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LISA SMITH, COUNTY RECORDER
MADISON COUNTY IOWA

Prepared by: D. Wittstock, City Engineer, PO Box 65320, W.D.M., IA 50265-0320, 515-222-3620

✓ When Recorded, Return to: City Clerk, City of West Des Moines, PO Box 65320, West Des Moines, IA 50265-0320

ORDINANCE NO. 1889

AN ORDINANCE AMENDING THE CITY CODE OF THE CITY OF WEST DES MOINES, 2009 BY AMENDING TITLE 7, PUBLIC WAYS AND PROPERTY, CHAPTER 8, ARTICLE C, SANITARY SEWER SERVICE CHARGES

WHEREAS, on the 2nd day of November, 1998, this City Council passed Ordinance No. 1337, an ordinance to amend the Municipal Code of the City of West Des Moines, by adding and enacting thereto a new section relating to the procedure to be utilized in establishing connection fees to recover the cost of constructing major sanitary sewer facilities; and

WHEREAS, upon due notice and hearing the City Council finds that the general health and welfare of the community will be benefitted by establishment of a sewer district consisting of an area located south of the Raccoon River west of Interstate 35 and north of a line approximately 1/4 mile south of 105th Street (Adams) (the "Raccoon River Basin Connection Fee District").

THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, POLK COUNTY, IOWA AS FOLLOWS:

SECTION 1. SANITARY SEWER CONNECTION FEE DISTRICT. Title 7, Public Ways and Property, Chapter 8, Article C, Sanitary Sewer Service Charges is amended by adding the following:

7-8C-14-4: RACCOON RIVER BASIN 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, Township 77 North, Range 25 West of the 5th Principal Meridian, Warren County, Iowa, and Sections 1, 2, 3, 4, 5 and 6, 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 north one-half of the southwest quarter, Section 6, Township 77 North, Range 25 West;

Thence west along the south line of the north one-half of the southwest quarter of said Section 6 to a point on the west line of said Section 6;

Thence westerly along the south line of the north one-half of the southeast quarter of Section 1, Township 77 North, Range 26 West to a point on the west line of the southeast quarter of said Section 1;

Thence westerly along the south line of the north one-half of the southwest quarter of said Section 1 to a point on the west line of said Section 1;

Thence westerly along the south line of the north one-half of the southeast quarter of Section 2, Township 77 North, Range 26 West to a point on the west line of the southeast quarter of said Section 2;

Thence westerly along the south line of the north one-half of the southwest quarter of said Section 2 to a point on the west line of said Section 2;

Thence westerly along the south line of the north one-half of the southeast quarter of Section 3, Township 77 North, Range 26 West to a point on the west line of the southeast quarter of said Section 3;

Thence westerly along the south line of the north one-half of the southwest quarter of said Section 3 to a point on the west line of said Section 3;

Thence westerly along the south line of the north one-half of the southeast quarter of Section 4, Township 77 North, Range 26 West to a point on the west line of the southeast quarter of said Section 4;

Thence westerly along the south line of the north one-half of the southwest quarter of said Section 4 to a point on the west line of said Section 4;

Thence westerly along the south line of the north one-half of the southeast quarter of Section 5, Township 77 North, Range 26 West to a point on the west line of the southeast quarter of said Section 5;

Thence westerly along the south line of the north one-half of the southwest quarter of said Section 5 to a point on the west line of said Section 5;

Thence westerly along the south line of the north one-half of the south one-half of

Section 6, Township 77 North, Range 26 West to a point on the west line of said Section 6;

Thence north along the west line of said Section 6 to the northwest corner of said Section 6;

Thence north along the west line of Section 31, Township 78 North, Range 26 West to the northwest corner of said Section 31;

Thence north along the west line 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 south bank of the Raccoon River through Section 30, Township 78 North, Range 25 West to the point of beginning;

Connection fees are hereby established and shall be imposed upon owners of properties within the Raccoon River Basin Connection Fee District, pursuant to Ordinance 1337, at the time of application to connect their properties to said sewer facilities, as follows:

A. Fee Schedule: From the effective date hereof through June 30, 2011, a connection fee of Six Thousand Nine Hundred Fifty Dollars (\$6,950.00) per acre of property served by the sewer facility shall be imposed. Thereafter, the per acre connection fee shall be annually adjusted as of July 1 of each year according to Section 7-8C-14 of the City Code.

