

ORDINANCE NO. 2022-_____

AN ORDINANCE amending Title 7, Chapter 7.68, Water Division, of the Yakima Municipal Code, amending guidelines for backflow prevention assembly inspection and testing, and removing some of the consequences of noncompliance that are no longer in practice by the City.

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

Section 1. Section 7.68.070 entitled “Cross-connection control” is amended and reads as follows:

7.68.070 Cross-connection control.

A. Installing or maintaining any uncontrolled cross-connection that may endanger the quality of the public water supply of the city of Yakima shall be unlawful and is prohibited. Any such cross-connection now existing or hereafter installed is declared to be a public nuisance and shall be abated immediately.

1. The city of Yakima water/irrigation division (the city) hereby adopts by reference the standards and requirements of WAC [246-290-490](#), as now written or hereafter amended.
2. The city of Yakima water/irrigation division manager or the cross-connection control program manager shall have the authority to establish requirements more stringent than state regulations if he/she deems the conditions so dictate. These policies shall be published and available for public use.
3. The control or elimination of cross-connections shall be in accordance with the applicable sections of WAC [246-290](#), the City of Yakima Municipal Code and the policies and procedures established by the city of Yakima water/irrigation division.

B. Only those backflow prevention assemblies and controls identified in the most recent edition of Backflow Prevention Assemblies Approved for Installation in Washington State as published by the Washington State Department of Health or the Manual of Cross Connection Control as published by the USC Foundation for Cross Connection Control and Hydraulic Research shall be approved for new installations.

C. 1. Where a property has an existing water service and the potable water supply system is protected from a cross-connection/backflow by a nonconforming assembly (i.e., an assembly that is no longer on the approved assemblies list or does not meet the current standards or requirements of the WAC or this code or policies), the assembly, at the owner's risk, may be allowed to remain in service if it meets the following criteria:

- a. At the time of installation the assembly was a Washington State approved backflow prevention assembly; and
- b. At the time the assembly was installed its installation was approved by the city as appropriate for the degree of hazard; and

c. The assembly does not meet any of the criteria for upgrading as required in subsection (C)(2) of this section.

2. All nonconforming cross-connection/backflow prevention assemblies shall be replaced or upgraded to current standards as required in subsection A and B of this section at such time as any of the following conditions exist:

- a. The assembly fails to operate properly; or
- b. The assembly fails its required annual testing and certification; or
- c. The assembly requires continual and/or excessive repair or maintenance; or
- d. The degree of hazard at the premises has increased from that which existed at the time the assembly was installed; or
- e. The water service, fire sprinkler system or plumbing have been or are modified from the originally approved condition.

D. When previously unknown, unprotected and improperly protected cross-connections are identified, the property owner shall be notified in writing of the noncompliant condition, the degree of the hazard, and control measures and/or backflow prevention assembly required to abate the hazard. This notice shall be provided in accord with subsection J of this section. The property owner shall implement all required corrective measures within the time frame specified in the notice provided.

E. All newly installed or relocated backflow prevention assemblies shall be inspected, tested and certified by a Washington State certified backflow assembly tester approved by this section.

F. 1. Pursuant to WAC [246-290-490](#), the property owner is required to have backflow prevention assemblies inspected, tested and certified by a Washington State certified backflow assembly tester (BAT) at least once per year.

- a. The city shall send notice of this requirement; ~~and,~~
- b. The city shall provide assembly device information such as manufacturer, model, serial number, hazard number, size and device location. ~~an approved inspection/testing report sheet; and~~
- c. The property owner shall be responsible for selecting and contacting a certified BAT from the city contractor list that is provided to them. The selected contractor will submit a report or reports on behalf of the customer pursuant to city guidelines. send a copy of the completed inspection/testing report to the city of Yakima water/irrigation division; and
- d. The city will assign the annual testing schedule.

2. If a backflow assembly fails the annual inspection/test the property owner shall have thirty days from the date of notification of said failure to have the assembly repaired or replaced and retested by a Washington State certified backflow assembly tester.

G. All facilities that receive water service from the city of Yakima are subject to a ~~minimum of a bi-annual~~ hazard assessment and comprehensive water audit survey to be performed by the city of Yakima water/irrigation personnel. Upon due notice to the property owner, the city shall be provided access to the property and plumbing systems to conduct the hazard assessment and comprehensive water audit.

