

BOARD of SUPERVISORS



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April 12, 2016

File No. 160294

Sarah Jones
Environmental Review Officer
Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Dear Ms. Jones:

On April 5, 2016, the Public Utilities Commission introduced the following legislation:

File No. 160294

Ordinance amending the Health Code to regulate cross-connection and backflow prevention requirements to protect the public water system by replacing obsolete requirements with requirements consistent with current state and federal drinking water quality laws; by reorganizing, updating, and clarifying procedures for implementing such requirements; and by authorizing remedies and penalties for violations and providing enforcement criteria and procedures; and affirming the Planning Department's determination under the California Environmental Quality Act.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "Erica Major".

By: Erica Major, Assistant Committee Clerk
Public Safety and Neighborhood Services Committee

Attachment

c: Joy Navarrete, Environmental Planning
Jeanie Poling, Environmental Planning

Not defined as a project under CEQA Sections 15378 and 15060(c)(2) because it does not result in a physical change in the environment.

1 [Health Code - Public Water System Cross-Connection Control and Backflow
Prevention]

2 **Ordinance amending the Health Code to regulate cross-connection and backflow**
3 **prevention requirements to protect the public water system by replacing obsolete**
4 **requirements with requirements consistent with current state and federal drinking water**
5 **quality laws; by reorganizing, updating, and clarifying procedures for implementing**
6 **such requirements; and by authorizing remedies and penalties for violations and**
7 **providing enforcement criteria and procedures; and affirming the Planning**
8 **Department's determination under the California Environmental Quality Act.**

9
10 **NOTE:** **Unchanged Code text and uncodified text** are in plain Arial font.
11 **Additions to Codes** are in *single-underline italics Times New Roman font*.
12 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
13 **Board amendment additions** are in double-underlined Arial font.
14 **Board amendment deletions** are in ~~strikethrough Arial font~~.
15 **Asterisks (* * * *)** indicate the omission of unchanged Code
16 subsections or parts of tables.

17
18 Be it ordained by the People of the City and County of San Francisco:

19
20 Section 1. Environmental Findings. The Planning Department has determined that the
21 actions contemplated in this ordinance comply with the California Environmental Quality Act
22 (California Public Resources Code Section 21000, et seq.). Said determination is on file with
23 the Clerk of the Board of Supervisors in File No. ___ and is incorporated herein by reference.
24 The Board affirms this determination.

25
Section 2. The Health Code is hereby amended by deleting Sections 750-761 (while
retaining Article 12A and its title, "Backflow Prevention"), as follows:

~~**SEC. 750. PURPOSE AND FINDINGS.**~~

1 ~~The purpose of this Article is to establish requirements for backflow prevention to supplement~~
2 ~~those imposed by the State pursuant to Title 17, Sections 7583 et seq. of the California Administrative~~
3 ~~Code. California Administrative Code Section 7583 expressly authorizes local governments to establish~~
4 ~~more stringent requirements where local conditions so warrant. The Board of Supervisors finds and~~
5 ~~declares that the dangers to public health and safety posed by the existing and potential contamination~~
6 ~~of the drinking water supply in San Francisco warrant the imposition of local standards in excess of~~
7 ~~those required under State law.~~

8 ~~**SEC. 751. DEFINITIONS.**~~

9 ~~The following definitions shall apply to this Article.~~

10 ~~1. "Backflow" shall mean the flow, from any source or sources, of water which is of unknown~~
11 ~~or questionable safety for human consumption or other liquids, gases, mixtures or other substances into~~
12 ~~the potable water distribution system.~~

13 ~~2. "Backflow prevention device" shall mean any effective device, means, method, or~~
14 ~~construction used to prevent the backflow of substances into the potable water distribution system,~~
15 ~~which has been previously approved for use by the Cross-Connection Control Committee, as that body~~
16 ~~is defined in this Article, and shall pass all initial testing procedures at the time of installation.~~

17 ~~3. "Certified tester" shall mean any person, whether privately employed or in the employ of~~
18 ~~the City and County, who holds a valid Department of Public Health certificate to test backflow~~
19 ~~prevention devices.~~

20 ~~4. "Cross-connection" shall mean any actual or potential connection between any part of a~~
21 ~~water system used or intended to supply water for drinking purposes and any source or system~~
22 ~~containing water which is not or cannot be approved as safe, wholesome and potable for human~~
23 ~~consumption or any other substance. Temporary or permanent devices through which, or because of~~
24 ~~which, backflow could occur are also considered to be cross-connections.~~

