



CITY OF BLACK DIAMOND
December 4, 2014 Regular Business Meeting Agenda
25510 Lawson St., Black Diamond, Washington

7:00 P.M. – CALL TO ORDER, FLAG SALUTE, ROLL CALL

PUBLIC COMMENTS: Persons wishing to address the City Council regarding items of new business are encouraged to do so at this time. When recognized by the Mayor, please come to the podium and clearly state your name and address. Please limit your comments to 3 minutes. If you desire a formal agenda placement, please contact the City Clerk at 360-886-5700. Thank you for attending.

PUBLIC HEARINGS:

APPOINTMENTS, PRESENTATIONS, ANNOUNCEMENTS:

Presentation – Enumclaw School District

Mike Nelson

1) AB14-118 – Resolution Confirming Mayor’s Appointment to Planning Commission

Mayor

UNFINISHED BUSINESS:

NEW BUSINESS:

2) AB14-119 – Ordinance Amending 2014 Budget

Ms. Miller

3) AB14-120 – Ordinances Adopting 2015 Property Tax Levy

Ms. Miller

4) AB14-121 – Resolution Accepting 2014 Roadway Grind and Patch Project

Mr. Boettcher

5) AB14-122 – Ordinance Amending Municipal Code Regarding SEPA

Mr. Nix

DEPARTMENT REPORTS:

MAYOR’S REPORT:

COUNCIL REPORTS:

A. Council Standing Committees and Regional Committees

- Councilmember Benson - Budget, Finance, Administration Committee; South County Area Transportation Board (SCATBd); South East Area Transportation Solutions (SEATS) Coalition; Mental Illness and Drug Dependency Oversight Committee
- Councilmember Edelman - Planning and Community Service Committee; Public Issues Committee (PIC)
- Councilmember Dedy - Cemetery and Parks Committee; Growth Management Planning Council (GMPC)
- Councilmember Taylor, Chair - Public Works Committee; Public Safety Committee
- Councilmember Morgan - Water Resource Inventory Area Committee (WRIA 9)

ATTORNEY REPORT:

PUBLIC COMMENTS:

CONSENT AGENDA:

- 6) **Claim Checks** – December 4, 2014, No. 41630 through No. 41633 in the amount of \$515,010.40
- 7) **Minutes** – Council Meeting of November 6, 2014

EXECUTIVE SESSION:

ADJOURNMENT:

CITY COUNCIL AGENDA BILL

City of Black Diamond
Post Office Box 599
Black Diamond, WA 98010

ITEM INFORMATION		
SUBJECT: AB14—118 Resolution Confirming the Mayor's Appointment of Patricia Pepper to Position #1 on the Planning Commission	Agenda Date: December 4, 2014	
	AB14-118	
	Mayor	X
	City Administrator	
	City Attorney Carol Morris	
	City Clerk – Brenda L. Martinez	
	Com Dev/Nat Res – Aaron Nix	
	Finance – May Miller	
	MDRT/Eco Dev – Andy Williamson	
	Police – Chief Kiblinger	
Cost Impact (see also Fiscal Note):	Public Works – Seth Boettcher	
Fund Source:	Court – Stephanie Metcalf	
Timeline:		
Agenda Placement: <input checked="" type="checkbox"/> Mayor <input type="checkbox"/> Two Councilmembers <input type="checkbox"/> Committee Chair <input type="checkbox"/> City Administrator		
Attachments: Resolution No. 14-995		
<p>SUMMARY STATEMENT:</p> <p>Position No. 1 of the Black Diamond Planning Commission expires on December 31, 2014. Staff advertised for the vacancy in October and three applications were received however, one was not valid as the applicant was not a city resident or a city business owner.</p> <p>The interview committee consisting of Dave Gordon, Carol Benson and Janie Edelman interviewed the two applicants on November 17, 2014.</p> <p>The Mayor is seeking confirmation from Council on the appointment of Patricia Pepper to Position No.1 on the Black Diamond Planning Commission with the term commencing January 1, 2015 and ending December 31, 2018.</p> <p>FISCAL NOTE (Finance Department): N/A</p>		
<p>COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:</p>		
<p>RECOMMENDED ACTION: MOTION to confirm the Mayor's appointment of Patricia Pepper to Position No. 1 on the Black Diamond Planning Commission with the term commencing January 1, 2015 and ending December 31, 2018.</p>		
RECORD OF COUNCIL ACTION		
Meeting Date	Action	Vote
December 4, 2014		

RESOLUTION NO. 14-995

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BLACK DIAMOND, KING COUNTY, WASHINGTON
CONFIRMING THE MAYOR'S APPOINTMENT TO THE
PLANNING COMMISSION**

WHEREAS, in accordance with Black Diamond Municipal Code 2.24.010, members of the Planning Commission shall be appointed by the Mayor and confirmed by the City Council; and

WHEREAS, this Resolution confirms the Mayor's appointment to the City of Black Diamond Planning Commission;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. That the Mayor's appointment of Patricia Pepper to the City of Black Diamond Planning Commission Position No. 1 is hereby confirmed; said term to commence on January 1, 2015 and expire on December 31, 2018.

**PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT
A REGULAR MEETING THEREOF, THIS 4TH DAY OF DECEMBER, 2014.**

CITY OF BLACK DIAMOND:

Mayor

Attest:

Brenda L. Martinez, City Clerk

CITY COUNCIL AGENDA BILL

City of Black Diamond
Post Office Box 599
Black Diamond, WA 98010

ITEM INFORMATION		
SUBJECT: AB14-119 Ordinance amending the 2014 Budget Ordinance 13-1018 and 14-1032 to reflect changes in revenues and expenditures	Agenda Date: December 4, 2014	
	AB14-119	
	Mayor	
	City Administrator	
	City Attorney Carol Morris	
	City Clerk – Brenda L. Martinez	
	Com Dev/Nat Res– Aaron Nix	
	Finance – May Miller	X
	MDRT/Ec Dev – Andy Williamson	
	Parks/Natural Resources –	
Cost Impact (see also Fiscal Note):	Police – Chief Kiblinger	
Fund Source: Various	Public Works – Seth Boettcher	
Timeline: 2014	Court Administrator – Stephanie Metcalf	
Agenda Placement: <input checked="" type="checkbox"/> Mayor <input type="checkbox"/> Two Councilmembers <input type="checkbox"/> Committee Chair <input type="checkbox"/> City Administrator		
Attachments: Ordinance 14-1040 and Exhibit A - Summary and Details		
<p>SUMMARY STATEMENT:</p> <p>Washington State Law requires that municipal budgets be amended by the City Council when revenues or expenditures are higher than budgeted amounts, or when budget authority is exhausted for any particular fund or when carry-over balances or Projects or Grants need to be added to the current year budget. The Law does not require budget amendments for reductions, but those adjustments are included, in needed, to clarify reporting and preparation of Financial trend information.</p> <p>This technical housekeeping budget change is the second and last budget amendment to the 2014 budget and totals \$79,650. Most of the changes are for Maintenance and Operation costs, as well as some Insurance adjustments due to the cities insurance extension for three extra months in 2014. Also included is the 2014 amount of \$500 for the KC Public Health Center that was recently approved by council.</p> <p>\$15,400 is needed from REET 1 &11 to cover General Facility Fee costs. The water Fund needed \$18,200, primarily to cover higher Water repairs and Maintenance costs in 2014. The Water Capital project fund also includes a budget of \$12,000 to cover the costs of water telemetry repair and replacement that urgently needs to be updated.</p> <p>All Budgets are covered by Revenue or Ending Cash and Investment Balances in each fund.</p> <p>FISCAL NOTE (Finance Department): The Budgets in each fund are covered by additional Revenues or Ending Cash and Investment Balances.</p>		
COUNCIL COMMITTEE REVIEW AND RECOMMENDATION: the Finance Committee reviewed and recommended approval.		

RECOMMENDED ACTION: **MOTION to adopt Ordinance No. 14-1040 amending the 2014 Budget.**

RECORD OF COUNCIL ACTION

<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
December 4, 2014		

ORDINANCE NO. 14-1040

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON, AMENDING THE BUDGET FOR CALENDAR YEAR 2014 AS ADOPTED BY ORDINANCE 13-1018 and 14-1032 for MEANS OF APPROPRIATIONS, ADJUSTMENTS AND TRANSFERS WITHIN VARIOUS FUNDS IN ACCOUNTS IN THE 2014 BUDGET

WHEREAS, the amounts of dollars actually received within the accounts of various funds in the 2014 budget vary from the amounts set forth in Ordinance No. 13-1018 and 14-1032; and

WHEREAS, it is necessary to make adjustments to those accounts and/or funds by means of appropriation adjustments and transfers to the 2014 Budget;

WHEREAS, THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON, ORDAINS AS FOLLOWS;

Section 1. Section 2 of Ordinance 13-1018 and 14-1032 is hereby amended with the following additions and reductions:

City of Black Diamond, Washington

A. Estimated Expenditures by Fund

Fund #	Fund Title	Ordinance 14-1040 Budget Amendment
		2014
Fund 001	General Fund	17,900
Fund 101	Street Fund	0
Fund 104	REET I	7,700
Fund 105	REET II	7,700
Fund 107	Fire Impact Fee Fund	
Fund 310	General Govt CIP Fund	7,700
Fund 320	Street CIP Fund	7,700
Fund 401	Water Fund	18,200
Fund 402	Water Supply Facility Fund	
Fund 404	Water Capital Fund	
Fund 407	Sewer Fund	11,100
Fund 408	Wastewater Capital Fund	
		1,650
Fund 410	Stormwater Fund	

Fund 510 Equipment Replacement Fund

Total

\$ 79,650

Section 2. This Ordinance shall be in full force and effect five days after its passage, approval, posting and publication in summary form as provided by law.

Introduced this 4th day of December, 2014.

Passed by a majority of the City Council at a meeting held on the 4th day of December 2014.

