

ORDINANCE NO. 05-779

AN ORDINANCE OF THE CITY OF BLACK
DIAMOND, KING COUNTY, WASHINGTON,
CREATING MASTER PLAN DEVELOPMENT
PROGRAM AND DEVELOPMENT REGULATIONS
AND ADDING A NEW CHAPTER 18.98 TO THE
BLACK DIAMOND MUNICIPAL CODE

WHEREAS, in 1996 King County expanded the City's urban growth area (UGA);
and

WHEREAS, the City insisted, as part of the UGA expansion, that a program be created to establish a public review process for MPD applications, protect and preserve open place, allow alternative, innovative forms of development; allow flexibility in development standards and permitted uses, identify significant environmental impacts and the appropriate mitigation; provide greater certainty about the character and timing of developments, provide needed services and facilities in an orderly responsible manner, promote economic development and job creation in the City; create vibrant mixed-use communities with a balance of housing, employment while allowing development to be of greater public benefit as open space, parks or community facilities; and

WHEREAS, the City's Comprehensive Plan contemplates the development of such a program; and

WHEREAS, prior to the expansion of the City's UGA the City entered into the Black Diamond Urban Growth Area Agreement that is dated December 31, 1996 with King County, Plum Creek Timber Company, L.P. and Palmer Coking Coal Company (the "Agreement"); and

WHEREAS, that Agreement required that such a program be created; and

WHEREAS, since the Agreement was executed the parties to the Agreement have worked cooperatively to assist the City in the development of the MPD Program by providing funding, input and expertise; and the proposed MPD Program regulations have been timely forwarded to the appropriate State agency for review and comment prior to adoption, and

WHEREAS, the City Council, on April 21, 2005 held a public hearing to consider the MPD Program regulations, with notice of said hearing having been given as required by law, now, therefore,

THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND,
WASHINGTON DOES ORDAIN, AS FOLLOWS:

Section 1. There is hereby created a new Black Diamond Municipal Code Chapter 18.98 which shall be entitled Master Plan Developments.

Section 2. There are hereby added to Chapter 18.98 of the Black Diamond Municipal Code new sections, which shall read as set forth in Exhibit 1 attached hereto and by reference incorporated herein.

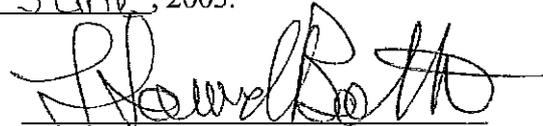
Section 3. Severability. If any provision of this Ordinance is determined to be invalid or unenforceable for any reason, the remaining provisions of this Ordinance shall remain in force and effect.

Section 4. Effective Date. This Ordinance shall be in full force and effect five (5) days from and after its passage, approval, posting and publication as provided by law. A summary of this ordinance may be published in lieu of publishing the Ordinance in its entirety.

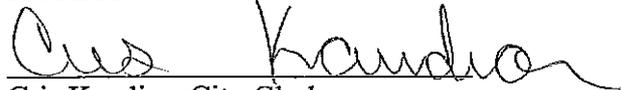
Introduced the 21st day of April, 2005.

Passed by the City Council on the 2nd day of June, 2005.

Approved by the Mayor on the 2nd day of June, 2005.


Howard Botts, Mayor

ATTEST:


Cris Kandior, City Clerk

APPROVED AS TO FORM:


Loren Combs, City Attorney

Published: 6-15-05

Posted: 6-3-05

Effective Date: 6-20-05

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EXHIBIT 1 TO ORDINANCE NO. 05-779

**City of Black Diamond Zoning Code
Master Planned Development**

Sections:

