

Village of Lakeview

Ordinance #2020-01

Sewer Connection, Use and Rate Ordinance

The Village of Lakeview Ordains:

**Section 1: Title; Findings; Purpose**

- 1.1. **Short Title.** This ordinance shall be known as the “Sewer Connection, Use and Rate Ordinance” and may be cited as such.
- 1.2. **Objectives Re: Public Health, Safety and Welfare.** The Public Sewer System was established by the Village to promote the public health, safety and welfare of the residents of the Village. The Village owns, controls, operates, maintains and administers the Public Sewer System. To meet its obligations, the Village establishes rates and charges for services to Persons using the Public Sewer System in amounts necessary to allow the Village to operate, maintain and administer the Public Sewer System and to pay debt service on the debt incurred by the Village for the Public Sewer System. It is the objective of the Village by enacting and keeping in force and effect this Ordinance to protect and promote the public health, safety and welfare of the residents of the Village.

**Section 2: Definitions**

1. **Act 222.** Act 222 of the Public Acts of Michigan of 2001, as amended.
2. **Available Public Sanitary Sewer System.** To be an Available Public Sanitary Sewer System to a Structure in Which Sanitary Sewage Originates located on a Premises, the Public Sewer System (tapped or untapped) must:
  - (a) have physical availability to the Premises, i.e., be located in a right-of-way, easement, highway, street, or public way which crosses, adjoins, or abuts upon the Premises;
  - (b) have capacity availability for the Premises, i.e., adequate capacity in the abutting sewer main and all downstream facilities, which will collect, transport, pump and treat the Sewage reasonably expected to be discharged from the Structure in Which Sanitary Sewage Originates; and
  - (c) be located not more than 200 feet at the nearest point from the Structure in Which Sanitary Sewage Originates.
3. **Building Drain.** That part of the lowest horizontal piping of a drainage system which receives the discharge of Sewage inside the walls of the building and conveys said discharge to the Building Sewer.
4. **Building Sewer.** The extension from the Building Drain which conveys the discharge of Sewage to the Public Sewer System and its components or other place of disposal.
5. **Claimant.** Any person who makes a claim for economic damages which allegedly were caused by a Sewage Disposal System Event.
6. **Commodity Charge.** A periodic charge levied on Users for use of the Public Sewer System on the basis of water consumption. 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 use of the Public Sewer 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 Public Sewer System indebtedness.
7. **Connection Fee.** The charge imposed by the Village to administer the connection of a Building Sewer to the Public Sewer System. This fee represents (a) the proportional cost attributable to each Structure in which Sanitary Sewage Originates to regulate access to the Public Sewer System and ensures that sufficient capacity exists to accommodate the additional use without overburdening the Public Sewer System or adversely affecting the ability of the Village to provide service to the Public Sewer System's existing and future customers; and (b) the benefit to the owner of a Structure in which Sanitary Sewage Originates derived from the connection to the Public Sewer System including, but not limited to, eliminating or reducing the risk of failure of Private Sewage Disposal Facility and the contamination of ground water.
  8. **Cost of Operation and Maintenance.** All costs, direct and indirect, inclusive of all expenditures attributable to administration, Cost of Replacement, treatment and collection of Sewage, necessary to insure adequate collection and treatment of Sewage on a continuing basis in conformance with the NPDES Permit, and other applicable local, state and federal regulations.
  9. **Cost of Replacement.** Expenditures and costs for obtaining and installing equipment, accessories or appurtenances which are necessary during the service life of the Public Sewer System to maintain the capacity and performance for which the Public Sewer System was designed and constructed.
  10. **Development System.** An extension of the Public Sewer System by a property owner or developer in accordance with Subsection 3.9.
  11. **Health Department.** Mid-Michigan District Health Department, or its successor agency.
  12. **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 Public Sewer System to cover the routine cost of inspecting and approving the physical connection of a Building Sewer and the Service Connection to the Public Sewer System, the issuance of a connection permit and related administrative expenses.
  13. **Inspector.** The persons responsible for inspecting connections of Building Sewers and Service Connections to the Public Sewer System as designated by the Village.
  14. **Meter.** An instrument for measuring the rate of flow and volume of Sewage discharged to the Public Sewer System or water supplied by the Public Water System or a private source of supply.
  15. **Person.** Any individual, firm, company, association, society, corporation or group, public or private.
  16. **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.
  17. **Private Sewage Disposal Facility.** Any Septic Tank, Subsurface Disposal System or other devices used in the disposal of Sewage and which are not part of the Public System

