

Defeated 9/24/24

Introduced by Gordon / Hurden ^{Defeat} Councilor

Seconded by Nepper / Witt Councilor

Form Approved Andy C. G. Director of Law

PUBLICATION: I hereby certify that this Ordinance was published in a summary manner according to law in the Lima News on _____

Dana Addis, Clerk

ORDINANCE NO. 165-23

VOTE	1ST		2ND		3RD	
	Y	N	Y	N	Y	N
GORDON	✓		✓			
WILKERSON	Ab		Ab			
THOMPSON	—		✓			
EHORA	Ab		—			
DIXON	✓		✓			
GLENN	—		✓			
NEPPER	✓		✓			
NIXON Jones	✓					
TOTAL	4-0		6-0			

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

PREAMBLE: The purpose and authority of and for this ordinance are set forth as follows:

WHEREAS, the Ohio Legislature enacted Chapter 4929, Ohio Revised Code, which authorized the legislative authorities of municipal corporations, Townships, and incorporated areas of the county, to aggregate the retail natural gas loads located within the respective jurisdictions and to enter into service agreements to facilitate the purchase and sale of the service for the retail natural gas loads; and,

WHEREAS, such legislative authorities may exercise said authority jointly or with any other legislative authorities; and,

WHEREAS, governmental aggregation provides an opportunity for residential and small business consumers to participate collectively in the potential benefits of natural gas service deregulation through lower natural gas rates, price certainty, or alternative energy products, which would not otherwise be available to those natural gas customers individually; and,

WHEREAS, Council seeks to establish a governmental natural gas aggregation program with opt-out provisions pursuant to Section 4929.26, Ohio Revised Code, for the residents, businesses and other natural gas consumers in the City, and may be in conjunction with any other legislative authorities in the State of Ohio, as permitted by law (the "Aggregation Program"); and,

WHEREAS, Council finds this ordinance to be authorized and passed under authority of the City's Charter and its constitutional home rule authority as being in the best interests of the City; and,

WHEREAS, Council finds that passage of this ordinance is necessary because of the immediate need for the action authorized herein, in order to preserve the public peace, property, health, safety, and welfare of the community and its citizens, and to provide for the efficient and effective operation of the municipal government, and by reason thereof, this Ordinance constitutes a matter of administrative emergency and shall take effect immediately upon its passage, as set forth in Section 33 of the City Charter; Now, Therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LIMA, OHIO, WITH AT LEAST A MAJORITY OF THE MEMBERS ELECTED THERETO CONCURRING:

Section 1. Council finds and determines that it is in the best interest of the City, its residents, businesses and other retail natural gas consumers located within the incorporated areas of the City to establish a Natural Gas Aggregation Program in the incorporated areas of the City. Provided that the Aggregation Program is approved by the electors of the City pursuant to Section 2 of this Ordinance, Council is hereby authorized to automatically aggregate, in accordance with Section 4929.26, Ohio Revised Code, the retail natural gas loads located within the incorporated areas of City, and, for that purpose, to enter into service agreements to facilitate for those loads the purchase and sale of natural gas service. Council may exercise such authority jointly with any other political subdivision of the State of Ohio to the full extent permitted by law, which will include use of an energy broker/consultant/aggregator, so long as the broker/consultant/aggregator is certified by the Public Utilities Commission of Ohio.

The aggregation, subject to Section 4929.26(A)(2)(a) and (b), Ohio Revised Code, and the opt-out rights described in Section 3 of this Ordinance, will occur automatically for the retail natural gas loads located within the incorporated areas of the City and for which there is a choice of supplier, a rule or order has been adopted or issued under Chapter 4905, Ohio Revised Code, or an exemption granted under Sections 4929.04 to 4929.08, Ohio Revised Code.

Section 2. The Board of Elections of Allen County is hereby directed to submit the following question to the electors of the City at the election on November 7, 2023:

Shall the Council of the City of Lima have the authority to aggregate the retail natural gas loads located in the incorporated areas of the City, and for that purpose, authorize the Mayor to enter into services agreements to facilitate for those loads the sale and purchase of natural gas service, such aggregation to occur automatically except where any person elects to opt-out, in accordance with Section 4929.26 of the Ohio Revised Code and Ordinance No. 165-23 adopted by the Council.

The Council Clerk is instructed to immediately file a certified copy of this Ordinance and the proposed form of the ballot question with the Allen County Board of Elections not less than ninety (90) days prior to the election to be held November 7, 2023. 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 at the election held pursuant to this Section 2 and Section 4929.26, Ohio Revised Code.

Section 3. Upon approval of a majority of the electors voting at the election provided for in Section 2 of this Ordinance, this Council, individually or jointly with any other political subdivision, may 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 incorporated areas of the City. The notice shall summarize the plan and state the date, time and place of each hearing. No plan adopted by this Council shall aggregate the natural gas load within the incorporated areas of the City unless it, in advance, clearly discloses to the person owning, occupying, controlling, or using the load center 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 at least every two years, without paying a switching fee. Any such person who opts out of the Aggregation Program pursuant to the stated procedure shall default to the natural gas company providing distribution service for the person's retail natural gas load, until the person chooses an alternative supplier.

Section 4. The Mayor is authorized to enter into, and take all actions necessary to enter into, all applications, registrations, plans, representations, or agreements of any nature, as may be necessary or appropriate to effect the purposes of this Ordinance, including but not limited to agreements to provide natural gas generation supply and related services (Master Service Agreements), in order to establish and maintain a governmental natural gas aggregation program as referenced herein. The Mayor may authorize any city official she determines appropriate to execute any documents or take any actions for such purposes in the event of her unavailability.

Section 5. The Auditor is authorized to take any action and to account for the activity authorized herein, as is appropriate under the circumstances of this ordinance and in accordance with City policies and procedures, or as otherwise required by law, as the Auditor may determine is appropriate. The Law Director is authorized to: determine the correct business or corporate entity necessary for any contract authorized in this ordinance; determine the correct legal description for any real property at issue in this ordinance; correct any error in any exhibit to this ordinance; correct any clear scrivener error in this ordinance and to provide a clean copy for the council clerk; all as determined appropriate by the Law Director.

Section 6. Council finds and determines that the above preamble contains specific findings by Council as part of and in support of passage of this Ordinance, and that all formal actions of this Council and any of its committees concerning and relating to the adoption of this ordinance were taken in an open meeting and that all deliberations of this Council and of any of its committees that resulted in those formal actions were in meetings held in compliance with the law.

Section 7. The Clerk of the Council is authorized and directed to cause publication of this ordinance to be made in a summary manner as provided by the City Charter.

Section 8. In accordance with City Charter Section 33, this ordinance shall take effect and be in force forthwith upon passage by an affirmative vote of at least two-thirds of the members elected

to council at the first reading hereof. If it does not so pass at first reading, it shall take effect and be in force forthwith upon passage by an affirmative vote of at least two-thirds of the members elected to council at the second reading hereof. If it does not so pass at second reading then it shall take effect and be in force forthwith upon passage by an affirmative vote of at least a majority of the members elected to council at the third reading hereof. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

Passed: _____, 2023

John Nixon, President

Approved: _____, 2023

Sharetta T. Smith, Mayor

ATTEST: _____
Dana Addis, Clerk of Council