

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE CITY OF WEST PALM BEACH, FLORIDA, AT CHAPTER 90 (UTILITIES), ARTICLE II (WATER), DIVISION 1 (GENERALLY), TO RE-STATE SECTION 90-33 (REGULATION OF CROSS CONNECTION) TO REQUIRE TESTING OF BACKFLOW ASSEMBLY DEVICES AND UPDATE AT SINGLE FAMILY RESIDENTIAL HOMES; AMENDING CHAPTER 26 (CODE ENFORCEMENT), ARTICLE III (CITATION PROCEDURE), SECTION 26-66 REGARDING PENALTIES TO INCLUDE VIOLATIONS OF THE REGULATIONS FOR CROSS-CONNECTIONS AS A CLASS IV VIOLATION; PROVIDING A CONFLICTS CLAUSE, A CODIFICATION CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City Commission of the City of West Palm Beach is vested with the authority to adopt ordinances to protect the health, safety and welfare of the City's inhabitants and visitors; and

WHEREAS, the City Commission has previously enacted cross connection regulations to protect the City's drinking water system from contaminants; and

WHEREAS, cross-connections occur when there is a temporary or permanent connection between the City's public water system or consumer's potable water system and any source or system containing non-potable water or other substances, such as pool water or irrigation systems; and

WHEREAS, backflow devices are designed to protect potable water and the City's water supply system from contaminants where piping may be cross-connected; and

WHEREAS, the City Commission finds that it is in the best interest of public health and safety to ensure that all backflow preventers continue to properly operate; and

WHEREAS, the City Commission desires to amend the City's Code of Ordinances to provide for additional cross connection regulations that achieve the compelling government interest of protecting the City's drinking water supply.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, that:

SECTION 1. Chapter 90 (Utilities), Article II (Water), Division 1 (Generally), Section 90-33 (Regulation of Cross Connection) of the Code of Ordinances of the City of West Palm Beach is hereby amended and re-stated in its entirety and shall now read as follows:

Sec. 90-33. – Regulation of Cross Connection.

(a) *Definitions.* The following words, terms and phrases when used in this section, shall have the meanings ascribed to them in this section:

Backflow preventer means a specific device designed to prevent cross-connection or backflow into the public water supply.

Certified backflow testers/repairers means a person or firm certified by the city to be competent to install, test and repair backflow devices and to make the required reports.

Cross-connection means any temporary or permanent connection between the city's potable (drinking) water system and any source containing non-potable water or other liquid which may be capable of imparting contamination to the public water supply as the result of backflow. Cross connection includes piping between the city water system and any cooling system, pool facility, irrigation system, etc.

Cross-connection manual means the city's current Manual for Cross-Connection Control, as amended from time to time, available for inspection from the department of public utilities.

(b) No service connection that creates a hazard to the city's public water system shall be installed or maintained unless the city's water system is protected as required by this section. All cross-connections not protected by approved backflow preventers are prohibited. Water service to any premises shall be discontinued if a backflow preventer is not installed, tested and maintained in accordance with this section.

(c) *Cross-connection manual.* The city's manual for cross-connection control dated August 28, 2017 and as amended from time to time, is hereby adopted by reference. The manual shall be maintained in the public utilities department and shall be available at all times for public inspection.

(d) *Backflow preventer required.* An appropriate and approved backflow preventer shall be installed as part of each non-residential and multi-family service connection. All connections for fire sprinkler systems connected to the public water system shall be protected in accordance with the cross-connection manual. An appropriate and approved backflow preventer shall be installed as part of each single-family residential service connection wherever and whenever any of the following conditions exist:

- i. An auxiliary water supply;
- ii. Any cross-connection exists;
- iii. Internal plumbing or piping arrangements are unknown, making it impracticable or impossible to determine whether a cross-connection exists;
- iv. The property is located in a flood zone;
- v. A swimming pool is constructed or renovated;
- vi. An irrigation system is installed or replaced.

