



City of North Port

ORDINANCE NO. 2018-34

AN ORDINANCE OF THE CITY OF NORTH PORT, FLORIDA, AMENDING THE CODE OF THE CITY OF NORTH PORT, FLORIDA REGARDING THE INSTALLATION, MAINTENANCE, TESTING, AND PENALTIES RELATED TO CROSS-CONNECTION CONTROL DEVICES BY AMENDING CHAPTER 78 – UTILITIES, ARTICLE V – CROSS-CONNECTION CONTROL, SECTION 78-125 – TITLE, SECTION 78-127 – REFERENCES, SECTION 78-129 – CROSS-CONNECTION CONTROL PROGRAM, SECTION 78-130 – NONCOMPLIANCE, AND SECTION 78-132 – NOTICES; PROVIDING FOR ADOPTION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODING; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, recent changes to Rule 62-555.360, Florida Administrative Code, have affected the types of hazards that trigger the need for backflow control devices, the types of devices required, and the frequency of testing for residential connections to the City’s potable water distribution system; and

WHEREAS, on October 5, 2017, the City Commission directed staff to draft an ordinance amending the Code of the City of North Port, Chapter 78, Article V, Cross-Connection Control; and

WHEREAS, the City of North Port has broad home-rule powers to enact ordinances which are not inconsistent with general or special law for the purposes of protecting the public health, safety, and welfare of its citizens; and

WHEREAS, the City Commission has determined that the proposed amendments to the code serve the public health, safety and welfare of the citizens of the City of North Port, Florida.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF NORTH PORT, FLORIDA, AS FOLLOWS:

SECTION 1 – FINDINGS:

- 1.01 The recitals outlined above are incorporated by reference as findings of fact as if expressly set forth herein.

SECTION 2 – ADOPTION:

- 2.01 The City Commission hereby approves and adopts the following amendments to the Code of the City of North Port, Florida:

“CHAPTER 78 – UTILITIES

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ARTICLE V. – CROSS-CONNECTION CONTROL

Sec. 78-125. - Title.

This chapter of the The Code of the City of North Port ~~is hereby amended by adding thereto a new chapter, which~~ may be cited as the "Cross-Connection Control Ordinance."

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Sec. 78-127. - References.

The following rules and regulation, as they may be amended from time to time, are hereby incorporated as if specifically set forth herein and all references herein to these rules and regulations shall be construed as referring to the most current version:

The American Water Works Association ("AWWA") Manual M14

62-555.360, Florida Administrative Code ("F.A.C.")

Part III of Chapter 62-610, F.A.C.

Chapter 9B-3.047(1), F.A.C.

Chapter 69A-46, F.A.C.

Title XXXVII Chapter 633, Florida Statutes ("F.S.")

Title XXXII Chapter 489, F.S.

Florida Building Code, Section 608

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Sec. 78-129. - Cross-connection control program.

- (1) Except as otherwise provided by ~~to the extent that it is herein strengthened or extended by the other provisions of this article, as amended from time to time,~~ the City of North Port Cross-Connection Control Program Manual (“CCCP Manual”), as amended from time to time, is hereby adopted and incorporated herein by reference. ~~, and compliance~~ Compliance with all provisions of the CCCP Manual is hereby required ~~as if set forth in full in this article.~~ The cross-connection control program is in addition to the fixture protection, in-premises, and ~~or~~ internal backflow preventers required by the Florida Building Code.

- (2) Affected facilities.
 - (a) *All new water customers.* At the time a water customer applies for a water meter, the city shall conduct a plan ~~Plan~~ review and a site evaluation ~~per the procedures contained in the CCCP Manual shall be performed on all new customer locations at the time of application for a water meter.~~ All commercial, industrial, multifamily facilities, single family residences, and other water customers applying for a water meter shall be required to install an ~~a~~ city-approved backflow preventer.

