

ORDER NO. 24-1114-12

AN ORDER OF BRUSHY CREEK MUNICIPAL UTILITY DISTRICT ADOPTING AMENDED BACKFLOW PREVENTION AND CROSS CONNECTION CONTROL PROGRAM RULES

WHEREAS, Brushy Creek Municipal Utility District (the “*District*”) is a conservation and reclamation district, a body corporate and politic and governmental agency of the State of Texas, created under Article XVI, Sec. 59 of the Texas Constitution by order of the Texas Water Commission, now the Texas Commission on Environmental Quality (“*TCEQ*”), and the District operates under Chapters 49 and 54 of the Texas Water Code, as amended;

WHEREAS, Section 54.205 of the Texas Water Code authorizes a municipal utility district to adopt and enforce rules and regulations to provide and regulate a safe and adequate freshwater distribution system; to secure and maintain a safe, sanitary and adequate plumbing installations, connections, and appurtenances as subsidiary parts of its sanitary sewer system; preserve the sanitary condition of all water controlled by the district; and to prevent waste or the unauthorized use of water controlled by the district;

WHEREAS, 30 TAC §290.44(h) provides that no water connection from any public drinking water supply system shall be allowed to any residence or establishment where an actual or potential contamination hazard exists unless the public water facilities are protected from contamination, and that at any residence or establishment where an actual or potential contamination hazard exists, additional protection shall be required at the meter in the form of an air gap or backflow prevention assembly;

WHEREAS, pursuant to the foregoing authorization and in order to protect the public water supply from actual or potential contamination, the District has previously adopted Backflow Prevention and Cross Connection Control Program Rules; and

WHEREAS, the Board of Directors of the District desires to amend its Backflow Prevention and Cross Connection Control Program Rules.

NOW, THEREFORE, BE IT ORDERED BY THE BOARD OF DIRECTORS OF BRUSHY CREEK MUNICIPAL UTILITY DISTRICT THAT:

SECTION 1. The facts and recitations in the preamble of this Order are hereby found and declared to be true and correct, and are incorporated by reference herein and expressly made a part hereof, as if copied verbatim.

SECTION 2. The Board of Directors of the District hereby adopts the amended Backflow Prevention and Cross Connection Control Program Rules in the form attached hereto as **Exhibit “A”**.

SECTION 3. The attached rules shall become effective immediately upon adoption of this Order, and the General Manager is hereby authorized and directed to take all actions necessary or convenient to the implementation of the new rules. Upon approval of this Order by the Board of Directors, the General Manager shall publish a substantive statement of the rules and the penalty for their violation in one or more newspapers with general circulation in the District in accordance with the requirements of Section 54.207 of the Texas Water Code.

ORDERED this 14 day of November, 2024.

**BRUSHY CREEK MUNICIPAL UTILITY
DISTRICT**

By: 
President


ATTEST:

Secretary

Exhibit “A”

Backflow Prevention and Cross Connection Control Program Rules

BRUSHY CREEK MUNICIPAL UTILITY DISTRICT

BACKFLOW PREVENTION AND CROSS CONNECTION CONTROL PROGRAM RULES

1) Purpose

The purpose of this Backflow Prevention and Cross Connection Control Program is to establish a backflow prevention and cross-connection control program governing the installation, testing, and certification of backflow prevention assemblies to protect the public potable water supply of Brushy Creek Municipal Utility District ("District") from the possibility of contamination or pollution by preventing backflow into the public water system.

2) Legal Authority

This Policy is being adopted pursuant to Section 54.205 of the Texas Water Code, which authorizes municipal utility districts to adopt and enforce reasonable rules and regulations to preserve the sanitary condition of all water controlled by the District.

3) General Prohibitions

- a) No direct connection between the public drinking water supply and a potential source of contamination is permitted. Potential sources of contamination shall be isolated from the public water system by an air gap or an authorized backflow prevention device approved by the District.
- b) No cross-connection between the public drinking water supply and a private water system is permitted.
- c) No connection which allows water to be returned to the public drinking water supply is permitted.

4) Backflow Prevention Assemblies.

- a) Except as otherwise approved by the District, all backflow prevention assemblies shall be duly nationally recognized and authorized backflow prevention assemblies listed in the Uniform Plumbing Code.
- b) Each backflow prevention assembly must be approved by the District prior to installation. Failure to obtain such approval prior to installation of the backflow prevention assembly may result in the backflow prevention assembly failing to receive final approval by the District.
- c) A backflow prevention assembly will be required in each of the following circumstances but is in no way limited to the following circumstances:
 - i) The nature and extent of any activity on the premises, the materials used in connection with any activity on the premises, or materials stored on the premises could contaminate or pollute the potable water supply.
 - ii) Premises having one or more cross-connections and the cross-connection(s) is not protected by an air gap or an atmospheric vacuum breaker device.
 - iii) Internal cross-connections are present that are not correctable.
 - iv) Intricate plumbing arrangements are present, which make it impractical to ascertain whether cross-connections exist.

- v) The installation of an approved backflow prevention assembly is deemed necessary to accomplish the purpose of these rules in the District's judgment.
- vi) A fire suppression system that is connected to the District's water system.
- vii) Any used water return system.
- viii) All new construction or tenant changes within a multi-service connection if deemed necessary by the customer service inspection.
- ix) Any premises requiring multiple service connections will be required to install a backflow assembly on each additional service line to the premises. The type of assembly will be determined by the degree of hazard that could occur in the event of an interconnect between any of the buildings on the premises.

