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Resolution No. 18-004

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE BOARD OF
PUBLIC WORKS OF THE CITY OF LEWES REVISING THE POLICY
REGARDING REIMBURSEMENT OF CONSTRUCTION COSTS
RELATED TO THE EXTENSION OF WATER AND WASTEWATER
UTILITY SERVICES TO DEVELOPED PROPERTIES**

WHEREAS, Section 4.10, *inter alia*, of the Charter for the Board of Public Works of the City of Lewes (the “Lewes BPW”), being Chapter 10, Volume 77, Laws of Delaware, as amended (the “Lewes BPW Charter”), grants the Lewes BPW authority to enact and adopt such rules and regulations as the Lewes BPW deems proper in order to supply utilities and regulate the connection and access of public utility services within the Lewes BPW’s service area, as defined by the Lewes BPW Charter (the “Service Area”); and

WHEREAS, on April 25, 2018, the Board of Directors of the Lewes BPW (the “Board of Directors”) adopted a Policy Regarding Reimbursement of Construction Costs Related to the Extension of Water and Wastewater Utility Services to Developed Properties (the “Utility Extension Policy”); and

WHEREAS, the Board of Directors desires to revise this Utility Extension Policy to better clarify the intent for the policy to apply to established, improved properties and not to open space, minimally improved, or otherwise vacant parcels that may be later improved, subdivided, or developed; and

WHEREAS, the Board of Directors deems it is in the best interests of the Lewes BPW utility system and customers, both current and future, to revise its Policy Regarding Reimbursement of Construction Costs Related to the Extension of Water and Wastewater Utility Services to Developed Properties.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE LEWES BOARD OF PUBLIC WORKS, IN SESSION MET THIS 25TH DAY OF JULY, 2018, THAT:

Section 1. The *Policy Regarding Reimbursement of Construction Costs Related to the Extension of Water and Wastewater Utility Services to Developed Properties* shall be revised by making deletions as shown by strikethrough and additions as shown by underline, as provided in Exhibit “A” attached hereto and incorporated herein. The Policy Regarding Reimbursement of Construction Costs Related to the Extension of Water and Wastewater Utility Services to Established Properties, as revised, is provided in Exhibit “B” attached hereto and incorporated herein.

Section 2. This Resolution shall take effect immediately upon its adoption by the Board of Directors of the Lewes Board of Public Works.

47 Adopted by the Board of Directors
48 Of the Lewes Board of Public Works

49
50 July 25, 2018

51
52 I, Robert J. Kennedy, III of the Board of Public Works of the City of Lewes, do hereby
53 certify that the foregoing is a true and correct copy of the Resolution passed by the Board of
54 Directors of the Lewes BPW at its meeting on July 25, 2018, at which meeting a quorum was
55 present and voting throughout and the same is still in full force and effect.

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Secretary

62 EXHIBIT "A"

63
64 **Policy Regarding Reimbursement of Construction Costs Related to the Extension of Water**
65 **and Wastewater Utility Services to Established Properties ~~Developed Properties~~**
66

67 There is hereby established, as hereinafter set forth, a Policy Regarding Reimbursement
68 of Construction Costs Related to the Extension of Water and Wastewater Utility Services to
69 Established Properties ~~Developed Properties~~, pursuant to the lawful authority of the Lewes
70 Board of Public Works (the "Lewes BPW").
71

72 The Lewes BPW, in its sole discretion, may choose to fund the extension of water and
73 wastewater utility services to serve Established Properties ~~developed properties~~ within the Lewes
74 BPW's Service Area, subject to reimbursement by property owners consistent with the policy
75 described herein. Established Properties shall include any lot or parcel which has been altered
76 from a natural state by the addition of any substantial permanent improvements, such as
77 buildings or structures, that render the property suitable for residential or commercial use, but
78 shall exclude any lot or parcel which is being subdivided or developed under the Municipal Code
79 for the City of Lewes and is responsible for the complete costs and expenses associated with the
80 extension of the Lewes BPW's infrastructure.
81

82 The Lewes BPW Service Area, based upon engineering principles and studies, will be
83 divided into "Project Areas" for water and wastewater utility services as the Lewes BPW deems
84 necessary and appropriate, and as shown in Exhibit I, as may be amended. The Lewes BPW, in
85 its sole discretion, reserves the right to revise the organization, designation and delineation of
86 such areas for any reason, including, but not limited to, system requirements and engineering
87 needs.
88

89 If the Lewes BPW chooses to extend water services, wastewater services, or both within
90 a Project Area, each Equivalent Development Unit ("EDU") within the subject Project Area shall
91 be responsible for its proportional share, based upon the total number of EDUs within the subject
92 Project Area, of the costs of construction related to such extensions. An EDU shall be defined as
93 any developed property located within a Project Area. The costs of construction shall include the
94 actual costs of construction, as well as any costs related to project management, engineering,
95 inspection, legal services, compensation for easements, and any combination thereof (the
96 "Extension Costs").
97

98 Upon connection of an EDU to the applicable Lewes BPW water utility system,
99 wastewater utility system, or both, the Lewes BPW shall assess the owner of such EDU an
100 amount equal to the EDU's proportional share of Extension Costs, in addition to any other costs
101 and fees associated with connecting the EDU to the Lewes BPW utility system, including, but
102 not limited to, impact fees. Unpaid Extension Costs shall be subject to the same enforcement
103 remedies available to the Lewes BPW for unpaid utility rents, fees, rates, or assessments,
104 including the Lewes BPW's ability to place a lien on the subject property.
105

