

TOWNSHIP OF VERGENNES
Vergennes Township Amended Water Service Ordinance
Ordinance Number 98-2

An Ordinance to Amend Ordinance Number 93-6 entitled Water Service Ordinance and, by such amendment, requiring connection to a certain water system in certain instances.

Recitals

1. Board Member Stone, supported by Board Member Hoffman, moved the adoption of the following resolution.

(a) Ordinance Number 93-6 (“Water Service Ordinance”) was adopted by the Township of Vergennes in order to provide for the use, management and operation of a Water System within a part of the Township of Vergennes (the ‘Water System’) pursuant to a Water and Sewer Agreement entered into by and between the Township of Vergennes and the Township of Lowell (the “Water and Sewer Agreement”).

2. The Township of Lowell has amended its Water Service Ordinance and has requested that the Township of Vergennes amend its Water Sewer Ordinance pursuant to the Water and Sewer Agreement.

3. The Township of Vergennes has agreed to amend its Water Service Ordinance and desires to restate the Water Service Ordinance in its entirety.

4. Thus, Board Member Stone, supported by Board Member Hoffman, moved to adopt the following Amended Water Service Ordinance.

WATER SERVICE ORDINANCE

The TOWNSHIP OF VERGENNES ORDAINS:

Section 1. Purpose.

It is the purpose of this ordinance to establish the authority necessary to enable residents of Vergennes Township to utilize the Lowell Township Water System; to allow Lowell Township to efficiently manage and operate the Water System and to comply with all applicable federal, state and local laws, rules, regulations and requirements; and to require, in certain instances, that structures and buildings connect to the Water System.

Section 2. Definitions.

Unless the context specifically indicates otherwise, the meaning of the terms used in this Ordinance and any rules, regulations, standards or requirements promulgated pursuant hereto shall be as follows:

(a) “City” shall mean the City of Lowell, Kent County, Michigan.

- (b) "Lowell Township" means the Township of Lowell, Kent County, Michigan.
- (c) "Lowell Township Board" means the Township Board of Lowell Township.
- (d) "Township Board" means the Township Board of The Township.
- (e) "Person" means any individual, partnership, co-partnership, firm, company, corporation, limited liability company, association, joint stock company, trust, estate, governmental entity, or its legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.
- (f) "Premises" means a lot, parcel, condominium unit, or plot of land having its own tax identification number or an identifiable lot, parcel, condominium unit, or plot of land, although not having its own tax identification number, which is being utilized or treated by its owners and/or occupants as a distinct and separate parcel from any contiguous property with the same tax identification number, such as property which is subject to a Land Lease or property which serves as a residence for a person other than the property owner.
- (g) "Township" means the Township of Vergennes, Kent County, Michigan.
- (h) "Township Supervisor" means the Township Supervisor of the Township or his/her designee.
- (i) "Water Connection Pipe" means that private pipe connecting the Water Main with the premises served. This includes the connection to the Water Main or the corporation cock, the shut-off valve, and the valves on the inlet and outlet sides of the meter.
- (j) "Water Main" means any pipe through which water flows in the System, excluding Water Connection Pipes.
- (k) "Water System", "System" or Lowell Township Water System means all Water Mains, pumping facilities, storage tanks, and all equipment and appurtenances which Lowell Township has or shall have possession and operating responsibility for (whether owned by Lowell Township or not) located within the Service Area either now in existence within or outside of Lowell Township or hereafter acquired or constructed within or outside of Lowell Township, and all extensions, enlargements and improvements thereto within or outside of Lowell Township but within the Service Area.
- (l) "Available Water Main". An Available Water Main means (a) a Water Main within the System located (regardless upon which side of the center line the Water Main may be located) in a right-of-way, easement, highway, street, private road or public way which crosses, adjoins, or abuts a Premises or (b) which was required to be made available pursuant to Section 5(a)(1)(bb).
- (m) Site Development Plan; Private Road; Building Permit and Occupancy Permit. The terms Site Development Plan, Private Road and Building Permit or Occupancy Permit shall have those meanings ascribed to such words or phrases as provided by the Township of Vergennes

Zoning Ordinance.

