

ORDINANCE NO. 2541

AN ORDINANCE OF THE CITY OF BRYAN, TEXAS, AMENDING CHAPTER 122, “UTILITIES”, ARTICLE II, WATER SYSTEM OF THE CITY OF BRYAN CODE OF ORDINANCES; AMENDING WATER USE AND BACKFLOW DEVICE REQUIREMENTS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; FINDING AND DETERMINING THAT THE MEETING AT WHICH THE ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Bryan has facilities for the production and distribution of water to its citizens; and

WHEREAS, threats to the integrity of the City’s water system, facilities and water resources have been identified related to improper use, backflow prevention, contamination, and cross connections; and

WHEREAS, such threats should be regulated in the interest of public health and safety; and

WHEREAS, the City Council of the City of Bryan wishes to preserve the integrity of the City’s water system and resources;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRYAN, TEXAS:

1.

CHAPTER 122 “UTILITIES” ARTICLE II. - WATER SYSTEM; DIVISION 1. - IN GENERAL; Sec. 122-33. – Definitions is amended to include the following:

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

Nonhealth 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.

2.

CHAPTER 122 “UTILITIES” ARTICLE II. - WATER SYSTEM; DIVISION 2. - WATER WELLS, sections 122-36 is amended as follows:

Sec. 122-36. - Water wells.

Approval to drill a water well will not be granted when water service from a public water system can be made available. In rare instances, and only in isolated areas where water service cannot be made available, will approval to drill a well be granted. Factors such as the property's distance from a public water system, future or planned expansion of service by the public water system, and conformance of the requested well site's location with existing land uses and anticipated future land uses on the property and/or the surrounding area shall be considered when determining approval.

- (a) Requirements for construction of new wells.
- (1) It is unlawful for any person to construct a new water well within the corporate limits of the city or its CCN without first obtaining written approval from the director. Requests for consideration and approval shall include:
 - i. Written description of the depth and intended use of the well;
 - ii. A map depicting the well, property boundaries, and land uses within 500 feet of the well;
 - iii. Written approval by the local groundwater conservation district for well construction; and
 - (2) Other documentation as requested.
 - (3) New water wells must be drilled by a TDLR-licensed water well driller pursuant to rules promulgated by TAC Title 16, Chapter 76.
 - (4) New wells, if approved for construction, will be drilled and developed according to TAC Title 16, Chapter 76.
 - (5) Upon completion of the work, the owner shall furnish the director with a complete log of the drilling activities within 30 days of well completion.
 - (6) The director has the authority to go upon the land and property of the owner of any water supply well within the city's incorporated boundaries or extraterritorial jurisdiction to inspect and take samples from the well, and to require the owner to give any information requested concerning the well.
- (b) *Requirements for existing/new wells.*
- (1) Each person owning a water well or hereafter drilling a water well in the city will maintain and operate it in accordance with TAC Title 16, Chapter 76.
 - (2) Standards for reworking an existing water well must conform with the requirements of section 122-36(a) and (b) listed above.
 - (3) There must be no direct or indirect connection of the water well and the public water system.
 - (4) The property owner, as a condition of approval, authorizes inspection by the city at all reasonable hours, as deemed necessary for the entire time that the well is maintained in operation.
 - (5) Wells for domestic use must be converted to non-domestic use only or permanently closed and the property connected to the public water system if the public water system is within 150 feet of the property. This owner must connect to the public water system within 180 days of availability of service.

- (6) Wells for non-domestic use must be permanently closed and the property connected to the public water system if the public water system is within 150 feet of the property and the well is determined to be defective.
- (7) Additional safeguards or standards may be adopted as necessary.
- (c) *Closure.* Water wells must be permanently closed pursuant to the requirements of TAC Title 16, Chapter 76 and made to conform to the requirements of this article. A notice of intention for closure describing how the well will be secured and closed must be provided to the director for approval. Closure must commence and must be completed within 45 days after receiving notice to proceed.
- (d) *Site restoration.* Restoration of the well site back to its original condition as nearly as possible must be performed in conformity with the following requirements:
 - (1) All holes and depressions must be filled with clean, compacted soil; and
 - (2) All waste, refuse, or waste material must be removed from the site.

