

## GILBERT BACKFLOW ORDINANCE

### Sec. 10-66. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Agency* means the state department of environmental quality.

*Air gap separation (AG)* means a physical separation between the free flowing discharge end of a potable water supply pipeline and an open or nonpressure receiving vessel. An approved air gap separation shall be at least double the diameter of the supply pipe measured vertically above the overflow rim of the vessel -0 in no case less than one inch (2.5 cm).

*Approved* means backflow prevention assembly or methods approved by the department as either meeting an applicable specification stated or cited in this article, or suitable for the proposed use.

*Assembly* means any system for backflow protection consisting of more than one component and having been tested as one unit, and approved as one unit.

*Atmospheric vacuum breaker (AVB) (nonpressure type vacuum breaker)* means an assembly containing a float check, a check seat and an air inlet port. The flow of water into the body causes the float to close the air inlet port. When the flow of water stops, the float falls and forms a check valve against backsiphonage and at the same time opens the inlet port to allow air to enter and satisfy the vacuum. A shutoff valve immediately upstream may be an integral part of the assembly. An atmospheric vacuum breaker is designed to protect against a health hazard (i.e. contaminant) under a backsiphonage condition only.

*Auxiliary water system* means a source of water outside of the town's public water supply system. No connection to the town's public water supply system shall be made with any other water system without the approval of the local authority.

*Backflow* means the flow of water or other liquids, mixtures, or substances into the distribution pipes of a potable water system from any source other than the intended source of the potable water supply.

*Backflow prevention assembly* means any assembly, method or type of construction intended to prevent backflow into a potable water system. All assemblies or methods used for backflow prevention in the town must meet the standards of the department and this article.

*Backsiphonage* means the same as backflow.

*Consumer or customer* means the owner, official custodian or person in control of any premises supplied by or in any manner connected to a public water system.

*Consumer's or customer's water systems* means any water system serving the premises, commencing at the discharge side of the service pipe shutoff valve location.

*Contamination* means the introduction into water of microorganisms, chemicals, wastes, or wastewater in concentration that makes water unfit for its intended use.

*Cross connection control officer.* See *Officer*.

*Cross connections* means any connection through which a supply of potable water could be contaminated or polluted.

*Department* means the building and code compliance department of the town.

*Double check valve assembly (DC)* means an assembly composed of two independently acting, approved check valves, including tightly closing shutoff valves located at each end of the assembly and fitted with properly located test cocks. (See specifications sections for additional details.) This assembly shall only be used to protect against a nonhealth hazard, i.e. pollutant.

*Double check-detector check valve assembly (DCDC)* means a specially designed assembly composed of a line-size approved double check valve assembly with a specific bypass five-eighths-inch by three-quarters-inch water meter and a three-quarters-inch approved double check valve assembly. Their meter shall register all rates of flow. (See specifications section for additional details). This assembly shall only be used to protect against a nonhealth hazard, i.e. pollutant.

*Fixed air gap* means the unobstructed vertical distance through the free atmosphere between the water discharge point and the flood level rim of the receptacle.

*Foundation* means Foundation for Cross-Connection Control and Hydraulic Research, University of Southern California.

*Health hazard* means any condition, device or practice in a water system or its operation resulting from a real or potential danger to the health and well-being of consumers. The word "severe," as used to qualify "health hazard," means a hazard to the health of the user that could be expected to result in death or significant reduction in the quality of life.

*Inspection* means a plumbing inspection to examine carefully and critically all materials, fixtures, piping and appurtenances, appliances and installations of a plumbing system for compliance with requirements of the UPC and this article.

*Installation* means the installation of backflow prevention assembly according to the department, as included in this article.

*Local authority* means the mayor and council of the town.

*Nonpotable water* means water not safe for drinking, personal or culinary use as determined by the requirements of Safe Drinking Water Act of 1974, and this article.

*Officer* means the person appointed by the manager to enforce this article.

*Plumbing* means the actual installation, repair, maintenance, alteration or extension of a plumbing system by any person. Plumbing includes all piping, fixtures, appurtenances and appliances for a supply of water for all purposes including, without limitation, lawn sprinkler systems from the source of a private water supply on the premises or from the main in the street,

alley or at the curb to within and about any building where persons live, work or assemble. Plumbing includes all piping from discharge of pumping units to and including pressure tanks in water supply systems. Plumbing includes all piping, fixtures, appurtenances and appliances for a building drain and a sanitary drainage and related ventilation system of any building where persons live, work or assemble from the point of connection of such building drain to the building sewer or private sewage disposal system two feet beyond the foundation walls.

