

**CITY OF BLAINE**  
**REQUEST FOR COUNCIL ACTION**  
**MEETING DATE:** July 9, 2007

**SUBJECT:** Building and Utility Fee Deferral Ordinance

**SUBMITTING DEPT:** City Manager

**PREPARED BY:** Gary Tomsic

**AGENDA LOCATION:** Comments/Communications ☐ Consent ☐ Committee Reports ☐  
Unfinished Business ☒ New Business ☐ Public Hearing ☐ Standing Committees ☐

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**ATTACHMENTS:** Draft Ordinances 07-2669 and 07-2670

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**ANALYSIS/SUMMARY:** City Council received a request from Art Weiner via Rick Osburn to defer about \$90,000 in building permits and utility fees for the Harborside building project on H Street and Portal. The deferral of the fees is requested to assist in making the project more economically practical. At the last Council meeting, the City Council directed the City Manager and City Attorney to develop an ordinance which would allow for the deferral of certain fees. In addition, the Council supported the extension of the building permit application until the Council decided on the fee deferral request.

The building permit has been extended. Jon Sitkin is working on an ordinance that will be presented and discussed at a work study session prior to the July 9, 2007 meeting. I have attached notes that I gave to Jon and Terry Galvin to assist them in developing the ordinance. The ordinance will generally reflect the items in the memo. The memo is attached.

Jon will also discuss the process that is involved in adopting this ordinance at the study session.

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**RECOMMENDATION:**

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**FISCAL ANALYSIS:** The deferral program will not result in direct loss of revenue to the City. The fees will be paid prior to final inspection. The financial impact will occur in cash flow and possible loss of investment income from the funds that the City would have received and possibly invested.

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**REVIEWED BY:**

City Manager \_\_\_\_\_ Finance Dir. \_\_\_\_\_ City Clerk \_\_\_\_\_

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**COUNCIL ACTION:**

☐ Approved ☐ Denied ☐ Tabled/Deferred ☐ Assigned to: \_\_\_\_\_

**COUNCIL ACTION:** \_\_\_\_\_

**ORDINANCE NO. 07-2669**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BLAINE, WASHINGTON, PROVIDING FOR AN AMENDMENT TO TITLE 15 OF THE BLAINE MUNICIPAL CODE TO ALLOW FOR ESTABLISHMENT OF INCENTIVES FOR THE REDEVELOPMENT OF THE CITY'S CENTRAL BUSINESS DISTRICT THROUGH THE DEFERMENT OF BUILDING PERMIT FEES UPON APPROVAL OF THE CITY COUNCIL.**

**WHEREAS**, the City, having identified in it's Comprehensive Plan, seeks to provide mechanisms for incentives for investment into the Blaine community (See City of Blaine Comprehensive Plan-Economic Development Chapter Policy 1.3, and Action B); and

**WHEREAS**, in 2006, in Ordinance 06-2632, an ordinance allowing more flexible development alternatives, the City Council made the following Findings of Fact:

1. Blaine's downtown Central Business (CB) District has experienced significant changes in property ownership in the last two years.
2. The economy and cost of development in Whatcom County is undergoing significant changes.
3. Based upon contact with property owners in the downtown area and particularly along Peace Portal Drive, the City Manager advised the City Council that a significant proposition of property owners believe that the current regulations are too restrictive and inhibit investment in the downtown area.
4. Great flexibility in the Central Business- Market zoning district will help stimulate investment in the downtown area

**WHEREAS**, the City Council determines that the Central Business District of the City is an area where revitalization though private investment is needed; and

**WHEREAS**, the City desires to reduce disincentives for the private sector investment in the Central Business District of the City of Blaine as that area is defined in the City Comprehensive Plan Map and Zoning Map; and

**WHEREAS**, the City seeks to provide mechanisms that facilitate private investment by reducing development costs for redevelopment and development in the Central Business district of the City, as an area needing revitalization through private investment; and

**WHEREAS**, the City seeks to improve the employment base in the Central Business District and seeks to encourage an increase to the City's tax base through the redevelopment and development of existing properties in the Central Business District; and

**WHEREAS**, the City has already made significant public investment in the Central Business District through the commencement of the construction of a Boardwalk between G and H Street overlooking the railroad and Blaine Harbor; and

**WHEREAS**, on \_\_\_\_\_ the City SEPA official issued a Threshold Determination of \_\_\_\_\_; and

**WHEREAS** on \_\_\_\_\_, after posting legal notice, and publication of legal notice in a newspaper of general circulation on \_\_\_\_\_, the City Council reviewed the recommendations of City staff and considered public testimony and related information; and

