

ORDINANCE NO. 2454
INTRODUCED BY: Padilla

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, AMENDING ARTICLES 3, 13, AND 14 OF THE BRIGHTON MUNICIPAL CODE RELATING TO IMPACT FEES AND UTILITY RATES

WHEREAS, definitions for fees, curb stop, single family dwelling, and others require updating for consistency and to reflect current practice; and

WHEREAS, rates, fees, and charges can be found in the annual Fee Resolution approved by City Council and some are also in the municipal code, and moving all rates, fees, and charges into the resolution creates efficiencies and assures these are considered and reviewed annually; and

WHEREAS, the City Council requires that development pay for itself and impact fees are a primary method of assuring that services in the community are adequately funded as the City grows; and

WHEREAS, the City Council finds it is in the best interest of the City to have the municipal code reflect actual practice, to use updated current definitions, and to move rates and fees into the annual Fee Resolution like other administrative actions.

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

Section 1. Section 3-5-10(d) is hereby amended to read as follows:

(d) *Development impact fees or impact fees* means moneys paid to the City by owners, subdividers and/or developers of land within the City, as part of the City's land use development application review and approval process, and in connection with the construction of new developments, and in consideration of new residential, commercial, industrial or other development requiring the subdivision of land or the construction of infrastructure or other improvements within the City, including but not limited to fees, charges, or fee-in-lieu payments for acquisition of park land and trails, park and trails improvements or park and trails development; open space acquisition and preservation; traffic infrastructure, transit infrastructure, signalization and other traffic-related improvements; bridges and crossings; water and wastewater infrastructure, treatment facilities and other related improvements; water acquisition and storage facilities; drainage infrastructure and other related improvements; and such other and similar fees and charges adopted by the City Council from time to time by annual fee resolution, or otherwise, provided that such fees and charges are reasonably related to the impacts resulting from new developments or subdivisions of land within the City and the construction of infrastructure or other improvements related thereto.

Section 2. Section 3-5-30 shall be repealed and deleted in its entirety and the section reserved for future use.

Section 3. Section 3-5-40 shall be repealed and replaced with the following:

Sec. 3-5-40. Fees to be paid for new development.

(a) When a person or entity makes an application for a permit to develop property located within the City limits, development impact fees shall be charged prior to permit issuance. All such fees shall be charged at the rate in effect at the time of permit issuance. Water dedication is required for all development, redevelopment, and expansion projects per Section 13-4-10.

The following impact fees shall be charged:

1) Water impact fees: a fee charged on a per-connection basis which is utilized by the City for its costs in providing water and water system expansion and improvements, as further defined in Section 13-4-05.

2) Wastewater impact fees: a fee charged on a per-connection basis which is charged by the City on behalf of Metro Water Recovery or the Town of Lochbuie for their costs in providing wastewater, also known as sanitary sewer, processing and system expansion and improvements, as further defined in Section 13-12-10.

3) Storm drainage impact fees: a fee charged by the City for its costs related to capital improvement or expansion of storm drainage facilities, as further defined in Section 14-9-30.

4) Transportation impact fees: a fee charged on new development which is utilized by the City for its costs in expanding road, bridge, traffic, and multimodal infrastructure and improvements.

5) Park development impact fees: a fee charged on new development which is utilized by the City for its costs in expanding publicly available park, recreation, and open space facilities.

6) General services impact fees: a fee charged on new development which is utilized by the City for its costs to expand service levels as the City grows, including in the areas of public safety and other general services provided by the City.

(b) Funds for capital improvements. All fees collected pursuant to this Section shall be deposited into the corresponding funds of the City set forth above and shall be used for growth related capital improvements. No impact fees shall be used for the periodic or routine maintenance of infrastructure or for other ongoing operational expenses.

(c) Review of fees. City Council shall review impact fees established 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 resolution.

Section 4. Section 3-5-45 shall be repealed and deleted in its entirety and the section reserved for future use.

Section 5. Section 13-4-05, Definitions, shall be amended to read as follows:

Unless the context specifically indicates otherwise, the meaning of the terms used in this Article shall be as follows:

Accessory Dwelling Unit (ADU) shall be as contemplated and described in

Section 4.03.B of the Brighton Land Use and Development Code.

Base rate category means the beginning rate established for a nonresidential customer based upon their previous winter water usage.

Budget billing means spreading the average water billing for a homeowner over a twelve-month period - from March through February - in twelve (12) equal payments. An application is required.

Commercial means any structure used for business purposes.

Contractor means a person that undertakes to construct, alter, move, demolish, repair, replace, excavate or add to any public improvements or common facilities covered by the City of Brighton standards and specifications.

Curb stop means a valve located on the water service line typically at the property line.

Director means the Director of Utilities or the Director's designee, as the context shall require, and any references in this Chapter 13, Water and Sewer, including rules, regulations, standards or specifications related thereto; to "City Manager," "Director of Finance," "Director of Public Works," "Director," "Public Works" or "Public Works Department" which relate to the City's water, sanitary sewer, drainage, storm water systems and related improvements of whatever kind or nature shall be deemed to reference the Department of Utilities, the Director thereof, or the Director's designee as the context shall require.

