

PASSED: June 13, 2011  
BY: Chaiken

ORDINANCE NO. 2011-08

AN ORDINANCE AUTHORIZING ALL ACTIONS NECESSARY TO EFFECT A  
GOVERNMENTAL NATURAL GAS PROGRAM WITH OPT-OUT PROVISIONS  
PURSUANT TO SECTION 4929.26, OHIO REVISED CODE, DIRECTING THE  
HAMILTON COUNTY BOARD OF ELECTIONS TO SUBMIT A BALLOT  
QUESTION TO THE ELECTORS

**WHEREAS**, the Ohio Legislature has enacted natural gas deregulation legislation which authorizes the legislative authorities of municipal corporations, townships and counties to aggregate the retail natural gas load located in the respective jurisdictions and to enter into service agreements to facilitate for those loads the purchase and sale of natural gas;

**WHEREAS**, such legislative authorities may exercise such authority jointly with any other legislative authorities;

**WHEREAS**, governmental aggregation provides an opportunity for residential and small business customers collectively to participate in the potential benefits of natural gas deregulation through lower natural gas rates which they would not otherwise be able to have individually;

**WHEREAS**, this Council seeks to establish a governmental aggregation program with opt-out provisions pursuant to Section 4929.26, Ohio Revised Code, (“the Aggregation Program”), for the residents, businesses, and other natural gas consumers in the Village and in conjunction jointly with any other municipal corporation, township, county or other political subdivision of the State of Ohio, as permitted by law.

**NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE  
VILLAGE OF AMBERLEY VILLAGE, STATE OF OHIO:**

**SECTION 1.** This Council finds and determines that it is in the best interest of Amberley its residents, businesses, and other natural gas consumers located within the corporate limits of Amberley to establish the Aggregation Program in Amberley. Provided that this Ordinance and the Aggregation Program is approved by the electors of Amberley pursuant to Section 2 of this Ordinance, Amberley is hereby authorized to aggregate in accordance with Section 4929.26, Ohio Revised Code, the retail natural gas load located within Amberley, and, for that purpose, to enter into service agreements to facilitate for those loads the sale and purchase of natural gas. Amberley may exercise such authority jointly with any other municipal corporation, township, or county or other political subdivision of the State of Ohio to the full extent permitted by law. The aggregation will occur automatically for each person owning, occupying, controlling or

using natural gas proposed to be aggregated and will provide for the opt-out rights described in Section 3 of this Ordinance.

**SECTION 2.** The Board of Elections of Hamilton County is hereby directed to submit the following question to the electors of Amberley at the primary election on November 8, 2011:

Shall Amberley Village have the authority to aggregate the retail natural gas load located in the Village, and for that purpose, enter into service agreements to facilitate for those loads the sale and purchase of natural gas, such aggregation to occur automatically except where any person elects to opt-out?

The Clerk of this Council is instructed to file a certified copy of this Ordinance and the proposed form of the ballot question with the County Board of Elections not less than ninety (90) days prior to November 8, 2011. The Aggregation Program shall not take effect unless approved by a majority of the electors voting upon this Ordinance and the Aggregation Program provided for herein and Section 4929.26 of the Ohio Revised Code.

**SECTION 3.** Upon the approval of a majority of the electors voting at the election provided in Section 2 of this Ordinance, this Council individually or jointly with any other political subdivision, shall develop a plan of operation and governance for the Aggregation Program. Before adopting such plan, this Council shall hold at least two public hearings on the plan. Before the first hearing, notice of the hearings shall be published once a week for two consecutive weeks in a newspaper of general circulation in the Village. The notice shall summarize the plan and state the date, time, and location of each hearing. No plan adopted by this Council shall aggregate the natural gas load of any consumer within the Village unless it in advance clearly discloses to the person owning, occupying, controlling, or using natural gas that the person will be enrolled automatically in the Aggregation Program and will remain so enrolled unless the person affirmatively elects by a stated procedure not to be so enrolled. The disclosure shall state prominently the rates, charges, and other terms and conditions of enrollment. The stated procedure shall allow any person enrolled in the Aggregation Program the opportunity to opt-out of the program every two years, without paying a switching fee. Any such person that opts out of the Aggregation Program pursuant to the stated procedure shall default to Duke Energy's distribution service for the person's retail natural gas load until the person chooses an alternative supplier of natural gas.

**SECTION 4.** This Council finds and determines that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council and that all deliberations of this Council and of any committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

**SECTION 5.** Notice of the adoption of this Ordinance shall be given once by publishing the title of the Ordinance in an abstract prepared by the Mayor or Solicitor in The Enquirer.

**SECTION 6.** That this Ordinance is declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare of the citizens of the Village. The reason for the said emergency is the necessity to meet the filing deadline imposed by the Ohio Revised Code in order to place this measure on the November ballot and to provide residents with energy savings as soon as possible. Upon the affirmative vote of two-thirds (2/3) of all members elected to Council, this Ordinance shall go into immediate force and effect without delay.

Passed this 13<sup>th</sup> day of June, 2011.

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Mayor Merrie Stillpass

Attest:

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Nicole Browder, Clerk of Council

Ordinance Vote:

Moved: Chaiken Second: Katz

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| Stillpass  | <u>Aye</u> |
| Chaiken    | <u>Aye</u> |
| Cohen      | <u>Aye</u> |
| Conway     | <u>Aye</u> |
| Hattenbach | <u>Aye</u> |
| Katz       | <u>Aye</u> |
| McIntosh   | <u>Aye</u> |

I, Clerk of Council of Amberley Village, Ohio, certify that on the 15<sup>th</sup> day of June, 2011, the forgoing Ordinance was published pursuant to Article IX of the Home Rule Charter by posting true copies of said Ordinance at all of the places of public notice as designed by Sec. 31.40(B), Code of Ordinances.

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Nicole Browder, Clerk of Council