

Ordinance No. 2019-07

AN ORDINANCE TO PROVIDE FOR THE CONNECTION NOW OR HEREAFTER OF PREMISES TO THE VILLAGE OF MESICK WATER SUPPLY SYSTEM IN THE VILLAGE OF MESICK, WEXFORD COUNTY, MICHIGAN; TO PROVIDE FOR THE IMPOSITION, COLLECTION AND ENFORCEMENT OF FEES AND CHARGES FOR CONNECTION THERETO AND FOR CHARGES FOR WATER SUPPLY SERVICES THEREFROM; AND TO PROVIDE FOR OTHER MATTERS RELATIVE TO SAID SYSTEM AND TO AMEND AND REPLACE ORDINANCE 2015-09.

THE VILLAGE OF MESICK (WEXFORD COUNTY) ORDAINS:

ARTICLE I
Definitions

As used in this Ordinance, the following terms shall have the meanings indicated:

BUILDING PIPE — That part of the owner's plumbing system which receives water from the service pipe, beginning at the owner's property line.

METER or WATER METER — An instrument that automatically measures and registers the quantity of water consumed on a parcel of land served by the water supply system.

OWNER — The person holding the legal or equitable title to real property or a lesser estate therein, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, lessee or any other person, firm or corporation directly or indirectly in control of a building, structure or real property or his duly authorized agent.

PERSON — Any individual, firm, trust, partnership, company, association, society, corporation, limited liability company, or other legal entity.

SANITARY SEWER SYSTEM — All facilities owned by or under the jurisdiction of the Village for collecting, pumping, treating and disposing of sewage.

SERVICE AREA — Any land in and around the Village which is serviced by the water supply system.

SERVICE PIPE — The pipe delivering water from the water main to the building pipe.

TENANT — A person who leases property from an owner.

VILLAGE — The Village of Mesick, Michigan.

WATER AND SEWER CLERK — The Village employee designated by the Village Council to administer this Ordinance.

WATER MAIN — A pipe owned or controlled by the Village located within a street right-of-way or other easement used to carry water within the water supply system to the service pipe for delivery to the water customer.

WATER USE CHARGE — The fees billed to all customers attached to the water supply system for support of the costs of the water supply system. The water use charges supply funds to cover the costs of operation and maintenance, debt service, replacement and administrative services.

WATER SUPPLY SYSTEM — All wells, pumps, facilities, water mains, service pipes, and other equipment owned by or under the jurisdiction of the Village for the collection, storage, purification, and distribution of water.

ARTICLE II
Use of Water Supply Required

§ 2.1 Private water wells prohibited.

Except as otherwise provided herein, it shall be unlawful for an owner, occupant, or tenant of property to drill or maintain a private water well within the Village.

§ 2.2. Mandatory connection.

The owner of any house, building, or property used for human occupancy, employment, recreation, or other purposes, situated within the Village and located within 100 feet of or abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a water main is hereby required at his or her expense to install suitable plumbing facilities therein, in accordance with the plumbing code then in effect and enforced within the Village and to connect such facilities directly with the water supply system in accordance with the provisions of this Ordinance within 180 days after official notice to do so or the owner is required by the Public Health Department to replace the water well servicing his or her property.

§ 2.3 Private water wells permitted.

Except in the case of specific local, state or federal restriction, the owner, occupant, or tenant of property may drill, operate, maintain, and repair a private water well within the Village for nonpotable purposes.

ARTICLE III
Connection to Water Supply System

§ 3.1 Unlawful acts.

It shall be unlawful for any unauthorized person or owner to uncover, excavate, tap into, make connections with or openings into, use, alter, or disturb any water main or service pipe or appurtenance thereof in any street, lane, or alley within the service area without first obtaining a written permit from the Village as herein provided.

§ 3.2 Permit required.

All connections with any water main or service pipe in the service area shall be made only pursuant to written permits issued by the Village. The owner or his agent shall make application on a special form furnished by the Water and Sewer Clerk. The Village Council may, by separate resolution provide for permit and inspection fees which shall be paid to the Water and Sewer Clerk at the time the application is

filed.

§ 3.3 Connection costs; indemnification of village.

All costs and expenses incurred as the result of the connection to the service pipe shall be borne by the owner of the property. The owner shall indemnify the Village from all loss or damage that may be caused by connection to the service pipe.

§ 3.4 Plans and specifications; issuance of permit; final approval.