 - (b) *Exterminating companies.* All tanks, tank trucks, and spraying apparatus, used to convey pesticides in furtherance of an exterminating process shall only fill those items at use only city-designated and approved ~~protected~~ potable water fill locations ~~designated and approved in advance by the city.~~ Filling those items with potable water at undesigned and unapproved locations, such as at a ~~or~~ private residences, is strictly prohibited. All ~~approved filling locations will consist of overhead piping arrangements to include the appropriate air gaps. If for any reason an overhead piping arrangement cannot be used, a reduced pressure principle assembly backflow preventer must be installed on the fill line.~~

 - (c) *Construction sites.* At all ~~All~~ construction sites using the city's potable water system, the property owner shall ensure that have a city-approved backflow prevention assembly is approved by the city installed at the connection point by the property owner. While the site is under construction, the contractor shall utilize ~~the~~ a city-approved testable aboveground, reduced pressure zone, double check valve, dual check valve, and meter assembly ~~provided by the city.~~ Failure to comply with this article ~~or other city codes or regulations~~ may result in the termination of city removing the device and terminating water service.

 - (d) *Installations requiring continuous service.* For facilities that require continuous uninterrupted water service, and where it is not possible to provide service from two separate meters, provisions shall be made for a

"parallel installation" of backflow prevention assemblies. An unprotected bypass around a backflow prevention assembly is prohibited.

- (e) *Potable water fill locations.* All city-designated and approved potable water fill locations shall consist of overhead piping arrangements that include the appropriate air gaps. If for any reason an overhead piping arrangement cannot be used, a reduced pressure principle assembly backflow preventer shall be installed on the fill line.
- (f) *Miscellaneous uses of water from fire hydrants.* The operation of a fire hydrants by anyone other than city-authorized personnel is prohibited. The city may permit the use of water from a fire hydrant for construction or other purposes provided ~~the applicant properly applies for a hydrant meter permit~~ is applied for and granted through the city's Utilities Department-utilities department's administration division and all adheres to backflow prevention requirements are followed.

(3) Installation.

- (a) When required by the city, a city-approved service protection backflow preventer ~~approved by the city~~ shall be installed immediately downstream of the water meter (between the water meter and the house or other structure being served), or at the property line when a meter is not present, or at a location approved by the city in writing or by an approved drawing, to protect all water service connections.
- (b) No plumbing or piping outlets, tees, wyes, or connections shall exist between the water meter or service connection and the service backflow preventer ~~unless such connections are protected by an approved backflow preventer.~~
- (c) All property owners required by the city to have a backflow preventer shall have an appropriately licensed plumbing contractor install a city-approved backflow preventer ~~approved by the city.~~
- (d) The type of backflow preventer required to be installed shall be commensurate to with the degree of actual or potential health hazard as determined by the city.

(4) Commercial annual backflow preventer testing.

- (a) Commercial water customers owners shall have the backflow preventers located on their commercial property tested annually. Annual testing shall be done by a certified backflow preventer assembly tester or by a licensed backflow preventer contractor. Commercial property owners shall provide the city with written test results dated within 60 days of the test due date, indicating that each backflow preventer passed the annual testing.

Written test results shall be provided to the city by the backflow preventer's annual testing due date.

- (b) Annual testing for commercial and multifamily potable water, fire lines, and bypass backflow preventers are due on the same date each year, as further specified in the CCCP Manual. The city shall provide at least 30 days' advance written notice to the water customer of the annual testing due date, the testing requirement, and the reporting requirement.
- (c) Water customers that fail to provide the city with passing test results as required by this section will be assessed a noncompliance fee and the city will provide notice that the property will be shut off if passing results are not received within the time specified in the noncompliance notice. If passing results are not received by date specified in the noncompliance notice, city may without further notice disconnect water service from the property until a passing test result by a properly certified backflow preventer tester has been received by the Utility Department and shall be liable for the shut off noncompliance fee as amended from time to time in the City Fee Structure attached as Appendix A to this code.

(4)(5) Residential Service service connection site inspection.

