

ORDINANCE NO. .

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

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ORDINANCE REPEALING AND REPLACING CHAPTER 4.72 OF THE SAN MATEO COUNTY ORDINANCE CODE CONCERNING BACKFLOW PREVENTION

SECTION 1. FINDINGS. The Board of Supervisors of the County of San Mateo (“County”) hereby finds and declares as follows:

WHEREAS, the County’s Backflow Prevention Ordinance, Chapter 4.72 of the San Mateo County Ordinance Code, which was last amended in January 2013, protects potable water supplies from contamination by establishing County requirements for backflow prevention; and

WHEREAS, on December 19, 2023, the California State Water Resources Control Board (SWRCB) adopted new regulatory requirements related to cross-connection control for all public water systems in the form of the Cross-Connection Control Policy Handbook, Standards and Principles for California’s Public Water Systems (Policy Handbook); and

WHEREAS, this Policy Handbook, promulgated as regulation, became effective July 1, 2024, with relevant milestones requiring updates to the County’s Backflow Prevention Ordinance by July 1, 2025; and

WHEREAS, the Board of Supervisors now wishes to update Chapter 4.72 of the San Mateo County Ordinance Code, codifying County requirements for backflow

prevention, to align the Ordinance Code with the recently enacted Policy Handbook.

NOW, THEREFORE, the Board of Supervisors of the County of San Mateo ordains as follows:

SECTION 2. Chapter 4.72 of the San Mateo County Ordinance Code is hereby repealed in its entirety and is replaced by a new Chapter 4.72 to read as follows:

CHAPTER 4.72 BACKFLOW PREVENTION

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 the State Water Resources Control Board Cross-Connection Control Policy Handbook (“CCCPH”). Sections 116407, 116800, 116805, and 116810 of the California Health and Safety Code, and Section 3.1.3 of the CCCPH 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 the San Mateo County Environmental Health Services Division of San Mateo County Health or the Director’s designee, on behalf of the County Health Officer.

4.72.030 Scope and application.

Backflow prevention requirements imposed by the CCCPH and this Chapter, and fees enacted in accordance with 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, by and through the Environmental Health Services Division, for backflow prevention and enforcement. Pursuant to section 116800, et seq., of the 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.

For the purposes of this Chapter, the following definitions shall govern unless the context clearly requires otherwise:

- (a) “Authorized tester” is a 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) “Backflow prevention assembly” (“BPA”) shall have the same meaning as defined in section 3.1.1 of the CCCPH.
- (c) “Cross-connection” shall have the same meaning as defined in section 3.1.1 of the CCCPH.
- (d) “Cross-Connection Control Policy Handbook” (“CCCPH”) means the Cross-Connection Control Policy Handbook adopted by the State Water Resources Control Board pursuant to California Health and Safety Code Section 116407.
- (e) “Director” means the Director of the Environmental Health Services Division of the San Mateo County Health System.
- (f) “Division” means the Environmental Health Services Division of the San Mateo County Health System.
- (g) “Double check valve backflow prevention assembly” (“DC”) shall have the same meaning as defined in section 3.1.1 of the CCCPH.
- (h) “Double check detector backflow prevention assembly” (“DCDA”) shall have the same meaning as defined in section 3.1.1 of the CCCPH.
- (i) “Double check detector backflow prevention assembly – type II” (“DCDA-II”) shall have the same meaning as defined in section 3.1.1 of the CCCPH.
- (j) “Graywater” shall have the same meaning as defined in California Water Code Section 14876.
- (k) “Inspection tag” means a current-calendar-year backflow tag purchased from the Division, at a fee enacted pursuant to San Mateo County Ordinance Code section 5.64.070.
- (l) “Lead free” shall have the same meaning as defined in California Health and Safety Code Section 116875.
- (m) “Person” means any natural person, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other entity.
- (n) “Pressure vacuum breaker backsiphonage prevention assembly” (“PVB”) shall have the same meaning as defined in section 3.1.1 of the CCCPH.

- (o) "Public Water System" ("PWS") shall have the same meaning as defined in section 3.1.1 of the CCCPH.
- (p) "Recycled water" shall have the same meaning as defined in section 3.1.1 of the CCCPH.
- (q) "Reduced pressure principle backflow prevention assembly" ("RP") shall have the same meaning as defined in section 3.1.1 of the CCCPH.
- (r) "Reduced pressure principle detector backflow prevention assembly" ("RPDA") shall have the same meaning as defined in section 3.1.1 of the CCCPH.
- (s) "Reduced pressure principle detector backflow prevention assembly – type II" ("RPDA-II") shall have the same meaning as defined in section 3.1.1 of the CCCPH.
- (t) "Spill-resistant pressure vacuum breaker backsiphonage prevention assembly" ("SVB") shall have the same meaning as defined in section 3.1.1 of the CCCPH.
- (u) "State Water Resources Control Board" ("Board" or "SWRCB") means the California State Water Resources Control Board.
- (v) "Water Supplier" shall have the same meaning as defined in section 3.1.1 of the CCCPH.
- (w) "Water User" shall have the same meaning as defined in section 3.1.1 of the CCCPH.