- 18.98.010 Master Planned Development (MPD) permit – Purpose**
- 18.98.020 MPD permit – Public Benefit Objectives**
- 18.98.030 MPD permit – Eligibility**
- 18.98.040 MPD permit – Application Requirements**
- 18.98.050 MPD permit – Required Approvals**
- 18.98.060 MPD permit – Review Process**
- 18.98.070 MPD permit – Environmental Review (SEPA)**
- 18.98.080 MPD permit - Conditions of Approval**
- 18.98.090 MPD permit - Development Agreement**
- 18.98.100 MPD permit - Amendments to an Approved MPD permit**
- 18.98.110 MPD standards - Design Review Required**
- 18.98.120 MPD standards - Permitted Uses and Densities**
- 18.98.130 MPD standards - Development Standards**
- 18.98.140 MPD standards - Open Space Requirements**
- 18.98.150 MPD standards - On-Site Recreation Requirements**
- 18.98.160 MPD standards - Transfer of Development Rights**
- 18.98.170 MPD standards - Street Standards**
- 18.98.180 MPD standards – Stormwater Management Standards**
- 18.98.190 MPD standards - Water and Sewer Standards**
- 18.98.195 Vesting**
- 18.98.200 Revocation of MPD Permit**

18.98.010 Master Planned Development (MPD) permit – Purpose. The purposes of the Master Planned Development (MPD) permit process and standards set out in this chapter are to:

- A. Establish a public review process for MPD applications;
- B. Establish a comprehensive review process for development projects occurring on parcels or combined parcels greater than 80 acres in size.
- C. Preserve passive open space and wildlife corridors in a coordinated manner while also preserving usable open space lands for the enjoyment of the City’s residents;
- D. Allow alternative, innovative forms of development and encourage imaginative site and building design and development layout with the intent of retaining significant features of the natural environment;
- E. Allow flexibility in development standards and permitted uses;
- F. Identify significant environmental impacts, and ensure appropriate mitigation;
- G. Provide greater certainty about the character and timing of residential and commercial development and population growth within the City;
- H. Encourage environmentally sustainable development,
- I. Provide needed services and facilities in an orderly, fiscally responsible manner;
- J. Promote economic development and job creation in the City;
- K. Create vibrant mixed-use neighborhoods, with a balance of housing, employment, and recreational opportunities;
- L. Promote and achieve the City’s vision of incorporating and/or adapting the planning and design principles regarding mix of uses, compact form, coordinated open space, opportunities for casual socializing, accessible civic spaces, and sense of community; as well as such additional design principles as may be appropriate for a particular MPD, all as identified in the book Rural By Design by Randall Arendt;
- M. Implement the City’s Vision Statement, Comprehensive Plan, and other applicable Goals, Policies and Objectives set forth in the municipal code.

18.98.020 MPD Permit - Public Benefit Objectives. A specific objective of the MPD permit process and standards is to provide public benefits not typically available through conventional development. These public benefits shall include but are not limited to:

- A. Preservation and enhancement of the physical characteristics (topography, drainage, vegetation, environmentally critical areas, etc.) of the site;
- B. Protection of surface and groundwater quality both on-site and downstream, through the use of innovative, low-impact and regional stormwater management technologies;
- C. Conservation of water and other resources through innovative approaches to resource and energy management including measures such as wastewater re-use;
- D. Preservation and enhancement of open space and views of Mt. Rainier;
- E. Provision of employment uses to help meet the City’s economic development objectives;
- F. Improvement of the City’s fiscal performance;

G. Timely provision of all necessary facilities, infrastructure and public services, equal to or exceeding the more stringent of either existing or adopted levels of service, as the MPD develops; and

H. Development of a coordinated system of pedestrian oriented facilities including but not limited to trails and bike paths that provide accessibility throughout the MPD and provide opportunity for connectivity with the city as a whole.

18.98.030 MPD Permit – Criteria for MPD Eligibility.

A. Where Required. An MPD permit shall be required for any development project where:

1. Any of the property within the development is subject to an MPD Overlay zoning designation; or

2. The parcel or combined parcels total at least 80 gross acres. This subsection (2) shall not apply if a subdivision or site plan application is submitted for said parcel or combined parcels and the applicant is requesting that the project be subject to a development agreement pursuant to RCW 36.70B.170 that will further the Public Benefit Objectives of Black Diamond Municipal Code section 18.98.020. The employment use objective of section 18.98.020 (E) will only apply to properties within the proposed development project that have an underlying business zoning classification. If the application is denied, then an MPD permit would be required.

