

ORDINANCE NO. 2019-4987

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING THE CITY'S CODE OF ORDINANCES CHAPTER 38, "WATER, SEWERS, AND SEWAGE DISPOSAL" TO BRING THIS CHAPTER INTO COMPLIANCE WITH STATE REGULATIONS AND CURRENT CITY REGULATIONS, POLICIES, AND PRACTICES, SIMPLIFY AND CLARIFY LANGUAGE AND TERMS, PROVIDE MORE EFFECTIVE ENFORCEMENT TOOLS, AND MAKE NON-SUBSTANTIAL MODIFICATIONS TO THE CITY'S PRETREATMENT ORDINANCE AND PROGRAM; PROVIDING A REPEALER; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, in a continuing effort to review and update the City's Code of Ordinances, Staff recommends amendments to Chapter 38, "Water, Sewers, and Sewage Disposal" that includes general clean-up of the language and changes to formatting - Staff suggests changing the spacing and general formatting of the Chapter to conform with other City Code chapters and correcting minor spelling errors;

**Whereas**, other proposed amendments to Chapter 38, broken down by article, include:

- Article I, Definitions:
  - Moving all Chapter 38 article definitions to the top of the Chapter, with the exception of the definitions in Article V, Industrial Wastes Standards, and two definitions in Article IV, Billing and Customer Service.
- Article II, Pollution of Water Sources:
  - Establishing restricted zones within a 200-foot radius of raw water intake and prohibiting recreational activities and trespassing within these zones as required by state law.
- Article III, Water and Sanitary Sewer Connection Regulations:
  - Adding City of Temple Public Works Department's (PW) required permit and inspection process for connection to the City's water and wastewater services.
  - Prohibiting private water or sewer systems from being connected to the City's publicly owned treatment works (POTW) without authorization from the City.
  - Codifying the City's policy for imposing water fees for commercial and residential construction.
- Article IV, Billing and Customer Service:
  - Aligning Article with the Utility Business Office's (UBO) current practices and procedures, including UBO's current billing structure.
  - Requiring notice and an opportunity to dispute charges prior to disconnection, except in certain circumstances, such as an imminent or actual threat to the public's health, safety, or welfare.
  - Imposing a fee for missed water reconnection appointments.

- Creating offenses for unlawful use of water and utility service diversion and allowing the City to collect payment for water unlawfully used or diverted and the costs of any City equipment damaged by a person.
- Article V, Industrial Wastes Standards:
  - Incorporating TCEQ approved Non-Substantial Modifications into Article V and the City's Pretreatment Program.
    - Article V Amendments:
      - Reallocation - Increasing the current allowable limit of biochemical oxygen demand (BOD) to contributing industrial users discharging to the Doshier Farm Wastewater Treatment Plant.
        - Takes “unused” BOD of non-contributing users and enables contributing users to discharge higher limits of these constituents without permit violations.
      - Incorporating chemical oxygen demand (COD) limit as outlined in local limit study from 1991 for industrial users discharging to the Doshier Farm Wastewater Treatment Plant.
    - Pretreatment Program Amendments:
      - Updating industrial user permit templates to incorporate reallocation of BOD and increased COD limit.
      - Updating SOP for assessing local limit for BOD using Contributory Flow Method.
- Article VI, Cross Connection Control:
  - Adding a reference to Chapter 7, Plumbing Code, which would allow double-check assemblies to be used on non-health hazard irrigation systems if proposed Chapter 7 amendments are passed.
    - Double-check assemblies are not permitted on irrigation systems where a health hazard exists; this includes properties serviced by on-site septic systems and those that use chemical injection.
  - Specifying frequency of required backflow assembly testing as follows:
    - Annually for backflow assemblies that are installed at cross connections where a health hazard exists;
    - Every five years for backflow assemblies that are installed at cross connections where a health hazard does not exist;
    - Immediately after installation;
    - Whenever the backflow assembly is moved;
    - When the City deems it necessary to protect the health and safety of the public;
    - When an irrigation system is installed; and
    - Immediately after any backflow assembly repair.
  - Clarifying when the City is authorized to perform a customer service inspection in response to changes in occupancy or construction or renovation of a premises.

