



CITY OF BLACK DIAMOND
March 7, 2013 Workstudy Agenda
25510 Lawson St., Black Diamond, Washington

Workstudies are meetings for Council to review upcoming and pertinent business of the City. Public testimony is only accepted at the discretion of the Council.

6:00 P.M. – CALL TO ORDER, ROLL CALL

- 1.) Donation Ordinance – Mr. Bacha
- 2.) Cemetery Code – Mr. Bacha
- 3.) Adjournment

DONATION ORDINANCE

CITY OF BLACK DIAMOND
WASHINGTON
ORDINANCE NO. 13-996

**AN ORDINANCE OF THE CITY OF BLACK DIAMOND,
WASHINGTON, RELATING TO THE ACCEPTANCE OF
DONATIONS, DEVISEMENTS OR BEQUEATHMENTS AS
REQUIRED BY THE REVISED CODE OF WASHINGTON,
35.21.100 AND ESTABLISHING AN EFFECTIVE DATE**

WHEREAS, Washington state law as codified in 35.21.100, RCW, requires municipalities to accept donations, devisements or bequeathments under the authority of an ordinance; and

WHEREAS, the city council desires to make the city donation, deviselement or bequeathment process easy to access, efficient to manage and to provide for annual reporting;

NOW, THEREFORE, the City Council of the City of Black Diamond, Washington, do ordain as follows:

Section 1. New Section: Donations, devisements or bequeathments.

There shall be added to Title 3 of the Black Diamond Municipal Code a new chapter, Chapter 3.01, with the following title: Acceptance of Gifts

Section 2. New Section: There shall be established Section 3.01.010 which shall read as follows:

3.01.010 Definitions

- A. Donations, devisements or bequeathments shall be known hereinafter as “gifts.”
- B. As used in this Chapter “mayor” shall include any designee.

Section 3. New Section. There shall be established Section 3.01.030 which shall read as follows

3.01.020 Gifts, other than of real property.

- A. The mayor may accept on behalf of the city any lawful gift.
- B. The mayor may defer acceptance of any gift if there is a belief that the gift may lead to improper influence or undesired public policy statement. Upon such deferral, the matter shall be placed before the city council for disposition.
- C. The gift shall be recorded in city records, including any designated purpose. If no specific purpose is designated, it may be expended for any municipal purpose.

Section 4. New Section. There shall be established Section 3.01.030 which shall read as follows:

3.01.030 Gifts of real property

A gift of real property may be accepted by resolution of the city council, under the authority of this ordinance. Such gift shall be recorded in city records and with King County.

Section 5. New Section. There shall be established Section 3.01,040 which shall read as follows

3.01.040 Reporting

The Mayor shall provide for an annual report of all gifts to the City Council. Nothing in this section prohibits more frequent reporting.

Section 6. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect five days thereafter.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON
THE _____ DAY OF _____, 2013.

CITY OF BLACK DIAMOND

Rebecca Olness, Mayor

ATTEST/AUTHENTICATED:

Brenda L. Martinez, City Clerk

Approved as to form:

Chris D. Bacha,
Kenyon Disend PLLC
City Attorney

Filed with the City Clerk:
Passed by the City Council:
Ordinance No.
Date of Publication:
Effective Date:

RCW 35.21.100

Donations — Authority to accept and use.

Every city and town by ordinance may accept any money or property donated, devised, or bequeathed to it and carry out the terms of the donation, devise, or bequest, if within the powers granted by law. If no terms or conditions are attached to the donation, devise, or bequest, the city or town may expend or use it for any municipal purpose.

BONNEY LAKE:

Chapter 3.93 DONATIONS

Sections:

[3.93.010](#) Donations of money or other property.

[3.93.020](#) Disposition of donated property.

[3.93.030](#) Gift catalogue – Receipt for items donated.

[3.93.010](#) Donations of money or other property.

