

The Corporation of the Town of Essex
By-Law Number 1713
Being a By-law to Regulate Cross
Connection Control and Backflow
Prevention

Whereas Sections 11 and 19 of the Safe Drinking Water Act, S.O. 2002, c. 32 (the "Act"), requires municipalities to ensure that all water supplied to a user's plumbing system meet the requirements of the prescribed drinking water quality standards and that the drinking water system is operated in accordance with the Act.,

And Whereas Section 11 (2) 6 of the Municipal Act, S.O. 2001, c. 25, as amended from time to time (the "Municipal Act"), authorizes a municipality to regulate matters for purposes related to the health, safety and well-being of the residents of the Municipality;

And Whereas Section 80 (1) and Section 80 (2) of the Municipal Act authorizes a municipality, at reasonable times, to enter on land to which it supplies a public utility to inspect, repair, alter or disconnect the service pipe or wire, machinery, equipment and other works used to supply the public utility and to shut off or reduce the supply of the public utility to the land for the purposes so described;

And Whereas Section 80 (3) of the Municipal Act authorizes a municipality to enter on the land to shut off the supply of the public utility, to remove any property of the municipality or to determine whether the public utility has been or is being unlawfully used;

And Whereas Section 15.9 of the Building Code Act S.O. 2009, c. 23, as amended, allows an inspector to enter upon land and into buildings to determine whether a building is unsafe;

And Whereas Section 15.10 of the Building Code Act S.O. 2009, c. 23, as amended, allows the Chief Building Official to take any measures necessary to terminate a dangerous condition within a building;

And Whereas it is desirable to repeal By-Law 321 being a by-law to provide for Backflow Prevention and replace with the provisions of this By-law 1713.

NOW THEREFORE the Council of the Corporation of the Town of Essex enacts as follows:

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1.0 Citation

1.1 This by-law may be cited as the "Backflow Prevention By-law"

2.0 Definitions

2.1 For the purposes of this By-law, the following terms and definitions shall apply:

"Authorized Functions List" means the list of functions and the persons authorized to carry out such functions as set out in Appendix A of this By-law;

"auxiliary water supply" means any water source or system that may be available in a *building* or on any property, other than the Town water supply, including water from any other purveyor's water supply, water from any natural source such as a well, lake, river, spring or harbour and may also include any recycled water or cistern;

"backflow" means the flowing back or reversal of the normal direction of flow of water;

"backflow prevention device" means a device, certified to the CSA *Standard*, that prevents *backflow*;

"building" shall have the same meaning as set out in the Building Code Act, S.O. 2009, c. 23, as amended or any successor thereof;

"Chief Building Official" means a *chief building official* or his or her designate appointed under sections 3 or 4 of the Building Code Act for the Corporation of the Town of Essex;

"cross connection" means any actual or potential connection between a potable water supply or system and any source of pollution or contamination and includes any by-pass, jumper connection, removable section of pipe, swivel or changeover device and any other temporary or permanent connecting arrangement through which *backflow* may occur;

"cross connection survey form" means the form set out in Appendix B of this By-law;

"CSA Standard" means the document entitled B64.10-07/B64.10.1-07 *Selection and Installation of Backflow Preventers/Maintenance and Field Testing of Backflow Preventers* published by the Canadian Standards Association, or any successor thereof;

"Director" means the Director, Infrastructure and Development of The Corporation of the Town of Essex and includes his or her designate or successor thereof;

"Good repair" means:

- free from health hazard,
- in good working order,
- not in poor condition by reason of deterioration, neglect or damage,
- able to perform its intended function, and;
- protected from freezing

"Inspector" means the Chief Building Official (s) of the Town of Essex and includes such designates so appointed for the purposes of carrying out the enforcement of this By-law;

"owner" means any person, firm or corporation having control over property to which this by-law applies and includes the owner registered on the title of the property and any occupant of any *building* or *structure* located on such property;

"potable water" means water that is safe for human consumption;

"premise isolation" means isolation of the water located within a *building* or *structure* from the *Town* water supply;

