

**ORDINANCE REGARDING THE PROVISION OF
WATER AND SEWER SERVICES OUTSIDE THE CORPORATE LIMITS
OF THE CITY OF NOKOMIS, ILLINOIS**

WHEREAS, by Ordinance No. 871 and 872, adopted 6/26/2000, this Council announced certain municipal policies regarding extensions of water taps and sewer service outside the Nokomis corporate limits;

WHEREAS, the purpose of this Ordinance is to preserve resources of the City of Nokomis for its residents and further to encourage the metropolitan area of Nokomis to consolidate itself municipally to as to better solve metropolitan problems.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NOKOMIS:

Section 1. CONSTRUCTION. It is the purpose of the Ordinance to provide delineation of the City of Nokomis's policies concerning extension of water and sewer services outside its corporate limits. The exceptions referred to in Section 3 hereafter are to be construed strictly as unusual conditions which may in the sole discretion of the Council authorize an exception to the rule, but said exceptions are not, under any circumstances, to be construed as the rule, as the City reserves the right to consider such factors as, including but not limited to, water system and sewer system integrity, public health, safety, and welfare.

Section 2. MUNICIPAL WATER AND SEWER POLICY.

A. Except as provided in Section 3 hereinafter, water mains may be extended outside the corporate limits of the City of Nokomis, or new taps granted therefrom or from existing mains outside the corporate limits only:

(a) if such extension or tap is for the immediate and direct industrial development of a lot, tract, or building, as industrial development is hereinafter defined; or

(b) if such extension is for a large scale development or residential subdivision located within the territory of a public water district and is located within one mile from the corporate limits of the City of Nokomis and the mayor recommends that the City exercises its exclusive right to provide water service to said development pursuant to Chapter 24, Illinois Revised Statutes, paragraph 11-151-3. For such developments, only the developer/owner shall be required to make application for water service under the procedures established by this Ordinance provided developer/owner agrees to impose covenants running with the land consistent with Section 6(B) of this Ordinance which covenants shall be included on the developers/owners final plat. Subsequent lot or parcel owners shall not be required to file applications pursuant to this Ordinance but may directly apply to the City for water service;

or

(c) if such extension is to provide for the development of or service to new or existing lots, tracts, buildings, or subdivisions where such an extension would be an orderly expansion of the City's distribution network. For each of these types of extensions, the developer/owner shall be required to make application for water service under the procedures established by this Ordinance provided developer/owner agrees to impose covenants running with the land consistent with Section 6(B) of this Ordinance. For new developments, these covenants shall be included on the developer's/owner's final plat. Subsequent lot or parcel owners shall not be required to file applications pursuant to this Ordinance but may directly apply to the City for water service.

B. All conditions and provision of this Ordinance must first be satisfied for any such extension of water mains or the grant of new water taps outside the corporate limits.

Section 3. EXCEPTIONS. Notwithstanding the provisions of Section 2, the Council may, in its sole discretion, extend a water main or provide for a water tap or taps outside the corporate limits of the City of Nokomis to any lot, tract, or building if, after due consideration, it is the opinion of a majority of the Council that:

(a) it is only the same-size replacement of a water main or water tap of an existing customer already serving said lot, tract or building; or

(b) it furnishes water services to a lot, tract, or building which is adjacent to an existing main; or

(c) it furnishes services for a water tap in instances when a water main will not be further extended because of sound engineering practices and provision of the tap would be comparable to providing a tap under subsection (b) above; or

(d) it furnishes water service to a facility used solely for education, religious or eleemosynary purposes; or

(e) it is granted by the City of Nokomis as consideration for a grant of easement, lease, or fee simple interest in land acquired by the City for development of its programs.

Section 4. DEFINITIONS. As used in this Ordinance "Industrial Development" means an activity or enterprise employing persons for the purpose of manufacturing, producing or assembling raw or furnished materials into a product for ultimate use or consumption.

Section 5. DISCRETIONARY. Notwithstanding the fact that any lot, property, or building may otherwise fit the conditions expressed in said Sections 2 and 3 above, the Council reserves the right in any specific case to refuse to extend its water or sewer service beyond its corporate limits, if in its sole discretion, it is of the opinion that it is feasible for such area to be annexed to the City

of Nokomis, or such act of extending water or sewer services outside its corporate limits would not be in the best interests of the residents of the City of Nokomis.

Section 6. PROCEDURES.

A. Any owner or prospective owner of property outside the corporate limits of the City of Nokomis who desires to apply for water or sewer service under the terms of this Ordinance may do so by filing with the City Clerk, City of Nokomis, an application for said extension of a water or sewer main or new tap on the form or forms provided by the City Clerk, setting forth:

(1) the correct legal description, tax identification number, and street address of the property,

(2) facts purporting to establish that said service is for a category of development, as allowed under Section 2 of this Ordinance or is eligible as an exception under Section 3 of this Ordinance, and

(3) which includes as applicants, all legal and equitable owners of said property. The statements in said application shall be subscribed and sworn to by the applicants, and a filing fee of \$50.00 shall be paid to the City Clerk upon the filing of said application.

