

CITY OF OBERLIN, OHIO

ORDINANCE No. 13-61 AC CMS

AN ORDINANCE APPROVING AN AGREEMENT BETWEEN THE CITY OF OBERLIN AND THE STATE OF OHIO, DEPARTMENT OF NATURAL RESOURCES, DIVISION OF WILDLIFE FOR THE JOINT MAINTENANCE AND MANAGEMENT OF A PUBLIC FISHING PROGRAM AT THE OBERLIN (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 State of Ohio, Department of Natural Resources, Division of Wildlife, a copy of which is attached hereto as **“Exhibit A”** and incorporated herein by reference, for the maintenance and management of a public fishing program at the Oberlin (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 this 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: October 21, 2013

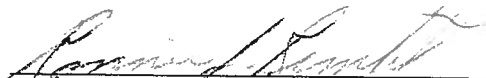
2nd Reading: November 4, 2013 (E)

3rd Reading: _____

ATTEST:



BELINDA B. ANDERSON, CMC
CLERK OF COUNCIL



RONNIE J. RIMBERT
PRESIDENT OF COUNCIL

POSTED: 11/05/2013

EFFECTIVE DATE: 11/04/2013

Division of Wildlife
Ohio Department of Natural Resources

FISHING AGREEMENT

Agreement No.

In consideration of the mutual benefits this agreement is entered into by the State of Ohio, Department of Natural Resources, Division of Wildlife, hereinafter known as the Division and The City of Oberlin, hereinafter known as the Owner, this 6th day of November, 2013, and expiring on the 5th day of November, 2038; a period of 25 years.

It is the intent of this agreement to provide free public fishing in the body of water commonly known as Oberlin Reservoir (Parsons Road Reservoir), which is located in New Russia Township, Lorain County, Ohio, and more completely described in a deed to the Owner filed in deed book number _____, page _____, of the Lorain County Recorder's Office consisting of 85.21 acres more or less of land and water. See attached map exhibit.

It is mutually agreed between the Division and the Owner as follows:

1. The Division shall provide a fisheries management program including the enforcement of fish and wildlife laws and all orders of the Division of Wildlife.
2. The Division and the Owner shall enforce the provisions of Section 1533.32 and 3767.32 of the Ohio Revised Code.
3. The primary purpose of the Oberlin Reservoir is to furnish the potable water supply for the City of Oberlin. 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 Owner.
4. The Owner shall permit controlled free public fishing and utilization of Oberlin Reservoir when not inconsistent with the foregoing purpose. Free public fishing shall include, but not be limited to, fishing from properly licensed watercraft not to exceed twenty (20) feet in length. No sail boards, surf boards, paddle boards, or other watercraft likely to result in bodily contact with the water shall be permitted. The use of no more than one electric motor per watercraft is permitted. Gasoline, diesel, or other liquid fuel engines are strictly prohibited. However, the Division shall be permitted to use gasoline-powered outboard motors on boats used to perform routine duties including surveys, research, and law enforcement with prior notification and approval by the City of Oberlin Manager.
5. The Owner will permit fishing upon the Owner's shoreline and water without regard to their race, color, national origin, sex, age, or handicap. If the Owner unduly restricts fishing access the Division may terminate this agreement immediately.
6. The Owner shall permit the Division, its officers, its agents, and employees to erect and construct buildings, improvements, facilities, and accommodations upon the above described premises only if prior written consent and approval from both the Oberlin City Manager and all other regulatory authorities has been granted. The Division shall improve and maintain any buildings, improvements, facilities, and accommodations that they have erected at their sole expense. This shall include: a) complete replacement of the access stair and guardrail system on the Oberlin Reservoir embankment by September 30, 2014; b) Repair and replacement of the asphalt parking

lot, including striping and signage by November 1, 2018. The Division will provide (via rental) a handicapped accessible portable toilet during the period from May through September. The Division shall also provide and maintain appropriate signs to indicate current fishing regulations, as well as any other applicable signs pertaining to fishing. Obligations of the State of Ohio are subject to the provisions of the Ohio Revised Code, Section 126.07.

7. The Owner, at its own expense, shall perform routine cleaning and maintenance at the area and facilities thereon.
8. The Division, 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 Division has erected, constructed, or installed upon the above described premises which were previously approved by the Owner and other regulatory agencies.
9. The Division shall not assign any of the rights, title, interest, or authority acquired under this Agreement. The Owner 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.
10. The Owner may revoke the right, title, interest, and authority herein granted if the Division materially violates any of the terms or conditions of this Agreement. The Division may revoke the right, title, interest, and authority herein granted, if the Owner materially violates any of the terms or conditions of this Agreement.
11. Periodically, upon the mutual agreement of the Owner and the Division, such amendments that are not a substantive change or inconsistent with the purposes herein expressed, and the rights herein conferred or reserved, may be incorporated within this Agreement.
12. The Director of the Ohio Department of Natural Resources agrees that any investment that the Division may make in, on, or about the premises, including those for which permission is granted in paragraph six 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 purpose of the reservoir, as set forth in paragraph three.
13. The terms of this Agreement shall be considered in effect during the period of negotiations for a new Agreement to replace this existing Agreement in 2038, provided, however, that neither party is committed to enter into a new Agreement, but may unilaterally decide not to enter into a new Agreement.
14. This Agreement may be cancelled by: Owner giving one hundred eighty (180) days prior written notice by the Oberlin City Manager to the Director of the Ohio Department of Natural Resources of cancellation one hundred eighty (180) days after such written notice; Division giving one hundred eighty (180) days prior written notice by the Director of the Ohio Department of Natural Resources to the Oberlin City Manager of cancellation one hundred eighty (180) days after such written notice.

This Agreement contains the entire agreement between the parties hereto and supersedes any and all previous agreements between the parties associated with the subject matter of this Agreement.

Manda Morris
Witness to Owner

[Signature]
Owner

[Signature]
Witness to Owner

STATE OF OHIO

Lorain County, ss:

Before me, a Notary Public in and for said County and State, personally appeared the above named City of Oberlin by Eric Norenberg, its City Manager who acknowledged that he did sign the foregoing instrument and that the same is his free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal, at Oberlin, OH, this 6th day of November, 20 13.

[Signature]
Sheryl A. ~~Flanery~~ Public
Notary Public, State of Ohio
My Commission Expires 5/11/2016

State of Ohio, Department of Natural Resources, Division of Wildlife

By: [Signature]
Chief, Division of Wildlife

APPROVED:

[Signature]
Assistant Attorney General

[Signature]
Director, Department of Natural Resources

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