

CITY OF TAWAS CITY
COUNTY OF IOSCO, STATE OF MICHIGAN
ORDINANCE NO. 332

Date Public Hearing:
Date First Reading:
Date Adopted:
Date Published:
Date Effective:

DTE Gas Company Franchise Agreement

AN ORDINANCE to replace and supersede any previous franchises the City of Tawas City granted to DTE Gas Company f/k/a Michigan Consolidated Gas Company, by adopting a new ordinance, Ordinance No. 332, *DTE Gas Company Franchise Agreement*, to permit DTE GAS COMPANY and its respective successors and assigns, the right and authority to operate a natural gas transportation and distribution business within the CITY OF TAWAS CITY, IOSCO COUNTY, MICHIGAN, for a period of thirty (30) years.

IT IS HEREBY ORDAINED BY THE PEOPLE OF THE CITY OF TAWAS CITY THAT:

Section 1. Any previous ordinances or agreements granting franchise rights to DTE Gas Company f/k/a Michigan Consolidated Gas Company be replaced by adopting a new ordinance, Ordinance No. 332, to read as follows:

“DTE Gas Company Franchise Agreement”

Section 2. Definitions.

For purposes of this Ordinance No. 332, the following words and phrases shall have the meanings respectively ascribed to them by this section:

City means the City of Tawas City, Iosco County, Michigan, or the territory within the City limits of the City of Tawas City.

DTEG means DTE Gas Company, a corporation organized under the laws of the State of Michigan and its successors and assigns.

Ordinance shall mean this Ordinance No. 332.

Section 3. Grant of Gas Franchise to Use Public Rights-of-Way; Non-Exclusive.

Subject to this part, applicable provisions of the Michigan Constitution of 1963, applicable state statutes, rules and regulations, and applicable federal statutes, rules and regulations, the City hereby grants a non-exclusive franchise to use the City’s public highways, streets, alleys, or

other public places to DTEG, and its successors and assigns to lay, maintain, operate, and use gas pipes, mains, conductors, service pipes, and other necessary equipment. This franchise grants to DTEG the right and privilege, in its reasonable discretion, subject to regulations of the Michigan Public Service Commission, or successor agency having similar jurisdiction: (i) to transact local business within the City; (ii) to transport and distribute gas, and to lay, maintain, upgrade, operate, and use gas pipes, mains, gas distribution facilities, and other necessary equipment on or in the highways, streets, alleys, and other public places within the City of Tawas City; (iii) to convey, supply and sell natural gas and related services within the City; and (iv) to undertake all other incidental matters thereto.

Section 4. Term.

The franchise granted herein shall continue in effect for a period of thirty (30) years from the effective date of this Ordinance, subject to revocation at the will of the City as provided in Section 7 below. The effective date of this Ordinance shall be the date of the meeting the Ordinance was enacted, pending any publication requirements that must be met prior to going into effect.

Section 5. Gas Service and Extension of System.

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

Section 6. Use of Streets and Other Public Places.

- (a) DTEG shall not obstruct public rights-of-way longer than necessary during the construction or repair of equipment, and such rights-of-way shall be restored to the same good order and condition as when the work commenced.
- (b) DTEG's gas systems and associated appurtenances shall not unnecessarily interfere with the use of the public rights-of-way.
- (c) Except in the case of an emergency or otherwise provided in an annual or site-specific permit, DTEG shall notify the City in writing prior to undertaking any work in the City involving excavation in or the closing of any public rights-of-way. The notice shall state the intended duration of any rights-of-way obstruction. DTEG shall, at the City's request, provide plans and specifications showing the nature and extent of the proposed construction. No road, bridge, street, alley, highway, or other public place within the City shall be opened by DTEG for the laying of trunk lines or lateral mains until application has been made to the City and any other authority having jurisdiction in the premises, stating the nature of the work and the route, and until the consent of the City and any other authority has been received. DTEG is solely responsible for obtaining any necessary governmental permits for such excavation or construction and shall pay therefore such reasonable and prudent fees as may be legally required by such public authority to offset its direct costs of permitting.

