

Town of Milton
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ORDINANCE NO. 2018 - 003

AN ORDINANCE TO AMEND TOWN CODE, CHAPTER 215, ENTITLED "WATER"

WHEREAS, the Town Charter of the Town of Milton, Delaware ("Town") provides in Section 29, that, "the Town Council is vested by this Charter with the following powers, to be exercised by the Town Council in the interest of good government, and the safety, health and public welfare of the Town, its inhabitants and affairs"; and

WHEREAS, Section 29(8) of the Town Charter provides in pertinent part that the Town may "...provide an ample supply of potable water for the Town and its inhabitants and to this end to acquire, lease, erect, construct, maintain, operate, extend, enlarge, renew, replace, control and dispose of wells, reservoirs, pumps, machines, stations, tanks, standpipes, water mains, fire hydrants and all other equipment, property or rights used in or about the collection, storage purification, conveyance, or distribution or sale of water; to regulate and prescribe for what public or private purposes the water furnished by the Town may be used, the manner of its use, the amounts to be paid by the users thereof, the means whereby such amounts shall be collected and the fines or penalties, or both, for any willful or negligent injury, or damage to or interference with the water system or the equipment of the Town; to furnish or refuse to furnish water from the Town system to places and properties outside the Town limits;..."

WHEREAS, the Mayor and Town Council previously enacted a water ordinance, codified as Chapter 215 of the Town Code; and

WHEREAS, the Water Committee met several times to prepare revisions for the Mayor and Town Council to consider;

NOW THEREFORE, BE IT ENACTED AND ORDAINED, by the Town Council of the Town of Milton, a majority thereof concurring, that the following replaces Chapter 215.

Chapter 215. Water

GENERAL REFERENCES

Bathing and swimming — See Ch. 72.

Building construction — See Ch. 85.

Floodplain management — See Ch. 125.

Housing standards — See Ch. 136.

Sewers — See Ch. 170.

Streets and sidewalks — See Ch. 183.

Subdivision of land — See Ch. 188.

Zoning — See Ch. 220.

Article I. Restrictions on Use

[Derived from Ch. 11, § 11-82, of the prior Code; amended 12-7-1998]

§ 215-1. Authority of Town Manager.

The Town Manager or designee shall be and is hereby authorized to issue an order directing that water shall not be used for washing vehicles or sprinkling of streets, grass, shrubs, or gardens in the event of a shortage of water or if an emergency exists.

§ 215-2. Unlawful acts.

No person shall, directly or indirectly, use the water from the mains of the Town for the purpose of washing vehicles or sprinkling streets, grass, shrubbery or gardens if the Town Manager or designee has issued an order provided for in this Article.

§ 215-3. Violations and penalties.

- A. Any person violating any provision of this article shall be subject to such penalties and pay such fines as set forth in Chapter 1, Article II, General Penalty.
- B. The application of any penalty set forth herein shall not be held to prevent the enforced removal of any prohibited condition.

Article II. Service and Use

[Derived from Ch. 15 of the prior Code; amended in its entirety 5-3-2010]

§ 215-4. Consuming Unit.

For the purpose of this Chapter, a "Consuming Unit" shall be each separate residential or commercial use located on a lot that is connected to the Town of Milton's water system. When more than one residential use or where residential and commercial uses are located on a single lot, each use shall be considered a Consuming Unit.

§ 215-5. Termination of service by Town; notice.

- A. Water service to any Consuming Unit shall be terminated and such Consuming Unit disconnected from the water system of the Town for any one of the following reasons:
 - (1) The failure to pay all or any part of any amount due for water service or any other services contemplated hereby within 30 days after the charge shall be due and payable.
 - (2) The resale of water furnished to the Consuming Unit.
 - (3) A break or leak in any lateral or communication pipe from the street line to the Consuming Unit or in any part of the water system belonging to such Consuming Unit.
 - (4) Disconnection by Tidewater Environmental Services, Inc (TESI) from the sanitary sewer system for any reason, including failure to pay TESI's charges in accordance with the TESI policies in effect at the time of disconnection. This precaution is for public safety.

