

ORDINANCE NO. 04643
BOARD OF SUPERVISORS, COUNTY OF SAN MATEO,
STATE OF CALIFORNIA

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**ORDINANCE REPEALING AND REPLACING SECTIONS 4.72.010 THROUGH
4.72.130 AND ADDING SECTIONS 4.72.140 THROUGH 4.72.150 TO CHAPTER 4.72
OF TITLE 4 OF THE SAN MATEO COUNTY ORDINANCE CODE RELATING TO
BACKFLOW PREVENTION**

The Board of Supervisors of the County of San Mateo, State of California,

ORDAINS as follows:

SECTION 1. Sections 4.72.010 through 4.72.130 of Chapter 4.72 of Title 4 of the San Mateo County Ordinance Code are hereby repealed and replaced in their entirety with new Sections 4.72.010 through 4.72.130 to be entitled and to read as follows:

Sections:

- 4.72.010 – Purpose and authority.
- 4.72.020 – Responsibility for administration.
- 4.72.030 – Scope and application.
- 4.72.040 – Definitions.
- 4.72.050 – Maintenance of cross-connection prohibited.
- 4.72.060 – Correction of cross-connections.
- 4.72.070 – Tests of backflow prevention assemblies.
- 4.72.080 – Certified testers.
- 4.72.090 – Suspension or revocation of tester certification.
- 4.72.100 – Duty to maintain backflow prevention assemblies.
- 4.72.110 – Local laws and codes.
- 4.72.120 – Authority to inspect.
- 4.72.130 – Enforcement.
- 4.72.140 – Reclaimed, recycled or graywater systems.
- 4.72.150 – Sections found invalid.

4.72.010 – Purpose and authority.

The purpose of this Chapter is to ensure the health, safety, and general welfare of the County of San Mateo citizens through protecting the potable water supplies from contamination by establishing County requirements for backflow prevention complementary to those established by Group 4 of Chapter 5, of Title 17 of the California Code of Regulations. Sections 116800 and 116805 of California Health and Safety Code and section 7584 of Title 17 California Code of Regulations provide the County authority to implement this backflow prevention program, also known as a cross-connection control program, which is described in this Chapter.

4.72.020 – Responsibility for administration.

This chapter shall be administered and enforced by the Director of Environmental Health Division or his designee (hereinafter “Environmental Health”), on behalf of the County Health Officer.

4.72.030 – Scope and application.

Backflow prevention requirements imposed by Title 17 California Code of Regulations and this Chapter, and fees as set forth in San Mateo County Ordinance Code section 5.64.070, shall apply to all facilities (businesses, dwellings, activities and piping systems of whatever sort) within the water supplier service areas of water suppliers that have entered into an agreement with the County of San Mateo for backflow prevention and enforcement. Pursuant to section 116800 of California Health and Safety Code, this Chapter also applies within all water users' premises within the County of San Mateo, where public exposure to drinking water contaminated by backflow may occur.

4.72.040 – Definitions.

- (a) “Certified tester” is a certified backflow prevention assembly tester who meets all requirements specified in section 4.72.080 of this chapter and is approved to test backflow prevention assemblies that are included in San Mateo County’s Cross-Connection Control Program.
- (b) “Cross-Connection” means an unprotected actual or potential connection between a potable water system used to supply water for drinking purposes and any source or system containing unapproved water or a substance that is not or cannot be approved as safe, wholesome, and potable. By-pass arrangements, jumper connections, removable sections, swivel or changeover assemblies, or other assemblies through which backflow could occur, shall be considered to be cross-connections.
- (c) For the purposes of this Chapter, “Double Check Valve Assembly (DC)” shall have the same meaning as defined in section 7583 of Title 17 California Code of Regulations.
- (d) For the purposes of this Chapter, “Double Check Detector Assembly (DCDA)” shall have the same meaning as defined in the most recent edition of the University of Southern California, Foundation for Cross-Connection Control and Hydraulic Research, Manual of Cross-Connection Control.
- (e) “Graywater” means untreated wastewater that has not been contaminated by any toilet discharge, has not been affected by infectious, contaminated, or unhealthy bodily wastes, and does not present a threat from contamination by unhealthful processing, manufacturing, or operating wastes. "Graywater" includes wastewater from bathtubs, showers, bathroom washbasins, clothes

washing machines, and laundry tubs, but does not include wastewater from kitchen sinks or dishwashers.

