

conform to such reports as are required by state or federal public utility commissions.

Every failure or neglect on the part of the grantee or holder of a franchise to keep books of account or to make reports under this section shall be deemed an offense and the Council may by ordinance provide for the punishment of every such violation, failure or neglect by fine or imprisonment, or both, of the person or persons whose duty it shall be to keep such reports.

d. The enumeration in this Chapter of any particular power or duty shall be construed as additional and supplemental to any and all powers residing in or otherwise conferred upon the City of Nyssa by law.

#### Power of the Council to Make Rules

Section 8-a. The Council shall have power to make all orders, rules and regulations necessary or appropriate to carry into effect the powers granted and to make the same effective by penalties and forfeitures, and upon failure by any franchise holder to comply with any of the requirements of the provisions of this chapter for a period of thirty (30) days after notice, the Council shall have power to declare by ordinance a forfeiture of the franchise under which any person or corporation so failing to comply is operating a public utility within the city of Nyssa.

b. Every such order, rule or regulation of the Council shall take effect at a time to be therein specified, and shall continue in force until modified or abrogated by the Council or modified, suspended or set aside by the decree or judgment of a court of competent jurisdiction.

c. Whenever any person or corporation against whom any rule, order or regulations is directed, as provided by the foregoing subdivisions, shall believe an order to be unjust or unreasonable, he or it may test its justice or unreasonableness by a proper action in the courts commenced within thirty (30) days after service of any such order, rule, or regulation, and in such action such further order may be entered in the premises as shall be warranted by the facts developed upon the trial and the law applicable thereto.

#### Franchises Subject to the Provisions of This Chapter

Section 9. Every franchise hereinafter granted shall be expressly subject to all the provisions of the foregoing sections and the power of control and regulation as authorized by such sections cannot be limited, divested or granted away. Subject to the initiative and referendum such power of control and regulation shall be exercised by the Council and may be exercised by the Council through its agents.

#### Franchise Deemed as Property

Section 10. Every franchise granted under this Charter shall be taken and deemed as property and shall be subject to taxation as property.

#### Limitation as to Time

Section 11. Franchise may be granted for a limited time in and upon the streets, highways, and public places and property of the city of Nyssa, in the manner and subject to the conditions hereinafter contained.

#### No Exclusive Franchise Granted

Section 12. No exclusive franchise shall be granted nor shall any franchise, lease, or right be granted for a longer period than twenty years.

#### Franchise—What to Contain

Section 13. Every franchise granted by the city of Nyssa shall contain full and explicit statements of its conditions in the following particulars.

a. In case of railroads and street railways it shall specify plainly the streets or other places thereof to which they apply. Any other franchise shall state the boundary of the district or districts within which it shall be exercised.

b. The amount and manner of payment of the compensation to be paid by the grantee for the right. The Council shall make an estimate of the cash value of any franchise upon the filing of the application or an estimate of which it may consider fair compensation to the city for the franchise, and the same shall be entered upon the minutes of the proceedings of the Council and published with the copy of the franchise. In lieu of a money valuation the Council may at its option declare what will be a reasonable reduction of fares, rates or charges, either at the beginning or progressively from time to time, to be made by the grantee in compensation for the grant.

c. The time of beginning the construction or other work thereunder, the estimated total cost of such work, the monthly or yearly sums of money to be expended thereon, and in case of franchise to transportation companies or other franchises covering certain streets or portions of streets, the time within which the work under such franchise shall be completed, changing rates, fares, or charges shall contain a provision fixing the compensation upon such streets or portion of streets respectively.

d. Every grant of a franchise which provides for or permits the said franchise and the operation of the plant or property thereunder; subject, however, to the power of regulation prescribed in this charter. Rules, however, shall

always be uniform to all persons of like classes under similar circumstances and conditions.

e. Every franchise shall be embodied in an ordinance, which shall contain all the terms and conditions of the proposed grant, and shall be filed with the Recorder. Thereupon such proposed ordinance shall be published in full once in a newspaper of general circulation published in said city, and given as full publicity as may be under the circumstances, notice prepared by the Recorder, that an application has been made for a franchise, giving the name of the applicant, the charter and location of the proposed grant, and requesting any person having any objections to such proposed franchise or any provisions thereof to file the same in writing with the Recorder within twenty (20) days from the first publication of such notice. If such request is made therefor, the Council shall fix a time for a hearing upon such objections, and give reasonable notice of the time thereof not less than five (5) days. All such publications and notices shall be at the expense of the applicants for such franchises. Such ordinances shall not come up for first reading until after the expiration of the said twenty (20) days. If such ordinance shall be amended, it shall be republished in the said newspaper in full as amended. No such ordinance granting a franchise shall be put on its final passage within thirty (30) days after the first reading nor within twenty (20) days after any amendment thereto, and the affirmative vote of three Councilmen shall be required to pass the same.

f. The enumeration and specifications of particular matters which must be included in every franchise granted shall not be construed to impair the right of the city to insert in such franchise such other and further conditions and restrictions as the Council may deem proper for the public welfare.

