

ARTICLE XX

RECLAIMED WATER ORDINANCE

25-xxx

Intent.

(a) It is the town's purpose and intent to establish a reclaimed water system for new development and to extend such system to existing development where the Town Board of Commissioners determines that the extension of such a system is practical and economical. Once such reclaimed water is made available to a property, use of reclaimed water will be required for landscape and grounds irrigation systems and will be permitted for other authorized uses. The reclaimed water distribution system will be constructed in sections and phases to provide separately metered reclaimed water service to designated properties as determined by the Town Board of Commissioners and pursuant to the Terms and Conditions set forth herein.

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General requirements.

(a) Once reclaimed water is available to a property, the property owner may connect to the reclaimed water upon submission of a fully executed application as required by the Director of Public Utilities, and upon compliance with all other local requirements. It is unlawful to use potable water for irrigation systems 90 days after a property owner or water customer has been notified by the Director that reclaimed water is available to a particular property or site. Reclaimed water may be used for irrigation purposes and for other non-potable water purposes in accordance with federal, state and local ordinances, rules, and regulations. If reclaimed water is to be used for any purpose other than land irrigation, the customer shall obtain prior approval of such use from the Director.

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Connection to reclaimed water system.

(a) *Customers with existing irrigation systems.* When reclaimed water becomes available to an existing property, the Director shall provide written notice to the water customer of that property of such availability. Customers with existing irrigation systems using potable water who desire to continue to maintain such systems using town water, must apply for reclaimed water in accordance with the application procedures specified in this article and must disconnect said systems at their expense from the town potable water system and connect to the

reclaimed water system within 90 days of such written notice of availability. The Director shall have the authority to grant temporary exemptions from this section in the event of reclaimed water shortages or for other good cause, in which case the temporary exemption shall not exceed 180 days.

(b) *Customers with new irrigation systems.* All new irrigation systems designed to use town water constructed after the effective date of this article must connect to the reclaimed water system at time of construction, if reclaimed water is available to the property. Such connection must be made prior to, or contemporaneously with connection of other improvements on the property to the town's potable water system. If reclaimed water is not available to a property at the time of construction of an irrigation system, connection to the reclaimed water system must be made within 90 days of notice of availability from the Director.

25-xxx Reclaimed water service application requirements.

(a) Applications for reclaimed service shall be made and will be accepted in the same manner as applications for water and sewer service, subject to the provisions of this article.

25-xxx Permits.

(a) All applicants for reclaimed water at the applicant's own cost and expense, shall apply for, obtain and meet all requirements, details and specifications and obtain all necessary permits, licenses, conditions, and approvals for the initial construction and the operation of the onsite reclaimed water facilities and the use of reclaimed water.

25-xxx Authority to adopt rules and regulations.

(a) The Town Board of Commissioners may by resolution establish reasonable rules and regulations concerning the reclaimed water system and the use of reclaimed water. Additional standard policies and procedures may be adopted concerning the reclaimed water system. Insofar as there is not conflict with the provisions of this article, Town policies and procedures pertaining to potable water service shall apply.

25-xxx Priorities for extending reclaimed water service.

(a) The Town Board of Commissioners will establish new service areas based on feasibility studies for extension of the reclaimed water system,

as it does for water and sewer system extensions. The Board of Commissioners may establish priorities for extension of service outside of the existing utility service boundaries if deemed prudent and beneficial. Provision of reclaimed water service outside the town limits will be considered on a case-by-case basis.

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Conditions of reclaimed water service use.

(a) *General.* The town may terminate, discontinue, or suspend reclaimed water service in accordance with this chapter and town policies and procedures in the event of (i) a violation of this article or town regulations, policies or procedures, (ii) failure to pay bills by the due date, (iii) tampering with any utility service, (iv) the existence of a plumbing cross-connections with another water source, or (v) any customer condition or action that may be detrimental to the town's potable water system, its reclaimed water system, or its wastewater collection and treatment system. The town may, at its option, suspend service until the condition is corrected and all costs due the town are paid. These costs may include delinquent billings, connection charges, and payment for any damages caused to the potable water, reclaimed water, or wastewater collection or water distribution system. The details of the town's procedures for discontinuing service are found in this chapter and in appropriate town policies and finance department procedures.

(b) *Cross-connection control.* There shall be no cross connections between the reclaimed water system on a customer's property and the town potable water system. In all premises where reclaimed water service is provided, the public or private potable water supply shall be protected by an approved cross-connection control plan. The plan for cross-connection control must be submitted with the application for reclaimed water service and must receive the prior approval of the director. In the event a cross-connection is found, the cross-connection shall be immediately disconnected, and reclaimed water service will be suspended. Before reconnection of the reclaimed water service, the public potable water system shall be protected against the possibility of future cross-connection to the director's satisfaction. Additional protection against cross-connection may be required as specified by the director at the customer's expense before reclaimed water service is resumed.

(c) *Right of entry.* In addition to the authority to enter property contained in Town ordinances, the Director or his/her designee may enter any

premises to determine the presence of any cross-connection or other potential hazards to the town potable water system. Each customer of reclaimed water service shall, by completing the reclaimed water application, give written consent to such entry upon the customer's premises.

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Enforcement

(a) Site Inspections

1. Agents, officials, or other qualified persons authorized by the Town may periodically inspect premises to ensure compliance with this ordinance.
2. Notice of the right to inspect shall be included in the letter of approval of each reclaimed water application.

