

Chapter 82 UTILITIES ^[1]

ARTICLE I. - IN GENERAL

ARTICLE II. - WATER AND SEWAGE WORKS

ARTICLE III. - CONTROL OF BACKFLOW AND CROSS CONNECTIONS

FOOTNOTE(S):

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State Law reference— Authorization of municipal public works, W. Va. Code, § 8-16-1 et seq.; power to establish rates, fees, charges, W. Va. Code, § 8-16-18; municipal waterworks and electric power, W. Va. Code, § 8-19-1 et seq.; deposits may be required for new customers, W. Va. Code, § 8-19-12a; discontinuance of water or electric service for nonpayment for services, W. Va. Code, § 8-19-13.

ARTICLE I. IN GENERAL

Secs. 82-1—82-18. Reserved.

Secs. 82-1—82-18. Reserved.

ARTICLE II. WATER AND SEWAGE WORKS ^[2]

DIVISION 1. - GENERALLY

DIVISION 2. - CONNECTIONS, RATES AND ADMINISTRATION

FOOTNOTE(S):

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Editor's note—The responsibility for the sewage system has been delegated to the Warm Springs Public Service District.

DIVISION 1. GENERALLY

Secs. 82-19—82-43. Reserved.

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DIVISION 2. CONNECTIONS, RATES AND ADMINISTRATION

Sec. 82-44. Authorization of water and sewage works.

Sec. 82-45. Connection to sewers; board of health.

Sec. 82-46. Rates for service.

Sec. 82-47. System of accounts; audits.

Sec. 82-48. Preparation and publication of financial statement.

Secs. 82-49—82-69. Reserved.

Sec. 82-44. Authorization of water and sewage works.

- (a) The town shall have the responsibility for the planning and implementation of a water and sewage system for the citizens of the town and those other area residents whom the council deems it feasible to serve. This is to be accomplished in keeping with existing state statutes and with regard to the health, safety, and public interest of the citizens.
- (b) The town council, in keeping with the statutes of the state, may engage in contracts for the provision of planning, engineering and construction services with the purposes of providing water service for the residents of the town and those other populations to be considered.

(Code 1981, § 11-301)

Sec. 82-45. Connection to sewers; board of health.

The owner of any property wherein people live, are employed or congregate must be equipped with sanitary facilities for sewage disposal that are approved by the board of health. Any person owning abutting land on a public sewer or where such a sewer might be placed may be compelled by the board of health to hook to the public sewer, and a notice to do so will be given to the owner by the board of health. Failing to comply with this order after ten days have gone by shall be a misdemeanor beginning on the 11th day and every day afterwards shall be a separate offense. The fine shall not be less than \$5.00 or more than \$25.00.

(Code 1981, § 11-302)

Sec. 82-46. Rates for service.

- (a) The town has the power to charge and maintain just and equitable rates to every person using the system and to charge these rates from time to time. The revenue gained from such charges shall be used to upkeep the works and pay off debt service requirements. All rates, if not paid when charged, may constitute a lien, and if not paid in 30 days after the same is due, the amount thereof plus ten percent and the attorneys fee can be gained by the town in a civil suit. If this course of action does not work, the town may make application to the public service commission for relief.
- (b) Whenever a rate hike is to be put into effect, a public hearing shall be held not less than ten days after the proposal after which the hearing shall be held and the rates shall be decided.

A copy of the rates shall be kept with the recorder and open to the public at all times. The aggregate of the rates must be sufficient to maintain the care of the works.

(Code 1981, § 11-303)

Sec. 82-47. System of accounts; audits.

The town shall establish an accounting system based on the system of accounts as provided by the state public service commission for the water and sewerage works. These accounts shall be audited annually and the audit should be made open to the public.

(Code 1981, § 11-304)

Sec. 82-48. Preparation and publication of financial statement.

- (a) The town clerk shall prepare a monthly income statement to be presented to the mayor and council showing the cash collected and disbursed for the period.
- (b) The town shall prepare an annual report including a balance sheet, income statement, and list of assets of the water and sewerage works. Such a report shall be prepared in accordance with the format and system of accounts provided by the state public service commission. The town shall publish a financial statement of water and sewerage works every year as a Class 1 legal advertisement.

