

**ORDINANCE NO. 2102**  
**INTRODUCED BY: Scott**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, AMENDING TITLE 13 OF THE BRIGHTON MUNICIPAL CODE PERTAINING TO WATER, WASTEWATER AND STORM DRAINAGE FEES AND CHARGES ASSESSED BY THE CITY OF BRIGHTON; SETTING FORTH EFFECTIVE DATES FOR SAID RATES, FEES AND CHARGES; CHANGING THE NAME OF THE STORM DRAINAGE MANAGEMENT UTILITY; AND, OTHER DETAILS RELATED THERETO.**

**WHEREAS**, authority is granted by the Charter to the governing body of the City of Brighton, Colorado, to assess fees and charges for services provided by the City; and

**WHEREAS**, the City Council has been advised by the City Manager that certain fees and charges should be amended to offset the City's costs for the provision of water, wastewater and storm drainage services, especially as related to new development; and

**WHEREAS**, The City Manager has recommended and the City Council agrees that the rates, fees, and charges adopted herein shall become effective on the dates specified herein; and

**WHEREAS**, The City Manager has recommended and the City Council agrees that the name of the Stormwater Drainage Management Utility and references to "stormwater" in the ordinances should be changed to Storm Drainage Management Utility and "storm drainage."

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO AS FOLLOWS:**

**Section 1.** Section 14 of Ordinance No. 1964 and Section 13-4-130 of the Brighton Municipal Code are hereby amended to read as follows:

**13-4-130. Charges – Monthly Water Service – Schedule.** All water rate charges for use of water in the City shall be assessed pursuant to a schedule of fees to be set by ordinance duly adopted by City Council after review of such fee schedule as the City Council from time to time deems necessary. The following shall be the schedule of monthly water service rates for the use of water in the City on a metered rate basis.

(a) Residential Monthly Fixed Charge Effective with all utility bills dated after August 1, 2011, a monthly fixed charge of **\$7.86** shall be billed to all water accounts whether there is water usage, or not.

(b) Residential, and Residential Irrigation Volume-Based Water Rates Monthly Charge Per 1,000 Gallons of Usage. Effective with all utility bills dated after October 1, 2011, the following monthly volume-based charge will be added to the monthly fixed charge as stated in subsection (a) above. The monthly volume-based water rates shall be as follows:

- (1) The monthly volume-based water rates shall be as follows for all water usage from zero (0) gallons up to and including twenty five thousand (25,000) gallons:
  - a. Residential **\$3.93**
  - b. Irrigation – Residential Only **3.93**
  
- (2) The monthly volume-based water rates shall be as follows for all water usage from twenty six thousand (26,000) gallons up to and including thirty thousand (30,000) gallons:
  - a. Residential **\$4.32**
  - b. Irrigation – Residential Only **4.32**
  
- (3) The monthly volume-based water rates shall be as follows for all water usage from thirty one thousand (31,000) gallons up to and including thirty five thousand (35,000) gallons:
  - a. Residential **\$4.51**
  - b. Irrigation – Residential Only **4.51**
  
- (4) The monthly volume-based water rates shall be as follows for all water usage from thirty six thousand (36,000) gallons up to and including forty thousand (40,000) gallons:
  - a. Residential **\$4.91**
  - b. Irrigation – Residential Only **4.91**
  
- (5) The monthly volume-based water rates shall be as follows for all water usage over forty thousand (40,000) gallons:
  - a. Residential **\$5.30**
  - b. Irrigation – Residential Only **5.30**