- (a) Following a 30-day written notice to ~~the water customer and~~ the property owner of record (if different), the city or its agent shall inspect the service connections on that residential property utilizing criteria and procedures set forth in AWWA Manual M14.
- (b) The city or its agent is authorized to enter any residential utility easement located on the property upon properties to inspect for cross-connections, to test backflow preventers, to conduct health hazard assessments, to inspect reclaimed water or reuse water systems, and to identify auxiliary water supplies that could contaminate the city's water system.
- (c) If inspection finds indicates that a cross-connection hazard exists, the city shall notify the ~~water customer and~~ the property owner of record (if different) in writing of those findings. The property owner shall then do one of the following:
 - (i) ~~That within~~ Immediately upon receiving the notice, the property owner must eliminate the cross-connection hazard until a city-approved backflow prevention device is installed. must be eliminated, that any Any existing backflow preventer not passing the applicable test must be repaired and retested or ~~that~~ replaced with a ~~an~~ city-approved backflow preventer. ~~must be~~ Any newly installed backflow preventer shall be and tested in accordance with this section and ~~that~~ the city shall be provided with a copy of test

results ~~by a certified contractor~~ showing that the installed backflow preventer passed all applicable tests, ~~or, in the alternative,~~

- (ii) ~~That the property owner may, within ten~~ Within 10 days of receiving the notice, ~~a property owner may by using a form enclosed with the notice or by appearing at the utility department offices,~~ appoint the city as the property owner's agent for purposes of installing a new backflow preventer, ~~by completing and returning the appointment form enclosed with the notice or in person at the city Utilities Department office.~~ If appointed as the property owner's agent, the city shall have a new backflow preventer installed at the property, have it tested, and provide the test result as required. ~~having it tested and obtaining a copy of the test results from a certified backflow preventer assembly tester or by a licensed backflow preventer contractor performing such services under contract with the city, at the property owner's expense.~~ All work done shall be at the expense of the property owner. The applicable cost, interest rate, and administrative charges, as ~~established~~ amended from time to time in the City Fee Structure attached as Appendix A to this code, ~~the citywide fee ordinance,~~ shall be set forth in the customer notice.

(d) In the event the city is unable to access the residential utility easement located on the property, the city shall notify the property owner in writing that the property owner must contact the utilities office within 10 days from the receipt of notice to schedule access to the property for site inspection.

(e) If the residential property owner fails to respond to the city's written notice or interferes with access to the residential utility easement located on the property, the property will be deemed a high hazard risk and a city-approved testable backflow prevention device will be required for the property. The city shall notify the property owner in writing of such designation. The property owner shall then do one of the following:

(i) Within 30 days of receiving the notice, the property owner shall have a city-approved backflow prevention device installed and tested in accordance with this section, and the city shall be provided a copy of the test results showing that the installed backflow preventer passed all applicable tests.

(ii) Within 10 days of receiving the notice, a property owner may appoint the city as the property owner's agent for purposes of installing a new backflow preventer by completing and returning the appointment form enclosed with the notice or in person at the city's Utilities Department office. If appointed as the property owner's agent, the city shall have a backflow preventer installed at

the property, have it tested, and provide the test result as required. All work done shall be at the property owner's expense. The applicable cost, interest rate and administrative charges, as amended from time to time in the City Fee Structure attached as Appendix A to this code, shall be set forth in the customer notice.

- ~~(d)(f)~~ If the cross-connection hazard is not removed and/or an existing defective backflow preventer is not timely repaired a new backflow preventer installed and the city provided with the required test results within 30 days after the property owner's receipt of written notice If a property owner fails to comply with the written notice as set forth in subsection (c) or (e) above, the city will, shall without further notice, disconnect shut off water service at the property until the cross-connection hazard is eliminated, a failing backflow preventer is repaired or a new backflow preventer is installed, and passing test results have been received and processed by the city ~~passes all required tests~~. Such ~~disconnection~~ shut off shall not impair the city's right to pursue other enforcement measures.

~~(5)(6)~~ Annual Residential biennial backflow preventer testing.