Door-hanger means written notification by the City posted on the front door of a residence or business within the City.

Fee-in-Lieu of Water Dedication means a monetary payment in lieu of water dedication, which is allowed in those certain instances as set forth in Section 13-4-10.

Fees means the fees and charges assessed in this Chapter 13, Water and Wastewater, and shall be applicable to water and wastewater utility services from the City unless otherwise subsequently amended or changed in the City Council's annual fee resolution or ordinance.

Industrial means any structure used for manufacturing purposes.

Mains means the main pipes and connections forming a part of the City waterworks.

Monthly fixed charge means a flat monthly fee charged on the water bill to cover a portion of the fixed overhead costs of operating and maintaining City waterworks. A portion of the fee may also be used to pay for debt retirement.

Mixed-use means any structure which includes a combination of two (2) or more uses, such as residential, commercial or industrial.

Multi-family shall be referred to hereafter as "Multi-unit" and means structures with one (1) meter serving more than two (2) dwelling units, such as an apartment complex.

Service line means a line that runs from the City's water main to a penetration of a wall, floor or valve on a residence or business.

Single-family shall hereafter be referred to as "Residential Housing," and means a residential building or any structure built for occupancy by one primary dwelling unit or more than one dwelling unit, used solely for residential purposes, where the units may be detached, attached side by side and sharing a common wall or in some other configuration, and each residential unit must have its own meter.

Water dedication means the conveyance of water rights to the City as set forth in Section 13-4-10 and required for the impact of development or redevelopment on water usage to assure sufficient water resources to provide water service.

Water meter pit means a plastic, fiberglass or other structure planted in the ground to surround and protect a water meter.

Water meter vault means a concrete structure installed in the ground to surround and protect a water meter one and one-half (1½) inches or larger in size.

Water impact fee means a fee which is utilized to reimburse the City for its costs in providing water and water system expansion and improvements, which improvements include, but are not limited to, well-field development, raw water transmission lines, water treatment, water storage, water pressure and/or treated water transmission lines.

Water tap means the point of connection of a service line to the City's potable water distribution system.

Water user means any person receiving water from the City's waterworks system.

Water works system means any structure or apparatus for the purpose of conveying water.

Section 6. Section 13-4-50 shall be amended to read as follows:

Sec. 13-4-50. Service discontinuance; notice required.

(a) Temporary discontinuance.

(1) Any property owner desiring to temporarily discontinue City water service must give personal written notice to the Director at least two (2) business days prior to the date the discontinuance shall commence. Said notice shall state the name of the owner, the address of the property, the date temporary discontinuance shall commence and end, and a telephone contact number. Temporary discontinuance of water service at any location within the City shall not exceed six (6) months.

(2) Discontinuance of such water service at any location within the City water

operation shall be done pursuant to authority of the Director. No water service shall be discontinued unless the property is not occupied and all outstanding water and wastewater fees have been paid. During the period of temporary discontinued service, there shall be no water flow to the property for any purpose, nor shall there be any discharge to the sanitary sewer. Notwithstanding the temporary discontinuance, the owner shall be responsible for paying the applicable monthly fixed charges that will accrue.

(b) Permanent discontinuance.

- (1) Any property owner desiring to permanently discontinue City water service must give personal written notice to the Director at least two (2) business days prior to the date the discontinuance shall commence. The notice shall state the name of the owner, the address of the property, the date permanent discontinuance shall commence, the reason permanent discontinuance is requested and a telephone contact number.
- (2) The City may terminate water and/or wastewater service and permanently disconnect the water and wastewater service tap connection to any structure where the owner evidences in writing an intent to abandon the service connection. Selling the property to another is not sufficient evidence of intent to abandon. The owner shall be responsible for payment of all cost associated with the abandonment.
- (3) The City may terminate water and/or wastewater service and permanently disconnect the water and wastewater service tap connection to any structure where water and/or wastewater service has not been used for a period of five (5) consecutive years, which nonuse shall be evidence of an intent to abandon.
- (4) Prior to a final determination by the City that a water and/or wastewater service connection is abandoned by the owner, the owner shall be provided a hearing before the Director, at the owner's request. The Director may determine, based upon the evidence presented at such hearing, whether a water and/or wastewater service connection should be terminated. The determination of the Director shall be final. All fees and applicable monthly fixed charges shall continue to accrue unless and until a final determination of abandonment is made.

(c) Unless there is a separate written agreement to the contrary, any application for an enlargement in service, change in use classification or reactivation of discontinued service shall constitute a new connection, and all applicable water rights dedication and associated fees, water and wastewater impact fees and any other applicable fees and charges shall be assessed.

Section 7. Section 13-4-60 shall be amended to read as follows:

Sec. 13-4-60. Curb stop required.

The developer, homebuilder, owner, or lessee of any service line connected with the City waterworks system shall hereafter keep or cause to be kept a curb stop located at the property line to enable water service shut off.

