

Village of Lakeview Ordinance No. 2019-10

Water Ordinance

The Village of Lakeview ordains:

Section 1: Definitions

- a) **Backflow.** Water other than water of the Water System, wastes or contaminants entering the Water System due to a reversal of flow.
- b) **Commercial user.** A person whose Premises are used to offer services and/or products such as, for example, retail and wholesale stores, gasoline stations, restaurants, schools, churches, hotels, motels, nursing homes, private clubs, theaters and government buildings.
- c) **Commodity Charge.** A periodic charge levied on Users for use of the Water System on the basis of water consumption. The charge represents (a) a User's proportionate share of the fixed and variable cost of operation and maintenance and (b) the benefit to a User derived from the use of the Water System. The charge may include a debt service component, as necessary, to pay all or a portion of the principal, interest and administrative costs of retiring Water System indebtedness.
- d) **Connection Fee.** The charge imposed by the Village to regulate the connection of Premises, either directly or indirectly, to the Water System. This fee represents (a) the proportionate cost attributable to each Structure in which Water Service is provided to regulate access to the Water System and ensures that sufficient capacity exists to accommodate the additional use without overburdening the Water System or adversely affecting the ability of the Village to provide service to the Water System's existing and future customers and (b) the benefit to the Premises to which Water Service is provided derived from the connection to the Water System.
- e) **Cross-connection.** A connection or arrangement of piping or appurtenances through which a backflow could occur.
- f) **Designated Agent.** A person or persons designated by the Village Council to act on behalf of the Village in enforcing and/or monitoring this Ordinance.
- g) **Domestic User.** A person whose Premises are domiciles for single or multiple family use.
- h) **Industrial User.** A person who operates a manufacturing or processing facility that is engaged in producing a product.
- i) **Inspection and Administration Fee.** The amount charged, to each applicant by the Village at the time an application is made to the Village for connection to the Water System to cover the routine cost of inspecting and approving the physical connection of a Water Connection and the Service Connection to the Water System, the issuance of a connection permit and related administrative expenses.
- j) **Local distribution lines.** Those pipes that serve only the abutting property within a single local service area.
- k) **Person.** Any individual, firm, company, association, society, corporation or group, public or private.

- l) **Potable water.** Water intended for human consumption or prolonged bodily contact that is free from impurities in amounts sufficient to cause disease or harmful physiological effects. Its bacteriological and chemical quality shall conform to the applicable requirements of federal and state, law and regulations.
- m) **Premises.** The lands included within the boundaries of a single description as set forth, from time to time, on the general tax rolls of the Village as a single taxable parcel of property, including all structures located thereon.
- n) **Public Water System or Water System.** All Village or other publicly owned and/or controlled facilities and all subsequent additions and expansions, including wells, pumps, water treatment facilities, transmission and distribution mains, hydrants, storage tanks, meters, and all other facilities used or useful in the pumping, treatment, and distribution of public water to properties in the Village but not including private components.
- o) **Readiness to Serve Charge.** A periodic charge levied on Users that may vary based upon the size of the User's public water meter. The charge represents a portion of (a) that User's proportionate share of the fixed and variable Cost of Operation and Maintenance and (b) the benefit to that User derived from the availability of the Water System and the peak usage that User may demand from the Water System. The charge may include a debt service component, as necessary, to pay all or a portion of the principal, interest and administrative costs of retiring Water System indebtedness.
- p) **Secondary Water Supply.** A private water supply system maintained in addition to a public water supply, including but not limited to water systems from ground or surface sources not meeting the requirements of state law, or water from a public water supply which in any way has been treated, processed or exposed to any possible contaminant or stores in other than an approved storage facility.
- q) **Service Connection.** The portion of the Water System which extends either to or onto the parcel of land adjacent to the path of the Water System, and includes the connector pipes, shut off valve, and appurtenances, but not including the water connection on private property between the shut off valve and the Structure served.
- r) **Service District.** The area of the Village served by the Water System.
- s) **Structure.** A building in which toilet, kitchen, laundry, bathing, or other facilities which need or are required to have Potable water for use domestic, commercial, industrial, or other purposes.
- t) **Submerged Inlet.** A water pipe or extension thereto from a public water supply terminating in a tank, vessel, fixture or appliance which may contain water of questionable quality, waste or other contaminants and which is unprotected against backflow.
- u) **Village.** The Village of Lakeview, Montcalm County, Michigan.
- v) **User.** The owner, lessee or occupant of any Premises connected to or served by the Water System.
- w) **Water connection.** That part of the Water System connecting the watermain at the curb stop with the Premises served.
- x) **Watermain.** The primary and intermediate transmission and local distribution lines of the Water System.