- Authorizing the City to perform a customer service inspection:
  - Prior to the certificate of occupancy being issued for a premises;
- and
  - After a City permit is issued for the premises.
- Updating civil remedies for violations from a maximum amount a person could be found liable to the City from \$2000 to \$5000 in accordance with Sec. 54.017, Texas Local Gov't Code.
- Article VII, Liquid Waste:
  - Updating civil remedies for violations from a maximum amount a person could be found liable to the City from \$2000 to \$5000 in accordance with Sec. 54.017, Texas Local Gov't Code.
- Article VIII, Water Wells:
  - Removing an outdated permit process for the drilling of water wells located within the City.
  - Establishing a City approval process for the drilling of water wells that works in conjunction with the Clearwater Underground Water Conservation District's permitting and registration standards for the drilling of water wells.
  - Allowing the City to create a policy related to drilling, maintenance, and abandonment of water wells.
- Article IX, Enforcement:
  - Adding a general enforcement article to provide civil remedies and criminal penalties for violations of sections or articles in Chapter 38 that do not provide for specific enforcement tools.
  - Adding a severability clause to the chapter; and

**Whereas**, the City Council has considered the matter and deems it in the public interest to authorize this action.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, THAT:**

**Part 1: Findings.** All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

**Part 2:** The City Council amends the Code of Ordinances Chapter 38, "Water, Sewers, and Sewage Disposal" as outlined in Exhibit 'A,' attached hereto and incorporated herein for all purposes.

**Part 3:** All Ordinances or parts of Ordinances in conflict with the provisions of this ordinance are to the extent of such conflict hereby repealed.

**Part 4:** It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such invalid phrase, clause, sentence, paragraph or section.

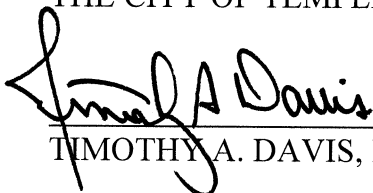
**Part 5:** This Ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

**Part 6:** It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on First Reading and Public Hearing on the **15<sup>th</sup>** day of **August**, 2019.

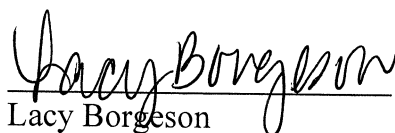
PASSED AND APPROVED on Second Reading on the **5<sup>th</sup>** day of **September**, 2019.

THE CITY OF TEMPLE, TEXAS


  
TIMOTHY A. DAVIS, MAYOR

ATTEST:

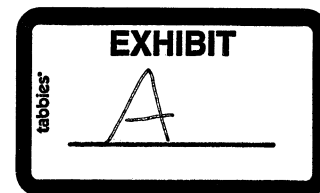
APPROVED AS TO FORM:

  
Lacy Borgeson  
City Secretary



  
Kayla Landeros  
Interim City Attorney

## Chapter 38



## WATER, SEWERS, AND SEWAGE DISPOSAL

## ARTICLE I – DEFINITIONS

**Sec. 38-1. Definitions.**

Unless otherwise defined in this Chapter, the following definitions apply to this Chapter:

Approved means accepted as satisfactory under the terms of this Chapter and given formal and official sanction by the City.

Approved backflow prevention assembly or backflow assembly or assembly or backflow prevention means a method to counteract backpressure or prevent backsiphonage. All methods must be approved by the City of Temple Utilities Division of the Public Works Department and include the following:

- (a) Air Gap means a physical separation between the free flowing discharge end of a potable water supply piping or appurtenance and an open or nonpressure receiving vessel, plumbing fixture, or other device. An "approved air gap separation" must be at least double the diameter of the supply pipe measured vertically above the overflow rim of the vessel, plumbing fixture, or other device, in no case less than one inch. Air gaps can be used to protect against backpressure or backsiphonage of a health or non-health hazard;
- (b) Atmospheric Vacuum Breaker Backflow Prevention Device or Atmospheric Vacuum Breaker or AVB means that this device cannot be tested and cannot prevent back pressure backflow, but is used to prevent backsiphonage in non-health hazard conditions;
- (c) Double Check Detector Backflow Prevention Assembly or Double Check Detector or DCDA means an assembly composed of line-size approved double check assembly with bypass containing a specific water meter and an approved double check valve assembly. The meter must register accurately for very low rates of flow;
- (d) Double Check Valve Backflow Prevention Assembly or Double Check Assembly or Double Check or DC means an assembly which consists of two independently operating check valves which are spring loaded or weighted. The assembly comes complete with a gate valve on each side of the checks, as well as test cocks to test the checks for tightness;
- (e) Pressure Vacuum Breaker Backflow Prevention Assembly or Pressure Vacuum Breaker or PVB means an assembly which protects against backsiphonage but does not provide adequate protection against backpressure backflow. The assembly is a combination of a single check valve with an AVB and can be used with downstream shutoff valves. In addition, the assembly

has suction and discharge gate valves and test cocks which allows the full testing of the assembly;

