

RESOLUTION NO. 0213-1

**A RESOLUTION UPDATING THE PROCEDURE TO BE USED IN ESTABLISHING
CONNECTION FEES TO RECOVER THE COST OF DESIGNING AND CONSTRUCTING
MAJOR WATER DISTRIBUTION FACILITIES**

WHEREAS, on April 8, 2002 the Board of Trustees adopted Resolution No. 0402-1 establishing the procedure to be used in Establishing Connection Fees to Recover the Cost of Designing and Constructing Major Water Distribution Facilities, and

WHEREAS, this Board of Trustees believes it appropriate to amend the rules and regulations relating to the procedures to be used in establishing connection fees to recover the cost of designing and constructing major water distribution facilities first adopted in Resolution No. 0402-1, to change the method of determining the annual adjustment of the water connection fee, to revise the definition of major water distribution facilities and to provide flexibility in the procedures used to establish the fee in individual districts

**NOW, THEREFORE, BE IT RESOLVED
BY THE BOARD OF TRUSTEES OF THE WEST DES MOINES
WATER WORKS, AS FOLLOWS:**

SECTION 1. Repeal With the adoption of this Resolution the rules and regulations adopted in Resolution No. 0402-1 are hereby repealed and replaced with the Procedures set forth in Section 2 of this Resolution.

SECTION 2. Procedures That the rules and regulations of the West Des Moines Water Works, West Des Moines, Iowa (Water Works), be and the same are hereby amended by adding thereto rules and regulations relating to the procedures to be used in establishing connection fees to recover the cost of designing and constructing major water distribution facilities, as follows:

**CONNECTION TO MAJOR WATER DISTRIBUTION FACILITIES:
NOTICE AND HEARING BEFORE ADOPTION OF A RESOLUTION
ESTABLISHING BENEFITTED DISTRICT AND CONNECTION FEE:
COLLECTION OF CONNECTION FEE**

- (A) The Board of Trustees has determined the necessity of establishing a policy and a procedure to be utilized to recover the cost of designing and constructing major water distribution facilities in those instances in which a significant number of the properties to be benefitted by such facilities are not sufficiently developed to permit the recovery of those costs through the special assessment

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process as provided in Chapter 384, Division IV of the Iowa Code, or by other means authorized by the Code of Iowa and the rules and regulations of the Water Works. The Water Works hereby declares its intent to utilize Water Works Connection Fees, as herein provided, to recover the costs of designing and constructing such major water distribution facilities from property owners who connect their properties to such facilities.

This resolution sets forth the method of recovery of proportional cost shares from those property owners who connect their properties to major water distribution facilities, so in the event all developable property, other than street and road rights-of-way, existing as of the effective date of a Water Connection Fee Resolution, which lies within the Benefitted District is connected to the major water distribution facilities during their expected useful lives, then those properties shall bear, in the aggregate, up to 100% of the cost of designing and constructing such facilities, including engineering, legal and administrative expenses associated therewith.

For the purpose of this Resolution, the term "connecting to major water distribution facilities" or "...connecting their properties to major water distribution facilities..." or similarly worded phrases, includes properties connected directly to a major water distribution facility and properties connected to water distribution pipes which, in turn, are connected to one or more major water distribution facility.

- (B) For the purpose of this Resolution, the term "major water distribution facility or facilities" is defined to include (1) water mains having a nominal diameter of 12 inches or greater and appurtenances thereto, which are required by engineering studies approved by the Water Works, to supply water service and fire protection to various portions of the Water Works service area, (2) water storage facilities and appurtenances thereto, which are required by engineering studies approved by the Water Works, to provide water storage in various portions of the Water Works service area, (3) land and easements associated with said water mains or water storage facilities, and (4) electrical and electronic facilities and programming associated with said water mains or water storage facilities, (5) water booster stations associated with said water mains or water storage facilities, (6) pressure regulation and adjusting facilities associated with said water mains or water storage facilities, (7) cost to purchase the facilities of an existing water district located within the boundaries of a Benefitted District, and (8) recovery of the waiver of any connection fees within a Benefitted District when the financing of an existing water system purchased, in whole or in part, by the Water Works and located within the Benefitted District does not allow the Water Works to charge a Water Connection Fee to customers of the purchased system.

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The Resolution establishing each Benefitted District shall set forth the major water distribution facilities to be funded through the water connection fees in that Benefitted District. Other water facilities of the same nature as the major water distribution facility, but not included in the identified improvements, within each Benefitted District shall not be considered a major water distribution facility for that Benefitted District. The Water Works reserves the authority to add, subtract or substitute major water distribution facilities to be funded through the Water Connection Fees at its discretion.

