

AN ORDINANCE RELATING TO THE METHODS )  
OF CITY PARTICIPATION IN AND COST )  
RECOVERY OF THE INSTALLATION OF )  
INITIALLY OVERSIZED PUBLIC FACILITIES, )  
AND DECLARING AN EMERGENCY. )

ORDINANCE BILL NO. 20  
for 1978  
ORDINANCE NO. 1685

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

Section 1. SHORT TITLE. This ordinance shall be known as the  
"PARTICIPATION/RECOVERY 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 when the context clearly indicates a different  
meaning:

- A) "Engineer" shall mean the City Engineer, Director of Public Works  
or his authorized representative.
- B) "Owner" shall mean 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 Linn County  
Assessor.
- C) "Developer" shall mean the person, firm, corporation or other legal  
entity who, in cooperation with the owner, is legally a party to the  
installation of any public improvements serving, either directly or  
indirectly, the owner's real property involved, benefited by, and  
referenced in this ordinance.
- D) "Property Benefited" shall mean all property specifically benefited  
by the improvement, the relative extent of such benefit to be determined  
by the hereinafter stated methods or by any other just and reasonable

method of apportionment of the costs of the improvements which is approved by the City Council.

- E) "Lot" shall mean lot, block, parcel of land.
- F) "Public Improvement" shall mean the construction, reconstruction, repair, or installation of sidewalks, streets, curbs, gutters, storm sewers, drains, sanitary sewers, catch basins, ditches, traffic control signs, traffic signals, parks, greenways, parking facilities, bridges, lift stations, or any appurtenances thereto.
- G) "Improvement Agreement" shall mean a legally binding agreement as referenced in this ordinance and adopted in form by motion of the City Council which specifies all pertinent information regarding the owner's, the developer's and the City's obligations.

Section 3. INTENT. The intent of this ordinance shall be to specifically establish a means of acquiring the installation of the necessary mainline, trunkline, or arterial distribution systems within the City of Lebanon while at the same time provide a means of fairly and justly apportioning the cost of said installations among the properties benefiting from these installations.

Section 4. AGREEMENT. A subdivision, or improvement, agreement as the case may be shall be executed prior to the approval of any subdivision plat, approval of any building permits, or the start of any work within the public right-of-way or on any public facility. This agreement shall be on a standard form provided by the Department of Public Works which shall have been approved of by the City Council by motion prior to its issuance, and shall contain the following:

- A) Title. Subdivision, Street Improvement, Sanitary Sewer Improvement, etc., as applicable.

- B) Date. The date on which it was executed.
- C) Developer's Name. The person, firm's or corporation's business title and the property owner's name, if different.
- D) Property Description. The description of the property being developed.
- E) Body of Contract. A clear statement of all terms of the agreement.
- F) Signatures. The signatures, seals, titles and other pertinent identifying information.
- G) Exhibit "A". A sufficiently detailed outline of the project name, completion time, cost estimate, a listing of specific improvements, and a breakdown of the method of recovery or participation to allow enforcement of the obligations agreed to.
- H) Performance Bond. A good and sufficient bond provided by the owner and/or developer to the City in an amount equal to 105% of the estimated cost of improvements in Exhibit "A" above to insure the installation of the referenced improvements and of a form approved by the City Attorney.
- I) Additional Exhibits. If required by the Engineer, additional exhibits shall be made a part of the agreement, prior to and/or after its execution, in order to clarify pertinent information. Such exhibits may include, but not be limited to, the following:
1. Maps of adequate size, scale, and content to accomplish the specified purpose.
  2. Itemized Cost Statements in the format and of a content as specified by the Engineer.
  3. A detailed statement of the exact method of arriving at the distribution of costs, including any numerical values available.

- J) Recording. All agreements and attached exhibits shall be properly recorded at Linn County by the Engineer within thirty (30) days from the date of execution of said document.
- K) Easements and Right-of-Way. All easements and/or rights-of-way required by the Engineer as a part of the subject improvement which do not exist shall be provided by the owner and/or developer, as appropriate, on forms provided by the Engineer as a part of this agreement.