B. Prior to the termination of services under this section, except termination pursuant to Subsection A(3) above, the Town shall send a notice of termination to the owner of the Consuming Unit by certified mail, return receipt requested, stating the amount due and that service will be terminated after a specified date unless payment in full is received by the Town. If the notice of termination is returned to the Town unclaimed or refused, service will be terminated five days from the unclaimed or refused date, unless payment in full is received by the Town. The cost of the certified mailing shall be added to the Consuming Unit's account and included in the total amount due from said Consuming Unit.

§ 215-6. Interest charge on unpaid bills.

The Town Manager or designee is directed to add interest to any unpaid water bill which has remained unpaid for a period of 30 days past the due date. Said interest is to be computed from the date the bill is rendered at the legal rate of interest in 6 *Del. C.* Section 2301 prorated per month, and an additional sum of two percent (2%) per month as a penalty for each month such unpaid water bill shall remain unpaid and said penalty shall be collected in the same manner as the original amount of water bill.

§ 215-7. Fee for discontinuing and reestablishing water service.

There is hereby established a charge for discontinuing/terminating water service and a charge for reconnecting water service to any Consuming Unit whose water service has been discontinued/terminated for nonpayment. The discontinuation/termination and reconnection charges shall be in the amount established in the currently effective Town of Milton Fee Schedule.

§ 215-8. Collection of charges before reestablishing service.

The Town Manager or designee is directed to collect all arrearages, together with interest thereon, and all charges for discontinuing and reestablishing service prior to reestablishing water service.

§ 215-9. Cost of extending water service.

- A. All costs and expenses incident to the extension and connection of water service to any Consuming Unit shall be borne by the owner of the Consuming Unit.
- B. Any upgrade of materials or equipment required by the Town for future expansion, as determined by the Town, shall be the responsibility of the Town.
- C. When any new development, or new phase of a development is undertaken, all costs and expenses incident to the extension of the Town's system to such development's boundary shall be charged to the developer.

§ 215-10. Water meters required.

- A. All premises using the water services of the Town must be equipped with a water meter furnished or specifically operated by the Town of Milton.
- B. Meters shall be installed outside of the premises, so as to facilitate easy access for reading. The location of meters will be determined by the Town. Refusal by an owner of a Consuming Unit to allow the location or relocation of a meter in accordance with the Town's determination will result in termination of such refusing Consuming Unit's water service. [See Town of Milton Charter, Section 29, Subsection (8)].

C. Each water meter shall be read at such times as are necessary in order that bills may be sent at the proper time to facilitate billing efficiency.

D. Water meters shall be installed by the Town of Milton.

E. If more than one Consuming Unit is served by a single service connection, each such Consuming Unit served by the single service connection must have a separate water meter and must pay the availability charge separately.

F. It shall be the responsibility of the Town to maintain and repair any defective meters. If the Town finds that a defective meter is caused by tampering, then repair or replacement of such tampered - with meter shall be charged to the account of the Consuming Unit.

G. For a water service line and/or meter pit inspection, the Town must be notified at least 72 hours in advance of the date by which the inspection must be completed. A fee for the inspection, in the amount established in the currently effective Town of Milton Fee Schedule, shall be charged to the Consuming Unit account at the time of inspection.

H. The Town will install the water meter at the time of inspection of the water service line installation. A fee, as established in the currently effective Town of Milton Fee Schedule, will be charged per meter.

§ 215-11. Water meter testing.

A. Upon request by a Consuming Unit, the Town of Milton shall test the accuracy of said Consuming Unit's meter. Upon request, a written report of the meter test result shall be provided to the Consuming Unit.

B. If the meter is found to be accurate within specified American Water Works Association (AWWA) limits, the Consuming Unit's account will be billed for the testing in an amount established in the currently effective Town of Milton Fee Schedule.

