

ORDINANCE NO. O-2019-002

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MAGNOLIA, TEXAS, AMENDING ARTICLES I AND IV OF CHAPTER 94 "UTILITIES" OF THE CODE OF ORDINANCES OF THE CITY OF MAGNOLIA, TEXAS; PROVIDING A PENALTY; PROVIDING A SEVERABILITY CLAUSE; AND MAKING OTHER PROVISIONS RELATED THERETO.

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WHEREAS, the City Council of the City of Magnolia, Texas has studied the present provisions of Chapter 94 "Utilities" of the Code of Ordinances of the City of Magnolia; and

WHEREAS, the City Council is continually reviewing the provisions of the Code of Ordinances relating to the elimination of hazards and other circumstances which generally impact the health, safety and well-being of residents, citizens and inhabitants;

WHEREAS, the City Council finds it has the power to regulate it municipal water system pursuant to chapter 552 of the Texas Local Government Code; and

WHEREAS, the City Council finds it necessary to adopt the following amendments to Chapter 94 of the Code of Ordinances; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MAGNOLIA, TEXAS:

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted as findings of fact and conclusions of law by the City Council and made a part hereof for all purposes.

Section 2. Amendments. Article I, of Chapter 94 entitled "In General" of the City of Magnolia Code of Ordinances is hereby amended by amending section 94-2 by adding subsections (d) through (h) as shown in attached Exhibit "A" and incorporated herein for all purposes.

Section 3. Amendments. Article I, of Chapter 94 entitled "In General" of the City of Magnolia Code of Ordinances is hereby amended by amending section 94-4 as shown in attached Exhibit "A" and incorporated herein for all purposes.

Section 4. Amendments. Article IV, of Chapter 94 entitled "Water" of the City of Magnolia Code of Ordinances is hereby amended by amending Division 1. "Generally" by

adding sections 94-108 through 94-125 as shown in attached Exhibit "A" and incorporated herein for all purposes.

Section 5. Repealing Clause. All ordinances and parts of ordinances in conflict with the provisions of this ordinance are hereby repealed; provided, however, that such repeal shall be only to the extent of such inconsistency and in all other respects this ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered by this ordinance.

Section 6. Severability. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences or sections of this ordinance, and the remainder of this Ordinance shall be enforced as written.

Section 7. Compliance Clause and Effective Date. The City Council finds, determines and declares that a sufficient written notice was posted, and this Ordinance was passed in accordance with the Open Meetings Act. The City Secretary is instructed to publish this Ordinance in the Official Newspaper of the City of Magnolia in the manner provided and for the time required by Section 52.011(a) of the Local Government Code, at which time this Ordinance takes effect.

PASSED, APPROVED and ADOPTED by the City Council of the City of Magnolia, Montgomery County, Texas on this the 8th day of January 2019.



CITY OF MAGNOLIA, TEXAS

Todd Kana, Mayor

ATTEST:

Lynne George, CPM, TRMC
City Secretary

EXHIBIT “A”

CHAPTER 94

“UTILITIES”

ARTICLE I. IN GENERAL

Sec. 94-2. - Damage to city facilities.

(d) Cross contamination prevention.

- (1) No direct connection between the public drinking water supply and a potential source of contamination is permitted. Potential sources of contamination shall be isolated from the public water system by an air-gap or an appropriate backflow prevention device.
- (2) No cross connections between the public drinking water supply and a private water system or well is permitted. These potential threats to the public drinking water supply shall be eliminated at the service connection by the installation of an air-gap or a reduced pressure-zone backflow prevention device.
- (3) May not Install or maintain a potable water supply, plumbing fixture, equipment, or construction device that creates a cross connection, or allows reclaimed, contaminated, or polluted water, mixtures or other substances, or gases, to enter potable water by back siphoning, backpressure, or other means.
- (4) May not connect an auxiliary water supply to the city’s public water system or a private plumbing system unless a backflow prevention assembly or air gap is installed as required by this chapter.
- (5) May not use a chemical or substance that may cause pollution or contamination of the public water system without installing a backflow prevention assembly or device as required by this chapter.
- (6) May not connect to the public water system a mechanism or system designed to return reclaimed or used water to the public water system.
- (7) May not connect a reclaimed water system to the city’s public water system or to the potable water system of a customer who receives potable water service from the city’s public water system.
- (8) Connect a vehicle or equipment capable of producing back siphonage or back pressure without installing a backflow prevention assembly or device as required by this chapter.