Mayor

Attest:

Brenda L. Martinez, City Clerk

APPROVED AS TO FORM:

City Attorney

Published: _____

Posted: _____

Effective Date: _____

City of Black Diamond, Washington

November 2014 Budget Adjustment Summary

A. Estimated Expenditures by Fund

Fund #	Fund Title	Ordinance 13-1018	Ordinance 14-1032, July 2014	Ordinance 14-XXX Nov 2014	Total Adj. Budget 2,014
		Budget 2014	Budget Adjustment 2014	Budget Adjustment	
Fund 001	General Fund	5,817,350	271,540	17,900	6,106,790
Fund 101	Street Fund	346,242	865		347,107
Fund 107	Fire Impact Fee Fund	20,000	5,366		25,366
Fund 310	Capital Fund-Gen govt	645,738	(219,166)	7,700	434,272
Fund 311	REET I	0	285,643	7,700	293,343
Fund 320	Capital Fund -Public Works	800,498	359,949	7,700	1,168,147
Fund 321	REET II		335,057	7,700	342,757
Fund 401	Water Fund	935,690	(12,432)	18,200	941,458
Fund 402	Water Supply Facility Fund	105,180	60,000		165,180
Fund 404	Water Capital Fund	856,427	(131,465)		724,962
Fund 407	Wastewater Fund	933,739	(11,727)	11,100	933,112
Fund 408	Wastewater Capital Fund	869,767	95,091		964,858
Fund 410	Stormwater Fund	644,161	20,201	1,650	666,012
Fund 510	Equipment Replacement Fui	310,624	30,552		341,176
Total		\$ 12,285,416	\$ 1,089,474	79,650	13,454,540

Budget Change Detail Worksheet - Nov 2014

	REVENUE		EXPENSES	
	Rev	Bud Change	Exp	Bud Change
1 General Fund	0		0	
2 Central Svs-Vehicle repair			1,000	
3 Central Service-Postage			1,000	
4 Centra; Service-Insurance			1,400	
5 Central Service Allocation	3,400			
6 Central Services-KC Public Health Center			500	
7 Facilities-Vehicle Repair			2,000	
8 Police-Insurance			3,700	
9 Police-Insurance deductible			2,000	
10 Police Outside agency Overtime			4,000	
11 Police-Overtime Reimbursement Revenue	4,000			
12 Cemetery-Vaults & Liners			2,000	
13 Cemetery-fuel			300	
14 Cemetery Vaults & Liners Reimb Fee	2,000		0	
15 Cemetery Fees	300		0	
16 Passport Fees	3,500			
17 Refund-KC Animal Control	4,700			
18 Sub Total	17,900		17,900	
19	0		0	
20 Total General Fund	17,900		17,900	
21 Street Fund 101	0		0	
22 Insurance	0		707	
23 Vehicle Mtc			1,000	
24 Shop Costs			700	
25 Ending C&I from 119,067 to 116,660	0		(2,407)	
26 Total Street Fund	0		0	
27 REET 1 Fund 311	0		0	
28 REET 1 Revenue	7,700		0	
29 TRF to-General Facility Charge Project			7,700	
30 Total REET 1 Fund 311	7,700		7,700	
31 Capital Imp Fund 310				
32 Transfer in from REET 1	7,700			
33 Makers-GFC Exp			7,700	
34 Move balance of roof repair to Campus imp.			(2,500)	
35 Add to Campus Improvements from roof rep			2,500	
36 Total Capt Imp 310	7,700		7,700	
37 REET 11 321				
38 REET 11 Revenue	7,700			
39 TRF to-General Facility Charge Project			7,700	
40 Total REET 11	7,700		7,700	

41	Capital Imp Fund 320		
42	Transfer in from REET 11	7,700	
43	Makers-GFC Exp		7,700
44	Total Capt Imp 320	7,700	7,700
45	Water Fund		
46	Water Revenue	16,200	
47	Wtr Hydrant Rental	2,000	
48	Caustic	0	1,500
49	Insurance		4,000
50	Wtr Sys Maintenance		12,000
51	Vehicle Maintenance		700
52	Total Water Fund	18,200	18,200
53	Water Capt Fund 404		
54	Water Telemetry Project	0	12,000
55	Ending Water C&I from 304,427 to 292,427		(12,000)
56	Total Water Capt Fund 404	0	0
57	Sewer Fund 407		
58	Sewer Revenue	11,100	
59	Insurance	0	1,200
60	Electricity	0	500
61	Maint Shops		300
62	Vehicle Repair	0	1,100
63	Metro		8,000
64	Total Sewer Fund 407	11,100	11,100
65	Stormwater Fund 410	0	0
66	Stormwater Inspections Fee	1,650	
67	shop Maint		500
68	Shop Maint	0	600
69	Vehicle Maintenance		500
70	Postage		2,200
71	,Ending C&I from 71,403 to 69,253	0	(2,150)
72	Total 410	1,650	1,650
73			
74	Total BC	79,650	79,650

CITY COUNCIL AGENDA BILL

City of Black Diamond
Post Office Box 599
Black Diamond, WA 98010

ITEM INFORMATION		
SUBJECT: AB14-120 Adopting Ordinance No. 14-1941 & 14-1041A to set the maximum Property Tax Dollar amount for 2015 and specifying the dollar and percentage of Property Tax increase allowed for 2015 to be used for Public Safety including Fire, Police and Emergency Services.	Agenda Date: December 4, 2014	
	AB14-120	
	Mayor	
	City Administrator	
	City Attorney Carol Morris	
	City Clerk – Brenda L. Martinez	
	Community Development/Natural Resource– Aaron Nix	
	Finance – May Miller	X
	MDRT & Economic Development – Andy Williamson	
	Cost Impact (see also Fiscal Note):	Parks/Natural Resources –
Fund Source: Various	Police – Chief Kiblinger	
Timeline:	Public Works – Seth Boettcher	
	Court Administrator – Stephanie Metcalf	
Agenda Placement: <input checked="" type="checkbox"/> Mayor <input type="checkbox"/> Two Councilmembers <input type="checkbox"/> Committee Chair <input type="checkbox"/> City Administrator		
Attachments: Ordinance No 14-1041 and 14-1041A, Levy certifications, Preliminary KC worksheet and Tax chart		
SUMMARY STATEMENT:		
<p>King County notified the city that we needed to repeal our Property Tax Ordinances No. 14-1037 and Ordinance No. 14-1037A and adopt revised Property Tax Ordinances. Some of the rules of inclusion, exclusion and percentages of increase have changes which need to be specified in King County's changed format. This will not change the amount of Property Tax to be levied or collected for 2015.</p>		
<p>Per RCW 84.52.020 the property tax certifications must be filed with King County no later than December 5, 2014 for Property Taxes to be collected in 2015 to be used for Public Safety including Fire, Police and Emergency Services.</p>		
<p>The two new ordinances repeal Ordinance No 14-1037 & 14-1037A that had been adopted on November 20, 2014 and adopt the King County required amounts and percentage they have specified. The first ordinance sets the Maximum Property tax dollar amount of \$1,483,547 that can be levied and includes the new refund category of \$3,284 and \$30,000 for possible increases resulting from new construction, improvements to property, annexation or other changes that have resulted since King County provided the estimate in October 2014. King County will not send final amounts until the first week in December 2014, which is too late to be adopted and submitted to them by their December 5, 2015 deadline. The second ordinance uses the King County calculated allowed dollar amount and percentage of actual increase they have calculated. Even though we are allowed as a city under \$10,000 to increase the dollar amount by 1% or \$14,338, King County calculated that our actual dollar increase is \$10,823 or .75% from the actual amount they levied (see note 7 in King County worksheet included). Neither ordinance change will change the actual levy amount that Black Diamond will collect for 2015, but are simply technical changes required by King County. King County will adjust the levy and dollars down to the allowed amount, but they cannot make any increases.</p>		

A Public Hearing on the Property Tax was held on November 6, 2014.

King County estimates our total 2015 city Assessed Valuation at \$601,717,756 an increase of \$53,318,513 over 2014 or a 10% increase. Each property tax bill is calculated by the county and they set the actual levy rate once they have finalized all assessments and individual valuations.

All of Black Diamonds Property Taxes funds are used for Public Safety and provide approximately 64% of the revenue needed to cover Public Safety costs.

FISCAL NOTE (Finance Department): The revised Property Tax Ordinances will not change the amount of Property Tax that the City received as that is calculated by King County. These ordinances just clarify the County's specific amounts listed in each category.

COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:

On November 25, 2014, the Finance Committee reviewed the new Property Tax Ordinances and recommended approval.

RECOMMENDED ACTION: MOTION to adopt Ordinance No. 14-1041 Ordinance No. 14-1041A setting the Property Tax dollar amount for 2015 and specifying the dollar amount and percentage of actual allowed Property tax increase for 2015 to be used for Public Safety, including Police, Fire and Emergency Services.

RECORD OF COUNCIL ACTION

<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
December 4, 2014		

ORDINANCE NO. 14-1041

AN ORDINANCE OF THE CITY OF BLACK DIAMOND, WASHINGTON, RELATING TO THE GENERAL PROPERTY TAX LEVY, REPEALING ORDINANCE No. 14-1037 WHICH ADOPTED THE MAXIMUM GENERAL PROPERTY TAX LEVY FOR 2015 AND PRELIMINARY ASSESSED VALUATION, ADOPTING A NEW ORDINANCE ADOPTING PRELIMINARY ASSESSED VALUATION AND THE GENERAL PROPERTY TAX LEVY COMMENCING ON JANUARY 1, 2015 WITH CERTAIN CHANGES REQUIRED BY KING COUNTY IN THE MANNER IN WHICH THE TOTAL LEVY AND REFUNDS ARE DEPICTED ON THE ORDINANCE, SUCH PROPERTY TAX LEVY SHALL APPLY TO ALL PROPERTY BOTH REAL AND PERSONAL, SUBJECT TO TAXATION, FOR THE PURPOSE OF PROVIDING REVENUE FOR PUBLIC SAFETY FOR THE CITY OF BLACK DIAMOND, ALL AS REQUIRED BY LAW, AND ESTABLISHING THE EFFECTIVE DATE.

