

ARTICLE VIII. FRANCHISES AND PUBLIC UTILITIES

Sec. 8.01. Powers of the city.

In addition to the city's power to buy, own, construct, maintain, and operate utilities, within or without the City limits, and to manufacture and distribute electricity, gas, or anything else that may be needed or used by the public, the City shall have further powers as may now or hereafter be granted under the Constitution and laws of the State of Texas.

Sec. 8.02. Franchises, use of city property, power of council.

The City Council shall have power to control and to grant, amend, renew or extend by ordinance all franchises, and all use of the City's property, owned in fee title or otherwise, streets, alleys, easements, right-of-ways and all commercial and business uses of said City property by public utilities and all providers of radio, television transmission, cable, internet communications, telecommunications service, electronic communication and all other uses of City property. The City's exercise of power shall be in conformity with applicable Federal and State laws, rules and regulations and applicable City ordinances that implement this section.

(Amd. No. 10, 5-1-1999)

Sec. 8.03. Franchise value not to be allowed.

In fixing reasonable rates and charges for utility service within the City and in determining the just compensation to be paid by the City for public utility property which the City may acquire by condemnation or otherwise, nothing shall be included as the value of any franchise granted by the City under this Charter.

Sec. 8.04. Right of regulation.

All grants, renewals, extensions, or amendments or public utility franchises, whether it be so provided in the ordinance or not, shall be subject to the right of the City:

- (1) To repeal the same by ordinance at any time for failure to begin construction or operation within the time prescribed or for failure otherwise to comply with the terms of the franchise, such power to be exercised only after due notice and hearing.
- (2) To require an adequate and reasonable extension of plant and service, and the maintenance of the plant and fixtures at the standard necessary to render the highest reasonable quality of utility service to the public.
- (3) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates.
- (4) (a) To prescribe the form of accounts kept by each such utility; provided, that if the utility shall keep its accounts in accordance with the uniform system of accounts for said utility prescribed by the National Association of Railroad and Public Utility Commissioners, the Federal Power Commission, the Federal Communications Commission, the Railroad Commission of Texas, or their successors, or other State or Federal utility regulating agencies, this shall be deemed sufficient compliance with this paragraph.

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- (b) At any time to examine and audit the accounts and other records of any such utility and to require annual and other reports, including reports on local operations by each such public utility.
 - (5) To impose such reasonable regulations and restrictions as may be deemed desirable or conducive to the safety, welfare, and accommodation of the public.

Sec. 8.05. Consent of property owners.

The consent of abutting and adjacent property owners shall not be required for the construction, extension, maintenance or operation of any public utility; but nothing in this Charter or in any franchise granted thereunder shall ever be construed to deprive any such property owners of any right of action for damage or injury to his or her property as now or hereafter provided by law.

(Amd. no. 28, 1-21-1989)

Sec. 8.06. Extensions.

All extensions of public utilities within the City limits shall become a part of the aggregate property of the public utility, shall be operated as such, and shall be subject to all the obligations and reserved rights contained in this Charter and in any original grant hereafter made. The right to use and maintain any extension shall terminate with the original grant and shall be terminable as provided in section 8.04(1). In case of an extension of public utility operated under a franchise hereafter granted, such right shall be terminable at the same time and under the same conditions as the original grant.

Sec. 8.07. Temporary permits.

Permits unconditionally revocable at the will of the governing body for minor or temporary privileges in the streets, public ways and public places of the city may be granted and revoked by ordinance from time to time, and such permits shall not be deemed franchises as the term is used in this Charter.

Sec. 8.08. Other conditions.

All franchises heretofore granted are recognized as contracts between the City of Farmers Branch and the grantee, and the contractual rights as contained in any such franchises, shall not be impaired by the provisions of this Charter, except that the power of the City of Farmers Branch to exercise the right of eminent domain in the acquisition of any utility property is in all things reserved, as is the right to require adequate and reasonable extension of plant and service and the maintenance of the plant fixtures at the standard necessary to render the highest reasonable quality of utility service to the public. Every public utility franchise hereafter granted shall be held subject to all the terms and conditions contained in the various sections of this article to the full extent permitted by State and Federal law whether or not such terms are specifically mentioned in the franchises. Nothing in this Charter shall operate to limit in any way, as specifically stated, the discretion of the council of the electors of the City in imposing terms and conditions as may be reasonable and lawful in connection with any franchise grant, including the right to require such compensation or rental as may be permitted by the laws of the State of Texas and the United States.

(Amd. nos. 20, 27, 1-21-1989)

Sec. 8.09. Franchise records.

Within six months after this Charter takes effect, every public utility and every owner of public utility franchises shall file with the City, as may be prescribed by ordinance, certified copies of all franchises owned or claimed, or under which such utility is operated in the City of Farmers Branch. The City shall compile and maintain a public record of public utility franchises.

Sec. 8.10. Accounts of municipally owned utilities.

Accounts shall be kept for each public utility owned or operated by the City, in such manner as to show the true and complete financial results of such city ownership and operation, including all assets, appropriately subdivided into different classes, all liability subdivided by classes, depreciation reserve, other reserves, and surplus; also revenues; operating expenses including depreciation, interest payments, rental, and other disposition of annual income. The accounts shall show the actual capital cost to the City of each public utility owned, also the cost of all extensions, additions, and improvements and the source of the funds, expended for such capital purposes. They shall show as nearly as possible the cost of any service furnished to or rendered by any such utility to any other City or governmental department. The Council shall annually cause to be made by a certified public accountant, and shall publish, a report showing the financial condition of said public utility and the financial results of such City ownership and operation, giving the information specified in this section and such additional data as the council shall deem expedient.

Sec. 8.11. Relations of rates and services.

The City Council shall have all powers now or hereafter granted to municipalities by the Constitution and laws of the State of Texas, to regulate by ordinance the rates and service of every public utility operating in the City of Farmers Branch. Notwithstanding the foregoing, the Public Utility Regulatory Act of Texas as it shall from time to time be amended, or any succeeding legislation, shall control where applicable.

(Amd. no. 14, 1-15-1983; amd. no. 20, 1-21-1989)

Sec. 8.12. Rate changes.

No person or corporation enjoying any franchise to operate a public utility within the City of Farmers Branch shall ever make any change to fix any rate for public service to its patrons or the inhabitants of the City of Farmers Branch without first being authorized by the governing body of the City by an ordinance or order approving the same, and no public utility shall contest any rate or charge or order fixed by the governing body of the City under the authority otherwise conferred in the Charter of the City in any suit or cause of action in any court until after such utility has filed a motion for a rehearing with the governing body of the City specifically setting out the grounds of complaint or charge and until the governing body of the City shall have passed upon the said motion for rehearing. Notwithstanding the foregoing, the Public Utility Regulatory Act of Texas shall control where applicable.

(Amd. no. 14, 1-15-1983)