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Resolution No. 23-0014

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE BOARD OF PUBLIC WORKS OF THE CITY OF LEWES REGARDING CROSS-CONNECTION CONTROL ASSEMBLIES FOR THE PROTECTION OF PUBLIC POTABLE WATER SUPPLIES; PROVIDING LEGISLATIVE FINDINGS; AND PROVIDING FOR THE INCLUSION OF THE SAME IN THE BPW POLICIES

WHEREAS, improperly protected water systems expose the public potable water supply to contamination, which may be hazardous to the public health and safety; and

WHEREAS, per 16 *Del. Admin. Code* § 4462-21.0, the Delaware Department of Health and Social Services, Division of Public Health requires all public water systems to establish and implement a routine cross-connection control program to detect and control cross-connections and prevent backflow of contaminants into the water system; and

WHEREAS, such program shall provide that upon detection of a prohibited cross-connection, both public and non-public water systems shall either eliminate the cross-connection, ensure that appropriate backflow prevention is installed to prevent backflow into the public water system, or discontinue water service until the contaminant source is eliminated; and

WHEREAS, whenever an actual or potential cross-connection is detected, a public water system must require the installation of an appropriate backflow prevention device, or must discontinue service; and

WHEREAS, Section 4.1, *among other provisions*, 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, responsibility, supervision, and control over current or future utility systems, including public water systems, established within the Lewes BPW Service Area; and

WHEREAS, Section 1 of the Lewes BPW Charter defines the Lewes BPW Service Area as “the corporate limits of the City of Lewes, the territory beyond such limits authorized in [the Lewes BPW Charter], and any franchised service area”; and

WHEREAS, Section 4.20 of the Lewes BPW Charter authorizes the Lewes BPW to “enact and adopt such rules and regulations as the [Lewes BPW] may deem proper in order to supply said utility services”; and

WHEREAS, in accordance with its duties and the State of Delaware Administrative Code, the Lewes BPW, acting in its capacity as a chartered utilities board and a public water system, desires to implement a cross-connection control program.

45 **NOW THEREFORE, BE IT RESOLVED** BY THE BOARD OF DIRECTORS OF THE
46 BOARD OF PUBLIC WORKS OF THE CITY OF LEWES, IN SESSION MET THIS 7th
47 DAY OF DECEMBER, 2023 THAT:

48
49 **Section 1.** The foregoing recitals are hereby ratified and confirmed as being true and
50 correct and are hereby incorporated as findings of the Lewes BPW and the legislative intent of this
51 Resolution.

52
53 **Section 2.** The Lewes BPW hereby establishes a cross-connection control program
54 pursuant to, and in conformance with the Delaware Department of Health and Social Services,
55 Division of Public Health and the State of Delaware Administrative Code and which is
56 incorporated herein by reference (the "Cross-Connection Control Program"). If any conflicts exist
57 between the Lewes BPW's Cross-Connection Control Program and the Delaware Administrative
58 Code, the more restrictive regulations shall govern.

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60 **Section 3.** The requirements of this Cross-Connection Control Program are intended
61 to meet or exceed the relevant requirements contained in the Delaware Plumbing Code, as well as
62 the technical specifications and the installation, repair, and maintenance requirements contained in
63 the current edition of the American Water Works Association (AWWA) M-14 Manual, entitled
64 "Recommended Practice for Backflow Prevention and Cross-Connection Control."

65
66 **Section 4.** The General Manager of the Lewes BPW or other authorized designee shall
67 promulgate a manual which shall be known as the "Cross-Connection Control Plan for Lewes
68 BPW" (the "Plan"), which Plan is hereby adopted and incorporated by reference herein and which
69 may be updated and amended by the Board of Directors of the Lewes BPW from time to time.
70 Compliance with the Plan and the Cross-Connection Control Program set forth therein is hereby
71 required and it shall be prohibited to act in any manner that is inconsistent therewith.

72
73 **Section 5.** The General Manager or authorized designee is granted the authority to
74 inspect any and all water service connections served by the public potable water supply, and to
75 take appropriate action to ensure the integrity of said system. The frequency of inspections and
76 re-inspections based on potential health hazards involved shall be established in the Plan and in
77 accordance with applicable State regulations. Duly authorized representatives of the Lewes BPW
78 shall be permitted to enter any building, structure, or property served by a connection to the public
79 potable water supply system of the Lewes BPW at any reasonable time to inspect for actual or
80 potential cross-connections or water quality, to test backflow preventers, to conduct health hazard
81 assessments, to inspect reclaimed water or reuse water systems, and to identify hazards that could
82 contaminate the public potable water supply system. Granting reasonable access to the Lewes
83 BPW and its agents/employees to enter private property for such inspections in order to administer
84 the Cross-Connection Control Program is a condition of receiving Lewes BPW utility service.

85
86 **Section 6.** The General Manager or authorized designee is hereby authorized and
87 directed to discontinue potable water service to any property wherein any connection in violation
88 of the Cross-Connection Control Program exists and to take such other precautionary measures
89 deemed necessary to eliminate any danger of contamination to the public potable water supply
90 system. Water services to such property shall not be restored until the cross-connection has been

91 eliminated or until an appropriate backflow prevention device has been installed in compliance
92 with the provisions of this Cross-Connection Control Program.
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94 **Section 7.** All testable backflow prevention assemblies shall be tested initially upon
95 installation to be sure that the assembly is working properly. Subsequent testing of assemblies
96 shall be conducted upon responding to a reported backflow incident, immediately upon repair or
97 relocation, and at least once every year for residential service connections and at least once per
98 year for non-residential service connections. For the purposes of the Cross-Connection Control
99 Program, non-residential service connections include all commercial, utility-owned, and industrial
100 service connections.
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102 **Section 8.** The Lewes BPW shall be responsible for the installation, testing,
103 maintenance, repair, and/or replacement of required backflow prevention devices for all residential
104 service connections. Residential service connection customers required to utilize a backflow
105 prevention device shall be assessed a service charge, as established by the Lewes BPW pursuant
106 to the Lewes BPW's powers established in the Lewes BPW Charter.
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108 **Section 9.** Water customers with non-residential service connections shall bear all
109 expense of installing, testing, and maintaining the protective devices required by the Cross-
110 Connection Control Program to ensure proper operation on a continuing basis. Installation, testing,
111 and maintenance of protective devices shall be conducted by certified personnel approved by the
112 Lewes BPW and in accordance with the requirements set forth in the Plan. Non-residential service
113 connection customers shall keep records on testing, maintenance, and repair activities related to
114 cross-connection control and shall make such records available to the Lewes BPW or its
115 agents/employees upon request. Copies of all testing, maintenance, and repair records shall be
116 reported to the Lewes BPW pursuant to the procedures set forth in the Plan.
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118 **Section 10.** The Lewes BPW may bill water customers or property owners an amount
119 equal to that incurred by the Lewes BPW to perform services required by this Cross-Connection
120 Control Program. This includes, but is not limited to, costs incurred by Lewes BPW agents,
121 employees, and third parties retained by the Lewes BPW.
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123 **Section 11.** This Cross-Connection Control Program does not supersede the Delaware
124 Plumbing Code, the Delaware Department of Health Plumbing Rules, or any local plumbing
125 ordinance but is supplementary to them, provided that where conflicts exist, the more restrictive
126 provision shall apply.
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128 **Section 12.** Violation of the Cross-Connection Control Program may be enforced by any
129 or all of the following measures:
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131 **A.** The issuance of a notice requiring the water customer to cure the violation or face daily
132 fees pursuant to Section 5 of the Lewes BPW Charter, with each day or fraction thereof, to
133 be established in a fee schedule adopted by the Lewes BPW, in which the violation
134 continues being considered a separate offense;
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136 **B.** The filing of a complaint for injunctive relief;

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- C. The termination of any current utility service being provided by the Lewes BPW until such time as compliance is achieved;
- D. The installation, repair, and/or replacement of a backflow preventer by the Lewes BPW, its agents/employees, at the cost of the water customer or property owner; and
- E. Any other remedy available at law.

Section 13. It is the intention of the Lewes BPW that Sections 2 – 12 of this Resolution shall be made a part of and memorialized in the policies contained within the Plan approved and adopted by the Lewes BPW. Any section, paragraph number, letter, and/or any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical, and similar or like errors may be corrected.

Section 14. The provisions of this Resolution are declared to be severable and if any section, sentence, clause, or phrase of this Resolution shall for any reason be held by a court of competent jurisdiction to be invalid or unenforceable, such decision shall not affect the validity of the remaining terms, provisions, clauses, sentences, or sections of this Resolution but they shall remain in full force and effect, it being the legislative intent that this Resolution shall stand notwithstanding the invalidity of any part.

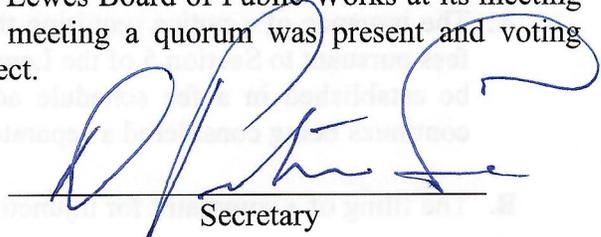
Section 15. All resolutions, official determinations, policies, or parts thereof previously adopted or entered by the Lewes BPW or any of its agents, employees, or officials in conflict with this Resolution are hereby repealed to the extent inconsistent herewith.

Section 16. This Resolution shall be posted in the office of the Lewes BPW and on the Lewes BPW website within two (2) days of its adoption by the Board of Directors of the Lewes BPW.

Section 17. This Resolution shall take effect immediately upon its adoption by the Board of Directors of the Lewes BPW.

Adopted by the Board of Directors
of the Lewes Board of Public Works

I, D. Preston Lee, P.E., Secretary of the Board of Directors of the Board of Public Works of the City of Lewes, do hereby certify that the foregoing is a true and correct copy of the Resolution passed by the Board of Directors of the Lewes Board of Public Works at its meeting on DECEMBER 7, 2023, at which meeting a quorum was present and voting throughout and the same is still in full force and effect.



Secretary