

Water and Sewer Franchises (Including Storm Sewers)

Unlike most other types of utilities, the franchising of water and sewer utilities in Washington relies mainly on Washington State's general grant of city franchising authority, rather than industry-specific statutes. While water and sewer utilities are regulated under both state and federal law -- primarily for environmental protection and public health -- these regulations have only a tangential impact on the franchising process.[1]

As noted in the introduction to this section of the formbook, the general rule in Washington, is that a city or town's general grant of franchising authority does not include the power to compel a utility to enter into a franchise. *General Telephone Co. of Northwest, Inc. v. City of Bothell*, 105 Wn.2d 579, 716 P.2d 879 (1986). This rule was applied to sewer franchises in *City of Lakewood v. Pierce County*, 106 Wn. App. 63, 23 P.3d 1 (2001).

[1] There are a small number of private, investor-owned water companies whose rates and other terms of service are regulated by the Washington Utilities and Transportation Commission (WUTC), but these utilities constitute than two percent of the state's households. [*Who Regulates My Water Service*](#), WUTC.

State and Federal Statutes

Washington Statutes

- RCW 35A.47.040 sets forth the general grant of franchising authority for code cities.

RCW 35A.47.040

Franchises and permits — Streets and public ways.

Every code city shall have authority to permit and regulate under such restrictions and conditions as it may set by charter or ordinance and to grant nonexclusive franchises for the use of public streets, bridges or other public ways, structures or places above or below the surface of the ground for railroads and other routes and facilities for public conveyances, for poles, conduits, tunnels, towers and structures, pipes and wires and appurtenances thereof for transmission and distribution of electrical energy, signals and other methods of communication, for gas, steam and liquid fuels, for water, sewer and other private and publicly owned and operated facilities for public service. The power hereby granted shall be in addition to the franchise authority granted by general law to cities....

Regulatory Agencies

- None with authority over franchise related matters.

- [General Franchise Form](#)