

**CITY OF BLAINE**  
**REQUEST FOR COUNCIL ACTION**  
**MEETING DATE:**

**SUBJECT:** Amendment of BMC Title 13 and Title 15 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:** Copy of Ordinances

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**ANALYSIS/SUMMARY:** Councilor Leibert requested and the Council agreed to put this issue on the Council agenda for discussion. The amendments add the Central Business-Wharf District and the City's Manufacturing Zones to the ordinance allowing for utility (Title 13) and building fee (Title 15) deferrals.

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**RECOMMENDATION:** ☐ Waive 2<sup>nd</sup> Reading: (Include conditions of approval if applicable)

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**FISCAL ANALYSIS:** The approval of the ordinance will broaden the opportunity for various projects to use the fee deferral provisions which will delay the receipt of funds to the City. There is no estimate of the financial impact, but based on historic construction it should be fairly minimal. If the City sees that this incentive is causing the City financial problems, it can restrict the use of the incentive.

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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. 07-2678**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BLAINE, WASHINGTON, AMENDING TITLE 13 OF THE BLAINE MUNICIPAL CODE TO INCLUDE ELIGIBILITY OF THE CITY'S MANUFACTURING AND CBD-WHARF DISTRICT FOR DEFERRAL OF UTILITY CONNECTION FEES.**

**Deleted:** PROVIDING FOR AN

**Deleted:** MENT TO

**Deleted:** ALLOW FOR INCENTIVES FOR THE DEVELOPMENT IN

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**Deleted:** UPON APPROVAL OF THE CITY COUNCIL

**WHEREAS**, the City's Comprehensive Plan supports mechanisms that provide incentives for investment in the Blaine community (See City of Blaine Comprehensive Plan-Economic Development Chapter policy 1.3, Action B); and

**WHEREAS**, in August 2007, by Ordinance 07-2670, the City Council amended Title 13 of the Blaine Municipal Code to allow deferral of certain utility connection costs in the Central Business-Market District, and

**WHEREAS**, the City Council determines that the Manufacturing Zone and CBD-Wharf Zone as defined in the City Comprehensive Plan Map and Zoning Map are additional areas of the City where deferral of utility fees would help encourage private investment is needed;

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

**SECTION 1: Section 13.21-Fee Deferral is amended to read 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 City Council may defer the fees identified below and enumerated in the City's Unified Fee Schedule upon applicant compliance with the following process and requirements, and City Council determination that the request meets the requirements set forth in sections 13.21.020 and 13.21.040 and 13.21.050 of the Blaine Municipal Code. 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 have the authority to defer only 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 eligible for possible deferment upon approval by the City Council are:

Permanent Power Connection (charged per meter) (BMC 13.16.260)  
Line (Electrical) Extension Charges (BMC 13.16.280)  
Hydrant fees (BMC 13.07.020)  
Water Meter (BMC 13.07.0200)  
Water Main/Front Footage Fees (BMC 13.04.145B)  
Water General Facility Fees (GFF) (BMC 13.07.020)  
Sewer inspection fees (BMC 13.08.410B)  
Sewer General Facility Fees (GFF) (BMC 13.07.020)

Business-Wharf District or Manufacturing zone and that the project will likely create employment in that area of the City and/or contribute substantially to the City's tax base.

**Deleted:** area

**Deleted:** the Central Business-Market District

- c. 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 sixty (60) days of the approval of the building permit for the project. If the project does not start within this time frame, the fee deferral is void without further action required.
- c. The fee deferral shall not exceed a period of more than two (2) years, from the date of approval of the fee deferral by the City Council or sale of the 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 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.
- f. If the applicant has complied with all of the conditions set forth in title 13.21 et. seq., and 15.34 et seq., then capacity in the City's water system and wastewater system shall be reserved for the development until such time as the fees are paid in full. However, in the event that such fees are not paid in full as required herein or in the Fee Deferral Agreement, then such capacity in the City's water system and wastewater system shall no longer be reserved for the property owner, and the property owner shall not be entitled to a forfeiture of any fees paid.

**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.

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.