Section 8. Section 13-4-90 shall be amended to read as follows:

Sec. 13-4-90. Water impact fees and connection charges.

- (a) Whenever a person, firm, corporation, or entity makes application for a permit to use City water for property located within the City limits, water resources must be dedicated in accordance with Section 13-4-10 and a water impact fee shall be charged to the applicant in accordance with a schedule of fees to be set by resolution, duly adopted by the City Council after review of such fee schedule as the City Council from time to time deems necessary. All such fees shall be charged at the rate in effect at the time of permit issuance.
- (b) Water tap on previously accepted mains. All taps onto an existing water main will be made by the contractor under City supervision. The contractor will supply all materials needed and complete all construction for the tap connection in strict compliance with applicable City standards and specifications. The contractor will install the meter pit or vault according to City specifications.
- (c) Water meter pits or vaults and lids are to be provided and installed by the contractor per City standards and specifications.
- (d) Water meters are required on all water taps and must be purchased at time of building permit. The water meter charges shall be in an amount equal to the City's cost for the purchase of the water meter.
- (e) A dedication of water rights is required for all development and redevelopment projects, except in limited circumstances as set forth in Section 13-4-10. Where such exceptions allow a payment of fee-in-lieu of water rights dedication, the City fee resolution shall set forth the water impact fee for fee-in-lieu of water rights for residential housing, mobile home parks, mixed use, commercial, industrial, and all other uses not specifically delineated shall be assessed based on tap size.
- (f) The water impact fee for those dedicating water rights to the City and those paying fee-in-lieu of water rights dedication in those limited circumstances set forth in Section 13-4-10 for multi-unit dwellings, including apartment buildings, shall be based on number of units as set forth in the Fee Resolution.
- g) [Reserved.]
- h) [Reserved.]
- i) [Reserved.]
- j) No connection to the City waterworks system shall be made unless all charges and assessments therefor are paid in full in advance of the connection.

Section 9. Sections 13-4-95 is hereby amended to read as follows:

Sec. 13-4-95. Dual system fees.

Non-potable water systems which have been approved by the City for the provision of non-potable water for irrigation within the corporate limits of the City shall be eligible for a reduction in the water impact fees. The amount of said reduction shall be determined according to an analysis conducted by the Utilities Department which takes into consideration the land use for which the non-potable system will be implemented, the area to be irrigated by the non-potable system, the source of water for the non-potable system, the capacity and capability of the non-potable system, the extent to which the non-potable system is independently and privately owned and operated, the operational and maintenance requirements for the non-potable system and such other factors and considerations as the Utilities Department deems appropriate and necessary for its analysis.

Section 10. Section 13-4-100 is hereby amended to read as follows:

Sec. 13-4-100. Disconnection and reconnection fees.

There shall be assessed a fee for the City disconnecting water service and reconnecting water service if such action becomes necessary as a result of nonpayment of the utilities bill or the owner requests repair or maintenance of the service line from the stop box on private property. The fee shall be increased if such action is taken by the City outside of normal business hours. The disconnection and reconnection fees and any increase thereof shall be in accordance with a schedule of fees, rates and charges as adopted by the Annual Fee Resolution.

Section 11. Section 13-4-110(a) and (b) is hereby amended to read as follows:

Sec. 13-4-110. Payment of charges; lien.

(a) The owner of property served with City water shall be responsible for all water fees and charges, including impact fees, water resource fees, usage fees and charges, rates and other fees imposed by the terms and provisions of this Article and/or the Annual Fee Resolution.

(b) All impact fees, water resource fees, usage fees and charges, rates and other duly imposed fees due as a result of the terms and provisions of this Article and/or the Annual Fee Resolution, interest and penalties as may be agreed upon or otherwise imposed, and costs of collection and attorneys' fees incurred in relation thereto (hereinafter "all amounts due as a result of application of the terms and provisions of this Article") shall, from the date of mailing of notice as provided in Subsection (c) hereof, constitute a perpetual lien on the property to which the same apply. The lien for all amounts due as a result of application of the terms and provisions of this Article shall have priority over all other liens except general taxes, special assessments, encumbrances, rights and interests filed of record in the office of the appropriate clerk and recorder prior to the date of the mailing of the notice of lien.

Section 12. Section 13-4-130 shall be amended to read as follows:

Sec. 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 resolution 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 water service rates for the use of water in the City on a metered rate basis.

- (a) Residential properties shall pay a monthly fixed charge for water service as published in the annual fee resolution. Effective for all bills dated after January 1, 2025, a monthly fixed charge shall be billed to all water accounts whether there is water usage or not. This charge shall be published in the annual fee resolution.
- (b) Residential and residential irrigation service shall pay a monthly volume-based water rate as published in the annual fee resolution. The monthly volume-based charge will be added to the monthly fixed charge. Residential and residential irrigation volume-based water rates monthly charge will be added to the monthly fixed charge.
- (c) Budget billing. Any homeowner in the City may be eligible for budget billing, as defined herein. Homeowners may apply for budget billing based upon

previous annual average consumption at that address. If the homeowner has less than twelve (12) months history at that address, the previous occupant's usage may be used to calculate the annual average. Each year, in March, the next year's budget billing amount shall be computed. Any underpayment shall be billed to the homeowner. Any over-payment shall be credited to the homeowner.