B. Eligibility. Where not required under 18.98.030(A) the City will accept an MPD permit application, and process a development proposal as an MPD, only for contiguous properties that meet the following criteria:

1. The proposed MPD property shall be in a single ownership, or if in multiple ownerships, specific agreements satisfactory to the City shall be signed by each property owner that place the properties under unified control, and bind all owners to the MPD conditions of approval,
2. All properties within its proposed MPD are within the City limits at the time of MPD application submittal; provided, however, properties within a PAA may be included in the application so long as the proposed uses for the property not located within the City, and the conditions of MPD approval for the property not located within the City comply with applicable County development regulations for that parcel, and, as a condition of approval, the property owners are required to file restrictive covenants upon the PAA property, in a form acceptable to the City, that restrict its uses to those approved in the MPD approval.

C. Contiguity. All properties to be included in an MPD must be contiguous.

18.98.040 MPD Permit - Application Requirements

A. Application Requirements. All applications for approval of an MPD permit shall, at a minimum, include all of the information and documents set forth in this section.

1. A set of master plan drawings, showing:

- (a) Proposed open space, parks, recreation areas, trail networks, wildlife corridors, and perimeter buffers;
 - (b) Existing environmentally critical areas and their buffers, together with the reports, surveys or delineations used to identify their locations;
 - (c) Proposed locations and preliminary profiles of all streets having a function higher than neighborhood access, and all pedestrian connections including trails;
 - (d) Proposed sites for schools and other public facilities required to serve the development;
 - (e) Conceptual public utility plans (sewer, water, stormwater);
 - (f) Types, generalized locations, acreages, and densities of proposed residential and non-residential development; and
 - (g) Proposed sites for public transit facilities.
 - (h) Any existing easements located upon the property.
2. A map at a scale no smaller than 1 inch = 100 feet, showing property boundaries and existing topography (5 foot contour intervals), areas of vegetation by type, other natural features, and existing structures.
3. A legal description of the MPD property, together with a title report no more than 30 days old disclosing all lien holders and owners of record.
4. A projected phasing plan and schedule including the proposed phasing of housing, public facilities, and services (e.g. recreational facilities, open spaces and drainage facilities) and an estimated development timeline.
5. A completed SEPA checklist, with various environmental studies and SEPA documents. If the City and the Applicant have agreed that an Environmental Impact Statement will be prepared for the proposal, a Checklist shall not be required.
6. A comprehensive fiscal analysis disclosing the short and long-term financial impacts of the proposed MPD upon the City both during development and following project completion, including an analysis of required balance of residential and commercial land uses needed to ensure a fiscal benefit to the City after project completion, and including an analysis of personnel demands and fiscal short-falls anticipated during the development phase of the MPD together with recommended mitigations to ensure that the MPD does not negatively impact the fiscal health of the City, nor the ability of the City to adequately serve existing residents, provided that if an EIS will be prepared, the fiscal analysis may be prepared concurrently.
7. A narrative description and illustrations of the MPD planning/design concept, demonstrating how the proposed MPD is consistent with the City's MPD Design Standards, Comprehensive Plan, and other applicable City policies and standards.
8. Typical cross-sections of all proposed street and trail types, including landscaping, pedestrian facilities, and any other proposed improvements within the right-of-way or trail corridors.
9. A listing of all property owners of record within 500 feet of the exterior boundaries of all parcels proposed to be included within the MPD, together with three sets of mailing labels for said property owners. (When one or more of the

MPD property owners own property adjacent to but not included within the MPD, the 500 feet shall be measured from the exterior boundary of this adjacent property.).

10. An aerial photo of the MPD area and parcels within 1000 feet of its boundaries that was taken since the time of the last development activity within the MPD area or surrounding properties or one year from the application date, whichever is more recent, at a scale no smaller than 1 inch = 1000 feet.

11. A narrative description and illustrations of how street alignments and land uses in the proposed MPD will coordinate and integrate with existing adjacent development, and adjacent undeveloped properties.

12. Proposed ownership and proposed maintenance program for all lands and facilities required to be shown on the master plan drawings by section 18.98.040(A)(1)(a).

13. A proposed water conservation plan for the MPD pursuant to section 18.98.190.

14. If applicable, a description of any mineral (or other resource) extraction operations proposed within the MPD, the timing and phasing of the proposed operation and reclamation of the land for subsequent proposed uses.

