

**Title 13**

**PUBLIC SERVICES**

**Chapters:**

**13.04 Public Utility Franchises**

**13.08 Sewer Connections**

**13.12 Storm Water Utility**

## Chapter 13.04

### PUBLIC UTILITY FRANCHISES

Sections:

- 13.04.010 Definitions.
- 13.04.020 Franchise required.
- 13.04.030 Conditions of franchise.
- 13.04.040 Map of facilities.
- 13.04.050 Permit required to change nature or location of facilities.
- 13.04.060 Moving facilities to accommodate work on rights-of-way.
- 13.04.070 Violation – Penalty.

#### **13.04.010 Definitions.**

For the purposes of this chapter, a “public utility” is defined as any person, firm or corporation supplying electricity, water or gas or distributing the same, or supplying telephone, telegraph or sewer service by the use of pipes, poles, lines, cables or other fixed equipment under, upon, along or above street rights-of-way in the town; and for the purpose of this chapter any public utility shall be deemed to include any employee, nominee or independent contractor thereof performing work upon such facilities in the streets or in public places of the town whether under contract, direction, request or authority of the public utility. (Ord. 29 § 1, 1959)

#### **13.04.020 Franchise required.**

From and after 15 days following the effective date of the ordinance codified in this chapter, it is unlawful for any public utility to use the street rights-of-way of the town without a valid and effective franchise granted by the town or the state and applicable to street rights-of-way of the town. (Ord. 29 § 2, 1959)

#### **13.04.030 Conditions of franchise.**

Franchises granted by the town for the use of streets shall be uniformly conditioned as follows:

A. All Franchises to Include Hold Harmless Provisions. Any franchise granted a public utility for the use of town streets shall include a provision wherein the grantee holds the town harmless from any liability by reason of the construction, operation or maintenance of its facilities under, along, upon or over street rights-of-way or other public places.

B. All Franchises to Include Assumption of Risk Provision. Any franchise granted a public utility under this chapter for the use of town streets shall include a provision wherein the grantee assumes the risk of injury to its facilities within street rights-of-way or other public places by the town.

C. Rights Conferred by Franchises to Be Subject to Police Power. Any franchise granted a public utility under this chapter for the use of town streets shall include a provision wherein the grantee by its acceptance thereof acknowledges that all rights conferred thereby are subject to the police power of the town to adopt and enforce general ordinances necessary for the safety and welfare of the people of the town; and that the grantee agrees to comply with all such general ordinances insofar as applicable to it.

D. All Franchises to Be Accepted within 30 Days. All franchises granted a public utility for the use of town streets shall include a provision that if, within 30 days after the granting of such franchise, the grantee shall have failed to file its written acceptance thereof with the clerk/treasurer of the town then such franchise shall be null and void.

E. All Franchises to Require Consent to Transfer. Any franchise granted a public utility, which is not also a municipal corporation, for the use of town streets shall include a provision requiring the consent of the town to any transfer thereof and shall provide that any transferee be equally bound by the terms thereof.

F. All Franchises Forfeitable Upon Breach. Any franchise granted a public utility for the use of town streets shall include a provision whereby such franchise may, by the town council, be declared forfeited when, after 60 days' notice to the local manager thereof, the grantee shall not have cured a deficiency in its discharge of the obligation created by the franchise and all other applicable laws of the town.

G. No Franchise to Limit Right of Condemnation. Any franchise granted a public utility, which is not also a municipal corporation, for the use of town streets will include a provision that such franchise in no way limits the town in its exercise of the right of eminent domain; and, that in any purchase or condemnation of any of the grantee's property during the term of the franchise, the addition to the sum of all other elements of value of such property by reason of the element which is the right to occupy the public ways evidenced by such franchise, shall be no greater than the actual cost of obtaining such franchise as related to such property. (Ord. 29 § 6, 1959)

#### **13.04.040 Map of facilities.**

Any public utility using street rights-of-way within the town shall, upon request therefor, supply the town engineer or other person to whom this responsibility may be delegated, with a map or maps to a uniform scale, showing as-built locations and the nature of its facilities within the street rights-of-way or public places and if such facilities are underground, the depth thereof, and any modifications thereof. (Ord. 29 § 3, 1959)

#### **13.04.050 Permit required to change nature or location of facilities.**

A. Any work affecting the location of its poles, pipes or conduits in, upon or along town streets by or at the instance of a public utility, as defined in YPMC 13.04.010, shall be done only upon permit showing approval by the town engineer or other person to whom this

authority may be delegated, and according to any applicable ordinances or resolutions of the town.