- (d) Multi-unit housing properties shall pay volume-based water rates as stated in the annual fee resolution. The monthly volume-based charge will be added to the monthly fixed charge.
- (e) Commercial, irrigation, municipal potable, non-potable irrigation, industrial, mixed use, bulk, and schools shall pay monthly fixed charges published in the annual fee resolution. The monthly fixed charge shall be billed to all water accounts whether or not there is water usage. These fees shall be applied based on tap size.
- (f) Commercial, industrial, mixed use, municipal potable, schools, bulk (hydrant meter use), and non-potable irrigation shall be assessed volume-based water rates in the annual fee resolution. The volume-based charge will be added to the monthly fixed charges.
- (g) Contract water surcharge. All taps shall be assessed a monthly flat fee based on tap size, with or without water usage.
- (h) All water accounts shall have a water treatment plant fee assessed per month based on average usage in each customer category effective January 1, 2023, as set forth in the annual fee resolution.

Section 13. Section 13-4-220 shall be amended to read as follows:

Sec. 13-4-220. Service line ownership, repair, and replacement; costs.

- (a) If the water meter is located outside the structure, the property owner is responsible for ownership, repair, and replacement of the service line from the structure to the water meter.
- (b) If the water meter is in the dwelling, then the property owner is responsible for ownership, repair, and replacement of the service line from the meter to the curb stop. In the absence of a curb stop or if the curb stop cannot be located, private ownership, repair and replacement cost of the service line shall end at the property line.
- (c) The property owner is responsible for ownership, repair and replacement of any lines and plumbing fixtures inside the building.
- (d) Whenever a break or leak occurs in a water service line, the owner or other person in charge of the property receiving water service where the break or leak occurs shall have the same repaired or replaced immediately. All costs for the repair or replacement shall be borne by the property owner.
- (e) After notice by the City, if the water service line is repaired within two (2) weeks, the water charge for that month will be prorated based upon the historical usage for that property. If the line is not repaired within two (2) weeks, the owner will be assessed the full charge for the water used.
- (f) The fees provided for in this Section, until paid, shall constitute a lien against the property as are general property taxes. Furthermore, any failure to pay said fees shall constitute a basis for discontinuance of water service until payment in full is received by the City.

Section 14. Section 13-4-230 shall be repealed and deleted in its entirety and this Section reserved for future use.

Section 15. Article 13-12 shall henceforth be titled "Wastewater System Use Regulations" and Section 13-12-10 shall be amended to read as follows:

Section 13-12-10 Definitions.

Unless the context specifically indicates otherwise, the meaning of terms used in this Article shall be as follows:

Best Management Practices (or BMPs) means the customary and accepted practices and activities designed to prevent or reduce pollutants in wastewater and minimize the impacts at the Publicly Owned Treatment Works (POTW) through the use prevention activities, maintenance practices and educational programs implemented before, during and/or after pollution-producing activities, that are intended to reduce or eliminate the introduction of pollutants into receiving wastewaters.

Biochemical oxygen demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees Centigrade, expressed in milligrams per liter.

Building drain means that part of the lowest horizontal piping of a sanitary drainage system which receives the discharge from soil, waste, and other sanitary drainage pipes inside the walls of the building and conveys it to the building sanitary sewer service line, beginning five (5) feet (one and one-half [1.5] meters) outside the inner face of the building wall.

Building sewer or Building wastewater means the extension from the building sanitary or wastewater drain to the public sanitary wastewater or other place of disposal, which conveys wastewater from the premises of a user. Building sewer is also called house wastewater connection or sanitary service line.

Categorical standards means the National Categorical Pretreatment Standards or Pretreatment Standards.

Colorado Discharge Permit System Permit or CDPS Permit, means a permit issued pursuant to the Colorado Water Quality Control Act (Section 25-8-191, et seq., C.R.S.).

Combined sewer means a sewer intended to receive both wastewater and storm or surface water.

Commercial means any structure used for business purposes or which has three (3) or more dwelling units and is served by only one (1) water meter.

Cooling water means water discharged from any use such as air conditioning, cooling or refrigeration or to which the only pollutant added is heat.

Department means the Utilities Department unless otherwise specified.

Director means the Director of the Utilities Department, unless otherwise specified.

Easement means an acquired legal right for specific use of land owned by others.

Fixture as used in this Article means a receptor or device that requires both a water-supply connection and a discharge to the sanitary drainage system, including but not limited to a dishwasher, food-waste grinder, clothes washer, water heater, sinks, water closets and lavatories, as more specifically defined in the plumbing code adopted by the City.