**WHEREAS** on \_\_\_\_\_, during a public meeting, the City Council voted to approve the amendment to the City Code as set forth herein.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BLAINE, WASHINGTON DOES HEREBY ORDAIN TO AMEND TITLE 15 OF THE BLAINE MUNICIPAL CODE BY ADDING A NEW SECTION, TITLE BMC 15.34-FEE DEFERRAL, AS SET FORTH HEREIN.**

**SECTION 1. A NEW SECTION, SECTION 15.34-FEE DEFERRAL is added to Title 15 of the Blaine Municipal Code as follows:**

**15.34.010.--Fee Deferral Allowed.**

**The City Council may grant deferral of the payment of certain fees as set forth herein.** The Fees set forth in sections set forth below may be deferred upon compliance with the following process and requirements, and only upon approval of the City Council. No Fee Deferral may be granted to any development that has not already received all land use approvals as required by Title 17 of the Blaine Municipal Code. The City Council shall only have the authority to defer City imposed fees as allowed by law. The conditions of approval set forth in the sections below shall apply to all fee deferrals granted by the City. A Fee Deferral request is not a land use decision subject to the requirements of RCW 36.70B et seq. The fees for which a fee deferral may be made are as follows:

**15.04.110 BUILDING PERMIT FEES**

**15.34.020. Fee Deferral Request Submittal requirements.** In order to have a fee deferral request considered, the Applicant shall submit to the City Clerk's office a fully completed application containing at a minimum the following information

- a. Submission of a fully completed Fee Deferral Request form provided by the City of Blaine Public Works Department and Community Development Services Department.
- b. Evidence from the City Planning Department that the proposed project seeking the Fee Deferral has received all necessary land use approvals from the City including, if required, approvals from the Blaine Planning Commission, City Council or Planning Department as required by City Code.
- c. Evidence that the party or person requesting the fee deferral is the owner of the property.

- d. The party making the fee deferral request shall set forth in writing as part of the application the reasons for the request. The request shall specifically set forth how the project is consistent with the City's policies and regulations in the Central Business District and how it will create employment and/or contribute substantially to the City's tax base.
- e. Specify what fees or portion of fees are requested to be deferred.
- f. The Fee Deferral Request shall be filed with the City Clerk's office.

**15.34.030 Procedures for review and consideration of Fee Deferral Request.** Upon receipt of a fully complete application for a Fee Deferral request, the City Clerk shall:

- a. Circulate copies of the request to the City Finance Department, the City Planning Department, the City's Building Official, the City Public Works Department, and the City Manager.
- b. Schedule a public hearing before the City Council regarding the fee deferral request.
- c. The City Clerk shall circulate copies of the Fee Deferral request to the City Council members as part of the Council packet.

**15.34.040 Approval Criteria for Fee Deferral Request:** The City Council may in its discretion defer all or a part of the fees for a development project under the following conditions and findings:

- a. The project considered for a fee deferral is located wholly within the Central Business District as defined in the City's zoning ordinance and map.
- b. The City Council enters finding of fact based upon evidence in the record that the project for which the fee deferral request is made is consistent with the City's vision for the Central Business District and describe how it will create employment and/or contribute substantially to the City's tax base.
- c. The City Council enters finding of fact based upon evidence in the record shall include findings that the project creates additional private sector jobs and/or leverages private sector investment so that the City's tax base is substantially increased as a result of said project.

**15.34.050 Conditions of Approval of Fee Deferral Request.** In the event that the City Council grants approval of the Fee Deferral, the following are conditions of any such approval and may not be waived as part of any decision.

- a. The project/property owner(s) shall enter into a "Fee Deferral Agreement" as approved by the City Attorney, City Manager, and City Council. This Agreement shall be recorded on the property and shall run with the land and be binding upon all successors heirs and assigns.

- b. Construction on the project for which the deferral request is approved shall start within 60 days of the date the decision to defer the fees is approved. If the project does not start within this time frame the fee waiver is void without further action required.
- c. The fee deferral shall not exceed a period of more than two years, or sale of property, whichever occurs first. All deferred fees shall be due on sale of the property or transfer of any interest in the entity that owns the property.
- d. The deferral shall not include deferral of any costs of notices, publications, legal review and other direct costs which must be paid by the City.
- e. Fees that have been deferred shall be paid in full before a final inspection and any type of occupancy permit is issued.

**SECTION 2: Severability.** If any section, subsection, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance.

**SECTION 3: Effective Date.** This Ordinance shall be in force from and after passage by the City Council and approval by the Mayor, if approved, as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLAINE, WASHINGTON on  
The \_\_\_\_\_ day of \_\_\_\_\_, 2007, and approved by the Mayor on the same day.

