

First Reading: 04/05/16

Second Reading: 4/19/16

**CORRECTED COPY**

**ORDINANCE NO. 955**

**AN ORDINANCE OF THE CITY OF BENTON CITY,  
WASHINGTON AMENDING BCMC SECTION 12.05.030  
"RESPONSIBILITY OF ABUTTING PROPERTY OWNER"  
AND BCMC SECTION 12.05.120 "SECURITY IN LIEU OF  
COMPLETION OF SIDEWALK AND CURB"**

**WHEREAS**, the City of Benton City has recognized that there are situations when sidewalk construction is not in the best interests of the City or the property owner;

**WHEREAS**, the City of Benton City currently has no practical way to waive the requirements of the BCMC Chapter 12.05 "Sidewalk Construction, Maintenance, and Repair" for an extended period of time;

**WHEREAS**, the City of Benton City desires to create a way for the City and the property owner to not be unnecessarily bound by the strict requirements of BCMC Chapter 12.05 "Sidewalk Construction, Maintenance, and Repair; NOW, THEREFORE,

**THE CITY COUNCIL OF THE CITY OF BENTON CITY, WASHINGTON, DO  
ORDAIN AS FOLLOWS:**

**Section 1.** That Section 12.05.030 of the Benton City Municipal Code entitled "Sidewalk Construction, Maintenance and Repair" shall be and hereby is amended as follows:

**12.05.030** **Responsibility of Abutting Property Owner.** All abutting property owners are responsible for constructing and maintaining sidewalks, handicapped ramps, crosswalks, curbs, and gutters along the entire frontage of the abutting property in conformity with this Chapter, and the City's current adopted standard specifications.

The provisions of this section may be deferred by the Mayor or the Mayor's designee as provided in Section 12.05.120 below. Whenever a permit is granted for new construction within the City or to remodel, alter, reconstruct, or expand an existing building when such costs of the changes exceeds 50% of the assessed valuation of said building, such person shall also obtain a permit as provided under this Chapter for the construction of the sidewalks, curbs and gutters on all sides of such property that may adjoin a public street

**Section 2.** That Section 12.05.120 entitled "Security in Lieu of Completion of Sidewalk and Curb" of the Benton City Municipal Code shall be and hereby is amended and shall read as follows:

**12.05.120** **Security in Lieu of Completion of Sidewalks and Curb.** Whenever it is determined by the Mayor, or his ~~the~~ Mayor's designee, that it is not practical for the construction of a sidewalk and curb to be completed prior to the occupancy of a new or remodeled building as provided in Section 12.05.030 above, due to the lack of contiguity with existing sidewalk, the City may grant a deferral to the requirements of this Section upon the ~~deposit of the structure, the City may accept~~ sufficient security in the form of cash or bond deposited with the City to cover the estimated cost of completing construction of the curb and sidewalk. The deferral shall not exceed five (5) years. Upon determination by the City that sidewalk contiguity is or may be available, or determines the public convenience or safety require that the sidewalk be constructed, the City shall provide the owner or their successors in interest, notice requiring the construction of the sidewalk, curb and gutter. The owner shall have ninety (90) days within which to construct the sidewalk in accordance with City's standards and specifications, and receive a refund of the security deposit. The sidewalk construction period may be extended by the Mayor or the Mayor's designee upon good cause such as inclement weather or the unavailability of materials or services. If the owner fails to construct the sidewalk within such period, including any extensions, the City may authorize the work to be completed and shall apply the security deposit to the costs of the installation. This security shall be forfeited to the City in the event the curb and sidewalk are not completed within ninety (90) days of the deposit being accepted. Thirty day time extensions may be granted if the applicant demonstrates that there were reasons beyond their control for failure to complete construction within the time allowed. The deposit extension period may be extended up to five (5) years to coordinate with future nearby sidewalk construction by agreement between the City and the applicant. Completed construction must pass all City inspections and meet all City standards. The deposit shall be used by the City to pay the costs of completing the construction of the curb and sidewalk to meet City standards and to pass City inspection. The City does not warrant that the amount accepted as security necessarily will be sufficient to pay the full costs of construction by accepting the deposit. The owner shall sign an Improvement Deferral Waiver which shall be recorded with the Benton County Auditor. The City does not waive any other remedies it may have to collect the costs of completing the construction by accepting the deposit. Costs to the City in excess of the deposit shall become a lien against the property. The applicant for the building permit shall execute an agreement with the City on the terms as provided by this Section. (Ord. 887, June 2011)

**Section 3.** This Ordinance shall take full force and effect five (5) days after its approval, passage, and publication as required by law.

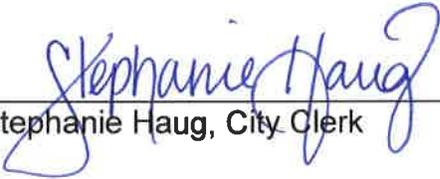
**PASSED** by the City Council of the City of Benton City, Washington, and approved as provided by law this 19 day of April, 2016.



Linda Lehman, Mayor

ATTEST:

APPROVED AS TO FORM:



Stephanie Haug, City Clerk



Leland B. Kerr, City Attorney