS, Pedernales Electric Cooperative, Inc. has installed the facilities and is currently furnishing the required electric power and;

WHEREAS, no ordinance of the City of Highland Haven, Texas or other type agreement between the City of Highland Haven, Texas and Pedernales Electric Cooperative, Inc. exists that concerns or relates to an electric light, heat and power franchise.

NOW THEREFORE:

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF HIGHLAND HAVEN, TEXAS:

SECTION 1. AUTHORIZATION.

The Board of Aldermen hereby authorize implementation of the ordinance.

SECTION 2. APPLICATION.

Pedernales Electric cooperative, Inc., its successors and assigns (herein called the: Grantee:) is hereby granted the right, privilege and franchise until January 01, 2015, to construct, maintain and operate in the present and future streets, alleys, and public places of the City of Highland Haven, Texas, and its successors, electric light and power lines, with all necessary appurtenances (including, but not limited to, underground conduits, poles, wires, transmissions lines and other related structures and telephone wires for its own use), for the purpose of supplying electricity to the said City, the inhabitants thereof, and persons and corporations beyond the limits thereof, for light, heat, power and other purposes.

SECTION 3. RESTRICTIONS.

Poles, structures and other appurtenances shall be so erected and maintained as not to interfere unreasonably with traffic over streets and alleys. The location of all poles, conduits and other structures shall be fixed under the supervision of the City of Highland Haven, Texas but not so as to interfere unreasonably with the proper operation of said lines. The City may delegate its supervisory authority to a duly appointed body or person it desires, upon notice to Grantee.

SECTION 4. HOLD HARMLESS.

The Grantee shall hold the City, its elected officials, its employees, and appointees harmless from all expense or liability for any act or neglect of the Grantee hereunder.

SECTION 5. TERMS.

Pedernales Electric Cooperative, Inc., its successors and assigns, shall pay to the City of Highland Haven, Texas a sum equal to two percent (2%) of its gross revenue received from the sale of electric power and energy by said Cooperative within the Corporate limits of said City for payment for the privilege of using and occupying the streets, highways, easements, alleys, parks, and other public places in the City of Highland Haven, Texas, whether as rental, supervision and inspection charges. This payment shall be in lieu of any other tax or increased rate of tax or other imposition, assessment, or charges, except ad valorem taxes. Pedernales Electric Cooperative, Inc. shall pay to the City of Highland Haven a percentage, not including any franchise tax amount added as a line item to the customers bill, amount of gross revenue at least equal to the percentage amount it pays any other city within the service area that includes the City of Highland Haven, Texas. The initial payment under this franchise shall be made on July 1, 1996 for the period of time from the effective date of this ordinance through June 30, 1996. Subsequent payments will be made annually on July 1, for the life of this franchise.

SECTION 6. SCOPE.

This franchise is not exclusive, and nothing herein shall be construed so as to prevent the City of Highland Haven, Texas, from granting another like or similar rights and privileges to any other person, firm or corporation.

SECTION 7. ACCEPTANCE.

The Grantee shall file its written acceptance of this franchise within sixty days (60) after its passage and approval.

SECTION 8: CONFLICT.

When this franchise ordinance shall have become effective, any existing street rental agreement, between the City and Grantee, for electric light, heat and power purposes, shall be automatically canceled and annulled, and the same shall be of no further force and effect.

SECTION 9: EFFECTIVE DATE.

By vote of Aldermen it is determined that the safety, and welfare of the inhabitants of the City requires that this ordinance be enacted immediately as an emergency.

PASSED AND APPROVED this 12 day of December, 1995.

/s/ _____
Mayor

ATTEST:

/s/ _____
City Clerk

APPROVED AS TO FORM:

/S/ _____
City Attorney