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All backflow preventers installed and existing as of October 1, 2017, that do not meet the requirements of this section or the cross-connection manual, but were previously approved by the city and have been properly maintained and continue to satisfactorily protect the city's public water system may remain until such time as such backflow preventer requires replacement or relocation, and at such time shall be replaced with a backflow preventer that meets the requirements of this section and the cross-connection manual.

(e) *Type required.* The type of backflow preventer required shall be determined in accordance with the cross-connection manual, based on the degree of hazard posed to the city's public water system. Generally, the type required is as follows:

Residential: Dual check valve, except if connection is larger than 1 inch or a high hazard exists than a reduced pressure principal assembly is required or as otherwise specified in the cross-connection manual.

Commercial: Reduced pressure principal assembly, or as otherwise specified in the cross-connection manual.

(f) *Lead free.* All backflow preventers must be lead free. The lead free indication "LF" shall be stamped on the body of the preventer device or included in the serial number.

(g) *Installation.*

- a. The city will install all new residential dual check valve back flow preventers at time of meter installation.
- b. All other backflow preventers shall be installed in accordance with the cross-connection manual by certified backflow testers/repairers who shall obtain the required city permit for installation. Installation requirements and location guidelines are set forth in the cross-connection manual.
- c. All newly installed backflow preventers shall be certified by the city.
- d. Permit and certification fees shall be established by resolution of the city commission.

(h) *Testing and repair.*

- a. All backflow preventers shall be tested and repaired only by certified backflow testers/repairers and in accordance with the cross-connection manual, and shall be repaired within 30 days if they fail to meet performance standards, except for facilities classified as high hazard, which shall have all repairs completed within 15 days.
- b. *Residential.* Backflow preventers for residential service connections that are 1 inch or less in diameter shall be tested at least once every two years.
- c. *Non-residential.* Backflow preventers for non-residential service connections shall be tested annually.

(i) *Reports.* A copy of the testing report shall be submitted to the city department of public utilities within 10 business days after completion of the testing and/or repair work. The

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report shall be submitted with the applicable administrative fee, as established by resolution of the city commission. Failure to submit testing reports may result in an interruption of water service. It shall be unlawful for any customer or certified tester/repairer to submit any record to the city which is false or incomplete in any material way.

(j) *Replacement.* All backflow preventers shall be replaced only by certified backflow testers/repairers and in accordance with the cross-connection manual. All residential dual check devices shall be replaced or refurbished by the city at least once every 10 years, or as otherwise provided in compliance with the cross-connection manual.

(k) *Notice of possible contamination.* All persons shall immediately notify the city's department of public utilities if such person has reason to believe that backflow has occurred to the public water system or if a source of non-potable water or other liquid which may be connected to the city's public water system is or has potentially been contaminated or polluted.

(l) *Termination of service.* Any facility or premises with a backflow preventer receiving water from the city's public water system that fails to perform the required testing or complete required repairs or replacement of backflow preventers in accordance with this section and/or the cross-connection manual shall be subject to termination of water service following written notice to the owner of the facility or premises. Such termination shall continue until all violations of this section and the cross-connection manual are corrected. In the event of termination of water service, restoration of service shall require payment of all applicable fees and charges for utility services, as established by resolution of the city commission. In emergency conditions when the city's public water supply is being contaminated or is in immediate danger of contamination, water service shall be disconnected immediately without notification.

(m) *Inspection.* Authorized city employees or agents shall be permitted to enter upon properties at reasonable times for the purpose of sampling or testing the potable water supply or to make inspection or observations of connections to the city's water supply.

(n) *Certified tester/repairer.* The city will certify individuals and companies that meet the requirements set forth in the cross-connection manual as authorized to perform the installation, testing and repairs of backflow preventers within the city. The city department of public utilities shall maintain a list of certified backflow testers/repairers. Certified tester/repairers shall comply with all requirements set forth in the cross-connection manual and shall be re-certified, register and calibrate equipment and maintain and submit records as required in accordance with the manual. Certified tester/repairers are not authorized and shall not use any city logo or service mark in any advertising or business forms or media.

(o) *Fees and charges.* The city commission may, by resolution, from time to time, establish fees and charges for the administration of this section.

