



**CITY OF TYLER
CITY COUNCIL COMMUNICATION**

Agenda Number: O-1

Date: December 13, 2006

Subject: Request that the City Council consider approving an ordinance amending the City of Tyler Code Chapter 19, "Utilities", Article III, "Water and Sewer Service", Division "A", "Water Service", Section 19-37, "Installation of Check Valve or Back Siphonage Prevention Device" for compliance with the requirements of the Texas Commission on Environmental Quality.

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Item Reference: City Council Agenda Item O-4, 11/26/03

In 1996 the Texas Commission on Environmental Quality (TCEQ), then known as the Texas Natural Resource Conservation Commission, mandated that public water systems implement a cross-connection control program to isolate connections between the potable water system and possible source of contamination.

That same year, the City of Tyler adopted an ordinance (Chapter 19-37) addressing backflow prevention assemblies and establishing a program requiring their installation on all new connections to the water system, however the program did not require retrofitting existing connections until plumbing permits were required for modification or repair.

As a result of a recent TCEQ inspection, Tyler Water Utilities is required to upgrade the cross-connection control program so that all commercial and industrial customers are brought into compliance with the cross-connection control program. This will be accomplished through Customer Service Inspections and installations of backflow prevention assemblies, if necessary.

Accompanying this communication is a modification to Chapter 19-37, codifying the TCEQ cross-connection control program requirements.

RECOMMENDATION:

It is recommended that the City Council adopt an ordinance amending the City of Tyler Code Chapter 19, "Utilities", Article III, "Water & Sewer Service", Division "A", "Water Service", Section 19-37, "Installation of Check Valve or Back Siphonage Prevention Device" for compliance with the requirements of the Texas Commission on Environmental Quality.

Drafted/Recommended By:
Department Leader


Greg Morgan

Edited/Submitted By:
City Manager

ORDINANCE NO. 0-2006-100

AN ORDINANCE AMENDING THE CITY OF TYLER CODE CHAPTER 19, "UTILITIES", ARTICLE III, "WATER & SEWER SERVICE", DIVISION "A", "WATER SERVICE", SECTION 19-37, "INSTALLATION OF CHECK VALVE OR BACK SIPHONAGE PREVENTION DEVICE"; PROVIDING A REPELER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENELTY AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, it is the intent of the City Council to protect the public health, safety and welfare; and

WHEREAS, municipalities may, under their police powers, enact reasonable regulations to promote the health, safety and welfare of citizens; and

WHEREAS, the City of Tyler is a home-rule municipality acting under its Charter adopted by the electorate pursuant to Article 11, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, Texas Local Government Code Section 51.001(1) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule or police regulation that is for the good government, peace, or order of the municipality; and

WHEREAS, Texas Local Government Code Section 51.001(2) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule or police regulation that is necessary or proper for carrying out a power granted by law to the municipality or to an office or department of the municipality; and

WHEREAS, Texas Local Government Code Section 51.072(a) states that a home-rule municipality has full power of local self-government; and

WHEREAS, Texas Local Government Code Section 51.072(b) states that the grant of powers to a home-rule municipality under the Texas Local Government Code does not prevent, by implication or otherwise, the municipality from exercising the authority incident to self-government; and

WHEREAS, Section 1 of the Tyler City Charter states that the City of Tyler may make and enforce local police, sanitary, and other regulations, and may such ordinances as may be expedient for maintaining and promoting the peace, good government and welfare of the City; and

WHEREAS, Texas Health and Safety Code Section 341.033(f) provides that a public drinking water supply may not be connected to a sprinkling, condensing, cooling, plumbing, or other system unless the connection is designed to ensure against a backflow or siphonage of sewage or contaminated water into the drinking water supply; and

WHEREAS, the Texas Administrative Code, Title 30, "Environmental Quality", Section 290.044, "Water Distribution" provides that where an actual or potential contamination hazard to a public drinking water supply exists, additional protection in the form of an air gap or backflow prevention assembly is required; and that initial and annual inspections and testing be conducted

by a certified backflow prevention assembly tester to ensure an adequate internal cross-connection control program; and

WHEREAS, the Texas Commission on Environmental Quality has established specific requirements for installation, testing and maintenance of backflow prevention assemblies, and established specific requirements for customer service inspections; and

WHEREAS, the Texas Commission on Environmental Quality has determined that additional requirements are needed in the Tyler Water Utilities program to address the installation, testing, maintenance, and customer service inspections of backflow prevention assemblies, to be in compliance with current state requirements; and

WHEREAS, Tyler City Code Section 19-37 establishes a requirement for the installation of check valve or back siphonage prevention devices on all new connections along with all high health hazard (new and existing) connections; and

WHEREAS, it is important to amend the requirements in Tyler City Code Section 19-37 to add specific regulations related to installation, testing, maintenance, and customer service inspections of backflow prevention assemblies;

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

PART 1: That the Tyler City Code Chapter 19, “Utilities”, Article III, “Water & Sewer Service”, Division “A”, “Water Service”, Section 19-37, “Installation of check valve or back siphonage prevention device”, is hereby amended to read as follows:

Sec. 19-37. Cross-Connection Control Program

a. No water service connection shall be made to any establishment where a potential or actual contamination hazard exists unless the water supply is protected in accordance with the Texas Commission on Environmental Quality Rules and Regulations for Public Water Systems and this ordinance. The City of Tyler Operations Manager and Public Works shall discontinue water service if a required backflow prevention assembly is not installed, maintained and tested in accordance with the Texas Commission on Environmental Quality Rules and this ordinance.

b. Definitions

1. Air gap -- The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet conveying water to a tank, fixture, receptor, sink, or other assembly and the flood level rim of the receptacle.