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 BPA installed for the purpose of eliminating a cross-connection shall conform to State law and this chapter. Only BPAs tested and approved in accordance with the CCCPH and this chapter at or before the time of installation shall be approved for use under this Chapter, and such BPAs shall be installed as indicated by the approving entity, pursuant to section 3.3.1(b) and (c) of the CCCPH, and under permit from the local building official. BPAs must not be modified without authorization following approval granted by the approving entity.

4.72.070 Tests of backflow prevention assemblies.

All testable BPAs, including but not limited to a DC, DCDA, DCDA-II, RP, RPDA,

RPDA-II, PVB, and SVB which have been installed to meet the requirements of the CCCPH 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 anniversary date for the BPA as established by the Division, but never less than once every 395 days, by a Person authorized pursuant to section 4.72.080 of this Chapter. Records of such BPA tests shall be filed with the Division within ten (10) days after such tests. Records shall be on forms provided by, or by mechanism specified by the Division, or on a similar form that includes all the same equivalent data as determined by the Division.

Testable BPAs shall be tested using current University of Southern California, Foundation for Cross-Connection Control and Hydraulic Research test procedures as recognized by the Division. When a BPA is inspected and has passed the testing procedure, the authorized tester shall immediately affix a numbered inspection tag to the BPA. When a BPA fails the testing procedure, the authorized tester shall immediately affix a "failed" inspection tag to the BPA. Records of failed BPA tests shall be filed with the Division within ten (10) days. The "failed" inspection tag shall remain affixed to the BPA until the BPA is repaired, has passed the testing procedures, and has been affixed with a numbered inspection tag. Pursuant to section 116875 of the California Health and Safety Code, any failed BPA that is not "lead free" and that is not specifically exempted by section 116875, must be replaced with an approved "lead free" BPA rather than being repaired.

4.72.080 Authorized testers.

No Person shall test and/or make reports on BPAs unless that Person possesses a current authorization issued by the Division as follows:

- (a) The Division shall authorize any applicant who demonstrates competence to test and make reports on BPAs in compliance with the requirements of the CCCPH and this Chapter, and who submits an initial tester application, pays the annual authorization fee enacted pursuant to San Mateo County Ordinance Code section 5.64.070, and provides copies of all test gauge calibration certificates for any BPA test gauges that the BPA tester uses in performing BPA testing in San Mateo County. Such calibration certificates must be from calibration made within the calendar year (365 days) preceding the authorization. Applicants shall demonstrate such competence by complying with all of the following:
 - (1) Presenting a current valid certificate as a BPA tester issued by the California — Nevada Section of the American Water Works Association or equivalent certification as recognized by the SWRCB as detailed in section 3.4.1 of the CCCPH.
 - (2) Undertaking and passing an examination administered by the Division. Any such authorized tester may be required to undergo additional training, reexamination, other demonstration of competency or any combination thereof, as may be deemed

necessary by the Division.

- (b) Tester authorization may be renewed annually by payment of the annual authorization fee. Payment must be made before expiration of the previous year's authorization. Proof of current certificate that complies with subdivision (a)(1) of this Section must be submitted to the Division with the fee. If there is any lapse in authorization or any suspension or revocation of tester authorization pursuant to Section 4.72.090 of this Chapter, the Division may require the tester to undergo re-examination, additional training, other demonstration of competency, or any combination thereof prior to re-authorization. Additionally, at the time of annual renewal, authorized testers must provide copies of all test gauge calibration certificates for any BPA test gauges that the BPA tester uses in performing BPA testing in San Mateo County. Such calibration certificates must be from calibration made within the calendar year (365 days) preceding the re-authorization.

Authorized testers are solely responsible for complying with applicable municipal requirements for additional permits or licenses (e.g., local business license, plumbing permit, etc.) to test, repair, report on, or install BPAs within that local jurisdiction.

4.72.090 Suspension or revocation of tester authorization.

- (a) Reasons. Tester Authorization by the Division may be suspended or revoked upon any of the following grounds:
 - (1) The Division determines that a tester is no longer in possession of a current and valid certificate as a backflow prevention tester that complies with section 4.72.080 of this Chapter.
 - (2) The Division determines that the tester has practiced fraud or deception or has displayed gross negligence or misconduct in the performance of their duties, including by, for example, making a material misrepresentation on the initial or renewal application for tester certification to the Division or committing an act that may pose a threat to public health and safety in the performance of a test required by this Chapter.
- (b) Procedures. Written notice of the suspension or revocation shall be served on the authorized tester by certified mail with a description of the violation and supporting facts. The notice shall contain an advisement of the right to request an appeal hearing before the Director or the Director's designee.
- (c) Time Period of Suspension of Tester Authorization. The Division has discretion to suspend a tester authorization for any period of time between five (5) calendar days and the end of the annual authorization term, depending on the nature and severity of the violation.

