

A BILL FOR AN ORDINANCE PROVIDING)
FOR SYSTEMS DEVELOPMENT CHARGES,)
REPEALING ORDINANCES 1627,1628,)
1629,1675,1676,1677,1734,1779,)
1780,1781,1782,1806 AND DECLARING)
AN EMERGENCY.)

ORDINANCE BILL NO. 34
for 1981
ORDINANCE NO. 1860

THE CITY OF LEBANON ORDAINS AS FOLLOWS:

Section 1. Purpose. After appropriate and lengthy review and study, receiving recommendations of a committee that has studied the matter, and holding a public hearing, the City Council has determined that systems development charges, (S.D.C.) are reasonable and necessary. The S.D.C. herein prescribed is designed to be of such amount as will eventually create reasonable reserves to pay the public's fair share of basic and essential service facilities as the needs arise.

Section 2. Definitions.

- (a) Applicant. A person, corporation, association or agency applying for sewer service or building permit.
- (b) City. City of Lebanon, a municipal corporation of the State of Oregon.
- (c) Commercial Building. All buildings or premises, other than a dwelling unit, used for any purpose having a sewage discharge of only segregated domestic waste and volume similar to a single family dwelling or multi-unit residential structure, but not an industrial user.
- (d) Dwelling Unit. One or more habitable rooms which are occupied or which are intended or designed to be occupied by one family with facilities for living, sleeping, cooking and eating.
- (e) Floor area. The floor area is the area (sq. ft.) included within the surrounding exterior walls of a building or portion thereof, exclusive of courts. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above. The total floor areas for buildings may be made up of one or both of the above definitions of floor area.

- (f) Industrial User. Any business, occupation or enterprise having sewage discharge which, by reason of the manufacture or industrial process involved or through services rendered, has any volume in excess of a single family residence or is of a kind or type dissimilar to that of a single family residence because of the discharge of chemicals or by products of the industrial process. The City shall determine when a user is an industrial user with the use of sampling equipment. All expenses incurred by the City in the determination of an industrial user shall be at the cost of the user's expense.

The sanitary sewer S.D.C. charge for future and existing industrial users shall be determined on an individual basis at the time it is determined that the user is an industrial user. The City Council may waive the sanitary sewer S.D.C. charge based on the dollar amount of the "industrial cost recovery" monthly cost to the user.

No portion of this ordinance shall be interpreted to waive the City's right to administer an ICR program for all existing and future industrial users connected to the City's sanitary sewer collection and treatment system.

In addition, when a user is determined by the City Engineer to be a potential industrial user, the user shall pay all costs (includes testing rate determination, administrative costs) associated with determining whether the user is an industrial user.

- (g) Plumbing Fixture. An approved receptacle or device intended to receive water, liquids or other permissible wastes, and which discharge into the customer's sewer service connection.
- (h) Single Family Dwelling. A housing unit in which a single family would normally reside and with which the ground under the unit is owned in fee simple title with the dwelling unit. If more than one dwelling unit exists on the lot then the dwellings are not considered single family dwelling units for the purposes of this ordinance.
- (i) Structure. That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

Section 3. Systems Development Charge.

(1) A systems development charge (S.D.C.) is imposed upon all assessable real property within the City except on those parcels exempt under this ordinance.

(2) The classifications and related rates for S.D.C. shall be those adopted by Resolution by the City Council. The rates shall be adjusted annually on July 1 by the increase in the construction cost index for the city nearest Lebanon as published in the Engineering News Record magazine.

(3) This ordinance, and all amendments thereto, shall be reviewed every two (2) years by a nine (9) member committee appointed by the Mayor and made up of the following:

- (3) City Councilmen or Councilmen elect;
- (1) Representative of lending institute;
- (3) Representatives of the building industry;
- (1) Member of Planning Commission;
- (1) Member at large.

The committee shall examine all aspects of the ordinance which include, but are not limited to: rates, all S.D.C. capital reserve fund expenditures and fee collection system. They shall make their recommendations to the City Council.

Section 4. Collection.

(1) The rates imposed shall be levied at the time a building permit is issued by the City. The amount shall be due when the owner and/or contractor calls for a final inspection of the structure and prior to occupancy of the structure. The fees, however, will be due in full at the time of a building permit issuance if a previously due S.D.C. fee was not received from the same applicant within 30 days of the final inspection of a previous project any where within the City's jurisdiction.

(2) Prior to issuance of the permit, the applicant shall sign a form provided by the City which contains the following minimum information:

- (a) Date of application.
- (b) Applicant's name, address and telephone number.
- (c) Description of building and premises.
- (d) Amount of charge.
- (e) Applicant's signature.

