



TOWN COUNCIL
Work Session
Town Hall
November 18, 2010
Immediately Following Special Meeting

1. Call to Order: Roll Call
2. Order of Business
 - A. Proposed Modifications to Town Code Chapter 70 – Water, Sewers and Sewage Disposal (Water - continued)
3. Motion to Adjourn



TOWN OF
CAPE CHARLES

**AGENDA TITLE: Proposed Modifications to Town Code
Chapter 70, - Water, Sewers and Sewage Disposal**

AGENDA DATE:
November 18, 2010

SUBJECT/PROPOSAL/REQUEST:
Review modifications and continue to review all chapters

ITEM NUMBER:

ATTACHMENTS:
(1) Revised sections only

FOR COUNCIL:
Action (X)
Information ()

STAFF CONTACT (s):
Heather Arcos

REVIEWED BY:
Heather Arcos, Town Manager

BACKGROUND:

The Town Council held a work session on October 28, 2010 to discuss the proposed revisions to the Water and Sewer Town Code. The changes in blue are a result of this meeting.

DISCUSSION:

Council will continue to work to finalize the updated Water and Sewer Town Codes.

RECOMMENDATION:

Continue to review and modify the Water and Sewer codes to finalize for a Public Hearing.

Chapter 70 Water Supply

ARTICLE I. GENERAL PROVISIONS

Sec. 70- 1. Purpose.

The purpose of this chapter is to provide for the beneficial public use of the Town of Cape Charles waterworks through regulation of connections; to provide for equitable distribution of the costs of the waterworks; and to provide procedures for complying with the requirements contained herein.

Sec. 70- 2. Scope.

(a) This chapter provides for use of the Town's waterworks, equitable distribution of costs, minimum connection standards and conditions, and penalties and other procedures in cases of violation.

(b) This chapter shall apply to the Town of Cape Charles and to persons outside the Town who are, by contract, permit or agreement with the Town, users of the Town's waterworks.

Sec. 70- 3. Administration.

The Director of Public Utilities, under the direction of the Town Manager, shall administer, implement, and enforce the provisions of this chapter. The Director of Public Utilities is the manager of the waterworks.

Sec. 70- 4. Fees and Charges.

(a) All fees and charges payable under the provisions of this chapter shall be paid to the Town of Cape Charles. Such fees and charges shall be as set forth herein or as established by the Town Council.

(b) Connection charges are due and payable as prescribed in Section 70-35.

(c) Service ~~All fees and charges payable under the provisions of this chapter are due and payable as prescribed in Chapter 72 upon the receipt of notice of charges.~~ Unpaid service fees and charges shall become delinquent and shall be subject to penalty charges.

Sec. 70- 5. Inspections.

(a) The Director of Public Utilities, Town Manager or authorized State or Federal officials, bearing the proper credentials and identification, shall be permitted to enter all user premises or buildings to examine the pipes and fixtures and the manner in which the water is used and such user must frankly and without concealment answer questions relative to the use of water on such premises or in such building, and the Town shall have the right, upon giving reasonable notice, to discontinue the service when such access is refused or not permitted.

(b) The Director of Public Utilities or Town Manager, bearing proper credentials and identification, shall be permitted to access ~~enter~~ all private property through which the Town holds an easement for the purposes of inspection, observation, measurement, sampling, repair, and maintenance of any of the Town's waterworks lying within the easement. All entry, and any

subsequent work on the easement, shall be done in final accordance with the terms of the easement pertaining to the private property involved.

(c) While performing any necessary work on private properties referred to in Sections 5(a) and (b) above, the Director of Public Utilities shall observe all safety and occupational rules established by the owner or occupant of the property and applicable to the premises.

Sec. 70- 6. Vandalism.

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is a part of the Town's waterworks. No person shall deliberately obstruct or permit obstruction to the access to cutoff valves, water meters or other fixtures connected with the supply of water by placing of stone, brick, lumber, dirt, or any other material so as to obstruct its proper use, or permitting grass to grow over the meter box in such a manner as to cover the box and thereby obstructing its observance. Any person who violates this section shall be guilty of a class 1 misdemeanor.

