

DRAFT: November 17, 2021
Approved: December 13, 2021
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In effect: January 3, 2022

GRATTAN TOWNSHIP
KENT COUNTY, MICHIGAN
(Ordinance No. 2021-006)

At a regular meeting of the Township Board of Grattan Township held at the Township offices at 9:00 a.m. on December 13, 2021, this Ordinance was offered for adoption by Township Board Member P. Knoerl and was seconded by Township Board Member M. Alberts.

**AN ORDINANCE (ORDINANCE NO. 2021-006) AND FRANCHISE
TO PERMIT DTE GAS COMPANY TO OPERATE A GAS
TRANSPORTATION AND DISTRIBUTION BUSINESS WITHIN
THE TOWNSHIP OF GRATTAN.**

IT IS HEREBY ORDAINED BY THE PEOPLE OF THE TOWNSHIP OF GRATTAN
("Township") THAT:

Section 1. Definitions.

For purposes of this Ordinance, the following words and phrases shall have the meanings as follows:

- (a) "Township" means the Township of Grattan, Kent County, Michigan or the territory within the township limits of the Township of Grattan.
- (b) "DTEG" means DTE Gas Company, a corporation organized under the laws of the State of Michigan and its successors and assigns.
- (c) "Ordinance" shall mean this Ordinance No. 2021-006, and shall be called the "DTE Gas Company Franchise Ordinance."

Section 2. Grant of Gas Franchise to Use Public Rights of Way; Non-Exclusive.

- (a) Subject to this Ordinance, applicable provisions of the Michigan Constitution of 1963, applicable state statutes, rules and regulations, and applicable federal statutes, rules and regulations, the Township hereby grants a non-exclusive and revocable franchise to DTEG (and its successors and assigns) to use the Township's public highways, streets, alleys or other public places to lay, maintain, operate and use gas pipes, mains, conductors, service pipes and other necessary equipment for gas purposes. This franchise grants to DTEG the right and privilege, in its reasonable discretion, subject to this Ordinance and also the regulations and requirements of the Michigan Public Service Commission, or successor agency having similar jurisdiction (i) to transact a local gas business within the Township, (ii) to transport and distribute gas, and to install, maintain, operate and use all gas distribution facilities and other necessary equipment on, along, across, and under the highways, streets, alleys, bridges and other public places within the Township, (iii) to convey, supply and sell gas services within the Township, and (iv) to undertake all other lawful and incidental matters thereto.
- (b) In consideration of the rights, power and authority granted by this Ordinance and franchise, DTEG shall faithfully perform all matters required by the terms of this Ordinance.

Section 3. Term.

The franchise granted under this Ordinance shall continue in effect for a period of twenty (20) years from the effective date of this Ordinance, subject to revocation at any time at the discretion of the Township.

Section 4. Gas Service and Extension of System.

This franchise grants DTEG (and its successors and assigns) the right to furnish gas services, pursuant to this Ordinance and the regulations and requirements of the Michigan Public Service Commission, or successor agency having similar jurisdiction, and in accordance with all applicable laws, rules and regulations.

Section 5. Use of Streets and Other Public Places.

(a) DTEG shall not unnecessarily obstruct the passage of any of the highways, streets, alleys or other public places within the Township. In addition, within a reasonable time after making an opening or excavation or doing work and at its sole cost and expense, DTEG shall repair the same and leave it in as good a condition as before the opening or excavation was made or the work was done.

(b) Unless an emergency exists where DTEG determines that there is an immediate and serious threat to the health, service, safety or welfare of a customer or the general public and which requires immediate action, DTEG shall not open or excavate or do any work in the right of way including any road, sidewalk, street, alley or highway in the Township for the purpose of installing or maintaining gas transportation or distribution facilities and other necessary equipment, except upon application to and approval by the Michigan Department of Transportation, the Kent County Road Commission, the Township, or other public authority having jurisdiction over the public way, stating the nature of the proposed work and the route. DTEG shall obtain a permit from the Township or if required by law obtain a permit from the public authority having jurisdiction over the highway, street, alley, bridge and other public place

for all proposed work within the Township and shall pay therefor such reasonable fees as may be legally required by the Township or such public authority to offset its direct costs of permitting.