- (9) A person may not install a backflow prevention assembly in a private plumbing system, fire protection system, process water system, irrigation system, or other water distribution system connected to the city's water system unless the assembly meets all federal and state regulations.

(e) Customer duties regarding backflow prevention devices.

- (1) A customer required to have a backflow prevention device shall install a new, replacement, or reconditioned backflow prevention assembly or device in accordance with this chapter.
- (2) Not later than the fifth day after the date a new, replacement, or reconditioned backflow prevention assembly is installed and tested, a customer shall submit to the city administrator or his/her designee the original test and maintenance report on the backflow prevention assembly.
- (3) When a backflow prevention device is required, the city administrator or his/her designee may not install or authorize the installation of a permanent water meter unless the customer has submitted a test and maintenance report for each backflow prevention assembly installed on a site, all inspections of the device are completed as provided in this chapter, and the device meets the requirements of this article.
- (4) The customer is responsible for general maintenance and upkeep of a backflow prevention assembly. An owner and the owner's tenant/lessee are jointly responsible for maintenance.
- (5) The city administrator or his/her designee may require, at his discretion, that any customer install and maintain a backflow prevention assembly if the city manager determines that such a device is necessary to protect the public water supply system from contamination.

(f) Inspection and testing of backflow prevention assemblies.

- (1) A customer shall test a backflow prevention assembly as required by 30 Tex. Admin. Code sec. 290.44, water distribution as amended.
- (2) All inspections and testing shall be conducted by a plumbing inspector, or a water supply protection specialists licensed by the state board of plumbing examiners or by a customer service inspector licensed by the state commission on environmental quality.
- (3) If necessary, to protect the city's water system, the city administrator or his/her designee may require testing more frequently than required by state law.
- (4) A customer shall pay the cost of testing and related costs.

(5) A customer must repair, overhaul, or replace an assembly that fails a test before returning the assembly to service.

(6) A customer shall keep a record of each test, repair, and overhaul of a backflow prevention assembly and submit the original record to the city administrator or his/her designee not later than the fifth day after a test, repair, or overhaul.

(g) Removal or replacement of backflow prevention device.

(1) A customer may not remove from use, relocate, or substitute another backflow prevention device or assembly without the approval of the city administrator or his/her designee.

(2) A replacement backflow prevention assembly must comply with this chapter.

(3) A customer shall replace a backflow prevention assembly or device that:

(A) is removed or relocated from an existing installation;

(B) the city administrator or his/her designee determines requires more than minimum maintenance; or

(C) constitutes a hazard to the water system or the public health.

(h) Cross connection survey.

(1) The city administrator or his/her designee may conduct a cross connection survey of the customer's potable water system as a condition of service to prevent or eliminate cross connections between the customer's potable water system and contamination or pollution sources.

(2) The city administrator or his/her designee shall inspect:

(A) A building and surrounding property for potential cross connections;

(B) The availability of an auxiliary or reclaimed water supply;

(C) The use of a pollutant, contaminant and other liquid, solid, or gaseous substance;

(D) Backflow prevention assembly installation; and

(E) Backflow prevention certification and test records.

(3) The city administrator or his/her designee shall require a customer to eliminate possible cross connections between the customer's potable water systems and

the public water supply and shall disconnect water service to the customer until the possible cross connection is eliminated as provided in this chapter.

Sec. 94-4.- Mandatory connect to city system.

