

**CITY OF LEBANON  
ORDINANCE #2024-07**

AN ORDINANCE TO AMEND the Code of the City of Lebanon, Chapter 136, Sewer Service, Article II, Sewer Use Requirements and Article XIV, Sewer Connections, Extensions and Expanded Sewer Use Allocations.

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 to revise Chapter 136, Sewer Service, Article II, Sewer Use Requirements, Section 136-9, Building Sewers and Connections to City Sewer as follows:

§ 136-9 Building sewers and connections to city sewer.

A. No person(s) shall uncover, use, alter or disturb any public sewer or appurtenance thereof without first obtaining written permission from the Director of Public Works.

B. No person(s) shall make any connections with or opening into any public sewer or appurtenance thereof without first obtaining a sewer connection permit from the Director of Public Works.

C. There shall be two classes of sewer connection permits:

- (1) For residential and commercial services, the owner(s) or their agent shall make application for a sewer connection permit at least 30 days prior to planned sewer connection and in accordance with the provisions of Article XIV of this chapter.
- (2) For an establishment discharging industrial wastes, the owner(s) or their agent shall make application for a sewer connection permit at least 60 days prior to planned sewer connection and in accordance with the provisions of Article IV of this chapter.

A permit and inspection fee in accordance with the provisions of Code of the City of Lebanon, Chapter 68, Fees, shall be paid to the City at the time the application is filed.

D. A separate and independent building sewer shall be provided for every building except where one building stands at the rear of another on an interior lot where no private sewer is available or where the rear building cannot be connected to the public sewer system through an adjoining alley, court, yard, or driveway. In such cases, the front building sewer may be extended to the rear building and the whole considered as one building sewer however, the City does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.

E. Existing building sewers may be used in connection with new buildings only when they are found by the Director of Public Works or their designee to meet all requirements of this chapter. Any required examinations or tests of the existing building sewer to determine its adequacy shall be at the expense of the owner/applicant.

F. The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the City of Lebanon Sewer Construction Standards. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society for Testing and Materials (ASTM) and Water Environmental Federation (WEF) Manual of Practice No. FD-5 shall apply.

G. During installation of a new sanitary sewer main, the City may construct the service connections for existing buildings from the main to the curb or the property line or the edge of a right-of-way. Construction of the building sewer, including connection to the sewer main through the provided service connection, shall be the responsibility of the owner of the improved property to be connected. Such owner shall indemnify and save harmless the City, its officers and agents from all loss or damage that may result, directly or indirectly, due to the construction of a building sewer on owner's premises or its connection to the service connection. The owner shall thereafter be obligated to pay all costs and expenses of operation, repair, and maintenance, and of reconstruction, if needed, of the building sewer and service connection. When it is deemed in the City's best interest, the City Manager may authorize the construction of service connections to the foundations of existing buildings at City expense. The owner shall thereafter be obligated to pay all costs and expenses of operation, repair, and maintenance, and of reconstruction, if needed, of the building sewer and service connection. The owner shall obtain an excavation permit (see subsection P below) and comply with all imposed conditions prior to any excavation of the City highway to achieve the aforementioned sewer connection.

H. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sewage conveyed by such building drain shall be lifted by an approved means and discharged to the public sewer at the owner's expense.

I. No person(s) shall connect roof downspouts, interior or exterior foundation drains, sump pumps, areaway drains or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

J. No person shall obstruct the free flow of air through any building sewer connection.

K. The connection of the building sewer into the public sewer shall conform to the requirements of the City of Lebanon Sewer Construction Standards and other applicable rules and regulations of the city, or the procedures set forth in appropriate specifications

of the ASTM and the WEF Manual of Practice No. FD-5. All such connections shall be made gas-tight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the Director of Public Works or their designee before installation.

L. The applicant for the sewer connection permit shall notify the Director of Public Works when the building sewer is ready for inspection and connection to the public sewer. Such notice shall be provided not less than 48 hours in advance of the time any connection is to be made to any public sewer. The connection and testing shall be made under the supervision of the Director of Public Works or their designee. This requirement shall also apply to repairs or alterations to building connections, drains or pipes thereto.

M. Suitable provisions shall be made at the point of connection for testing, for which responsibility shall rest with the holder of the sewer connection permit.

N. No building sewer shall be covered until it has been inspected and approved by the Director of Public Works or their designee. If any part of the building sewer is covered before being inspected and approved, it shall be uncovered for inspection at the cost and expense of the owner of the improved property to be connected to the public sewer. No connection to the public sewer shall be operational until the building sewer has been found to be in compliance with all applicable rules and regulations and all applicable permits are approved and in place.

