

AN ORDINANCE RELATING TO THE RECOVERING  
OF COSTS OF THE INSTALLATION OF PUBLIC  
FACILITIES, REPEALING ORDINANCE NO.1822,  
AND DECLARING AN EMERGENCY.

) ORDINANCE BILL NO. 5  
) for 1986  
)  
) ORDINANCE NO. 1989

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 City of Lebanon, or a person,  
firm, corporation, local improvement assessment districts,  
or other legal entity who is legally a party to the  
installation of any public facility 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) "Public Facility" shall mean any public improvement or utility including, but not limited to, streets, sanitary sewer, water, storm drainage, railroads, etc. owned by the people of the City of Lebanon.
- E) "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.
- F) "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 or other open spaces required under the Zoning Ordinance, or reasonably attributed to an existing or proposed use.
- G) "Engineer" shall mean the City Engineer, Director of Community Development or his authorized representative.
- H) "Equivalent Assessment" shall mean an assessment which is equivalent to the actual cost of the improvement including interest, as distributed by the City Engineer to benefiting properties within the City of Lebanon.

Section 3. INTENT. The intent of this ordinance shall be to specifically establish a means of acquiring the installation of the necessary public facility 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 will be contributing to the cost of the installation of said facility(s), 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" or 14" or smaller scale drawing unless otherwise approved by the City Engineer clearly defining:
  - 1) The public facility(s), 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 public facility within the City of Lebanon.
  - 4) Benefited properties which have contributed to the cost of the installation of the public facility(s), 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 public facility(s) improvements.

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

Section 5. EQUIVALENT ASSESSMENT; MANNER OF CALCULATION.

A) The equivalent assessment shall be calculated by the City Engineer in a fair and equitable manner and in a fashion using land area served, front footage improved or similar techniques or any combination of those factors generally accepted in conventional assessment methods.

B) The initial assessment shall be determined on the basis of the calculation technique discussed above and as a portion of the actual and final design and construction costs as determined by the City Engineer.

Section 6. NOTICE AND PROCEDURE.

A) The City Engineer shall prepare a preliminary report following receipt of an initiation request as discussed in Section 4. The City Engineer shall provide a copy of that preliminary report to all affected property owners. That report shall, among other things, indicate the preliminary costs associated with the project, manner of calculation and notice that the costs are pending only. Any affected owner may request a hearing before the City Council within 15 days following notice.

B) Following City acceptance of the public facility, the City Engineer shall notify all affected properties of the final costs

associated and the amount of each property's pending assessment. He shall also notify the City Recorder and provide the Recorder with a listing of property and the amount of the assessment pending against each property. Any affected owner may request a hearing before the City Council within 15 days following notice.

C) The Recorder shall docket his docket of liens with the pending assessment amount for each property.

Section 7. EQUIVALENT ASSESSMENT IMPOSED; COLLECTED.

A) An equivalent assessment is immediately due and payable as a condition of approval of a building permit on the benefitted property or upon approval of a connection to the public facility involved. The owner of the parcel shall pay, and the City shall collect, the applicable equivalent assessment before permitting any connection or issuing any building permit. 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 City is under no obligation to approve such an application however. 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 the 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. That lien shall be enforced in the manner provided in ORS Chapter 223.

Section 8. EQUIVALENT ASSESSMENT; EXCEPTIONS.

A) An equivalent assessment shall not be imposed upon land which has contributed to the cost of an extension of a similar public improvement which serves the same purpose as the public facility 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 the public facility 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 9. 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 public facility as shown on the map accompanying the cost recovery initiation form, or the City of Lebanon if the City paid for the facility installation. 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. The City shall not be obligated to distribute fees until such fees have been fully paid by the benefitting property.

Any monies due a property owner as a result of this Ordinance will be applied to any debt by that owner owed to the City of Lebanon at the time distribution is made. If monies are so distributed, a statement will be provided to the owner indicating how monies were distributed. This section/paragraph will be retroactive and applicable to all previous cost recovery projects.

Section 10. 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 11. SEGREGATION OF ASSESSMENTS. A property owner may request a segregation of assessments pending against the property as a result of this Cost Recovery Ordinance. Such segregation will be considered in accordance with Chapter 12.04 of the Lebanon Municipal Code.

Section 12. REPEALER. Ordinance No. 1822 is hereby repealed.

Section 13. 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 6 for and 0 against, and approved by the Mayor this 23rd day of April, 1986.



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Mayor

ATTEST:



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City Administrator