

*For: Monday, **April 22, 2013**, City Council Meeting*

Advance Packet Information

Dated: April 12, 2013

Included in this packet is documentation to support the following Agenda items:

PUBLIC HEARINGS/ORDINANCES/FINAL ORDERS

- Ordinance amending Section 13.05.190 and adding Section 13.05.195 to Title 13, Public Services, of the Brookings Municipal Code. [Planning, pg. 2]
 - a. Ordinance 13-O-709 [pg. 3]

*Obtain Public Comment Forms and view the agenda and packet information on-line at www.brookings.or.us, or at City Hall. Return completed Public Comment Forms to the City Recorder before the start of meeting or during regular business hours.

All public meetings are held in accessible locations. Auxiliary aids will be provided upon request with advance notification. Please contact 541-469-1102 if you have any questions regarding this notice.

CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: April 22, 2013

lf Donna Colby-Hanks
Signature (submitted by)

Originating Dept: PWDS, Public
Works

City Manager Approval

Subject: Ordinance amending Section 13.05.190 and adding Section 13.05.195, Water, Public Services, of the Brookings Municipal Code to implement and enforce a Cross Connection Control Program.

Recommended Motion: A motion to adopt Ordinance 13-O-709.

Background/Discussion: Revisions to these Sections were heard and approved by City Council at their April 8, 2013 meeting.

Attachment(s): Ordinance 13-O-709

**IN AND FOR THE CITY OF BROOKINGS
STATE OF OREGON
ORDINANCE 13-O-709**

IN THE MATTER OF ORDINANCE 13-O-709, AN ORDINANCE AMENDING SECTION 13.05.190, DISCONTINUANCE OF SERVICE, AND ADDING SECTION 13.05.195, WATER QUALITY - CROSS CONNECTION CONTROL PROGRAM, TO TITLE 13, PUBLIC SERVICES, OF THE BROOKINGS MUNICIPAL CODE.

Sections:

- Section 1. Ordinance identified.
- Section 2. Amends Section 13.05.190.
- Section 3. Adds Section 13.05.195.

The City of Brookings ordains as follows:

Section 1. Ordinance Identified. This ordinance amends Section 13.05.190, Discontinuance of Service, and adds Section 13.05.195, Water Quality - Cross Connection Control Program to Title 13, Public Services, of the Brookings Municipal Code.

Section 2. Amends Section 13.05.190: Section 13.05.190, is amended to reads as follows:

13.05.190 Discontinuance of service.

A. On Customer Request.

Each customer about to vacate any premises supplied with water service by the city shall give the city written notice of his intentions at least two days prior thereto, specifying the date service is to be discontinued; otherwise, he will be responsible for all water supplied to such premises until the city shall receive notice of such removal. At the time specified by the customer that he expects to vacate the premises where service is supplied or that he desires service to be discontinued, the meter will be read and a bill rendered which is payable immediately. In no case will the bill be less than the monthly base rate.

B. Nonpayment of Sewer and Water Service Charges.

If the sewer service charges provided for in Chapter [13.15](#) BMC are not paid when due by any such person, firm, or corporation whose premises are served or who are subject to the charges herein provided, water service provided to that customer by the city may be discontinued because of the default in the payment of the sewer service charges. As an additional alternative method of collection, if such rates and charges are not paid when due by any such person, firm, or corporation, the amounts so unpaid may be certified by the city recorder to the county assessor of Curry County, Oregon, and shall be by him assessed against the premises served as provided by law and shall be collected and paid over to the city in the same manner as other taxes are assessed, collected, and paid over, with interest. Interest on unpaid bills shall run from the due date thereof at the rate adopted by resolution of the city council. Such unpaid charges may also be recovered in an action at law in the name of the city, with interest as aforesaid.

C. Improper Customer Facilities, Unsafe Facilities.

The city may refuse to furnish water and may discontinue services to any premises without prior notice where plumbing facilities, appliances, or equipment using water are dangerous, unsafe, or not in conformity with the plumbing code of the state of Oregon.

D. Water Waste.

Where water is wastefully or negligently used on a customer's premises, seriously affecting the general service, the city may discontinue service if such conditions are not corrected after due notice by the city.

