

Article VIII. American Bus Shelter Company.

Sec. 21-81. Franchise granted.

The right, privilege and franchise is hereby granted to the American Bus Shelter Company, Inc., an Illinois corporation, to construct, maintain, operate and repair bus shelters on and upon public rights-of-way in the manner and location as may be controlled and determined by a conditional use permit and/or other entitlements that may be issued by the city. No such right, privilege or franchise may be exercised prior to compliance with all applicable city regulations and entitlements. The termination and/or revocation of any such entitlements shall operate to terminate any right or privilege granted by the franchise. (Ord. No. 470)

Sec. 21-82. Term of franchise.

The term of the franchise granted pursuant to this article shall be as set forth in the conditional use permit and/or other required entitlements of the city. In no event shall this franchise term exceed ten years. (Ord. No. 470)

Sec. 21-83. Compensation to city; annual reports.

- (a) The grantee, during the term of the franchise granted pursuant to this article, shall make annual payments to the city at the rate of ten percent of the gross advertising revenue earned by the grantee for the rental of shelters erected in the exercise of this franchise. The annual date shall be deemed to commence on the anniversary date of the grant of a conditional use permit allowing the erection of bus shelters.
- (b) Within ninety days after each such anniversary date, the grantee shall file with the city a report, verified by oath of a duly authorized representative of the grantee, showing the gross advertising revenues earned during the immediately preceding year; payment of the ten percent franchise fee shall accompany the report. (Ord. No. 470)

Sec. 21-84. Construction, maintenance, locations of shelters, etc.

- (a) Number and locations of shelters. The number and locations of the bus shelters constructed and placed in the city is not limited by this article, but shall be only as determined in the grant of a conditional use permit issued by the city.

The granting of this franchise in no manner constitutes approval by the city to install, build or otherwise locate bus shelters in the city, unless and until a conditional use permit and all other necessary entitlements are secured by the grantee. Except as otherwise provided in this article, the terms and conditions of such entitlements shall prevail and govern the exercise of any rights hereby granted.

The granting of this franchise, to the extent allowable, also constitutes an encroachment permit to the grantee for the purpose of locating bus shelters on a public right-of-way that is under the jurisdiction of the city, subject to conditions herein and as may be hereinafter imposed by necessary entitlements.

- (b) Emergency work. Emergency work, including, but not limited to, structured repairs may be commenced without prior permit; provided, that the grantee shall, by not later than the next normal working day, apply to the city for a permit authorizing such emergency work.

- (c) Regular repair. Repair, cleaning and service of bus shelters shall be on a regular biweekly basis, including but not limited to graffiti removal.
- (d) Utilities. The grantee shall pay all utility charges that become due arising from and related to the use of the bus shelters.
- (e) Changes required by public improvements. If the public works director shall determine that it is reasonable and necessary that franchise property be temporarily abandoned, temporarily or permanently removed in order that the city, when acting in a governmental capacity, may relocate, change grade, construct, use, maintain, change or modify any street or sidewalk improvement or city owned facilities, the public works director shall give notice in writing to the grantee. Within thirty days after the service of such notice upon the grantee, the grantee shall, at its sole cost and expense, begin and diligently prosecute the necessary work to completion. Upon its failure to do so, the public works director may cause such work to be completed, and the grantee shall immediately pay for the same upon presentation of an itemized account of the cost thereof. (Ord. No. 470)

Sec. 21-85. Bonding and insurance.

- (a) The grantee will indemnify and save harmless the city, and indemnify its officers, agents, servants and employees against all claims, costs, expenses, damages, liabilities and judgments of every kind and character, resulting by reason of the erection, maintenance, operation or removal of any of the shelters referred to in this agreement, sustained or claimed by any person whomsoever and whatsoever, caused or alleged to have been caused, directly or indirectly, by an act or omission, negligent or otherwise, of the grantee, its agents, servants and employees, or occasioned by any work performed by the grantee, or by the permission granted by the city in this article, and shall defend any such action or suit brought against the city, and shall pay all costs and expenses of whatsoever nature resulting therefrom and in connection therewith, and shall pay, on behalf of the city, the amount of any judgment that may be entered against them in any such action or suit.
- (b) The grantee will carry indemnity insurance as against the above mentioned liability in the sum of not less than one million dollars, naming the city, its officers, agents, servants and employees as additional insureds, and shall deposit a certificate of such insurance and evidence of payment.
- (c) The franchise granted under this article is granted on the condition that the grantee shall at all times during the life of this franchise keep on file with the city a faithful performance bond running to the city in the sum of three thousand dollars, executed by a reputable surety entitled to do business in the state. The bond shall contain the conditions that the grantee shall well and truly observe, fulfill and perform every term and condition of such franchise and that, in case of any breach of any condition of such bond, the whole amount of the sum therein named shall be taken and deemed to be liquidated damages and shall be recoverable from the principal and from the sureties upon the bond. The provisions of this section shall not exempt the grantee from compliance with any of the laws of the city in force during the term thereof which require the grantee to post a bond other than the bond required by this section. However, where the grantee desires to show other evidence of financial responsibility for faithful performance, acceptable to the city attorney, such bond requirements may be waived by the public works director. (Ord. No. 470)

VERSION 10/2007

Sec. 21-86

Sec. 21-89

Sec. 21-86. Right of removal of shelters.

The grantee retains the right to remove any shelters without notice to the city, in the event any restriction on the construction or maintenance of advertising is imposed by statute or by ordinance of the city or state in which the shelter is located or in the event federal, state, municipal or other proper authorities should establish any rules, regulations or taxations which shall have the effect of so restricting location, construction, maintenance or operation of the shelters as to diminish the value of such shelters for advertising purposes. (Ord. No. 470)

Sec. 21-87. Franchise not assignable; exceptions.

The grantee shall not sell, transfer, assign or lease the franchise granted under this article, except with the consent of the city; provided, that this franchise may be transferred in trust or hypothecated for the purpose of securing any indebtedness of the grantee. (Ord. No. 470)

Sec. 21-88. Inspection of property, records, etc.

At all reasonable times, the grantee shall permit any duly authorized representative of the city to examine all property of the grantee which is operated or maintained pursuant to the franchise granted under this article and to examine all books, accounts, papers, maps and other records with relation thereto. (Ord. No. 470)

Sec. 21-89. Termination.

The city may terminate the rights and privileges granted by this franchise upon thirty days' notice to the grantee for any violation of the terms of this article or the entitlements issued pursuant hereto.

Upon the removal of any or all shelters erected by the grantee under this article, all material will be removed from the site and such site restored to the condition existing prior to installation. All wires will be removed and holes filled to the satisfaction of the city. The performance bond filed with the city as set forth in section 21-85(c) shall not be released until removal has been completed as set forth above. In the event of failure of the grantee to remove shelters upon termination of this franchise, for whatever reason, within such time as may be prescribed by the public works director, the city may remove such shelters at the grantee's expense, and the grantee shall pay to the city the actual cost thereof, plus liquidated damages as hereinabove set forth. (Ord. No. 470)

(Ord. No. 470)

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