

**BEAR CREEK TOWNSHIP ORDINANCE NO. 16-01**  
**CITY OF HARBOR SPRINGS ELECTRIC FRANCHISE ORDINANCE**

An ordinance to grant to the City of Harbor Springs a  
revocable, nonexclusive electric utility franchise  
to serve a portion of the Township.

THE TOWNSHIP OF BEAR CREEK, EMMET COUNTY, MICHIGAN  
ORDAINS:

Section 1. Grant of Franchise. The City of Harbor Springs (the "City"), is granted the right and privilege of providing electric service within the below-described portion of the Township, to operate within the public streets, highways, alleys and other public rights-of-way within said portion of the Township in connection with such service, and to conduct a local business incident to the furnishing of such service. This franchise shall be limited to the following area in which service by the City of Harbor Springs already exists:

Along Highway M-119, from Powell Road to the Coca-Cola warehouse on the east side of the road and Chuck's TV & Appliance on the west side. Also including Lakeside Condos and approximately 1/4 mile east of M119 along Hiawatha Trail, but excluding L'Arbre Croche, the Petoskey State Park, and Circuit Control Corporation.

Notwithstanding the above provision of this section, the City shall be permitted to provide electric service to other customers within the Township upon the request of such a potential customer and upon mutual agreement between the City and the Township.

Section 2. Nonexclusive nature, Term. The public utility franchise hereby granted is nonexclusive and shall be for a period of twenty-five (25) years from the effective date of this ordinance unless sooner revoked.

Section 3. Revocation. The public utility franchise hereby granted is subject to revocation at the will of the Township.

Section 4. Conditions. The public utility franchise hereby granted is subject to the following conditions:

(a) The City shall not injure any street, highway, alley or other public place, nor shall it disturb or interfere with any water, sewer or gas pipes or other utility lines in the service area, and shall cooperate in the location of any new water, sewer or gas pipes or other utility lines to be constructed in the service area.

(b) Before entering any street, highway, alley or other public place for erecting and constructing any poles, wire or conduit, the City shall notify the Board of County Road Commissioners or other proper authority of the proposed construction and shall obtain approval thereof.

(c) No street, highway, alley or public place shall be allowed to remain encumbered by the construction work for a longer period than shall be reasonably necessary to perform such work.

(d) The City shall at all times keep and hold Township free and harmless for all loss, costs and expenses to which the township may be subject by reason of the within franchise. In the event any action or claim is commenced or filed against the Grantor township resulting from the within franchise, the City shall upon notice, defend the Township and save it free and harmless from loss, costs and damages arising out of such action or claim.

(e) All electric lines hereafter installed shall be located underground and not suspended between poles or other structures. Existing above ground lines may continue until voltage upgrading is required, at which time said lines shall be similarly be located underground. Unless otherwise prohibited by state law or local ordinance, new customer service along existing overhead lines may continue to be installed overhead.

(f) The proportions between rates for the City's electric service customers in the Township and the City's electric service customers in the City shall not be increased beyond the proportions between such rates contained in the City's utility rate sheet attached as Exhibit "A".

Section 5. Reservation of Governmental Rights. Nothing in this public utility franchise shall be construed in any manner as a surrender by the Township of its legislative power nor shall it in any manner be interpreted as limiting the right of the Township or the County Road Commission to regulate the use of any street, highway, alley or public place within its jurisdiction.

Section 6. Effective Date. This ordinance shall become effective on the day following its publication.

#### Clerk's Certification

I hereby certify this Ordinance was adopted by the Bear Creek Township Board at a regular meeting held on Aug 1, 2001, and that the vote was as follows:

FOR: Mays, Keiser, Flynn, Notestine, Van Horn

AGAINST: None

I further certify this Ordinance or a summary thereof was published in the Petoskey News-Review on August 7, 2001.

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Judy Mays  
Bear Creek Township Clerk

BEAR CREEK TOWNSHIP  
EMMET COUNTY, MICHIGAN

Summary of Ordinance No.16-01, adopted by the Bear Creek Township Board of Trustees at its regular meeting on August 1, 2001, to grant the City of Harbor Springs an electric utility franchise to serve a portion of the Township.

Section 1. Grant of Franchise. The City of Harbor Springs (the "City"), is granted the right to provide electric service within a portion of the Township along Highway M-119, to operate within the public streets, highways, alleys and other public rights-of-way within this portion of the Township, and to conduct a local business in connection with such service.

Section 2. Nonexclusive nature, Term. The franchise is nonexclusive and shall be for a period of twenty-five (25) years from the effective date of the ordinance unless sooner revoked.

Section 3. Revocation. The franchise is subject to revocation at the will of the Township.

Section 4. Conditions. The franchise is subject to several conditions. These include conditions related to: the manner in which work pursuant to the franchise shall be completed, the City holding the Township harmless from claims relating to the franchise, the location of certain lines underground, and certain limitations on the proportions of rates between customers within the City and customers within the Township.

Section 5. Reservation of Governmental Rights. This franchise shall not be construed as a surrender by the Township of its legislative power nor shall it limit the right of the Township or the County Road Commission to regulate the use of any street, highway, alley or public place within its jurisdiction.

Section 6. Effective Date. This ordinance shall become effective on the day following its publication.

A true copy of the entire Ordinance No.16-01 may be inspected or obtained at the Bear Creek Township Hall, 373 N. Division Road, Petoskey, MI 49770.

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Judy Mays  
Bear Creek Township Clerk