

CITY OF MILWAUKIE

ORDINANCE NO. 1708

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING CHAPTER 13.04 OF THE MILWAUKIE MUNICIPAL CODE PERTAINING TO THE MUNICIPAL WATER SYSTEM DUE TO THE IMPACT OF ARTICLE XI, SECTION 11B OF THE OREGON CONSTITUTION (BALLOT MEASURE 5); AND DECLARING AN EMERGENCY.

WHEREAS, Chapter 13.04 of the Milwaukie Municipal Code pertains to the municipal water system; and

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

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

WHEREAS, it is not the intent of the City that the various charges imposed by Chapter 13.04 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 13.04, 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 13.04.090(A) of the Milwaukie Municipal Code is hereby amended to read as follows:

"A. Whenever any water customer wishes to have their water service discontinued for any length of time or to have their private pipes detached from city service pipes or city mains, the customer shall apply in writing to the public works director."

Section 2. Section 13.04.100(B) of the Milwaukie Municipal Code is hereby amended to read as follows:

"B. The consumer shall be responsible for all charges for water consumption, except as explained in Section 13.04.080. The city may require deposits prior to providing water service or in lieu of a deposit, obtain a signed agreement from the property owner, whether the customer or not, that they will be ultimately liable for the 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.

Section 3. Section 13.04.130 of the Milwaukie Municipal Code is amended to read as follows:

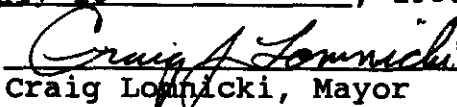
"If the property owner elects pursuant to § 13.04.100(B) or 13.12.070(D) to authorize the use of a lien on real property to secure user charge payment in lieu of a security deposit, all water charges and monthly sewer service fees shall be a lien against the premises served from and after the date of billing and entry on the ledger or other records of the city pertaining to its municipal water system, and such ledger record or other record shall be made accessible for inspection by anyone interested in ascertaining the amount of such charges against the property. Whenever a bill for water service and/or monthly sewer service fee remains unpaid sixty days after it has been rendered, the lien thereby created may be foreclosed in the manner provided for by ORS 223.610, or in any other manner provided by law or city ordinance.

Section 4. The City Council finds that certain water 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.

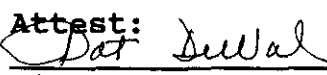
Read for the first time on July 2, 1991 and moved to a second reading by unanimous vote of the City Council.

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

Signed by the Mayor on July 16, 1991.


Craig Lonnicki, Mayor

Attest:


City Recorder

Approved as to form:


City Attorney