

COUNCIL BILL NO. 5

Series 2023

**A BILL FOR AN ORDINANCE AMENDING TITLE 12, CHAPTER 3,
PERTAINING TO THE TOWN'S WATER SYSTEM CROSS CONNECTION
CONTROL PROGRAM AND IN CONNECTION THEREWITH ADOPTING CIVIL
PENALTIES FOR FAILURE TO COMPLY WITH THE PROGRAM
REQUIREMENTS.**

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF
BRECKENRIDGE, COLORADO:

Section 1. That section 12-3-4 of the code is hereby amended to add new definitions
that shall be placed in alphabetical order to read as follows:

COMPLAINANT: The responsible party who has filed an appeal of civil penalties imposed under
this chapter.

RESPONSIBLE PARTY: The person billed for water service provided by the town, or the owner
of the property served by town water if the owner is different than the person billed. In the event
that the property owner and the person billed for town water service are different, the owner
shall be solely responsible for all obligations and duties of this section.

Section 2. That section 12-3-5 is hereby repealed and replaced with the language
underlines as follows:

A. All properties that are connected to the town's water system, except single-family
residential uses without a fire suppression system, shall be subject to a survey for cross
connections.

B. If a cross connection has been identified, the responsible party shall install an
appropriate backflow prevention assembly and/or method at the responsible party's water
service connection within one hundred twenty (120) days of its discovery.

C. The responsible party shall ensure that any backflow prevention assembly is installed in
the following manner and/or location:

1. Downstream of the water meter or as close to that location as deemed practical
by the town.

2. Provides access for maintenance, testing, and repair.

3. Provides adequate drainage from the discharge of water from reduced pressure
principle backflow prevention assemblies. Such discharge shall be conveyed in a manner which
does not impact the waters of the state.

1 4. Protected in a manner to prevent freezing. Those assemblies and methods used
2 for seasonal services may be removed in lieu of being protected from freezing; provided,
3 however, that devices must be reinstalled and then tested by a certified cross connection control
4 technician prior to the service being activated.

5 5. Does not have connections or tees between the meter and the containment
6 backflow prevention assembly.

7 6. Provides a pressure controlling device where a backflow prevention assembly or
8 method is installed on a water supply system using storage water heating equipment such that
9 thermal expansion causes an increase in pressure

10 7. Reduced pressure principle backflow preventers shall not be subject to flooding.

11 8. In instances where a reduced pressure principle backflow preventer cannot be
12 installed, the responsible party shall install approved backflow prevention devices or methods at
13 all cross connections within the responsible party's plumbing system.

14 D. Existing buildings shall comply with all requirements of this chapter except for fire
15 sprinkler systems where the installation of a backflow prevention assembly or method will
16 comprise the integrity of the fire sprinkler system.

17 E. For new buildings, all building plans must be submitted to the town's building official for
18 review and approval in accordance with the adopted building codes in title 8, chapter 1, as
19 amended from time to time. In addition to requirements of this section, the plans must show:

20 1. Water service type, size and location;

21 2. Meter size and location;

22 3. Backflow prevention assembly size, type and location; and

23 4. Fire sprinkler system(s) service line, size, and type of backflow prevention assembly.

24 i. All fire sprinkling lines shall have a minimum protection of an approved double check
25 valve assembly for containment of the system.

26 ii. All glycol (ethylene or propylene) or antifreeze systems shall have an approved
27 reduced pressure principle backflow preventer for containment.

28 iii. Dry fire systems shall have an approved double check valve assembly installed
29 upstream of the air pressure valve.

30 iv. In cases where the installation of a backflow prevention assembly or method will
31 comprise the integrity of the fire sprinkler system the town will not require the backflow
32 protection. The town will measure chlorine residual at the service connection once a month and
33 perform periodic bacteriological testing at the site. If the town suspects water quality issues, the

1 town will evaluate the practicability of requiring that the fire sprinkler system be flushed
2 periodically.

3 **Section 3.** That section 12-3-6 entitled "INSPECTIONS, TESTING, AND REPAIR" shall
4 be amended by deleting the language stricken and adding the language underlined to read as
5 follows:

6 12-3-6: INSPECTIONS, TESTING, AND REPAIR:

7 A. The town shall require inspection testing, maintenance, and repairs and replacement of all
8 backflow prevention assemblies and methods, and of all required installations within the
9 responsible party's plumbing system in the cases where containment assemblies and/or
10 methods cannot be installed. All costs for design, installation, maintenance, testing and as
11 needed repair and replacement are to be borne by the responsible party.

12 B. The responsible party shall have a certified cross connection control technician test, at
13 the responsible party's sole expense, all Bbackflow prevention devices or methods shall be
14 tested by a certified cross connection control technician upon installation and tested at least
15 annually, thereafter. The tests shall be made at the expense of the owner.

16 4. C. The responsible party shall have a certified cross connection control technician
17 inspect, at responsible party's sole expense, Any backflow prevention device or method
18 that is nontestable shall be inspected at least once annually by a certified cross connection
19 control technician. The inspections shall be made at the expense of the owner.

20 BD. Within sixty (60) days of a failed test, the backflow prevention devices shall be repaired
21 and retested or replaced and tested at the expense of the owner. If not properly repaired and
22 retested or replaced and tested within sixty (60) days of a failed test, the town has the authority
23 to complete one of the following actions:

- 24 1. Control the cross-connection;
- 25 2. Remove the cross-connection; or
- 26 3. Suspend water service to the water using property where the cross-connection is
27 located.

28 C. The responsible party shall test and calibrate Ttesting gauges shall be tested and calibrated
29 for accuracy at least once annually.

