

Ordinance No. 31

FRANCHISE ORDINANCE TOWNSHIP OF COVERT, MICHIGAN Ord. No. 31 eff. Dec. 31, 1991

An Ordinance adopted pursuant to Const. 1963, art. 7, subsection 29, prohibiting any person who operates a utility from transacting business within the Township without first obtaining a franchise from or contract with Covert Township.

THE TOWNSHIP OF COVERT TOWNSHIP, VAN BUREN COUNTY, MICHIGAN
ORDAINS:

Sec. I. **TITLE.**

This Ordinance shall be known and cited as the Covert Township Franchise Ordinance. (ord. No. 31 eff. Dec. 31, 1991)

Sec. II. **PURPOSE.**

The purpose of this Ordinance is to regulate the transaction of business by public and/or private utilities within the Township to protect the public health, safety and general welfare. This Ordinance further regulates the use of public streets, roads, alley and rights-of-ways by public and/or private utilities within the Township, for the location of lines, poles, mains, towers, buildings, structures and appurtenances in order to protect the public health, safety and general welfare. (ord. No. 31 eff. Dec. 31, 1991)

Sec. III. **DEFINITIONS.**

The terms "public utility" or "private utility" shall include any public or private company, firm, corporation, municipal corporation or commission, person or entity offering services including but not limited to water, sewer, telephone, cable, electrical, gas, which is doing business within or through the Township and/or using any portion of the Township including the public streets, roads, alleys and rights-of-way for the location of any of its lines, poles, mains, towers, buildings, structures and/or appurtenances thereto.

"Any portion of the Township" shall mean any and all land area within Covert Township
"Public Streets, roads, alleys and rights-of-ways" shall include any public easements and rights-of-way within Covert Township. (ord. No. 31 eff. Dec. 31, 1991)

Sec. IV. **REGULATIONS.**

- (a) No public or private utility shall do business within or through the Township, nor shall any public or private utility hereafter install, construct, relocate or replace any line pole, main, tower, building, structure or rights-of-way within the Township without first securing the approval and consent (by way of franchise or contract) from the Covert Township Board.
- (b) The contract or franchise shall, to the extent not precluded by state law and/or regulations of the Michigan Public Service Commission cover such matters as:
 - (1) Rates.
 - (2) Metering and billing.
 - (3) Definition of service area.

Ordinance No. 31

- (4) Availability of service in a non-discriminatory basis.
 - (5) Other related matter.
- (c) Any public or private utility seeking such approval and consent shall submit plans showing the location of the proposed installation, construction or facility; the height, depth and size thereof; and its proximity to existing improvements and other utility facilities within the same location. The utility shall also describe the business to be done within or through the Township.
- (d) No construction or installation shall be permitted which does not comply with the plans and site location, approved by the Township Board or its duly authorized representative, and on file with the Township. Upon completion of the project, certification shall be filed with the Township by the supervisor in charge of the work that the construction did comply with such approved plans and site location or in what respect the same differed from the approved plans. The Township Board shall, as part of the franchise or contract, reserve the right to require the correction of any substantial noncompliance.
- (e) All work shall be accomplished in a proper and workmanlike manner and the utility shall be responsible for any and all injuries or damages resulting from the same during construction and thereafter. The utility shall further indemnify the Township and hold it harmless from any and all such injuries or damages and any and all liability therefore.
- (f) In the event such construction or installation causes damage to any other facilities, any portion of the Township, or any public street, alley or right-of-way, the same shall be immediately repaired and replaced to a condition equal to or better than that which existed prior to the damage. (ord. No. 31 eff. Dec. 31, 1991)

Sec. V. **PENALTIES.**

Any person, firm, corporation, municipal corporation, commission or entity that violates any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than \$100.00 or by imprisonment in the county jail for not to exceed 90 days, or by both such fine and imprisonment. Each day that the violation continues to exist shall constitute a separate offense. The Township shall further have the right and authority to instigate civil proceedings to enjoin construction or installation which does not conform with the provisions of this Ordinance and any franchise or contract granted hereunder or to compel compliance with the terms hereof and/or for damages for any non-compliance as an alternative to the criminal penalties herein set forth, or in addition thereto. (ord. No. 31 eff. Dec. 31, 1991)

Sec. VI. **SEVERABILITY.**

The provisions of this Ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reason by any Court of competent jurisdiction, it shall not affect any portion of the ordinance other than said part or portion thereof. (ord. No. 31 eff. Dec. 31, 1991)

Sec. VII. **EFFECTIVE DATE AND REPEAL.**

This Ordinance shall take effect on December 31, 1991, and all Ordinances or parts of ordinances in conflict herewith are hereby repealed.