#### Franchise Not to be Sublet or Leased

Section 14. No franchise shall be sublet or assigned, nor shall any of the rights or privileges thereby granted or authorized be leased, as signed, sold or transferred without the consent of the city of Nyssa expressed by ordinance which shall be subject as other ordinances, to the referendum.

#### Franchise Conditions

Section 15. Every franchise granted by the city of Nyssa, shall be subject to the conditions and restrictions hereinafter provided, to-wit:

a. That the city may in any lawful manner and upon the payment of a fair valuation lawfully ascertain, purchase, condemn, acquire, take over and hold the property and plant of the grantee in whole or in part; if such purchase or taking over be at the expiration of the term of the franchise, such valuation shall not include any sum for the value of the franchise or grant under which such plant and property is being operated.

b. That upon payment by the city of Nyssa of a fair valuation as above stated, the plant and property so acquired shall become the property of the city without formal execution of any instrument of conveyance, provided, however, the city may at its option compel the execution to it of an instrument of transfer and conveyance.

c. That upon the acquisition of any such plant or property the right of the holder of any such franchise pursuant to which such plant or property was operated shall cease and determine, and the acquisition by the city of any such property or plant shall operate to divest the holder of any such franchise of all right, title and interest therein.

d. No franchise shall be granted without fair compensation to the city therefor, either by way of direct payment or by reduction of rates, fares or charges; and in addition to the other forms of compensation to be therein provided, the grantee may be required to pay annually to the city such part of its gross receipts as may be fixed in the grant of said franchise. This provision shall not exempt the holder of the franchise from any lawful taxation upon its property nor from any license, charge or imposition not levied on account of such use.

e. Every franchise and all things constructed thereunder or used in connection therewith, other than rolling stock and power, shall be subject to common use by any person or corporation, including the city, operating a similar public utility whenever it shall be advantageous to the public, upon payment or tender of fair compensation for such use. The compensation for the franchise itself shall be payable only to the city and not to the holder of the original franchise. The Council shall have the power to determine what is a fair compensation and to regulate the manner of such use subject to judicial review, but no judicial proceeding shall suspend or postpone such use if the person or corporation desiring such common use shall deposit in the court such sum as the court on a preliminary hearing may determine. Such compensation shall not include any remuneration for the franchise or rights conferred by the city, except that the new user may be required to pay a ratable part of any tax or public charge imposed upon the original grantee by reason of such franchise in addition

to such other payment to the city as the Council may deem equitable.

f. The holder for the time being of any franchise to construct or operate railways in the streets or public places shall keep those portions of streets or other places occupied by such holder, in good repair, or order, as required by the Council, and shall improve, pave, or repair and maintain from time to time and in the manner and within the time directed by the Council that portion of the street occupied by them lying between the rails of the track and extending one foot outside of such rail, and the portion of the streets lying between the tracks. In addition, any franchise granted to any street or other railroad, for the operation thereof, may provide that the holder thereof, for the time being shall pave, repave and keep in repair at the time and in the manner required by the Council any street or part thereof used pursuant to such franchise for the whole or any part of the entire width of the street. Failure or neglect on the part of any holder of a franchise to do the work in the manner required by the Council shall constitute an offense punishable by fine of not less than ten (\$10) dollars nor more than one hundred (\$100.00) dollars for each and every day of such refusal or neglect shall continue.

#### Franchise; Owners of, to File Statements

Section 16. Within ninety (90) days after this charter shall take effect the holder of any franchise shall file with the Recorder a full and correct statement of the franchise, rights and privileges owned or claimed to be owned by him or it, and shall designate the same by numbers and titles of the ordinances by which such franchises were granted. And any holder of any franchise, on failure to do so, shall be guilty of an offense punishable by a fine of not less than ten (\$10) dollars and not more than one hundred (\$100.00) dollars per day while such refusal or neglect continues.

#### CHAPTER XV.

##### Claims Against the City

Section 1. All demands and accounts against the city shall be presented to the Recorder on or before the first day of each month with the necessary evidence in support thereof, who shall refer them to the Council for its approval or disapproval, together with any suggestions or explanation which he may deem proper and pertinent. All such demands and accounts except salaries, labor certificates and contract bills, when it is considered by the Council for the best interest of the city, shall lie over from the meeting at which they were presented until the next regular meeting, when the Council shall vote directly whether the same shall be paid in whole or in part, as they may deem just and legal; provided that no claim shall be allowed or paid or warrant drawn therefor that is not for a corporate purpose. All accounts shall be balanced at the end of each month.

##### Warrants, How Drawn

Section 2. When the Council orders any account or demand to be paid, the Recorder, shall draw a warrant on the Treasurer for the amount, which warrant, when so drawn, shall be signed by the Mayor and attested by the Recorder, and when delivered to the payee shall be receipted for by him.

##### Issue Licenses

Section 3. The Recorder must issue all licenses authorized by the city ordinances upon delivery to him of the amount of money charged for such license; provided, that in cases where the provisions of this charter or any city ordinances shall require a special order, license shall only issue upon the receipt of such special order by the Council.

