

## DIVISION 13. MARSHALL MUNICIPAL UTILITIES COMMISSION

### Section 13.01. Marshall Municipal Utilities Commission.

(a) *Commission Generally.* There is hereby created the Marshall Municipal Utilities Commission (The Commission) which shall have exclusive jurisdiction, control and management of all of the City's municipal water and electric operations. The Council may also, upon the request of The Commission, grant to The Commission the non-exclusive right to operate any natural gas, telephone, television transmission service, digital communications or other public utility for supplying its own needs for utility service or for supplying utility service to private consumers or both. The Commission may construct all facilities reasonably needed for those purposes.

(b) *Specific Circumstances.* Marshall Municipal Utilities shall have the authority to determine when it requires the purchase of water or electricity. If Marshall Municipal Utilities determines they cannot adequately serve water or electricity at retail and wishes to allow another entity to supply a portion of the utility customer base, Marshall Municipal Utilities shall request and/or recommend that the Council grant a limited franchise to an alternate retail utility supplier.

*(Ref. of 11-5-1980; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 380 2nd series, § 1, 11-3-1997)*

### Section 13.02. Organization of The Commission.

(a) *Number of Commissioners.* The Commission shall consist of five commissioners, to whom may be added, at the discretion of the Mayor; either the Mayor, the City Administrator, or a representative of the Council as an ex officio member without vote.

(b) *Commission Generally.* The commissioners shall be appointed pursuant to a resolution presented by the Mayor and confirmed by the Council on or about the second regular Council meeting in May of each year. The term of each appointee shall be for a period of five years, which shall be stated at the time of appointment. Any person appointed to fill an unexpired term shall be deemed to be serving a complete term, within the meaning of this section, if the unexpired term consists of 915 days or more on the effective date of the appointment. New appointees shall assume office on June 1<sup>st</sup>, May 31<sup>st</sup> being the date of expiration of the term, provided however, that all appointees to The Commission shall hold

office until their successor is appointed and qualified. All vacancies shall be filled in the same manner as for the expired term, but the appointment shall be only for the unexpired term. No person who holds any other compensated City office or who is an employee of the City government shall be a commissioner. No one employed by Marshall Municipal Utilities can be considered for a seat on The Commission. The Chair and Vice-Chair shall be chosen from and by the commissioners at the first regular meeting of The Commission in June each year to serve as officers for that term. If a commissioner misses three meetings a year without being excused prior to the meeting, such commissioner shall be removed therefrom at the end of the appointment year. Any commissioner may be removed by the Council for misfeasance, malfeasance or nonfeasance in office and their position shall be filled as any other vacancy. All commissioners shall profess a belief in the desirability of municipal utility ownership and operation; and all commissioners shall be resident electors of the City. No commissioner shall serve for more than two consecutive terms.

(c) *Compensation of Commissioners.* Commissioners shall receive compensation in the amount of fifty percent (50%) of the compensation received by a Councilmember. All compensation paid to the commissioners shall be paid exclusively from the revenues of Marshall Municipal Utilities. In addition to compensation, Marshall Municipal Utilities has the right to reimburse commissioners for actual expenses incurred while carrying out their duties as commissioners including, but not limited to, meals and travel expenses.

(d) *Commission Meetings.* The Commission shall establish a regular monthly schedule of meetings. Special meetings may be held as required following appropriate notice. The Commission shall adopt rules for the conduct of its meetings. No action shall be taken by The Commission except by the affirmative vote of at least three commissioners, which shall constitute a quorum.

(e) *Errors and Omissions.* The Commission shall hold harmless and indemnify its commissioners, General Manager, agents and employees to the full extent permitted by law, including but not limited to; all liabilities, expenses and losses incurred by its commissioners, General Manager, agents and employees in connection with acts of error or omissions, other than willful violations of laws, committed within the scope of their duties; and shall defend, at The Commission's expense, all claims and suits in connection therewith.

