

AN ORDINANCE RELATING TO LOCAL )  
IMPROVEMENTS: REPEALING )  
ORDINANCE NO. 1664; AND DECLARING )  
AN EMERGENCY. )

ORDINANCE BILL NO. 16  
for 1978  
ORDINANCE NO. 1681

THE PEOPLE OF THE CITY OF LEBANON DO ORDAIN AS FOLLOWS:

SECTION 1. Short Title. This ordinance shall be known as the "L.I.D. Ordinance" of the City of Lebanon, Oregon.

SECTION 2. Definitions. The following words shall have the meanings respectively ascribed to them in this section, when used in this ordinance, excepting in those instances where the context clearly indicates a different meaning:

A. "Local improvement" means opening, laying out, widening, extending, altering, changing the grade of, constructing, reconstructing or repairing any street, alley or sidewalk; constructing, reconstructing or repairing any sewer, drain or system thereof; acquiring, establishing, or reconstructing any off-street motor vehicle parking facility; or performing any other public work including acquiring any interest in land by condemnation or otherwise for a public work for which an assessment may be made on the property specially benefitted.

B. "Owner" means the owner of the title to real property or the contract purchaser of real property, of record, as shown on the latest available complete assessment roll in the office of the County Assessor.

C. "Lot" means lot, block or parcel of land.

D. "Property benefitted" means all property specifically benefitted by the improvement, the relative extent of such benefit to be determined by any just and reasonable method of apportionment of the total cost of the improvement between the properties determined to be specially benefitted therefrom.

E. "Property description": Real property may be described by stating the subdivision according to the United States survey when coincident with the boundaries thereof, or by lots, blocks and addition names, or by reference to the book and page or microfilm number of any public record of Linn County where the description may be found, or by designation of tax lot number referring to a record kept by the County Assessor of description of real properties of the County. Any of the above descriptions is sufficient in all proceedings of assessment for a special assessment district including foreclosure and sale of delinquent assessments and in any other proceeding related to the levying, billing, collecting and enforcing special assessments when so permitted by the laws of the State of Oregon.

F. "Engineer" shall mean the City Engineer, Director of Public Works or his authorized representative.

SECTION 3. Resolution of Intent to Improve, Engineering Report. Whenever the Council determines either by petition by property owners or on its own motion to proceed to make an improvement to be paid for in whole or in part by assessing the property benefitted, the Council shall by resolution declare its intent to initiate the local improvement, shall assign a project number and title thereto and shall direct the City Engineer to prepare a survey and map of the project. The map and engineering report shall be filed with the City Recorder within 60 days after the date of the resolution of intent unless the Council by motion grants an extension of time. The engineering report shall contain:

A. The project title and number.

B. A description in general terms of the project and a description of the boundaries specially benefitted thereby and to be assessed for the improvement together with the description and nature of any interests in land to be acquired by condemnation or otherwise and the name or names of persons found by certificate from a reputable title company, or by search of the County Assessor's records to be the owner or owners of property within the boundaries of said benefitted local improvement district.

C. An estimate of the probable cost of the project; the estimate shall include legal, administrative and engineering costs attributable to the project.

D. A statement of the total assessed value, as shown by the report of said title company or by search of the County Assessor's records, of the property within the district to be specially benefitted.

E. A statement of the total of any existing unpaid City of Lebanon street, sewer, or any other improvement assessments which are liens against the property in the district.

F. A recommendation as to the feasibility of the project.

G. The method of assessment.

SECTION 4. Method of Assessing Costs Within a District. In proposing a method of assessment of the costs of the local improvement, the following shall be considered:

A. The use of any just and reasonable method determining the extent of the district boundaries consistent with the benefits derived;

B. The use of any method of apportioning the sum to be assessed as is just and reasonable among the properties determined to be specially benefitted;

C. Payment by the City of all or any part of the cost of any improvement when, in the opinion of the City Council, on account of topographical or

improvement district. This ordinance shall describe the improvement to be made and the boundary of the district. The ordinance shall also provide that the costs of the improvement which are assessed against the properties benefitted shall be charges and liens against the property. The City may enforce collection of such assessments as provided by ORS 223.505 to 223.650, or in any other manner provided by law.

