

<p>A BILL FOR AN ORDINANCE ADDING CHAPTER 13.25 TO THE CITY OF LEBANON MUNICIPAL CODE ESTABLISHING A STORMWATER DRAINAGE UTILITY AND STORMWATER DRAINAGE UTILITY FEE</p>	<p>)))))</p>	<p>ORDINANCE BILL NO. 14 For 2010</p> <p>ORDINANCE NO. 2797</p>
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WHEREAS, the City of Lebanon provides a valuable public service by providing storm drainage facilities for the collection and disposal of storm water discharge from private properties and public rights-of-way within the City; and

WHEREAS, having considered various options and plans for equitable financing of the operation, maintenance, improvements and regulatory compliance of the stormwater drainage system; and

WHEREAS, the City of Lebanon Council has directed that information be gathered on how the City could go about developing a “Stormwater Drainage Utility” that would provide funding for the stormwater drainage system; and

WHEREAS, the City Council finds it necessary to establish an Ordinance establishing an official “Storm Drainage Utility”;

NOW, THEREFORE, the people of the City of Lebanon do hereby ordain as follows:

Chapter 13.25

STORM DRAINAGE UTILITY

Sections:

- 13.25.010 Findings.**
- 13.25.020 Definitions.**
- 13.25.030 Storm drainage policy.**
- 13.25.040 City responsibility.**
- 13.25.050 Private responsibility.**
- 13.25.060 Establishment of a storm drainage utility.**
- 13.25.070 Establishment of a storm drainage utility fee.**
- 13.25.080 Initiation of billing.**
- 13.25.090 Storm drainage utility fee–Dedicated**
- 13.25.100 Enforcement.**
- 13.25.110 Exemptions.**
- 13.25.120 Discount for the elderly.**
- 13.25.130 Administrative regulations.**

13.25.010 Findings.

- A. The City provides a valuable public service by providing storm drainage facilities for the collection and disposal of storm water discharged from properties and public right-of-ways within the City and properties within the Urban Growth Boundary. The storm

drainage facilities constitute a public utility owned and operated by the City. The utility exists for the benefit of any person within the City who wants to have the public storm drainage facilities available for the diversion, collection and/or disposal of storm drainage and other runoff water from the person's property and represents a municipal service in a developed urban environment which is essential to the public health, safety and welfare.

- B. Persons who use or contribute to the public storm drainage facilities ought to be charged fees that reflect the cost of the management, maintenance, extension and construction of the public storm drainage facility as a public utility in the City. Persons ought not be compelled to use this utility, nor to pay monthly utility fees, if the utility is not to be used by the person responsible. Persons who undertake the installation of runoff control facilities on their property that reduce or eliminate the discharge of storm water into public storm drainage facilities ought to be given credit, in proportion to the degree of reduction, against storm drainage utility fees that would otherwise be due.
- C. Accordingly, the structure of the storm drainage utility is intended to be a fee for service and not a charge against property. Although this structure is intended to constitute a service fee, even if it is viewed as a fee against property or against the person responsible, as a direct consequence of ownership of that property, the utility's fee structure should allow the person responsible to have the ability to control the amount of the fee. Similarly, the utility fee structure should reflect the actual cost of providing the service and not impose fees on persons not receiving a service. The actual costs may include all costs the utility might incur were it in private ownership.
- D. Persons using water from the City potable water facilities use substantial amounts of water for irrigating lawns and gardens, washing structures, sidewalks, driveways and parking lots, and for other activities which result in the discharge of runoff into the public storm drainage facilities. These uses of water demonstrate a substantial relationship between persons' use of these water facilities and their use of the public storm drainage facilities.

13.25.020 Definitions.

Except where the context otherwise requires, the definitions contained in this section shall govern the construction of this chapter.

- A. "Commercial or industrial unit" shall be defined as any building or facility used other than as a single-family dwelling unit or as a duplex.
- B. "Development" shall mean any constructed change to improved or unimproved property including, but not limited to, buildings or other structures, private storm drainage facilities, mining, dredging, filling, grading, paving, excavation or drilling operations.
- C. "Director" shall mean the Director of Engineering/City Engineer or the person designated by the Director.
- D. "Duplex" shall be as defined as a single building which contains two single-family units.