3. Authority to Enter Property and Conduct Investigations and Inspections: Authorized agents, officials or other qualified persons shall have the authority, upon presentation of proper credentials, to enter and inspect at reasonable times any property, public or private, for the purpose of investigating and inspecting the site of any reclaimed water system. No person shall willfully resist, delay, or obstruct an authorized representative, employee, or agent of Town, while that person is inspecting or attempting to inspect a reclaimed water system nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out their official duties. The Town shall have the power to conduct such investigations as deemed reasonably necessary to carry out the duties as prescribed in this Ordinance.

4. Notice of Violation:

- a. If it is determined that a person has failed to comply with the requirements of this Ordinance, or rules, or orders adopted or issued pursuant to this Ordinance, a notice of violation shall be served upon that person. The notice may be served by any means authorized under G.S. 1A-1, rule 4. In the event service cannot be accomplished by registered or certified mail, it may be accomplished in any manner provided in rule (4)j of the North Carolina Rules of Civil Procedure.
- b. The notice shall specify the violation and inform the person of the actions that need to be taken to comply with this Ordinance, or rules or orders adopted pursuant to this Ordinance. The notice shall direct the person to correct the violation within a specified reasonable time. The notice shall inform the person that any person who violates or fails to act in accordance with any of the provisions of this Ordinance or rules or orders adopted or issued pursuant to this Ordinance is subject to the civil and

criminal penalties and other enforcement actions as provided in this Ordinance.

(b) Civil Penalties

1. Assessment of Penalties:

Any person who violates or fails to act in accordance with any of the provisions of this Ordinance or rules or orders adopted or issued pursuant to this Ordinance shall be subject to a civil penalty. A civil penalty for a violation may be assessed in an amount not to exceed ten thousand dollars (\$10,000) per day. If any violation for which a penalty may be assessed is continuing, a civil penalty may be assessed for each day of the violation in an amount not to exceed twenty-five thousand dollars (\$25,000) per day for as long as the violation occurs. Each day of a continuing violation shall constitute a separate violation under Section 10.(B)(1).

2. Notice of Civil Penalty Assessment:

The Town Manager shall determine the amount of the civil penalty based upon the following factors:

- a. The degree and extent of harm caused by the violation,
- b. The cost of rectifying the damage,
- c. The amount of money the violator saved by noncompliance,
- d. Whether the violation was committed willfully, and
- e. The prior record of the violator in complying or failing to comply with this ordinance.

The Town shall provide written notice of the civil penalty amount and the basis for the assessment to the person assessed. The notice of civil penalty assessment shall be served by any means authorized under G.S. 1A-1, Rule 4, and shall direct the violator to either pay the assessment or contest the assessment, within thirty (30) days after receipt of the notice of assessment by written demand for a hearing.

3. Hearing:

A hearing on the civil penalty shall be conducted by the Town's Board of Adjustment within [30] days after the date the written demand for the hearing is received by the Town. Board of Adjustment conducting the

hearing shall make its recommendation to the governing body of the Town within [10] days after the date of the hearing.

4. Final Decision:

The governing body shall issue a final decision on the civil penalty within [30] days of the recommended decision. A copy of the final decision shall be served on the violator by any means authorized under G.S. 1A-1, Rule 4.

5. Appeal of Final Decision:

Appeal from the final decision of the governing body shall be to the Superior Court of Chatham County. Any appeal must be filed with thirty days of receipt of the final decision. A copy of the appeal must be served on the Town manager by any means authorized under G.S. 1A-1, Rule 4.

6. Demand for Payment of Penalty:

An assessment that is not contested is due when the violator is served with a notice of assessment. The civil penalty must be paid within 30 days or the assessment, if not appealed, or within 30 days after the conclusion of the administrative or judicial review of the assessment. If payment is not received within 30 days after demand for payment is made, the Town may institute a civil action to recover the amount of the assessment. The civil action may be brought in the Superior Court Chatham County. Such civil actions must be filed within three (3) years of the date the assessment was due.

7. Use of Penalties:

Civil penalties collected pursuant to this Ordinance shall be credited to the general fund of the Town as nontax revenue.

C. Criminal Penalties

Any person who knowingly or willfully violates any provision of this ordinance, or rule or order adopted or issued pursuant to this ordinance, shall be guilty of a Class 2 misdemeanor which may included a fine not to exceed \$5,000.

D. Injunctive Relief

1. Civil Action in Superior Court:

Whenever the governing body of the Town has reasonable cause to believe that any person is violating or threatening to violate this Ordinance or any rule or order adopted or issued pursuant to this Ordinance, it may, either before or after the institution of any other action or proceeding authorized by this Ordinance, institute a civil action in the name of the Town for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the Superior Court of Chatham County.

2. Order to Cease Violation:

Upon determination by a court that an alleged violation is occurring or is threatened, the court shall enter any order or judgment that is necessary to abate the violation, or to prevent the threatened violation. The institution of an action for injunctive relief under this section shall not relieve any party to the proceedings from any civil or criminal penalty prescribed for violations of this Ordinance.

25-xxx Interruption of service.

(a) The town reserves the right to temporarily discontinue service to any portion of, or the entire reclaimed water system, as deemed necessary by the town's wastewater or water director or engineer in order to preserve public health or for necessary maintenance. Notwithstanding the foregoing, the town shall have the right, at all times, to refuse to provide, or to discontinue the provision of, reclaimed water service should such service be contrary to the health and safety of the public.

25-xxx Emergency.

(a) The town manager or his/her designee may declare a reclaimed water emergency and order restrictions regarding the use of reclaimed water during such emergency.

25-xxx Relationship to Irrigation and Water Waste Ordinance

(a) The requirements of this Ordinance are to be adhered to in conjunction with the Irrigation and Water Waste Ordinance and other relevant town policies or ordinances.