

AN ORDINANCE GRANTING TO MISSOURI-AMERICAN WATER COMPANY, ITS SUCCESSORS AND ASSIGNS, A FRANCHISE TO USE AND OCCUPY THE STREETS, ALLEYS, LANES, PARKS, PUBLIC THOUROUGHFARES AND PUBLIC PLACES IN THE VILLAGE OF SAGINAW, MISSOURI, FOR THE PURPOSE OF LAYING ITS WATER MAINS, PIPES, SERVICES AND APPURTENANCES, AND GRANTING TO IT ALL THE NECESSARY POWERS TO CONSTRUCT, MAINTAIN AND OPERATE A COMPLETE WATER WORKS SYSTEM, WITHIN SAID VILLAGE, AND PROVIDING FOR SUPPLYING THE VILLAGE OF SAGINAW, MISSOURI AND ITS INHABITANTS WITH WATER FOR PUBLIC AND PRIVATE PURPOSES AS HEREINAFTER SET FORTH, AND SUBMITTING THIS ORDINANCE TO THE REGISTERED VOTERS OF THE VILLAGE AT THE 2 NOVEMBER 1993 ELECTION, AND CONTAINING AN EMERGENCY CLAUSE.

NOW, THEREFORE, BE IT ORDAINED by the Board of Trustees of the Village of Saginaw, Missouri, as follows:

Section 1. The Village of Saginaw, Missouri, hereinafter called "Village", hereby grants unto Missouri-American Water Company, Joplin District, hereinafter called "Water Company", its successors and assigns, the franchise right and privilege for twenty (20) years from and after the effective date of this Ordinance, to lay, construct, install, alter, move, remove, replace, renew, repair, maintain, extend and operate, in, along, upon and under any and all of the roads, streets, alleys, commons, bridges and other public lands, and places within the Village, within its present and future corporate limits, water transmission and distribution mains, pipes, manholes, conduits, and all necessary feeders, service pipes and other facilities, appliances, apparatus and structures for the purpose of supplying and furnishing water utility service to the Village, the inhabitants thereof, the public in general, and all customers of the Water Company, residing within or without the corporate limits of the Village, for public and private fire protection, residential, commercial and industrial uses, and all other purposes, including the right to purchase, transmit, distribute, furnish, supply and sell such water within the Village and to transmit and carry the same through such mains and pipes to territory beyond the Village and subject to all reasonable regulations now or hereafter lawfully adopted by the Village pertaining to the use of the streets and location of such mains, pipes and conduits.

Section 2. The Water Company may make and pay for all necessary excavations and openings in the roads, streets, alleys, and other public places of the Village for the purposes aforesaid, and when making such excavations and openings shall, by signals, guards, barricades or otherwise, protect the public from injury to persons and property, insofar as may be possible, and the Water Company shall save and hold the Village harmless from all damages, costs and expenses which the Village may be compelled to pay on account of any default, carelessness, or neglect of the Water Company in the construction and maintenance of such water works plant and distribution system, provided the Village shall promptly notify the Water Company in writing of any of any claim or suit. Water Company will make and pay for the repair of the said openings in the roads, streets, alleys and other public places of the Village.

Section 3. The Water Company will use all reasonable diligence and precaution to furnish and maintain a regular, adequate, dependable and uninterrupted supply of water in the Village and to the inhabitants thereof, for public and private fire protection, residential, commercial and industrial uses, and all other purposes specified in the Water Company's schedule of rates, rules and regulations. The Water Company's rights under this franchise shall not be prejudiced by, and the Water Company shall not be liable for any damage occurring to the Village or to any customer in consequence of, any failure to furnish or supply water service at any time or times if such failure is not accompanied by a default or neglect of the Water Company or is due to strikes, storms, accidents, riots, acts of the public enemy, delays of any common carrier, default of any connecting utility or of the Water Company's suppliers, judicial process, acts of God, state or municipal interference, any governmental restrictions or regulations, affecting the use or supply of water, breakdowns of or injuries to machinery, transmission or distribution systems, or necessary repairs, or other causes beyond the control of the Water Company, its successors or assigns.

