

# COUNCIL CHAMBER

City of Berea, Ohio

Ordinance No. 2021-67

By Leon Dozier Sponsored By Mayor Cyril M. Kleem

## AN ORDINANCE

**REPEALING AND REPLACING CHAPTER 311, WATER, OF TITLE THREE, PUBLIC UTILITIES, OF PART THREE, STREETS, UTILITIES AND PUBLIC SERVICES CODE, OF THE CODIFIED ORDINANCES OF THE CITY OF BERA, AND DECLARING AN EMERGENCY.**

**WHEREAS**, the Ohio EPA requires that public water suppliers include backflow prevention measures in their ordinances or rules and regulations; and

**WHEREAS**, upon review of existing Chapter 311, it is apparent that some sections had not been reviewed and updated since 1956 and others had not been reviewed and updated since 1990; and

**WHEREAS**, the Administration and Council of the City of Berea wish to enact new Chapter 311 of the Codified Ordinances to reflect modern practices; and

**WHEREAS**, until the Administration and Council of the City of Berea have an opportunity to fully examine water rates, that new Chapter 311 should retain the existing rates and surcharges.

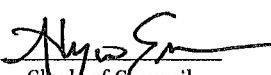
**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Berea, State of Ohio:



**SECTION 1.** That Chapter 311, Water, of the Codified Ordinances of the City of Berea, attached herein as Exhibit "A" and incorporated by reference, shall be expressly repealed in its entirety and replaced with new Chapter 311, Water Supply, of the Codified Ordinances of the City of Berea, attached herein as Exhibit "B" and incorporated by reference.

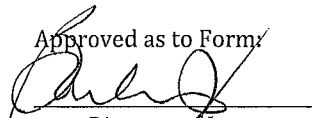
**SECTION 2.** That is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

**SECTION 3.** That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare, or providing for the usual daily operation of a municipal department, and for the further reason that it is important that Chapter 311 comply with Ohio EPA requirements and reflect best practices. Therefore, provided this Ordinance receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, from and after the earliest period allowed by law.

PASSED: December 6, 2021

ATTEST:   
Clerk of Council

  
President Pro Tempore of Council  
APPROVED: December 7, 2021  
  
Mayor

Approved as to Form:  
  
Director of Law

CHAPTER 311

Water

- 311.01 Water rates.
- 311.02 Meters and service taps; rates.
- 311.03 Approval of private water supply.
- 311.04 Investigation of private water supply.
- 311.05 Right of entry.
- 311.06 Discontinuance of supply.
- 311.07 Sprinkling ban.
- 311.08 Property seller to supply statement of status of water and/or sewer bill(s).
- 311.09 Escrow agent not to disburse funds without statement.
- 311.10 Rights of buyer.
- 311.11 Backflow prevention and cross-connection control.
- 311.12 Annual inspection of backflow prevention valves or devices.
- 311.99 Penalty.

CROSS REFERENCES

Power to provide and regulate water system - see Ohio R.C. 715.08, 717.01, 743.01  
 Water pollution - see Ohio R.C. 715.08, 743.24 et seq.  
 Water works mortgage revenue bonds - see Ohio R.C. 715.99 et seq.  
 Compulsory water connections - see Ohio R.C. 729.06, 743.23  
 Management and control of water works - see Ohio R.C. 743.02 et seq.  
 Weekly deposit of water works money collected - see Ohio R.C. 743.06  
 Tampering with water hydrants, pipes or meters; unauthorized connections - see Ohio R.C. 4933.22

311.01 WATER RATES.

(a) To pay part of the cost and expense of maintaining and operating the water distribution system and water treatment works, there is levied upon each lot and premises on which is located any building which has installed thereon or therein any water connection with the water system, a direct quarterly charge according to Schedule 1 below for residential class and according to Schedule 2 below for non-residential class:

(1) Residential rate class. This schedule applies to properties classified as residential by the Cuyahoga County Auditors Office and excludes properties that are required to have a multiple-occupancy permit by the City.

RATES					
Per Quarter Gallon Usage Range	Year 2003	Year 2004	Year 2005	Year 2006	Year 2007*
0 - 5,000	\$1.77	\$2.56	\$3.38	\$3.72	\$4.09
5,001 - 10,000	2.05	2.95	3.90	4.30	4.75
10,001 - 50,000	2.14	3.11	4.10	4.51	4.96
50,001++	2.23	3.23	4.26	4.69	5.16

\* Year 2007 and thereafter unless otherwise provided.

(2) Non-residential rate class. This schedule applies to properties classified as other than residential by the Cuyahoga County Auditors Office, and which do not qualify for the residential rate class.

