

ORDINANCE NO. 2559

AN ORDINANCE TO ADOPT CROSS-CONNECTION CONTROL STANDARDS WHICH ESTABLISH REQUIREMENTS FOR THE DESIGN, CONSTRUCTION AND MAINTENANCE OF CONNECTIONS TO THE WATER SYSTEM OF THE CITY OF WEST MEMPHIS, AND FOR OTHER PURPOSES.

SECTION 1. INTENT

In compliance with the Arkansas Department of Health "Rules and Regulations Pertaining to Public Water Systems," Section VII.E, the City of West Memphis finds it necessary for the health, safety and welfare of the people served by the City of West Memphis Water System operated and maintained by West Memphis Utility Commission, to adopt cross-connection control standards which establish requirements for the design, construction and maintenance of connections to the City's Water System. The standards of this Ordinance are supplemental to and do not supersede or modify the "Arkansas State Plumbing Code (ASPC) and its latest revisions under which the City of West Memphis and West Memphis Utility Commission operate.

This Ordinance pertains to commercial and industrial establishments only.

SECTION 2. PURPOSE

- (1) To protect the public potable water supply of the City of West Memphis, Arkansas from the possibility of contamination or pollution by isolating or containing within the customer's internal distribution system, such contaminants or pollutants which could backflow or back-siphon into the public water system.
- (2) To promote the elimination or control of cross-connection, actual or potential, thereby protecting the public water system from the User's service connection.
- (3) To provide for the maintenance of a continuing program of cross-connection control that will systematically prevent a hazard from affecting the public water system.

The provisions of this Ordinance shall apply to all owners or customers of the City of West Memphis public water system which is operated by the West Memphis Utility Commission, which are required or mandated by the Arkansas Department of Health to be subject to the backflow and cross-connection program, or any owner or customer whose facilities, in the judgment of the West Memphis Utility Commission, pose a hazard to the City of West Memphis water system facilities from backflow contamination.

SECTION 3: DEFINITIONS

The following words, terms, and phrases, when used in this document shall have the meaning ascribed to them in this section except where the context clearly indicates a different meaning:

- (1) Air Gap (AG) - means a physical separation between two piping systems.

- (2) Approval Authority - The West Memphis Utility Commission (the Utility), which may act through the General Manager, his deputy, agent, or representative possessing written evidence of authority to so act.
- (3) Auxiliary Water Supply - Any water supply on or available to the property other than the public water system.
- (4) Backflow - Flow of water or other liquids, mixtures, or substance under positive or reduced pressure in the distribution pipes of potable water supply from any source other than its intended source, caused by either back-pressure to back-siphonage.
- (5) Backflow Preventer - Shall mean a testable assembly to prevent backflow.
- (6) Backflow Prevention Assembly - Mechanical backflow assembly assembled with shut-off valves and provided as a complete assembly by a single manufacturer, used to prevent the flow of contaminants or pollutants into the City's water system. The assembly must have approval of the USC, State of Arkansas Department of Health, and the City.
- (7) Backflow Prevention Device - Mechanical backflow preventer without the shut-off valve. It does not have a shut-off valve on either side of the backflow prevention mechanism. Any backflow assembly without shut-off valves is called a device.
- (8) Back-pressure - A condition in which the pressure in a non-potable system is greater than the pressure in the potable water distribution system. Back-pressure will cause non-potable liquids to flow into potable water distribution systems through cross-connection.
- (9) Back-siphonage - Reverse flow of liquids caused by a partial vacuum or negative pressure in the potable water distribution system, which may result from water line breaks, or high demand for firefighting purposes, etc.
- (10) Bypass - Any arrangement of pipes, plumbing or hoses designed to divert the flow around an installed device or assembly through which flow normally passes.
- (11) Certified Assembly Testing Technician - Person certified by the Arkansas Department of Health as an assembly testing technician.
- (12) Certified Assembly Repairman Technician - Person certified by the Arkansas Department of Health as an assembly repairman technician.
- (13) City - The City of West Memphis, Arkansas.
- (14) Containment - Method of cross-connection requiring a backflow prevention assembly at the point of service connection to the City's water system. This method provides for a separation between the public water system and the customer's internal piping system to ensure protection against backflow occurrences.
- (15) Contamination - An impairment of a potable water supply by the introduction or admission of any foreign substance that degrades the quality of water and creates a health hazard.

