

ORDINANCE NO. 17-\_\_\_\_\_

AN ORDINANCE AMENDING ARTICLE 1 (GENERAL PROVISIONS) AND ARTICLE 4 (WATER CODE) OF CHAPTER 12 (UTILITIES) OF THE CODE OF THE CITY OF COLORADO SPRINGS 2001, AS AMENDED, PERTAINING TO BACKFLOW PREVENTION

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

Section 1. Section 101 (Definitions) of Article 1 (General Provisions) of Chapter 12 (Utilities) of the Code of the City of Colorado Springs 2001, as amended, is amended to read as follows:

12.1.101: DEFINITIONS:

\* \* \*

PREMISES: A lot, parcel of land, building or establishment. **For the purpose of part 12 of this section, premises shall also include the point of connection between the water supply system and another public water supply system.**

\* \* \*

USER: Any person who uses, takes service from, receives benefit of service supplied, or is connected to the utility supply system. **User includes commercial users, residential users, and public users as defined below.**

A. Commercial User: Any person whose use of the utility supply system is in connection with the operation of a business, trade or occupation, whether or not for profit, **or any other non-single-family residential purpose.** The persons shall include but shall not be limited to **homeowners associations**, clubs, fraternities, sororities, lodges, hotels, apartment and rooming houses, tourist camps and cottages, multi-family dwellings where more than one dwelling unit is served through one meter, all common areas of multi-family dwellings when separately metered, schools, **military facilities, industrial facilities**, governmental buildings and churches.

B. \* \* \*

**C. Public User: The owner or operator of a public water supply system that is connected to the water supply system.**

\* \* \*

Section 2. Section 201 (Definitions) of Part 2 (General Provisions) of Article 4 (Water Code) of Chapter 12 (Utilities) of the Code of the City of Colorado Springs 2001, as amended, is amended to read as follows:

12.4.201: DEFINITIONS:

\* \* \*

USER: Any person who uses, takes water from or is connected to the water supply system of the City, **including commercial users, residential users, and public users as defined in section 12.1.101 of this code. A user may also be an owner of a premises or a customer.**

\* \* \*

Section 3. Part 12 (Cross Connection Control) of Article 4 (Water Code) of Chapter 12 (Utilities) of the Code of the City of Colorado Springs 2001, as amended, is amended to read as follows:

PART 12 CROSS CONNECTION CONTROL

12.4.1201: SCOPE AND APPLICABILITY:

12.4.1202: DEFINITIONS:

12.4.1203: UNLAWFUL ACTS:

12.4.1204: PLAN APPROVAL:

~~12.4.1205: INSTALLATION:~~

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12.4.12**101**: **INSTALLATION, REPAIR MAINTENANCE AND REPLACEMENT OF BACKFLOW PREVENTION ASSEMBLIES AND METHODS:**

12.4.121**12**: RECORDKEEPING:

12.4.121**23**: **CROSS CONNECTION SURVEY HAZARD IDENTIFICATION:**

12.4.121**34**: ENFORCEMENT; REMEDIES:

12.4.121~~45~~: RIGHTS OF APPEAL:

12.4.1201: SCOPE AND APPLICABILITY:

A. This part sets forth uniform requirements for protecting the Utilities' water supply system from backflow and enables Utilities to comply with all State and Federal laws and regulations required by the Federal Safe Drinking Water Act (42 USCA sections 300f through 300j-26, Public Law 93-523), **including but not limited to the Colorado Primary Drinking Water Regulations (5 CCR 1002-11).**

B. Utilities shall be the authority having jurisdiction over any ~~commercial~~ user who has a cross connection to the Utilities' water supply system.

C. Utilities is not responsible for controlling cross connections within public or private water systems that are not owned by ~~the~~ Utilities or within a user's potable water system, except to the extent necessary to protect the Utilities' water supply system.

D. In accord with section 7.10.103 of this Code, where in any specific case different requirements are specified by the Regional Building Code, the more restrictive shall govern.