In creating the local improvement by ordinance, the Council shall consider the objections and remonstrances made thereto, and the reasons stated therefor. The Council may correct, modify or revise the proposed method of assessment and shall determine the approximate amount of assessment to be charged against each lot within the district, according to the special benefits accruing thereto from the local improvement. Final assessments shall be determined upon completion of the construction.

The above ordinance shall also direct that the City Recorder cause detailed plans and specifications of the improvement to be prepared and that when appropriate, the Council shall approve said plans and specifications by motion or resolution and that thereafter the City Recorder shall properly invite bids for the construction of the improvements. All bidders shall submit the usual bid deposit or bid bonds, and the successful bidder shall furnish a faithful performance bond when required to do so by the laws of the State of Oregon and/or the specifications for the improvement project.

SECTION 7. General Procedure for Construction Improvements. It shall be the general policy of the City of Lebanon to call for bids for making local improvements and to award the bid to the lowest responsible bidder. This general policy, however, shall not prohibit the Council from providing that the City shall construct a local improvement rather than private contractors.

In the event that two or more local improvement districts are combined for advertising for bids at the same time, each local improvement district so combined shall be bid separately. In addition, as an alternate, the City Engineer may lump together the total estimated bid quantities of all the districts combined for bidding and may call for bids on the total estimated quantities involved. The Council may accept the lowest aggregate bid using total estimated bid quantities for all the districts combined for bidding, and shall allocate and compute the amount bid for the combined districts and for each separate district. The Council may, in its discretion, reject any bid submitted for the combined districts if the total of that bid exceeds the aggregate total estimated cost of each of the districts combined for bidding. The Council may reject any bid for any individual district even though the bid may comply with the requirements of this ordinance when the aggregate bid for the combined districts fails to meet the requirements of any other local improvement district combined for bidding purposes.

In the course of constructing an improvement, if the City Engineer determines that the improvement cannot be constructed in exact compliance with the plans and specifications approved by the City Council he may order one or more changes in those plans and specifications if he determines, in his reasonable discretion,

that the improvement including such change or changes will be completed substantially as approved by the Council and in the manner consistent with reasonable engineering and construction practices at an assessable cost not more than ten (10) percent greater than the assessable cost would have been if the improvement were completed exactly according to the plans and specifications approved by the City Council.

SECTION 8. Final Report, Notice of Public Hearing, Installment Applications.  
When the construction has been completed and accepted, the cost shall be determined by adding to the contract price of work the following:

- A. All costs, if any of the City work crew (force account) participation.
- B. All consulting, engineering or legal fees.
- C. All costs of right-of-way purchases or condemnation.
- D. All other applicable, necessary and proper direct costs.
- E. Five percent (5%) of total dollar amount of all of the above applicable items and the contract price for administrative and in-kind services provided by the City.

The Final Report of the above costs shall be submitted to the City Council and when the Final Report has been approved by resolution of the City Council, the engineering staff of the City of Lebanon shall prepare a proposed assessment roll ordering and describing each lot to be assessed, with the names of the owners and shall levy against those lots in a manner directed by the Council and provisions of ordinances applicable to special assessments. The proposed assessment roll shall be submitted for the approval of the City Recorder. The City Recorder may require the engineering staff to make any changes or modifications in the proposed assessment roll. When the proposed assessment roll has been approved by the City Recorder, he shall file it and refer it to the City Council for review, modification, acceptance or rejection by resolution of the Council.

When the proposed assessment roll is received for filing, the City Recorder shall publish a notice of the time and place of a public hearing in a newspaper of general circulation published in Linn County at least ten days before the public hearing. The notice shall state that at the public hearing the City Council will, at a stated time and place, consider oral and written remonstrances to the proposed assessment roll, and that written remonstrances should be filed with the City Recorder prior to the public hearing.

The City Recorder shall at least ten days before the public hearing mail a notice to each owner of property to be assessed, which notice shall be deposited in the post office in the city, postage prepaid, addressed to such owners at their last known address. If the address of the owner is unknown to the Recorder, he shall mail the notice to the owner or his agent at the address where the property to be assessed is located. The mailed notice shall

show the amount proposed to be assessed to the addressee, owner of property proposed to be assessed.

SECTION 9. Public Hearing, Ordinance Confirming Assessments, Lien Recording. The City Council shall hold a public hearing on the proposed assessment roll at the time and place stated in the notice of public hearing. The Council may continue the hearing.

