



**RCA
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION**

AGENDA ITEM NO.: 3
AGENDA DATE: Thu 01/08/2004
RCA TYPE: Ordinance
PAGE: 1 of 2

SUBJECT: Approve an Ordinance repealing Chapter 15-1 of the City Code and adopting a new Chapter 15-1 relating to Cross Connection Control regulations, creating offenses, and approving penalties. The Ordinance addresses connections between the City's water system and other water systems and the use of appropriate connection devices.

AMOUNT & SOURCE OF FUNDING: Funding for the implementation and operations of the Cross Connection Control Program was included in the Approved Fiscal Year 2003-2004 Operating Budget of the Austin Water Utility.

FISCAL NOTE: There is no unanticipated fiscal impact. A fiscal note is not required.

REQUESTING Austin Water Utility **DIRECTOR'S**
DEPARTMENT: **AUTHORIZATION:** Chris Lippe

FOR MORE INFORMATION CONTACT: Antonio Canales, 972-1060; Robert Kuhn, 972-1060;
Laura Wiley, 972-0104

PRIOR COUNCIL ACTION: N/A

BOARD AND COMMISSION ACTION: Recommended by Water and Wastewater Commission

PURCHASING: N/A

MBE / WBE: N/A

This ordinance repeals Chapter 15-1 of the Austin City Code and adopts a new Chapter 15-1 regarding cross connection control regulations, creating criminal offenses and providing penalties. The amendments provide the Director of the Austin Water Utility with rule making authority to implement rules that are not in conflict with rules and regulations of the Texas Commission on Environmental Quality (TCEQ) for Public Water Systems, Chapter 290 (Public Drinking Water) of Title 30 of the Texas Administrative Code (TAC), Chapter 341 (Minimum Standards of Sanitation and Health Protection Measures) of the Health and Safety Code, and the United States Code Title 42, Chapter 6A, Subchapter XII (Safety of Public Water System).

The proposed revision will provide continued protection of the City of Austin's (City) public water system with more stringent enforcement of cross connection violations in the following manner:

- Prohibits connection of an auxiliary water supply to the public water system without the installation of an approved backflow prevention assembly or device.
- Prohibits the connection of a mechanism or system designed to return reclaimed water or used water to the public water system and reclaimed water systems.
- Prohibits the connection of a reclaimed water system to the City's public water system or a potable water system of a customer who receives potable water service from the City.



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The proposed revision will provide for continued protection of the City of Austin's (City) public water system by:

- Establishing new provisions that allow other public water systems, with a connection to the City's public water system, the choice to select from several options as to how the sole source will comply with the City's Cross Connection Control Regulations.
- Requiring that backflow prevention assembly testers be licensed by the TCEQ and registered with the City.
- Establishing right of entry authority for City employees as a condition of the City providing water service.
- Authorizing the director to apply for a search warrant if a customer refuses right of entry and to inspect without a warrant to remedy an imminent danger to the public health and safety.
- Establishing a Show Cause Hearing process for persons responsible for a violation of the ordinance.
- *Authorizing the director to accept from a person responsible for a violation under this chapter an agreement for voluntary compliance.*

ORDINANCE NO.

AN ORDINANCE REPEALING AND REPLACING CHAPTER 15-1 OF THE CITY CODE RELATING TO CROSS CONNECTION REGULATIONS, CREATING OFFENSES, AND PROVIDING PENALTIES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. Chapter 15-1 of the City Code is repealed and replaced with a new Chapter 15-1 to read:

CHAPTER 15-1. CROSS CONNECTION REGULATIONS

ARTICLE 1. GENERAL PROVISIONS.

§ 15-1-1 APPLICABILITY.

This chapter applies to a person or public water system receiving potable water from the City.

§ 15-1-2 DEFINITIONS.

In this chapter:

- (1) AIR GAP means a physical separation between the free flowing discharge end of a potable water system pipeline and an open or non-pressure receiving vessel as defined in Section 290.38 (*Definitions*) of Title 30 of the Texas Administrative Code.
- (2) AUXILIARY WATER SUPPLY means a water supply from a source other than the City's potable water supply.
- (3) BACK SIPHONING means a form of backflow caused by a reduction in hydraulic system pressure that causes a negative or sub-atmospheric pressure.
- (4) BACKFLOW means the reversal of flow of water or mixtures of water and other liquids, gases, or other substances into the distribution pipes of a potable water supply.
- (5) BACKFLOW PREVENTION ASSEMBLY means an aggregation of devices designed to prevent backflow into the potable water system or

the public water system, including a reduced pressure backflow assembly, double-check valve assembly, pressure vacuum breaker assembly, or an air gap.