RATES					
Per Quarter Gallon Usage Range	Year 2003	Year 2004	Year 2005	Year 2006	Year 2007*
0 - 5,000	\$2.03	\$2.94	\$3.88	\$4.27	\$4.69
5,001 - 10,000	2.35	3.40	4.50	4.95	5.50
10,001 - 50,000	2.46	3.56	4.70	5.17	5.69
50,001++	2.55	3.70	4.89	5.38	5.91

\* Year 2007 and thereafter unless otherwise provided.

(3) Additional rates and discounts.

The Homestead Rate will be a 10% discount. (See Section 3 of Ordinance 2003-10).  
 Outside City customers pay a 15% premium. (See Section 4 of Ordinance 2003-10).  
 Surcharge of \$2.21 per thousand gallons for outside City and tax-exempt properties. (See Section 4 of Ordinance 2003-10).

(b) (1) To pay part of the cost and expense of the principal and interest payments on the notes and bonds issued for the purpose of paying for the improvement being done to the Municipal Water Treatment Plant pursuant to Ordinance 1982-88, 1982-107, and 1982-108, water plant and water line capital improvements or the cost of borrowings related thereto, there is levied on each lot and premises on which is located any building which has installed thereon or therein any water connection with the water system, and which lot or premises is either located outside the City of Berea, or is not subject to payment of property tax to Berea, an additional direct quarterly charge of \$2.21 per 1,000 gallons. This additional charge, which shall be known as the water rate surcharge, shall be charged for purpose of water plant and water line capital improvements or the cost of borrowings related thereto.

(2) In the case of a discontinuance of actual occupancy or use of the buildings or premises possessing the water connection for the duration of the particular quarter or quarters upon which billings are made, there shall be no charge for the quarter or quarters, provided that notice of such discontinuance has been given to the City.

(Ord. 2003-10. Passed 3-3-03.)

311.02 METERS AND SERVICE TAPS; RATES.

(a) Meters Required; Meter Maintenance Fee.

- (1) All premises using the City water supply must be equipped with a remote control water meter furnished by the City, but paid for by the consumer.
- (2) The remote control water meter must be installed prior to the issuance of any occupancy permit. Water service will not be provided until such installation is complete.
- (3) Effective July 1, 2016, a monthly fee of \$2.00 will be assessed to every customer utilizing the City water supply to pay the cost of the remote control water meter, installation of the meter, maintenance of the meter and other costs directly related to the program.

(Ord. 2016-28. Passed 3-21-16.)

(b) The rates to be charged by the City for service tap permits is contained in Codified Ordinance Section 1311.04. The rates for temporary connections are fixed and established as follows:

(1) **Temporary connection.** For each such connection, the charge shall be an amount equal to the cost thereof. "Cost" includes:

- A. Cost of all materials;
- B. Cost of labor; and
- C. Twenty percent (20%) of subsections A. and B. for overhead expense.

(2) An application for a temporary connection shall be accomplished by applicant's deposit in cash, certified check or money order payable to the City of Berea in a sum sufficient to cover the estimated cost thereof, in accordance with a schedule of estimated costs to be determined from time to time by the Board of Control. Any unexpended portion of this deposit shall be refunded to the applicant by the City upon completion of the connection. Any additional sums due from the applicant shall be paid to the City upon completion of the connection.

(Ord. 2003-10. Passed 3-3-03.)

### **311.03 APPROVAL OF PRIVATE WATER SUPPLY.**

No person shall establish or permit to be established, or maintain or permit to be maintained, any connection whereby a private, auxiliary or emergency water supply other than the regular public water supply of the City may enter the supply or distributing system of the City, unless such private, auxiliary or emergency water supply and the method of connection and use of such supply shall have been approved by the Director of Public Service and by the Ohio Department of Health. (Ord. 1956-43. Passed 7-2-56.)

### **311.04 INVESTIGATION OF PRIVATE WATER SUPPLY.**

It shall be the duty of the Director of Public Service to cause surveys and investigations to be made of all industrial and other properties served by the public water supply where private, auxiliary or emergency water supplies other than the public water supply are known to exist, or where such supplies are likely to exist. Such surveys and investigations shall be made a matter of public record and shall be repeated as often as the Director shall deem necessary. (Ord. 1956-43. Passed 7-2-56.)

### **311.05 RIGHT OF ENTRY.**

The Director of Public Service or his duly authorized representative shall have the right to enter at any time any property served by a connection to the public water supply or distribution system of the City for the purpose of inspecting the piping system or systems thereof. On demand, the owner, lessees or occupants of any property so served shall furnish to the Director any information which he may request regarding the piping system or systems and any private, auxiliary or emergency water supply used or useful on such property. The refusal of such information, when demanded, shall at the discretion of the Director, be deemed evidence of the presence of improper connections. (Ord. 1956-43. Passed 7-2-56.)

