

Boardmember WEBER supported by Boardmember HOFFMAN moved the adoption of the following ordinance:

ORDINANCE NO. 93-7

WATER USER CHARGES ORDINANCE

THE TOWNSHIP OF VERGENNES ORDAINS:

Section 1. Definitions.

Unless the context specifically indicates otherwise, the meaning of the terms in this ordinance shall be as follows:

- (a) "City" means the City of Lowell, Kent County, Michigan.
- (b) "Commercial User" means a user engaged in the purchase or sale of goods, transaction of business, or otherwise rendering a service.
- (c) "Governmental User" means a federal, state or local government user which has executive, legislative, judicial, administrative or regulatory activities.
- (d) "Industrial User" means a manufacturing or process facility engaged in a productive or profit making venture.
- (e) "Institutional User" means a user involved in a social, charitable, religious, educational or other special purpose activity.
- (f) "Lowell Township" means the Township of Lowell, Kent County, Michigan.
- (g) "Lowell Township Board" means the Township Board of Lowell Township.
- (h) "Lowell Township Supervisor" means the Township Supervisor of Lowell Township or his/her designee.
- (i) "Person" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust estate, governmental entity or any other legal entity or its legal representatives, agents or assigns. The masculine gender shall include the feminine and the singular shall include the plural where indicated by the context.
- (j) "Readiness-to-Serve Charge" means a charge levied on the users of the water system for the availability of water to each user. Readiness-to-Serve Charges shall be generally based on the size of the user's water meter (except for mobile home parks and apartment buildings), and are generally intended to cover the capital cost of the system.
- (k) "Residential User" means a user whose premises or building is used primarily as a permanent domicile for one or more persons (transit lodging such as motels, hotels and motor inns are not included).
- (1) "Township" means the Township of Vergennes, Kent County, Michigan.

(m) "Township Board" means the Township Board of the Township.

(n) "Township Supervisor" means the Township Supervisor of the Township or his/her designee.

(o) "Water Service Charge" means the sum of the commodity charge and the readiness-to-serve charge.

(p) "Water System" or "System" means all lines, 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) 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.

(q) "User" means either a residential, commercial, industrial, institutional or governmental user of the water system.

(r) "Commodity Charge" means a charge levied on the users of the water system based on the actual volume of water used and generally intended to cover the operation and maintenance cost of the system.

(s) "User Class" means the classification (residential, commercial, industrial, institutional or governmental) into which each user is categorized.

Section 2. Water Service Charges.

(a) Water service charges including any late payment penalties, interest and charges shall be established from time to time by resolution of the Lowell Township Board. The water service charges shall be based upon the water usage of the user. The commodity charge and the readiness-to-serve charge for water service shall be specified separately. In addition, the Lowell Township Board shall from time to time establish charges for unmetered fire protection service. No free service shall be furnished by the system to the township or to any person, public or private, or to any public agency or instrumentality. The township shall pay for water service supplied to it or any of its departments or agencies at the rates established pursuant to this section from time to time.

(b) If there is evidence of a malfunctioning meter, the Lowell Township Supervisor shall have the authority to estimate the quantity of water on which the billing is made until such time as the malfunctioning meter is repaired or replaced. The estimate of usage shall be based on previous months of similar usage.

(c) All users shall be notified at least annually of the amount of the commodity charge and of the amount of the readiness-to-serve charges per user class.

Section 3. Billing and Enforcement.

(a) Lien. Water service charges, including any late payment penalties, interest and charges, billed by Lowell Township shall constitute a lien on all premises served which lien shall become effective immediately upon the provision of water system service to the premises. Whenever such charges are delinquent and remain unpaid, the charges shall be entered on the next ad valorem property tax roll for the property served and collected in the same manner as

ad valorem property taxes. The township treasurer shall, on or before September 15, of each year, turn such delinquent and unpaid charges over to the county treasurer in the same fashion as delinquent and unpaid ad valorem property taxes; provided, however, such charges shall not be a lien on the property served if the owner of that property has leased the property, the owner, is not, according to a lease provision, liable for such water service charges, the township is so notified in a writing signed by both the owner and lessee and proof of such lease is provided to the township as required by applicable law. Where the owner is not responsible for such charges, the lessee shall, before the commencement of water service to the premises, cause to be deposited with the township treasurer an amount equal to an estimated three (3) months water service charges and shall cause such deposit to continue at that level throughout the lease term. The township shall deliver any such funds in that deposit to Lowell Township to be applied against and all delinquent charges of the lessee.

(b) Discontinuance. The township shall have the right to shut off and discontinue the supply of water to any premises for the nonpayment of water service charges and rates when due. If water rates and charges for service furnished to any premises are not paid within twenty (20) days after the due date thereof, water service to such premises will be shut off and discontinued and will not be restored until all such charges and penalties have been paid and a deposit equal to that provided in subsection (a) has been paid.

(c) Other Remedies. The remedies provided in this section shall be cumulative of any and all other remedies under state law, common law and other township ordinances.

(d) Billings. Lowell Township will bill users periodically as provided by resolution of the Lowell Township Board.

Section 4. Hearing.

The township supervisor may send to a user who has not paid water service charges within twenty (20) days of the date due, a notice that at the user's request a hearing will be scheduled to show cause why the user's billing is incorrect. If the township is considering discontinuing water service, such a notice shall be sent giving the user an opportunity to request a hearing with the township supervisor to show cause why such service should not be discontinued. Such hearings shall be informal and the decision of the township supervisor shall be final.

Section 5. 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 6. 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	<u>Cook, Baird, Nauta, Weber and Hoffman</u>
NAYS:	Boardmember	<u>None</u>
ABSENT:	Boardmember	<u>None</u>
ABSTAIN:	Boardmember	<u>None</u>

Dated: October 11, 1993

Original is Signed by
Jenean Hoffman, Township Clerk
James B. Cook, Township Supervisor

CERTIFICATION

I, Jenean Hoffman, 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 October 11, 1993, and was published in the October 27, 1993, a newspaper of general circulation in the Township, on October 27, 1993, was entered into the Ordinance Book of the Township on October 27, 1993, and was effective November 27, 1993, 30 days after publication.

Original is Signed by
Jenean Hoffman, Township Clerk
James B. Cook, Township Supervisor