Instrument # 381441
REXBURG, MADISON, IDAHO
3-25-2013 10:09:41 No. of Pages: 8
Recorded for : CITY OF REXBURG Fee: 0.00
KIM H. MUIR
Ex-Officio Recorder Deputy

CITY OF
REXBURG
America's Family Community

ORDINANCE NO. 1093

AN ORDINANCE OF THE CITY OF REXBURG, IDAHO, REPEALING ORDINANCE 618; RELATING TO CROSS-CONNECTIONS INTO THE CITY WATER SUPPLY SYSTEM; STATING THE PURPOSE; DEFINING TERMS; REQUIRING BACKFLOW PREVENTION DEVICES TO PROTECT THE CITY WATER SUPPLY, IN ACCORDANCE WITH ALL APPLICABLE ORDINANCES, LAWS, STANDARDS, RULES AND REGULATIONS; SPECIFYING THE TYPES OF CONNECTIONS FOR WHICH BACKFLOW PREVENTION DEVICES SHALL BE REQUIRED, INCLUDING PREMISES HAVING AN AUXILIARY WATER SUPPLY, PREMISES HAVING INTERNAL CROSS-CONNECTIONS, PREMISES WITH RESTRICTED ENTRY, PREMISES HAVING A HISTORY OF CROSS CONNECTIONS, PREMISES ON WHICH SUBSTANCES ARE HANDLED UNDER PRESSURE, PREMISES WHERE TOXIC OR HAZARDOUS MATERIALS ARE HANDLED, AND SPECIFIC TYPES OF FACILITIES; PROVIDING FOR TYPES OF PROTECTIVE DEVICES AND MANNER OF INSTALLATION; PROVIDING FOR INSPECTION AND TESTING OF BACKFLOW PREVENTION DEVICES; PROVIDING FOR TERMINATION OF SERVICE IN THE EVENT OF NON-COMPLIANCE; PROVIDING FOR TESTING OF BACKFLOW DEVICE(S) AT PROPERTY OWNER'S EXPENSE IN THE EVENT OF NON-COMPLIANCE; PROVIDING FOR CROSS-CONNECTION INSPECTION BEFORE DELIVERY OF WATER AND PERIODICALLY THEREAFTER; PROVIDING FOR INSTALLATION PERMITS; PROVIDING REMEDIES FOR ENFORCEMENT, INCLUDING TERMINATION OF WATER SERVICE, CORRECTION AT THE EXPENSE OF THE LANDOWNER AND LEVY OF A SPECIAL ASSESSMENT; DECLARING VIOLATIONS OF THE ORDINANCE TO BE A NUISANCE; PROVIDING FOR PROSECUTION OF A CIVIL ACTION; PROVIDING THAT VIOLATIONS OF THE ORDINANCE CONSTITUTE A MISDEMEANOR; DISCLAIMING LIABILITY OF THE CITY; PROVIDING THAT THE PROVISIONS OF THE ORDINANCE ARE SEVERABLE; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF REXBURG, IDAHO:

SECTION I: PURPOSE AND SCOPE.
The purpose of this ordinance is to protect the public health of water consumers of the City of Rexburg by the control of actual and/or potential cross-connections.

SECTION II: DEFINITIONS.

1. "Backflow". The flow other than the intended direction of flow, of any foreign liquids, gases, or substances into the distribution system of the City water supply.

2. "Backflow Prevention Device". A device to counteract back pressure or prevent back siphonaqe.

3. "City". City means the City of Rexburg and its designated representatives.

4. "Contamination". The entry into or presence in a City water supply of any substance which may be deleterious to health and/or quality of the water.

5. "Cross-Connection". Any physical arrangement whereby the City water supply is connected, directly or indirectly, with any other water supply system, sewer, drain,

conduit, pool, storage reservoir, plumbing fixture, or other device which contains or may contain contaminated water, sewage or other waste or liquids of unknown or unsafe quality which may be capable of imparting contamination to the City water supply as a result of backflow.