C. If the meter is found to be inaccurate within specified American Water Works Association (AWWA) limits, the billing will be corrected accordingly, commencing from the date the error developed. If a period of time cannot be determined, the error shall be assumed to have existed for one year or a period equal to 1/2 the time since the meter was last tested accurate, whichever is less; and a new meter shall be installed by the Town at the Town's expense. A billing overcharge shall be either refunded or credited to the Consuming Unit's account, at the Consuming Unit's election. A billing undercharge shall be charged to the Consuming Unit's account and will be due according to the currently effective Town of Milton Fee Schedule. A meter testing fee shall not be assessed in such case.

§ 215-12. Metered water rates.

Refer to the currently effective Town of Milton Fee Schedule for the current rates established for water service provided by the Town of Milton within the Town and outside of the Town.

§ 215-13. Water rent year.

Prior to the updating of this Chapter in 2018, the water rent year for the furnishing of water service to any given Consuming Unit began on January 1 of any given calendar year and ended on December 31

of the same calendar year. Beginning on October 1, 2018, the water rent year shall coincide with the Town Budget's fiscal year.

§ 215-14. Billing for water service provided only to legal owner; exception.

Billing for water service shall be provided only to the legal owner of the Consuming Unit, unless such legal owner shall designate the occupier of the Consuming Unit as the responsible water bill payer. In such cases, the Town must agree to the assignment of responsibility and shall have the right to require that the Consuming Unit's bill be paid annually in advance, based upon the estimated cost of such services. A reconciliation of over payment or under payment shall be conducted at the end of the prepayment period, and the amount of the reconciliation shall be added or credited, as the case may be, to the next annual prepayment. The owner of the Consuming Unit is ultimately responsible for payment for all billing for water service provide by the Town.

§ 215-15. Repair, break or leak in service pipe.

In the event that there shall be any break or leaks between the curb stop connection point and any Consuming Unit, and such break or leak is deemed to be an emergency repair situation by the Town, the Town shall contact the owner of such Consuming Unit and the person or entity responsible for paying the water bill as permitted in Section 215-14 above immediately and demand that the appropriate repair be made within a time frame as deemed appropriate under the circumstances by the Town. In such an emergency repair situation, contact by telephone, e-mail or such other expedient means of communication that might be available shall be permissible. In the event that the owner of such Consuming Unit or the person or entity responsible for paying the water bill for such Consuming Unit neglects or refuses to repair the break or leak in question in accordance with the Town's instructions, the Town may promptly terminate service until such repairs are made. The owner of the Consuming Unit is ultimately responsible for having such repairs made.

§ 215-16. Depth of water service lines.

All water service lines from the water main to the curb stop shall have a minimum cover of three feet. Water service lines belonging to the owner of the Consuming Unit from the curb stop to the entrance to the residence or commercial facility shall also have a minimum cover of three feet.

§ 215-17. Errors in billing; time limit on complaints.

All claims of error, complaints against or objections to any billing statement for any water service shall be made to the Town Manager or designee within 30 days from the date of the bill. Any such claims of error, complaints against or objections to a billing statement must be in writing. (Please see "handling water bill discrepancies policy/procedure" with attached "water bill discrepancy request/complaint form" available in Town Hall). The billing statement shall be conclusively deemed to be correct unless a claim of error, complaint or objection has been handled and addressed according to the Town's handling water bill discrepancies policy/procedure. Should there be no actionable information gained from the water discrepancy process, a fee as shown on the currently effective Town of Milton Fee Schedule will be charged to the Consuming Unit's account. A fee will not be charged when an actual billing discrepancy is found by the Public Works Department.

§ 215-18. Prohibition on use of copper and lead pipes, solder, and flux.

Any plumbing construction or repair in any residential or nonresidential facility providing water for human consumption which is connected to the Town's water system shall be copper and lead free. For purposes of this article, the term "lead free," when used with respect to solders and flux, refers to solders and flux containing not more than 0.2% lead; and when used with respect to pipes and pipe fittings, refers to pipes and pipe fittings containing not more than 0.8% lead.

§ 215-19. Consuming Unit service lateral.

A. Location. All Consuming Units or any property shall be connected to the water system of the Town at the water main along the Town- or-State owned road nearest to or in front of the lot upon which the property or Consuming Unit is erected or maintained.