The city council may, by ordinance, accept any money or other property donated, devised, or bequeathed to it. If a bequest of property to the city is made contingent on the city's compliance with terms contained in the bequest, the city may comply with those terms, provided such compliance is within the powers granted the city by law. Once a donation of property has been accepted in accordance with this chapter, such property may be used by the city for any municipal purpose. (Ord. 937 § 1, 2002).

[3.93.020](#) Disposition of donated property.

Money donated to the city shall be deposited in the appropriate city fund as determined by the finance director or designee. Such money donations may be credited to the appropriate fund at the discretion of the finance director or designee. Upon receipt, donations to the city of property other than money shall be recorded in the city's gift catalogue as provided below, and then may be disposed of for any municipal purpose, at the discretion of the finance director or designee. (Ord. 937 § 1, 2002).

[3.93.030](#) Gift catalogue – Receipt for items donated.

A gift catalogue for all donations of property other than money is hereby established, and is incorporated herein by reference. The city's gift catalogue shall contain, for each item donated, the date of the donation, a description of the item, the fair market value of the item as estimated by the finance director or designee, and the name and address of the donor. The finance director or designee shall issue the donor a receipt for any items donated to the city. (Ord. 937 § 1, 2002).

ALGONA

Chapter 3.36 DONATION ACCEPTANCE

Sections:

[3.36.010](#) Administration.

[3.36.020](#) Use.

[3.36.030](#) Acceptance.

[3.36.040](#) Annual report.

[3.36.010 Administration.](#)

The city clerk/treasurer or the clerk's designee shall have the responsibility for the administration of all donations to the city. (Ord. 968-05 § 1).

[3.36.020 Use.](#)

In the event a donor has indicated a desire for a particular use by the city of a donation, such donation shall, to the extent reasonably feasible, be used consistent with the donor's desired use. If a donor has not specified a particular desired use, the donation may be used for any municipal purpose. (Ord. 968-05 § 2).

[3.36.030 Acceptance.](#)

All monetary and nonmonetary donations with a current value greater than **two thousand dollars** must be approved by the city council prior to acceptance. The clerk/treasurer shall estimate the value of any nonmonetary donation not supported by a bona fide appraisal, for purposes of compliance with this section. (Ord. 968-05 § 3).

[3.36.040 Annual report.](#)

The clerk/treasurer shall provide the city council with an annual report listing the nature and value of any and all donations which were approved and accepted in accordance with this chapter during the calendar year preceding the report. (Ord. 968-05 § 4).

FEDERAL WAY

[3.50.240 Donation fund.](#)

There is hereby established a fund known as the donations fund as follows:

- (1) *Purpose.* Established to receive donations of cash designated for specific purposes identified by the donor. This fund shall be a project-based fund that shall record all transactions associated with the donations.
- (2) *Revenue sources.* Cash contributions from various sources. Investment earnings shall be placed in the general fund.

(3) *Fund administration.* The mayor or his or her designee. Separate records shall be maintained for each distinct purpose for which donations are received.

GIG HARBOR

[3.50.010 Created.](#)

There is created in the treasury of the city a special fund to be designated as the "donations to the city of Gig Harbor fund." Such special fund is created for the purpose of administering and accounting for monetary donations made to the city for specific public purposes or projects and the expenditures thereof.

LYNNWOOD

Chapter 3.93 DONATIONS OF PROPERTY TO CITY

Sections:

[3.93.010 Administration.](#)

[3.93.020 Use.](#)

[3.93.030 Acceptance.](#)

[3.93.010 Administration.](#)

The mayor or his designee shall have the responsibility for the financial administration of all donations to the city. (Ord. 2421 § 1, 2002)

[3.93.020 Use.](#)

In the event a donor has indicated a desire for a particular use by the city of a donation, such donation shall, to the extent reasonably feasible, be used consistent with the donor's desired use. (Ord. 2421 § 1, 2002)

[3.93.030 Acceptance.](#)

All monetary and nonmonetary donations with a current value of up to \$1,000 may be approved and accepted for the city by the mayor. All donations with a value greater than \$1,000 must be approved by the city council before acceptance. The mayor shall estimate the value of any nonmonetary donation not supported by a bona fide appraisal, for the purposes of compliance with this section. (Ord. 2421 § 1, 2002)

MILTON

Chapter 3.40 DONATIONS OF PROPERTY TO CITY

Sections:

[3.40.010](#) Administration.