(6) BACKFLOW PREVENTION DEVICE means a device designed to prevent backflow into the potable water system.

(7) BACKPRESSURE means hydraulic or atmospheric pressure higher than the supply pressure.

(8) COMMISSION means the Texas Commission on Environmental Quality.

(9) CONTAMINATION has the meaning prescribed by the Plumbing Code.

(10) CROSS CONNECTION means an actual or potential connection to a public or private water system through which it is possible to introduce contamination or pollution.

(11) CUSTOMER means a person or public water system receiving potable water service from the City.

(12) DIRECTOR means the director of the Water Utility.

(13) DOUBLE CHECK VALVE ASSEMBLY has the meaning prescribed by the Plumbing Code.

(14) POLLUTION has the meaning prescribed by the Plumbing Code.

(15) POTABLE WATER means water that complies with the rules of the Commission for human consumption and other domestic uses.

(16) PRIVATE PLUMBING SYSTEM means the plumbing located between the service connection and the point of use including pipes, conduits, tanks, receptacles, fixtures, equipment and appurtenances used to produce, convey, recycle, store, or use potable water on a customer's premises.

(17) PUBLIC WATER SYSTEM means a system for the provision of piped water for human consumption as defined in Section 290.38 (*Definitions*) of Title 30 of the Texas Administrative Code.

(18) RECLAIMED WATER has the meaning prescribed in Section 25-9-382(12) (*Definitions*) of the City Code.

(19) REDUCED PRESSURE BACKFLOW PREVENTION ASSEMBLY means two independently acting approved check valves together with a hydraulically operating, mechanically independent pressure differential relief valve located between the check valves.

(20) SERVICE CONNECTION means the point of connection between the public water system and the customer's water system.

(21) TESTER means a person licensed by the Commission and registered with the utility as a backflow prevention assembly tester.

(22) USED WATER means water supplied by a public water system to a customer's water system that has passed through the point of delivery.

(23) UTILITY means the Water Utility.

§ 15-1-3 RULEMAKING.

The director may adopt regulations to implement this chapter that are not in conflict with this chapter, the Plumbing Code, the Commission's *Rules and Regulations for Public Water Systems*, Chapter 290 (*Public Drinking Water*) of Title 30 of the Texas Administrative Code, Chapter 341 (*Minimum Standards of Sanitation and Health Protection Measures*) of the Texas Health and Safety Code, and United States Code Title 42, Chapter 6A, Subchapter XII (*Safety of Public Water Systems*).

§ 15-1-4 FEES.

Council shall set the fees authorized by this chapter by separate ordinance.

ARTICLE 2. CROSS CONNECTION CONTROL PROGRAM.

§ 15-1-11 CROSS CONNECTIONS PROHIBITED.

(A) A person may not:

(1) install or maintain a potable water supply, plumbing fixture, equipment, or construction device that creates a cross-connection, or allows reclaimed, contaminated, or polluted water, mixtures or other substances, or gases, to enter potable water by back siphoning, backpressure, or other means;

(2) connect an auxiliary water supply to the City's public water system or a private plumbing system unless a backflow prevention assembly or

air gap is installed as required by this chapter;

(3) use a chemical or substance that may cause pollution or contamination of the public water system without installing a backflow prevention assembly or device as required by this chapter;

(4) connect to the public water system a mechanism or system designed to return reclaimed or used water to the public water system;

(5) connect a reclaimed water system to the City's public water system or to the potable water system of a customer who receives potable water service from the City's public water system; or

(6) connect a vehicle or equipment capable of producing back siphonage or back pressure without installing a backflow prevention assembly or device as required by this chapter.

(B) A person may not install a backflow prevention assembly in a private plumbing system, fire protection system, process water system, irrigation system, or other water distribution system connected to the City's public water system unless:

(1) the assembly has been designed, manufactured, and tested in accordance with the standards adopted by the American Water Works Association;

(2) the assembly has been tested and listed as an approved backflow prevention assembly by the University of Southern California Foundation for Cross Connection Control and Hydraulic Research; and

(3) the installation complies with the Utility Criteria Manual.