**E. In the case of a conflict between this part and the service standards and specifications, this part shall govern.**

12.4.1202: DEFINITIONS:

\* \* \*

APPROVED BACKFLOW PREVENTION ASSEMBLY: A ~~n~~ **backflow prevention** assembly accepted and approved by the Executive Director, as defined in the ~~most current edition of the Colorado Springs Utilities line extension and service standards~~ **and specifications**, as suitable for protection against cross connections.

**APPROVED BACKFLOW PREVENTION METHOD: A backflow prevention method accepted and approved by the Executive Director, as defined in the service standards and specifications, as suitable for protection against cross connections.**

AUXILIARY WATER SUPPLY: Any water supply on or available to a customer's or user's premises other than the Utilities' water supply system.

**BACKFLOW: The reverse flow of water, fluids or gases into the distribution main, the water supply system or any service line caused by backpressure or backsiphonage.** ~~The flow of water or other liquids, fluids, mixtures, gases or any~~

~~other substance into the distribution main, water supply system or any service line from any source other than its intended source.~~

**BACKFLOW PREVENTION ASSEMBLY:** 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 degree of hazard at the premises served and is an in-line field testable assembly. ~~Any approved backflow prevention assembly or any device intended to prevent backflow or protect against cross-connections.~~

**BACKFLOW PREVENTION METHOD:** 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 degree of hazard at the premises served.

**CERTIFIED BACKFLOW PREVENTION ASSEMBLY TESTER:** A person who possess 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). ~~A person who has received training in the testing, operation and maintenance of cross-connection containment assemblies. This person must be certified in accord with the Colorado Primary Drinking Water Regulations and approved by the Executive Director.~~

\* \* \*

**CROSS CONNECTION:** Any connection to the water supply system where a degree of hazard is present at the premises served, which connection could allow any water, fluid, or gas to flow from any pipe, plumbing fixture or a user's water system into the water supply system through backflow. ~~Any unprotected actual or potential connection or structural arrangement between the water supply system and an auxiliary water supply, service line, a user's potable water system or any other source or system through which it is possible to introduce into any part of the water supply system any used water, industrial fluid, gas or substance that does not meet the current Colorado Primary Drinking Water Regulations. Bypass arrangements, jumper connections, removable sections, swivel or changeover devices and other temporary or permanent devices through which or because of which backflow can or may occur are considered to be cross-connections.~~

**DEGREE OF HAZARD:** The classification of a cross connection based on the potential that a backflow event would pose an unacceptable health and/or safety risk to the public. The Executive Director shall have sole discretion to classify cross connections into one of the following hazard levels in the service standards and specifications:

A. **High Hazard: A determination by the Executive Director that a backflow event would result in an unacceptable health and/or safety risk to the public.**

B. **Low Hazard: A determination by the Executive Director that a backflow event may result in an unacceptable health and/or safety risk to the public.**

\* \* \*

USER'S POTABLE WATER SYSTEM: Any water supply located on the user's premises whether supplied by the Utilities' water supply system or an auxiliary water supply.

12.4.1203: UNLAWFUL ACTS:

A. \* \* \*

B. It shall be unlawful for any person to make, install, maintain or permit to exist any cross connection unless it is protected by an approved backflow prevention assembly **or approved backflow prevention method as required by this part** ~~meeting the requirements of the service standards and specifications.~~

12.4.1204: PLAN APPROVAL:

~~All~~ **The user shall submit all** drawings, plans, specifications and other documents required by chapter 7 of this Code or part 3 of this article ~~shall be submitted to and approved by the Executive Director~~ **for approval** prior to connecting a service line **to a premises that has a potential to create a cross connection to the water supply system or making modifications to the water service line, internal plumbing or external plumbing of any premises, which modifications have the potential to create a cross connection.** Information submitted must include, but may not be limited to, the following:

A. Water service type, size, location and related appurtenances;

B. Meter type, size and location;

C. Backflow prevention assembly **or backflow prevention method** type, size and location; and

D. Fire sprinkler system(s) service line, type, size and location of backflow prevention assembly **or backflow prevention method.**

12.4.1205: INSTALLATION:

~~All approved backflow prevention assemblies shall be installed at the user's expense in accord with the service standards and specifications.~~

12.4.1205~~6~~: INSPECTION:

All backflow prevention assembly **or backflow prevention method** installations shall be inspected for compliance with this part ~~and approved by the Executive Director~~ prior to the furnishing of water service **to the premises**. The City and Utilities shall not be subjected to any liability for any deficiency or defect **associated with the installation, maintenance and operation of a backflow prevention assembly or backflow prevention method** ~~which is not discovered by inspection~~, nor shall ~~such~~ **the** owner, developer, customer or user of the premises be absolved from **either** any liability for a deficiency or defect ~~and~~ **or** any responsibility to correct the deficiency or defect.

