

CHAPTER 12

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12.01 Manitowoc Public Utilities Commission.

(1) **Creation.** There is hereby created the Manitowoc Public Utilities Commission to manage and operate the electric utility, water utility and communications utility of the City.

(2) **Composition and Terms.** The Commission shall consist of seven commissioners. Five commissioners shall be citizens of the City who shall be elected by the Common Council for a five year term beginning on the first day of October. Existing commissioners shall serve the remainders of their present terms of office.

The Mayor and Chairman of the Public Utilities and Licensing Committee shall serve on the Commission as ex-officio members.

In the case of a vacancy on the Commission, other than an ex-officio member vacancy, the Common Council shall appoint a commissioner to fill the vacancy for the remainder of the term.

12.03 Powers of the Commission.

(1) **Generally.** The Commission shall take entire charge and management of the electric utility, water utility and communications utility and shall have full authority to supervise the operation of these utilities subject to the general control and supervision of the Common Council, which shall be exercised through the enactment and amendment of this ordinance. Specific powers of the Commission shall include but not be limited to those specified in this §12.03.

(2) **Employees and Consultants.** The Commission may appoint a manager and such other employees as the Commission deems necessary or convenient for the operation of the utilities. The Commission may also employ the services and fix the compensation of other agents or consultants as the Commission deems are necessary or convenient for the operation and management of the utilities.

(3) **Construction Contracts.** The Commission shall have full authority to let bids and enter into construction contracts in the name of the City and supervise construction work, provided that such contracts are necessary or convenient to the management and operation of the Utilities, and further provided that any such contract or contracts for any one construction project do not exceed \$2,500,000, unless the project has first been approved by the Common Council as provided for in §12.05.

(4) **Other Contracts .** The Commission shall have full authority to enter into other contracts in the name of the City, including but not limited to contracts to purchase and sell electrical power and fuel, sell steam and hot water service, sell potable water and purchase and sell communications services provided that such contracts are necessary or convenient to the management and operation of the utilities.

(5) **Purchase and Sale of Real Estate** The Commission shall have full authority to acquire and sell interests in real estate in the name of "City of Manitowoc-Manitowoc Public Utilities" as may

be necessary or convenient to the management and operation of the utilities, subject to §12.05(4).

(6) **Rates, Rules and Regulations.** The Commission shall have the authority to fix consumption rates and establish rules and regulations for the governance, management and operation of the Utilities, subject to the jurisdiction of the Public Service Commission of Wisconsin. The Commission shall also be empowered to establish rules for the governance of its own proceedings.

(7) **City Extensions.** The Commission is empowered to extend electric, steam and hot water, potable water and communication services within the City of Manitowoc city limits as may be necessary or convenient to the management and operation of the utility.

12.05 Control and Supervision of the Common Council. The Manitowoc Common Council shall exercise the following general control and supervision over the Manitowoc Public Utilities Commission.

(1) **Large Construction Projects.** Where the total cost of the contract or contracts for any utilities construction project exceeds \$2,500,000, prior Common Council approval of the project shall be required before the Commission shall be authorized to enter into any contracts for the project.

(2) **Assessment Policy .** The Manitowoc Public Utilities Commission is vested with authority to adopt reasonable rules covering the extension of and assessment for watermain extensions, but such rules and regulations shall be subject to prior approval by the Manitowoc Common Council before submission to the Wisconsin Public Service Commission for approval.

(3) **Extension of Services Outside City Limits.** The Manitowoc Public Utilities Commission shall not extend water, electrical or communication services to retail customers outside of the City of Manitowoc city limits without the prior approval of the Common Council. Subject to the powers set forth in Section 12.03 and limitations in Section 12.05 of the Municipal Code, the Manitowoc Public Utilities Commission is authorized to enter into wholesale electric, potable water or communications sales-for-resale contracts with other municipal utilities, joint action agencies, investor owned utilities, independent power producers, or other similar counterparts outside of the city limits.

(4) **Eminent Domain.** The Common Council reserves to itself the authority to acquire any real estate by eminent domain proceedings under Wis. Stat. Chapter 32 should the Commission be unable to voluntarily acquire any real estate necessary or convenient to the management and operation of the utilities.

(5) **Municipal Borrowing** Nothing in this Charter Ordinance is intended to expand or restrict the current statutory authority of the Utilities Commission or the Common Council to borrow funds.