§ 15-1-12 CUSTOMER DUTIES.

(A) A customer shall install a new, replacement, or reconditioned backflow prevention assembly or device in accordance with this chapter and the Plumbing Code.

(B) Not later than the fifth day after the date a new, replacement, or reconditioned backflow prevention assembly is installed and tested, a customer shall submit to the director the original test and maintenance report on the backflow prevention assembly.

(C) The director may not install or authorize the installation of a permanent water meter unless the customer has submitted a test and maintenance report

for each backflow prevention assembly installed on a site.

§ 15-1-13 SPECIAL HAZARDS.

(A) In this section, RETAIL CUSTOMER means an end user who receives potable water service from the City on a retail basis.

(B) A customer who installs a high hazard testable backflow prevention assembly that protects potable water from hazards to the health, safety, or life of humans or animals shall test the assembly annually on or before the date established by the director. A tester registered with the utility shall perform the test.

(C) A customer who connects a chemical- or other additive-containing automatic fire protection system, standpipe system, or privately owned fire hydrant to the City's public water system must install and test a reduced pressure backflow prevention assembly before operating the system or hydrant.

(D) A customer who takes potable water from a fire hydrant for use at a site must install and test a reduced pressure backflow prevention assembly before taking water.

(E) Before using a service connection to the City's public water supply, a retail customer who has a service connection to a reclaimed water system must:

- (1) install and test a reduced pressure backflow assembly at each potable water service connection;
- (2) install and test a backflow prevention assembly at each reclaimed water service connection;
- (3) on or before the date established by the director, conduct an annual operational test of each backflow prevention assembly installed at each:
 - (a) potable water service connection; and
 - (b) reclaimed water service connection; and
- (4) not later than the date established by the director, conduct an annual cross connection inspection as prescribed by the Utility Criteria Manual.

(F) A person using a water-hauling vehicle to take water from the City's public water system must obtain a water meter under Chapter 15-3 (*Fire*

Hydrant Regulations), and

- (1) permanently install an air gap or a reduced pressure backflow prevention assembly on the vehicle; or
 - (2) install a reduced pressure backflow prevention assembly on the fire hydrant or other connection to the City's public water supply.
- (G) On or before the date established by the director, a person using a water-hauling vehicle to take water from the City's public water system must annually:
- (1) have the vehicle inspected and permitted by the utility as required by Chapter 15-5 (*Fire Hydrant Regulations*); and
 - (2) test the backflow prevention assembly and report the results of the test as required by this chapter.

§ 15-1-14 INSPECTION AND TESTING OF BACKFLOW PREVENTION ASSEMBLIES.

- (A) A customer shall test a backflow prevention assembly as required by Section 290.044 (*Water Distribution*) of Title 30 of the Texas Administrative Code.
- (B) If necessary to protect the City's public water system, the director may require testing by a tester registered with the City more frequently than required by state law.
- (C) A customer shall pay the cost of testing and related costs.
- (D) A customer must repair, overhaul, or replace an assembly that fails a test before returning the assembly to service.
- (E) A customer shall keep a record of each test, repair, and overhaul of a backflow prevention assembly and submit the original record to the director not later than the fifth day after a test, repair, or overhaul.

§ 15-1-15 REMOVAL OR REPLACEMENT.

- (A) A customer may not remove from use, relocate, or substitute another backflow prevention device or assembly without the approval of the director.
- (B) A replacement backflow prevention assembly must comply with this chapter and the Plumbing Code.

(C) A customer shall replace a backflow prevention assembly or device that:

- (1) is removed or relocated from an existing installation;
- (2) the director determines requires more than minimum maintenance;
or
- (3) constitutes a hazard to health.

§ 15-1-16 CROSS CONNECTION SURVEY.

(A) The director may conduct a cross connection survey of the customer's potable water system as a condition of service to prevent or eliminate cross connections between the customer's potable water system and contamination or pollution sources.