15. Proof of proper notice for the Public Information Meeting and the Planning Commission.

B. The City shall have the authority to administratively establish additional detailed submittal requirements.

C. The applicant shall pay all costs incurred by the City in processing the MPD permit application, including but not limited to the costs of planning and engineering staff and consultants, SEPA review, fiscal experts, legal services, and overall administration. A deposit in an amount equal to the staff's estimate of processing the MPD, as determined after the pre-application conference shall be required to be paid at the time of application, and shall be placed in a separate trust account. The City shall establish procedures for periodic billings to the applicant of MPD review costs as such costs are incurred by the City, and may require the maintenance of a minimum fund balance through additional deposit requests.

18.98.050 MPD Permit – Required Approvals

A. MPD Permit Required. An approved MPD permit and development agreement shall be required for every MPD in the City.

B. Consolidated Review. The City will allow an MPD Permit to be part of a consolidated permit action as authorized by RCW 36.70B. Consolidation shall not be allowed for Comprehensive Plan amendments, or annexations.

C. Implementing Development Applications. An MPD permit must be approved, and a development agreement as authorized by RCW 36.70B completed, signed and recorded, before the City will grant approval to an application for any implementing

development approval. An application for a MPD permit may be processed, at the City's discretion, with amendments to the City's Comprehensive Plan, zoning code, inter-local agreements and land development permits associated with the MPD permit, such as forest practice permits, clearing and grading permits, conditional use permits, variance permits, shorelines permits, and permits required by other public agencies. Provided, however, the City may, in its discretion restrict the number of simultaneous applications to be processed if they are unable to adequately consider the information contained in the permits due to the need to have the applicable standards established by the MPD approval, due to staff time restrictions, on the inability to meet processing deadlines as a result of the simultaneous filings. In any event, the City shall not grant approvals to related permits before the granting of an MPD permit and recording of a development agreement.

18.98.060 MPD Permit – Review Process

A. MPD Permit – Pre-application Conference, Public Information Meeting and Planning Commission Informational Meeting Required.

1. A pre-application conference between the MPD applicant or representative and City staff is required before the City will accept an application for MPD permit approval.

a. The purpose of this conference is for the applicant to familiarize the staff with the proposed MPD, and for the staff to review with the applicant the City's submittal requirements, anticipated staffing needs, and processing procedures for MPD permit approval. The goal is to identify the City's objectives and likely issues, and to eliminate potential problems that could arise during processing of the MPD permit application prior to formal processing on the MPD permit application.

b. The applicant or representative shall present the information required as part of the MPD application. The City's intent is that the conference takes place after site inventory and analysis has been substantially completed, but prior to the completion of detailed survey, architectural or engineering work on the proposal.

c. A nonrefundable pre-application conference fee in an amount set forth in the City Fee Schedule Resolution will be paid before the pre-application conference will be scheduled.

2. After the pre application conference has been completed, a Public Information meeting shall be conducted by the applicant. A Public Information meeting is required before the City will accept an application for MPD permit approval.

a. The applicant shall schedule and conduct a Public Information meeting regarding the proposed application. The Public Information meeting shall be conducted at City Hall, or at such other public location within the City that will accommodate the anticipated attendees. The applicant shall attend the meeting and provide information to the public regarding the proposed project, its timing, and consistency with the City's MPD Code, the Comprehensive Plan, and other applicable city codes and regulations.

b. The Public Information meeting shall not be a Public Hearing, but shall allow for an informal exchange of comments between the applicant and the general public. Notice of this meeting shall be provided in the newspaper of

record at least 14 days in advance of the meeting and shall be mailed to the property owners identified in section 18.98.060(B)(7)(c) above.

3. After the Public Information meeting has been completed a Planning Commission Informational meeting shall be conducted. The Planning Commission Information meeting is required before the City will accept an application for MPD permit approval.

a. The Planning Commission Informational meeting will take place at a regular meeting of the Commission. At this meeting, the applicant shall present the overall planning and design concept of the proposed MPD, and the Commission shall provide preliminary feedback to the applicant regarding the consistency of this concept with the City's adopted standards, goals and policies. The Planning Commission may bring specific issues of interest or concern to the attention of the applicant.

b. While a public meeting, the purpose of the Planning Commission Informational meeting is not intended for the receipt of comments from the public regarding the proposed MPD.

