

## Local Public Utilities, Enterprises

## CHAPTER 451

## UTILITY FRANCHISES, PERMITS, RIGHTS

CHARTER CITIES OF  
THE FOURTH CLASS

451.04 Franchise for city heating system.  
451.05 Bonds, obligations for heat not part  
of city debt.

## CITIES OF THE FIRST CLASS

451.07 Utility permit after franchise,  
license expire.  
HOME RULE CHARTER CITIES  
451.09 Steam heat discontinued; notice;  
cost to convert.

**451.01** [Repealed, 1949 c 300 s 1]  
**451.02** [Unnecessary]  
**451.03** [Repealed, 1949 c 119 s 110]

## CHARTER CITIES OF THE FOURTH CLASS

**451.04 FRANCHISE FOR CITY HEATING SYSTEM.**

Subdivision 1. **Right to build, run.** A home rule charter city of the fourth class may give a person, company, or corporation the right to use the streets, alleys, and other public grounds of the city to construct, operate, and maintain a system to furnish heat to city residents.

Subd. 2. **Council sets terms, condition.** The city council must decide what terms and conditions apply to the use of the right given under subdivision 1.

Subd. 3. **City sale of steam, hot water.** If the city owns and operates a plant that heats water or generates steam, the city may sell the steam or hot water to the user of the right given under subdivision 1 at a profit to the city.

Subd. 4. **Arrangements for heat, control of system.** The city may make contracts and arrangements for furnishing heat, using the city's steam or hot water, to city residents. The city may also make arrangements for the regulation and control of the heating system.

Subd. 5. **May install system equipment.** The city may give a person, company, or corporation the right to use the streets, alleys, and other public grounds of the city to install, at no expense to the city, necessary and incidental equipment to construct, operate, and maintain the heating system. The city council must decide what terms and conditions apply to the use of the plant.

Subd. 6. **Heat from city steam, hot water.** If the city owns and operates a plant that heats water or generates steam, the city may make the necessary and incidental contracts and arrangements to furnish, at a profit to the city, heat from the steam or hot water, to the city's residents.

Subd. 7. **City may buy system.** The city may acquire, own, operate, and enlarge the heating system after it is installed.

Subd. 8. **City debt payable in future heat.** The city may issue its certificates of indebtedness payable in heat to be sold by the city.

Subd. 9. **City's steam, hot water to service company.** If the city operates a municipal electric light or water plant, the city may agree with a service company that furnishes steam or hot water heat to its residents to supply from the municipal plant to the service company, the necessary steam or hot water for the company's customers.

Subd. 10. **Terms of agreement.** The supply agreement between the city and the service company may include terms on the subjects in this subdivision.

(a) The agreement may provide for joint approval of the plans and joint supervi-

sion of the construction and the definite determination at the time of completion, of the cost of the company's plant.

(b) The agreement may:

- (1) fix the rates to be charged to the company's customers for the heat supplied;
- (2) fix the charges to be billed to and collected from the customer either by the city or the service company; and
- (3) divide the revenue received from the collections between the city and the service company.

(c) The agreement may provide for the purchase of the company's plant by the city at cost, plus reasonable interest on the cost, and for payment for the plant from the money saved by the city from its share of the collections.

**Subd. 11. City may buy private system.** If there is a heating system in the city that is not owned by the city, the city may buy the heating system for not more than its fair value. The city and the owner of the system must agree on the terms of the sale.

**Subd. 12. Pay with bonds.** The city council may issue and sell as many bonds of the city as it judges are necessary to buy the heating system from its owners.

**Subd. 13. Bond formalities.** (a) The city council must decide:

- (1) the bonds' form and denomination;
- (2) the rate of interest on the bonds, not more than six percent per year, payable semiannually; and
- (3) the time, not more than 20 years from their date, when the bonds are due and payable.

(b) If the city issues the bonds, the bonds must be signed by the mayor and countersigned by the clerk.

