

CHARTER OF THE CITY OF KETCHIKAN, ALASKA

ARTICLE VIII.

PUBLIC UTILITIES AND ENTERPRISES

City-Operated Utilities and Enterprises -- Separate Funds -- Accounting

Section 8-1. The city-operated water system, electric system and telephone system are public utilities, and shall be operated in a businesslike manner. Notwithstanding any other provision in this charter, the council may appoint a utilities manager for an indefinite term, to manage the public utilities, and may by ordinance prescribe the powers, duties and functions of such manager, including such as would otherwise be those of the city manager. The council may suspend or remove the utilities manager at any time by a majority vote of all its members. Said public utilities and such other public utilities and enterprises as the council may require, shall be operated from a fund or funds separate from the general fund. An accounting system for each such fund shall be established within the general accounting system of the city, and shall be so set up and maintained as to reflect the financial condition of the enterprise or enterprises and its or their income and expense. A balance sheet and statement of income and expense (profit and loss) shall be made for each such fund annually and as often as the council may require.

None of the income, money, resources or property of the water system, electric system or telephone system, shall be placed in the general fund or be used for the benefit of anything outside of the fund to which it belongs without due compensation or due value received in return; provided that this shall not prohibit payment into the general fund by such utilities of an amount in lieu of taxes reasonably estimated to be the amount which said utilities would pay in taxes if they were privately owned.

No public utility or enterprise not in existence at the time of adoption of this charter, shall be established by the city unless first approved by a majority of the qualified voters voting on the question.

The council by ordinance, after opportunity for a public hearing, shall fix, and may change, rates to be charged for public-utility services. (Amended by Resolution 1591 §2, approved by voters October 3, 1989)

Franchise: Defined -- Granting

Section 8-2. A franchise is a contract between the city and a person providing for the person to furnish a public utility service to the city and its inhabitants and permitting the person to use the streets, alleys, bridges, easements and other public places of the city in the furnishing of the public-utility service.

A franchise may be granted to a person, extended, renewed or amended only by an ordinance accepted as provided hereinbelow by the person to whom the franchise is granted, passed by the council, and approved at an election by a majority of the qualified voters voting on the question. After introduction, a copy of the ordinance in its final form must be in the office of the city clerk and subject to public inspection for at least one month before it is passed. Before passage,

the council shall hold a public hearing thereon, a notice of which must have been published at least one week prior to the hearing. Also before passage, the applicant must file with the city clerk his unconditional acceptance of all terms of the franchise, and if a special election is to be held for the purpose, must pay to the department of finance of the city an amount of money estimated by the city clerk to be adequate to pay all expenses of holding such election. If any balance remains after all such expenses have been paid, it shall be repaid to the grantee.

Same: Terms and Conditions

Section 8-3. No franchise shall be granted by the city for a term exceeding thirty years, and every franchise shall contain a provision requiring the franchise to take effect within one year after the voters approve the ordinance granting it. Franchises may include provisions for fixing utility rates and charges, and may provide for readjustments thereof; but the terms of a franchise shall not limit the power of the city to regulate such rates and charges. With respect to any franchise granted after this charter goes into effect, whether or not provided in the franchise, the city may:

- (1) Terminate the franchise for the violation of any of its provisions, for the misuse or nonuse thereof, or for the violation of any regulation imposed by this charter or by ordinance;
- (2) Require proper and reasonable extension of plant and facilities and the maintenance thereof at the highest practicable standard of efficiency;
- (3) Establish reasonable standards of service and quality of products, and prevent unjust discrimination in service and rates;
- (4) Require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof;
- (5) Impose other regulations determined by the council to be conducive to the health, safety, welfare or convenience of the public;
- (6) Require the public utility to permit joint use of its property and appurtenances located in the streets, alleys, bridges, easements and other public places, by the city and by other public utilities, insofar as such joint use may be reasonably practicable, and upon payment of reasonable rental therefore; and in the absence of agreement, upon application by the public utility, provide for arbitration of the terms and conditions of such joint use and the compensation to be paid therefore;
- (7) Require the public utility to pay any part of the cost of improvement or maintenance of streets, alleys, bridges, easements and other public places, that arises from its use thereof, and to protect and save the city harmless from all damages arising from such use; and
- (8) Require the public utility to file with any designated city officer or officers reports concerning the utility and its financial operation and status, and such drawings and maps of the proposed location or location and nature of its facilities as the council may request; and require the public utility to permit designated city officers to inspect its books and other records.

Same: Sale or Assignment

Section 8-4. The grantee of a franchise may not sell, assign, sublet, or allow another to use the same, unless the council gives its consent. Nothing in this section shall limit the right of the grantee to mortgage his property or franchise, nor shall it restrict the rights of the purchaser, upon foreclosure sale, to operate the same; but such mortgagee or purchaser shall be subject to the terms of the franchise, the provisions of this charter and the ordinances of the city.