

ORDINANCE NO.04-769-O

AN ORDINANCE ESTABLISHING A STORM DRAIN UTILITY AND AMENDING SECTION 1 AND 2 REPEALING SECTIONS 3, 4, 5, 6, 7, 8, 9, 10 AND 11 OF ORDINANCE NO. 99-677-O ENACTED JANUARY 5, 2000.

THE CITY OF TALENT ORDAINS AS FOLLOWS:

Section 1. Purpose. There is hereby created a storm drain utility for the purpose of providing funds for the maintenance and expansion of the storm drain system, including but not limited to local streets and related facilities under the jurisdiction of the City of Talent. The Council hereby finds, determines and declares the necessity of providing operation, maintenance and minor improvement of the city's storm drains and related assets and facilities operating within the city as a comprehensive storm drain utility. Operation, maintenance and expansion includes such activities as are necessary in order that storm drains and related facilities may be properly operated and maintained to safeguard the health, safety, and welfare of the city and its inhabitants and visitors.

The Council further finds that natural streams and wetlands are an integral part of the storm drain system

Operation and maintenance of the storm drain utility shall be in accordance with the Intergovernmental Agreement with Rogue Valley Sewer Service (RVS) dated April 26, 2004, which Agreement is hereby confirmed. The City Manager is authorized and directed to establish and operate such funds and systems as are required by or useful to the operation of said Agreement.

[The following activities are to be funded by the storm drain utility: costs of administering the storm drain utility, sweeping gutters, cleaning out catch basins, cleaning ditches, repairing and installing curbs or curbcuts, street sweeping, repairing and installing curb and gutter, replacing and installing signs, acquisition of land or easements for the storm drain system, stormwater management including emergency preparedness and flood hazard reduction, miscellaneous repairs, plus related operations of the Public Works Department on city storm drains and connections with city storm drains.]

[A portion of storm drain utility funds may be used for establishment, maintenance and restoration of wetlands within public streets or off of street right-of-way on other publicly-owned land or easements, provided the facilities are accepted by the city or a public entity recognized by the city for operations and maintenance.]

Section 2. Establishment of Storm Drain Utility Fee; Revisions.

Consistent with the Intergovernmental Agreement with Rogue Valley Sewer Service fees will be set by the board of the RVS. However, per section 4.C.3 of that agreement, City reserves the right and power to charge and collect service chares

and system development charges at a higher rate than set by Rogue Valley Sewer Services.

[A. The City Council hereby establishes, and may by ordinance amend, a storm drain utility fee to be paid by the responsible party (whether owners or occupants). Payments due for each improved premises shall be based upon traffic generation and developed use of the premises. The amount of the monthly storm drain utility fee shall be [insert amount per trip or EDU]. This fee is deemed reasonable and is necessary to pay for the operation and maintenance of the storm drain system within the city. The storm drain utility fee shall not be charged during any period when the premises is not receiving city water service, or is proven to be vacant and not generating traffic.

B. Collection of the fee for previously unimproved premises shall commence from the day of issuance of a building permit for said premises.

C. The City Council may, from time to time, by resolution, change the storm drain utility fee based upon revised estimates of the costs of maintaining storm drains, revised priorities for local improvements that would reduce long-term maintenance costs, revised categories of use, revised storm runoff information or other relevant factors.

D. The storm drain utility fee imposed by the City of Talent is classified as not subject to the limits of Section 11b of Article XI of the Oregon Constitution.

Section 3. Storm drain Utility Fee -- Dedicated.

A. All storm drain utility fees collected by the city shall be paid into the Storm drain Utility Fund. Such revenues shall be used for the purposes described in Section 1 of this ordinance. Storm drain utility funds may be used to provide that portion of a capacity-increasing street improvement project within existing right-of-way that represents the cost of a pavement overlay as well as portions of the project for which system development charges have not been collected. It shall not be necessary that the expenditures from the Fund specifically relate to any particular use from which the storm drain utility fees were collected.

B. To the extent that the fees collected are insufficient to properly maintain local storm drain, the cost of the same may be paid from such other city funds as may be determined by the City Council, but the City Council may order reimbursement to such fund as additional fees are thereafter collected. Storm drain utility fees shall not be imposed in amounts greater than that which is necessary, in the judgment of the City Council, to provide sufficient funds to properly maintain and improve storm drains and related assets.