### **311.06 DISCONTINUANCE OF SUPPLY.**

The Director of Public Service is hereby authorized and directed to discontinue, after reasonable notice to the occupant thereof, the water service to any property wherein any connection in violation of the provisions of this chapter is known to exist, and to take such other precautionary measures as he 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 connection or connections shall have been eliminated or corrected in compliance with the provisions of this chapter. (Ord. 1956-43. Passed 7-2-56.)

### **311.07 SPRINKLING BAN.**

The Mayor and Director of Public Service are authorized to establish a sprinkling ban whenever, in the opinion of the Mayor and Director, a water emergency exists. The sprinkling ban shall be during the hours provided for by the Mayor and Director. (Ord. 1954-49. Passed 7-26-54.)

### **311.08 PROPERTY SELLER TO SUPPLY STATEMENT OF STATUS OF WATER AND/OR SEWER BILL(S).**

No person, agent, firm or corporation shall sell by deed, land contract, or otherwise, any interest in any premises within the City which is supplied with Berea City water or any premises situated outside the borders of the City but which is supplied with City water, without furnishing the buyer, prior to the closing of such sale, a statement from the Berea Water Department or Finance Department setting forth the current status of the water account and sewer account(s) of the premises and, when an escrow has been established, depositing in escrow, prior to delivery of possession or transfer of title, a statement from the buyer acknowledging the receipt of such statement, and accepting responsibility for all water and sewer bills on such property after the date of possession or title transfer, whichever shall sooner occur. The Water and/or Finance Departments shall, from time to time, establish a reasonable fee to be charged to any person, firm or corporation for a status report of any water and/or sewer bill for any such property. (Ord. 90-82. Passed 5-21-90.)

### **311.09 ESCROW AGENT NOT TO DISBURSE FUNDS WITHOUT STATEMENT.**

No person, firm or corporation acting in the capacity of an escrow agent in any real estate transaction involving the sale of any premises situated within or without the City of Berea, and being furnished with Berea City water, shall disburse any funds unless the provisions of Section 311.08 have been fully complied with. (Ord. 90-82. Passed 5-21-90.)

### **311.10 RIGHTS OF BUYER.**

Conviction under this section or under Sections 311.08 or 311.09 shall not be a bar to the rights of a buyer to recover, by civil suit from either the previous owner (seller) or from a real estate broker or real estate sales agent or escrow agent, should they be found through a civil process to have been negligent or otherwise liable, for the amounts of water supplied, and sewer collection and processing supplied, to the previous owner and paid by the buyer, either prior to or after the closing of such purchase and sale transaction. (Ord. 90-82. Passed 5-21-90.)

### **311.11 BACKFLOW PREVENTION AND CROSS-CONNECTION CONTROL.**

(a) If, in the judgment of the Director of Public Service, an approved backflow prevention device is necessary for the safety of the public water system, the Director shall give notice to the water consumer to install such an approved device immediately. The water consumer shall, at his own expense, install such an approved device at a location and in a manner approved by the Director and shall have inspections and tests made of such approved devices as required by the Director.

(b) No person, firm or corporation shall establish or permit to be established or maintain or permit to be maintained any connection whereby a private, auxiliary or emergency water supply other than the regular public water supply of the City may enter the supply or distributing system of such municipality, unless such private, auxiliary or emergency water supply and the method of connection and use of such supply has been approved by the Director and by the Ohio Environmental Protection Agency.

(c) The Director shall cause surveys and investigations to be made of industrial and other properties served by the public water supply where 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 as often as the Director deems necessary.

(d) The Director or his duly authorized representative 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 City for the purpose of inspecting the piping system or systems thereof. On demand, the owner, lessees or occupants of any property so served shall furnish to such inspector any information which he may request regarding the piping system or systems or water use on such property. The refusal of such information, when demanded, shall, within the discretion of the Director, be deemed evidence of the presence of improper connections as provided in this section.

(e) The Director is hereby authorized and directed to discontinue, after reasonable notice to the occupant thereof, the water service to any property wherein any connection in violation of the provisions of this section is known to exist, and to take such other precautionary measures as he 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 section. (Ord. 92-83. Passed 6-29-92.)