18. **Public Sewer System.** The Village's sanitary sewer collection, transmission and treatment system, including all publicly-owned gravity flow sewers, pressure sewers, force mains, lift stations, odor control facilities, Service Connections, the Sewage Treatment Facility and all appurtenances thereto, located in the Village limits or which transport Sewage from one portion of the Village to another portion of the Village.
19. **Public Water System or Water System.** All Village or other publicly-owned 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.
20. **Readiness to Serve Charge.** A periodic charge levied on a User 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 of the Public Sewer System and (b) the benefit to that User derived from the availability of the Public Sewer System and the peak usage that User may demand from the Public Sewer 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 Public Sewer System indebtedness.
21. **Service Connection.** The portion of the Public Sewer System which extends either to or onto the parcel of land adjacent to the path of the Public Sewer System, within a public easement, right of way or similar interest, and includes the tee/wye, valve, check valve, connector pipes, the Sewer Lead, the gravity system, the grinder pump system and appurtenances, but not including the Building Sewer.
22. **Service District.** The area of the Village served by the Public Sewer System.
23. **Sewage Disposal System Event.** An overflow or backup of the Public Sewer System as defined in Act 222.
24. **Sewage or Wastewater.** Any combination of the water-carried waste material from residences, business buildings, institutions and industrial establishments.
25. **Sewage Treatment Facility.** The physical plant and appurtenances owned by the Village and designated to receive and treat the raw, untreated Sewage of the properties located in the Village and served by the Public Sewer System.
26. **Sewer Lead.** That portion of the Service Connection which connects to the sewer main located in the public right-of-way and extends approximately therefrom to the property line, for connection to Building Sewer.
27. **Sewer Rates and Charges.** The Connection Fee, Inspection and Administration Fee, User Charge, Commodity Charge, Readiness to Serve Charge, User Surcharge, Miscellaneous User Fee, Wastewater Discharge Permit Fee, the penalty imposed pursuant to Section 3.4 and all applicable interest and penalties thereon.
28. **Structure in which Sanitary Sewage Originates.** A building in which toilet, kitchen, laundry, bathing, or other facilities which generate Sewage are used or are available for use for household, commercial, industrial, or other purposes.
29. **System.** The Public Sewer System.

30. **Village.** The Village of Lakeview, located in Montcalm County, Michigan, and/or its duly authorized agent or representative.
31. **User Charge.** A charge charged to Users of the Public Sewer System for use of the Public Sewer System and the Sewage Treatment Facility, and represents (a) that User's proportionate share of the cost of Cost of Operation and Maintenance of the System and the Sewage Treatment Facility; and (b) the benefit to that User derived from the availability and use of the System and the Sewage Treatment Facility. The User Charge may include a debt service component, as necessary, to pay all or a portion of the principal, interest and administrative cost of retiring Public Sewer System indebtedness. For Users connected to the Public Water System, the User Charge shall be the total of the Readiness to Serve Charge and the Commodity Charge. For Users not connected to the Public Water System and whose water is not metered by a water meter, the User Charge shall be based on Units.

### **Section 3: Use of Public Sewer System Required**

- 3.1. **Discharge of Sewage.** No Person shall discharge to any natural outlet within the Village any Sewage or other polluted waters except where suitable treatment has been provided in accordance with standards established by the MDEQ/EGLE, U.S. EPA and this Ordinance.
- 3.2. **Private Sewage Disposal Facility.** Except as provided in this Ordinance, no Person shall construct or maintain in the Village any Private Sewage Disposal Facility. Any Person owning property connected to the Public Sewer System shall provide for the proper abandonment or destruction of any existing Private Sewage Disposal Facility.
- 3.3. **Mandatory Connection to Public Sewer System.** All owners of Structures in which Sanitary Sewage Originates, now situated or hereafter constructed within the Village, are hereby required at their expense to install suitable plumbing fixtures and connect such facilities directly with an Available Public Sanitary Sewer System, in accordance with the provisions of this Ordinance. The Village shall require all such owners, pursuant to the authority conferred upon the Village by law or ordinance, to make such installations or connections which must have the approval (during and after construction) of the Inspector.
- 3.4. **Connection Deadline; Penalty.** As a matter of public health, safety and welfare, all connections to an Available Public Sewer System required hereunder shall be completed no later than ninety (90) days after the last to occur of the date of official notice by the Village to make said connections or the modification of a structure so as to become a Structure in which Sanitary Sewage Originates. Newly constructed structures required to connect shall be connected prior to occupancy thereof. Persons who fail to complete a required connection to the Public Sewer System within such ninety (90) day period shall, in addition to all other costs, fines and damages available in Subsection 3.5, be liable for a civil penalty equal in amount to the User Charges and Connection Fees applicable to

the number of Units assigned to the Premises, that would have accrued and been payable had the connection been made as required.

3.5. **Enforcement in the Event of a Failure to Connect.** In the event a required connection to the Public Sewer System is not made within the time provided by Subsection 3.4, 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 Public Sanitary Sewer System and shall advise the owner of the affected property of the requirement and enforcement provisions provided by Village ordinance and state law. In the event the required connection is not made within 90 days after the date of mailing or posting of the written notice, the Village may bring an action in any manner provided by law in a court of competent jurisdiction for a mandatory injunction or court order to compel the property owner to immediately connect the affected property to the Available Public Sanitary Sewer System.

