

BILL NO. 24-07
1st Reading: 2/12/2024
2nd Reading: 3/11/2024

CITY OF NEWARK
DELAWARE

ORDINANCE NO. 24-05

An Ordinance Amending Chapter 30, Water, Code of the City of Newark,
Delaware, By Adding Article X, Cross Connection Control Ordinance

THE COUNCIL OF THE CITY OF NEWARK HEREBY ORDAINS:

That Chapter 30, Water, Code of the City of Newark, Delaware, be hereby amended in the following respects:

AMENDMENT 1: Amend Chapter 30, by adding Article X, Cross Connection Control Plan, by adding the underscored text as new Article X as follows:

ARTICLE X. – CROSS CONNECTION CONTROL PLAN

“Sec. 30-59. – Cross Connection Control Plan

Regulating cross connections with the public water system, i.e., connections or arrangements of piping or appurtenances through which water of questionable quality, wastes or other contaminants can enter the public water system.

- (a) That the City of Newark adopts by reference the City of Newark’s Cross Connection Control Plan, in conformance with the Delaware Department of Health and Social Services, Division of Public Health (“Division”), 16 Del. C. § 4462, Section 21.0 Cross Connection Control, as may be updated and amended from time to time and which is incorporated herein by reference. Compliance with the City of Newark Cross Connection Control Plan manual located on the City of Newark website and the cross-connection program contained therein is hereby required.
- (b) That it shall be the duty of the City of Newark to cause surveys to be made of all properties served by the public water system where it is deemed possible that cross connections with the public water supply exist. The frequency of surveys and resurveys based on potential health hazards involved shall be as established by the City of Newark and as approved by the Division.
- (c) That at any reasonable time, the representative of the City of Newark shall have the right to enter any property served by a connection to the public water system of City of Newark for the purpose of surveying the piping system or systems thereof for cross connections. On request, the owner, lessees, or occupants of any property so served shall furnish to the City or survey agency any pertinent information they have regarding the piping

system or systems on such property. The refusal to provide such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connection.

- (d) That the City of Newark is hereby authorized and directed to discontinue water service after reasonable notice to any property wherein any connection in violation of this ordinance exists and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water system. Water service to such property shall not be restored until the non-compliant cross connection(s) has been eliminated in compliance with the provisions of this ordinance.
- (e) That all testable backflow prevention assemblies shall be tested initially upon installation, repair or relocation to be sure that the assembly is working properly. Subsequent testing of assemblies shall be performed on an annual basis as required by the City and in accordance with Division requirements. Only individuals that are approved and State of Delaware certified shall be qualified to perform such testing. That individual(s) shall certify the accuracy of the results of his/her testing.
- (f) That the potable water supply made available on the properties served by the City of Newark be protected from possible contamination as specified by this ordinance, by the State of Delaware, and by the State of Delaware and/or City of Newark Plumbing Code. Any water outlet which could be used for potable or domestic purposes, and which is not supplied by the potable system must be labeled in a conspicuous manner as:



Size: 10" x 14"

- (g) That this ordinance does not supersede the State of Delaware and/or City of Newark Plumbing Code but is supplementary to them.
- (h) That any person or customer found guilty of violating any of the provisions of this ordinance or any written order of the City, in pursuance thereof, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$100 and not more than \$1,000. Each day upon which a violation of the provisions of this act occurs shall be deemed a separate and additional violation for the

purpose of this ordinance. Alternatively, the City may issue a civil violation as set forth below in subsections (1), (2) and (3).

(1) That any person in violation of any provision of this article shall be subject to a civil penalty. Each subsequent day that a violation listed in subsection a through d below continues, shall constitute a separate and distinct offence according to the following fine schedule:

(a) Unprotected cross-connection involving a private water system which is deemed an imminent hazard: \$1,000 per day and/or disconnection of water services.

(b) Unprotected cross-connection involving a private water system which is deemed a high hazard: \$750 per day and/or disconnection of water services.

(c) Unprotected cross-connection involving a private water system which is deemed a moderate hazard: \$500 per day and/or disconnection of water service.

(d) Unprotected cross-connection for which no other civil penalty is prescribed: \$250 per day and/or disconnection of water services.

(2) Each violation listed in subsection a through e below shall be considered a one-time violation (per incident) subject to the following schedule:

(a) Falsifying records which are required to be submitted by this article: tester may be removed from the approved certified tester/repairer list and/or \$500.

(b) Submitting incomplete records or failing to submit records which are required by this article: tester may be removed from the approved certified tester/repairer list and/or \$250.

(c) Failing to test backflow assemblies as required: \$100.

(d) Failing to maintain backflow assemblies as required: \$100.

(e) Any other violation of the provisions of this article: \$100.

(3) The Director of Public Works and Water Resources or their designee may increase any civil penalty assessed under this section by \$100 or 50% of the maximum civil penalty associated with the violation, whichever is greater, for a second violation of the same provision within a two-year period. Water service may be terminated after a third violation of the same provision within a two-year period. Any person violating any provision of this article shall pay the City all expenses incurred by the City in repairing damage to the public water system caused in whole or in part by such violation and any expense incurred by the City in investigating such violation. All such expenses are deemed to be a part of the civil penalty assessed with the violation.

MOTION for Acceptance as First Reading on February 12, 2024.

by Council Member Lawhorn.

Second Reading and Final Passage on March 11, 2024.

VOTE: 7 to 0.

Mayor

Attest:

City Secretary

Approved as to Legality & Form:

City Solicitor