- (f) Reduced Pressure Principle Backflow Prevention Assembly or Reduced Pressure Principle Assembly or RP Assembly or RP means an assembly containing two independently acting approved check valves together with a hydraulically operated, mechanically independent pressure differential relief valve located between the valves and at the same time below the first check valve. The assembly must include properly located resiliently seated test cocks and tightly closing resiliently seated shut-off valves at the end of the assembly;
- (g) Reduced Pressure Principle Detector Backflow Prevention Assembly or Reduced Pressure Detector or RPDA means an assembly composed of line-size approved reduced pressure principle assembly with a bypass containing a specific water meter and an approved reduced pressure principle backflow prevention assembly. The meter must register accurately for very low rates of flow; and
- (h) Spill-Resistant Pressure Vacuum Breaker or SVB means an assembly containing an independently operating, internally loaded check valve and independently operating, loaded air inlet valve located on the discharge side of the check valve. This assembly is to be equipped with a properly located test cock and shutoff valves on the suction and discharge ports of the assembly.

Backflow means the undesirable reversal of flow of water or mixtures of water and other liquid, gaseous, or other substances into the distribution pipes of the potable supply of water from any source.

Backsiphonage means a form of backflow due to a reduction in system pressure which causes a subatmospheric pressure to exist at a site in the water system.

Backpressure means any elevation of pressure in the downstream piping system (by any means) above the supply pressure at the point of consideration which would cause, or tend to cause, a reversal of the normal direction of flow and the introduction of fluids, mixtures, or substances from any source other than the intended source.

Business days means all days, other than Saturday, Sunday, and holidays on which the Utility Business Office is closed under authority of City Council.

Cease and desist order means an administrative order directing a user to immediately halt illegal or unauthorized discharges.

Cesspool means an underground container for the temporary storage of liquid waste and sewage.

City means the City of Temple, Texas, the City Council of Temple, Texas, or its representative, employee, agent, or designee.

City Council means the governing body of the City.

Compliance order means an administrative order directing a noncompliant person to achieve or restore compliance by a date specified in the order.

Containment means the installation of appropriate type or method of backflow protection at the service connection.

Contaminants means any foreign material, solid, or liquid, not common to a potable water supply, which makes or may make the water unfit or undesirable for human consumption.

Contamination means the entry into or presence in a public water system of any substance which may be deleterious to the public's health or the quality of the water.

Cross connection means an actual or potential connection to a public water system through which it is possible to introduce contamination or pollution. Bypass arrangements, jumper connections, removable sections, swivel or changeover assemblies, or other temporary or permanent assemblies through which, or because of which, backflow may occur are considered to be cross connections.

Customer means the person, company, or entity contracting with the City of Temple to receive potable water service.

Customer's water system means that portion of the privately owned potable water system lying beyond the point of delivery, which includes all pipes, conduits, tanks, receptacles, fixtures, equipment, and appurtenances used to produce, convey, store, or utilize the potable water.

Customer service inspection means a detailed inspection by the City of a location and layout of the water lines, including without limitation, water lines on the premises, cross connections, the availability of auxiliary or used water supplies, the use or presence of pollutants, contaminants, and other liquid, solid, or gaseous substances which may be used for stabilization of water supplies. Inspectors may perform processes necessary to determine degree of hazard. Inspection may include review of records required by this Chapter.

Disposal includes the discharge, deposit, release, injection, dumping, spilling, leaking, or placing of any liquid waste into or on any land or water, intentionally or unintentionally, so that such waste or any constituent thereof may enter the environment, be emitted into the air, or discharged to any wastewaters or waters, including ground waters.

