


A BILL FOR AN ORDINANCE AMENDING )  
CHAPTER 13.12 OF THE LEBANON MUNICIPAL )  
CODE, AND DECLARING AN EMERGENCY. )  
ORDINANCE BILL NO. 5  
for 1989  
ORDINANCE NO. 2049

THE CITY OF LEBANON ORDAINS AS FOLLOWS:

Section 1. Chapter 13.12 of the Lebanon Municipal Code shall be amended by adoption of Exhibit "A" as attached hereto and made a part of this ordinance.

Section 2. That inasmuch as the provisions of this ordinance are necessary for the immediate preservation of the peace, health and safety of the people of the City of Lebanon, an emergency is hereby declared to exist, and this ordinance shall be in full force and effect immediately upon its passage by the City Council and approval by the Mayor.

Passed by the Council by a vote of 5 for and 0 against, and approved by the Mayor this 22 day of March, 1989.

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Administrator

## EXHIBIT A

### CHAPTER 13.12

#### SYSTEMS DEVELOPMENT CHARGES

##### 13.12.010 Purpose.

After appropriate and lengthy review and study, receiving recommendations of a committee that has studied the matter, and holding a public hearing, the city council has determined that systems development charges (SDC) are reasonable and necessary. The SDC herein prescribed is designed to be of such amount as will eventually create reasonable reserves to pay the public's fair share of basic and essential service facilities as the needs arise.

##### 13.12.020 Definitions.

- A. "Applicant" means a person, corporation, association, or agency applying for sewer service or building permit.
- B. "City" means the city of Lebanon, a municipal corporation of the state of Oregon.
- C. "Commercial building" means all buildings or premises, other than a dwelling unit, used for any purpose having a sewage discharge of only segregated domestic waste and volume similar to a single-family dwelling or multi-unit residential structure, but not an industrial user.
- D. "Dwelling unit" means one or more habitable rooms which are occupied or which are intended or designed to be occupied by one family with facilities for living, sleeping, cooking and eating.
- E. "Floor area" means the area (sq. ft.) included within the surrounding exterior walls of a building or portion thereof, exclusive of courtyards. Each floor shall be counted separately. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above. The total floor areas for buildings may be made up of one or both of the above definitions of floor area. For single-family dwellings the area of detached storage or shop buildings which do not contain plumbing fixtures shall not be calculated as being included within the square footage. The floor area of unenclosed, roofed porch areas of single-family areas shall not be counted until they area enclose on all four sides. The floor area of single-family dwellings which is devoted to "Home Occupation" as defined in Chapter 17.04.290 of the Lebanon Municipal Code shall be charged the appropriate rates for the commercial classification of the use.
- F. "Industrial user" means any business, occupation or enterprise having sewage discharge which, by reason of the manufacture or industrial process involved or through services rendered, has any volume in excess of a single-family residence or is of a kind or type dissimilar to that of a single-family residence because of the discharge of chemicals or by-products of the

industrial process. The city shall determine when a user is an industrial user with the use of sampling equipment. All expenses incurred by the city in the determination of an industrial user shall be at the cost of the user's expense.

The sanitary sewer SDC charge for future and existing industrial users shall be determined on an individual basis at the time it is determined that the user is an industrial user. The city council may waive the sanitary sewer SDC charge based on the dollar amount of the "industrial cost recovery" monthly cost to the user.

No portion of this chapter shall be interpreted to waive the city's right to administer an ICR program for all existing and future industrial users connected to the city's sanitary sewer collection and treatment system.

In addition, when a user is determined by the city engineer to be a potential industrial user, the user shall pay all costs (includes testing rate determination, administrative costs) associated with determining whether the user is an industrial user.

- G. "Plumbing fixture" means an approved receptacle or device intended to receive water, liquids or other permissible wastes, and which discharge into the customer's sewer service connection.
- H. "Single-family dwelling" means a housing unit in which a single-family would normally reside and with which the ground under the unit is owned in fee simple title with the dwelling unit. This would include housing units in which up to two families reside, such as duplexes. If more than two dwelling units exist on the lot, than the dwellings are not considered single-family dwelling units for the purposes of this chapter.
- I. "Structure" means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.
- J. "Master plan" means a formal study which, as a part of its scope, contains projections for future growth, future needs, and future alignments.

