

ORDINANCE NO. 2011 – 9287

AN ORDINANCE AMENDING SECTION 41-23 OF CHAPTER 41 OF THE CODE OF CIVIL AND CRIMINAL ORDINANCES OF THE CITY OF IRVING, TEXAS, BY IMPOSING AN ANNUAL REGISTRATION FEE FOR BACKFLOW PREVENTION TESTERS; PROVIDING A PENALTY; AND PROVIDING A SEVERABILITY CLAUSE.

WHEREAS, subsection (a) of Section 41-18 of Chapter 41 of The Code of Civil and Criminal Ordinances of the City of Irving, Texas, states the purpose of cross-connection control regulations is to “To protect the public potable water supply of Irving from the possibility of contamination or pollution by isolating within the consumer’s internal distribution system(s) or the consumer’s private water system(s) contaminants or pollutants which could backflow into the public water systems”; and

WHEREAS, subsection (a) of Section 41-23 of Chapter 41 of The Code of Civil and Criminal Ordinances of the City of Irving, Texas, states “The director may administer an inspection program to assure that backflow prevention devices are properly maintained and operated”; and

WHEREAS, the City requires annual testing and inspections to be performed by a certified backflow prevention assembly technician who is approved by the director; and

WHEREAS, the State of Texas requires the annual testing of all “high health” hazard prevention assemblies, which are at many of the commercial properties in the city, and City ordinance requires all other commercial properties to be tested annually as well; and

WHEREAS, the City requires the technicians that perform the backflow testing for these properties to register with the City by providing a current certified state license, evidence to show he or she has available the necessary tools and equipment to properly test and certify such assemblies, and a backflow gauge accuracy report; and

WHEREAS, the City desires to impose an annual registration fee for technicians, vendors, and contractors who provide the aforementioned requirements as a backflow prevention assembly tester and provide the services of testing and certifying backflow prevention assemblies in the city of Irving in order to recover costs associated with the inspection program; and

WHEREAS, the City believes it is in the best interest of the community to provide for the maintenance of a continuing program of cross-connection control which will systematically and effectively prevent the contamination or pollution of the public potable water supply of the city;

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

SECTION 1. That subsection (b) of Section 41-23 of Chapter 41 of The Code of Civil and Criminal Ordinances of the City of Irving, Texas, is hereby amended to read as follows:

(b) Each consumer shall cause all testing and inspections to be performed by a certified backflow prevention assembly technician who is approved by the director and registered with the city.

- (1) A certified backflow assembly technician may make application with the office of the director. The director shall determine whether an applicant is eligible for registration. Eligibility may be established upon certification as a backflow prevention assembly tester or technician upon successful completion of the state certification program directly related to backflow device certification. Registration may remain in force providing that the technician maintains eligibility for registration or registration is not revoked by the director for cause pursuant to this chapter. When re-certifying, the tester shall renew the registration with the director. If the certification remains expired for a period of one (1) year, the technician shall reestablish eligibility.
- (2) Each applicant certified as a backflow prevention assembly technician shall furnish evidence to show that he/she has available the necessary tools and equipment to properly test and certify such assemblies. The serial number of each test kit shall be on record with the city. Annually, the technician shall cause each recorded test kit to be tested for accuracy and calibrated to maintain a 2 percent accuracy factor. The technician shall perform competent and accurate certifications of backflow prevention assemblies tested and submit complete reports of the testing to the director.
- (3) Backflow prevention assembly technicians shall register all test gauges to be used by them and their serial numbers. They shall list registered serial numbers of test gauges on tests and maintenance reports prior to submitting them to the director. The director may revoke a technician's registration for failure to register a serial number or to calibrate gauges annually. Certified technicians shall not change the design or operation characteristics of an assembly during repair or maintenance without prior approval of the director.
- (4) *Registration fee.* An applicant wishing to perform testing and inspections on backflow prevention assemblies shall produce documentation as required by the director and pay a registration fee in the amount of \$100.00 per year. The fee applies to first-time registrants and renewals.

SECTION 2. That the terms and provisions of this ordinance shall be deemed to be severable and that if the validity of any section, subsection, sentence, clause, or phrase of this ordinance should be declared to be invalid, the same shall not affect the validity of any other section, subsection, sentence, clause, or phrase of this ordinance.

SECTION 3. That this ordinance shall become effective from and after the date of its passage as provided by the Charter of the City of Irving, and the caption hereof shall be published in the official newspaper within the City and it is accordingly so ordained.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF IRVING, TEXAS,
on September 22, 2011.

BETH VAN DUYNE
MAYOR

ATTEST:

Shanae Jennings
Acting City Secretary

APPROVED AS TO FORM:

Charles R. Anderson
City Attorney