

Penalty.

Sec. 3. That any person found guilty of any violation of the provisions of this ordinance shall be fined in any sum not less than one dollar and not more than one hundred dollars.

Sec. 4. This ordinance shall be in full force and effect from and after its passage and legal publication.

Passed Sept. 25, 1899.

Record G, Page 339.

559.

Waterworks,
Authorizing Lake
Michigan Water Co.
to construct.

(Amendment)

(See page 17 for
original ordinance.)

An Ordinance, to amend an ordinance entitled "An ordinance, authorizing the Lake Michigan Water Company to construct, maintain and operate water works and supply water to the city and people of Michigan City, defining its powers and privileges and prescribing its duties," passed by the Common Council of the city of Michigan City, April 10th, 1899.

Be it ordained by the Common Council of the city of Michigan City that section one, of an ordinance entitled "An ordinance, authorizing the Lake Michigan Water Company to construct, maintain and operate waterworks and supply water to the city and people of Michigan City, defining its powers and privileges and prescribing its duties," passed by the Common Council of the city of Michigan City, April 10th, 1899, be amended to read as follows:-

Sec. 1. That the Lake Michigan Water Company of said city of Michigan City, and its successors and assigns, be and are hereby authorized and empowered to construct, maintain and operate waterworks in the city of Michigan City, with proper structures, machinery, reservoirs, embankments and conduits, to supply said city and its citizens with Lake Michigan water, and to use the streets, avenues, alleys and public grounds of said city, as it is now and may hereafter be laid out and enlarged, for the purpose of laying pipes and conduits therein, necessary to

Lake Michigan
water.

Rules and
Regulations

carry water throughout said city; provided, the same shall be so laid as not to interfere with, or abridge the rights and privileges of other public works, nor the pipes laid by other corporations, with permission of the Common Council of said city, nor with the present or future drainage of said city, and said company may establish rules and regulations for and concerning the use of the water from their works, and for and concerning the conduct of such person as may use the water from their works, so far as respects the preservation and use of, and restraining the waste thereof, subject to the review and approval of the Common Council of said city.

And that section 2 of the above named ordinance be amended to read as follows:-

Sec. 2.

Adoption of
plans, etc.

The waterworks constructed under and by virtue of the provisions of this ordinance, shall in all things be constructed according to plans and specifications to be adopted by said company and approved in every detail by the Common Council of said city, and in case said company and Common Council fail to agree upon said plans and specifications or any part thereof, the same shall be changed, amended or modified to the satisfaction of said Common Council.

Amending of

Intake.

Size of pipes.

Use of

Present mains

Said waterworks shall provide for an intake in Lake Michigan in not less than forty feet of water, with intake pipes not less than 24 inches in diameter, and not less than one mile of distributing main pipe to be laid and in use by said city, the use of which said system of mains, pipes, connections, valves, gates and hydrants, owned and operated by said city, is hereby granted to said company for the proper use and purpose of the same and under the terms and conditions of this ordinance, for the period of this franchise.

Capacity
of works.

And said waterworks to be constructed by said company shall have a capacity of at least six million gallon, liquid measure, daily, and shall maintain the same in such condition as to be capable of applying the same in the extinguishment of fires, under regulations to be prescribed by the Common Council of said city. The pumps, machines, mains, intake and station of said waterworks shall be built, constructed, erected and installed under the supervision of a competent hydraulic engineer to be appointed by said company.

Building of
pumps, etc.

Supervision of

And that section 3 of the above named ordinance be amended to read as follows:-

Cost of plant.
not to exceed
\$ 85,000.

Contract.

approval by
Council.

Sec. 3. The cost and expense of the entire plant to be constructed by said company, including the expense of plans, specifications and supervision, shall not exceed in the aggregate the sum of \$85,000.00. Said work shall be done by contract in whole or in parts and shall be awarded to the lowest and best bidder after advertising in both local daily papers and also in a newspaper of general circulation devoted to the interests of contractors and builders, and no subsequent, additional or extra work shall be contracted for or done in connection with said waterworks, and no contract thereof shall be of any binding force unless the same shall have been awarded, ordered and performed, by and with the advice, consent and approval of said Common Council or its proper committee and regularly contracted for at the price therefor stipulated in writing.

And that section 4 of the above named ordinance be amended to read as follows:-

Works in operation in one year.