E. Service Detrimental to Others.

The city may refuse to furnish water and may discontinue service to any premises where excessive demands by one customer will result in inadequate service to others.

F. Fraud or Abuse.

The city will refuse or discontinue service to any premises where it is deemed necessary to protect the city from fraud or abuse. Discontinuance of service from one or both of these causes will be made immediately upon receipt of knowledge by the city that the condition or conditions exist.

G. Unauthorized Turn-on.

Where water service has been discontinued for any reason and the water is turned on by the customer or other unauthorized person, the water may then be shut off at the main or the meter removed. The charges for shutting off the water at the main or removing the meter shall be computed at actual cost to the city plus 15 percent overhead, but not less than \$50.00. These charges shall be billed to the offending customer and water shall not be furnished to the premises or customer until such charges are paid and the city has reasonable assurance that the violation will not reoccur.

H. Noncompliance with Regulations.

The city may, without notice, discontinue service to a customer's premises for failure to comply with any of the provisions of this chapter, the city's resolutions, and regulations of the city where such failure to comply constitutes a threat to public health, safety or general welfare. [Ord. 88-O-432; Ord. 66-O-190 § 21.]

Section 3. Adds Section 13.05.195: Section 13.05.195, is added to reads as follows:

13.05.195 Water Quality - Cross Connection Control Program

A. Definitions.

1. "AUXILIARY SUPPLY" means any water source or system other than the City of Brookings Water System.

2. "APPROVED BACKFLOW PREVENTION ASSEMBLY" or "BACKFLOW ASSEMBLY" or "ASSEMBLY" means an assembly to counteract backpressure and/or prevent back-siphonage. This assembly must appear on the list of approved assemblies issued by the Oregon Health Authority.

3. "BACKFLOW" means the flow in the direction opposite to the normal flow or the introduction of any foreign liquids, gases, or substances into the water system of the City of Brookings.

4. "CERTIFIED BACKFLOW ASSEMBLY TESTER" shall mean a person who has successfully completed and maintains all requirements as established by the Oregon Health Authority to be a tester in the state of Oregon.

5. "CERTIFIED CROSS CONNECTION CONTROL SPECIALIST" shall mean a person who has successfully completed and maintains all requirements as established by the Oregon Health Authority to be a Specialist in the state of Oregon.

6. "CITY WATER SYSTEM" shall refer to and mean the City of Brookings Water System, maintained by the City of Brookings, which shall include, wells, treatment mechanisms or processes, pumping stations, reservoirs, supply trunk or feeder lines, service lines, meters and all other appurtenances, device lines and items necessary to the operation of the system and to supply water

service to individual property or premises and shall include the City of Brookings potable water with which the system is supplied.

7. "CONTAMINATION" means the entry into or presence in a public water supply system of any substance which may be deleterious to health and/or quality of the water.

8. "CROSS CONNECTION" means any physical arrangement where a potable water supply is connected, directly or indirectly, with any other non-drinkable water system or auxiliary system, sewer, drain conduit, swimming pool, storage reservoir, plumbing fixture, swamp coolers or any other device which contains, or may contain, contaminated water, sewage or other liquid of unknown or unsafe quality which may be capable of imparting contamination to the public water system as a result of backflow. Bypass arrangements, jumper connections, removable sections, swivel or changeover devices or other temporary or permanent devices through which or because of which backflow may occur, are considered to be cross connections.

9. "DEGREE OF HAZARD" means the NON-HEALTH HAZARD or HEALTH HAZARD classification that shall be assigned to all actual or potential cross connections.

10. "DOUBLE CHECK VALVE BACKFLOW PREVENTION ASSEMBLY", "DOUBLE CHECK ASSEMBLY", "DOUBLE CHECK" or "DCVA" means an assembly which consists of two (2) independently-operating check valves which are spring-loaded or weighted. The assembly comes complete with a resilient seated shut-off valve on each side of the checks, as well as test cocks to test the checks for tightness.

