

**AGENDA
LEBANON CITY COUNCIL
APRIL 15, 2020**

7. PUBLIC HEARING ITEMS:

**7.B – ORDINANCE #2020-05 TO AMEND CITY CODE CHAPTER 68,
FEES, TO IMPLEMENT A “WATER DEVELOPMENT FEE”**

A public hearing for the purpose of receiving public input and taking action to amend City Code Chapter 68, Fees, Article I, Water Investment Fee, to update and clarify language and to implement a “Water Development Fee.”

The City Council scheduled this public hearing at their April 1, 2020 regular meeting. The public hearing was properly noticed in the *Valley News* on April 3 in accordance with City Code and State Law.

BACKGROUND

The City enacted a Water Investment Fee (WIF) in 1981 for the purposes of expanding the municipal water distribution system and the development of new sources of water. The fee was imposed on all new customers or existing customers who were increasing their water service. The fee was based upon meter size and had a base fee for multifamily dwelling units. The fund has a balance of \$542,000.

The primary goal in 2020 and for the foreseeable future is to maintain, repair or renovate the existing system. The City does not have any present plans to expand the distribution system by the use of public funds. The City does need to explore additional water source options as currently, we do not have a secondary source from where to draw water were it needed.

As currently established, WIF funds cannot be used to maintain, repair or renovate the existing water distribution system. To alleviate the burden of cost on existing rate payers, City Administration is recommending the establishment of a Water Development Fee (WDF). Imposition of a WDF will shift more of the cost of water system maintenance, repair, and renovation from existing water users to new users or existing users that choose to expand their usage. New users would bear more of the burden of the cost as they would be investing in a system that present users are currently paying for.

The proposed WDF is derived from the present value of the system after depreciation is calculated and is based on the estimated gallons of water used per day for a particular use. The WIF would be changed from a calculation based upon meter size to an estimated gallons per day calculation.

ACTION

If the Council decides to move forward, the following motion is offered for consideration:

MOVED, that the Lebanon City Council hereby adopts Ordinance #2020-05 to amend City Code Chapter 68, Fees, Article I, Water Investment Fee, to update and clarify language and to implement a “Water Development Fee.”

Included in this Section:

1. Ordinance #2020-05
2. Notice of Public Hearing as Published in the April 3 and April 7, 2020 Editions of the *Valley News*

Available but not included in this section:

1. April 1, 2020 City Council Agenda Packet:

[2020-04-01 Item 9.E - ORD 2020-05 AMEND CH 68 WATER FEES.Pdf](#)

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**CITY OF LEBANON
ORDINANCE #2020-05**

AN ORDINANCE TO AMEND the Code of the City of Lebanon, Chapter 68, Fees, by deleting and replacing in its entirety Article I, Water Investment Fee

BE IT ORDAINED, by the City Council of the City of Lebanon, as follows:

Section 1

The Code of the City of Lebanon is hereby amended by deleting Article I, Water Investment Fee (§ 68-1 through § 68-9) in its entirety and replacing it with the following:

§ 68-1 Title.

The title of this subsection of the code is "City of Lebanon Water Investment Fee and Water Development Fee."

§ 68-2 Statement of authority.

This article is enacted pursuant to the authority contained within RSA 31:39, RSA 44:2, RSA 35, RSA 38 and the provisions of the Lebanon City Charter §§ C419:16, C419:23, C419:57 and C419:58.

§ 68-3 Legislative purpose.

- A. It is regarded as inequitable to finance future capital improvements to the municipal water system solely through water user rates. Major capital improvements to a municipal water source, distribution and treatment system are most frequently required in order to service present and future customers, and it appears unfair to require present users to finance this future development, except on some equitable basis. Persons and organizations responsible for development within the City (e.g. developers) are in the best position to allocate costs applicable to the development to the persons and organizations requiring the future services.
- B. Studies done to date by the City of Lebanon identify projects needed to upgrade and reinforce the existing water system in order to best meet existing service requirements and to accommodate system expansion. It is the purpose of this subsection to establish a system of fees for the following purposes:
 - 1. A capacity charge [hereinafter a Water Investment Fee (WIF)] to recover the costs of developing new water sources and expanding the water system to serve new customers directly from those customers.

2. A development fee [hereinafter a Water Development Fee (WDF)] to recover the costs of maintaining the system to serve existing and new customers directly from those customers
- C. By imposing the charges set forth in this subsection, the costs of maintenance and expansion will be distributed more equitably than if they were to be recovered through the water user rates. This is because the charges set forth in this article allow the investment made by existing customers in core facilities on behalf of future customers, and the higher capital costs of serving new customers to be recognized.