Section 2: Connections

2.1. Water Connection Required

- a. Connection Required. As a matter of public health, the owners of all improved Premises in the Village that is used for human occupancy, employment, recreation, or other purposes, which require or need the use of potable water and which abut any right-of-way, easement, highway, street, alley, or public way in which there is located an available watermain, are hereby required, at the owners sole expense, to directly connect all buildings and structures on the Premises used for said purpose(s) to the Water System, provided that said watermain or local distribution line is within 200 feet from the nearest point of a Structure using or requiring potable water.
 - i. A separate and independent Service Connection shall be provided for every affected Structure on a Premises. Where, however, one Structure stands at the rear of another on an interior lot and no private water is available, or can be constructed to the rear through an adjoining alley, court, yard, or driveway, the Service Connection from the front building may be extended to the rear building upon application to and approval by the Village.
 - ii. Existing Structures that are connected to the Water System at the time of adoption of this Ordinance will not be required to modify an existing Service Connection to comply with Subsection 2.1(a)(i) unless the Structure undergoes a change in use, ownership, or as may be directed by the Village as required to protect public health.
- b. Connection Deadline. When connection to an available watermain or local distribution line is declared a necessity by the Village for the public health and welfare, or as required under this Ordinance, all such connections required hereunder shall be completed no later than 180 days after the last to occur of (i) the date the watermain or local distribution line becomes available to the Premises, or (ii) the modification of a Structure so as to become a building using or requiring potable water. Newly constructed Structures required to connect shall be connected prior to occupancy thereof. Notwithstanding the preceding, if the Village Council requires completion of a connection within a shorter period of time for reasons of public health, such connection shall be so completed. Persons who fail to complete a required connection when required shall be liable for a penalty equal in amount to the Readiness to Serve Charge and Commodity Charge that, based upon similarly situated Users, the Water System would have accrued and been payable, effective upon the expiration of the connection period, had the connection been made as required.
- c. Enforcement in the Event of Failure to Connect to Water System. In the event a required connection is not made within the time provided by Subsection 2.1b, the Village shall require the connection to be made immediately after notice given by first class or certified mail or by posting on the property. The notice shall give the

approximate location of the available watermain or local distribution line and shall advise the owner of the affected Premises of the requirement and enforcement provisions provided by Village ordinance. In the event the required connection is not made within 90 days after the date of the mailing or posting of the written notice, the Village may bring an action in court of competent jurisdiction for a mandatory injunction or court order to compel the property owner to immediately connect the affected property.

- d. Private Wells Prohibited. Except as otherwise provided by Subsection 2.1(e), private water wells are prohibited on Premises connected to the Water System. Pre-existing private water wells located on Premises that are to be subsequently connected to the Water System shall be abandoned prior to or upon physical connection of the Premises to the Water System. Wells shall be abandoned in accordance with applicable state law and Mid-Michigan District Health Department regulations. Residential Premises serviced by a permitted private well shall be allowed to postpone connecting to the Water System until such time as their existing well fails. Once the private well fails the Premises shall be required to connect to the Water System and abandon their existing well.
- e. Exceptions. Notwithstanding Subsection 2.1(d), private water wells may be maintained on Premises that are connected to the Water System, where (i) the Premises maintains a closed geothermal heating system and the private well is an integral part of said system, or (ii) the Premises is required by applicable federal or state law, regulation or order to monitor ground water on the Premises, and the well is used for groundwater monitoring purposes only. Any such private well must be physically and completely separated from all plumbing used for potable water. All piping for a private water well is subject to the cross-connection provisions of this Ordinance.

2.2. Service Connections

- a. Permit Application. A connection to the Water System shall be made only by an authorized contractor or plumber upon written authorization and a connection permit issued by the Village. Prior to the connection, the property owner or his agent shall submit a permit application to the Village. The permit application shall be on a form furnished by the Village, and shall be accompanied by payment of the Connection Fee, any civil penalty which has accrued, and the Inspection and Administration Fee, the plans and specifications of all plumbing construction within the Premises (when required), and such other information required by the Village.
- b. Length of permits. A water connection permit issued by the Village shall be valid for a period of three (3) years from the date of issuance. Following the expiration of the three (3) year period, a water connection permit may be continued to be held for as long as the holder of the permit pays a periodic readiness to serve charge for all permitted but not yet active water use equivalents. The amount and frequency of the payment of such charges shall be established from time to time

by resolution of the Village. The failure of a permit holder to make a readiness to serve charge payment within 30 days of its due date will result in the automatic revocation of the permit.