11. "DOUBLE CHECK DETECTOR ASSEMBLY" or "DCDA" means an assembly which consists of two independently operating check valves which are spring-loaded or weighted. The assembly comes complete with a shut-off valve on each side of the checks, as well as test cocks to test the checks for tightness. It shall also be provided with a factory bypass arrangement with a meter and a minimum of an approved double check assembly.

12. "HEALTH HAZARD" means an actual or potential threat of contamination of a physical, chemical or biological nature to the public potable water system or the consumer's potable water system that would be a danger to health.

13. "IN-PREMISES PROTECTION" means the appropriate backflow prevention within the consumer's water system at or near the point at which the actual or potential cross connection exists.

14. "MOBILE UNITS" shall mean units that are temporary in nature, connecting to the water system through a legally-permitted hydrant, hose bibb, or other appurtenance of a permanent nature that is part of the City of Brookings water system or a permanent water service to a premises. Examples can include but are not limited to the following: water trucks, pesticide applicator vehicles, chemical mixing units or tanks, waste hauler's trucks or units, sewer cleaning equipment, carpet or steam cleaning equipment other than homeowner use, rock quarry or asphalt/concrete batch plants or any other mobile equipment or vessel that poses a threat of backflow in the City of Brookings Water System. Uses that are excluded from this definition are recreational vehicles at assigned sites or parked in accordance with other City of Brookings policies pertaining to recreational vehicles and homeowner devices that are used by the property owner in accordance with other provisions of this, or other, City of Brookings policies pertaining to provision of water service to a premises.

15. "NON-HEALTH HAZARD" shall mean the classification assigned to an actual or potential cross connection that could allow a substance that may be objectionable, but not hazardous to one's health, to backflow into the potable water supply.

16. "OHA" shall mean Oregon Health Authority.

17. "OAR" shall mean Oregon Administrative Rule.

18. "PERSON(S)" shall mean a natural person (individual), corporation, company, city, partnership, firm, Limited Liability Company, Joint Venture Company or city, and other such entity.

19. "POLLUTION HAZARD" means an actual or potential threat to the physical properties of the water system or the potability of the public or the consumer's potable water system, but which would not constitute a health or system hazard, as defined. The maximum intensity of pollution to which the

potable water system could be degraded under this definition would cause minor damage to the system or its appurtenances.

20. "PREMISES" means any piece of property to which water service is provided, including, but not limited to, all improvements, mobile structures and other structures located upon it.

21. "PREMISES ISOLATION" means the appropriate backflow prevention at the service connection between the public water system and the premises. This location will be at or near the property line and downstream from the service connection meter.

22. "REDUCED PRESSURE PRINCIPLE BACKFLOW PREVENTION ASSEMBLY" or "REDUCED PRESSURE PRINCIPLE ASSEMBLY" or "RP ASSEMBLY" shall mean an assembly containing two independently-acting approved check valves together with a hydraulically-operated, mechanically-independent pressure differential relief valve located between the check valves, and at the same time, below the first check valve. The assembly shall include properly located test cocks and two tightly closing shut-off valves.

23. "REDUCED PRESSURE DETECTOR ASSEMBLY" or "RPDA" shall mean an approved assembly consisting of two approved reduced pressure backflow assemblies, set in parallel, equipped with a meter on the bypass line to detect small amounts of water leakage or use. The assembly should include properly-located test cocks and two tightly closing shut off valves.

24. "RESIDENT" means a person or persons living within the area(s) served by the City of Brookings Water System.

25. "RETROFITTING" means to furnish a service connection with parts or equipment made available after the time of construction or assembly installation.

26. "SPECIALIST" means an Oregon Health Authority-certified Cross Connection Specialist, either employed with the City of Brookings or contracted by the City of Brookings.

27. "SOP Manual" shall mean the City's Standard Cross Connection Control Program Operating Procedures and Guidance Manual.

28. "SUBMERGED HEADS" means irrigation sprinkling or delivery devices that are located below the surface of the landscaped area in which they are installed.

29. "SUPERVISOR" shall mean the Public Works Supervisor or his/her designee.

30. "THERMAL EXPANSION" means the pressure created by the expansion of heated water.

31. "UNAPPROVED SUBSTANCE" means any substance, gas, or liquid other than the city's drinking water or the city's used drinking water.