§ 68-4 Imposition of Water Investment Fee.

- A. A water investment fee (WIF) is hereby imposed on all future customers of the Water Department and on all existing customers who seek to enlarge existing water services. (Notwithstanding the foregoing, this article shall not apply to the City, itself, in its role as a developer.) No person or organization shall be legally entitled to connect to the City water system or to enlarge an existing water service until the water investment fee imposed by this section is paid. This section is not in derogation of, but is in addition to, all other fees which may be required by the City of Lebanon under any other applicable section of the City Code. All WIF's imposed by this article shall be determined by an equivalent sewer unit of 210 gallons per day (10,000 cf per year) or as otherwise defined in City Code Chapter 136, Sewer Service, §136-6 Definitions, Sewer Unit.
- B. WIF's for connecting to or enlarging a service to the City water system are as follows:

Water Investment Fee	Equivalent Sewer Unit	Cost per ESU
Single Family House	1.000	\$70
1 Bedroom Unit, 60 gpd	0.286	\$306
2 Bedroom Unit, 90 gpd	0.429	\$209
3 Bedroom Unit, 120 gpd	0.571	\$111
Commercial/Industrial	Based on the projected number of ESUs	\$70

- C. With respect to persons or organizations seeking to enlarge an existing water service
1. The water investment fee imposed shall be the difference between the current water investment fee and the water investment fee that would have been imposed if a water investment fee had been assessed on the average actual usage for the previous five years.
 2. The water development fee imposed shall be the difference between the current water development fee and the water development fee that would have been imposed if a water development fee had been assessed on the average actual usage for the previous five years. The Director of Public Works may take other factors into account when determining the valuation of the water system

- D. Replacement connections necessitated by normal maintenance or wear and tear shall not be regarded as new connections, and no water investment fee shall be due as a result of these replacements.

§ 68-5 Imposition of Water Development Fee.

- A. A Water Development Fee (WDF) is hereby imposed on all future customers of the City water system and on all existing customers who seek to enlarge existing water services. This requirement shall apply to customers both within the City and outside the boundaries of the City. (Notwithstanding the foregoing, this article shall not apply to the City, itself, in its role as a developer.) No person or organization shall be legally entitled to connect to the City water system or to enlarge an existing water service until the water development fee imposed by this section is paid. This section is not in derogation of, but is in addition to, all other fees which may be required by the City of Lebanon under any other applicable section of the City Code.
- B. All WDF's imposed by this subsection shall be determined by the estimated gallons per day of sewer use by a sewer user. All WDF's imposed by this article shall be determined by an equivalent sewer unit of 210 gallons per day (10,000 cf per year) or as otherwise defined in City Code Chapter 136, Sewer Service, §136-6 Definitions, Sewer Unit.
- C. Water Development Fee:

Water Development Fee	Equivalent Sewer Unit	Cost per ESU
Single Family House	1.000	\$680
1 Bedroom Unit, 60 gpd	0.286	\$194
2 Bedroom Unit, 90 gpd	0.429	\$291
3 Bedroom Unit, 120 gpd	0.571	\$389
Commercial/Industrial	Based on the projected number of ESUs	\$680

- D. With respect to persons or organizations seeking to enlarge an existing water service, the water development charge imposed shall be the difference between the current water development charge and the water development charge that would have been imposed if a water development charge had been assessed on the average actual usage for the previous five years. The Director of Public Works may take other factors into account when determining the valuation of the water system.

§ 68-6 Subsequent changes in Water Investment Fee and Water Development Fee.

- A. The water investment fee and water development fee imposed by this article shall be received and updated on a biannual basis. Subsequent updates of both fees shall be determined generally in accordance with the procedure set forth in Underwood

Engineers User Rate Assistance Report dated August 26, 2014 and updated by the Department of Public Works in 2020.

- B. It shall be the responsibility of the City Council to establish the rates for both fees. The Council shall set rates following a biannual report and recommendation of the City Manager, and only after a public hearing has been held by the Council to receive input on the City Manager's report and recommendation. The City Manager's report shall include a five-year projection of capital expenditures for projects to be funded by moneys generated under the fees and shall further include a proposed fee rate schedule. In addition to the foregoing, the City Manager's biannual report shall include a projected schedule of improvements for the City's water system for the succeeding 10 years.
- C. Following the report and recommendation of the City Manager, the City Council shall review the report and shall act to accept or modify the City Manager's proposed schedule of fees. The City Council shall act on the City Manager's recommendation within two months after the filing of the Manager's report with the Council.

§ 68-7 Water Service Extensions.