"source isolation" means isolation of the water located within or having flowed through a source or potential source of contamination within a *building* or *structure* including a device, machine, water system or the like, from any *potable water* system;

"survey" means a complete review of the water distribution system(s) located within a *building* or *structure* to determine the presence of any existing *backflow prevention devices* and/or any *cross connections*;

"structure" means anything constructed or built, either permanently or temporarily, which is provided with a source of *potable water*;

"tester" means a person who is a certified *backflow prevention device* tester who has successfully completed a *cross connection* course in *backflow* prevention testing at an accredited school or college as defined in the *CSA Standard*;

"test report" means the digital *test report*, the printed form of which is set out in Appendix C of this by-law;

"test tag" means a tag acceptable to the *Town* containing location, purpose, installation address and test history or the *backflow prevention device*;

"Town" means The Corporation of the Town of Essex and may include, for the purposes of this by-law, the *Director*, the *Chief Building Official* or their designates;

"unsafe" means in a condition that could be hazardous to the health or safety of persons in the normal use of a *potable water* system or supply and includes a device whose testing is overdue;

"untreated water" means any water not subject to the requirements of the Safe Drinking Water act, and/or water that is not under the direct control of the *water purveyor*;

"water meter" means the *water meter* installed to record the amount of water supplied to any *building or structure* by the *Town*;

"water purveyor" means any *Town* owned and operated water distribution system, and

"zone isolation" means the isolation of the water within an area of a *building or structure* from any *potable water* system located within such *building or structure*.

3.0 Application and Interpretation

- 3.1 This by-law applies to existing industrial, commercial, institutional and multi-residential *buildings and structures*, except *buildings* of residential occupancies as described in Division A, Article 1.1.2.4. of Ontario Regulation 503/09 (the Ontario Building Code) or any successor thereof.
- 3.2 In addition to and notwithstanding Section 3.1 of this by-law, this by-law applies where a condition exists in any *building or structure* within the *Town* that may be hazardous or detrimental to the *potable water* supply as determined by the *Chief Building Official* or the *Director*.
- 3.3 In this By-law:
- a) Words importing the singular number of the masculine gender only, include more persons, parties or things of the same kind than one and females as well as males and the converse;
 - b) A word interpreted in the singular number has a corresponding meaning when used in the plural; and
 - c) "subsection" when used without reference to another section, refers to a subsection contained in the same section in which the phrase is used.
- 3.4 It is declared that if any section, subsection or part or parts thereof be declared by any court of law to be invalid, illegal or ultra vires, then such section, subsection or part or parts thereof shall be deemed to be

severable and all parts hereof are declared to be separate and independent and enacted as such.

4.0 Cross Connection Prohibited

- 4.1 No person or *owner* shall connect, cause to be connected, or allow to remain connected to the *Town* water supply or any other *potable water* system any piping, fixture, fitting, container, appliance, vehicle, machine or the like in a manner which may under any circumstance allow *untreated water*, waste water or any other liquid, chemical or substance to enter such supply or system, except in compliance with the provisions of this by-law.
- 4.2 In addition to Section 4.1 and in accordance with all other provisions of this by-law, every *owner* of property to which this by-law applies shall ensure that a *backflow prevention device* is installed in respect of *premise isolation*, *source isolation* and *zone isolation* in every *building* or *structure* where a *Town* water supply or other *potable water* supply exists.
- 4.3 No person or *owner* shall connect, cause to be connected, or allow to remain connected to the *Town* water supply, any *auxiliary water supply* without written approval from the *Town*.

5.0 Persons Permitted to Carry Out Work

- 5.1 Only the persons listed in the *Authorized Functions List*, forming Appendix A of this by-law, shall carry out the corresponding functions set out in such list.
- 5.2 Any *tester* permitted to carry out work, as outlined in the *Authorized Functions List*, shall produce, upon request of the *Town*, a current *tester's* certificate.

6.0 Application of CSA Standard

- 6.1 Except as otherwise set out in this by-law, the selection, installation, maintenance and field testing of *backflow prevention devices* shall be in accordance with the *CSA Standard*.
- 6.2 Wherever the *CSA Standard* and this by-law are in conflict, the provisions of this by-law shall prevail.