- c. Inspection. A permittee shall notify the inspector 48 hours in advance of when the Water Connection and Service Connection are ready for inspection. The excavation shall be left open until inspection is complete. If the inspector determines that the Water Connection and Service Connection have been constructed and installed in accordance with the requirements of the permit and this Ordinance, a water connection approval shall be issued, and the Water Connection shall then be connected with the Water System under the observation of the inspector.
- d. Plan review/inspection. If the Village determines that the standard application/inspection fees will not cover the actual costs for review of a water plan or inspection of a water connection due to unusual circumstances associated with the Premises, or that it is necessary or advisable to have any portion of the plan reviewed or inspected by other engineers or other consultants, then the applicant shall be required to pay the actual costs of this additional review or inspection. Such actual costs shall be billed and paid by the applicant, and no occupancy permit shall be issued or maintained for the subject Premises until such actual costs have been paid in full.
- e. Escrow deposit. The Village may require an applicant to deposit an amount equal to the estimated actual costs associated with the review of an application or an inspection. This amount shall be held in escrow in the applicant's name and may be used by the Village solely to pay the actual costs associated with administration of the subject application or inspection. Any unexpended funds held in escrow shall be returned to the applicant, without interest. Any actual costs in excess of the amount held in escrow shall be billed to the applicant and no occupancy permit shall be issued or maintained for the subject Premises until such actual costs have been paid in full.
- f. Installation costs; Indemnification. All costs and expenses incidental to the installation of the connections from a Structure to the Water System shall be borne by the owner of the Premises including, without limitation, costs for a water meter. Service and Water Connections shall be subject to applicable building and plumbing codes and inspection in accordance with Subsection 2.2.(c) and this Ordinance. Only an authorized contractor or plumber approved by the Village in accordance with Subsection 2.2.(g) may connect the Water Connection to the Water System, subject to the requirements of this Ordinance, including inspection in accordance with Subsection 2.2.(c) No such work shall be commenced before such owner obtains any necessary permission to work in the public right of way from the Village, the Montcalm County Road Commission, or MDOT, as the case may be. the owner shall indemnify the Village from all loss or damage that may directly or indirectly be caused by the installation and connection of the Water

Connection and the installation and connection of the Water Connection to the Water System.

- g. Contractor Requirements. Any Person desiring to construct a Service Connection or connect a Water Connection to a Service Connection or uncover, make any connection with or opening into, use alter or disturb any public water or appurtenances thereof, must be approved by the Village. Approval shall include placing a deposit with the Village, a cash bond or irrevocable letter of credit in the sum of \$5,000, conditioned that he will faithfully perform all work with due care and skill, and in accordance with the laws, rules codes, and regulations established under the authority of the Village pertaining to water services and plumbing. This bond shall state that the contractor will indemnify and save harmless the Village and the owner of the Premises against all damages, costs, expenses, outlays and claims of every nature and kind arising out of mistakes or negligence on his part in connection with the installation and/or connection as prescribed in this Ordinance. Such bond shall remain in force for the duration of the work, except that, upon completion, the bond shall remain in force as to all penalties, claims and demands that may have accrued thereunder prior to such expiration. This approval process shall also provide to the Village, evidence of public liability insurance insuring the interests of the Village and property owner, for all damages caused by accidents attributable to the work, with limits of not less than \$100,000 for one (1) person, \$300,000 for bodily injuries per accident, and \$100,000 for property damages on a per occurrence basis.
- h. Change in use of Premises. In the event there is a change in the use or intensity of a multi-family, commercial, or industrial user's Premises being served by the Water System, or a change in use from a single family residential use to another type of use, additional connection charges consistent with the new or increased use shall be assessed and shall be payable in the same manner as a water use charge when billed. This charge shall be based upon the difference of the then applicable connection charges for the new or increased use and the then application connection charges for the immediately preceding use.
- i. No refunds. There shall be no refund of any water connection charges paid to the Village under this Ordinance or any predecessor thereof.
- j. Installment Payment of Connection Fee. The property owner may elect to pay the Connection Fee either by a single payment or in installments over a period not to exceed five (5) years. The property owner electing to pay by the installment method shall in writing agree to pay the Connection Fee in five (5) or fewer equal annual installments of principal, plus interest of ten percent (10%) per annum. Any annual installment, including interest due, not paid when due, from and after the date when due, shall be subject to a one-time four percent (4%) penalty charge, plus interest at the rate of seventy-five hundredths of one percent (0.75%) for each month or portion thereof payment is past due. In addition, interest at the rate of ten percent (10%) per annum shall continue to accrue on the entire amount

of unpaid principal including any late installment subject to penalties. The first installment shall be due and payable prior to the issuance of a connection permit.

k. Meters. Water meters shall be installed by the Village, unless otherwise provided by resolution of the Village Council. The meter installation fee shall be established in accordance with this section and as determined from time to time by resolution of the Village Council. All meters shall be the property of the Village.

l. Water Service. Water service will not commence until payment in full for the installation has been made to the Village. Construction of a public water lines shall be done as expeditiously as possible after written notice to proceed, but the time for construction shall be at the convenience of the Village.