- (C) In the event The Board of Trustees determines the necessity of constructing a major water distribution facility or facilities and determines that the utilization of a Water Connection Fee is the most equitable manner in which to recover the Water Works' costs associated therewith, The Board of Trustees shall cause a "Notice of Public Hearing on the Proposed Adoption of a Resolution to Establish a Benefitted District and Water Connection Fees" to be published in a newspaper of general circulation in the City of West Des Moines as herein provided. In addition to indicating the date, time and place of the public hearing, the notice shall:
- (1) indicate the nature and extent of the major water distribution facility or facilities under consideration for construction, as well as the estimated cost or costs for the design and construction of the same;
 - (2) identify by general description the proposed Benefitted District to be served by the major water distribution facility or facilities;
 - (3) set forth the Water Connection Fee to be paid by property owners within the Benefitted District who connect their properties to said facilities, expressed in dollars per acre of land area served, or such other method as set forth in the proposed Resolution establishing a specific Benefitted District; and
 - (4) state the proposed Water Connection Fee Resolution is on file, along with a plat of the area to be served, and both are available for public inspection in the administrative offices of the Water Works. The notice shall be published not more than 45 days and not less than 20 days prior to the scheduled date of the public hearing, and shall be mailed to each property owner within the Benefitted District as shown by the records of the county auditor.

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(D) At the public hearing, the owners of property within the proposed Benefitted District shall be heard and may offer comments or objections as to:

- (1) the necessity for the project;
- (2) the calculation of the area benefitted by the proposed major water distribution facilities;
- (3) a general description of the proposed facilities and the estimated cost thereof; and
- (4) the proposed Water Connection Fees.

Upon concluding the hearing, The Board of Trustees shall rule upon the objections presented during the hearing and may consider the adoption of the proposed Water Connection Fee Resolution. Upon consideration of the proposed Water Connection Fee Resolution, The Board of Trustees may:

- (1) adopt the Resolution as proposed;
 - (2) delete elements or portions of the proposed major water distribution facilities from the proposed project and the properties served thereby from the Benefitted District proposed, or
 - (3) amend the Resolution to revise the Water Connection Fees.
- (E) The Water Connection Fee Resolution may provide, at The Board of Trustees' discretion, that single family residences within the Benefitted District, in existence or under construction on the effective date of the Resolution, and located within the corporate limits of the City of West Des Moines, are eligible for connection to the major water distribution facility. In that event, the Resolution shall include the following provisions:
- (1) That the owners of residences on parcels of one acre or less in size, located within the City of West Des Moines, may connect such residences to the major water distribution facility upon approval of their application for connection, payment of the Water Connection Fee for the parcel, and construction at the owner's expense, of appropriate connection structures, as determined necessary by the Water Works, and
 - (2) That the owners of residences on parcels in excess of one acre in size, located within the City of West Des Moines, may connect such residences to the major water distribution facility upon approval of their application for connection, subdivision of said parcel into a one acre single resident parcel and an outlot, payment of the Water Connection Fee for the

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residence parcel and construction at the owner's expense, of appropriate connection structures as determined necessary by the Water Works' Engineer. Any future development of said parcel shall require a revised application for connection and payment of the appropriate Water Connection Fee.

The Water Connection Fee Resolution may also provide, at The Board of Trustees' discretion, that water service can be provided to recreational and park facilities in the same manner and under the same procedures set forth in this Resolution for single family residences within the Benefitted District.

All other property located within the corporate limits of the City of West Des Moines and within a Benefitted District shall be eligible for connection to the major water distribution facility upon approval of an application for connection by the owner thereof, as hereafter provided, and payment of the Water Connection Fee for such property, provided such property has been appropriately subdivided for development, and, where applicable, all water distribution facilities necessary to serve said property have been constructed at the owner's expense and have been accepted by the West Des Moines Water Works.

- (F) The Water Connection Fee Resolution may provide, at The Board of Trustees' discretion, that property owners may construct major water distribution facilities in kind, thereby reducing or eliminating the Water Connection Fee upon their properties. In that event:
- (1) The Water Connection Fee Resolution will state the method by which a property owner or property owners may apply to the Water Works to construct major water distribution facilities as a means of reducing or eliminating the Water Connection Fees they would otherwise be required to pay, the approval process by the Water Works, the design requirements and the construction inspection and acceptance processes.
 - (2) The Water Connection Fee Resolution will state that payments to a property owner or owners for constructing major water distribution facilities will be made by the Water Works as funds are generated by the Benefitted District.
 - (3) Property owners choosing to construct major water distribution facilities in the manner described herein shall enter into a suitable agreement with the Water Works to provide for the orderly accomplishment of this process.