12.07 Utilities Funds and Expenses.

(1) **Receipts.** All utilities receipts shall be paid to the Finance Director on a daily basis and deposited by the Finance Director into accounts therefore. Utility funds shall be separately accounted for by the water, electric and communication

utilities and shall be expended for utility purposes as the Commission shall direct.

(2) **Expenses.** Utility expenses shall be audited by the Commission at its regular meeting, and, if approved by its President and Secretary, shall be paid by the Finance Director. Utility expenses shall be separately accounted for by the water, electric and communications utility.

(3) **Responsibility for Funds.** The Finance Director shall be in charge of and responsible for the investing of funds held by the Manitowoc Public Utilities. The Finance Director shall consult with management of the Manitowoc Public Utilities for the purpose of knowing when water, electric and communication utility funds will be required for utility purposes.

12.08 Manitowoc Municipal Communications Utility.

(1) **Creation.** There is hereby created pursuant to Chapter 62 and 66 of the Wisconsin Statutes, and without limitation Section 62.11(5), Wis. Stats., a Municipal Communications Utility within the City of Manitowoc. The Manitowoc Public Utilities Commission shall manage and operate the Municipal Communications Utility of the City.

(2) **Determination of Public Interest and Economic Development.** The City finds that a municipal communication system will provide public benefits of continued growth and economic development for the City and is in the best interest of the City. The City finds that a City-owned municipal communications system is in the public interest for facilitating the provision of telecommunications, data, wireless, fiber optic, Internet, cable television, video and information services to the City, its departments, the school district and the general public within the City.

(3) **Generally.** The Commission shall take entire charge and management of the Communications Utility and shall have full authority to supervise the operation of this utility subject to the general control and supervision of the Common Council, which shall be exercised through the enactment and amendment of this Ordinance.

(4) **Commissions Duties: Communications Utility.** Subject to the powers set forth in Section 12.03 and limitations in Section 12.05 of the Municipal Code, the Commission shall be responsible to plan, acquire, construct, extend, improve, maintain, operate, lease, dispose of, regulate and manage a communication system to be constructed within the City in order to provide, among other things, telecommunications, data, wireless, fiber optic, Internet, cable television, video and information services.

(5) **Validity.** Should any section, clause or provision of this section be declared by any court of competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof, other than that part so declared to be invalid.

12.09 Water Main Extension and Assessment Policy.

(1) **Water Main Extensions.** Whenever any streets are to be paved in the City of Manitowoc and watermains have not previously been installed, the Commission shall be notified and required to install the necessary mains in said street before the same is

paved. In addition to these extensions, the Commission shall have authority to install water mains as it deems necessary or convenient for the operation of the water utility. The Commission and Common Council may by mutual agreement decide not to install water mains under any street which is to be paved.

(2) **Assessment Policy Rules and Regulations** For reference purposes, following are the current assessment rules and regulations which have been approved by the Wisconsin Public Service Commission following approval by the Manitowoc Common Council:

Water mains within the corporate limits of the City of Manitowoc, Wisconsin, shall be extended in accordance with the requirements of Section 144.04 as amended in the Wisconsin State Statutes, and according to the current rules and regulations as filed with the Public Service Commission of Wisconsin, and approved by the Common Council of said City under (former) Section 12.07 of the Municipal Code.

The Manitowoc Public Utilities Commission shall approve the extension of water mains according to need and necessity and shall disapprove any water main extension or petition for just cause.

When the City of Manitowoc extends a sanitary sewer on its own initiative and in situations when it is deemed expedient to the best interest of the City, the Manitowoc Public Utilities Commission may order watermain extension in the same area without a Water Petition. The cost of installing such watermains shall be assessed to the abutting property owners along the said street at the assessment rate in effect at the time of the watermain extension.

When a watermain extension has been installed, all assessments shall be paid in full before the property sale closing date except in those instances when the new property owner agrees to assume an existing installment payment agreement.

Where a watermain extension is installed into only a portion of the assessable front footage of a lot, the property owner shall be assessed for the entire front footage of the lot.

The Utility shall determine the size of the main to be installed in any location and the schedule of installations.

All water mains installed by Manitowoc Public Utilities Commission within the city limits of the City of Manitowoc shall be sole property of the Water Utility.

