



TOWN OF MILLIKEN
TOWN BOARD
AGENDA MEMORANDUM

To: Mayor Tokunaga and Town Trustees	Meeting Date:
From: Linda Michow, Town Attorney	Wednesday, September 23, 2015
Via: Kent Brown, Town Administrator	

Agenda Item #	Action: X	Discussion:	Information:
Agenda Title: Ordinance amending Chapter 13, Article 3, of the Town of Milliken Municipal Code regarding Cross Connections.			
Attachments: (1) Ordinance No. 716			

PURPOSE

To amend the Municipal Code, Section 13-3-10, 13-3-20, 13-3-30, 13-3-40 and 13-3-41, to modify rules and regulations with regard to Cross Connections within the Town of Milliken.

BACKGROUND

Staff is requesting several modifications to the current cross connection ordinance (Section 13-3-10 and following) that reflect impending regulation changes from the State of Colorado. Mainly establishing the town's authority to perform surveys of user's systems and enforcement of state requirements. Review by water department employees and legal counsel has produced this proposed ordinance for your consideration. The proposed ordinance rewrites the entire section (Section 13-3).

BUDGET IMPLICATONS

None

STAFF RECOMMENDATION

Staff recommends the revised Chapter 13, Article 3 of the Milliken Municipal Code.

SUGGESTED MOTION

"I move to adopt Ordinance 716, amending Chapter 13, Article 3, of the Town of Milliken Municipal Code."

ORDINANCE NO. 716

**AN ORDINANCE REPEALING AND REENACTING ARTICLE III OF
CHAPTER 13 OF THE TOWN OF MILLIKEN MUNICIPAL CODE
CONCERNING CROSS CONNECTIONS**

WHEREAS, Chapter 13, Article 3, of the Town of Milliken Municipal Code establishes rules and regulations with regard to Cross Connections within the Town of Milliken (the "Town"); and

WHEREAS, these rules and regulations have been found to be inadequate and incomplete with regard to Cross Connections within the Town; and

WHEREAS, the Town Board of Trustees desires to amend Chapter 13, Article II, of the Town of Milliken Municipal Code.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF MILLIKEN, WELD COUNTY, COLORADO:

Section 1: Article III of Chapter 13, of the Town of Milliken Municipal Code, shall be repealed and reenacted to read in full as follows:

ARTICLE III

CROSS CONNECTION

Sec. 13-3-10. General policy.

(a) **Responsibility.** The Public Works Department shall be responsible for the protection of the Town's potable water distribution system from contamination or pollution due to the backflow of contaminants or pollutants through the water service connection. If, in the judgment of the Public Works Department, an approved backflow prevention assembly is required at the water service connection, or, within a private water system for the safety of the water system, the Public Works Department, may give notice in writing to said Owner to install such an approved backflow prevention assembly at a specific location on their premises. The Owner shall install such approved assembly within the time frame set forth in the notice and at their own expense. The failure, refusal, or inability of the Owner to install, have tested and maintain said assembly shall constitute grounds for discontinuing water service to the premises in substantial conformance to the provisions of Section 13-2-810 of this Article until such requirements have been satisfactorily met.

(b) **Authority.** The Town of Milliken has been given the authority and responsibility for the enforcement of the provisions relative to cross connection set forth in this Article III by:

- (1) The Federal Safe Drinking Water Act of 1974;
- (2) Colorado Department of Public Health and Environment Water Quality Control Commission Regulation No.11. Colorado Primary Drinking Water Regulations (5

CCR 1002-11) the water purveyor has the primary responsibility for preventing water from unapproved sources, or any other substances, from entering the public potable water system; and,

(3) Town of Milliken Municipal Code.

Sec. 13-3-20. Definitions.

The definitions of terms used in this Article are those contained in the Colorado Cross Connection Control Manual, as adopted and amended by the Colorado Department of Public Health and Environment, as incorporated herein by reference, unless otherwise defined below.