3.6. **Voluntary Connection.**

- a. An owner of property located in the Village but not required to connect to the Available Public Sanitary Sewer System may voluntarily apply to have the property connected to the Public Sewer System at any time in compliance with the terms of this ordinance.
- b. A Pressure Sewer or Force Main does not constitute an Available Public Sanitary Sewer System. A Structure in which Sanitary Sewage Originates may only be connected to a Pressure Sewer or Force Main upon the prior consent of the Village. The consent of the Village shall be based on whether a Service Connection can be connected to the Pressure Sewer or Force Main without impairing the physical integrity or proper function of the Public Sewer System, the requirements set forth in Subsection 5.3 and such other factors as the Village, in its sole discretion, determines to be relevant and consistent with this Ordinance.

3.7. **Extensions of Public Sewer System to Service New Developments.**

- a. The owner of Premises located within the Village but not served by an Available Public Sanitary Sewer System may seek to extend the Public Sewer System and connect his/her Premises thereto, subject to the conditions for sewer extensions set forth in Subsection 3.8 and Subsection 3.9.
- b. The owner (or developer) of lands in the Village proposed for development (whether by site condominium, subdivision, land division or otherwise) for which land use approval is received after the effective date of this Ordinance, shall be required to extend the Public Sewer System and connect the Premises so developed to the Public Sewer System subject to the conditions for sewer extensions set forth in Subsection 3.8 and Subsection 3.9 if the distance measured in feet from the nearest edge of the proposed development to the nearest point of the Public Sewer System when divided by the number of Units proposed for the development equals two hundred feet or less.

This Subsection 3.7(b) shall not apply to a single-family residence outside of a development.

- c. The owner of a Premises located within the Village and served by an Available Public Sanitary Sewer System who legally divides the Premises shall be required to extend the Public Sewer System such that all resulting divisions of the parent parcel are served by an Available Public Sanitary Sewer System.

3.8. **Connection of Premises Located Outside the Village Limits.** Premises located outside the Village limits shall be permitted to connect to the Public Sewer System only upon the consent of the Village Council on terms deemed to be in the best interest of the Village in its sole discretion. The consent of the Village Council shall be granted or denied by the Village Council in the exercise of its discretion and shall be based upon the continued availability of capacity in the Public Sewer System for Premises located within the Village, associated tangible and/or intangible benefits (or detriments) to the Village and such other considerations deemed appropriate by the Village Council and consistent with this Ordinance and its purposes. To the extent an extension of the Public Sewer System is required, the conditions set forth in Subsection 3.9 shall apply. In its discretion, the Village Council may require the person requesting the connection of Premises located outside the Village limits to provide, at the sole expense of said person, an engineering report by a consulting engineer acceptable to the Village addressing the cost and feasibility of the proposed sewer service (and any sewer extension necessitated thereby) in the context of the foregoing considerations.

3.9. **Conditions for Extension of Public Sewer System by Property Owner.** If connection to the Public Sewer System is required by Subsection 3.7(b) of this Ordinance, but there is no Available Public Sanitary Sewer System adjacent to the Premises, or if a property owner elects to extend the Public Sewer System, such extension shall be in accordance with the following requirements, unless modified by the terms of a written agreement between the Village and the property owner pursuant to Subsection 3.10:

- a. The Development System to be extended by the property owner (or developer) shall be extended to the Premises in a public right of way or in a public easement or similar public interest satisfactory to the Village. If the Development System is to be extended for the purpose of serving a new development, including but not limited to a site condominium, subdivision, or division of land which involves the installation of a new public or private road, the Development System shall be extended throughout such new road so that the Development System abuts all units or lots within the development, within an easement dedicated to the public if not located in a public street right of way.
- b. If the Development System is extended to a Premises, the Development System shall be installed across the entire frontage of the Premises served, to the border of the adjacent Premises. For developments for which a new public or private road is constructed, the Development System shall be extended across the entire frontage of the development on the existing adjacent public or private road, in

addition to being extended within the new road to all on the existing adjacent public or private road, in addition to being extended within the new road to all lots or units within the development. All Development System extensions shall be located within an easement dedicated to the public, if not located in a public street right of way.