- (16) Cross-Connection - Any actual or potential connection between the public water system and a source of contamination or pollutant. Sources of contamination or pollutant may be gases, liquid, or solids, such as chemical, water products, steam, water from other sources (potable or non-potable), or any matter that may change the color or add color to the water.
- (17) Cross-Connection Control - The use of backflow prevention assemblies, method, and procedures to prevent contamination or pollution of a potable water supply through cross-connections and to continuously afford the protection commensurate with the degree of hazard.
- (18) Degree of Hazard - Level of danger posed by a substance or set of circumstances, evaluation of the potential risk to public health and the adverse effect of the hazard upon the potable water system.
- (19) Domestic - Refers to plumbing as defined by the State of Arkansas Plumbing Code and is not associated with designated fire protection water service lines and systems.
- (20) Double Check Valve Assembly (DCVA) - Means a complete assembly meeting the Arkansas State Plumbing Code consisting of two (2) internally loaded, independently operating check valves between two (2) tightly closing resilient shutoff valves, with four (4) properly placed resilient seated test cocks. DCVA can be subjected to backpressure.
- (21) Double Check Detector Assembly (DCDA) - A DCVA with a flow detector in parallel used to detect system leaks and unauthorized use of water.
- (22) Fire Protection System - A fire protection system consists of pipes, sprinklers, valves, fixtures, fittings, ponds, tanks, water storage vessels, and fire hydrants that are intended and used exclusively for fire protection.
- (23) General Manager - The General Manager of the West Memphis Utility Commission is the person designated by the City to supervise the operation of the public water system and who is charged with certain duties and responsibilities by this Ordinance.
- (24) Isolation - Method to confine a potential source of contamination to the non-potable system being served; to provide a backflow prevention mechanism at each actual or potential cross-connection.
- (25) New Construction - Construction of a new facility, alteration or addition to an existing facility, or modification or addition to existing plumbing and/or fire protection system.
- (26) Owner - Person or persons who possess any interest in the structure or property to which ownership relates.
- (27) Pollutant - Any foreign substance that if permitted to enter into the City water system, will degrade its quality to constitute a non-health hazard or impair the usefulness of the water.
- (28) Program - The program developed by West Memphis Utility to prevent cross-connections to the City's Water System from non-potable water sources.

- (29) Program Administrator - Person or persons designated by the West Memphis Utility Commission to execute and administer the Cross-Connection Control Program. The Utility General Manager is the supervising authority of this program, thus individuals designated by the Utility General Manager to execute this program shall also be referred to as the Program Administrator.
- (30) Reduced Pressure Detector Assembly (RPDA) - An RPZA with a flow detector meter in parallel. Used to detect systems leaks and unauthorized use.
- (31) Reduced Pressure Principle Backflow Assembly (RPZA) - Means a complete assembly meeting requirements of the Arkansas State Plumbing Code consisting of a hydraulically operating, mechanically independent differential relief valve located between two (2) independently operating, internally located check valves that are located between two (2) tightly closing resilient seated shutoff valves with four (4) properly placed resilient test cocks. The RPZA contains a relief port which will open to atmosphere if the pressure in the zone falls within 2 psi of the supply pressure. The assembly provides protection against both back-pressure and back-siphonage.
- (32) Retrofit - Replacement of an existing backflow prevention assembly when the specifications or condition of the assembly are not adequate for the degree of hazard found on the property as defined by this program.
- (33) Service Connection - The terminal end of a service connection from the public potable water system, that is where the water suppliers lose jurisdiction and sanitary control over the water at its point of delivery to the customer's water system. If a meter so installed at the end of the service connection shall mean the downstream end of the meter. There should be no unprotected branches or outlets from the service line ahead of any meter or backflow prevention assembly located at the point of delivery to the customer's water system. Service connection shall also include water service connections from a fire hydrant and all other temporary or emergency water service connections from the public potable water system.
- (34) Vacuum - Any absolute pressure less than that exerted by the atmosphere.
- (35) Water-Potable - Water that is safe for human consumption as described by the Arkansas Department of Health. Water free from impurities present in amount enough to cause disease or harmful physiological effects. Its bacteriological and chemical quality shall conform to the requirements of the Public Health Service Drinking Water Standards or the regulation of public health authority having jurisdiction.
- (36) Water-Non-Potable - Water that is not safe for human consumption or that is of questionable quality; water that has been introduced to foreign substances (pollutants or contaminants).
- (37) Water Supply System - The water service pipe, the water distributing pipes, and the necessary connecting pipes, fittings, control valves, and all appurtenances in or adjacent to the building or premises. The water supply system is part of the plumbing system.
- (38) West Memphis Utility Commission - The municipal utility authorized by the City of West Memphis to operate electric, water, wastewater systems serving the City of West Memphis.