B. The applicants shall covenant and agree that the following covenants shall be and are incorporated by reference into said application, as covenants running with the land described in said application, and binding upon the applicants, their heirs, successors, executors, administrators and assigns, to wit:

(a) that the legal description in said application is accurate and that the applicants are of the legal and equitable owners of said property so described,

(b) that if said application is for "Industrial Development" of said property, as hereinabove defined, and if said application is granted, it is covenanted that for a period of at least five successive years from the date of the Ordinance of the City Council granting said water or sewer main extension or new tap outside the corporate limits, said property shall be used for industrial development,

(c) that should said property become contiguous with the corporate limits of the City of Nokomis (or become contiguous with property of other persons who are joining in a petition to annex their lands to the City of Nokomis, through judicial proceedings or otherwise), the then legal and equitable owners of the property will consent to the annexation of the property to the City of Nokomis and will execute any required deeds, petitions, or instruments needed to effectuate such annexation.

(d) that in the event said application for extension of municipal water services is granted, no other properties or areas inside or outside the corporate limits of the City of Nokomis will be permitted to attach onto the water main or water tap(s) constituting said water service extension without the further expressed permission of the City of Nokomis,

(e) that in the event any condition or covenant contained in this Ordinance or contained in a specific application for extension of water service outside the corporate limits of Nokomis, or contained in any specific Ordinance granting such extension of water services outside the corporate limits of the City of Nokomis should be now or hereafter violated, then, in addition to any other remedies the City may have, the City of Nokomis may, after providing in writing a ten-day notice at the address of said property, terminate the water and sewer service to said property which is the subject of the covenant that has been violated,

(f) that all other general rules and regulations of the City regarding water and sewer service shall be complied with and all charges for water and sewer service paid.

C. Upon receipt of any such application and filing fee, the City Clerk shall refer said application to the Water Department for review and inspection of the premises, and for preparation of reports and recommendations by designated Department personnel to the City Council, a copy of which shall be delivered to the City Clerk. Thereupon, the City Clerk shall place said application and recommendation on the Council agenda for consideration. The City Council by Ordinance shall either approve, deny, or amend and approve said application.

D. If the Council disapproves said application, the City Clerk shall so notify the applicant, and the matter thereupon shall be concluded. The covenants and assurances contained in said application and hereinabove referred to shall be null and void and of no further effect.

E. If the Council approves the application for a water or sewer main extension or new tap outside the corporate limits of the City, this Ordinance, said application, and the Council's specific Ordinance approving said application shall be a binding, irrevocable contract between the City of Nokomis and the parties thereto; and thereupon said application and said specific Ordinance approving the same shall be recorded in the Office of the Montgomery County Clerk. Thereafter, said application and said specific Ordinance also shall be filed in the Office of the Clerk of the City of Nokomis under special file and under a special index, enabling the City to make a proper and prompt identification of all such transactions in which the city has granted extensions of water services outside the corporate limits of the City of Nokomis either for one of the categories or allowed development or as an identified exception to its general municipal water policy.

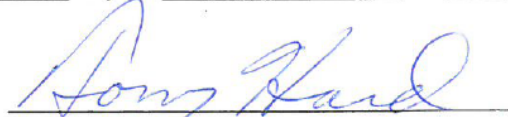
Section 7. NO REFUND. The filing fee of \$50.00 hereinabove referred to shall be the total fee charged by the City of Nokomis for accepting and processing said application, and where necessary, recording documents with the Montgomery County Clerk; but no portion thereof shall be refunded to an applicant whether such application is approved or disapproved. Such fee shall be deposited in the Corporate fund. There is an additional fee due for sewer line inspection under Ordinance No. 871.

Section 8. Nothing herein contained shall pertain to, alter or change the right of the City of Nokomis to make reasonable rules, regulations, or policies concerning size, materials, location of water mains, and water taps on its water system.

Section 9. All previous Ordinances and Resolutions regarding sewer and water services shall remain in full force and effect except what is superceded herein.

Section 10. This Ordinance shall forthwith be recorded in the office of the Montgomery County Clerk.

Passed by a majority vote of the members of the Board of Commissioners and approved by the Mayor of the City of Nokomis, Illinois on this 25th day of JUNE, 2001.



TONY HARD, Mayor

(CORPORATE SEAL)

Attest:



PAM BURDZILAUŠKAS, City Clerk

STATE OF ILLINOIS)
) SS
MONTGOMERY COUNTY)

CERTIFICATION

I, PAMELA J. BURDZILAUSKAS, certify that I am the duly appointed and acting City Clerk of the City of Nokomis, Montgomery County, Illinois.

I further certify that on JUNE 25, 2001 the City Council of such municipality passed and approved Ordinance No. 887 which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 887, including the Ordinance and a cover sheet thereof, was prepared and posted in the Municipal Complex commencing on JUNE 28, 2001, and continuing for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request to the City Clerk.

Dated at Nokomis, Illinois, this 28th day of JUNE, 2001.


CITY CLERK