- (d) **Effective Date of Suspension or Revocation.** Suspension or revocation issued pursuant to subsection (a) will be effective ten (10) calendar days from the date the written notice was sent by certified mail as described in subsection (b) unless a timely appeal is filed in accordance with subsection (e).
- (e) **Appeal.**
 - (1) The Division's decision to suspend or revoke tester authorization is appealable to the Director or the Director's designee.
 - (2) An appeal must be in writing, be addressed to the Director, and be hand-delivered or mailed to the offices of the Division.
 - (3) An appeal must be received by the Director 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.
 - (5) An appeal hearing shall be scheduled within thirty (30) days of receipt of the appeal by the Director unless an extension is authorized by the appellant.
 - (6) The decision of the Director or the Director's designee following the appeal hearing shall be a final administrative order, with no further administrative right of appeal.
 - (7) The appellant shall be notified in writing by certified mail of the decision of the Director or their designee following the appeal hearing unless such person was present at the hearing when the decision was rendered, in which case notice shall be deemed to have been given to that person.
- (f) **Reapplication.** No reapplication will be accepted within six (6) months after a tester authorization 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 authorized 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 BPA required by the CCCPH, California Health and Safety Code, California Plumbing Code, this Chapter, or any other applicable law unless such assembly is in good repair. Assemblies which are found to not be in good repair shall be repaired and re-tested by an authorized tester, as described in section 4.72.070 of this Chapter, immediately upon discovery, and no later than seven (7) calendar days following the discovery and notice to the owner. A report thereof shall be filed with the Division 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, or any other chapters of the San Mateo County Ordinance Code.

4.72.120 Authority to inspect.

All facilities shall be available for inspection by the Division to determine if protection of the public water supply is required. The frequency of inspection shall be determined by the degree of potential or actual hazard determined for each facility or facility type, and as specified in the CCCPH, or in the operating rules of any Public Water System. Costs incurred by the Division for these inspections shall be paid by the facility owner at the rates enacted pursuant to San Mateo County Ordinance Code section 5.64.070.

4.72.130 Enforcement.

The Division shall have the authority to enforce this Chapter as follows:

- (a) The Division may require a water supplier to discontinue water service to any facility wherein violations of this Chapter exist.
- (b) Any Person who violates any provision of this Chapter, or bypasses or renders inoperative any BPA installed under the provisions of this Chapter, may, in addition to other penalties provided by law and this Chapter, be subject to discontinuance of water service. Water service shall not again be reinstated until such violations have been corrected as determined by the Division. Costs incurred by the Division for inspections shall be paid by the facility owner at the rates enacted pursuant to San Mateo County Ordinance Code section 5.64.070.
- (c) Pursuant to section 116820 of the 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 and Safety Code ("Article 2"), violates any order of the Division pursuant to Article 2, or knowingly files a false

statement or report required by the Division pursuant to Article 2 is guilty of a misdemeanor punishable by a fine not exceeding five hundred dollars (\$500.00) 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 the Division beyond the time stated for compliance of the order shall be a separate offense.

(d) Administrative Fines.

- (1) Violations. Upon a finding by the Division that a Person has violated any provision of this Chapter or directive of the Division made pursuant to this Chapter, knowingly filed a false statement or report required pursuant to this Chapter, or bypassed or rendered inoperative any BPA installed under the provisions of this Chapter, the Division may issue an administrative order requiring that the violation be corrected and may issue an administrative fine of up to five hundred dollars (\$500.00).
- (2) Separate Violations. Each day of a violation as described in subsection (a) shall constitute a separate violation.
- (3) 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 advisement of the right to request a hearing before the Director or the Director's designee contesting the imposition of the fine.
- (4) Appeals. Appeals must be requested in writing, and shall provide facts disputing the violation. Appeals must be addressed to the Director, and must be received within ten (10) calendar days of the date on which the notice described in subdivision (c) was mailed. The decision of the Director or their designee on the appeal shall be provided to the appellant by certified mail. The decision will constitute a final administrative order with no additional administrative right of appeal.
- (5) Failure to Pay Fine. If said fine is not paid within thirty (30) calendar days from the date appearing on the notice of the fine or the notice of determination from the Director or their designee after the appeal hearing, whichever is later, the fine may be referred to a collection agency within or external to the County of San Mateo. In addition, any outstanding fines must be paid prior to the issuance or renewal of the Person's registration or authorization pursuant to this Chapter.

4.72.140 Recycled or graywater systems.

All components of recycled or graywater systems must be designed and installed

in accordance with California law and local Plumbing Codes.

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 is 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 Chapter are declared to be severable.

SECTION 3. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, it shall not affect the remaining portions of this Ordinance.

SECTION 4. EFFECTIVE DATE. This Ordinance shall be effective 30 days from the date of adoption.

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