

DATE: MAY 17, 2004

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

1st 5-17-04

ORDINANCE NO. 91 - 2004

1st Reading
LEGISLATIVE DEPARTMENT
2nd Reading 6/1/04
passed 6/21/04

BY: PUBLIC UTILITIES COMMITTEE

TITLE: AN ORDINANCE to provide for water service to be furnished by Aqua Ohio, Inc. to the City of Massillon, Ohio and the inhabitants thereof, and to regulate the rates under which water service shall be furnished in the City of Massillon, Ohio for and during the term of three and a half (31/2) years beginning on July 1, 2004, and declaring an emergency.

WHEREAS, Aqua Ohio, Inc., its successors and assigns (hereinafter called the "Company") shall be bound to furnish such water as it shall hereafter furnish for public and private consumption within the City of Massillon, Ohio (hereinafter called the "City"), for and during the term of three and a half (31/2) years beginning July 1, 2004, upon the terms and conditions hereinafter set forth:

WHEREAS, Aqua Ohio, Inc. now owns and operates a water supply plant in said City and the Company enjoys the right and privileges of using the streets and public highways for the location, operation, maintenance and existence of its mains, services and other appurtenances; and

WHEREAS, the City and the inhabitants thereof are now and have been receiving water service from said Company, all property, plants, distribution mains and equipment of which Company now used and useful in the furnishing of said water service, and the legal title to the same, as well as any equipment or extensions which may hereafter be placed in said City by said Company, it successors and assigns;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

In consideration of the covenants of the City and the Company as hereinafter contained, the following terms and conditions are declared and made effective relative to the supplying of such water service. In the event that the City shall levy, assess or impose any new privileges, occupation, franchise or excise tax, or shall increase any such taxes presently existing against the Water Company at any time during the period which this Ordinance shall be in force, then the rates fixed in Sections 3, 4 and 5 hereof be so increased by the Company by filing a new schedule as to provide sufficient additional revenue to cover such new or additional tax or taxes provided, however, that if the City shall propose an alternative schedule of additional rates acceptable to the Company which would yield the requisite revenue, such alternative schedule shall control. In either event, the new and increased schedule shall become effective on all bills rendered after the effective date for such new tax or taxes.

Section 2:

First Period. In consideration of the above, the parties hereto agree that the Company, for the services described, shall charge for water furnished during the period of July 1, 2004 through December 31, 2005 the following rates on all bills rendered:

DIVISION A
MEASURED OR METERED SERVICE RATE SCHEDULE

MONTHLY CHARGE FOR WATER DELIVERED	
	Per 100 Cubic Ft.
For the first 5000 cubic feet or any part thereof per month	\$3.29
For the next 10,000 cubic feet per month	\$2.57
For all over 15,000 cubic feet per month	\$1.44

MONTHLY CHARGE BASED UPON METER SIZE	
Meter Size	Customer Charge Per Month
5/8" x 3/4" meter	\$8.91
3/4" meter	\$9.79
1" meter	\$12.47
1-1/2" meter	\$16.02
2" meter	\$25.83
3" meter	\$97.93
4" meter	\$124.64
6" meter	\$186.96

ACCOUNT ACTIVATION FEE: An account activation charge of Twenty Dollars (\$20.00) will be charged for a service connection during the Company's regular business hours.

LATE PAYMENT FEE: The customer will be charged a late payment fee of five percent (5%) if bill payment is paid after the past due date as specified on the customer bill.

DISHONORED CHECKS: When a check that has been received as payment for service is returned by the bank unpaid, a charge of twenty dollars (\$20.00) will be assessed to cover the cost of processing this transaction. The charge for the dishonored check may be reflected at the Company's option when the Company returns the dishonored check or may be charged on the customer's next billing.