(Ref. of 11-5-1980; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 380 2nd series, § 1, 11-3-1997)

### **Section 13.03. Organization of Departments.**

(a) *Division of Commission.* Within Marshall Municipal Utilities there shall be separate divisions for the electric and water operations, as well as any other service or public utility for which it provides services to consumers. Separate funds and accounts shall be kept for each division as required by the Uniform Systems of Accounts for Electricity and Water as delineated by the State of Minnesota, the Federal Energy Regulatory Commission, the American Water Works Association (AWWA), or other governmental regulatory authority. Each division shall be operated independently of the others, except insofar as The Commission determines joint operations to be advisable and economical. Expenses incurred in joint operations shall be equitably prorated between the divisions by The Commission.

(b) *Policy.* The Commission shall establish written policies to govern its operations including such areas as employee duties, customer rates, services, rules, termination procedures, expenditures of funds and other appropriate policies.

(c) *General Manager.* The General Manager shall be qualified via training and experience for the overall management of Marshall Municipal Utilities. The salary of the General Manager shall be fixed by The Commission and the General Manager shall have such authority as delegated to him/her by The Commission. The General Manager shall determine the number of employees necessary for the operation of Marshall Municipal Utilities and shall fix the employees' duties and compensations subject to the approval of The Commission. The General Manager shall have control over all actual construction and repairs, the immediate management and operation of the water and electric systems, as well as any other system or service operated by the utilities, and shall take responsibility for the enforcement and execution of all rules, regulations, programs, plans and decisions made or adopted by The Commission. The General Manager shall maintain suitable permanent records regarding actions taken by his/her office. The General Manager shall prepare plans and specifications, take bids and let contracts subject to the approval of The Commission.

(d) *Other Employees.* There shall be such other employees of The Commission as may be provided by The Commission. The employees shall be appointed and removed by the General Manager subject to the approval of The Commission.

(e) *Surety Bonds.* The Commission may require surety bonds for any of the officers and employees of The Commission in such amounts as The Commission deems necessary. The premiums for said bonds shall be paid by The Commission in the same manner as any other operating expense.

(f) *Employee Benefits.* The Commission may contribute to the cost of pension, retirement; life, accident and health insurance programs for the employees of The Commission.

(Ref. of 11-5-1980; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 380 2nd series, § 1, 11-3-1997)

#### **Section 13.04. Powers and Duties of The Commission.**

(a) *Real Estate and Contracts.* The Commission, in the efficient and economical operation of Marshall Municipal Utilities, both inside and outside the City limits, may:

- (1) sell its products and services to public and private corporations and other consumers;
- (2) construct plants, transmission lines, and other facilities;
- (3) purchase real estate and franchises; and
- (4) enter into any easements, contracts, leases and agreements in the furtherance thereof. The Council shall approve all contracts for periods exceeding ten (10) years.

(b) *Extensions of Services.* The Commission may adopt regulations governing the extension of services of Marshall Municipal Utilities both inside and outside the City limits. The regulations shall provide the conditions under which the extensions shall be made to render them compensatory and shall provide that each extension project shall, when completed, become the property of Marshall Municipal Utilities, whether on public or private property.

(c) *Joint Operations with Others.* The Commission may enter into contracts and agreements with any public or private corporation or any individual, both inside and outside the boundaries of the City and state:

- (1) for the joint use of property belonging to Marshall Municipal Utilities, to the other contracting parties, or jointly to both parties;
- (2) for the joint acquisition of real and personal property, rights and franchises;

(3) for the joint financing, construction and operation of plants, buildings, transmission lines and other facilities.

(d) *Eminent Domain.* [Chapter 9](#) of the City Charter shall control all matters of eminent domain. Marshall Municipal Utilities is authorized to apply eminent domain when they determine it is necessary.

(e) *Use of Thoroughfares for Utility Installations.* The Commission may use the ground over, under or along any road, railroad, highway, street, sidewalk, thoroughfare, alley or waterway in the operation of Marshall Municipal Utilities; but shall in all cases be subject to the applicable general regulations of the City, and shall cause the surface of the public right-of-way to be restored to its previous condition after any construction or maintenance.