Sec. 70- 7. Separability.

If any provision of these regulations, or the application of any provision of these regulations to any person or circumstances, is held invalid, the application of such provision to other persons or circumstances, and the remainder of the regulations, shall not be affected thereby.

Sec. 70-8. Violations of Chapter and Liability for Damages.

(1) Unless otherwise specifically provided, a violation of any provision of this chapter shall constitute a class 3 misdemeanor; see Section 1-10.

(2) Any person violating any provision of this chapter shall become liable to the town for any expense, loss or damage occasioned the town by reason of such violation.

Sec. 70-9. Amendments.

Public notice shall be given in accordance with applicable provisions of the Town Charter, other Town ordinances, State and Federal law, prior to adoption of any amendments.

ARTICLE II. DEFINITIONS

Sec. 70-21. Specific Definitions

Unless the context of usage indicates otherwise, the meaning of specific terms in this chapter shall be as follows:

"Backflow" shall mean the flow of water or other liquids, mixtures, or substances into the distribution piping of a waterworks from any source or sources other than its intended source.

"Backflow Prevention Device" shall mean any approved device, method, or type of construction intended to prevent backflow into a waterworks.

"Consumer" shall mean any person who drinks water from a waterworks.

"Consumer's Water System" shall mean any water system located on the consumer's premises, supplied by or in any manner connected to a waterworks.

"Cross Connection" shall mean any connection or structural arrangement, direct or indirect, to the waterworks whereby backflow can occur.

"Director" shall mean the Director of Public Utilities, who is the manager of the Town of Cape Charles Waterworks, or an authorized designee.

"Distribution Main" shall mean a water main whose primary purpose is to provide treated water to service connections.

"Domestic Use" shall mean normal family or household use, including drinking, laundering, bathing, cooking, heating, cleaning and flushing toilets.

"Groundwater" shall mean all water obtained from sources not classified as surface water (or surface water sources).

"Industrial User (Class II)" shall mean premises consuming water for all non-residential uses.

"Nonpotable Water" shall mean water not classified as pure water.

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"Owner" or "Water Purveyor" shall mean an individual, group of individuals, partnership, firm, association, institution, corporation, governmental entity, or the federal government which supplies or proposes to supply water to any person within this state from or by means of any waterworks.

"Pure Water" or "Potable Water" shall mean water fit for human consumption and domestic use which is sanitary and normally free of minerals, organic substances, and toxic agents in excess of reasonable amounts for domestic usage in the area served and normally adequate in quantity and quality for the minimum health requirements of the persons served.

"Residential User (Class I)" shall mean a premises consuming water for domestic use only.

"Service Connection" shall mean the point of delivery of water to a customer's building service line as follows:

1. If a meter is installed, the service connection is the downstream side of the meter;
2. If a meter is not installed, the service connection is the point of connection to the waterworks;
3. When the water purveyor is also the building owner, the service connection is the entry point to the building.

"Surface Water" shall mean all water open to the atmosphere and subject to surface runoff.

"Water Purveyor" has the same meaning as Owner.

"Water Supply" shall mean water that has been taken into a waterworks from all wells, streams, springs, lakes, and other bodies of surface waters (natural or impounded), and the tributaries thereto, and all impounded groundwater, but the term "water supply" shall not include any waters above the point of intake of such waterworks.

"Water Supply Main" or "Main" shall mean any water supply pipeline that is part of a waterworks distribution system.

"Waterworks" shall mean a system that serves piped water for drinking or domestic use to (i) the public, (ii) at least 15 connections, or (iii) an average of 25 individuals for at least 60 days out of the year. The term "waterworks" shall include all structures, equipment and appurtenances used in the storage, collection, purification, treatment and distribution of pure water except the piping and fixtures inside the building where such water is delivered.