Disposal site includes a permitted site or part of a site at which liquid waste is processed, treated, or intentionally placed into or on any land and on which the waste will remain.

Environmental Protection Agency or EPA means the U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division director, or other duly authorized official of said agency.

Fats, oils, and grease (FOG) means organic polar compounds derived from animal or plant sources that contain multiple carbon chain triglyceride molecules. These substances are detectable and measurable using analytical test procedures established in 40 CFR § 136, as may be amended from time to time. All are sometimes collectively referred to herein as "grease" or "greases."

Food service facility means every food preparation and food service establishment engaged primarily or incidentally in the preparation of food for human or animal consumption, except that the term does not include any person discharging domestic wastewater from premises used exclusively for residential purposes. The term includes, but is not limited to, restaurants, motels, hotels, cafeterias, hospitals, butcher shops, ice cream parlors, schools, bars, delicatessens, meat processing operations, bakeries, clubhouses, cafes, and similar operations.

Generator means any person who causes, creates, generates, or otherwise produces liquid waste, or a person who, for any reason, has liquid waste removed from their property by a transporter of liquid waste.

Good payment history means utility service that has been maintained in a person's name for 12 consecutive billing periods with the City without:

- (a) an assessment of a non-payment fee;
- (b) an assessment of more than two penalties for late payment;
- (c) a returned payment;
- (d) unlawful use of water service; or
- (e) utility service diversion.

Grease Interceptor (or "Grease trap") means a device designed to separate and retain light density liquids, waterborne fats, oils, and greases by their specific gravity, prior to the wastewater entering the POTW. These devices also serve to collect settleable solids, generated by and from food preparation activities, prior to the water exiting the trap and entering the POTW.

Grease interceptor waste means any organic, inorganic, greasy or fatty liquid, semi-liquid, or solid wastes collected by and removed from a grease trap.

Grit trap/oil separator (or "Grit trap") means a watertight receptacle designed and constructed to intercept and prevent the passage of petroleum based oil, grease wastes, and solids into the POTW to which the receptacle is directly or indirectly connected.

Grit trap waste means oil and grease waste, or inorganic solids generated by a commercial facility that are collected by and removed from a grit trap/oil separator.

Hazardous waste means any liquid, semi-liquid, or solid waste (or combination of wastes), which because of its quantity, concentration, physical, chemical, or infectious characteristics may:

- (a) be toxic, corrosive, and irritant, a strong sensitizer, flammable or combustible, explosive, or otherwise capable of causing substantial personal injury or illness; or



- (b) pose a substantial hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise improperly managed, and is identified or listed as a hazardous waste as defined by the Texas Solid Waste Disposal Act or the administrator, U.S. Environmental Protection Agency (EPA) pursuant to the Federal "Solid Waste Disposal Act," as amended by the "Resource Conservation and Recovery Act of 1976" (RCRA), and as it may be amended in the future.

Health hazard means a cross-connection, potential contamination hazard, or other situation involving any substance that can cause death, illness, spread of disease, or has a high probability of causing such effects if introduced into the potable water supply.

Immediately means within twenty-four (24) hours.

Interrupt utility service means disconnecting water or wastewater service or stopping solid waste service.

Liquid waste means water-borne solids and liquids containing dissolved or suspended waste material including, but not limited to wastes from grease traps and grit traps.

Manifest means the written multi-part documentation used to document the generation, transportation, and disposal of grease trap and grit trap waste at a permitted or registered disposal site.

Non-health hazard means a cross-connection, potential contamination hazard, or other situation involving any substance that generally will not be a health hazard, but will constitute a nuisance, or be aesthetically objectionable, if introduced into the public water supply.

Non-potable water means water that does not comply with TCEQ's rules and regulations governing drinking water.

Non-residential use includes all users not specifically included in residential uses defined under Residential Use.

Person means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity or their legal representatives, agents, or assigns.

Potable water supply means any water supply intended or used for human consumption or other domestic use.

Premises means any piece of property to which potable water is provided, including all improvements, mobile structures, and structures located on such property.

Publicly owned treatment works or POTW means "treatment works," as defined by 33 U.S.C.S. §1292, which is owned or partly owned by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

Public Water System or System means any public or privately owned water system, which supplies water for public domestic use. The system must meet all the health requirements set forth by TCEQ. The system will include all services, reservoirs, facilities, and any equipment used in the process of producing, treating, storing, or conveying water for public consumption.