(Code 1981, § 11-305)

Secs. 82-49—82-69. Reserved.

ARTICLE III. CONTROL OF BACKFLOW AND CROSS CONNECTIONS

Sec. 82-70. Purpose.

Sec. 82-71. Authority.

Sec. 82-72. Responsibility.

Sec. 82-73. Definitions.

Sec. 82-74. Administration.

Sec. 82-75. Requirements for water purveyors, owners.

Sec. 82-76. Degree of hazard.

Sec. 82-77. Existing in-use backflow prevention devices.

Sec. 82-78. Periodic testing.

Sec. 82-79. Records.

Sec. 82-70. Purpose.

The purpose of this article is to:

- (1) Protect the public water system served by the Berkeley Springs Water Works from the possibility of contamination or pollution by isolating within its customer's internal distribution water system, such contaminants or pollutants that could backflow due to back-pressure or back-siphonage into the public water system;

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- (2) Promote the elimination and/or control of cross connections and backflow conditions, actual or potential, within a customer's internal distribution water system, non-potable systems, plumbing fixtures and processes; and
- (3) Provide for the maintenance of a continuing program of cross connection and backflow prevention control which will effectively prevent the contamination or pollution of the public and/or customer's water system from cross connections and backflow conditions.

(Ord. No. 2005-08, § I, 11-7-2005)

Sec. 82-71. Authority.

By the Federal Safe Drinking Water Act of 1974 and 1996 amendment, and chapter 16, article 1 of the Code of West Virginia and Public Health Laws, WV Bureau for Public Health chapter 1, article 5B, the water purveyor has the primary responsibility for preventing water from unapproved sources, or any other substances, from entering the public potable water system.

(Ord. No. 2005-08, § II, 11-7-2005)

Sec. 82-72. Responsibility.

The water purveyor shall be responsible for the protection of the public potable water distribution system from contamination or pollution due to backflow from backpressure or back-siphonage of contaminants or pollutants through the water service connection. If, in the judgment of the water purveyor, an approved backflow preventer assembly is required at the water service connection to any customer's premises, the water purveyor, or his delegated agent, shall give notice in writing to said customer to install an approved backflow preventer assembly at each service connection to his premises. The customer shall, within 90 days, install such approved assembly, at his own expense, and failure or refusal or inability on the part of the customer to install said assembly within 90 days shall constitute a grounds for discontinuing water service to the premises until such assembly has been properly installed.

(Ord. No. 2005-08, § III, 11-7-2005)

Sec. 82-73. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Air gap means a physical separation sufficient to prevent backflow between the free-flowing discharge end of the potable water system and any other system. The term "air gap" is physically defined as a distance equal to twice the diameter of the supply side pipe diameter but never less than one inch.

Approved means as accepted by the water purveyor as meeting an applicable specification stated or cited in the state department of health and human resources regulation, or as suitable for the proposed purpose.

Assembly means a backflow preventer usually consisting of a combination of approved check valve components and additional instrumentation including approved shutoff valves and test cocks.

Atmospheric vacuum breaker means a device which prevents backflow by creating an atmospheric vent when there is either a negative pressure or subatmospheric pressure in a water system.

Auxiliary water supply means any water supply or water source, on or available, to a customer's premises other than the purveyor's approved public water system.

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Backflow means the undesirable reversal of water flow or introduction of other liquids, mixtures or substances caused by a pressure differential in the distribution pipes of a potable water system.

Backflow condition means any set of circumstances, actual or potential that could be construed to create a cross connection allowing for backflow of a contaminant or pollutant to enter a potable water system.

Backflow preventer means a device or assembly, or means designed to prevent backflow in a potable water system. Most commonly categorized as air gap, atmospheric vacuum breaker, barometric loop, double check with intermediate atmospheric vent, double check valve assembly, hose bibb vacuum breaker, pressure vacuum breaker, reduced pressure principle assembly, and residential dual check.

Backpressure means a condition in which the customer's system pressure is greater than the water purveyor's system pressure.

