

Utilities, Enterprises

CHAPTER 451

FRANCHISES, PERMITS

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451.04 **HEATING PLANTS.** Any city of the fourth class in this state is hereby authorized and empowered:

(1) To grant to any person, persons, company, or corporation, the right of the use of the streets, alleys, and other public grounds of the city for the erection, operation, and maintenance of any heating system to furnish heat to the inhabitants of the city, the same to be on such terms and subject to such conditions as the governing body of the city shall determine, including therein the right to sell to the person, persons, company, or corporation, at a profit to the city, any steam generated or water heated by any plant owned and operated by the city, and to make contracts and arrangements for the furnishing of heat to the inhabitants of the city thereby, and for the regulation and control of the heating system.

(2) To grant to any person, persons, company, or corporation the right of the use of the streets, alleys, and other public grounds of the city for the installation, without any expense to the city or village, of pipes, conduits, and other equipment necessary and incidental to the construction, operation, and maintenance of a heating system to furnish heat to the inhabitants of the city, the same to be on such terms and subject to such conditions as the governing body of the city shall determine, including the right to make all necessary and incidental contracts and arrangements for the furnishing of heat to the inhabitants of the city, at a profit to the city, from any steam generated or water heated by any plant owned and operated by the city, including the right to acquire, own, operate, and enlarge the heating system after the same shall have been installed, and including the right to issue certificates of indebtedness of the city payable in heat to be sold by the city; any city in which there is now in operation, or in which there may be hereafter in operation a municipal electric light and water plant, or either, may agree with any service company which the city may authorize to furnish steam or hot water heat to its inhabitants, to supply from the municipal plant to the company, upon such terms as may be mutually agreed upon between the city and the company, the necessary steam or hot water or both to be supplied to the patrons of the company, and by such agreement may provide for joint approval of plans, joint supervision of construction and ascertainment and determination at the time of completion of the cost of the company's plant, and by the agreement may fix and establish the rates to be charged to the company's patrons for the heat supplied, the charges to be billed to and collected from the consumer either by the city or the service company, as agreed upon, the revenue received therefrom to be apportioned and divided between the city and the company upon such reasonable and proper basis of division as they may agree upon with appropriate provision for the purchase of the company's plant by the city at cost, plus reasonable interest thereon, and the payment therefor from the moneys received and accumulated by the city as its share of the derived revenues.

(3) Any city of the fourth class in which there is already constructed, or in which there may be hereafter constructed any such heating system not owned by the city is authorized to acquire the existing heating system by purchase at a

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price not exceeding its fair value and on terms as may be agreed on between the city and the owners of the system and, in order to provide the funds for the purchase, the city council or other governing body, by whatever name denominated, is hereby authorized to issue and sell the bonds of the city to such an amount as may, in its judgment, be necessary for the purpose, the bonds to be in such form and denomination, to bear a rate of interest not exceeding six per cent per annum, payable semiannually, and to become due and payable at such time or times, not more than 20 years from their date, all as the city council or other governing body shall determine. The bonds shall be signed by the mayor, countersigned by the clerk, if issued by the city, and shall be sold for not less than par and accrued interest.

[1917 c 122 s 1; Ex1919 c 25 s 1; 1921 c 108 s 1; 1949 c 119 s 111] (1768)

451.05 OBLIGATIONS NOT PART OF INDEBTEDNESS. The obligations incurred by any city of the fourth class in the making of such contracts and arrangements shall not be considered as a part of its indebtedness under the provisions of its governing charter or of any law of this state fixing the limit of indebtedness for the city. The powers conferred by sections 451.04 to 451.06 are additional to all other powers conferred by law, and the amount of any bonds issued thereunder at any time outstanding shall not be included in determining the city's net indebtedness under the provisions of its charter or of any other applicable law.

[1917 c 122 s 2; Ex1919 c 25 s 2; 1921 c 108 s 2; 1949 c 119 s 111] (1769)

451.06 APPLICATION. Sections 451.04 to 451.06 shall apply to all cities of the fourth class whether organized under general or special laws, including those operating under home rule charters.

[Ex1919 c 25 s 3; 1921 c 108 s 3] (1770)

451.07 CITIES MAY GRANT PERMITS. When, in any city of the first class now or hereafter existing in this state, the franchise of any public service corporation supplying gas, or electric energy, or steam, for lighting, heating, or power purposes has expired, and the home rule charter of the city authorizes a limited number of temporary licenses of not more than one year each to use the streets and other public places for the purpose of supplying such service and all of these licenses have been given and have expired, and the corporation thereafter continues to furnish such service and in doing so uses the streets and other public property of the city, the governing body of the city is hereby authorized and empowered, notwithstanding anything to the contrary in the home rule charter of the city, by ordinance, to permit the public service corporation to use the streets and other public property located in the city, and to prescribe, from time to time, but not more often than once in each calendar year, reasonable rates which the public service corporation may charge for such service within the city, and to determine the amount which the public service corporation shall pay the city for the use and occupancy of its streets or other public property which are located in and under the control of the city and used by the corporation. If the home rule charter of the city contains provisions fixing a minimum amount that the public service corporation shall pay the city for the exercise of any franchise or privilege in, over, under, or upon any of the streets or public places in the city, when the public service corporation is not specifically relieved of such payment, the sum fixed by the governing body, pursuant to sections 451.07 and 451.08, for the use of the property and privilege, shall not be less than the minimum fixed by the charter to be paid in those cases wherein the grantee is not specifically relieved from such payment.

[1935 c. 286 s. 1] (1491-5)

451.08 LIMITATION. Section 451.07 shall not be construed as authorizing the governing body to change any rates for such service, or the amount of payment for the use of the streets and other public property when any such rates or payments have been embodied in an agreement now or hereafter existing between the city and the public service corporation, which agreement determines the amount of such rates or payment for a definite period of time.

[1935 c. 286 s. 3] (1491-7)