- E. "Equivalent residential unit", or (ERU), also referred to as "Single family unit" or (SFU) shall mean an area which is estimated to place approximately equal demand on the city's public storm drainage facilities as a single-family unit. One (1) ERU shall be equal to 3,200 square feet of impervious surface.
- F. "Impervious surface" means any surface area which either prevents or retards saturation of water into the land surface and causes water to run off the land surface in greater quantities or at an increased rate of flow from that present under natural conditions pre-existent to development. Common impervious surfaces include, but are not limited to, rooftops, concrete or asphalt sidewalks, walkways, patio areas, driveways, parking lots or storage areas and gravel, oil, macadam or other surfaces which similarly impact the natural saturation or runoff patterns which existed prior to development.
- G. "Improved property" shall mean any area which has been altered such that the runoff from the site is greater than that which could historically have been expected. Such a condition shall be determined by the Director. "Improved property" does not include public ways under the jurisdiction of the city, county, state or federal government.
- H. "Master plan" shall mean the current Storm Drainage Master Plan adopted by the Lebanon City Council including facility planning amendments.
- I. "Manufactured home park" shall be as defined in LMC 16.32.20.
- J. Multiple-family unit (MFU) means a building or facility under unified ownership and control and consisting of more than two dwelling units with each such unit consisting of one or more rooms with bathroom and kitchen facilities designed for occupancy by one family.
- K. "Open drainage-way" shall mean a natural or constructed path, ditch or channel which has the specific function of transmitting natural stream water or storm water from a point of higher elevation to a point of lower elevation.
- L. "Person responsible" shall mean the owner, agent, occupant, lessee, tenant, contract purchaser or other person having possession or control of property or the supervision of an improvement on the property or who is named on the utility billing account.
- M. "Runoff Control" shall mean any measure approved by the Director that reduces storm water runoff from land surfaces on which development exists.
- N. "Storm drainage facilities" shall mean any structure(s) or configuration of the ground that is used or by its location becomes a place where storm water flows or is accumulated including, but not limited to, pipes, sewers, curbs, gutters, manholes, catch basins, ponds, open drainageways and their appurtenances.
- O. "Storm water" shall mean water from precipitation, surface or subterranean water from any source, drainage and non-septic wastewater.
- P. "Storm drainage service" means the collecting of storm water discharged from property on which development exists and its deposit directly or indirectly into public storm drainage facilities.

13.25.030 Storm drainage policy.

- A. Pursuant to the general laws of the state of Oregon and the powers granted in the Charter of the city, the Council declares its intention to acquire, own, manage, construct, equip, operate and maintain within the city limits, and outside the city limits when consistent with the council's adopted policies or intergovernmental agreements, open drainageways, underground storm drains, equipment and appurtenances necessary, useful, or convenient for public storm drainage facilities. The Council also declares its intention to require persons responsible to construct, reconstruct, maintain and extend storm drainage facilities.
- B. The improvement of both public and private storm drainage facilities through or adjacent to a new development shall be the responsibility of the developer. The improvements shall comply with all applicable City ordinances, policies, standards and Master Plan.
- C. No portion of this ordinance or statement or subsequent Council interpretation or policies shall relieve the person responsible of assessments levied against their property for public facility improvement projects.
- D. It is the policy of the City to participate in improvements and/or new construction of storm drainage facilities when authorized by the Director. To be considered for approval by the Director, a storm drainage facility must:
 - 1. be public; and
 - 2. be a major benefit to the community; and
 - 3. be located in or on a City property, City right-of-way or City easement; and
 - 4. if a piped system, be a design equivalent to, or larger than, a 12 inch diameter circular pipe; and
 - 5. be identified as a project in the Master Plan; or
 - 6. be a rehabilitation and/or replacement of existing public storm drainage facilities; or
 - 7. new construction

13.25.040 City responsibility.

The City shall manage and maintain public storm drainage facilities located on City property, City right-of-way and City easements. Public storm drainage facilities that may be managed by the City include, but are not limited to:

- A. Open drainage-ways when on City property, City right-of-way or City easement;
- B. A piped drainage system and related appurtenances which has been designed and constructed expressly for use by the general public and accepted by the Director;
- C. Roadside drainage ditches along unimproved City streets;

- D. Flood control facilities (levees, dikes, overflow channels, detention basins, retention basins, dams, pump stations, groundwater recharging basins, etc.) that have been designed and constructed expressly for use by the general public and accepted by the City.

13.25.050 Private responsibility.

- A. Storm drainage facilities not to be maintained by the City include, but are not limited to:
 - 1. Storm drainage facilities not located on City property, City right-of-way, or City easement;
 - 2. Private parking lot storm drainages;
 - 3. Roof, footing, and area drainages;
 - 4. Drainages not designed and constructed for use by the general public;
 - 5. Drainage swales which collect storm water from a basin less than 100 acres that are not located on City property, right-of-way or easement;
 - 6. Access drive culverts;
 - 7. Those portions of streams, drainageways, ditches, swales, culverts and similar facilities located on privately owned land;
 - 8. Retention and detention systems on privately owned land.
- B. Any person responsible for a facility defined in subsection "A" of this section shall maintain it so as to prevent flooding or damage to other property not owned or controlled by the person responsible and to prevent injury to any person on property not owned or controlled by the person responsible.
- C. The failure of any person responsible to comply with the obligation stated in subsection "A" or "B" of this section is a violation, subjecting the offender to the general penalty provisions of this code.
- D. The conditions on private property which may result in situations proscribed by subsection "B" of this section are declared to be a danger to public health and safety and therefore are a nuisance, to be abated as provided in LMC 8.08.

13.25.060 Establishment of a storm drainage utility.

- A Storm Drainage Utility is created for the purpose of providing funds for the management, maintenance, extension and construction of public storm drainage facilities within the City. Council finds, determines and declares the necessity of providing for the management, maintenance, extension and construction of City storm drainage facilities for its inhabitants.