2.3. Institution of or Restarting Water Service. Written notice given not less than 48 hours in advance shall be made to the Village by the property owner and/or occupant of the Premises when water service is desired to be activated. It shall be unlawful for any person to connect to or use water supplied by the Village without first giving notice as provided herein. The Village reserves the right to require that an amount of money equal to an anticipated bill for three months of water service be placed on deposit with the Village for the purpose of establishing or maintaining any customer's credit. No person, other than an authorized employee of the Village, shall turn on or off any water service, except that a licensed plumber may, with the prior approval of the Village, turn on water service for testing work (after which it must be immediately turned off) or upon receiving a written order from the Village; provided, that upon written permit from the Village, water may be turned on for construction purposes upon payment to the Village of the charges applicable thereto.

2.4. Meters. The Village reserves the right to determine the size and type of meter used. The Village reserves the right to require installation of remote meter reading equipment. The cost of that equipment and its installation shall be charged to the User at the prevailing rates and actual cost of material and labor.

2.5. Access to Meters. The Village shall have the right to shut off the supply of water to any Premises where the Village is not able to obtain access to the meter. Any qualified employee of the Village shall, at all reasonable hours, have the right to enter the Premises where such meters are installed for the purpose of reading, testing, removing or inspection the same and no person shall hinder, obstruct, or interfere with such employee in the lawful discharge of his duties in relation to the care and maintenance of such water meter.

2.6. Curb Stop. No person shall remove the cover from any curb stop or place any dirt, stone or other obstruction in it or tamper with any meter or valve or commit any act tending to obstruct the use thereof.

- 2.7. Injury to Facilities. No person, except an employee of the Village in the performance of his duties shall break, damage, destroy, uncover, deface or tamper with any structure, appurtenances or equipment which is a part of the Water System.
- 2.8. Reimbursement for Damage. Any damage which a meter may sustain resulting from the carelessness of the owner, agent, or tenant or from neglect of either of them to properly secure and protect the meter, as well as any damage which may be wrought by frost, hot water, or steam backing from a boiler, shall be paid by the owner of the Premises to the Village on presentation of a bill therefor; and in cases where the bill is not paid, the water may be shut off and shall not be turned on until all charge have been paid to the Village.
- 2.9. Responsibilities for Damages. The Village will not be responsible for any damages because of failures of or within the Water System, or actions by the Village to correct such failures.
- 2.10. Water Leakage. It shall be the responsibility of the owner to repair any leaks between the meter and the shut off valve within 72 hours of notice by the Village. Water leakage within the Structure that is metered shall be billed and paid.
- 2.11. Hydrant Use. No person, except an employee of the Village in the performance of his duties or a representative of the fire authority, shall open or use any fire hydrant, except in case of emergency, without first securing a written permit from the Village and paying such charges as may be prescribed by the Village.
- 2.12. Unlawful Connections. No person shall make a connection on a service line between the water meter and the street mains, or install a by-pass around the meter.
- 2.13. Village's responsibility for repairs, operations and maintenance. The cost of all repairs, operation, maintenance and replacement of all Service Connections shall be borne by the Village as part of the Village's budgeted annual expense of the Water System.
- 2.14. Property Owner's responsibility for repairs, operations, and maintenance. The cost of all repairs, operation, maintenance and replacement of all water piping on private property between the shut off valve and the Structure served, including without limitation the Water Connection, shall be the responsibility of and be borne by the property owner.
- 2.15. Protection of Water Supply. The potable water supply made available on the Premises served by the Water System shall be protected from possible contamination as specified by this Ordinance and by the State of Michigan's and any other applicable plumbing codes. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the Water System must be labeled in a conspicuous manner as water unsafe for drinking.
- 2.16. Discontinuance of Service. In the event a User desires water service to its Premises to be discontinued, said customer shall so request in writing not less than 48 hours prior to time of such discontinuance of service is desired. The Village will not recognize the discontinuance of water service unless the provisions of the foregoing sentence have been

fully met. Under any other circumstances, discontinuance of service will be charged to the customer at the actual cost of labor, materials and equipment. The Village may refuse or discontinue water service for any violation of any rule, regulation, condition of service or as otherwise permitted by law.

