

RESOLUTION NO. 0417-1

A RESOLUTION ESTABLISHING THE RACCOON RIVER WATER CONNECTION FEE DISTRICT AND IMPOSING CONNECTION FEES ON PROPERTIES WITHIN SAID DISTRICT WHEN CONNECTIONS ARE MADE TO THE MUNICIPAL WATER DISTRIBUTION SYSTEM

WHEREAS, upon due notice and hearing, this Board of Trustees finds that the general health and welfare of the community will be benefitted by establishing the water connection fee district consisting generally of the area west of Interstate Highway 35, south of the Raccoon River, and north of a line generally located one-half mile north of Cumming Road and east of a line located three-quarters of a mile west of Timber Ridge Road (the "Raccoon River Water Connection Fee District").

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

SECTION 1. Raccoon River Water Connection Fee District The Raccoon River Basin Connection Fee District is hereby established consisting of a tract of land located in Sections 30 and 31, Township 78 North, Range 25 West of the 5th Principal Meridian, Polk County, Iowa, Sections 25, 26, 27, 28, 30, 31, 32, 33, 34, 35 and 36, Township 78 North, Range 26 West of the 5th Principal Meridian, Dallas County, Iowa, Section 6 and 7, Township 77 North, Range 25 West of the 5th Principal Meridian, Warren County, Iowa, and Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12, Township 77 North, Range 26 West of the 5th Principal Meridian, Madison County, Iowa, more particularly described as follows:

COMMENCING AT THE POINT OF INTERSECTION OF THE HIGH WATER MARK ON THE SOUTH BANK OF THE RACCOON RIVER AND THE WESTERLY RIGHT-OF-WAY LINE OF INTERSTATE HIGHWAY 35; THENCE SOUTHERLY ALONG THE WESTERLY RIGHT-OF-WAY LINE OF INTERSTATE HIGHWAY 35 TO A POINT ON THE SOUTH LINE OF THE NORTH ONE-HALF OF THE NORTHWEST QUARTER OF SECTION 7, TOWNSHIP 77 NORTH, RANGE 25 WEST;

THENCE WEST ALONG THE SOUTH LINE OF THE NORTH ONE-HALF OF THE NORTHWEST QUARTER OF SAID SECTION 7 TO A POINT ON THE WEST LINE OF SAID SECTION 7;

THENCE SOUTH ALONG THE EAST LINE OF THE NORTHWEST QUARTER OF SECTION 12, TOWNSHIP 77 NORTH, RANGE 26 WEST TO THE EAST

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QUARTER CORNER OF SAID SECTION 12;

THENCE WEST ALONG THE SOUTH LINE OF THE NORTHWEST QUARTER
OF SAID SECTION 12 TO THE CENTER OF SAID SECTION 12;

THENCE WEST ALONG THE SOUTH LINE OF THE NORTHWEST QUARTER
OF SAID SECTION 12 TO THE WEST QUARTER CORNER OF SAID
SECTION 12;

THENCE WEST ALONG THE NORTH LINE OF THE SOUTHEAST QUARTER OF
SECTION 11, TOWNSHIP 77 NORTH, RANGE 26 WEST TO THE CENTER OF
SAID SECTION 11;

THENCE SOUTH ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF
SAID SECTION 11 TO THE SOUTH QUARTER CORNER OF SAID SECTION 11;

THENCE WEST ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER
OF SAID SECTION 11 TO THE SOUTHWEST CORNER OF SAID SECTION 11;

THENCE WEST ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF
SECTION 10, TOWNSHIP 77 NORTH, RANGE 26 WEST TO THE SOUTH
QUARTER CORNER OF SAID SECTION 10;

THENCE WEST ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER
OF SAID SECTION 10 TO THE SOUTHWEST CORNER OF SAID SECTION 10;

THENCE NORTH ALONG THE WEST LINE OF THE SOUTHWEST QUARTER
OF SAID SECTION 10 TO THE WEST QUARTER CORNER OF SAID
SECTION 10;

THENCE WEST ALONG THE SOUTH LINE OF THE NORTHEAST QUARTER OF
SECTION 9, TOWNSHIP 77 NORTH, RANGE 26 WEST TO THE CENTER OF
SAID SECTION 9;

THENCE WEST ALONG THE SOUTH LINE OF THE NORTHWEST QUARTER
OF SAID SECTION 9 TO THE WEST QUARTER CORNER OF SAID SECTION 9;

THENCE WEST ALONG THE SOUTH LINE OF THE NORTHEAST QUARTER OF
SECTION 8, TOWNSHIP 77 NORTH, RANGE 26 WEST TO THE CENTER OF
SAID SECTION 8;