[3.40.020](#) Use.

[3.40.030](#) Acceptance.

[3.40.040](#) Annual report.

3.40.010 Administration.

The mayor or the mayor's designee shall have the responsibility for the administration of all donations to the city. (Ord. 1568 § 1, 2003).

3.40.020 Use.

In the event a donor has indicated a desire for a particular use by the city of a donation, such donation shall, to the extent reasonably feasible, be used consistent with the donor's desired use. If a donor has not specified a particular desired use, the donation may be used for any municipal purpose. (Ord. 1568 § 1, 2003).

3.40.030 Acceptance.

All monetary and nonmonetary donations with a current value of up to \$2,000 may be approved and accepted for the city by the mayor. All donations with a value greater than \$2,000 must be approved by the city council before acceptance. The mayor shall estimate the value of any nonmonetary donation not supported by a bona fide appraisal, for purposes of compliance with this section. (Ord. 1568 § 1, 2003).

3.40.040 Annual report.

The mayor shall provide the city council with an annual report listing the nature and value of any and all donations which were approved and accepted by the mayor in accordance with this chapter during the calendar year preceding the report. (Ord. 1568 § 1, 2003).

NEW CASTLE

Chapter 3.45 ACCEPTANCE OF DONATIONS

Sections:

[3.45.010](#) Acceptance of donations.

[3.45.020](#) Policy.

[3.45.030](#) Funds and accounting.

[3.45.040](#) Internal Revenue Code compliance.

3.45.010 Acceptance of donations.

The city manager is authorized to accept on behalf of the city any money or property donated, devised, or bequeathed to the city, and to carry out the terms of the donation, devise or bequest, if acceptance of the donation is within the powers granted by law to the city. If no terms or conditions are attached to the donation, devise or bequest, the city may expend or use the same for any municipal purpose. (Ord. 97-139 § 1).

3.45.020 Policy.

A. Purpose. To establish policy and procedures for the acceptance of monetary and nonmonetary donations to the city.

B. Policy. To consider the acceptance of any monetary and nonmonetary donations, devises, or bequests from private citizens, business groups or other organization. Considerations include the use of the donation, restrictions associated with the donation, costs associated with, and effective use of.

C. Procedure.

1. The department receiving and managing the proposed donation shall complete sections (1) through (5) of the attached donation agreement form.*
2. For a monetary donation, the department shall attach the donor's original check to a photocopy of the completed donation agreement form and forward them immediately to the service center (city cashier) which will issue a treasurer's receipt. The service center shall deposit the check into a holding account until the appropriate approvals are completed. (See finance department for coding of treasurer's receipt.)
3. The department shall forward all four copies of the completed donation agreement, and a photocopy of the donor's check, to the city manager for consideration of the proposed donation.
4. The city manager shall accept or decline the donation. If the donation is accepted, the city manager shall sign the donation agreement and forward four copies plus the check copy to the city treasurer.
5. The city treasurer shall create appropriate BARS codes and/or funds as required by the donation and initiate any additional procedures or policies as required.
 - a. Copy #1: Treasurer receipting cashier;
 - b. Copy #2: City treasurer;
 - c. Copy #3: Donor;
 - d. Copy #4: Department assigned to managing the donation. (Ord. 97-139 § 2).

* The donation agreement form is attached to Exhibit A of Ordinance 97-139, available in the city clerk's office.

[3.45.030 Funds and accounting.](#)

The finance director is authorized and directed to establish such funds and accounting procedures as may be necessary to carry out the terms or conditions of any donation, devise or bequest, in accordance with the laws of the state of Washington and requirements of the Office of the State Auditor. (Ord. 97-139 § 3).

