

ORDINANCE NUMBER 1625

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON AMENDING CHAPTER 13.04 OF THE MILWAUKIE MUNICIPAL CODE FOR DEPOSITS ON TEMPORARY WATER METERS.

WHEREAS, the State of Oregon Uniform Building Code specifically deleted attachment of a "performance bond" to construction of single family residences, and

WHEREAS, in 1981 the City did attach a \$500 deposit to the temporary water meter for new construction, which deposit was retained by the City if Occupancy Permit or Final Inspection was not requested or obtained;

NOW, THEREFORE, the City of Milwaukie does ordain as follows:

Section 1. Chapter 13.04 of the Milwaukie Municipal Code is hereby amended by deleting sections .060.E. and .060.F., and adding the following:

E. The temporary meter & water service is for building or construction only. If the temporary meter & water service is converted to the permanent meter & water service by any person other than authorized City Public Works Department personnel, applicant will forfeit the deposit required in Section B and can be subject to cancellation of business license and penalties as described in Section 13.04.180.

Read the first time on April 7, 1987, and moved to second reading by unanimous vote of the City Council.

Read the second time and adopted by the City Council on April 7, 1987.

Signed by the Mayor on April 7, 1987.

ATTEST:

Roger Hall
Roger Hall, Mayor

Jerri Widner
Jerri Widner, Finance Director

Approved as to form:

Greg Eades
Greg Eades, City Attorney

3/20/87cjl

CURRENT MILWAUKIE MUNICIPAL CODE

13.04.060

Temporary Water Service

A. Water for construction and other temporary purposes will be supplied upon the written application of the owner, lessee or agent, or the contractor. Such temporary service shall be metered. Water rates will be charged in accordance with rates established by the city council. A temporary service can be either a permanent water service (Section 13.04.020) or a flow meter supplied by the City and attached to a fire hydrant.

B. A fee as determined by resolution of the city council will be required with the application. Upon request for removal or meeting requirements of subsection E. the fee will be refunded to the applicant as set forth by resolution of the city council. The permit for a temporary meter and service will be for a period of ninety days from the date of application. The permit can be extended by the city with written request from the applicant and approval of the city.

C. Where water is allowed to be taken for the building, construction or any other purpose, the applicant will be liable for the charges, and water may be shut off from the premises until the payment is received.

D. If no city water service is available, the owner or his agent may apply to the city for a temporary service from the nearest city main for the purpose of providing building or construction water. Such service may not be used as a permanent service for the premises supplied unless so approved in writing by the director.

DELETE THIS SECTION

E. The temporary meter is for building or construction only. If the building is occupied prior to issuance of occupancy permit by the city in accordance with the Uniform Building Code, the fee for temporary water service will be forfeited by applicant.

F. If the temporary water service is converted to the permanent water service without and occupancy permit as described in subsection E. of this section or by any person other than authorized city public works department personnel, the applicant will forfeit the deposit required in subsection B. of this section, and can be subject to cancellation of business license and penalties as described in Section 13.04.180 (Ord.1496§2,1981; Ord.1418§3,1978)

ADD NEW SECTION E.

E. The temporary meter and/or water service is for building or construction only. If the temporary meter and/or water service is converted to the permanent meter and/or water service by any person other than authorized city Public Works Department personnel, applicant will forfeit the deposit required in 13.04.060 B and can be subject to cancellation of business license and penalties as described in 13.04.180.

TO: Hugh Brown
City Manager

FROM: Steven Hall
Public Works Director *SMH*

RE: HHB-607
Water meter deposit

DATE: March 19, 1987

Approval Recommended
[Signature]
Hugh H. Brown
City Manager

ACTION REQUESTED

City Council adopt attached ordinance and resolution deleting conditional release of deposit on water meters.

BACKGROUND

In 1981, the City was experiencing some difficulty in enforcing Final Inspection or Occupancy Permits on new construction or remodeling within the City of Milwaukie. In essence, buildings or homes were being occupied before they were officially finalized by the City's Building Division. In order to cope with that situation, an attachment was made to the temporary meter for construction that required a \$500 deposit. The refund of that deposit was conditioned on two items; cost of repairs for damages to meter, and issuance of a Final Inspection or Occupancy Permit. If a final inspection or occupancy permit was not completed, the \$500 deposit was forfeited to the City.

In February of this year you were contacted by Charlie Hales of the Homebuilders Association questioning the legality or the need of the \$500 deposit with the forfeiture provision.

On Friday, 19 February 1987, Dick Bailey, Paul Roeger and myself met with Charlie Hales and several builders who work within the Milwaukie area to discuss this problem.

Mr. Hales indicated that the Uniform Building Code specifically deleted an ability to place a "performance bond" on a single family home in particular. He indicated that the Homebuilder's Association considered the \$500 deposit with the exception provision to be a "defacto performance bond".

Mr. Hales indicated several ways of enforcing the final inspection or occupancy permit requirement, which Dick Bailey agreed to investigate. We concluded the meeting indicating the City of Milwaukie would investigate the options and see if there is a satisfactory alternative to the "defacto" performance bond requirement.

Dick Bailey investigated the options available and indicated to me that one of those options was satisfactory to the Structural Safety Division and the needs of enforcing the final inspection or occupancy permit provisions of the Uniform Building Code.

After investigation of the information, and the potential alternatives, staff recommends deleting the building permit reference in the temporary meter sections of the Milwaukie Municipal Code and Resolution #11-1981. The attached ordinance deletes sections referencing the occupancy permit and substitutes a new section relating to the temporary service only.

The attached resolution similarly deletes the references to building permit requirements.

Staff recommends approval of the attached ordinance and resolution.

OPTIONS

1. Continue existing ordinances and resolution. Result would be potential litigation from the Homebuilders Association and probable deletion of those references.
2. Amend Milwaukie Municipal Code and fee resolution deleting references tying temporary meter to building occupancy or final inspection. With the options available to the Structural Safety Division, this seems the most equitable solution to the Homebuilders Association request.

SUMMARY

1. Homebuilders Association has lodged a complaint against the tying of temporary meters to final occupancy inspection or occupancy permit.
2. Staff has reviewed the current process and finds the recommended changes acceptable.
3. Council goal is to improve public relations of the City.
4. In addition, City has made changes to streamline and simplify the building permit and public works reviews in the City.
5. Staff recommends approval of amendments to Milwaukie Municipal Code and fee resolution.

cc: Greg Eades, City Attorney
Dick Bailey, Fire Chief
Bill Adams, Community Development Director
Jerri Widner, Finance Director

enclosure: summary of changes
ordinance
resolution

SMH/cjl