- c. The Development System shall be constructed in accordance with specifications approved by the Village.
- d. Upon completion of the Development System, verification by the Inspector that it has been properly constructed, and proof that all contractors have been paid for the cost thereof (including lien waivers), the Development System shall be dedicated to the Village, without cost to the Village. Upon acceptance of the dedication in the discretion of the Village, the Village shall thereafter be responsible for maintenance of the Development System and the Development System shall become part of the Public Sewer System. The Village shall be assigned, or be a third-party beneficiary of, all construction contracts and material and equipment warranties.
- e. The Person responsible for installing the Development System shall also reimburse the Village for the cost of acquisition of right-of-way, if necessary, including attorney fees, appraisal fees, cost of land title research and all other expenses of any condemnation proceedings. The Person responsible for installing the Development System shall pay an amount to the Village, in advance, at least equal to the estimated fees for such acquisition. Any excess not required to complete the improvements shall be refunded to the responsible party; any shortfall shall be paid before connection of any Premises is permitted.
- f. The entire cost of installation of the Development System, including but not limited to engineering, legal, financing, construction, permits and restoration shall be paid by the owner or owners of the Premises to whom sewer is being extended.
- g. In addition to the extension of a Development System as required, the owner of Premises to be connected to the Public Sewer System shall reimburse the Village for the cost of making improvements to downstream facilities which result from the Development System, its associated use or by a development which will be provided with service by the Public Sewer System, including but not limited to increasing the size of downstream sewer mains and related facilities to provide sufficient capacity, increase in the capacity of lift stations, and increase in treatment capacity of the Sewage Treatment Facility. In such a situation, the responsible party and the Village shall enter into an agreement whereby the responsible party pays to the Village, in advance, an amount equal to at least the estimated cost of making such improvements. Any excess not required to complete the improvements shall be refunded to the responsible party; any shortfall shall be paid before connection of any Premises is permitted.
- h. In its discretion, the Village Council may require the Person requesting the extension or required to construct an extension to provide at the sole expense of said Person an engineering report by a consulting engineer acceptable to the

Village addressing the cost and feasibility of the proposed extension in the context of the foregoing conditions.

- i. In its discretion, the Village Council may elect to extend Sewer Mains and finance the project by use of a special assessment district. The charge to be assessed to each property benefited and served shall be calculated based on a formula 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.

- 3.10. **Sewer Extension Agreements.** The Village shall have the authority to negotiate agreements for sewer extensions with landowners, developers, municipalities and other persons, which agreements shall be subject to the approval of the Village 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.

#### **Section 4: Private Sewage Disposal**

- 4.1. **Private Sewage Disposal Facility.** If a Public Sewer System is not available to a Premises located in the Village in accordance with the provisions of Subsection 3.2, the Building Sewer shall be connected to Private Sewage Disposal Facility constructed in compliance with requirements of the Health Department and MEDQ/EGLE.
- 4.2. **Operation and Maintenance.** The property owner shall be responsible to operate and maintain the Private Sewage Disposal Facility in an efficient and sanitary manner at all times, at no expense to the Village.
- 4.3 **Governmental Requirements.** No statement contained in this Section shall be construed to interfere with any additional requirements that may be imposed by the Village, the Health Department, the MDEQ/EGLE or any other governmental agency with jurisdiction over the Village.
- 4.4. **Connection to Public Sewer System; Abandonment.** At such time as the Public Sewer System becomes an Available Public Sanitary Sewer System capable of serving a Premises previously served by a Private Sewage Disposal Facility, as provided in accordance with Section 3, the Building Sewer shall be connected to the Public Sewer System in accordance with the requirements set forth in Section 3 and the Private Sewage Disposal Facility shall be abandoned for sanitary use in the manner required by the Health Department.
- 4.5. **Additional Requirements.** No statement contained in this Section shall be construed to interfere with any additional requirements that may be imposed by the Village or other authorities with respect to private sewage disposal.

#### **Section 5: Building Sewers and Connections**



- 5.1. **Permit Requirement.** No unauthorized Person shall uncover, make any connections with or opening into, use, alter, or disturb any portion of the Public Sewer System or existing connections thereto without first obtaining a written permit from the Village in accordance with Subsection 5.2.
- 5.2. **Permit Application.** A connection to the Public Sewer System shall be made only by an authorized contractor or plumber upon written authorization from and a connection permit issued by the Village. Prior to said connection, the property owner or his agent shall submit a permit application to the Village. This permit application shall be on a form furnished by the Village and shall be accompanied by payment of the applicable Connection Fee determined in accordance with Subsection 7.3, any civil penalty which has accrued pursuant to Subsection 3.4 above and the Inspection and Administration Fee, the plans and specifications of all plumbing construction within the Premises (when requested), and all other information required by the Village.
- 5.3. **Approval of Permit Application.** The approval of a connection permit application by the Village shall be subject to:
- a. Compliance with all terms of this Ordinance, including, without limitation, Subsection 5.2, above, the applicable plumbing code, and the rules and regulations of the Health Department and MDEQ/EGLE.
  - b. The availability of capacity in the Public Sewer System and the Sewage Treatment Facility for the use proposed by the permit application.
  - c. Compliance of the plans and specifications for connection with the following standards for construction:
    - i. The design, installation and connection of the Building Sewer and the Service Connection shall meet the specifications approved from time to time by the Village and on file for public inspection at the Village offices. The Sewer Lead shall not be less than six (6) inches in diameter and not less than 1 1/4 inches in diameter for a grinder pump system and a larger diameter may be required by the Village based upon the length of run or grade of the Sewer Lead. The Building Sewer shall be constructed of certified pipe as approved by the Village.
    - ii. The Building Sewer shall not be less than four (4) inches in diameter for a gravity flow sewer and not less than 1 1/4 inches in diameter for a Pressure Sewer, each of which discharge to the Service Connection, and is subject to inspection by the Inspector at the time of connection to the Service Connection. In the event such inspection reveals a deficiency or nonconformity in the Building Sewer, the connection of the Building Sewer to the Service Connection shall not be completed or approved until the owner has corrected the said deficiency or nonconformity to the satisfaction of the Inspector.
    - iii. Whenever possible the Building Sewer shall be brought to the building at an elevation below the basement floor. No Building Sewer shall be laid parallel to and within three (3) feet of any bearing wall, which might thereby be weakened. The depth shall be sufficient to afford protection from frost. Where this minimum