RCRA means the United States Environmental Protection Agency's Resource Conservation and Recovery Act.

Residential use includes single family dwellings, duplexes, multiplex housing, and apartments where the individual units are each on a separate meter or the units are full-time dwellings in cases where two or more units are served by one meter.

Returned payment means a payment returned for insufficient funds, a credit card payment that is charged back at the request of the customer, or any other form of payment that is dishonored in any way or for any reason.

Service address means a premises that receives a City utility service.

Service connection means the terminal end of a service line from the public potable water system, i.e., where the water purveyor loses jurisdiction and sanitary control over the water at its point of delivery to the customer's water system. If a meter is installed at the end of the service connection, then the service connection must mean the downstream end of the meter.

Sewage means human excrement and gray water (e.g. water from household showers, dish washing operations, etc.).

Sewer means a pipe or conduit for carrying sewage.

Storm water means any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

Storm water system means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, inlets, gutters, ditches, natural and human-made or altered drainage channels, or storm drains) owned or operated by the City and designed or used for collecting or conveying storm water, and which is not used for collecting or conveying sewage and which is not part of a POTW.

System means all facilities for collecting, pumping, treating, and disposing of sewage.

System hazard means an actual or potential threat of severe danger to the physical properties of the public or customer's potable water supply or of a pollution or contamination that would have a detrimental effect on the quality of the potable water in the system.

Texas Commission on Environmental Quality (TCEQ) means the state agency of that title, or where appropriate, the term may also be used as a designation for the director or other duly authorized official of said agency.

Thermal expansion means heated water that does not have the space to expand.

Transporter means any person who is registered with and authorized by the TCEQ to transport liquid waste in accordance with Texas Administrative Code, Chapter 312, Subchapter G, § 312.142.

Used water means water supplied by a public water system to a customer's system after it has passed through a service connection.

Utility service diversion means a person's unauthorized action to divert utility service to:

- (a) prevent accurate measurement of utility usage;
- (b) alter metering equipment to prevent accurate meter readings and subsequent billings; or
- (c) alter utility account records or computer data to prevent accurate billings.

Utility service diversion charge means a charge assessed by the City against a person who committed utility service diversion to recover any costs incurred by the City due to the utility service diversion, including the repair or replacement of any City equipment. Utility service diversion charges include, but are not limited to, unauthorized use of water fees, broken meter fees, and broken lock charges.

Washwater means the water-borne solids, liquids, gaseous substances, or other residue or debris resulting from a washing or cleaning process.

Wastestream means the aggregate flow of waste materials from generation to treatment to final disposition.

Wastewater means liquid and any water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial, and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

Water supply protection specialist means any person who holds a license endorsement issued by the Texas State Board of Plumbing Examiners to engage in the inspection, in connection with local, state, and federal laws, of the plumbing work or installation of a public water system or of customer owned plumbing connected to a public water system.

## ARTICLE VI - CROSS CONNECTION CONTROL

### Sec. 38-130. General Provisions.

(a) Title. This article will hereinafter be known, cited, and referred to as the Cross Connection Control Act of the City of Temple, Texas.

(b) Purpose of this article.

The regulations contained herein are adopted to achieve the following purposes and will be administered to achieve the following objectives:

1. Promote the health, safety, and general welfare of the City;
2. Promote and ensure the proper use and control of the City's public water system;
3. Protect the City's water supply from the possibility of contamination or pollution by isolating within a customer's water system such contaminants or pollutants that could backflow into the public water system;
4. Eliminate cross connections between a customer's potable water supply and non-potable water, plumbing fixtures, and process piping systems in conjunction with the City's currently adopted plumbing code;
5. Provide for the maintenance of a continuing program of cross connection control that will systematically and effectively prevent contamination or pollution of the City's potable water

supply by requiring the certification and operational testing of all testable backflow assemblies located on a premises and the installation of approved backflow assemblies as required by the City's currently adopted plumbing code; and

6. Comply with all local, state, and federal laws and regulations.

*(c) Policy.*

It is hereby declared the policy of the City to promote the public health safety and welfare by:

1. Implementing the rules for drinking water standards governing drinking water quality and reporting requirements for public water supply systems promulgated by the Texas Health and Safety Code, Chapter 341, Subchapter C, 30 Tex. Admin. Code Chapter 290, and the Federal Safe Drinking Water Act, 42 USCS §§ 300f et seq., all as amended;
2. Establishing a cross connection control program of uniform regulations governing the installation, testing, and certification of backflow assemblies and technicians; and
3. Establishing requirements to permit and control the installation, routine maintenance, and inspection of backflow assemblies.