- (f) "Inspection Tag" means a current-calendar-year backflow tag purchased from Environmental Health, at a fee as set forth in San Mateo County Ordinance Code section 5.64.070.
- (g) For the purposes of this Chapter, "Lead Free" shall have the same meaning as defined in section 116875 of California Health and Safety Code.
- (h) For the purposes of this Chapter, "Pressure Vacuum Breaker Backsiphonage Prevention Assembly (PVB)" shall have the same meaning as defined in the most recent edition of the University of Southern California, Foundation for Cross-Connection Control and Hydraulic Research, Manual of Cross-Connection Control.
- (i) "Reclaimed Water" is a wastewater, which as a result of treatment, is suitable for uses other than potable use.
- (j) "Recycled Water" means water which, as a result of treatment of waste, is suitable for a direct beneficial use or a controlled use that would not otherwise occur and is therefore considered a valuable resource.
- (k) For the purposes of this Chapter, "Reduced Pressure Principle Backflow Prevention Assembly (RP)" shall have the same meaning as defined in the most recent edition of the University of Southern California, Foundation for Cross-Connection Control and Hydraulic Research, Manual of Cross-Connection Control.
- (l) For the purposes of this Chapter, "Reduced Pressure Principle Detector Assembly (RPDA)" shall have the same meaning as defined in the most recent edition of the University of Southern California, Foundation for Cross-Connection Control and Hydraulic Research, Manual of Cross-Connection Control.
- (m) For the purposes of this Chapter, "Spill-Resistant Pressure Vacuum Breaker Backsiphonage Prevention Assembly (SVB)" shall have the same meaning as defined in the most recent edition of the University of Southern California, Foundation for Cross-Connection Control and Hydraulic Research, Manual of Cross-Connection Control.
- (n) For the purposes of this Chapter, "User Connection" shall have the same meaning as defined in section 7583 of Title 17 California Code of Regulations.
- (o) For the purposes of this Chapter, "Water Supplier" shall have the same meaning as defined in section 7583 of Title 17 California Code of Regulations.

(p) For the purposes of this Chapter, "Water User" shall have the same meaning as defined in section 7583 of Title 17 California Code of Regulations.

4.72.050 – Maintenance of cross-connection prohibited.

It shall be unlawful for any person to have, keep, maintain, install, or allow the existence of a cross-connection.

4.72.060 – Correction of cross-connections.

Any assembly installed for the purpose of eliminating a cross-connection shall conform to State law and this Chapter. Only backflow prevention assemblies tested and approved by University of Southern California, Foundation for Cross-Connection Control and Hydraulic Research (USC), or equivalent certification as determined by Environmental Health, at or before the time of installation, shall be approved for use under this Chapter, and shall be installed as indicated by USC and under permit from the local building official.

4.72.070 – Tests of backflow prevention assemblies.

All testable backflow prevention assemblies, including but not limited to double check valve assemblies, double check detector assemblies, reduced pressure principle backflow prevention assemblies, reduced pressure principle detector assemblies, pressure vacuum breaker backsiphonage prevention assemblies, and spill-resistant pressure vacuum breaker backsiphonage prevention assemblies which have been installed to meet the requirements of Title 17 of the California Code of Regulations and this Chapter shall be tested when initially installed and at least once each year thereafter. The annual re-test must occur within thirty (30) days of the established anniversary date for the assembly, but never less than once every 395 days, by a person certified pursuant to section 4.72.080 of this Chapter. Records of such tests shall be filed with Environmental Health within ten (10) days after such tests. Records shall be on forms provided by, or by mechanism specified by Environmental Health, or on a similar form that includes all the same equivalent data as determined by Environmental Health.

Testable backflow prevention assemblies shall be tested using current USC test procedures as recognized by Environmental Health. When a backflow prevention assembly is inspected and has passed the testing procedure, the certified tester shall immediately affix a numbered inspection tag to the assembly. When a backflow prevention assembly fails the testing procedure, the certified tester shall immediately affix a "Failed" inspection tag to the assembly. Records of failed assembly tests shall be filed with Environmental Health within ten (10) days. The "Failed" inspection tag shall remain affixed to the assembly until the assembly is repaired, has passed the testing procedures and has been affixed with a numbered inspection tag. Pursuant to section 116875 of California Health and Safety Code, any failed assembly that is not "lead free", that is not specifically exempted by section 116875, must be replaced with an approved

“lead free” assembly rather than being repaired.

4.72.080 – Certified testers.