(a) **Approved Backflow Device** means a backflow device or air gap meeting the standards and installation requirements of the American Society of Sanitary Engineers (ASSE), or the American Backflow Association (ABPA) in accordance with University of Southern California 10th Edition Manual standards, the latest edition of the Colorado Department of Public Health and Environment's (CDPHE) Colorado Cross Connection Control Manual and/or the requirements of the Town of Milliken's Public Works Department. Approval by the Department will be dependent upon the hazard assessed, but shall not be less than the CDPHE Colorado Cross Connection Control Manual's requirements for potable water system protection.

(b) **Certified Cross Connection Control Technician** means a person who has passed and possesses a current certification from one (1) of the following national certification councils for backflow testing and repair: American Society of Sanitary Engineers (ASSE), the American Backflow Association (ABPA), the American Boards of Certification (ABC). Any variation or exception will be by direction from the current edition of the Colorado Cross Connection Control Manual as published by the Colorado Department of Health and Environment.

(c) **Containment** means the installation of an approved backflow device isolating the premises and all plumbing connections to the service connection therein from the Town's potable water supply.

(d) **Containment by Isolation** means at the time of the cross connection survey if it is deemed that an approved backflow device cannot be installed isolating the premises at the service connection, then the property will be classified as "containment by isolation" and the property Owner will be required to test, maintain, and report all approved backflow devices within the premises. The Owner will also be responsible for installing any and all approved backflow devices the Town of Milliken's cross connection control technician deems necessary and will be given a reasonable period of time, not to exceed one hundred twenty (120) days from notice to comply. The Owner shall also permit an annual inspection of the entire property.

At the Department's discretion, installation of the approved backflow device shall, at a minimum, be placed at or near the property line with all necessary equipment enclosures to ensure uninterrupted service and meet all installation safety codes at the Owner's expense.

(e) **Cross Connection** means a connection or potential connection between any part of the Town's potable water system and any other environment containing other substances in a manner that, under any circumstances would allow such substances to enter the Town's potable water system. Other substances may be gases, liquids or solids, such as chemicals, waste products,

steam, water from other sources (potable or non-potable) or any matter that may contaminate or change the color or add odor to the water.

(f) **Department** means the Town of Milliken Public Works Department.

(g) **Owner** means the person, whether one or more, and any legal entity which has any equitable title to the real property to which the Town provides potable water service.

(h) **Service Connection** means the terminal end of the water supplier service connection from the Town's potable water distribution system to the threads on the corporation stop where the Public Works Department's ownership ends and the responsibility for sanitary control and Owner's ownership begins. **Service connection** shall also include water service connection from a fire hydrant and all other temporary or emergency water service connections from the Town's potable water system.

Sec. 13-3-30. Requirements.

(a) **New Connection.** All new connections to the Town's water system shall have an approved backflow device. The Department will provide on-site evaluation and/or plan review in order to determine the type of backflow device that will be required as a condition of service. All new connections requiring a backflow device shall be inspected and tested by a Certified Cross Connection Control Technician.

(b) **Changes in Service.** Any changes in service including, but not limited to, reconnection, change in the number of future valves or change in the type of water service, shall require installation of an approved backflow device.

(c) **Approved Status.** "Approved" status shall also be contingent on inspection, testing and passing of such test by a Certified Cross Connection Control Technician. Any variation or exception may be by direction from the current edition of the CDPHE Colorado Cross Connection Control Manual.

(d) **Existing Installations.** For connections or premises without a backflow device existing prior to September 1, 2004, the Department will perform on-site evaluations and/or plan reviews and inform the Owner by letter of any corrective action deemed necessary, the method of correction and the time allowed for correction as a condition of service. Up to sixty (60) days will be allowed but may be shortened depending upon the degree of hazard (pollutant or contaminant) involved. The Department does not waive the right to require a backflow device for any existing installation if future conditions require such.

(e) **Testing.** All backflow devices shall be tested at least annually by a Certified Cross Connection Control Technician using the latest test procedures as specified by one (1) of the following councils (ASSE, ABPA), to determine that it is not a defective or failed device.