O. The Department of Public Works shall maintain a record of all connections made to public sewers under this chapter and all repairs and alterations made to those building connections. All staff involved with the sewer connection process shall assist the Director of Public Works in securing data needed to create and maintain such records.

P. All excavations in the city right-of-way, if any, for building sewer installation shall require a permit in accordance with City Code Chapter 152, Article II, Excavations. All open excavated areas shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city at the expense of the owner, and in full accordance with applicable provisions of City Code Chapter 152.

Q. Proposed new discharges from residential or commercial sources involving loadings exceeding 50 population equivalents (5,000 gallons per day), or any new industrial discharge or alteration in either flow or waste characteristics of greater than 20% of existing industrial wastes that are being discharged into the Lebanon Treatment Works must be approved by the NHDES. Such approvals shall be obtained in accordance with § 136-39, Reports of changed conditions, of this chapter.

## Section 2

The Code of the City of Lebanon is hereby amended to revise Chapter 136, Sewer Service, Table of Contents, and Article IX, Sewerage Treatment Plant Connection Fee; Discontinuance of Service and User Charges to rename Article as follows:

Article IX Sewer Use Permit Application Fee; Discontinuance of Service and User Charges

## Section 3

The Code of the City of Lebanon is hereby amended to revise Chapter 136, Sewer Service, Article XIV, Sewer Connections, Extensions and Expanded Sewer Use Allocations, Section 136-105, Sewer Use Permit and Notice of Allocation as follows:

§ 136-105 Sewer use permit and notice of allocation.

A. The procedural mechanism for assuring compliance with § 136-102 and § 136-103 above shall be an application for, and issuance of, a sewer use permit, which shall be separate from, and in addition to, any other land use approval required by law or ordinance for the underlying development. No person shall develop or change the use of land within the City, or take any other action, which results in increased use of the City's sewer system without a sewer use permit.

B. Application and fee. The fee for a sewer use permit application shall be in an amount set forth in Code of the City of Lebanon, Chapter 68, Fees, and shall be payable at the time the application is filed. Applications shall be made through the Department of Public Works on a form as approved by the City Manager or their designee and shall include information about the development proposal which is detailed enough to enable an accurate capacity analysis, as set forth below. Failure to provide required information shall be considered sufficient cause to refuse to grant a permit. Only after all information necessary to issue a notice of allocation has been submitted and the application is deemed complete for that purpose by the Department of Public Works shall a capacity analysis be completed.

C. Capacity analysis. In determining whether there is adequate capacity within the City's sewer system to accept flows from a proposed development as set forth in an application, the City or City's consultant shall utilize the sewer system model developed and provided by Weston and Sampson Engineers as a result of the City's Capacity, Management, Operations, and Maintenance (CMOM) initiative along with any revisions thereto. The determination of the remaining unallocated capacity for any element of the sewer collection system shall be based upon the estimated capacity as it exists at the time of the sewer use permit application, reduced by any outstanding unutilized allocations, as described in Subsection E, below. The applicant shall provide the necessary funds, as determined by the Department of Public Works, to pay for the cost of the capacity

analysis. The funds provided shall be kept by the City in escrow and drawn upon by the City to pay for the analysis. Any funds remaining after all of the costs of the analysis are completed shall be returned to the applicant.

D. Notice of permitted allocation. Once a capacity analysis has been completed and a determination has been made that adequate sewer capacity is available to serve a proposed development in accordance with the standards of this article, the City Manager shall issue a notice of allocation to the applicant. The effect of the notice of allocation shall be to allow the applicant to reserve the permitted capacity for the applicant's use while other land use permits required for the particular development are applied for and reviewed. Sewer allocation will be reserved for a period not to exceed 2 years from the date of notice of allocation in order to allow time for the applicant to apply for and receive other required land use approvals.

E. Effect of notice of allocation on later applications. Once a notice of permitted allocation has been issued, the amount of sewer capacity reserved under that notice shall be subtracted from the total remaining unallocated capacity of each element of the sewer system impacted by that application, for purposes of applying the 95% limitation in § 136-102 and the 50% limitation in § 136-103 to subsequent applications. If the notice of allocation or the corresponding sewer use permit expires under the terms of this article, the capacities affected will be added again to the unallocated remaining capacity calculation; provided, however, that no such readjustment shall be made after the underlying development permit (subdivision, site plan, or other type of approval) becomes final and vested; from that point forward, the sewer impacts of that permit will instead be accounted for through the City's ongoing monitoring of its sewer collection system.