- A. All applicants for permits to connect to the water supply system shall, when required, submit plans indicating where the building pipe will extend from the building receiving water service to where it will connect to the service pipe. The approval of a connection permit shall be contingent upon the availability of capacity in both the water supply system and the downstream sanitary sewer system. When such plans have been approved by the Department of Public Works, the Water and Sewer Clerk shall issue a water supply connection permit, subject to final inspection and approval when construction is completed.
- B. Before the issuance of a water supply connection permit, the Village may require the applicant to submit a schedule for the construction of the water supply connection outlining when various components of the project will be completed.
- C. Final approval shall be subject to compliance with the local and state plumbing codes and all orders, rules and regulations of the Wexford County and Michigan Departments of Public Health.

§ 3.5. Connection requirements.

- A. All connections to a water main shall be made with service pipes either installed by employees of the Department of Public Works or by a contractor hired by the owner with the written consent of the Department of Public Works. Any service pipe installed by a contractor authorized under this section shall be laid under the direction and supervision of the Department of Public Works. All work for the purpose of making connections to a water main shall be done in compliance with the rules, regulations and codes governing plumbing in the Village and in accordance with the laws of Michigan relative thereto.
- B. A separate and independent service pipe shall be provided for every building receiving water service; provided, however, where water service is intended to supply more than one building under the same ownership and on the same lot, the service pipe to one building may, upon written consent of the Village, be used to provide water service to the other building(s) and the whole considered as one connection.
- C. The size, slope, alignment, and materials of construction for a service pipe, and the methods to be used in excavating the trench, placing, jointing, and testing the pipe, and backfilling the trench shall all conform to the

requirements of this Ordinance and the local and state plumbing codes.

§ 3.6 Cross-connections prohibited; rules adopted by reference.

The Water Supply Cross-Connection Rules of the Michigan Department of Public Health, in effect at the time this Ordinance is enacted as amended, are hereby adopted by reference.

§ 3.7 Installation of outside meters required.

All new buildings connected to the water supply system shall be equipped with meters capable of being read by employees of the Department of Public Works from outside the building. Existing buildings with meters not capable of being read from outside the building may continue in use, provided the owner provides the employees of the Department of Public Works access to the meter. However, where employees of the Department of Public Works have been unable to make a meter reading for two consecutive billing periods, the Village shall have the right to install a meter capable of being read by employees of the Department of Public Works from outside the building and to charge the owner of the property the actual cost incurred in installing the meter. All meters installed shall be purchased from the Village at a cost to be established by resolution of the Village Council.

§ 3.8. Connections for purpose of fire prevention.

The owner or occupant of any manufacturing establishment, lumberyard, warehouse, elevator, store, hotel, restaurant, school, or any building open to the general public who desires to install large pipes with hydrant and hose couplings to be used only in case of fire may connect to a water main or who desires to install a sprinkler system within that building for fire suppression purposes may connect to a service pipe. Any such connections, however, shall comply with the terms and conditions of this Article and shall be done only after obtaining a permit from the Water and Sewer Clerk.

§ 3.9. Inspection and backfilling.

When an authorized contractor installs the service pipe, the person to whom a water supply connection permit was issued shall notify the Water and Sewer Clerk when the service pipe is ready for inspection. In addition, the person to whom a water supply connection permit was issued shall notify the Water and Sewer Clerk when the installed water meter is ready for inspection. The Department of Public Works shall then inspect the service pipe and/or water meter and, if such installations meet the requirements of this Ordinance, the excavation may be backfilled.

§ 3.10 New use of existing service pipes.

Existing service pipes may be used in connection with new buildings only when they are found by the Village to meet all requirements of this Ordinance.

§ 3.11 Maintenance of building pipes.

The owner of property connected to the water supply system is responsible for the maintenance of the building pipe. The cost of all repairs, maintenance and replacements of existing building pipes and their connection to the service pipes shall be borne by the property owner. Before making any repairs or replacements or conducting any maintenance on the building pipe, the owner shall contact the Village. All work performed, including the qualifications of the person performing the work, shall fully comply with the requirements of this Ordinance.

§ 3.12 Excavation in public streets and alleys.

