

CITY OF MILWAUKIE

ORDINANCE NO. 1709

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING CHAPTER 13.12 OF THE MILWAUKIE MUNICIPAL CODE PERTAINING TO THE MUNICIPAL SEWER SYSTEM DUE TO THE IMPACT OF ARTICLE XI, SECTION 11B OF THE OREGON CONSTITUTION (BALLOT MEASURE 5); AND DECLARING AN EMERGENCY.

WHEREAS, Chapter 13.12 of the Milwaukie Municipal Code pertains to the municipal sewer system; and

WHEREAS, the City of Milwaukie collects charges for connection to the sewer system and use of the sewer system; and

WHEREAS, it is the intent of the City that the connection charges and monthly sewer charges be imposed to reimburse the City for providing sewer service to the City; and

WHEREAS, it is not the intent of the City that the various charges imposed by Chapter 13.12 be a tax on real property;

WHEREAS, charges which are a "tax" under Article XI, Section 11b of the Oregon Constitution must be certified to the county tax assessor for collection by July 15, 1991; and

WHEREAS, the City Council wishes to amend certain sections of Chapter 13.12, so that the charges imposed by that chapter are not a "tax" as defined by Article XI, Section 11b and do not have to be certified to the county tax assessor for collection; now, therefore:

THE CITY OF MILWAUKIE ORDAINS AS FOLLOWS:

Section 1. Section 13.12.030(D) of the Milwaukie Municipal Code is hereby amended to read as follows:

"D. All costs and expense incidental to the installation of the building sewer connection shall be borne by the applicant for connection. The applicant shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation."

Section 2. Section 13.12.030(I) of the Milwaukie Municipal Code is hereby amended to read as follows:

"I. The sewer system user at all times shall at their expense, operate and maintain the service lateral and building sewer in a sanitary manner to the collection, trunk or interceptor sewer at no expense to the city."

Section 3. Section 13.12.060(A) of the Milwaukie Municipal Code is hereby amended to read as follows:

"A. No person shall discharge or cause to be discharged any stormwater, surfacewater, groundwater, roof runoff, cooling water or unpolluted industrial process waters to any sanitary sewer. In the event the sewer system user fails to comply with any order requiring disconnection or it is impractical to require the disconnection of any stormdrain from the sewer system, the sewer system user shall be required to pay a surcharge for such use of the system as established by resolution of the council."

Section 4. Section 13.12.060(D) of the Milwaukie Municipal Code is hereby amended to read as follows:

"D. Grease, oil and sand interceptors shall be provided when, in the opinion of the public works director, they are necessary for the handling of such wastes; except that such interceptors shall not be required for private living quarters. All interceptors shall be of a type and capacity approved by the public works director and be located so as to be easily cleaned and inspected. Where installed, all grease, oil and sand interceptors shall be maintained by the sewer system user, at their expense, in continuously efficient operation. The city may inspect facilities at any time for proper operation and maintenance."

Section 5. Sections 13.12.070(B), 13.12.070(E) and 13.12.070(F) of the Milwaukie Municipal Code are hereby repealed and the remaining subsections in Section 13.12.070 shall be renumbered accordingly.

Section 6. Section 13.12.070(C) of the Milwaukie Municipal Code is hereby amended to read as follows:

"C. When an sewer system user has industrial or commercial waste of unusual strength or character, the city reserves the right to reject the application for service, to require certain pretreatment of such waste or require the sewer system user to pay such charges as may be fixed by the city for such waste disposal."

Section 7. The Milwaukie Municipal Code shall be amended by adding Section 13.12.070(D)(5) to read as follows:

"13.12.070

D. 5. The city may require deposits prior to providing sanitary sewer service or in lieu of a deposit, obtain a signed agreement from the property owner, whether the user of the system or not, that they will be ultimately liable for the user charges and that the city may use a lien as one method to secure payment if the charges are not paid. However, the city may not require a property owner to sign such an agreement. The lien attaches to real property and may be enforced pursuant to § 13.04.130."

Section 8. The City Council finds that certain sewer charges may need to be certified for collection to the Clackamas County Tax Assessor on or before July 15, 1991, if the provisions of this ordinance do not go into effect immediately. Therefore, an emergency is declared to exist and this ordinance shall take effect upon its passage.

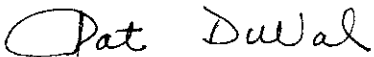
Read for the first time on July 2, 1991 and moved to a second reading by unanimous vote of the City Council.

Read for the second time and adopted by the City Council on July 16, 1991.

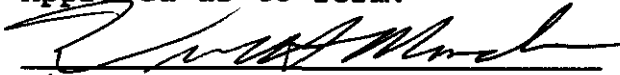
Signed by the Mayor on July 16, 1991.


Craig Lomnicki, Mayor

Attest:


City Recorder

Approved as to form:


City Attorney