B. Cost and expenses of owner. The construction, connection, service and upkeep of the service lateral between any Consuming Unit and the Town water main shall be at the expense of the owner of the Consuming Unit. The Town shall provide and sell to the owner of the Consuming Unit the appropriate corporation stop, curb stop, and water meter, with appurtenances. The water tap shall be performed by the Town Public Works Department for the fee as established in the currently effective Town of Milton Fee Schedule.

C. Town's responsibility. With respect to the main line of the water service, the installation, repair, upkeep and service thereof is the responsibility of the Town of Milton. The service from the water main to the curb stop is also the responsibility of the Town. The water line running from the curb stop to the Consuming Unit shall be the responsibility of the owner of the Consuming Unit benefiting by such service.

D. Standards of new construction.

(1) The minimum service lateral pipe diameter shall be one inch for all residential and commercial Consuming Units.

(2) Service laterals shall be constructed using Polyethylene pipe (PE), or SDR-7.

§ 215-20. Turning water on or off at curb stop or water meter pit prohibited; exceptions.

A. No person shall turn water on or off at any curb stop or water meter pit within the Town's water service area without written authority from the Town Manager or designee, or the Town's Supervisor of Public Works. A twenty-four hour prior notice of intent to turn water on or off at the curb stop or water meter pit must be given to the Town, except as noted in Subsection B.

B. A plumber, duly licensed by the State of Delaware, may turn water off at any such curb stop or water meter pit without such prior written authority, but only in cases of emergency.

§ 215-21. Acceptance of water service.

All persons or entities accepting water service furnished from the Town water system to any Consuming Unit, as well as the owner of such Consuming Unit to which such water service is furnished, shall be conclusively deemed to have accepted such service subject to all the terms and provisions of this Chapter.

§ 215-22. Agreements implied by initiating water service.

After water service shall have been initiated to any given Consuming Unit, unless otherwise provided by an express agreement in writing, the owner of the Consuming Unit or the person or entity responsible for paying the water bill as permitted in Section 215-14, as the case may be, shall be deemed to have agreed to accept, and the Mayor and Town Council shall be deemed to have agreed to furnish, subject to all the terms and provisions of this Chapter, water service to such Consuming Unit from such time and thereafter, unless the owner of the Consuming Unit or the person or entity responsible for paying the water bill shall give written notice to the Town Manager or designee to terminate such water service on or before the last day of the month in which water rent is to be billed for that quarter in which it is desired that such service shall be terminated.

§ 215-23. Liability of Town for interruptions in service.

The Town shall not be liable for any consequences of any interruptions in or any failure of water service resulting from the making of necessary repairs or extensions to or replacements in any part of the water plant and system of the Town or from failures in wells or from fire, flood, inability to obtain labor or material, labor trouble, riot or any other catastrophe or cause beyond its reasonable ability to control.

§ 215-24. Water rates; approval by Council, public notice required.

A. The water rates to be charged for water service provided by the Town for Consuming Units in and outside of the Town for the ensuing water rent year are normally developed during the annual budget preparation process. In the event that the Mayor and Town Council deem it appropriate to alter or change any rates for water service then in effect, the Town Manager or designee shall cause a full and complete copy of the proposed rates to be posted in a public place in the Town, and on the Town's website. The proposed water rate schedule shall remain posted for a period of at least 30 days.

B. Any time the Mayor and Town Council deem it appropriate to alter or change any rates for water service then in effect, a Public Hearing shall be held giving any person in interest the opportunity to be heard in connection with the proposed rates. Such Public Hearing shall be duly noticed in accordance with the Freedom of Information Act, specifying the time, location and agenda items to be discussed at such Public Hearing. After consideration of the results of such Public Hearing, the Mayor and Town Council shall then make such alterations to the rates for water service for the ensuing (or balance of the current) water rent year as shall be required by reason and justice.

C. In the event that the schedule of rates under consideration during the Budget process shall not alter or change the schedule of rates for water service then in effect, the schedule of rates adopted at the meeting shall be the same as the rates currently in effect for water service throughout the Town for ensuing water rent year without the necessity of holding a Public Hearing thereon.