- A. Whenever a person desires to do any excavating in any of the streets, lanes or alleys of the service area for the purpose of connecting to the water supply system, a permit for such excavation shall be obtained from the Water and Sewer Clerk. The Village Council may from time to time by separate resolution establish a nonrefundable administrative fee for processing the excavation permit. The permit shall be nontransferable. The person employed to make the connection to the water supply system shall hold a plumbing license in accordance with state and local codes. The qualifications of the persons employed to do work shall be verified at the time of application. A person who is authorized to excavate pursuant to the permit shall furnish a bond to the Village in an amount acceptable to the Village Council taking into account the nature and extent of the excavation and in a form acceptable to the Village Attorney, conditioned on the faithful performance of the requirements of all the Village ordinances relative thereto.
- B. All expenses for work done by the employees of the Village shall be borne by the person to whom the excavation permit is issued. Applications for excavations in paved streets shall state the maximum size of the opening to be made in the pavement and the length of time desired to do such work.

§ 3.13 Time limit on open trench.

The person or owner causing any excavation or trench to be made in any public street or alley in the service area shall be required to backfill and replace the trench as herein provided within a period of three days, after the work of excavating has been started, unless written permission is granted by the Department of Public Works 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 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 for backfilling.

§ 3.14 Barricade requirements.

Every person digging or causing to be dug any trench in any public street or alley for the purpose of connecting to the water supply system shall place or cause to be placed and maintained at and along such trench proper signals, colored lights and

barricades to give warning and prevent accidents, but in no case shall a trench be dug so as to entirely block any street for travel, without the consent of the Village.

§ 3.15 Work on private property.

Excavation and backfill for service pipes on private property may be made by the owner. Connections to and installation of service pipes on private property may be made by the owner; however, no backfill shall be placed until the service pipe has been inspected and approved by the Village. All excavation, backfilling, connections and installations shall be made in accordance with the requirements of this article.

§ 3.16 Permit information.

The Water and Sewer Clerk and the Department of Public Works shall keep records of all permits granted under authority of this Ordinance which shall include the names of the applicant and contractor, the location of the work, the place in the street where the excavation is to be made, and the purpose for which the permit is issued.

**ARTICLE IV
Water Use Regulations**

§ 4.1 Use restrictions.

The owner, occupant, or tenant of any building or premises entitled to the use of water from the water supply system shall not supply water to any other person, nor shall he or she permit unnecessary waste of water.

§ 4.2 Conservation during emergency or drought.

Whenever in the discretion of the Village an emergency or drought condition exists such that the public health, safety and general welfare of the people is endangered, the Department of Public Works shall prescribe rules and regulations to conserve the water supply during such emergency or drought condition.

**ARTICLE V
Extension of Water Mains**

§ 5.1 Application.

The owner of any property in the Village may connect to the water supply system pursuant to the provisions of this article contingent upon the availability of capacity in the water supply system and, if the property is connected to the sanitary sewer system, the capacity of the downstream sanitary sewer system. An owner who desires to connect to the water supply system shall file an application for water service extension with the Water and Sewer Clerk and pay a nonrefundable fee to be established by resolution of the Village Council. This 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.

§ 5.2 Water service extension.

When extending water service to an individual property owner or group of property owners, the Department of Public Works in its discretion, may extend such water service through use of a service pipe connection to an existing water main or through an extension of a water main.

§ 5.3 Route of water service extensions.

The route of any water service extension shall be within the rights-of-way of public streets and alleys or within public utility easements granted to and approved by the Village across private property. All excavation and other work performed within the rights-of-way of these public streets and alleys shall comply with the requirements of this Ordinance.

§ 5.4 Cost of water service extensions.

As soon as possible after receiving the water service extension application fee required above, the Department of Public Works 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 90 days to inform the Department of Public Works whether he or she desires to proceed with the water service extension and to pay the costs of the water service extension required. If the property owner fails to inform the Department of Public Works regarding his or her intent within this ninety-day period, this inaction shall be deemed a decision to abandon the plans for a water service extension.

§ 5.5 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.

**ARTICLE VI
Charges for Water Service**

§ 6.1 Purposes, basis and rates of user charges.

- A. The owners, occupants, or tenants of all property connected to the water supply system, either directly or indirectly, shall pay user charges beginning on the date of the connection.
- B. User charges will be established by resolution of the Village Council for the purpose of:
 - (1) Recovering the costs of operation, maintenance and replacement of the water supply system.
 - (2) Partial debt repayment (debt service).

§ 6.2 Tap-in fees and charges.

In addition to user charges, the Village Council shall by separate resolution establish charges for the privilege of connecting to the water supply system. Such fees shall include the costs of all water meters and the costs of tapping the water main, installing the corporation stopcock, furnishing and laying the service pipe, and installing corporation stopcock and shutoff boxes. The charges, however, shall exclude the costs of road cuts, sidewalks, and repaving. The water meters and all such materials shall be and remain the property of the Village. Any services or connections performed between November 1 and May 1 each year shall be subject to additional costs as may be determined by resolution of the Village Council.