Failure.

Deprivation of water.

Sec. 4. Said company shall, within one year from the passage of this ordinance, have said waterworks in complete and full operation and fully connected with the existing system of water mains and pipes now in said city and supplied, if required, with the full capacity of said works as hereinafter provided; and should the company, because of any want of care and diligence on its part, fail in the prosecution of the work, as in this section provided, or, in like manner, fail to furnish the city and citizens thereof Lake Michigan water at the rate in this ordinance provided for, then, in either case, the rights and privileges herein granted shall be forfeited, and shall revert to the city; and should the city or its citizens at any time, through the wilfulness or carelessness of the company, be deprived of necessary water for thirty-six consecutive hours, the company shall be liable to a forfeiture of its rights under this charter, or, at the election of the city, the company shall forfeit all claim for payment for the stipulated price for all hydrants supplying water to the city for a period

one year.

And that section 5 of the above named ordinance be amended to read as follows:-

Purchase of

Plant by City

Sec. 5.

Upon the full completion of said works provided for in this ordinance and required to be done by said company or at any time thereafter, on giving six months notice, said city shall have the right to purchase from the said company all the buildings, machinery, pumps, pipes and other property pertaining to said waterworks, including all its corporate rights and privileges, at a price to be fixed, by ascertaining the actual cost of building, constructing and erecting said works, including plans, specifications and supervision and accrued interest thereon, including also the cost of organization and incorporation of said company, to the date of such purchase, but in making such estimate and ascertaining such price no value shall be fixed and no price charged for the franchise granted in this ordinance or any additions or amendments thereto which may be hereafter granted by said Common Council nor for its right to use the existing system of pipes and mains now owned and used by said city.

Terms of

Payment.

The terms of payment for such purchase, if any, to be agreed upon between the Common Council of said city and the Board of Directors of said company, provided, however, that said conveyance shall be made subject to the payment of the waterworks bonds issued by said company for the construction of said works, and the payment of the hydrant rentals hereinafter provided for; and provided further that said city does not, will not and shall not assume and agree to pay the said bonds, and the same shall not become a debt of said city, but the said conveyance shall be made subject to the lien of said bonds, and the said bonds, or the residue thereof remaining unpaid, shall continue to be a lien upon the franchise and property herein mentioned until the same shall have been fully paid and satisfied.

And that section 6 of the above named ordinance be amended to read as follows:-

Sec. 6.

Water supplied

Free to city.

In consideration of the use by said company of the existing system of water mains now owned by said city and which use is herein granted to said company for the term of this franchise, the said water company shall

Parks.

Payment
of Rentals.

Thirty years.

Release from city.

supply to the city of Michigan City free of charge all the water necessary for the purpose of sprinkling and improving its parks upon the shore of Lake Michigan known as "Washington Park", and also such other public parks and grounds as the said city may own, create, establish or improve during the term of this franchise, and, as an inducement to the said company to construct and maintain its said waterworks, and in consideration of the benefits accruing to the city and the people of Michigan City from the use of pure and wholesome lake water, the said city hereby agrees to pay semi-annually on or before the 1st day of April and the 1st day of October, in each year, beginning with January 1st, 1900, as rentals for the public hydrants now in use and hereafter to be provided for the use of said city, the sums set forth in the schedule attached hereto and made a part of this ordinance, payment of rentals for public hydrants by said city as provided by this section shall be made by the Treasurer of Michigan City, to any bank, trust company or person to be appointed by the Board of Directors of said company, and to be applied to the payment of the bonds herein provided for, together with semi-annual interest thereon as it may accrue, for the period of thirty years from the first day of January, 1900, at the expiration of which time, the said hydrant rentals shall cease, and the said city shall be relieved from the payment of any sum whatever for the use of the public hydrants within and about said city, or the water therefrom.

And that section 7 of the above named ordinance be amended to read as follows:-

Insurance

of Bonds.

Sec. 7. Insurance of Bonds. Before or

after the completion of the said waterworks the said Lake Michigan Water Company shall issue waterworks bonds in the ordinary form, bearing interest at the rate of five per cent per annum, payable semi-annually, on the first day of April and October of each year, secured by trust deeds upon its waterworks, rights and franchises in this ordinance provided for; said bonds shall run for a term of years not less than three nor more than thirty years and not more than twenty-five hundred dollars thereof shall mature in any one year.