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- (G) The Water Connection Fee Resolution may provide, at The Board of Trustees' discretion, that owners of properties within a Benefitted District may receive water service and/or fire protection by constructing connections to facilities of other water suppliers.
 - (1) Property owners choosing to construct such connections shall do so at their cost and shall enter into a suitable agreement with the Water Works to provide for understanding of the ways in which the connection to facilities of other water suppliers relate to the facilities constructed under the provisions of a Water Connection Fee Resolution and the costs thereof.
- (H) The Water Connection Fee Resolution may include provisions for settling issues brought about by water service which was previously provided by a rural water district(s) existing within the Benefitted District. The Water Connection Fee Resolution may include a waiver of the Water Connection Fee to customers of the rural water district if the funding of the acquired facilities of the rural water district prohibit, restrict or limit the ability to charge a Water Connection Fee to these customers.
- (I) After adoption, publication and recording by the Secretary in each county where property in the Benefitted District is located, of a Water Connection Fee Resolution for a Benefitted District, all owners of those properties within the Benefitted District whose properties are eligible for connection, and who propose to connect such properties to the major water distribution facility, shall make application to the Water Works for such connection. The submittal of construction plans to the Water Works for water service improvements on property being subdivided for development shall constitute an application to the Water Works for purposes of this Resolution. The Water Connection Fee shall be due and payable at the time application is made to the Water Works for connection to the major water distribution facility. No connection shall be made to a major water distribution facility or pipes connected to a major water distribution facility, until such application has been approved and the Water Connection Fee has been paid. The Water Connection Fee required by this Resolution shall be paid before the Water Works will approve the final plat of property subject to the Water Connection Fee.

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- (J) The Water Connection Fee shall be in an amount equal to the maximum area of contiguous property, or fraction thereof, within the Benefitted District under common ownership which can be lawfully served through such proposed connection, multiplied by the Water Connection Fee established in the Water Connection Fee Resolution for that Benefitted District. The Water Connection Fee shall be adjusted on July 1st of each calendar year based on the change in the ENR Construction Cost Index for the one year period ending in April of the calendar year in which the adjustment is made. The General Manager shall determine the applicable connection fees for each established connection fee district and the General Manager shall maintain on file the connection fees in each connection fee district effective July 1st of each calendar year. The Water Connection Fee Resolution establishing, amending or replacing each Benefitted District may establish the date on which the annual adjustment is first effective. Absent a specific date set forth in the Water Connection Fee Resolution for that Benefitted District the annual adjustment provision shall be effective July 1 of the calendar year in which the Benefitted District is established.
- (K) The Water Connection Fee required by this Resolution shall be payable to the West Des Moines Water Works and may be paid over a period of time not to exceed five (5) years, at an interest rate established in the Water Connection Fee Resolution.
- (L) The Water Connection Fee required by this Resolution is in addition to, and not in lieu of, any other fees for connection required under the plumbing code or other provisions of the code of ordinances of the City of West Des Moines or Resolutions of The Board of Trustees of the West Des Moines Water Works.
- (M) In the event any property owner connects his or her property within a Benefitted District to a major water distribution facility without having made application therefor or without having received approval thereof, or without having paid the required Water Connection Fee established by a Water Connection Fee Resolution, the Water Works shall be entitled to disconnect such private water connection until such time as the property owner has made and received approval of his or her application, and/or has paid the required Water Connection Fee.
- (N) The Water Works, at its discretion, may exclude from the area of a final plat subject to the Water Connection Fee the area of land to be conveyed to the City of West Des Moines as a public park to the extent the Water Works considered the park area as undevelopable for purposes of determining the estimated developable area in a Connection Fee District.

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SECTION 3. Repealer All Resolutions or parts of Resolutions in conflict with the provision of this Resolution are hereby repealed.

SECTION 4. Severability If any section, provision, sentence, clause, phrase or part of this Resolution shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Resolution as a whole or any provision, section, subsection, sentence, clause, phrase, or part hereof not adjudged invalid or unconstitutional.

SECTION 5. Effective Date This resolution shall be in full force and effect on and after March 1, 2013.

PASSED AND APPROVED by this 19th day of February, 2013.


Karen Novak Swalwell
Chair


William H. Garrett
Secretary

I certify that the foregoing was published as Resolution No. 0213-1 in the *Des Moines Register* on the 26th day of February, 2013.