7.0 Cross Connection Control Survey

7.1 Every owner of a *building* or *structure* of a type set out in Section 3.0 of this by-law shall (at the owner's expense), every five years or when otherwise required by the *Town*, cause to be carried out a *survey* of each of his or her *buildings* and *structures* with respect to all existing *cross connections* and all existing and required *backflow prevention devices* and:

(a) shall ensure that such *survey* is carried out on a *cross connection control survey form* by a person permitted to do so pursuant to the *Authorized Functions List*; and

(b) shall ensure that the completed *cross connection control survey form* is complete and submitted to the *Town* within fourteen days of the *survey* being conducted.

7.2 Notwithstanding Section 7.1, the *Town* reserves the right to designate one or more qualified employees or engage the services of one or more qualified persons, firms or agencies who meet the qualifications specified in Section 5.0, to perform the *surveys* required in this Section

8.0 Selection of Backflow Prevention Devices

8.1 Every owner shall ensure that every *backflow prevention device* required for *premise isolation*, *zone isolation* or *source isolation* on his or her property is the proper device to be used pursuant to this by-law.

8.2 *Backflow prevention devices for premise, source or zone isolation* shall be determined by:

(a) the *CSA Standard*; or

(b) when the type of *cross connection* is not identified in the *CSA Standard*, by the *Town*.

8.3 Notwithstanding Section 8.2 of this by-law, the *Town* may require, or permit a particular *backflow prevention device* to be used in respect of any *cross connection*.

8.4 Notwithstanding Section 8.2 of this by-law, the *Town* may permit an existing *backflow prevention device* if previously approved as long as the

safety of the water supply is maintained to the satisfaction of the *Director* or the *Chief Building Official*.

- 8.5 Where a *source isolation backflow prevention device* has been installed by the manufacturer of equipment, the *cross connection* is required to be reviewed by the *Town* to determine if the backflow prevention device meets the requirements of the *CSA Standard*.

9.0 Installation of *Backflow Prevention Devices*

- 9.1 Every person installing *backflow prevention devices* shall ensure that:
- (a) such device is installed and maintained in accordance with acceptable engineering practices, the requirements of this By-law, the Building Code (Ontario Regulation 403/99), as amended and the *CSA Standard*;
 - (b) such device is installed in such manner so that, in the event of *backflow*, the device prevents contamination of the *Town* water and any other *potable water* system;
 - (c) where such device is installed in respect of premise isolation, such device is located within a maximum of 3.0 metres downstream of the *water meter*, except where circumstances require the device to be installed upstream of the *water meter* and such location is to the satisfaction of the *Town*;
 - (d) where such device is installed in respect of premise isolation, all piping between the *water meter* and such device is clearly labelled "no connection permitted" unless otherwise directed by the *Town*;
 - (e) where such device is installed in respect of *source or zone isolation*, all piping between the point of contamination or potential contamination and the point at which the device is located is labelled "*non-potable water*" and no new connections shall be permitted unless otherwise directed by the *Town*;
 - (f) where such device is installed in a public pool as defined in the Ontario Building Code, all exposed water piping and chlorine piping within the water treatment service room shall be colour coded by means of:

- (i) painting the entire outer surface of the piping, or
- (ii) coloured bands at least 25 mm (1 in) in width and spaced along the piping at intervals of not more than 1,200 mm (4 ft 1 in);
- (iii) colour coding referred to in (i) and (ii) shall be yellow for chlorine and green for *potable water*.

10.0 Testing of Devices

10.1 Every *owner* who has a testable *backflow prevention device* located on his or her property shall ensure that:

(a) such device is tested by a *tester* when it is first installed and annually thereafter or when requested by the *Town* and also when it is cleaned, repaired, overhauled or relocated;

(b) a *test report* is provided to the *Town* within fourteen days of the test being conducted;

(c) in the event that the water supply to the device cannot be shut down in order to facilitate testing, a by-pass shall be installed around the device with a suitable *backflow prevention device* installed in the by-pass to allow for testing of both devices.