(3) When Council authorization is given to connect to the sanitary sewer system for structures outside the City limits the S.D.C. charges shall be paid in full prior to connection to the sanitary sewer system.

All structures presently connected to the sanitary sewer system and annexed into the City after January 1, 1977, shall be charged all S.D.C. fees not previously collected for the property development when either conditions 4.4(b) or 4.4(c) occur.

(4) All structures annexed into the City after January 1, 1977, shall be charged all S.D.C. fees applicable to their existing improvements:

- (a) When connection to the sanitary sewer system occurs.
- (b) When a building permit is applied for that increases floor area.
- (c) When a building permit is applied for that increases a structure's assessed value 25% or more.

(5) All structures annexed into the City that had previously paid S.D.C. fees shall be given credit for those fees when required to pay additional fees as specified in section 4.4 of this ordinance.

(6) Whenever a S.D.C. fee of \$100 or more 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 land a lien for the full amount of the sanitary sewer connection charge and the payment of the lien in 20 semi-annual installments plus interest at 12% per annum. 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. Upon receipt of such an application the Building Official shall compute the amount of the systems development charge and shall report to the City Finance Director the amount of the sanitary sewer connection charge, the date upon which that 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 those building and premises for the amount of the charge plus interest. Said liens shall be enforced in the manner provided in ORS Chapter 223.

(7) Any structure on any parcel of land that is exempt from having to acquire a building permit or who fails to secure a valid building permit when required is not thereby exempt from paying any part of the S.D.C. fees. The owner of said structure, prior to the commencement of any construction, shall notify the City that such construction is imminent and the Building Official shall issue to the owner a fee-exempt building permit for such construction. Upon that occasion, or as soon as the Building Official learns that

construction has commenced, the S.D.C. fees shall become immediately due and payable, but the owner may apply to pay said charges by the lien and installment method referred to in paragraph (6) hereinabove.

Section 5. Unclassified and Multi-use Structures.

(1) Any type of structure or occupancy not mentioned specifically in the Council adopted S.D.C. classifications and rates Resolution, or about which there is any question, shall be classified by the Building Official and included in the group which its usage of public facilities and occupancy most nearly resembles.

(2) When a building is constructed for use by more than one classification of use the Building Official may charge each use area different rates accordingly. These rates shall be that which relates to the highest permitted use for that area. If the area separators are not constructed in a fashion which is structurally substantial and permanent the Building Official shall charge the higher rate usage for the entire structure or portion thereof.

(3) When the occupancy or character of a structure is changed so as to require a higher charge, credit shall be given for the amount paid for the prior use. Credit shall also be given to existing structures and uses of said structures inside the City limits as of January 1, 1977, as if that structure and its use had

been charged systems development charges at the time it was constructed. The credit so computed shall not exceed the calculated systems development charges. No refund shall be made on account of such credit.

Section 6. Exemptions.

- (1) Accessory buildings for single family residential units.
- (2) All dwelling units existing within the city on January 1, 1977, on which alterations, additions and/or repairs are performed (except when a new dwelling unit is created) shall be exempt from paying S.D.C. fees. This exemption shall expire on December 31, 1986.
- (3) All existing and future structures which contain no plumbing fixtures shall be exempt from paying any sanitary sewer S.D.C., provided however, that when structures are permitted by state building codes to have sanitary facilities located in adjacent buildings, then those structures shall be assessed the sanitary sewer S.D.C. as if the structure contained plumbing fixtures. Structures accessed to already existing structures which contain plumbing fixtures shall not be exempt from paying the sanitary sewer S.D.C.
- (4) All temporary structures shall be exempt from paying S.D.C. fees.

- (5) Warehouses constructed for use solely for the purpose of storing goods, wares, or merchandise shall be exempt from the sanitary sewer and parks S.D.C. fees for that portion of the building area which exceeds 5,000 square feet. If the use of the building changes fees shall be payable when the structure becomes re-occupied.
- (6) Any structure which is destroyed by fire, or other natural causes or demolished, shall not be assessed S.D.C. fees when a new structure is rebuilt within two (2) years after the original structure was destroyed or demolished. The exemption will only be given for the size of the unit or facility that was on the lot. If a larger structure or facility containing more living units or more building area is constructed then the applicant shall be given credit for the previous structure with any difference due and payable to the City. In no case shall the applicant be eligible for a refund.
- (7) The City shall keep a map depicting the City limits as they were January 1, 1977. All legal buildable lots existing as of that date shall be exempt from paying S.D.C. fees equivalent to that of a single family unit for every lot built upon. If one of the above described lots is subdivided or partitioned only one of the newly created lots shall be exempt from paying the S.D.C. fees.