3.

CHAPTER 122 "UTILITIES" ARTICLE II. - WATER SYSTEM; DIVISION 3. - GENERAL CONDITIONS OF SERVICE; sections 122-43 and 122-50 are amended as follows:

Sec. 122-43. - System user.

It is unlawful for a customer to:

- (1) Install or maintain a potable water supply, piping, or part thereof in such a manner that allows, or establishes potential for, used, unclean, polluted or contaminated water, mixtures, gasses, or other substances to enter any portion of the city's water system by reason of back siphonage, backpressure or any other cause.
- (2) Install or maintain any water-operated equipment or mechanism, or use any water-treating chemical or substance, if it is determined by the director that the equipment, mechanism, chemical or substance may cause pollution or contamination of the city's water system. In limited circumstances, the director may issue written approval to allow the installation or use of water-operated equipment, mechanisms, or water-treating chemicals and substances.
- (3) Connect any mechanisms or systems designed to return used water to the city water system.
- (4) Connect an auxiliary water system to the city water system without prior written approval from the director.

Sec. 122-50. - Fire lines and fire suppression systems.

- (a) Backflow prevention is required on all new fire line and fire suppression system installations. The type and extent of backflow prevention needed is subject to review and approval of the director. A maximum of one connection to the city water system per separate building will be allowed.

- (b) Design, construction and installation of all fire lines and fire suppression lines must be in compliance with the city's plumbing code, fire protection and prevention code, and the Bryan/College Station Unified Design Guidelines and Technical Specifications.
- (c) Fire hydrants, both public and private are considered to be part of a fixed fire extinguishing system. Therefore, no person shall tamper with, render inoperative or inaccessible, or operate a fire hydrant except as necessary during emergencies, maintenance, drills or prescribed testing.
- (d) Any hydrant located on private property and deemed by the city to be non-public shall be considered a private hydrant. Owners, operators, or occupants of a building serviced by a private hydrant are responsible for compliance with these regulations. For condominiums, the condominium association is responsible for compliance with these regulations. In this section, "property owner" include any person(s) identified in this subsection (d).
 - (1) Prior to any non-emergency use (maintenance, drills, or prescribed testing); written authorization from the director is required before the operation of any hydrant. Emergency use requires immediate notification of the fire department.
 - (2) Any damaged or inoperable fire hydrant must be reported to the fire department immediately.
 - (3) Repairs to damaged hydrants must be performed by a qualified service technician and inspected by the city.
 - (4) Hydrants must meet all requirements of the latest revision of AWWA C-502 and be listed by Underwriters Laboratories, Inc. as meeting their standard UL246, latest revisions.
 - (5) Hydrants shall open left (counter clockwise) and be marked with an arrow and the word "OPEN" to indicate the direction to turn the operating nut to open the hydrant.
 - (6) The hydrant body must be painted red. The bonnet (excluding the operating nut) shall be painted reflective white. Discharge port caps must be color coded as follows.
 - a. Less than 500 gpm - Safety Red
 - b. 500 gpm to 999 gpm - Safety Yellow
 - c. 1000 gpm to 1499 gpm - Safety Green
 - d. 1500 gpm or greater - Safety Blue
 - (7) All fire hydrant locations must be approved by the fire marshal.
- (e) It is recognized that even though a fire hydrant is on a private water line, it is in the public interest that the hydrant be inspected by qualified personnel to give reasonable assurance that it is maintained in good working order. All privately owned fire hydrants supplied water by the city are to be tested and inspected annually.
 - (1) Property owners shall be responsible for contracting a qualified person to perform the test and inspection. The qualified person used to conduct the required testing and maintenance must be permitted with the city.

- (2) A minimum of two business days' notice to the director is required before any hydrant test may be conducted.
- (3) Hydrant inspection forms must be filled out and a copy submitted to the city within ten business days. Inspection forms will be provided by the city.
- (4) The test/service technician is responsible for notifying all customers affected by tests (pressure, clarity, traffic etc.).
- (5) All hydrants will be maintained free from obstructions for a radius of ten feet from the hydrant.