D. The final schedule of rates established for the ensuing (or balance of the) water rent year shall then be posted in a public place in the Town and on the Town's website, and there the schedule shall remain for the inspection of all persons concerned for a period of at least 30 days after the schedule of such rates shall have been approved.

§ 215-25. Water-cooled air-conditioning systems.

A. Except as note in Subsection B below, no water shall be furnished by the Town for any water-cooled air-cooling or air-conditioning systems.

B. No water-cooled air-cooling or air-conditioning system installations shall discharge water so used into any of the sewers of the sanitary systems existing in the Town. Where such systems reuse the water with a cooling tower or other device, the water needed to maintain the necessary supply and the water discharged to prevent the accumulation of objectionable matter will be furnished by the Town at the rates in the currently effective Town of Milton Fee Schedule, and the discharge may be wasted in the sanitary sewers.

C. Before any water-cooled cooling or air-conditioning system is installed, plans should be submitted to the office of the Town Manager or designee, and his/her approval must be secured before such installations are made.

§ 215-26. Swimming pools.

Any Consuming Unit that includes a swimming pool shall refer to the Town Manager or designee for the policy then in effect for paying to fill pools that do not have separate water meters measuring the number of gallons used by such pools.

§ 215-27. Water connection charges.

A. Water connection charges to tap into the Town's water supply shall be charged to the owner of the Consuming Unit according to the currently effective Town of Milton Fee Schedule. The owner of the Consuming Unit shall be responsible for paying all additional fees or charges that may be incurred by the Town as a result of the water connection, such as, but not limited to, street repairs, if any. The owner of the Consuming Unit shall also pay a deposit for a street opening permit, as set forth in the currently effective Town of Milton Fee Schedule. Said deposit for a street opening permit shall be refunded to the owner of the Consuming Unit when the street is returned to its original condition.

B. Additionally, the owner of each newly connected Consuming Unit must pay to the Town a water impact fee as established in the currently effective Town of Milton Fee Schedule.

§ 215-28. Private wells or water systems.

There shall be no private wells or other water systems installed or maintained in the Town (other than the Town-owned and maintained public water supply) without prior written consent of the Mayor and Town Council.

§ 215-29. Giving away or Selling Town water.

The Town Water System is intended for the benefit of the Consuming Units. No person shall be allowed sell any amount of water obtained from the Town water system to any other person or organization, and no person other than a person authorized by the Town Manager or designee shall be allowed to use water from any fire hydrant connected to the Town water system for any reason.

§ 215-30. Irrigation systems; backflow prevention requirements.

Consuming Units that have irrigation systems must have backflow prevention devices in compliance with 16 *Del. C.* Section 4455. This requirement also applies to Consuming Units that have any system that exhibits the possibility of cross connection to any system other than the Town's water service system.

§ 215-31. Water emergencies.

A. The Town Manager or designee may declare a state of water emergency when it appears to the Town Manager or designee that the Town's water sources are incapable of producing sufficient water to meet all the needs of the Town's water users.

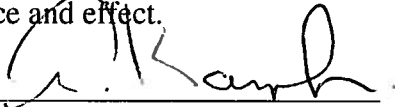
B. During a declared water emergency, water service may be interrupted in any or all areas of the Town in order to perform repairs, provided that water for firefighting shall remain available. Upon expiration of the declared water emergency, water service shall be restored without charge to the Consuming Unit accounts.

C. The declaration of a state of water emergency shall specify allowable outside watering and irrigation schedules (if any) and may specify other water conservation measures appropriate to the circumstances of the emergency.

§ 215-32. Violations and Penalties.

Any person violating any provision of this article shall be subject to such penalties and pay such fines as set forth in Chapter 1, Article II, General Penalty.

I, THEODORE J. KANAKOS, Mayor of the Town of Milton, hereby certify that the foregoing is a true and correct copy of the Ordinance adopted by the Town Council of the Town of Milton at its meeting held on the 4th day of June, 2018, at which a quorum was present and voting throughout and that the same is still in full force and effect.



MAYOR