**311.12 ANNUAL INSPECTION OF BACKFLOW PREVENTION VALVES OR DEVICES.**

(a) The Mayor, acting through the Director of Public Service is hereby authorized, and directed to issue notice to property owners in the City of Berea whose property is served by a backflow prevention valve or device to have their backflow prevention valve or device inspected and certified to be in proper working order by an inspector licensed to do inspections of backflow prevention valves or devices and to have that inspector report the results of the testing to Backflow Solutions, Incorporated of Worth, Illinois.

(b) The Mayor and the various Directors and City Administrators are hereby authorized to take such further actions as are necessary and appropriate to effectuate the purposes stated herein. (Ord. 2012-40. Passed 6-4-12.)

**311.99 PENALTY.**

Whoever violates any provisions of this chapter, or any of the regulations of the Director of Public Service made pursuant to Ohio R.C. 743.02 is guilty of a minor misdemeanor. Each day's continued violation shall constitute a separate offense.

## CHAPTER 311 WATER SUPPLY

- 311.01 Definitions
- 311.02 Rules and regulations
- 311.03 Initiation of service; deposit; responsibility; billing; request for adjustment
- 311.04 Payment; dishonored payment
- 311.05 Collection of delinquent accounts
- 311.06 Requirements upon sale of property; duty of seller and escrow agent; rights of buyer
- 311.07 Termination of service; final bill; collection and refund
- 311.08 Termination of service in occupied residential structures
- 311.09 Access to the premises
- 311.10 Disruption of service due to improper connections
- 311.11 Disruption of service; pressure and supply
- 311.12 Investigation of private water supply; approval
- 311.13 Water rates
- 311.14 Surcharges; discounts
- 311.15 Meters and service taps; rates
- 311.16 Sprinkling ban
- 311.17 Backflow prevention and cross-connection control.
- 311.18 Tampering with a fire hydrant
- 311.99 Penalty

### CROSS REFERENCES

- Power to provide and regulate water system - see Ohio R.C. 715.08, 717.01, 743.01
- Water pollution - see Ohio R.C. 715.08, 743.24 et seq.
- Water works mortgage revenue bonds - see Ohio R.C. 715.99 et seq.
- Compulsory water connections - see Ohio R.C. 729.06, 743.23
- Management and control of water works - see Ohio R.C. 743.02 et seq.
- Weekly deposit of water works money collected - see Ohio R.C. 743.06
- Tampering with water hydrants, pipes or meters; unauthorized connections - see Ohio R.C. 4933.22
- Backflow prevention - see Ohio Administrative Code 3745-95-01 to 3745-95-09

### 311.01 DEFINITIONS

- (a) "Approved" means that a backflow prevention assembly, device, or method has been accepted by the Director as suitable for the proposed use.
- (b) "Auxiliary water system" means any water system on or available to the premises other than the public water system. These auxiliary water systems shall include used water or water from a

source other than the public water system, such as wells, cisterns or open reservoirs that are equipped with pumps or other prime movers, including gravity.

(c) "Backflow" means the flow of water or other liquids, mixtures, or substances into the distributing pipes of a potable water supply from any source other than the intended source of the potable water supply.

(d) "Backflow preventer" means any assembly, device, method, or type of construction intended to prevent backflow into a potable water system. This definition applies wherever "backflow prevention device" is used in this chapter.

(e) "Consumer" means the owner or person in control of any premises supplied by or in any manner connected to a public water system.

(f) "Consumer's water system" means any water system, located on the consumer's premises, supplied by or in any manner connected to a public water system. A household plumbing system is considered to be a consumer's water system.

(g) "Cross-connection" means any arrangement whereby backflow can occur.

(h) "Director" means the Director of Public Service, their designee or authorized agent.

(i) "Health hazard" means any condition, device, or practice in a water system or its operation that creates, or may create, a danger to the health of users.

(j) "Person" means any individual, public or private corporation, partnership, or other legal entity.

(k) "Pollutional hazard" means a condition through which an aesthetically objectionable or degrading material, which is not dangerous to the public water system or health of users, may enter the public water system or portion of a consumer's water system.

(l) "Premises" means any building, structure, dwelling or area containing plumbing or piping supplied from the City's water system.

(m) "Service connection," means the terminal end of a service line from the City's water system. If a meter is installed at the end of the service, then the service connection means the downstream end of the meter.

(n) "Severe health hazard" means a health hazard to users that could reasonably be expected to result in significant morbidity or death.

(o) "System hazard" means a condition posing an actual or potential threat of damage to the physical properties of the water system or a consumer's water system.

(p) "Water system" means a system for the provision of piped water or process fluids, and includes any collection, treatment, storage or distribution facilities used primarily in connection with such system.