Plan "A"

The Utility may approve the installation of water mains on any street upon the presentation of a petition signed by the owners of fifty-one percent of the assessable front footage of abutting property owners along said street. The cost of installing mains shall be assessed at Twenty dollars (\$20.00) per front foot of property for each side of the street where water mains are being installed, except for corner lots. Corner lots shall be exempt one-half ($\frac{1}{2}$) of the total lot frontage, up to a maximum exemption of 100 feet. When a water main is simultaneously laid on both sides of a corner lot, the assessment shall be Twenty dollars (\$20.00) per foot installed subject to the above exemption. Where the main is to be laid on one side of a corner lot, the assessment shall be Twenty dollars (\$20.00) per foot installed up to the

maximum footage as specified by the above exemption. When a main is subsequently installed on the other side of a corner lot the assessment shall be at Twenty dollars (\$20.00) per foot for that total corner lot frontage which exceeds the sum of the exemption stated above and that frontage previously assessed. Any property other than a corner lot fronting on 2 or more streets shall be assessed only for the water main installed which will serve that property, provided such property is not of sufficient depth to be divided into two lots of reasonable size or provided a dwelling is located upon the property so as to prevent such division. Sufficient depth shall be considered to be any depth in excess of 200 feet.

All assessments shall be presented in the year of installation and payment shall be due no later than the last day of the year of installation. Interest shall be charged beginning on the first day of the year following the year of installation at the rate of ten (10%) percent per year on all unpaid assessments. Unpaid assessments on October 15 following the year of installation shall be forwarded to the City Clerk on November 16 and placed on the tax roll as a special assessment with interest to December 31. Installation Payment Plans and Delayed Payment Plans shall be established as set forth in the applicable paragraphs.

Plan "B"

The Water Utility may reduce or install transmission mains, mains to loop dead end mains, or mains for fire protection or sanitation purposes without petition. Any abutting property owner connecting to said extension shall pay a connection charge equal to the assessment charge, in effect at the time of connection, before connecting to the main.

Plan "C"

The Utility may approve the installation of water mains for prospective customers on any street upon the presentation of a petition from the owners of less than fifty-one percent (51%) of the assessable front footage along said street, provided that said petitioners agree to pay the full assessment requirement in Plan "A" for all assessable property frontage involved in the extension before construction is started.

Any abutting property owners connecting to said extension within ten years shall pay assessments at the rate in effect at the time of the original petition as required in Plan "A", before connecting with the main and any assessments received therefore within the ten year period shall be refunded to the person or persons having paid the original full assessment in a pro-rata share based on the rate originally paid by said person or persons.

After all refunds are made the remaining assessment of each petitioner shall not be less than that provided in Plan "A" for the front footage owned by the petitioner, his heirs or assigns, at the time the main is installed.

Plan "D"

Where it is deemed advisable that a water main be laid ahead of paving due to municipal requirements, assessments shall be made as provided in Plan "A".

Plan "E"

Where a subdivider, promoter or property owner chooses to expedite the laying of water mains rather than petition and wait

for the installation on the normal construction schedule of the Utilities, they may install the water main system desired upon approval of the Manitowoc Public Utilities Commission with said installations to meet all the requirements and standards of the Utilities for water main installations. Contractors installing such water mains shall be subject to approval by the Manitowoc Public Utilities.

The Utilities shall furnish an inspector, all hydrants and valves at their expense. All other costs shall be paid for by the subdivider, promoter or property owner requesting water mains under this plan.

Ownership and maintenance of said main or mains shall revert to the Water Utility after completion and there shall be no assessments, payments or refunds by the Utilities.

Plan "F"

Where a subdivider, promoter or property owner petitions for a water main extension and where the most feasible route for the water main extension as decided by the Manitowoc Public Utilities is over property not dedicated for street purposes, the petitioner shall obtain the necessary easements as prescribed by the Utilities at no expense to the Utilities and such main footage will be assessed as in Plan "C".

Installment Payment of Water Main Assessments

All water main assessments which exceed Two thousand dollars (\$2,000.00) may be paid upon written application by the property owner in five annual equal installments. Interest shall accrue on the unpaid balance at the rate of ten (10%) percent per year. Interest shall begin to accrue at this rate on the first day of the year following the year of installation.

Installment payment provisions shall not be available to developers.