(c) Residential senior citizen and permanently disabled discount. Any resident of the city over the age of sixty (60) years or any permanently disabled resident of the city may apply for a discount on their water bill. To be eligible, the applicant must certify on forms provided by the City that the water account is for their principal residence, and they are either over sixty (60) years of age, or permanently disabled. Any applicant who provides false or misleading information on the forms is subject to a \$100.00 penalty that shall be assessed against their utility account. Effective with all utility bills dated after August 1, 2011, the monthly fixed charge for water shall be **\$7.86**. Effective with

all utility bills dated after October 1, 2011 a volume-based monthly rate of **\$1.41** per 1,000 gallons of usage for the first 5,000 gallons of usage, then **\$3.93** per 1,000 gallons of usage up to and including twenty five thousand (25,000) gallons, then **\$4.32** per 1,000 gallons of usage for twenty six thousand (26,000) gallons up to and including thirty thousand (30,000) gallons, then **\$4.51** per 1,000 gallons of usage for thirty one thousand (31,000) gallons up to and including thirty five thousand (35,000) gallons, then **\$4.91** per 1,000 gallons of usage for thirty six thousand (36,000) gallons up to and including forty thousand (40,000) gallons, then **\$5.30** per 1,000 gallons of usage for all usage over forty thousand (40,000) gallons will be charged.

(d) Budget Billing. Any homeowner in the City who has timely paid their water bill for the prior twelve months, may be eligible for budget billing, as defined herein. Homeowners may apply for budget billing on forms provided by the City. New homeowners may apply for budget billing based upon previous annual average consumption at that address. Each year, in March, the next year's budget billing amount shall be computed; any underpayment shall be billed to the homeowner; any overpayment shall be credited to the homeowner.

(e) Commercial, Municipal Potable, Irrigation, Non-Potable Irrigation, Industrial, Mixed Use, Private Fire, Bulk and Schools Monthly Fixed Charge By Meter Size. Effective August 1, 2011, the following monthly fixed charge shall be billed to all water accounts whether there is water usage, or not:

(1) Three-fourths-inch meter	<b>\$7.86</b>
(2) One-inch meter	<b>13.05</b>
(3) One and one-half-inch meter	<b>41.89</b>
(4) Two-inch meter	<b>52.43</b>
(5) Three-inch meter	<b>196.50</b>
(6) Four-inch meter	<b>327.45</b>
(7) Six-inch meter	<b>654.97</b>

(f) Commercial, Industrial, Mixed Use, Municipal Potable, Private Fire, Bulk and Non-Potable Irrigation Volume-Based Water Rates Monthly Charge Per 1,000 Gallons of Usage. Effective October 1, 2011, the following monthly volume-based charge will be added to the monthly fixed charge as stated in subsection (e) above.

(1) The monthly volume-based water rates shall be as follows for all base rate categories:	
a. Commercial, Industrial, Mixed Use	<b>\$4.05</b>
b. Municipal potable	<b>4.57</b>
c. Private fire (there is no charge for water for fire protection purposes)	<b>0.00</b>
d. Bulk	<b>4.57</b>
e. Non-potable irrigation	<b>2.44</b>

(2) The monthly volume-based water rates shall be as follows for all water usage from 101% up to and including 110% above the base rate category:

a. Commercial, Industrial, Mixed Use	<b>\$4.45</b>
b. Municipal potable	<b>5.02</b>
c. Private fire (there is no charge for water for fire protection purposes)	<b>0.00</b>
d. Bulk	<b>5.02</b>
e. Non-potable irrigation	<b>2.68</b>

(3) The monthly volume-based water rates shall be as follows for all water usage from 111% up to and including 115% above the base rate category:

a. Commercial, Industrial, Mixed Use	<b>\$4.66</b>
b. Municipal potable	<b>5.25</b>
c. Private fire (there is no charge for water for fire protection purposes)	<b>0.00</b>
d. Bulk	<b>5.25</b>
e. Non-potable irrigation	<b>2.81</b>

(4) The monthly volume-based water rates shall be as follows for all water usage from 116% up to and including 125% above the base rate category:

a. Commercial, Industrial, Mixed Use	<b>\$5.06</b>
b. Municipal potable	<b>5.71</b>
c. Private fire (there is no charge for water for fire protection purposes)	<b>0.00</b>
d. Bulk	<b>5.71</b>
e. Non-potable irrigation	<b>3.06</b>

(5) The monthly volume-based water rates shall be as follows for all water usage from 126% and above the base rate category:

a. Commercial, Industrial, Mixed Use	<b>\$5.46</b>
b. Municipal potable	<b>6.17</b>
c. Private fire (there is no charge for water for fire protection purposes)	<b>0.00</b>
d. Bulk	<b>6.17</b>
e. Non-potable irrigation	<b>3.29</b>

(6) Schools, and HOAs, commercial, industrial or mixed use irrigation accounts with a separate tap volume-based water rates monthly charge per one thousand (1,000) gallons of usage: the monthly volume-based charge will be added to the monthly fixed charge as stated in Subsection (e) above.

