



**City of Ewart**  
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*City Clerk*  
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January 29, 2019

To: Honorable Mayor and Council Members  
From: Sarah Dvoracek, Interim City Manager/Treasurer/Assessor

Re: Consumers Energy Company Electric Franchise Ordinance

In December, we were contacted by Consumers Energy reference our franchise agreement which will expire in May of 2019. The franchise agreement was for a term of thirty years (May 1989 – May 2019). Enclosed is a copy of the proposed franchise ordinance renewal. Council must approve by ordinance the franchise renewal per our city charter. Mr. White has reviewed the enclosed document.

Please approve the Consumers Energy Company Electric Franchise Renewal for a term of thirty (30) years.

Possible Franchise Enactment Schedule  
REVOCABLE ELECTRIC FRANCHISE  
CITY OF EVART, OSCEOLA COUNTY, MICHIGAN

Must enact Franchise pursuant to rules within your Charter.

ORDINANCE NO. \_\_\_\_\_

CONSUMERS ENERGY COMPANY ELECTRIC FRANCHISE ORDINANCE

AN ORDINANCE, granting to CONSUMERS ENERGY COMPANY, its successors and assigns, the right and authority to construct, maintain and commercially use electric lines and related facilities including but not limited to towers, masts, poles, crossarms, guys, wires and transformers on, under, along, and across public places including but not limited to highways, streets, alleys, bridges, and waterways, and to conduct a local electric business in the CITY OF EVART, OSCEOLA COUNTY, MICHIGAN, for a period of thirty years.

THE CITY OF EVART ORDAINS:

SECTION 1. GRANT and TERM. The CITY OF EVART, OSCEOLA COUNTY, MICHIGAN, hereby grants to Consumers Energy Company, its successors and assigns, hereinafter called "Consumers" the right and authority to towers, masts, poles, crossarms, guys, wires and transformers on, under, along, and across public places including but not limited to highways, streets, alleys, bridges, and waterways, and to conduct a local electric business in the CITY OF EVART, OSCEOLA COUNTY, MICHIGAN, for a period of thirty years.

SECTION 2. CONDITIONS. No public place used by Consumers shall be obstructed longer than necessary during construction or repair, and shall be restored to the same order and condition as when work was commenced. All of Consumers' electric lines and related facilities shall be placed as not to unnecessarily interfere with the public's use of public places. Consumers shall have the right to trim or remove trees if necessary in the conducting of such business.

SECTION 3. HOLD HARMLESS. Consumers shall 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 lines and related facilities hereby authorized. In case any action is commenced against the City on account of the permission herein given, Consumers shall, upon notice, defend the City and its representatives and hold them harmless from all loss, costs and damage arising out of such negligent construction and maintenance.

SECTION 4. EXTENSIONS. Consumers shall construct and extend its electric distribution system within said City, and shall furnish electric service to applicants residing therein in accordance with applicable laws, rules and regulations.

SECTION 5. FRANCHISE NOT EXCLUSIVE. The rights, power and authority herein granted, are not exclusive.

SECTION 6. RATES and CONDITIONS. Consumers shall be entitled to provide electric service to the inhabitants of the City at the rates and pursuant to the conditions as approved by the Michigan Public Service Commission. Such rates and conditions shall be subject to review and change upon petition to the Michigan Public Service Commission.

SECTION 7. 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. MICHIGAN PUBLIC SERVICE COMMISSION JURISDICTION. Consumers remains subject to the reasonable rules and regulations of the Michigan Public Service Commission applicable to electric service in the City and those rules and regulations preempt any term of any ordinance of the City to the contrary.

SECTION 9. REPEALER. This ordinance, when enacted, shall repeal and supersede the provisions of any previous electric franchise ordinance adopted by the City including any amendments.

SECTION 10. EFFECTIVE DATE. This ordinance shall take effect on \_\_\_\_\_.

We certify that the foregoing Franchise Ordinance was duly enacted by the City Council of the CITY OF EVART, OSCEOLA COUNTY, MICHIGAN, on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
John Joyce, City Mayor

Attest:

I, \_\_\_\_\_, Clerk of the CITY OF EVART, OSCEOLA COUNTY, MICHIGAN, DO HEREBY CERTIFY that the ordinance granting Consumers Energy Company, an electric franchise, was properly adopted by the City Council of the CITY OF EVART, OSCEOLA COUNTY, MICHIGAN, and that all proceedings were regular and in accordance with all legal requirements.

\_\_\_\_\_  
Heather Pattee, City Clerk

Dated: \_\_\_\_\_, 20\_\_