The Manitowoc Public Utilities Commission may extend the five years installment period to a ten year installment period upon written application from any property owner. Any extension of the installment period to ten years shall terminate upon the transfer of the property by the person or persons to whom the extension was granted. The rate in effect at the time any ten year installment payment plan is granted shall remain constant for such ten year period.

Delayed Water Main Assessments

The Manitowoc Public Utilities Commission may at its discretion delay the payment of water main assessments made against a property owner where there is no immediate benefit to the property owner from the improvement.

In order to qualify for the delayed assessment, the assessed property must be unimproved, unplatted, zoned P-1 conservancy or R-1 residential-agricultural and used for agricultural purposes. The owner must make no use of the improvements for which the water main assessment is made during the period of delay and the owner must not sell any part of the property assessed during the period of delay.

No delayed assessment shall be granted unless the total assessment costs exceed the sum of five thousand dollars (\$5,000.00) and unless the property owner requesting the delayed assessment shall have made the request in writing.

Water main assessments may be delayed for a period up to ten years from the date of the initial billing for the installation. The applicant for the delayed assessment must sign a form waiving any objections to the improvements made or to the terms of the assessment granted. All assessments for which a delay is granted shall become due and payable on the expiration date of the delay granted provided, however, that the property owner may elect to pay for the assessment charges over a five year period commencing on the delayed assessment expiration date with interest computed at the prevailing interest rate charged to all water main assessments at the time such installment payments are made.

Effective September 27, 1983 no interest shall be charged against assessments delayed under these rules. However, should the property be sold, platted, improved, or the improvements for which the assessment was made be utilized before the expiration date granted by the Manitowoc Public Utilities Commission, interest charges at the rate of ten (10%) percent per annum shall be added to the original assessment from the date of the first billing for the installation. If the interest rate is changed by the Manitowoc Public Utilities Commission during a delay period, the new rate will only apply to the balance of any outstanding delayed assessment from that point forward.

In the case of delayed assessments granted prior to September 27, 1983, no additional interest shall be charged to the outstanding balances of accumulated principal and interest as they existed during December 31, 1982 subject to the conditions of the interest qualifications as noted above.

Any delay which is granted shall expire on the first to occur of the following events:

- A. The expiration date granted by the Manitowoc Public Utilities Commission.
- B. The sale of property for which a delayed assessment was granted.
- C. The platting or placing of any improvements on the property for which the delayed assessment was granted.
- D. The use of the improvements, for which the assessment was made, by the property owner.

The Manitowoc Public Utilities Commission may, in its' discretion, limit the expiration of the delay to only a part of the parcel for which the delayed assessment has been granted if such expiration has been caused by one of the events described in A thru D and such event is deemed not to affect the entire parcel.

12.11 Water Laterals.

(1) **Responsibility for Lateral Repairs** . The owner of any property to which a water lateral is connected shall make all required repairs to the water lateral. Should the City of Manitowoc and/or the Manitowoc Public Utilities determine that a water lateral requires repair, the owner shall be notified by certified mail of the need for the repair. If the owner cannot be located, a notice posted on one of the doors to the property shall be sufficient notice. If repairs are not commenced within 3 days

of receipt of the notice by mail or within three days of the posting, the Manitowoc Public Utilities may make the necessary repairs to the water lateral.

(2) **Assessment.** Any work done by the Manitowoc Public Utilities hereunder shall be charged against the property as a special assessment authorized by Wis. Stat. §66.0627.

12.13 Collection of Delinquent Water Charges. Collection of delinquent water charges by the Manitowoc Public Utilities shall be as provided for in Wis. Stat. §66.0809. As authorized by Wis. Stat. 66.0809(3), the Manitowoc Public Utilities is authorized to give directly the notice referred to therein.

12.15 Street and Park Lighting.

(1) **Nonornamental Lighting. (a) Installation.** The installation of nonornamental lighting systems for public streets, parks or boulevards which is deemed necessary or desirable for the safety of pedestrian and vehicular traffic shall be ordered by the Common Council by the granting of petitions signed by owners of property abutting on the street or boulevard where lighting is desired or by resolution adopted by the Common Council.

(b) **Installation Cost .** The installation costs for nonornamental lighting shall be borne by the Manitowoc Public Utilities.

