

City of Depoe Bay

41-00254

ORDINANCE NO. 219

AN ORDINANCE AMENDING ORDINANCE NO. 149 (WATER ORDINANCE); REQUIRING WATER SERVICE USERS TO INSTALL BACKFLOW PREVENTION; IMPOSING A FEE FOR INSPECTION OF BACKFLOW CONNECTION; DECLARING ANY FEES CHARGED HEREUNDER TO NOT BE A TAX; AND DECLARING AN EMERGENCY.

WHEREAS, to protect the public potable water supply served by the Depoe Bay Water Department from the possibility of contamination or pollution by isolating, within its customers' internal distribution system, customers should prevent contaminants or pollutants which could backflow or backsiphon into public water system; and

WHEREAS, to promote the elimination of, or control of, existing cross connections, actual or potential, between the potable water system and sources of non-potable water or other hazardous substances, the City should require customers to prevent cross connections; and

WHEREAS, to provide for the maintenance of a continuing program of cross connection control which will effectively prevent the contamination or pollution of all potable water systems by cross connection, additional provisions are required which can be enforced upon the water service customers; and

WHEREAS, the Federal Safe Drinking Water Act of 1974, and the statutes of the State of Oregon, Administrative Rules Chapters #333-61-070 and #333-61-071 state that the water supplier has the primary responsibility for the preventing of water from unapproved sources, or any other substances, from entering the public potable water system.

NOW, THEREFORE, the City Council of the City of Depoe Bay ordains as follows:

Ordinance No. 149 is hereby amended by inserting as a new Section 9A, the following:

9A.1 Responsibility

The City Supervisor shall be responsible for the protection of the public potable water distribution system from contamination or pollution due to the backflow or backsiphonage of contaminants or pollutants through the water service connection. If, in the judgment of the City Supervisor, an approved backflow device is required at the City's water connection to any customer's premises, the City Supervisor, or delegated agent, shall give notice in writing to said customer to install an approved backflow prevention device at each service connection to the customer's premises. The customer shall,

within ninety (90) days, install such approved device, or devices, at the customer's own expense, and failure or refusal, or inability on the part of the customer to install said device or devices within ninety (90) days, shall constitute a ground for disconnecting water service to the premises until such device or devices have been properly installed.

9A.2 Definitions for Purposes of Section 9A

A. Approval

A document issued by the Water Department which allows the use of a backflow preventer.

B. Approved

Accepted by the City Supervisor as meeting an applicable specification stated or cited in this regulation, or as suitable for the proposed use.

C. Auxiliary Water Supply

Any water supply, on or available, to the premises other than the suppliers approved public potable water supply.

D. Backflow

The flow of water or other liquids, mixtures or substances, under positive or reduced pressure in the distribution pipes of a potable water supply from any source other than its intended source.

E. Backflow Preventer

A device or means designed to prevent backflow or backsiphonage. Most commonly categorized as air gap, reduced pressure principle device, double check valve assembly, pressure vacuum breaker, atmospheric vacuum breaker, hose bibb vacuum breaker, and double check with intermediate atmospheric vent. Any device must be classified as an approved backflow device by the Oregon Health Division.

E.1 Air Gap

A physical separation sufficient to prevent backflow between the free-flowing discharge end of the potable water system and any other system. Physically defined as a distance equal to twice the diameter of the supply side pipe diameter, but never less than one (1) inch.

E.2 Atmospheric Vacuum Breaker

A device which prevents backsiphonage by creating an atmospheric vent when there is either a negative pressure or sub-atmospheric pressure on a water system.

E.3 Double Check Valve Assembly

An assembly of two (2) independently operating spring loaded check valves with tightly closing shut off valves on each side on the check valves, plus properly located test cocks for the testing of each check valve.

E.4 Double Check Valve with Intermediate Atmospheric Vent

A device having two (2) spring loaded check valves separated by an atmospheric vent chamber.

E.5 Hose Bibb Vacuum Breaker

A device which is permanently attached to a hose bibb and which acts as an atmospheric vacuum breaker.

E.6 Pressure Vacuum Breaker

A device containing one (1) or two (2) independently operating approved check valves and an independently operated spring loaded air inlet valve located on the discharge side of the check or checks. Device includes tightly closing shut-off valves on each side of the check valves and properly located test cocks for the testing of the check valve(s).

E.7 Reduced Pressure Principle Backflow Preventer

An assembly consisting of two (2) independently operating approved check valves with an automatically operating differential relief valve located between the two (2) check valves, tightly closing shut-off valves on each side of the check valves plus properly located test cocks for the testing of the check valves and the relief valves.

F. Backpressure

A condition in which the owner's system pressure is greater than the supplier's system pressure.

G. Backsiphonage

The flow of water or other liquids, mixtures or substances into the distribution pipes of a potable water supply system from any source other than its intended source caused by the sudden reduction of the pressure in the potable water supply

system.