*Pollution* means the presence of any foreign substance (organic, inorganic, radiological, or biological) in water that tends to degrade its quality so as to constitute a hazard or impair the usefulness of the water.

*Potable water* means water which meets the requirement of the state health department for drinking, culinary, and domestic purposes.

*Potential cross connection* means a fixture or appurtenance with threaded hose connection, tapered spout, or other connection which would facilitate extension of the water supply line beyond its legal termination point.

*Pressure vacuum breaker (PVB)* means an assembly containing an independently operating loaded check valve and an independently operating loaded air inlet valve located on the discharge side of the check valve. The assembly is to be equipped with properly located test cocks and tightly closing shutoff valves located at each end of the assembly. (See the specifications section for additional details.) This assembly is designed to protect against a health hazard, i.e. a contaminant, under a backsiphonage condition only.

*Process fluids* means any fluid or solution which may be chemically, biologically or in some other way contaminated or polluted in a form or concentration such as would constitute a health, pollution, or system hazard if introduced into the public or a consumer's potable water system. This includes, but is not limited to:

- (1) Polluted or contaminated waters;
- (2) Process waters;
- (3) Used waters originating from the public water supply system which may have deteriorated in sanitary quality;
- (4) Cooling waters;
- (5) Questionable or contaminated natural waters taken from wells, lakes, streams, or irrigation systems;
- (6) Chemicals in solution or suspension; and
- (7) Oils, gases, acids, alkalis and other liquid and gaseous fluids used in industrial or other processes, or for firefighting purposes.

*Public water supply system* means all mains, pipes and structures owned and/or maintained by the town, or any connected to such system owned or operated by the town and supplying potable water to the citizens of the town through which water is obtained and distributed to the public, including wells and well structures, intakes and cribs, pumping stations, treatment plants,

reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing potable water.

*Reduced pressure zone principal backflow prevention assembly (RP)* means an assembly containing a minimum of two independently acting check valves together with an automatically operated pressure differential relief valve located between the two check valves. During normal flow and at the cessation of normal flow, the pressure between these two checks shall be less than the supply pressure. In case of leakage of either check valve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the check valves at less than the supply pressure. The unit must include tightly closing shutoff valves located at the end of the assembly, and each assembly shall be fitted with properly located test cocks.


*Service connection* means the physical connection to the water main including all fittings and appurtenances, through which water is supplied to the consumer.

*Survey* means the collection of information pertaining to a customer's piping system regarding the location of all connections to the public water supply system and must include the location, type and most recent inspection and testing date of all cross connection assemblies and methods located within that customer's piping system. The survey shall be completed on a form approved by the town building and code compliance department.

*Tester* means a person described in section 10-95(b).

(Ord. No. 869, § I(7-14-1), 6-7-94; Ord. No. 1363, § I.3., 8-21-01)

**Cross reference**— Definitions generally, § 1-2.

Sec. 10-67. Purpose of article. 

The purpose of this article is to:

- (1) Protect the public water supply system from contamination or pollution by isolating within the customer's water system contaminants or pollutants which could backflow through the service connection into the public water supply system.
- (2) Promote the elimination or control existing cross connections, actual or potential, between the public or consumer's potable water system and nonpotable water systems, plumbing fixtures and sources or systems containing substances of unknown or questionable quality.
- (3) Provide for the maintenance of a continuing program of cross connection control which will prevent the contamination or pollution of the public and consumer's potable water systems.

(Ord. No. 869, § I(7-14-2(A)), 6-7-94)

Sec. 10-68. Application of article. 


This article shall apply to all premises served by the public potable water supply system of the town and any other approved water supply from any private, auxiliary or emergency source.

(Ord. No. 869, § I(7-14-2(B)), 6-7-94)

Sec. 10-69. Policy of article. 


The consumer/customer shall be responsible for protection of the public water supply system from contamination due to backflow or backsiphonage of contaminants through the customer's water service connection. If, in the judgment of the officer or his authorized representative, an approved backflow prevention device is necessary for the safety of the public water supply system, the officer shall give notice to the consumer to install such approved backflow prevention device at each service connection to the premises, or internally as an isolation device as prescribed by the officer. The consumer, after due written notice and within the prescribed time indicated on the notice, shall install such approved device at his own expense. Failure or refusal on the part of the consumer to install such device or devices immediately shall constitute grounds for discontinuing water service to the premises until such device has been installed. The consumer shall retain records of installation, maintenance, testing and repair, as required in section 10-91.