(c) **Operation and Maintenance Costs.** The operation, lamp renewals and maintenance expenses of the City's nonornamental lighting shall be paid out of the City's general fund on a month to month basis upon receipt of a bill from the Manitowoc Public Utilities. The rates for such service shall be those approved and on file with the Wisconsin Public Service Commission.

(2) **Ornamental Lighting. (a) "Ornamental Lighting" Defined.** Ornamental street, park or boulevard lighting is a type where the lamp is mounted upon a standard or post to which energy is supplied from an underground electric distribution system or from fixtures of special ornamental design, but shall not include decorative Christmas lighting.

(b) **Installation .** The Common Council may order installation of ornamental street or park lighting upon receipt of an petition by 50% or more of the owners of the taxable frontage of any street or park. The Common Council may also by resolution provide for the installation of an ornamental lighting system without any such petition.

(c) **Installation Cost** If an ornamental lighting system is installed following petition by one-half or more of the abutting property owners, then the entire cost of such installation shall be assessed to the petitioning property owners, unless the method for assessment is modified at the discretion of the Common Council. If the system is installed following action of the Common Council without a petition, the cost of the same shall be paid by the City.

(d) **Operation and Maintenance Costs .** The operation, lamp renewals and maintenance expenses of the City's ornamental lighting shall be paid out of the City's general fund on a month to month basis upon receipt of a bill from the Manitowoc Public Utilities. The rates for such service shall be those approved and on file with the Wisconsin Public Service Commission.

(3) **Christmas Lighting.** Assessments for special Christmas lighting may be assessed by Resolution of the Common Council.

12.17 Opening of Fire Hydrants.

(1) **Permit Required.** No person except a regular authorized agent of the Manitowoc Public Utilities Department or the Fire and Street Departments of the City shall open, tap or close any fire hydrants in the City of Manitowoc without having obtained a permit therefor as provided herein.

(2) **Rules for Opening.** Any person desiring to open, tap or close any fire hydrant in the City shall make application to the Manitowoc Public Utilities Commission. If satisfied that permission should be granted therefor, the said Manitowoc Public Utilities Commission shall approve such application, stating therein the hydrant by location and the time required for keeping said hydrant open. Said Manitowoc Public Utilities Commission shall have said hydrant opened by one of its agents in conformity with such rules and regulations as have been or may be adopted by the Manitowoc Public Utilities Commission, and shall kept posted the location or hydrant that are open as aforesaid, and shall see that the same are closed at the termination of the permit terms or extended by its permission. No person shall open any hydrant except with a standard hydrant wrench.

12.19 City Water System.

(1) **Fluorine.** The Manitowoc Public Utilities Commission is hereby authorized and directed to provide the means and equipment necessary to proceed with the introduction of only enough fluorine so that the daily average will not exceed one point five (1.5) parts per million of water distributed in the water supply system of the City of Manitowoc.

(2) **Supervision.** The employees and facilities of the Public Utilities of the City of Manitowoc are to be used as far as possible in this public health program, and the entire program shall be considered as a health program of the City.

12.21 Radio Interference. Amateur Broadcasting. Inspector. Penalty.

(1) **Interference.** It shall be unlawful to operate any electrical conductors, apparatus, instrument, machine or other device that causes preventable electrical interference with any electrical apparatus and radio receiving set between the hours of 6:00 P.M. and 12:00 Midnight, excepting only such as may be absolutely necessary in an emergency.

(2) **Amateur Broadcasting.** It shall be unlawful for amateur radio broadcasters to broadcast on any wave length other than that assigned by the Federal Radio Commission.

(3) **Inspector .** The Manitowoc Public Utilities Commission of the City of Manitowoc shall appoint an inspector who shall be especially qualified and trained in the technique of locating radio interference and able to give expert advice as to the causes and elimination of electrical interference with electrical apparatus and radio receiving sets.

(4) **Right of Entry by Inspectors** The inspector and his assistant shall have the right to enter upon any premises at all

reasonable hours for the purpose of inspecting the installation and the working of all electrical apparatus and it shall be unlawful to interfere with the inspector or his assistant or refuse to permit them to enter the premises for such purpose. The inspector and his assistant shall upon request show his badge or credentials before entering upon any premises.

(5) Penalty. Anyone violating any of the provisions of this Section shall upon conviction be punished by a fine not to exceed One thousand five hundred dollars (\$1,500.00).