10.2 Every person who tests a *backflow prevention device* shall carry out such testing in accordance with this by-law and the *CSA Standard*.

10.3 Every person who tests a *backflow prevention device* shall:

(a) provide a legible *test report* to the *owner* in respect of such test;

(b) upon finding that a *backflow prevention device* is malfunctioning or otherwise not in proper working order, immediately notify the *Town* and the *owner*;

(c) upon completing the test, complete and affix a *test tag* to the device or immediately adjacent to the device on the piping connected thereto.

11.0 Inspections

11.1 The *Town* may, at any reasonable time, enter onto any property, *building* or *structure* to inspect for compliance with this by-law.

11.2 When carrying out an inspection pursuant to Section 11.0, the *Town* may:

(a) require the production for inspection of documents or things relevant to the inspection;

(b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;

(c) require information from any person concerning a matter related to the inspection; and

(d) make examination or take tests, samples or photographs necessary for the purpose of the inspection.

11.3 No person shall hinder or obstruct, or attempt to hinder or obstruct an inspector in the exercise of a power or performance of duty under this by-law.

12.0 Remedial Works

12.1 As per Section 15 of the Ontario Building Code Act, where the *Town* finds that an *unsafe condition* exists on any lands or within any *buildings* or *structures* that may allow contamination of the *Town's* municipal water supply or the contamination of any other *potable* water system on any of such properties the *Chief Building Official* may:

(a) issue an Order of Compliance to the *owner* to eliminate the *unsafe condition* and in doing so may prescribe a time period for compliance with such Order; or

(b) may notify the *Director* who may without notice immediately shut off the water supply to the property or any portion thereof until the condition is eliminated if the condition is, or potentially is, hazardous to the health or safety of persons in the normal use of the building, persons outside the building or persons whose access to the building has not been reasonably prevented.

12.2 If the time period for compliance as prescribed in subsection 10.1.(b) or 12.1.(a) has passed without compliance, the *Director* may; shut off the water supply to the subject lands, *buildings* or *structures* or any portion thereof until the *unsafe condition* is eliminated.

13.0 General Provisions

- 13.1 Every *owner* of property upon which a *backflow prevention device* is installed shall ensure that such device is in good repair at all times.
- 13.2 In addition to any other provision of this by-law, the *Town* may at any time order an *owner* to engage the services of a qualified *tester* to conduct tests, provide reports and undertake any other measures required for the prevention of *backflow* or the protection of a cross connection.

14.0 Removal of Backflow Prevention Devices Prohibited

- 14.1 No person shall remove a *backflow prevention device* or part thereof after it has been installed and no *owner* of a *building* or *structure* in which a *backflow prevention device* is installed shall cause or permit the removal of such device unless prior notice in writing is provided to the *Town* and such removal is:

- (a) to facilitate the immediate repair of the device and such device is replaced immediately after such repair is carried out; or
- (b) to immediately replace the device with another device that meets or exceeds the provisions of the by-law; or
- (c) is otherwise permitted by the *Town*.

15.0 Offenses

- 15.1 Every person who contravenes any provision of this by-law is guilty of an offence and, upon conviction, is liable under any provisions of the Provincial Offences Act, R.S.O. 1990, Chapter P. 33

16.0 Late Filing Fee

- 16.1 Every person who does not submit a *test report*, *cross-connection survey form* or *tester's certificate* within the specified time period as required in this by-law, will be subject to a late filing fee of \$100.00

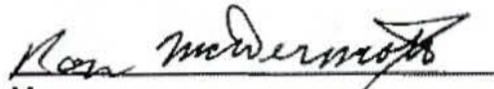
17.0 Appendices

17.1 Appendices A through C inclusive attached hereto and the *CSA Standard* are incorporated by reference and shall form of this By-law.

Now therefore be it resolved that the Council of The Corporation of the Town of Essex enacts as follows:

1. That By-Law Number 321 and all amendments thereto are hereby repealed and replaced by this By-Law Number 1703.
2. That this By-Law shall come into full force and effect upon the final passage thereof.

Read a first, a second and a third time and finally passed on June 4, 2018.



Mayor



Clerk