B. Such applications shall be accompanied by at least two maps to the same scale as the map required under YPMC 13.04.040, if such is requested by the town. (Ord. 29 § 4, 1959)

#### **13.04.060 Moving facilities to accommodate work on rights-of-way.**

Whenever it is deemed necessary to accommodate town work including, without limitation, the change of, or improvement to, grade of any street, its vacation or relocation, or in the absence of town work, if it is deemed necessary to satisfy the public need as determined by the town council, any public utility shall move its equipment and facilities within the street rights-of-way or other public places to conform to such work or public need. (Ord. 29 § 5, 1959)

#### **13.04.070 Violation – Penalty.**

Violation of any of the provisions of this chapter shall be a misdemeanor, and shall be punishable by a fine of not to exceed \$300.00 or by imprisonment not to exceed 90 days, or both. (Ord. 29 § 7, 1959)

**Chapter 13.08****SEWER CONNECTIONS**

## Sections:

13.08.010 Connection required.

13.08.020 Exceptions.

13.08.030 Violation – Penalty.

**13.08.010 Connection required.**

Except as provided in this chapter, and within one year from and after June 1, 1960, the owners of all properties within the town containing a sanitary plumbing system shall cause a direct connection of the sanitary plumbing system to be made to the nearest available public sewer in such manner that all sewage from the property is discharged into the public sewer system. (Ord. 58 § 1, 1960)

**13.08.020 Exceptions.**

The town council, acting with the advice of the town engineer, may grant exceptions to the requirements of YPMC 13.08.010, in cases of extreme hardship, upon the written application therefor of a property owner. Such application shall set forth the particular facts of hardship and the granting or denial of the application shall be discretionary with the town council. (Ord. 58 § 2, 1960)

**13.08.030 Violation – Penalty.**

Violation of the provisions of this chapter shall be a misdemeanor and any persons found guilty thereof shall be punished by a fine of not to exceed \$100.00 or by imprisonment not to exceed 30 days, or both. It is a separate offense for each and every day or portion thereof during which any violation of the provisions of this chapter is committed, continued or permitted. (Ord. 58 § 3, 1960)

**Chapter 13.12****STORM WATER UTILITY**

## Sections:

13.12.010 Utility established.

13.12.020 Utility fees.

13.12.030 Utility fund established.

13.12.040 Advisory committee.

13.12.050 Liability disclaimer.

**13.12.010 Utility established.**

A storm and surface water utility is hereby established for the purpose of protecting public health, safety and welfare by providing a dedicated revenue source for effective management of the storm and surface water facilities and courses the title to which is held by the town. (Ord. 630 § 1, 2011)

**13.12.020 Utility fees.**

The council may establish by resolution utility fees to recover the costs of providing service to property in accordance with the cost of improving, operating and maintaining the town storm and surface water system. Costs may include but will not be limited to the expense of planning, administration, development of regulations, the enforcement of existing regulations, construction and/or repair of facilities, system maintenance, provision of storm and surface water management equipment and services and any redemption of bonds that are used to finance any system improvement. (Ord. 630 § 2, 2011)

**13.12.030 Utility fund established.**

The storm water utility fund is hereby created. Utility fees shall be deposited in this fund, to be used only for the purpose of paying all or any part of the cost and expense of providing storm and surface water management services, or to pay or secure the payment of all or any portion of any financing for such purpose. (Ord. 630 § 3, 2011)

**13.12.040 Advisory committee.**

A citizen work group referred to as the utility advisory committee, or “UAC,” is hereby created. The committee shall be comprised of a minimum of three but not more than five town of Yarrow Point residents appointed by the mayor and confirmed by the town council. A qualified professional consultant approved by the council shall be retained as the UAC coordinator. The UAC shall make policy recommendations to the council concerning establishment of utility rates, the collection of funds, and the purpose for which they shall be used. Members of the UAC are authorized to make any other recommendations involving planning for the utility and its future administration as considered necessary. (Ord. 630 § 4, 2011)

**13.12.050 Liability disclaimer.**

A. Floods from storm water runoff may occasionally occur which exceed the capacity of drainage facilities constructed and maintained by the town. The town’s adoption of this chapter does not imply that property liable for any utility fees shall always be free from flooding. Further, this code does not purport to reduce the need or the necessity for any property owner to obtain flood insurance.

B. The storm and surface water utility shall be administered and enforced for the benefit of the health, safety and welfare of the general public, and not for the benefit of any particular person or class of persons.

C. No provision of or any term used in this chapter is intended to impose any duty upon the town or any of its officers or employees which would subject them to damages in a civil action. (Ord. 630 § 5, 2011)