(B) The director shall inspect:

- (1) a building and surrounding property for potential cross connections;
- (2) the availability of an auxiliary or reclaimed water supply;
- (3) the use of a pollutant, contaminant and other liquid, solid, or gaseous substance;
- (4) backflow prevention assembly installation; and
- (5) backflow prevention certification and test records.

(C) The director shall require a customer to eliminate possible cross connections between the customer's potable water systems and the public water supply as provided in Article 5 (*Enforcement*).

§ 15-1-17 MAINTENANCE RESPONSIBILITY.

The customer is responsible for general maintenance and upkeep of a backflow prevention assembly. An owner, tenant, or lessee is jointly responsible for maintenance.

§ 15-1-18 RETENTION OF RECORDS.

(A) A person installing, testing, or maintaining a backflow prevention device or assembly shall retain and make available for inspection and copying by the director backflow prevention assembly test and maintenance records and information required by this chapter.

(B) Unless federal or state law requires information to be retained for a longer

period, a person described in Subsection (A) shall retain a record under this chapter for at least three years from the date the record is created.

(C) The record retention period is automatically extended for:

- (1) the duration of compliance litigation under this chapter; or
- (2) a longer period set by an enforcement order issued under this chapter.

ARTICLE 3. TESTER REGISTRATION.

§ 15-1-31 LICENSED TESTER.

(A) A person shall register with the director before the person conducts a test of a backflow prevention assembly connected to the City's public water system.

(B) An applicant may apply to the director for registration as a licensed tester.

(1) The director shall determine whether an applicant is eligible for registration.

(2) Commission licensure demonstrates eligibility.

(C) A registration remains in effect unless:

(1) the tester fails to maintain eligibility for registration; or

(2) the director revokes the registration.

(D) To test a backflow prevention assembly regulated under this chapter, a tester must obtain licensure from the Commission and renew registration with the director.

(E) A tester must re-establish eligibility if the tester's Commission licensure expires.

§ 15-1-32 PROOF OF EQUIPMENT.

(A) An applicant licensed as a tester must furnish evidence to show that the tester has the necessary tools and equipment to properly test and certify backflow prevention assemblies.

(B) A tester must provide the manufacturer, model number, and serial number of each test kit to the director.

(C) A tester must:

- (1) on or before the date established by the director, annually test each recorded test kit for accuracy;
- (2) calibrate the test kit to an accuracy of at least two percent; and
- (3) maintain the test kit at an accuracy of at least two percent.

(D) A tester must:

- (1) register test gauges used by the tester; and
- (2) list the registered serial numbers of test gauges on test and maintenance reports that are submitted to the director.

§ 15-1-33 QUALITY CONTROL.

(A) A tester must perform a competent and accurate certification of each backflow prevention assembly tested.

(B) The director may take the following quality control measures relating to a certified tester:

- (1) retest a certified backflow prevention assembly;
- (2) send written notice of test discrepancies to the tester who certified a backflow prevention assembly; and
- (3) use other necessary investigative methods.

§ 15-1-34 REVOCATION.

The director may revoke a tester's registration for:

- (1) failure to register the serial number or calibrate gauges annually on or before the date established by the director;
- (2) use of a gauge that does not meet the manufacturer's calibration standards in preparation of a backflow test and maintenance report;
- (3) three testing or reporting discrepancies within a two-year period, beginning with the first discrepancy, including:

- (a) false, incomplete, or inaccurate reporting of test completion or certification of a backflow prevention assembly;
- (b) use of inaccurate gauges;
- (c) improper operational certification methods; or
- (d) incomplete backflow test and maintenance reports;
- (4) failure to maintain licensure with the Commission; or
- (5) conviction of a violation of this chapter.

§ 15-1-35 DESIGN CHANGES.

A tester may not change the design or operational characteristics of a backflow prevention assembly during repair or maintenance unless the director approves the change.

§ 15-1-36 UTILITY PERSONNEL.

A City employee who inspects, tests, or surveys a backflow prevention system under Section 15-1-17 (*Cross Connection Survey*), 15-1-33 (*Quality Control*), or 15-1-61 (*Inspections*) must be licensed by the Texas State Board of Plumbing Examiners and be licensed by the Commission as a backflow prevention assembly tester.

ARTICLE 4. CONNECTION BY OTHER PUBLIC WATER SYSTEM.

