

ORDINANCE NO. 10

Series 2017

AN ORDINANCE AMENDING CHAPTER 4 OF TITLE 12 OF THE BRECKENRIDGE TOWN CODE CONCERNING THE MUNICIPAL WATER SYSTEM OF THE TOWN; PROVIDING FOR AN AUTOMATIC ANNUAL INCREASE OF CERTAIN FEES AND CHARGES DUE TO THE TOWN UNDER CHAPTER 4 OF TITLE 12 OF THE BRECKENRIDGE TOWN CODE; AND PROVIDING DETAILS IN CONNECTION THEREWITH

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE, COLORADO:

Section 1. Findings. The Town Council of the Town of Breckenridge hereby finds and determines as follows:

A. The Town of Breckenridge is a home rule municipal corporation organized and existing pursuant to Article XX of the Colorado Constitution.

B. On April 1, 1980 the people of the Town of Breckenridge adopted the Breckenridge Town Charter.

C. Section 13.1 of the Breckenridge Town Charter provides in pertinent part as follows:

The town shall have and exercise with regard to all utilities . . . all municipal powers, including, without limitation, all powers now existing and which may be hereafter provided by the Constitution and the statutes.

D. Section 13.1 of the Breckenridge Town Charter further provides that “the right of the town to construct . . . any public utility, work or way, is expressly reserved.”

E. Section 31-35-402(1)(b), C.R.S., authorizes a municipality to operate and maintain water facilities for its own use and for the use of public and private consumers and users within and without the territorial boundaries of the municipality.

F. Pursuant to the authority granted by the Breckenridge Town Charter and Section 31-35-402(1)(b), C.R.S., the Town owns and operates a municipal water system.

G. Section 13.3 of the Breckenridge Town Charter provides that “(t)he council shall by ordinance establish rates for services provided by municipality-owned utilities.”

H. Section 31-35-402(1)(f), C.R.S., authorizes a municipality with respect to a municipal water system:

To prescribe, revise, and collect in advance or otherwise, from any consumer or any owner or occupant of any real property connected therewith or receiving service therefrom, rates, fees, tolls, and charges or any combination thereof for the services furnished by, or the direct or indirect connection with, or the use of, or any commodity from such water facilities . . . .

I. Section 31-35-402(1)(f), C.R.S., further provides that the governing body of a municipality is empowered to establish the rates, fees, tolls, and charges in connection with the operation of its municipal water system “without any modification, supervision, or regulation of any such rates, fees, tolls, or charges by any board, agency, bureau, commission or official other than the governing body collecting them.”

J. The action of the Town Council in setting the rates, fees, tolls, and charges to be charged and collected by the Town in connection with the operation of its municipal water system is a legislative matter.

K. In connection with the adoption of this ordinance, the Town has reviewed, considered and relied upon a study of the reasonably anticipated current and future maintenance and expansion costs for the Town’s municipal water system, including the planned construction of a second water treatment facility, as prepared by the Town’s Finance Director, and all other matters, materials and information related thereto or submitted to the Town in connection therewith. All such materials are to be considered part of the record of the proceedings related to the adoption of this ordinance.

L. It is the belief of the Town Council that water user fees collected from customers of the Town's water system should primarily be used to pay for the non-capital costs of operating the Town's water system. Additionally, the Town Council believes that customers of the Town's municipal water system should pay their fair share of the capital costs associated with the ongoing operation and the future replacement of the Town's water system, and that persons connecting to the Town's water system should pay at the time of connection their fair share of the past capital costs incurred by the Town for its water system, as well as their fair share of the reasonably anticipated future capital costs required to expand the Town's water system. The imposition of the Plant Investment Fee as a one-time charge on new customers of the Town's water system, and the imposition of the Water Service Maintenance Fee as a periodic charge to be paid by all users of the Town's water system, all as provided in this ordinance, are fully consistent with such beliefs.

M. The rates, fees, tolls, and charges imposed in connection with the operation of a municipal water system should raise revenue required, among other things, to construct, operate, repair, maintain, upgrade, expand and replace the water system.

N. The water user fees imposed by this ordinance will help achieve the Town's long-term goals and objectives as set forth in Paragraph L of this Section 1.

O. The Plant Investment Fee imposed by this ordinance will help achieve the Town's long-term goals and objectives as set forth in Paragraph L of this Section 1.

P. The Water System Maintenance Fee imposed by this ordinance will help achieve the Town's long-term goals and objectives as set forth in Paragraph L of this Section 1.

Q. The Plant Investment Fee and Water System Maintenance Fee imposed by this ordinance are generally applicable service fees designed to cover the capital and infrastructure costs associated with the operation of the Town's municipal water system.

R. The amount of the Plant Investment Fee and Water System Maintenance Fee imposed by this ordinance are determined by the Town Council to be reasonably related to the future capital and infrastructure costs in the adopted capital plan for the Town's municipal water system.