ARTICLE III. CONNECTION TO WATERWORKS

Sec. 70- 321. Application for Service; Permit for Connection.

Every person requiring a supply of water, or desiring any change, alteration or repair to any lines furnishing such supply must make application therefore upon such form as may be prescribed and provided for that purpose. The application must state truly and fully all the uses to which the water is to be applied and no different or additional use will be allowed except by written permission issued by the Director upon proper application being made. There shall be

two classes of permits for connection to the Town's waterworks: Class I – residential, Class II – industrial. The connection permit shall be applied for at the same time as the building permit. The permit for connection to the service pipes or water mains shall be issued by the Director to a licensed contractor employed by the applicant to make such connection. Not more than one dwelling unit or premises shall be supplied from one connection, except by written permission of the ~~Town Manager~~ Director. Where such connection is made, the owner is ultimately responsible for payment of all accounts.

Sec. 70- 322. Town Service Connection.

The town will furnish and maintain a three-quarter-inch meter and corporation cock only. The owner shall make the tap at the water main. An applicant needing a meter larger than three-quarter-inch shall pay the difference in the cost of the larger meter.

Sec. 70- 323. Consumer's Connection.

(a) Service connections between the house or premises of the consumer and the town water main shall be laid and connected by the party making application for service, subject to the supervision and approval of the Director. After approval and acceptance, the line from the meter to the main becomes the responsibility of the town.

(b) Prior to authorization for final connection to the town's water supply system, an inspection by the designated agent of the town shall be performed on installed service laterals to ensure conformance of materials and workmanship with current building code standards. No connection shall be authorized unless such materials and workmanship are approved by the inspector.

(c) Leaking water lines running from the town's water meter to the designated property shall be repaired or replaced within a reasonable length of time at the expense of the property owner. Should the property owner fail to repair or replace such lines within a reasonable length of time after notice has been given in writing by authorized personnel of the town that such repairs or replacement are necessary, the town may turn the water off either at the corporation cock or at the meter, whichever it deems necessary, until the lines are repaired or replaced.

Sec. 70- 324. Connection to Waterworks Required.

(a) The owner of any house, building, or property which is used for commercial, industrial and/or residential purposes, abutting on any street, alley, or rights-of-way in which there is or may be located a water main connected to the water treatment works of the Town, is required at the owner's expense to connect directly to the water main in accordance with the provisions of this chapter, within 90 days after notice that the water main is available within 100 feet of the property line.

(b) It shall be unlawful for any person or entity owning or occupying any property within the town for which town water is available to use any other water supply for potable use, including private deep or shallow wells, except as otherwise provided herein.

Sec. 70- 325. Connection Charges.

- (a) Connection charges shall consist of a connection fee and a facility fee. The connection fee contributes to the costs associated with maintaining the waterworks. The facility fee covers the capital cost of creating waterworks capacity.
- (b) Class I - The connection fee shall be \$875 and the facility fee shall be \$5,100, for a total charge of \$5,975. Such charge, plus \$100 for inspection and review fees, shall be paid to the Building Department at the time of building permit issuance, or to the Town Treasurer pursuant to any payment programs authorized by Town Council, prior to the initiation of connection related construction activities.
- (c) Class II - The connection fee shall be \$875. The facility fee shall be calculated on a consumption based formula as follows: Class I facility fee + (Class I facility fee x residential equivalent x 10%). Residential equivalent shall be the estimated daily water consumption rate for the building, as defined by the Virginia Department of Health Waterworks Regulations, divided by the residential daily water consumption rate of 125 gallons per day. For buildings qualifying under chapter 66, article VIII of this Code, the facility fee used in the consumption based formula shall be \$1,375, rather than the Class I facility fee, if construction activity is commenced after the submission of the application or within the ten-year period of tax exemption. The inspection and review fees above also apply to Class II permits.