(f) *Rates.* The Commission shall annually affix rates to be charged for water, electricity and other services sold and/or rendered by The Commission. Rates shall be fair, reasonable and compensatory and shall be uniform for all consumers within the same class; however different rate schedules may be applied to different classes of consumers as determined by The Commission. Rates within the City limits may be less than but shall be no greater than the rates for the same class of consumers outside the City limits. Established rates shall be sufficient enough to pay all operating and maintenance expenses, and all bond interest and redemption costs of each respective utility operation. The Commission may require a reasonable deposit as a security down payment for charges relating to utility services and may provide for the return of the deposit when satisfactory consumer credit has been established. Public notification and a hearing shall be held by The Commission thirty (30) days prior to implementing any new rate or modifying any existing rate.

(g) *Authority for Expenditures.* No money shall be drawn from the funds of Marshall Municipal Utilities, nor shall any obligation for the expenditure of money be incurred, except in conformity with proper authorization by The Commission. No claim against The Commission shall be paid unless evidenced by proper documentation approved by the General Manager or by some other utility employee designated by the General Manager.

(h) *Bond Issues.* Subject to applicable state laws, The Commission may authorize the issuance and sale of bonds necessary to finance the acquisition, construction, improvement and extension of Marshall Municipal Utilities; including the acquisition, construction, improvement and extension of facilities owned or operated jointly with others.

Subject to applicable state laws and Council approval, The Commission may authorize the issuance and sale of bonds.

(i) *Short Term Indebtedness.* The Commission may borrow money and issue negotiable notes that are due and payable within one year, from the revenues of The Commission or a division thereof, as evidence of the indebtedness. The action of The Commission may be adopted by resolution at the same Council meeting where the action is introduced, and shall take effect immediately upon adoption of said resolution.

(j) *Public Information Expenditures.* The Commission may authorize reasonable expenditures to acquaint the public with the operations, programs and plans of The Commission and to encourage conservation.

(k) *Investment of Surplus Funds.* The Commission may invest surplus funds of The Commission in securities which are legal and in accordance with State Statute.

(l) *Accounting Reports.* The Commission, in addition to the reports and accounting practices it may otherwise be required by law to comply with, shall furnish the Council with its annual financial report, which shall include a balance sheet and statement of operations showing the financial condition of The Commission and each separate division, prepared according to generally accepted public utility accounting principles. The funds and accounts of The Commission shall be audited annually by a certified public accountant and shall be open for public inspection.

(m) *Payment to General Fund in Lieu of Taxes.* Any changes to the annual payment made to the City general fund by Marshall Municipal Utilities, in lieu of taxes, shall be negotiated by The Commission and the Council.

(n) *Rates.* Rates the City pays to Marshall Municipal Utilities for water and electric services shall be the same as any other consumer within the same customer class for the facility receiving utility service.

*(Ref. of 11-5-1980; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 380 2nd series, § 1, 11-3-1997)*

#### **Section 13.05. General Provisions.**

(a) *Disposition of Marshall Municipal Utilities.* The City shall have no authority to cease to operate, sell, lease, abandon or otherwise dispose of the Marshall Municipal electric and water facilities that are owned and under the control of The Commission without an approval rate of sixty percent (60%) of the votes cast by eligible voters of the City of Marshall as determined by a general election or a special election held for that purpose. If Marshall Municipal Utilities desires to cease to operate any public utility service other than the water and electric utility that it is providing to the public, it must request of the Council permission to cease to operate said public utility. Upon a majority vote of the Council in favor of such a resolution, Marshall Municipal Utilities may cease to operate any other public utility.

(b) *Existing Obligations.* Contracts and obligations relating to Marshall Municipal Utilities incurred prior to the adoption of this Charter shall not be impaired and shall be binding upon Marshall Municipal Utilities.

(c) *Repeal of Prior Charters and Ordinances.* All ordinances and parts of ordinances, including prior charters, inconsistent with any provisions of this Charter are hereby repealed.

(d) *Separability of Provisions.* The sections and subdivisions of this Charter are declared to be separable, and in the event that any one or more sections, subsections, or parts thereof be declared unconstitutional, it shall not affect the validity of the other provisions of this Charter.

(e) *Control.* This chapter of the City Charter shall control all matters relating to the Marshall Municipal Utilities Commission.

(Ref. of 11-5-1980; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 380 2nd series, § 1, 11-3-1997)