

1st reading 1-9-19
2nd reading 2-6-19
3rd reading 2-13-19
Voted On 1
Ayes: 5 Nays: 0
PASSED DEFEATED

ORDINANCE NO. 2019-2

**AN ORDINANCE
PROVIDING A FEE FOR CONNECTING DIRECTLY OR INDIRECTLY
WITH A WATER MAIN LOCATED IN THE HIDDEN VALLEY DRIVE
RIGHT-OF-WAY, PROVIDING A PENALTY FOR VIOLATING THIS
ORDINANCE, AND DECLARING AN EMERGENCY.**

WHEREAS, on August 18, 2014, the Orange Village Council authorized the installation and construction of a water main on or along Hidden Valley Drive (hereinafter, the "Project"); and

WHEREAS, the Project was intended to bring fire hydrants in proximity to the residences on Hidden Valley Drive, and thereby improve fire safety within the Village; and

WHEREAS, the Project was substantially complete, for the purposes of the maintenance bond, on October 15, 2015; and

WHEREAS, for purposes of calculating this tap-in fee, the total cost of the Project, including construction, engineering, legal and miscellaneous costs, is Two hundred twenty thousand, one hundred eighty-two dollars and thirteen cents (\$220,182.13); and

WHEREAS, Orange Village received an OPWC Grant in the amount of Sixty-five thousand, seven hundred fifty-four dollars and sixty-four cents (\$65,754.64), and paid Forty-one thousand, eight hundred six dollars and sixty-seven cents (\$41,806.67) as the "intersection" cost, which resulted in a net project cost of One hundred and twelve thousand, six hundred twenty dollars and eighty-two cents (\$112,620.82) ("Net Project Cost"); and

WHEREAS, ten (10) properties that front on Hidden Valley Drive are now able to tap into the new water lines that are located in the right-of-way in front of the properties owned by those residents; and

WHEREAS, pursuant to the Village's powers under Article XVIII of the Ohio Constitution, this Council finds it appropriate to levy certain fees herein established in order to recover a reasonable and proportionate cost of the Project from those property owners who choose to benefit from the project by tapping into the new water lines; and

WHEREAS, the Village funded its portion of this water main project from the D-6 Infrastructure Fund with the intention that any tap-in fees subsequently levied by and paid to the Village would be credited to the D-6 Infrastructure fund as reimbursement for funds already expended from that fund.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF ORANGE VILLAGE,
COUNTY OF CUYAHOGA, STATE OF OHIO:**

SECTION 1. That no owner of property or other person, corporation, partnership, association or other entity or any agent, independent contractor, servant, lessee or tenant thereof or occupant (hereinafter referred to as the "Applicant") shall connect or cause to be connected any residence or accessory structure directly or indirectly to the Project, unless the Applicant shall have first secured a permit for such purpose from the Village.

SECTION 2. That the fee for the permit described in Section 1 hereof (the “Tap-In-Fee”) for property with frontage on Hidden Valley Drive shall be calculated as follows:

(a) **Base Tap-In Fee:** The Base Tap-In Fee is calculated by dividing the Net Project Cost of One hundred and twelve thousand, six hundred twenty dollars and eighty-two cents (\$112,620.82) by the number of owners who are presently able to access the Project, i.e., ten (10). $\$112,620.82/10 = \$11,262.08 =$ Base Tap-In Fee.

(b) In addition to the Base Tap-In Fee, the Tap-In Fee in each instance shall include accrued interest on the Base Tap-In Fee at an annual rate of four percent (4%), from the effective date of this Ordinance to the date of payment; provided, however, that the maximum amount of interest which will accrue hereunder shall be equal to the amount of the Base Tap-In Fee (i.e., \$11,262.08) and, at the time such interest equals the Base Tap-In Fee, no further interest shall accrue or be payable; and further provided that if payment is made in full within ninety (90) days of the effective date of this Ordinance the Village will waive the interest due hereunder.

(c) Should any property with frontage on Hidden Valley Drive be divided in such manner as to create new building lots, the Base Tap-In Fee set forth in subsection (a), plus accrued interest thereon as provided in subsection (b) above, shall be payable with respect to each building lot within the Village to be connected to the Project; provided, however, in no event shall the Village recover more than the Net Project Cost, plus interest.

(d) For any property that does not have frontage on Hidden Valley Drive which can tap into the Project, the Tap-In Fee shall be calculated in a manner to be determined and established by further legislation of Council, which fee may include an appropriate rebate to be paid to the then current owners of properties that have paid a Tap-In-Fee pursuant to this Section.

SECTION 3. That the permit and Tap-In-Fee specified in Sections 1 and 2 hereof shall be in addition to payment of the actual cost of connecting the property to the Project and for extending the water main to any residence or accessory structure on the property, and payment of any other permit or fee required by any other ordinance or regulation of the Village or the City of Cleveland, and shall not preclude any deposit or bond required by any other ordinance or regulation to ensure that the connection to the Project shall be made in such manner as will not injure such Project and will ensure that all streets, sidewalks and other property will be returned to the same state as before the connection was made.

SECTION 4. That any person, corporation, partnership, limited liability company or association or any agent, lessee or tenant thereof or occupant who is convicted of making or attempting to make a connection to the Project, either directly or indirectly, without first securing the permit required by Section 1 of this Ordinance, shall be guilty of a special misdemeanor punishable by not more than a \$500 fine. Each twenty-four (24) hour period during which a connection exists without securing such permit shall be deemed to be a separate violation of this Ordinance.

SECTION 5. That the Tap-In-Fees collected by the Village for issuing the permits required by Section 2 of this Ordinance shall be delivered to the Treasurer as custodian of the funds of the Village and shall be credited by the Treasurer to the D-6 Infrastructure Fund to reimburse the Village for funds already expended on this Project.

SECTION 6. That if the Village determines that any property has been connected either directly or indirectly to the Project in violation of the provisions of this Ordinance or the rules and regulations of the Village, the Village may disconnect such property from the Project, until such violation shall cease.

SECTION 7. That each section of this Ordinance is hereby declared to be independent, and the finding or holding of any section or part thereof to be invalid or void shall not be deemed to affect the validity of any other section or part of this Ordinance.

SECTION 8. That the Clerk of Council is hereby authorized and directed to deliver a certified copy of this Ordinance to the Utilities Director of the City of Cleveland.

SECTION 9. That it is hereby found and determined that each and every formal action of this Council concerning and relating to the adoption of this Ordinance was taken in any open meeting of this Council; and that all deliberations of this Council and of any of its committees that resulted in each such formal action, were conducted in meetings open to the public and in compliance with all legal requirements, including Chapter 105 of the Orange Village Codified Ordinances.

SECTION 10. That this Ordinance constitutes an emergency measure in that the same provides for the immediate preservation of the public peace, health, safety and welfare of the inhabitants of the Orange Village and, further, for the reason that residents of the Village should be able to immediately tap into available water mains in order to access the safe and plentiful water supply available therein without waiting at least thirty (30) days for this Ordinance to become effective; wherefore, this Ordinance shall be in full force and effect from and after its adoption.

PASSED: FEB. 13, 2019

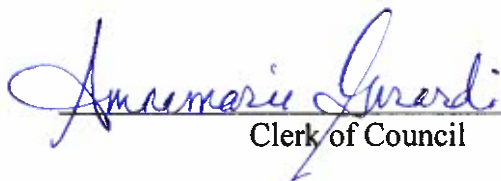


Council President

Submitted to the Mayor for approval
on this 13 day of FEBRUARY, 2019

Approved by the Mayor this
13 day of FEBRUARY, 2019

ATTEST:



Clerk of Council



Mayor