2. Backflow prevention assembly -- A device that is designed to prevent a physical connection between the public drinking water supply and a potential source of contamination.

3. Connection -- A single family residential unit or each commercial or industrial establishment to which drinking water is supplied from the system.

4. Contamination--The presence of any foreign substance (organic, inorganic, radiological or biological) in water which tends to degrade its quality so as to constitute a health hazard or impair the usefulness of the water.

5. Cross-connection--A physical connection between a public water system and either another supply of unknown or questionable quality, any source which may contain contaminating or polluting substances, or any source of water treated to a lesser degree in the treatment process.

6. Health hazard--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 drinking water supply.

c. Backflow Prevention Assembly Installation, Testing and Maintenance

1. All backflow prevention assemblies shall be tested upon installation by a recognized backflow prevention assembly tester and certified to be operating within specifications. Backflow prevention assemblies which are installed to provide protection against high health hazards must also be tested and certified to be operating within specifications at least annually by a recognized backflow prevention assembly tester.

2. All backflow prevention assemblies shall be installed and tested in accordance with the manufacture's instruction, the American Water Works Association's Recommended Practice for Backflow Prevention and Cross-connection Control (Manual M14) or the University of Southern California Manual of Cross-connection Control.

3. Assemblies shall be repaired, overhauled or replaced at the expense of the customer whenever said assemblies are found to be defective. Original forms of such tests, repairs and overhauls shall be kept and submitted to Tyler Water Utilities within five (5) working days of the test, repair or overhaul of each backflow prevention assembly.

4. No backflow prevention assembly or device shall be removed from use, relocated or other assembly or device substituted without the approval of the Operations Manager or their designee. Whenever the existing assembly or device is moved from the present location or can not be repaired, the backflow assembly or device shall be replaced with a backflow assembly or device that complies with this section, the American Water Works Association's Recommended Practice for Backflow Prevention and Cross-connection Control, current edition, or the University of Southern California's Manual of Cross-Connection Control, current edition or the current Plumbing Code of the city of Tyler, Texas, whichever is more stringent.

5. Test gauges used for the backflow prevention assembly testing shall be calibrated at least annually in accordance with the American Water Works Association's Recommended Practice for Backflow Prevention and Cross-Connection Control (Manual M14), current edition, or the University of Southern California's Manual of Cross-Connection Control, current edition. Copies of the latest calibration reports, verifying the last date of equipment calibration, shall be submitted with each assembly device test report to Tyler Water Utilities.

6. A recognized backflow prevention assembly tester must hold a current endorsement from the Texas Commission on Environmental Quality.

d. Customer Service Inspections

1. A customer service inspection shall be completed prior to providing continuous water service to all new construction *or* on any existing service when:

- (a) the Operations Manager or their representative has reason to believe that cross-connections or other contamination hazard exist, or
- (b) after any material improvement, correction or addition to the private water distribution facilities.

2. Only individuals with the following credentials shall be recognized as capable of conducting a customer service inspection:

- (a) Plumbing Inspectors and Water Supply Protection Specialists that have been licensed by the Texas State Board of Plumbing Examiners.
- (b) Certified Waterworks Operators and members of other water related professional groups who have completed a training course, passed an examination administered by the commission or its designated agent and hold a current endorsement issued by the Commission.

3. The customer service inspection must certify that:

- (a) No direct connection between the public drinking water supply and a potential source of contamination is permitted. Potential sources of contamination shall be isolated from the public water system by a properly installed air gap or an appropriate backflow prevention assembly.
- (b) No cross-connection between the public water system and a private water system exists. Where an actual properly installed air gap is not maintained between the public water supply and a private water supply, approved reduced pressure-zone backflow prevention is properly installed and a service agreement exists for annual inspection and testing by a recognized backflow prevention assembly tester.
- (c) No connection exists which allows water to be returned to the public drinking water supply is permitted.
- (d) No pipe or pipe fitting which contains more than 8% lead may be used for the installation or repair of plumbing at any connection that provides water for human consumption
- (e) No solder or flux which contains more than 2% lead can be used for the installation or repair of plumbing at any connection that provides water for human use. A minimum of one (1) lead test shall be performed for each inspection.
(Ordinance 0-2006-100, 12/13/06)

PART 2: That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity or the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART 3: That any person, firm or corporation violating any provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as provided in Section 1-4 of the Tyler Code. Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Since this ordinance

has a penalty for violation, it shall become effective upon its publication in the newspaper as provided by Section 85 of the Charter of the City of Tyler, Texas, which date is expected to be December 20, 2006.

PASSED AND APPROVED this 13th day of December, A.D. 2006.

JOSEPH O. SEEBER, MAYOR OF
THE CITY OF TYLER, TEXAS

ATTEST:

APPROVED:

CASSANDRA BRAGER, CITY CLERK

CITY ATTORNEY