12.4.1206~~7~~: ADMISSION TO PROPERTY:

Whenever necessary for the purposes of this part, the Executive Director has the power, upon the presentation of proper credentials, to enter and inspect at any reasonable time and in any reasonable manner any property, premises or place for the purpose of investigating any actual, suspected or potential cross connection, or ascertaining noncompliance with this part, or assuring proper installation, **maintenance** and operation of any backflow prevention assembly **or backflow prevention method**. Any entry shall be at reasonable times unless an emergency situation exists. The occupant **or owner** of the property or premises shall render all proper assistance in entry and inspection activities. If entry or inspection to any property is denied or not promptly consented to, or at any other time to investigate sources of contamination impacting the water supply system, the Executive Director is empowered to obtain, from Municipal, County or State District Court with jurisdiction, a warrant to enter and inspect any property, premises or place.

12.4.1207~~8~~: REQUIREMENTS:

**A. The provisions of section 12.4.1207.F notwithstanding**, ~~Without limitation, and in addition to the general requirements of this part, any commercial user desiring to connect a service line to the water supply system after April 8, 2001,~~ shall **protect the water supply system by installation of** an approved backflow prevention assembly **or approved backflow prevention method** on each **affected** service line **to the premises**, ~~at the user's expense, within a user's potable water system. , immediately following the meter, and in all cases, before the first branch line leading off the service line.~~ **In all cases, the approved backflow prevention assembly or approved backflow prevention method shall be located before the first branch line leading off the service line.**

**B. In addition to the general requirements of this part, any commercial user desiring to make modifications to a water service line, internal plumbing or external plumbing of any premises, which modifications have the potential to create a cross connection, shall protect the water supply system by installation of an approved backflow prevention assembly or approved backflow prevention method on each affected service line to the premises within a user's potable water system. In all cases, the approved backflow prevention assembly or approved backflow prevention method shall be located before the first branch line leading off the service line.**

**C. In addition to the general requirements of this part, in the case of any premises used by a commercial user, where a degree of hazard exists, the user shall protect the water supply system by installation of an approved backflow prevention assembly or approved backflow prevention method on each affected service line to the premises within a user's potable water system. In all cases, the approved backflow prevention assembly or approved backflow prevention method shall be located before the first branch line leading off the service line.**

**D. In addition to the general requirements of this part, in the case of any premises used by a residential user for single family residential uses where a degree of hazard exists, the user shall protect the water supply system by installation of an approved backflow prevention assembly or approved backflow prevention method on each affected service line to the premises within a user's potable water system. In all cases, the approved backflow prevention assembly or approved backflow prevention method shall be located before the first branch line leading off the service line.**

**E. In addition to the general requirements of this part, in the case of a connection between the water supply system and a public user's water supply system, the water supply system shall be protected by installation of an approved backflow prevention assembly or approved backflow prevention method in a location or at locations approved by the Executive Director.**

**F. Where installation of an approved backflow prevention assembly or approved backflow prevention method is required to protect the water supply system and, as determined in the sole discretion of the Executive Director, installation of the backflow prevention assembly or backflow prevention method on the affected service lines to the premises or as otherwise required by this part is impossible or impractical, installation of the approved backflow prevention assembly or approved backflow prevention method shall be at a location or at locations designated by the Executive Director.**

~~B. Except as provided in subsection C of this section, and in addition to the general requirements of this part, an approved backflow prevention assembly shall be installed on each service line, at the user's expense, within a~~

~~user's potable water system, immediately following the meter, and in all cases, before the first branch line leading off the service line wherever the following conditions exist:~~

~~1. In the case of a premises with an auxiliary water supply which presents cross connection hazards, the water supply system shall be protected by installing an approved backflow prevention assembly in the service line appropriate to the degree of hazard found within the user's premises.~~