WHEREAS, the cities under 10,000 population may increase the regular property tax levy from the previous year by up to one percent, and

WHEREAS, the City Council has properly given notice of the Public Hearings held on November 6, 2014 and November 20, 2014 to consider the City's 2015 Preliminary Budget including the Revenue Sources, pursuant to RCW 84.55.120; and

WHEREAS, the City Council of Black Diamond, Washington has met and considered the Public Safety budgets for the year of 2015; and

WHEREAS, a public hearing was held on November 6, 2013 regarding the 2015 Budget and the property tax levy, and

WHEREAS, the City Council passed Ordinance No. 14-1037, adopting the 2015 general property tax levy on November 20, 2014, during a regular City Council meeting; and

WHEREAS, after adoption of Ordinance No. 14-1037, the City learned that King County has changed how the total levy and refunds are listed on the Ordinance and that a new ordinance must be adopted with this change; and

WHEREAS, King County requires that the 2015 Property Tax Levies be submitted by December 5, 2014; and

WHEREAS, Ordinance No. 14-1037 needs to be repealed and replaced with a new ordinance, which must be adopted and submitted to King County prior to December 5, 2014;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON, ORDAINS AS FOLLOWS:

Section 1. **Ordinance No. 14-1037 Repealed.** The City Council hereby repeals Ordinance No. 14-1037.

Section 2. **Assessed valuation and Levy Amount.** The preliminary assessed valuation of \$601,717,756 is adopted. A regular property tax for 2015 is hereby levied in the amount \$1,483,547 which includes the allowed one percent increase over last year's levy. This total levy dollar amount of \$1,483,547 includes refund of \$3,284 and an estimated \$30,000 any increases resulting from additional new construction, improvements to property, newly constructed wind turbines, and any increase in the value of state assessed property or any annexations that have occurred and adjustment made by the county. The final dollar amount of Property Taxes is determined by King County and reduced to the actual amount allowed.

Section 3. **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 preempted by State or Federal law or regulations, such decisions or preemptions shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 4. **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.

PASSED by the Council and approved by the Mayor Pro Tem of the City of Black Diamond, Washington, this 4th day of December, 2014.

Mayor Pro Tem, Carol Benson

Attest:

Brenda L. Martinez, City Clerk

APPROVED AS TO FORM:

Carol Morris, City Attorney

Published: _____
Posted: _____
Effective Date: _____

ORDINANCE NO. 14-1041A

AN ORDINANCE OF THE CITY OF BLACK DIAMOND, WASHINGTON, RELATING TO THE GENERAL PROPERTY TAX LEVY, REPEALING ORDINANCE No. 14-1037A WHICH ADOPTED A DOLLAR AMOUNT AND ALLOWED PERCENTAGE OF INCREASE FOR 2015 AND ADOPTING A NEW ORDINANCE ADOPTING DOLLAR AMOUNT AND PERCENTAGE OF INCREASE CALCULATED BY KING COUNTY BASED ON LAST YEARS ACTUAL LEVY COMMENCING ON JANUARY 1, 2015 WITH CERTAIN CHANGES REQUIRED BY KING COUNTY IN THE MANNER IN WHICH THE AMOUNTS ARE CALCULATED. SUCH PROPERTY TAX LEVY SHALL APPLY TO ALL PROPERTY BOTH REAL AND PERSONAL, SUBJECT TO TAXATION, FOR THE PURPOSE OF PROVIDING REVENUE FOR PUBLIC SAFETY FOR THE CITY OF BLACK DIAMOND, ALL AS REQUIRED BY LAW, AND ESTABLISHING THE EFFECTIVE DATE.

WHEREAS, the Council of the City of Black Diamond has met and considered its budget for the calendar years 2015; and

WHEREAS, the Council thereafter gave notice of a public hearing and held a public hearing on November 6, 2014, as described in the “whereas” sections of Ordinance No. 14-1037A; and

WHEREAS, the City adopted the Preliminary assessed valuation of \$601.717.756, and

WHEREAS, the City’s actual King County levy amount from the previous year was \$1,437.331.00; and

WHEREAS, the population of the City is less than 10,000; and

WHEREAS, on November 20, 2014, the City Council adopted Ordinance No. 14-1037A; and

WHEREAS, King County has informed the City that changes need to be made in both Ordinance No. 1037 and Ordinance 1037A, so these ordinances need to be repealed and new ordinances adopted prior to December 5, 2014;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON, ORDAINS AS FOLLOWS:

Section 1. **Ordinance No. 14-037A Repealed.** The City Council hereby repeals Ordinance No. 14-1037A.

Section 2. **Levy and preliminary assessed valuation Authorized.** An increase in the regular property tax levy is hereby authorized for the levy to be collected in the 2015 tax year. The dollar amount of the increase over the actual levy amount from King County for the previous year shall be \$10,823.00, which is a percentage increase of .75% from the previous year. This increase is exclusive of additional revenue resulting from new construction, improvements to property, newly constructed wind turbines, and any increase in the value of state assessed property, any annexations that have occurred and refunds made.

Section 3. **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 preempted by State or Federal law or regulations, such decisions or preemptions shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 4. **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.

PASSED by the Council and approved by the Mayor Pro Tem of the City of Black Diamond, Washington, this 4th day of December, 2014.

Mayor Pro Tem, Carol Benson

Attest:

Brenda L. Martinez, City Clerk

APPROVED AS TO FORM:

Carol Morris, City Attorney

Published: _____
Posted: _____
Effective Date: _____

PRELIMINARY

LEVY LIMIT WORKSHEET – 2015 Tax Roll

TAXING DISTRICT: City of Black Diamond

The following determination of your regular levy limit for 2015 property taxes is provided by the King County Assessor pursuant to RCW 84.55.100.

Annexed to Library District

(Note 1)

Estimated Library rate: 0.44820

Using Limit Factor For District	Calculation of Limit Factor Levy	Using Implicit Price Deflator
1,433,816	Levy basis for calculation: (2014 Limit Factor) (Note 2)	1,433,816
1.0100	x Limit Factor	1.0159
1,448,154	= Levy	1,456,628
2,054,609	Local new construction	2,054,609
0	+ Increase in utility value (Note 3)	0
2,054,609	= Total new construction	2,054,609
2.62482	x Last year's regular levy rate	2.62482
5,393	= New construction levy	5,393
1,453,547	Total Limit Factor Levy	1,462,021
Annexation Levy		
0	Omitted assessment levy (Note 4)	0
1,453,547	Total Limit Factor Levy + new lid lifts	1,462,021
601,717,756	÷ Regular levy assessed value less annexations	601,717,756
2.41566	= Annexation rate (cannot exceed statutory maximum rate)	2.42975
0	x Annexation assessed value	0
0	= Annexation Levy	0
Lid lifts, Refunds and Total		
0	+ First year lid lifts	0
1,453,547	+ Limit Factor Levy	1,462,021
1,453,547	= Total RCW 84.55 levy	1,462,021
3,284	+ Relevy for prior year refunds (Note 5)	3,284
1,456,831	= Total RCW 84.55 levy + refunds	1,465,305
Levy Correction: Year of Error _____ (+or-)		
1,456,831	ALLOWABLE LEVY (Note 6)	1,465,305
Increase Information (Note 7)		
2.42112	Levy rate based on allowable levy	2.43520
1,437,331	Last year's ACTUAL regular levy	1,437,331
10,823	Dollar increase over last year other than N/C – Annex	19,297
0.75%	Percent increase over last year other than N/C – Annex	1.34%
Calculation of statutory levy		
	Regular levy assessed value (Note 8)	601,717,756
	x Maximum statutory rate	3.15180
	= Maximum statutory levy	1,896,494
	+Omitted assessments levy	0
	=Maximum statutory levy	1,896,494
	Limit factor needed for statutory levy	Not usable

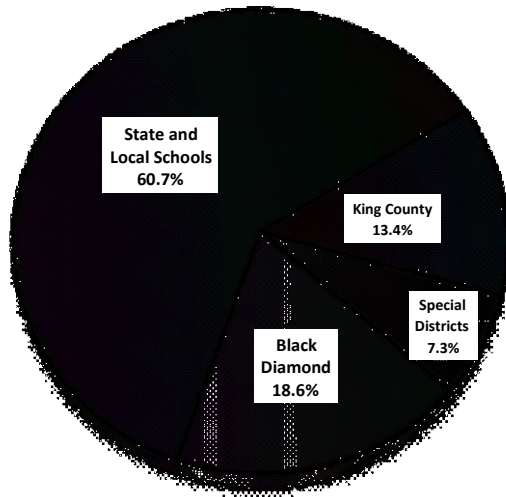
ALL YEARS SHOWN ON THIS FORM ARE THE YEARS IN WHICH THE TAX IS PAYABLE.

Please read carefully the notes on the reverse side.

Notes:

- 1) Rates for fire districts and the library district are estimated at the time this worksheet is produced. Fire district and library district rates affect the maximum allowable rate for cities annexed to them. These rates *will* change, mainly in response to the actual levy requests from the fire and library districts. Hence, affected cities may have a higher or lower allowable levy rate than is shown here when final levy rates are calculated.
- 2) This figure shows the maximum *allowable levy*, which may differ from any actual prior levy if a district has levied less than its maximum in prior years. The maximum allowable levy excludes any allowable refund levy if the maximum was based on a limit factor. The maximum allowable levy excludes omitted assessments if the maximum was determined by your district's statutory rate limit. If your district passed a limit factor ordinance in the year indicated, that limit factor would help determine the highest allowable levy. However, if the statutory rate limit was more restrictive than your stated limit factor, the statutory rate limit is controlling.
- 3) Any increase in value in state-assessed property is considered to be new construction value for purposes of calculating the respective limits. State-assessed property is property belonging to inter-county utility and transportation companies (telephone, railroad, airline companies and the like).
- 4) An omitted assessment is property value that should have been included on a prior year's roll but will be included on the tax roll for which this worksheet has been prepared. Omitted assessments are assessed and taxed at the rate in effect for the year omitted (RCW 84.40.080-085). Omitted assessments tax is deducted from the levy maximum before calculating the levy rate for current assessments and added back in as a current year's receivable.
- 5) Administrative refunds under RCW 84.69.020 were removed from the levy lid by the 1981 legislature.
- 6) A district is entitled to the lesser of the maximum levies determined by application of the limit under RCW 84.55 and the statutory rate limit. Levies may be subject to further proration if aggregate rate limits set in Article VII of the state constitution and in RCW 84.52.043 are exceeded.
- 7) This section is provided for your information, and to assist in preparing any Increase Ordinance that may be required by RCW 84.55.120. The increase information compares the allowable levy for the next tax year with your ACTUAL levy being collected this year. The actual levy excludes any refund levy and expired temporary lid lifts, if applicable. New construction, annexation and refund levies, as well as temporary lid lifts in their initial year, are subtracted from this year's *allowable* levy before the comparison is made.
- 8) ***Assessed valuations shown are subject to change from error corrections and appeal board decisions recorded between the date of this worksheet and final levy rate determination.***

