

Hamburg Township Ordinance Consumers Energy Company Gas Franchise Ordinance

An ordinance to amend Chapter 28 Street, Sidewalks and Other Public Places to add a new Article IV- Consumers Energy Franchise for granting to Consumers Energy Company, its successors and assigns, the right and authority to lay, maintain and commercially operate gas lines and facilities including but not limited to mains, pipes, services and on, under, along, and across public places including but not limited to highways, streets, alleys, bridges, and waterways, and to conduct a local gas business in the Township of Hamburg, Livingston County, Michigan, for a period of thirty years.

THE TOWNSHIP OF HAMBURG ORDAINS

Section 1 of Ordinance

The Hamburg Township Code is amended by adding Section 28-80 through 28-89 in a new Article IV, Consumers Energy Franchise, of Chapter 28 Street, Sidewalks and Other Public Places to read as follows:

Article IV- Consumers Energy Franchise

Section+, -928-80. Grant And Term

The Township of Hamburg, Livingston County, Michigan, ("Township") hereby grants to Consumers Energy Company, its successors and assigns, {hereinafter called "ConsumersGrantee"} the right and authority to lay, maintain and commercially operate gas lines and facilities including but not limited to mains, pipes, services and valves on, under, along, and across public places including but not limited to highways, streets, alleys, bridges, and waterways, and to conduct a local gas business in the Township of Hamburg, Livingston County, Michigan, for a period of thirty years ('Franchise').

Section -2-:-928-81. Consideration

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

Section28-82. Conditions

- .Q.,_ No public place used by Consumers Grantee shall be obstructed longer than necessary during construction, maintenance or repair, and unless weather or other factors outside of Grantee's control prevent it, shall be promptly restored within a reasonable time to the same order and condition as when work was commenced. If Grantee fails to complete required restoration within the time required, the Township may, after providing Grantee with a ten (10) business day written notice of the Township's intention to do so, perform

or secure performance of the required restoration, with the township's actual and reasonable administrative costs and expenses in doing so to be paid by Grantee to the Township within 60 days of the Township's billing or invoice.

- b. Grantee shall comply with all current and future federal, state and local laws applicable to the installations and business for which this Franchise is granted. provided, however, that nothing herein shall be construed as a waiver by Grantee of any of its existing or future rights under state or federal law. Except for emergencies and service restoration work. Grantee shall not perform work without first securing any applicable governmental permits and approvals required for that work.

a-c. Except as necessary in an emergency or described by Grantee and approved by the Township as necessary in an application for and issuance of a permit to perform work. all of Grantee's gas lines and related facilities shall be placed in the highways and other public places so as not to interfere with the public's use of highways and other public places. Consumers Grantee shall have the right to trim or remove trees, if necessary, in the conducting of such business.

- d. Grantee, at its own cost and expense, shall relocate or remove its installations in a public area for which this Franchise is granted, whenever such relocation or removal is required by a Township Board of Trustee's Resolution as being necessary for use of the public area for a public improvement in furtherance of a public purpose of the Township. This provision is not a waiver of Grantee's existing or future rights under state or federal law and does not restrict or impair Grantee's rights under any applicable laws regarding vacation or relocation of streets.

Section 3 4.0. 28-83 Hold Harmless

Consumers Grantee shall at all times keep and save the Township free and harmless from all loss, costs and expense to which it may be subject by reason of the negligent construction-af1t repair. or maintenance of the lines and related facilities hereby authorized. In case any action is commenced against the Township on account of the permission herein given, Consumers Grantee shall, upon notice, defend the Township and its representatives and hold them harmless from all loss, costs and damage arising out of such negligent construction. repair. or aA€1--maintenance.

Section-4--5-B28-84 .Extensions

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

Section .s-&e28-85. Franchise Not Exclusive

The rights, power and authority herein granted, are not exclusive.

Section 6 -7--G--28-86 Rates And Conditions

Consumers Grantee shall be entitled to provide gas service to the inhabitants of the Township at the rates and pursuant to the conditions as approved by the Michigan Public Service Commission. Such rates conditions shall be subject to review and change upon petition to the Michigan Public Service Commission.

Section 7- 28-87. Revocation

The franchise granted by this ordinance is subject to revocation upon sixty (60) days written notice by either party. Upon revocation this ordinance shall be considered repealed and of no effect past, present or future.

Section 8 -28-88 Michigan Public Service Commission Jurisdiction

Consumers Grantee shall, as to all other conditions and elements of service not herein fixed, remains subject to the reasonable rules and regulations of the Michigan Public Service Commission or its successors, applicable to gas service in the Township. and those rules and regulations preempt any term of any ordinance of the Township to the contrary.

Section. 28-89 Sale, Assignment, And Transfer Of Franchise

Grantee shall not sell, assign, or transfer this Franchise without the written consent of the Township, which shall not be unreasonably withheld.

Section 2 of Ordinance

Section 9 Repealer. Prior Ordinance

This ordinance when enacted shall repeal and supersede the provisions of any previous Consumers' gas franchise ordinance adopted by the Township including any amendments intended to replace the franchise granted to Consumers Power Company as approved by the Township on October 20, 1993, including any amendments.

Section 3 of Ordinance

Section 12.0. Effective Date

This ordinance shall take effect on the Effective Date listed below as long as it is accepted by Grantee in writing. Upon acceptance and publication of this ordinance, it shall constitute a contract between the Township and Grantee.

CERTIFICATION

We-J certify that the foregoing Consumers Energy Franchise Ordinance was duly enacted by the Township Board of the Township of Hamburg, Livingston County, Michigan, on the ____ day of _____, 2023.

Mike Dolan, Township Clerk

Dated: _____, 2023

Introduced:

Adopted:

Published:

Effective: