

CHAPTER 16

FRANCHISE ORDINANCES

16.01 DETROIT EDISON

- (A) Permission is hereby granted to THE DETROIT EDISON COMPANY, a Michigan corporation, its successors and assigns, to construct, maintain and operate in the public streets, highways, alleys and other public places in the City of Lapeer, Lapeer County, Michigan, all needful and proper poles, towers, wires, pipes, mains, conduits and all such lines and other apparatus requisite for the transmission, transforming and distribution of electricity for public and private use, and to transact a local electric business within said City subject, however, to all conditions and restrictions hereinafter contained.
- (B) **The conditions of the foregoing grant are as follows:**
1. The grantee shall do no injury to any street, highway, alley or other public place, or to any shade trees, or in any manner disturb or interfere with any water or gas pipes, or with any public or private sewer, now or hereafter laid or constructed by any authorized person or corporation.
 2. To ensure the reliability of service and the safety of the general public, line clearance of trees shall be done in compliance with all existing governmental laws, ordinances, rules and regulations.
 3. The construction of the said lines shall be in accordance with the rules and regulations of the Michigan Public Service Commission or its successor.
 4. The said grantee, before entering upon any street, highway, alley or other public place for the purpose of erecting and constructing any poles, wires, pipes, mains, conduits, or other apparatus, shall notify, in writing, the City or its representatives of the proposed construction, and shall if the City so requires, file with them a sufficient plan and specification, showing the nature and extent of the proposed erection and construction.
 5. No street, highway, alley or public place shall be allowed to remain open or encumbered by the construction work of the said grantee for a longer period than shall be necessary to execute the said work, and the grantee shall at all times conform to all ordinances of the City now or hereafter in force, relative to the fencing and lighting of obstructions and excavations.
 6. The grantee shall save the City harmless from any judgment that may be recovered

against the City by reason of the wrongdoing or negligence of the said grantee in the erection and maintenance of said poles, mains, wires and other apparatus or construction.

7. Said grantee shall make due provisions, upon five (5) days notice in writing, by raising its wires or otherwise, for the passage of any barn, building or other structure on or over any street, highway, or public place occupied by the poles, mains, wires, and other apparatus of said grantee.
 8. Deleted.
- (C) In consideration of the granting of this franchise, grantee agrees that its rates and charges for electric service in the City of Lapeer shall not exceed its rates and charges for like service elsewhere in its service area, as evidenced by its uniform rate schedules at the time on file with and approved by the Michigan Public Service Commission. It is understood that the grantee is subject to regulation by the Michigan Public Service Commission and that any order, rule, or regulation by that Commission, or its successor, will prevail over any regulation herein contained or provided for in case of conflict.
- (D) This grant shall take effect if said grantee shall, within fifteen (15) days from the date of the passage of the Ordinance, file with the City Clerk, its written acceptance of the terms of the same, and upon the confirmation of this grant by the affirmative vote of a 3/5 majority of the electors of said City voting on the franchise at a Regular election to be held on Monday, April 7, 1997, as provided for by the Statutes and the State Constitution. If not confirmed by the electors voting on the franchise at said election, this Ordinance shall be null and void.
- (E) This Franchise and Ordinance shall be and remain in force for ten (10) years from and after the date of its confirmation by the electors of the City of Lapeer, Lapeer County, Michigan.
- (F) If Grantee's facilities are no longer use to serve customers in the City of Lapeer, then Grantee will remove all of its facilities at the discretion of the City of Lapeer.
- (G) Nothing in this grant shall be construed to alienate the title of the public in and to any street, highway, alley or public place or any portion thereof, neither shall anything herein be construed in any manner as a surrender by the City of Lapeer of its legislative power with respect to the subject matter hereof, or with respect to any other matter whatsoever; not as in any manner limiting the right of the said City of Lapeer to lawfully regulate the use of any street, avenue, highway or public place within it jurisdiction, as to all other matters."

Dated this 7th day of November, 1966.

Amendment Effective April 8, 1997

NOTE: April 7, 1997 election passed by 3/5 vote

16.02 CONSUMERS POWER COMPANY.

(A) GRANT TERM.

The City of Lapeer, Lapeer County, Michigan hereby grants to the Consumers Power Company, a Michigan corporation, its successors and assigns, hereinafter called the "Grantee", the right, power and authority to lay, maintain and operate gas mains, pipes and services on, along, across and under the highways, streets, alleys, bridges and other public places, and to do a local gas business in the City of Lapeer, Lapeer County, Michigan for a period of thirty years.

(B) CONSIDERATION.

In consideration of the rights, power and authority hereby granted, said Grantee shall faithfully perform all things required by the terms hereof.

(C) CONDITIONS.

No highway, street, alley, bridge or other public place used by said Grantee shall be obstructed longer than necessary during the work of construction or repair, and shall be restored to the same order and condition as when said work was commenced. All of Grantee's pipes and mains shall be so placed in the highways and other public places as not to unnecessarily interfere with the use thereof for highway purposes.

(D) HOLD HARMLESS.

Said Grantee shall at all times keep and save the City free and harmless from all loss, costs and expense to which it may be subject by reason of the negligent construction and maintenance of the structures and equipment hereby authorized. In case any action is commenced against the City on account of the permission herein given, said Grantee shall, upon notice, defend the City and save it free and harmless from all loss, cost and damage arising out of such negligent construction and maintenance.

(E) EXTENSIONS.

Said Grantee shall construct and extend its gas distribution system within said City, and shall furnish gas to applicants residing therein in accordance with applicable laws, rules and regulations.

(F) FRANCHISE NOT EXCLUSIVE.

The rights, power and authority herein granted, are not exclusive. Either manufactured or natural gas may be furnished hereunder.

(G) RATES.

Said Grantee shall be entitled to charge the inhabitants of said City for gas furnished therein, the rates as approved by the Michigan Public Service Commission, to which Commission or its successors authority and jurisdiction to fix and regulate gas rates and rules regulating such service in said City, as hereby granted for the term of this franchise. Such rates and rules shall be subject to review and change at any time upon petition therefore being made by either said City, acting by its City Commission, or by said Grantee.

(H) REVOCATION.

The franchise granted by this ordinance is subject to revocation upon sixty (60) days written notice by the party desiring such revocation.

(I) MICHIGAN PUBLIC SERVICE COMMISSION, JURISDICTION.

Said Grantee shall, as to all other conditions and elements of service not herein fixed, be and remain subject to the reasonable rules and regulations of the Michigan Public Service Commission or its successors, applicable to gas service in said City.

(J) EFFECTIVE DATE.

This ordinance shall take effect upon September 14, 1988, provided, however, it shall cease and be of no effect after thirty days from its adoption unless within said period the Grantee shall accept the same in writing filed with the City Clerk. Upon acceptance and publication hereof, this ordinance shall constitute a contract between said City and said Grantee.