RECONNECTION FEE: RECONNECTION fees as defined in the Company's Tariff Section 3-2, First Revised Sheet No. 3, Item 12(b) and Section 3-6, Original Sheet No. 4, Item 10(a) are:

RECONNECTION Fee during regular business hours.....	\$25.00
RECONNECTION Fee other than during regular business hours.....	\$85.00

DIVISION B
PRIVATE FIRE PROTECTION RATE SCHEDULE

HOSE CONNECTIONS AND HYDRANTS	
	<u>Per Month</u>
1-1/4" hose connection	\$9.72
1-1/2" hose connection	\$12.16
2" hose connection	\$15.22
2-1/2" hose connection	\$17.65
Private fire hydrants	\$36.97

AUTOMATIC SPRINKLERS		
<u>Size of Connection</u>	<u>Floor Space</u>	<u>Per Month</u>
2"	5,000 square feet or less	\$30.28
4"	10,000 square feet or less	\$45.52
6"	20,000 square feet or less	\$63.70
Additional floor space	Per 1,000 square feet	\$1.78

LATE PAYMENT FEE: The customer will be charged a late payment fee of five percent (5%) if bill payment is paid after the past due date as specified on the customer bill.

DISHONORED CHECKS: When a check that has been received as payment for service is returned by the bank unpaid, a charge of twenty dollars (\$20.00) will be assessed to cover the cost of processing this transaction. The charge for the dishonored check may be reflected at the Company's option when the Company returns the dishonored check or may be charged on the customer's next billing.

DIVISION C
PUBLIC FIRE PROTECTION SERVICE RATE

Any and all charges for the operation and maintenance of all public fire plugs or hydrants now or hereafter installed and to be used for fire protection purposes only are provided for and included in Division A - Measured or Metered Service Rate Schedule.

DIVISION D
BULK WATER SALES

For sales of bulk water at Company-designated connections, a customer shall pay Ten Dollars (\$10.00) per one thousand (1,000) gallons delivered. In addition, the customer shall pay a bulk water permit fee based upon the Company's costs incurred for bulk water connection and metering accommodations.

DIVISION E
CUSTOMER IMPACT FEE

Prior to any new service connection to a water line operated by the Company, the customer shall pay a customer impact fee as follows:

<u>Meter Size</u>	<u>Customer Impact Fee</u>
5/8" x 3/4"	\$1,200.00
1"	\$3,060.00
1-1/2"	\$6,900.00
2" or larger	\$12,240.00

Section 3:

Second Period. In consideration of the above, the parties hereto agree that the Company, for services described, shall charge for water furnished during the period of January 1, 2006 through December 31, 2006, the following rates on all bills rendered:

DIVISION A
MEASURED OR METERED SERVICE RATE SCHEDULE

MONTHLY CHARGE FOR WATER DELIVERED	
	Per 100 Cubic Ft.
For the first 5000 cubic feet or any part thereof per month	\$3.44
For the next 10,000 cubic feet per month	\$2.69
For all over 15,000 cubic feet per month	\$1.51

MONTHLY CHARGE BASED UPON METER SIZE	
Meter Size	Customer Charge Per Month
5/8" x 3/4" meter	\$9.33
3/4" meter	\$10.25
1" meter	\$13.06
1-1/2" meter	\$16.77
2" meter	\$27.04
3" meter	\$102.53
4" meter	\$130.50
6" meter	\$195.75

ACCOUNT ACTIVATION FEE: An account activation charge of Twenty Dollars (\$20.00) will be charge for a service connection during the Company's regular business hours.

LATE PAYMENT FEE: The customer will be charged a late payment fee of five percent (5%) if bill payment is paid after the past due date as specified on the customer bill.

DISHONORED CHECKS: When a check that has been received as payment for service is returned by the bank unpaid, a charge of twenty dollars (\$20.00) will be assessed to cover the cost of processing this transaction. The charge for the dishonored check may be reflected at the Company's option when the Company returns the dishonored check or may be charged on the customer's next billing.