32. "USED WATER" means any water supplied by the city to a customer's property after it has passed through the service connection and is no longer under the control of the city.

B. Purpose

The purpose of this Ordinance is to protect the water supply and distribution system of the City of Brookings from contamination or pollution due to any existing or potential cross connections and to comply with the Oregon Administrative Rule Chapter 333-061 or as amended.

C. Application and Responsibilities

This Ordinance applies throughout the City of Brookings Water System and to every premises and property served by the City of Brookings Water System. It applies to all premises, regardless of date of connection to the City of Brookings Water System. Every owner, occupant or person in control of any concerned premises is responsible for the terms and provisions contained in this Ordinance.

D. Cross Connections Regulated

1. No cross connections shall be created, installed, used or maintained within the area(s) served by the City of Brookings Water System, except in accordance with this Ordinance.

2. The Specialist shall carry out or cause surveys to be carried out to determine if any actual or potential cross connection exists. If found necessary, an assembly commensurate with the degree of hazard will be required at the service connection.

3. The owner, occupant or person in control of any given premises is responsible for all cross connection control within the premises.

4. All premises found in OAR 333-061-0070 Table 48 shall install a Reduced Pressure Backflow Assembly at the service connection in accordance with this Ordinance.

5. It is the responsibility of the property owner to purchase, install, test, repair and maintain all backflow assemblies.

6. If there is a change in ownership of any and all property within the City's service area, it shall be the responsibility of the new owner to determine that all assemblies are in compliance with this Ordinance.

E. Backflow Prevention Assembly Requirements

1. A Specialist employed by, or under contract with, the City of Brookings, shall determine the type of backflow assemblies to be installed within the City of Brookings Water System. All assemblies shall be installed at the service connection unless it is determined by the Specialist and approved by the Supervisor that in-premises protection would be adequate. Such in premise protection must be installed, maintained and tested in accordance with the Oregon Plumbing Specialty Code.

2. An approved assembly shall be required for all premises identified in OAR 333-061-0070, Table 48.

3. Premises with cross connections not listed or defined in Table 48 shall be individually evaluated by a Specialist. The City shall require the installation of an approved assembly commensurate with the degree of hazard on the premises, as defined in OAR 333-061-0070, Table 49. Any such premises shall be required to install an approved assembly under the following circumstances:

a. In the case of any premises where there is any material dangerous to health which is handled in such a fashion as to permit entry into potable water system, the potable water system shall be protected by an approved air gap separation or an approved reduced pressure principle backflow prevention assembly.

b. When the nature and extent of any activity at a premises, or the materials used in connection with any activity at premises, or materials stored at a premises, could contaminate or pollute the potable water supply.

c. When a premises has one (1) or more cross connections, as that term is defined in 13.05.195(A).

d. When internal cross connections are present that are not correctable.

e. When intricate plumbing arrangements are present making it impractical to ascertain whether cross connections exist.

f. When the premises has a repeated history of cross connections being established or re-established.

g. When entry is restricted to the premises and where the survey report form indicated a possible cross connection may exist.

h. When materials are being used such that, if backflow should occur, a health hazard could result.

i. When an appropriate cross connection survey report form has not been filed with the City of Brookings Supervisor.

j. Any and all used water return systems.

k. If an in-premises assembly has not been tested or repaired as required by this Ordinance, the installation of a reduced pressure principle assembly will be required at the service connection.

l. There is piping or equipment for conveying liquids other than potable City of Brookings water and that piping or other equipment is under pressure and installed and operated in a manner that could cause a cross connection.

m. When installation of an approved backflow prevention assembly is deemed by a Specialist to be necessary to accomplish the purpose of this Ordinance and OAR 333-061-0070.

n. The use of any type of chemical spray attachment connected to the premises plumbing, including garden hose fertilizers and pesticide applicators, is not allowed within the City of Brookings Water System without proper protection from the potential of backflow occurring.

o. The use of any type of radiator flush kits attached to the premises plumbing is not allowed within the City of Brookings Water System without proper protection from backflow occurring.

p. Wherever reclaimed water or separate irrigation water is used on premises.

q. When there is a premises with an auxiliary water supply which has the potential to be interconnected to the City of Brookings Water Service or supply system.