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1 **Section 4.** That section 12-3-7 entitled “REPORTING AND RECORDKEEPING:” shall
2 be amended by deleting the language stricken and adding the language underlined to read as
3 follows:

4 A. The responsible party shall retain ~~Copies~~ of records of test reports, repairs, and retests, or
5 replacements ~~shall be kept by the owner~~ for a minimum of three (3) years.

6 B. The responsible party shall submit to the town via www.trackmybackflow.com ~~Copies~~ of
7 records of test reports, repairs and retests ~~shall be submitted to the town via~~
8 ~~www.trackmybackflow.com by~~ of the testing company or testing technician.

9 C. Test reports shall contain the following information:

- 10 1. Assembly or method type;
- 11 2. Assembly or method location;
- 12 3. Assembly make, model and serial number;
- 13 4. Assembly size;
- 14 5. Test date;
- 15 6. Test results including all results that would justify a pass or fail outcome;
- 16 7. Certified cross connection control technician certification agency;
- 17 8. Technician's certification number;
- 18 9. Technician's certification expiration date;
- 19 10. Test kit manufacturer, model and serial number;
- 20 11. Test kit calibration date; and
- 21 12. Such other information as the Water Division Manager shall require.

22 **Section 5.** That section 12-3-8 entitled “RIGHT OF ENTRY” is hereby repealed and
23 replaced in its entirety to read as follows:
24

25 Upon presentation of credentials, a representative of the town shall have the right to request
26 entry, at any reasonable time, to a property served by a connection to the water system for the

purpose of inspecting the property for cross connections. If such entry is refused, the representative may procure the right to enter and inspect by application to and proper orders from the municipal court. It shall be unlawful for any owner or occupant to refuse to allow the representative access to a property when the representative is acting in compliance with a warrant for inspection and order issued by the municipal court. Refusing entry to the town representative shall be sufficient cause for the town to discontinue water service to the property.

Section 6. That section 12-3-9 entitled "COMPLIANCE" is hereby repealed and replaced in its entirety to read as follows:

12-3-9: COMPLIANCE, NOTICE OF VIOLATION AND CIVIL PENALTIES:

A. Failure of the responsible party to comply with the requirements of this chapter shall be subject to the following actions and penalties:

1. Upon failure to comply, a notice of reminder will be mailed to the responsible party. The responsible party shall have thirty (30) calendar days from the annual due date to comply.

2. In the event that the responsible party does not comply within thirty (30) days of the annual due date, a first violation notice and a \$1,000.00 charge will be added to the water bill for the property as a civil penalty. If the responsible party provides proof of compliance to the town within sixty (60) days of the annual due date, \$600.00 of this charge will be waived.

3. In the event that the responsible party does not comply within sixty (60) days of the annual due date, a second violation notice and a \$2,000.00 charge will be added to the water bill for the property as a civil penalty.

3. In the event that the responsible party does not comply within ninety (90) days of the annual due date, notice of termination of service will be left at the property and mailed to the party billed for water service and the property owner, if different from the billed party. Water service may be terminated seven (7) days after notice and may remain terminated until such time as the responsible party complies with the requirements of this chapter.

B. Any penalty imposed pursuant to this section may be appealed to the town manager or their designee pursuant to the appeal procedure set forth in section 12-3-10.

C. Service of water to any premises may also be discontinued by the public works director or their designee if uncontrolled cross-connections exist on the premises, if any defect is found in an installed backflow prevention assembly, if a backflow prevention assembly has been removed or bypassed or does not adequately protect the public health.

1 D. Service will be discontinued within one hundred and twenty (120) days of notification of a
2 failed test or notification of an inadequate backflow prevention method and shall not be restored
3 until such conditions or defects are corrected to the satisfaction of the director.

4
5 **Section 7.** That section 12-3-10 entitled "CONFLICT WITH OTHER CODES" be
6 repealed and replaced with the language underlined below to read as follows:

7 12-3-10: APPEAL PROCESS

8 A person may request an appeal of any civil penalty imposed under this chapter by submitting a
9 complaint in writing within twenty (20) days after the date of the notice of violation. The town
10 manager or their designated hearing officer set the matter for a hearing within thirty (30) days
11 after receipt of the complaint, or shall schedule a hearing on a date agreeable to both parties.
12 A complainant shall be given reasonable notice of any hearing before a hearing officer by U.S.
13 mail. When a complainant is represented by an attorney, notice of any action, finding,
14 determination, decision or order affecting the complainant shall also be served upon the
15 attorney by U.S. mail.

16 **Section 8.** That a new section 12-3-11 be added to read as follows:

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18 12-3-11: CONDUCT AND PROCEDURES AT HEARINGS:

19 A. The complainant shall be allowed to be represented by counsel, the parties shall have
20 the right to present evidence, and cross examine witnesses. The burden of proof shall be on
21 the town to prove a violation by a preponderance of the evidence.

22 B. The hearing officer shall make findings of fact for review by the town manager.

23 C. Upon receipt of the findings of fact, the town manager shall make a final determination
24 as to the penalty imposed.

25 D. Stipulation in Lieu of Public Hearing. A complainant who has filed an appeal in
26 accordance with this section may contact the town attorney to discuss allegations in the
27 complaint and in attempt to resolve the matter without a hearing; provided however, the
28 complainant shall contact the town attorney no later than seven (14) days prior to the scheduled
29 hearing date.

30 E. The Town's manager's decision shall be delivered in writing to the complainant and shall
31 be final, subject to the right of complainant to contest the matter in an appropriate court action
32 commenced under rule 106(a)(4) of the Colorado rules of civil procedure.