*(d) Jurisdiction and applicability.*

The rules and regulations contained in this article apply to the public utility water service area and all cross connections and installations of backflow assemblies within:

1. service areas of the City;
2. areas where water is purchased from the City; and
3. any plumbing outside the City requiring plumbing inspection pursuant to an interlocal agreement between the City and a political subdivision, a water sales contract, this article, or applicable ordinance.

*(e) Rulemaking.*

The City is hereby authorized to promulgate reasonable regulations to achieve the purposes of the article that are not in conflict with this Chapter or any other local laws or rules, and any applicable state and federal laws and regulations.

*(f) Conflicts with public and private provisions.*

Except where indicated, these regulations are not intended to:

1. interfere with, abrogate, or annul any other public ordinance, rule, regulation, or statute, or other provision of law; or
2. abrogate any easement, deed restriction, covenant, or any other private agreement or deed restriction.

*(g) Conformance with rules and regulations.*

The provisions in this article are the minimum requirements concerning cross connections and backflow prevention. In addition to the requirements, each customer must be in conformance with all applicable local, state, and federal laws and regulations. If there is a conflict, the stricter provision controls.

**Sec. 38-131. Backflow and siphonage prevention program.**

*(a) Cross connection prohibited.*

1. No installation of potable water supply piping or part thereof may be made in such a manner that allows used, polluted, or contaminated water, mixtures, gases, or other substances to enter any portion of such piping by reason of backsiphonage, backpressure, or any other cause.
2. No person may install or use any water operated equipment or mechanism or use any water treating chemical or substance if it has the potential of causing pollution or contamination of a public water system. If a person wishes to install or use this type of equipment, mechanism, chemical, or substance, the equipment, mechanism, chemical, or substance may be permitted by the City only when equipped with an approved backflow assembly.
3. No person may connect to a public water system any mechanism or system designed to return used water to a public water system through any measure.
4. No person may connect any auxiliary water system to a public water system except as allowed by this article and by the City's currently adopted plumbing code, as amended.

*(b) Installation provisions.*

1. No water connection from a public water system may be made to any structure or facility where actual or potential contamination or a system hazard exists without backflow prevention between the public water system and the source of actual or potential contamination or system hazard in accordance with all applicable local, state, and federal standards.
2. No water connection from any public water system may be made to any condensing, cooling, or industrial process or any other system of non-potable usage over which a public water supply system official does not have sanitary control, unless the said connection is made in accordance with the requirements of paragraph (b)(1) of this Section. Water from such systems cannot be returned to the potable water supply.
3. Overhead bulk water dispensing stations must be provided with an air gap between the filling outlet hose and the receiving tank to protect against backsiphonage and cross contamination.
4. The use of a backflow prevention device at the service connection will be considered as additional backflow protection and does not negate the use of backflow protection or internal hazards as outlined and enforced by the City's current adopted plumbing code.
5. New installation.
  - i. New, replacement, or reconditioned backflow assemblies must be installed in accordance with the City's currently adopted plumbing code, as amended.

