

ORDINANCE NO. 87-58 AC CMS

AN ORDINANCE APPROVING AN AGREEMENT BETWEEN THE  
CITY OF OBERLIN AND THE OHIO DEPARTMENT OF NATURAL RESOURCES  
FOR THE JOINT MAINTENANCE AND MANAGEMENT OF A PUBLIC FISHING PROGRAM  
AT THE PARSONS ROAD MUNICIPAL RESERVOIR

BE IT ORDAINED by the Council of the City of Oberlin, County of Lorain,  
State of Ohio, a majority of all members elected thereto concurring:

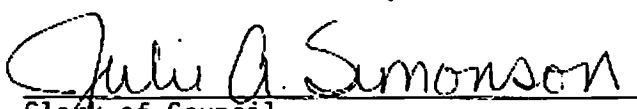
SECTION 1. That the proposed agreement between the City of Oberlin  
and the Ohio Department of Natural Resources, a copy of which is attached  
hereto as "Exhibit A" and incorporated herein by reference, for the mainte-  
nance and management of a public fishing program at the Parsons Road Municipal  
Reservoir, is hereby approved, and the City Manager is hereby authorized  
and directed to execute same on behalf of the City.

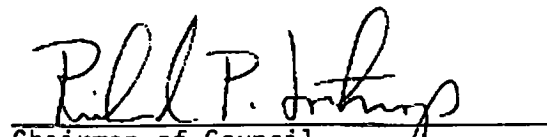
SECTION 2. It is hereby found and determined that all formal actions  
of this Council concerning or relating to the adoption of this ordinance  
were adopted in an open meeting of the Council and that all deliberations  
of this Council and of any of its committees that resulted in such formal  
action were in meetings open to the public in compliance with all legal  
requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. That this ordinance shall take effect at the earliest  
date allowed by law.

PASSED: 1st Reading- September 8, 1987  
2nd Reading- September 21, 1987  
3rd Reading- October 5, 1987

ATTEST:

  
Clerk of Council

  
Chairman of Council

POSTED: October 7, 1987

A G R E E M E N T

In accordance with Ordinance No. 87-58, of the Council of the City of Oberlin, passed October 5, 1987, this Agreement is made and entered into as of this 4th day of November, 1987, by and between the City of Oberlin, acting by and through the City Manager and his agents of the City of Oberlin (hereinafter referred to as the "City"), party of the first part, and the Department of Natural Resources (hereinafter referred to as the "State", party of the second part,

WITNESSETH THAT:

WHEREAS, the City of Oberlin has constructed a reservoir in Russia Township; Lorain County, Ohio, impounding water in a 56 acre reservoir known as Oberlin Reservoir; and

WHEREAS, the primary purpose of the project is to furnish a potable water supply for the City of Oberlin; and

WHEREAS, the City of Oberlin will carry on a policy of controlled free public fishing and utilization of the reservoir when not inconsistent with the foregoing purposes; and

WHEREAS, the City and the State believe an expanded fish program can be carried on upon the above described body of water without obstructing, impeding, or interfering with the primary purpose of the project as hereinbefore set forth;

NOW THEREFORE, the parties hereto do mutually agree as follows:

1. This new agreement shall be in force and in effect for a period of twenty-five (25) years beginning November 4, 1987, and ending November 3, 2012.

2. The level at which the water in Oberlin Reservoir is to be maintained, the discharge rate of water from the reservoir, the time of water discharge, etc., shall remain and at all times be under the EXCLUSIVE management and control of the City.

3. The City shall permit the State, its officers, its agents, and employees to enter upon the above described premises at any time for the purpose of carrying on such fish management programs, as may from time to time be authorized by the Wildlife Council of the Division of Wildlife, Department of Natural Resources, including the exclusive right and privilege to stock game and forage fish, to provide fish nesting sites and shelters, and the State agrees to carry on biological and scientific investigations and management so as to provide the maximum yield and harvest of fish in accordance with good wildlife management practices, and further provided that the programs do not interfere with the primary purposes of this reservoir.