| **Sec. 70- ~~326~~. Protection of Capacity for Existing Users.**

The Director shall not issue a permit for any class of connection to the Town's waterworks unless there is sufficient capacity, not legally committed to other users, in the waterworks to supply the quantity of water which the requested connection will require. The Director may permit such a connection if there are legally binding commitments to provide the needed capacity.

| **ARTICLE IV. WATER SERVICE**

| **Sec. 70- ~~431~~. Water Service Charges.**

Charges and fees for the use of the public waterworks shall be based upon the actual use of such system, or contractual obligations for a level of use in excess of current actual use. Property value may be used to collect the amount due as permitted by law.

| **Sec. 70- ~~432~~. Meter Required.**

All water furnished by the town shall be measured by meters furnished by the town for that purpose.

| **Sec. 70-~~433~~. Turning Water On or Off Without Authority.**

- (a) It shall be unlawful for any person, not acting under the authority of the Director, to turn the water of the town on or off for any premises whatsoever.
- (b) It shall be unlawful for any person to take any water from the waterworks system of the town except in accordance with the provisions of this article.

(c) This section shall not be construed to prohibit plumbers from turning water into pipes to test the same or for purposes of testing plumbing connected thereto.

Sec. 70- 434. Regular and Uninterrupted Supply Not Guaranteed.

The town does not guarantee a regular and uninterrupted supply of water to any consumer and shall not be liable for any failure to supply the same, nor shall it be liable for any claims or damages by reason of the breaking of any main, service pipe stopcock or other equipment, of if the supply of water is cut off to make repairs, connections or extensions or for any other reason whatsoever. The right is reserved to cut off the supply of water at any time. When possible to do so, reasonable notice of such discontinuance shall be given to the consumers affected.

Sec. 70- 435. Discontinuance of Service at Request of Consumer.

Water service may be discontinued upon request by the consumer whenever the premises are to be unoccupied. There shall be a \$25.00 fee for discontinuing service and a \$25.00 fee for reactivation of service. Work performed during other than normal business hours shall require a \$75.00 fee.

Sec. 70- 436. Disconnection to use Private Water System Prohibited.

It shall be unlawful for any person or entity owning or occupying any property within the town which property is connected to the town water system to disconnect such property from the system to use a private water system.

ARTICLE IV. Shallow Wells.

Sec. 70- 541. Shallow Wells.

(a) Notwithstanding the provisions of this chapter, shallow wells with a depth of less than or equal to 50 feet shall be permitted within the town for such purposes and under such conditions as are set forth in this section.

(b) Shallow wells permitted by this section shall be limited to outdoor use only, such as for landscaping and gardening. No shallow well shall be connected to plumbing facilities for the purposes of providing internal water supply or service to any structure situate on any property within the town. The water supply provided by shallow wells permitted hereunder shall not be used for drinking purposes. All fixtures connected to shallow wells shall be clearly and permanently marked "Water Unsafe for Drinking".

(c) All shallow wells permitted by this section shall comply in all respects with the provisions of Article V of this chapter as well as other applicable federal, state and local laws and regulations.

(d) Prior to the installation and operation of any shallow well permitted by this section, the owner or occupant of the property to be served thereby, or such owner's agent, shall first obtain a shallow well permit from the town. To obtain a permit, such owner, occupant or agent shall file a completed permit application on forms provided by the town and shall pay a nonrefundable permit fee to the town in such amount as the town council may from time to time designate. The town manager shall have the authority to promulgate and revise such permit application forms from time to time as are necessary for the administration of this section. Within 30 days after receipt of a properly completed application and payment of the required fee, a shallow well

permit shall be issued if the proposed well is found to otherwise comply with the requirements of this section.

ARTICLE VI. Water Cross-Connection Control and Backflow Prevention.

Sec. 70-651. State Regulations Adopted.

Article 4, Cross Connection Control and Backflow Prevention in Waterworks, of 12VAC5-590, Waterworks Regulations, is hereby adopted. The containment policy, standards, and backflow prevention device requirements specified therein shall pertain to town waterworks consumers.