[3.45.040 Internal Revenue Code compliance.](#)

The city will comply with all provisions of the Federal Internal Revenue Code in this policy. (Ord. 97-139 § 4).

OLYMPIA

Chapter 3.56 DONATIONS

3.56.000 Chapter Contents

Sections:

[3.56.010](#) Definition.

[3.56.020](#) Manager authorized to accept.

[3.56.030](#) Disposition of property.

[3.56.040](#) Acknowledgement of donations.

[3.56.050](#) Policies and procedure.

[3.56.010 Definition](#)

As used in this chapter, the term "donation" refers to any money or property, real or personal, donated, devised or bequeathed, with or without restriction, to the city.

(Ord. 5136 §1, 1990).

[3.56.020 Manager authorized to accept](#)

The city manager is authorized to accept donations and to carry out any conditions thereof, if same is within the powers granted by law to the city. The city manager may decline to accept a donation if such donation is not consistent with the policies, plans, goals or ordinances of the city or if acceptance of same is contrary to law.

(Ord. 5136 §2, 1990).

[3.56.030 Disposition of property](#)

The city manager shall hold, use or dispose of any property donated in accordance with any terms and conditions of said donation. If the donation is without conditions, the manager shall hold, use or dispose

of the property in the manner deemed most appropriate under the laws, policies, goals and plans of the city; provided, that the city manager shall refer to the city council the matter of use or disposition of real property. Monetary donations shall be deposited in the appropriate fund to carry out the conditions thereof; and if said donations are given without conditions said funds shall be deposited in the general fund to be appropriated pursuant to the budget process.

(Ord. 5136 §3, 1990).

[3.56.040 Acknowledgement of donations](#)

The city manager shall, for each donation, communicate an acknowledgement of acceptance on behalf of the city and express appropriate appreciation therefor.

(Ord. 5136 §4, 1990).

[3.56.050 Policies and procedure](#)

The city manager shall promulgate appropriate policies and procedures, with the recommendation of the various city departments, to encourage and facilitate the making of donations to the city.

PUYALLUP

Chapter 3.64

DONATIONS TO PUYALLUP FUND

Sections:

[3.64.010](#) Established.

[3.64.020](#) Administration.

[3.64.030](#) Deposit of monies.

[3.64.040](#) Specific use requested by donor.

[3.64.050](#) Acceptance of nonmonetary donations.

[3.64.060](#) Prior nonmonetary donations.

[3.64.010 Established.](#)

There is hereby established a special fund, to be designated the "donations to Puyallup fund." The purpose of this fund is to provide for the deposit and financial administration, including project accounting, of monetary and nonmonetary donations to the city and the expenditure and proper use thereof. (Ord. 2501 § 1, 1996).

[3.64.020 Administration.](#)

The finance department shall have the responsibility for the financial administration of the fund and shall maintain separate records of accounts showing receipts and disbursements for all donations and for all projects assigned to the fund. The department may also establish rules and regulations for the administration of the fund. (Ord. 2501 § 2, 1996).

3.64.030 Deposit of monies.

The city manager is hereby authorized to accept on behalf of the city all monetary donations to the city of Puyallup. All donations accepted by the city shall be deposited into the fund. The only exception to this section is monies donated to support the D.A.R.E. program. This program has established a fund for the collection of monetary donations. (Ord. 2501 § 3, 1996).

3.64.040 Specific use requested by donor.

In the event a donor has indicated a desire as to the use by the city of a donation, such donation shall, to the extent reasonably feasible, be assigned to a project consistent with the donor's desired use. (Ord. 2501 § 4, 1996).

3.64.050 Acceptance of nonmonetary donations.

All nonmonetary donations with a current value greater than \$25.00 and less than \$500.00 must be approved by the city manager. All nonmonetary donations with value of \$500.00 or more must be approved by the city council. Department directors/managers may approve in-kind donations supporting budgeted projects. The department accepting the donation will be required to detail all related future costs associated with the acceptance of the donation and submit the list of expenses to the approving authority with the donation request. (Ord. 2501 § 5, 1996).