**CITY OF BLAINE, WASHINGTON**

\_\_\_\_\_  
Mike Myers, Mayor

ATTEST/AUTHENTICATE:

\_\_\_\_\_  
Sheri Sanchez  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Jonathan Sitkin  
City Attorney

**ORDINANCE NO. 07-2670**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BLAINE, WASHINGTON, PROVIDING FOR AN AMENDMENT TO TITLE 13 OF THE BLAINE MUNICIPAL CODE TO ALLOW FOR ESTABLISHMENT OF INCENTIVES FOR THE REDEVELOPMENT OF THE CITY'S CENTRAL BUSINESS DISTRICT THROUGH THE DEFERMENT OF UTILITY CONNECTION FEES UPON APPROVAL OF THE CITY COUNCIL.**

**WHEREAS**, the City, having identified in it's Comprehensive Plan, seeks to provide mechanisms for incentives for investment into the Blaine community (See City of Blaine Comprehensive Plan-Economic Development Chapter policy 1.3, and Action B); and

**WHEREAS**, in 2006, in Ordinance 06-2632, an ordinance allowing more flexible development alternatives, the City Council made the following Findings of Fact:

1. Blaine's downtown Central Business (CB) District has experienced significant changes in property ownership in the last two years.
2. The economy and cost of development in Whatcom County is undergoing significant changes.
3. Based upon contact with property owners in the downtown area and particularly along Peace Portal Drive, the City Manager advised the City Council that a significant proposition of property owners believe that the current regulations are too restrictive and inhibit investment in the downtown area.
4. Great flexibility in the Central Business- Market zoning district will help stimulate investment in the downtown area

**WHEREAS**, the City Council determines that the Central Business District of the City is an area where revitalization though private investment is needed; and

**WHEREAS**, the City desires to reduce disincentives for the private sector investment in the Central Business District of the City of Blaine as that area is defined in the City Comprehensive Plan Map and Zoning Map; and

**WHEREAS**, the City seeks to provide mechanisms that facilitate private investment by reducing development costs for redevelopment and development in the Central Business district of the City, as an area needing revitalization through private investment; and

**WHEREAS**, the City seeks to improve the employment base in the Central Business District and seeks to encourage an increase to the City's tax base through the redevelopment and development of existing properties in the Central Business District; and

**WHEREAS**, the City has already made significant public investment in the Central Business District through the commencement of the construction of a Boardwalk between G and H Street overlooking the railroad and Blaine Harbor; and

**WHEREAS**, on \_\_\_\_\_ the City SEPA official issued a Threshold Determination of \_\_\_\_\_; and

**WHEREAS** on \_\_\_\_\_, after posting legal notice, and publication of legal notice in a newspaper of general circulation on \_\_\_\_\_, the City Council reviewed the recommendations of City staff and considered public testimony and related information; and

**WHEREAS** on \_\_\_\_\_, during a public meeting, the City Council voted to approve the amendment to the City Code as set forth herein.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BLAINE, WASHINGTON DOES HEREBY ORDAIN TO AMEND TITLE 13 OF THE BLAINE MUNICIPAL CODE BY ADDING A NEW SECTION, TITLE BMC 13.21-FEE DEFERRAL, AS SET FORTH HEREIN.**

**SECTION 1. A NEW SECTION, SECTION 13.21-FEE DEFERRAL is added to Title 13 of the Blaine Municipal Code as follows:**

**13.21.010.--Fee Deferral Allowed.**

**The City Council may grant deferral of the payment of certain fees as set forth herein.** The Fees set forth in sections set forth below may be deferred upon compliance with the following process and requirements, and only upon approval of the City Council. No Fee Deferral may be granted to any development that has not already received all land use approvals as required by Title 17 of the Blaine Municipal Code. The City Council shall only have the authority to defer City imposed fees as allowed by law. The conditions of approval set forth in the sections below shall apply to all fee deferrals granted by the City. A Fee Deferral request is not a land use decision subject to the requirements of RCW 36.70B et seq. The fees for which a fee deferral may be made are as follows:

