

**A BILL FOR AN ORDINANCE AMENDING
CHAPTER 13.25 TO THE CITY OF LEBANON
MUNICIPAL CODE CONCERNING THE CITY'S
STORMWATER DRAINAGE UTILITY AND
STORMWATER DRAINAGE UTILITY FEE AND
DECLARING AN EMERGENCY**

) **ORDINANCE BILL NO. 27**
) **For 2010**
) **ORDINANCE NO. 2810**
)
)

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:

Section 1. Chapter 13.25 of the Lebanon Municipal Code, Storm Drainage Utility, is hereby amended to read 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 citizens within the City to have 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 benefitting from the public storm drainage facilities should 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. All tax lots within the City limits shall be charged a stormwater drainage fee.
- C. Accordingly, the structure of the storm drainage utility is intended to be a fee for service and not a charge against property. Similarly, the utility fee structure should reflect the actual cost of providing the service to all taxable lots within the City limits. The actual costs may include all costs the utility might incur were it in private ownership.

13.25.020 Definitions.

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

- A. "Developed Tax Lot" shall mean any constructed change or improvement to a tax lot such as a structure, building, driveway, fencing, parking spaces, pavement, or site grading.
- B. "Director" shall mean the General Manager of Utility Services/City Engineer or the person designated by the Director.
- C. "Master plan" shall mean the current Storm Drainage Master Plan adopted by the Lebanon City Council including facility planning amendments.
- D. "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.
- E. "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.
- F. "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.

- G. "Storm water" shall mean water from precipitation, surface or subterranean water from any source, drainage and non-septic wastewater.
- H. "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. The person who owns the property served by the public storm drainage facility shall be 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 tax lots within the City limits.
 - 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.

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. Tax lots within the City limits not receiving water or sewer service will be included in the City's billing systems and will be billed for storm drainage utility service.

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.

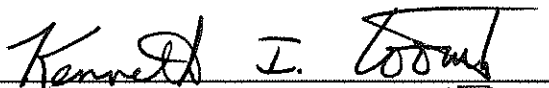
The City Manager may adopt such rules and regulations as are necessary for the administration of the duties required by this chapter and for the public health, safety and welfare. The city recorder is hereby authorized, upon first receiving the concurrence of the city attorney, to administratively correct 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.

Section 2:

In as much as maintenance of the Stormwater Drainage Utility is in the best interest of the peace and health of the City, an emergency is declared to exist and this ordinance shall become effective immediately upon its passage.

Passed by the Council by a vote of 4 for and 2 against and approved by the Mayor this 8th day of December, 2010.

CITY COUNCIL OF LEBANON, OREGON


Kenneth I. Toomb, Mayor
Bob Elliott, Council President

Attested:


Linda Kaser, City Clerk