

ORDINANCE NO. 34

Series 2012

AN ORDINANCE PROVIDING FOR AN INCREASE IN MUNICIPAL WATER USER FEES EFFECTIVE JANUARY 1, 2013; AND MAKING MISCELLANEOUS AMENDMENTS TO TITLE 12 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "TOWN OF BRECKENRIDGE WATER ORDINANCE"

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

Section 1. The Town Council of the Town of Breckenridge 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. The Town owns and operates a municipal water utility pursuant to the authority granted by Section 13.1 of the Breckenridge Town Charter and §31-35-402(1)(b), C.R.S.

C. 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."

D. 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.

E. 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.

Section 2. Effective January 1, 2013, Section 12-4-11 of the Breckenridge Town Code is amended 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 twelve thousand (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>
<u>Effective January 1, 2013</u>	<u>\$30.95 per billing cycle per SFE</u>

B. In addition to the base user fee set forth in subsection 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>
<u>Effective January 1, 2013</u>	<u>\$3.08</u>

Section 3. Effective January 1, 2013, Section 12-4-12(A) of the Breckenridge Town Code is amended so as to read in its entirety as follows:

12-4-12: WATER USER FEES; NONRESIDENTIAL:

- A. The in town base rate user fee per SFE per billing cycle and the usage allowance per SFE per billing cycle for all nonresidential 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 January 1, 2013

<u>Meter Size</u>	<u>Base Water Fee Per Account</u>	<u>Usage Allowance Per Account (Gallons)</u>
Less than 1 inch	<u>\$ 35.44</u>	13,000
1 inch	<u>53.16</u>	20,000
1 ¹ / ₂ inch	<u>92.76</u>	35,000
2 inch	<u>146.06</u>	54,000
3 inch	<u>280.84</u>	105,000
4 inch	<u>434.14</u>	162,000
6 inch	<u>853.00</u>	318,000

Section 4. Effective January 1, 2013, Section 12-4-13 of the Breckenridge Town Code is amended so as to read in its entirety as follows:

12-4-13: WATER USER FEES; MIXED USE:

The in town base rate user fee and the usage allowance per billing cycle for all mixed use water using properties shall be calculated based upon the predominant use of the water using property as determined by the finance director. In addition to the base user fee, each in town mixed use water user shall pay an excess use charge of three dollars five cents (3.08) per one thousand (1,000) gallons of metered water, or fraction thereof, used per billing cycle in excess of the applicable usage allowance.

Section 5. Chapter 1 of Title 12 of the Breckenridge Town Code is amended by the addition of a new Section 12-1-17, entitled "No Guarantee of Pressure or Continuous Flow," which shall read in its entirety as follows:

12-1-17: NO GUARANTEE OF PRESSURE OR CONTINUOUS FLOW: The Town is not responsible or liable for damage from any cause whatsoever to service connections, fixtures, and water using appliances, and no person is entitled to damages or payment of refunds, by reason of temporary or permanent pressure changes or stoppage of the flow of water through the Water System. Dirt and debris can enter the water lines for any number of reasons under normal operations of the Water System, and no person is entitled to damages by reason of dirt or debris entering a such person's service line or connection.

Section 6. Chapter 1 of Title 12 of the Breckenridge Town Code is amended by the addition of a new Section 12-1-18, entitled "Variations in Operations," which shall read in its entirety as follows:

12-1-18: VARIATIONS IN OPERATION: Water pressure and water flow in a main may vary as part of the normal operations of the Water System. The Town reserves the right at any time, without notice, to modify water pressure or shut off the water in a main as part of its operation, repair, replacement, modification, and maintenance of the Water System. The Town is not responsible for damage resulting from pressure changes or stoppage of the flow of water through the Water System, regardless of how the pressure change or stoppage was caused.

Section 7. Chapter 1 of Title 12 of the Breckenridge Town Code is amended by the addition of a new Section 12-1-19, entitled "Damages To Water System," which shall read in its entirety as follows:

12-1-19: DAMAGES TO WATER SYSTEM: Any person who damages the Water System is liable to the Town for the actual and necessary costs incurred by the Town in repairing such damages.

Section 8. Chapter 1 of Title 12 of the Breckenridge Town Code is amended by the addition of a new Section 12-1-20, entitled "Required Indemnification Against Third Party Claims," which shall read in its entirety as follows:

12-1-20: REQUIRED INDEMNIFICATION AGAINST THIRD PARTY CLAIMS: To the fullest extent permitted by law, any person who, as a result of his or her negligent, intentional, or willful wrongful act, causes any damage to any user of the Water System shall indemnify, hold harmless, and defend the Town with respect to such damage; except to the extent such damage results from the negligent, intentional, or willful wrongful act of the Town, its officers, employees, or agents. "Damage" means each and every injury, wound, wrong, hurt, harm, fee, damage, cost, outlay, expenditure, or loss of any and every nature, including, but not limited to: (i) injury or damage to any property or right; (ii) injury, damage, or death to any person or entity; (iii) attorneys' fees, witness fees, expert witness fees, and expenses; and (iv) all other costs and expenses of litigation. This indemnity provision is to be interpreted to require a person to indemnify, hold harmless, and defend the Town only to the extent of the proportionate share of negligence or fault attributable to such person.

Section 9. 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 10. 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(1)(f), C.R.S., and the powers possessed by home rule municipalities in Colorado.

Section 11. 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 13th day of November, 2012.

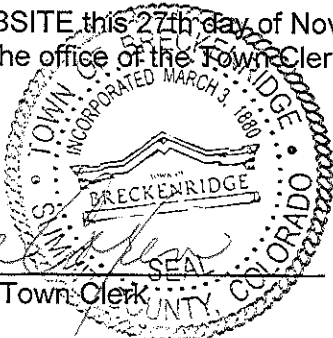
This ordinance was published in full on the Town of Breckenridge website on November 15, November 16, November 17, November 18 and November 19, 2012.

A public hearing on this ordinance was held on November 27, 2012.

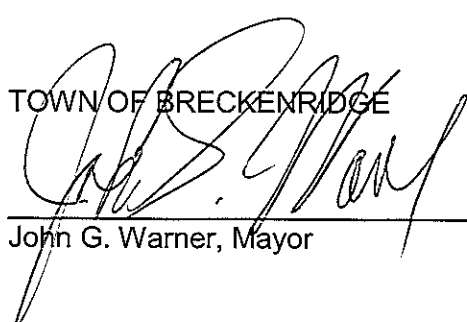
READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED IN FULL ON THE TOWN'S WEBSITE this 27th day of November, 2012. A copy of this Ordinance is available for inspection in the office of the Town Clerk.

ATTEST:

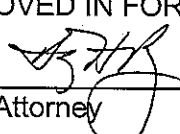

Linda Coxen, Town Clerk



TOWN OF BRECKENRIDGE


John G. Warner, Mayor

APPROVED IN FORM


Town Attorney

 12/1/12
Date

This Ordinance was published on the Town of Breckenridge website on November 28, November 29, November 30, December 1 and December 2, 2012. This ordinance shall become effective on January 1, 2013.