- 2.17. Shut off of Water. The Village reserves the right at all times (and will endeavor to give due notice) to shut off the water at the watermains, to require reduced use or no use of the Water System for the purposes of making repairs or extensions, or for other purposes. All persons having equipment on their Premises and depending on water from the watermains or local distribution lines are hereby cautioned against danger which might arise from emergency shutting off of water. In the event of such emergency, the Designated Agent may identify in any notice the extent of any regulation, limitation or prohibition and the date and time on which it shall take effect.
- 2.18. Additional Regulations. The Village Council may issue additional rules and regulations concerning the Water System, connections thereto, meter installations and maintenance, connection and meter installation fees, hydrants and water mains and the appurtenances thereto, not inconsistent with this Ordinance. Such rules and regulations shall be effective upon approval of the Village Council.
- 2.19. Other Laws. If any other ordinance of the County or Village or any statutes of the State of Michigan shall impose greater restrictions than herein set forth, then such ordinances or statutes shall control.

Section 3: Controlled Use

- 3.1. Limitation of Water Use. The Village Council, may regulate, limit or prohibit the use of water for any purpose. Such regulations shall restrict less essential water uses to the extent deemed necessary to assure an adequate supply for essential domestic and commercial needs and for firefighting. No such regulation, limitation or prohibition shall be effective until twenty-four (24) hours after the publication thereof in a newspaper of general circulation in the Village, except in an emergency as determined by the Designated Agent. In the case of such emergency the regulation, limitation or prohibition shall be and take effect as indicated by the Village Council and notice shall be given as deemed most appropriate by the Village Council or Designated Agent. Any person violating such rule or regulation shall, upon conviction thereof, be subject to such enforcement actions as set forth in this Ordinance.

Section 4: Cross-Connection Regulations

- 4.1. Cross-Connections Control. The Village shall eliminate and prevent all cross-connections pursuant to the plan submitted to and approved by the Department of Environment, Great Lakes, and Energy, pursuant to the requirements of Sections 325.11401 through 325.11407 of the Michigan Administrative Code, as the same may be amended from time to time.
- 4.2. Cross-Connections Prohibited:

- a. A cross-connection shall not be made between the water distribution system and a secondary water supply.
- b. A cross-connection shall not be made by submerged inlet.
- c. A cross-connection shall not be made between a lawn sprinkler system and the Water System.
- d. A cross-connection shall not be made between the Water System and piping which may contain sanitary waste or a chemical contaminant.
- e. A cross-connection shall not be made between the Water System and piping immersed in a tank or vessel which may contain a contaminant.

4.3. Inspections. It shall be the duty of the Village to cause inspections to be made of all properties served by the public water supply where cross connections with the public water supply is deemed likely to exist. The frequency of inspections and re-inspections based on potential health hazards involved shall be as established by the Village.

4.4. Right of Entry. The Designated Agent of the Village shall have the right to enter at any reasonable time any property served by a connection to the Water System for the purposes of inspecting the piping system or systems thereof for cross connections. On request, the owner, lessees, or occupants of any property so served shall furnish to the inspection agency any pertinent information regarding the piping systems on such Premises. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections and a violation of a condition of service and this Ordinance.

4.5. Discontinuance of Service. The Designated Agent of the Village is hereby authorized and directed to discontinue water service after reasonable notice wherein any connection in violation of this Section 4 is deemed to exist and to take such other precautionary measures deemed necessary to eliminate any danger or contamination of the Water System. Water service to such property shall not be restored until the violation(s) has/have been eliminated in compliance with the provisions of this Ordinance.

4.6. Testing of Devices. All backflow prevention assemblies shall be tested at the time of installation or relocation and after any repair. Subsequent testing of devices shall be conducted at a time interval specified by the Village and in accordance with Michigan Department of Environment, Great Lakes, and Energy requirements. Only individuals that hold a valid Michigan plumbing license and have successfully passed an approved backflow testing class shall perform such testing. Each tester shall also be approved by the Designated Agent of the Village. Individuals performing such assembly tests shall certify the results of their testing.

4.7. Protection of Potable Water Supply. The potable water supply made available to Premises served by the Water System shall be protected from possible contamination as specified by this Ordinance and by the State and Village plumbing code. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as: Water Unsafe for Drinking.

4.8. Compatibility. This Section does not supersede any applicable State and Village plumbing codes but is supplementary to the same.

Section 5: Water Rates

5.1. Basis of Charge. Except as otherwise provided in this Ordinance, all water service shall be charged for on the basis of water provided as determined by the meter installed on the Premises and as otherwise set forth in this Ordinance. No free water service shall be furnished to any person.

