

ORDINANCE NO. 43

AN ORDINANCE OF THE TOWN OF LOWRY CROSSING, COLLIN COUNTY, TEXAS, PROVIDING FOR A CHARGE OR FEE OF NOT LESS THAN TWO PERCENT (2%) OF THE GROSS RECEIPTS OF ANY PUBLIC UTILITY DERIVED FROM THE SALE OF GAS, ELECTRIC ENERGY, OR WATER WITHIN THE TOWN FOR THE USE OF ANY STREET, ALLEY OR PUBLIC WAY BY ANY SUCH PUBLIC UTILITY IN THE COURSE OF ITS BUSINESS, AND PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, § 182.025 of the Texas Tax Code provides that an incorporated city or town may make a reasonable lawful charge for the use of a city street, alley or public way by a public utility in the course of its business; and

WHEREAS, the Lowry Crossing Town Council finds that two percent (2%) of the gross receipts of the public utility derived from the sale of gas, electric energy or water within the corporate limits of the Town is a reasonable charge for the use of the utility easements and rights-of-way of the Town.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LOWRY CROSSING, TEXAS:

SECTION 1. CHARGE FOR USE OF RIGHTS-OF-WAY AND EASEMENTS.

Pursuant to § 182.025 of the Tax Code, a charge of two percent (2%) is levied on the gross receipts derived from the sale of gas, electric energy or water by a public utility within the corporate limits of the Town of Lowry Crossing for the use by a public utility of any city street, alley, or other public way, including but not limited to, rights-of-way and easements.

SECTION 2. TIME AND PLACE OF PAYMENT.

The charge levied in Section One of this ordinance shall be due and payable within forty-five (45) days after the close of any calendar quarter at the Lowry Crossing Town Hall.

SECTION 3. AUDIT.

The Town of Lowry Crossing reserves the right to audit the books and records of any public utility operating within the corporate limits of Lowry Crossing in order to determine that the public utility has fully paid the charge levied herein.

SECTION 4.

NON-IMPAIRMENT OF EXISTING AGREEMENTS.

This ordinance does not alter or impair any contract, agreement or franchise made between the Town of Lowry Crossing and a public utility company relating to a payment made to the Town. Any amounts paid by a public utility pursuant to any existing contract, agreement or franchise with the Town of Lowry Crossing shall be credited against the charge levied herein.

SECTION 5.

CONFLICTS.

All ordinances and provisions of the Town of Lowry Crossing, Texas, that are in conflict with this Ordinance shall be and the same are hereby repealed, and all ordinances and provisions of ordinances of said Town not so repealed are hereby retained in full force and effect.

SECTION 6.

SEVERABILITY.

It is the intent of the Town Council that each paragraph, sentence, subdivision, clause, phrase or section of this Ordinance be deemed severable, and should any paragraph, sentence, subdivision, clause, phrase, or section be declared invalid or unconstitutional for any reason, such declaration of invalidity or unconstitutionality shall not be construed to effect the validity of those provisions of this Ordinance left standing.

SECTION 7.

EFFECTIVE DATE.

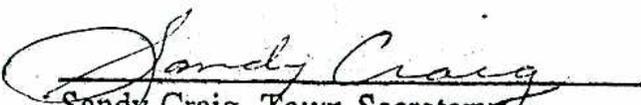
This ordinance shall be effective October 1, 1993.

ADOPTED this 26th day of July, 1993 by the Lowry Crossing Town Council.

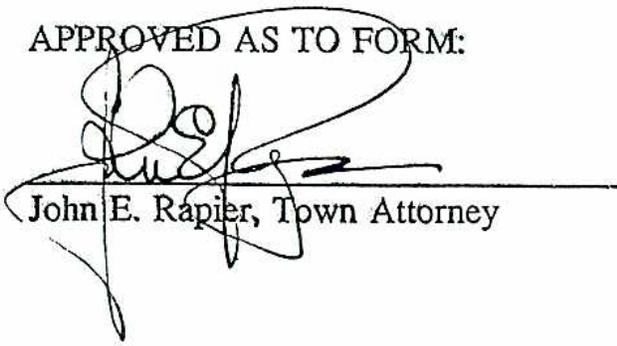
APPROVED: approval.


Jim Champlin, Mayor

ATTEST:


Sandy Craig, Town Secretary

APPROVED AS TO FORM:

A handwritten signature in black ink, appearing to read "John E. Rapiere", is written over a horizontal line. The signature is stylized and somewhat cursive.

John E. Rapiere, Town Attorney

JOHN EDWARD RAPIER, P. C.

Attorneys and Counselors at Law
100 E. Belmont Drive - Suite 102
P. O. Box 750
Allen, Texas 75002

John Rapier

Kay Drejcler, Office Manager

July 29, 1993

Telephone: 214-727-9904
Facsimile: 214-727-1651

Glen Eastham, President
Milligan Water Supply Corporation
1400 South Bridgefarmer Road
McKinney, Texas 75069

Re: Use Fee pursuant to §182.025 of the Texas Tax Code

Dear Mr. Eastham:

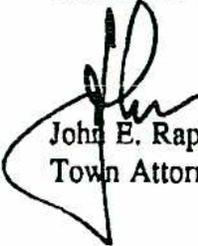
Enclosed is a true and correct copy of Ordinance No. 73 that was adopted on July 26, 1993 by the Lowry Crossing Town Council by a unanimous vote. The ordinance was adopted pursuant to §182.025 of the Texas Tax Code which provides that an incorporated city or town may make a reasonable lawful charge for the use of a city street, alley, or public way by a public utility in the course of its business.

Please note that the effective date of the ordinance is October 1, 1993. Payments are due forty-five (45) days after the close of each calendar quarter. Therefore, the first payment is due February 14, 1994. (The payment is two percent (2%) of the gross receipts received by Milligan Water Supply Corporation from its customers who reside within the corporate limits of the Town of Lowry Crossing.)

The Town Secretary can provide you with a map for customer identification purposes. We know that this will be a temporary inconvenience, however, many water supply corporations in North Texas have easily altered their billing programs to accommodate similar ordinances from other municipalities. Should you have any questions regarding this matter.

Very truly yours,

TOWN OF LOWRY CROSSING


John E. Rapier,
Town Attorney

JER/ekd
enclosure

cc: Town of Lowry Crossing

MILLIGAN WATER SUPPLY CORPORATION

1400 S. BRIDGEFARMER RD. * MCKINNEY, TX 75069
(214)542-1143

To All Milligan Water Supply Members
In The City Limits of Lowry Crossing:

The Town Council has voted to put a 2% tax on water in the City of Lowry Crossing. This will go into effect on your October water bill. We will be using the names given to us by the City of Lowry Crossing. If you are not in the City and you are billed for this new tax, then you will have to take this up with the City.

This tax is a city tax and was not in good standing with most of Milligan Water Supply Board of Directors. Any questions to this tax will have to be taken up with the Lowry Crossing City Council.

Board of Directors
Milligan Water Supply