

CHARTER TOWNSHIP OF OSHTEMO  
KALAMAZOO COUNTY, MICHIGAN

**NOTICE OF ORDINANCE ADOPTION**

TO: THE RESIDENTS AND PROPERTY OWNERS OF THE CHARTER TOWNSHIP OF OSHTEMO, KALAMAZOO COUNTY, MICHIGAN, AND ANY OTHER INTERESTED PERSONS:

PLEASE TAKE NOTICE that on the 22<sup>nd</sup> day of November, 2011, at a special meeting of the Township Board of the Charter Township of Oshtemo, Kalamazoo County, Michigan, the Township Board of said Township adopted an amendment to the Utility Control Ordinance No. 114, which provides, in summary, as follows:

SECTION I. AMENDMENT OF COMPILED SECTION 230.004. Compiled Section 230.004 Regulations, Paragraphs (a), (b), (c) are hereby amended to read as follows:

**230.004 Regulations.**

Sec. IV.

- (a) No public or private utility shall hereafter install, construct, relocate or replace any line, pole, main, tower, building, structure or appurtenance thereto within the public streets, roads, alleys or right-of-ways within the Township without first securing the approval and consent to the same by the Township Board. Existing utility poles and attachments may be maintained, replaced and upgraded only with poles and attachments of the same essential characteristics and size.
- (b) Any public or private utility seeking such approval and consent shall submit plans showing the location of the proposed installation, . . .the documents required in subsection (c) below. Commencing November 25, 2011, all public or private utilities who seek to construct utility lines, wires and related equipment and facilities along, across, over, and/or adjacent to any public street in the Township shall be required to place all lines, wires and/or related facilities and equipment underground within the public road right-of-way and to a point within 250 feet either side of said public right-of-way.
- (c) The Township Board or its duly authorized representative shall not unreasonably withhold such approval and consent where the proposed facilities are shown to be necessary . . . In support of its proposal, a utility must provide:
  - ◆ a detailed description of the project;

- ◆ its location;
- ◆ an explanation of why the location was chosen;
- ◆ a description of any alternate locations considered;
- ◆ an analysis of any zoning district with additional compliance requirements;
- ◆ all information supporting the underlying need of the project;
- ◆ an environmental study of the area affected;
- ◆ information addressing potential effects on public health and safety;
- ◆ any other information requested by the Township.

Once the plan, supporting documents and all documents requested by the Township have been submitted, if no action is taken by the Township Board within 90 days, the approval shall be conclusively presumed. However, the Township may choose to hold a public hearing on the request, depending upon the impact on the community.

SECTION II. ADDITION OF COMPILED SECTION 230.005 AND RENUMBERING COMPILED SECTIONS V AND VI. Compiled Section 230.005 Retention Control of Control of Public Places, is hereby added to read as follows and Compiled Section V is changed to Compiled Section VI, and Compiled Section VI is changed to Compiled Section VII:

**230.005            Retention of Control of Public Places.**

Sec. V. Nothing contained herein shall be construed to alienate the title of the public in and to any public rights-of-way or any portion thereof.

SECTION III. RENUMBERING AND AMENDMENT OF COMPILED SECTION VII. Compiled Section 230.007, Effective Date; repeal, is hereby renumbered to Section 230.008 and amended to read as follows:

Sec. VIII. This Ordinance shall take effect after publication in accordance with State law. All Ordinances or part of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect. It is the intent of this Ordinance to be applied prospectively to the following Ordinances:

- Cable System Regulatory Ordinance, being Ordinance No. 371;
- Use of Public Rights-of-Way by Telecommunications Providers, being Ordinance 425; and
- Cable and Video Services, being Ordinance No. 491.

PLEASE TAKE FURTHER NOTICE that the full text of the Ordinance has been posted for public inspection at the Township Hall located at 7275 West Main Street, Kalamazoo, Michigan, 49009, and on the Township's Web Page of [www.oshtemo.org](http://www.oshtemo.org)

PLEASE TAKE FURTHER NOTICE that said Ordinance will take effect November 25, 2011. A copy of this Ordinance may be purchased or inspected at the office of the Township Clerk at any time during regular business hours of regular business days at the following address.

DEBORAH L. EVERETT, Clerk  
Oshtemo Charter Township Hall  
7275 West Main Street  
Kalamazoo, MI 49009  
Telephone: (269) 375-4260

OSHTEMO CHARTER TOWNSHIP ORDINANCE NO. 525

Adopted: November 22, 2011

Effective: November 25, 2011

OSHTEMO CHARTER TOWNSHIP ORDINANCE

This Ordinance amends Ordinance No. 114, being the Oshtemo Charter Township Utility Control Ordinance, adopted on October 14, 1975, and repeals all Ordinances or parts of Ordinances in conflict.