25 ~~5. "Cross-connection control device" shall mean an approved backflow prevention device.~~

1 ~~6. "Department of Public Health" shall mean the San Francisco Department of Public~~
2 ~~Health.~~

3 ~~7. "Department of Public Works" shall mean the San Francisco Department of Public~~
4 ~~Works.~~

5 ~~8. "In-house hazard" shall mean a cross-connection within a water consumer's premises.~~

6 ~~9. "Water Department" shall mean the San Francisco Water Department.~~

7 ~~**SEC. 752. CROSS-CONNECTION CONTROL COMMITTEE—ESTABLISHMENT OF.**~~

8 ~~—There is hereby created a Cross-Connection Control Committee of the City and County of San~~
9 ~~Francisco, which shall be comprised of the Manager of Water Quality of the Water Department, the~~
10 ~~Superintendent of Building Inspection of the Department of Public Works, and the Director of~~
11 ~~Environmental Health Services of the Department of Public Health, or their respective designees. The~~
12 ~~Committee's duties shall include, but are not limited to, the review of operations of the City's Cross-~~
13 ~~Connection Control Program, the establishment of a program within the Department of Public Health~~
14 ~~to provide for certification of qualified testers, and the development of a schedule to assure annual~~
15 ~~inspection of all backflow prevention devices within the City and County as well as those on property~~
16 ~~owned by the City and County but located outside the boundaries of the City and County.~~

17 ~~**SEC. 753. DEPARTMENTAL RESPONSIBILITIES.**~~

18 ~~—The Water Department shall have primary responsibility for the prevention of any~~
19 ~~unauthorized substances or water from unapproved sources from entering the public water supply~~
20 ~~system. The Department of Public Health shall have the overall and ultimate responsibility under this~~
21 ~~Article for preventing water from unapproved sources or other unauthorized substances from entering~~
22 ~~the potable water system. The Department of Public Health shall promulgate any rules or regulations~~
23 ~~necessary to effectuate this Article. Said rules and regulations shall, at a minimum, be consistent with~~
24 ~~and meet all requirements imposed by State law.~~

1 **~~SEC. 754. UNPROTECTED CROSS CONNECTIONS PROHIBITED; IDENTIFICATION~~**
2 **~~OF IN-HOUSE HAZARDS.~~**

3 ~~—It shall be unlawful for any water consumer or property owner to have, keep, maintain, install~~
4 ~~or permit the existence of a cross-connection which is unprotected from actual or potential backflow~~
5 ~~due to the absence of approved and properly functioning backflow prevention devices.~~

6 ~~—The Department of Public Health, through its Bureau of Environmental Health Services, the~~
7 ~~Department of Public Works, through its Bureau of Plumbing Inspection, and the Water Department~~
8 ~~shall, in their normal course of enforcement activity, identify the locations of in-house hazards and~~
9 ~~shall jointly maintain a continuously updated list of such in-house hazards for enforcement action~~
10 ~~under this Article.~~

11 **~~SEC. 755. ENFORCEMENT POWERS.~~**

12 ~~—Upon notification by the Department of Public Health, the Department of Public Works or the~~
13 ~~Water Department, it shall be the responsibility of each water consumer to eliminate any existing or~~
14 ~~potential unprotected cross-connections on the subject property within 30 to 90 calendar days of said~~
15 ~~notification. The specific deadline for achieving compliance shall be established by the appropriate~~
16 ~~department based upon the type and magnitude of the work required to eliminate the cross-connection.~~
17 ~~The appropriate department shall monitor the progress of the work required to achieve compliance.~~

18 ~~—If a water consumer refuses or fails to eliminate a cross-connection after the deadline has~~
19 ~~expired as set forth in the notification, or if the progress of the work being monitored by the~~
20 ~~appropriate department indicates that the work cannot be completed within the time limit established in~~
21 ~~the notification, the Water Department, acting alone or in coordination with the Departments of Public~~
22 ~~Health or Public Works, shall immediately issue a final notification to the owner of the subject property~~
23 ~~to eliminate the cross-connection. If the property owner refuses to or does not comply with the~~
24 ~~requirements set forth in the final notification within ten calendar days of its date of issuance, the~~
25 ~~Water Department shall thereafter disconnect the water services to the customer directly responsible~~

