

10.1208

**ARTICLE B  
PRIVATELY-OWNED UTILITIES; FRANCHISES**

10.1209      **Sec. 12.7. FRANCHISE REQUIRED.**

No person, partnership, association or corporation operating a public utility shall have the right to use the highways, streets, alleys or other public places of the city for wires, poles, pipes, tracks or conduits without first obtaining the consent of the council; nor may it transact a local business in the city without first obtaining a franchise therefor from the city.  
(char. eff. Nov. 25, 1974)

10.1210      **Sec. 12.8. RIGHT OF CITY.**

The city shall have the right

- a.      To regulate public utilities;
- b.      To regulate the location of poles and other facilities used by public utilities, and
- c.      To require that wires in alleys and streets be placed underground.  
(char. eff. Nov. 25, 1974)

10.1211      **Sec. 12.9. PERMIT REVOCABLE.**

Temporary permits for public utilities, revocable at any time at the will of the city council, may be granted, by resolution on such terms and conditions as it shall determine, provided that such permits shall in no event be construed to be franchises or amendments to franchises.  
(char. eff. Nov. 25, 1974)

10.1212      **Sec. 12.10. GRANTING OF PUBLIC UTILITY FRANCHISE.**

- a.      Public utility franchises and all renewals, and extensions thereof and amendments thereto shall be granted by ordinance. No franchise shall be granted for a longer period than thirty (30) years.
- b.      No franchise ordinance which is not subject to revocation at the will of the council shall be enacted nor become operative until the same has been referred to the people at a regular or special election and received the affirmative vote of three-fifths of the electors voting thereon. No such franchise ordinance shall be approved by the council for referral to the electorate before thirty (30) days after application therefor has been filed with the council nor until a public hearing has been held thereon, nor until the grantee named therein has filed with the clerk his unconditional acceptance of all the terms of such franchise. No special election for such purpose shall be ordered unless the expense of holding such election, as determined by the council, shall have first been paid to the treasurer by the grantee.

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- c. A franchise ordinance, or renewal or extension thereof, or amendment thereto, which is subject to revocation at the will of the council may be enacted by the council without referral to the voters, but shall not be enacted unless it shall have been complete in the form in which it is finally enacted and shall have so been on file in the office of the clerk for public inspection for at least four weeks after publication of a notice that such ordinance is on file.  
(char. eff. Nov. 25, 1974)

**10.1213 Sec. 12.11. FRANCHISE; LIMITATION AS TO TYPE.**

No exclusive franchise shall ever be granted to any person, firm or corporation.  
(char. eff. Nov. 25, 1974)

**10.1214 Sec. 12.12. FURTHER REGULATORY POWERS.**

The grant of every franchise shall be subject to the right of the city whether in terms reserved or not, to make all regulations which shall be necessary to secure in the most ample manner the safety, welfare and accommodation of the public, and the right to make and enforce all such regulations as shall be reasonably necessary to secure adequate, sufficient and proper service, extensions and accommodations for the people and insure their comfort and convenience. Such right of the city shall include but shall not be limited to the following viz:

- a. To repeal the same for misuse, or nonuse, or for failure to comply with the provisions thereof;
- b. To require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof;
- c. To require the public utility to which any franchise is granted to permit joint use of its property and appurtenances located in the streets, alleys and public places of the city, by the city and other utilities, insofar as such joint use may be reasonably practicable and upon payment of reasonable rental therefor; provided that, in event of the inability of the parties to agree, upon application by either party, the council shall provide for arbitration of the terms and conditions of such joint use and the compensation to be paid therefor;
- d. To pay such part of the cost of improvement or maintenance of the streets, alleys, bridges, and public places of the city, as shall arise from its use thereof and to protect and save the city harmless from all damages arising from such use.  
(char. eff. Nov. 25, 1974)

**10.1215 Sec. 12.13. ORDINANCE REGULATION.**

The council may by ordinance provide for efficient inspection and regulation of all public utilities operated in the city. It is the intention of this section to provide means for securing to the city efficient service from all public utilities operated in the city and

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the proper observance of the conditions imposed by the franchise, the Charter and ordinance of the city and law of the state.  
(char. eff. Nov. 25, 1974)

**10.1216**      **Sec. 12.14. REPEAL AND TERMINATION OF FRANCHISE; ACQUISITION OF UTILITY PROPERTY.**

All ordinances granting franchises, or extensions or renewals thereof, shall reserve to the city the right to terminate the same and to purchase all the property of the utility in the streets and highways in the city and elsewhere, used in or useful for the operation of the utility, at a price fixed in the ordinance or to be fixed in the manner provided by the ordinance granting the same. Nothing in such ordinance shall prevent the city from acquiring the property of any such utility by condemnation proceedings or in any other lawful mode; but all such methods or acquisition shall be alternative to the power to purchase reserved in the ordinance granting such franchise, extension or renewal as herein before provided. Upon the acquisition by the city of the property of any utility by purchase, condemnation or otherwise, all franchises, extensions and renewals shall at once terminate.  
(char. eff. Nov. 25, 1974)

**10.1217**      **Sec. 12.15. FRANCHISE ORDINANCE REQUIREMENTS.**

No ordinance granting such franchise, or extension or renewal thereof, shall be valid unless it shall expressly provide therein that the price to be paid by the city for the property that any be acquired by it from such utility by purchase, condemnation or otherwise, shall exclude all value of such franchise, extension or renewal, except that, unless otherwise provided in such ordinance, the utility shall be entitled to the return of the proportionate amount of and for the unused period of any compensation paid the city for such franchise, extension or renewal.  
(char. eff. Nov. 25, 1974)