- 13.03.040 STORM WATER UTILITY DEVELOPMENT CHARGES. System development charge
- 13.04.145 WATER SYSTEM. Front footage fees
- 13.07.020 ASSESSMENTS, RATES, FEES AND CHARGES. Assessments
- 13.08.410 SEWER SYSTEM. Permits – Classes – Applications – Fees
- 13.08.411 SEWER SYSTEM. Outside city limit connection
- 13.12.130 STREET, DRAINAGE, WATER, SEWER AND ELECTRIC IMPROVEMENTS – ASSESSMENT REIMBURSEMENT CONTRACTS. City Administrative Fees
- 13.14.020 UTILITY SERVICE ASSESSMENTS, RATES AND CHARGES. Assessments - Water.
- 13.14.030 UTILITY SERVICE ASSESSMENTS, RATES AND CHARGES. Assessments – Wastewater

- 13.14.090 UTILITY SERVICE ASSESSMENTS, RATES AND CHARGES.  
Miscellaneous charges
- 13.16.250 ELECTRICITY. Single family & duplex residential service Installation
- 13.16.252 ELECTRICITY. Multi-family residential service installation
- 13.16.260 ELECTRICITY. Commercial service installation
- 13.16.280 ELECTRICITY. Line-extension policy

**13.21.020. Fee Deferral Request Submittal requirements.** In order to have a fee deferral request considered, the Applicant shall submit to the City Clerk's office a fully completed application containing at a minimum the following information

- a. Submission of a fully completed Fee Deferral Request form provided by the City of Blaine Public Works Department and Community Development Services Department.
- b. Evidence from the City Planning Department that the proposed project seeking the Fee Deferral has received all necessary land use approvals from the City including, if required, approvals from the Blaine Planning Commission, City Council or Planning Department as required by City Code.
- c. Evidence that the party or person requesting the fee deferral is the owner of the property.
- d. The party making the fee deferral request shall set forth in writing as part of the application the reasons for the request. The request shall specifically set forth how the project is consistent with the City's policies and regulations in the Central Business District and how it will create employment and/or contribute substantially to the City's tax base.
- e. Specify what fees or portion of fees are requested to be deferred.
- f. The Fee Deferral Request shall be filed with the City Clerk's office.

**13.21.030 Procedures for review and consideration of Fee Deferral Request.** Upon receipt of a fully complete application for a Fee Deferral request, the City Clerk shall:

- a. Circulate copies of the request to the City Finance Department, the City Planning Department, the City's Building Official, the City Public Works Department, and the City Manager.
- b. Schedule a public hearing before the City Council regarding the fee deferral request.
- c. The City Clerk shall circulate copies of the Fee Deferral request to the City Council members as part of the Council packet.



**13.21.040 Approval Criteria for Fee Deferral Request:** The City Council may in its discretion defer all or a part of the fees for a development project under the following conditions and findings:

- a. The project considered for a fee deferral is located wholly within the Central Business District as defined in the City's zoning ordinance and map.
- b. The City Council enters finding of fact based upon evidence in the record that the project for which the fee deferral request is made is consistent with the City's vision for the Central Business District and describe how it will create employment and/or contribute substantially to the City's tax base.
- c. The City Council enters finding of fact based upon evidence in the record shall include findings that the project creates additional private sector jobs and/or leverages private sector investment so that the City's tax base is substantially increased as a result of said project.

**13.21.050 Conditions of Approval of Fee Deferral Request.** In the event that the City Council grants approval of the Fee Deferral, the following are conditions of any such approval and may not be waived as part of any decision.

- a. The project/property owner(s) shall enter into a "Fee Deferral Agreement" as approved by the City Attorney, City Manager, and City Council. This Agreement shall be recorded on the property and shall run with the land and be binding upon all successors heirs and assigns.
- b. Construction on the project for which the deferral request is approved shall start within 60 days of the date the decision to defer the fees is approved. If the project does not start within this time frame the fee waiver is void without further action required.
- c. The fee deferral shall not exceed a period of more than two years, or sale of property, whichever occurs first. All deferred fees shall be due on sale of the property or transfer of any interest in the entity that owns the property.
- d. The deferral shall not include deferral of any costs of notices, publications, legal review and other direct costs which must be paid by the City.
- e. Fees that have been deferred shall be paid in full before a final inspection and any type of occupancy permit is issued.

**SECTION 2: Severability.** If any section, subsection, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance.

**SECTION 3: Effective Date.** This ordinance shall be in full force and effect upon approval and is the final decision by the City Council on the above referenced applications pursuant to 36.70.C, RCW.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLAINE, WASHINGTON on  
The \_\_\_\_\_ day of \_\_\_\_\_, 2007, and approved by the Mayor on the same day.

**CITY OF BLAINE, WASHINGTON**

\_\_\_\_\_  
Mike Myers, Mayor

ATTEST/AUTHENTICATE:

\_\_\_\_\_  
Sheri Sanchez  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Jonathan Sitkin  
City Attorney