WEST VIRGINIA CODE: §16-1-9

§16-1-9. Duties and powers of the commissioner; supervision over local sanitation; violations; jurisdiction; penalties.

No person, firm, company, corporation, institution or association, whether public or private, county or municipal, may install or establish any system or method of drainage, water supply, or sewage or excreta disposal without first obtaining a written permit to install or establish the system or method from the commissioner or his or her authorized representative. All systems or methods shall be installed or established in accordance with plans, specifications and instructions issued by the commissioner or which have been approved in writing by the commissioner or his or her authorized representative.

Whenever the commissioner or his or her authorized representative finds, upon investigation, that any system or method of drainage, water supply, or sewage or excreta disposal, whether publicly or privately owned, has not been installed in accordance with plans, specifications and instructions issued by the commissioner or approved in writing by the commissioner or his or her authorized representative, the commissioner or his or her authorized representative shall issue an order requiring the owner of the system or method to make alterations necessary to correct the improper condition. The alterations shall be made within a reasonable time, which shall not exceed 30 days, unless a time extension is authorized by the commissioner or his or her authorized representative.

The commissioner or his or her designee may determine, upon conducting a risk assessment, that any water supply system must be equipped with a backflow prevention assembly to protect the health and sanitation of water, whether publicly or privately owned: *Provided,* That water supply systems shall not require a backflow prevention assembly unless any of the following are met:

(i) it cross-connects with a sprinkler or fire suppression system;

(ii) it cross-connects with an active auxiliary water source or water well;

(iii) it cross-connects with any fluid storage tank, tub, pool or cistern 85 gallons or larger with a public water inlet that can be below the water level;

(iv) it cross-connects with a boiler system;

(v) it cross-connects with any land irrigation system; or

(vi) the property serviced by the public water supply is a funeral home or mortuary, restaurant, dry cleaner, medical facility, beauty and nail salon, car wash, multi-tenant retail space, commercial building three stories or taller, or commercial space with a dedicated fire service line/sprinkler system, industrial facility, salvage and/or wastewater facility, food

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processing facility, recycling facility where cross-connected to the public water supply, correctional facility, or any other customer using chemicals harmful to human health that are cross-connected to the public water supply.

Prior to requiring installation of a backflow prevention assembly to a water supply system, a risk assessment is required and may be performed based upon the known type of water activity and usage involving the use of the public water supply, by written responses to a written questionnaire presented by the commissioner or his or her designee to the owner or occupier of the water use facility, building or dwelling, or by personal inspection made by the commissioner or his or her designee if the owner or occupier of the premises allows entrance.

Provided however, That any customer deemed required to install a backflow prevention assembly may appeal the determination and seek a waiver by the water utility, and if not satisfied, may appeal further to the Public Service Commission pursuant to §24-1-1 *et seq.*, §24-2-1 *et seq.* and §29A-1-1 *et seq.* of this code: *And provided further,* That the customer shall have the freedom to choose the brand of any required backflow prevention assembly that otherwise meets the required specifications of the commissioner or his or her designee.

The presence of sewage or excreta being disposed of in a manner not approved by the commissioner or his or her authorized representative constitutes prima facie evidence of the existence of a condition endangering public health.

The personnel of the Bureau for Public Health shall be available to consult and advise with any person, firm, company, corporation, institution or association, whether publicly or privately owned, county or municipal, or public service authority, as to the most appropriate design, method of operation or alteration of any system or method.

Any person, firm, company, corporation, institution or association, whether public or private, county or municipal, violating any provision of this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than $50 nor more than $500. Any continuing failure or refusal of the convicted person, firm, company, corporation, institution or association, whether public or private, county or municipal, to make the alterations necessary to protect the public health required by the commissioner or his or her authorized representative is a separate, distinct and additional offense for each 24 hour period of failure or refusal, and, upon conviction thereof, the violator shall be fined not less than $50 nor more than $500 for each conviction: *Provided,* That none of the provisions contained in this section apply to those commercial or industrial wastes that are subject to the regulatory control of the West Virginia Department of Environmental Protection.

Magistrates have concurrent jurisdiction with the circuit courts of this state for violations of any provisions of this section.

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