1 ~~for noncompliance until the cross-connection has been eliminated and necessary payments have been~~
2 ~~made for turn-on services in the same manner as specified under the San Francisco Public Utilities~~
3 ~~Commission Rules and Regulations Section C Rule 4 (or any successor regulations) governing water~~
4 ~~service to customers. If the property owner and the water consumer are one and the same person, only~~
5 ~~one notification shall be required prior to disconnecting the water services in the event of~~
6 ~~noncompliance. The Water Department shall not disconnect the water services until any appeal which~~
7 ~~may be taken under Section 756 of this Article has become final, except as specified in Section 760 of~~
8 ~~this Article.~~

9 **~~SEC. 756. REVIEW OF APPEALS BY DEPARTMENT OF PUBLIC HEALTH.~~**

10 ~~—Appeals against the final notice for disconnection of water services may be made to the~~
11 ~~Department of Public Health by the subject property owner, within five calendar days of the date of~~
12 ~~said final notice, and shall include current data obtained from a certified tester employed by the~~
13 ~~property owner or his representative which disapproves the existence of a cross-connection or the~~
14 ~~adequacy of the time limit set for compliance. The Director of the Bureau of Environmental Health~~
15 ~~Services, or his designee, shall hold a hearing on the appeal within fifteen calendar days of receipt of~~
16 ~~said appeal, and shall thereafter issue a decision which shall state whether or not the alleged defect or~~
17 ~~deficiency constitutes a cross-connection as defined in this Article. The Director shall affirm the Water~~
18 ~~Department's action if he or she finds that a cross-connection exists. The Director's decision shall issue~~
19 ~~within two calendar days of the completion of the hearing, and shall be final.~~

20 **~~SEC. 757. CROSS-CONNECTION CONTROL PROGRAM.~~**

21 ~~—Annual inspections of all existing backflow prevention devices shall be conducted under the~~
22 ~~direction of the Water Department. The Water Department shall make available for public inspection~~
23 ~~the current listing of all certified testers required under Section 758 of this Article. The Water~~
24 ~~Department shall annually notify all water consumers who have cross-connection control devices of the~~
25 ~~requirements of this Article for annual maintenance and testing and shall annually promulgate a~~

1 ~~schedule of charges for the cost to the water consumer of the inspections and testing to be done under~~
2 ~~this Article. Water consumers who fail to comply with the action required by the Water Department's~~
3 ~~annual notifications shall be subject to the same enforcement procedures as set forth in Sections 755~~
4 ~~and 756 of this Article.~~

5 ~~—When a backflow prevention device is inspected and has passed the testing procedure, the~~
6 ~~certified tester shall immediately affix a seal or tag to the device. Such seals or tags shall be purchased~~
7 ~~by the certified tester from the Department of Public Health. Seals or tags may be issued free of charge~~
8 ~~to testers employed by the City and County for use when testing backflow prevention devices installed~~
9 ~~on City and County property. Each certified tester shall maintain a continuous record of the dates and~~
10 ~~locations of each inspection performed, any tests made, and the results thereof. A copy of such record~~
11 ~~shall be sent by each certified tester to the Water Department within five calendar days of each~~
12 ~~inspection or test. Appropriate testing and inspection records for potable water systems, including but~~
13 ~~not limited to the information to be supplied by all certified testers, shall be maintained by the Water~~
14 ~~Department and shall be made available upon request to the Department of Public Works and the~~
15 ~~Department of Public Health.~~

16 **~~SEC. 758. CERTIFICATION OF BACKFLOW PREVENTION SERVICE TESTERS.~~**

17 ~~—Procedures for the establishment of a program for the certification of qualified backflow~~
18 ~~prevention device testers shall be developed and implemented by the Department of Public Health~~
19 ~~within thirty working days of the effective date of this Article. Independent testers and testers who are~~
20 ~~City employees shall receive training in backflow prevention device testing. All testers shall thereafter~~
21 ~~take and pass an examination administered by the Department of Public Health in order to qualify for a~~
22 ~~valid tester's certificate to be issued by that Department. Testers whose names appear on the Water~~
23 ~~Department's approved list of backflow prevention testers as of the effective date of this Article shall be~~
24 ~~exempt from the initial training and examination requirement.~~

