

CITY OF LOOKOUT MOUNTAIN, GEORGIA

ORDINANCE NO. 33

AN ORDINANCE

To provide for the supply of water for domestic, commercial and industrial use, and granting to the City Water Company of Chattanooga, its successors and assigns, the right and authority to construct, maintain and operate a water distribution system within the City of Lookout Mountain, Georgia; to supply water for domestic, manufacturing, public, and other purposes, for a period of twenty (20) years, and providing the rates to be charged by the City Water Company of Chattanooga, its successors and assigns, to its consumers and users in the City of Lookout Mountain, Georgia, and for other purposes.

BE IT ORDAINED by the City Council of the City of Lookout Mountain, Georgia, and it is hereby ordained:

Section 1. There is hereby granted to the City Water Company of Chattanooga, its successors and assigns (hereinafter called "Grantee"), the right, privilege and authority for twenty (20) years from and after January 1, 1971, to construct, maintain and operate its water distribution system, as now constructed, maintained and operated in the City of Lookout Mountain, Georgia (hereinafter called "City"), or future additions thereto, and as said water distribution system may hereafter be enlarged or extended, and to construct, erect, lay, maintain, operate and repair the same with the usual and necessary appliances, attachments, apparatus and appurtenances thereto, in, under, along, across, above, over and upon any and all streets, avenues, alleys, and public groups in said City as the same may now or hereafter exist, and to properly and successfully construct, maintain and operate said water distribution system.

Section 2. Grantee shall furnish to the City and to its inhabitants and users a supply of water equal in quality, at the same rates, and upon the same conditions as that supplied and furnished to the inhabitants and users of the City of Chattanooga, Tennessee, and in the same or similar manner as it has heretofore operated its water distribution system in the City.

Section 3. Grantee shall have the right to establish and formulate reasonable rules and regulations governing the furnishing of water and the conduct of its business, and shall have the right to enforce the same.

Section 4. City shall, on request of Grantee, adopt ordinances, rules and regulations protecting the Grantee in the safe and unmolested conduct of the rights and privileges hereby granted.

Section 5. City agrees that in consideration of the undertakings of the Grantee herein contained, and of the water and services by the Grantee hereunder to said City and its inhabitants and users upon the terms herein provided, it will not at any time during the term of the Ordinance construct, operate, or authorize the construction or operation of any water distribution system whatsoever.

Section 6. Grantee shall at all times be subject to the City Ordinances now in existence or which may hereafter be passed relative to the use of the streets, avenues, alleys and other public grounds in said City by water or other utility companies and to any and all other ordinances relative to the use of the streets, avenues, alleys and other public grounds, or otherwise when acceptable. Prior to opening any street within the City, Grantee shall obtain a permit from the Chief of Police or any other person designated by the City Council, the fee for each such permit to be \$5.00. Such permit may provide inter alia for the time period during which the street may remain open without penalty.

Section 7. Grantee shall indemnify the City against and assume all liabilities for damage which may arise or accrue to the City or to any person holding the City liable from any injury to persons or property from the performance, or

growing out of the performance, of any of the provisions of the authority herein granted, or the neglect of Grantee to comply with any ordinance relative to the use of the property of said City, and the operation of the Grantee under this ordinance shall be an agreement by it to pay to the City any sum of money for which the City may become liable from or by reason of such injury.

Section 8. Grantee shall pay to the City each year, in December, at the time Grantee pays its ad valorem taxes to the City, an amount which, when added to the ad valorem taxes, shall produce a sum equal to, but not in excess of, a product arrived at by multiplying the depreciated value of the Grantee's property within the City as of December 31 of the preceding year by the then current ad valorem tax rate. The depreciated value of Grantee's property within the City shall be shown upon the books of the Grantee and, upon request by the City, Grantee shall make available to the City the procedures used to determine said depreciated value of Grantee's property within the City of Lookout Mountain, Georgia.

Section 9. Failure of Grantee to comply with any of the provisions of this Ordinance, or default in any of its obligations, except for causes beyond the reasonable control of Grantee, within thirty (30) days after written notice from the City to Grantee to correct such default or noncompliance, shall authorize the City to revoke this Ordinance and all rights of Grantee hereunder.

Section 10. The payment of the sums provided for in Section 8 hereof shall be in lieu of all specific, occupation, license, excise, sales, special and franchise taxes; but not in lieu of ad valorem taxes on property or license taxes on the sale of appliances.

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Section 11. This Ordinance is to be construed as a permit or franchise and not as a contract between Grantee and the City.

Section 12. If any section, subsection, sentence, or clause in this Ordinance or of the Chapter of the City Code hereby adopted be adjudged invalid, such adjudication shall not affect the validity of the Ordinance or Code as a whole or of any section, subsection, sentence, or clause hereof or thereof not adjudged invalid.

Section 13. This ordinance shall be effective ten (10) days after its adoption and approval by at least three members of the Council of the City after two readings at least one week apart.

Section 14. All laws and Ordinances in conflict with this Ordinance are hereby repealed.

Approved on first reading on June 17, 1971.

William Pettway
Member of City Council of Lookout Mountain, Ga.

John Smith
Member of City Council of Lookout Mountain, Ga.

Jesse B. Sims
Member of City Council of Lookout Mountain, Ga.

Joe [unclear]
Member of City Council of Lookout Mountain, Ga.

[unclear]
Member of City Council of Lookout Mountain, Ga.

Sherwood D. Dudley
Mayor of Lookout Mountain, Georgia

Approved and adopted on second reading on June 25, 1971.

William Pettway
Member of City Council of Lookout Mountain, Ga.

John Smith
Member of City Council of Lookout Mountain, Ga.

Jesse B Sims

Member of City Council of Lookout Mountain, Ga.

Joe McGinnis

Member of City Council of Lookout Mountain, Ga.

Harold Bell

Member of City Council of Lookout Mountain, Ga.

Shenwood D Dudley

Mayor of Lookout Mountain, Georgia

ATTEST:

Harry W. Duncan

City Clerk of Lookout Mountain, Georgia