For a \$275,000
Appraised Black Diamond Home in 2015



Taxing Entity	2015 Levy Rate per \$1,000	Annual Property Tax on a \$275,000 home	Monthly Property Tax on a \$275,000 home
School District (Enumclaw)	\$5.41	\$1,487	\$124
State Schools	\$2.47	\$679	\$57
Black Diamond	\$2.42	\$664	\$55
King County	\$1.85	\$509	\$42
Port of Seattle	\$0.22	\$59	\$5
Library District	\$0.45	\$123	\$10
Floods and Ferries	\$0.16	\$43	\$4
Total Property Taxes	\$12.96	\$3,565	\$297

*Example shows Enumclaw School District levy rate of \$5.41 (Kent's school rate is \$5.74 and Tahoma's school rate is \$7.22)

CITY COUNCIL AGENDA BILL

City of Black Diamond
Post Office Box 599
Black Diamond, WA 98010

ITEM INFORMATION		
SUBJECT: AB14-121 Resolution accepting the 2014 Roadway Grind and Patch project	Agenda Date: December 4, 2014	
	AB14-121	
	Mayor	
	City Administrator	
	City Attorney Carol Morris	
	City Clerk – Brenda L. Martinez	
	Com Dev/Nat Res – Aaron Nix	
	Finance – May Miller	
	MDRT/Eco Dev – Andy Williamson	
Cost Impact (see also Fiscal Note): \$2,196.30 (retainage release)	Police – Chief Kiblinger	
Fund Source: Streets	Public Works – Seth Boettcher	X
Timeline: 45 days to clear any claims	Court – Stephanie Metcalf	
Agenda Placement: <input checked="" type="checkbox"/> Mayor <input type="checkbox"/> Two Councilmembers <input type="checkbox"/> Committee Chair <input type="checkbox"/> City Administrator		
Attachments: Resolution No. 14-996; Authorizing Agenda Bill (AB14-071)		
<p>SUMMARY STATEMENT:</p> <p>Puget Paving and Construction, Inc. completed the required work for the 2014 Roadway Grind and Patch project as outlined in the contract. Retainage in the amount of \$2,196.30 will be held until release is received by the Department of Revenue, Department of Labor and Industries, and the Employment Security Department. The State has established a 45 day period where labor or material providers may make a claim against the project. After 45 days from the date of project acceptance, the City may release the retainage.</p> <p>FISCAL NOTE (Finance Department): The 2014 Roadway Grind and Patch project work is included in the 2014 Budget for this project.</p>		
<p>COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:</p>		
<p>RECOMMENDED ACTION: MOTION to adopt Resolution 14-996, accepting the 2014 Roadway Grind and Patch project by Puget Paving and Construction, Inc. according to the contract documents.</p>		
RECORD OF COUNCIL ACTION		
Meeting Date	Action	Vote
December 4, 2014		

RESOLUTION NO. 14-996

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BLACK DIAMOND, KING COUNTY, WASHINGTON
REGARDING FINAL ACCEPTANCE OF THE 2014
ROADWAY GRIND AND PATCH PROJECT**

WHEREAS, Puget Paving and Construction, Inc. has completed the 2014 Roadway Grind and Patch project according to the contract and Council authorization; and

WHEREAS, RCW 60.28.011(2) allows a period of forty-five days to file any liens or claims with the City; and

WHEREAS, RCW 39.08.030 requires acceptance of a Public Works project as complete as a formal, public action in order to begin the forty-five day period.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The City hereby accepts the 2014 Roadway Grind and Patch project as complete as set forth in that contract with Puget Paving and Construction, Inc.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 4TH DAY OF DECEMBER, 2014.

CITY OF BLACK DIAMOND:

Mayor

Attest:

Brenda L. Martinez, City Clerk

CITY COUNCIL AGENDA BILL

City of Black Diamond
Post Office Box 599
Black Diamond, WA 98010

ITEM INFORMATION		
SUBJECT: AB14-071 Award a construction contract to Puget Paving & Construction, Inc. for the 2014 Roadway Grind and Patch project in the amount of \$44,417.90 and authorize a 10% contingency (\$4,441.79).	Agenda Date: July 24, 2014	
	AB14-071	
	Mayor Dave Gordon	
	City Administrator	
	City Attorney Carol Morris	
	City Clerk – Brenda L. Martinez	
	Com Dev/Nat Res – Aaron Nix	
	Finance – May Miller	
	MDRT/Ec Dev– Andy Williamson	
Cost Impact (see also Fiscal Note): \$48,859.69		
Fund Source: Street Maintenance Budget	Police – Chief Kiblinger	
Timeline: Summer 2014	Public Works – Seth Boettcher	X
	Court – Stephanie Metcalf	
Agenda Placement: <input type="checkbox"/> Mayor <input type="checkbox"/> Two Councilmembers <input type="checkbox"/> Committee Chair <input type="checkbox"/> City Administrator		
Attachments: Resolution No. 14-963, Puget Paving & Construction Bid, Bid Tabulation, Small Works Contract, Performance Bond, Maintenance Bond		
<p>SUMMARY STATEMENT:</p> <p>The 2014 Roadway Grind and Patch project is a street maintenance project that has been planned and budgeted for. This project will provide for asphalt patches at various locations throughout the City as well as provide a new overlay in several locations.</p> <p>City staff solicited bids off the small works roster. The City received 5 bids. Puget Paving & Construction, Inc. was the low bidder at \$44,417.90. The engineer's estimate was \$55,579.68.</p> <p>Puget Paving & Construction, Inc. is from Lakewood, WA, is currently licensed, and appears to have the relevant qualifications and experience to successfully perform the work the project will require.</p> <p>FISCAL NOTE (Finance Department): The Grind and Patch project is well within the Budget amount of 71,036. This is an accumulation of REET II funds that have carried over from previous year.</p>		
<p>COUNCIL COMMITTEE REVIEW AND RECOMMENDATION: Public Works Committee is recommending approval.</p>		
<p>RECOMMENDED ACTION: MOTION to adopt Resolution No. 14-963, authorizing the Mayor to sign a \$44,417.90 contract with Puget Paving & Construction, Inc. for the 2014 Roadway Grind and Patch project and authorize a 10% contingency for potential change orders in the amount of \$4,441.79.</p>		

RECORD OF COUNCIL ACTION		
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
July 24, 2014		

CITY COUNCIL AGENDA BILL

City of Black Diamond
Post Office Box 599
Black Diamond, WA 98010

ITEM INFORMATION		
SUBJECT: AB14-122 Ordinance making modifications to the current version of BDMC section 19.04 Environmental Policy and replacing it with revised language.	Agenda Date: December 4, 2014	
	AB14-122	
	Department/Committee/Individual	
	Mayor	
	City Attorney –Carol Morris	
	City Clerk – Brenda L. Martinez	
	Finance – May Miller	
	CD/Natural Resources – Aaron Nix	X
	PW/Ec. MDRT/Ec. Dev. – Andy Williamson	
Cost Impact: N/A	Police – Jamey Kiblinger	
Fund Source: N/A	Court – Stephanie Metcalf	
Timeline: N/A		
Agenda Placement: <input checked="" type="checkbox"/> Mayor <input checked="" type="checkbox"/> Two Councilmembers <input type="checkbox"/> Committee Chair <input type="checkbox"/> City Administrator		
Attachments: Ordinance No. 14-1042		
<p>SUMMARY STATEMENT:</p> <p>I. Background.</p> <p>See the attached outline describing the State Environmental Policy Act (SEPA), chapter 43.21C RCW.</p> <p>II. Proposed Changes from Existing SEPA ordinance (chapter 19.04 of the Black Diamond Municipal Code).</p> <p>The majority of the City’s existing SEPA regulations in chapter 19.04 BDMC were adopted in 1984. Since that time, the State of Washington has updated the SEPA rules. The City needs to decide which of these rules it would like to adopt and enforce locally.</p> <p>An update is also required because the City must rely upon policies adopted in the SEPA ordinance when it conditions or denies a proposal. The City has adopted a number of codes, regulations and plans since 1984 that must be incorporated into the new SEPA ordinance.</p> <p>Another reason for the update is to change the SEPA administrative appeal process for legislative decisions. Currently, the hearing examiner renders a final decision on project permit applications, including SEPA appeals associated with such applications. The City Council renders a final decision on legislative actions such as amendments to the comprehensive plans and development regulations, after the Planning Commission holds an open record hearing. This latter process needs to be streamlined to allow the City Council to act on both the Planning Commission’s recommendation and any SEPA appeals of legislative decisions. Involving the Hearing Examiner in an appeal of a legislative decision adds a third decision-maker, making the legislative procedure unnecessarily more complex and costly.</p> <p>III. Past Action.</p> <p>A Public Hearing was held by the City Council on replacement language for BDMC Chapter 19.04 at their July 17, 2014 Council meeting. Based on the comments received at that Public</p>		

Hearing and review by the Planning and Community Services Committee at their August and September meetings, revisions were made to the Draft code. A subsequent Public Hearing was scheduled and held by the Planning Commission at their November 18, 2014 meeting. One set of written comments were received by Staff and the comments related to the format of the materials made part of the packet for this Public Hearing. No code revision specific comments were made with regard to the substance of the new code language.

The final code before the Council is a clean copy that integrates all of the proposed changes from this previously mentioned work on this, has been final reviewed by the City Attorney and Staff and is presented to the Council for their consideration of adoption at their December 4, 2014 Council meeting.

Fiscal Note: N/A

COMMITTEE REVIEW AND RECOMMENDATION: Planning and Community Development Committee met to discuss and review these code revisions at their August 5th and September 9th 2014 Planning and Community Services Committee meetings. A subsequent Public Hearing was held by the Planning Commission, with not changes made and a recommendation for approval by the Commission.

