

The Charter Township of Vienna
Water Service Ordinance
Number _____

THE CHARTER TOWNSHIP OF VIENNA ORDAINS:

Article I—Statement of Purpose

1.00 Purpose of Ordinance: The purpose of this Ordinance is:

A. To establish standards for connecting to the municipal water supply; standards for drilling a new well; standards for maintaining and repairing an existing well; and standards for a medical exemption from connecting to the municipal water supply; and

B. To repeal **Ordinance Number 428** (effective December 12, 2016); and

C. To replace Ordinance **Number 428** with the provisions of this Ordinance.

Article II—Definitions

2.01 Application means a request on a form approved by the Township Board by resolution to be exempt from connecting to the municipal water supply.

2.02 Available means that a municipal water main has been installed adjacent to any boundary of the Parcel of Property.

2.03 Environmental Protection Agency Human Health Water Quality Criteria means the human health criteria for ambient water quality set by the Environmental Protection Agency under **Section 304(a)** of the **Clean Water Act**, being **33 USC 1251 et seq.**, as amended.

2.04 Municipal Water Supply means potable water supplied by the Municipal water lines installed by the Charter Township of Vienna.

2.05 Occupant means a person who lives in a dwelling unit on a Parcel of Property who is either:

A. The Owner of the Parcel of Property; or

B. A tenant of the Parcel of Property pursuant to a written lease, the unexpired term of which is at least one year.

2.06 Owner means the person who is the record title owner of a Parcel of Property.

2.07 Parcel of Property means that property which is identified by a single parcel number.

2.08 Person means any individual, partnership, corporation, association, or limited liability company.

2.09 Potable Water Supply means drinking water.

2.10 Structure means a building for which a building permit is required by the Building Code of the Charter Township of Vienna for its erection

2.11 Township means the Charter Township of Vienna, Genesee County, Michigan.

Article III—Applicability

3.00 *Applicability:* All installations of new wells, or the maintenance or repair of existing wells, in the Township shall be subject to these regulations if a municipal water supply is available to the Parcel of Property upon which the new well is contemplated or upon which the existing well is located.

Article IV—General Requirements

4.01 *Existing Municipal Water Connection:* Subject to the provisions of *Article V*, once a connection has been made from a structure to the municipal water supply, irrespective of the time of the connection or the date of erection of the structure, the municipal water supply shall thereafter constitute the only source of potable water to that structure, and the structure shall not thereafter be connected or reconnected to a well.

4.02 *Municipal Water Supply Available:* Subject to the provisions of *Article V*, no structure erected after the effective date of this Ordinance shall obtain its potable water supply from a well if a municipal water supply is available to the Parcel of Property upon which the structure is located.

4.03 *New Well:* Subject to the provisions of *Article V*, no new well may be drilled to supply potable water to a Parcel of Property if a municipal water supply is available unless all of the following conditions apply:

- A. The proposed use of any new or replacement well is for service to a single-family dwelling unit; and
- B. A municipal water supply is not available within 500 feet of the structure; and
- C. The Genesee County Health Department approves the drilling of a new well.

4.04 *Maintenance and Repair:* Subject to the provisions of *Article V*, no maintenance or repair or replacement involving the well-casing of an existing potable water supply well shall be performed if a municipal water supply is available to the Parcel of Property upon which the well is located.

Article V—Exemption for Medical Condition

5.01 *Exemption for Medical Condition:* The Township may grant an exemption from the requirements of this ordinance if the Township Board determines that an Occupant of a Parcel of Property will have an adverse health reaction that is caused by a pollutant found in the municipal water supply.

5.02 *Application for Exemption:* An Occupant may apply for an exemption from the requirements of this Ordinance by submitting to the Township Clerk an Application approved by resolution by the Township Board, supported by an Affidavit of a Medical Doctor pursuant to *Paragraph 5.03* and Supporting Evidence pursuant to *Paragraph 5.04*.

5.03 *Affidavit Requirements:* The Application must be accompanied by a signed Affidavit (“**Affidavit**”) of a Medical Doctor or a Doctor of Osteopathy with a current license in the State of Michigan (“**Doctor**”) attesting that:

- A. The Doctor has conducted laboratory testing on the municipal water supply of the Occupant requesting an exemption or has reviewed a report from an independent laboratory that tested the water of the municipal water supply of the patient requesting an exemption; and

B. The testing on the municipal water supply was conducted within 6 months of the date on which the Doctor signed the Affidavit; and

C. The water contains a pollutant at a level which either (i) exceeds the criteria established by the Environmental Protection Agency Human Health Water Quality Criteria for consumption of water + organism or (ii) has been shown by clear and convincing evidence by a United States government agency or peer reviewed, empirical scientific study to cause adverse health reactions; and

D. The Doctor concludes that the Occupant suffers from or will suffer from adverse health reactions directly related to a water pollutant found in the Township's municipal water supply that meets the criteria of *Paragraph 5.03C*. if he or she is required to connect to the municipal water supply; and

E. The Doctor (i) identifies the specific adverse health reaction related to such water pollutant, (ii) sets forth the objective reason why the pollutant causes such adverse health reaction, and (iii) identifies and provides the evidence for support thereof, including medical records of the Occupant.