- ii. Prior to installation of a backflow assembly, a person must obtain a plumbing permit.
    - iii. Prior to issuance of a certificate of occupancy, a completed test and maintenance report must be submitted to the City for any connection requiring a backflow assembly.
  - 6. Health hazard installation.
    - i. Approved backflow assemblies installed at the meter must be used at health hazard applications.
    - ii. The City may require a secondary assembly if the City deems it necessary to protect the public water system from the failure of the primary backflow assembly or to allow maintenance of the primary backflow assembly.
  - 7. Other installations.
    - i. An approved backflow assembly must be installed to protect the potable water supply from contamination or pollution when such system is connected to any automatic fire protection system, standpipe systems, or privately owned fire hydrants.
    - ii. A meter obtained from the City must be used to connect to a public water system for water appropriation from a fire hydrant. Installation of an approved backflow prevention assembly is required on any meter connected to a public water system for water appropriation from a fire hydrant, except as provided in this article.
  - 8. Wholesale customers. Any customer purchasing water for resale or distribution must install an approved air gap separation or a reduced pressure backflow prevention assembly at the service connection.
  - 9. Water hauling vehicles. Water hauling vehicles obtaining water from a connection to the City's potable water supply must have an approved backflow assembly installed permanently on the vehicle, or if connected by a fire hydrant meter, installed on the fire hydrant meter. The assembly must be registered with the City and certified for operation annually.
  - 10. Compliance for existing customers. A premises' owner, customer, or the designated representative of any facility that the City determines has a cross-connection or an improperly installed, untested, or broken backflow assembly must take prompt remedial measures and comply with this article on a schedule determined by the City by written notice. Documentation of the installation, testing, or repair must be submitted to the City as required.
- (c) Customer testing requirements.
- 1. The owner of a premises, customer, or the designated representative of any facility containing a backflow assembly must test each assembly:
    - i. Annually for backflow assemblies that are installed at cross connections where a health hazard exists;
    - ii. Every five years for backflow assemblies that are installed at cross connections where a health hazard does not exist;

- iii. Immediately after installation;
  - iv. Whenever the backflow assembly is moved;
  - v. When the City deems it necessary to protect the health and safety of the public;
  - vi. When an irrigation system is installed; and
  - vii. Immediately after any backflow assembly repair.
2. All backflow assembly testing must be performed by a person holding a current Backflow Prevention Assembly Tester (BPAT) license issued by TCEQ.
- (d) Any tester described in Sec. 38-131(c)(2) must be on the City's list of approved testers prior to performing backflow assembly testing within the City.
1. A tester may be placed on the City's approved list by providing their contact information, any applicable registration, certification, and licensing information to the City, and current accuracy test results and calibrations for the gauges to be used by the tester to test backflow assemblies.
  2. The City may remove a tester from the City's list of approved testers if:
    - i. The tester fails to annually provide to the City current certificates of calibrations and serial numbers for the gauges the tester will use to test backflow assemblies;
    - ii. The tester fails to submit backflow assembly test results to the City within ten (10) business days of the date the tester performs the test; or
    - iii. The tester fails to comply with any City policy or ordinance related to testing backflow assemblies.
  3. The City may allow a tester that is removed to be added back on the City's approved list of testers per City policy.
- (e) Customer responsibility.
1. It is the responsibility of the owner of a premises, customer, or the designated representative of any facility containing a backflow assembly to have all assemblies tested in accordance with this article.
  2. An owner of a premises, customer, or the designated representative of any facility containing a backflow assembly is responsible for all costs associated with the installation, general maintenance, repair, testing, upkeep, record keeping, and replacement of the backflow assembly.
  3. When an owner of a premises, customer, or the designated representative of any facility containing a backflow assembly leases or rents the same to any person, the owner, customer, designated representative of the facility, tenant, or lessee may be held responsible for not complying with any of the requirements of this article.



4. An owner of a premises, customer, or the designated representative of any facility containing a backflow assembly is responsible for ensuring that the tester who tests their assembly is on the approved list of testers for the City.

(f) Thermal expansion.

It is the responsibility of any owner of a premises, customer, or the designated representative of any facility containing a backflow assembly to eliminate the possibility of thermal expansion if a closed system has been created by the installation of a backflow assembly.

(g) Pressure loss.

Any reduction in water pressure caused by the installation of a backflow assembly is not the responsibility of the City.