5.2. Water Rates and Charges.

- a. Water rates and charges shall be levied monthly against each Premises having any water connections to the Water System. A Readiness to Serve Charge shall be charged to each Premises connected to the Water System, regardless of occupancy.
- b. Commodity Charges shall be based on the quantity of water provided to the Premises, as measured by the water meter therein used, except as otherwise provided. If a meter cannot be read, an estimated charge will be made and adjustment, if necessary, will be made when the meter reading can be verified.
- c. Rates and charges for Users shall be in amounts as established from time to time by resolution of the Village Council. Beginning on March 1, 2020, and annually on March 1 thereafter, the Readiness to Serve Charge and Commodity Charge shall be increased by two percent (2%) unless otherwise modified by resolution of the Village Council.

5.3. Billing and Penalties and Remedies for Nonpayment or Late Payment

- a. The owner of the Premises serviced, and the occupants thereof shall be liable for the water service provided to the Premises in a manner consistent with Act 178 of the Public Acts of Michigan of 1939 (Act 178).
- b. Bills for rates and charges as herein established shall be mailed to Users monthly. All bills shall be payable on the 20th day of the month following the period of service and shall be payable to the Village. If any bill shall not be paid by the 21th of the month in which it is due, a late charge of ten percent (10%) of the amount billed shall be applied to the current amount past due and collected therewith. Late charges will be compounded.
- c. Water supply rates and charges shall, in accordance with Act 178, be a lien on the Premises served immediately upon distribution of the water to the Premises. In the event such rates and charges are not paid on or before the due date, the Village, pursuant to Act 178, may
 - i. discontinue the service provided by the Water System and the service so discontinued shall not be reinstated until all sums then due and owing, including penalties, interest and all expenses incurred by the Village for shutting off and turning on the service have been paid to the Village;
 - ii. institute an action in any court of competent jurisdiction for the collection of the amounts unpaid, including penalties, interest and reasonable attorney fees; or
 - iii. enforce the lien created as set forth in Subsection 5.3d, below.

- d. Any charges remaining unpaid may be spread on the next regular Village ad valorem property tax roll after the date on which such charge shall become due and payable, and be enforced consistent with the general laws of the State for the enforcement of tax liens as authorized by Act 178.
- 5.4. Meter Failure. If any meter shall fail to register properly, the Village shall estimate the consumption on the basis of former consumption and bill accordingly. Without modifying the foregoing, the following shall apply to instances involving purportedly inaccurate or non-functioning meters:
 - a. Inaccurate Meters. A User may request that its meter be tested. If the meter is found accurate, a charge as set from time to time by the Village Council will be made for the costs of testing. If the meter is found inaccurate, as provided for herein, it shall be repaired, or an accurate meter installed, and no charge shall be made.
 - b. Accuracy Required. A meter shall be considered accurate if, when tested, it registers not to exceed two percent (2%) more to two percent (2%) less than the actual quantity of water passing through it. If a meter registers in excess of two percent (2%) more than the actual quantity of water passing through it, it shall be considered "fast" to that extent. If a meter registers in excess of two percent (2%) less than the actual quantity of water passing through it, it shall be considered "slow" to that extent.
 - c. Bill Adjustment. If a meter has been tested at the request of a User and shall have been deemed to register "fast," the Village shall credit the User with a sum equal to the percent "fast" multiplied by the amount of all bills by said User, within the three (3) months prior to the test, and if a meter so tested is determined to register "slow," the Village may collect from the User a sum equal to the percent "slow" multiplied by the amount of the bills incurred by the User for the prior three (3) months. When the Village, on its own initiative, makes a test of a water meter, it shall be done without cost to the User, other than his paying the amount due the Village for water used by him as above provided if the meter is found to be "slow."

Section 6: Water System Extensions

- 6.1. Application. The owner of any property in the Village may connect to the Water System pursuant to the provisions of this section contingent upon the availability of capacity in the Water System and, if the property is connected to the Sewer System, the capacity of the downstream Sewer System. An owner who desires to connect to the Water System shall file an application for water service extension with the Village Clerk and pay a non-refundable fee to be established by resolution of the Village Council. The fee shall be used by the Village to obtain the initial cost estimates to construct the proposed water service extension. This fee shall be applied to the cost of the extension if actually constructed or retained by the Village if the applicant decides to abandon the plan for the extension.

