

ORDINANCE NO. 76-72

CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMAN John McIntire ON THE 8th DAY
OF January, 1973.

AN ORDINANCE GRANTING TO THE MEGACITY TRANSIT COMPANY
A FRANCHISE TO OPERATE MOTOR BUSES OVER A CERTAIN PUBLIC
WAY IN THE CITY OF CENTERVILLE AND DECLARING THE TERMS
UPON WHICH SUCH FRANCHISE IS GRANTED.

THE MUNICIPALITY OF CENTERVILLE HEREBY ORDAINS:

Section 1. Definitions.

The following definitions shall apply for all purposes of
this Ordinance:

"Bus" shall mean motor bus.

"City" shall mean the City of Centerville, Ohio.

"Company" shall mean the Megacity Transit Company.

"Council" shall mean the Council of the City of Centerville.

"Motor bus" shall mean any mechanically propelled
vehicle not operated upon fixed tracks used for carrying passengers for hire,
exclusive of taxicabs.

"Public ways" shall mean public streets, alleys, lanes,
boulevards, bridges, places and grounds open to the public for vehicular
traffic.

Section 2. Terms and Routing.

Subject to the terms and conditions hereof, the company is
granted a franchise for a period hereinafter decided to operate a system of
transportation, conducted by means of motor buses used for the transportation
of persons for hire, over the hereinafter designated public way of the city.

A. The City shall have the right to cancel the rights,
privilege and franchise granted by Ordinance after a sixty day written notice
to the company.

B. The company shall have the right to terminate its
obligation hereunder, upon sixty days written notice to the City Manager.

C. The company is hereby granted a franchise to operate
over Rahn Road between Marshall Road and Bigger Road in the City of
Centerville.

Section 3. Changes in Routes.

The City and the company may by mutual consent change the foregoing route and make extensions thereto, or abandon the same in part from time to time, and if any such changes are made in a route the provisions of this Ordinance, so far as the same are applicable thereto, shall apply to such changed route as fully as if copied in full in the Ordinance approving the change.

Section 4. Stops.

Buses shall stop for the receipt and discharge of passengers in such places as the City Engineer shall designate after giving consideration to the public convenience and the safe and expeditious loading and unloading of passengers. Such places may be changed by the City Engineer if in his opinion conditions necessitate such changes, provided that when a curb stop has been designated all buses shall stop as near as practicable to the curb where properly surfaced stops and curbs are provided by the City.

At all designated stops the City shall set aside adequate space or zone in which other vehicles shall not be permitted to interfere with the bus operation. The City shall also establish and enforce such traffic regulations as will serve to expedite the movement of the company's buses.

Section 5. Service.

The company shall operate its motor buses along the route with reasonable accuracy and headways, so as to provide adequate service for the volume of patronage.

Section 6. Rates of Fare.

The company has been granted a similar franchise for operation of its buses within the City of Kettering, Ohio and rates of fare have been set by said City of Kettering for the operation within its City limits. No additional rate of fare may be charged for operation within the City of Centerville and the total rates of fare to be charged shall not vary from those set by the City of Kettering without prior approval from the Council.

Section 7. Competition.

The City shall, so far as it is able, protect the company from competition from other bus lines, cut rate taxi or jitney operations, which would tend to interfere with the profitable and economical operation of the bus route herein granted, but this grant shall not be construed as an exclusive grant for the transportation of passengers for hire. If, however, the City should grant any similar right which would provide for service in competition with the bus route herein described, then the company shall have the right to discontinue its service on the route so affected as of the date of the commencement of such competitive service.

Section 8. Acceptance.

Within thirty days from the effective date of this Ordinance the company shall file with the Clerk of Council of the City its written acceptance thereof, whereupon this Ordinance shall be a contract between the City and the company and be binding upon both.

Section 9. City Indemnified.

The company shall at all times hereafter indemnify and save harmless the City from any and all damages, claims and demands for injury to persons or damages to property, or both, to which the City may be subject by any proceeding at law or in equity, or otherwise, including Court costs and attorneys fees, caused by, arising out of or incidental to the operation or maintenance of any company equipment in the public ways of said City or in any other way resulting from any act of negligence on the part of said company, or any of its officers, agents or employees, whether acts of omission or commission and the company at its own cost, will defend against such actions, either in its own name or in the name of the City.

Section 10. Non-Exclusive Franchise.

The City expressly reserves to itself the power to grant the use of any portion of the street or public way referred to in this Ordinance, for purposes similar to those expressed herein, or for other purposes and to grant to any other person, persons, firm or corporation, rights similar to those hereby granted. In the event that any other franchise is granted pursuant to this Section, the company may terminate this franchise agreement by giving fifteen days written notice to the City. This franchise agreement may be assigned with the express consent of the City.

Section 11. Provisions Separable.

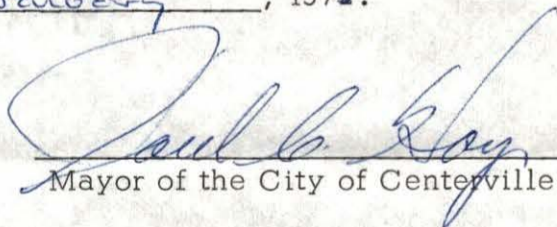
Each section and provision of this Ordinance is declared to be independent of each other section and provision and if any section and provision of the same is held invalid by a tribunal having jurisdiction in these premises, the other sections and provisions of this Ordinance shall not be affected thereby, but shall remain in force.

Section 12. Assignment.

The rights and obligations of the company hereunder shall inure to and be binding upon its successors and assigns.

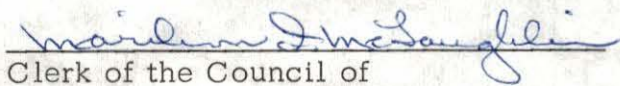
Section 13. This Ordinance shall take full force and effect from and after the earliest period provided by law.

PASSED this 8th day of January, 1972.



 Mayor of the City of Centerville, Ohio

ATTEST:


 Clerk of the Council of
 the City of Centerville, Ohio

Approved as to form, consistency
 with existing ordinances, the
 charter & constitutional provisions.

Department of Law
 Robert N. Farquhar
 Municipal Attorney

CERTIFICATE

The undersigned, Clerk of the Council of the City of Centerville, Ohio, hereby certifies the foregoing to be a true and correct copy of Ordinance No. 76-72, passed by the Council of the City of Centerville, Ohio, on the 8th day of January, 1973.

Margaret M. Laughlin
Clerk of the Council

ACCEPTANCE BY THE MEGACITY TRANSIT COMPANY

STATE OF OHIO)
) SS:
COUNTY OF MONTGOMERY)

The Megacity Transit Company, an Ohio corporation, in witness of its acceptance of this Ordinance and the terms thereof has caused its name to be hereunto subscribed and its corporate seal affixed by Roland E St. John Pres., its _____ and H. R. Clark, its Asst Secy, duly authorized by its Board of Directors so to act, this 22nd day of January, 1973.

SIGNED AND ACKNOWLEDGED
IN THE PRESENCE OF:

MEGACITY TRANSIT COMPANY,
DAYTON, OHIO

Viola Gates

By *Roland E. St. John* Pres.

Jo Wegman

By *H.R. Clark* Asst Secy