

**CITY OF KAUKAUNA
ORDINANCE 1861-2022**

**REPEALING AND RECREATING SECTION 1.32(6) AND SECTIONS 1.32(7) OF
THE KAUKAUNA MUNICIPAL CODE**

WHEREAS, the Kaukauna Utilities Commission has not appointed a Utility Clerk to perform the duties under section 1.32(6) as written in the City of Kaukauna Municipal Code; and

WHEREAS, Kaukauna Utilities pays such utility expenses under direction of the Kaukauna Utilities general manager and Kaukauna Utilities director of finance; and

WHEREAS, the Kaukauna Utilities general manager has not been issued a performance bond for in excess of ten years; and

WHEREAS, under the direction of the Kaukauna Utilities general manager and Kaukauna Utilities director of finance, the Kaukauna Utilities' Utility Accounting Department has been receipting the utilities' receipts for in excess of ten years, without providing the same to the City Clerk; and

WHEREAS, Ordinance 1.32(6) and 1.32(7) are not aligned with the current organizational structure or practices of Kaukauna Utilities; and

WHEREAS, Ordinance 1.32(6) and 1.32(7) are not aligned with the current organizational structure or practices of City of Kaukauna; and

NOW THEREFORE, be it ordained by the Common Council of the City of Kaukauna, in the State of Wisconsin, as follows:

SECTION 1: AMENDMENT “1.32 Utility Commission” of the City of Kaukauna Municipal Code is hereby *amended* as follows:

A M E N D M E N T

1.32 Utility Commission

1. *Construction; definition.* This section shall be liberally construed to affect its purpose. As used in this section, the term "management and control" or "management and operation" shall be construed broadly and shall include, without limitation by enumeration, all authority related to purchasing, acquiring, leasing, constructing, adding to, improving, conducting, controlling, operating, or managing the city's electric, water, and communications utilities, except as specifically withheld by statute.
2. *Creation.* There is hereby created an independent and nonpartisan utility commission

- to manage and operate the electric, water, and communications utilities of the city.
3. *Membership; terms.* The utility commission shall consist of seven commissioners. The mayor shall serve as one of the commissioners for a term that coincides with his term of office. The alderperson who is elected as chairperson of the board of public works shall also serve as a commissioner for a term that coincides with his term as chairperson of the board of public works. The mayor and the alderperson member shall serve on the commission without additional compensation. The remaining five commissioners shall be residents of the city, who shall each serve a five-year term. These terms shall be staggered so that no more than one commissioner's term shall expire each year. The salary of the members of the commission, except the mayor and alderperson, shall be such amount as is fixed by the council from time to time.
 4. *Appointments.* Except for the mayor and alderperson members, the common council shall elect the commissioners at its second regular meeting in September for terms to commence on October 1 following election. In the case of a vacancy on the commission, the common council, at a regular meeting, may appoint a commissioner to fill the vacancy for the remainder of the term.
 5. *Powers of commission.*
 - a. *Charge and management.* The commission shall take entire charge and management of the city's electric, water, and communications utilities and any other public utility as authorized by the common council. The commission shall have full authority to supervise the operation of such utilities, subject only to the general control and supervision of the common council, such control and supervision to be exercised through the enactment and amendment of this section.
 - b. *Manager.* The commission shall appoint a utility manager, fix his compensation and duties and provide for the authority of the manager to act on behalf of the commission.
 - c. *Other employees; consultants.* The commission may employ and fix the compensation of such other employees as the commission deems necessary or convenient for the management and operation of the city's electric, water, and communications utilities. The commission also may employ the services and fix the compensation of such other agents or consultants as the commission deems necessary or convenient for the operation and management of the utilities.
 - d. *Rates, rules, and regulations.* The commission shall have the authority to fix rates and establish rules and regulations for the governance, management, and operation of the utilities, subject to the jurisdiction of the applicable governmental regulatory bodies or agencies, and establish rules for the governance of its own proceedings.
 - e. *Contract.* The commission shall have full authority to let bids and enter into contracts in the name of the city, provided that such contracts are necessary or convenient to the management and operation of the electric, water, and communications utilities.
 - f. *Other powers.* The commission shall have such other powers as are necessary or convenient to the management and operation of the city's electric, water,

and communications utilities and shall have full authority respecting such utilities, unless that authority is specifically withheld by statute.

6. *Organization.* The commissioners shall choose, from among their number, a president and secretary, ~~and shall appoint a utility clerk who shall perform the duties of a bonded cashier, shall keep accurate books and accounts of utility revenues and expenses and perform such other duties as the commission shall from time to time direct. The utility clerk, before taking office, shall give a bond to the city for the faithful performance of the duties of his office in such amount as the utility commission shall direct. The bond shall be approved by the mayor and filed with the city clerk.~~

7. *Utility expenses.*

- a. Payment of all financial claims against city utility, other than claims subject to Wis. Stats. § 893.80, may be made from the city treasury after the general manager and the ~~manager~~director of finance of the utility audit and approve each claim as a proper charge against the treasury and endorse their approval on the claim after having determined that the following conditions have been complied with:
 - (1) That funds are available therefor, pursuant to the budget approved by the utility commission.
 - (2) That the item or service covered by such claim has been authorized by the proper official, department head, board, or commission.
 - (3) That the item or service has been actually supplied or rendered in conformity with such authorization.
 - (4) That the claim is just and valid, pursuant to law.
- b. The general manager shall file with the utility commission, on a monthly basis, a list of the claims approved, showing the date paid, name of claimant, purpose, and amount.
- c. The utility commission shall authorize an annual detailed audit of its financial transactions and accounts by a public accountant, licensed under Wis. Stats. ch. 442 and designated by the utility commission.
- d. The general manager, in conducting his activities, pursuant to this section, shall be covered by a fidelity bond in the sum of \$1,000,000.00 or by the applicable utility insurance policy that provides no less coverage than that afforded by the fidelity bond. Payment of regular wages and salaries of city utility officials and employees, pursuant to the budget and salary schedules adopted by the utility commission, shall be paid by utility payroll, verified by the proper utility officials and filed with the utility finance department in time for payment on the regular payday.

8. *Receipts.* All utility receipts shall be paid to the utility accounting department, who shall deposit them with the authorized utility depository bank and reconcile to the general ledger at least once a month. Utility funds shall be separately accounted for by the water, electric, sewer and storm sewer utilities and any other charges that may be placed on the utility bill shall be subject to disposition as the commission shall direct.

(Code 2011, § 1.32)

SECTION 2: REPEALER CLAUSE All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

PASSED AND ADOPTED BY THE CITY OF KAUKAUNA COMMON COUNCIL

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Presiding Officer

Attest

Anthony J. Penterman, Mayor, City of
Kaukauna

Sally Kenney, Clerk City of
Kaukauna