(n) Water & Sewer Agreement. Any reference to a certain Water and Sewer Agreement shall mean that agreement, as amended, entered into by and between the Township of Vergennes and the Township of Lowell.

(o) Service Area. Service Area means those areas within the Township identified as the Exclusive Service Area and Non-Exclusive Service Area on Exhibit 1 attached hereto, as amended from time to time.

(p) Non-Exclusive Service Area. The Non-Exclusive Service Area means those area within the Township identified as the Non-Exclusive Service Area on Exhibit 1 attached hereto, as amended from time to time.

(q) Exclusive Service Area. Exclusive Service Area means those areas within the Township identified as the Exclusive Service Area on Exhibit 1 attached hereto, as amended from time to time. To the extent the Water System is expanded outside the Exclusive Service Area, and within the Service Area, then those Premises which have an Available Water Main shall become part of the Exclusive Service Area.

Section 3. Scope.

This Ordinance shall only affect the Water System within the Service Area which is constructed pursuant to the Water and Sewer Agreement.

Section 4. Rules and Regulations.

Rules and regulations to effectuate the provisions of this ordinance may be promulgated pursuant to this ordinance. Such rules and regulations, once promulgated, shall be deemed to be as complete and binding a part of this ordinance as if they were set forth specifically herein and any violation of such rules and regulations so promulgated shall be deemed a violation of this ordinance. Such rules and regulations shall be prepared by the Township Supervisor or the Lowell Township Supervisor and approved by resolution of the Township Board. The promulgation of such rules and regulations shall be complete when they are placed on file in the Township clerk's office and notice of their adoption has been published in a newspaper of general circulation of the township.

Section 5. Service Connection.

(a) Mandatory

(1) New Structures and Developments

(aa) After the effective date of this Ordinance, and provided adequate capacity exists within the Water System, the owner of each Premises within the Exclusive Service Area and with an Available Water Main at the time of erection of any building or structure on the Premises requiring water for human habitation, commercial use or any use for which Lowell Township would impose a fee for the use of the Water System, shall install at such

person's own expense, suitable Water Connection Pipes from the building or structure to an Available Water Main and no Occupancy Permit will be issued until such a connection is made. Generally speaking, it is anticipated that each Premises, and any subdivision thereof, within the Exclusive Service Area noted upon Exhibit 1 will be obligated to connect to the System when there is an Available Water Main and connection is required.

(bb) If, after the effective date of Ordinance and provided adequate capacity exists within the Water System, the owner of a Premises within the Exclusive Service Area and with an Available Water Main or a person with a legal or equitable interest in a Premises within the Exclusive Service Area with an Available Water Main, intends to, or does, splits, sells, or otherwise develops such Premises, then such person and/or owner will be required by the Township, as a condition of the Township's review and possible approval of a Site Development Plan, Private Road or the issuance of a Building Permit, to make and install, at such person's sole cost and expense, an Available Water Main to the Premises which will be sold, split, or otherwise developed or serviced by a Private Road. Generally speaking, it is anticipated that each Premises within the Exclusive Service Area, and any subdivision thereof, within the Exclusive Service Area noted upon Exhibit 1, will be obligated to connect to the System if a Water Main could have been made available to such Premises in connection with the development of the Premises.

(2) Existing Structures or Buildings

(aa) After the effective date of Ordinance and provided adequate capacity exists within the Water System, the owner of any Premises within the Exclusive Service Area with an Available Water Main with a building or structure located thereon and being utilized for any of the uses for which the Township of Lowell would impose a fee for use of the Water System, upon the failure of any existing well, to the extent such well cannot be fixed or repaired to meet the specifications and requirements of the Kent County Health Department or upon the failure of the well to produce water meeting the requirements and specifications of the Kent County Health Department shall, at such person's own expense, install Water Connection Pipes from the building or structures on the Premises to an Available Water Main if the building or structure requires water for any of the uses requiring water for which the Township of Lowell would impose a fee for use of the Water System.