SECTION III: CROSS-CONNECTIONS.
No water service connection to any premises shall be installed or continued in the City unless the water supply is protected by backflow prevention devices as may be required by this ordinance, Idaho Code, and all standards, rules, and regulations of the State of Idaho, the Idaho Department of Health and Welfare, and any other Federal, State, County, or City authority or agency thereof. The installation or maintenance of a cross-connection which will endanger the water quality of the potable water supply of the City of Rexburg shall be unlawful and is prohibited. Any such cross-connection now existing or hereafter installed is hereby declared to be a public nuisance and the same shall be abated. The control or elimination of cross-connections shall be in accordance with this ordinance, Idaho Code, and all standards, rules, and regulations of the State of Idaho, the Idaho Department of Health and Welfare, and any other Federal, State, County, or City authority or agency thereof, together with the latest addition of appropriate manuals of standard practice pertaining to cross-connection control enacted by the City and any applicable County, State, and Federal authorities and agencies. The City shall have the authority to establish requirements more stringent than State regulations if it deems that the conditions so dictate.

SECTION IV: USE OF BACKFLOW PREVENTION DEVICES.

1. Backflow prevention devices shall be installed in connection with water service connections or within any premises where, in the judgment of the City, the nature and extent of the activities, or the materials stored on the premises, would present an immediate and dangerous hazard to health and/or be deleterious to the quality of the water should a cross-connection occur; even though such cross-connection does not exist at the time the backflow prevention devices shall be installed under circumstances including but not limited to the following:

   A. Premises having an auxiliary water supply, unless the quality of the auxiliary supply is in compliance with Idaho Code, and all standards, rules, and regulations of the State of Idaho, the Idaho Department of Health and Welfare, and any other Federal, State, County, or City authority or agency thereof and is acceptable to the City.

   B. Premises having internal cross-connections that are not correctable, or intricate plumbing arrangements which make it impracticable to ascertain whether or not cross connections exist.

   C. Premises where entry is restricted so that inspections for cross-connections cannot be made with sufficient frequency or at sufficiently short notice to ensure that cross connections do not exist.

   D. Premises having a repeated history of cross connections being established or re-established.

   E. Premises on which any substance is handled under pressure so as to permit entry into the City water supply, or where a cross-connection could reasonably be expected to occur. This shall include the handling of process waters and cooling waters.

   F. Premises where materials of a toxic or hazardous nature are handled in such a way that if back siphonage should occur, a serious health hazard might result.

   G. The following types of facilities will fall into one of the above categories where a backflow prevention device is required to protect the City water supply. A backflow prevention device shall be installed at these facilities unless the City and applicable State, County, and Federal authorities and agencies determine that no hazard exists:
      i. Hospitals, mortuaries, clinics
      ii. Laboratories, including school laboratories

iii. metal plating industries
iv. Sewage treatment plants
v. Food or beverage processing plants
vi. Chemical plants using a water process
vii. Petroleum processing or storage plants
viii. Car washes
ix. Dry cleaners

Other premises as specified by the City, where backflow prevention devices are required to protect the City water supply.

2. The type of protective device required shall depend on the degree of hazard which exists:

   A. An air-gap separation or a reduced pressure principle backflow prevention device shall be installed where the City water supply may be contaminated with sewage, industrial waste of a toxic nature, or other contaminant which could cause a health or system hazard.

   B. In the case of a substance which may be objectionable but not hazardous to health, a double check valve assembly, air prevention device shall be installed.

3. Backflow prevention devices required by this ordinance shall be installed at the meter, at the property line of the premises when meters are not used, or at a location designated by the City. The device shall be located so as to be readily accessible for maintenance and testing, and furthermore, where no part of the device will be submerged.

4. Backflow prevention devices required by this ordinance shall be installed under the supervision of, and with the approval of, the City.

5. Any protective device required by this ordinance shall be approved by the City, applicable State, County, and Federal authorities and agencies. These devices shall be furnished and installed by and at the expense of the customer.

6. Backflow prevention devices installed pursuant to this ordinance, shall be inspected and tested annually, or more often if necessary. Inspections, tests, and maintenance shall be at the customer's expense, and, if requested by the City, by a certified tester retained and paid by the customer. Whenever the devices are found to be defective, they shall be repaired, overhauled, or replaced at the customer's expense. Inspections, tests, repairs, and records thereof shall be accomplished in accordance with all standards, rules, and regulations of the ordinance, Idaho Code, and all standards, rules, and regulations of the State of Idaho, the Idaho Department of Health and Welfare, and any other Federal, State, County, or City authority or agency thereof by certified testers retained and paid by the customer.