- (a) This section applies to properties within the city limits. This section does not apply to property and uses permitted to drill a water well as provided by Section 94-109(b). Except as provided otherwise in this chapter, no building, tract of land or structure in an area of the city for which water and/or wastewater service is available shall be occupied for residential, commercial, industrial or other such purposes unless such buildings or structures are connected by a separate connection to the city water system, unless specifically excepted herein. Property that abuts a street, road or other public way in which a public water or wastewater supply is located and deemed to have access to the city water system shall connect at the property owner's cost if the service is available.
- (b) Each residential unit or commercial unit, and any additional residential unit or commercial unit, within the city shall be connected by separate connection to the city water system and/or wastewater system as soon as city water service is available to such unit, unless specifically exempted herein.
- (c) Any two or more residential or commercial units that are found to be obtaining water service through a single meter shall be required to pay the base amount, times the number of units, plus the per thousand-gallon charge as per the rate schedule in effect at that time. Each multiple unit rate will include 1,000 gallons per multiple unit. Apartments where multiple units are serviced by one meter will be billed for the number of units in the complex regardless of occupancy unless water service has been disconnected. Commercial multiple units will be billed according to the number of units occupied. Any units used for office space or storage will be charged as a separate unit if water service is available. Any persons receiving water through a joint sharing of a single meter without the consent of the city must pay the cost of connecting an additional meter and may be disconnected from the system should either refuse to be responsible for connection through a single meter to each individual lot.
- (d) Any residential unit within the city being served by a privately-owned water well on the effective date of the ordinance from which this section is derived shall be connected to the city water system by a separate connection at such time as the well:
 - (i) fails to meet permit or department of health requirements or other regulatory statutes or regulations of the state; (ii) if the owner or tenant of the property is expanding an existing building or structure located on the property and the existing water well is incapable of serving the expanded building or structure or of meeting the water supply needs of the expanded building or structure; (iii) is unsafe or unreliable as a potable water supply; or (iv) is within 50 feet of an existing septic tank, or is within 100 of an existing septic system drainfield or spray area. Any resident who uses a privately-owned water well must provide at their expense the appropriate backflow protection on their side of the meter as required by city or the

Texas Commission on Environmental Quality to prevent contamination of city's water supply.

- (e) Connection to the city system is required for property on which the owner or tenant is constructing a new building or structure intended for human habitation or occupancy, and the following:
 - 1. There is no water well on the property; or
 - 2. The existing water well on the property is incapable of serving the new building or structure or of meeting the water supply needs of the new building or structure, is unsafe or unreliable as a potable water supply, is within 50 feet of an existing septic tank, or is within 100 feet of an existing septic system drainfield or spray area.
- (f) Each commercial unit within the city shall be connected by a separate connection to the city's water and/or wastewater system as soon as city water and/or wastewater service is available to such unit, unless permission is granted by the city administration to do otherwise.
- (g) Any commercial or industrial establishment or entity located within a single building or upon a single property and served by a master meter on the effective date of the ordinance from which this section is derived may elect to continue to receive water service through such master meter. All new premises seeking to receive service from a master meter must receive permission from the city administration.
- (h) Each person desiring water service shall be required to complete an application for such service and pay such fees as are established by this chapter. No service shall be rendered until such fees are paid.
- (i) A person who is connected to the city's water system but who also has a water well may continue to use the water well for irrigation purposes only; provided, however, that the well has all of the necessary state and local permits, and there are no cross connections between the water well and the city's water system and the person has complied with the cross connection prevention requirements of section 94-2. Once a person's property inside the city limits is connected to the city's water supply system, even if the person's property is subsequently disconnected from the city's water supply system, the person may not use an existing water well for anything other than for irrigation purposes.

ARTICLE IV. – WATER

DIVISION 1. – GENERALLY

Sec. 94-108. Regulation of Wells.

This article applies to water wells inside the city limits.

Sec. 94-109. New Wells.

- (a) Except as otherwise specifically provided in this chapter or under an existing annexation service plan or annexation agreement, it shall be unlawful for any person to drill, dig or otherwise construct or install a new water well of any type or expand the capacity of an existing well.
- (b) A person may drill, construct or install a new water well in areas zoned as an agricultural district, provided that the well is used for agricultural use, and that the well is drilled, installed, constructed and completed, in accordance with local groundwater district, federal and state laws and regulations. Agricultural use shall mean any use or activity involving agriculture, including irrigation.
- (c) The city may drill, dig, or otherwise construct or install water wells.