SECTION 4: OPERATING CRITERIA

It is the primary responsibility of West Memphis Utility Commission to evaluate the hazards inherent in supplying a customer's water system; i.e. determine whether solid, liquid or gaseous pollutants or contaminants are, or may be handled on the consumer's premises in such a manner as to possibly contaminate the public water system. When a hazard or potential hazard to the public water system is found on the customer's premise, the customer shall be required to install an approved backflow prevention assembly (BFP), or an air gap, at each public water service connection to the premise in accordance with division's requirements. The type of protective assembly required shall depend on the degree of hazard as described in AWWA Manual M-14 or as described below:

- (1) In the case of any premises where there is an auxiliary water supply, connected to the plumbing system, the public water system shall be protected from the possibility of backflow by a Reduced Pressure Principal Backflow Prevention Assembly at the service connection.
- (2) In the case of any premise where substance are handled that are objectionable, but not hazardous to human health, and the likelihood exists of it being introduced into the public water system by virtue of a backflow occurrence, the public water system shall be protected by an Air Gap or an approved Double Check Valve Assembly.
- (3) In the case of any premise where there is any material, hazardous to human health, which is handled in such a fashion as to create an actual or potential threat to the public water system by virtue of a backflow occurrence, the public water system shall be protected by an Air Gap or an approved Reduced Pressure Principal Backflow Prevention Assembly.
- (4) In case of any premise where there are unprotected cross-connections, either actual or potential, the public water system shall be protected by an approved Reduced Pressure Principal Backflow Prevention Assembly or an Air Gap at the service connection.
- (5) In the case of any premise where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete cross-connection survey, the public water system shall be protected by the installation of an approved Reduced Pressure Principal Backflow Prevention Assembly or an Air Gap at the service connection.

SECTION 5: APPROVAL OF BACKFLOW PREVENTION DEVICES

Any backflow prevention assembly required herein shall be an approved type which is in compliance with requirements of the Arkansas State Plumbing Code.

SECTION 6: CUSTOMER RESPONSIBILITY

The owner shall adhere to the requirements of the Approval Authority in their efforts to execute the program.

Ownership. The consumer shall purchase, own, repair and maintain all backflow prevention assemblies installed at the point of delivery to the user's water system or those within the use water system in accordance with this ordinance and applicable state regulations.

Installation and cost. User of the public water supply system requiring backflow prevention assemblies shall pay all cost associated with installation of the appropriate size and type of device through private transactions.

Testing and Maintenance. The user will be responsible for the annual testing of the backflow prevention assembly by contract with a Certified Testing Technician as well as any repairs which shall be performed by a Certified Repair Technician. The customer will furnish the Approval Authority with a copy of the annual test.

All testing and repair shall be performed by properly certified individuals. The customer shall furnish to the Approval Authority, along with the annual testing information, a copy of any information or data related to other testing, repairs, replacement, or maintenance or other work of any type on the backflow prevention assemblies. The customer shall keep a copy of all records related to backflow prevention assemblies on the premises for a period of not less than three (3) years.

In instances where the Approval Authority deems the hazard to be great enough, testing may be required at more frequent intervals, cost of which would be borne by the customer. Any maintenance fees required as a result of inspection or testing shall be paid by the customer. Records of inspection, testing or repairs shall be kept by the Approval Authority and made available to the Health Department as appropriate.

Rental properties. Any person who owns or controls rental property is responsible for the installation, testing, and repairs of any necessary backflow prevention assemblies on that property.

SECTION 7: PROTECTION OF BACKFLOW ASSEMBLIES

No person shall willfully break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is associated or part of a backflow prevention assembly. No person without first obtaining written consent from West Memphis Utility, shall cover an existing backflow prevention assembly vault with earth or pavement, or otherwise render it inaccessible.

SECTION 8: TEMPORARY BACKFLOW PREVENTION ASSEMBLIES

When a fire hydrant connected to the water system is used as a temporary water source, the connection shall be protected by a backflow preventer. Only fire hydrant water meters with approved backflow preventer can be used on fire hydrants in the City of West Memphis public water system.

A refunded deposit is required to insure the return of all water meters and backflow preventers to West Memphis Utility. Failure to return assemblies can result in forfeiture of deposit and/or enforcement action being taken against the responsible party, as allowed for in the penalty section of this article.

A non-approved fire hydrant meters which are found to be use in the City of West Memphis, Arkansas system will be confiscated, and enforcement action taken against the responsible party, as allowed for in the enforcement section of this article.

West Memphis Utility shall install the meter and backflow preventer. The user shall notify West Memphis Utility to disconnect the meter and backflow preventer when no longer needed or the time period for which the use is approved.