(Ord. No. 869, § I(7-14-2(C)), 6-7-94)

Sec. 10-70. Notice and installation of backflow prevention assembly. 


If in accordance with the Uniform Plumbing Code or, in the judgment of the department, an approved backflow prevention assembly is necessary for the safety of the public water supply system, the department will give notice to the water customer to install such an approved assembly immediately. The water customer shall, at his own expense, install such an approved assembly at a location and in a manner in accordance with the Uniform Plumbing Code and local requirements.

(Ord. No. 869, § I(7-14-2(D)), 6-7-94)

Sec. 10-71. Survey and investigation of industrial and other properties. 

It shall be the duty of the department to cause surveys and investigations to be made of industrial and other properties served by the public water supply to determine whether actual or potential hazards to the public water supply may exist. Such surveys and investigations shall be made a matter of public record and shall be repeated at least every two years for those systems protected by means of internal isolation, or as often as the department shall deem necessary. Records of such surveys and investigations, as well as records of backflow prevention assembly installations and tests performed on backflow prevention assemblies shall be maintained and available for review for a period of at least three years.


(Ord. No. 869, § I(7-14-2(E)), 6-7-94)

Sec. 10-72. Officer's right of entry and to information. 

The approved cross connection control officer shall have the right to enter at any reasonable time any property served by a connection to the public water supply or distribution system of the town for the purpose of verifying the presence or absence of cross connection, and that the officer or his authorized agent shall have the right to enter at any reasonable time any property served by a connection to the public water supply or distribution system of the town for the purpose of verifying information submitted by the customer regarding the required cross connection control inspection. On demand, the owner, lessees or occupants of any property so served shall furnish to

the officer any information which he may request regarding the piping systems or water use on such property, or type of business operation. The refusal of such information, when demanded, shall, within the discretion of the officer, be deemed evidence of the presence of improper connections as provided in this article. This shall hold true for any approved water supply from any source to the citizens of the town, whether it is private, auxiliary or emergency.

(Ord. No. 869, § I(7-14-2(F)), 6-7-94)

Sec. 10-73. Right of town to discontinue water service. 

The water department of the town is hereby authorized and directed to discontinue, after reasonable notice to the occupant of a property, the water service to any property wherein any connection in violation of the provisions of this article is known to exist, and to take such other precautionary measures as the officer may deem necessary to eliminate any danger of contamination of the public water supply distribution mains. Water service to such property shall not be restored until such conditions have been eliminated or corrected in compliance with the provisions of this article, and until the reconnection fee is paid to the town. This shall hold true for any approved water supply from any source to the citizens of the town, whether it is private, auxiliary or emergency.

(Ord. No. 869, § I(7-14-2(G)), 6-7-94)

Sec. 10-74. Cross connection. 

(a) *Prohibited generally; exception.* Connections between the public water supply system and other systems or equipment containing water or other substances of unknown or questionable equality are prohibited except when and where approved cross connection control devices or methods are installed, tested and maintained to ensure proper operation on a continuing basis.

(1) No connection shall be permitted between the public water supply system and any other water supply not of equal or better bacteriological and chemical quality as determined by inspection and analysis by the agency and/or the town.

(2) There shall be no arrangement or connection by which contamination may enter the public water supply system.

(3) Installation of a required backflow prevention assembly shall be a condition of service.

(b) *Responsibility.* It is the responsibility and financial obligation of the water consumer to prevent backflow into the public water supply system by ensuring that:

(1) All cross connections are removed, or approved cross connection control assemblies are installed for control of backflow and backsiphonage.


(2) Cross connection control assemblies shall be installed in accordance with the manufacturer's instructions and this article.

(3) Cross connection control assemblies shall be inspected at least annually by a person approved by the department as a cross connection control tester. The inspection of mechanical devices shall include physical testing in accordance with the manufacturer's instruction, and those of the foundation, at the consumer's/owner's expense.

(4) Required backflow prevention assemblies are installed as close as practicable to the service connection.

(Ord. No. 869, § I(7-14-3), 6-7-94)

Secs. 10-75—10-90. Reserved.