3.64.060 Prior nonmonetary donations.

Any nonmonetary donations accepted prior to the adoption of the ordinance codified in the chapter may be transferred to this fund for tracking purposes. (Ord. 2501 § 6, 1996).

CEMETERY CODE

CITY OF BLACK DIAMOND

WASHINGTON

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF BLACK DIAMOND, WASHINGTON, RELATING TO ESTABLISHMENT AND ADMINISTRATION OF PUBLIC CEMETERIES; REPEALING AND RE-ENACTING CHAPTER 12.12 BDMC TO RE-ESTABLISH A CEMETERY BOARD AND TO CONFORM THIS CHAPTER TO APPLICABLE STATE LAW; PROVIDING FOR VESTED RIGHTS AND RIGHT OF DESCENT AND SURVIVORSHIP; PROVIDING FOR TRANSFER OF OWNERSHIP; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, RCW 35A.68.010 provides that the City may exercise the powers to acquire, own, improve, manage, operate and regulate real and personal property for the operation of a city cemetery or other place for the burial of the dead, to create cemetery boards or commissions, to establish and manage funds for cemetery improvement and care and to make all necessary or desirable rules and regulations concerning the control and management of burial places and the investment of funds relating thereto and accounting therefor, all as authorized by Chapter 68.52 RCW; and

WHEREAS, the City Council in 1978 enacted Ordinance No. 210, codified at BDMC Chapter 12.12, establishing the Black Diamond Cemetery as a non-endowment cemetery pursuant to the provisions of Chapter 68.40 RCW, and providing for the creation of a cemetery board, and establishing the duties and obligations of the cemetery board, and providing for the administration of the Black Diamond Cemetery; and

WHEREAS, former RCW Chapter 68.40 RCW is no longer applicable to the administration of the Black Diamond Cemetery and it necessary to re-establish the Black Diamond Cemetery pursuant to Chapter 68.52 RCW, and

WHEREAS, the City desires to amend the City Cemetery Code to conform to the current requirements of Chapter 68.52 RCW and other applicable state laws; and

WHEREAS, the City Council desires to dissolve the non-functioning cemetery board and create a cemetery advisory board solely as an advisory body to the Mayor and City Council; and

WHEREAS, the City Council finds that it is in the best interest of the public health, safety and welfare to amend the Cemetery Code as set forth herein;

NOW, THEREFORE, the City Council of the City of Black Diamond, Washington, do ordain as follows:

Section 1. Repeal and Re-Enactment of Article I of Chapter 12.12 BDMC (Regulations).
Article 1, Chapter 12.12 of the Black Diamond Municipal Code is hereby repealed in its entirety and re-enacted to read as follows:

12.12.010 - Cemetery established.

There is established the Black Diamond cemetery, the site thereof to be the present site of the cemetery, at one time operated and maintained by the Black Diamond cemetery association, with full power of acquisition of additional land for burial purposes when the same is deemed necessary. It is the purpose of the cemetery to honor those interred.

12.12.020 - Intent.

It is the intent of the ordinances codified in this chapter to comply with the provisions of Chapter 68.52 RCW regarding the creation, administration, and maintenance of a municipal cemetery and the provisions of Chapter 68.32 regarding the right and title to cemetery lots and rights of interment.

12.12.030 - Maintenance and improvement.

It is the purpose and policy of the city council to maintain the cemetery as a public burial ground with care thereof, and the grave lots therein, and to keep the same as a burial tract with grass, shrubs and trees as shall be provided by the city council in the budget.

12.12.040 – Advisory Board—Membership.

There is created a cemetery advisory board consisting of five members, all of whom shall be appointed by the mayor, and who shall hold office at his/her pleasure, with the provision that two members shall serve for an initial term of one year, one member for an initial term of two years, one member for an initial term of three years and one member for an initial term of four years, and that thereafter each term shall be for four years, and that the members may be appointed by the mayor from the members of the city council, the qualified voters of the city or residents of adjacent territory who have a historical linkage to the cemetery.