(c) The bonds must be sold for not less than par and accrued interest.

**Subd. 14. Add to other powers.** The powers granted in this section are to be added to other powers granted by law.

**History:** (1768) 1917 c 122 s 1; Ex1919 c 25 s 1; 1921 c 108 s 1; 1949 c 119 s 111; 1988 c 469 art 6 s 1

#### **451.05 BONDS, OBLIGATIONS FOR HEAT NOT PART OF CITY DEBT.**

**Subdivision 1. Obligations.** An obligation incurred by a home rule charter city of the fourth class in making arrangements to furnish heat to the city's residents under section 451.04 is not part of the city's debt under its charter or under state law limiting the city's debt.

**Subd. 2. Bonds.** The amount of bonds issued under section 451.04 and at any time outstanding are not part of the city's net debt under its charter or under other law.

**History:** (1769) 1917 c 122 s 2; Ex1919 c 25 s 2; 1921 c 108 s 2; 1949 c 119 s 111; 1988 c 469 art 6 s 1

**451.06** [Repealed, 1988 c 469 art 6 s 2]

### **CITIES OF THE FIRST CLASS**

#### **451.07 UTILITY PERMIT AFTER FRANCHISE, LICENSE EXPIRE.**

**Subdivision 1. To continue existing service.** A city of the first class may by ordinance give a permit to a public service corporation to use the streets and other public property in the city to continue to supply gas, electric energy, or steam for light, heat, or power.

**Subd. 2. Despite contrary charter.** The permit may be issued even if issuing it is contrary to the city's charter.

**Subd. 3. Conditions: franchise, licenses expired.** The permit is subject to the terms and conditions in this subdivision.

(a) The corporation must be supplying gas, electric energy, or steam for light, heat, or power, at the time the permit is issued.

(b) The corporation's franchise for supplying the utility service must have expired.

(c) The home rule charter of the city must allow for a limited number of licenses to use public property to supply utility service for not more than one year, and all the licenses must have been issued and must have expired.

**Subd. 4. City may set rates.** The city may set the rates the corporation may charge for its service in the city. The rates must not be set more often than once in a calendar year.

**Subd. 5. Charge for street use.** The city may decide how much the corporation must pay to use the city's streets and other public property in the city.

**Subd. 6. Minimum charge; exception.** The city must charge the corporation at least the minimum franchise fee, if any, required by the city charter when the corporation is not specifically relieved of the payment.

**Subd. 7. Bound by agreed rates, charges.** This section does not let the city change the rates or charges in this section if the city has fixed the rates or charges for a definite period in an agreement with the corporation.

**History:** (1491-5) 1935 c 286 s 1; 1988 c 469 art 6 s 1

**451.08** [Repealed, 1988 c 469 art 6 s 2]

## HOME RULE CHARTER CITIES

### 451.09 STEAM HEAT DISCONTINUED; NOTICE; COST TO CONVERT.

**Subdivision 1. By utility board, with council approval.** A public utilities board or commission that operates a steam heat system in a home rule charter city may discontinue the system in whole or part if the city council approves.

**Subd. 2. May pay to convert.** If the council approves, the board or commission may spend money to pay those whose service is discontinued to convert to another type of heat system.

**Subd. 3. Supersedes other law, charter.** This section applies notwithstanding a contrary city charter or other law.

**Subd. 4. Exceptions: Austin, Marshall, Virginia.** Subdivisions 1 to 3 do not apply to the cities of Austin, Marshall, and Virginia.

**Subd. 5. Two years' notice.** A public utilities board or commission that operates a steam heat system in a home rule charter city must give the commissioner of trade and economic development two years' notice of its intended date to discontinue the system.

**History:** 1969 c 796 s 1; 1976 c 44 s 46; Ex1979 c 2 s 41; 1981 c 356 s 221; 1983 c 289 s 115 subd 1; 1987 c 312 art 1 s 26 subd 2; 1988 c 469 art 6 s 1