ORDINANCE NO. 07-2679

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 ~~INDCLUE THE ELIBIBILITY OF THE CITY'S CENTRAL BUSINESS-WHARF DISTRICT AND MANUFACUTURING ZONESFOR THE DEFERRAL OF CERTAIN BUILDING PERMIT FEES UPON APPROVAL OF THE CITY COUNCIL.~~

WHEREAS, The City's Comprehensive Plan supports mechanisms that provide incentives for investment in the Blaine community (See City of Blaine Comprehensive Plan-Economic Development Chapter policy 1.3, Action B; and

WHEREAS, in August 2007, by Ordinance 07-2669, the City Council amended Title 15 of the Blaine Municipal Code to allow deferral of certain building permit fees in the Central Business-Market District, and

WHEREAS, the City Council determines that the Manufacturing Zone and CBD-Wharf Zone as defined in the City Comprehensive Plan Map and Zoning Map are additional areas of the City where deferral of building permit fees would help encourage private investment is needed;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BLAINE, WASHINGTON DOES HEREBY ORDIAN TO AMEND TITLE 15 OF THE BLAINE MUNICIPAL CODE BY AMENDING BMC 15.34 FEE DEFFERAL, AS SET FORTH HEREIN.

**SECTION 1:** Section 15.34-Fee Deferral is amended to read 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 City Council may defer the fees identified below upon compliance with the following process and requirements, and the City Council determination that the request meets the requirements set forth in sections 15.34.040 and 15.34.050 of the Blaine Municipal Code. 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 eligible for possible deferment upon approval by the City Council are:

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:

- a. A fully completed fee deferral request form provided by the City of Blaine Public Works Department and Community Development Services Department.

**Deleted:** ALLOW FOR ESTABLISHMENT OF INCENTIVES FOR THE REDEVELOPMENT OF THE CITY'S CENTRAL BUSINESS-MARKET DISTRICT THROUGH

**Deleted:** UTILITY CONNECTION

**Deleted:** WHEREAS, the City's Comprehensive Plan supports mechanisms that provide incentives for investment in the Blaine community (See City of Blaine Comprehensive Plan-Economic Development Chapter policy 1.3, 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:¶

<#> . Blaine's downtown Central Business (CB) District has experienced significant changes in property ownership in the last two years.¶

<#> . The economy and cost of development in Whatcom County is undergoing significant changes.¶

<#> 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 number of property owners believe that the current regulations are too restrictive and inhibit investment in the downtown area.¶  
<#> . Great flexibility in the Central Business-Market District will help stimulate investment in the downtown area.¶

WHEREAS, the City Council determines that the Central Business-Market District of the City is an area where revitalization through private investment is needed; and¶

WHEREAS, the City desires to reduce disincentives for the private sector investment in the Central Business-Market 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-Market 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-Market 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-Market District; and¶

WHEREAS, the City has already made significant public investment in the Central Business-Market District through the commencement of the construction of a Boardwalk between G and H Str

**Deleted:** A New Section,

**Deleted:** is added to Title 15 of the Blaine Municipal Code as follows:

**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. Distribute copies of the request to the City Finance Department, the City of Blaine Community Development Services 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. Distribute copies of the fee deferral request packet 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 sole discretion, upon conclusion of the public hearing and after considering all public and staff comments, defer all or a part of the fees for a development project upon making the following findings based upon evidence in the record:

- a. The project considered for a fee deferral is located wholly within the Central Business-Market District, the Central Business-Wharf District or the City's Manufacturing zone as defined in the City's zoning ordinance and map.
- b. The City Council enters findings 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, policies and regulations for the Central Business-Market District, Central business- Wharf District or Manufacturing zone area and that the project will likely create employment in the Central Business-Market District and/or contribute substantially to the City's tax base.
- c. 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 sixty (60) days of the approval of the building permit for the project. If the project does not start within this time frame, the fee deferral is void without further action required.
- c. The fee deferral shall not exceed a period of more than two (2) years, from the date of approval of the fee deferral by the City Council or sale of the 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.

**WHEREAS**, the City's Comprehensive Plan supports mechanisms that provide incentives for investment in the Blaine community (See City of Blaine Comprehensive Plan-Economic Development Chapter policy 1.3, 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:

Blaine's downtown Central Business (CB) District has experienced significant changes in property ownership in the last two years.

The economy and cost of development in Whatcom County is undergoing significant changes.

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 number of property owners believe that the current regulations are too restrictive and inhibit investment in the downtown area.

Great flexibility in the Central Business-Market District will help stimulate investment in the downtown area.

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

**WHEREAS**, the City desires to reduce disincentives for the private sector investment in the Central Business-Market 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-Market 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-Market 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-Market District; and

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

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