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THENCE WEST ALONG THE SOUTH LINE OF THE NORTHWEST QUARTER
OF SAID SECTION 8 TO THE WEST QUARTER CORNER OF SAID SECTION 8;

THENCE WEST ALONG THE SOUTH LINE OF LOT 6, SECTION 7,
TOWNSHIP 77 NORTH, RANGE 26 WEST TO THE SOUTHWEST CORNER OF
SAID LOT 6;

THENCE NORTH ALONG THE WEST LINE OF LOT 6 OF SECTION 7 TO THE
NORTH LINE OF SAID SECTION 7;

THENCE NORTH ALONG THE WEST LINE OF LOT 7 OF SECTION 6,
TOWNSHIP 77 NORTH, RANGE 26 WEST TO A POINT ON THE WEST LINE
OF BLUE BIRD ESTATES SECTIONS 5 & 6, A PLAT IN AND FORMING A PART
OF MADISON COUNTY;

THENCE NORTH ALONG THE WEST LINE OF SAID BLUE BIRD ESTATES
SECTIONS 5 & 6 TO THE SOUTHWEST CORNER OF LOT 1 OF SAID
SECTION 6;

THENCE NORTH ALONG THE WEST LINE OF LOT 1 OF SAID SECTION 6 TO
THE NORTH LINE OF SAID SECTION 6;

THENCE NORTH ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF
SECTION 31, TOWNSHIP 78 NORTH, RANGE 26 WEST TO THE CENTER OF
SAID SECTION 31;

THENCE NORTH ALONG THE WEST LINE OF THE NORTHEAST QUARTER OF
SAID SECTION 31 TO THE NORTH QUARTER CORNER OF SAID SECTION 31;

THENCE NORTH ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF
SECTION 30, TOWNSHIP 78 NORTH, RANGE 26 WEST TO THE HIGH WATER
MARK ON THE SOUTH BANK OF THE RACCOON RIVER;

THENCE EASTERLY ALONG THE HIGH WATER MARK ON THE SOUTH BANK
OF THE RACCOON RIVER THROUGH SECTIONS 30, 31, 32, 33, 28, 34, 27,
35, 26 AND 25, TOWNSHIP 78 NORTH, RANGE 26 WEST TO A POINT ON
THE EAST LINE OF SAID SECTION 25;

THENCE CONTINUING EASTERLY ALONG THE HIGH WATER MARK ON THE

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SOUTH BANK OF THE RACCOON RIVER THROUGH SECTION 30,
TOWNSHIP 78 NORTH, RANGE 25 WEST TOT THE POINT OF BEGINNING;

SECTION 2. Water Connection Fees Water Connections Fees are hereby established and shall be imposed on owners of properties within the Racoon River Water Connection Fee District, pursuant to West Des Moines Water Works Resolution No. 0417-1, at the time of application to connect their properties to said major water distribution facilities or to water distribution pipes which, in turn, are connected to one or more major water distribution facilities, as follows:

- (A) From May 1, 2017 through June 30, 2018, a Water Connection Fee of \$3,885 per acre of property served by the major water distribution facilities shall be imposed.
- (B) The Water Connection Fee schedule herein shall also apply to any properties outside the Racoon River Water Connection Fee District which use or derive benefit from any of the major water distribution facilities constructed for the Racoon River Water Connection Fee District. The appropriate fee shall be imposed at the time of determination that a benefit is derived by the property.
- (C) The determination that a property is to be connected to the major water distribution facilities shall occur, and the appropriate Water Connection Fee shall be paid, prior to the time of release of a final plat for recordation, or issuance of a building or plumbing permit, whichever occurs first.
- (D) The owner of any single family residence which is located on a parcel in excess of one acre may apply for connection after annexation to the City, subdivision of said parcel into a single residence parcel one acre in size and an out lot, and payment of a single-acre Water Connection Fee. Any future development of said parcel shall require a revised application for connection and payment of the Water Connection Fee as established in the above fee schedule.
- (E) The owner of any parcel being used as a public or nonprofit recreational or park facility upon the effective date of this Resolution may apply for connection upon annexation to the City and payment of a single-acre Water Connection Fee. Any future development of said parcel shall require a revised application for connection and payment of the Water Connection Fee as established herein.