**13.12.030 Imposed.**

A systems development charge (SDC) is imposed upon all assessable real property within the city except on those parcels exempt under this chapter. The city building official is designated as the person charged with assessing the systems development charges as hereinafter set forth.

**13.12.040 Classifications and related rates designated - Annual adjustment required.**

The classifications and related rates for SDC shall be those adopted by resolution by the city council and amended by any automatic adjustments as called for in this section. The rates shall be automatically adjusted annually on January 1 by the change in the construction cost index for the city of Seattle as published in the

Engineering News Record (ENR) magazine. The ENR Construction Cost Index for Seattle for January 1989 is \$4,708.43.

13.12.050 Collection.

- A. The rates imposed shall be levied at the time a building permit is issued by the city. The amount shall be due when the owner and/or contractor calls for a final inspection of the structure and prior to occupancy of the structure. The fees, however, will be due in full at the time of a building permit issuance if a previously due SDC fee was not received from the same applicant within thirty days of the final inspection of a previous project anywhere within the city's jurisdiction.
- B. Prior to issuance of the permit, the applicant shall sign a form provided by the city which contains the following minimum information:
  - 1. Date of application;
  - 2. Applicant's name, address and telephone number;
  - 3. Description of building and premises;
  - 4. Amount of charge;
  - 5. Applicant's signature.
- C. When council authorization is given to connect to the sanitary sewer system for structures outside the city limits the SDC charges shall be paid in full prior to connection to the sanitary sewer system.
- D. All structures presently connected to the sanitary sewer system and annexed into the city after January 1, 1977 shall be charged all SDC fees not previously collected for the property development when either conditions set forth in subsections E2 or 3 of this section occur.
- E. All structures annexed into the city after January 1, 1977 shall be charged all SDC fees applicable to their existing improvements:
  - 1. When connection to the sanitary sewer system occurs;
  - 2. When a building permit is applied for that increases floor area;
  - 3. When a building permit is applied for that increases a structure's assessed value twenty-five percent or more.
- F. All structures annexed into the city that had previously paid SDC fees shall be given credit for those fees when required to pay additional fees as specified in subsection E of this section.

**13.12.055 Structure classification.**

For the purposes of assessing fees, the following classifications of building structure shall be used:

1. Single-Family Dwelling/Duplex. To include all single or double type dwelling units including mobile homes, single-family homes, foster care homes, and duplexes.
2. Multi-Family. To include apartments, townhouses, senior housing, and any lot which contains more than two dwelling units.
3. Motels and Hotels. To include motels, hotels, and any similar living arrangement which is designed for short stays and does not accommodate cooking in the room. If a restaurant is included in the motel or hotel complex then the square footage devoted to that use is charged according to the high-use classification and not included in the motel/hotel area.
4. Fraternity/Sorority. To include fraternities, sororities, and other student housing.
5. Offices. To include commercial buildings used primarily for office type uses such as banks, utility company offices, accounting firms, insurance offices, real estate offices, clinics, medical laboratories, and doctor offices.
6. High Use Classification. To include restaurants, taverns, bars, laundromats, carwashes, cleaners, fitness/recreation centers (with showers/locker rooms), cocktail lounges, bakeries, service stations, vehicle repair shops, swimming pools, and any other use which has a similar impact on city services.
7. Retail Stores. To include department stores, lumber yard structures, grocery stores, shopping malls, video rental stores, supply stores, and any use which provides retail sales of merchandise to the general public.
8. Manufacturing and Factories. To include mills, assembly plants, cabinet shops, machine shops, and any use which manufactures or processes products.
9. Hospitals and Nursing Homes. To include hospitals, emergency care centers, and nursing homes.
10. Warehouses. To include mini-storage warehouses and any structure whose principal purpose is storage of raw or finish goods. The manufacturing or processing of goods shall not take place in any structure to be classified as a warehouse.
11. Assembly Areas. To include theaters, skating rinks, churches, stadiums, fairground structures, arenas, and fitness/recreational centers (without shower/locker rooms).

**13.12.060 Unclassified structures.**

Any type of structure or occupancy not mentioned specifically in the council adopted SDC classifications and rates resolution, or about which there is any question, shall be classified by the building official and included in the group which its usage of public facilities and occupancy most nearly resembles.