- (a) Any residential property ~~Property~~ owner who is a water customer shall have ~~all any testable~~ backflow preventers on their property tested every two years. annually Backflow preventer testing shall be performed by a certified trained backflow preventer assembly tester or by a licensed backflow preventer contractor, ~~and within 30 days of annual testing due date,~~ The residential property owner must provide the city with written test results dated within 60 days prior to the test due date, indicating that each backflow preventer passed the test.
- (b) The city shall provide at least 30 days' advance written notice to the ~~water customer and the~~ property owner ~~(if different)~~ of the ~~annual~~ testing due date, the testing requirement, and the reporting requirement. ~~As to~~ For single-family residential properties only, the notice shall include an appointment form for a statement and return form presenting the property owner to complete in order to appoint with the option of appointing the city as the property owner's agent for the purposes completing the work described in subsections (5)(c)(ii) and (5)(e)(ii) of this section. ~~for purposes of conducting the required annual testing, or, if~~ If such agency has been previously granted the property owner may also use this form to revoke such appointment. ~~the option of revoking that appointment and electing to obtain the required testing independently.~~ This option shall apply only to single-family residential properties. If a property owner appoints the city as agent ~~to conduct the annual inspection,~~ such appointment shall remain in effect until revoked by the property owner in writing or cancelled in writing by the city.

- (c) If the property owner appoints the city as agent, all work done shall be at the property owner's expense. ~~for purposes of the required annual inspection, the cost of the inspection performed by the city or its designee shall be the responsibility of the property owner, and shall, as~~ As an accommodation to the property owner, the applicable cost, interest rate and administrative charges for the work may be prorated over the following next 12 months of the water bill in an amount established in the City Fee Structure attached as Appendix A to this code, and as set forth in the biennial customer notice. ~~by the city from time to time and in effect at the time of the inspection, plus such interest and administrative fees as may be set by the city.~~
- (d) If the property owner fails to appoint the city as agent for purposes of inspection and fails to independently obtain inspection of the backflow preventer and provide the city with a written report of passing satisfactory test results within 30 days of the ~~annual~~ testing date, the property owner will be charged the non-compliance fee and the city will provide notice that water service to the property will be shut off if passing results are not received within time specified in the noncompliance notice. If passing results are not received by the date specified in the noncompliance notice, city may without further notice shut off water service from the property until a passing test result by a properly certified backflow preventer tester has been received by the Utility Department and shall be liable for the shut off noncompliance fee. ~~or the date of the receipt of the annual testing date notice from the city, whichever is later, the city shall conduct the required testing and the full cost of testing, plus any applicable administrative charges, will be placed on the property owner's next following month's water bill and shall be payable in full at the time that bill is due.~~
- (e) The applicable cost, non-compliance fee, shut-off non-compliance shut off fee, interest rate and administrative charges, as established amended from time to time in the City Fee Structure attached as Appendix A to this code, ~~citywide fee ordinance,~~ shall be set forth in the ~~annual~~ biennial customer notice.
- (f) Where it is the city's responsibility to conduct the test, ~~In conducting any testing,~~ the city may utilize its own employees or use independent contractors.
- (g) At a minimum, backflow preventer testers ~~shall~~ must meet the requirements set forth in AWWA Manual M14. However, ~~but~~ the city may ~~elect to~~ require additional qualifications for backflow testers working under contract with the city, including, but not limited to, ~~a requirement that backflow preventer testers working under contract with the city also be licensed plumbing contractors plumbers.~~

(7) Quinquennial replacement of residential non-testable dual check devices.