~~2. In the case of premises on which any industrial fluids or any other objectionable substance is handled in a fashion as to create a cross connection, the water supply system shall be protected by installing an approved backflow prevention assembly in the service line appropriate to the degree of hazard found within the user's premises.~~

~~3. In the case of premises having internal cross connections that cannot be permanently corrected and controlled, or having intricate plumbing and piping arrangements, or where entry to all portions of the premises is not readily accessible for inspection purposes, making it impractical or impossible to ascertain whether or not cross connections exist, the water supply system shall be protected by installing an approved backflow prevention assembly in the service line appropriate to the degree of hazard found or suspected within the user's premises.~~

~~4. In the case of premises where there is a fire protection system, by an approved backflow prevention assembly shall be installed in accord with the service standards and specifications.~~

~~C. Pursuant to subsection B of this section, where installation of an approved backflow prevention assembly is required on a service line connected to the water supply system on or before April 8, 2001, and when, in the sole discretion of the Executive Director, installation immediately following the meter as prescribed is impossible or impractical, in addition to the general requirements of this part, installation of the approved backflow prevention assembly shall be at the user's expense, and shall be at a location or at locations designated by the Executive Director so that the water supply system is protected from backflow at all times.~~

#### 12.4.12089: MANAGEMENT PLAN:

The Executive Director may require any user to submit a cross connection control management plan. The management plan shall be approved by the Executive Director and must include, but shall not be limited to, information on all backflow prevention assemblies **or backflow prevention methods**, testing frequencies and a hazard assessment and identification.



#### 12.4.1209~~10~~: TESTING:

Any user at any premises where a backflow prevention assembly **or backflow prevention method** is required by this part shall have operational tests made **at the user's expense** upon installation, **repair or replacement**, and at least annually after installation, **repair or replacement**. **Any backflow prevention assembly or backflow prevention method that is non-testable shall be inspected at least once annually**. Tests **and inspections** shall be performed, at the user's expense, by a certified backflow prevention assembly tester and shall be performed in accord with the procedures identified in the service standards and specifications. In those instances where the Executive Director deems **a hazardous condition exists** ~~a hazard to be great enough~~, tests may be required at more frequent intervals.

#### 12.4.1210~~11~~: **INSTALLATION, REPAIR—MAINTENANCE AND REPLACEMENT OF BACKFLOW PREVENTION ASSEMBLIES AND METHODS:**

**A. All backflow prevention assemblies or backflow prevention methods required by this part shall be installed, maintained, repaired and replaced at the user's expense in accord with the service standards and specifications.**

**B. All required backflow prevention assemblies or backflow prevention methods** shall be repaired or replaced ~~at the expense of the user whenever the assembly or method is found to be defective. by the user, a certified backflow prevention assembly tester, or the Executive Director.~~ All backflow prevention assemblies not meeting the requirements of this part shall be replaced ~~at the user's expense.~~ Any repair or replacement shall be made ~~with an approved backflow prevention assembly and shall be repaired or replaced within ten (10)~~ **twenty (20)** days of discovery ~~that repair or replacement is necessary by the user, a certified backflow prevention assembly tester or the Executive Director,~~ unless **an extension of that deadline is approved by** ~~arrangements satisfactory to the Executive Director~~ **prior to expiration of such twenty (20) day period.** ~~are made.~~

**C. Whenever a cross connection that does not have an approved backflow prevention assembly or approved backflow prevention method required by this part to protect the water supply system is discovered, the user shall have an approved backflow prevention assembly or approved backflow prevention method installed on the water service line for the premises or other location required by this part within sixty (60) days of discovery, unless an extension of that deadline is approved by the Executive Director prior to expiration of such sixty (60) day period.**

#### 12.4.1211~~12~~: RECORDKEEPING:

Records of all tests, **installations**, inspections, repairs, and replacements of backflow prevention assemblies **or backflow prevention methods** shall be kept by the user, the certified backflow prevention assembly tester and the Executive Director for a period of three (3) years after the tests, inspections, repairs and replacements. The **user or** certified backflow prevention assembly tester shall submit to the Executive Director a copy of all **records of** the tests, inspections, repairs and replacements within five (5) days of completing the tests, inspections, repairs and replacements on forms approved by the Executive Director. If requested by the Executive Director, the user or certified backflow prevention assembly tester shall immediately provide copies of such tests, inspections, repairs and replacements.