12.12.050 - Board—Duties.

A. It shall be the duty of the cemetery advisory board:

1. To organize and plan for open public meetings as necessary, to develop a public notification process for such meetings in consultation with the city clerk, and to provide a

report on such meetings at the next regular meeting of the city council parks and cemetery committee or its successor.

2. To study, consider and recommend changes to the mayor and city council on cemetery policies, beautification, maintenance and or upkeep.

3. To advocate for and encourage continuing volunteer efforts to maintain and repair cemetery grounds and works, including but not limited to landscaping, headstone maintenance and historical documentation, all within any general guidelines set forth by the city.

B. Nothing in this Section gives the cemetery advisory board the power to direct staff, expend funds of the city or to obligate a particular course of action on behalf of the city. The cemetery advisory board shall have no authority or responsibility for the care or operation of Black Diamond Cemetery, the management or investment of sums received from the sale of lots, or for keeping books of account of such sums received.

12.12.060 – Ownership, descent, and transfer.

A. Right to Use of Cemetery Lot and Right of Interment. The right and title to cemetery lots and rights of interment shall be governed by Chapter 68.32 RCW, as now or may hereafter be amended, including but not limited to; the presumption of ownership as separate property; the vested right of placement of spouses and registered domestic partners; descent of title to spouses, registered domestic partners, and heirs; the right of survivorship of joint tenants; and, waiver of the right of placement.

B. Use of the Unoccupied Portions of Lot. If the owner of the lot(s) or right of interment is deceased, the City is authorized to permit the use of the unoccupied portions of the lot or right of interment by the person entitled to the use of it, only upon submission of an affidavit in conformance with RCW 68.32.050, as now or may hereafter be amended.

C. Transfer of Lot or Right of Interment. Any person(s) owning a lot(s) or right(s) of interment in the cemetery will not be permitted to transfer the lot(s) or right(s) of interment except upon the prior written consent of the City, by and through the Mayor or his/her designee. The City may not withhold its consent to transfer an individual lot or right of interment unless the City agrees to purchase the owner's right, title and interest to the lot or right of interment for an amount equal to the current rate set forth in the City Code for a comparable lot or right of interment, less a ten (10) percent administrative fee. In the event that the City grants its consent to the transfer, such transfer shall not be effective unless and until the owner pays the transfer fee and submits a completed and notarized notice and approval of transfer upon forms approved by the City. Approved transfer forms are available from the city clerk's office during regular business hours. The amount of the transfer fee shall be set by resolution or ordinance of the City Council. The provisions of this subsection shall not alter the vested rights granted pursuant to Chapter 68.32 RCW.

D. Deposit of Funds. Funds received from the sale of lots will be paid to the city clerk-treasurer, who shall keep a record thereof, and who will deposit such funds to the cemetery improvement fund.

12.12.070 - Abandoned lots.

A. As provided in the laws of the state, the ownership of or right in or to unoccupied space in the cemetery shall, upon abandonment, be subject to forfeiture and sale by the city.

B. The continued failure by an owner to maintain or care for an unoccupied cemetery lot, unoccupied part of a lot, unoccupied lots or parts of lots for a period of five years creates and establishes a presumption that the same has been abandoned. The city council has the necessary power and authority to take the necessary action for forfeiture and sale of any such lots according to and as provided by law.

12.12.080 - Violation—Penalty—Incorporation by Reference.

The City hereby incorporates by this reference as though fully set forth herein, RCW 68.56.010 (Unlawful damage to graves, markers, shrubs, etc. — interfering with funeral), as now or may be hereafter amended.

Section 2. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 3. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON
THE ____ DAY OF _____, 20__.

CITY OF BLACK DIAMOND

Rebecca Olness, Mayor

ATTEST/AUTHENTICATED:

|

Brenda L. Martinez, City Clerk

Approved as to form:

Chris D. Bacha,
Kenyon Disend PLLC
City Attorney

Filed with the City Clerk:
Passed by the City Council:
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