Back-siphonage means the flow of water or other liquids, mixtures or substances into the distribution pipes of a potable water system from any source other than the primary source caused by the sudden reduction of pressure or negative pressure in the potable water system.

Barometric loop means a fabricated piping arrangement rising at least 35 feet at its topmost point above the highest fixture it supplies. It is utilized in water supply systems to protect against back-siphonage.

Community water system means a public water system that serves at least 25 residents yearround or that has 15 service connections serving yearround residents.

Containment (external protection) means a method of backflow prevention which requires a backflow preventer assembly be installed after the meter and prior to any water service entrance.

Contaminant means a substance that will impair the quality of potable water to a degree that it creates a serious health hazard to the public leading to poisoning or the spread of disease.

Cross connection means any actual or potential, direct or indirect, connection between the public water system and an unapproved water supply or other source of contamination or pollution.

Customer means a customer is described as a billing unit or service connection to which drinking water is delivered by a public water system. A customer may also be identified as an owner.

Degree of hazard means the potential risk to health and the potential adverse effects upon the public water system based on the probability of backflow occurring and the type or nature of the contaminant. A health hazard is any condition, device or practice which creates or may create a danger to health and well-being of the water consumer. A severe health hazard is any health hazard (contaminant) that could be expected to result in significant morbidity or death. A non-health hazard (pollutant) is any condition that could degrade the quality or adversely affect the public water system.

Device means a single body backflow preventer with one or two check valves that cannot be tested and does not have shutoff valves or test cocks.

Double check valve assembly means an assembly of two independently operating spring-loaded check valves with tightly closing shutoff valves on each side of the check valves, and properly located test cocks for the testing of each check valve.

Double check valve with intermediate atmospheric vent means a device having two spring-loaded check valves separated by an atmospheric vent chamber.

Fixture isolation (internal isolation) means a method of backflow preventer where a backflow preventer is located to control a cross connection or potential source of contamination at an in-plant piece of equipment or process location other than at a water service entrance.

Hose bibb vacuum breaker means a device attached to a hose bibb and which acts as an atmospheric vacuum breaker.

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Owner means any person who has legal title to, or license to operate, or resides in a property or facility which is supplied drinking water from a public water system. An owner may also be referred to as a customer.

Person means any individual, partnership, company, public or private corporation, political subdivision, agency of the state, agency or instrumentality of the United States, or any other legal entity.

Pollutant means a foreign substance, if permitted to enter the public water system, will degrade potable water quality so as to constitute a moderate hazard, or impair the usefulness of the water to a degree which does not create an actual hazard to the public health, but which does adversely and unreasonably affect (appearance or color, odor, taste, etc.) the water for domestic use.

Potable water means water that is safe for human consumption as described by the West Virginia Bureau for Public Health.

Pressure vacuum breaker means an assembly containing an independently operated spring-loaded check valve and an independently operated spring-loaded air inlet valve located on the discharge side of the check valve. The assembly includes tightly closing shutoff valves on each side of the valves and properly located test cocks for the testing of the check and air valve.

Public water system means and includes the works, auxiliaries, for the collection, treatment, storage and distribution of drinking water from the source of supply to a customer's premises. May also be known as a water purveyor.

Reduced pressure principle backflow preventer means an assembly consisting of two independently operating approved check valves with an automatically operating differential relief valve located between the two check valves, tightly closing shutoff valves on each side of the check valves plus properly located test cocks for the testing of the check valves and the relief valve.

Residential dual check means a device consisting of two spring-loaded, independently operating check valves. Generally employed immediately downstream of the water meter to act as a fixture isolation device.

Water purveyor means the town water department, water board, public service district or other administrative authority invested with the authority and responsibility for a public water system.

Water service entrance means that point in the customer's water system beyond the sanitary control of the public water system (water purveyor), generally considered to be the outlet end of the water meter and always before any unprotected branch water line.

West Virginia Bureau for Public Health (WVBPH) means the State of West Virginia Bureau for Public Health.

(Ord. No. 2005-08, § IV, 11-7-2005)

Sec. 82-74. Administration.