H. City Supervisor

The person either designated as "City Supervisor" by the City Council or the person that oversees the operations of the operations of the City Water Department, or his/her representative, is invested with the authority and responsibility for the implementation of a cross connection control program and for the enforcement of the provisions of this Ordinance.

J. Containment

A method of backflow prevention which requires a backflow preventer at the water service entrance.

K. Contaminant

Any substance that will impair the quality of the water to a degree that it creates a serious health hazard to the public leading to poisoning or the spread of disease.

L. Cross Connection

Any actual or potential connection between the public water supply and a source of contamination or pollution.

M. Division

The State of Oregon Public Health Division.

N. Fixture Isolation

A method of backflow prevention in which a backflow preventer is located to correct a cross connection at an in-plant location rather than at a water service entrance.

O. Owner

Any person who has legal title to, or license to operate or habitat in, a property upon which a cross connection inspection is to be made or upon which a cross connection is present.

P. Person

Any individual, partnership, company, public, or private corporation, political subdivision or agency of the State Division, agency or instrumentality or the United States or any other legal entity.

Q. Pollutant

A foreign substance that, if permitted to get into the public water system, will degrade its quality so as to constitute a moderate hazard, or impair the usefulness or quality of the water to a degree which does not create an actual hazard to the public health, but which does adversely and unreasonably effect such water for domestic use.

R. Water Department

City of Depoe Bay Water Department

S. Water Service Entrance

That point in the owner's water system beyond the sanitary control of the City; generally considered to be the outlet end of the water meter and always before any unprotected branch.

9A.3 Administration

A. The Water Department will operate a cross connection control program, to include the keeping of necessary records, which fulfills the requirements of the Division's Cross Connection Regulations.

B. The Owner and Occupant shall allow his/her property to be inspected after being notified by mail; the inspection date shall be not sooner than 5 days after the date of mailing. The notice of inspection shall be mailed to the Owner and to the Occupant, if known, at the address on file with the City for purposes of mailing periodic statements for water services. The inspection shall be for the purposes of identifying possible cross connections and shall follow the provisions of the Water Department's program and the Division's regulations if cross connection is identified.

C. If the Water Department requires that the public supply be protected by containment, the Owner shall be responsible for water quality beyond the outlet end of the containment device and should utilize a backflow device for that purpose. The Owner may utilize public health officials, or personnel from the Water Department, or their delegated representatives, to assist in the survey of the facilities and to assist in the selection of proper fixture outlet devices, and the proper installation of these devices.

9A.4 Requirements

A. City of Depoe Bay

1. For premises existing prior to the start of this program, the Water Department will perform evaluations and inspections of plans and/or premises and inform the Owner by letter of any corrective action deemed necessary, the method of achieving the correction, and the time allowed for the correction to be made. Ordinarily, ninety (90) days will be shortened depending upon the degree of hazard involved and the history of the device(s) in question.

2. The Water Department will not allow any cross connection to remain unless it is protected by an approved backflow preventer for which approval has been issued by the City Supervisor and which will be regularly tested to insure satisfactory operation.

3. The Water Department shall inform the Owner by letter of any failure to comply, within ten (10) working days of the first inspection. The Water Department will allow an additional fifteen (15) days for correction. In the event the Owner fails to comply with necessary correction by the time of the second re-inspection, the Water Department will inform the Owner and Occupant, if known, by letter that the water service to the premises will be terminated within a period not to exceed five (5) days. In the event that the Owner or Occupant informs the Water Department of extenuating circumstances as to why the correction has not been made, a time extension may be granted by the Water Department, but in no case will exceed an additional thirty (30) days.

4. If the Water Department determines at any time that a serious threat to the public health exists, the water service will be terminated immediately.

5. The Oregon Health Division has on file a list of Private Contractors who are certified backflow device testers. All charges for these tests will be paid by the Owner of the building or property.

6. The Water Department will begin initial premises inspections to determine the nature of existing or potential hazards during the fiscal year 1995-1996. Initial focus will be on high hazard industries and commercial premises.

B. Owner

1. On new installations, the Owner shall obtain a qualified plumber to provide on-site evaluation and/or inspection of plans in order to determine the type of backflow preventer, if

any, that will be required. The Owner's plumber shall file the plumber's recommendation with the City Supervisor. The Owner's plumber shall thereafter proceed with installation of the backflow preventer unless objection is given by the City Supervisor within 2 business days following the date of filing the recommendation. Following installation, the Owner's plumber shall perform inspection and testing.

2. The Owner shall be responsible for the elimination or isolation of all cross connections on the Owner's premises.

3. The Owner, after having been informed by a letter from the Water Department, shall at the Owner's expense, install, maintain, and test, or have tested, any and all backflow preventers on the Owner's premises.

4. The Owner shall correct any malfunctions of the backflow preventer which is revealed by periodic testing.

5. The Owner shall inform the Water Department of any proposed or modified cross connections and also any existing cross connections of which the Owner is aware of, but has not been found by the Water Department.

6. The Owner shall not install a by-pass around any backflow preventer unless there is a backflow preventer of the same type on the by-pass. Owners shall not tamper with backflow devices.