6.2. **Water Service Extensions; Options; Standards.** When extending water service to an individual property or group of properties, the Designated Agent may extend such water through use of a Service Connection to an existing water main or through an extension of a water main or local distribution line. In determining how to extend water service as set forth granted in this section, the Designated Agent shall consider the following factors:

- a. Whether other property in the surrounding area is capable of development in terms of topography, wetlands, and zoning ordinance requirements such that it is reasonable to anticipate that other connections to the Water System may be needed in the future.
- b. Whether there is other property capable of development in terms of topography, wetlands, and zoning ordinance requirements beyond the Premises intended to be serviced by the requested water service extension such that it is reasonable to anticipate that an extension would be further extended to provide service to that other Premises or further extended to tie into the Water System at another location.
- c. Whether the distance of the water service extension or the elevated terrain over which the extended water service must travel reasonably requires a water main.
- d. Whether there is a need for fire protection through the installation of fire hydrant(s) in the area to be served by the water service extension.

6.3. **Village Water Service Outside Village limits.** The owner of property located outside the Village limits may only connect to the Water System with the prior consent of the Village Council. The consent of the Village Council shall be granted or denied in the exercise of its reasonable discretion and shall be based upon a number of factors including without limitation, the continued availability of capacity in the Water System for Premises located within the Village, anticipated needs in the Village or required by contract, as well as such other considerations deemed appropriate by the Village Council. No property outside the Village limits may connect to the Water System except in strict accordance with this Subsection.

6.4. **Route of Water Service Extensions.** Water service may only be extended within the rights-of-way of public streets and alleys or within public utility easements granted to and approved by the Village. When new lines are established within public utility easements, the property owner shall grant to the Village a minimum twenty (20) foot easement, ten (10) feet on each side of the center of a described line, for the installation, maintenance, service, inspection, and/or repair of the Water System. The property owner shall provide the Village with a copy after recording the easement with the Montcalm County Register of Deeds Officer and prior to the beginning of development.

6.5. **Cost of Water Service Extensions.** The cost of Water Service Extensions shall be in accordance with the following requirements, unless modified by the terms of a written agreement between the Village and property owner pursuant to Section 6.7.

- a. As soon as possible after receiving the water service extension application fee required under Subsection 6.1 above, the Designated Agent shall notify the property owner in writing how the water service extension will be provided and shall provide the property owner with a written estimate of the approximate cost of the water service extension. The property owner shall then have ninety (90) days to inform the Designated Agent whether he or she desires to proceed with the water service extension and to pay the costs of the water service extension required under Subsections 6.5b or 6.5c below. If the property owner fails to inform the Designated Agent regarding his or her intent within this ninety (90) day period, this inaction shall be deemed a decision to abandon the plans for a water service extension and any subsequent request must be processed by the submission of a new application.
 - b. If a water service extension is provided through use of a Service Connection to an existing water main, the property owner requesting the extension shall be responsible for paying all costs of the water service extension. The property owner shall not be entitled to reimbursement of any of these costs.
 - c. If a water service extension is provided through the extension of a water main, the property owner requesting the extension shall pay to the Village the amount of the estimated costs of the extension. Upon receipt of this payment, the Village shall begin and complete the extension as requested by the property owner upon the property owner's deposit with the Village the estimated cost of the extension. If the actual cost to extend the water main exceeds the estimated costs paid, the property owner shall pay to the Village the additional costs within thirty (30) days of receiving a written statement specifying those additional costs. Reimbursement to the Village of such excess costs shall be a precondition of water service being provided to the Premises. If the actual cost to extend the water main is less than the estimated costs paid, the Village shall refund the difference to the property owner, without interest, within thirty (30) of the completion of the project. The property owner requesting the extension may be entitled to reimbursement pursuant to Subsections 6.8 and 6.9 below.
 - d. Costs paid to the Village for the watermain extension described in Subsection 6.5.c above include, but are not limited to engineering, legal, financing, construction, permits and restoration. Additionally, the cost of acquiring right-of-way, if necessary, including attorney fees, appraisal fees, cost of land title research and all other expenses of any condemnation proceedings shall be the responsibility of the property owner requesting the extension.
- 6.6. **Special Assessments.** In certain instances, the Village, by a majority vote of the entire Village Council, may elect to extend water mains and finance the project by use of a special assessment district. The charge to be assessed to each property owner benefited and served shall be calculated based on a formula as determined by the Village Council. The charge to each benefited property owner shall be assessed at the time of project

completion and shall be paid as specified by the Village. The charge shall bear interest as determined by the Village Council.

6.7. Water Extension Agreements. The Village shall have the authority to negotiate agreements for water extensions with landowners, developers, municipalities, and other persons, which agreements shall be subject to the approval of the Village Council and may take into consideration issues of demand, benefit, capacity, necessity, timing and funding and may provide for construction advances, prepayment of rates and charges, pay back arrangements of up to 10 years and similar matters.