5) Testing Of Assemblies

- a) All backflow prevention assemblies shall be inspected and tested in each of the following circumstances:
 - i) Immediately after installation.
 - ii) Whenever the assembly is moved or relocated.
 - iii) A minimum of once a year for high-hazard systems, defined as a cross-connection, potential cross-connection, or other circumstances involving any substance that could cause death, illness, spread of disease, or has a high probability of causing such effects if introduced into the potable drinking water supply.
 - iv) A minimum of once a year for nonresidential service connections with backflow prevention assemblies.
 - v) A minimum of every 5 years for all residential service connections with backflow prevention assemblies.
 - vi) Immediately after installation of a lawn irrigation system.
 - vii) Immediately after repairs to the backflow prevention assembly.
- b) A state-certified backflow prevention assembly tester shall perform all assembly testing.
- c) It is the responsibility of the person who owns or controls property to have all assemblies tested in accordance with these Rules.
- d) Assemblies may be required to be tested more frequently as deemed necessary by the District.

6) Right of Entry

Duly authorized employees of the District bearing proper credentials and identification are entitled to enter any public or private property at any reasonable time to enforce these Rules.

7) Water Use Survey

A water use survey may be conducted at any establishment located in the District that is served by a public water supply. Upon determination that the establishment falls under the provisions of these Rules and requires a backflow prevention assembly, a notice to abate the condition or to install the proper backflow prevention assembly shall be issued.

8) District Liability

The District is not liable for any damage to a backflow prevention assembly caused during testing.

9) Thermal Expansion

It is the responsibility of any person who owns or controls property to eliminate the possibility of thermal expansion, if a closed system has been created by the installation of a backflow prevention assembly.

10) Pressure Loss

Any reduction in water pressure caused by the installation of a backflow assembly is not the responsibility of the District.

11) Residential Service Connections

Any person who owns or controls any residential property which has been determined to have an actual or potential cross-connection will be required to eliminate the actual or potential cross-connection or have an approved backflow assembly installed in accordance with these Rules.

12) Rental Properties

Any person who owns or controls property is responsible for the installation, testing and repair of all backflow assemblies on the property.

13) Customer Service Inspection

- a) Pursuant to TCEQ Public Water System Regulations, a customer service inspection for cross-connection control shall be completed by the District prior to providing continuous water service in each of the following circumstances:
 - i) Water service to a newly constructed facility or previously non-existing premises.
 - ii) After any material improvement to building(s) or premises.
 - iii) Any correction or addition to the plumbing of any facility or premises or
 - iv) The District deems it necessary.
- b) Permanent water service shall not be supplied to a new construction facility(s) until after the customer service inspection is completed.
- c) An approved backflow prevention assembly shall be required for any temporary water service connection that poses a potential cross-connection threat to the potable water supply as determined by the District.

14) Enforcement

- a) Notice of Violation. Whenever the District finds that a person has violated a prohibition or failed to meet a requirement of these Rules, the General Manager or his/her designee may order compliance by written notice of violation to the responsible person.
- b) Termination of Service. Without prior notice, the General Manager or Utility Systems Manager may suspend water service to a customer or service connection when such suspension is necessary to protect the public water supply. As soon as is practicable after the suspension of service, the General Manager or

Utility Systems Manager shall issue a notice of violation to the customer of record for the service address and shall order the customer to correct the source of the health hazard as a condition of restoration of service.

- c) Injunctive Relief. It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of these Rules. If a person has violated or continues to violate the provisions of these Rules, the District may petition for a preliminary or permanent injunction restraining the person from activities that would create further violations or compelling the person to take action necessary for compliance.
- d) Civil Penalties. Pursuant to the authority set forth in Section 49.004 of the Texas Water Code, any person who has violated these Rules or fails to comply with the Notice of Violation shall be subject to a civil penalty of up to \$1,000.00 per violation. The General Manager is hereby directed to seek recovery of all attorney's fees, court costs and other expenses associated with enforcement of these Rules in addition to recovery of any civil penalty.
- e) District Action. If a person fails to comply with any notice of violation following 45 days after receipt of the notice, District personnel may enter the property to complete any domestic line backflow testing at a charge of \$1,000.00 per backflow prevention device. Additionally, any repair or replacement of backflow prevention devices shall be charged at cost. This provision shall in no manner prevent the District from exercising any other right or remedy available under these Rules, including termination of service.
- f) Remedies Not Exclusive. The remedies listed in these Rules are not exclusive of any, and it is at the discretion of the General Manager to seek any and all remedies available under state or federal law in the event of a violation.
- g) Additional Violations. Each of the following shall be a violation of these Rules:
 - i) A customer fails to maintain backflow prevention assemblies in compliance with these Rules.
 - ii) A customer fails to comply with a repair order issued by the District.
 - iii) Backflow from premises owned, operated or managed by the person enters the public water supply system.
 - iv) Water service to premises that is disconnected is reinstated except as authorized and conducted by the District.
 - v) A person in charge of any premises allows an unlicensed tester to perform backflow prevention testing.
 - vi) A person erects, installs, alters, removes, converts, moves, improves, or uses any equipment regulated by these Rules in violation of these Rules.
 - vii) There is a restricted entry, which prevents inspections for cross-connections.

16. Severability

The provisions of these Rules are hereby declared to be severable. If any provision, clause, sentence, or paragraph of these Rules or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of these Rules.