Sec. 94-110. Existing Wells.

- (a) Wells in existence and in use at the time of the adoption of the ordinance from which this chapter is derived may be used as a primary source of water, provided that they meet all state and local regulations related to water wells and the person is not required to connect his property to the city's water supply system as provided in section 94-4.
- (b) As provided in section 94-4, a person who has a well in existence and in use as of the effective date of said ordinance, and who is required to connect to the city's water supply system may continue to use the water well for irrigation purposes; provided, however, that the well has all of the necessary state and local permits, the well and the utility service connection have been inspected by a licensed inspector and an inspection report presented to the city that there are no cross connections between the water well and the city's water system.
- (c) All wells must be either in use or capped in accordance to local and state regulations and no well may be abandoned.

Sec. 94-111. Irrigation wells

- (a) A new irrigation well allowed by section 94-109(b) must be drilled by a water well driller and water well pump installer to register with the City.
- (b) It shall be unlawful for anyone to provide services for the drilling, or construction of any new water well, or any other artificial excavation to explore for or produce groundwater, without first registering in the manner required by the city administrator or his/her designee.

- (c) It shall be unlawful for any person to provide services for the reconstruction, capping, plugging, correction or repair of a water well without first registering in the manner required by the city administrator or his/her designee.
- (d) It shall be unlawful for anyone to install a water well pump without first registering in the manner required by the city administrator or his/her designee.
- (e) It shall be unlawful for any person to provide services for the repair of a water well pump without first registering in the manner required by the city administrator or his/her designee.

Sec. 94-112. Information required for water well driller and water well pump installer registration, registration approval and renewal

- (a) Every application for registration of a person who provides services for the drilling, construction, repair, reconstruction, capping or plugging, or correction of a water well or of a person who provides services for the installation of a water well pump shall be considered incomplete unless all information requested by the city administrator or his/her designee's registration form has been provided. The city administrator or his/her designee shall maintain and update registration application forms to request all information necessary to carry out the intent of this chapter.
- (b) A person shall register with the city administrator or his/her designee before the person provides services for the drilling of any water well or installation of any water well pump.
- (c) An applicant may apply to the city administrator or his/her designee for registration as a licensed water well driller or water well pump installer for properties receiving service from Magnolia Water Utility with approval being granted by the City administrator or his/her designee if the Texas Department of Licensing and Regulation (TDLR) has issued a license to the applicant water well driller or water well pump installer.
- (d) A registration remains in effect unless:
 - (1) the water well driller or water well pump installer fails to maintain eligibility for registration; or
 - (2) as a result of an appeal to the city manager, established by rule, the city administrator or his/her designee by order revokes the registration for failure to comply with this code or other applicable state law.
- (e) A person must have a current license issued by the TDLR to drill a water well or install a pump on a water well regulated under this chapter. If TDLR revokes or suspends a person's license, the person's registration is automatically revoked.
- (f) A person must submit proof of a current TDLR license with his or her registration application.

Sec. 94-113. Plan review and work permit requirements.

Each water well drilled, constructed, repaired, capped or plugged, each water well pump installed or repaired, and any facilities connected to or associated with a water well or pump constructed or altered shall be done so in conformance with all relevant city code provisions, including but not limited to section 94-2; building, plumbing and electrical codes adopted by the City in Article V of Chapter 14 of the Code of Ordinances. Any plan review, approval, permit and inspection requirements under these relevant code provisions are applicable to each water well or water well pump related project.

Sec. 94-114. Requirement to provide advance notice regarding water well activity, to register all water wells.