RECONNECTION FEE: RECONNECTION fees as defined in the Company's Tariff Section 3-2, First Revised Sheet No. 3, Item 12(b) and Section 3-6, Original Sheet No. 4, Item 10(a) are:

RECONNECTION Fee during regular business hours.....\$25.00
 RECONNECTION Fee other than during regular business hours.....\$85.00

DIVISION B
PRIVATE FIRE PROTECTION RATE SCHEDULE

HOSE CONNECTIONS AND HYDRANTS	
	<u>Per Month</u>
1-1/4" hose connection	\$10.18
1-1/2" hose connection	\$12.73
2" hose connection	\$15.94
2-1/2" hose connection	\$18.48
Private fire hydrants	\$38.71

AUTOMATIC SPRINKLERS		
<u>Size of Connection</u>	<u>Floor Space</u>	<u>Per Month</u>
2"	5,000 square feet or less	\$31.70
4"	10,000 square feet or less	\$47.66
6"	20,000 square feet or less	\$66.69
Additional floor space	Per 1,000 square feet	\$1.86

LATE PAYMENT FEE: The customer will be charged a late payment fee of five percent (5%) if bill payment is paid after the past due date as specified on the customer bill.

DISHONORED CHECKS: When a check that has been received as payment for service is returned by the bank unpaid, a charge of twenty dollars (\$20.00) will be assessed to cover the cost of processing this transaction. The charge for the dishonored check may be reflected at the Company's option when the Company returns the dishonored check or may be charged on the customer's next billing.

DIVISION C
PUBLIC FIRE PROTECTION SERVICE RATE

Any and all charges for the operation and maintenance of all public fire plugs or hydrants now or hereafter installed and to be used for fire protection purposes only are provided for and included in Division A - Measured or Metered Service Rate Schedule.

DIVISION D
BULK WATER SALES

For sales of bulk water at Company-designated connections, a customer shall pay Ten Dollars (\$10.00) per one thousand (1,000) gallons delivered. In addition, the customer shall pay a bulk water permit fee based upon the Company's costs incurred for bulk water connection and metering accommodations.

DIVISION E
CUSTOMER IMPACT FEE

Prior to any new service connection to a water line operated by the Company, the customer shall pay a customer impact fee as follows:

Meter Size	Customer Impact Fee
5/8" x 3/4"	\$1,200.00
1"	\$3,060.00
1-1/2"	\$6,900.00
2" or larger	\$12,240.00

Section 4:

Third Period. In consideration of the above, the parties hereto agree that the Company, for the services described, shall charge the following rates for water furnished during the period of January 1, 2007 through December 31, 2007 and thereafter until new rates have been agreed upon between the Company and the City.

DIVISION A
MEASURED OR METERED SERVICE RATE SCHEDULE

MONTHLY CHARGE FOR WATER DELIVERED	
	Per 100 Cubic Ft.
For the first 5000 cubic feet or any part thereof per month	\$3.60
For the next 10,000 cubic feet per month	\$2.82
For all over 15,000 cubic feet per month	\$1.58

MONTHLY CHARGE BASED UPON METER SIZE	
Meter Size	Customer Charge Per Month
5/8" x 3/4" meter	\$9.77
3/4" meter	\$10.73
1" meter	\$13.67
1-1/2" meter	\$17.56
2" meter	\$28.31
3" meter	\$107.35
4" meter	\$136.63
6" meter	\$204.95

ACCOUNT ACTIVATION FEE: An account activation charge of Twenty Dollars (\$20.00) will be charged for a service connection during the Company's regular business hours.

LATE PAYMENT FEE: The customer will be charged a late payment fee of five percent (5%) if bill payment is paid after the past due date as specified on the customer bill.

DISHONORED CHECKS: When a check that has been received as payment for service is returned by the bank unpaid, a charge of twenty dollars (\$20.00) will be assessed to cover the cost of processing this transaction. The charge for the dishonored check may be reflected at the Company's option when the Company returns the dishonored check or may be charged on the customer's next billing.

RECONNECTION FEE: RECONNECTION fees as defined in the Company's Tariff Section 3-2, First Revised Sheet No. 3, Item 12(b) and Section 3-6, Original Sheet No. 4, Item 10(a) are:

RECONNECTION Fee during regular business hours.....\$25.00
 RECONNECTION Fee other than during regular business hours.....\$85.00

DIVISION B
PRIVATE FIRE PROTECTION RATE SCHEDULE

HOSE CONNECTIONS AND HYDRANTS	
	<u>Per Month</u>
1-1/4" hose connection	\$10.66
1-1/2" hose connection	\$13.33
2" hose connection	\$16.69
2-1/2" hose connection	\$19.35
Private fire hydrants	\$40.53

AUTOMATIC SPRINKLERS		
<u>Size of Connection</u>	<u>Floor Space</u>	<u>Per Month</u>
2"	5,000 square feet or less	\$33.19
4"	10,000 square feet or less	\$49.90
6"	20,000 square feet or less	\$69.82
Additional floor space	Per 1,000 square feet	\$1.95

LATE PAYMENT FEE: The customer will be charged a late payment fee of five percent (5%) if bill payment is paid after the past due date as specified on the customer bill.

