

ORDINANCE NO. 15

Series 2006

AN ORDINANCE AMENDING TITLE 12 OF THE BRECKENRIDGE TOWN CODE CONCERNING THE MUNICIPAL WATER SYSTEM OF THE TOWN; PROVIDING FOR AN INCREASE IN THE TOWN'S CURRENT PLANT INVESTMENT FEE AND FOR THE ANNUAL INCREASE OF THE TOWN'S PLANT INVESTMENT FEE; PROVIDING FOR THE IMPOSITION OF A WATER SYSTEM MAINTENANCE FEE; 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. §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. §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. §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 as prepared by the Town's Finance Director with the assistance of the Town's Water Committee, 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 rents 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 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.

O. 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.

P. 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.

Q. The amount of the Plant Investment Fee and Water Systems 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 12-1-2 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

12-1-2: ENTERPRISE WATER FUND: In accordance with section 1-9-2 of this code, the town of Breckenridge water system enterprise fund shall at all times be treated as an enterprise with the meaning of article x, section 20 of the Colorado constitution. Nothing in this chapter, including, but not limited to, the definitions of plant investment fee and water system maintenance fee as set forth in section 12-1-6 of this chapter, shall limit in any way the legal authority of the Town Council to determine how to budget, appropriate and spend all revenues received by the Town arising from or related to the operation of the Town's municipal water system. To the fullest extent permitted by law, all revenues received by the Town arising from or related to the operation of the Town's municipal water system may be budgeted, appropriated and spent by the Town Council in its legislative discretion.

Section 3. The definition of "Plant Investment Fee" set forth in Section 12-1-6 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

PLANT INVESTMENT FEE (PIF):	A fee to be paid to the town prior to the connection of a water-using property to the water system. A PIF represents that water-using property's fair share of: (i) the past capital costs incurred by the Town for its water system, and (ii) the reasonably anticipated future capital costs required to expand the Town's water system.
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Section 4. Section 12-1-6 of the Breckenridge Town Code is hereby amended by the addition of a new definition of "Water Administrative Fee", which shall read in its entirety as follows:

WATER SYSTEM MAINTENANCE FEE (WSMF):	A fee to be paid to the town each billing cycle as required by Section 12-4-20 or Section 12-5-6-1. The WSMF represents that water-using
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property's fair share of the capital expense to the town associated with the ongoing maintenance and replacement of the town's water system.

Section 5. The definition of "ENR Index" as set forth in Section 12-1-6 of the Breckenridge Town Code is hereby deleted.

Section 6. Section 12-4-3 of the Breckenridge Town Code is hereby amended so as to read in its entirety 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). For the period from March 15, 2006 through December 31, 2006, the amount of the PIF shall be three thousand nine hundred sixteen dollars (\$3,916.00) per SFE. Thereafter, the amount of the PIF shall be adjusted by the finance director in the manner set forth in section 12-4-4 of this chapter. 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 7. Section 12-4-4 of the Breckenridge Town Code shall be amended so as to read in its entirety as follows:

12-4-4: PLANT INVESTMENT FEE; AUTOMATIC ANNUAL ADJUSTMENT:

On January 1 of each year, commencing in 2007, the amount of the PIF to be paid to the town pursuant to section 12-4-3 of this chapter shall be increased by an amount equal to five percent (5%) 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. Not later than thirty (30) days after the PIF is adjusted each year as provided in this section, the town clerk shall cause to be published a public notice setting forth the amount of the adjusted PIF. 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 PIF as made by the finance director pursuant to this section.

Section 8. The Breckenridge Town Code is hereby amended by the addition of a new Section 12-4-20, to be entitled "Water System Maintenance Fee", which shall read in its entirety as follows:

12-4-20: WATER SYSTEM MAINTENANCE FEE: Commencing with the billing statement issued by the Town in May, 2006 (for water service provided during the months of March-April, 2006), there shall be included with each billing statement for water service, and there shall be assessed and paid by each owner whose water-using property was connected to the Town's water system during any portion of the billing cycle, in arrears, a WSMF fee in the amount of two dollars (\$2.00) per SFE per billing cycle. The WSMF shall be a water charge within the meaning of Section 12-1-6, and shall be due and payable to the Town at the same time and in the same manner as other water charges are due and payable to the Town under this chapter. Unpaid WSMFs may be collected by the Town as provided by chapter 6 of this title.

Section 9. The Breckenridge Town Code is hereby amended by the addition of a new Section 12-5-6-1, to be entitled "Water System Maintenance Fee", which shall read in its entirety as follows:

12-5-6-1: WATER SYSTEM MAINTENANCE FEE: Commencing with the billing statement issued by the Town in May, 2006 (for water service provided during the months of March-April, 2006), there shall be included with each billing statement for out of town water service, and there shall be assessed and paid 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, in arrears, a WSMF fee in the amount of two dollars (\$2.00) per SFE per billing cycle. The WSMF shall be a water charge within the meaning of Section 12-1-6, and shall be due

and payable to the Town at the same time and in the same manner as other water charges are due and payable to the Town under this chapter. Unpaid WSMFs due from out of town water users may be collected by the Town as provided by chapter 6 of this title.

Section 10. 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 11. 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 12. This ordinance shall be published and 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 February, 2006. A Public Hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the 28th day of February, 2006, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the Town.

ATTEST:

TOWN OF BRECKENRIDGE


Mary Jean Loufek, CMC,
Town Clerk


Ernie Blake, Mayor


This Ordinance was published in full in the Summit County Journal, a newspaper of general circulation within the Town of Breckenridge on February 24, 2006.

The public hearing on this ordinance was held on February 28, 2006.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED BY TITLE ONLY, this 28th day of February, 2006. A copy of this Ordinance is available for inspection in the office of the Town Clerk.

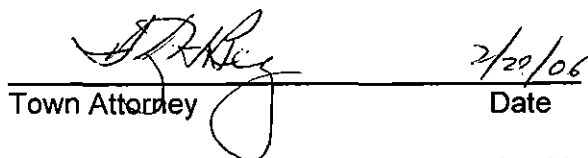
ATTEST:

TOWN OF BRECKENRIDGE


Mary Jean Loufek, CMC, Town Clerk


Ernie Blake, Mayor

APPROVED IN FORM


Town Attorney

2/20/06
Date

This ordinance was published by title only in the Summit County Journal, a newspaper of general circulation within the Town of Breckenridge on March 10, 2006.