- depth cannot be obtained, the Building Sewer shall be laid at a minimum grade of one-quarter (1/4) inch per foot and insulated, sloping towards the Sewer Lead.
- iv. In all buildings in which any Building Drain is too low to permit gravity flow to the Service Connection, the Sewage carried by the Building Drain shall be lifted by means acceptable to the Village and discharged to the Service Connection. However, operation and maintenance of all associated lift pumps and injectors shall be the responsibility of the property owner.
  - v. Where the Public Sewer System is more than twelve (12) feet deep measured from established street grade, a riser may be constructed on the Service Connection using methods and materials approved by the Village.
  - vi. All joints and connections shall be made gas-tight and water-tight.
  - vii. A separate and independent Building Sewer shall be provided for every building. Where, however, one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear through an adjoining alley, court, yard, or driveway, the Building Sewer from the front building may be extended to the rear building and the whole considered as one Building Sewer upon application to and approval by the Village. Other exceptions may be allowed only by special permission granted by the Village Council acting as the Council of Appeals for this Ordinance.
  - viii. The connection of the Service Connection to the public sewer shall be made at the "Y" branch, if such branch is available at a suitable location.
  - ix. When connections are to be made with any sewer in any street the trench shall be backfilled with sand or gravel in layers not to exceed eight inches in thickness. Each layer shall be thoroughly and solidly tamped in place; the backfill shall be finished to the same grade as the original surface and shall be maintained in that condition for a period of one year from the date after which they were installed. Where the existing roadway is cindered or graveled, the final eight inches of the backfill shall be made with gravel. In case of failure to maintain trenches and backfill in such condition, the Village may make the necessary repairs and charge the total cost against the Person responsible for the same as a Miscellaneous User Fee. No backfill shall be placed until the connection of the Building Sewer to the Service Connection has been inspected and approved by the Inspector.
  - x. The Person or owner causing any excavation or trench to be made in any public street or thoroughfare in the Village shall be required to backfill and replace the trench as herein provided within a period of three days after work of excavating has been started unless permission is granted by the Village to allow the trench to be open for a longer period of time. In case of the failure to promptly refill any trenches within a period of three (3) days, the Village shall have the right to cause the same to be refilled and the expense shall be charged against the Person, or owner responsible therefore, as a Miscellaneous User Fee.
  - xi. The connection of the Sewer Lead to the System shall be made at locations in the public sewers where branches or wyes were placed for that purpose, if any. Where there are no wyes, the sewer may, for the purpose of making connections, be

tapped under the direction and supervision of the Inspector and the connection shall be made by saddle device approved by the Village. All work for the purpose of making sewer connections shall be done in compliance with the rules, regulations, and codes governing plumbing in the Village.

- xii. Connection of the Building Sewer to the Service Connection shall conform to requirements of the building and plumbing code or other applicable rules and regulations of the Village. Any deviation from the prescribed procedures and materials must be approved by the Inspector.

- 5.4. **Connection of Certain Drains is Prohibited.** No Person shall make connection of roof downspouts, exterior footing or foundation drains, areaway drains, storm drains, sump pumps, or other points of entry of surface runoff or groundwater to a Building Sewer or Building Drain which in turn is connected to the Public Sewer System.
- 5.5. **Cost of Installation of Building Sewer and Connection to Public Sewer; Authorized Persons; Indemnification.** All costs and expenses incidental to the installation of the Building Sewer, the connection of the Building Sewer to the Service Connection and the connection of the Service Connection to the Public Sewer System shall be borne by the owner of the property being connected. Only an authorized contractor or plumber licensed by the Village in accordance with Subsection 5.12 may connect the Building Sewer to the Service Connection or connect the Service Connection to the Public Sewer System sewer main, subject to the requirements of this Ordinance, including inspection in accordance with Subsection 5.9. No such work shall be commenced before such owner obtains any necessary permission to work in the public right of way from the Village Department of Public Works, County Road Commission, or MDOT, as the case may be. Said owner shall indemnify the Village from all loss or damage that may directly or indirectly be caused by the installation and connection of the Building Sewer to the Service Connection and the installation and connection of the Service Connection to the Public Sewer System.
- 5.6. **Inspection.** A connection permittee shall notify the Inspector when the Building Sewer and Service Connection are ready for inspection. The excavation shall be left open until inspection is complete. If the Inspector determines that the Building Sewer and Service Connection have been constructed and installed in accordance with the requirements of the permit and this Ordinance, a sewer connection approval shall be issued, and the Building Sewer shall then be connected with the Service Connection under the observation of the Inspector. The inspection shall include the installation of all required components of the Service Connection, including without limitation, sealants, riser, discharge lines and related necessary appurtenances. The inspection required by this Section shall include the abandonment of the Private Sewage Disposal Facility in the manner required by the Health Department.
- 5.7. **Village's Responsibility for Repairs, Operation and Maintenance.** The cost of all repairs, operation, maintenance and replacement of the Public Sewer System, as well as each Service Connection shall be borne by the Village as part of the Village's budgeted

annual expenses of the System, subject to the right of the Village to impose fees and charges as set forth in this Ordinance.