### 311.02 RULES AND REGULATIONS

The Director of Public Service is hereby authorized and directed to make, issue and enforce such rules and regulations as may be necessary for the administration of this chapter and as may be necessary for the safe, economical and efficient management and protection of the water system of the City. Such rules and regulations shall be available on the City's website and in the Water Billing office.

### **311.03 INITIATION OF SERVICE; DEPOSIT; RESPONSIBLE PARTY; BILLING; REQUEST FOR ADJUSTMENT**

(a) Water service shall be initiated only upon an application by the owner or owner's authorized agent in the form provided by the City.

(b) Deposit

(1) An applicant may be required to pay a deposit of \$250 upon either of the following:

(A) If the applicant owns or has owned real property in the City of Berea in the ten years immediately preceding the application, and the water bill for said property, while under the applicant's ownership or control, was certified; or

(B) If at the time of application, the applicant is a debtor in a bankruptcy case pending in the U.S. District Court.

(2) Deposits shall not be applied to current water or sewer bills. However, a deposit held on an account shall be returned upon written request, if, subsequent to the date of the deposit, four (4) consecutive quarterly bills are timely paid. If a deposit is held on an account at the time it is closed, the deposit shall be applied to any final amount outstanding.

(c) Responsible Party; Billing

(1) All accounts for water service established after January 1, 2022, shall be established and maintained in the name of the record title owner of the premises served thereby. All accounts in existence prior to the effective date of this section which were not contracted in the name of the owner of the serviced property will be permitted to remain in the name of the current contract obligor. However, upon cancellation or termination of such contract, all future contracts for the serviced property shall be made in accordance with this section.

(2) Any owner of real estate premises to which water is supplied shall be deemed liable for all water and service charges for such premises, whether or not the premises is occupied by the owner, tenant or other persons.

(3) Bills shall be mailed or otherwise made available electronically to the owner at the address provided by the owner. Failure to receive a bill shall not relieve the owner from obligation to pay for service rendered when due.

(4) The owner may request that a copy of the bill be mailed to a tenant. However, mailing a copy of the bill to a tenant shall not be construed as relieving the owner of the real property of liability for payment of the bill.

(e) Request for adjustment - An account holder may request a billing adjustment if it is determined by the Director of Public Service that the water meter malfunctioned. An account holder may also request a billing adjustment due to a leak. In either case, eligibility for an adjustment is determined by the Director, in accordance with the applicable regulation and upon approval of the Board of Control.

#### **311.04 PAYMENT; DISHONORED PAYMENTS**

(a) All payments shall be in currency, credit card, debit card, money order or by check made payable to the order of the City of Berea.

(b) In the event the credit card, debit card, money order or check is not honored by the bank and is returned for refund, the account to which payment has been credited will be charged twenty-five dollars (\$25.00) for additional collection efforts and handling.

#### **311.05 COLLECTION OF DELINQUENT ACCOUNTS**

The City of Berea may collect delinquent accounts by doing either or both of the following:

(a) Certify the amount owing, together with a penalty of twenty percent (20%) per annum, and interest in the rate of eighteen percent (18%) per annum, to the county auditor. The county auditor shall place the certified amount on the real property tax list and duplicate against the property served by the connection. The amount placed on the tax list and duplicate shall be a lien on the property served from the date placed on the list and duplicate and shall be collected in the same manner as other taxes, except that, notwithstanding section 323.15 of the Revised Code, a county treasurer shall accept a payment in such amount when separately tendered as payment for the full amount of such unpaid water rents or charges and associated penalties. The lien shall be released immediately upon payment in full of the certified amount; or

(b) Collect the delinquency by actions at law.



### **311.06 REQUIREMENTS UPON SALE OF PROPERTY; DUTY OF SELLER AND ESCROW AGENT; BUYERS RIGHTS**

(a) No person, agent, firm or corporation shall sell by deed, land contract or otherwise transfer any interest in any property served by Berea water, without furnishing the buyer prior to such sale, a statement from the City setting forth the current status of the water account, and when an escrow has been established, depositing in escrow prior to delivery of possession or transfer of title a statement from the buyer acknowledging the receipt of this document and accepting responsibility for all future water bills in accordance with these Codified Ordinances.

(b) No person, agent, firm or corporation acting in the capacity of an escrow agent in any real estate transaction involving the sale of any premises which is supplied with City water, shall disburse any funds without complying with this section.

(c) A conviction under this section shall not be a bar to the rights of a buyer to recover, by civil suit from the seller, real estate agent or broker or escrow agent for the amounts of water supplied, to the previous owner and paid by the buyer, either prior to or after the closing of such purchase and sale transaction.