After hearing the remonstrances, if any, the Council may refer the proposed assessment roll to the City Recorder for correction or adjustment or may make corrections or adjustments consistent with the standard provided in Section 4 of this ordinance and shall pass an assessment ordinance confirming the assessment roll including any corrections or adjustments providing for the assessment of the benefitted properties, and for the apportionment of the assessment to the individual lots within the local improvement district.

Immediately after the City Council has approved the assessment ordinance, the City Recorder shall enter the assessments in the City unbonded lien docket, which assessments shall be a lien and charge upon the respective lots against which they are placed. Such liens shall be first and prior to all other liens or encumbrances insofar as the laws of Oregon allow.

Upon City Council approval of all assessments the City Recorder shall mail notices to all affected property owners. Said notices shall state the approved assessment and explain that the owner has ten days from receipt of said notice to file with the City, on a form provided for the purpose, an application to pay the assessment in whole or in part on an installment basis, as provided by the Bancroft Bonding Act, ORS 223.205 to 223.300, which is hereby adopted and made a part of this ordinance. This notice shall also state that, if the assessment is not eligible under the provisions of the Bancroft Bonding Act, or if the owner of the assessed property does not apply to use the installment basis, all or part of the assessment shall be excluded from the installment payment procedure, and shall be paid in full by cash within 30 days of the date of entry in the unbonded lien docket.

The contents of the application to pay assessments on the installment basis shall be as provided by ORS 223.215.

After applications have been made by the owners of assessed property to have the assessments bonded under the Bancroft Bonding Act to provide for the installment payment procedure, the City Recorder shall make proper entry in the unbonded lien docket and transfer such assessments from the unbonded lien docket to the bond lien docket, as provided by ORS 223.230.

If there is no response from a property owner within 30 days after the notice is mailed, the City Recorder shall verify the ownership of the property with a licensed title company or by any other means and shall mail a copy of the assessment notice to the owner so identified by certified mail.

SECTION 10. Interest; Foreclosure. Interest shall be charged up to the maximum rate allowed by law per annum until paid on the principal balance remaining in the City lien docket from date of such entry, or of such entry corrected pursuant to any provision of this ordinance, except that no interest shall be charged on that portion of the assessment paid within 30 days of the passage of the assessment ordinance.

The City may proceed to foreclose or enforce any lien to which it shall be entitled pursuant to the provisions of this ordinance at any time after 60 days from the date of entry of the assessment in the unbonded lien docket, as provided by ORS 223.505 to 223.650, inclusive, or any other method provided by law.

SECTION 11. Parking Improvements. The procedure for establishing motor vehicle parking districts provided in ORS 223.805 to 223.845, shall be the same as for other improvement districts.

SECTION 12. Reassessments. The provisions of ORS 223.405 to 223.485 concerning reassessments after assessments are set aside for any reason, or when the courts refuse enforcement of such assessments, or when the City Council is in doubt as to the validity of such assessments, are adopted and made a part of this ordinance.

SECTION 13. Rebonding. The provisions of ORS 223.715 to ORS 223.750, concerning rebonding of bonded assessments which have not been fully paid, are adopted and made a part of this ordinance. The applicable interest rate for ORS 223.715 shall be 7 percent.

SECTION 14. Reinstatement. The provisions of ORS 223.755, concerning reinstatement of delinquent liens before the property affected has been sold, are adopted and made a part of this ordinance.

SECTION 15. Miscellaneous Provisions. The provisions of ORS 223.750 and ORS 223.765, concerning acceptance of home owner's loan corporations bonds and municipal bonds as payments for assessment liens, of ORS 223.770, concerning assessment of public property benefitted by improvements, and of ORS 223.880, concerning the inclusion of public roads in sidewalk improvement districts are adopted and made a part of this ordinance.

Section 16. Abandonment of Proceedings. The City Council shall have full power and authority to abandon and rescind any proceedings for improvements undertaken under this ordinance at any time. If liens have been assessed upon any property under this procedure, they may be cancelled, and any payments made thereon may be refunded to the payor, his assigns, or legal representatives.