(3) Miscellaneous

(aa) A person shall be entitled to install a well for sprinkling or irrigation purposes, or similar such uses, provided no cross connections are made to the well system to provide water for uses for which Lowell Township would otherwise impose a fee for water use.

(bb) Any Premises which is in compliance with section 5(a)(2), and for which the well system has not failed, may be sold and connection is not required by the subsequent owner until required by section 5(a)(2).

(cc) No pipes or lines shall be connected to a Water Connection Pipe if utilized to provide water to another Premises.

(b) Permissive

Any Person owning a Premises within the Service Area conforming to this Ordinance and rules and regulations promulgated pursuant to this Ordinance shall be permitted to receive water service provided there exists adequate capacity and adequate Water Mains of the System to which such Person can connect.

(c) Forms, Applications and Fees

Application for water connection to the System shall be made on forms prescribed and furnished by the Lowell Township Supervisor. Water connections and water meters shall be installed in accordance with the rules and regulations of the System and upon the payment of the required charges and fees. Notwithstanding anything to the contrary, no owner of a Premises shall be charged a fee based upon frontage greater than the minimum amount of frontage required by the zoning district in which the Premises is located unless the frontage remaining, after deducting the frontage from the Premises necessary to accommodate any improvements upon the Premises such that the Premises is a legal size lot, would not be large enough to comply with the applicable frontage requirements to permit the construction of improvements upon the remaining portion of the Premises.

Section 6. Water Mains.

Water Mains shall be installed by Lowell Township or under the supervision of the Lowell Township Engineer and the Lowell Township Supervisor.

In the event a developer wishes to install, at his expense, Water Mains, such lines shall meet the following criteria:

- 1) Plans signed by a registered engineer must be reviewed and approved by the Lowell Township Engineer and the Lowell Township Supervisor.

- 2) Necessary permits shall be secured from the Michigan Department of Environmental Quality, Drinking Water & Radiological Protection.
- 3) All installation shall be in public right-of-way or in easements granted to the Township on forms prescribed by the Township.
- 4) All construction shall be inspected by Lowell Township and approved for acceptance into the Water System.

Water Mains which meet this criteria will thereafter become part of the System upon acceptance into the System by Lowell Township.

Section 7. Meters.

Any Premise using water from a Water Main shall be metered. All meters shall be the property of Lowell Township and a part of the System. All water supplied to a metered Premise must pass through a meter. The Lowell Township Supervisor shall have the right to determine the size of the meter required for any service. It shall be unlawful for any Person to attach a water meter to any Water Main of the System, unless such meter shall be installed by the Lowell Township or under its supervision. No Person except an authorized Lowell Township employee shall break or injure the seal or change the location of, or alter or interfere in any way with, any water meter.

Section 8. Inspection.

The Township Supervisor and the Lowell Township Supervisor, when bearing proper credentials and identification, shall be permitted to enter upon any Premise at reasonable times for the purpose of inspection, observation, measurement, sampling and testing in accordance with the provisions of this Ordinance. Any Person who applies for and/or receives water from the System under this Ordinance shall be deemed to have consented to inspections pursuant to this section, including entrance upon that Person's Premise at reasonable times to make inspections.

Section 9. Hydrant Use.

No Person, except the Township Supervisor or the Lowell Township Supervisor in the performance of official duties, shall open or use any fire hydrant except in case of emergency without first securing permission from the Township Supervisor or the Lowell Township Supervisor and paying such charges as may be prescribed in the rules and regulations of the System.

Section 10. Restricting Water Use.

The Lowell Township Supervisor may regulate, limit or prohibit the use of water for any purpose. Such regulation may restrict less essential water uses to the extent deemed necessary to assure an adequate supply for essential needs and for fire fighting.