Sec. 70-652. Inspections.

(a) The Director shall require inspections to be made of properties served by the waterworks where cross-connection with the waterworks is deemed possible. The frequency of inspections shall be established based on potential health hazards involved.

(b) Representatives of the town shall have the right to enter, at any reasonable time, properties served by a connection to the town waterworks for the purpose of inspecting the piping system for cross-connections. Upon request, the owner or occupant of property so served shall furnish to the inspector pertinent information regarding the piping system on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross-connections.

Sec. 70-653. Protection of Potable Water.

The potable water made available on properties served by the waterworks shall be protected from possible contamination or pollution by enforcement of this Article and the building code. Any water outlet which could be used for potable or domestic purposes and is not supplied by the waterworks must be labeled as "Water Unsafe for Drinking" in a conspicuous manner.

Sec. 70-654. Denial or Discontinuance of Service for Lack of Required Device.

The town may deny or discontinue water service to a consumer if a required backflow prevention device is not installed. ~~If it is found that the device has been removed or bypassed, or if a cross-connection exists on the premises, or if the pressure in the waterworks is lowered below ten pounds per square inch, the town shall take action to ensure that the waterworks is adequately protected at all times.~~ Water service to such premises shall not be restored until the deficiencies have been corrected or eliminated in accordance with this Article and to the satisfaction of the Director.

ARTICLE VII. Water Conservation.

Sec. 70-761. Waste of Water Prohibited.

In accordance with 9VAC25-610-100, the waste of water supplied by the Town's waterworks is prohibited to minimize the demand for groundwater withdrawal.

Sec. 70-762. Low Flow Devices and Fixtures.

(a) Low flow devices and fixtures, as specified in the Virginia Uniform Statewide Building

Code, are required in all new construction and in all remodeling and/or replacement of plumbing fixtures in existing structures.

(b) Lavatories in a public facility restroom shall be equipped with standard valve or spring self-closing faucets having outlet devices that limit the flow rate to a maximum of 0.5 gallons per minute or self-closing metering valves which limit flow of 0.25 gallons per cycle.

(c) All new car wash installations shall be equipped with a water recycling system approved by the Director.

(d) All new construction, repair or replacement of continuous flow devices and any other water connector device or appliance requiring a continuous flow of five (5) gallons per minute or more shall be equipped with a recycling system approved by the Director.

Sec. 70-763. Repair of Leaks.

The owner of any property who is found to be an excessive user of water due to leakage from water lines or plumbing fixtures on the premises, and who fails to repair and stop such leakage during a reasonable period of time, per Sec. 70-323, shall be subject to the penalties for noncompliance.

Sec. 70-764. Water Conservation Evaluation.

For all new commercial or industrial construction, an evaluation of potential options to minimize groundwater withdrawal, e.g., water reuse, rainwater collection, low irrigation landscaping, etc., shall be conducted and the results submitted with the applicable land use and building permit applications.

Sec. 70-765. Waste of Water Generally.

No person shall permit water to run from any hydrant, meter, valve, or fixture without proper care to prevent waste.

Sec. 70-766. Penalties for Noncompliance.

(a) Any person who shall violate any provision of this Article, shall, upon conviction thereof, in addition to additional charges and/or other actions set forth herein, be fined not more than two hundred fifty dollars (\$250.00). Each act or each day's continuation of a violation shall be considered a separate offense.

(b) In addition to the foregoing, the Director may suspend water service to any person violating the provisions of this Article. If water service is terminated, the person shall pay a reconnection fee or fifty dollars (\$50.00) plus all outstanding fines and fees before service will be restored.

ARTICLE VIII. CONSERVATION DURING WATER SHORTAGE EMERGENCIES

Sec. 70-871. Water Shortage Emergencies.

