

ORDINANCE NO. 6

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**Section 2.** That section 12-3-5 is hereby repealed and replaced as follows: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.

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

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

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

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

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

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

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

1. Water service type, size and location;
2. Meter size and location;
3. Backflow prevention assembly size, type and location; and
4. Fire sprinkler system(s) service line, size, and type of backflow prevention assembly.

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

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

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

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

**Section 3.** That section 12-3-6 entitled "INSPECTIONS, TESTING, AND REPAIR" shall be amended to read as follows:

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

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

B. The responsible party shall have a certified cross connection control technician test, at the responsible party's sole expense, all backflow prevention devices or methods upon installation and at least annually, thereafter.

C. The responsible party shall have a certified cross connection control technician inspect, at responsible party's sole expense, any backflow prevention device or method that is nontestable at least once annually

D. Within one hundred and twenty (120) days of a failed test, the backflow prevention devices shall be repaired and retested or replaced and tested at the expense of the owner. If not properly repaired and retested or replaced and tested within one hundred and twenty (120) days of a failed test, the town has the authority to complete one of the following actions:

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

**Section 4.** That section 12-3-7 entitled “REPORTING AND RECORDKEEPING:” shall be amended to read as follows:

A. The responsible party shall retain copies of records of test reports, repairs, and retests, or replacements for a minimum of three (3) years.

B. The responsible party shall submit to the town via mail to [backflow@townofbreckenridge.com](mailto:backflow@townofbreckenridge.com) copies of records of test reports, repairs and retests of the testing company or testing technician.

C. Test reports shall contain the following information:

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

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

Upon presentation of credentials, a representative of the town shall have the right to request 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.

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

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

12-3-10: APPEAL PROCESS

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

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

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

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

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

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

D. Stipulation in Lieu of Public Hearing. A complainant who has filed an appeal in accordance with this section may contact the town attorney to discuss allegations in the

complaint and in attempt to resolve the matter without a hearing; provided however, the complainant shall contact the town attorney no later than seven (14) days prior to the scheduled hearing date.

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

**Section 9.** That a new section 12-3-12 be added to read as follows:

12-3-12: CONFLICT WITH OTHER CODES:

If there is a conflict between the provisions of this chapter and any code adopted by reference in title 8, chapter 1 of this code, then the most stringent provisions shall prevail.

**Section 10.** The Town Council hereby finds, determines and declares that this ordinance is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants thereof.

**Section 11.** This ordinance shall be published and become effective as provided by Section 5.9 of the Breckenridge Town Charter.

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED  
PUBLISHED IN FULL this 14th day of February, 2023.

This ordinance was published in full on the Town of Breckenridge website on February 19, February 20, February 21, February 22 and February 23, 2023.

A public hearing on this ordinance was held on February 28, 2023.

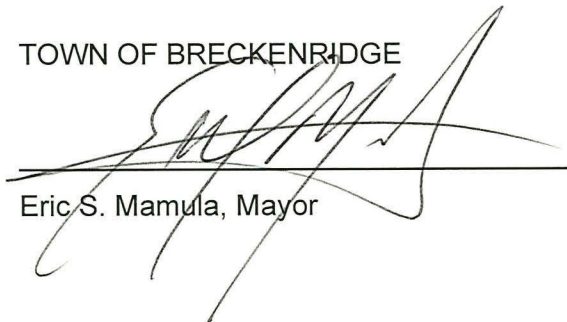
READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED IN FULL ON THE TOWN'S WEBSITE this 28th day of February, 2023. A copy of this Ordinance is available for inspection in the office of the Town Clerk.

ATTEST:



Helen Cospolich, CMC, Town Clerk

TOWN OF BRECKENRIDGE



Eric S. Mamula, Mayor

APPROVED IN FORM


Town Attorney

Date

This Ordinance was published on the Town of Breckenridge website on March 2, March 3, March 4, March 5 and March 6, 2023. This ordinance shall become effective on April 5, 2023.