1 ~~Each tester's certificate issued by the Department of Public Health shall be valid for a period~~
2 ~~of one year from the date of issuance. Tester's certificates may be renewed upon additional training, re-~~
3 ~~examination, other demonstration of competency, or any combination thereof, as may be deemed~~
4 ~~necessary by the Department of Public Health. A tester's certificate may be suspended or revoked at~~
5 ~~any time for cause by the Department of Public Health. The Department of Public Health shall~~
6 ~~maintain a current list of the names and business addresses of all certified testers and of all tester's~~
7 ~~certificates which have been suspended or revoked. The list shall be forwarded to the Water Quality~~
8 ~~Control Division of the Water Department and the Bureau of Plumbing Inspection of the Department of~~
9 ~~Public Works, and shall be made available for public inspection by all three departments.~~

10 **~~759. INSURANCE REQUIREMENTS FOR TESTERS.~~**

11 ~~Each certified tester who is not a City employee shall maintain general liability insurance in~~
12 ~~full force and effect, at his or her expense, for all cross-connections control and backflow device testing~~
13 ~~activities. Such insurance shall include coverage for bodily injury, personal injury, including death~~
14 ~~resulting therefrom, and property damage insurance, with limits not less than \$100,000 each~~
15 ~~occurrence combined single limit. The City and County of San Francisco, its officers and employees~~
16 ~~shall be named as additional insureds under the policy and a cross-liability clause shall be attached.~~
17 ~~Such insurance shall provide 10 days prior written notice of cancellation, nonrenewal or material~~
18 ~~change to the Department of Public Health. A certificate of insurance, in form and with insurers~~
19 ~~acceptable to City, shall be required prior to the issuance of any tester's certificate or any renewal~~
20 ~~thereof.~~

21 **~~SEC. 760. SPECIAL CASES EXEMPTED FROM APPEALS.~~**

22 ~~Whenever the Department of Public Health, the Department of Public Works or the Water~~
23 ~~Department identify any existing or potential unprotected cross-connection as posing a high risk of~~
24 ~~hazard to the public health and safety which requires immediate abatement, the Water Department~~
25 ~~shall, in coordination if necessary with the Department of Public Health or the Department of Public~~

1 ~~Works, immediately shut off the water services to the customer directly responsible for the hazard in~~
2 ~~order to prevent such cross-connection from causing any backflow into the potable water distribution~~
3 ~~system. Water services shall be restored upon elimination of the cross-connection and payment for~~
4 ~~turn-on services as specified under the San Francisco Public Utilities Commission Rules and~~
5 ~~Regulations Section C Rule 4 (or any successor regulations) governing water service to customers. All~~
6 ~~action taken under this section shall be exempt from the appeals procedures specified in Section 765 of~~
7 ~~this Article.~~

8 ~~**761. DOUBLE CHECK VALVES ON HIGHRISES WITH ROOF TANKS.**~~

9 ~~Any building with a roof tank shall have an approved double check valve assembly installed on~~
10 ~~the building water supply line. The check valve shall be located as near as possible to the water meter~~
11 ~~and in any case before the first fitting or branch line. For buildings with roof tanks existing prior to~~
12 ~~enactment of this section where an air gap has been previously accepted by the enforcing agency, a~~
13 ~~double check valve shall not be required provided the enforcing agency can easily determine that there~~
14 ~~are no lateral lines or outlets between the meter and the air gap. If at any time buildings with roof tanks~~
15 ~~which were previously accepted as having approved air gaps in lieu of double check valves have or are~~
16 ~~believed to have installed lateral lines or outlets between the meter and the air gap, then a double~~
17 ~~check valve shall be installed as near as possible to the water meter.~~

18
19 Section 3. The Health Code is hereby amended by adding Sections 12A.1-12A.11,
20 under Article 12A, to read as follows:

21 ~~**SEC.12A.1. PURPOSE AND FINDINGS.**~~

22 ~~The Board of Supervisors finds that:~~

23 ~~(a) The City's potable Public Water System must be protected from contamination by the~~
24 ~~implementation of a cross-connection control program.~~

1 (b) The State of California requires the City, as the public water supplier, to implement the
2 cross-connection control program, and allows implementation of the program by the public water
3 supplier or by means of contract between the public water supplier and the local health agency.

4 (c) Under the Charter, the authority and responsibility for managing and operating the City's
5 Public Water System is vested in the San Francisco Public Utilities Commission. The City's local
6 health agency, the Department of Public Health, should cooperate with the San Francisco Public
7 Utilities Commission in implementing the City's cross-connection control program.