- 5.8. **Property Owner's Responsibility for Repairs, Operation and Maintenance.** The cost of all repairs, operation, maintenance and replacements of Building Drains, Building Sewers and the connection of the Building Sewer to the Service Connection shall be borne by the property owner.
- 5.9. **Contractor Requirements.** Any Person desiring to construct a Service Connection or connect a Building Sewer to a Service Connection or uncover, make any connection with or opening into, use, alter or disturb any public sewer or appurtenances thereof, must secure an annual license from the Village. The license shall be issued on the basis of the Village's fiscal year and upon payment of such costs and the posting of such types of security as are established by the Village from time to time.

## **Section 6: Sewer Rates and Charges**

- 6.1. **Public Utility Basis; Fiscal Year.** The System shall be operated and maintained by the Village on a public utility basis pursuant to state law under the supervision and control of the Village Council. The Village may employ such Person or Persons in such capacity or capacities as it deems advisable to carry on the efficient management and operation of the System and may make such rules, orders and regulations as it deems advisable and necessary to assure the efficient management and operations of the Public Sewer System. The Public Sewer System shall be operated on the basis of the Village's fiscal year, beginning March 1<sup>st</sup> and ending the last day of February annually. Sewer Rates and Charges for connection to and use of the Public Sewer System, including discharge and treatment of Sewage to and at the Sewage Treatment Facility, shall be charged to each User in accordance with this Ordinance and any rate resolution adopted by the Village Council from time to time in the amounts set forth in such rate resolutions.
- 6.2. **User Charge and Debt Service Charge.** The User Charge shall be as follows:
  - a. Users connected to the Public Sewer System shall pay a monthly Readiness to Serve Charge, billed in arrears, based on the size of the public water meter which serves the premises, as established by resolution of the Village Council from time to time.
  - b. Users connected to the Public Water System shall pay a monthly Commodity Charge, to be billed in arrears, based on metered water usage during the immediately preceding month, in an amount established by resolution of the Village Council from time to time. In setting the Commodity Charge for such Users, the following shall be taken in account:
    - i. The Commodity Charge for Users shall take into account metered water that does not enter the Public Sewer System (e.g. lawn and garden irrigation water, cooling water, unpolluted air-conditioning water or unpolluted industrial process water) if such metered water is separately metered by a deduct or irrigation meter in a manner acceptable to the Village. Accordingly, the Commodity Charge for such a User shall be based upon the "net" metered

water usage determined by subtracting the volume of water metered by the deduct or irrigation meter from the volume of water metered by the public water meter.

- ii. The Commodity Charge shall be based upon the water used by the User during the preceding month (or between the last two meter readings if the meter was not read on the first and last day of the month). If a meter fails to register properly, the consumption for the billing period will be estimated from the consumption of a preceding period when water was measured. If a meter reader is unable to gain access to a meter for reading after two calls, the Village may estimate the bill and make appropriate adjustments on the bill for the succeeding billing period. In general, the Village reserves the right to base the Commodity Fee on estimated water usage due to the inability to read a water meter as a result of inclement weather, acts of God, a broken water meter, blocked access to the water meter readout, an unauthorized water meter bypass, a program malfunction and similar events beyond the control of the Village.
- c. For Users not connected to the Public Water System and whose water is not metered by a water meter, the Village may establish by resolution from time to time a User Charge, billed in arrears, as a flat rate per Unit.
- d. In lieu of, or partially in lieu of, including a debt service component as part of the User Charge, including the Readiness to Serve Charge and/or the Commodity Charge, a Debt Service Charge based on the size of the public water meter which serves a User connected to the Public Water System or based on Units for a User which is not connected to the Public Water System may be established by resolution of the Village Council from time to time. The debt service component, if any, of the User Charge, including the Readiness to Serve Charge and/or the Commodity Charge, may, in the discretion of the Village, be set in different amounts for Users located in different areas and served by different portions of the Public Sewer System based upon the differences in cost attributable to each portion of the Public Sewer System.
- e. The User Charges imposed pursuant to this Section are applicable only to Users who discharge Normal Strength Domestic Sewage. A User who discharges toxic pollutants or Sewage into the Public Sewer System that does not qualify as Normal Strength Domestic Sewage shall also pay a User Surcharge determined pursuant to an engineered review of damage and actual cost, at the sole expense of said owner of the Premises. This engineering report by a consulting engineer will be acceptable to the Village addressing the cost and costs to repair damage if any to the Village's Sewer Disposal System and Sewage Treatment Facility.
- f. User Charges and Debt Service Charges shall begin to accrue as of the day of the connection of the Building Sewer to the Public Sewer System in accordance with Section V, above. If appropriate, the billing of said charges for the initial billing period shall be prorated in arrears.
- g. A User Charge and Debt Service Charge shall be charged to each Premises connected to the Public Sewer System, regardless of occupancy.