RECOMMENDED ACTION: **MOTION to adopt Ordinance No. 14-1042, RELATING TO THE STATE ENVIRONMENTAL POLICY ACT (SEPA), REPEALING THE CITY'S CURRENT PROCEDURES FOR IMPLEMENTATION OF SEPA AND ADOPTING NEW PROCEDURES FOR REVIEW OF ALL "ACTIONS" UNDER SEPA, ISSUANCE OF THRESHOLD DECISIONS, PREPARATION OF ENVIRONMENTAL IMPACT STATEMENTS, PUBLIC NOTICE, COMMENT AND APPEALS; REPEALING CHAPTER 19.04 AND ADOPTING A NEW CHAPTER 19.04 OF THE BLACK DIAMOND MUNICIPAL CODE.**

RECORD OF COUNCIL ACTION		
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
July 17, 2014	N/A	N/A
December 4, 2014		

<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
July 17, 2014	N/A	N/A
December 4, 2014		

ORDINANCE NO. 14-1042

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, RELATING TO THE STATE ENVIRONMENTAL POLICY ACT (SEPA), REPEALING THE CITY'S CURRENT PROCEDURES FOR IMPLEMENTATION OF SEPA AND ADOPTING NEW PROCEDURES FOR REVIEW OF ALL "ACTIONS" UNDER SEPA, ISSUANCE OF THRESHOLD DECISIONS, PREPARATION OF ENVIRONMENTAL IMPACT STATEMENTS, PUBLIC NOTICE, COMMENT AND APPEALS; REPEALING CHAPTER 19.04 AND ADOPTING A NEW CHAPTER 19.04 OF THE BLACK DIAMOND MUNICIPAL CODE.

WHEREAS, the City's Environmental Policy Code (chapter 19.04 BDMC) was adopted in 1984 and with the exception of Section 19.04.250 relating to appeals, has not been amended since that time; and

WHEREAS, most of chapter 19.04 BDMC involves the adoption of the State Environmental Policy Act (SEPA) Rules (Washington State Administrative Code chapter 197-11) by reference; and

WHEREAS, because the Washington State Legislature has adopted new SEPA Rules since 1984, these new Rules have not been incorporated by reference into the City's Environmental Policy Code chapter 19.04 BDMC; and

WHEREAS, the City's existing chapter on SEPA needs to be so extensively revised in order to incorporate the new SEPA Rules that the existing chapter should be completely repealed; and

WHEREAS, on June 30, 2014, the City's SEPA Responsible Official determined that the adoption of this Ordinance is categorically exempt under WAC 197-11-800(19) as an ordinance relating to procedures only; and

WHEREAS, on July 17, 2014, the City Council held a first reading of this Ordinance; and

WHEREAS, on November 18, 2014, this Ordinance was considered by the in a second reading; Now, Therefore,

THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND,
WASHINGTON, ORDAINS AS FOLLOWS:

Section 1. Chapter 19.04 of the Black Diamond Municipal Code is hereby repealed.

Section 2. A new chapter 19.04 is hereby added to the Black Diamond Municipal Code, which shall read as follows:

Chapter 19.04

ENVIRONMENTAL REVIEW STATE ENVIRONMENTAL POLICY ACT (SEPA)

Sections.

19.04.010	Authority.
19.04.020	Definitions adopted by reference.
19.04.030	Additional definitions.
19.04.040	Process.
19.04.050	Designation of responsible official.
19.04.060	Lead agency determination and responsibilities.
19.04.070	Transfer of lead agency status to state agency.
19.04.080	Categorical exemptions – Adoption by reference.
19.04.090	Categorical exemptions – Determination.
19.04.100	Integration with permit and land use decisions.
19.04.110	Integration of SEPA with project permit decisions.
19.04.120	Threshold determinations.
19.04.130	Environmental checklist.
19.04.140	Timing.
19.04.150	Mitigated DNS.
19.04.160	Environmental impact statement.
19.04.170	Preparation of EIS – Additional considerations.
19.04.190	Additional elements to be covered by EIS.

19.04.200	Adoption by reference.
19.04.210	Public notice.
19.04.220	Designation of official to perform consulted agency responsibilities for the City.
19.04.230	Using existing environmental documents.
19.04.240	SEPA and agency decisions.
19.04.250	Substantive authority.
19.04.260	Appeals.
19.04.270	Notice/statute of limitations.
19.04.280	Agency compliance.
19.04.290	Fees.
19.04.300	Adoption of forms by reference.

19.04.010 Authority. The City adopts this chapter under the State Environmental Policy Act (SEPA), RCW 43.21C.120 and the SEPA Rules, chapter 197-11 WAC. This ordinance contains the City's SEPA procedures and policies. The SEPA Rules, chapter 197-11 WAC must be used in conjunction with this chapter.

19.04.020 Definitions. This part contains the basic requirements that apply to the SEPA process. The City adopts the following sections of chapter 197-11 of the Washington Administrative Code by reference:

WAC

197-11-040	Definitions.
197-11-220	SEPA/GMA definitions.
197-11-700	Definitions.
197-11-702	Act.
197-11-704	Action.
197-11-706	Addendum.
197-11-708	Adoption.
197-11-710	Affected Tribe.
197-11-712	Affecting.
197-11-714	Agency.
197-11-716	Applicant.
197-11-718	Built Environment.
197-11-720	Categorical exemption.
197-11-721	Consolidated appeal.
197-11-724	Consulted agency.
197-11-726	Cost-benefit analysis.
197-11-728	County/city.
197-11-730	Decision-maker.
197-11-732	Department.
197-11-734	Determination of nonsignificance (DNS).
197-11-736	Determination of significance (DS).

197-11-738	EIS.
197-11-740	Environment.
197-11-742	Environmental checklist.
197-11-744	Environmental document.
197-11-746	Environmental review.
197-11-750	Expanded scoping.
197-11-752	Impacts.
197-11-754	Incorporation by reference.
197-11-756	Lands covered by water.
197-11-758	Lead agency.
197-11-760	License.
197-11-762	Local agency.
197-11-764	Major action.
197-11-766	Mitigated DNS.
197-11-768	Mitigation.
197-11-770	Natural environment.
197-11-772	NEPA.
197-11-774	Nonproject.
197-11-775	Open record hearing.
197-11-776	Phased review.
197-11-778	Preparation.
197-11-780	Private project.
197-11-782	Probable.
197-11-784	Proposal.
197-11-786	Reasonable alternative.
197-11-788	Responsible official.
197-11-790	SEPA.
197-11-792	Scope.
197-11-793	Scoping.
197-11-794	Significant.
197-11-796	State agency.
197-11-797	Threshold determination.
197-11-799	Underlying government action.

19.04.030 Additional definitions. In addition to those definitions contained with WAC 197-11-700 through 197-11-799 and 197-11-220, when used in this chapter, the following terms shall have the following meanings, unless the context indicates otherwise:

- A. “Department” means any division, unit or department of the City.
- B. “Ordinance” or “chapter” means the ordinance, resolution or other procedure used by the City to adopt regulatory requirements.
- C. “Early notice” means the City’s response to an applicant stating whether it considers issuance of a determination of significance likely for the

applicant's proposal (mitigated determination of nonsignificance (MDNS) procedures).

19.04.040. Process. The City adopts the following sections of Chapter 197-11 WAC by reference:

WAC

- 197-11-050 Lead Agency.
- 197-11-055 Timing of the SEPA Process.
- 197-11-060 Content of Environmental Review.
- 197-11-070 Limitations on actions during SEPA Process.
- 197-11-080 Incomplete or unavailable information.
- 197-11-090 Supporting documents.
- 197-11-100 Information required of applicants
- 197-11-158 GMA project review – reliance on existing plans, laws and regulations.
- 197-11-164 Planned actions – definitions and criteria.
- 197-11-168 Ordinances or resolutions designating planned actions.
- 197-11-172 Planned actions – project review.
- 197-11-210 SEPA/GMA integration.
- 197-11-228 Overall SEPA/GMA integration procedures.
- 197-11-230 Timing of an integrated GMA/SEPA process.
- 197-11-232 SEPA/GMA integration procedures for preliminary planning, environmental analysis, and expanded scoping.
- 197-11-235 Documents.
- 197-11-238 Monitoring.
- 197-11-250 SEPA/Model Toxics Control Act Integration.
- 197-11-253 SEPA Lead Agency for MTCA actions.
- 197-11-256 Preliminary evaluation.
- 197-11-259 Determination of nonsignificance and EIS for MTCA remedial actions.
- 197-11-265 Early scoping for MTCA remedial actions.
- 197-11-268 MTCA interim actions.

19.04.050 Designation of responsible official.

A. For those proposals for which the City is the lead agency, the responsible official shall be the Community Development Director.

B. For all proposals for which the City is the lead agency, the responsible official shall make the threshold determination, supervise scoping and preparation of any required environmental impact statement (EIS) and perform any other functions assigned to the “lead agency” or “responsible official” by those sections of the SEPA rules that were adopted by reference in this chapter.

19.04.060 Lead agency determination and responsibilities.

A. The SEPA Responsible Official shall determine the lead agency for any application for or initiation of a proposal that involves a nonexempt action, as provided in WAC 197-11-050, unless the lead agency has been previously determined or if another agency is in the process of determining the lead agency.

B. When the City is the lead agency for a proposal, the SEPA Responsible Official shall supervise compliance with the necessary threshold determination requirements, and if an EIS is necessary, shall supervise preparation of the EIS.

C. When the City is not the lead agency for a proposal, all departments of the City shall use and consider, as appropriate, either the DNS or the final DIS of the lead agency in making decisions on the proposal. No City department shall prepare or require preparation of a DNS or EIS in addition to that prepared by the lead agency, unless required under WAC 197-11-600. In some cases, the City may conduct supplemental environmental review under WAC 197-11-600.

D. If the City or any of its departments receives a lead agency determination made by any other agency that appears inconsistent with the criteria of WAC 197-11-253 or 197-11-922 through 197-11-940, it may object to the determination. Any objection must be made to the agency originally making the determination and resolved within fifteen days of receipt of the determination, or the City must petition the department of ecology for lead agency determination under WAC 197-11-946 within the fifteen day time period. Any such petition on behalf of the City may be initiated by the Community Development Director.

E. Departments of the City are authorized to make agreements as to lead agency status or shared lead agency duties for a proposal under WAC 197-11-942 and 197-11-944; PROVIDED, that the responsible official and any department that will incur responsibilities as the result of such agreement approve the agreement.

F. Any department making a lead agency determination for a private project shall require sufficient information from the applicant to identify which other agencies have jurisdiction over the proposal.