Section 5. MINIMUM SIZES OF PUBLIC IMPROVEMENTS. For the purpose of utilizing the herein stated methods and unless otherwise specified by the City of Lebanon Standard Specifications for Public Works Construction, as adopted or modified, the following shall be the minimum allowable dimensions for the specified public improvements:

- A) STREETS: 1. The flow-line to flow-line width shall be thirty-six (36) linear feet.
2. The asphalt thickness shall be three (3) inches.
3. The base rock thickness shall be ten (10) inches.
- B) SANITARY SEWERS: 1. The inside diameter of pipe shall be eight (8) inches.
2. The inside diameter of manholes shall be four (4) feet.
- C) STORM SEWERS: 1. The inside diameter of pipe shall be twelve (12) inches.
2. The inside diameter of manholes shall be four (4) feet.

- D) OTHER: Items not dealt with above shall be determined by the Engineer.
- E) INDUSTRIAL USERS: Section 13 shall establish guidelines for property classified as industrial.

Section 6. STANDARD DISTRIBUTION OF COSTS OF IMPROVEMENTS. For the purpose of utilizing the herein stated system it shall be established that the standard methods of distribution of the costs of improvements are as follows:

- A) STREETS: Each abutting property owner pays for the complete cost of one-half (1/2) the even width of the street for the entire frontage of his property plus a share of the intersections, as applicable.
- B) SANITARY SEWERS: Each abutting property owner pays for the complete cost of one-half (1/2) the mainline necessary to serve their property for the entire frontage of that benefiting property and a share of all appurtenances thereto.
- C) STORM SEWERS: Each benefiting/abutting property owners pays for the complete cost of his fractional share of the total improvement based on an "area" type calculation.
- D) OTHERS: Items not dealt with above shall be determined by the Engineer.
- E) INDUSTRIAL USERS: Section 13 shall establish guidelines for property classified as industrial.

Section 7. PARTICIPATION AND/OR RECOVERY COLLECTION, PAYMENT AND INTEREST.

The Engineer shall proceed as follows in implementing this system:

- A) Upon acceptance of the improvement, all support data shall be submitted for approval to the Engineer.
- B) Upon its approval it shall be made a part of the agreement, if applicable, and entered on a map or similar means of reference.

- C) All City participation monies shall be paid, per agreement, within thirty (30) days of the completion of item B.
- D) All monies shall be recovered in full, per agreement, from benefiting property owners upon their applying for a building permit, sewer tap, or other regulated City service applicable to public improvements or land development.
- E) All monies so collected shall be paid to the initial developer within thirty (30) days of their receipt.
- F) All recovery fees shall be subject to a simple interest rate of one (1%) per month from the date of approvals referenced in (B) above.
- G. All agreements shall be null and void after 10 years.

Section 8. ELIGIBLE COSTS. Unless otherwise directed by the motion of the City Council costs shall be eligible for inclusion into this system as follows and to the extent detailed in Sections 11 and 12:

- A) Participation:
  - 1. Mainline Materials (i.e. pipe)
  - 2. Select Backfill
  - 3. Street Cut Patches
  - 4. Road Base Rock
  - 5. Asphalt Paving
  - 6. Labor
- B. Recovery:
  - 1. Mainline Materials (i.e. pipe)
  - 2. Appurtenances
  - 3. Select Backfill
  - 4. Street Cut Patches
  - 5. Road Base Rock

6. Asphalt Paving
7. Labor
8. All other related construction costs.
9. Legal fees directly related to condemnation.
10. Other condemnation costs.
11. Related consulting engineering fees.
12. Other related indirect costs as approved by the Engineer.

Section 9. INELIGIBLE COSTS. All types of costs not specifically referred to in Section 8 above, as modified by any related Council action, shall be considered ineligible for inclusion within the appropriate part of this system, unless specifically added by direct Council action.

Section 10. SUPPORTING DATA. In all cases, the owner and/or developer shall be responsible to provide, at no cost to the City, all support data, charts, maps, reports or other information which the Engineer deems necessary to clearly apply this system. All such costs shall be eligible for recovery.