No person shall test and/or make reports on backflow prevention assemblies unless he or she possesses a current certification issued by Environmental Health as follows:

- (a) Environmental Health shall certify any applicant who demonstrates competence to test and make reports on backflow prevention assemblies in compliance with the requirements of Title 17 of the California Code of Regulations and this Chapter, and who submits an initial tester examination fee and a payment of an annual certification fee as set forth in San Mateo County Ordinance Code section 5.64.070. Applicants shall demonstrate such competence by all of the following.
 - (1) Presenting a current valid certificate as a Backflow Prevention Tester issued by the California – Nevada Section of the American Water Works Association (CA-NV AWWA) or equivalent certification as determined by Environmental Health.
 - (2) Undertaking and passing an examination administered by Environmental Health. Any such certificate holder may be required to undergo additional training, reexamination, other demonstration of competency or any combination thereof, as may be deemed necessary by Environmental Health.
- (b) Tester certification may be renewed annually by payment of the annual certification fee. Payment must be made before expiration of certification. Proof of current CA-NV AWWA or equivalent certificate must be submitted to Environmental Health with the fee. If there is any lapse in certification, Environmental Health may require the tester to undergo re-examination, additional training, other demonstration of competency, or any combination thereof prior to re-certification.

Certified testers are solely responsible to comply with applicable municipal requirements for additional permits or licenses (i.e., local business license, plumbing permit, etc.) to test or repair backflow prevention assemblies within that local jurisdiction.

4.72.090 – Suspension or Revocation of Tester Certification.

- (a) Reasons. Tester Certification by Environmental Health may be suspended or revoked upon any of the following grounds:
 - (1) A tester is no longer in possession of current and valid certificate as a Backflow Prevention Tester issued by the CA-NV AWWA or equivalent certification as determined by Environmental Health.

- (2) Environmental Health determines that a material misrepresentation was included by the tester on the initial or renewal application for tester certification by Environmental Health.
 - (3) Environmental Health determines that the tester, in the performance of a test required by this Chapter, commits an act that may pose a threat to public health and safety.
- (b) Procedures. Written notice of the suspension or revocation shall be served on the certified tester by certified mail with description of the violation and supporting facts. The notice shall contain an advertisement of the right to request an appeal hearing before the Director of Environmental Health or his designee.
- (c) Time Period of Suspension of Tester Certification. Environmental Health staff may suspend a tester certification for a period between five (5) days and the end of the certification term, at his/her discretion.
- (d) Effective Date of Suspension or Revocation. Suspension or revocation issued pursuant to subsection (b) will be effective ten (10) calendar days from the date appearing on the written notice, unless a timely appeal is filed in accordance with subsection (e).
- (e) Appeal.
- (1) The decision of Environmental Health staff is appealable to the Director of Environmental Health or his designee.
 - (2) An appeal must be in writing, and be hand-delivered or mailed to the Director of Environmental Health.
 - (3) An appeal must be received by the Director of Environmental Health on or before the effective date of suspension or revocation provided by subsection (d).
 - (4) The filing of a timely appeal will stay a suspension or revocation pending a decision on the appeal by the Director of Environmental Health or his designee.
 - (5) A hearing shall be scheduled within thirty (30) days unless an extension is authorized by the appellant.
 - (6) The decision of the Director of Environmental Health or his designee shall be a final administrative order, with no further administrative right of appeal.
- (f) Reapplication. No reapplication will be accepted within six (6) months after a tester certification is revoked.
- (g) Evidence. The following rules shall apply to any hearing required by this

chapter. All parties involved shall have the right to offer testimonial, documentary, and tangible evidence bearing on the issues, to be represented by counsel, and to confront and cross-examine witnesses. Any relevant evidence may be admitted if it is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. Formal rules of discovery do not apply to proceedings governed by this chapter. Unless otherwise specifically prohibited by law, the burden of proof is on the certified tester in any hearing or other matter under this chapter.

4.72.100 – Duty to maintain backflow prevention assemblies.

It shall be unlawful to use any backflow prevention assembly required by Title 17 of the California Code of Regulations and this Chapter unless such assembly is in good repair. Assemblies which are found not to be in good repair shall be repaired and re-tested as described in section 4.72.070 of this chapter, immediately upon discovery. A report thereof shall be filed with Environmental Health within ten (10) days after such test.

4.72.110 – Local laws and codes.

Nothing in this chapter shall exempt any person from compliance with applicable requirements of any local laws and codes, including but not limited to local plumbing and business codes.

4.72.120 – Authority to inspect.

