

ORDINANCE NO. 728

AN ORDINANCE RELATING TO THE PAYMENT OF COSTS FOR PROPOSED ANNEXATIONS AND BOUNDARY CHANGES; PROVIDING FOR THE FIXING AND REQUIRING THE PAYMENT OF ANNEXATION FEES; ESTABLISHING PRIORITIES; AND REPEALING ORDINANCES NO.579 AND 616.

WHEREAS, there will from time to time be requests by property owners outside the Canby city limits for annexation to the City for the purpose of obtaining water, sewer, public safety and other City services; and

WHEREAS, the people of the City of Canby have provided for and maintained parks, public safety, library, swimming pool, and other general fund facilities; and

WHEREAS, these general fund facilities have for the most part been provided and maintained by taxes paid by the residents of the City and persons outside of the City have not contributed or paid any taxes or other money for the construction or maintenance of such facilities; and

WHEREAS, the City finds it necessary to correct this inequity by establishing an application fee for costs involved in the annexation process and an annexation fee to provide a vested interest in these tax supported general fund services and facilities; now, therefore,

THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1. Definition of terms.

(a) "Application" includes a petition or any other form of initiatory action for an annexation or boundary change.

(b) "Boundary change" means a major or minor boundary change.

(c) "Boundary change procedure" means the procedure defined and required by ORS 199.460 to 199.510 inclusive.

(d) "Boundary commission" or "commission" refers to the local boundary commission created by ORS 199.425.

(e) "City Council" or "Council" refers to the City Council of the City of Canby, Clackamas County, Oregon.

Section 2. Administrative cost to be paid. Any applicant for a boundary change for the City of Canby, Clackamas County, Oregon, including proposed annexations, shall assume and pay or cause to be paid, the City's actual costs of the boundary change procedure, including, though not exclusively, the costs of title reports, maps, aerial photos, engineering studies and surveys, if required by the City, filing fees assessed by the boundary commission, publication costs for required notices, attorney fees and legal expenses, and the City's costs of any appeal from any final order of the boundary commission.

Section 3. Boundary Change Deposit Fee. Each applicant for a boundary change shall pay to the City Recorder with the filing of the application a minimum fee of \$250 and any additional amount which the City Council may determine reasonably necessary to fully pay all such costs. Upon the conclusion of the matter and prior to the entry of the final order by the boundary commission, the balance, if any, of such costs shall be paid in full without interest.

Section 4. Payment required notwithstanding boundary change action. The City's costs for boundary change shall be assumed and paid by the applicant, and notwithstanding the fact that the ap-

plication is withdrawn by the applicant, denied by the council, the boundary commission, or a court on appeals.

Section 5. Exclusions. The provisions of this ordinance relating to the deposit for costs, as required by Section 3, shall not apply to boundary changes initiated by the boundary commission, the Canby City Planning Commission, or on the Council's own motion.

Section 6. Annexation Fee Formula. Except as otherwise provided in the following Section 7, any territory which is annexed to the City after January 1, 1983, shall be subject to an annexation fee based on a formula determined by the City Council according to the square footage and set by resolution of the City Council.

Section 7. Fee set by Resolution. That part of any territory annexed to the City which is used or planned for use as a public or private road, street, alley or thoroughfare shall not be subject to any annexation fee. The Council, in its sole discretion, and for any reasons which it deems valid, may also grant exemption or deferment from assessment of the annexation fee for any other part or parcel of the territory to be annexed. The Council shall determine and describe by resolution the territory to be annexed, the part thereof which shall be subject to the annexation fee, any part or parcel which is exempt or deferred from the fee charge, the reasons for such exemption or deferment and the total annexation fee as finally determined in accordance with the aforesaid rate. All annexation fees established by this ordinance and determined as to the total amount by resolution of the Council shall be due and payable upon the occurrence of any of the following events: application for subdivision or any development; application for any land use

permit or zone change; or sale of the property or any portion thereof.

Section 8. Applicant's agreement for lien upon annexed property. The application for a boundary change shall include a statement that the applicant acknowledges and consents to the annexation fee that is ultimately determined by resolution of the Council and that it is to become a lien upon the property that is described in the applicaiton. Such lien shall attach upon the occurrence of any of the following events: application for subdivision or any development; application for any land use permit or zone change; or sale of the property or any portion of it. The lien shall continue thereafter for a period of six months from the date of the first such occurrence. Within such six month period, the Council shall in order to preserve and foreclose such lien commence the appropriate suit in the Circuit Court of Clackamas County, and proceed thereafter as required for the foreclosure of liens generally, pursuant to ORS Chapter 88, and without further notice to the applicant(s) and property owner(s) or other lien holder(s) being required.

Section 9. Enforcement.

(a) The Recorder of the City may use such means of collection as may be provided by the laws of the State of Oregon or permitted by the Charter and Ordinances of the City of Canby, and including, though not exclusively, a suit to foreclose the lien as provided by Oregon Revised States Chapter 88.

(b) If a court suit or action is instituted to collect the City's adminisitrative costs, the boundary change deposit fee, or the annexation fee, or to foreclose the lien for the annexation

fee, the City shall be entitled to collect, in addition to costs and disbursements as provided by statute, such additional sums as any court, including any appellate court may adjudge reasonable as attorneys fees in such suit or action.


Section 10. Fund established. All sums of money collected for annexation fees under the provision of this ordinance shall be deposited to a specific general fund account for the development, improvement, or construction of general fund public facilities as authorized by the City Council.

Section 11. Public Service and Utility Priority. If at any time the City's ability to provide services is limited for any reason, priority for available service shall be given to developments with the earliest payment date of all annexation fees, and having the legal and financial ability to connect to existing city service facilities.

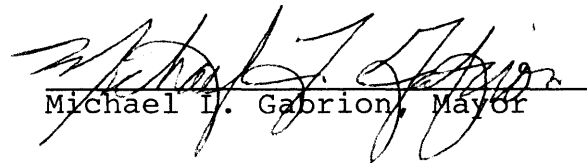
Section 12. Repeal of other ordinances. Ordinance No. 579, enacted February 19, 1974, and Ordinance No. 616, enacted March 2, 1979, and all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

SUBMITTED to the Canby City Council and read the first time at a regular meeting thereof on the 15th day of June, 1983; ordered posted in three public and conspicuous places in the City for a period of five days as authorized by the Canby City Charter; and to come up for final reading and action by the Canby City Council at a regular meeting thereof on the 6th day of July, 1983, commencing at the hour of 7:30 o'clock P.M. at the Council's regular meeting

chambers at the Canby City Hall, in Canby, Oregon.


Marilyn K. Perkett, Deputy City Recorder

Passed on second and final reading by the Canby City Council
at a regular meeting thereof on the 6th day of July, 1983, by the
following vote: YEAS 5 NAYS 1


Michael L. Gabriion, Mayor

ATTEST:


Marilyn K. Perkett, Deputy City Recorder