And that section 8 of the above named ordinance be amended to read as follows:-

Ground

Granted.

Right of
Way.

Sec. 8.

There is further hereby granted to the said Lake Michigan Water Company for the term of this franchise, the use of one acre of ground at or near the shore of Lake Michigan, within the said city, for the construction and maintenance thereon of a power house for engines, pumps and other machinery necessary to propel the water from the said lake into and through the said city of Michigan City, and the rights of way necessary in the laying of pipes and water mains under the railroads within the corporate limits of said city; provided, that any expense occasioned by the securing of the right of way herein provided for shall be paid by said water company.

And that section 9 of the above named ordinance be amended to read as follows:-

Leasing

of Plant
by City.

Sec. 9.

Said city shall also have the right and privilege of leasing said completed plant immediately upon its completion and acceptance, for a term of thirty years or less as the Common Council may elect with the privilege of purchasing the same at any time during the continuance of said lease; and, in case said city shall determine to so lease or purchase, or lease and purchase, said plant, it shall have the right to do so upon the following terms, to-wit:-

Terms.

It shall pay to said company semi-annually as rent for said plant the sums fixed in the schedule of hydrant rentals attached hereto and made a part of this ordinance to be used in the payment of the company's water bonds, and if said plant be purchased said rentals so paid are to be credited to the payment of the principal sum of said purchases money, which said principal sum shall be ascertained as hereinbefore provided, and said city shall also pay 6 per cent on the paid up stock of said company per annum, payable semi-annually.

It shall operate, maintain and control said works and obligate itself to keep the same in good condition, and to renew and replace all broken, wornout, injured or damaged machinery, buildings, pipes, pumps or other material, and for the purpose of securing the performance of this obligation, said company shall, during the term of said lease or contract of purchase, appoint an agent to superintend,

Agent for Company.

inspect and examine said plant and represent the interest of said company, at a reasonable compensation to be fixed by said company and added to the annual rental. In case the said city of Michigan City decides to accept the option to purchase or lease said waterworks, as provided in this ordinance, it hereby agrees and binds itself to set aside the funds collected by said city from the citizens and consumers of said city as water rents to the payment of the rentals herein provided, and to use the same for no other purpose whatever; provided, however, that any surplus over and above the amount annually specified to be paid as hydrant rentals, may be supplied to any other purpose as the said council may elect. Until the said city shall purchase, lease, or contract to lease and purchase the said plant so erected and constructed by the said company, the right to use, control and operate the present system of the water mains and pipes now owned by said city of Michigan City, is granted to such company upon the terms and conditions herein set forth and stipulated.

Funds set aside for payment of Rentals. The said company shall supply to the city, upon the several streets and avenues in which pipes and conduits may be laid, and in such localities off the same as the city may conduct the same to, such quantity of water as may be required by the City Council for public use or drainage and fire purposes, and to that end said company shall erect and attach as many hydrants or fire plugs as the City Council may direct, and from the same the city may draw all ^{water} necessary for the prevention and extinguishment of fires, and washing, cleaning, cooling, flushing or sprinkling the streets, pavements, gutters, alleys, sewers and public grounds, and the city may attach to each hydrant a cock, faucet or nozzle, from which water may be drawn by citizens and passersby, for drinking purposes, by persons and animals, and the company shall furnish to the citizens of said city, upon the several streets and avenues in which pipes and water courses may be laid, and in such localities off the same as the company or citizens may conduct the water to, such quantity of water to the city, other than that herein provided for, upon the terms and conditions as may be agreed upon between the city council and the company.

Water mains to be used by Company.

Hydrants.

Cleaning streets, etc.

Water for drinking purposes.

Rates.

Determined by
5 disinterested
Persons.

Rates for
Hydrants.

except hydrant rentals, which are fixed hereby. The company shall have the right to charge the city and the citizens thereof for such water as may be supplied, as much as the average price paid by other cities of the United States, and the citizens thereof, of like population that are supplied with as efficient waterworks, unless a less price may be agreed upon, but the company may not demand or charge a greater price.