H. The specific requirements identified in this subsection do not replace or supersede the requirements of the Uniform Plumbing Code as adopted by the city of Yakima.

I. Property owners who fail to comply with the provisions and requirements set forth in this subsection will be sent a notice advising of the noncompliant condition stating the requirements and remedies necessary to correct the noncompliant condition and the time within which corrections must be completed and reported to the city. In the event a property owner fails to correct a noncompliant condition and report the correction as directed in the notice, the city may:

1. Terminate water service until the noncompliance is satisfactorily corrected.
2. Conduct the necessary testing ~~and/or~~, inspecting ~~and/or repair~~ of the noncompliant condition, ~~and charge the following costs to the property owner as an additional utility charge:~~
 - a. ~~The inspection cost of three hundred fifty dollars to inspect or test a cross-connection device.~~
 - b. ~~The cost to install, repair or replace a noncompliant device, said cost to include an administration fee of one hundred dollars.~~

J. Notice to Property Owner. If, after preliminary investigation, the city determines that a property is noncompliant with the requirements of this section, the city shall serve upon the property owner, according to the provisions of subsection K of this section, a notice that shall state, identify, or describe:

1. The subject property including at least the property address and county assessor's tax parcel number;
2. The conditions on the subject property that are illegal and that render the property noncompliant with the requirements of this section;
3. What must be done to correct such noncompliant condition(s);
4. The deadline for correction of such condition(s), which will allow thirty days for correction or some mutually agreeable completion date;
5. The potential termination of service ~~and/or costs and administrative fee that may be charged to the owner~~ as a consequence of the property owner's failure to timely correct the described noncompliant conditions;
6. ~~The city's intent to proceed to correct the described noncompliant conditions on the subject property if such conditions are not corrected before the stated deadline by the property owner;~~

~~6.7.~~ That the property owner shall be given the right to respond to the notice;

~~7.8.~~ That if the property owner agrees to correct the noncompliant condition the city and the owner may negotiate a voluntary correction agreement in which, among other things, the owner:

- a. Admits that the noncompliant condition(s) exist(s);
- b. Promises to correct the illegal condition(s) by an agreed deadline;
- c. Is advised of his/her rights under the state and federal constitutions to refuse consent to entry, to limit the scope of consent to entry, and to withdraw consent to entry once given, and that the owner consents to entry on the subject property by the city or persons under contract with the city to correct any nonconforming condition(s) that are not corrected by the stated deadline;~~;- and~~

~~d.—Agrees to pay the city's costs and an administrative fee to correct the nonconforming conditions if the owner fails to do so;~~

~~8.9.~~ If the noncompliant property is lawfully occupied by someone other than the property owner, no voluntary correction agreement will be offered unless such occupants lawfully occupying the property also consent to entry by the city or persons under contract with the city to correct the noncompliant condition(s) described that are not corrected by the deadline;

~~9.10.~~ Advise the owner that if the illegal conditions are not corrected, the city will terminate water service.

K. Service of Notice. If, after determining that a noncompliant condition exists under this section, the city shall cause to be served, either personally or by certified mail, with return receipt requested, upon the property owner identified in the utility billing records and/or cross-connection records of the city the notice identified in subsection J of this section. In the event the property owner cannot be ascertained by the city in the exercise of reasonable diligence, and the city provides an affidavit to that effect, then service of such notice may be made either by personal service or by mailing a copy of the notice and order by certified mail, postage prepaid, return receipt requested, to each such person at the address of the property involved in the proceedings, and mailing a copy of the notice by first-class mail to any address of each such person in the records of the county auditor for the county where the property is located. Such notice shall advise all parties in interest of the responsibility to correct the noncompliant condition and otherwise meet the notice requirements set forth in subsection J of this section. (Ord. 2011-18 § 1, 2011: Ord. 2010-02 § 1 (part), 2010: Ord. 2006-07 § 37, 2006: Ord. 97-16 § 8, 1997: Ord. 3078 § 2, 1988).

Section 2. This ordinance shall be in full force and effect 30 days after its passage, approval, and publication as provided by law and by the City Charter.

PASSED BY THE CITY COUNCIL, signed and approved this 6th day of December, 2022.

ATTEST:

Janice Deccio, Mayor

Sonya Claar Tee, City Clerk

Publication Date: _____

Effective Date: _____