§ 15-1-51 REQUIRED PREVENTION METHODS FOR A PUBLIC WATER SYSTEM WITH A PRE-EXISTING CONNECTION.

(A) A public water system with a water service connection to the City's public water system on *[the effective date of the ordinance]* shall:

- (1) comply with the inspection requirements of Texas Administrative Code Title 30, Section 290.44 (*Water Distribution*);
- (2) adopt and enforce a plumbing code or service regulation no less stringent than a plumbing code approved for use in the state of Texas;
- (3) conduct inspections to ensure that its customers are in compliance with the requirements of Subsections (A)(1) and (2); and
- (4) provide records of its cross connection or backflow prevention

program and enforcement action to the director upon request;

(5) install one or more gravity overflows at a receiving vessel or reservoir with a minimum capacity equal to or greater than the maximum possible fill rate at 60 pounds per square inch at the base of the vessel or reservoir; or

(6) install an air gap external to a tank or receiving vessel at a service connection.

(B) A public water system that purchases or obtains water from the City as a sole source through a connection to the City's public water system made on or before *[the effective date of the ordinance]* may:

(1) comply with Subsections (A)(1) through (4);

(2) comply with Subsection (A)(5);

(3) comply with Subsection (A)(6); or

(4) install, test, and maintain a backflow prevention assembly at each service connection to the City's public water system.

(C) A public water system that purchases or obtains water from the City through a connection to the City's public water system made on or before *[the effective date of the ordinance]* and purchases or obtains water from an auxiliary water supply on or before *[the effective date of the ordinance]* may:

(1) comply with Subsections (A)(1) through (4);

(2) comply with Subsection (A)(5);

(3) comply with Subsection (A)(6); or

(4) install, test, and maintain a reduced pressure backflow prevention assembly at each service connection to the City's public water system.

(D) A public water system that fails to comply with this section by *[five years from the effective date of the ordinance]* commits an offense.

§ 15-1-52 CONSTRUCTION REQUIREMENTS FOR SOLE SOURCE PURCHASER.

A public water system that purchases or obtains water from the City as a sole source through a connection made after *[effective date of the ordinance]* shall, before

using the connection:

- (1) install, test, and maintain a backflow prevention assembly at each service connection to the City's public water system;
- (2) install one or more gravity overflows at a receiving vessel or reservoir with a minimum capacity equal to or greater than the maximum possible fill rate at 60 pounds per square inch at the base of the vessel or reservoir; or
- (3) install an air gap external to a tank or receiving vessel at a service connection.

§ 15-1-53 CONSTRUCTION REQUIREMENTS FOR NON-SOLE SOURCE PURCHASER.

A public water system that purchases or obtains water from the City through a connection made after [effective date of ordinance] and purchases or obtains water from another source shall, before using the connection:

- (1) install, test, and maintain a reduced pressure backflow prevention assembly at each service connection to the City's public water system;
- (2) install one or more gravity overflows at a receiving vessel or reservoir with a minimum capacity equal to or greater than the maximum possible fill rate at 60 pounds per square inch at the base of the vessel or reservoir; or
- (3) install a physical air gap external to a tank or receiving vessel at a service connection.

§ 15-1-54 CERTIFICATION.

(A) A public water system must obtain certification by a tester for each double check valve assembly and reduced pressure backflow prevention assembly installed as prescribed by Section 15-1-52 (*Construction Requirements For Sole Source Purchaser*) or Section 15-1-53 (*Construction requirements For Non-Sole Source Purchaser*):

- (1) on installation; and
- (2) annually during use, on or before the date established by the director.

(B) A public water system must provide a copy of a certification issued under

this section to the director not later than the fifth day after the certification is completed.

ARTICLE 5. ENFORCEMENT.

§ 15-1-61 INSPECTIONS.

The director may inspect or require an inspection of property or facilities, real property, or buildings connected to the public water system. An inspection may include:

- (1) a survey of the property or facilities, real property, or buildings for cross connections;
- (2) inspection of existing backflow prevention assembly installation; and
- (3) annual testing and certification of assemblies by a licensed backflow prevention assembly tester, on or before the date established by the director.

§ 15-1-62 RIGHT OF ENTRY.

(A) The director may enter a customer's property or facility, including an easement or private property where a public or private potable water system is located, to gain access to a cross connection, backflow prevention assembly, or piping. The director's right of entry is a condition of a customer's water service or connection to the City's public water system.