- 6.3. **Connection Fee and Service Connection.** The owner of each Premises required by Section 3 to connect to the Public Sewer System shall pay a Connection Fee.
- a. **Connection Fee.** The Connection Fee shall be computed in the following manner.
  - b. **Cost and Expense of Service Connection.** In addition to the Connection Fee as computed in (a) above, the owner of the Premises shall be liable for the costs and expenses of acquiring from the Village and installing the Service Connection pursuant to Village specifications on file at the Village. The Village shall determine the type of Service Connection for each User on the basis of conformity to prior installations and the integrity of the Public Sewer System.

**Section 7: Revenues; Estimated Rates; Sufficiency.**

- 7.1. The User Charges are to be sufficient to provide for the cost of Operation and Maintenance of the Public Sewer System and the Sewage Treatment Facility as necessary to preserve the same in good repair and working order. Such rates shall be fixed and revised by resolution of the Village Council from time to time as may be necessary to produce these amounts and to comply with the Village's obligations to pay outstanding debt. An annual audit shall be prepared by the Village. Based on this audit and the annual budget prepared by the Village for the Public Sewer System, Sewer Rates and Charges shall be reviewed annually by the Village and revised by the Village as necessary to meet system expenses and to ensure that all Users pay their proportionate share of the Cost of Operation and Maintenance.

**Section 8: Notice and Claim Procedures for Sewer Overflow or Backup**

- 8.1. This Section 8 has been adopted in accordance with Act 222 to set forth the notice and claim procedures applicable to a Sewage Disposal System Event. To afford property owners, individuals and the Village greater efficiency, certainty and consistency in the provision of relief for damages or physical injuries caused by a Sewage Disposal System Event, the Village and any Claimant making a claim for economic damages shall follow the following procedures:
- a. A Claimant is not entitled to compensation unless the Claimant notifies the Village of a claim of damage or physical injury, in writing, within 45 days after the date the damage or physical injury was discovered by the Claimant, or in the exercise of reasonable diligence should have been discovered by the Claimant.
  - b. The written notice under subsection (a) shall contain the Claimant's name, address, and telephone number, the address of the affected property, the date of discovery of any property damages or physical injuries, and a brief description of the claim. As part of the description of the claim, the Claimant shall submit an explanation of the Sewage Disposal System Event and reasonable proof of ownership and the value of any damaged personal property. Reasonable proof of ownership and the purchase price or value of the property may be included as testimony or records. Reasonable proof of the value of the property may also include photographic or similar evidence.

- c. The written notice under subsection (a) shall be sent to the Village Manager, who is hereby designated as the individual at the Village to receive such notices pursuant to Section 19 of Act 222.
- d. If a Claimant who owns or occupies affected property notifies the Village, orally or in writing, of a Sewage Disposal System Event before providing a notice of a claim that complies with subsections (a), (b) and (c), the Village shall provide the Claimant with a written explanation of the notice requirements of subsections (a), (b) and (c) sufficiently detailed to allow the Claimant to comply with said requirements.
- e. If the Village is notified of a claim under subsection (a) and the Village believes that a different or additional governmental agency may be responsible for the claimed property damages or physical injuries, the Village shall notify the contacting agency of each additional or different governmental agency of that fact, in writing, within 15 business days after the date the Village receives the Claimant's notice under subsection (a).
- f. If the Village receives a notice from a Claimant or a different or additional governmental agency that complies with this Section 8, the Village may inspect the damaged property or investigate the physical injury. A Claimant or the owner or occupant of affected property shall not unreasonably refuse to allow the Village or its duly authorized representatives to inspect damaged property or investigate a physical injury.
- g. Prior to a determination of payment of compensation by the Village, the Claimant shall provide to the Village additional documentation and proof that:
  - (1) At the time of the Sewage Disposal System Event, the Village owned or operated, or directly or indirectly discharged into, that portion of the Public Sewer System that allegedly caused damage or physical injury;
  - (2) The Public Sewer System had a defect;
  - (3) The Village knew, or in the exercise of reasonable diligence, should have known, about the defect in the Public Sewer System;
  - (4) The Village, having the legal authority to do so, failed to take reasonable steps in a reasonable amount of time to repair, correct or remedy the defect in the Public Sewer System; and
  - (5) The defect in the Public Sewer System was a proximate cause that was 50% or more of the cause of the Sewage Disposal System Event and the property damage or physical injury.
- h. Prior to a determination of payment of compensation by the Village, the Claimant shall also provide to the Village additional documentation and proof that neither of the following were a proximate cause that was 50% or more of the cause of the Sewage Disposal System Event:
  - (1) An obstruction in a Service Connection or a Building Sewer that was not caused by the Village; or,
  - (2) A connection on the affected Premises, including, but not limited to, a footing drain, sump system, surface drain, gutter, down spout or connection of any other sort that discharged any storm water, surface water, ground water, roof runoff, sub surface drainage, cooling water, unpolluted air conditioning water or unpolluted industrial process waters to the Public Sewer System.