DISHONORED CHECKS: When a check that has been received as payment for service is returned by the bank unpaid, a charge of twenty dollars (\$20.00) will be assessed to cover the cost of processing this transaction. The charge for the dishonored check may be reflected at the Company's option when the Company returns the dishonored check or may be charged on the customer's next billing.

DIVISION C
PUBLIC FIRE PROTECTION SERVICE RATE

Any and all charges for the operation and maintenance of all public fire plugs or hydrants now or hereafter installed and to be used for fire protection purposes only are provided for and included in Division A - Measured or Metered Service Rate Schedule.

DIVISION D
BULK WATER SALES

For sales of bulk water at Company-designated connections, a customer shall pay Ten Dollars (\$10.00) per one thousand (1,000) gallons delivered. In addition, the customer shall pay a bulk water permit fee based upon the Company's costs incurred for bulk water connection and metering accommodations.

DIVISION E
CUSTOMER IMPACT FEE

Prior to any new service connection to a water line operated by the Company, the customer shall pay a customer impact fee as follows:

<u>Meter Size</u>	<u>Customer Impact Fee</u>
5/8" x 3/4"	\$1,200.00
1"	\$3,060.00
1-1/2"	\$6,900.00
2" or larger	\$12,240.00

Section 5:

If, during the term of this Ordinance, the City desires that the Company expand or construct improvements beyond those planned by the Company and beyond any improvements which the Company has agreed to implement, the City may request negotiations with the Company for adjustment of the rates set forth herein to facilitate such improvements.

If, following July 1, 2004, (a) the Company's rate of return on rate base (as determined in accordance with Ohio Revised Code Chapter 4909) for its Stark Regional Division falls one percentage point or more below any such return then in effect for any of the Company's districts established by the Ohio Public Utilities Commission and (b) events beyond the control of the Company have contributed to such lowered return, then the City and the Company shall renegotiate the rates set forth in Section 5 hereof. If renegotiated rates have not been reached within sixty (60) days after such negotiations are requested, the Company may apply to the Ohio Public Utilities Commission for a rate determination for its Stark Regional Division in the same manner as if the City had not set rates as provided in Ohio Revised Code Section 4909.35. For purposes hereof, increased Company personnel compensation costs shall not be deemed an event beyond the Company's control.

Section 6:

The Company's rates and service shall comply with Aqua Ohio, Inc. Master Tariff P.U.C.O. No. 2, as amended and revised from time to time, provided, however, any conflicting provisions of this Ordinance shall supercede said Tariff and, furthermore, the Company will not collect or charge a related facilities fee (rather, the Company will collect the Customer Impact Fee set forth herein above).

Section 7:

This contract and the rates herein provided for shall continue and be in force for a period of three and a half (3 1/2) years beginning on July 1, 2004 and until canceled by either the City or the Company upon sixty (60) days written notice.

Section 8:

This Ordinance and the written acceptance thereof by the Company filed in the office either of the Clerk of Council or the Auditor of the city, after is passage and approval by the Mayor, shall constitute a contract between the City and the Company pursuant to and by virtue of Sections 4 and 5 of the Article XVIII of the Constitution of Ohio.

Section 9:

This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the health, safety and welfare of the community and for the additional reason that the Aqua Ohio, Inc. agreement with the City is about to expire and the new agreement with the revised rates needs to be in effect prior to July 1, 2004. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS _____ DAY OF _____ 2004

APPROVED: _____
MARY BETH BAILEY, CLERK OF COUNCIL DENNIS D. HARWIG, PRESIDENT

APPROVED: _____
FRANCIS H. CICCHINELLI, JR., MAYOR