ORDINANCE No. 2014-01

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, AMENDING SECTION 3.06.041 TITLED "CROSS-CONNECTION CONTROL PROGRAM"; CHAPTER 3 "BUILDING REGULATIONS", IN THE CODE OF ORDINANCES OF THE CITY OF BASTROP; ESTABLISHING FINES AND PENALTIES FOR VIOLATIONS; PROVIDING FOR ENFORCEMENT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Bastrop, Texas is a Home Rule municipality incorporated and operating under the Laws of the State of Texas; and

WHEREAS, the City of Bastrop previously determined that it is the best interest of the health, safety and welfare of its citizens to mandate that all backflow prevention assemblies which are installed to provide protection against non-health hazards be tested by the customer every three (3) years by a recognized backflow prevention assembly tester; and

WHEREAS, the City of Bastrop previously determined that it is the best interest of the health, safety and welfare of its citizens to mandate that all backflow prevention assemblies which are installed to provide protection against health hazards be tested and certified by the customer to operate within specifications at least once (1) a year, by a recognized backflow prevention assembly tester; and

WHEREAS, the City's public water supplier has been assisting utility customers with completing the necessary backflow testing by providing a list of certified inspectors from the customer could select. However, in the event the customer fails to complete the required testing in the appropriate time frame, the City either has qualified City employees to perform the inspections or it hires independent, qualified contractors to do the work. The City must then charge the customer with a misdemeanor through municipal court if it wants to recoup the cost of the inspection and

WHEREAS, the TCEQ allows for the City's public water supplier to charge a fee, established by the public water system, and approved by the City Council, for backflow testing that is completed by the City on behalf of the customer;

WHEREAS, the City has determined that it would be in the best interest of the City to, in conjunction with the public water supplier, specify an appropriate fee in the event the water provider is required to complete the backflow inspection on behalf of the customer, and to provide a mechanism for reimbursement of the funds by charging the customer on his/her water bill.

WHEREAS, in order to accomplish this necessary goal and objective, the City of Bastrop now finds it necessary to amend Section 3.06.041 titled "Cross-Connection Control Program" to Chapter 13 titled "Building Regulations" of the existing Code of Ordinances.

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

Part 1: That Section 3.06.041 titled "Cross-Connection Control Program" of the Code of Ordinances of the City of Bastrop is amended to read as follows:

Sec. 3.06.041 Cross-connection control program

(a) Generally.

(1) 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 state commission on environmental quality rules and regulations for public water systems (TCEQ rules) and this section. The city shall discontinue water service if a required backflow prevention assembly is not installed, maintained and tested in accordance with the TCEQ rules and this section.

(2) The state commission on environmental quality rules and regulations referred to herein shall mean those in effect at the effective date of this section (ordinance adopted March 12, 2002), or those made effective by any successor regulatory agency of the state.

(b) Backflow prevention assembly installation, testing and maintenance.

(1)

(A) All backflow prevention assemblies shall be tested upon installation, at the expense of the customer, by a recognized backflow prevention assembly tester and certified to be operating within specifications.

(B) Backflow prevention assemblies which are installed to provide protection against non-health hazards must also be tested and certified to be operating within specifications every three (3) years by a recognized backflow prevention assembly tester.

(C) Backflow prevention assemblies which are installed to provide protection against health hazards must also be tested and certified to be operating within specifications at least once a year, by a recognized backflow prevention assembly tester.

(D) In the event the customer fails to complete the required backflow inspection within 30 days after receipt of notice from the City that the inspection is past due, the City shall have the right to complete the back flow testing through a qualified City employee or a qualified professional, and then charge the customer on his/her water bill for the testing, as set forth in appendix A of the Code of Ordinances.

(2) All backflow prevention assemblies shall be installed and tested in accordance with the manufacturer's instructions, 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 overhaul shall be kept and submitted to the city 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 city. Whenever the existing assembly or device is moved from the present location or cannot be repaired, the backflow assembly or device shall be replaced with a backflow prevention assembly or device that complies with this section. The American Water Works Association's Recommended Practice for Backflow Prevention and Cross-Connection Control (Manual M14), current edition, the University of Southern California Manual of Cross-Connection Control, current edition, or the current plumbing code of the city, whichever is more stringent[, shall apply].

(5) Test gauges used for 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. The original calibration form must be submitted to the city within five (5) working days after calibration.

(6) A recognized backflow prevention assembly tester must hold a current endorsement from the state commission on environmental quality (commission).

(c) Customer service inspections.

(1) A customer service inspection shall be completed prior to the service provider providing continuous water service to all new construction, on any existing service when the city has reason to believe that cross-connections or other contaminant hazards exist, or after any material improvement, correction, or addition to the private water distribution facilities. In the event the customer fails to complete the required inspection within 30 days after receipt of notice from the City that the inspection is past due, the City shall have the right to complete the inspection through a qualified City employee or a qualified professional, and then charge the customer on his/her water bill, as set forth in appendix A of the Code of Ordinances.

(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 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 supply and a private water source exists; and where an actual properly installed air gap is not maintained between the public water supply and a private water supply, an approved reduced pressure-zone backflow prevention assembly 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.

(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 use.

(E) No solder or flux which contains more than 0.2% lead can be used for the installation or repair of plumbing at any connection that provides water for human use. A minimum of one lead test shall be performed for each inspection.

(d) Enforcement. In addition to charging an individual on his/her water bill for work completed by the City or a qualified professional, the City shall have the right to seek enforcement through the Municipal Court. Any person who violates this section, including preventing access by the City to the backflow assemblies, when required, is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than $500.00 and not more than $2,000.00. Each day that one or more of the provisions in this section is violated shall constitute a separate offense. If a person is convicted of violation(s) of this section, the city may, upon due notice to the customer, discontinue water service to the premises where such violations occur. Services discontinued under such circumstances shall be restored only upon payment of a reconnection charge, as set forth in appendix A of the Code of Ordinances, and any other costs incurred by the city in discontinuing service. Compliance with this section may also be sought through injunctive relief in the district court.

Part 2: All other provisions of Section 3.06.041 hereby shall remain in full force and effect.

Part 3: This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Bastrop, and this ordinance shall not operate to repeal or affect any of such other ordinances, except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any in such other ordinance or ordinances are superseded.

Part 4: If any provision of this ordinance or application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the other provisions, or application thereof, of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are hereby declared to be severable.

Part 5: The Mayor is hereby authorized to sign this ordinance and the City Secretary to attest. This ordinance shall become effective and be in full force and effect in accordance with the provisions of the Charter of the City of Bastrop.

PASSED AND APPROVED ON FIRST READING ON THIS 10th DAY OF DECEMBER, 2013.

PASSED AND APPROVED ON SECOND READING ON THE 14th DAY OF JANUARY, 2014.

APPROVED:

Mayor Terry Orr

ATTEST:

Elizabeth Lopez, City Secretary

APPROVED AS TO FORM:

Jo-Christy Brown.
City Attorney