

City of Madras 41-00500

Received
Sept 3 2019
Cross Connection
Drinking Water Service

ORDINANCE NO. 930

AN ORDINANCE PROVIDING FOR THE CONTROL OF CROSS CONNECTIONS CONCERNING THE CITY OF MADRAS WATER SYSTEM UTILITY; REPLACING AND SUPERSEDING ALL ORDINANCES, RESOLUTIONS, AND/OR POLICIES IN CONFLICT WITH THIS ORDINANCE (UNLESS EXPRESSLY EXEMPTED), INCLUDING ANY CROSS CONNECTION RULES AND REGULATIONS ADOPTED UNDER ORDINANCE NO. 470.

WHEREAS, on September 12, 1989, City of Madras ("city") adopted Ordinance No. 470 (the "Connection Ordinance"), which Connection Ordinance provided for the control of cross connections concerning city's water system utility; and

WHEREAS, the Madras City Council (the "council") has determined that certain operative provisions of the Connection Ordinance are outdated, difficult to administer, may be improved to further protect the water supply and distribution system from contamination or pollution, and must be replaced and superseded; and

WHEREAS, subject to the provisions contained in this Ordinance No. 930 (this "Ordinance"), this Ordinance amends, replaces, and supersedes the Connection Ordinance in its entirety.

NOW, THEREFORE, the City of Madras ordains as follows:

1. Findings; Purpose. The above-stated findings are hereby adopted. Among other things, this Ordinance contains rules and regulations concerning cross connections intended to protect the city water supply and distribution system from contamination and/or pollution from cross connections.

2. Short Title. This Ordinance may be referred to and cited as the "Cross Connection Ordinance."

3. Definitions. Unless the context requires otherwise, when used in this Ordinance the following terms and phrases have the meanings assigned to them below, whether or not such terms are capitalized:

"Approval" or "approved" means approved in writing.

"Auxiliary water supply" means any supply of water used upon the premises other than, or in addition to, the supply obtained from city's potable water system.

"AWWA" means the American Water Works Association.

"Backflow" means the flow in the direction opposite to the normal flow of water from the city water system.

"Backflow prevention device(s)," "backflow prevention device assembly(ies)," or "assembly(ies)" means an Oregon State Health Division approved backflow prevention device such as a vacuum breaker, pressure vacuum breaker, a double check valve assembly, or a reduced pressure principle device assembly, and the attached shut-off valves on the inlet and outlet ends of the device assembled as a complete unit.

"Check valve" means a valve which allows flow in only one direction.

"City water system" or "city system" means city's potable water system.

"Cross connection(s)" means any physical arrangement where a potable water supply is connected, directly or indirectly, with any other non-drinkable water system or auxiliary system, sewer, drain conduit, swimming pool, storage reservoir, plumbing fixture, or swamp coolers, or any other device which contains, or may contain, contaminated water, sewage, or other liquid of unknown or unsafe quality which may be capable of imparting contamination to the public water system as a result of backflow. "Cross connection(s)" include, without limitation, bypass arrangements, jumper connections, removable sections, swivel or changeover devices, and other temporary or permanent devices through which, or because of which, backflow may occur.

"Double check valve assembly(ies)" means an assembly approved by the Oregon State Health Division consisting of two independently acting check valves with shut-off valves on each side of the check valves and test cocks for checking the water-tightness of each check valve.

"Health hazard(s)" means an actual or potential threat of contamination of a physical, chemical, and/or biological nature to the public potable water system or the consumer's potable water system that would be a danger to health.

"Mobile units" means units that are temporary in nature, connecting to the water system through a legally permitted hydrant, hose bib, or other appurtenance of a permanent nature that is part of the city water system or a permanent water service to a premises. Examples may include, without limitation, the following: water trucks, pesticide applicator vehicles, chemical mixing units or tanks, waste hauler's trucks or units, sewer cleaning equipment, carpet or steam cleaning equipment other than homeowner use, rock quarry or asphalt/concrete batch plants, or any other mobile equipment or vessel that poses a threat of backflow to the city water system. Uses that are excluded from this definition are recreational vehicles at assigned sites or parked in accordance with other city policies pertaining to recreational vehicles and homeowner devices that are used by the property owner in accordance with other provisions of these or other city policies pertaining to the provision of water service to a premises.

"Non-health hazard(s)" means the classification assigned to an actual or potential cross connection that could allow a substance that may be objectionable, but not hazardous to one's health, to backflow into the potable water supply.

"Owner(s)" means any person owning a beneficial interest with a right of possession in property served by the city water system, any occupant of any premises served by the city water system, and any customer or water user of the city water system.

"Person" means any natural person, corporation, limited liability company, partnership, joint venture, firm, association, trust, unincorporated organization, government or governmental agency or political subdivision, or any other entity.