B. Fee Outside District: The above established connection fee schedule shall also apply to any properties outside the south area sanitary sewer connection fee district which use or derive benefit from any of the sewer facilities constructed for the Raccoon River Basin Connection Fee District. The appropriate fee shall be imposed at the time of determination that a benefit is derived by the property.

C. Exception: The above established connection fee schedule shall not apply to any properties within the Raccoon River Basin Connection Fee District which do not use or derive benefit from any sewer facilities constructed for the Raccoon River Basin Connection Fee District.

D. Payment: Except as provided in I. Preliminary Plat Prior to Adoption, the determination that a property is to be connected to the sewer facilities shall occur, and the appropriate 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.

E. Park Facility: The owner of any parcel being used as a public or nonprofit recreational

or park facility upon the effective date hereof may apply for construction upon annexation to the City and payment of single acre connection fee. Any future development of said parcel shall necessitate a revised application for connection and payment of the appropriate connection fee.

F. Effect of Schedule: The above established connection fee schedule shall remain in force and effect until such time that the City Council adopts an ordinance to adjust the connection fees to be imposed within subsequent years for the Raccoon River Basin Connection Fee District. Nothing herein is intended to restrict the City Council from appropriate adjustment of the connection fee schedule to reflect future construction costs.

G. Sewers Constructed: The City shall be responsible to design and construct sewers within the Raccoon River Basin Connection Fee District as graphically depicted on Exhibit B attached to Ordinance #1889 and on file in the office of the City Clerk. Other sanitary sewers required to provide sewer service to the Raccoon River Basin Connection Fee District shall not be the responsibility of the City to design and construct under the provisions of the Raccoon River Basin Connection Fee District.

H. Preliminary Plat Prior to Adoption. Notwithstanding the provisions of D. Payment, for property that is included in a preliminary plat approved prior to the effective date of this ordinance the payment for the connection fee for buildable lots of record within the preliminary plat shall be at the time of the first issuance of a building or plumbing permit for the applicable lot, and payment of the connection fee for areas within the final plat not included in a buildable lot of record shall be at the time of issuance of the first building permit and subsequent building permits within the plat shall not be issued until such the connection fee service for the areas not included in a buildable lot of record is paid in full.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provision of this Ordinance are hereby repealed.

SECTION 3. SEVERABILITY. If any section, provisions, sentence, clause, phrase or part of this Ordinance shall be adjusted invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any provision, section, subsection, sentence, clauses, phrase or part hereof not adjudged invalid or unconstitutional.

SECTION 4. VIOLATION. Any person who violates the provisions of this Ordinance, upon conviction, shall be punished as set forth in Section 1-4-1 of the City Code of the City of West Des Moines, Iowa.

SECTION 5. OTHER REMEDIES. In addition to the provisions set out in the Violation section herein, the City may proceed in law or equity against any person, firm or corporation for violation of any section or subsection of this Ordinance.

SECTION 6. EFFECTIVE DATE. This Ordinance shall be in full force and effect on

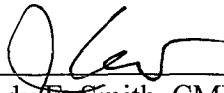
January 1, 2011, provided its passage, adoption and publication as required by law.

PASSED AND APPROVED this 29th day of November, 2010.



Steven K. Gaer
Mayor

ATTEST:



Jody E. Smith, CMFA, MMC
City Clerk

Published in the Des Moines Register on the 3rd day of December, 2010.