Section 11. Protection From Damage.

No unauthorized Person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with or alter, any structure, property, appurtenance, equipment or any other item which is a part of the Water System.

Section 12. Repairs.

In case of any violation of this Ordinance, or any rule or regulation promulgated pursuant to this Ordinance, Lowell Township or the Township shall have the right to make the needed repair or take any other necessary corrective action and bill any responsible user for any costs incurred thereby. In addition to any other remedy available, the costs, if unpaid within ninety (90) days after the user has been billed therefore, shall become a lien on the Premise served and entered upon the next tax roll.

Section 13. False Information.

Any Person who knowingly makes any false statement, representation or certification on any application, record, report, plan or other document filed or required pursuant to this Ordinance or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Ordinance shall be deemed to have violated this Ordinance.

Section 14. Civil Liability.

Any Person violating any provision of this Ordinance, any rule or regulation promulgated pursuant hereto or who is liable to Lowell Township or the Township for any costs it incurs as a result of such violation, including, without limitation, the costs incurred by Lowell Township or the Township for any corrective actions or measures and the fines or penalties incurred by the Township or Lowell Township, shall be liable to either Township for any legal costs, including reasonable attorney fees, incurred by either Township by reason of such violation or liability, including without limitation, the costs incurred by either Township to collect from such Person any amounts due under this Ordinance, this section, or the rules and regulations promulgated pursuant to this Ordinance.

Section 15. Penalties.

A violation of this ordinance is a municipal civil infraction, for which the fine shall be not less than \$100 nor more than \$500 for the first offense and not less than \$500 nor more than \$1,000 for subsequent offenses, in the discretion of the Court, and in addition to all other costs, damages, and expenses provided by law. For purposes of this section, "subsequent offense" means a violation of this ordinance committed with respect to a separate incident by the same person within 12 months of a previous violation of the ordinance for which said person admitted responsibility or was adjudicated to be responsible. Each day that such violation occurs shall constitute a separate offense. The foregoing penalties shall not prohibit the Township from seeking injunctive relief against a violator or such other appropriate relief as may be provided by law.

Section 16. Legal Action.

The Township attorney may commence and/or maintain any action at law or equity to enforce any provision of this ordinance, or a rule or regulation promulgated pursuant to this ordinance. Such actions may include, without limitation, the seeking of preliminary, temporary or permanent injunctive relief and/or the seeking of damages.

Section 17. Severability.

If any provision, paragraph, word, section or ordinance of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and chapters shall not be affected and shall continue in full force and effect.

Section 18. Effective Date.

This ordinance shall take effect 30 days after its publication in the Lowell Ledger, a newspaper of general circulation in the Township of Vergennes.