Sec. 10-91. Testing and records. 

(a) *Annual testing.* Each device shall be tested at least annually or more frequently if recommended by the manufacturer, or the department, at the consumer's/owner's expense. Each assembly shall also be tested after installation, relocation or repair.

(b) *Records submitted to town; available for inspection.* Records submitted to the town shall be available for inspection by agency personnel.

(c) *Identification of assemblies.* Each assembly shall have a tag attached listing the manufacturer and serial number of the assembly.

(d) *Maintenance log.* A maintenance log shall be maintained and include:

(1) Date of each test;

(2) Name and approval number of person performing the inspection or test;

(3) Test results/inspection;

(4) Repairs or servicing required;

(5) Repairs and date completed;

(6) Services performed and date completed; and

(7) Results of final test.

(e) *Town records of types and locations of assemblies.* The department will maintain records of the types and locations of all assemblies used for the prevention of backflow in accordance with requirements of the state administrative code, section R-18-4-115, Operation: Backflow Prevention.

(Ord. No. 869, § I(7-14-4), 6-7-94)

Sec. 10-92. Installation. 

(a) *Requirements.* A backflow prevention assembly approved by the department shall be installed on each water service line to a customer's water system, except for single-family residences exempt in the state administrative code, section R-18-4-115(C). As to any consumer using a water system without such assembly on or prior to the date that Ordinance No. 769 became effective, such backflow prevention assembly shall be installed within 180 days after such effective date. As to all other water service lines to a consumer's water system, such approved

backflow prevention assembly shall be so installed prior to issuance of any certificate of occupancy for the structure to which the water system will provide service.

(b) *Conditions requiring installation.* An approved backflow prevention assembly shall be installed on each water service line to a consumer's water system where the following conditions exist:

- (1) Premises having an auxiliary water system, unless such auxiliary water system is accepted as an additional source by the town and the source is approved by the agency and local authority.
- (2) Premises where any substances exist which can create an actual or potential health hazard to the public water supply system.
- (3) Premises having internal cross connections that, in the judgment of the officer, are not correctable, or intricate plumbing arrangements which make it impractical to determine whether or not cross connections exist.
- (4) Premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete cross connections survey.
- (5) Premises having a repeated history of cross connections being established or reestablished.

(c) *Types of assemblies required.* The following approved backflow prevention assemblies shall be installed on each water line to a consumer's water system serving types of facilities including but not limited to the following, unless the officer determines an alternate type of protection is either required or adequate to protect the public water supply or that no actual or potential hazard to the public water supply system exists:

- (1) Aircraft and missile plants—RP.
- (2) Automotive plants—RP.
- (3) Auxiliary water systems (interconnected)—RP.
- (4) Auxiliary water systems (not interconnected)—DC.
- (5) Beverage bottling plants—DC.
- (6) Breweries—RP.
- (7) Buildings greater than three stories or greater than 34 feet in height from curb level—DC.
- (8) Buildings with house pumps and/or potable water storage tank—DC.
- (9) Canneries, packinghouses and reduction plants—RP.
- (10) Car wash with water reclamation system—RP.
- (11) Centralized heating and air conditioning plants—RP.
- (12) Chemical plants—RP.




- (13) Chemically treated potable or nonpotable water systems—RP.
- (14) Commercial laundries—DC.
- (15) Dairies and cold storage plants—DC.
- (16) Dye works—RP.
- (17) Film processing laboratories—RP.
- (18) Food processing plants—DC.
- (19) High schools and colleges—DC.
- (20) Holding tank disposal stations—RP.
- (21) Hospitals and mortuaries—RP.
- (22) Medical and dental buildings, sanitariums, rest and convalescent homes—DC.
- (23) Mobile home and travel trailer parks—RP.
- (24) Irrigation systems (premises having separate systems, such as parks, playgrounds, cemeteries, golf courses, schools, estates, ranches, etc.)—RP.
- (25) Laboratories using toxic materials—RP.
- (26) Manufacturing, processing and fabricating plants using toxic materials—RP.
- (27) Manufacturing, processing and fabricating plants using nontoxic materials—RP.
- (28) Motion picture studios—RP.
- (29) Oil and gas production facilities—RP.
- (30) Paper and paper production plants—RP.
- (31) Plating plants—RP.
- (32) Radioactive materials processing facilities—RP.
- (33) Restricted, classified or other closed facilities—RP.
- (34) Rubber plants—RP.
- (35) Sand and gravel plants—RP.
- (36) Sewage and storm drainage facilities—RP.
- (37) Any premises where a cross connection is maintained—RP.