"Point of delivery" means the point of connection between a public water system and the customer's water system. In the case of city, the point of delivery is the back or customer's side of the water meter.

"Pollution hazard(s)" means an actual or potential threat to the physical properties of the water system or the potability of the public or the consumer's potable water system, but which would not constitute a health or system hazard, as defined. The maximum intensity of pollution to which the potable water system could be degraded under this definition would cause minor damage to the system or its appurtenances.

"Potable water" means safe drinking water.

"Premises" or "property" includes the subject real property and all improvements located thereon.

"Reduced pressure principle backflow prevention device (R.P. Device)" means a device approved by the Oregon State Health Division for preventing backflow which has two check valves, a differential relief valve located between the two check valves, two shut-off valves, one on the upstream side and the other on the downstream side of the check valves, and four test cocks for checking the water-tightness of the check valves and the operation of the relief valve.

"Service connection(s)" means the piping connection by means of which water is conveyed from a distribution main of a public water system to a customer's premises. The portion of the service connection which conveys water from the distribution main to the customer's property line, or to the service meter where provided, is owned by and under the jurisdiction of the water supplier.

"Water system" means a system for the provision of piped water for human consumption.

"Water use regulations ordinance" means city's water use regulations ordinance, Ordinance No. 928.

4. Application. This Ordinance applies to all premises served by the city water system, regardless of date of connection.

5. Cross Connection Regulations. All cross connections must be installed, used, and maintained in compliance with this Ordinance. City may survey and inspect to determine if any actual or potential cross connection exists and order that the installation of an assembly meeting city's standards and specifications be installed at the service connection.

6. Cross Connection Control Requirements.

6.1 If required under applicable laws, each property owner will, at the property owner's expense, install an approved backflow prevention assembly (a) at the point of delivery, (b) in an enclosure that is sized large enough to facilitate testing and repairs, (c) that is deep enough and insulated enough to protect from freezing, and (d) that is commensurate with the degree of hazard. Each property owner will submit a test report from an Oregon Department of Human Services certified backflow assembly tester in an approved format to city that provides the date, serial number, make and model, size, physical location, and passing test results for the backflow prevention assembly prior to receiving water service.

6.2 When a building is constructed on commercial or industrial zoned property, and the end use of the building is not determined or could change, a backflow prevention assembly will be installed at the service connection to provide protection of the public water supply

in the event of the most hazardous use of the building. Any mobile unit that uses the water from any premises served by the city water system must obtain a permit from city and be inspected to ensure an approved air gap or reduced pressure principle assembly (or such other assembly commensurate with the degree of hazard) is installed on the unit.

6.3 All backflow prevention assemblies will be tested immediately upon installation, and at least annually thereafter, by a certified backflow assembly tester at the expense of the property owner, tenant, or other person in charge of the premises. Only state-certified backflow assembly testers may test backflow assembly devices. Backflow assembly testers will submit records of all backflow assembly test repairs to city within ten (10) business days after completing the test.

6.4 Subject to this Section 6.4, city will perform (or cause to be performed) the annual backflow prevention assembly testing required under Section 6.3 at the expense of the property owner, tenant, or other person in control of the premises (which costs will be placed on the water bill issued for the premises) unless the owner, tenant, or other person in control of the premises provides city no less than thirty (30) days' prior written notice that the owner, tenant, or other person in control of the premises will cause the annual backflow prevention assembly test to be timely performed in accordance with this Ordinance. Notwithstanding anything contained in this Ordinance to the contrary, by requesting and receiving water service from city, every owner, tenant, and/or other person in control of the premises grants city and its authorized agents, contractors, and employees the right and permission to enter onto the subject premises to perform the annual backflow prevention assembly testing.

6.5 All assemblies found not functioning properly will be promptly repaired or replaced at the expense of the owner, occupant, or person in control of the premises. An assembly must be retested immediately if moved, repaired, or replaced. All repairs on backflow assemblies must be performed according to state regulations and city's standards and specifications.

6.6 Backflow prevention assemblies will be maintained, tested, and repaired in accordance with this Ordinance and applicable laws and regulations. The assembly owner is responsible for protecting the assembly from freezing, vandalism, and/or other damage. If an assembly is not properly tested and repaired, city will have the assembly tested and repaired and apply all costs associated with this to the water bill issued for the premises.

7. Inspections. All water users and owners of premises served by the city water system will permit inspections by city, at such times as city may designate, for purposes of determining whether the water user or owner is in compliance with this Ordinance.

8. Costs of Compliance.

8.1 All costs associated with purchase, installation, surveys, testing, replacement, maintenance, parts, and repairs of the backflow prevention assembly, and all costs associated with enforcement of this Ordinance, are the financial responsibility of the property owner, occupant, or other person in control of the premises.