8 (d) The dangers to public health and safety posed by the potential contamination of the City's
9 potable water system warrant the imposition of local regulations and standards in excess of those
10 required under State law.

11 **SEC. 12A.2. DEFINITIONS.**

12 The following terms used in this Article 12A have the meanings set forth below:

13 "Approved Air Gap Separation" shall mean a physical break between the water supply line and
14 a receiving vessel, that has been approved by the General Manager and is in proper working order.

15 "Approved Backflow Prevention Assembly" shall mean a device used to prevent the backflow of
16 substances into the Public Water System that has been approved for such use by a recognized testing
17 organization acceptable to the General Manager and is in proper working order.

18 "Authorized Backflow Prevention Assembly Tester" shall mean any person who possesses a
19 valid certification to test, repair, and maintain backflow prevention assemblies and is authorized by the
20 General Manager to do such work in the City in accordance with Section 12A.7 of this Article 12A.

21 "Authorized Cross-connection Control Specialist" shall mean any person who possesses a valid
22 certification to administer a cross-connection control test and to conduct site surveys to assess cross-
23 connection control requirements and is authorized by the General Manager to do such work in the City
24 in accordance with Section 12A.7 of this Article 12A.

1 “Auxiliary Water” shall mean any water other than that received from the Public Water System,
2 including, but not limited to, recycled water, wastewater, graywater, groundwater, and rainwater.

3 “Backflow” shall mean the flow of water, from any source or sources, into the Public Water
4 System that is of unknown or questionable safety for human consumption, or of other liquids, gases,
5 mixtures, or other substances that flow into the Public Water System.

6 “Backflow Preventer” shall mean an Approved Backflow Prevention Assembly or Approved Air
7 Gap Separation.

8 “Backflow Tag” shall mean an identification document provided by the General Manager to
9 Authorized Backflow Prevention Assembly Testers to be affixed to an Approved Backflow Prevention
10 Assembly after it has passed testing.

11 “Containment” shall mean protection from Backflow at the service connection.

12 “Cross-connection” shall mean any unprotected actual or potential connection between any
13 part of a potable water system used or potentially used to supply water for drinking purposes and any
14 source or system containing water or any other substance that is not or cannot be approved as safe,
15 wholesome, and potable.

16 “Cross-connection Control Survey” shall mean an inspection of all parts of a Property with a
17 Water Service Connection to identify potential Cross-connections.

18 “Cross-connection Test” shall mean a test administered by an Authorized Cross-connection
19 Control Specialist to verify that there is no physical uncontrolled connection between the potable water
20 pipng and any Auxiliary Water piping system.

21 “Dual-plumbed” shall mean a system that utilizes separate piping systems for Auxiliary Water
22 and potable water within a Property.

23 “First Certificate of Occupancy” shall mean either a temporary certificate of occupancy or a
24 certificate of final completion and occupancy, as defined in San Francisco Building Code Section
25 109A, whichever is issued first.

1 “General Manager” shall mean the General Manager of the San Francisco Public Utilities
2 Commission, or his or her designee.

3 “On-site Hazard” shall mean any actual or potential contamination or pollution risk to the
4 public water supply created as a result of conditions existing on a Property.

5 “Point of Connection” shall mean the water meter, or, for dedicated fire services, the junction
6 of the water supply lateral and the Property’s fire protection system.

7 “Property” shall mean any parcel, premises, building, or other structure that receives potable
8 water from the Public Water System.

9 “Property Owner” shall mean the legal owner of a Property with a Water Service Connection
10 to the Public Water System.

11 “Public Water System” shall mean the potable water system operated and maintained by the
12 San Francisco Public Utilities Commission.

13 “Water Service Connection” shall mean a connection to the Public Water System.

14 **SEC. 12A.3. SCOPE OF ARTICLE**

15 As a condition of receiving water service from the Public Water System, Property Owners shall
16 install an approved Backflow Preventer on their Property prior to receiving potable water on any
17 Property where any of the following exist:

18 (a) A wastewater pumping and/or treatment plant.

19 (b) The handling of a hazardous substance in any manner in which the substance could enter
20 the Public Water System.

21 (c) An Auxiliary Water supply.

22 (d) Dual-plumbed property.

23 (e) Intricate plumbing and piping arrangements.

24 (f) A repeated history of Cross-connections.

25 (g) A dockside watering point or marine facility.

1 (h) Dedicated irrigation service.

2 (i) A fire protection system.

3 (j) A building where the highest point is 40 feet or more in height above the point of connection.