(38) Water trucks, temporary water storage units, hydraulic sewer cleaning equipment, street sweepers, steel wheeled rollers—RP or AG.

(39) Any premises where water supplied by the town is subject to deterioration in sanitary quality and its entry into the public water system is permitted—DC.

(40) Any connection to a fire hydrant (except fire department equipment)—RP or AG.

(Ord. No. 869, § I(7-14-5), 6-7-94)

Sec. 10-93. Types of protection. 

(a) *Required according to degree of hazard.* The type of protection required shall depend on the degree of hazard which exists as follows:


(1) An approved fixed air gap or an approved reduced pressure zone principle backflow prevention assembly shall be installed where the public water supply system may be contaminated causing a system health hazard.

(2) An approved fixed proper air gap separation or an approved DC backflow prevention assembly shall be installed where the public water supply system may be polluted with substances that could cause a pollution hazard not dangerous to health.

(b) *More than one source.* Any property with more than one water service shall, at the discretion of the department, have backflow protection on each service to the property.

(c) *Sand strainer.* At the discretion of the department a strainer will be required on assemblies.


(Ord. No. 869, § I(7-14-6), 6-7-94)

Sec. 10-94. Approval by department and state of assemblies and methods of installation required. 

(a) *Approval.* All backflow prevention assembly or methods required by these rules and regulations shall be approved by the department and shall comply with the requirements of Arizona Administrative Code, section R-18-4-115(D).

(b) *Installation.* Installation of approved assembly shall be made in accordance with the departmental regulations and Arizona Administrative Code, section R-18-4-115(E). Maintenance, as recommended by the manufacturer of the device and the department, shall be performed. The manufacturer's maintenance manual shall be available on the site. Installation standards are available at the department.

(Ord. No. 869, § I(7-14-7), 6-7-94)

Sec. 10-95. Inspection and maintenance. 

(a) *Duty of consumer.* It shall be the duty of the consumer at premises on which backflow prevention assemblies required by this article are installed to have inspection, tests, maintenance

and repair made in accordance with the following schedule, or more often where inspections indicate a need or are specified in the manufacturer's instructions, at the consumer's expense.

(1) Fixed proper air gap separations shall be inspected at the time of installation and at least annually thereafter.

(2) Double check valve assemblies shall be inspected and tested for tightness at time of installation and at least annually thereafter, and required service performed within 15 days.

(3) Reduced pressure principle backflow prevention devices shall be tested at the time of the installation and at least annually or more frequently if recommended by the manufacturer, or the department.

(4) All commercial pressure vacuum breakers shall be tested annually.

(b) *Testing.* Testing shall be performed by a person who has been approved by the department. Proof of approval shall be in writing. Testing shall be in accordance with procedures described in section 9 of the Manual of Cross-Connection Control, Eighth Edition, USC-FCCHR (Los Angeles, California: June 1988), or, if the person doing the testing has been certified under the 9th Edition, the testing shall be performed in accordance with the procedures described in section 9 of the Manual of Cross-Connection Control, 9th Edition (LA CA, December, 1993).

(c) *Repairs.* Whenever backflow prevention assemblies required by this article are found to be defective, they shall be repaired or replaced at the expense of the consumer within 45 days or as specified by the officer.

(d) *Alterations.* Backflow prevention assemblies shall not be bypassed, made inoperative, removed or otherwise made ineffective without specific authorization by the department.

(e) *Rebuilding.* All backflow prevention assemblies shall be rebuilt as determined by the officer.

(f) *Security.* All backflow assemblies installed shall have a chain with a padlock from the first O.S. & Y. valve to the second O.S. & Y. valve, or an alarm system, or both.

(g) *Painting.* All backflow assemblies shall be painted tan or a color to match the background.

(h) *Test cocks.* Test cocks are to be used for testing only. Any unauthorized use is a violation of this article. All test cocks shall have plugs in place at all times, to be removed for testing only.

(Ord. No. 869, § I(7-14-8), 6-7-94)


Sec. 10-96. Booster pumps. 