7. No underground sprinkling device will be installed without adequate backflow prevention devices at the point from which the water for irrigation is taken from the City water supply.

8. Failure of the customer to cooperate in the installation, maintenance, testing, or inspection of backflow prevention devices required by this ordinance, Idaho Code, and all standards, rules and regulations of the State of Idaho, the Idaho Department of Health and Welfare, and any other Federal, State, County, or City authority or agency thereof shall be grounds for the termination of water service to the premises, or, in the alternative, the installation of an air-gap separation at the customer's expense.

9. In the event that documentation of test and repairs are not received by June 1st of the year when required, the City at the property owner's expense, may hire a State of Idaho licensed backflow prevention tester to test the backflow device(s) and add the cost of the test(s) plus a handling fee of $10.00 to the property owner's City of Rexburg utility bill.

SECTION V: CROSS-CONNECTION INSPECTION.

1. No water shall be delivered to any structure hereafter built within the City or within areas served by City water until the same shall have been inspected by the City for possible cross-connections and been approved as being free of the same.

2. Any construction for industrial or other purposes which is classified as hazardous facilities pursuant to Section 4(1) (G) of this ordinance, where it is reasonable to anticipate cross-connections, or as determined by the City, shall be protected by the installation of one or more backflow prevention devices at the point of service from the City water supply or any other location designated by the City, and applicable County, State, and Federal authorities and agencies.

3. Inspections may be made periodically of all buildings, structures, or improvements of any nature now receiving water through the City's system, for the purpose of ascertaining whether cross-connections exist. Such inspections shall be made by the City or applicable County, State, and Federal authorities and agencies.

SECTION VI: INSTALLATION PERMITS.

If cross-connection control device(s) are found to be necessary, the owner of the property served must apply to the City for a specific installation permit.

SECTION VII: ADDITIONAL REMEDIES.

In the event an improper cross-connection is not corrected within the time limits set by the City or in the event the City is refused access to any property for the purpose of determining whether or not cross-connections exist, the City may cease delivery of water to the property until the deficiency is corrected to the City's satisfaction. In addition, the City without waiving any terms of this ordinance may, but shall not be required to, effect the necessary repairs or installations at the expense of the property owner and refuse delivery of water to the property until the cost thereof shall have been paid. Violations of this ordinance are hereby declared to be a nuisance, and the City, after notice to the customer or property owner to remove or correct the violation, may prevent, remove, and abate the same at the expense of the party creating or maintaining the same, in which event the City may levy a special assessment as provided in Idaho Code 50-1008 on the land or premises whereon the nuisance is situated to defray the cost or to reimburse the City for the cost of abating the same.

SECTION VIII: CIVIL ACTION.

In addition to, or in lieu of the foregoing, the City may bring any appropriate civil action, including abatement, injunction, and/or damages in which event the City shall be entitled to all costs including attorney's fees in the prosecution of such action.

SECTION IX: MISDEMEANOR.

In addition to the foregoing, any person violating the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to the penalties as provided by law.

SECTION X: LIABILITY.

This ordinance shall not be construed to hold the City responsible for any damage to persons or property by reason of the inspection or testing herein, or the failure to inspect or test or by reason of approval of any cross-connections.

SECTION XI: SEVERABILITY.

In the event that any provision or clause of this ordinance shall be found invalid or unenforceable for any reason, such invalidity or unenforceability shall not affect the validity of the remaining portions of this ordinance, and the same shall remain in full force and effect.

SECTION XII: EFFECTIVE DATE.

This ordinance shall be in full force and effect from and after its passage and approval, and publication of a summary of this ordinance under Idaho Code 50-901A, the Council dispensing with the rule providing that ordinances be read on three different days, all as provided by law.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR this 20th day of March, 2013.



(SEAL)

Richard S. Woodland, Mayor.

ATTEST:

Blair D. Kay, City Clerk.