4. When a premise is required to install an approved assembly, the City shall:

a. Ensure the approved assembly is installed at a location adjacent to the service connection or point of delivery; and

b. Ensure any alternate location used must be with the approval of the City and must meet the City's cross connection control requirements.

5. When a premise is required to install an approved assembly, the premise owner shall:

a. Ensure no cross connections exist between the point of delivery from the City water system and the approved backflow prevention assemblies, when these are installed in an alternate location; and

b. Assume responsibility for testing, maintenance, and repair of the installed approved backflow prevention assembly to protect against the hazard.

F. Discontinuation of Water Service - Noncompliance with Program

Water Service may be disconnected to a premise for any of the following reasons:

1. Failure to remove or eliminate an existing unprotected or potential cross connection;
2. Failure to install a required approved backflow prevention assembly;
3. Failure to maintain an approved backflow prevention assembly; or
4. Failure to conduct the required testing of an approved backflow prevention assembly.

G. Retrofitting

Retrofitting shall be required at all service connections where an actual or potential cross connection exists, and wherever else the City of Brookings deems retrofitting necessary to comply with the OAR, this Ordinance and the City's SOP Manual.

H. Irrigation Systems

All irrigation systems shall be protected according to the Uniform Plumbing Code. In the event any system is equipped with an injector system, a reduced pressure principle assembly will be required at the service connection.

I. Thermal Expansion

If a closed system has been created by the installation of a backflow prevention assembly, or other appurtenances, it is the responsibility of the property owner, the occupant, or person in control of the property to eliminate the possibility of damage from thermal expansion in accordance with the Plumbing Code. The City will notify the premise owner and water user, in writing, of thermal expansion concerns.

J. Mobile Units- Portable Water Trucks

Any mobile unit or apparatus, as defined in Section 13.05.195(A)(14) of this Ordinance, which uses the water from any premises within the City of Brookings Water System, shall first obtain a business license from the City of Brookings and be inspected to assure an approved air gap or reduced pressure principle assembly is installed on the unit.

K. Installation Requirements

1. All backflow prevention assembly installations shall follow the requirements as stipulated by the City of Brookings SOP Manual and OAR Chapter 333, Division 061.

2. If the premises isolation assembly is allowed to be installed at an alternate location, the City of Brookings must have access to the assembly. No connections can be made between the meter and the backflow assembly.

3. The type of backflow prevention assembly required shall be commensurate with the degree of hazard that exists and must, at all times, meet the standards of the Oregon Health Authority. All backflow prevention assemblies required under this section shall be of a type and model approved by the OHA.

L. Pressure Loss

Any decrease in water pressure caused by the installation of a backflow assembly shall not be the responsibility of the City of Brookings.

M. Fire Systems

An approved double check detector assembly shall be the minimum protection on all new fire sprinkler systems using piping material that is not approved for potable water use, and/or that does not provide for periodic flow-through. A reduced pressure principle detector assembly must be installed, if any solution other than potable water can be introduced into the sprinkler system.

Retrofitting on fire sprinkler systems will be required in each of the following circumstances:

1. Where improper maintenance has occurred
2. On all health hazard systems
3. Wherever required by the OAR

In the event an assembly is installed on a designated lateral, a detector assembly commensurate with the degree of hazard will be required.

N. Temporary Meters and Hydrant Valves

Backflow protection will be required on all temporary meters and hydrant valves before any use. The type of assembly will be commensurate with the degree of hazard and will be determined on a case-by-case basis by a City of Brookings Specialist.

O. Oregon Plumbing Specialty Code

As a condition of water service, customers shall install, maintain, and operate their piping and plumbing systems in accordance with the Uniform Oregon Plumbing Specialty Code, as amended. If there is a conflict between this Ordinance and the Code, the Code shall prevail.

P. Right-of-Way Encroachment Permit

All backflow assemblies must be installed in accordance with BMC, Chapter 19, Engineering Requirements and Standard Specifications. Applicants proposing to install their backflow device in the City right-of-way must obtain and comply with a "Right to Use" permit.

