

ORDINANCE NO. 18

Series 2020

AN ORDINANCE AMENDING SECTION 12-4-23 OF THE BRECKENRIDGE TOWN CODE
CONCERNING THE WATER SYSTEM MAINTENANCE FEE

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 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 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. 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, is fully consistent with such beliefs.

M. 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.

N. The Water System Maintenance Fee imposed by this ordinance is a generally applicable service fee designed to cover the capital and infrastructure costs associated with the operation of the Town's municipal water system.

O. The amount of the Water System Maintenance Fee imposed by this ordinance is 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 12-4-20 of the Breckenridge Town Code is amended to read as follows:

12-4-20: WATER SYSTEM MAINTENANCE FEE:

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 twelve dollars (\$12.00) per SFE per billing cycle. The WSMF shall be a water charge within the meaning of section 12-1-6 of this title, 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 3. Section 12-4-23 of the Breckenridge Town Code is amended to 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. 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 4. Section 12-5-6-1 of the Breckenridge Town Code is amended to read as follows:

12-5-6-1: WATER SYSTEM MAINTENANCE FEE:

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 in the amount of twelve dollars (\$12.00) per SFE per billing cycle. The WSMF shall be a water charge within the meaning of section 12-1-6 of this title, 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 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 as required by the Breckenridge Town Charter and shall become effective July 1, 2020.

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this 12th day of May, 2020.

This ordinance was published in full on the Town of Breckenridge website on May 14, May 15, May 16, May 17 and May 18, 2020.

A public hearing on this ordinance was held on May 26, 2020.

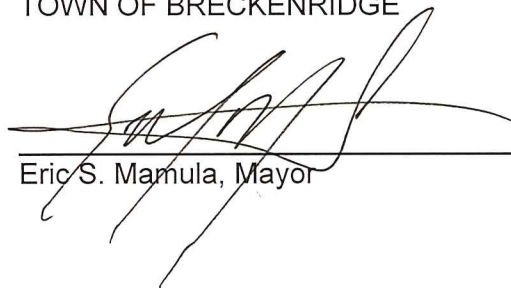
READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED IN FULL ON THE TOWN'S WEBSITE this 26th day of May, 2020. A copy of this Ordinance is available for inspection in the office of the Town Clerk.

ATTEST:

TOWN OF BRECKENRIDGE



Helen Cospolich, CMC, Town Clerk



Eric S. Mamula, Mayor

APPROVED IN FORM



5/26/20
Date

Town Attorney

This Ordinance was published on the Town of Breckenridge website on May 28, May 29, May 20, May 31 and June 1, 2020. This ordinance shall become effective on July 1, 2020.