**Sec. 38-132. Customer service inspection program.**

- (a) Inspection Requirements. The City is authorized to perform a customer service inspection of a premises served by a public water system in the following circumstances:
  1. prior to providing continuous water service to new construction on the premises;
  2. when a public water system official has reason to believe that cross connections or other unacceptable plumbing practices or health hazards have the potential to or may exist on the premises;
  3. prior to a certificate of occupancy being issued for the premises;
  4. after a City permit is issued for the premises; and
  5. after any material improvement, correction, or addition to the plumbing facilities on the premises.
- (b) Duly authorized employees of the City bearing proper credentials and identification have the authority to enter any public or private property at any reasonable time to enforce this article. Owners of premises, designated representatives of a facility, and customers who are provided water service by the City must allow the City or its representatives ready access at all reasonable times to all parts of the premises for the purposes of inspection, testing, records examination, or in the performance of any of their duties under this article. Where there are measures in force that would require proper identification and clearance before entry onto a premises, the owner of a premises, customer, or the designated representative of the facility must make necessary arrangements so that upon presentation of suitable identification, City employees are permitted to enter without delay for the purposes of performing their specific responsibilities under this article.
- (c) The City is not liable for damage to a backflow assembly that may occur during a customer service inspection, fluctuation in the distribution system pressure, or interruption to the water supply.
- (d) If after a customer service inspection of a premises, the City determines that a backflow assembly needs to be installed under this article or an existing backflow assembly needs to be repaired, tested, or maintained, a notice to install an approved backflow assembly or to repair, test, or

maintain the existing backflow assembly within a period of time specified by the City will be issued to the premises' owner, customer, or designated representative of the facility.

**Sec. 38-133. Closing provisions.**

*(a) Responsibilities.*

It is the responsibility of all premises' owners, designated representatives of a facility, tenants, lessees, customers, and all designees of these persons to abide by the conditions of this article. In the event of any changes to a customer's water system or change of occupancy, it is the responsibility of these persons to notify the City. All costs associated with this article and the purchase, installation, testing, maintenance, and repair of any backflow assemblies are the responsibility of premises' owners, designated representatives of a facility, tenants, lessees, customers, and all designees of these persons.

*(b) Enforcement and offenses.*

1. Violations. A person commits an offense if they:

- i. fail to maintain backflow assemblies in compliance with this article;
- ii. fail to comply with a City notice to repair, test, maintain, or install a backflow assembly within a period of time specified by the City;
- iii. have any backflow from premises they own, rent, lease, operate, or manage enter the public water system;
- iv. fail to pay any fees required by this article;
- v. violate any section of this article;
- vi. reinstate water service to a premises that was discontinued or disconnected under this article, except as directed by the City;
- vii. allow a person not on the City's approved list of backflow assembly testers to perform a backflow assembly test at their premises; or
- viii. test a backflow assembly within the City without being on the City's approved list of backflow assembly testers.

2. Administrative remedies.

i. Disconnection of water service.

- a. When the City believes that an emergency affecting public health or safety exists, the City may immediately discontinue water service. It is an emergency affecting public health or safety if a backflow assembly is not installed as required by this article or an actual cross connection between a public and private water system exists. This temporary disconnection will continue until the cross connection is eliminated or a backflow assembly is installed as required by this article and the premises are inspected by the City for compliance. Notice and an opportunity to be

heard will be provided to the customer as soon as possible after the disconnection of such water service in cases of emergency.

- b. The City may temporarily discontinue water service if a customer or property owner is not complying with any term of this article. Reasonable advance notice and an opportunity to be heard will be provided to the customer prior to a disconnection of water service if there is not an emergency.
  - ii. Refusal of water service. Failure to comply with this Chapter or other local, state, and federal laws, rules, and regulations or obtain and comply with the appropriate plumbing or building permits may result in placement of a hold on the issuance of a City certificate of occupancy and permanent termination of water service.
3. Civil Penalties.
- i. A person who has violated, or continues to violate, any provision of this article is liable to the City for not less than \$1000.00 but no more than \$5000.00 a day for each violation.
  - ii. The City may recover expenses and loss or damage to City property as well as all other available relief.
  - iii. The City may enforce this chapter by injunction, declaratory relief, or other action at law or in equity.
  - iv. Filing a suit for civil penalties is not a bar against, or a prerequisite for, taking any other action against a person.
4. Criminal Prosecution.
- i. A person who knowingly, intentionally, recklessly, or with criminal negligence violates any provision of this article commits an offense.
  - ii. Each occurrence of an offense per a day is a separate offense.
  - iii. An offense under this article is a Class C misdemeanor punishable by a fine of up to \$2000.00.
  - iv. Filing criminal charges is not a bar against, or a prerequisite for, taking any other action against a person.
5. Remedies Nonexclusive.

The remedies provided for in this Section are not exclusive. The City may take any, all, or any combination of these actions against a noncompliant person.

**Secs. 38-134--38.139. Reserved.**

## **ARTICLE VII - LIQUID WASTE**