If a structure exists on one of the created lots, that lot shall be the one which carries the exemption. If more than one lot contains a structure the Building Official shall determine at the time of final approval of land division which lot will carry the exemption. If all lots are vacant the first lot built upon shall be exempt from paying S.D. C. fees up to that equivalent to a single family residence, except in the case of a duplex where a duplex is permitted as an outright use then the duplex shall also be fully exempt. This exemption shall expire December 31, 1986.

- (8) The City Council, at their discretion, may waive part or all of the S.D.C. fee in exchange for the following: park land and/or improvements, developer paying facility oversizing cost, or paying the cost of a facility or improvement that would normally be eligible for S.D.C. participation. The amount waived shall be of equal value to the S.D.C. eligible portion of the facility installed.

Section 7. Disposition of Collected Revenues.

(1) All funds derived from the S.D.C. fees are to be segregated by accounting practices from all other funds of the City and placed in their discreet funds labeled the sanitary sewer fund, storm drainage fund, park fund, and street fund.

- (a) Sanitary sewer fund money shall be used for no other purpose than extra capacity facilities which include,

but are not limited to participation in sewer mains over eight (8) inches in diameter, separation of storm and sanitary sewer, pumping stations and all expansions or additions to the sewage collection and treatment system, except service laterals eight (8) inches or less in diameter. The City, however, shall also be able to transfer up to fifty per cent (50%) of the uncommitted funds existing in the account to the storm drainage fund for any single project which qualifies for funding under section 7.1(b).

- (b) Storm drainage fund money shall be used for no other purpose than for right-of-way and easement acquisition, purchase, maintenance and installation of mainline conduit, curb inlets, catch basins, manholes, junction boxes, culverts and bridges, the rebuilding and replacement of dry wells, the construction of drainage ditches, swales and ways, appropriate drainage studies, aerial mapping and other related appurtenances. The City, however, shall also be able to transfer up to fifty per cent (50%) of the uncommitted funds existing in the account to the sanitary sewer fund for any single project which qualified for funding under section 7.1 (a).
- (c) Park fund money shall be used for no other purpose than land acquisition, purchase, installation, and maintenance of park recreation equipment, landscaping, restroom facilities, improvements, lighting, irrigation.

(d) Street fund money shall be used for no other purpose than extra capacity facilities which include but are not limited to participation in signalization, channelization, arterial streets, collector streets, other over width streets, street widening, storm drainage, right-of-way acquisition, bike and foot paths and sidewalks in areas normally paid by the City.

(2) The City Finance Director may remove an amount from each of the S.D.C. funds for the cost of maintaining and investing of the funds, but in no case shall the amount exceed \$250 from each account per fiscal year, or the amount of interest earned by each account in any fiscal year, whichever is less.

Section 8. Appeals. Any person who is aggrieved by any decision of the Building Official required or permitted to be made under this ordinance may appeal that decision to the City Administrator who may affirm, modify, extend or overrule any decision made by the Building Official. Any person who is still further aggrieved by any decision of the City Administrator may appeal that decision to the City Council by filing a written request with the City Recorder describing the decision of the City Administrator and any other information and facts that have a bearing on the matter. In determining the appeal, the Council shall determine whether the City Administrator's decision is correct and may affirm, modify, extend or overrule that decision.

Section 9. Severability. Should any portion of this ordinance be held to be invalid or unenforceable, it shall not affect the validity of the ordinance as a whole or any other portion thereof.

Section 10. Penalties.

(1) If the owner does not pay the applicable S.D.C. fees or does not apply for voluntary imposition of lien within thirty (30) days of the date due, the City shall mail to the owner or reputed owner of the premises a notice of the amount of S.D.C. charges which are due. The notice shall state, and the City shall have the authority to do so, that, if the charges are not paid within ten (10) days of the date of the notice, a lien will be placed upon the premises in the amount of the S.D.C. charges due plus the sum of \$100 as a penalty. If the S.D.C. charges are not then paid within ten (10) days of the date of mailing said notice, and regardless of whether a lien is placed upon the premises, the City shall have the right to collect said sums in any manner provided by law in a Court of competent jurisdiction.

Section 11. Repeal. Ordinances No. 1627, 1628, 1629, 1675, 1676, 1677, 1734, 1779, 1780, 1781, 1782, 1806 are hereby repealed.

Section 12. Emergency Clause.

Inasmuch as the provisions of this Ordinance are necessary for the immediate preservation of the peace, health and safety of the people of the City of Lebanon, an emergency is hereby declared to exist, and this Ordinance shall be in full force and effect immediately upon its passage by the Council and approval by the Mayor.

Passed by the Council by a vote of 6 for and 0
against, and approved by the Mayor this 26th day of August, 1981.

Robert Schmidt
Mayor

ATTEST:

James D. Thompson
Recorder