- (a) Property owners that have non-testable dual check devices shall have those devices replaced every 5 years by a licensed plumbing contractor. By the replacement due date, property owners shall provide the city with a written certification non-testable dual check device was installed in accordance with the city's requirements provided in the CCCP Manual.
- (b) The city shall provide at least 30 days' advance written notice to the property owner of the replacement due date, the replacement requirement, and the reporting requirement.
- (c) Within 10 days of receiving the notice, a property owner may appoint the city as the property owner's agent for purposes of installing a new non-testable dual check device by completing and returning the appointment form enclosed with the notice or in person at the Public Utility Department office.
- (d) If appointed as the property owner's agent, the city shall have a non-testable dual check device installed at the property and shall provide the replacement verification as required. All work done shall be at the property owner's expense. The applicable cost, interest rate and administrative charges, as amended from time to time in the City Fee Structure attached as Appendix A to this code, shall be set forth in the biennial customer notice. The full cost of the installation, along with any applicable administrative charges, will be placed on the property owner's next water bill and will be payable in full at the time that bill is due. As an accommodation to the property owner, the applicable cost, interest rate and administrative charges for the work may be prorated over the following 12 months of the water bill in an amount established in the City Fee Structure attached as Appendix A to this code, and as set forth in the biennial customer notice.
- (e) If the property owner fails to appoint the city as agent for purposes of replacement and fails to independently provide the city with a written report of satisfactory replacement by the replacement due date, the property owner will be charged the non-compliance fee and the city will provide notice that water service to the property will be shut off if passing results are not received within time specified in the noncompliance notice. If passing results are not received by date specified in the noncompliance notice, city may without further notice shut off water service from the property until a passing test result by a properly certified backflow preventer tester has been received by the Utility Department and shall be liable for the shut-off non-compliance fee.
- (f) Where it is the city's responsibility to install a device, the city may utilize its own employees or use independent contractors.

(g) At a minimum, backflow preventer installers must meet the requirements set forth in AWWA Manual M14. However, the city may require additional qualifications for dual check device installation contractors working under contract with the city, including but not limited to, that dual check device installers also be licensed plumbing contractor.

~~(6)~~(8) City as owner's agent for testing, installation, repair and replacement of backflow preventers.

If not performing the work itself, the city shall follow the statutorily required procurement process in order to contract with qualified plumbing contractors to perform backflow preventer testing, repair, replacement, and new installation, and to carry out any other duties assumed by the city when properly appointed by a property owner as their agent pursuant to this section.

~~(a)~~ — ~~The owner of any property occupied by a single-family residential water customer may elect to appoint the city as the owner's agent for the purpose of testing, installing, repairing or replacing the owner's backflow preventer if inspection reveals the need for such a device or if testing (annual or otherwise) reveals the need for repair or replacement of such a device. Such appointment shall be made in a writing signed by both parties specifying the scope of the agency granted to the city and the work to be done.~~

~~(b)~~ — ~~If the property owner appoints the city as agent for purposes of installation, repair or replacement of a backflow preventer on the water customer's property, the required annual inspection, the cost of the inspection performed by the city or its designee shall be prorated over the next 12 months of the customer's water bill in an amount established by the city from time to time and in effect at the time of the inspection, plus such interest and administrative fees as may be set by the city. The applicable cost, interest rate and administrative charges shall be set forth in the annual customer notice.~~

~~(c)~~ — ~~The city shall solicit bids or responses to requests for proposals, as appropriate and in accordance with city and state procurement requirements, from qualified persons for the purpose of establishing a city program using independent contractors for backflow preventer testing, repair, replacement and new installation and to carry out duties assumed by the city when properly appointed by a property owner to conduct such testing, repair, replacement or new installation.~~

~~(7)~~(9) Identification. All city employees, and vendors contracting with the city, inspectors, testers, plumbing contractors and other entering onto residential utility easements located on private property for the purpose of performing duties under this article shall carry on their persons ~~such forms of positive photo~~

~~ID identifying themselves as a city employee or employee of a vendor contracting with the city. identification and evidence of qualification to perform their work as may be required by the city.~~ All such persons shall have their vehicles marked with ~~such form of all identification as may be required by the city,~~ in addition to such identification as may be required by or Florida law.

Sec. 78-130. - Noncompliance.

