

ORDINANCE NO. 2317
INTRODUCED BY: Johnston

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, REPEALING SECTION 15-36-40 AND ADOPTING ARTICLE 13-5 OF THE BRIGHTON MUNICIPAL CODE REGARDING THE CROSS-CONNECTION CONTROL PROGRAM

WHEREAS, the Colorado Water Quality Control Commission develops and maintains a comprehensive and effective program for prevention, control, and abatement of water pollution and for water quality protection throughout the entire state and ensures continuously safe drinking water by public water systems. (Section 25-8-202 C.R.S.); and

WHEREAS, the Colorado Water Quality Control Commission adopted rules and regulations for backflow and cross-connection control which became effective January 1, 2016; and

WHEREAS, the proposed repeal of Section 15-36-40 and adoption of Article 13-5 enables the City to ensure compliance with the 2016 rules and regulations for backflow contamination, survey requirements, records, and testing for cross-connections.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, AS FOLLOWS:

Section 1. Section 15-36-40 of the Brighton Municipal Code is repealed in its entirety.

Section 2. The Brighton Municipal Code is amended by the addition thereto of a new Article 13-5, which is to read as follows:

ARTICLE 13-5

CROSS-CONNECTION CONTROL PROGRAM

Section 3. The Brighton Municipal Code is amended by the addition thereto of a new Section 13-5-10, which is to read as follows:

Sec. 13-5-10. Definitions.

Unless the context specifically indicates otherwise, the meaning of the terms used in this Article shall be as follows:

***Annual due date* means the annual date as established by the City when required tests must be completed and proof received by the Department. In those years when the annual due date does not fall on a regular business day, the due date for that year will be the next regular business day.**

Approved means accepted by the Department as meeting the applicable specifications set forth in this Article, or as suitable for the proposed use.

Backflow prevention assembly means any mechanical assembly installed at a water service line or at a plumbing fixture to prevent a backflow contamination event, provided that the mechanical assembly is appropriate for the identified contamination at the cross-connection and is an in-line field-tested assembly.

Backflow prevention method means any method and/or non-testable device installed at a water service line or at a plumbing fixture to prevent a backflow contamination event, provided that the method or non-testable device is appropriate for the identified contamination at the cross-connection.

Certified cross-connection control technician means a person who possesses a valid backflow prevention assembly tester certification from one of the following approved organizations: American Society of Sanitary Engineering (ASSE) or the American Backflow Prevention Association (ABPA).

Controlled means having a properly installed, maintained, and tested or inspected backflow prevention assembly or backflow prevention method that prevents backflow through a cross-connection.

Cross-connection means any connection that could allow any water, fluid, or gas such that the water quality could present an unacceptable health and/or safety risk to the public, to flow from any pipe, plumbing fixture, or a customer's water system into a public water system's distribution system or any other part of the public water system through backflow.

Containment means the control of cross-connections within a property owner's plumbing system by the installation of approved backflow prevention assemblies or methods on the property owner's service line after the meter and before any branches.

Degree of hazard means an assessment of possible sources of backflow that may contaminate or alter the aesthetic or safe drinking qualities of potable water.

Department means the City of Brighton Department of Utilities.

Director means the Director with current authority over the Department.

Isolation means the control of cross-connections within the plumbing system of a property owner by isolating individual cross-connections at or near the point of potential contamination or pollution with approved backflow prevention assemblies or methods.

Responsible party means the person billed for water service provided by the City, or the owner of the property served by City water if the owner is different from the person billed. In the event that the property owner and the person billed for City water service are

different, the owner shall be jointly and severally responsible along with the person billed for all obligations and duties of this Article.

Uncontrolled means not having a properly installed, maintained, and tested or inspected backflow prevention assembly or backflow prevention method, or the backflow prevention assembly or backflow prevention method does not prevent backflow through a cross-connection.

Section 4. The Brighton Municipal Code is amended by the addition thereto of a new Section 13-5-20, which is to read as follows:

Sec. 13-5-20. Requirements.