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|---|---------------|
| a. Schools  | <b>\$4.05</b> |
| b. HOAs, Commercial, Industrial, Mixed Use irrigation –<br>separate tap – 0 to 500,000 gallons      | <b>5.23</b>   |
| c. HOAs, Commercial, Industrial, Mixed Use irrigation –<br>separate tap – 500,000 gallons and above | <b>5.76</b>   |

**Section 2.** Article 13-16 of the Brighton Municipal Code is hereby amended by the addition of a new Subsection 13-16-40(f) to read as follows:

13-16-40 Determination of Individual Wastewater Contribution Percentage.

(f) The billing months of June, July and August shall be used to calculate the average daily volume of wastewater discharged to the wastewater system for carwashes.

**Section 3.** Section 14 of Ordinance No. 1964 and Section 13-16-70 of the Brighton Municipal Code are hereby amended to read as follows:

13-16-70 Wastewater Service Charges – Rates – Notification.

- (a) Wastewater Service Charge. All wastewater service charges for processing of wastewater in the City shall be assessed pursuant to a schedule of fees to be set by ordinance duly adopted by City Council after review of such fee schedule as the City Council from time to time deems necessary. Every user of the City wastewater system will be charged the monthly wastewater service charge whether matter is discharged into the system, or not. This service charge will be added to either the flat wastewater rates as calculated pursuant to either subsection (b) or subsection (c) hereof, as applicable.
- (b) Effective August 1, 2011, the following shall be the schedule of monthly wastewater service rates for the processing of wastewater in the City:

Residential Monthly Fixed Charge. The following monthly fixed charge shall be billed to all residential wastewater accounts whether there is wastewater usage, or not:

**\$5.40**

Commercial, Industrial, Mixed Use, and Schools Monthly Fixed Charge By Meter Size. The following monthly fixed charge shall be billed to all Commercial, industrial, mixed use, school wastewater accounts whether there is wastewater usage, or not:

- |                              |                |
|------------------------------|----------------|
| (1) Three-fourths-inch meter | <b>\$10.26</b> |
| (2) One-inch meter           | <b>24.30</b>   |

(3) One and one-half-inch meter	<b>59.40</b>
(4) Two-inch meter	<b>108.00</b>
(5) Three-inch meter	<b>226.80</b>
(6) Four-inch meter	<b>410.40</b>
(7) Six-inch meter	<b>1,106.89</b>

(c) Flat Wastewater Rate – Metered Water Usage. Effective October 1, 2011, all users of the wastewater system who are metered for water usage will be billed a flat wastewater rate each month, based on the average water usage as reflected in the prior December, January and February water bills. This flat wastewater rate may be changed annually, and will vary in amount, based on classification. Monthly volume-based rates per 1,000 gallons of water usage are as follows:

(1) Residential	<b>\$3.92</b>
(2) Commercial	<b>4.78</b>
(3) Municipal	<b>3.92</b>

(d) Flat Wastewater Rate – Non-Metered Water Usage. Effective October 1, 2011, those users of the wastewater system who are not metered for water usage will be billed a flat wastewater rate each month. The flat wastewater rates will vary in amount, based on classification. The monthly flat wastewater rates for non-users metered water are as follows:

(1) Residential	<b>\$20.85</b>
(2) Multi-family	<b>20.85</b>
(3) Commercial (discharging restrooms only)	<b>21.22</b>
(4) Commercial (discharging other than restrooms)	<b>42.44</b>

(e) Commercial Property – Rated Based on Actual Water Usage. Effective October 1, 2011 any owner of commercial property in the City which receives City wastewater service may request to be billed a wastewater rate based on actual water usage each month. Such request shall be made annually on forms provided by the City. The effective date for such billing shall be the first full monthly billing after such written request is approved. Monthly volume-based rates per 1,000 gallons of water usage for approved commercial users shall be as follows:

Commercial	<b>\$4.78</b>
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**Section 4.** Storm Drainage Management Utility

Section 12 of Ordinance No. 1907, Sections 1 and 3 of Ordinance No. 1769, Section 1 of Ordinance No. 1633 and Sections 13-20-10, 13-20-20, 13-20-30, 13-20-40, 13-20-50, 13-20-60, 13-20-65, 13-20-70, 13-20-80 of the Brighton Municipal Code are hereby amended to read as follows:

**Sec. 13-20-10 Authority and Applicability.**

- (a) The City as a Home Rule municipality has the authority under Sections 2.2 *Powers*, 14.1 *Authority and Powers*, and 14.2 *Utility Rates and Finances* of the Charter, to adopt this Article.
- (b) This Article shall apply to all real property within the City limits.

**Sec. 13-20-20. Purpose and Intent.**

- (a) The purpose of this Article is to promote the protection of the public health, safety, and welfare from damage from storm drainage runoff by requiring that property owners in the city to pay for a rational and roughly proportionate share of the cost of the facilities reasonably necessary to manage such storm drainage.
- (b) It is the intent of the City Council in enacting this Article:
  - (1) To establish a storm drainage impact fee to finance, coordinate, design, construct, manage, operate, and maintain the public facilities described herein; and
  - (2) To establish a reasonable storm drainage impact fee based on an analysis of the use of the land located within the City, and the impervious surface, associated therewith.
- (c) The City Council further finds, determines and declares that the owners of real property within the city are the ultimate beneficiaries and users of the public facilities contemplated by this Article and should fund and thereby provide the facilities and maintenance capability necessary for the reasonable control of storm drainage and management of storm drainage and also fund and thereby provide the public facilities required to convey such storm drainage from the various drainage basins to the City's major drainageways.
- (d) Water from storm drainage runoff may occur which exceeds the capacity of public facilities constructed and maintained by funds made available under this Article. This Article does not imply, represent or guarantee that real property for which a storm drainage impact fee has been established and paid will at all times be free from storm drainage flooding or flood damage. This Article does not purport to reduce the need or the necessity for any property owner to obtain flood insurance.

**Sec. 13-20-30. Definitions.** The following words used in this Article have the following meanings, unless the context clearly indicates otherwise:

- (a) *Apartment* means a structure that contains three (3) or more dwelling units, excluding attached dwellings as defined herein.
- (b) *Attached dwelling* means attached dwelling units including duplexes, town homes, patio homes and condominiums.
- (c) *City* means the municipal government for the City of Brighton.

- (d) *Code* means the Brighton Municipal Code, as amended.
- (e) *Drainage basins* means an area tributary to a major drainageway.
- (f) *Dwelling unit* means separate living quarters for one (1) family.
- (g) *EQR* means Equivalent Residential Unit.
- (h) *Facilities* means all structures, equipment and appurtenances, and all uses of land that are made in conjunction with or that are related or incidental to the construction, installation, or use of the structures and equipment necessary to contain and control storm drainage including, but not limited to, curbs and gutters, cross pans, pipes, collection, drainage or disposal lines, pump inlets, conduits, channels, bridges, detention/retention ponds, and all extensions, improvements, remodeling, additions and alterations thereof.
- (i) *Impervious areas* are those areas with impervious surfaces which prevent or impede the infiltration of storm drainage into the soil as it entered in natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas, compacted gravel and soil surfaces, awnings and other fabric or plastic coverings, and other surfaces that prevent or impede the natural infiltration of the storm drainage runoff which existed prior to development.
- (j) *Major drainage ways* means a drainage flow path that conveys runoff.
- (k) *Multi-family dwelling* means attached dwellings and apartments.
- (l) *Non-residential* property means any other real property in the City that is used for other than residential uses, including, but not limited to, commercial, industrial, public, church and school uses.
- (m) *OSP* means Outfall System Plan.
- (n) *Public Facilities* means storm drainage infrastructure accepted by the City as provided in Section 13-20-50 of the Code.
- (o) *Public park land* means an area permanently dedicated for recreation, aesthetic educational or cultural use and generally characterized by units natural and landscape features.