- (1) *Disconnection of water service.* ~~Before the city will disconnect or shut off water service as provided for in this article, it will provide~~ Any customer failing to comply with this article shall be subject to water service disconnection after written notice to the property owner or water customer, as applicable, of the failure to comply, ~~as specified in this article if the customer fails to correct the noncompliance within the time specified in the notice.~~ No separate or additional notice of intent to disconnect water service after noncompliance will be provided by the city. ~~shall be required.~~ Provided, however, that at such times as, in the judgment of the city, an emergency condition exists where ~~and~~ the public water supply is being contaminated or is in ~~immediate~~ danger of contamination, water service disconnection may be made without prior notification. Water service will not be restored until the noncompliance has been corrected. The customer shall be liable for ~~all disconnection and reconnection service charges~~ the shut-off non-compliance fee resulting from noncompliance.
- (2) *Civil remedies.* The city shall have recourse to such remedies in law and in equity as may be necessary to ensure compliance with the provisions of this article. Any person, firm, association, corporation, or other legal entity, failing to comply with the provisions of this article shall be subject to fines not to exceed \$250.00 per day per violation; such fines to be levied and enforced by the city code enforcement board. Each day or fraction thereof that the violation continues shall be considered as a separate violation. ~~offense.~~ In addition, the city shall be entitled to seek injunctive relief to enjoin any person, association, firm, corporation, or other legal entity, from violating these provisions, and to pursue an action for such damages as may be sustained by virtue of a violation of this article, together with all costs and expenses incurred in the pursuit of such action. ~~the case.~~
- (3) *Non-compliance fee.* ~~Penalty for noncompliance.~~ Any person, firm, association, corporation, or other legal entity, failing to comply with the provisions of this article; or causing any backflow prevention device to be bypassed; or compromising an air-gap separation system; or failing to test, inspect, replace, or maintain any backflow prevention device in accordance with this article, shall be deemed to be in noncompliance with this article and shall be assessed the applicable cost, non-compliance fee, interest rate and administrative charges, as amended from time to time in the City Fee Structure attached as Appendix A to this code, and as set forth in the customer notice. ~~Any person, firm, association, corporation or other legal entity in noncompliance with this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be~~

~~punishable by a fine not exceeding \$500.00 or by imprisonment for a period not exceeding 60 days per violation or by both such fine and imprisonment. Each day a violation occurs shall be deemed a separate violation and shall be punishable as such.~~

(4) Criminal penalties. Any person, firm, association, corporation, or other legal entity, convicted for violating any of the provisions or terms of this article shall be subject to the penalties provided for in Section 1-7 of this code. Each day such violation continues shall constitute a separate violation.

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Sec. 78-132. - Notices.

~~All notices required by this article to be given by the city to water customers and property owners shall be provided in writing, by authorized electronic mail or regular mail, in accordance with the delivery method requested by the property owner or water customer for the receipt of such notices. Notices transmitted by electronic mail shall be deemed delivered on the business day after transmittal. Notices delivered by regular mail and shall be deemed to have been properly delivered 3 business days after mailing, if addressed to the water customer at the address for the water customer appearing in the city's water customer account records, and to the property owner (if different from the water customer) at the address for the property owner appearing in the city's water customer account records or to the address for the property owner shown in the records of the Sarasota County Property Tax Assessor, and if deposited postage prepaid with the United States Postal Service. Absent clear and convincing evidence to the contrary, receipt of any notice delivered as set forth above shall be presumed to have occurred three business days after deposit with the United States Postal Service."~~

SECTION 3 – CONFLICTS:

3.01 In the event of any conflict between the provisions of this ordinance and any other ordinance or portions thereof, the provisions of this ordinance shall prevail to the extent of such conflict.

SECTION 4 – SEVERABILITY:

4.01 If any section, subsection, sentence, clause, phase, or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

SECTION 5 – CODING OF AMENDMENTS:

5.01 In this ordinance, additions are shown as underlined and deletions as ~~strikethrough~~. These editorial notations shall not appear in the codified text.

SECTION 6 – EFFECTIVE DATE:

6.01 This Ordinance shall take effect immediately after adoption by the City Commission of the City of North Port, Florida.

READ BY TITLE ONLY at first reading by the City Commission of the City of North Port, Florida, in public session on the _____ day of _____ 2018.

PASSED and DULY ADOPTED by the City Commission of the City of North Port, on the second and final reading in public session this _____ day of _____ 2018.

CITY OF NORTH PORT, FLORIDA

VANESSA CARUSONE
MAYOR

ATTEST:

KATHRYN PETO
INTERIM CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS:

AMBER L. SLAYTON
CITY ATTORNEY