Section 4. The water service to be furnished to the Village and the residents and inhabitants thereof shall be sold at such rate or rates and shall be extended or made available and be of such nature, character and quality as provided by the rules, regulations and conditions of water service, as may from time to time be lawful and be shown on the Water Company's schedule of applicable rates, rules and regulations on file with and approved by the Missouri Public Service Commission, and in accordance with the laws of the State of Missouri. In case of any lawful change in the schedule of rates or the character of the water service to be furnished by the Water Company within the Village, the rate legally applicable shall thereafter be charged and Water Company will notify Village within thirty (30) days thereafter. All metered accounts for water used by the Village will be billed to the Village at the prevailing rates approved by the Missouri Public Service Commission.

Section 5. The Water Company shall install fire hydrants when ordered by the Village on its mains that are six (6) inches or larger in internal diameter in accordance with its applicable rules and regulations on file and approved by the Missouri Public Service Commission. Said fire hydrants shall be maintained by the Water Company. Said fire hydrants shall be located every 600 feet along any such water mains installed by the Water Company. The Village of Saginaw shall have the right, by service of notice upon Water Company, to discontinue the use of fire hydrants or to move same from one location to another in the Village whenever said Village shall deem such action advisable, the cost of moving such hydrant to be paid by Village.

Section 6. In view of the fact that the Missouri Public Service Commission has jurisdiction over the matter of general rates and service, and rules and regulations governing same, no agreement concerning such matter is incorporated in this Ordinance, and it is agreed that, in the event said Public Service Commission is discontinued, or its powers as above mentioned curtailed or repealed during the term of this Ordinance, and no other governmental agency is given jurisdiction over such matters, all rates, rules and regulations which are in effect at the time of such discontinuance of such Commission or curtailment or repeal of its powers, shall remain and continue in effect until changed by agreement between the parties, or by legal action or procedure; it being understood that, in such case either party will be at liberty to take such steps or action which it may lawfully take to have any such rates, rules and regulations changed, adjusted, amended or repealed.

Section 7. The Village, insofar as it may be permitted by law so to do, shall from time to time pass and enforce such ordinances, penal or otherwise, as may be required to protect specifically the mains, valves, valve boxes, hydrants, reservoirs, pumping stations, filters and wells against the acts of persons who may maliciously injure or wrongfully use the apparatus or pollute the water supply.

Section 8. All ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed. If any Section or Sections of this Ordinance are declared invalid for any reason, such invalidity shall not affect the remaining Sections hereof.

Section 9. There shall be a municipal election held in the Village of Saginaw on 2 November 1993, for the purpose of submitting this Ordinance to the registered voters of the Village.

A complete and detailed description of the locations of each and all of said polling places and all of said precincts of said Village will be set out in a notice to be published by the County Clerk of said Newton County, according to law. The polling

places for the Village election will open at 6:00 a.m. and close at 7:00 p.m. on Tuesday, 2 November 1993.

Section 10. The Village Clerk is hereby directed to deliver to the County Clerk a Notice of Election for publication as required by State Statutes in a newspaper of general circulation in Saginaw, Missouri that at the Municipal Election to be held on 2 November 1993, in the Village there will be submitted to the electors of the Village at such election the proposition set forth in Section 11 of this Ordinance. The Notice of Election shall be published as required by law.

Section 11. The Village Clerk shall canvass the results of the election as verified by the Newton County Clerk and report the same to the Board at the scheduled Board meeting following the election.

The proposed Ordinance shall be submitted to the electors of the Village at said election upon a ballot in substantially the following form:

OFFICIAL BALLOT

VILLAGE OF SAGINAW WATER FRANCHISE ORDINANCE

ELECTION - _____

SHALL THE VILLAGE OF SAGINAW ENTER INTO THE CONTRACT TO ALLOW MISSOURI-AMERICAN WATER COMPANY, JOPLIN DISTRICT, TO SUPPLY WATER TO SAID VILLAGE FOR A TERM OF 20 YEARS.