4 (k) Inadequate Backflow prevention for any on-site process that the General Manager identifies
5 as requiring additional protection from Backflow.

6 (l) Restricted entry to the Property or parts of the Property that inhibit performance of a Cross-
7 connection inspection.

8 (m) Multiple service connections where at least one such connection requires Backflow
9 protection for Containment.

10 (n) A water storage facility not under control of the Public Water System.

11 (o) Any other hazard that the General Manager identifies as requiring abatement to protect the
12 Public Water System from contamination.

13 **SEC. 12A.4. COMPLIANCE WITH CROSS-CONNECTION CONTROLS.**

14 (a) Property Owners shall maintain and operate connections with the Public Water System in
15 compliance with this Article 12A, regulations adopted by the General Manager, and all applicable
16 local, state, and federal laws.

17 (b) Property Owners with connections to the Public Water System shall not install, maintain, or
18 allow Cross-connections that are not protected from actual or potential Backflow.

19 (c) No City department shall approve or issue a First Certificate of Occupancy for any
20 Property subject to this Article 12A unless and until the approved Backflow Preventer has been tested
21 and certified in accordance with this Article and regulations adopted by the General Manager.

22 (d) No City department shall approve or issue a First Certificate of Occupancy for any Dual-
23 plumbed property unless and until the system has passed a Cross-connection Test and been certified in
24 accordance with this Article 12A and regulations adopted by the General Manager.

25 **SEC. 12A.5. BACKFLOW PREVENTION REQUIREMENTS.**

1 (a) Backflow Preventers for Containment shall be installed as close as practical to but in any
2 case within 25 feet of the downstream side of the water meter or Point of Connection to the Public
3 Water System.

4 (b) Backflow Preventers shall be installed that are commensurate with the risk that exists at
5 each Property, in accordance with criteria set forth in regulations adopted by the General Manager.

6 (c) All Approved Backflow Prevention Assemblies, prior to installation, shall have passed
7 laboratory and field evaluation tests performed by a recognized testing organization acceptable to the
8 General Manager that has demonstrated competency to perform such tests. Approved Backflow
9 Prevention Assemblies that have been modified or installed in a manner that differs from the
10 configuration tested and approved are prohibited.

11 (d) Approved Backflow Prevention Assemblies, as installed, shall be field tested in accordance
12 with this Article 12A to determine that they are functioning properly before being placed into service.

13 (e) No person shall use water from or connect any apparatus to a City fire hydrant without first
14 obtaining a permit and a water meter from the San Francisco Public Utilities Commission. All
15 portable water meters intended for use with hydrants shall include backflow prevention in accordance
16 with the regulations adopted by the General Manager.

17 (f) The Property Owner shall be responsible for field testing all Approved Backflow Prevention
18 Assemblies upon installation, relocation, or repair, and annually after each such action, or more
19 frequently if determined necessary by the General Manager to eliminate an On-site Hazard.

20 (g) Backflow prevention assembly tests and inspections required under this Article 12A shall be
21 performed by an Authorized Backflow Prevention Assembly Tester at the sole expense of the Property
22 Owner.

23 (1) When an Approved Backflow Prevention Assembly is inspected and has passed the
24 testing procedure, the Authorized Backflow Prevention Assembly Tester shall:

25 (A) Immediately affix a Backflow Tag to the assembly.

1 (B) Submit certification documentation to the General Manager and the
2 Property Owner within five business days of the completion of each inspection and test.

3 (2) Approved Backflow Prevention Assemblies that fail to pass inspection and testing
4 shall be repaired, overhauled, or replaced, and immediately retested at the sole expense of the Property
5 Owner.

6 **SEC 12A.6. CROSS-CONNECTION TESTING REQUIREMENTS FOR DUAL-**
7 **PLUMBED SYSTEMS.**

8 (a) The Property Owner shall be responsible for testing all Dual-plumbed systems for Cross-
9 connections upon installation and periodically thereafter as required in accordance with regulations
10 adopted by the General Manager.

11 (b) Cross-connection Tests and inspections shall be performed by an Authorized Cross-
12 connection Control Specialist at the sole expense of the Property Owner.

13 (c) The Authorized Cross-connection Control Specialist shall submit a written report
14 documenting the results of the inspection and testing to the General Manager and the Property Owner
15 within five business days of each inspection or test.