- (a) The water purveyor will establish, operate and promote a cross connection and backflow prevention control program, to include the keeping of necessary records, which fulfills the requirements of the WVBPH Cross Connections and Backflow Prevention Regulations.
- (b) The owner shall allow his property to be inspected for possible cross connections and backflow conditions, and shall follow the provisions of the water purveyor's program and the WVBPH Cross Connections and Backflow Prevention Regulations where a cross connection is permitted.
- (c) If the water purveyor requires that the public water system be protected by containment, the owner shall be responsible for the installation and maintenance of the required backflow preventer assembly and for water quality beyond the outlet end of the containment assembly

and could utilize fixture isolation protection for that purpose. The owner may also seek local public health officials, or personnel from the water purveyor, or their designated representatives, or certified/licensed private sector personnel to assist him in the survey of their facility and in the selection of proper containment assemblies and/or fixture isolation devices, and the proper installation of these assemblies/devices.

(Ord. No. 2005-08, § V, 11-7-2005)

Sec. 82-75. Requirements for water purveyors, owners.

(a) *Water purveyor.* Requirements for water purveyors are as follows:

- (1) On new installations, the water purveyor will provide an on-site evaluation and/or inspection of plans in order to determine the type of backflow preventer assembly, if any, that will be required based on actual or potential cross connections and the degree of health hazards.
- (2) For premises existing prior to the start of this program, the water purveyor will perform evaluations and inspections of plans and/or premises for actual and potential cross connections and backflow conditions and inform the owner by letter of any corrective action deemed necessary, the method of achieving the correction, and the time allowed for the correction to be made. Ordinarily, 90 days will be allowed. However, this time period may be shortened depending upon the degree of hazard involved and the history of the device/assembly already in place.
- (3) The water purveyor will not allow any actual or potential cross connection to remain unless it is protected by an approved air gap or backflow preventer assembly and which must be regularly tested or inspected to ensure satisfactory operation.
- (4) The water purveyor shall inform the owner by letter, of any failure to comply, prior to a reinspection. The water purveyor will allow an additional 15 days for the correction. In the event the owner fails to comply with the necessary correction by the time of a second reinspection, the water purveyor will inform the owner by letter that the water service to the owner's premises will be terminated within a period not to exceed five days. In the event that the owner informs the water purveyor of extenuating circumstances as to why the correction has not been made, a time extension may be granted by the water purveyor, but in no case will exceed an additional 30 days.
- (5) If the water purveyor determines at any time that a serious threat to the public health exists, water service will be terminated immediately.
- (6) The water purveyor will conduct initial and follow-up premises inspections to determine the nature of existing or potential hazards. The main focus will be on high hazard industries and commercial premises.
- (7) The water purveyor must report any backflow incident occurring in the public water system to the WVBPH as soon as possible but no later than 24 hours after the incident.

(b) *Owner.* Requirements for owners are as follows:

- (1) The owner shall be responsible for the elimination or protection of all actual or potential cross connections and/or backflow conditions on his premises.
- (2) The owner, after having been informed by a letter from the water purveyor, shall, at his expense, install, maintain, and test, or have tested any and all backflow preventer assemblies on his premises.
- (3) The owner shall correct within 30 days any malfunction of an air gap or backflow preventer assembly which is revealed by periodic inspection or testing. This may also involve the removal and/or replacement of the backflow preventer assembly.