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- (F) Owners of properties within this 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 connections to facilities of other water suppliers relate to the facilities constructed under the provisions of a Water Connection Fee Resolution and the costs thereof. The agreement contemplated herein will provide for water metering arrangements and the methods by which the costs of the water service and water metering arrangements will be paid.
 - (2) Property owners choosing to construct such connections shall become customers of West Des Moines Water Works.
- (G) Issues pertaining to water service previously provided within the Benefitted District by a rural water district(s), will be settled in accordance with laws and regulations of the State of Iowa and the Federal government.
 - (1) Customers connected to and served by Warren Water at the time the West Des Moines Water Works acquired the interest of Warren Water within the Raccoon River Connection Fee District shall be exempt from the Water Connection Fee for the facility connected at the time of acquisition including not more than 1 acre of property.
- (H) The major water distribution facilities in the Raccoon River Connection Fee District are those illustrated and listed in Exhibit A. The major water distribution facilities in the Raccoon River Connection Fee District also include 50% of the cost of booster stations located in the South Area Connection Fee District that jointly serve the Raccoon River Connection Fee District and the South Area Connection Fee District, and 50% of the cost of a 2 MG elevated storage tank to be located in the Raccoon River Connection Fee District that jointly serves the Raccoon River Connection Fee District and the South Area Connection Fee District. The major water distribution facilities in the Raccoon River Connection Fee District include the cost for the West Des Moines Water Works to acquire the appropriate service interests from Warren Water for portions of the territory in the

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Raccoon River Connection Fee District currently served by Warren Water. Projects of a similar nature but not included in Exhibit A are not major water distribution facilities for the Raccoon River Water Connection Fee District. The West Des Moines Water Works reserves the right to modify projects listed in Exhibit A, to delete projects listed in Exhibit A, to delete projects listed in Exhibit A subsequently determined not to be required by engineering studies and to add projects to Exhibit A subsequently determined necessary by engineering studies.

- (1) Future changes in the scope and extent of projects in Exhibit A shall have no effect on water connection fees paid prior to the effect of the change.
 - (2) Changes in the scope of the major water distribution facility improvements that reduce the total estimated cost of improvements within the Raccoon River Connection Fee District by not greater than 5% shall not require the Water Works to re-establish fee in the Raccoon River Connection Fee District. If the estimated cost for the major water distribution facilities decreases by more than 5% due to changes or deletions from the projects included in Exhibit A, the West Des Moines Water Works will adjust the connection fee. The Water Works may reduce the connection fee to a level less than established in this Resolution, as changed by the annual adjustment without notification to property owners within the Raccoon River Connection Fee District.
 - (3) Decisions on when to construct a major water facility within the District rests solely with the discretion of the Board of Trustees, and the Water Works is not obligated to construct a request for a major water facility to be constructed.
- (l) The Board of Trustees may execute into one or more agreements to acquire all or part of a rural water district. An agreement to acquire part of a rural water district or to settle water service issues with a rural water district may include a waiver or reduction of Water Connection Fees if the facility for the rural water district prohibits, restricts or limits the ability to change a Water Connection Fee, or if as a condition of the acquisition or a settlement of issues the Water Works agrees to waive the Water Connection Fee for existing customers of the rural water district as of the date of the acquisition or of the settlement of issues.

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- (j) 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 the Raccoon River Connection Fee District.

SECTION 3. Effect of Fees The Water Connection Fees herein shall remain in force and effect until such time that The Board of Trustees of the West Des Moines Water Works adopts a Resolution to adjust the Water Connection Fees applicable to the Raccoon River Water Connection Fee District. Nothing herein is intended to restrict The Board of Trustees from an adjustment of the Water Connection Fee schedule to reflect future construction costs.

SECTION 4. Repealer All Resolutions or parts of Resolutions in conflict with the provisions of this Resolution are hereby repealed.

SECTION 5. Severability If any section, provisions, 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 6. Violations and Penalties Any person who violates the provisions of this Resolution shall subject their property to immediate discontinuance of water service until such violation has been corrected by payment of the appropriate amount.

SECTION 7. Other Remedies In addition to the provisions set out in the Violations and Penalties Section herein, The Board of Trustees of the West Des Moines Water Works may proceed in law or equity against any person, firm or corporation for violation of any section or subsection of this Resolution.

SECTION 8. Effective Date This Resolution shall be in full force and effect from and after May 1, 2017.

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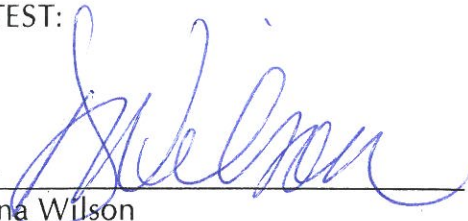
PASSED AND APPROVED this 20th day of March, 2017 (First Reading Only)

PASSED AND APPROVED this _____ day of April, 2017 (Second Reading Only)

PASSED, APPROVED AND ADOPTED IN FINAL FORM this 17th day of April, 2017.


Karen Novak Swalwell
Chair

ATTEST:


Diana Wilson
Secretary

The foregoing was published as Resolution No. 0417-1 in the *Des Moines Register* on the
29th day of April, 2017.