- (a) Before a new irrigation well is drilled or an existing water well or irrigation well is re-drilled, plugged, or capped, the property owner shall provide the city administrator or his/her designee advance notice of the intent to have a irrigation well drilled or an existing water or irrigation well re-drilled, plugged, or capped by providing the information requested in the notice form provided by the City. Advance notice shall be provided 5 business days prior to any work on a water well described under this section, unless the city administrator or his/her designee determines that for plugging or capping a well public health and safety concerns warrant allowing for a shorter advance notice period.
- (b) The owner of any new irrigation well shall register such well within 70 days after the drilling of such well has been completed by providing the information requested in the registration form provided by the City.
- (c) The owner of any existing water well or irrigation well shall register such well within 180 days from the effective date of this ordinance by providing the information requested in the registration form provided by the City.
- (d) Every application for registration of a new irrigation well or existing water or irrigation well shall be considered incomplete unless all information requested by the city administrator or his/her designee's registration form has been provided. The city administrator or his/her designee shall maintain and update registration application forms to request all information necessary to carry out the intent of this chapter.
- (e) The city administrator or his/her designee may allow a person a longer period within which to register an existing water well for good cause as determined by the city administrator or his/her designee.
- (f) For existing wells, exceptions for certain reporting requirements may be granted for good cause as determined by the city administrator or his/her designee.

Sec. 94-115. Crossing lot lines prohibited.

A water well or irrigation may only serve the property on which the water well or irrigation well is located. No part of any plumbing system connected to the water well or irrigation well shall be located in any lot other than the lot that is the site of the water well or irrigation well. The crossing of any lot line or property boundary by any plumbing system connected to a water well or irrigation well is prohibited.

Sec. 94-116. Defective or contaminating water wells/ abandoned water wells

- (a) For the purpose of this chapter, a contaminating water well is considered to be any water well, irrigation well or other opening which penetrates the underground water supply and which in any way pollutes, or contaminates, or threatens to pollute or contaminate, surface water, groundwater, any other well, or a public or private water supply.
- (b) Any defective or contaminating well, as below, is hereby found to be a threat to the surface water, groundwater, public or private water supply, a potential source of disease, and injurious to the public health, and pursuant to Tex. Loc. Govt. Code Ann. Sections 217.002, 551.005, 552.001 and 552.015 is declared a nuisance.
- (c) The city administrator or his/her designee may require the abatement of such nuisance. The city administrator or his/her designee may, on his own initiative, or upon information or complaint from any source, make an examination of any well suspected of causing contamination or being defective. If such examination indicates, in the opinion of the city administrator or his/her designee, that the water well is a contaminating or defective well, or that the water from such well is unsafe for human consumption, unless the city administrator or his/her designee finds that the manner of use of well water unsafe for human consumption presents no risk to human health and safety, then the city administrator or his/her designee shall issue an order or written instructions to the owner or his agent in charge of such well or the property upon which it is situated to plug this well in such a manner as prescribed by the city administrator or his/her designee and in compliance with TDLR and Texas Commission on Environmental Quality (TCEQ) regulations.
- (d) For the purpose of this chapter, a water well or irrigation well is considered to be an abandoned well if it has not been used for a period of six consecutive months or longer, unless it is:
 - (1) A non-deteriorated, non-defective or non-contaminating well, which contains the casing, pump and pump column in good condition, and which is connected to an active electrical or other power source; or
 - (2) A non-deteriorated, non-defective or non-contaminating well, which has been properly capped, and for which a variance for such well has been granted by the city administrator or his/her designee.

- (e) An abandoned water well or irrigation well has the potential to pollute the water supply, violate city requirements on water quality, or be otherwise injurious to the public health, and, pursuant to Tex. Loc. Govt. Code Ann. §§ 217.002, 551.005, 552.001 and 552.015 is a nuisance, for which the City may require the abatement of such nuisance.
- (f) The owner, operator, or agent in charge of an abandoned water well or irrigation well shall notify the city administrator or his/her designee that the well is abandoned. Every abandoned water well or irrigation well shall be filled and plugged in accordance with all applicable TDLR and TCEQ regulations and with such materials and in such manner as will prevent the pollution and contamination of any other water well within the limits of the City of Magnolia and the City's water service area.
- (g) If the city administrator or his/her designee receives notice from any source of an abandoned water well which has not been plugged and filled, the city administrator or his/her designee shall notify the owner, operator, or agent in charge of such well or of the property upon which it is situated that such well is abandoned and shall order such person to fill and plug the well as set forth above. The city administrator or his/her designee may require any owner of a capped water well to take any action necessary or to provide any information or materials necessary to establish that such a capped well is not defective, contaminating, or deteriorated.