In case the company and city fail to agree upon a schedule of prices to be paid by the city and its citizens, then such schedule and rates of charges shall be ascertained and determined by five disinterested persons, now residents of the city, two of whom shall be chosen by the company, two by the City Council, and the fifth by the four thus chosen, and the rates so fixed shall remain in force until altered by agreement or arbitration, as aforesaid, and either the city or company may demand a re-adjustment of such rates, by agreement or arbitration, as aforesaid, at any time after the expiration of one year from the last preceding adjustment, but in no event shall the city be charged more for hydrants or fire plugs than the sums fixed by the schedule attached hereto and made a part hereof.

The water to be supplied, as in this section provided, shall be taken from Lake Michigan and not from any river or any other open stream or channel.

And that section 10 of the above named ordinance be amended to read as follows:-

Purchase of
stock by City.

Sec. 10. The Common Council of said city reserves the right to subscribe for and purchase as much of the stock of said company as the Common Council may elect, and to hold, own and control the same for and on behalf of said city.

And that section 11 of the above named ordinance be amended to read as follows:-

Rights & Privileges
granted
for 50 years.

Sec. 11. This ordinance and the rights and privileges herein granted are to be in force from and after its passage and acceptance, and so remain for the period of fifty years; provided, that there shall be filed in the office of the City Clerk of said city within sixty days from the date of the passage of this ordinance a certified copy of the records of said water company of a resolution

Acceptance
of Ordinance.

Null & void
if purchased
by city.

of the Board of Directors of said company, accepting the terms and conditions herein recited; and provided further, that if at any time after the construction and completion of said works the city of Michigan City shall purchase and fully pay for the same under the provisions of this ordinance or in any other manner than this ordinance from the time of the completion and said purchase and payment, shall be null and void and all the rights, and privileges granted said water company under this ordinance shall terminate and cease.

Sec. 12. And that section twelve of the above entitled ordinance be amended to read as follows, to-wit:-

Sec. 12. The city of Michigan City, as an inducement to said Lake Michigan Water Company to construct, maintain and operate its said plant and for the purpose of affording ample protection to the manufacturers, industries and property in and people of said city, against fire, and to enable said company to supply the inhabitants of said city with Lake Michigan water for all purposes, does hereby agree, promise and obligate itself, to pay to said Lake Michigan Water Company, its successors and assigns, as hydrant rentals and for the use of the water taken from the hydrants in and about said city for the purpose of extinguishing fires, the sum of money hereinafter set forth, for each and every year, beginning on the first day January, 1900, and ending on the last day of December, 1929, in semi-annual payments, one-half on the first day of April and one-half on the first day of October of each of said years, to-wit:

For the year 1900 - \$3600.	For the year 1910 - \$4200.	For the year 1920 - \$3600.
" " " 1901 - \$3600.	" " " 1911 - \$4200.	" " " 1921 - \$3600.
" " " 1902 - \$3600.	" " " 1912 - \$4200.	" " " 1922 - \$3600.
" " " 1903 - \$4800.	" " " 1913 - \$4200.	" " " 1923 - \$3600.
" " " 1904 - \$4800.	" " " 1914 - \$4200.	" " " 1924 - \$3600.
" " " 1905 - \$4800.	" " " 1915 - \$3800.	" " " 1925 - \$3000.
" " " 1906 - \$4500.	" " " 1916 - \$3800.	" " " 1926 - \$3000.
" " " 1907 - \$4500.	" " " 1917 - \$3800.	" " " 1927 - \$3000.
" " " 1908 - \$4500.	" " " 1918 - \$3800.	" " " 1928 - \$3000.
" " " 1909 - \$4500.	" " " 1919 - \$3800.	" " " 1929 - \$3000.

The foregoing schedule of hydrant rentals represents an average annual rental price of thirty-eight hundred and seventy-three Dollars and thirty-three cents (\$3873.33) but is unequally divided into annual payments, as set forth in the foregoing schedule, to better enable the said Lake Michigan Water Company to meet obligations incurred in the construction of its said plant

said sums when so paid, shall be received by said water company, in full of all claims against said city for the use of water from hydrants therein, for the purpose of extinguishing fires or to prevent the spread thereof, by the duly organized and authorized fire department of said city of Michigan City.

Acceptance of this ordinance filed in my office this 22nd day of November, 1909,
by certified copy of resolution adopted by the Board of Directors of the Lake
Michigan Water Co.

For full form of acceptance see Record 3 Page 387.