During emergency water supply conditions the protection of the health, safety and welfare of the residents of the Town may require that certain uses of water, nonessential to public health, safety and welfare, be reduced, restricted or curtailed; and as the shortage of potable water becomes increasingly more critical, conservation measures to further reduce consumption or curtail essential water use may be required. Consumers will be notified in writing that a water shortage emergency has been declared by the Town Council or Director of the Virginia Department of Environmental Quality and that water use reductions or restrictions are mandatory.

Sec. 70-872. Conservation Measures, Generally.

Upon declaration of a water shortage emergency, the Town Manager or his or her designee will implement conservation measures by ordering the restricted use or absolute curtailment of the use of water for certain non-essential purposes for the duration of the water shortage. In exercising this authority, the Town Manager or his or her designee shall give due consideration to water storage, treatment and pumping capacity, daily consumption data, fire service requirements, distribution system conditions including stoppages and leaks, estimates of minimum essential supplies to preserve public health and safety, and any other pertinent data. Additionally, conservation measures will be tailored to recognize consumption by governmental activities and commercial businesses for purposes necessary for public health, safety and welfare, and to avoid severe economic hardship or a substantial loss of employment. When moderate but limited supplies of water are available prior to declaration of a water shortage emergency, consumers will be requested to voluntarily restrain water usage and to conserve water by whatever means available.

Sec. 70-873. Specific Conservation Measures.

(a) Condition 1; Mandatory Restrictions. When very limited supplies of water are available, consumers shall be ordered to curtail less essential usage of water, including, but not limited to, one or more of the following:

- 1) The watering of shrubbery, trees, lawns, grass, plants or any other vegetation, except indoor plantings, greenhouse or nursery stocks, and except watering by commercial nurseries of freshly planted plants and once a week for five (5) weeks following planting.
- 2) The washing of automobiles, trucks, trailers, boats, airplanes, or any other type of mobile equipment, with the exception of facilities operating with a water recycling system approved by the Town Manager; provided, however, that any facility operating with a water recycling system shall permanently display in public view a notice stating that such recycling system is in operation. In lieu of the provisions

hereof, the Town Manager may curtail the hours of operation of commercial enterprises offering such services.

- 3) The washing of streets, driveways, parking lots, service station aprons, office buildings, exteriors of homes or apartments, or other outdoor surfaces.
 - 4) The operation of any ornamental fountain or other structure requiring a similar use of water.
 - 5) The filling of swimming or wading pools, or the refilling of swimming or wading pools which were drained after the effective date of the order, except those for commercial use.
 - 6) The use of water from hydrants for any purpose other than fire suppression or other public emergency.
- (b) Condition 2; Rationing. When critically limited supplies of water are available, mandatory reductions shall be instituted as follows:

- 1) Non-residential consumers shall be allotted a percentage reduction based on their average monthly billings over the preceding six-month period.
- 2) Residential consumers shall be limited to a specific volume or percentage reduction based on their average monthly billings over the preceding six-month period.
- 3) If allotted monthly usage is exceeded, the consumer shall be charged ten dollars (\$10.00) for every thousand (1,000) gallons of water consumed above the allotted volume. Where prior consumption data is not available, allocations shall be estimated based on the best available data.

(c) Condition 3; Curtailment. When only the most limited supplies of water are available, the use of water shall be restricted to purposes that are absolutely essential to life, health and safety.

Sec. 70-874. Report Required.

When a water shortage emergency is in existence, a written report documenting the water supply status and conservation measures implemented will be prepared by the Town Manager and provided to the Town Council. The Town Clerk shall make the report available for public inspection.

Sec. 70-875. Notice of Temporary or Final Ceasing of Emergency

The Town Manager shall notify the Town Council when the water shortage is over and the emergency situation no longer exists. Consumers will be notified of the temporary or final ceasing of emergency conditions.

Sec. 70-~~8~~76. Penalties for Noncompliance

Any person who shall violate any provision of this Article, shall, upon conviction thereof, be subject to the penalties specified in Article VII.