19.04.070 Transfer of lead agency status to a state agency. For any proposal for a private project where the City would be the lead agency and for which one or more state agencies have jurisdiction, the City's responsible official may elect to transfer the lead agency duties to a state agency. The state agency with jurisdiction appearing first on the priority listing in WAC 197-11-936 shall be the lead agency and the City shall be an agency with jurisdiction. To transfer

lead agency duties, the City's responsible official must transmit a notice of the transfer together with any relevant information available on the proposal to the appropriate state agency with jurisdiction. The responsible official of the City shall also give notice of the transfer to the private applicant and any other agencies with jurisdiction over the proposal.

19.04.080 Categorical exemptions – Adoption by reference. The City adopts the following rules for categorical exemptions from chapter 197-11 WAC:

WAC

- 197-11-300 Purpose of this part.
- 197-11-305 Categorical exemptions.
- 197-11-800 Categorical exemptions.
- 197-11-880 Emergencies.
- 197-11-890 Petitioning DOE to change exemptions.

19.04.090 Categorical exemptions – Determination. A. Each department within the City that receives an application for a license or, in the case of governmental proposals, the department initiating the proposal, shall determine whether the license, permit and/or proposal is exempt. The department's determination that a proposal is exempt shall be final and is not subject to administrative review. If a proposal is exempt, none of the procedural requirements of this chapter apply to the proposal. The City shall not require completion of an environmental checklist for an exempt proposal.

B. In determining whether or not a proposal is exempt, the Department shall make certain that the proposal is properly defined and shall identify the governmental licenses required (WAC 197-11-070). If a proposal includes exempt and non-exempt actions, the Department shall determine the lead agency, even if the license application that triggers the Department's consideration is exempt.

C. If a proposal includes both exempt and nonexempt actions, the City may authorize exempt actions prior to compliance with the procedural requirements of this chapter, except that:

1. The City shall not give authorization for:
 - a. any nonexempt action;
 - b. any action that would have an adverse environmental impact; or
 - c. any action that would limit the choice of alternatives.

2. The Department may withhold approval of an exempt action that would lead to modification of the physical environment, when such modification would serve no purpose if the nonexempt action(s) were not approved; and

3. A department may withhold approval of exempt actions that would lead to substantial financial expenditures by a private applicant when the expenditures would serve no purpose if the nonexempt actions were not approved.

The City will normally identify whether an action is categorically exempt within 28 days of receiving a completed application. The Community Development Director shall certify when an application is complete based upon review of the environmental checklist, or for project permit applications, based on the requirements for a complete application set forth in the City's code for each permit type. If additional information is required to supplement the checklist, the application shall not be certified complete until the required information is received by the Director.

19.04.100 Integration with permit and land use decision. Under chapter 36.70B RCW, the procedure for review and processing of project permit applications shall be combined with the environmental review process, both procedural and substantive. The process under the State Environmental Policy Act (SEPA) and this chapter shall integrate the following procedures, insofar as possible, with any applicable process for decision-making on permit and land use applications:

A. Staff review of the application under City codes and regulations and the environmental review and determination thereon;

B. The staff report on the application, and the report or documentation concerning environmental review;

C. Hearings and other public processes, including required public notices, required by City code or regulation, and hearings and other public processes, including public notices and appeals, required or conducted under SEPA.

D. Such other review processes as determined by the Community Development Director.

19.04.110. Integration of SEPA with project permit decision-making. Under chapter 36.70B RCW, the procedure for review of project permit applications (as defined in RCW 36.70B.020) shall be combined with the environmental review process, both procedural and substantive.

19.04.120 Threshold determinations. This part contains the rules for deciding whether a proposal has a “probable, significant, adverse environmental impact” requiring an environmental impact statement to be prepared. This part also contains rules for evaluating the impacts of proposals not requiring an EIS. The City adopts the following sections by reference, as supplemented in this part:

WAC

- 197-11-310 Threshold determination required.
- 197-11-315 Environmental Checklist.
- 197-11-330 Threshold Determination Process.
- 197-11-335 Additional Information.
- 197-11-340 Determination of Significance (DS)
- 197-11-350 Mitigated DNS.
- 197-11-355 Optional DNS process.
- 197-11-360 Determination of significance (DS)(initiation of scoping)
- 197-11-390 Effect of threshold determination

19.04.130 Environmental Checklist.

A. Except as provided in subsection (4) of this section, a completed environmental checklist (or a copy), in the form provided in WAC 197-11-960, shall be filed at the same time as an application for a permit, license, certificate or other approval not specifically exempted in this chapter, except that a checklist is not needed if the City and applicant agree that an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency. The City shall use the environmental checklist to determine the lead agency, and if the City is the lead agency, for determining the responsible official and for making the threshold determinations.

B. For private proposals, the City will require the applicant to complete the environmental checklist, providing assistance as necessary. For City proposals, the Department initiating the proposal shall complete the environmental checklist for that proposal.

C. The City may require that it, and not the private applicant, will complete all or part of the environmental checklist for a private proposal, if either of the following occurs:

1. The City has technical information on a question or questions that are unavailable to the private applicant; or
2. The applicant has provided inaccurate information on previous proposals or on proposals currently under consideration.

D. For applications submitted as planned actions under WAC 197-11-164, the City shall use its existing environmental checklist form or may modify the environmental checklist form as provided in WAC 197-11-315. The modified environmental checklist form may be prepared and adopted along with or as part of a planned action ordinance; or developed after the ordinance is adopted. In either case, a proposed modified environmental checklist form must be sent to the Department of Ecology to allow at least a thirty-day review prior to use.

19.04.140 Timing. For those project permit applications that are not subject to chapter 36.70B RCW, the following will apply:

A. The City will attempt to issue a threshold determination on a completed application within ninety (90) days after the application and supporting documentation are complete.

B. A complete application for a threshold determination consists of the following information:

1. A description of the proposed action;
2. Site information, including site plans, vicinity maps and other information required for a land use certification or other application;
3. The environmental checklist;
4. Additional information/environmental checklist (WAC 197-11-335). The environmental checklist covers sixteen (16) subjects. If, after review of the environmental checklist, it is determined that there is insufficient information to make a threshold determination, additional information will be required using any one or more of the following:

- a. The applicant will provide more information on subjects in the checklist;
- b. The City makes its own further study;
- c. The City will consult with other agencies, requesting information on the proposal's probable or potential impacts which lie within the other agency's jurisdiction or expertise.

C. It is the policy of the City that adequate information must be provided before a threshold decision can be made. The City will not commence processing environmental checklists which are not complete.

19.04.150 Mitigated DNS.

A. As provided in this section and in WAC 197-11-350, the responsible official may issue a DNS based on conditions attached to the proposal by the responsible official or on changes to, or clarifications of, the proposal made by the applicant.

B. An applicant may request in writing early notice of whether a DS is likely under WAC 197-11-350. The request must:

1. Follow submission of a permit application and environmental checklist for a nonexempt proposal for which the department is lead agency; and
2. Precede the City's actual threshold determination for the proposal.

C. The responsible official should respond to the request for early notice within 10 working days. The response shall:

1. Be written;
2. State whether the City currently considers issuance of a DS likely and if so, indicate the general or specific area(s) of concern that is/are leading the City to consider a DS; and
3. State that the applicant may change or clarify the proposal to mitigate the indicated impacts, revising the environmental checklist and/or permit application as necessary to reflect the changes or clarifications.

D. As much as possible, the City should assist the applicant with identification of impacts to the extent necessary to formulate mitigation measures.

F. When an applicant submits a changed or clarified proposal, along with a revised or amended environmental checklist, the City shall base its threshold determination on the changed or clarified proposal and should make the determination within fifteen days of receiving the changed or clarified proposal;

1. If the City indicated specific mitigation measures in its response to the request for early notice, and the applicant changed or clarified the proposal to include those specific mitigation measures, the City shall issue and circulate a DNS under WAC 197-11-340(2).
2. If the City indicated areas of concern, but did not indicate specific mitigation measures that would allow it to issue a DNS, the City shall make the threshold determination, issuing a DNS or DS as appropriate.
3. The applicant's proposed mitigation measures (clarifications, changes or conditions) must be in writing and must be specific. For example, proposals to "control noise" or "prevent storm water runoff" are inadequate, whereas proposals to "muffle machinery to X decibel" or "construct 200-foot storm water retention pond at Y location" are adequate.

4. Mitigation measures which justify issuance of a mitigated DNS may be incorporated in the DNS by reference to agency staff reports, studies or other documents.

G. A mitigated DNS is issued under WAC 197-11-340(2), requiring a fourteen-day comment period and public notice.

H. Mitigation measures incorporated in the mitigated DNS shall be deemed conditions of approval of the permit decision and may be enforced in the same manner as any term or condition of the permit, or enforced in any manner specifically prescribed by the City.

I. If the City's tentative decision on a permit or approval does not include mitigation measures that were incorporated in a mitigated DNS for the proposal, the City should evaluate the threshold determination to assure consistency with WAC 197-11-340(3)(a) (withdrawal of DNS).

J. The City's written response under subsection (B) of this section shall not be construed as a determination of significance. In addition, preliminary discussion of clarifications or changes to a proposal, as opposed to a written request for early notice, shall not bind the City to consider the clarifications or changes in its threshold determination.

19.04.160 Environmental Impact Statement. This part contains the rules for preparing environmental impact statements. The City adopts the following sections by reference, as supplemented by this part:

WAC

197-11-400	Purpose of EIS
197-11-402	General Requirements
197-11-405	EIS types
197-11-406	EIS timing
197-11-408	Scoping
197-11-410	Expanded Scoping (Optional)
197-11-420	EIS preparation
197-11-425	Style and Size
197-11-430	Format
197-11-435	Cover letter or memo
197-11-440	EIS contents
197-11-442	Contents of EIS on nonproject proposals
197-11-443	EIS contents when prior nonproject EIS
197-11-444	Relationship of EIS to other considerations
197-11-450	Cost-benefit analysis
197-11-455	Issuance of DEIS
197-11-460	Issuance of FEIS

19.04.170 Preparation of EIS – Additional Considerations.

A. Preparation of draft and final EISs (DEIS and FEIS) and draft and final supplemental EISs (SEIS) is the responsibility of the City under the direction of the responsible official. Before the City issues an EIS, the responsible official shall be satisfied that it complies with this ordinance and chapter 197-11 WAC. When there is a project permit application, preparation of the EIS is the responsibility of the applicant, under direction of the responsible official. However, when there is no project permit application, the Community Development Director shall have the discretion to determine the responsibility for preparation of the EIS, under the direction of the responsible official based on the circumstances.