### **311.07 TERMINATION OF SERVICE; FINAL BILL; REFUND**

(a) An account holder who intends to move or terminate their water service shall contact the Water Billing Office to request that service be discontinued and shall specify a termination date, which shall be at least three (3) business days after the request. The customer shall provide a forwarding address for the final bill. The account holder shall be responsible for the service at the premise until the termination date.

(b) Final bills showing a credit or debit of less than five dollars and one cent (\$5.01) shall not be collected or refunded.

### **311.08 TERMINATION OR DISRUPTION OF SERVICE IN OCCUPIED RESIDENTIAL STRUCTURES**

Requests for disruption or disconnection of service in legally occupied residential structures will not be honored or accepted for such purposes as eviction, enforcing collection of rents, or as a result of differences between owner and occupant, unless the request is made for the purpose of repairing or maintaining water lines at the premises.

### **311.09 ACCESS TO THE PREMISES**

The City, upon presentation of proper identification by its employees or agents, reserves the right to enter the premises served at any reasonable hour, for the purpose of reading, repairing, installing, removing and inspecting meters, or for any other purpose which it may deem necessary for the proper operation and maintenance of the water supply system.

The City, at its sole discretion, reserves the right to temporarily disrupt service until such access is provided or it may obtain an administrative warrant from a court of competent jurisdiction to authorize such access.

Owners and occupiers of the premises served shall, upon request, provide truthful information necessary to determine connections of the water supply system. A failure to provide the requested information shall be deemed evidence of one or more improper connections.

### **311.10 DISRUPTION OF SERVICE DUE TO IMPROPER CONNECTIONS**

The Director of Public Service is hereby authorized and directed to disrupt water service, after reasonable notice to the owner and occupant thereof, when there are reasonable grounds to believe that any water connection is in violation of this chapter or state or federal law or regulation, and to take such other precautionary measures as may be deemed necessary to eliminate any danger of contamination of the public water supply. Water service to such property shall not be restored until such connection or connections shall have been eliminated or corrected in compliance with the provisions of applicable law. The City reserves the right to impose a charge to restore water services disrupted in accordance with this section.

### **311.11 DISRUPTION OF SERVICE; PRESSURE AND SUPPLY**

(a) The Director of Public Service may temporarily disrupt the water supply or request that any user limit their use of water at any premises, when it is necessary, in the opinion of the Director, in order to prevent or abate an imminent or substantial threat to the water system or to the health, safety or welfare of the public or to perform maintenance, repairs or improvements to the system. Any person notified of such order affecting a premises under his control shall immediately comply with the order. In the event of a person's failure to immediately comply voluntarily with the order, the director may take such steps as deemed necessary to prevent or abate the imminent or substantial threat to the water system or to the health, safety or welfare of the public. Water service shall be restored once the imminent or substantial threat has passed. The City shall not be liable for damages resulting from interruptions in service.

(b) The City does not guarantee any fixed pressure or a continuous supply of water; these being subject to the varying conditions which may arise in the operation and maintenance of the water supply. Consumers whose operations require a continuous supply of water or definite pressures should provide against interruption by the installation of tanks or other auxiliary supplies or pressure regulation sufficient to carry them over a period of interruption.

### **311.12 INVESTIGATION OF PRIVATE WATER SUPPLY; APPROVAL**

(a) The City shall cause surveys and investigations to be made, as necessary, of all industrial and other properties served by the public water supply where private, auxiliary or emergency water supplies other than the public water supply are known to exist, or where such supplies are likely to exist.

(b) No person shall establish or permit to be established, or maintain or permit to be maintained, any connection whereby a private, auxiliary or emergency water supply other than the regular public water supply of the City may enter the supply or distributing system of the City, unless such private, auxiliary or emergency water supply and the method of connection and use of such supply shall have been approved by the Director of Public Service and by any other required federal, state or county agency.

**311.13 WATER RATES**

(a) To pay part of the cost and expense of maintaining and operating the water distribution system and water treatment works, there is levied upon each lot and premises on which is located any building which has installed thereon or therein any water connection with the water system, a direct quarterly charge according to Schedule 1 - Residential Class and Schedule 2 - Non-Residential Class.

Schedule A applies to properties classified as residential by the Cuyahoga County Fiscal Office and excludes properties that are required to have a multiple-occupancy permit by the City.