- A. All extensions of the City water system which are made or requested to be made prior to planned extensions as indicated in the report entitled "Water Investment Fee Policy" done by Camp, Dresser & McKee, Inc., on August 7, 1980, or in the reports and recommendations made on a biannual basis by the City Manager as may be adjusted by the City Council, shall be deemed a premature extension of the City water system. Extensions of the City water system may be approved by the City Council or City Manager under the procedure described in City Code Chapter 182, Water Service. Where City Council or City Manager approval is given for a water system extension based upon a petition by a developer, the costs of extending the system shall be borne by the developer and shall not be separately assessed to the property owners fronting on the improvement.
- B. In the event an extension is approved, and the Department of Public Works determines that the required line size is in excess of the standard minimum eight-inch size, then the City shall absorb the difference in material costs for the pipe and appurtenances only as necessary to oversize the line. The cost of construction of the extension, except for the oversizing costs as defined herein, shall be borne by the property owners through special assessment or by the developer to whom the petition was granted as noted above.

§ 68-8 Unpaid charges constitute a lien.

If any person shall unlawfully connect to the City water system without payment of the water investment fee or water development fee set forth in this subsection, all unpaid water investment fee and water development fee charges shall constitute a lien upon the property which is connected to the system. The lien pursuant to this article shall be placed

on the property in accordance with the provisions of RSA 38:22. Interest on these liens shall be calculated in accordance with the provisions of RSA 76:13.

§ 68-9 Abatement.

The City Council may abate, for good cause shown, any water investment fee or water development fee assessed on any person or organization pursuant to this subsection. Such abatements may be made on such terms and conditions as the City Council shall deem equitable under the circumstances.

Section 2. Severability

The provisions of this ordinance are declared to be severable, and if any section, subsection, sentence, clause or part thereof is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses or part of this ordinance.

Section 3. Effective Date

This Ordinance shall become effective upon passage.

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April 7, 2020



**LEBANON CITY COUNCIL
NOTICE OF PUBLIC HEARINGS
Wednesday, April 15, 2020 – 7:00pm
REMOTE VIA MICROSOFT TEAMS
[LebanonNH.gov/Live](https://lebanonnh.gov/Live)**

The Lebanon City Council will hold public hearings on April 15, 2020, beginning at 7:00pm for the following:

- A. COMMUNITY REVITALIZATION TAX RELIEF APPLICATION: DANA SEGUIN, 4 SOUTH PARK STREET –** Public Hearing for the purpose of receiving public input and taking action on a request by Dana Seguin for re-approval of his April 19, 2017 approval for tax relief under the provisions of the Community Revitalization Tax Relief Incentive Program (NH RSA 79-E).
- B. ORDINANCE #2020-05 –** Public Hearing for the purpose of receiving public input and taking action to amend City Code Chapter 68, Fees, Article I, Water Investment Fee, to update and clarify language and to implement a Water Development Fee.
- C. AMEND CAPITAL BUDGET TO INCLUDE SPENCER STREET RECONSTRUCTION PROJECT & APPROPRIATE \$100,000 FOR DESIGN ENGINEERING –** Public Hearing for the purpose of receiving public input and taking action to amend the 2020 Capital Budget in include a project for the reconstruction of Spencer Street; and to appropriate \$100,000 (One Hundred Thousand Dollars) for design engineering for the project. Appropriation will be funded by a transfer of funds from the existing 20 Spencer Street Cleanup Project to the newly created Spencer Street Reconstruction Project.

The April 15, 2020 City Council agenda package will be available on the City's website (www.lebanonnh.gov) beginning April 10, 2020. Hard copies of agenda materials may be requested through the City Manager's Office by calling 603-448-4220 or via email to manager@lebanonnh.gov.

Due to the current situation with the COVID-19 Pandemic, the City of Lebanon is offering its meetings via Microsoft Teams. Members of the public are encouraged to attend and can do so by going to [LebanonNH.gov/Live](https://lebanonnh.gov/Live) where you will find instructions on how to enter the meeting. Participants in the meeting will be able to ask questions through a private chat area or via phone to a number provided as part of the meeting details. Your questions and comments will be received by a moderator who will pass them into the public view in the order they are presented. Meetings will be closed captioned for the hearing impaired. Please visit [LebanonNH.gov/Live](https://lebanonnh.gov/Live) for full details.

NE-323187

The foregoing notice was published in the *Valley News*, a newspaper of general circulation in the City of Lebanon, in accordance with the Code of the City of Lebanon on Friday, April 3, Tuesday, April 7, 2020.

Sandra L. Allard

Sandra L. Allard, City Clerk