#### 12.4.121**23**: **CROSS CONNECTION SURVEY HAZARD IDENTIFICATION:**

The Executive Director may conduct surveys of water supply system users to identify ~~potentially hazardous service connections or~~ cross connections. Surveys may consist of written instruments, verbal interviews or physical inspections. Water supply system users shall complete the survey and otherwise cooperate in the identification of ~~potentially hazardous service connections or~~ cross connections according to the terms and conditions prescribed by the Executive Director. Whenever a user fails to complete a ~~hazard identification~~ survey in accord with this section, the water supply system shall be protected, ~~at the user's expense,~~ by **installation of** the most protective approved backflow prevention assembly **or approved backflow prevention method** provided for in the service standards and specifications, ~~regardless of the actual hazard present.~~ **The user shall have such an approved backflow prevention assembly or approved backflow prevention method installed on each affected water service line for the premises or other location required by this part within sixty (60) days of the date the user failed to complete a survey, unless an extension of that deadline is approved by the Executive Director prior to expiration of such sixty (60) day period.**

#### 12.4.121**34**: ENFORCEMENT; REMEDIES:

\* \* \*

B. Any person who has violated or is violating this part may be subject to the penalties provided in subsection 12.1.114B of this chapter. ~~No person shall be subject to any penalties until and unless that person fails to comply with an imminent hazard order and/or an emergency suspension order.~~

C. In accord with subsection 12.1.114C of this chapter, the Executive Director may issue an imminent hazard order. An imminent hazard order may ~~contain~~ **prescribe** administrative fines and extra cost charges. Failure to comply with an imminent hazard order may be deemed an emergency circumstance under section 12.1.116 of this chapter.

D. The Executive Director may order the emergency suspension of any user's water service **under section 12.1.116 of this chapter** when suspension is necessary, in the opinion of the Executive Director, to protect any person or the water supply system. The time at which the water service will be terminated must be specified. An emergency suspension order may ~~contain~~ **prescribe** administrative fines and extra cost charges. Water service may be suspended **under this section** if:

1. ~~Unprotected cross~~ **Cross** connections **that are not protected as required by this part** exist on the user's premises;
2. A defect is found in an installed backflow prevention assembly **or backflow prevention method**; or
3. A backflow prevention assembly **or backflow prevention method** has been removed or bypassed.

E. The Executive Director may assess a charge to recover extra costs incurred by ~~the~~ Utilities for monitoring, investigation, and/or any quantifiable damages to the water supply system attributable to any person who is found to have violated this part. These extra cost charges may be assessed under subsection 12.1.114C of this chapter or as part of an emergency suspension order.

F. Any user who is found to have violated any provision of this part or orders issued hereunder may be assessed an amount not to exceed one thousand dollars (\$1,000.00) per violation per day, not as a criminal penalty and only as an administrative measure (civil penalty); administrative fines encourage compliance and offset unquantifiable damage to the public water supply from noncompliance. Each day on which noncompliance shall occur or continue may be deemed a separate and distinct violation. ~~Notwithstanding the foregoing, no person shall be liable for any administrative fines for violations occurring before receipt of that person's first imminent hazard order regarding the violation.~~ Administrative fines may be assessed under subsection 12.1.114C of this chapter or as part of an emergency suspension order.

#### 12.4.121~~4~~5: RIGHTS OF APPEAL:

\* \* \*

Section 4. This ordinance shall be in full force and effect from and after its final adoption and publication as provided by Charter.

Section 5. Council deems it appropriate that this ordinance be published by title and summary prepared by the City Clerk and that this ordinance be available for inspection and acquisition in the Office of the City Clerk.

Introduced, read, passed on first reading and ordered published this \_\_\_\_ day of \_\_\_\_\_, 2017.

**Finally passed:** \_\_\_\_\_

\_\_\_\_\_  
Council President

\_\_\_\_\_  
Sarah B. Johnson, City Clerk