8.2 Any person violating this Ordinance and/or who causes damage to or impairs the city water system, including, without limitation, allowing contamination, pollution, any other solution, and/or used water to enter the city water system, will be strictly liable to city for any expenses, losses, and/or damages caused by the violation, damage, and/or impairment. City will

collect from the violator and/or person causing the damage and/or impairment the cost incurred by city for any cleaning, purifying, repair, and/or replacement work, any other expenses caused by the violation, and any expenses incurred in enforcing this Ordinance, including, without limitation, attorney fees and expenses. Refusal to pay the assessed costs will constitute a violation and will result in termination of water service.

8.3 All cost associated with any disconnect or reconnect fees resulting from the enforcement of this Ordinance are the sole responsibility of the water utility account holder and/or owner of the premises, on a joint and several basis.

9. Notice. Any notice required or permitted under this Ordinance will be deemed given upon mailing to the address of the premises served or to the billing address of the water user listed with city's water department. Such notice may provide information on appeal rights and procedures, if applicable.

10. Termination of Service. City may shut off the water service to any premises when (a) city has provided notice of a violation of this Ordinance and an appeal related thereto has not been timely filed, (b) immediately upon determination that an emergency exists or that a substantial hazard exists due to the potential for backflow of hazardous substances, (c) at any time permitted under the water use regulations ordinance, and/or (d) immediately upon the refusal of any water user or owner of premises to permit inspection, or if city is unable to contact the water user or owner to arrange for an inspection, city has given notice of such request prior to shutting off the water service.

11. Appeals Procedure. The process and procedures for denial of an application and termination of service will be as described in Section 9.4 of the water use regulations ordinance. City is not liable or responsible for any actual, consequential, and/or other damage(s) to person(s) or property resulting from its decision or the decision(s) of its employees or agents to terminate water service to any person(s) or premises that is done consistent with or pursuant to this Ordinance, the water use regulations ordinance, and/or applicable law.

12. Penalties. City will enforce the provisions of this Ordinance by administrative, civil, and/or criminal action as necessary to obtain compliance with this Ordinance. Any person violating this Ordinance will be subject to a civil penalty not to exceed \$2,500.00 for each violation. Each violation of a provision of this Ordinance, and every day that such Ordinance violation exists, will be considered a separate violation. In addition to the foregoing civil penalties, city may seek, in a court of competent jurisdiction, such other and additional relief (including all legal and equitable relief and remedies) available under applicable law as well as recovery of its costs and attorney fees. City will be entitled to collect from any person violating or otherwise failing to comply with this Ordinance city's attorney fees and other fees, costs, and expenses incurred by city to enforce this Ordinance. The remedies provided in this Section 12 are not exclusive and will not prevent city from exercising any other rights and/or remedies available under law. Compliance with this Ordinance will in no way be a substitute for or eliminate the necessity of compliance with all applicable federal, state, and local laws, ordinances, rules, and regulations relating to the public health as now in force or hereafter amended.

13. Amend, Replace, and Supersede. This Ordinance amends, replaces, and supersedes the Connection Ordinance and all ordinances, resolutions, and/or policies in conflict with this Ordinance; provided, however, (a) this Ordinance does not relieve any person of any obligations that may have accrued under the Connection Ordinance prior to the effective date of this Ordinance, (b) this Ordinance does not relieve any person of any obligations arising out of or

under any agreement between the person and city, and (c) city may continue the enforcement, prosecution, conviction, and/or punishment of any person who has or will violate the Connection Ordinance prior to the effective date of this Ordinance.

14. Interpretation; Severability; Errors. All pronouns contained in this Ordinance and any variations thereof will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as the identity of the parties may require. The singular includes the plural and the plural includes the singular. The word "or" is not exclusive. The words "include," "includes," and "including" are not limiting. Any reference to a particular law, rule, regulation, restriction, code, or ordinance includes the law, rule, regulation, restriction, code, or ordinance as now in force and which may hereafter be amended. The provisions of this Ordinance are hereby declared to be severable. If any section, subsection, sentence, clause, and/or portion of this Ordinance is for any reason held invalid, unenforceable, and/or unconstitutional, such invalid, unenforceable, and/or unconstitutional section, subsection, sentence, clause, and/or portion will (a) yield to a construction permitting enforcement to the maximum extent permitted by applicable law, and (b) not affect the validity, enforceability, and/or constitutionality of the remaining portion of this Ordinance. This Ordinance may be corrected by order of the council to cure editorial and/or clerical errors.

APPROVED AND ADOPTED by the City Council of the City of Madras and signed by the Mayor this 25th day of June, 2019.

Ayes: 4
Nays: 0
Abstentions: 0
Absent: 1
Vacancies: 1


By: Richard Ladeby, Mayor

ATTEST:


Lysa Vattimo, City Recorder