6.8. Additional Users.

a. The owners of property located between a water main prior to any extension and the property seeking to extend public water, may, upon approval of the Village Council, utilize the extension by paying to the Village Clerk a water extension fee equal to the proportionate share of the total cost of extending the water main plus any interest provided in Subsection 6.8b below. For purposes of this Subsection, the proportionate share of the cost of extending the water main shall be calculated pursuant to the following formula:

[Actual Cost Paid Under Subsection 6.5 ÷ (Total Street Frontage of other Property Capable of Development and Connection to the Extended Water Main*)] X (Total Street Frontage of Parcel Connecting to the Extended Water Main)

*A property is deemed capable of development and connection to the extended water main if that property is capable of development in terms of topography, wetlands, and zoning ordinance requirements such that it is reasonable to anticipate that connections to the extended water main may be made in the future.

b. The proportionate share of the cost of extending the water main shall be increased by such amounts per annum (compounded annually), as determined by the Village Council, commencing one (1) year after the actual cost paid under Subsection 6.5.

6.9. Reimbursement to Original Property Owner. Upon receipt of any payment under Subsection 6.8.a above, the Village Clerk shall pay the amount to the property owner who paid the initial costs of the water main extension pursuant to Subsection 6.5. If the property owner who paid the initial costs of the water main extension is deceased, the payments received shall be paid to his or her personal representative or to other persons who by law would be entitled to inherit his or her estate as may be determined by a court of competent jurisdiction. If the property owner who paid the initial costs of the water extension cannot be reasonably located, and, if no claim is made for reimbursement for a period of one year from the date that payments under Subsection 6.8.a have been received by the Village Clerk, the reimbursement under this section shall be deemed to have been waived and all monies so received shall be turned over to the Village water fund.

Section 7: Enforcement

- 7.1. Penalties for Violation of Ordinance. Any person who violates or fails to comply with any provision of this Ordinance shall be guilty of misdemeanor and shall be fined up to Five Hundred Dollars \$500, imprisoned not more than ninety (90) days, or both. A separate offense shall be deemed committed each day during or which a violation or non-compliance occurs or continues.
- 7.2. Civil Action. Notwithstanding any provision herein, the Village may institute any action at law or equity to compel compliance with this Ordinance or to collect amounts due under this Ordinance. If such action is instituted the Village shall recover the costs and expenses incurred to bring and maintain the action including, without limitation, actual reasonable attorneys' fees.
- 7.3. Lien. All rates, fees and charges billed or due hereunder including those due pursuant to Subsection 7.2 shall to the extent permitted by law be liens upon the Premises served from the delivery of such service which shall be enforceable in the same manner as ad valorem property tax liens.

Section 8: Ordinances Repealed

- 8.1. All ordinances or parts of ordinances in conflict herewith are repealed to the extent necessary to give this Ordinance full force and effect including, without limitation, Ordinance Nos. 14, 25, 32, 33, 39 and 40.

Section 9: Severability

- 9.1 If any section, clause, or provision of this Ordinance is determined to be invalid, said invalidity shall not affect the validity of any other part of this Ordinance which can be given effect without such invalid part or parts.

Section 10: Publication; Effective Date

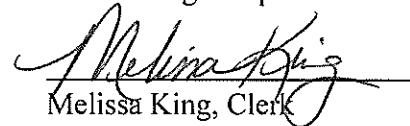
- 10.1. Publication. A true copy or a synopsis of this Ordinance shall be published in a newspaper of general circulation within the boundaries of the Village qualified under state law to publish legal notices within fifteen (15) days after the adoption of the Ordinance by the Village. This Ordinance shall be recorded in the minutes of the Village Council of the meeting at which this Ordinance was adopted, and, in addition, shall be recorded in the Ordinance Book of the Village.
- 10.2. Effective Date. This Ordinance shall be in full force and effect thirty (30) days after its publication as provided by law.

CERTIFICATION

YEAS: Lund, Case, Griffith, Sexton, Irwin, Tryover
NAYS: none
ABSENT: none

ORDINANCE NO. 2019-10 ADOPTED

I, Melissa King, the Clerk of the Village of Lakeview, certify that the foregoing is a true and accurate copy of an ordinance adopted at a regular meeting of the Village Council of the Village of Lakeview, held on October 14, 2019, and noticed in accordance with all legal requirements.


Melissa King, Clerk

Introduced: September 9, 2019
Adopted: October 14, 2019
Published: October 23, 2019