13.25.070 Establishment of a storm drainage utility fee.

- A. Except as the fees may be reduced under subsection "B" of this section, the obligation to pay storm drainage fees arises when a property owner uses storm drainage services. It is presumed storm drainage services are used whenever water runs off a subject property. The person who owns the property served by the public storm drainage facility shall be ultimately responsible for payment of all fees/charges prescribed in this ordinance for that property notwithstanding the fact that the property may be occupied by a tenant or other occupant who may be required by the owner to pay said charges.
- B. A storm drainage utility fee shall be established by resolution of the Council for commercial or industrial units and equivalent residential units.
 - 1. Such fee shall be established in amounts which will provide sufficient funds to properly manage and maintain public storm drainage facilities.
 - 2. Such fee may be used for the construction of new storm drainage facilities or for the extension of existing storm drainage facilities.
 - 3. Council may from time to time by resolution, change the fees based upon revised estimates of the cost of properly managing, maintaining, extending and constructing public storm drainage facilities.
 - 4. Credit will be allowed for runoff control measures. Upon application a person responsible may seek a reduction of the monthly charge for storm drainage service. Upon payment of an application fee set by council resolution and submission of appropriate evidence, the Director shall consider the application. The applicant must show to the Directors' satisfaction the amount of permanent reduction to the amount of impervious surface for the property. When approved by the Director, storm drainage utility fees may be reduced for a property where approved runoff control measures have been taken. A fee reduction shall be on a straight line basis with conditions existing on the date of the passage of this ordinance, being considered as starting or initial conditions. Any reduction given shall continue until the property is further developed. Upon further development of the property another application may be made by a person responsible. If the person responsible establishes, to the satisfaction of the Director, that all runoff from a property is disposed of without utilizing public storm drainage facilities either directly or indirectly, there will be a reduction of the fees to a maximum deduction of seventy-five percent (75%) of the applicable fee. Any applicant aggrieved by the Director's decision may appeal to the City Manager by filing with the manager a written request for review no later than 10 days after receiving the city public works director's decision. The City Manager's decision shall be final.
 - 5. Residentially zoned property containing one single family unit shall be considered to be furnished service at one (1) equivalent residential unit (ERU).
 - 6. Properties not used for single family dwelling purposes (i.e. multifamily properties such as duplex and/or tri-plex, commercial properties, industrial properties, schools, churches, government, etc.) shall be considered to be furnished service at 16.27 equivalent residential units (ERU).

13.25.080 Initiation of billing.

Request for water or sewer service will automatically initiate appropriate billing for storm drainage services as established in this chapter. If development of a parcel does not require initiating water or sewer service, the creation of an impervious surface from which storm water may be discharged into public drainage facilities shall initiate the obligation to pay the fees and charges established in this chapter.

13.25.090 Storm drainage utility fee - Dedicated.

All fees collected for the purposes specified in this chapter shall be paid into a storm drainage utility fund and accounted for by dedicated line items. Such revenues shall be used for the purposes of the management, maintenance, extension and construction of public storm drainage facilities.

13.25.100 Enforcement.

Any fee due which is not paid when due may be recovered in an action at law by the City. In addition to any other remedies or penalties provided by this or any other City ordinance, failure of any person responsible to pay fees promptly when due shall subject the person responsible to discontinuance of any utility services provided by the City and the City Manager is empowered and directed to enforce this provision against such delinquent users. The employees of the City shall, at all reasonable times, have access to any improved property served by the City for inspection, repair, or the enforcement of the provisions of this chapter.

13.25.110 Exemptions.

The Council may, by resolution, exempt any class of user when the Council determines that the public interest deems it necessary or that the contribution to storm drainage facility use by the class to be insignificant.

13.25.120 Discount for low income senior citizens and disabled.

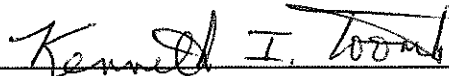
Senior and disabled citizens who qualify for the State of Oregon Low Income Energy Assistance Program will be entitled to a discount of 10% for residential service. To be eligible, applicants must present a copy of the State of Oregon approved income verification form to the Finance Department. Duration of eligibility is for 12 months from the date the application is approved and must be resubmitted annually. Discounts will begin for the billing received on or about the first of the month following presentation of the form at the Finance Department.

13.25.130 Administrative regulations.

The City Manager may adopt such rules and regulations as are necessary for the administration of the duties required by this chapter and for the public health, safety and welfare. The city recorder is hereby authorized, upon first receiving the concurrence of the city attorney, to administratively correct any references contained in this chapter or elsewhere in the Lebanon Municipal Code to sections that have been added, amended, or renumbered in this chapter.

Passed by the Lebanon City Council by a vote of 6 in favor and 0 against and approved by the Mayor on this 12th day of May, 2010.

CITY COUNCIL OF LEBANON, OREGON


Kenneth I. Toomb, Mayor
Bob Elliott, Council President

ATTEST:


Linda Kaser, City Clerk/Recorder