(p) *Enforcement.* Any violations of this section shall be enforced as follows:

(1) *Notice of violation.* Written notice of a violation of this section or the cross-connection manual shall be mailed by regular mail to the owner of the facility or premises with the violation, or to the certified tester/repairer in violation, and shall provide a time limit for correction of the violation.

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(2) Any violation of this section may be enforced as pursuant to F.S. Chapter 162, Part I, §166.21, regarding code enforcement and in accordance with chapter 26 of the city code by code enforcement or civil citation procedures.

(3) Any violation of this section may be enforced pursuant to F.S. §§162.13 or 162.30. The city may bring a suit to restrain, enjoin or otherwise prevent a violation of or to mandate compliance with this section and to recover damages resulting from any such violation.

(4) Violation by certified tester/repair may result in revocation of the certification for a period not exceeding one year for the first violation. Certification may be revoked permanently should the certified tester/repairer be found to have committed violations on more than one occasion. The city may also file a complaint with the county or state agency responsible for issuing licenses or certificates.

(5) In addition to any other action, failure to correct any cross-connection or perform any required testing or complete required repairs of any backflow preventer within the time required by written notice from the city may result in the correction of the cross-connection or the completion of testing or repairs by the city under extraordinary circumstances to prevent backflow of contaminants into the city public water system. In the event of such action by the city, the city's costs and all appropriate charges, as established by resolution of the city commission, will be billed to the owner of the facility or premises.

SECTION 2. Chapter 26 (Code Enforcement), Article III (Citation Procedure), Section 26-66 of the Code of Ordinances of the City of West Palm Beach is hereby amended to include violations of the City Code regarding the regulations of cross-connections to the water supply as a Class IV violation:

Sec. 26-66. - Code provisions subject to penalties in section 26-65.

The following chapters and provisions of this Code shall be subject to the penalties set forth in section 26-65 based on the class of violation provided:

Class I Violations

Chapter 38 - Fire Prevention Codes

Chapter 18, articles IV, V and VI - Minimum Housing Code

Section 94-487 - Recreational Vehicles/Boats

Chapter 74 - Solid Waste

Section 94-302 - Fences, Hedges and Walls

Chapter 54, article VII - Curfew for Minors

Chapter 54, article VIII - Clothes Hanging Ordinance

Class II Violations

Chapter 94, article XIII - Sign Code

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Chapter 18, article VI, division 3 - Downtown Window Ordinance

Sections 94-482 and 94-485 - Driveway Surfaces

Section 78-1 - Obstructions of Right-of-Way

Class III Violations

Chapter 18 - Failure to Obtain Building Permit

Section 86-194 - Commercial Vehicles

Chapter 82, article V - Business Taxes

Chapter 74 - Overgrown Lots

Chapter 18, article V - Rental Licenses

Section 94-303 - Obstructions in Visibility Triangle

Section 86-292 - Immobilization of Vehicles on Private Property

Chapter 34, articles II and III - Noise Violations

Chapter 22, article VI - Peddlers

Class IV Violations

Chapter 22, article V - Vehicles for Hire

Section 90-33, Cross-connections

Repeat violations. All persons who have previously been cited under this section for the same provision of the Code and have been adjudicated to be in violation.

SECTION 3: Authority is hereby granted to codify the text amendments set forth in this Ordinance.

SECTION 4: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 5: Should any section or provision of this Ordinance or any portion, paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

SECTION 6: This Ordinance shall take effect in accordance with law.

[SIGNATURES ON FOLLOWING PAGE]

**FIRST READING THIS 28TH DAY OF AUGUST, 2017.
SECOND READING AND PASSAGE THIS 14TH DAY OF SEPTEMBER, 2017.**



ATTEST:

X *Hazeline F. Carson*

CITY CLERK
Signed by: Hazeline F Carson

**CITY OF WEST PALM BEACH BY
ITS CITY COMMISSION:**

X *Geraldine Muoio*

PRESIDING OFFICER
Signed by: Geraldine Muoio

**APPROVED AS TO FORM AND
LEGALITY:**

9/13/2017

X *Nancy Urcheck*

CITY ATTORNEY
Signed by: Nancy DeSimone Urcheck