(B) The director may inspect a customer's potable water system, piping, or the records required under this chapter or the rules of a public water system with which the City has an agreement for wholesale water service.

(C) A customer shall promptly remove, at the customer's sole expense, a security barrier or other obstacle to access by the director to the customer's property or facility.

(D) In connection with action by the director under this chapter, a customer with water service provided by the utility commits an offense if the person:

- (1) denies the director right of entry;
- (2) fails to remove a barrier or obstacle to access by the director; or

(3) unreasonably delays access by the director.

§ 15-1-63 SEARCH WARRANT.

(A) The director may apply to the municipal court or other court of competent jurisdiction for a search warrant if:

(1) a customer denies the director access to a building, structure, property, or a public or private potable system connected to the City's public water system; or

(2) the director has probable cause to believe there is:

(a) a violation of this chapter or other enforcement order;

(b) a need to conduct a cross connection inspection or cross connection survey; or

(c) a threat to public health or safety.

(B) The director may make an inspection without a warrant to remedy an imminent danger to the public health and safety.

§ 15-1-64 OFFENSES.

A person commits an offense if the person:

(1) commits or assists in the commission of a violation of this chapter;

(2) is the customer, owner, occupant, lessee, or manager of property or facilities that are the source of a violation of this chapter; or

(3) obstructs or delays the director's access to a customer's property or facilities.

§ 15-1-65 NOTICE OF VIOLATION.

(A) The director may serve a written notice of violation on a person who has violated:

(1) the conditions of registration as a tester;

(2) a plumbing permit;

(3) installation requirements of a backflow prevention assembly or device; or

(4) a requirement of this chapter.

(B) The director may take any enforcement action without first issuing a notice of violation.

§ 15-1-66 CRIMINAL PENALTY.

(A) A person violating this chapter commits a Class C misdemeanor, punishable in accordance with Section 1-1-99 (*Offenses; General Penalty*) of the Code by a fine not to exceed \$2,000. Each occurrence of a violation of this chapter is a separate offense.

(B) Proof of a culpable mental state is not required for conviction of an offense under this chapter.

§ 15-1-67 CIVIL REMEDIES.

(A) The city attorney may enforce this chapter by injunction, declaratory relief, or other action at law or in equity.

(B) The city attorney may initiate a suit against the owner, occupant, tenant, manager, or water customer of property or facility that is the source of a violation of this chapter, to recover a civil penalty not to exceed \$5,000 for each violation. Each day that a violation continues constitutes a separate violation.

§ 15-1-68 LIABILITY.

(A) A person or public water system may be held liable for a violation of this chapter if the person:

- (1) commits or assists in the commission of a violation;
- (2) is an authorized representative under this chapter; or
- (3) is the owner, occupant, tenant, manager, or water customer of premises, property or a facility that is the source of pollution or contamination of the potable or reclaimed water system in violation of this chapter.

(B) A person who violates this chapter is liable to the City for expenses, loss, or damage incurred by the City.

§ 15-1-69 TERMINATION OF SERVICE.

(A) The director may terminate water or wastewater service in accordance with this section.

(B) The director may terminate water or wastewater service if the customer, owner, tenant, lessee, or water customer does not correct a violation within five days after the person becomes aware of the violation.

(C) The director may refuse or terminate water or wastewater service if a backflow prevention assembly is not installed, certified for operation, repaired or replaced as required by this chapter.

(D) The director may terminate water or wastewater service if a customer fails to terminate a connection between a potable water system and a reclaimed water system or an auxiliary water supply.

(E) The director may terminate water or wastewater service to a customer who does not pay a billing by the due date.

§ 15-1-70 EMERGENCY SUSPENSION.

(A) On receipt of informal written or verbal notice, the director may suspend water service and disconnect a private or public water system from the City's public water system without a hearing if the director determines that contamination or pollution due to a cross connection:

- (1) presents an imminent threat to the City's public water system;
- (2) presents an imminent danger to public health or safety;
- (3) presents a threat to the environment; or
- (4) threatens to interfere with the operation of the City's public water system.

(B) A person notified of the suspension of the person's service shall immediately stop use of the City's public water system water and the director shall disconnect the City's public water system from the person's private or public water system.