SECTION 9: NONCOMPLIANCE

- (A) In emergency situations when, it is the opinion of West Memphis Utility, the public potable water supply is being contaminated or is in immediate danger of contamination, the water service will be discontinued by West Memphis Utility.
- (B) No water service connection to any premises shall be installed or maintained by the Approval Authority unless the water supply is protected as required by State laws and regulations and this Ordinance.
- (C) Delivery of water to premises of any customer may be discontinued by West Memphis Utility if any protective assembly required by this article has not been installed, or is defective, or has been removed or bypassed. Discontinued water service shall not be resumed until conditions at the consumer's premises have been abated or corrected to the satisfaction of West Memphis Utility.
- (D) Upon discovery of a violation of this Ordinance, written notice shall be given to the customer. If violations are not corrected by the date and time as stated in the notice, water service to the customer will be discontinued and damages may be assessed, or other action taken against the customer.
- (E) For the purpose of making any inspections or discharging duties imposed by this Ordinance, West Memphis Utility, the State of Arkansas Department of Health and/or the plumbing inspector shall have the right to enter upon the premises of any customer or property owner. Each customer or property owner, as a condition of the continued delivery to his/her premises of water from the City's water system, shall be considered as having stated his consent to the entry upon the premises of the West Memphis Utility for the purpose stated herein.

SECTION 10: ENFORCEMENT

The Program Administrator shall send a Notice of Violation letter to the owner/user that states that there is a violation of the Cross-Connection Control Program. This letter shall explain the nature of the violation and provide what corrective action is required. The Notice of Violation letter shall also state that additional enforcement action may be pursued if corrections are not accomplished within thirty (30) days.

The Notice of Violations letter shall be sent by certified mail, return receipt requested, with copies maintained by the Program Administrator.

A second Notice of Violation letter may be issued upon the instance of a repeat violation, or if the original violation letter has not been corrected. The second Notice of Violation shall have the same content as the first letter; and the owner/user will be given fifteen (15) days to complete. The water service may be disconnected if compliance is not achieved before that date.

If the violations still exist after the first and second Notice of Violation letters have been sent by the Program Administrator and received by the owner (proven by return receipt), a third and final Notice of Violation letter shall be sent stating that the water service will be disconnected then (5) days after the date of the third letter. After that five (5) day period, if no actions have been taken to correct the violations, the Program Administrator shall instruct the appropriate personnel to discontinue water service at the connection.

If the owner disagrees with the identified violation, he/she may submit a request in writing to the Program Administrator stating the circumstances that warrant a review of the situation.

The Approval Authority shall have the legal authority to immediately and effectively disconnect water service to the premises without prior written notice where it reasonably appears to present an imminent endangerment to the health or welfare of persons, or to the public water system, or which threatens to interfere with the City's operation of the public water system.

Upon disconnection of water service, the water meter must be completely removed from the connection point in order to achieve a complete separation between the public water system and the owner's private system.

The customer must correct all violations, plus pay all prescribed service charges before the water service will be connected. Program personnel shall re-inspect the premises to ensure that all violations have been corrected. After water service is reconnected customer has ten (10) working days to submit test results.

The City may initiate any procedures, investigations, or studies deemed necessary and desirable to determine the cause of such violations and methods to correct them.

The City may initiate legal action against the owner that remains in non-compliance of this program, especially in cases where discontinuance of the water service is not possible or would cause dangerous conditions to exist, or where it would cause a public health hazard.

If any person knowingly contaminates the City's water system, contrary to the provisions of this program or any applicable State or Federal law, the City, through legal counsel, may commence an action for appropriate legal and/or equitable relief, including recovery of civil penalties assessed by the City.

Any notice issued pursuant to the sub-section may provide one or more of the following penalties:

- A civil penalty of no more than \$1,000.00 for each violation of the Ordinance, and each day of a continuing violation may be deemed a separate violation; and,

- A compliance directive with time schedule mandating procedures which would bring the Owner into compliance with this Ordinance within the designated time schedule, or termination of water service upon non-compliance with the compliance directive time schedule; and,
- Termination of water service to the Owner.

The customer shall bear the expense of all legal fees, administrative charges, and any other related costs incurred by the City in the enforcement of the Cross-Connection Control Program.

Section 11: Validity

All Ordinances and part of Ordinance in conflict with this Ordinance are hereby repealed. Should any portion of this Ordinance be unconstitutional or invalid and so declared by a Court of Competent jurisdiction, then the remainder of this Ordinance, and any remaining applications of this Ordinance, shall not be affected by such partial unconstitutionality or invalidity.

PASSED AND APPROVED THIS 17th DAY OF September, 2020.

Marco M. McClendon
MARCO M. McClendon, Mayor

ATTEST:

Patricia Lopez
CITY CLERK

SPONSORED BY:

RECEIVED
City Clerk's Office
Date/Time 09/16/20
By Patricia Lopez 11:29 pm