

## ORDINANCE NO. 2018 - 874

**WHEREAS**, the City desires to clarify certain definitions and the existing rules in Article D – Water Quality Protection of the Code of Ordinances of the City of Raleigh (“Article D”) regarding exemptions from installation of a backflow assembly on private service lines; and

**WHEREAS**, the City wishes to extend the exemption process for existing residential uses up to a 2” service size; and

**WHEREAS**, the City further desires to modify the civil penalty structure in Article D to provide for civil penalty assessments that are more proportionate with the type of violation.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RALEIGH, NORTH CAROLINA:** that

**Section 1.** Section 8-2141 - Definitions of the Code of Ordinances of the City of Raleigh is hereby amended by deleting the definition of “Imminent health hazard” and by changing the definition of “Backflow assembly” as follows:

***Backflow assembly.*** An inline testable and repairable mechanical valve arrangement used to protect the public water supply that meets or exceeds standards set forth by the University of Southern California for Cross Connection control and Hydraulic Research (USCFCCHR) and the American Society of Sanitary Engineering (ASSE) by being on the agency's approval list. A backflow assembly used on fire suppression systems must have the additional approval of the Factory Mutual (FM) and comply with the National Fire Protection Association (NFPA) code.

**Section 2.** Section 8-2147(b) and (c) of the Code of Ordinances of the City of Raleigh is hereby amended as follows:

Sec. 8-2147. - SEVERE HAZARDS.

.....

- (b) All installations ~~described in §8-2147(a) of this Code~~ shall be classified as severe hazards pursuant to §8-2147(a) above ~~and~~ must have a *containment assembly* in the form of a *reduced pressure zone backflow assembly* installed pursuant to §8-2149 of this Code.
- (c) Exemption. The *owner* of a property that was developed before February 21, 2015 and that is approved for mixed uses but who agrees in writing to use the property only for uses that do not present a severe hazard may apply to the Raleigh Director of Public Utilities or his designee for an exemption to install a reduced pressure zone backflow assembly as required by §8-2147(b) above. An application for an

exemption shall be made pursuant to the procedures set forth in the **Raleigh Public Utilities Handbook**. In the event that such exemption is approved, the *owner* shall install a containment assembly pursuant to the procedures established in the **Raleigh Public Utilities Handbook** and shall comply with all conditions of the approval of such exemption. Any exemption from the requirement to install a reduced pressure zone backflow assembly that is granted to an applicant shall be in effect only as long as the property is used for the purposes described in the application for exemption. If any conditions or uses of the property for which an exemption is granted change, the *owner* of the property shall re-apply for an exemption pursuant to this §8-2147(c).

**Section 3.** Section 8-2148(c) of the Code of Ordinances of the City of Raleigh is hereby amended as follows:

Sec. 8-2148. – ALL OTHER USES; RESIDENTIAL AND MODERATE HAZARD

.....

(c) **Exemption.**

(1.) Residential service line connections that (i) are 2” in diameter or smaller, (ii) are not otherwise required by this Code to have other containment assemblies, and (iii) were installed prior to February 21, 2015 are eligible for an exemption from the requirement to install a double check valve assembly as required by §8-2148(b) above. Property owners who meet the standards above may apply to the *Raleigh Director of Public Utilities* or his designee for an exemption to install a double check valve assembly pursuant to the procedures established in the **Raleigh Public Utilities Handbook**. If an exemption is approved, the *owner* shall install an approved dual check valve pursuant to the procedures established in the **Raleigh Public Utilities Handbook** and shall comply with all conditions of the approval of such exemption. Any exemption from the requirement to install a containment assembly that is granted to an owner shall be in effect only as long as the property is used for the purposes described in the application for exemption. If any conditions or uses of the property for which an exemption is granted change, the *owner* of the property shall re-apply for an exemption pursuant to this §8-2148(c). Following installation, maintenance of the dual check valve containment devices installed in accordance with this section will be the responsibility of the Department of Public Utilities.