Section 2. Section 12-4-3 of the Breckenridge Town Code is amended to read as follows:

12-4-3: PLANT INVESTMENT FEE (PIF); GENERAL: Each person who desires to receive water service from the water system for an in town water using property shall pay a plant investment fee (PIF) in the amount of seven thousand seven hundred three dollars (\$7,703.00) per SFE. PIFs shall be payable prior to issuance of a building permit. The amount of SFEs to be used to calculate the required PIF shall be determined by the town in accordance with the table of single-family equivalents set forth in section 12-4-10 of this chapter.

Section 3. Section 12-4-4 of the Breckenridge Town Code is repealed.

Section 4. Chapter 4 of Title 12 of the Breckenridge Town Code is amended by the addition of a new Section 12-4-23, which shall read as follows:

12-4-23: ANNUAL ADJUSTMENT OF CERTAIN FEES AND CHARGES:

A. On January 1 of each year, commencing in 2018 and continuing thereafter, the amount of the following fees and charges payable to the Town pursuant to Chapter shall be increased as follows:

1. On January 1, 2018 the amount of the PIF to be paid to the Town pursuant to Section 12-4-3 shall be increased by an amount equal to twenty (20%) percent of the previous year's PIF. On January 1, 2019, and each year thereafter, the amount of the PIF to be paid to the Town pursuant to Section 12-4-3 shall be increased by an amount equal to ten percent (10%) of the previous year's PIF. The increased PIF rate shall apply to all applications for water service that have not been fully paid by the effective date of such rate increase.

2. the amount of the in Town base user fee for all residential water users to be paid to the Town pursuant to Section 12-4-11A shall be increased by an amount equal to five percent (5%) of the previous year's base user fee.
  3. the amount of the excess use charge to be paid to the Town pursuant to Section 12-4-11B shall be increased by an amount equal to five percent (5%) of the previous year's excess use charge.
  4. each of the in Town base user fees for all nonresidential water users to be paid to the Town pursuant to Section 12-4-12A shall be increased by an amount equal to five percent (5%) of the previous year's base user fee.
  5. the fee due to the Town pursuant to Section 12-4-13 shall be increased by an amount equal to five percent (5%) of the previous year's fee.
  6. the bulk water fee due to the Town pursuant to Section 12-4-14 shall be increased by an amount equal to five percent (5%) of the previous year's bulk water fee. The connection fee and deposit required by Section 12-4-14 shall not be increased.
- B. On January 1, 2018 the water system maintenance fee (WSMF) to be paid to the Town pursuant to Section 12-4-20 shall be increased to six dollars (\$6.00) per SFE per billing cycle. On January 1, 2019 the water system maintenance fee (WSMF) to be paid to the Town pursuant to Section 12-4-20 shall be increased to eight dollars (\$8.00) per SFE per billing cycle. The water system maintenance fee (WSMF) as adjusted on January 1, 2019 shall remain in effect until changed by ordinance duly adopted by the Town Council.
- C. On January 1, 2018 the water system maintenance fee (WSMF) to be paid to the Town by each owner whose out of town water using property was connected to the Town's water system during any portion of the billing cycle pursuant to Section 12-5-6-1 shall be increased to six dollars (\$6.00) per SFE per billing cycle. On January 1, 2019 the water system maintenance fee (WSMF) to be paid to the Town by out of Town water users pursuant to Section 12-5-6-1 shall be increased to eight dollars (\$8.00) per SFE per billing cycle. The water system maintenance fee (WSMF) as adjusted on January 1, 2019 shall remain in effect until changed by ordinance duly adopted by the Town Council.
- D. Not later than thirty (30) days after a fee or charge enumerated above is adjusted as provided the Town Clerk shall cause to be published a public notice setting forth the amount of the adjusted fee or charge. Such notice shall be published one time in a newspaper of general circulation in the Town; provided, however, that the failure of the Town Clerk to cause such notice to be published shall not affect the validity of the adjustment to the fee or charge as made pursuant to this section.

Section 5. Except as specifically amended by this ordinance, the Breckenridge Town Code, and the various secondary codes adopted by reference therein, shall continue in full force and effect.

Section 6. The Town Council hereby finds, determines and declares that it has the power to adopt this ordinance pursuant to the provisions of Section 31-35-402, C.R.S., and the powers possessed by home rule municipalities in Colorado.

Section 7. This ordinance shall be published and shall 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 March, 2017.

This ordinance was published in full on the Town of Breckenridge website on March 16, March 17, March 18, March 19 and March 20, 2017.

A public hearing on this ordinance was held on March 28, 2017.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED IN FULL ON THE TOWN'S WEBSITE this 28th day of March, 2017. A copy of this Ordinance is available for inspection in the office of the Town Clerk.

ATTEST:

TOWN OF BRECKENRIDGE

\_\_\_\_\_/s/\_\_\_\_\_  
Helen Cospolich, CMC, Town Clerk

\_\_\_\_\_/s/\_\_\_\_\_  
Eric S. Mamula, Mayor

APPROVED IN FORM

\_\_\_\_\_/s/\_\_\_\_\_  
Town Attorney                      Date

This Ordinance was published on the Town of Breckenridge website on March 30, March 31, April 1, April 2 and April 3, 2017. This ordinance shall become effective on May 3, 2017.