**13.12.070 Multiple use buildings.**

When a building is constructed for use by more than one classification of use, the building official may charge each use area different rates accordingly. These rates shall be that which relates to the highest permitted use for that area. If the area separators are not constructed in a fashion which is structurally substantial and permanent, the building official shall charge the higher rate usage for the entire structure or portion thereof.

**13.12.080 Change of use.**

When the occupancy or character of a structure is changed so as to require a higher charge, credit shall be given for the amount paid for the prior use. Credit shall also be given to existing structures and uses of said structures inside the city limits as of January 1, 1977 as if that structure and its use had been charged systems development charges at the time it was constructed. The credit so computed shall not exceed the calculated systems development charges. No refund shall be made on account of such credit.

**13.12.090 Structures exempt from having to acquire building permit.**

Any structure on any parcel of land that is exempt from having to acquire a building permit or who fails to secure a valid building permit when required is not thereby exempt from paying any part of the SDC fees. The owner of said structure, prior to the commencement of any construction, shall notify the city that such construction is imminent and the building official shall issue to the owner a fee-exempt building permit for such construction. Upon that occasion, or as soon as the building official learns that construction has commenced, the SDC fees shall become immediately due and payable, but the owner may apply to pay said charges by the lien and installment method referred to in Section 13.12.100.

**13.12.100 Lien and installment method of payment.**

Whenever a SDC fee of one hundred dollars or more would otherwise be due and collectible, the owner or owners of the parcel of land may apply upon forms provided by the city finance director for the voluntary imposition upon the parcel of land a lien for the full amount of the sanitary sewer connection charge and the payment of the lien in twenty semi-annual installments plus interest at twelve percent per annum. The burden of showing the identity of the owner or owners of record or of the contract purchaser or purchasers of record of the parcel shall be upon the applicant. Upon receipt of such an application the building official shall compute the amount of the systems development charge and shall report to the city finance director the amount of the sanitary sewer connection charge, the date upon which that is due, the name or names of the owner or owners of record or the purchaser or purchasers of record, and the description of the property; and upon

receiving that report, the city recorder shall docket the lien in his docket of liens; and from the time that docketing is completed the city shall have a lien upon those buildings and premises for the amount of the charge plus interest. Said liens shall be enforced in the manner provided in Chapter 223 of the Oregon Revised Statutes.

**13.12.110 Disposition of funds.**

All funds derived from the SDC fees are to be segregated by accounting practices from all other funds of the city and placed in their discreet funds labeled the sanitary sewer fund, storm drainage fund, park fund, and street fund.

**13.12.120 Sanitary sewer fund - Use of funds.**

Sanitary sewer fund money shall be used for no other purpose than extra capacity facilities which include, but are not limited to participation in sewer mains over eight inches in diameter, master plans for future development, separation of storm and sanitary sewer, pumping stations and all expansions or additions to the sewage collection and treatment system, except service laterals eight inches or less in diameter. The city, however, shall also be able to transfer up to fifty percent of the uncommitted funds existing in the account to the storm drainage fund for any single project which qualifies for funding under Section 13.12.130.

**13.12.130 Storm drainage fund - Use of funds.**

Storm drainage fund money shall be used for no other purpose than for right of way and easement acquisition, purchase, maintenance and installation of mainline conduit, curb inlets, catch basins, manholes, junction boxes, culverts and bridges, the rebuilding and replacement of dry wells, the construction of drainage ditches, swales and ways, appropriate drainage studies, aerial mapping and other related appurtenances. The city, however, shall also be able to transfer up to 50 percent of the uncommitted funds existing in the account to the sanitary sewer fund for any single project which qualified for funding under Section 13.12.120.

**13.12.140 Park fund - Use of funds.**

Park fund money shall be used for no other purpose than land acquisition, master plans, purchase, installation, and maintenance of park recreation equipment, landscaping, restroom facilities, improvements, lighting, irrigation.

**13.12.150 Street fund - Use of funds.**

Street fund money shall be used for no other purpose than extra capacity facilities which include but are not limited to participation in signalization, channelization, arterial streets, collector streets, other over width streets, that portion of master plans dealing with future expansion, street widening, storm drainage, right of way acquisition, bike and foot paths and sidewalks in areas normally paid by the city.