B. The DEIS and FEIS or draft and final SEIS shall be prepared by the City staff, the applicant, or by a consultant selected by the City. If the responsible official requires an EIS for a proposal and determines that someone other than the City will prepare the EIS, the responsible official shall notify the applicant immediately after completion of the threshold determination. The responsible official shall also notify the applicant of the City's procedure for EIS preparation, including approval of the DEIS and FEIS prior to distribution.

C. The City may require an applicant to provide information the City does not possess, including specific investigations. However, the applicant is not required to supply information that is not required under this chapter or that is being requested from another agency. However, this does not apply to information the City may request under another ordinance or statute.

D. Subject to delays caused by the applicant's failure to provide information requested by the City and other delays beyond the City's control, an EIS will be completed within one (1) year of the date of the declaration of significance, unless an appeal is filed or the City and applicant agree in writing to a different estimated time period for completion of the EIS.

19.04.180 Additional elements to be covered by EIS. The following additional elements are part of the environment for the purpose of EIS content, but do not add to the criteria for threshold determinations or perform any other function or purpose under this chapter: economy; social policy analysis and cost-benefit analysis.

19.04.200 Adoption by reference. This part contains rules for consulting, commenting and responding on all environmental documents under SEPA, including rules for public notice and hearings. The City adopts the following sections by reference, as supplemented by this part:

WAC

197-11-500	Purpose of this part
197-11-502	Inviting comment
197-11-504	Availability and cost of environmental documents
197-11-508	SEPA register
197-11-510	Public notice
197-11-535	Public hearings and meetings
197-11-545	Effect of no comment
197-11-550	Specificity of comments
197-11-560	FEIS response to comments
197-11-570	Consulted agency costs to assist lead agency

19.04.210 Public notice.

A. Whenever the City issues a DNS under WAC 197-11-340(2) or a DS under WAC 197-11-360(3), the City shall give public notice as follows:

1. If public notice is required for a nonexempt license, the notice shall state whether a DS or DNS has been issued and when comments are due;
2. If no public notice is required for the permit or approval, the City shall give notice of the DNS or DS by:
 - a. Posting the property, for a site-specific proposal;
 - b. Publishing notice in a newspaper of general circulation in the county, city or general area where the proposal is located;
 - c. Notifying public or private groups which have expressed interest in a certain proposal or in the type of proposal being considered;
 - d. Notifying the news media;
 - e. Placing notices in appropriate regional, neighborhood, ethnic or trade journals; and/or
 - f. Publishing notice in agency newsletters and/or sending notice to agency mailing lists (either general lists or lists for specific proposals for subject areas); or
 - g. Black Diamond's Website under Public Notices.

B. When the City issues a DS under WAC 197-11-360(3), the City shall state the scoping procedure for the proposal in the DS as required in WAC 197-11-408 and in the public notice.

C. Whenever the City issues a DEIS under WAC 197-11-455(5) or a SEIS under WAC 197-11-620, notice of the availability of those documents shall be given by:

1. Indicating the availability of the DEIS in any public notice required for a nonexempt license; and

- a. Posting the property, for site-specific proposals;
- b. Publishing notice in a newspaper of general circulation in the County, City or general area where the proposal is located;
- c. Notifying public or private groups which have expressed interest in a certain proposal or in the type of proposal being considered;
- d. Notifying the news media;
- e. Placing notices in appropriate regional, neighborhood, ethnic or trade journals; and/or
- f. Publishing notice in agency newsletters and/or sending notice to agency mailing lists (general lists or specific lists for proposal or subject areas); and/or
- g. Black Diamond's Website under Public Notices.

D. Whenever possible, the City shall integrate the public notice required under this Section with existing notice procedures for the City's nonexempt permit(s) or approval(s) required for the proposal.

E. The City may require an applicant to complete the public notice requirements for the applicant's proposal at his/her expense.

19.04.220 Designation of official to perform consulted agency responsibilities for the City.

A. The Community Development Director shall be responsible for preparation of written comments for the City in response to a consultation requires prior to a threshold determination, participation in scoping, and reviewing a DEIS.

B. The Community Development Director shall be responsible for the City's compliance with WAC 197-11-440 whenever the City is a consulted agency and is authorized to develop operating procedures that will ensure that responses to consultation requests are prepared in a timely fashion and include data from all appropriate departments of the City.

19.04.230 Using Existing Environmental Documents. This part contains rules for using and supplementing existing environmental documents prepared under SEPA or National Environmental Policy Act (NEPA) for the City's own environmental compliance. The City adopts the following sections by reference:

WAC

197-11-600

When to use existing environmental documents

197-11-610	Use of NEPA documents
197-11-620	Supplemental environmental impact statement – procedures
197-11-625	Addenda – procedures
197-11-630	Adoption – procedures
197-11-635	Incorporation by reference – procedures
197-11-640	Combining documents

19.04.240 SEPA and Agency Decisions. This part contains rules (and policies) for SEPA’s substantive authority, such as decisions to mitigate or reject proposals as a result of SEPA. This part also contains procedures for appealing SEPA determinations to agencies or the courts. The City adopts the following sections by reference:

WAC

197-11-650	Purpose of this part
197-11-655	Implementation
197-11-660	Substantive authority and mitigation
197-11-680	Appeals

19.04.250 Substantive authority.

A. The policies and goals set forth in this ordinance are supplementary to those in the existing authorization of the City.

B. The City may attach conditions to a permit or approval for a proposal, so long as:

1. Such conditions are necessary to mitigate specific probable adverse environmental impacts identified in environmental documents prepared pursuant to this chapter; and
2. Such conditions are in writing; and
3. The mitigation measures included in such conditions are reasonable and capable of being accomplished; and
4. The City has considered whether other local, state, or federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts; and
5. Such conditions are based on one or more policies in subsection (D) of this section and cited in the license or other decision document.

C. The City may deny a permit or approval for a proposal on the basis of SEPA so long as:

1. A finding is made that approving the proposal would result in probable significant adverse environmental impacts that are identified in a FEIS or final SEIS prepared pursuant to this chapter; and

2. A finding is made that there are no reasonable mitigation measures capable of being accomplished that are sufficient to mitigate the identified impact; and

3. The denial is based on one or more policies identified in writing the decision document.

D. The City designates and adopts by reference the following policies as the basis for the City's exercise of authority pursuant to this section:

1. The City shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and its citizens may:

a) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

b) assure for all people of Washington safe, healthful, productive and aesthetically and culturally pleasing surroundings;

c) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

d) preserve important historic, cultural and natural aspects of our national heritage;

e) maintain, wherever possible, an environment which supports diversity and variety of individual choice;

f) achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

g) enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources;

2. The City recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a

responsibility to contribute to the preservation and enhancement of the environment.

3. The City adopts by reference the policies in the following City codes, ordinances, resolutions and plans, as they now exist or may hereafter be amended, as a possible basis for the exercise of substantive SEPA authority in the conditioning or denying of proposals:

- a. Chapter 43.21C RCW – State Environmental Policy Act.
- b. Chapter 5.08 of the BDMC Business Licenses and Regulations.
- c. Chapter 6.04 of the BDMC – Animals.
- d. Title 8 and 9 of the BDMC – Health and Safety.
- e. Title 10 of the BDMC -- Vehicles and Traffic.
- f. Title 12 of the BDMC -- Streets and Sidewalks.
- g. Title 13 of the BDMC -- Water and Sewers.
- h. Title 15 of the BDMC – Buildings and Construction.
- i. Title 17 of the BDMC – Subdivisions.
- j. Title 18 of the BDMC – Zoning.
- k. Chapter 18.08 of the BDMC – Administration of Development Regulations.
- l. The City of Black Diamond's Comprehensive Plan.
- m. The City of Black Diamond's Shoreline Master Program.
- n. The City's Six Year Road Program.
- o. The City's Comprehensive Water Plan.
- p. The City's Comprehensive Sewer Plan.
- q. Chapter 19.12 of the BDMC – Critical Areas.
- r. City's Public Works Standards.
- s. City's Storm Water Management Ordinance.
- t. Comprehensive Parks Plan.
- u. School District's Capital Facilities Plans;

4. The City establishes the following additional policies:

- A. **Schools.** In order to ensure that adequate school facilities are available to serve new growth and development, as well as to ensure that such new growth and development provides mitigation for direct impacts on school facilities identified by the school district as a consequence of proposed development, the City may impose school mitigation fees, all as provided in RCW 82.02.020.

- B. **Police.** In order to ensure that the City's acceptable level of service for police response is not diminished as a result of new growth and development and to ensure that new growth and development provides mitigation for the direct impacts on the City's Police Department that are identified by the City as a consequence of proposed development, the City may impose Police and Emergency Response mitigation fees, all as provided in RCW 82.02.020.
- C. **Other City Services.** In order to that the City's acceptable level of service to citizens for all other government services and utilities is not diminished as a result of new growth and development, as well as to ensure that such new growth and development provides mitigation for direct impacts on school facilities identified by the school district as a consequence of proposed development, the City may impose mitigation fees, all as provided in RCW 82.02.020 for parks.

19.04.260 Appeals.

The City establishes the following administrative appeal procedures under RCW 43.21C.075 and WAC 197-110-680:

A. Appealable Decisions.

1. Only the following decisions may be administratively appealed under this chapter: (a) Final threshold determination; (2) mitigation or failure to mitigate in the SEPA decision; (3) Final EIS; and (4) project denials.

2. If the City does not provide for a hearing or appeal on the underlying action/permit, then the SEPA administrative appeal on the decisions listed in Subsection 19.04.260(A)(1) above shall be the only hearing and appeal allowed on the underlying action/permit.

B. Notice of Decision.

1. In the Notice of Decision issued by the City pursuant to BCMC 18.08.150 and for every decision for which an appeal is available in this Section, the SEPA Responsible Official shall give official notice of the date and place for commencing an appeal. The notice shall include:

a) Notice that the SEPA issues must be appealed within the time limit set by statute or ordinance for appealing the underlying governmental action;

b) The time limit for commencing the appeal of the underlying governmental action and SEPA issues, and the statute or ordinance establishing the time limit;

c) Where the appeal may be filed.

