

ORDINANCE NO. 30

Series 2005

AN ORDINANCE REPEALING AND READOPTING WITH AMENDMENTS  
SECTION 4-11, SECTION 4-12, AND SECTION 4-14 OF TITLE 12 OF THE BRECKENRIDGE  
MUNICIPAL CODE CONCERNING THE TOWN OF BRECKENRIDGE MUNICIPAL WATER  
SYSTEM

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 §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 . . . including, without limiting the generality of the foregoing, minimum charges, charges for the availability of service, tap fees, disconnection fees, reconnection fees, and reasonable penalties for any delinquencies, including not necessarily limited to interest on delinquencies from any date due at a rate not exceeding one percent per month or fraction thereof, reasonable attorneys' fees and other costs of collection . . .

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 rates, fees, tolls and charges imposed in connection with the operation of a municipal water system should raise revenue required to construct, operate, repair and replace the water works, meet bonded indebtedness requirements, pay the overhead and other costs of providing service. Such rates, fees, tolls and charges may also recover an acceptable rate of return on investment. The rates, fees, tolls and charges imposed by this Ordinance accomplish the Town's goals and objectives of raising revenue required to construct, operate, repair and replace the Town's water works and to service the bonded indebtedness of the Town's enterprise water fund.

K. 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.

L. The water rate classifications contained in this Ordinance, and the methodology used to derive such rate classifications, are reasonable and are rationally related to those legitimate governmental utility purposes set forth in Paragraph J of this Section 1. The different water rate classifications contained in this Ordinance are: (i) based on factors that establish a rational basis for the distinctions made; (ii) neither impinge on fundamental rights or affect suspect classes; and (iii) are not believed by the Town Council to be unlawfully discriminatory in any manner.

Section 2. Section 4-11 of Title 12 of the Breckenridge Town Code Repealed and Readopted. Section 4-11 of Title 12 of the Breckenridge Town Code is hereby repealed and readopted with amendments so as to read in its entirety as follows:

**12-4-11: WATER USER FEES; RESIDENTIAL:**

- A. The in-town base rate user fee for all residential water users, regardless of the size of the water meter, includes a usage allowance of not to exceed 12,000 gallons of water per SFE per billing cycle, and shall be computed according to the following table:

<u>Water Use Date</u>	<u>Base User Fee</u>
Commencing November 1, 2005 and ending December 31, 2006	\$25.00 per billing cycle per SFE
Commencing January 1, 2007	\$27.14 per billing cycle per SFE

- B. In addition to the base user fee set forth in Paragraph A of this Section, each in-Town residential water user shall pay an excess use charge for each one thousand (1,000) gallons of metered water, or fraction thereof, used per SFE per billing cycle in excess of the usage allowance of twelve thousand (12,000) gallons of water per SFE per billing cycle. The amount of the excess use charge shall be computed according to the following table:

<u>Water Use Date</u>	<u>Excess Use Charge</u>
Commencing November 1, 2005 and ending December 31, 2006	\$2.50
Commencing January 1, 2007	\$2.70

Section 3. Section 4-12 of Title 12 of the Breckenridge Town Code Repealed and Readopted. Section 4-12 of Title 12 of the Breckenridge Town Code is hereby repealed and readopted with amendments so as to read in its entirety as follows:

**12-4-12: WATER USER FEES; NON-RESIDENTIAL:**

- A. The in-Town base rate user fee per SFE per billing cycle and the usage allowance per SFE per billing cycle for all non-residential water users shall be determined based upon the size of the water meter which connects the Water Using Property to the Water System, as follows:

For water used commencing November 1, 2005 and ending December 31, 2006:

<u>Meter Size</u>	<u>Base Water Fee Per Account</u>	<u>Usage Allowance Per Account (gallons)</u>
Less than 1 inch	\$28.64	13,000
1 inch	\$42.97	20,000
1 ½ inch	\$74.97	35,000
2 inch	\$118.05	54,000
3 inch	\$226.98	105,000
4 inch	\$350.89	162,000
6 inch	\$689.41	318,000

For water used commencing January 1, 2007:

<u>Meter Size</u>	<u>Base Water Fee Per Account</u>	<u>Usage Allowance Per Account (gallons)</u>
Less than 1 inch	\$31.08	13,000
1 inch	\$46.62	20,000
1 ½ inch	\$81.35	35,000
2 inch	\$128.08	54,000
3 inch	\$246.28	105,000
4 inch	\$380.71	162,000
6 inch	\$748.01	318,000

- B. In addition to the base user fee set forth in Paragraph A of this Section, each in-Town non-residential water user shall pay an excess use charge for water used in excess of the usage allowance for the applicable meter size set forth in the table of Paragraph A of this Section. The amount of the excess use charge for non-residential water users shall be calculated at the same rate for each one thousand (1,000) gallons of metered water used, or fraction thereof, as the residential excess use charge set forth in Section 12-4-11(B).

Section 4. Section 4-14 of Title 12 of the Breckenridge Town Code Repealed and Readopted. Section 4-14 of Title 12 of the Breckenridge Town Code is hereby repealed and readopted with amendments so as to read in its entirety as follows:

**12-4-14: BULK WATER:** The rate for each one thousand (1,000) gallons of bulk water sold by the Town, or fraction thereof, shall be calculated at the same rate as the residential excess use charge set forth in Section 12-4-11(B) in effect at the time bulk water is sold. In addition, a base charge of twenty five dollars (\$25.00) will be charged to each bulk water user for meter setting, inspection, and service turn-on and turn-off by the Town.

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

Section 6. Authority. The Town Council hereby finds, determines and declares that it has the power to adopt this Ordinance pursuant to the provisions of § 31-35-402, C.R.S., and other applicable statutory and case law authority, and the powers possessed by home rule municipalities in Colorado.

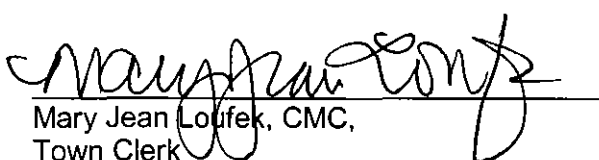
Section 7. Publication. This Ordinance shall be published as required by Section 5.10 of the Breckenridge Town Charter.

Section 8. Effective Date. This Ordinance shall become effective November 1, 2005; and shall apply to water used on and after such date. Nothing in this Ordinance shall affect the obligation of a person to pay the Town for water sold and delivered by the Town to such person prior to the effective date of this Ordinance.

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED  
PUBLISHED IN FULL this 27<sup>th</sup> day of September, 2005. A Public Hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the 11<sup>th</sup> day of October, 2005, at 7:30 P.M., or as soon as possible thereafter in the Municipal Building of the Town.

ATTEST:

TOWN OF BRECKENRIDGE

  
Mary Jean Lofek, CMC,  
Town Clerk

  
Errie Blake, Mayor

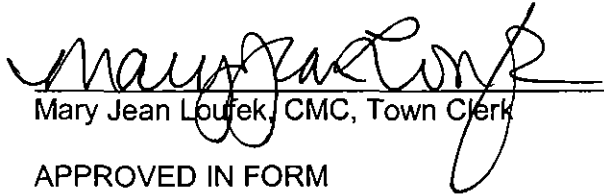
This Ordinance was published in full in the Summit County Journal, a newspaper of general circulation within the Town of Breckenridge on October 7, 2005.

The public hearing on this ordinance was held on October 11, 2005.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED BY TITLE ONLY, this 11<sup>th</sup> day of October, 2005. A copy of this Ordinance is available for inspection in the office of the Town Clerk.

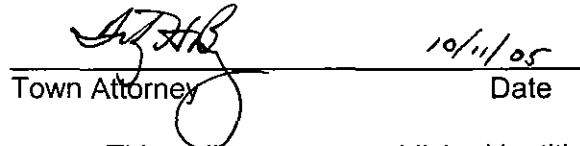
ATTEST:

TOWN OF BRECKENRIDGE

  
Mary Jean Loufek, CMC, Town Clerk

  
Ernie Blake, Mayor

APPROVED IN FORM

  
Town Attorney

10/11/05  
Date

This ordinance was published by title only in the Summit County Journal, a newspaper of general circulation within the Town of Breckenridge on October 21, 2005.