(a) *Installation.* Where a booster pump has been installed on the service line to or within any premises, such pump shall be equipped with a low pressure cutoff device designed to shut off the booster pump when the pressure in the service line on the suction side of the pump drops to 20 psi or less.

(b) *Pressure.* It shall be the duty of the water consumer to maintain the low pressure cutoff device in proper working order and to certify to the department at least once a year that the device is operable.

(Ord. No. 869, § I(7-14-9), 6-7-94)

Secs. 10-97—10-115. Reserved.

Sec. 10-116. Violations of article generally. 


(a) *Department action.* The department may deny or discontinue, after reasonable notice to the occupants of a premises, the water service to anyone using the town water distribution system to any premises wherein any backflow prevention device required by this article is not installed, tested, maintained and repaired in a manner acceptable to the department, or if it is found that the backflow prevention device has been removed or bypassed, or if an unprotected cross connection exists on the premises, or if a low pressure cutoff required by these regulations is not installed and maintained in working order. Reasonable notice to the occupant of a single-family dwelling shall be deemed given if it is in writing, mailed to the occupant at the address of the dwelling at least two weeks prior to the contemplated disconnections. Reasonable notice to all others shall be deemed given when done so in writing and mailed to the address one week prior to the contemplated disconnections.

(b) *Restoring water service.* Water service to such premises shall not be restored until the consumer has corrected or eliminated such conditions or defects in conformance with this article and to the satisfaction of the department, and the required reconnection fee is paid.

(c) *Retrofit.* If the department determines that a customer's backflow preventive device does not meet current standards, the customer shall retrofit his device so that it will meet current standards and shall have each device tested and approved by an approved person prior to being put into service.

(d) *Existing customers.* Customers that have water service prior to the effective date of Ordinance No. 869 are subject to all requirements imposed by this article, if the department determines the degree of hazard or potential hazard requires a device to be installed.


(Ord. No. 869, § I(7-14-10), 6-7-94)

Sec. 10-117. Cross connections; providing for penalties. 

It shall be unlawful for any customer/consumer of potable water, whether it is town water or any town-approved potable water supply to:

- (1) Create, or have created by other persons, any cross connection involving any town-approved potable water;
- (2) Fail to install, or maintain, any air gap or backflow assembly, as required by this article;
- (3) Fail to have any backflow assembly inspected and tested as per this article;
- (4) Fail to install any backflow assembly according to the town installation standards, as per the department of building and code compliance; or
- (5) Fail to protect any life within any structure or on any premises from any nonpotable water source.

(Ord. No. 869, § I(7-14-11), 6-7-94; Ord. No. 1363, § I.3., 8-21-01)


Sec. 10-118. Fines and/or penalties for violation of article. 

(a) *Fines.* In the event of a violation of this article a fine shall be imposed. Such fine shall be no less than \$100.00 or more than \$500.00. Each day that a violation continues shall be a separate offense, punishable as described in this section.

(b) *Action.* If at any time a violation of this article is deemed to be hazardous to life or health, the water service to the customer/consumer shall be interrupted at that time.


(c) *Civil penalties.* There is imposed a civil penalty, in the same amount as the fine indicated, should the defendant fail to appear and answer for a violation within the time period stated on the citations.

(Ord. No. 869, § I(7-14-12), 6-7-94)

Sec. 10-119. Option to proceed criminally or civilly. 


The director of the department of building and code compliance, or his designee, may proceed pursuant to this article by citation for civil sanctions or by long form complaint for criminal sanctions, pursuant to the general penalties provision of this article.

(Ord. No. 869, § I(7-14-13), 6-7-94; Ord. No. 1363, § I.3., 8-21-01)

Sec. 10-120. Violations of article and penalties, actions or abatement procedures not exclusive. 

Violations of this article are in addition to any other violation enumerated within this Code, and in no way limits the penalties, actions or abatement procedures which may be taken by the town for any violation of any other ordinance of the town or state statute.

(Ord. No. 869, § I(7-14-14), 6-7-94)

Sec. 10-121. Commencement of action; citation; contents. 

(a) *Enforcement.* The department of building and code compliance is assigned the responsibility of enforcing this article and is granted the authority expressly granted and/or implied needed and necessary for enforcement.

(b) *Authority.* The director of the town building and code compliance department (called the director in this section) or his designee is authorized to commence an action under this article by issuing a citation to the occupant of the property where the violation has occurred, or to the owner of record, or to both.