4.

CHAPTER 122 "UTILITIES" ARTICLE II. - WATER SYSTEM; DIVISION 4. - BACKFLOW AND CROSS CONNECTION REGULATIONS, sections 122-57, 122-59, 122-60, and 122-62 are amended as follows:

Sec. 122-57. - Backflow protection required.

- (a) The city will determine the type and location of each backflow prevention assembly to be installed. Prior to installation, the city must approve the backflow prevention assembly for its application and the device must be certified by ASSE, AWWA, CSA, FM, UL, or USC. Triggers for when a site will be evaluated for an assembly include:
 - (1) The nature and extent of any activity on the premises, or the material used or stored in connection with any activity on the premises could contaminate or pollute the city water system.
 - (2) The premises have one or more cross connections protected by an atmospheric vacuum breaker device.
 - (3) Internal cross connections are present that are not correctable.
 - (4) Intricate plumbing arrangements are present which make it impractical to ascertain whether a cross connection exists.
 - (5) There is unduly restricted entry so that inspections for cross connections cannot be made with sufficient frequency to assure the cross connections do not exist.
 - (6) When a site or water use requiring protection as identified under TAC Title 30, Chapter 290, Subchapter D does not have an active customer service inspection form on file with the city which states no current cross connections exist.
 - (7) The structure consists of more than two stories.
 - (8) The structure has a booster pump or elevated storage tank.
 - (9) Deemed necessary to accomplish the purpose of these regulations in the sole judgment of the city.

- (b) All backflow prevention devices installed must be constructed in a manner designed to facilitate ease of inspection and testing. Any currently installed backflow prevention assemblies located in inaccessible locations or where the certified tester is subject to physical danger must be relocated to a location approved by the city.
- (c) All lawn irrigation system installations must comply with the city's adopted plumbing code as amended and the guidelines outlined in this article.
- (d) Interconnections of the city water system with an alternate water source are prohibited. If an exception is granted by the director, a reduced pressure zoned device (RPZ) must be installed at the system connection on the service side of the public water meter if the auxiliary water source is not terminated in accordance with the regulations of this article.

Sec. 122-59. - Backflow prevention assembly installation requirements.

- (a) When a customer is required to have a backflow prevention assembly and requires continuous, uninterrupted water service, two or more backflow prevention assemblies of the same type must be installed parallel to one another to allow a continuous water supply during testing, repair and maintenance of each individual backflow prevention assembly.
- (b) The property owner assumes all responsibility for any damage to the private or public water systems resulting from installation, operation and maintenance of a backflow prevention assembly. The owner is responsible for keeping all backflow prevention assembly vaults reasonably free of silt and debris.
- (c) Assemblies must be sized and flow characteristics must be sufficient to provide an adequate supply of water and pressure for the premises being served.
- (d) Assemblies must be readily accessible for testing and maintenance and must be located in an area where water damage to buildings or furnishings would not occur from water discharge. An approved air gap must be located at the relief valve orifice for reduced pressure principle backflow prevention assemblies (RPA).
- (e) No part of a RPA may be submerged in water or installed in a location subject to flooding.
- (f) Reduced pressure principal detector backflow prevention assembly (RPDA) may be utilized in all installations requiring a reduced pressure principal backflow prevention assembly and detector metering.
 - (1) RPDAs must comply with the installation requirements applicable to an RPA and must have adequate freeze protection.
 - (2) The line-sized RPA and the bypass assembly must each be tested. The certified tester must complete a separate test report for each assembly.
- (g) Vertical installations of double check valve backflow prevention assemblies (DCs) may be used with pipe diameters up to and including six inches if the installation meets all of the following requirements:
 - (1) DC has internally spring-loaded check valves;

- (2) Flow is upward through assembly;
 - (3) Device is approved for vertical installation; and
 - (4) Location is authorized by the director.
- (h) Double check detector backflow prevention assemblies (DCDA) may be used in all installations requiring a DC and detector metering.
- (1) DCDA's must comply with the installation requirements for DCs.
 - (2) The line-sized DC assembly and the bypass DC assembly must each be tested. The certified tester must complete a separate test report for each assembly.
- (i) Pressure vacuum breaker backflow prevention assemblies (PVB) may be utilized as point-of-use protection against back siphonage only and may not be installed where there is potential for backpressure, in areas subject to flooding, or where damage would occur from water.
- (j) Spill resistant pressure vacuum breaker backflow prevention assemblies (SVB) may be utilized in all installations requiring a PVB. SVBs must comply with the installation requirements applicable for PVBs.