(f) **Emergency Disconnection.** At the Department's discretion, discontinuing or severing the service connection on the Owner's property to isolate the possible contaminants will be performed if the degree of hazard warrants such action in order to protect the Town's potable water supply. Discontinuance of service may be summary, immediate and without written notice

whenever, in the judgment of the Department, such action is necessary to protect the Town's potable water supply or the distribution system.

(g) **Failure to Comply.** If, after a first notice by letter or direct delivery of notice, the Owner fails to comply with the Department's directive or fails to allow access to premises for inspection, immediate termination of service may occur, or at the Department's discretion based upon its determination as to the potential for contamination of the Town's water system, an additional ten (10) days shall be granted to comply with said directive if contamination of the Town's water supply is not an immediate concern. Failure to allow access by the Owner, or those designated by him or her, to premises for inspection by the Department will result in the automatic classification of the premises as a high hazard risk to the Town's potable water supply. Appeal of any notice or emergency disconnection shall be directed to the Town of Milliken's Administrator. An appeal shall not stay the execution of the Failure to Comply order or disconnection or discontinuation by the Department in order to protect the Town's potable water supply. The Failure to Comply Order may be reversed if the appeal is upheld.

(h) **Administrative Inspections.** The Owner shall allow their property to be inspected for possible cross-connections and shall follow the provisions of the Department's program and the Commission's Regulations if a cross-connection is permitted. Failure to comply with an inspection request may result in discontinuation of water service until such time as the Owner complies.

(i) If the Department requires that the public supply be protected by containment, the Owner shall be responsible for water quality beyond the outlet end of the containment device and should utilize fixture outlet protection or such other protective measures as will comply with applicable cross control connection standards for that purpose.

(j) **Disconnection of water service.** With the exception of emergency disconnection as set forth in subsection (f) above, the Department's disconnection of water service under this Article shall substantially comply with the procedures set forth in Section 13-2-810 provided that the written notice of disconnection to the Owner shall include the basis for the disconnection, the manner in which the disconnection may be avoided, and the date on or after which utility service will be disconnected.

(k) **Record Keeping.**

(1) The Department shall maintain records of all backflow device inspections and test results for a minimum of three years for community water systems; and, for a minimum of five years for non-community water systems.

(2) The Department must maintain each annual backflow prevention and cross-connection control program report for a minimum of three years for community water systems; and, for a minimum five years for non-community water systems.

Sec. 13-3-40. Requirements of Owner.

(a) **Cross Connections.** The Owner shall be responsible for the elimination or protection of all cross connections (known or unknown by the Department) on their premises by an approved backflow device at the Owner's sole cost and expense. Such backflow device

expenses shall include, but not be limited to installation, maintenance, protection, testing, repair, removal or replacement of said device as required by the Department as a condition of service.

(b) **Backflow Device.** The Owner or those occupying any premises shall not bypass, disable, remove or modify any backflow device without written consent by the Department. Any such modifications shall result in discontinuation or termination of service in substantial conformance to the provisions of Section 13-2-810 of this Article.

(c) **Fire Suppression System Design and Installation.** The Owner or those designated by him or her will comply with current National Fire Protection Association (N.F.P.A.) standards and/or current Public Works Department Design and Construction Specifications latest version when designing, installing and maintaining any fire suppression system as a condition of service.

Sec. 13-3-41. Administration.

The Department will operate a cross-connection control program, to include the keeping of necessary records, which fulfill the requirements of the Colorado Department of Public Health and Environment Water Quality Control Commission's Cross-Connection Regulations and is approved by the Commission.

Section 2. Repeal

Existing or parts of ordinances covering the same matters as embraced in this Ordinance of the Milliken Municipal Code are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed, except that this shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the taking effect of this Ordinance.

Introduced, read, adopted, approved, signed and ordered published in full by the Board of Trustees of The Town of Milliken this ___ day of September, 2015.

TOWN OF MILLIKEN

Milt Tokunaga, Mayor

ATTEST:

APPROVED AS TO FORM:

Cheryl Powell, Town Clerk

Linda Michow, Town Attorney

Published: _____