Section 11. METHOD OF PARTICIPATION. Unless otherwise directed by motion of the City Council, or as altered by application of the guidelines of Section 13, the Engineer shall draft all agreements to conform to the following guidelines in calculating City participation:

A) STREETS: The City's share shall equal:

1. 
$$\frac{(\text{Design Width of Street} - \text{Standard Street Width}) \times (\text{Itemized Cost per Foot})}{(\text{Design Street Width})}$$

x (Footage Participation)
2. 
$$\frac{(\text{Design Street Section} - \text{Standard Street Section}) \times (\text{Itemized Cost per Unit})}{(\text{Design Street Section})}$$

x (Units Participation)

- B) SANITARY SEWERS: The City may share a fractional portion of the cost of construction of mains which are required by the Engineer to be a larger size than is hydraulically required by the subject development for the purpose of providing capacity to serve other properties as follows:
1. 
$$\frac{(\text{Size of Main Installed} - \text{Size of Main Required}) \times (\text{Itemized Cost per Foot})}{(\text{Size of Main Installed})} \times (\text{Footage Participation})$$
  2. 
$$\frac{(\text{Design Trench Width} - \text{Normal Trench Width}) \times (\text{Itemized Cost per Unit})}{(\text{Design Trench Width})} \times (\text{Units Participation})$$
  3. 
$$\frac{(\text{Design Patch Width} - \text{Normal Patch Width}) \times (\text{Itemized Cost per Unit})}{(\text{Design Patch Width})} \times (\text{Units Participation})$$
  4. Twenty-five percent (25%) of eligible labor costs.
- C) STORM SEWERS: The City shall pay a fractional portion of the eligible costs of the installation of improvements which are judged to be necessary, but not easily apportioned for recovery as determined by the Engineer.
- D) OTHERS: City Council shall determine the extent of any other participation.

Section 12. METHOD OF RECOVERY. Unless otherwise directed by motion of the City Council, or as altered by application of the guidelines of Section 13, the Engineer shall draft all agreements to conform to the following guidelines in calculating recoveries:

- A) STREETS: Recovery Cost per frontage foot shall equal
- $$\frac{(\text{Total Cost} - \text{City Participation})}{(\text{Street Length Constructed} \times 2)}$$
- B) SANITARY SEWERS: Recovery Cost per frontage foot shall equal
- $$\frac{(\text{Total Cost} - \text{City Participation})}{(\text{Sewer Length Constructed} \times 2)}$$

C) STORM SEWERS: Recovery Costs per acre shall equal

$$\frac{(\text{Total Cost} - \text{City Participation})}{(\text{Acreage Served})^*}$$

\* Note: Adjustments may be added if hydraulically warranted.

D) OTHER: The method of recovery for other types of public improvements which are required shall be individually determined by the Engineer.

Section 13. INDUSTRIAL USERS. If in the opinion of the Engineer, an abutting or benefiting property places an unusually large structural or hydraulic load on any public improvement; then the Engineer shall adjust any applicable methods to more justly distribute the costs. His recommendations shall be made to the City Council for their formal approval by motion prior to implementation.

Section 14. FUNDING SOURCES FOR PARTICIPATION. The City shall use the applicable systems development or connection charge funds when there are sufficient resources available. The City shall also have the option to substitute or supplement these funds with any State, Federal or other grant monies as the City Council directs. If there is not sufficient funding available the developer shall pay the cost of all City participation.

Section 15. CITY RECOVERY OF PARTICIPATION. If the City participates in the initial installation of public improvements to serve properties which are not currently developed, then the City may upon recommendation of the City Council develop a rate which shall recover back to the City all monies initially expended to provide service to benefiting properties. Said recovery shall be established and operated under the guidelines of Section 7 and Section 12 above. All recovered monies shall return to the applicable accounts from which they were expended. No monies obtained from Grant Funds shall be recovered.

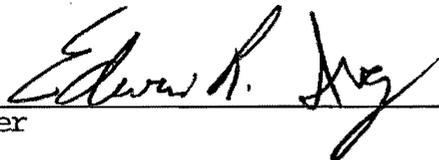
Section 16. APPEALS. All appeals in regard to the implementation of any portion of this by the Engineer shall first be made in writing to the Administrator. A further appeal may be made to the City Council and their decision shall be binding and final on all parties. Said appeal shall be made prior to the execution of the agreement and no appeal shall be considered after that date.

Section 17. 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, Oregon, by a vote of 5 for and 0 against this 24<sup>th</sup> day of MAY, 1978.

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
Recorder