- (a) All water service connections to the City water system must be installed and maintained in accordance with Public Works Standards and Specifications.
- (b) The installation or maintenance of any unprotected cross-connection, or potential for contamination, which may endanger the water supply of the City is prohibited. Any such cross-connection now existing or hereafter installed is hereby declared unlawful and shall be immediately protected by a City-approved backflow assembly or method or eliminated.
- (c) No provision of this Article exempts a responsible party from the cross-connection control requirements for water distribution systems as otherwise required by law.
- (d) *Inspections, testing, and repair.*
 - (1) The responsible party shall have operational tests conducted on any required backflow prevention assembly or inspect any required backflow prevention method prior to receiving a certificate of occupancy and at least annually thereafter. The responsible party shall ensure that proof of such test or inspection is provided to the Department no later than the annual due date. These tests shall be made at the expense of the responsible party and must be performed by a certified cross-connection control technician.
 - (2) Where the City deems necessary, the City may require operational tests at more frequent intervals. The cost for any test shall be at the responsible party's expense. A certified cross-connection control technician shall perform all tests.
 - (3) Any required backflow prevention assembly or method shall be repaired or replaced at the expense of the responsible party whenever the assembly or method is found to be not installed properly, malfunctioning, defective, or is not approved by the City for the degree of hazard.
 - (4) Records of all tests, repairs, or replacements shall be kept by the certified cross-connection control technician and the responsible party, and a copy of all such

records shall be sent to the Department within five working days of performance of such work.

- (5) The City retains the right, at any time, to test or inspect the installation and operation of any containment or isolation assembly, device, or method, used for compliance with this Article.

- (e) *Right of entry.* Upon presentation of credentials, a representative of the City 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 Brighton 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 Brighton Municipal Court. Refusing entry to the City representative shall be sufficient cause for the Department to discontinue water service to the property.

- (f) *Compliance.*

- (1) Failure of the responsible party to comply with the requirements of subsection (d) of this section shall be subject to the following actions and penalties:

- a. Upon failure to comply, a notice of reminder will be mailed to the party billed for water service. In the event that the property owner is different from the party billed for water service, a notice of reminder will also be mailed to the listed owner, at the address on file with the applicable county tax assessor's office. The responsible party will have 30 calendar days from the annual due date to comply.
- b. In the event that the responsible party does not comply within 30 days of the annual due date, a first violation notice will be mailed to the party billed for water service as well as the property owner, if different from the billed party. If the responsible party is the person billed for water service, a \$1,000.00 charge will be added to the water bill for the property as a civil penalty. If the responsible party is not the same as the person billed for water service, a bill reflecting the \$1,000.00 civil penalty will be mailed to the responsible party. If the responsible party provides proof of compliance to the Department within 60 days of the annual due date, \$600.00 of this charge will be waived.
- c. In the event that the responsible party does not comply within 60 days of the annual due date, a second violation notice will be mailed to the party billed for water service as well as the property owner, if different from the billed party. If the responsible party is the person billed for water service, a \$2,000.00 charge will be added to the water bill for the property as a civil

penalty. If the responsible party is not the same as the person billed for water service, a bill reflecting the \$2,000.00 civil penalty will be mailed to the responsible party.

- d. In the event that the responsible party does not comply within 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 days after notice and may remain terminated until the responsible party complies with the requirements of this Article.

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

- a. Service will be discontinued within 60 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 5. The Brighton Municipal Code is amended by the addition thereto of a new Section 13-5-30, which is to read as follows:

Sec. 13-5-30. Appeals. Any decision, action taken, or penalty imposed by the City pursuant to authority of this Article may be appealed to the Director. Such appeal shall be initiated in writing by letter delivered to the Director no later than 14 days after the responsible party receives notice of the imposition of the penalty or 14 days after the utility bill mailing date, whichever is earlier. The letter shall clearly state the basis for appeal.

Section 6. The Brighton Municipal Code is amended by the addition thereto of a new Section 13-5-40, which is to read as follows:

Sec. 13-5-40. Implementation. The Director is authorized to adopt and implement such rules and regulations as deemed needed for the administration of this Cross-Connection Control Program and not inconsistent with this Article.

Section 7. The purpose of this Ordinance is to provide for the health, safety, and welfare of the people.

INTRODUCED, PASSED ON FIRST READING, AND ORDERED PUBLISHED
THIS 17th DAY OF September, 2019.

PASSED ON SECOND AND FINAL READING AND ORDERED PUBLISHED BY
TITLE ONLY THIS 1st DAY OF October, 2019.

CITY OF BRIGHTON, COLORADO

KENNETH J. KREUTZER, Mayor

ATTEST:

NATALIE HOEL, City Clerk

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APPROVED AS TO FORM:

JACK D. BAJOREK, City Attorney