YEAS: BOARDMEMBER Geiger-Hessler, Weber, Hoffman, Stone

NAYS: BOARDMEMBER None

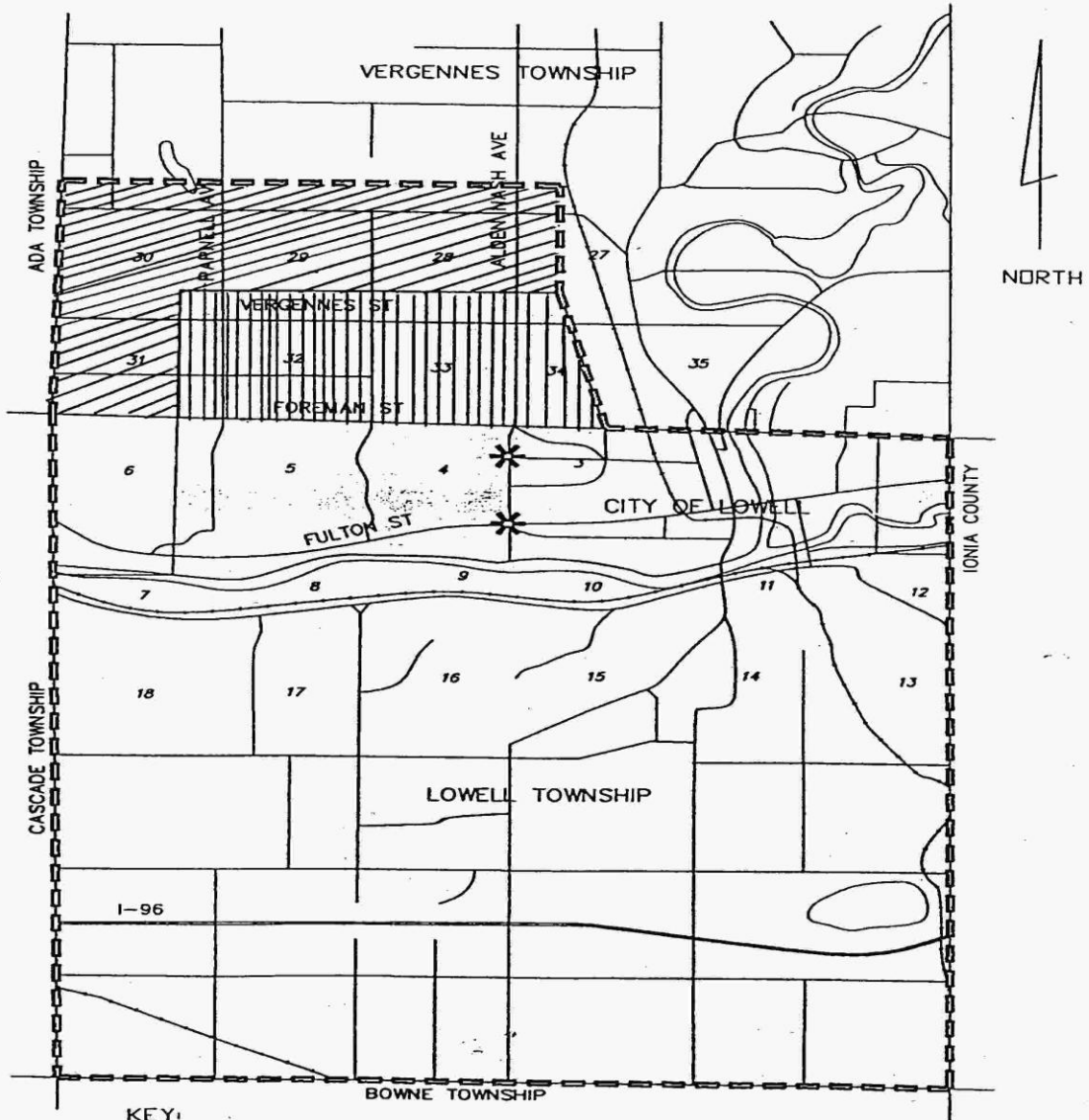
ABSENT: BOARDMEMBER Cook

ABSTAIN: BOARDMEMBER None

Original is Signed by

Mari C. Stone, Township Clerk
James B. Cook, Township Supervisor

**EXHIBIT 1
SERVICE AREA**



KEY:
 [Dashed border] EXCLUSIVE SERVICE AREA
 [Hatched border] NON-EXCLUSIVE SERVICE AREA

PREPARED BY:
MOORE & BRUGGINK
 CONSULTING ENGINEERS
 OCTOBER, 1992

CERTIFICATION

I, Mari C. Stone, Township Clerk of the Township of Vergennes, hereby certify that the above Ordinance was adopted at a regular meeting of the Vergennes Township board on February 16, 1998, and was published in the Lowell Ledger, a newspaper of general circulation in the Township, on February 25, 1998, was entered into the Ordinance Book of the Township on February 25 and was effective March 27, 1998, 30 days after publication.

Original is Signed by

Mari C. Stone, Township Clerk