(2.) The *owner* of a commercial or institutional property that was approved for development before February 21, 2015 and that is supplied by only one service line connection for domestic purposes may apply to the *Raleigh Director of Public Utilities* or his designee for an exemption to install a double check valve assembly as required in §8-2148(b) above pursuant to the procedures established in the **Raleigh Public Utilities Handbook**. An application for an exemption shall be made pursuant to the procedures set forth in the **Raleigh Public Utilities Handbook**. In the event that such exemption is approved, the *owner* shall install an approved dual check valve pursuant to the procedures established in the **Raleigh Public Utilities**

**Handbook** and shall comply with all conditions of the approval of such exemption. Any exemption from the requirement to install a containment assembly that is granted to an applicant shall be in effect only as long as the property is used for the purposes described in the application for exemption. If any conditions or uses of the property for which an exemption is granted change, the *owner* of the property shall re-apply for an exemption pursuant to this §8-2148(c).

**Section 5.** Section 8-2149(d) of the Code of Ordinances of the City of Raleigh is hereby amended to insert “prior to February 21, 2015” after the word “installed” in the first line of this section.

**Section 6.** Section 8-2150 of the Code of Ordinances of the City of Raleigh is hereby amended to insert “prior to February 21, 2015” after the word “installed” in the first line of this section.

Sec. 8-2150. - NEW CONSTRUCTION.

All buildings proposing to connect to the public water system of the *City* of Raleigh receiving building permits, on or after the effective date of this article, *shall* be equipped with a containment assembly and tested as properly functioning as prescribed herein, prior to the issuance of a certificate of code compliance for that building. If a building permit was issued for the building prior to the original effective date, September 30, 1987, of the article, or a building permit was not required, the building *shall* be considered to be an existing building prior to the original effective date, in accordance with §8-2146 of this Code.

**Section 4.** Section 8-2155(b) of the Code of Ordinances of the City of Raleigh is hereby amended as follows:

Sec. 8-2155. – ENFORCEMENT

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(b) Any *person* who is found to have failed to comply with any provision of this article, any permit issued pursuant to this article, or any regulation, standard, rule or order adopted in furtherance of this article, shall be subject to a civil penalty of:

- (1) ~~For a first time violator where the violation was not committed willfully or intentionally and is not an actual or potential risk to public health or safety, one hundred dollars (\$100.00) per day per violation.~~ one hundred dollars (\$100.00) per month per violation of any containment backflow testing requirement of this Code.
- (2) ~~For a first time violator where the violation was not committed willfully or intentionally and is an actual or potential risk to public health or safety, two~~

~~hundred fifty dollars (\$250.00) per day per violation. one hundred dollars (\$100.00) per day per violation of any requirement of this Code.~~

- ~~(3) For a repeat violator where the violations was not committed willfully or intentionally and is not an actual or potential risk to public health or safety, five hundred dollars (\$500.00) per day per violation. fifteen hundred dollars (\$1500) per day per violation of any requirement of this Code that results in actual or potential harm to public health or safety.~~
- ~~(4) For a repeat violator where the violations was not committed willfully or intentionally and is an actual or potential risk to public health or safety, one thousand dollars (\$1,000.00) per day per violation.~~
- ~~(5) For a violator where the violation was committed willfully or intentionally, \$1,500 per violation.~~

**Section 3.** The City of Raleigh Public Utilities Handbook, including Appendices A through F, is replaced in its entirety with the attached City of Raleigh Public Utilities Handbook.

**Section 5.** All laws and clauses of laws in conflict herewith are hereby repealed to the extent of said conflict.

**Section 6.** If this ordinance or application thereof to any *person* or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to this end the provisions of this ordinance are declared to be severable.

**Section 7.** This ordinance shall be enforced as provided in N.C.G.S. 160A-175 or as provided in the Raleigh City Code. All criminal sanctions shall be the maximum allowed by law notwithstanding the fifty dollar (\$50) limit in G.S. 14-4(a) or similar limitations.

**Section 8.** This ordinance shall become effective five days following its adoption.

**ADOPTED: September 18, 2018**

**EFFECTIVE: September 23, 2018**

**DISTRIBUTION: Management Team**

*This ordinance prepared by the Raleigh City Attorney's Office*