Section 4. City to Maintain Local Storm Drains; Exclusions.

The city shall maintain all accepted local storm drains within city-owned land, city rights-of-way, and city easements. The city may maintain other accepted local storm drains along county roads or state highways within or adjacent to the city. Local storm drains to be

Repeals 3-11

maintained exclude private streets and storm drains or any other facilities not yet accepted by the city for maintenance.

Section 5. Billing and Collection for Storm Drain Utility Fee.

A. The responsible party for any improved premises within the City of Talent shall pay a storm drain utility fee according to rates set forth in this Code. Unless another responsible party has agreed in writing to pay and a copy of the writing is filed with the city, the person(s) paying the city's water bill shall pay the storm drain utility fees. In the event the premises does not receive city water service then the person(s) paying the city's water bill shall pay the storm drain utility fees. If there is neither city water nor any sewer service to the improved premises, the storm drain utility fees shall be paid by the person(s) having the right to occupy the premises.

B. Storm drain utility fees shall be billed monthly by the City Administrator and shall become due and payable in accordance with the rules and regulations pertaining to the collection of water service fees. If there is neither city water nor any sewer service to the improved premises, an annual bill shall be rendered and shall become due and payable within 90 days of issuance. Monthly storm drain utility fees for new development shall commence from the day of issuance of a building permit for said premises. Areas annexed to the City of Talent or under contract to annex shall become subject to the storm drain utility fee on the date of annexation or the date of the annexation contract, whichever comes first.

C. The City Administrator shall deposit all such fees so collected into the Storm drain Utility Fund to be separately kept and used for the purposes provided herein. Partial payments on utility bills shall be allocated on a pro rata basis to the balances due on the various charges on the bill. The customer shall not be allowed to specify a different allocation.

Section 6. Enforcement.

Any charge due hereunder which is not paid when due may be recovered from the responsible party in an action at law by the city. In addition to any other remedies or penalties provided by this or any other ordinance of the city, failure of any user of city utilities within the city to pay said charges promptly when due shall subject such user to discontinuance of any utility services provided by the city. The City Administrator is hereby 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 premises served by the city for inspection, repair, and enforcement of the provisions of this ordinance.

Section 7. Administration; Review; Appeals.

A. The City Administrator shall be responsible for administration of this ordinance in regards to utility billings, accounting for revenues collected, and general administrative

tasks. In addition, the City Administrator shall be responsible for determining fee amounts in accordance with usage, developing street maintenance and improvement programs, measuring areas, performing traffic counts, and establishing standards for the operation and maintenance of storm drains and related facilities to the end that the storm drain system shall be maintained and that the city's investment therein kept available for the benefit of the public.

B. The City shall make findings of fact based on relevant information, shall make a determination based upon such findings, and if found appropriate, modify such fee or determination accordingly. Such determination by the City shall be considered a final order. The City Administrator also make findings about any use not specifically listed in Exhibit "A", since all improved premises for which a building permit is required are subject to a review and determination of fee amount.

Section 8. Notice of Decision.

Every decision or determination of the City Administrator or City Council shall be in writing, and notice thereof shall be mailed or served upon the petitioner within a reasonable time from the date of such action. Service by certified mail, return receipt requested, shall be conclusive evidence of service for the purpose of this ordinance.

Section 9. Definitions.

A. "Responsible party" shall mean the person or persons who by usage, occupancy or contractual arrangement are responsible to pay the utility bill for an improved premises.

B. "Improved premises" shall mean structures, landscaping, paved areas, and any area which has been altered such that runoff from the site is greater than that which could have historically been expected.

Section 10. Methodology.

A. The City Administrator may, upon appropriate findings, recalculate a nonresidential utility fee based on a demonstration of a permanent change in storm drain system use.

B. Any adjustment shall take effect in the month following completion of the traffic count and be reported in writing to the City Council. Results of traffic counts shall not be appealable to the City Council.

Section 11. Effective date

This ordinance shall be effective on November 5, 2004.]

AYES: 4 NAYS: 0 ADOPTED ABSENT: 2

Betty Wheeler October 6, 2004
Betty Wheeler, City Record cords