16 (d) If a Cross-connection is identified during inspection and testing, the Property Owner or
17 Authorized Cross-connection Control Specialist shall:

18 (1) Immediately notify the General Manager of the existence of the Cross-connection.

19 (2) Immediately shut off the Auxiliary Water supply at the source.

20 (3) Follow the procedure for eliminating the Cross-connection, retesting, and
21 reestablishing water service in accordance with regulations adopted by the General Manager.

22 (e) If a Cross-connection is discovered, the General Manager may shut off the potable water
23 supply to the Property at the water meter or other connection to the Public Water System.

1 (f) Recordkeeping. Property Owners shall maintain Cross-connection testing and inspection
2 records for a period of three years, in accordance with regulations adopted by the General Manager.
3 The records shall be made available to the General Manager at the request of the General Manager.

4 **SEC. 12A.7. AUTHORIZED BACKFLOW PREVENTION ASSEMBLY TESTER AND**
5 **CROSS-CONNECTION CONTROL SPECIALIST REQUIREMENTS.**

6 (a) Only Authorized Backflow Prevention Assembly Testers may test Backflow prevention
7 assemblies in the City.

8 (b) Only Authorized Cross-connection Control Specialists may conduct Cross-connection Tests
9 in the City.

10 (c) All Authorized Backflow Prevention Assembly Testers and Authorized Cross-connection
11 Control Specialists must obtain a permit to operate, issued in accordance with regulations adopted by
12 the General Manager. To receive and maintain a permit to operate, Authorized Backflow Prevention
13 Assembly Testers and Authorized Cross-connection Control Specialists must:

14 (1) Hold a valid certification as a Backflow prevention assembly tester and/or Cross-
15 connection Control Specialist from an organization approved by the General Manager.

16 (2) Maintain or be covered by general liability insurance in full force and effect, in
17 accordance with regulations adopted by the General Manager.

18 (d) A person may simultaneously hold separate permits to operate as an Authorized Backflow
19 Prevention Assembly Tester and as an Authorized Cross-connection Control Specialist.

20 (e) Following a hearing that comports with due process, the General Manager at any time may
21 suspend or revoke a permit to operate for violation of any provision of this Article 12A or any
22 regulation adopted to implement this Article.

23 **SEC. 12A.8. COMPANIES EMPLOYING AUTHORIZED BACKFLOW PREVENTION**
24 **ASSEMBLY TESTERS OR AUTHORIZED CROSS-CONNECTION CONTROL SPECIALISTS.**

1 (a) In order to operate in the City, companies or other entities that employ Authorized
2 Backflow Prevention Assembly Testers or Authorized Cross-connection Control Specialists shall:

3 (1) Register with the General Manager by providing documentation required under
4 regulations adopted by the General Manager.

5 (2) Maintain general liability insurance in full force and effect, at the expense of the
6 company or other entity, for all activities performed by their Authorized Backflow Prevention Assembly
7 Testers or Authorized Cross-connection Control Specialists, consistent with regulations adopted by the
8 General Manager.

9 (3) Provide the General Manager with the names of the Authorized Backflow Prevention
10 Assembly Testers and Authorized Cross-connection Control Specialists working for them and notify the
11 General Manager when such employees leave the company or other entity.

12 (4) Maintain continuous records of all activities performed in relation to Backflow
13 prevention in the City for three years, in accordance with regulations adopted by the General Manager.
14 The records shall be made available to the General Manager at the request of the General Manager.

15 (b) Following a hearing that comports with due process, the General Manager may suspend or
16 revoke a company or other entity's authorization to conduct testing of Backflow prevention assemblies
17 or any Cross-connection control activities at any time for violation of any provision of this Article 12A
18 or any regulation implementing this Article.

19 **SEC. 12A.9. INSPECTION AND NOTICES.**

20 (a) As a condition of receiving water service, the Property Owner shall permit the General
21 Manager to inspect any Property subject to the requirements of this Article 12A to determine
22 compliance with the provisions of this Article and applicable laws and regulations.

23 (b) Upon written notification by the General Manager, a Property Owner shall eliminate any
24 unprotected Cross-connections within seven days of receipt of the notification, unless the General
25 Manager authorizes an alternate deadline for remediation.

1 (c) If a Property Owner refuses or fails to eliminate a Cross-connection within the required
2 time, the General Manager may proceed with enforcement activities in accordance with this Article
3 12A and regulations adopted by the General Manager.