**(1) SCHEDULE 1 - Residential rate class.**

SCHEDULE A - RESIDENTIAL RATES					
Per Quarter Gallon Usage Range	2003	2004	2005	2006	2007 until revised
0 - 5,000	\$1.77	\$2.56	\$3.38	\$3.72	\$4.09
5,001 - 10,000	\$2.05	\$2.95	\$3.90	\$4.30	\$4.75
10,001 - 50,000	\$2.14	\$3.11	\$4.10	\$4.51	\$4.96
50,001 ++	\$2.23	\$3.23	\$4.26	\$4.69	\$5.16

**(2) SCHEDULE 2 - Non-residential rate class.**

SCHEDULE B - NON-RESIDENTIAL RATES					
Per Quarter Gallon Usage Range	2003	2004	2005	2006	2007 until revised
0 - 5,000	\$2.03	\$2.94	\$3.88	\$4.27	\$4.69
5,001 - 10,000	\$2.35	\$3.40	\$4.50	\$4.95	\$5.50
10,001 - 50,000	\$2.46	\$3.56	\$4.70	\$5.17	\$5.69
50,001 ++	\$2.55	\$3.70	\$4.89	\$5.38	\$5.91

**311.14 SURCHARGES AND DISCOUNTS**

**(a) Surcharges for water service outside corporate limits**

(1) Properties outside the corporate limits of the City of Berea served by Berea water shall pay, in addition to the rates established in Schedule A or Schedule B, whichever is applicable, a surcharge of 15%.

(2) To pay part of the cost and expense of the principal and interest payments on the notes and bonds issued for the purpose of paying for the improvement being done to the Municipal Water Treatment Plant pursuant to Ordinance 1982-88, 1982-107, and 1982-108, water plant and water line capital improvements or the cost of borrowings related thereto, there is levied on each lot and premises located outside of the corporate limits of the City of Berea served with Berea water, there is levied an additional surcharge of \$2.21 per thousand gallons.

(b) Tax-exempt properties. To pay part of the cost and expense of the principal and interest payments on the notes and bonds issued for the purpose of paying for the improvement being done to the Municipal Water Treatment Plant pursuant to Ordinance 1982-88, 1982-107, and 1982-108, water plant and water line capital improvements or the cost of borrowings related thereto, there is levied an additional charge of \$2.21 per thousand gallons on each property located within the corporate limits of the City of Berea that is exempt from the payment of property taxes.

(c) Homestead credit. A residential customer whom is 65 years of age or older, or is permanently and totally disabled, and has received a certificate of reduction of real estate taxes from the Fiscal Officer of Cuyahoga County pursuant to Ohio R.C. 323.154, is entitled to a 10% discount of the rates established in Schedule A. Customers may be required to show proof of eligibility. Any such discount shall be effective only upon approval by the City and shall not be retroactive.

### **311.15 METERS AND SERVICE TAPS; RATES.**

(a) Meters Required; Meter Maintenance Fee.

(1) All premises using the City water supply shall be equipped with a remote-control water meter furnished by the City, but paid for by the consumer.

(2) The remote-control water meter shall be installed prior to the issuance of any occupancy permit. Water service shall not be provided until such installation is complete.

(3) Effective July 1, 2016, a monthly fee of \$2.00 will be assessed to every customer utilizing the City water supply to pay the cost of the remote-control water meter, installation of the meter, maintenance of the meter and other costs directly related to the program.

(b) The fees for water service taps permits are charged in accordance with Codified Ordinance sections 1311.06 and 1312.04

(c) Fees for temporary connections are fixed and established as follows:

(1) Temporary connection. For each such connection, the charge shall be an amount equal to the cost thereof. "Cost" includes:

(A) Cost of all materials;

(B) Cost of labor; and

(C) Twenty percent (20%) of subsections A. and B. for overhead expense.

(2) An application for a temporary connection shall be accomplished by applicant's deposit in cash, certified check or money order payable to the City of Berea in a sum sufficient to cover the estimated cost thereof, in accordance with a schedule of estimated costs to be determined and approved from time to time by the Board of Control. Any unexpended portion of this deposit shall be refunded to the applicant by the City upon

completion of the connection. Any additional sums due from the applicant shall be paid to the City upon completion of the connection.

### **311.16 SPRINKLING BAN**

The Director of Public Service or the designee is authorized to establish a sprinkling ban when in their sole discretion, a water emergency exists. Notice of a sprinkling ban shall be posted on the city's web page and on at least one social media account, which shall constitute notice for the purpose of enforcement.

No person shall knowingly violate the terms or conditions of a sprinkling ban.

### **311.17 BACKFLOW PREVENTION, CROSS-CONNECTION CONTROL AND INSPECTIONS REQUIRED**

(a) No person shall install or maintain a water service connection to any premises where actual or potential cross-connections to a public water system or a consumer's water system may exist unless such actual or potential cross-connections are abated or controlled to the satisfaction of the Director.

