

ORDINANCE 957

**AN ORDINANCE OF THE CITY OF BENTON CITY,
WASHINGTON, CREATING A NEW SECTION 17.12.140
"IMPACT FEE DEFERRAL PROGRAM"**

WHEREAS, the State of Washington legislature has, via Engrossed Senate Bill 5923, enacted changes to RCW 82.02.050 requiring cities collecting impact fees to adopt and maintain a system for the deferred collection of impact fees for single-family detached and attached residential construction; and,

WHEREAS, the City of Benton City has recognized that it currently imposes an impact fee for its parks and is therefore required to adopt and maintain such a system providing for the deferred collection of these fees and any future impact fee programs that the City may impose on development activity in the future; NOW, THEREFORE,

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

Section 1. That a new Section 17.12.140 of the Benton City Municipal Code entitled "Impact Fee Deferral Program" shall be and hereby is adopted and shall read as follows:

17.12.140 Impact Fee Deferral Program. Each applicant for a single-family attached or detached residential construction permit, in accordance with his or her contractor registration number or other unique identification number, is entitled to annually receive deferrals of any impact fees required in BCMC 17.12.130 or any other impact fees imposed, for the first twenty single-family residential construction building permits applied for with the City of Benton City, in accordance with the following provisions of this section.

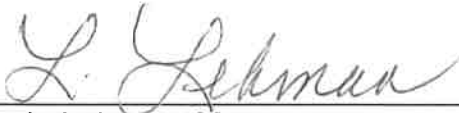
- A. Deferred collection of the impact fee payment shall be until the time of the issuance of the certificate of occupancy or equivalent certification, provided that the deferral may not be greater than eighteen (18) months from the issuance date of the applicable building permit..
- B. Unless an agreement to the contrary is reached between the buyer and the seller, the payment of impact fees due at closing of a sale must be made from the seller's proceeds. In the absence of an agreement to the contrary, the seller bears strict liability for the payment of the impact fees.

- C. The amount of impact fees deferred under this section must be determined by the fees in effect at the time of the applicant applies for a deferral.
- D. An applicant seeking a deferral under this section must grant and record a deferred impact fee lien against the property in favor of the City of Benton City in the amount of the deferred impact fee. The deferred impact fee lien must comply with the following:
 - 1. Include the legal description, tax account number, and address of the property.
 - 2. Must be in a form approved by the City of Benton City.
 - 3. Must be signed by all owners of the property, with all signatures acknowledged as required for a deed, and recorded with the Benton County Auditor's Office.
 - 4. Must be binding on all successors in title after the recordation.
 - 5. Must be junior and subordinate to one mortgage for the purpose of construction upon the same real property granted by the person who applied for the deferral of impact fees.
- E. If impact fees are not paid in accordance with a deferral authorized by this section and in accordance with the term provisions of this section the City of Benton City may institute foreclosure proceedings in accordance with the Revised Code of Washington Chapter 61.12.
- F. If the City of Benton City does not institute foreclosure proceedings for unpaid school impact fees within forty-five (45) days after receiving notice from a school district requesting that it do so, the district may institute foreclosure proceedings with respect to the unpaid school impact fees.
- G. Upon receipt of final payment in full of all deferred impact fees for a property, the City of Benton City shall execute a release of deferred impact fee lien for the property. The property owner at the time of the release, at his or her expense, is responsible for recording the lien release.
- H. The extinguishment of a deferred impact fee lien by the foreclosure of a lien having priority does not affect the obligation to pay the impact fees at the time of closing of the first sale.

- I. The City of Benton City shall have the authority at its discretion, but is not required, to defer more than twenty (20) single-family residential construction building permits for an applicant. If the City of Benton City at any time collects impact fees on behalf of one or more school districts for which the collection of impact fees could be delayed, the City must consult with the district or districts about the additional deferrals. The City must give additional weight to recommendations of each applicable school district regarding the number of deferrals. If the City disagrees with the recommendations of one or more school districts, the City must provide the district or districts with a written rationale for its decision.
- J. The City of Benton City may collect reasonable administrative fees to implement this section from permit applicants who are seeking to delay the payment of impact fees under this section.
- K. For purposes of this section, an "applicant" includes an entity that controls the applicant, is controlled by the applicant, or is under the common control with the applicant.

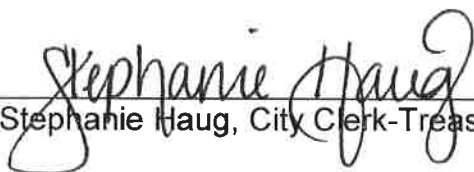
Section 2. This Ordinance shall be effective five days after its passage, approval and publication as required by law.

PASSED by the City Council of the City of Benton City, Washington, and approved as provided by law this 5 day of July, 2016.




Linda Lehman, Mayor

Attest:



Stephanie Haug, City Clerk-Treasurer

Approved as to Form:



Leland B. Kerr, City Attorney