STATE OF IDAHO)
)ss.
County of Madison)

I, Blair D. Kay, City Clerk of the City of Rexburg, Idaho, do hereby certify: That the foregoing is a full, true and correct copy of an ordinance entitled:

AN ORDINANCE OF THE CITY OF REXBURG, IDAHO, REPEALING ORDINANCE 618; RELATING TO CROSS-CONNECTIONS INTO THE CITY WATER SUPPLY SYSTEM; STATING THE PURPOSE; DEFINING TERMS; REQUIRING BACKFLOW PREVENTION DEVICES TO PROTECT THE CITY WATER SUPPLY, IN ACCORDANCE WITH ALL APPLICABLE ORDINANCES, LAWS, STANDARDS, RULES AND REGULATIONS; SPECIFYING THE TYPES OF CONNECTIONS FOR WHICH BACKFLOW PREVENTION DEVICES SHALL BE REQUIRED, INCLUDING PREMISES HAVING AN AUXILIARY WATER SUPPLY, PREMISES HAVING INTERNAL CROSS-CONNECTIONS, PREMISES WITH RESTRICTED ENTRY, PREMISES HAVING A HISTORY OF CROSS CONNECTIONS, PREMISES ON WHICH SUBSTANCES ARE HANDLED UNDER PRESSURE, PREMISES WHERE TOXIC OR HAZARDOUS MATERIALS ARE HANDLED, AND SPECIFIC TYPES OF FACILITIES; PROVIDING FOR TYPES OF PROTECTIVE DEVICES AND MANNER OF INSTALLATION; PROVIDING FOR INSPECTION AND TESTING OF BACKFLOW PREVENTION DEVICES; PROVIDING FOR TERMINATION OF SERVICE IN THE EVENT OF NON-COMPLIANCE; PROVIDING FOR TESTING OF BACKFLOW DEVICE(S) AT PROPERTY OWNER'S EXPENSE IN THE EVENT OF NON-COMPLIANCE; PROVIDING FOR CROSS-CONNECTION INSPECTION BEFORE DELIVERY OF WATER AND PERIODICALLY THEREAFTER; PROVIDING FOR INSTALLATION PERMITS; PROVIDING REMEDIES FOR ENFORCEMENT, INCLUDING TERMINATION OF WATER SERVICE, CORRECTION AT THE EXPENSE OF THE LANDOWNER AND LEVY OF A SPECIAL ASSESSMENT; DECLARING VIOLATIONS OF THE ORDINANCE TO BE A NUISANCE; PROVIDING FOR PROSECUTION OF A CIVIL ACTION; PROVIDING THAT VIOLATIONS OF THE ORDINANCE CONSTITUTE A MISDEMEANOR; DISCLAIMING LIABILITY OF THE CITY; PROVIDING THAT THE PROVISIONS OF THE ORDINANCE ARE SEVERABLE; AND PROVIDING FOR AN EFFECTIVE DATE.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR on the 20th day of March, 2013.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said City of Rexburg, Idaho, this 25th day of March, 2013.

Blair D. Kay

Blair D. Kay, City Clerk

CITY OF REXBURG CORPORATE SEAL STATE OF IDAHO

CITY OF
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(Summary)

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PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR this 20th day of March, 2013.

CITY OF REXBURG CORPORATE SEAL STATE OF IDAHO

(SEAL)

Richard S. Woodland, Mayor.

ATTEST:

Blair D. Kay, City Clerk.

STATEMENT OF
REXBURG CITY ATTORNEY
AS TO ADEQUACY OF SUMMARY
OF ORDINANCE 1093

Stephen Zollinger, City Attorney for the City of Rexburg, declares that in his capacity as City Attorney of the City of Rexburg, pursuant to Idaho Code Section 50-901A (3) of the Idaho Code as amended, hereby certifies that he has reviewed a copy of the above cited Summary of Ordinance and has found the same to be true and complete and provides adequate notice to the public of the contents, including the exhibits, of Ordinance No. 1093.

DATED this 25th day of March, 2013.

Stephen P. Zollinger
Rexburg City Attorney

CITY OF REXBURG CORPORATE SEAL STATE OF IDAHO