4 **SEC. 12A.10. VIOLATIONS, ENFORCEMENT ACTIVITIES, AND PENALTIES.**

5 (a) Any Property Owner who violates any provision of this Article 12A or any regulation
6 implementing this Article shall be subject to enforcement, including, but not limited to:

7 (1) Installation of a flow restrictor, with applicable fees as specified under regulations
8 adopted by the San Francisco Public Utilities Commission.

9 (2) Disconnection of the noncompliant water service(s) until the Cross-connection has
10 been eliminated and appropriate fees have been paid, including but not limited to service shut-off and
11 service turn-on fees as specified under regulations adopted by the San Francisco Public Utilities
12 Commission.

13 (3) Any other enforcement action deemed necessary by the General Manager and the
14 City Attorney to protect the Public Water System, including but not limited to seeking judicial remedies.

15 (b) If a Property Owner refuses or fails to eliminate a Cross-connection, and disconnecting
16 water service would cause significant disruption to building occupants and/or emergency response
17 agencies, the General Manager may test, repair and/or replace a Backflow Prevention Assembly, or
18 take other required action to eliminate the Cross-connection. The Property Owner shall be required to
19 pay for all costs of such action.

20 (c) Whenever the General Manager determines that an existing or potential unprotected Cross-
21 connection poses an imminent risk of hazard to the Public Water System and requires immediate
22 abatement, the General Manager may immediately shut off water service to the Property at the meter
23 until the Cross-connection has been eliminated and necessary payments have been made for turn-on
24 services as specified under regulations adopted by the General Manager.

1 (d) Any Property Owner who violates any provision of this Article 12A or any regulation
2 implementing this Article shall be subject to the imposition, enforcement, collection, and review of
3 administrative fines, and any other available legal remedies in accordance with Chapter 100 of the
4 Administrative Code, which is incorporated herein in its entirety and which shall govern the
5 imposition, enforcement, collection, and review of administrative fines issued to enforce this Article
6 12A and any rule or regulation adopted pursuant to this Article 12A, provided that:

7 (1) Each day a violation is committed or permitted to continue shall constitute a
8 separate violation;

9 (2) The amount of the fine for violation of this Article 12A shall be up to \$1,000 per
10 violation per day;

11 (3) The General Manager is the charging official authorized under this Article 12A;

12 (4) The General Manager shall appoint the hearing officer to conduct hearings for
13 appeals, and said hearing officer shall determine the time and place of such hearings, and provide
14 appropriate notice of such hearings;

15 (5) The fine for any violation issued pursuant to this Section 12A.10 shall be paid to the
16 Treasurer of the City and County of San Francisco and credited to the appropriate San Francisco
17 Public Utilities Commission Water Enterprise fund;

18 (6) The General Manager may recover any costs and fees, including but not limited to
19 attorneys' fees, for enforcement initiated through this Section 12A.10 and authorized under this Article
20 12A.

21 (7) The Board of Supervisors finds that Cross-connections between real properties and
22 the Public Water System create a direct public health risk to the Public Water System, and thus a
23 violation of this Article 12A will have a nexus between the violation and real property located in the
24 City. In accordance with the requirements of Chapter 100 of the Administrative Code, the General
25 Manager may provide notice of enforcement action to the owner of the real property and that unpaid

1 fines for the citations may become a lien on the Property, and the General Manager may collect such
2 fines.

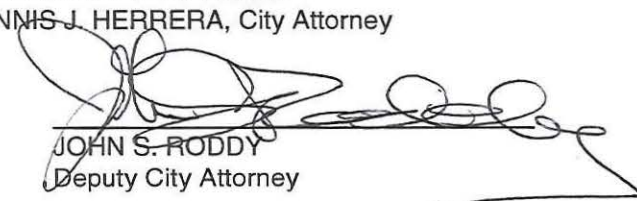
3 **SEC. 12A.11. PROMOTION OF THE GENERAL WELFARE.**

4 In enacting and implementing this Article 12A, the City is assuming an undertaking only to
5 promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an
6 obligation for breach of which it is liable in money damages to any person who claims that such breach
7 proximately caused injury.

8
9 Section 4. Effective Date. This ordinance shall become effective 30 days after
10 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
11 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
12 of Supervisors overrides the Mayor's veto of the ordinance.

13
14 APPROVED AS TO FORM:
15 DENNIS J. HERRERA, City Attorney

16 By:

17 
18 JOHN S. RODDY
19 Deputy City Attorney

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