106 Upon the completion of construction of any utility extension within a Project Area, the
107 owner of any EDU within the Project Area shall connect such EDU to the Lewes BPW water

108 utility system, wastewater utility system, or both, as applicable, within three (3) years to avoid
109 being assessed a carrying fee ~~latecomer fee~~. If an EDU is not connected to the applicable utility
110 system within three (3) years following completion of construction of the utility system, in
111 addition to the assessment for the EDU's proportional share of Extension Costs, such EDU shall
112 be assessed a carrying fee ~~latecomer fee~~ upon connection to the Lewes BPW utility system for
113 each year following completion of the system. The carrying fee ~~latecomer fee~~ shall be calculated
114 annually based upon the EDU's proportional share of Extension Costs and is equal to the
115 percentage annual interest rate earned on the Lewes BPW's reserve funds.

116
117 The foregoing policy shall only apply to the extension of the Lewes BPW water and
118 wastewater utility systems to Established Properties ~~developed properties~~ within the Lewes
119 BPW's Service Area. Owners of any lot or parcel not considered to be an Established Property
120 herein that is located ~~undeveloped properties~~ within the Lewes BPW's Service Area seeking to
121 connect to the Lewes BPW utility systems shall continue to be responsible for the complete costs
122 and expenses associated with the extension of the Lewes BPW's infrastructure necessary to
123 provide service to such lot or parcel ~~undeveloped property~~, as well as any costs of connection to
124 such infrastructure.

125

126
127

EXHIBIT I

128 **EXHIBIT "B"**

129
130 **Policy Regarding Reimbursement of Construction Costs Related to the Extension of Water**
131 **and Wastewater Utility Services to Established Properties**
132

133 There is hereby established, as hereinafter set forth, a Policy Regarding Reimbursement
134 of Construction Costs Related to the Extension of Water and Wastewater Utility Services to
135 Established Properties, pursuant to the lawful authority of the Lewes Board of Public Works (the
136 "Lewes BPW").
137

138 The Lewes BPW, in its sole discretion, may choose to fund the extension of water and
139 wastewater utility services to serve Established Properties within the Lewes BPW's Service
140 Area, subject to reimbursement by property owners consistent with the policy described herein.
141 Established Properties shall include any lot or parcel which has been altered from a natural state
142 by the addition of any substantial permanent improvements, such as buildings or structures, that
143 render the property suitable for residential or commercial use, but shall exclude any lot or parcel
144 which is being subdivided or developed under the Municipal Code for the City of Lewes and is
145 responsible for the complete costs and expenses associated with the extension of the Lewes
146 BPW's infrastructure.
147

148 The Lewes BPW Service Area, based upon engineering principles and studies, will be
149 divided into "Project Areas" for water and wastewater utility services as the Lewes BPW deems
150 necessary and appropriate, and as shown in Exhibit I, as may be amended. The Lewes BPW, in
151 its sole discretion, reserves the right to revise the organization, designation and delineation of
152 such areas for any reason, including, but not limited to, system requirements and engineering
153 needs.
154

155 If the Lewes BPW chooses to extend water services, wastewater services, or both within
156 a Project Area, each Equivalent Development Unit ("EDU") within the subject Project Area shall
157 be responsible for its proportional share, based upon the total number of EDUs within the subject
158 Project Area, of the costs of construction related to such extensions. An EDU shall be defined as
159 any developed property located within a Project Area. The costs of construction shall include the
160 actual costs of construction, as well as any costs related to project management, engineering,
161 inspection, legal services, compensation for easements, and any combination thereof (the
162 "Extension Costs").
163

164 Upon connection of an EDU to the applicable Lewes BPW water utility system,
165 wastewater utility system, or both, the Lewes BPW shall assess the owner of such EDU an
166 amount equal to the EDU's proportional share of Extension Costs, in addition to any other costs
167 and fees associated with connecting the EDU to the Lewes BPW utility system, including, but
168 not limited to, impact fees. Unpaid Extension Costs shall be subject to the same enforcement
169 remedies available to the Lewes BPW for unpaid utility rents, fees, rates, or assessments,
170 including the Lewes BPW's ability to place a lien on the subject property.
171

172 Upon the completion of construction of any utility extension within a Project Area, the
173 owner of any EDU within the Project Area shall connect such EDU to the Lewes BPW water

174 utility system, wastewater utility system, or both, as applicable, within three (3) years to avoid
175 being assessed a carrying fee. If an EDU is not connected to the applicable utility system within
176 three (3) years following completion of construction of the utility system, in addition to the
177 assessment for the EDU's proportional share of Extension Costs, such EDU shall be assessed a
178 carrying fee upon connection to the Lewes BPW utility system for each year following
179 completion of the system. The carrying fee shall be calculated annually based upon the EDU's
180 proportional share of Extension Costs and is equal to the percentage annual interest rate earned
181 on the Lewes BPW's reserve funds.

182

183 The foregoing policy shall only apply to the extension of the Lewes BPW water and wastewater
184 utility systems to Established Properties within the Lewes BPW's Service Area. Owners of any
185 lot or parcel not considered to be an Established Property herein that is located within the Lewes
186 BPW's Service Area seeking to connect to the Lewes BPW utility systems shall continue to be
187 responsible for the complete costs and expenses associated with the extension of the Lewes
188 BPW's infrastructure necessary to provide service to such lot or parcel, as well as any costs of
189 connection to such infrastructure.