Sec. 94-117. Failure to abate nuisance, remedies, enforcement violations

- (a) If a person to whom an order is directed fails to abate the nuisance as required by the city administrator or his/her designee's order, then the city administrator or his/her designee shall have the right to go on the property on which the well is situated and abate such nuisance, and the owner of the property thereof shall be liable to the City of Magnolia for the cost of such work and shall pay such cost upon demand to the City of Magnolia. The city administrator or his/her designee shall have the right to file a lien on the property to secure payment of the costs of such work.
- (b) It shall be a violation of this chapter for any person to refuse or otherwise fail to comply with any requirement of this chapter, or with any order of the city administrator or his/her designee made in conformity with and under the authority of this chapter.

Sec. 94-118. Inspections, right of entry

- (a) For the purpose of protecting public health and safety from risks or potential risks associated with water wells and pumps, the city administrator or his/her designee may inspect or require an inspection of property, buildings, real property, or facilities, including water wells and all related components, on property provided water service by Magnolia with an existing or proposed water well or irrigation well. An inspection may include a survey of the property, buildings, real property, or facilities, including

water wells and all related components for provision of water and waste water service for violations of this chapter, other related city regulations and state law requirements.

- (b) The city administrator or his/her designee may enter a customer's property or facility, including an easement or private property served by Magnolia Water Utility to gain access to a water well, cross connection, backflow prevention assembly, or piping. The city administrator or his/her designee's right of entry is a condition of a customer's water service or connection to the City's public water system.
- (c) The city administrator or his/her designee may inspect a customer's water well, water system, piping, or the records required under this chapter or the rules of a public water system with which the City has an agreement for wholesale water service.
- (d) A customer shall provide access to the city administrator or his/her designee to the customer's property or facilities.
- (e) In connection with action by the city administrator or his/her designee under this chapter, a customer with water service provided by the utility commits an offense if the person:
 - (1) denies the city administrator or his/her designee right of entry;
 - (2) fails to remove a barrier or obstacle to access by the city administrator or his/her designee; or
 - (3) unreasonably delays access by the city administrator or his/her designee.

Sec. 94-119. Offenses, Notice of Violation, Criminal Penalty, Civil Remedies and Liability

(a) Offenses.

A person commits an offense if the person:

- (1) commits or assists in the commission of a violation of this chapter;
- (2) is the customer, owner, occupant, lessee, or manager of property or facilities that are the source of a violation of this chapter; or
- (3) obstructs or delays the city administrator or his/her designee's access to a customer's property or facilities.

(b)- Notice of Violation.

- (1) The city administrator or his/her designee may serve a written notice of violation on a person who has violated a requirement of this chapter.
- (2) The city administrator or his/her designee may take any enforcement action without first issuing a notice of violation.

(c) Criminal Penalty

- (1) A person violating this chapter commits an offense. An offense under this chapter is a class C misdemeanor, punishable in accordance with Section 1-10. (*General*

Penalty; culpable mental state). Each occurrence of a violation of this chapter is a separate offense.

- (2) Proof of a culpable mental state is not required for a conviction of an offense under this chapter.

(d) Civil Remedies

- (1) The city attorney may enforce this chapter by injunction, declaratory relief, or other action at law or in equity.
- (2) The city attorney may initiate a suit against the owner, occupant, tenant, manager, or water customer of property or facility that is the source of a violation of this chapter, to recover a civil penalty not to exceed \$5,000 for each violation. Each day that a violation continues constitutes a separate violation.

(e) Liability

- (1) A person or public water system may be held liable for a violation of this chapter if the person:
 - (A) commits or assists in the commission of a violation;
 - (B) is an authorized representative under this chapter; or
 - (C) is the owner, occupant, tenant, manager, or water customer of premises, property or a facility that is the source of a violation of this chapter.
- (2) A person who violates this chapter is liable to the City for expenses, loss, or damage incurred by the City.

