

AN ORDINANCE RELATING TO THE RECOVERING) ORDINANCE BILL NO. 56
OF COSTS OF THE INSTALLATION OF PUBLIC) for 1980
SANITARY SEWERS, REPEALING ORDINANCE)
NO. 1685, AND DECLARING AN EMERGENCY.) ORDINANCE NO. 1822

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

Section 1. SHORT TITLE. This ordinance shall be known as the "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) "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.
- B) "Applicant" shall mean the person, firm, corporation, local improvement assessment districts, or other legal entity who is legally a party to the installation of any public sanitary sewer improvements.
- C) "Property Benefited" shall mean all property specifically benefited by the improvement, the relative extent of such benefit to be determined by a just and reasonable method of apportionment.

- D) "Land Area" means all surface area of any parcel, including building area, and any portion of the parcel used in conjunction with the building area, excepting any portion of the parcel within a recorded right-of-way or easement for public street or alley.
- E) "Parcel of Land" means a platted lot or any other tract of land which is occupied or may be occupied by a structure or structures or other use, including the yards and other open spaces required under the Zoning Ordinance, or reasonably attributed to an existing or proposed use.
- F) "Engineer" shall mean the City Engineer, Director of Community Development or his authorized representative.
- G) "Equivalent Assessment" shall mean a sanitary sewer service assessment which is equivalent to the average cost of providing sewer service to properties within the City of Lebanon as determined by the City.

Section 3. INTENT. The intent of this ordinance shall be to specifically establish a means of acquiring the installation of the necessary public sanitary sewer 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. EQUIVALENT ASSESSMENT - INITIATION. Upon determination that not all benefited properties along a proposed public sanitary sewer main line extension will be contributing to the

cost of the installation of said sanitary sewer, an applicant may initiate the cost recovery procedure by:

- A) Submitting to the City Engineer a completed cost recovery initiation form as provided by the City Engineer.
- B) A 8 1/2" x 14" or smaller scale drawing unless otherwise approved by the City Engineer clearly defining:
 - 1) The sanitary sewer extension, its beginning point and its ending point and all appurtenances associated with it.
 - 2) All street right-of-ways labeled with the appropriate street name.
 - 3) Any other landmarks deemed necessary to help locate this sanitary sewer within the City of Lebanon.
 - 4) Benefited properties which have contributed to the cost of the installation of the sanitary sewer, their dimensions and areas.
 - 5) Legal description of those properties if requested by the City Engineer.

The map and initiation form must be submitted to the City Engineer prior to final acceptance of the sanitary sewer improvements.

The City Engineer will cause to be kept a record of all approved cost recovery agreements.

Section 5. EQUIVALENT ASSESSMENT IMPOSED; COLLECTED.

- A) An equivalent assessment is immediately due and payable upon receipt of a request for connection to a sanitary sewer system

covered by a cost recovery agreement. If construction is commenced or connection is made to the sewer system without authorization or approval of the City, the equivalent assessment is immediately due and payable. The owner of the parcel shall pay and the City shall collect, the applicable equivalent assessment before permitting any connection to the sewer system. Whenever the full and correct equivalent assessment has not been paid and collected for any reason, the City Engineer shall report to the Council the amount of the uncollected charge, the description of the real property to which the charge is attributable, the date upon which the charge was due, and the name or names of the owner or owners of record title or the purchaser or purchasers under a recorded sales agreement of the described land. The City Council, by motion, shall then set a public hearing and shall direct the City Engineer to give notice of that hearing to each of those owners or contract purchasers, together with a copy of that Engineer's report concerning the unpaid charge, either in person or by certified mail. Upon public hearing, the Council may accept, reject or modify the Engineer's report; and if it finds that any charge is unpaid and uncollected, the Council, by motion, may direct the City Recorder to docket the unpaid and uncollected charge in his record of liens; and upon completion of the docketing, the City shall have a lien against the described land for the full amount of unpaid charge, interest, and the City's actual cost of serving notice upon the owners or contract purchasers. The lien shall be enforced in the manner provided in ORS Chapter 223.

(B) Whenever an equivalent assessment would otherwise be due and collectible, the owner or owners of the parcel of land may apply.

upon forms provided by the City Finance Director, for the voluntary imposition upon the parcel of a lien for the full amount of the equivalent assessment and the payment of that lien in 20 semi-annual installments, plus interest. The burden of showing the identity of the owner or owners of record or of the contract purchaser or purchasers of record of the parcel shall be upon the applicant. The applicant must provide a certificate from a licensed title insurance company showing the identity and amount of all other liens already of record against the property and the assessed value of the property. The City shall not permit a lien greater than the assessed value less the combined total principal balance and accrued interest on all prior liens. Upon receipt of such certificate and application, the City Finance Director shall compute the amount of the equivalent assessment and shall report to the City Recorder the amount of the equivalent assessment, the date upon which that charge is due, the name or names of the owner or owners of record or the purchaser or purchasers of record, and the description of the property; and upon receiving that report, the City Recorder shall docket the lien in his docket of liens; and from the time that docketing is completed, the City shall have a lien upon that described land for the amount of the charge and interest upon that charge at the rate of 10 per cent per annum, which interest shall be the full and only compensation to the City for its administrative costs. That lien shall be enforced in the manner provided in ORS Chapter 223.

Section 6. EQUIVALENT ASSESSMENT; RATES; REVIEW.

- A) The equivalent assessment shall be calculated at the following rate:
 - 16.4¢ per square feet of benefited land area as determined by the City Engineer.
- B) The equivalent assessment imposed shall be reviewed annually by the City Council, and the rates of charge shall be revised to reflect changes in costs of sewer line construction incurred since the preceeding review. The total assessment due shall be that which is calculated at the current assessment rate.

Section 7. EQUIVALENT ASSESSMENT; EXCEPTIONS.

- A) An equivalent assessment shall not be imposed upon land which has contributed to the cost of a public main line extension which discharges into a sewer main for which a cost recovery agreement exists.
- B) A property may defer payment of the total equivalent assessment if the effective land area to be serviced by sanitary sewer is a small fraction of the total parcel of land which could be assessed. The City Engineer shall determine the appropriate land area to be used to calculate an immediate assessment and shall cause the records to reflect that portion of the total land area already assessed and paid.

Section 8. DISTRIBUTION OF EQUIVALENT ASSESSMENTS.

- A) All monies collected as an equivalent assessment shall be paid to the current owners of the parcels of land which originally

contributed to the cost of the installation of the sanitary sewer as shown on the map accompanying the cost recovery initiation form. If there is more than one parcel of land involved, the fee will be distributed in a fair and equitable manner based upon land area.

(B) Prior to the distribution of fees to the appropriate property the City shall retain 20% of the total assessment as compensation for costs incurred administering this ordinance.

Section 9. APPEALS. All appeals in regard to implementation of any portion of this ordinance by the City Engineer shall first be made in writing to the City 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 10. REPEALER. Ordinance No. 1685 is hereby repealed.

Section 11. 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 by a vote of 5 for and 0 against, and approved by the Mayor this 12th day of November, 1980.

Michael F. Wheaton
Mayor

ATTEST:

Edward R. Juez
Recorder