Floatable oil means cooking oil, fat or grease, petroleum oil or synthetic oil in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. Wastewater shall be considered free of floatable oil if it is properly pretreated and the wastewater does not interfere with the collection system.

Food garbage means the animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.

Grease interceptor means a pretreatment facility or tank remotely located that serves one (1) or more commercial kitchen fixtures specifically designed and manufactured to separate and retain fat, oil, grease and solids from water. A grease interceptor is typically an outside, underground, multi-compartment tank required for commercial food service, manufacturing or processing establishments.

Grease trap means an indoor plumbing device which complies with the provisions and specifications of the plumbing code adopted by the City. This trap is designed to intercept fat, oil, grease, and solids before entering the wastewater system, shall not be connected to more than four (4) fixtures and cannot be connected to food grinders or dishwashers.

Industrial means any structure used for manufacturing purposes.

Industrial user means any nondomestic source discharging pollutants into a POTW, regulated under Section 307(b), (c) or (d) of the Clean Water Act, 33 U.S.C §1251, et seq.

Industrial waste means the wastewater from industrial processes, trade or business as distinguished from domestic or sanitary wastes.

Interference means a discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

- a) Inhibits or disrupts the wastewater treatment works, its treatment processes or operations or its sludge processes, use or disposal; and
- b) Therefore is a cause of a violation of the publicly owned treatment works (POTW) permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with applicable federal laws and regulations, or more stringent state or local laws or regulations: Section 405 of the Clean Water Act, (33 U.S.C. 1345), the Solid Waste Disposal Act

(SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act and the Marine Protection, Research and Sanctuaries Act.

May is permissive (see *shall*).

Mixed use means any structure which includes a combination of two (2) or more uses, such as residential, commercial or industrial.

Multi-family shall be referred to hereafter as "*Multi-unit*" and means structures with one (1) meter serving more than two (2) dwelling units, such as an apartment complex.

National Categorical Pretreatment Standard means a pollutant discharge limit or other requirement promulgated by the United States Environmental Protection Agency (USEPA) in accordance with Sections 307(b) and (c) of the Clean Water Act (33 U.S.C. § 1317) and set forth and defined in 40 C.F.R. 403.6 and 40 C.F.R., Chapter I, Subchapter N, which applies to a specific category of industrial users.

Natural outlet means any outlet, including storm outfalls, into a watercourse, pond, ditch, lake or other body of surface or ground water.

Pass-through means a discharge which exits the facilities of any publicly owned treatment works (POTW) into waters of the United States in quantities or concentrations which, alone or in conjunction with the discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's permit (including an increase in the magnitude or duration of a violation).

Person means any individual, partnership, firm, company, association, society, corporation, group or any other legal entity or their legal representatives, agents, or assigns.

pH means the logarithm of the reciprocal of the hydrogen ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution. Neutral water, for example, has a pH value of seven (7) and a hydrogen ion concentration of 10^{-7} .

Pollutant means dredged spoils, solid waste, incinerator residue, filter backwash, sewage, food garbage, floatable oil, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes and certain characteristics of wastewater (e.g., pH, temperature, Total Suspended Solids (TSS), turbidity, color, Biochemical Oxygen Demand (BOD), Chemical Oxygen Demand (COD), toxicity or odor).

Properly shredded food garbage means the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sanitary wastewaters, with no particle greater than one-half ($\frac{1}{2}$) inch (1.27 centimeters) in any

dimension.

Public sanitary sewer means a common sanitary sewer controlled by a governmental agency or public utility; also known as a *public wastewater system*.

Publicly owned treatment works (or POTW) means a treatment works as defined by Section 212 of the Clean Water Act, which is owned by a State or municipality (as defined by Section 502(4) of the Act). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sanitary sewer pipes and other conveyances only if they convey wastewater to a POTW treatment plant. The POTW's treatment plant refers not only to City-owned WWTP, but also to any person or entity contracting with the City for treatment of sewage service, such as, but not limited to, Metro Wastewater Reclamation District WWTP and Town of Lochbuie WWTP.

Publicly owned treatment works (POTW) permit means any NPDES or CDPS permit issued pursuant to Section 402 of the Act (33 U.S.C. § 1342) by federal, state or any other legal authority to any POTW owned and/or contracted by the City to service City residents, including connections by users located outside the City limits.

Sand/oil separator means a pretreatment facility or tank remotely located and specifically designed and manufactured to separate petroleum oil, sand or grit from water. A sand/oil separator is typically an outside, underground, multi-compartment tank required for all petroleum, oil, sand or grit generating establishments.

Sanitary sewer means a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with minor quantities of ground, storm and surface waters that are not admitted intentionally.

Sewage is the spent water of a community. The preferred term is *wastewater*.

Sewer means a pipe or conduit that carries wastewater or stormwater.

Shall is mandatory (see *may*).