SECTION 17. Curative Provision. No improvement assessment shall be invalid by reason of a failure to give, in any report, on the proposed assessment, in the assessment ordinance, in the lien docket or elsewhere in the proceedings, the name of the owner of any lot or other parcel of land,

physical conditions, unusual or excessive use by the general public, or other character of work involved, or when the Council otherwise believes the situation warrants; provided that proportion to be paid by the City represents a reasonable relation between the benefits derived by the property specially assessed and the benefits derived by the City as a whole.

The Council may use any other available means of financing an improvement, including for example federal or state grants, service charges, bonds or any other legal means of finance. In the event any other means of finance is used, the Council may, in its discretion, levy special assessments under this ordinance according to benefits to cover any part of the costs of the local improvement not covered by the other means.

SECTION 5. Notice, Objections, Public Hearing. Within five days after the engineering report and map have been filed, the City Recorder shall make provisions for at least 10 days notice of such improvement by two publications once a week for two successive weeks in a newspaper of general circulation within the City of Lebanon and by mailing copies of such notice by certified mail to the owners to be assessed for the costs of such improvement. The notice shall specify the time and place where the Council will hear and consider objections or remonstrances to the proposed local improvement by any parties aggrieved thereby. The notice shall state that the map and engineering report are on file in the Recorder's Office and shall state the date of that filing. The notice shall give a description of the proposed local improvement in general terms, the estimated probable cost of the proposed improvement, a description of the boundaries of the district specifically benefitted by the proposed local improvement and proposed to be assessed therefor and shall notify all interested persons to present their written remonstrances and objections, if any, to the office of the City Recorder hereafter described by 5:00 p.m. the date of the hearing. The notice shall notify interested persons that objections and remonstrances, if any, together with the map and engineering report will be considered by the City Council at the time and place stated in the notice.

The City Council shall hold the public hearing and consider the objections and remonstrances, if any, and consider the map and engineering report at the time and place specified in the notice. In the case of a street or alley improvement, if the owners of fifty-one percent (51%) of the total assessed valuation of the project and fifty-one percent (51%) of the total street frontage of the project object or remonstrate against the proposed improved, they shall defeat and prevent the local improvement and no further action shall be taken for six months.

Remonstrances and objections against any other local improvement districts will be considered, but the City Council may overrule any such remonstrance and proceed with the said improvement districts.

SECTION 6. Ordinance to Create a Local Improvement District. After the time for filing remonstrances has expired, and after the public hearing, if the local improvement district has not been defeated by a sufficient remonstrance, the Council may, by ordinance, provide for the creation of the local

or part thereof, or the name of any person having a lien upon or interest in such property, or by reason of any error, mistake, delay, omission irregularity, or other act, jurisdictional or otherwise, in any of the proceedings hereinabove specified, unless it appears that the assessment as made, insofar as it affects the person complaining, is unfair and unjust, and the City Council shall have power and authority to remedy and correct all such matters by suitable action and proceedings.

SECTION 18. Data Processing and Tax Lot Number. The City Recorder is authorized to use data processing forms and print out registers in lieu of an unbonded lien docket and a bonded lien docket provided the essential required information is recorded and maintained.

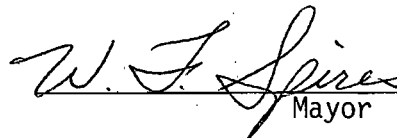
When permitted by state law, the use of the County Assessor's tax lot number may be used for descriptions in lieu of using metes and bounds to describe a parcel of land not in a subdivision.

SECTION 19. Separability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

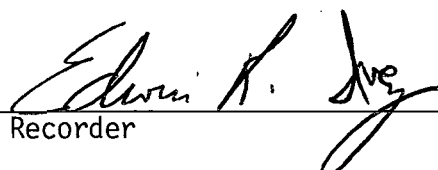
SECTION 20. Repealer. Ordinance No. 1664 is repealed. Any local improvement district commenced under a repealed ordinance shall be completed and assessed under this ordinance.

SECTION 21. Emergency Clause. It is necessary for the health, safety, comfort, and convenience of the people of the City of Lebanon that this ordinance have immediate effect. Therefore, an emergency is declared to exist, and this ordinance shall be in full force and effect upon its passage and approval.

Passed by the Council of the City of Lebanon by a vote of 6 for and 0 against this 26th day of April, 1978.

  
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Mayor

ATTEST:

  
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City Recorder