Q. Access to Premises

For premises where surveys indicate a possible cross connection, authorized personnel of the City of Brookings, with proper identification and not less than 48 hours notice, shall have access during the hours of eight a.m. to five p.m. to all parts of a premises and within the structure-to which water is supplied. However, if any owner, occupant or person in control refuses authorized personnel access to a premise, or to the interior of a structure, during these hours for inspection, a reduced pressure principle assembly must be installed at the service connection to that premise.

R. Annual Testing and Repairs

All backflow prevention assemblies installed within the area(s) receiving water service from the City of Brookings shall be tested immediately upon installation, and at least annually thereafter by an OHA certified backflow assembly tester. All such assemblies found not functioning properly shall be promptly repaired or replaced at the expense of the owner, occupant or person in control of the premises. In the event an assembly is moved, repaired or replaced it must be retested immediately. All repairs on backflow assemblies within the City of Brookings service area must be performed according to all State and County regulations.

S. Responsibilities of Backflow Prevention Assembly Testers

1. All backflow assembly testers operating within the City of Brookings Water System service area shall be certified in accordance with all applicable regulations of the OHA and must abide by the requirements of this Ordinance and the City's SOP Manual.
2. Persons certified as backflow assembly testers shall agree to abide by all requirements of the United States Occupational Safety and Health Administration ("OSHA") and Oregon Occupational Safety and Health Administration ("OR-OSHA").
3. It is the responsibility of backflow assembly testers to submit records of all backflow assembly test reports to the City of Brookings within 10 days of completing the test.
4. All backflow assembly testers providing service to premises served with City of Brookings water are required to have a current Brookings business license.

T. Costs of Compliance

All costs associated with purchase, installation, surveys, testing, replacement, maintenance, parts and repairs of the backflow prevention assembly, and all costs associated with enforcement of this ordinance are the financial responsibility of the property owner, occupant, or other person in control of the premises.

U. Recovery of Costs

Any water customer violating any of the provisions of this Ordinance and who causes damage to or impairs the City of Brookings Water System, including, but not limited to, allowing contamination, pollution, any other solution or used water to enter the City of Brookings Water System, shall be liable to the City of Brookings for any expense, loss or damage caused by such violation. The City of Brookings shall collect from the violator the cost incurred by the City of Brookings for any cleaning, purifying, repair or replacement work or any other expenses caused by the violation. Refusal to pay the assessed costs shall constitute a violation of this Ordinance and shall be resolved by enforcement as provided in BMC 8.15.090, General Abatement Procedure.

V. Termination of Service

1. Failure on the part of any owner, occupant or person in control of the premises to install a required assembly, have it tested a minimum of annually and repaired if necessary, and/or to discontinue the use of all cross connections and to physically separate cross connections in accordance with this Ordinance is sufficient cause for the discontinuance of public water service to the premises pursuant to Oregon Administrative Rule chapter 333-061-0070, or as amended. In the case of an extreme emergency or where an immediate threat to life or public health is found to exist, discontinuance or termination of public water service to the premises shall be immediate.
2. In lieu of termination of service, the City of Brookings may, at the property owner's expense, have installed a reduced pressure assembly at the meter based on the level of risk. Testing, maintenance and repair of the assembly will be the responsibility of the property owner.

W. Falsifying Information

Any person who knowingly makes any false statement, representation, record, report or other document filed or required to be maintained pursuant to this Ordinance, or who falsifies, tampers with, or knowingly renders inaccurate any backflow assembly, device or method required under this Ordinance shall be subject to civil and/or criminal penalties provided by state law.

X. Constitutionality and Saving Clause

Should any provision, section, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances, are for any reason held to be unconstitutional, void, invalid, or for any reason unenforceable, the validity of the remaining portions of this Ordinance, or its application to other persons or circumstances, shall not be affected; thereby, it being the intent of the City of Brookings Water System in adopting and approving this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion, provision, or regulation.

First Reading: _____ Passage: _____
Second Reading: _____ Effective Date: _____

Signed by me in authentication of its passage this _____, day of _____, 2013

ATTEST:

Mayor Ron Hedenskog

City Recorder Joyce Heffington