

AN ORDINANCE TO AMEND CHAPTER 124, WATER; OF THE CODE OF THE TOWN OF HENLOPEN ACRES, SUSSEX COUNTY, DELAWARE, RELATING TO CROSS-CONNECTION CONTROL ASSEMBLIES FOR THE PROTECTION OF PUBLIC POTABLE WATER SUPPLIES; PROVIDING LEGISLATIVE FINDINGS; PROVIDING FOR INCLUSION IN THE CODE, 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; and,

WHEREAS, upon review of and consolidation of the revised State regulations, additional references require amendment, addition or deletion.

BE IT ORDAINED by the Commissioners of the Town of Henlopen Acres, in session met, a quorum pertaining at all times thereto, in the manner following to-wit:

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

Section 2. Amendment of Chapter 124, Water, of the Code of the Town of Henlopen Acres, are hereby enacted to read as follows:

§124-2 Use of public water service required.

A. Except for the 11 properties...
Delete the number "11"

D. Swimming pools, irrigation systems, and geothermal heating/cool...

Add the words, **exterior water feature**, so that the sentence now reads: "Swimming pools, irrigations systems, exterior water features, and geothermal heating/cooling..."

§124-6 Definitions and word usage.

- A. Add definition for **“Water Feature – Any one or combination of the following which require a water source for operation: fountain, pool, pond, cascade, waterfall, stream, or similar structures.”**

§124-10 Water service connect and disconnect charge.

Delete: **“or CES liens”**

§124-15 Application for permit.

- A. Delete: **“who has filed a bond with the Town and”**
- H. Delete: **“which shall be placed in back of the property line,”**

§124-17 Procedures for water service pipe connections.

- A. (1) Delete in entirety and replace with: **“Show proof that they are registered as a plumber by the Delaware Division of Professional Regulation and that they are licensed to do business as a plumber in the State of Delaware.”**

(2) Delete in entirety.

(3) The second sentence shall be edited to read: **“The certificate of insurance should so state that the Town of Henlopen Acres is named as an additional insured, and that the Town office will be notified by the insurance company 10 days prior to the expiration of the insurance.”**

- F. (1) Strike the term: **“(SDR &)”**.
Strike the term: **“National Sanitation Foundation”** and replace with: **“NSF international”**.

(2) Strike the term: **“the Hays Manufacturing Company “Hays Tite””**.
Add the word: **“Conductive”** prior to the words **“Compression Connection”**.

(4) Strike the term: **“National Sanitation Foundation”** and replace with: **“NSF international”**.

(5) Strike the term: **“66”**.
Strike the term: **“ANSI”** and replace with: **“ASTM”**.

- K. Delete section **“K”** in entirety and replace with new section K, as follows:

K. Cross-Connection Control Program established.

(1) 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 Delaware 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.

- (2) 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."
- (3) Cross-Connection Control Plan adopted; compliance required. The Town Manager or designee shall promulgate a manual which shall be known as the "Town of Henlopen Acres 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 manager or 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.
- (4) Inspections. The Town Manager or 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 and its agents to enter private property for such inspections in order to administer the cross-connection control program is a condition of receiving Town utility service.
- (5) Discontinuance of service. The Town Manager or 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.

- (6) Testing, maintenance, and records: customer responsibility. 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.**
- a) 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 by resolution of the Board of Commissioners.**
- b) 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 agents 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.**
- (7) Authority to bill customers. The Town is authorized to bill water customers or property owners an amount equal to costs incurred by the Town to perform services required by this cross-connection control program.**
- (8) Other codes and regulations. This cross-connection control program does not supersede the Delaware Plumbing Code, the Delaware Department of Health Plumbing Rules, provided that where conflicts exist, the more restrictive provision shall apply.**
- (9) Violations and penalties. Violations of the cross-connection control program may be prosecuted or enforced by any or all of the measures provided in Section §124-23 of this Chapter.**

L. This section deleted in entirety.

M. This section deleted in entirety.

N. Delete the word, “**Division**” and replace with the words, “**Department of Natural Resources and**” so that the sentence reads, “**Permanently abandoned wells shall be filed and sealed in accordance with the regulations of the State of Delaware Department of Natural Resources and Environmental Control.**”

§124-19 Adoption of plumbing standards by reference.

Delete the phrase: “**1990 BOCA National Plumbing Code, Eighth Edition, as published by the Building Officials Code Administrators International, Inc.,**” and replace with, “**2018 International Plumbing Code or future editions as published by the International Code Council.**”

§124-21 Water Emergencies.

C. Delete the phrase: “**except as provided in Subsection D below.D.**”

§124-23 Violations and penalties.

A. Delete the number “**50**” and replace with “**100**”.

D. Second sentence: Delete the number “**50**” and replace with “**100**”.
Fourth sentence: Delete the words, “**to the Town’s post office box which shall be stated on all citations or at the Town Hall**”.
Fifth sentence: Delete the words, “**may be debited against the municipal account of the cited party and**”.

Add: Subsection “**E**” to read as follows: “**Any other civil or criminal remedy available at law.**”

Section 3. Inclusion in the Code. It is the intention of the Board of Commissioners of the Town of Henlopen Acres that Section 2 of this ordinance shall be made a part of the Town of Henlopen Acres Code. 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 take effect immediately upon its adoption by the Commissioners of the Town of Henlopen Acres.

I, Tiffany Derrickson, Secretary of the Commissioners of the Town of Henlopen Acres, do hereby certify that the foregoing is a true and correct copy of the ordinance passed by the Commissioners at their meeting held on October 8, 2021, at which a quorum was present and voting throughout and that the same is still in full force and effect.


Secretary

SYNOPSIS: This Ordinance amends the Town's Municipal Code to comply with revisions to the drinking water regulations established by the State of Delaware. This also updates references to industry standards.