(c) *Citation; type.* The citation will be substantially in the same form as the state traffic citation form currently in use and shall direct the defendant to appear in municipal court or pay the fine imposed within ten days after issuance of the citation. The form shall contain a schedule of fines and penalties which are imposed by this article.

(d) *Citation; delivery.* The citation may be signed by the resident/occupant or owner of record with his promise to appear or pay the fine imposed within ten days of the issuance of the citation. If the occupant or owner is unavailable at the time the violation is noted or refuses to sign the citation, service may be accomplished and will be deemed proper and complete by any of the following:

(1) Upon the resident/occupant of the premises where the violation has occurred by posting a copy of the citation on or about an entrance to the dwelling unit.

(2) Upon the owner of record or the resident/occupant if they should refuse to sign the citation as to their promise to appear, the director or his designee may leave a copy of the citation with the defendant (handed to him or left in defendant's presence) executed by the director or designee under penalty of perjury that a copy of the citation was left with the defendant.


(3) Upon the resident/occupant by mailing a copy of the citation certified mail, return receipt requested, restricted delivery, to the defendant. The return receipt with the defendant's signature shall be filed with the court.

(4) Upon the owner of record by mailing a copy of the citation by first class mail, postage prepaid, to the address and person or entity indicated on the records of the county assessor. Service is complete upon posting or upon deposit into the mail, whichever is applicable.

(e) *Citation; contents.* The citation shall contain the date and location of the violation, reference to the Code provision or ordinance violated, and notice that within ten days from the date on which the citation was issued, the fine for the violation must be paid to and received by the municipal court or a request for a hearing made to and received by the municipal court.

(f) *Appearance.* Should the defendant fail to appear within the time specified and either pay the fine for the violation or request a hearing, the citation shall notify the defendant that judgment by default will be entered in the amount of the fine designated on the citation for the violation charged, plus a penalty amount as established by this article for the defendant's failure to appear.


(Ord. No. 869, § I(7-14-15), 6-7-94; Ord. No. 1363, § I.3., 8-21-01)

Sec. 10-122. Appearance or payment by mail. 

(a) *Option I.* The defendant shall, within ten days of the issuance of the citation, appear in person or through his attorney in the municipal court and shall either admit or deny the allegations contained in the citation, or the defendant may proceed as provided in subsection (b) of this section. If the defendant admits the allegations, the court shall immediately enter judgment against the defendant in the amount of the fine for the violation charged as set by this article. If the defendant denies the allegations contained in the citation, the court shall set a hearing date for trial of the matter.


(b) *Option II.* The defendant may admit the allegation in the citation and pay the fine indicated by mailing the citation, together with a check, for the amount of the fine to and made payable to the municipal court.

(Ord. No. 869, § I(7-14-16), 6-7-94)

Sec. 10-123. Default. 


If the defendant fails to appear as directed on the citation, the court, upon request of the director or his designee, shall enter a default judgment for the amount of the fine indicated for the violation charged, together with a penalty for the defendant's failure to appear as established by this article. If the defendant fails to appear at the prehearing conference, as set by the court, the court shall nonetheless set the matter for trial. If a defendant fails to appear at a trial, the court may enter judgment against the nonappearing defendant for the amount of the fine, plus a penalty for failure to appear, as established by this article. No judgment may be entered against a fictitiously identified defendant.

(Ord. No. 869, § I(7-14-17), 6-7-94)

Sec. 10-124. Rules of procedure. 

The state rules of court for civil traffic violation cases may be followed by the municipal court for citations issued pursuant to this article, except as modified or where inconsistent with the provisions of this article, or as modified or established for use by the municipal court or the state supreme court.

(Ord. No. 869, § I(7-14-18), 6-7-94)

Sec. 10-125. Collection of fines; lien; abatement. 

Any judgment for a civil fine and/or penalty imposed pursuant to this article shall constitute a lien against the real property of the defendant which may be perfected by recording a copy of the judgment under seal of the town with the county recorder. Any judgment for civil fines or penalties taken pursuant to this article may be collected as any other civil judgment. If the defendant fails to correct the violation charged within 30 days of the issuance of the first citation, the town attorney may proceed without further notice to commence an injunctive action for abatement of the violation. Any action taken under this article shall be in addition to any other remedies provided for in this Code.

(Ord. No. 869, § I(7-14-19), 6-7-94)

Secs. 10-126—10-150. Reserved.