Sec. 122-60. - Inspection, testing and registration of backflow prevention assemblies.

- (a) *Testing of backflow prevention assemblies.* The owner, occupant, manager, or other person in control of any premises on which backflow prevention assemblies are installed must have the assemblies tested by a certified tester permitted with the city. Testing of backflow prevention assemblies must be performed annually (within one year of the previous test date) for all health hazards as defined by 30 TAC, Chapter 290, Subchapter D, as well as immediately following installation, relocation, or repair regardless of hazard classification. The city reserves the right to request additional testing. In order to properly register a backflow prevention assembly with the city, a city-approved backflow prevention assembly test report must be completed and submitted by a certified tester on each backflow prevention assembly tested. Each backflow prevention assembly test report shall be received by the city within ten days after the testing, repair, or replacement by a certified tester. If an assembly fails, the water supply may not be restored until the assembly is repaired or replaced and retested.
- (b) *Registration and maintenance of backflow prevention assemblies.*
- (1) Each backflow prevention assembly located on property subject to this article must be registered with the city. Registration is required within ten days of the backflow assembly being placed in service.
 - (2) The owner, occupant, manager, or other person in control of the property is responsible for general maintenance and upkeep of all approved backflow prevention assemblies located thereon.
 - (3) Backflow prevention assemblies must be tested, repaired, and replaced at the expense of the owner, occupant, manager, or other person in control of the property whenever the assemblies are determined to be defective by the director or designee. An assembly

is defective if it is not a properly installed backflow prevention assembly as required by this article.

- (c) *New plumbing or plumbing modifications.* The director or designee will inspect all new backflow prevention assembly installations subject to this article. The city's plumbing inspector or designee will complete and file a customer service inspection certification form for each new plumbing installation or plumbing modification.
- (d) *Existing properties.* The director or designee will inspect all existing properties connected to the city water system for the purpose of determining whether a cross connection exists and what type of backflow prevention assembly should be installed pursuant to this article.
- (e) *Existing backflow prevention assemblies.* Customers with existing assemblies, which comply with the provisions of this article, must provide written proof that each assembly has been properly maintained and serviced by a certified backflow prevention assembly tester. If maintenance and service records are not available, the customer must have the assembly tested within the director's provided timeframe and in accordance with the requirements of this article. If the assembly is not capable of being tested or cannot be repaired, it must be replaced with an approved assembly in accordance with the requirements of this article. Atmospheric vacuum breakers are exempt from this section.
- (f) Fees are set by resolution of the city council.

Sec. 122-62. - Backflow prevention assembly tester permit.

- (a) *Permit required.* It is unlawful for a person to test a backflow prevention assembly in the city without a valid permit issued by the city. Permits are not assignable or transferable and are valid for up to one year. Upon request of an applicant or at the director's discretion, permits may be prorated to expire on a specific date. Applications for permit renewal must be submitted 30 days prior to the expiration of the current permit.
- (b) *Permit application.* All new and renewal permit applications must be made on the forms provided by the city and must contain the following information:
 - (1) Name, business address, and telephone number of the applicant;
 - (2) Serial numbers of all test gauges;
 - (3) Most recent record of calibration for backflow assembly test gauge(s);
 - (4) State identification or driver's license information;
 - (5) Payment of permit fee;
 - (6) A copy of the applicant's current TCEQ backflow assembly tester license; and
 - (7) Documentation supporting the applicant's applicability to perform service on fire protection systems as outlined by TAC Title 30, Chapter 290, Subchapter D.
- (c) *Permit decisions.* The city will evaluate the data furnished by the applicant and may require additional information. Within 30 days of receipt of a completed permit application, the city will

determine whether or not to issue a backflow prevention assembly tester permit. The city may deny an application for a permit for any of the following:

- (1) Failing to provide all of the information required by the city;
 - (2) The applicant's past record of ordinance or TCEQ violations;
 - (3) Safety record of the applicant based on such things as civil and criminal lawsuits and violations of environmental laws and ordinances; or
 - (4) Providing false, misleading or inaccurate information to the city.
- (d) *Responsibilities.* Testers of backflow prevention assemblies are responsible for performing competent tests, issuing accurate reports of backflow prevention assemblies tested, filing timely backflow prevention assembly test reports, and paying applicable test fees to the city. Testers may not change the design or operational characteristics of a backflow prevention assembly without prior written approval of the director. Test gauge used for service must be calibrated annually. Testers must provide verification of calibration for each test gauge to the city within ten days receipt from a service provider.
- (e) *Quality control.* Upon notification or discovery of possible testing or reporting deficiencies in a tester's test results, the director may take one or more of the following actions:
- (1) Notify the tester of the deficiencies;
 - (2) Retest any backflow prevention assembly reported as operational;
 - (3) Suspend the tester's registration with the city for three or more material testing or reporting deficiencies verified within a 24-month period commencing with the first deficiency;
 - (4) Revoke the tester's registration with the city for filing a falsified test report;
 - (5) Revoke the tester's registration with the city for refusing any reasonable request by the director or his designee to retest a backflow prevention assembly; or
 - (6) Revoke the tester's registration with the city following a second suspension of tester's registration.
- (f) *TCEQ backflow assembly tester license.* Testers must possess a valid TCEQ backflow assembly tester license. A tester must advise the city within five business days of the tester receiving notice that the tester's state license is being suspended or terminated. Evidence of renewal of the tester's state license must be furnished to the director upon request.
- (g) *Fire protection systems.* Testers of backflow devices installed on a fire protection system must possess a valid TCEQ backflow assembly tester license and must satisfy requirements of TAC Title 30, Chapter 290, Subchapter D. A tester must advise the city within five business days of the tester receiving notice that the tester's state license and applicability for performing services on a fire protection system is being suspended or terminated. Evidence of renewal of the tester's state license and status of applicability for performing service on a fire protection system must be furnished to the director upon request.

- (h) *Suspension or revocation of permit.* A permit may be suspended or revoked by the city for any violation of this article.
- (i) *Appeals.* A tester has the right to appeal a determination made by the director to the city manager by submitting a written appeal to the city secretary, with a copy to the director, not more than five days after receiving notice of the suspension or denial of permit. The city manager or his or her designee will hear the appeal and issue a written finding not more than 20 days after the notice was delivered to the city secretary. The city manager's determination is final.

5.

That all ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

6.

The Code of the City of Bryan, Texas as amended, shall remain in full force, save and except as amended by this Ordinance.

7.

Should any section, paragraph, sentence, clauses, phrase, or word of this Ordinance be declared unconstitutional or invalid for any purpose, by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, and to this end the provisions of this Ordinance are declared to be severable.

8.

It is hereby found and determined that the meeting at which this Ordinance was passed was open to the public, as required by Section 551.001 et. seq. Texas Government Code, and that advance public notice of time, place and purpose of said meeting was given.

9.

It is the intention of the City Council that this Ordinance shall become a part of the Code of the City of Bryan, Texas, and it may be renumbered and codified therein accordingly.

10.

This Ordinance will be effective from its first and only reading and passage.

PASSED, ADOPTED AND APPROVED the 14th day of December, 2021 at a regular meeting of the City Council of the City of Bryan, Texas, by a vote of 6 yeses and 0 noes.

ATTEST:

CITY OF BRYAN, TEXAS

Mary Lynne Stratta, City Secretary

Andrew Nelson, Mayor

APPROVED AS TO FORM:

Thomas A. Leeper, Interim City Attorney