Sec. 94-120. Termination of Service

- (a) The city administrator or his/her designee may terminate water or wastewater service in accordance with this section.
- (b) The city administrator or his/her designee may terminate water or wastewater service if the customer, owner, tenant, or lessee does not correct a violation within five days after the person becomes aware of the violation.
- (c) The city administrator or his/her designee may refuse or terminate water or wastewater service if all required corrections have not been made.
- (d) The city administrator or his/her designee may terminate water or wastewater service if a customer fails to terminate a connection between a potable water system and an auxiliary water supply, including a water well.

Sec. 94-121. Emergency Suspension

- (a) On receipt of informal written or verbal notice, the city administrator or his/her designee may order the suspension of water service and disconnect a private or public water system from the City's public water system without a hearing if the city

administrator or his/her designee determines that contamination or pollution due to a violation of this chapter:

- (1) presents an imminent threat to the City's public water system;
 - (2) presents an imminent danger to public health or safety;
 - (3) presents a threat to the environment; or
 - (4) threatens to interfere with the operation of the City's public water system.
- (b) A person notified of the suspension of the person's service shall immediately stop use of the City's public water system water and the city administrator or his/her designee shall disconnect the City's public water system from the person's private or public water system.
- (c) If a person fails to immediately comply with an emergency suspension order, the city administrator or his/her designee may take action the city administrator or his/her designee determines is necessary to prevent contamination or pollution, or to minimize damage to the City's public water system, the public, property, or the environment.
- (d) The city administrator or his/her designee may take action under this section even if termination proceedings have been initiated under Section 94-120
- (e) A suspension under this section is not affected by evidence that the danger caused by the contamination or pollution due to a cross connection of the City's public water system has ceased.

Sec. 94-122. Cumulative Remedies

The remedies authorized under this chapter are cumulative unless specifically prohibited by state or federal regulation.

Sec. 94-123. Voluntary Compliance

- (a) The city administrator or his/her designee may accept from a person responsible for a violation under this chapter a written agreement for voluntary compliance or issue a consent order that establishes an agreement for voluntary compliance.
- (b) An agreement under this section must:
- (1) describe the violation;
 - (2) describe the specific action the person must take to correct the violation;
 - (3) specify the time period for the person to complete the corrective action;
 - (4) be signed and dated by the person responsible for compliance; and
 - (5) be judicially enforceable.
- (b) The city administrator or his/her designee may take action to enforce compliance with an agreement under this section.

Sec. 94-124. Show Cause Hearing

- (a) The city administrator or his/her designee may order a person responsible for a violation of this chapter or an enforcement order to appear before the city administrator or his/her designee and show cause why a proposed enforcement action should not be taken.
- (b) The city administrator or his/her designee shall serve notice to a person under this section including:
 - (1) the time and place for a hearing;
 - (2) the nature of the violation;
 - (3) the proposed enforcement action;
 - (4) the reasons for the enforcement action; and
 - (5) a request that the person show cause why the proposed enforcement action should not be taken.
- (c) The city administrator or his/her designee shall serve notice under this section in person or by certified mail, return receipt requested, no later than the third day before the hearing. Notice may be served on an employee, agent or other authorized representative of a person responsible for a violation.
- (d) The city administrator or his/her designee may take immediate enforcement action following a noticed show cause hearing.

Sec. 94-125. Compliance Order, Cease and Desist Order

(a) Compliance Order

- (1) If the city administrator or his/her designee determines that a person has violated this chapter or an enforcement order, the city administrator or his/her designee may issue an order to the person directing the person to correct the violation within a specified time period.
- (2) If a person does not comply within the time period provided, the city administrator or his/her designee may disconnect water or wastewater service to the non-compliant premises until the person installs an operational facility, device, or equipment to correct the violation.

(b) Cease and Desist Order

- (1) If the city administrator or his/her designee determines that a person is violating this chapter or an enforcement order, or that a past violation committed by the person is likely to recur, the city administrator or his/her designee may issue an order directing the person to:
 - (A) immediately cease and desist the violation;

- (B) immediately comply with this chapter or an enforcement order; and
- (C) take necessary remedial or preventive action to address a present, continuing, or threatened violation, including halting operation.

Secs. 94-126-94-127.-Reserved.