7. The Owner shall install backflow preventers in a manner approved by the Water Department.

8. The Owner shall install only backflow preventers approved by the Oregon Health Division.

9. Any Owner having a private well or other private water source, must have the City Supervisor's written approval if the well or source is cross connected to the Water Department's system. Permission to cross connect may be denied by the Water Department. The Owner may be required to install a backflow preventer at the service entrance if a private water source is maintained, even if it is not cross connected to the Water Department's system.

10. In the event the Owner installs plumbing to provide potable water for domestic purposes which is on the Water Department's side of the backflow preventer, such plumbing must have its own backflow preventer installed.

9A.5 Degree of Hazard

The Water Department recognizes the threat to the public water system arising from cross connections. All threats will be classified by degree of hazard and will require the installation of approved backflow prevention devices.

9A.6 Existing In-Use Backflow Prevention Devices

Any existing backflow preventer shall be allowed by the Water Department to continue in service unless the degree of hazard is such as to supersede the effectiveness of the preventer, or result in an unreasonable risk to the public health. Where the degree of hazard has increased, as in the case of a residential installation converting to a business establishment, any existing backflow device must be replaced with an approved device suitable for that degree of hazard.

9A.7 Periodic Testing

A. All testable backflow devices shall be tested and inspected at least annually.

B. Periodic testing shall be performed by a certified tester. This testing will be done at the Owner's expense.

C. Any backflow preventer which fails during a periodic test will be repaired or replaced. When repairs are necessary, upon completion of the repair, the device will be retested at Owner's expense to insure correct operation. High hazard situations will not be allowed to continue if the backflow preventer fails the test and cannot be repaired immediately. In other situations, a compliance date of not more than thirty (30) days after the test date will be established. The Owner is responsible for spare parts, repair tools, or a replacement device. Parallel installation of two (2) devices is an effective means of the Owner insuring uninterrupted water service during testing or repair of devices and is strongly recommended when the Owner desires such continuity.

D. Backflow prevention devices will be tested more frequently than specified in "A" above if the Water Department feels that there is a history of test failures. Cost of additional testing will be borne by the Owner.

9A.8 Records and Reports

A. Records

The Water Department will initiate and maintain the following:

1. Master files on customers' cross connection tests and/or inspections.
2. Copies of lists and summarizes supplied to the Oregon Health Division.
3. Initial listing of low hazard cross connections.
4. Initial listing of high hazard cross connections.

B. Reports

The Water Department will submit the following to the Oregon Health Division:

1. Annual summary of cross connection inspections to Oregon Health Division.

9A.9 Fees and Charges

A. The City of Depoe Bay will publish, by resolution, a list of fees or charges and make them available to the public. The fee resolution may be amended by the City Council of the City of Depoe Bay from time to time.

B. Fees and charges do not constitute a tax upon real property.

1. The City Council of the City of Depoe Bay finds and determines that the charges pursuant to Ordinance No. 149 are fees and charges which are not subject to limits of Section 11 B, Article XI of the Oregon Constitution and the City Recorder shall give public notice of the Council's finding and follow the notice procedure as set forth in Section 26(8) of House Bill 2550.

2. The charges imposed by this ordinance are not intended to be a tax on property or on a property owner as a direct consequence of ownership of property within the meaning of Sec 11b, Art. XI of the Oregon Constitution or the legislation implementing that section. Even if the charges herein imposed are viewed under Sec. 11b, Art. XI of the Oregon Constitution as a tax against property or against a property owner as a direct consequence of ownership of that property, it is an incurred charge within the meaning of that Section and the statutes implementing it because:

- (a) It allows the owner to control the quantity of the service by determining the extent of development to

occur upon the property.

(b) It allows the owner to determine when the service is to be initiated or increased by controlling when the development occurs.

(c) State law and the ordinances of this city require the owner to provide certain basic utility services to the property when it is developed for human occupancy. The provision of these basic utility services are a routine obligation of the owner of the affected property and essential to the health and safety of the community.

Therefore the Council finds and determines that such fees, charges and assessments do not constitute a 'tax' and are not subject to the limits of Section 11b, Article XI of the Oregon Constitution."

WHEREAS, the adoption of this ordinance is necessary to preserve the peace, health, safety and welfare of the citizens of the City of Depoe Bay, an emergency is hereby declared to exist and this ordinance shall be in full force and effect immediately upon its adoption by the City Council of the City of Depoe Bay and approval by the Mayor.

Introduced and passed the first reading in a regular meeting of the City Council of the City of Depoe Bay, Oregon on this 5th day of June, 1995.

Passed at the second reading, placed on final passage, and adopted by the City Council of the City of Depoe Bay, Oregon, on this 5th day of June, 1995.

Approved by the Mayor of the City of Depoe Bay, Oregon, this 5th day of June, 1995.

CITY OF DEPOE BAY


Mayor

ATTESTED:


City Recorder

DEPOE BAY, CITY OF
4100254