- i. If the Village and a Claimant do not reach an agreement on the amount of compensation for the property damages or physical injury within 45 days after the receipt of notice under subsection (a), the Claimant may institute a civil action in accordance with Act 222.
- j. To facilitate compliance with this Section 8.1, the Village shall make available to the public information about the notice and claim procedures under this Section 8.1.
- k. The notice and claim procedures set forth in this Section 8.1 shall be applicable to a Sewage Disposal System Event involving the Public Sewer System.
- l. The Village does not own or operate any Storm Sewer, Storm Drain or combined sewer and, accordingly, the notice and claim procedures set forth in this Section do not apply to a Sewage Disposal System Event involving a Storm Sewer, Storm Drain or a combined sewer.
- m. In the event of a conflict between the notice and claim procedures set forth in this Section 8.1 and the specific requirements of Act 222, the specific requirements of Act 222 shall control.
- n. As provided in Section 19(7) of Act 222, the notice and claim procedures of this Section 8.1 do not apply to claims for non-economic damages (as defined in Act 222) arising out of a Sewage Disposal System Event.

Any word, term or phrase used in this Section 8, if defined in Act 222, shall have the same meaning provided under Act 222.

### **Section 9: Inspection by Village**

- 9.1. **Inspection by Village.** The duly authorized representatives, employees or agents of the Village, including, but not limited to, the Inspector, the Village Manager, the Village's engineer, the Health Department and representatives of MDEQ/EGLE bearing proper credentials and identification shall be permitted to enter at any time, following reasonable prior notice, during reasonable or usual business hours in and upon all properties in the Village for the purposes of inspection, observation, measurement, sampling, testing and emergency repairs in accordance with the provisions of the Ordinance. Any Person who applies for and receives sewer services from the Village or owns real property in the Village shall be deemed to have given consent for all such activities including entrance upon that Person's property.
- 9.2. **Compliance with Safety Rules.** While performing the duties in Section 9.1 above, the duly authorized employees or representatives of the Village shall observe all reasonable safety rules applicable to the Premises established by the property owner or User.

### **Section 10: Enforcement**

- 10.1. **Damage to System.** No unauthorized Person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with, climb upon, or enter into any structure, appurtenance, or equipment of the Public Sewer System.



- 10.2. **Notice to Cease and Desist.** Except for violations of Section 8.1 hereof, any Person found to be violating any provision of this Ordinance shall be served by the Village with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
- 10.3. **Misdemeanor.** Whoever violates or fails to comply with any provision of this Ordinance shall be guilty of a misdemeanor and subject to a fine of up to Five Hundred Dollars \$500, imprisonment for 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. The Village Manager or any Village Police Officer may issue appearance citations or take other action authorized by law for violations of this Ordinance.
- 10.4. **Civil Action.** 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.
- 10.5. **Lien.** All rates, fees and charges billed or due here-under including those due pursuant to section 10.4 hereof 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 11: Miscellaneous**

- 11.1. **Ordinances Repealed.** 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 7, 29, and 99-3.
- 11.2. **Severability.** If any section, clause, or provision of this Ordinance is determined to be invalid, said invalidity of any part of this Ordinance which can be given effect without such invalid part or parts.
- 11.3. **State and Federal Law Requirements.** If any provision of applicable state or federal law imposes greater restrictions than are set forth in this Ordinance, then the provisions of such state or federal law shall control.
- 11.4. **Section Headings.** The Section headings used in this Ordinance are for convenience of reference only and shall not be taken into account in construing the meaning of any portion of this Ordinance.
- 11.5. **Reservation of Right to Amend.** The Village specifically reserves the right to amend this Ordinance in whole or in part, at one or more times hereafter, or to repeal the same, and by such amendment to repeal, abandon, increase, decrease, or otherwise modify any of the Sewer Rates and Charges herein provided.

## **Section 12: Publication and Effective Date**

- 12.1. **Publication.** A true copy or a summary 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.
- 12.2. **Effective Date.** This Ordinance shall be in full force and effect thirty (30) days after its publication as provided by law.

**CERTIFICATION**

YEAS: Sund, Case, Saxton, Griffith, Behrenwald, Fryover

NAYS: None

ABSENT: Iruino

ORDINANCE NO. 2020-01 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 July 13, 2020, and noticed in accordance with all legal requirements.

  
Melissa A. King, Village Clerk

Introduced: 3-9-20

Adopted: 7-13-20

Published: 7-16-20