Significant industrial user means:

- a) A discharger subject to the National Categorical Pretreatment Standards; or
- b) A discharger that:
 1. Discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the wastewater treatment works (excluding sanitary, noncontact cooling and boiler blowdown wastewater).
 2. Contributes a process waste stream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant.
 3. Is designated as such by the Director on the basis that it has a reasonable potential for adversely affecting the treatment plant's POTW operations or for violating any pretreatment standards or requirement.
- c) Upon a finding that a discharger meeting the criteria in Subparagraph b.2. above has no reasonable potential for adversely affecting the wastewater treatment

plant's operation or for violation any pretreatment standard or requirement, the Director may, at any time, on the Director's own initiative or in response to a petition received from a discharger, and in accordance with procedures in 40 C.F.R. 403.8(f)(6), determine that such discharger should not be considered a significant industrial user.

Single-family shall hereafter be referred to as "*Residential Housing*," and means a residential building or any structure built for occupancy by one primary dwelling unit or more than one dwelling unit, used solely for residential purposes, where the units may be detached, attached side by side and sharing a common wall or in some other configuration, and each residential unit must have its own meter.

Slug shall mean any discharge of a nonroutine, episodic nature, including but not limited to an accidental spill or a noncustomary batch discharge which, in concentration of any given constituent or in quantity of flow, exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four-hour concentration or flows during normal operation and shall adversely affect the collection system and/or performance of the wastewater treatment works.

Storm drain, sometimes termed *storm sewer*, means a drain or sewer for conveying water, groundwater, subsurface water or unpolluted water from any source.

Surcharge means any charge added above and beyond the fines already levied by the City.

Total Suspended Solids (TSS) means total suspended matter that either floats on the surface of, or is in suspension in, water, wastewater or other liquids, and that is removable by laboratory filtering as prescribed in *Standard Methods for the Examination of Water and Wastewater* and referred to as *nonfilterable residue*.

Unpolluted water means water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

User means any person who contributes, causes, or permits the contribution of wastewater into the POTW.

Wastewater means the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water and stormwater that may be present.

Wastewater facilities means the structures, equipment and processes required to collect, carry away and treat domestic and industrial wastes and dispose of the effluent.

Wastewater impact report means a report which details the impact a new development will have on the City's wastewater treatment plant - both quantity of discharge and composition of discharge.

Wastewater tap means the point of connection of a service line to the City's wastewater collection system.

Wastewater connection fee means the fee charged for the right to physically connect to a wastewater collection line.

Wastewater treatment works means an arrangement of devices and structures for treating wastewater, industrial wastes and sludge. Sometimes used as synonymous with *waste treatment plant, wastewater treatment plant or water pollution control plant*.

Watercourse means a natural or artificial channel for the passage of water, either continuously or intermittently.

Section 16. Section 13-12-55 shall be added to read as follows:

Sec. 13-12-55. Service outside the City.

Any existing wastewater service outside the municipal boundaries shall pay double the rate for service within the City. No new service outside the City limits will be provided.

Section 17. Sections 13-12-60 shall be amended to read as follows:

Sec. 13-12-60. Building wastewater permit required.

No unauthorized person shall uncover, make any connection with or opening into, use, alter, or disturb any public sanitary sewer or public wastewater system or appurtenance thereof without first obtaining a written permit from the City.

Section 18. Section 13-12-70 shall be amended to read as follows:

Sec. 13-12-70. Building sewer permit types; application; fee.

The owner or his or her agent shall make application on a form furnished by the City. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Director. Permit and inspection fees for a residential, commercial, and industrial building sewer permit shall be assessed in accordance with the schedule of fees, rates and charges as adopted by the annual fee resolution, and shall be paid to the City at the time the building wastewater permit therefor is issued.

Section 19. Article 13-16 shall hereafter be named "Wastewater Rates," and Section 13-16-25 shall be amended to read as follows:

Sec. 13-16-25. Wastewater connection charges and related fees.

(a) Whenever a person or entity makes application for a permit to use City wastewater for property located within the City limits, a wastewater system connection fee shall be paid for each separate tap to any sanitary wastewater line within the City. Fees shall be charged to the applicant in accordance with a schedule of fees to be set by resolution duly adopted by the City Council after review of such fee schedule as the City Council from time to time deems necessary. The amount of the fee shall be based on the size of the water service line.

- (1) Residential housing, mixed use, commercial, industrial, and other uses not specifically delineated herein shall be assessed a wastewater connection fee based on the associated water tap size.
 - (2) Wastewater connection fees for multi-unit dwellings, including apartment buildings, serviced by common tap shall be assessed based on number of units.
 - (3) Mobile home parks shall be charged on a per user unit basis.
 - (4) For any connection greater than two (2) inches, the owner shall provide the City with an acceptable wastewater impact report authorized by a registered professional engineer experienced in wastewater services in addition to payment of the wastewater connection fee.
 - (5) The developer will make all taps in new developments. An inspection fee as set forth in the annual fee resolution will be charged for each tap to an existing line.
 - (6) No new service lines will be provided outside the corporate limits of the City.
- (b) An additional wastewater/sewer connection charge shall be paid for the treatment component associated with any sanitary sewer line within the Metro Water Recovery service area of the City in accordance with Metro Water Recovery fees. The amount of the fee shall be based on the size of the water tap and shall be equal to the impact fees assessed by Metro Water Recovery at the time of the permit issuance.
- (c) An additional wastewater plant investment fee shall be paid for the treatment component associated with any sanitary sewer/wastewater line within the Lochbuie Municipal Sewer Board service area of the City in accordance with Lochbuie Municipal Sewer Board fees. The amount of the fee shall be based on the size of the water tap and shall be equal to the fees assessed by the Lochbuie Municipal Sewer Board at the time of the permit issuance.