- (d) This Ordinance shall not be construed to prevent DTEG from immediately commencing or continuing construction or repair work when deemed necessary to prevent danger to life or property and, in such case, DTEG shall notify the City of the construction or repair work as soon as reasonably practical.
- (e) The City shall promptly reimburse DTEG for the cost to repair or replace any DTEG property damaged by the City, its agents or contractors. Provided, however, that where the City may lawfully elect to alter or change the grade of any street, sidewalk, alley, or other public way, and DTEG's active pipes, utilities, and other active fixtures must be relocated to accommodate the alteration or change, upon reasonable notice by the City, DTEG shall relocate such gas pipes, mains, gas distribution facilities, and other necessary equipment at its own expense.

Section 7. Revocability.

The franchise herein granted shall be revocable at the will of the City by providing sufficient notice, PROVIDED, however, 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 City electors. DTEG shall pay the cost of any special election held for the occasion.

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

Under this Section, the rates to be charged for gas services within the City, and the standards and conditions of service and operation within the City, shall be the same as set forth in DTEG's rate book under the orders, rules, and regulations of the Michigan Public Service Commission.

Section 9. Indemnification.

DTEG shall use due care in exercising the privileges in this Ordinance and, at its sole cost and expense, shall indemnify and hold harmless the City, and its employees and agents, from any liability which may be imposed upon or incurred by the indemnitee(s), for all damages and costs which may be recovered against the City arising from the default or negligence of DTEG or any of its officers, agents, contractors, or employees that may arise out of, or be in any way connected with, the operation and maintenance or condition of DTEG's active gas transportation or distribution system and other necessary equipment within the City rights-of-way, or DTEG's failure to comply with any federal or state statute, regulation, or rule, or any provision of this Ordinance.

Section 10. Successors and Assigns.

Whether so expressed or not, the words "DTE Gas Company" and "DTEG" are intended and 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 this gas franchise with the Office of the City Clerk within thirty (30) days after the effective date of this Ordinance.

Section 12. Entire Agreement.

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

Section 13. Publication.

A true copy of this Ordinance or a summary thereof shall be published in a newspaper of general circulation in the City of Tawas City.

Section 14. Effective Date.

This Ordinance shall take effect ten (10) days from and after publication of a true copy or summary thereof as provided in Section 13.

This ordinance is declared necessary to preserve the public peace, health, safety, and welfare of the people of the City of Tawas City.

ENACTED at a regular meeting of the City Council of the City of Tawas City held on the __ day of December 2024.

Moved by:
Seconded by:
Yeas:
Nays:
Abstain:

C I T Y O F T A W A S C I T Y

Dated: December __, 2024

J A C K I E M A S I C H
City Mayor

Dated: December __, 2024

M I C H E L L E W E S T C O T T
City Clerk

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of Ordinance No. 332 duly adopted by the City of Tawas City at a regular meeting of the City Council held on the ___ day of December, 2024, at which all Council Members were present, and that public notice of said meeting was given pursuant to Act No. 267 of the Public Acts of Michigan, 1976, including in the case of a special or rescheduled meeting, notice by publication and posting at least 18 hours prior to the time set for the meeting.

I further certify that Councilperson ___ moved, and that Councilperson _____ seconded the adoption of said ordinance.

I further certify that the following Councilpersons voted for adoption of said ordinance:

_____.

I further certify that said ordinance has been recorded in the Ordinance Book of the City of Tawas City, and that such recording has been authenticated with the signatures of the Mayor and the Clerk and published in the Iosco County News-Herald.

This ordinance may be inspected on the City website tawascity.org or at the City of Tawas City, City Hall, 550 West Lake Street, Tawas City, Michigan, between 7:30 am and 5:00 pm, Monday through Thursday, and Friday between 7:30 am and 1:00 pm.

Dated this __ day of December, 2024.

City of Tawas City

Michelle M. Westcott, its: Clerk