- (p) *Residential property* means any real property that is used for residential purposes including, but not limited to, single-family and multi-family dwellings and accessory uses that are customary to residential uses.
- (q) *Single-family dwelling* means detached houses.
- (r) *Storm drainage* means runoff caused or created by a storm event.
- (s) *Storm drainage impact fee* means the fee created in this Article for the funding of the Utility.
- (t) *UDFCD* means the Urban Drainage and Flood Control District.
- (u) *Utilities Director* means the Utilities Director of the City of Brighton or designee (the "Director").
- (v) *Utility* means the Storm Drainage Management Utility that is created in this Article.

**Sec. 13-20-40 Storm Drainage Management Utility.**

- (a) There is hereby created a Storm Drainage Management Utility in the City Department of Utilities under the control of the Director, who is authorized to implement the provisions of this Article.
- (b) The owner of each parcel of real property in the City shall pay the Storm Drainage Impact Fee prescribed in Section 13-20-60 for the coordination, management, design, construction, operation, maintenance and replacement of the Storm Drainage Management Utility and its facilities.

**Sec. 13-20-50 Use of Storm Drainage Impact Fee.**

- (a) The Utility shall hold all funds received by the City under this Section in a separate account to be established as the Storm Drainage Utility Fund and make expenditures thereof only for the purposes of:
  1. Administration, coordination, engineering, planning, professional services, design, construction, installation, repair, maintenance, operation, management, improvement, replacement, and reconstruction of facilities in the City necessary for the Utility to reasonably handle storm drainage in the city; and
  2. The purchase of interests in real property including without limitation fee simple ownership and easements that may be necessary for the Utility to construct and maintain facilities and otherwise implement the purposes of this Section.

- (b) The City may pledge Storm Drainage Impact Fees collected under this Section and those anticipated to be collected to the retirement of the principal and interest of revenue, general obligation bonds or notes issued by the City for financing any of the activities and improvements set forth in Subsection (a) above.
- (c) The City may pledge Storm Drainage Impact Fees collected under this Article and those anticipated to be collected to participate with the UDFCD or other public entity or private party having a common interest in storm drainage projects or facilities that benefit the Utility.

**Sec. 13-20-60 Storm Drainage Impact Fee Schedule.**

The Storm Drainage Impact Fee shall be paid at the time of application for a building permit and shall be in accordance with a schedule of fees, rates and charges as adopted by the Annual Fee Resolution, ordinance or otherwise, as the same may be amended from time to time.

The storm drainage impact fee (“fee”) shall be payable in the following amounts:

- (1) For all property located within the OSP Area:
  - a. Single-family residence: Three thousand six hundred eighty-five Dollars (\$3,685) per dwelling unit;
  - b. Multi-family residence: One thousand eight hundred forty-five Dollars (\$1,845) per unit;
  - c. Nonresidential, commercial, mixed use or industrial: Fifty-seven Cents (\$0.57) per square foot of impervious surface area, including all remodels and/or additions of one thousand (1,000) square feet or greater.
- (2) For all property located outside the OSP Area:
  - a. Single-family residence: One thousand four hundred twenty Dollars (\$1,420) per dwelling unit;
  - b. Multi-family residence: Seven hundred ten Dollars (\$710) per unit;
  - c. Nonresidential, commercial or industrial: Forty-seven Cents (\$0.47) per square foot of impervious surface area, including all remodels and/or additions of one thousand (1,000) square feet or greater.