5.04 *Supporting Evidence Provided to Township Clerk:* The Occupant must provide the Township Clerk with all of the following ("**Supporting Evidence**"):

A. The laboratory test results; and

B. A peer reviewed, empirical scientific study, other research, or evidence that show a causation between the adverse health effects of the Occupant and the water pollutant found in the Township's municipal water supply; and

C. The medical records of the Occupant which set forth objective tests which support the conclusion that the Occupant's adverse health reaction is directly related to the water pollutant found in the municipal water supply.

5.05 *Submittal of Request to the Genesee County Health Department for Review:* Upon receipt Township Clerk must submit the Application, the Affidavit of the Doctor, and Supporting Evidence, for review and recommendation by the Genesee County Health Department.

5.06 *Hearing by Township Board:* Upon receipt of the recommendation of the Genesee County Health Department, the Township Clerk must add the Application to the agenda for the next available regular Township Board meeting after providing the Occupant notice pursuant to *Paragraph 5.07*.

5.07 *Notification to Occupant of Township Board Meeting:* More than 14 days before the date set for the Hearing by the Township Board, Township Clerk must provide notice to the Occupant by first class mail, postage prepaid to the address set forth on the Application, of the Hearing by the Township Board. The notice must:

A. Set forth the date, time and place of the hearing; and

B. Indicate that the purpose of the hearing is to decide whether the Application should be approved or denied; and

C. Advise that the Occupant's presence at the meeting is not required for the Township Board to vote on the Application.

5.08 *Determination by the Township Board:* At the hearing, the Township Board may take testimony from interested parties. The Township Board must review the Application, the Affidavit, supporting evidence, and recommendation of the Genesee County Health Department and determine, by resolution:

A. Whether there is clear and convincing evidence that the Occupant has or will have an adverse health reaction that is caused by a pollutant found in the municipal water supply; and

B. Whether the recommendation of the Genesee County Health Department should be followed; and

C. Whether to approve or deny the Application.

5.10 Notification to Occupant of Determination: The Occupant who made the Application must be notified of the approval or denial of the Application by the Township Board by first class mail, postage prepaid to the address set forth on the Application.

5.11 Appeal: In the event the Township denies the Application, the Occupant may appeal the denial to the Circuit Court.

Article VI—Validity and Severability

6.00 Validity and Severability: This Ordinance, and the various Articles, and paragraphs, are hereby declared to be severable, and if any Article, paragraph is adjudged unconstitutional or invalid, it is hereby declared that the remainder of the Ordinance shall not be affected thereby.

Article VII—Interpretation

7.00 Interpretation: The provisions of this Ordinance shall be interpreted and applied as the minimum requirements for the promotion of the public health, safety, and welfare of the Owners of Vienna Township.

Article VIII—Penalties

8.01 Civil Infraction: Any person who violates this Ordinance is guilty of a civil infraction and will, upon being found responsible for a first offense thereof, be fined not more than \$500, plus the cost of prosecution.

8.02 Misdemeanor: Any person who violates this Ordinance is guilty of a misdemeanor and will, upon conviction of a second or more offense thereof, be punished by a fine not to exceed \$500 and the cost of prosecution, or in default of payment thereof, by imprisonment in the County Jail for a period not to exceed 90 days, or by both such fine and imprisonment as ordered by the Court in its discretion.

8.03 Rights and Remedies are Cumulative: The prohibitions and penalties provided by this article are in addition to, and not exclusive of, prohibitions and penalties provided by other applicable laws, articles, rules, or regulations.

Article IX—Repeals

9.00 Repeals: All ordinances inconsistent with the provisions of this ordinance, including **Ordinance No. 428** are hereby repealed, provided that all of the provisions of **Ordinance No. 91**, except as amended by the provisions of this Ordinance, shall remain in full force and effect.

Article X—Effective Date

10.00 Effective Date: This ordinance shall become effective the 30 days following publication thereof in the Genesee County Herald, a newspaper circulating within Vienna Township.

YEAS:

NAYS:

Joseph A. Rizk, Supervisor

Cynthia J. Bryan, Clerk

CERTIFICATION:

STATE OF MICHIGAN)

)

COUNTY OF GENESEE)

I, THE UNDERSIGNED, Township Clerk for the Township of Vienna, Genesee County, Michigan, do hereby certify that Ordinance No. 429, adopted by the Township Board of Trustees of said Township on the ____ day of _____, 2018, was recorded in full in the minutes of meeting of said Township Board of Trustees on said date, and was signed by the Supervisor and Clerk of said Township.

Cynthia J. Bryan, Clerk

DATED: December 12, 2016