2. Written notice shall be provided to the applicant, all parties to any administrative appeal and all persons who have requested notice of decisions concerning the project. Such notice may be appended to the permit, the decision documents, the SEPA compliance documents or may be printed separately.

C. Timing of Appeal. The appeal shall take place prior to the City's final decision on a proposed action. However, the SEPA open record appeal hearing may be consolidated with any other hearing on the underlying permit or action.

D. Number of Appeals: Only one administrative appeal to the City is allowed of the decisions listed in Subsection 19.04.260(A) above.

E. Consolidated Appeals. If the underlying action/permit requires a hearing, any SEPA appeal shall be consolidated with the hearing or appeal of the underlying action/permit into one simultaneous hearing, with the exception of the following:

1. An appeal of a determination of significance (DS);
2. An appeal of a procedural determination made by the City when the City is a project proponent, or is funding a project, and chooses to conduct its review under SEPA, including any appeals of its procedural determinations, prior to submitting an application for a project permit. Subsequent appeals of substantive determinations by an agency with jurisdiction over the proposed project shall be allowed under the SEPA appeal procedures of the agency with jurisdiction;
3. An appeal of a procedural determination made by the City on a nonproject action; and
4. An appeal to the City Council under RCW 43.21C.060.

F. Timing of Appeal.

1. *SEPA Decision issues at the same time as underlying action.* An appeal of a SEPA decision that issued at the same time as the decision on a project action shall be filed within fourteen days (14) days after issuance of a notice of decision under BDMC 18.08.150 (or RCW 36.70B.130), or after notice that a decision has been made and is appealable.

2. *SEPA Decision allows Public Comment.* For a DNS or MDNS for which public comment is required (under this chapter) the appeal period shall be extended for an additional seven days.

3. *SEPA Threshold Decision issues prior to decision on underlying action.* An appeal of a threshold decision issued prior to a decision on a project action shall be filed within fourteen (14) days after notice that the decision has been made and is appealable.

G. Consideration of SEPA Responsible Official's Decision. Procedural determinations made by the SEPA Responsible Official shall be entitled to substantial weight by the hearing examiner or city council in an appeal.

H. Administrative Record. An administrative record of the appeal must be provided, and the record shall consist of the following:

- a. Findings and conclusions;
- b. Testimony under oath; and
- c. A taped or written transcript. [The City may require that the appellant provide an electronic transcript.]

I. Exhaustion of Administrative Remedies. The City's administrative appeal procedure must be used before anyone may initiate judicial review of any SEPA issue for which the City allows an appeal in this Section.

J. Content of Appeal. Every appeal must be in writing, and must include the following:

1. The applicable appeal fee, as established by Resolution of the City Council;
2. Appellant's name, address and phone number;
3. A statement describing the appellant's standing, or why the appellant believes that he or she is aggrieved by the decision appealed from;
4. Identification of the application and decision which is the subject of the appeal;
5. Appellant's statement of grounds for appeal and the facts upon which the appeal is based with specific references to the facts in the record;
6. The specific relief sought;
7. A statement that the appellant has read the appeal and believes the content to be true, followed by the appellant's signature.

K. Timeliness of Appeals. On receipt of a written notice of appeal, the SEPA Responsible Official shall forward the appeal to the hearing examiner or city council (whichever is the hearing officer/body on the appeal), who shall determine whether the appeal is timely prior to the scheduling of any appeal hearing or consolidated open record hearing on an underlying project permit. A

written decision will issue if the appeal is untimely and the appeal will not proceed.

L. Hearing Examiner Appeals.

1. *Jurisdiction.* All administrative appeals relating to project permit applications or any type of quasi-judicial or ministerial development applications that are not appealable to the City Council (pursuant to subsection M below) shall be heard by the Hearing Examiner.

2. *Hearing.* The Hearing Examiner shall hold an open record public hearing on the appeal, as provided in BDMC 2.30.100.

2. *Date for Issuance of Decision.* The hearing examiner shall issue a decision on the appeal within the time period set forth in 2.30.110, unless a longer period is agreed to in writing by the applicant and hearing examiner.

3. *Appeals of Hearing Examiner's Decision.* The hearing examiner's decision on the timeliness of an appeal within his/her jurisdiction, and any other appeals allowed under this subsection within his/her jurisdiction shall be the final decision of the City. The hearing examiner's decision shall state that any appeal of the final decision shall be filed in King County Superior Court (pursuant to chapter 36.70C RCW), or the Shorelines Hearings Board, if applicable.

M. City Council Appeals.

1. *Jurisdiction.* The City Council shall hear all administrative appeals relating to legislative actions and applications. In addition, the City Council shall hear appeals relating to any other applications that are appealable to the City Council (pursuant to 16.30.130).

2. *Hearing.* For all legislative actions and applications, the City Council shall hold a public hearing. For any SEPA appeals relating to applications for which the City Council has jurisdiction (legislative actions and applications), the City Council shall hold a public hearing.

3. *Record on Appeal.* The evidence and testimony received by the Council in a SEPA appeal shall be presented in an open record hearing.

4. *Appeals of City Council's Decision.* The City Council's decision on the timeliness of an appeal within its jurisdiction and any other appeals allowed under this subsection within its jurisdiction shall be the final decision of the City. The City Council's decision shall state that any appeal of the final decision may be filed in King County Superior Court within 21 days (if applicable) or within 60 days to the Growth Management Hearings Board, pursuant to RCW 36.70A.290(2).

N. Judicial Appeals.

1. When SEPA applies to a decision, any judicial appeal of that decision potentially involves both those issues pertaining to SEPA and those which do not. This Section and RCW 43.21C.075 establish the time limits for raising SEPA issues, but existing statutes of limitation control the appeal of non-SEPA issues.

2. Appeals of the City's final decision shall be filed in superior court (or the Growth Management Hearings Board), but appellants must follow RCW 43.21C.075(6)(c), which provides that "judicial review under chapter 43.21C RCW shall without exception be of the governmental action together with its accompanying environmental determinations," which contemplates a single lawsuit.

19.04.270 Notice/statute of limitations.

A. The City, applicant for, or proponent of an action may publish a notice of action pursuant to RCW 43.21C.080 for any action.

B. The form of the notice shall be substantially in the form provided by WAC 197-11-990. The notice shall be published by the City Clerk or County Auditor, applicant or proponent, pursuant to RCW 43.21C.080.

19.04.280 Agency Compliance. This part contains rules for agency compliance with SEPA, including rules for charging fees under the SEPA process, designating categorical exemptions that do not apply within critical areas, listing agencies with environmental expertise, selecting the lead agency and applying these rules to current agency activities. The City adopts the following sections by reference:

WAC

197-11-900	Purpose of this part.
197-11-902	Agency SEPA policies.
197-11-916	Application to ongoing actions.
197-11-920	Agencies with environmental expertise.
197-11-922	Lead agency rules.
197-11-924	Determining the lead agency.
197-11-926	Lead agency for governmental proposals.
197-11-928	Lead agency for public and private proposals.
197-11-930	Lead agency for private projects with one agency with jurisdiction.
197-11-932	Lead agency for private projects requiring licenses from more than one agency, when one of the agencies is a county/city.
197-11-934	Lead agency for private projects requiring licenses from a local agency, not a county/city, and one or more

	state agencies.
197-11-936	Lead agency for private projects requiring licenses from more than one state agency.
197-11-938	Lead agencies for specific proposals.
197-11-940	Transfer of lead agency status to a state agency.
197-11-942	Agreements on lead agency status.
197-11-944	Agreements on division of lead agency duties.
197-11-946	DOE resolution of lead agency disputes.
197-11-948	Assumption of lead agency status.

19.04.290. Fees.

A. The City shall require the fees from the applicant for the following activities, in accordance with the provisions of this chapter:

1. Threshold determination: The City will review an environmental checklist when it is lead agency, and the City shall collect a fee from the proponent of the proposal prior to undertaking the threshold determination. The time periods provided in this Chapter shall not begin to run until payment of the fee.

2. Environmental impact statement.

(a) When the City is the lead agency for a proposal requiring an EIS and the responsible official determines that the EIS shall be prepared by employees of the city, the city may charge and collect a reasonable fee from any applicant to cover the costs incurred by the city in preparing the EIS. The responsible official shall advise the applicant of the projected costs for the EIS prior to actual preparation; the applicant shall post bond or otherwise ensure payment of such costs.

(b) The responsible official may determine that the city will contract directly with a consultant for preparation of an EIS or a portion of the EIS, for activities initiated by some person or entity other than the City and may bill such costs and expenses directly to the applicant. The City may require the applicant to post bond or otherwise ensure payment of such costs. Such consultants shall be selected after input from the applicant, after a call for proposals. The City shall have the final decision on the selection of the consultant.

(c) If a proposal is modified so that an EIS is no longer required, the responsible official shall refund any fees collected under (a) or (b) of this subsection which remain after incurred costs are paid.

3. The City may recover its reasonable expenses of preparation of a non-project environmental impact statement prepared under

RCW 43.21C.229 and 43.21C.440 using the procedures set forth in RCW 43.21C.428.

4 The City may collect a reasonable fee from an applicant to cover the cost of meeting the public notice requirements of this chapter relating to the applicant's proposal.

5. The City shall not collect a fee for performing its duties as a consulted agency.

6. The City may charge any person for copies of any document prepared under this chapter, and for mailing the document, in a manner provided by the City's resolution on public records disclosure.

19.04.300 Adoption by reference. The City adopts the following forms and sections by reference:

WAC

197-11-960	Environmental checklist
197-11-965	Adoption notice
197-11-970	Determination of nonsignificance (DNS)
197-11-980	Determination of significance and scoping notice (DS)
197-11-985	Notice of assumption of lead agency status
197-11-990	Notice of action

Section 3. Severability. If any section, sentence, clause or phrase of this Ordinance shall be held to be unconstitutional or invalid by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 4. Effective Date. This Ordinance shall take effect and be in full force five (5) days after passage and publication of an approved summary consisting of the title.

PASSED by the Black Diamond City Council this 4th day of December, 2014.

CITY OF BLACK DIAMOND

, MAYOR

ATTEST/AUTHENTICATED:

By: _____
BRENDA MARTINEZ, CITY CLERK

APPROVED AS TO FORM:

By: _____
CAROL A. MORRIS, CITY ATTORNEY

FIRST READING: July 17, 2014

DATE PASSED:

DATE OF PUBLICATION:

EFFECTIVE DATE: