

TOWN OF MAGNOLIA

ORDINANCE NO. 409

AN ORDINANCE OF THE TOWN OF MAGNOLIA, KENT COUNTY, DELAWARE, RELATING TO CROSS-CONNECTION CONTROL ASSEMBLIES FOR THE PROTECTION OF PUBLIC POTABLE WATER SUPPLIES; PROVIDING LEGISLATIVE FINDINGS; PROVIDING FOR INCLUSION IN THE ORDINANCES, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

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, Delaware Department of Health and Social Services, Division of Public Health, 16 DE Administrative Code 4462, Section 21, requires all community 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 community and non-community 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 community water system must require the installation of an appropriate backflow prevention device, or must discontinue service.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Magnolia, Kent County, DE, as follows:

Section 1. Findings. The foregoing recitals are hereby ratified and confirmed as being true and correct and are hereby incorporated as findings of the Town Council and the legislative intent of this ordinance.

Section 2. Amendment to Town Ordinances, Article IV, Water is hereby enacted to read as follows:

Sec. 2-01. Cross-Connection Control Program established.

- a) The Town hereby establishes a cross-connection control program pursuant to, and in conformance with the Delaware Department of Health and Social Services, Division of Public Health, 16 DE Code, Section 4462, Section 21.0 - Cross Connection Control, as may be amended from time to time and which is incorporated herein by reference. If any conflicts exist between the Town's cross-connection control program and the Delaware Administrative Code, the more restrictive regulations shall govern.

- b) The requirements of this Cross-Connection Control Program are intended to meet or exceed the relevant requirements contained in the Delaware Plumbing Code (IPC 2018) as well as the technical specifications and the installation, repair and maintenance requirements contained in the American Water Works Association (AWWA) M14 Manual, Third Edition, 2004, entitled, "Recommended Practice for Backflow Prevention and Cross-Connection Control."

Sec. 2.02. Cross-Connection Control Plan adopted; compliance required.

The Town of Magnolia or its designee shall promulgate a manual which shall be known as the "Town of Magnolia Cross-Connection Control Plan" (the "Plan"), which manual is hereby adopted and incorporated by reference herein, and which may be updated and amended by the Town of Magnolia or its designee from time to time. Compliance with the Plan and the cross-connection control program set forth therein is hereby required, and it is prohibited and unlawful to act in any manner that is inconsistent therewith.

Sec. 2.03. Inspections.

The Town of Magnolia or its designee is granted the authority to inspect any and all water service connections served by the public potable water supply, and to take appropriate action to ensure the integrity of the potable water system. The frequency of inspections and re-inspections based on potential health hazards involved shall be established in the Plan, and in accordance with applicable State regulations. Duly authorized representatives of the Town shall be permitted to enter any building, structure, or property served by a connection to the public potable water supply system of the Town to inspect for actual or potential cross-connections or water quality, to test backflow preventers, to conduct health hazard assessments, to inspect reclaimed water or reuse water systems, and to identify hazards that could contaminate the public potable water supply system. Granting reasonable access to the Town of Magnolia or its designee to enter private property for such inspections in order to administer the cross-connection control program is a condition of receiving Town utility service.

Sec. 2.04 Discontinuance of Service.

The Town of Magnolia or its designee is hereby authorized and directed to discontinue potable water service to any property, wherein any connection in violation of the cross-connection control program exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination to the public potable water supply system. Water services to such property shall not be restored until the actual or potential cross-connection has been eliminated or until an appropriate backflow prevention device has been installed in compliance with the provisions of this cross-connection control program.

Sec. 2.05 Testing, Maintenance, and Records: Customer Responsibility.

- a) All testable backflow prevention assemblies shall be tested initially upon installation to be sure that the assembly is working properly. Subsequent testing of assemblies shall be conducted at least once every two years for residential service connections and at least once per year for non-residential service connections. For the purposes of the cross-connection control program, non-residential service connections include all commercial and industrial service connections.
- b) The Town shall be responsible for the installation, testing, maintenance, repair, and/or replacement of required backflow prevention devices for all residential service connections. Residential service connection customers required to utilize a backflow prevention device shall be assessed a service charge as established in Article IV of the Town Ordinances.
- c) Water customers with non-residential service connections shall bear all expense of installing, testing, and maintaining the protective devices required by the cross-connection control program to ensure proper operation on a continuing basis. Installation, testing, and maintenance of protective devices shall be conducted by certified personnel approved by the Town, and in accordance with the requirements set forth in the Plan. Non-residential service connection customers shall keep records on testing, maintenance, and repair activities related to cross-connection control and shall make such records available to the Town or its designees upon request. Copies of all testing, maintenance, and repair records shall be reported to the Town pursuant to the procedures set forth in the Plan.

Sec. 2.06 Authority to Bill Customers.

The Town is authorized to bill water customers or property owners an amount equal to that incurred by the Town to perform services required by this cross-connection control program. This includes, but is not limited to costs incurred by the Town or its designees.

Sec. 2.07 Other Codes and Regulations.

This cross-connection control program does not supersede the Delaware Plumbing Code, the Delaware Department of Health Plumbing Rules, or any local plumbing ordinance but is supplementary to them, provided that where conflicts exist, the more restrictive provision shall apply.

Sec. 2.08 Violations and Penalties.

Violation of the cross-connection control program may be prosecuted or enforced by any or all of the following measures:

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- (a) The issuance of an ordinance violation requiring the water customer to correct the situation or face a daily fine of \$50.00, with each day or fraction thereof in which the violation continues being considered a separate offense;
- (b) The prosecution of the violator pursuant to the Town's Ordinances and, upon conviction by a court of competent jurisdiction, punishment as provided therein;
- (c) The filing of a complaint for injunctive relief;
- (d) The termination of any current utility service being provided by the Town until such time as compliance is achieved;
- (e) The installation, repair and/or replacement of a backflow preventer by the Town or its designee at the cost of the water customer or property owner; and
- (f) Any other civil or criminal remedy available by law.

Section 3. Inclusion in the Ordinances. It is the intention of the Town Council of the Town of Magnolia that this ordinance shall be made a part of the Town of Magnolia Code of Ordinances. 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 4. Severability. The provisions of this ordinance are declared to be severable and if any section, sentence, clause or phrase of this ordinance 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 ordinance but they shall remain in effect, it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Conflicts. All ordinances, resolutions, official determinations or parts thereof previously adopted or entered by the Town or any of its officials and in conflict with this ordinance are hereby repealed to the extent inconsistent herewith.

Section 6. Effective Date. This ordinance shall become effective immediately upon its adoption by the Town Council.

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ADOPTED BY A MAJORITY VOTE OF THE COUNCIL MEMBERS PRESENT AT A
REGULAR MEETING OF MAGNOLIA, DELAWARE TOWN COUNCIL ON THE 8th OF
January, 2024.

I do hereby certify that the forgoing is a true and correct copy of the Ordinance passed by
the Town Council at its meeting on June 18, 2024 at which meeting a
quorum was present and voting throughout that the same is still in full force and effect.

Diane P. Cahall

DIANE P. CAHALL

TOWN SECRETARY / TREASURER