4. The City shall permit free public fishing (including ice fishing, and boat fishing) at Oberlin Reservoir in accordance with State law and in accordance with such wildlife regulations as may from time to time be adopted by the Wildlife Council of the Division of Wildlife.

5. The City shall permit the public to use properly licensed watercraft upon the premises, not to exceed 20 feet in length. No sail boards, surf boards, paddle boards, or other watercraft likely to result in body contact with the water will be permitted.

6. The City shall permit the use of electric motors. The use of electric motors shall be limited to one motor per boat. The use of gasoline motors shall not be permitted by other than City and State of Ohio personnel.

7. This contract may be cancelled by: City giving 180 days prior written notice by the City Manager to the Director of the Department of Natural Resources of State of cancellation one hundred eighty (180) days after such written notice; State giving 180 days prior written notice by the Director of the Department of Natural Resources of State to the City Manager of City of cancellation one hundred eighty (180) days after such written notice.

8. The State shall provide and maintain appropriate signs to indicate those areas which are open and closed for fishing purposes.

9. The City shall permit the State, its officers, its agents, and employees to erect and construct buildings, improvements, facilities and accommodations upon the above described premises; provided however, no buildings, improvements, facilities, or accommodations shall be erected or constructed upon the above described premises without first obtaining the prior written consent and approval of the City Manager of City. The State shall provide all materials required to maintain the foregoing. The State will maintain structural integrity of the existing steps, latrines, and parking lot. The City shall install a wastewater treatment system to serve the water treatment plant and latrine supernatant and shall maintain this system. The State shall pump residue from the latrines and shall resurface the existing parking lot following installation of the wastewater treatment system.

10. The State, within one hundred eighty (180) days following the termination or cancellation in any manner whatsoever of this agreement, may remove any buildings, improvements, facilities, or accommodations which the State may have erected, constructed, or installed upon the above described premises which were previously approved by the Director of Public Service of City.

11. The City at its own expense, shall perform routine cleaning and maintenance at the area and facilities thereon.

12. The State shall not assign any of the rights, title, interest or authority acquired under this Agreement. The City hereby agrees that during the term of this Agreement, it shall not permit any use of the premises herein described, private or otherwise, inconsistent with the rights, privileges, interest, or authority conferred or reserved under this Agreement.

13. The City may revoke the right, title, interest and authority herein granted, if the State materially violates any of the terms or conditions of this Agreement. The State may revoke the right, title, interest, and authority herein granted, if the City materially violates any of the terms or conditions of this Agreement.

14. From time to time, upon the mutual agreement of the City Manager and the State, such amendments as are not a substantive change or inconsistent with the purposes herein expressed, and the rights herein conferred or reserved, may be incorporated with this Agreement.

15. The Director of the Department of Natural Resources agrees that any investment it may make in, on, or about the premises, including those for which permission is granted in paragraph nine shall not give rise to any claim of a vested right to continue to renew this license on the within terms or expanded terms nor shall any such investment or any use hereunder give rise to a claim of the right of the original and continuing purposes of the reservoir, as set forth in the preamble of this Agreement.

16. The terms of this Agreement shall be considered in effect during the period of negotiations for a new Agreement to replace this Agreement ending in 2012, provided, however, that neither party is committed to enter a new Agreement but may unilaterally decide not to enter into a new Agreement.

IN WITNESS WHEREOF, the parties have hereunto affixed their signatures as of the day and year above written.

Signed and acknowledged in the presence of:

THE CITY OF OBERLIN

1. Michelle L. Streatow

(a) Dale S. Augeman  
City Manager

2. Julie A. Simonson  
Witnesses as to (a)

Signed and acknowledged in the presence of:

1. Ed Tuyen
2. Harold P. Hart  
Witnesses as to (b)

Approved as to form and correctness:

Emi R. Sumner  
Oberlin City Solicitor

STATE OF OHIO

(b) Charles Mauer  
for Joseph J. Sommer, Director ~~Chief, Division of~~  
Department of Natural Resources

Clayton H. Lakes  
Clayton H. Lakes, Chief, Division of Wildlife

Approved as to form:

Mr. C. Allen  
State Attorney General