THE CHARTER TOWNSHIP OF OSHTEMO  
KALAMAZOO COUNTY, MICHIGAN  
ORDAINS:

SECTION I. AMENDMENT OF COMPILED SECTION 230.004. Compiled Section 230.004 Regulations, Paragraphs (a), (b), (c) are hereby amended to read as follows:

**230.004 Regulations.**

Sec. IV.

- (a) No public or private utility shall hereafter install, construct, relocate or replace any line, pole, main, tower, building, structure or appurtenance thereto within the public streets, roads, alleys or right-of-ways within the Township without first securing the approval and consent to the same by the Township Board or its duly authorized representative. This requirement shall not apply to repair of existing utility facilities nor construction of service connections for gas, electrical, telephone, or communication systems leading from such utility distribution lines to single family homes or isolated business or industrial buildings or structures being provided with such utility service. It shall apply, however, to multiple family developments and multiple commercial and/or industrial developments. The Township recognizes the present existence of utility poles and attachments. New utility lines, wires and other related equipment and facilities may be attached to existing utility poles, if and to the extent that the existing poles can accommodate new attachments. Existing utility poles and attachments may be maintained, replaced and upgraded only with poles and attachments of the same essential characteristics and size.
- (b) 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 Township, as well as the public streets, roads, alleys or rights-of-way. The plans shall be accompanied by the documents required in subsection (c) below. Commencing November 25, 2011, all public or private utilities who seek to construct utility lines, wires and related equipment and

facilities along, across, over, and/or adjacent to any public street in the Township shall be required to place all lines, wires and/or related facilities and equipment underground within the public road right-of-way and to a point within 250 feet either side of said public right-of-way. For purposes of this Ordinance, utility lines, wires and/or related facilities and equipment shall include, but not be limited to, lines, wires, equipment and facilities used for electric transmission and distribution, telecommunications, cable television, internet service and other similar purposes.

- (c) The Township Board or its duly authorized representative shall not unreasonably withhold such approval and consent where the proposed facilities are shown to be necessary for the servicing of customers and for the protection or promotion of the health, safety and general welfare of the community. A utility must provide a detailed description of the project, its location and an explanation of why the location was chosen for the proposed utility lines, wires or related equipment, as well as a description of any alternate locations considered and why they were not selected; an analysis of the Township Zoning Ordinance and whether any portion of the utility lines, wires or related equipment are located in a zoning district with additional compliance requirements; all information supporting the underlying need of the project; an environmental study of the area affected; information addressing potential effects on public health and safety, as well as any other information requested by the Township. The Township shall have the right and authority to determine the location of the same within the public right-of-way, street, road, alley or public place including verification that the same complies with the Township zoning requirements and the obligation and responsibility, if any, incident to such location and installation imposed upon such utility. Notwithstanding any other provision of this Ordinance once the plan, supporting documents and all documents requested by the Township have been submitted, if no action is taken by the Township Board within 90 days, the approval and consent required by this Ordinance shall be conclusively presumed, and the utility shall be entitled to proceed with construction in accordance with its plans as submitted. However, the Township may choose to hold a public hearing on the request, depending upon the impact on the community. If a public hearing is held, the utility will be required to attend and present its plan and specifications as required under this Ordinance to the Township Board in a public format, subject to questioning by the Board and its experts.

SECTION II.

ADDITION OF COMPILED SECTION 230.005 AND RENUMBERING COMPILED SECTIONS V AND VI. Compiled Section 230.005 Retention Control of Control of Public Places, is hereby added to read as follows and Compiled Section V is changed to Compiled Section VI, and Compiled Section VI is changed to Compiled Section VII:

**230.005            Retention of Control of Public Places.**

Sec. V. Nothing contained herein shall be construed to alienate the title of the public in and to any public rights-of-way or any portion thereof, nor shall anything herein be construed in any manner as constituting a surrender by the Township of its general powers with respect to the subject matter hereof or with respect to any matter, whatsoever, or in any manner be construed as limiting the right of the Township to regulate the use of and access to any public rights-of-way within its exclusive or concurrent jurisdiction and to otherwise exercise its police powers to protect the public health, safety and welfare.

SECTION III. RENUMBERING AND AMENDMENT OF COMPILED SECTION VII.  
Compiled Section 230.007, Effective Date; repeal, is hereby renumbered  
to Section 230.008 and amended to read as follows:

Sec. VIII. This Ordinance shall take effect after publication in accordance with State law. All Ordinances or part of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect. It is the intent of this Ordinance to be applied prospectively to the following Ordinances:

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being Ordinance 425; and

Cable and Video Services, being Ordinance No. 491.

DEBORAH L. EVERETT, CLERK  
OSHTEMO CHARTER TOWNSHIP