#### CHAPTER XVI.

##### OF ASSESSMENT AND COLLECTION OF DELINQUENT TAXES

##### General Fund

Section 1. All moneys paid for licenses and collected as fines as well as all money collected by taxation, except taxes levied for a special purposes, shall form the general fund of the city; provided, that the Council may create other funds for special purposes, or improve districts funds. Warrants drawn upon the general fund shall be payable in the order of their presentment to the Treasurer; the Council shall have the power to invest trust funds, sinking funds and improvement district funds in interest bearing securities, which securities shall be of such value and salability that the Council may realize upon the same within a reasonable time, the interest received from the investment thereof shall be used to recoup the city's liability for other interest or bonded indebtedness.

##### Manner of Assessing Taxes

Section 2. All taxes except as in this Charter otherwise provided, shall be assessed, levied and entered upon the tax roll of Malheur county, Oregon, in accordance with the general laws of the State of Oregon, relating to the assessment and levying of taxes, in force at the time of assessment, and shall be collected by the same officer collecting county taxes in said Malheur county and at the same time as said county taxes are collected, and shall be paid over to

the City Treasurer of the City of Nyssa as provided by law.

#### Fixing Amount of Taxation

Section 3. Immediately after the County Clerk of Malheur County has ascertained the aggregate valuation of assessable property within the city limits of the city of Nyssa, and shall furnish a certificate showing the aggregate value thereof as provided by law, it shall be the duty of the Council at a meeting held prior to the first day of December of each year, to meet and by ordinance, annually, levy such taxes and assessments as the Council may consider necessary, not exceeding the limit fixed by this Charter, and cause the same to be certified to the County Clerk of Malheur County; and the same shall be thereafter proceeded with as provided by the general laws of the state of Oregon relating to the mode of making assessments, collection and payment of taxes.

#### Interest on Taxation by Local Assessment

Section 4. All special taxes derived by taxation by local assessment shall bear interest at the legal rate from time the same are delinquent until paid or collected, and the Recorder must collect and pay the same to the Treasurer for credit to the proper fund of the city.

#### Time of Payment

Section 5. The Council must provide by ordinance a time when such special assessments shall be paid to the Recorder and all assessments not paid within such time are thereafter delinquent and must be collected as such, and a penalty of five (5) per cent shall be added thereto, and such delinquent taxes and interest must be collected as such.

#### Special Assessment Rolls

Section 6. Thirty days after the expiration of the time limited for paying taxes levied by local assessments to the Recorder, such officer must return said roll to the Council, distinguishing thereon the amount of taxes paid and those remaining unpaid.

#### Warrants Directed to the Marshal

Section 7. The Council must thereafter order the Recorder to deliver the said roll to the Marshal and issue and annex thereto a warrant directed to the Marshal commanding him to proceed forthwith to collect the delinquent taxes upon such roll together with the penalty and interest accrued thereon, and pay the same to the Recorder, together with the cost of collection, for deposit, and return the warrant and assessment roll with his doings endorsed thereon and the receipt of the Recorder for the funds collected to the Council.

#### Warrants Deemed to be Execution

Section 8. The warrant for the collection of such delinquent taxes and assessments shall be deemed an execution and shall have the force and effect thereof against the property of any person, firm or corporation against which such taxes or assessments are levied and upon which the same are a lien, and said warrant shall be executed and returned to the Council in like manner as an execution for the sale of real property upon a decree of foreclosure of a lien thereon.

#### Levy Made on Real Property

Section 9. The warrant must be levied upon the real property covered by the lien for the taxes and assessments charged against the same, including the fees of officers, advertising and all expense of sale and executing the warrant.

#### Owner Unknown

Section 10. In case of delinquent taxes or assessments levied upon real property in the name of the owner unknown, the warrant, together with penalty and accrued interest thereon, shall be executed by levying upon each lot or part thereof of such property for the taxes or assessments levied thereon, together with the fees of officers, the expenses of advertising and sale and selling it separately.

#### Deed of Marshal

Section 11. When real property is sold for delinquent taxes or assessments, the Marshal shall make and deliver to the purchaser, upon the payment to him of fifty (50) cents, for the benefit of the city, a certificate of sale therefor, and thereafter, if such sale be of real property and the same be not redeemed, a deed shall be executed by the Marshal to the purchaser thereof or to his assigns, at the expiration of the time for redemption. The purchaser shall be entitled to the possession of said property from the day of the sale.

#### Real Property; Redemption of

Section 12. Real property sold for delinquent taxes or assessments may be redeemed within three years after the sale, upon the payment of the amount of taxes, penalty, interest, accrued up to the time of the sale, the expenses of the sale and interest at the rate of ten (10) per centum per annum from the day of the sale.

#### Surplus Paid to Owner

Section 13. Whenever any property sold for delinquent taxes or assessments shall bring more than the amount of such taxes or assessments, the penalty and interest, and the costs and charges of collection, the surplus must be paid to the Treasurer, and the person executing the warrant must take a receipt therefor, and file the same with the Council on the return of the Warrant. At any time within three (3) years thereafter the owner of the property sold,