**Sec. 13-20-65. Payment and use of storm drainage impact fees.**

- (a) Payment of impact fees. The storm drainage impact fee herein shall be due and payable at the time a complete application for a building permit is issued.
- (b) Complete application defined. An application shall not be considered complete unless and until:
  - 1. All of the required information and submittal material, in the amounts and dimensions required by the ordinances, rules, regulations and policies of the City, has been submitted to and received by the

- Department of Community Development or the Building Official as specified in this Article; and
2. The Director of Community Development or the Chief Building Official has certified the application as complete. The decision of the Director of Community Development or the Chief Building Official with respect to completeness and applicability of submission requirements shall be final.
- (c) Funds for capital improvements. All fees collected pursuant to this Article shall be deposited into the appropriate capital improvement fund of the City and shall be used for the storm drainage improvements therein identified. Fees collected from storm drainage impact fees shall be used for the purpose of capital improvements to, and expansion or enhancement of storm drainage facilities associated therewith. No such funds shall be used for periodic or routine maintenance of storm drainage facilities.
  - (d) Lien for unpaid fees. All unpaid storm drainage impact fees shall be a lien upon each lot or parcel of land within a development from the due date thereof, as set forth herein until paid. If such fees are not paid when due, in addition to any other means provided by law, the City Clerk shall certify such delinquent charges to the treasurer of the county or counties in which the development is located and the fees shall be collected in the same manner as though they were part of the taxes on the property. The City reserves the right to withhold or revoke any permit, certificate or other approval of an applicant or obligor of the fees or other approval to any applicant who is delinquent in the payment of the fees.

**Sec. 13-20-70. Certain Properties Exempt from Fee.**

The following land uses are exempt from payment of the Storm Drainage Impact Fee:

- a. Public park land and open space;
- b. Public or private ponds, lakes, reservoirs, rivers, creeks, natural water courses, or irrigation ditch/canal rights-of way;
- c. Public or private streets, highways, rights-of-way, and alleys;
- d. Cemeteries; and
- e. Golf Courses.

**Sec. 13-20-80. Review of Storm Drainage Impact Fee.**

The City Council shall review the amount of the storm drainage impact fee provided for in this Article from time to time as it deems necessary, and may modify the amount thereof in accordance with a schedule of fees, rates and charges as adopted by the Annual Fee Resolution, ordinance or otherwise.

**Section 5.** Article 13-20 of the Brighton Municipal Code is hereby amended by the addition of a new Section 13-20-81 to read as follows:

**13-20-81 Storm Drainage Maintenance Fee – Rates .**

- (a) The storm drainage maintenance fee shall be used solely for administration, engineering, professional services, design, installation, repair, maintenance, operation, management, improvement, of storm drainage facilities in the City necessary for the Utility to reasonably manage storm drainage in the City.
- (b) All storm drainage maintenance fee charges shall be assessed pursuant to a schedule of fees to be set by ordinance duly adopted by the City Council after review of such fee schedule as the City Council from time to time deems necessary. The following shall be the schedule of monthly storm drainage maintenance fees.

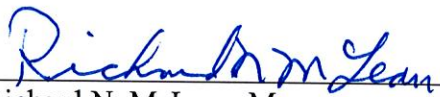
Residential, commercial, municipal potable, municipal non-potable, industrial, mixed-use, bulk and schools monthly fixed charge by customer type. The following monthly fixed charges shall be billed to all water and sewer accounts.

Monthly Fixed Charges. Effective August 15, 2011, the following monthly fixed charges shall be billed to all water and sewer accounts whether there is water usage, or not:


Single-family residence	\$1.75
Multi-family residence	2.25
Nonresidential, commercial, mixed use or industrial	5.00
Schools	5.00

INTRODUCED, PASSED ON FIRST READING AND ORDERED PUBLISHED this 5<sup>th</sup> day of July, 2011.

CITY OF BRIGHTON, COLORADO

  
Richard N. McLean, Mayor


ATTEST:

  
Natalie Hoel, City Clerk

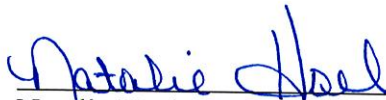
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INTRODUCED, PASSED ON SECOND READING AND ORDERED PUBLISHED  
BY TITLE ONLY this 19<sup>th</sup> day of July, 2011.

CITY OF BRIGHTON, COLORADO


  
Richard N. McLean, Mayor

ATTEST:

  
Natalie Hoel, City Clerk

Published in the *Standard Blade*: July 27, 2011

Approved as to form

  
Margaret R. Brubaker, City Attorney