F. If Planning Board or other approval is obtained within two years of the date of notice of allocation, and if the applicant has received approval from the Director of Public Works for any sewer construction plans required for the project, the Director of Public Works shall notify the applicant that their permit is pending upon payment of all outstanding applicable fees. All applicable fees must be paid in full within 90 days of receipt of notice of pending permit or permit application and all associated capacity reservations will be null and void. If applicable fees are paid within the 90 days of receipt of notice of pending permit, a formal sewer use permit will be issued. The sewer use permit shall run concurrently and congruently with its associated Planning Board or other approval. Should the Planning Board or other approval lapse or be revoked for any reason, the sewer use permit will become null and void.

G. If Planning Board approval, or, if none is required for the development, then a building permit or other required approval, is not obtained within two years, or if any such approval is denied, and such denial becomes final, then the notice of allocation shall expire, and the associated sewer capacity will be returned to the system for use by others.

H. In the case of conflicting requests for unallocated remaining capacity, allocation shall be on a first-come, first-serve basis, based on the date of the City's receipt of a complete sewer use permit application with all required information. The City Manager is authorized

to maintain, upon some fair basis, a waiting list of persons whose applications are denied due to lack of capacity, to enable such applicants, at their option, to retain higher priority for allocation of additional capacity, should it become available at a later time.

I. The issuance of a notice of allocation or sewer use permit shall not be deemed to create any kind of vested or property right in the City-owned sewer system. The privileges conferred by such permits may not be assigned, traded, exchanged among properties, or applied to a materially different development without the approval of the City Manager acting on a revised application submitted under this section.

#### Section 4

The Code of the City of Lebanon is hereby amended to revise Chapter 136, Sewer Service, Article XIV, Sewer Connections, Extensions and Expanded Sewer Use Allocations, Section 136-106, Connections as follows:

§ 136-106 Connections.

All new connections to the existing City sewer system shall require the approval of the Director of Public Works or their designee, by way of the issuance of a sewer connection permit in accordance with §136-9.

#### Section 5

The Code of the City of Lebanon is hereby amended to revise Chapter 136, Sewer Service, Article XIV, Sewer Connections, Extensions and Expanded Sewer Use Allocations, Section 136-108 Extension of Sewer Mains as follows:

Add a new Subsection C to the end of Section 136-108:

C. In connection with any approved expansion or modification of sewer infrastructure under this §136-108, the City Manager shall have authority to accept on behalf of the City rights-of-way and other interests in property as described in Subsections (B)(1)(d) and (B)(4) above. All such interests shall comply with the requirements of those Subsections. To the extent a sewer project authorized under this §136-108 renders obsolete any existing rights-of-way or other property interests held by the City for sewer purposes, the City Manager shall have the authority on behalf of the City to release such interests upon written certification from the City Engineer, or such other person as designated by the Public Works Director, that the property interest is no longer needed by the City for sewer purposes and is not reasonably anticipated to be needed by the City for that purpose in the foreseeable future.

#### Section 6

The Code of the City of Lebanon is hereby amended to revise Chapter 136, Sewer Service, Article XV, Sewer Development Charge, Section 136-121 Imposition of Sewer Development Charges as follows:

§ 136-121 Imposition of Sewer Development Charges.

A. An SDC is hereby imposed on all future customers of the City sewer system and on all existing customers who seek to enlarge existing sewer 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, nor shall it apply to other governmental entities who seek to establish or enlarge sewer services for governmental use as that term is defined in RSA 674:54.) No person or organization shall be legally entitled to connect to the City sewer system or to enlarge an existing sewer service until the sewer development charge 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 codes or ordinances.

B. All SDCs imposed by this article shall be determined by the estimated gallons per day of sewer use of a sewer user. The SDC is based on one sewer unit. See the Code of the City of Lebanon, Chapter 68, Fees, regarding the calculation of amounts.

C. With respect to persons or organizations seeking to enlarge an existing sewer service or increase existing sewer flows, the sewer development charge imposed shall be the difference between the current permitted sewer units for the same connection, or if none, the sewer units that would have been generated if projected flows had been assessed for the prior use. The Director of Public Works may take other factors into account when determining the valuation of the sewer system.

Section 7. 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 8. Effective Date

This Ordinance shall become effective upon passage.