**13.12.160 Water fund - Use of funds.**

Water fund money shall be used for no other purpose than for right of way and easement acquisition, extra capacity facilities which include but are not limited to participation in main line construction over eight inches in diameter, fire hydrant installation in excess of normal demand, pumping and storage facilities, master planning for future expansion, and water treatment plant expansion.

**13.12.170 Fund maintenance and investment cost.**

The city finance director may remove an amount from each of the SDC funds for the cost of maintaining and investing of the funds.

**13.12.180 Appeal.**

Any person who is aggrieved by any decision of the building official required or permitted to be made under this chapter may appeal that decision to the city administrator who may affirm, modify, extend or overrule any decision made by the building official. Any person who is still further aggrieved by any decision of the city administrator may appeal that decision to the city council by filing a written request with the city recorder describing the decision of the city administrator and any other information and facts that have a bearing on the matter. In determining the appeal, the council shall determine whether the city administrator's decision is correct and may affirm, modify, extend or overrule that decision.

**13.12.190 Exemptions.**

- A. Accessory buildings for single-family residential units shall be exempt from paying SDC fees.
- B. All structures existing within the city on January 1, 1977 (except when new structures are created) shall be exempt from paying SDC fees. Fees shall be charged on new additions or change in use of these existing structures. Fees shall be based upon only the newly added square footage in the case of additions. For a change in use, the fee will be based upon the difference in fees charged for the new classification and the fee charged to the classification for the use that existed on January 1, 1977.
- C. All existing and future structures which contain no plumbing fixtures shall be exempt from paying any sanitary sewer SDC; provided however, that when structures are permitted by state building codes to have sanitary facilities located in adjacent buildings, then those structures shall be assessed the sanitary sewer SDC as if the structure contained plumbing fixtures. Structures accessed to already existing structures which contain plumbing fixtures shall not be exempt from paying the sanitary sewer SDC.
- D. All temporary structures shall be exempt from paying SDC fees.
- E. Warehouses constructed for use solely for the purpose of storing goods, wares, or merchandise shall be exempt from the sanitary sewer and parks SDC fees for that portion of the building area which exceeds five thousand square



feet. If the use of the building changes fees shall be payable when the structure becomes reoccupied.

- F. Any property on which a structure has been destroyed by fire, or other natural causes or demolished, shall be credited with an amount of SDC fees equal to the square footage of the structure and the classification of the use in effect prior to its removal. This credit shall be applied to any SDC fees which become due and payable for a new structure on the property for a period of five years from the date of final inspection on the demolition permit. In no case shall applicant be eligible for a refund.
- G. The city shall keep a map depicting the city limits as they were January 1, 1977. All structures existing as of that date shall be exempt from paying SDC fees equivalent to the square footage and the classification of use at that time.
- H. The city council, at their discretion, may waive part or all of the SDC fee in exchange for the following: park land and/or improvements, developer paying facility oversizing cost, or paying the cost of a facility or improvement that would normally be eligible for SDC participation. The amount waived shall be of equal value to the SDC eligible portion of the facility installed.

**13.12.200 Provisions review required.**

- A. This chapter, and all amendments thereto, shall be reviewed at city council's request by a ten member committee appointed by the Mayor and made up of the following:
  - 1. Three City Councilmen or Councilmen elect;
  - 2. One representative of lending institute;
  - 3. Three representatives of the building industry;
  - 4. One member of Planning Commission;
  - 5. Two members at large.
- B. The committee shall examine all aspects of the ordinance which include, but are not limited to rates, all SDC capital reserve fund expenditures, and fee collection system. They shall make their recommendations to the city council.

**13.12.210 Severability.**

Should any portion of this chapter be held to be invalid or unenforceable, it shall not affect the validity of the chapter as a whole or any other portion thereof.

**13.12.220 Violation - Penalty.**

If the owner does not pay the applicable SDC fees or does not apply for voluntary imposition of lien within thirty days of the date due, the city shall mail to the owner or reputed owner of the premises a notice of the amount of SDC charges which are due. The notice shall state, and the city shall have the authority to do so, that, if the charges are not paid within ten days of the date of the notice, a lien will be placed upon the premises in the amount of the SDC charges due plus the sum of one hundred dollars as a penalty. If the SDC charges are not then paid within ten days of the date of mailing said notice, and regardless of whether a lien is placed upon the premises, the city shall have the right to collect said sums in any manner provided by law in a court of competent jurisdiction.