All facilities shall be available for inspection by Environmental Health to determine if protection of the public water supply is required. The frequency of inspection shall be determined by the degree of hazard determined for each facility or facility type. Costs incurred by Environmental Health for these inspections shall be paid by the facility owner at the rates set forth in San Mateo County Ordinance code section 5.64.070.

4.72.130 – Enforcement.

Environmental Health shall have the authority to enforce this chapter as follows.

- (1) Environmental Health may require a water purveyor to discontinue water service to any facility wherein violations of this Chapter exist.
- (2) Any person who violates any provision of this Chapter, or bypasses or renders inoperative any backflow prevention assembly installed under the provisions of this Chapter may, in addition to other penalties provided by law and this Chapter, shall be subject to discontinuance of water service. Water service shall not again be reinstated until such violations have been corrected as determined by Environmental Health. Costs incurred by Environmental Health for inspections shall be paid by the facility owner at the rates set forth in San Mateo County Ordinance code section 5.64.070.

(3) Pursuant to section 116820 of California Health and Safety Code, any person who violates any provision of Article 2 of Chapter 5 of Part 12 of Division 104 of the California Health & Safety Code, violates any order of Environmental Health pursuant to this article, or knowingly files a false statement or report required by Environmental Health pursuant to this article is guilty of a misdemeanor punishable by a fine not exceeding five hundred dollars (\$500) or by imprisonment not exceeding 30 days in the county jail or by both such fine and imprisonment. Each day of a violation of any provision of Article 2 or of any order of Environmental Health beyond the time stated for compliance of the order shall be a separate offense.

(4) Administrative fines.

(a) Violations. Upon a finding by Environmental Health that a person has violated any provision of this Chapter, directive of Environmental Health made pursuant to this Chapter, knowingly filed a false statement or report required pursuant to this Chapter, or by bypassing or rendering inoperative any backflow prevention assembly installed under the provisions of this Chapter, Environmental Health may issue an administrative order requiring that the violation be corrected and may issue an administrative fine of up to five hundred dollars (\$500).

(b) Separate Violations. Each day of a violation as described in subsection (a) shall constitute a separate violation.

(c) Fine Procedures. Notice of the fine shall be served by certified mail with description of the violation and supporting facts. The notice shall contain an advertisement of the right to request a hearing before the Director of Environmental Health or his designee contesting the imposition of the fine.

(d) Appeals. Appeals must be requested in writing, and shall provide facts disputing the violation. Appeals must be addressed to the Director of Environmental Health, and must be received within ten (10) days of the date appearing on the notice of the fine. The decision of the Director of Environmental Health shall be provided by certified mail. The decision will constitute a final administrative order with no additional administrative right of appeal.

(e) Failure to Pay Fine. If said fine is not paid within thirty (30) days from the date appearing on the notice of the fine or the notice of determination from the Director of Environmental Health after the appeal hearing, the fine may be referred to a collection agency within or external to the County. In addition, any outstanding fines must be paid prior to the issuance or renewal of any registration or certification.

SECTION 2. Sections 4.72.140 through 4.72.150 are added to Chapter 4.72 of Title 4 of the San Mateo County Ordinance Code and shall be entitled and read as follows:

4.72.140 – Reclaimed, recycled or graywater systems.

Environmental Health must be notified in writing of any water system or facility, including residences, intending to use reclaimed water, recycled water or graywater, prior to installation of any such system or piping. All components of graywater systems must be designed and installed in accordance with California or local Plumbing Code.

4.72.150 – Sections found invalid.

If any provision, clause, section, sentence or paragraph of this Chapter or the application thereof to any person or circumstances shall be held invalid, such validity shall not affect the other provisions of this Chapter which can be given effect without the invalid provision or application, and to this end the provisions of this section are declared to be severable.

SECTION 3. This Ordinance shall be effective thirty (30) days from the passage date thereof.

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Regularly passed and adopted this 8th day of January 2013.

AYES and in favor of said ordinance:

Supervisors:

DAVE PINE

CAROLE GROOM

DON HORSLEY

WARREN SLOCUM

ADRIENNE J. TISSIER

NOES and against said ordinance:

Supervisors:

NONE

Absent Supervisors:

NONE



President, Board of Supervisors
County of San Mateo
State of California

Certificate of Delivery

I certify that a copy of the original ordinance filed in the Office of the Clerk of the Board of Supervisors of San Mateo County has been delivered to the President of the Board of Supervisors.



Rebecca Romero, Deputy
Clerk of the Board of Supervisors