(C) If a person fails to immediately comply with an emergency suspension order, the director may take action the director determines is necessary to prevent contamination or pollution, or to minimize damage to the City's public water system, the public, property, or the environment.

(D) The director may take action under this section even if termination

proceedings have been initiated under Section 15-1-69 (*Termination of Service*).

(E) A suspension under this section is not affected by evidence that the danger caused by the contamination or pollution due to a cross connection of the City's public water system has ceased.

§ 15-1-71 CUMULATIVE REMEDIES.

The remedies authorized under this chapter are cumulative unless specifically prohibited by state or federal regulation.

§ 15-1-72 VOLUNTARY COMPLIANCE.

(A) The director may accept from a person responsible for a violation under this chapter a written agreement for voluntary compliance, or issue a consent order that establishes an agreement for voluntary compliance.

(B) An agreement under this section must:

- (1) describe the violation;
- (2) describe the specific action the person must take to correct the violation;
- (3) specify the time period for the person to complete the corrective action;
- (4) be signed and dated by the person responsible for compliance; and
- (5) be judicially enforceable.

(C) The director may take action to enforce compliance with an agreement under this section.

§ 15-1-73 SHOW CAUSE HEARING.

(A) The director may order a person responsible for a violation of this chapter or an enforcement order to appear before the director and show cause why a proposed enforcement action should not be taken.

(B) The director shall serve notice to a person under this section including:

- (1) the time and place for a hearing;
- (2) the nature of the violation;

- (3) the proposed enforcement action;
- (4) the reasons for the enforcement action; and
- (5) a request that the person show cause why the proposed enforcement action should not be taken.

(C) The director shall serve notice under this section in person or by certified mail, return receipt requested, no later than the third day before the hearing. Notice may be served on an employee, agent or other authorized representative of a person responsible for a violation.

(D) The director may take immediate enforcement action following a noticed show cause hearing.

§ 15-1-74 COMPLIANCE ORDER.

(A) If the director determines that a person has violated this chapter or an enforcement order, the director may issue an order to the person directing the person to correct the violation within a specified time period.

(B) If a person does not comply within the time period provided, the director may disconnect water or wastewater service to the non-compliant premises until the person installs an operational facility, device, or equipment to correct the violation.

§ 15-1-75 CEASE AND DESIST ORDER.

If the director determines that a person is violating this chapter or an enforcement order, or that a past violation committed by the person is likely to recur, the director may issue an order directing the person to:

- (1) immediately cease and desist the violation;
- (2) immediately comply with this chapter or an enforcement order; and
- (3) take necessary remedial or preventive action to address a present, continuing, or threatened violation, including halting operation.

PART 2. This ordinance takes effect on _____, 2004.

PASSED AND APPROVED

§
§

_____, 2004

§ _____

Will Wynn
Mayor

APPROVED: _____
David Allan Smith
City Attorney

ATTEST: _____
Shirley A. Brown
City Clerk

No. 120303-D
WATER AND WASTEWATER COMMISSION RESOLUTION
ORDINANCE REPEALING CHAPTER 18-5 OF THE CITY CODE AND ADOPTING A NEW CHAPTER 18-5 RELATING TO CROSS CONNECTION CONTROL REGULATIONS, CREATING OFFENSES, AND PROVIDING PENALTIES. THE REPEAL AND ADOPTION OF THE NEW CHAPTER 18-5 WILL ALLOW THE CITY TO COMPLY WITH RECENT CHANGES TO STATE REGULATIONS APPLICABLE TO CROSS CONNECTION CONTROL PROGRAMS

December 3, 2003
REGULAR MEETING
VOTE: 6-0-0-0

Motion made by: Warner
Commissioners Consenting: Kirfman, Lee, Miller, Friese, Coleman
Commissioners Dissenting:
Commissioners Abstaining:
Commissioners Absent:

The Water and Wastewater Commission recommends the Council authorize the repealing Chapter 18-5 of the City Code and adopting a new Chapter 18-5 relating to Cross Connection Control regulations, creating offenses, and providing penalties. The repeal and adoption of the new Chapter 18-5 will allow the City to comply with recent changes to state regulations applicable to cross connection control programs.



Michael Warner, Chairperson
Water and Wastewater Commission

12/3/03
Date