Section 20. Section 13-16-70 shall be amended to read as follows:

- (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 resolution duly adopted by City Council after review of such fee schedule as the City Council from time to time deems necessary. Any rate increases authorized or required by Lochbuie Sewer Board or Metro Water Recovery shall increase the City's rates accordingly for each of their respective customers in the same proportion or percentage.
- (b)
- (1) The schedule of monthly rates for wastewater service for Metro Water Recovery customers shall be published in the annual fee resolution.
 - a. Residential monthly fixed fee. The monthly fixed charge shall be billed to all residential wastewater accounts whether there is usage or not.
 - b. Commercial, industrial, municipal, mixed use, schools, and multi-unit monthly fixed fee. The monthly fixed rate shall be billed to all wastewater accounts whether there is water usage or not. These fees shall be applied based on tap size.
 - (2) Volume based wastewater rate—Residential metered water usage. All users of the wastewater system who are metered for water usage will be billed a volume-based wastewater rate each month, based on the average water usage as reflected in the prior December, January, and February water bills. Such rate will be published in the annual fee resolution.
 - (3) Fixed wastewater rate—Non-metered water usage. Those users of the wastewater

system who are not metered for water usage will be billed a fixed wastewater rate each month to be published in the annual fee resolution.

- (4) Commercial and municipal property—Rated based on actual water usage. Any owner of a commercial property in the City which receives City wastewater service will be billed a wastewater rate based on actual water usage each month published in the annual fee resolution.
- (5) All Metro Water Recovery wastewater users shall be assessed a monthly fee of three dollars (\$3.00) for residential properties and six dollars (\$6.00) for multi-family residential property. All other users shall be assessed a monthly fee based on tap size.

(c)

- (1) The schedule of monthly rates for wastewater service for Lochbuie customers shall be published in the annual fee resolution.
 - a. Residential monthly fixed fee. The monthly fixed charge shall be billed to all residential wastewater accounts whether there is usage or not.
 - b. Commercial, industrial, municipal, mixed use, schools, and multi-unit monthly fixed fee. The monthly fixed rate shall be billed to all wastewater accounts whether there is water usage or not. These fees shall be applied based on tap size.
- (2) Volume-based wastewater rate—Residential metered water usage. All users of the wastewater system who are metered for water usage will be billed a volume-based wastewater rate each month, based on the average water usage as reflected in the prior December, January, and February water bills.
- (3) Fixed wastewater rate—Non-metered water usage. Those users of the wastewater system who are not metered for water usage will be billed a fixed wastewater rate each month.
- (4) Commercial and municipal property—Rated based on actual water usage. Any owner of a commercial property in the City which receives City wastewater service will be billed a wastewater rate based on actual water usage each month.

Section 21. Section 13-16-90(a) and (b) shall be amended to read as follows:

Sec. 13-16-90. Payment of charges; lien.

(a) The owner of property served with City sanitary sewer and/or stormwater services as provided in this Article shall be responsible for all sanitary sewer/wastewater and stormwater fees and charges, including impact fees, usage fees and charges, rates and other fees imposed by the terms and provisions of this Article and/or the City annual fee resolution.

(b) All impact fees, usage fees and charges, rates and charges due as a result of application of the terms and provisions of this Article and/or the City's annual fee resolution, interest and penalties as may be agreed upon or otherwise imposed and costs of collection and attorneys' fees incurred in relation thereto (hereinafter "all amounts due as a result of application of the terms and provisions of this Article") shall, from the date of mailing of notice as provided in Subsection (c) hereof, constitute a perpetual lien on the property to which the same apply. The lien for all amounts due as a result of application of the terms and provisions of this Article shall have priority over all other liens except general taxes, special assessments, encumbrances, rights and interests filed of record in the office of the appropriate clerk and recorder prior to the date of the mailing

of the notice of lien.

Section 22. Section 14-9-30 shall be amended as follows:

The following words used in this Article have the following meanings, unless the context clearly indicates otherwise:

Code means the Brighton Municipal Code.

Drainage basins means an area tributary to a major drainageway.

EQR means equivalent residential unit. One EQR equals three thousand one hundred sixty-four (3,164) square feet of impervious area.

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.

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.

Major drainage ways means a drainage flow path that conveys runoff.

Multi-family shall be referred to hereafter as "*Multi-unit*" and means structures with one (1) meter serving more than two (2) dwelling units, such as an apartment complex.

Nonresidential 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.

OSP means outfall system plan.