(c) All of DTEG's structures and equipment shall be so placed on either side of the roads (or under the roads) so as not to unnecessarily interfere with the use thereof for road or lawful pedestrian purposes. All of DTEG's pipes carrying gas shall be designed, buried and operated so as not to endanger or injure persons or property in said roads. Upon reasonable notice, DTEG shall relocate its active pipes, structures and equipment located within said roads for public works projects and the costs of the same shall be borne in accordance with Michigan law.

(d) The Township shall promptly reimburse DTEG for the cost to repair or replace any DTEG property wrongfully damaged by the Township, its agents or contractors.

Section 6. Revocability.

The franchise herein granted shall be revocable at any time at the will of this Township, in accordance with Michigan law; PROVIDED, however, pursuant to Michigan law, if both parties desire at a future time to have the franchise designated as irrevocable, they may do so by submitting their request to a vote of the Township electors. DTE shall pay the cost of any special election held for such purpose.

Section 7. Indemnification and Hold Harmless.

DTEG shall at all times keep and save the Township free and harmless for, from and against all loss, liability, cost and expense to which the Township (or any of its officers, officials, employees and agents) may be subject by reason of the negligent installation, construction, use and maintenance of the pipes, structures and equipment hereby authorized or by other legally actionable errors or omissions by DTEG arising from its exercise of the authority granted herein.

In case any action is commenced against the Township (or any of its officers, officials, employees and agents) on account of the permissions herein given, DTEG shall, upon notice, defend the Township (and its officers, officials, employees and agents) and save it (and them) free and harmless for, from and against all loss, cost and damage arising out of such negligent installation, construction, use and maintenance. Providing further, that this hold harmless provision shall not apply to any loss, costs, damages or claims arising solely out of the negligence of the Township (or any of its officers, officials, employees and agents). Furthermore, in the event that any loss, costs, damages or claims arise out of the joint negligence of DTEG and the Township (or their respective employees or contractors), this hold harmless provision shall not apply to the proportionate extend of the negligence of the Township, its employees or its contractors.

Section 8. Standards and Conditions of Service; Rules, Regulations and Rates.

The rates to be charged for gas services within the Township, and the standards and conditions of service and operation within the Township, shall be the same as set forth in DTEG’s schedule of rules, regulations, and rates as applicable in the cities, villages, and townships where DTEG is now supplying gas service, or as shall hereafter be validly prescribed for the Township under the orders, rules, and regulations of the Michigan Public Service Commission, or other authority having jurisdiction over the provision of such gas services within the Township.

Section 9. Franchise Not Exclusive.

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

Section 10. Successors and Assigns.

Whether so expressed or not, the words "DTE Gas Company" and "DTEG" in this Ordinance shall be held and construed to mean and to include both DTE Gas Company and its successors and assigns.

Section 11. Acceptance by DTEG.

DTEG shall file a written acceptance of the gas franchise and this Ordinance with the office of the Township Clerk within thirty (30) days after the effective date of this Ordinance.

Section 12. Entire Agreement.

This Ordinance contains the entire agreement between the Township and DTEG which grants a gas franchise and thereby, the permission to use the public rights-of-way within the Township and similar matters. Neither the Township nor DTEG makes any representations except those expressly or by reference are set forth in this Ordinance.

Section 13. Conflicting Ordinances.

All ordinances or parts of ordinances in conflict with this Ordinance are repealed.

Section 14. Necessity.

This Ordinance is declared to be necessary to protect, preserve and enhance the public peace, health, safety, and welfare of the people of the Township of Grattan.

Section 15. Effective Date.

This Ordinance shall take effect five (5) days after any publication requirements are met and shall continue in effect for a period of twenty (20) years thereafter, subject to revocation earlier at any time at the discretion of the Township.

The vote in favor of this Ordinance was as follows:

YEAS: Frank Force, Michelle Alberts, Sabrina Freeman, Paul Knoerl.

NAYS: NA


ABSENT: Dennis Heffron

THIS ORDINANCE IS HEREBY DECLARED ADOPTED.

CERTIFICATION

I hereby certify that the above is a true copy of an Ordinance adopted by the Township Board for Grattan Township at the time, date, and place specified above pursuant to the required statutory procedures.

Respectfully submitted,

By: 
Michelle Alberts
Grattan Township Clerk