§ 6.3 Other fees and charges.

The Village Council shall by separate resolution establish the fees to be charged for water meters and other services performed under this Ordinance.

§ 6.4 Review of rates.

The adequacy of the user charges shall be reviewed periodically by the Village. The user charges shall be revised periodically to reflect a change in debt service or a change in operation, maintenance and replacement costs in accordance with applicable law.

§ 6.5 Bills.

Bills for user charges shall be rendered monthly and shall be payable without penalty by the last day of the next month. Payments received 30 days after such period shall bear a late fee as established by resolution of the Village Council.

**ARTICLE VII
Protection from Damages**

§ 7.1 Prohibited acts; penalties.

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the water supply system. Any person violating this provision shall be guilty of a misdemeanor punishable by 90 days in the county jail and/or a fine of \$500.

§ 7.2 Damage to water meter; liability.

Any damage to a water meter or with any structure, appurtenance, or equipment which is a part of the water supply system resulting from the act of the owner, occupant, or tenant shall be assessed against such owner, occupant, or tenant. In addition, any person violating any of the provisions of this Ordinance shall be liable to the Village for any expense, loss, or damage incurred by the Village by reason of such violation. Any person maliciously or willfully committing such an act may also be charged with a crime under the Michigan Criminal Code.

ARTICLE VIII
Enforcement

§ 8.1 Delinquent charges to constitute lien; termination of service.

- A. The charges and rates for water services authorized under the provisions of MCL § 141.121, as amended, shall constitute a lien on all premises served thereby whenever any such charges or rates shall be delinquent for six months or more, unless notice is given that a tenant is responsible for the payment of all such charges and rates. On April 1 of each year, the Village shall certify to the tax assessing officers for the Village the fact of such delinquency, whereupon such delinquent charges and rates shall be entered upon the next tax roll as charges against such premises and shall be collected and the lien thereof enforced in the same manner as general taxes against such premises.
- B. In addition, the Village shall have the right to shut off water service to any user for whom charges for water service are one month delinquent or when any connection is found to be in violation of any provision of this Ordinance. Before shutting off water service, the Water and Sewer Clerk shall send written notice by first class mail of the Village's intent to terminate water service to the owner of the premises served or to the tenant in possession where a notice is given that the tenant is responsible for such charges and service. If water service is shut off pursuant to this section, such service shall not be reestablished until all delinquent charges and penalties and a turn-on charge, to be specified by resolution of the Village Council, have been paid or the unlawful connection is eliminated. Further, the Village may recover such charges and penalties by court action.

§ 8.2 Disruption of water service; Village not liable.

The Village shall not be liable for any failure or deficiency in the water supply to consumers whether occasioned by shutting off the water to make necessary repairs or connections or for any other cause.

§ 8.3 Access to property.

Authorized employees of the Village shall have the right to enter at all reasonable hours upon any property connected to the water supply system for the purpose of reading water meters and inspecting the piping and fixtures connected with the water supply system. If defective pipes or fixtures are noted or illegal cross-connections observed, the owner or occupant of the property shall repair, remove or replace the defective pipes or fixtures or disconnect the illegal cross-connection. Any person refusing or neglecting to take such action shall be deemed in violation of this Ordinance.

§ 8.4 Penalties.

Any person who violates any provision of this Ordinance shall be responsible for a municipal civil infraction as defined in Sections 600.101 to 600.9939 of Michigan

Compiled Laws, and shall be subject to a fine of not more than \$500. Each day in which any such violation shall continue shall be deemed a separate offense. Any officer of the Village is hereby designated as an authorized Village official to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court. In addition, the Village shall have the right to bring a civil lawsuit to enforce the provisions of this Ordinance, including an action for injunctive relief to enjoin continued violations of the Ordinance.

ARTICLE IX **Validity and Effective Date**

§ 9.1 Severability.

If any provision, paragraph, work, section, subsection or article of this Ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, works, sections, subsections, or article shall not be affected and shall continue in full force and effect.

§ 9.2 Conflict.

In the event of a conflict between this Ordinance and any other Ordinance, this Ordinance shall control.

§ 9.3 Effective Date.

This Ordinance shall take effect twenty (20) days after its adoption.

PASSED: NOVEMBER 18, 2019