Public park land means an area permanently dedicated for recreation, aesthetic, educational or cultural use and generally characterized by units with natural and landscape features.

Residential property means any real property that is used for residential purposes, and accessory uses that are customary to residential uses.

Single-family shall hereafter be referred to as "*Residential Housing*," and means a residential building or any structure built for occupancy by one primary dwelling unit or

more than one dwelling unit, used solely for residential purposes, where the units may be detached, attached side by side and sharing a common wall or in some other configuration, and each residential unit must have its own meter.

Storm drainage means runoff caused or created by a storm event.

Storm drainage impact fee means the fee created in this Article for the funding of the Utility.

UDFCD means the Urban Drainage and Flood Control District.

Section 23. Section 14-9-40 shall be amended to read as follows:

Sec. 14-9-40. Storm Drainage Management.

(a) Storm Drainage shall be managed within the 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 and all other rates, fees, and charges adopted in the annual fee resolution for the coordination, management, design, construction, operation, maintenance and replacement of the Storm Drainage Management Utility and its facilities.

Section 24. Section 14-9-60 shall be amended to read as follows:

Sec. 14-9-60. Storm drainage impact fee schedule.

The storm drainage impact fee shall be paid prior to building permit issuance and shall be in accordance with a schedule of fees, rates, and charges as adopted by the annual fee resolution in effect at the time of permit issuance. The storm drainage impact fee ("fee") shall be payable for all properties located in the City.

Section 25. Section 14-9-70 shall be amended to read as follows:

Sec. 14-9-70. Certain properties exempt from fee.

The following land uses are exempt from payment of the storm drainage impact fee:

- (1) Public park land and open space;
- (2) Public or private ponds, lakes, reservoirs, rivers, creeks, natural water courses or irrigation ditch/canal rights-of way;
- (3) Public streets, highways, rights-of-way and alleys;
- (4) Public Cemeteries; and
- (5) Public Golf courses.

Section 26. Section 14-9-80 shall be amended to read as follows:

Sec. 14-9-80. Review of storm drainage impact fee.

The City Council shall review the amount of the stormwater 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.

Section 27. Section 14-9-81 shall be amended to read as follows:

Sec. 14-9-81. Storm drainage maintenance fee; rates.

(a) The storm drainage maintenance fees shall be used solely for administration, engineering, professional services, design, installation, repair, maintenance, operation, management, and improvement of the storm drainage facilities in the City necessary for the Utility to reasonably manage storm drainage in the City.

(1) All storm drainage maintenance fee charges shall be assessed pursuant to a schedule of fees to be set by the Annual Fee Resolution duly adopted by the City Council after review of such fee schedule as the City Council from time to time may deem necessary. The following monthly storm drainage maintenance fees shall be assessed on all properties within the City limits, except public streets, highways, rights of way, and alleys, independent of water and wastewater usage.

(2) Those properties without water or wastewater services, will be billed annually for cumulative monthly charges. Water and wastewater billing procedures, as specified under Chapter 13 will also apply to all billings for storm drainage maintenance fees.

Section 28. Section 14-9-82 shall be amended to read as follows:

Sec. 14-9-82. Credit eligibility.

(a) Multi-family residential, non-residential, commercial, mixed use, and schools may be eligible for up to a sixty-five percent (65%) credit against their monthly charges. The credit is based on private drainage infrastructure improvements that provide a regional benefit.

(b) The Utilities Director is responsible for creating rules and procedures to administer the credit program.

(c) The amount of the credit shall be determined by the Utilities Director and may include but is not limited to a review of the property owner's documentation substantiating the storm improvements, an engineer's report, or a physical inspection by Utilities staff.

(d) Ongoing credit will only be available to properties that maintain their structural controls in a fully functional condition in accordance with City of Brighton standards.

(e) Credit may be granted for a maximum of three (3) years from the date of approval. After expiration, property owners may be required to submit a renewal credit application, or the credit may be administratively continued at the sole discretion of the Director. Renewed credits are contingent on the proper function of the drainage structure.

Section 29. All sections, subsections, and definitions not expressly amended or modified herein remain in full force and effect.

Section 30. As provided in City Charter Section 5.9(A), this Ordinance, either as presented or as amended, shall be published in full as it was adopted prior to taking final action. This Ordinance shall be in full force and effect five days after its final publication, as provided in City Charter Section 5.8.

Section 31. Any and all changes to fees made in 2024 shall remain in effect and any other fee changes shall not be in effect until January 1, 2025, after being adopted in the annual fee resolution.

INTRODUCED, PASSED ON FIRST READING AND ORDERED PUBLISHED THIS 3rd DAY OF SEPTEMBER 2024.

INTRODUCED, PASSED ON FINAL READING AND ORDERED PUBLISHED BY TITLE ONLY THIS 17th DAY OF SEPTEMBER 2024.

CITY OF BRIGHTON, COLORADO

GREGORY MILLS, Mayor

ATTEST:

NATALIE HOEL, City Clerk

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ALICIA CALDERÓN, City Attorney