YES

NO

INSTRUCTIONS TO VOTERS

If you are in favor of the question, place an (x) in the box opposite "Yes". If you are opposed to the question, place (x) in the box opposite "No".

Section 12. That the officers of the Village of Saginaw are authorized to enter into agreements and contracts necessary to the completion of the Water Works System described in this Ordinance.

Section 13. This Ordinance shall take effect if a majority of the qualified voters of the Village, voting on said Ordinance at the election of 2 November 1993, shall vote in favor thereof, and provided that the Missouri-American Water Company agrees to accept the Franchise granted by this Ordinance.

Section 14. This Ordinance being an Ordinance for the immediate preservation of the public health and safety in that it provides water for inhabitants of the Village of Saginaw, is considered an emergency measure and as such this Ordinance shall become effective immediately upon its passage by the Board of Trustees.

PASSED BY THE BOARD OF TRUSTEES THIS 10 day of AUGUST, 1993.

Gerry Blinzler
Chairman

ATTEST:

Sue Blinzler
Village Clerk

TRUSTEES FOR:

Baker Edwards
[Signature]
Richard Sadler
Gerry Blinzler

TRUSTEES AGAINST:

FROM THE RECORDS OF THE VILLAGE OF SAGINAW, MISSOURI:

The Board of Trustees of the Village of Saginaw, Missouri met in regular session at Saginaw, Missouri, at 6 o'clock P.M. on August 10, 1993 with the following present.

PERCY BLINZLER, RICHARD SADLER, _____
GALEN EDWARDS, _____, _____
RICHARD SMITH, _____, _____

and with the following absent:

PHIL CLAYTON _____

When and where the following, among other proceedings of the Board were had and made a matter of record, to-wit:

A bill was submitted for consideration, entitled: "An Ordinance granting to Missouri-American Water Company, its successors and assigns, a franchise to use and occupy the streets, alleys, lanes, parks, public thoroughfares and public places in the Village of Saginaw, Missouri, for the purpose of laying its water mains, pipes, services and appurtenances, and granting to it all the necessary powers to construct, maintain and operate a complete water works system, within said Village, and providing for supplying the Village of Saginaw, Missouri and its inhabitants with water for public and private purposes as hereinafter set forth, and submitting this ordinance to the registered voters of the Village at the 2 November 1993 election, and containing an emergency clause."

After considerable discussion of the matter by the Board, a motion was made by RICHARD SMITH, seconded by RICHARD SADLER, that the bill be placed on reading; the same was publicly read in full and passed by the following vote:

PERCY BLINZLER, Aye; GALEN EDWARDS, Aye;
RICHARD SADLER, Aye; _____, Aye;
RICHARD SMITH, Aye; Nay, None.

It was moved by GALEN EDWARDS seconded by RICHARD SMITH that the Bill be given the title of Ordinance No. 93-2 and be adopted and the same was adopted by the following vote:

PERCY BLINZLER, Aye; GALEN EDWARDS, Aye;
RICHARD SADLER, Aye; _____, Aye;
RICHARD SMITH, Aye; Nay, None.

Said instrument was then signed by the Chairman and attested by the Clerk, and being so passed and adopted, was made a part of the records of the Board of Trustees.

I, Linda Blaylock, Clerk of the Village of Saginaw, Missouri, do hereby certify that the above and foregoing is a true and correct copy of a part of the minutes of the meeting of the Board of Trustees held on August 10, 1993, being that part regarding the passage of Ordinance No. 93-2, as same appears in the records of said Village.

In testimony hereof, I have hereunto set my hand as said Village Clerk, and affixed the seal of said Village, at my office in SAGINAW, Missouri this 10 day of AUGUST, 1993.

Linda Blaylock
Village Clerk

(S E A L)