(b) No person shall install or maintain a connection between a public water system or consumer's water system and an auxiliary water system unless the auxiliary water system, the method of connection and the use of such system have been made accordance with section 6109.13 of the Revised Code and as approved by the Director of Public Service.

(c) When backflow prevention measures are required:

(1) An approved backflow preventer shall be installed on each service line, where in the judgment of the Director of Public Service, a pollutional, system, health or severe health hazard to the public water system exists.

(2) An approved backflow preventer shall be installed on each service line where any of the following conditions exist:

(A) Premises with an auxiliary water system on the premises, unless such auxiliary system is accepted and approved as an additional source by the Director of Public Service.

(B) Premises on which any substance is handled in such a fashion as to create an actual or potential hazard to a public water system. This shall include premises having sources or systems containing process fluids.

(C) Premises having internal cross-connections that, in the judgment of the Director, are not correctable, or intricate plumbing arrangements which make it impracticable to determine whether or not cross-connections exist.

(D) Premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete cross-connection survey.

(E) Premises having a repeated history of cross-connections being established or re-established.

(F) As otherwise specified by the Director of Public Service.

(d) Notwithstanding (c) above, an approved backflow preventer shall be installed on each service line to a consumer's premises, but not necessarily limited to, the following types of facilities unless the Director determines that no severe health, health, system or polluttional hazard to the public water system exists:

- (1) Hospitals, mortuaries, clinics, nursing homes.
- (2) Laboratories.
- (3) Piers, docks, waterfront facilities.
- (4) Sewage treatment plants, sewage pumping stations, or storm water pumping stations.
- (5) Food or beverage processing plants.
- (6) Chemical plants.
- (7) Metal plating industries.
- (8) Petroleum processing or storage plants.
- (9) Radioactive material processing plants or nuclear reactors.
- (10) Car washes.

(e) Backflow prevention devices

(1) Any backflow preventer required shall be of a model or construction approved by the Director of Public Service.

(2) Any backflow preventer device shall be installed at a location and in a manner approved by the Director and shall be installed at the expense of the water consumer.

(C) Duties of consumers, inspections

(1) It shall be the duty of the water consumer to maintain any backflow preventer in proper working order and in continuous operation.

(2) The consumer shall, on any premises on which any backflow preventer is required, have thorough inspections and operational tests made of the backflow preventers at the time of installation or repair, and at least once every twelve months. These inspections and tests shall be at the expense of the water consumer, made by a certified plumber with a certification in backflow inspection and as further approved by the Director.

(3) These devices shall be repaired, overhauled or replaced at the expense of the consumer whenever they are found to be defective.

(4) Records of such inspections, tests, repairs and overhaul shall be kept by the consumer and made available to the City of Berea upon request.

(5) The Director shall inspect or cause to be inspected all installations where an approved connection exists between an auxiliary water system and the public water system or a consumer's water system at least once every twelve months.

(d) Temporary disruption of water service

In accordance with Ohio EPA regulation, 3745-95-08, the City shall, after reasonable notice to the occupant thereof, deny or discontinue the water service to any premises wherein any of the following occurs:

(1) A backflow preventer required by this chapter is not installed, tested and maintained in a manner acceptable to the supplier of water.

(2) The backflow preventer has been removed or by-passed.

(3) An unprotected cross-connection exists on the premises.

(4) If the Director of Public Service is denied entry to determine compliance with this chapter.

Water service to such premises shall not be restored until the consumer has corrected or eliminated such conditions or defects in conformance with this chapter, and to the satisfaction of the Director of Public Service. The City reserves the right to impose a charge to restore water services disrupted in accordance with this section.

**311.18 TAMPERING WITH FIRE HYDRANT, WATER METER, OR WATER DISTRIBUTION PIPE AND VALVES**

(a) No person shall operate or attach a hose to any fire hydrant without the express written consent of the Director of Public Service or the designee.

(b) No person shall knowingly open, adjust or interfere with a fire hydrant, valve, regulator, gauge, gate, curb stop, water meter or measuring device, with the intent to cause the escape of water, theft of water, or to injure or destroy such property.

(c) No person shall knowingly tap, sever, open or make unauthorized connections with a main or pipe used for the transmission of water.

This section shall not apply the Berea Fire Department and its agents.

**311.99 PENALTY**

(a) Whoever violates sections 311.12 and 311.17 shall be guilty of a misdemeanor of the fourth degree. Each day's continued violation shall constitute a separate offense.

(b) Whoever violates section 311.18 shall be guilty of a misdemeanor of the third degree. Each day's continued violation shall constitute a separate offense.

(c) Whoever violates any other section of Chapter 311 shall be guilty of a minor misdemeanor. Each day's continued violation shall constitute a separate offense.