- (4) The owner shall inform the water purveyor of any proposed or modified cross connections and also any existing cross connections of which the owner is aware, but have not been found by the water purveyor.
- (5) The owner shall not install a bypass around any backflow preventer assembly unless there is a backflow preventer assembly of the same type on the bypass. Owners who cannot shut down operation for testing of the assembly must supply additional assemblies necessary to allow testing to take place.
- (6) The owner shall install only backflow preventer assemblies approved by the water purveyor or the WVBPH.
- (7) The owner shall install backflow preventer assemblies in a manner approved by the water purveyor and general industry standards.
- (8) Any owner having a private well or other auxiliary water source must have the approval of the water purveyor and the WVBPH if the well or source is cross connected to the water purveyor's system. Permission to cross connect may be denied. The owner may be required to install a backflow preventer assembly at the service entrance if a private water source is maintained, even if it is not cross connected to the water purveyor's system.
- (9) In the event the owner installs plumbing to provide potable water for domestic purposes which is on the water purveyor's side of a backflow preventer assembly, such plumbing must have its own backflow preventer assembly installed.
- (10) The owner shall be responsible for the payment of all fees for service, permits, periodic assembly testing, retesting in the case that a backflow preventer assembly fails to operate correctly, and follow up reinspections for noncompliance with water purveyor or WVBPH requirements.
- (11) The owner must maintain for a minimum of three years records of installation and removal, all testing, repair and maintenance for all assemblies/devices in the owner's water distribution system.
- (12) The owner will report any backflow incident occurring in their facility/building as soon as possible but no later than 24 hours after the incident to the water purveyor and to the WVBPH. Also, the owner must maintain for a minimum of three years all records and reports of all backflow incidents occurring in their facility/building. These records and reports will be made available to the water purveyor and/or WVBPH upon request.

(Ord. No. 2005-08, § VI, 11-7-2005)

Sec. 82-76. Degree of hazard.

The water purveyor recognizes the threat to the public water system arising from cross connections and backflow conditions. All threats will be classified by degree of hazard which will determine the requirements for the installation of approved backflow preventer assemblies.

(Ord. No. 2005-08, § VII, 11-7-2005)

Sec. 82-77. Existing in-use backflow prevention devices.

Any existing backflow preventer assembly shall be allowed by the water purveyor to continue in service unless the degree of hazard is such as to supersede the effectiveness of the present backflow preventer assembly, or there is an unreasonable risk to the public health. Where the degree of hazard has increased, as in the case of a residential installation converting to a business establishment, any existing backflow preventer assemblies must be upgraded to a reduced pressure principle assembly, or a reduced pressure principle assembly must be installed in the event that no backflow preventer assembly is present.

(Ord. No. 2005-08, § VIII, 11-7-2005)

Sec. 82-78. Periodic testing.

- (a) Backflow preventer assemblies shall be tested and inspected at least annually.
- (b) Periodic testing shall be performed by a WVBPH certified tester. This testing will be done at the owner's expense.
- (c) Any backflow preventer assembly which fails during a periodic test will be repaired or replaced. When repairs are necessary, upon completion of the repair, the assembly will be retested at the owner's expense to ensure correct operation. High hazard situations will not be allowed to continue unprotected if the backflow preventer assembly fails the periodic test and cannot be repaired immediately. In other situations, a compliance date of not more than 30 days after the test date may be established. The owner is responsible for the costs of all testing, repair service, replacement parts, or a replacement assembly. Parallel installation of two assemblies is an effective means of the owner ensuring uninterrupted water service during testing or repair of one of the assemblies and is strongly recommended when the owner desires such continuity.
- (d) Backflow preventer assemblies will be tested more frequently than specified in subsection (a) of this section in cases where there is a history of test failures and the water purveyor feels that due to the degree of hazard involved, additional testing is warranted. Cost of the additional tests will be borne by the owner.

(Ord. No. 2005-08, § IX, 11-7-2005)

Sec. 82-79. Records.

- (a) The water purveyor will initiate and maintain the following:
 - (1) Master files on customer evaluations and/or inspections of cross connections and backflow conditions.
 - (2) Master files on all customer backflow preventer assemblies.
 - (3) Master files on customer backflow preventer tests, repairs and replacements. Records for replaced backflow preventer shall be maintained for a period of one year after date of removal from service.
 - (4) Records and reports of any backflow incident occurring in the public or consumer water systems shall be maintained for at least three years after the date of the incident.
 - (5) Copies of any of the above and other records and/or reports supplied to the WVBPH. This material shall be maintained for at least three years after submission.
- (b) Upon request, the water purveyor will submit records of inspection and noncompliance, surveys, tests results and/or corrective actions, and backflow incident reports to the state bureau for public health.

(Ord. No. 2005-08, § X, 11-7-2005)