B. MPD Permit Public Review Process.

1. Completeness Check and SEPA: City staff shall review the MPD application for completeness and, once it is determined to be complete, provide the required notice of application. Staff will then initiate the SEPA process.

2. Optional EIS Scoping Meeting: If the City's responsible official makes a determination of environmental significance regarding MPD Application, Staff may schedule and conduct an EIS Scoping meeting. The applicant shall attend the meeting and provide information regarding the proposed project, scope, planning, timing, and the results of any relevant environmental studies performed by the Applicant's consultants.

3. Staff Review: At the conclusion of the SEPA process, Staff will conduct its detailed review of the proposal. This review may include requesting additional information, or proposal revisions, from the Applicant.

4. Staff Report: The Staff will prepare a written Staff Report to the Hearing Examiner. The completed Staff Report shall be sent to the Hearing Examiner and to the Applicant at least 10 calendar days prior to the public hearing.

5. Hearing Examiner Public Hearing: The City's Hearing Examiner shall hold a public hearing on the MPD permit application, after completion of the public information and Planning Commission meetings and conclusion of the SEPA process. At least 14 calendar days prior to the public hearing, the City shall provide notice of the hearing as follows:

- a. Publication in the City's newspaper of record;
- b. Posting of the proposal site, in at least 3 locations visible from public streets or rights-of-way;
- c. Mailing to owners of record of properties within 500 feet of the perimeter of the proposed MPD (when one or more of the MPD property owners own property adjacent to but not included within the MPD, the 500 foot measurement shall be made from the property boundary that abuts property not owned by one or more of the MPD property owners; and
- d. Any person(s) formally requesting notice.

6. Hearing Examiner Criteria: The Hearing Examiner shall prepare recommended findings of fact, conclusions of law, and conditions of approval or a recommendation for denial for the City Council's consideration, and shall transmit these to the City Council within fourteen (14) calendar days of the close of the public hearing. The Examiner shall evaluate the MPD application and other evidence submitted into the record, in order to determine if the application, if appropriately conditioned, meets or exceeds the following criteria:

(a) The City's adopted policies and regulations, including but not limited to the Municipal Code, Comprehensive Plan, Public Works Standards, Critical Areas Regulations, MPD Ordinance and MPD Design Standards. In event of a conflict between the policies, standards, objectives, or regulations the most stringent shall apply unless modifications are authorized in the MPD ordinance and Design Standards.

(b) There are no significant adverse environmental impacts;

(c) The proposed project will have no adverse financial impact upon the City at each phase of development, as well as at full build-out. This shall include conditioning any approval so that the fiscal analysis is updated to show continued compliance with this criteria, in accordance with the following schedule:

1. If any phase has not been completed within 5 years, a new fiscal analysis must be done with regards to that phase before an extension can be granted; and

2. Prior to commencing a new phase.

(d) There is concurrency for all utilities and transportation system improvements prior to occupancy at each phase and at build-out.

(e) The project, at all phases and at build-out, will not exceed the available City staffing or result in the lowering of City staffing levels of service established by the City, including those related to public safety.

(f) The project, in each residential phase, provides a mix of housing types that allows the project to meet the percentage of affordable housing recommended under the County-wide Planning Policies.

(g) For those portions of a proposed MPD that have Comprehensive Plan land use designations, the ratio of residential to commercial land uses within the MPD shall be the same as designated on the Comprehensive Land Use Map unless the required fiscal study supports or requires a different ratio of residential to commercial land uses.

(h) If the MPD proposal includes properties that are subject to the Black Diamond Urban Growth Area Agreement (December 1996) then the proposal is consistent with the terms and conditions therein.

(i) If the MPD proposal includes properties that were annexed into the City by Ordinances 515 and 517 then the proposal must be consistent with the terms and conditions therein.

(j) The orientation of public building sites or parks shall preserve view corridors of Mt. Rainier or other view corridors identified in the City's Comprehensive Plan.

(k) The proposed MPD meets or exceeds all of the public benefit objectives of 18.98.020, and the MPD purposes set forth in 18.98.010, subparagraphs (B) through (M).

(l) If the MPD project is adjacent to property already developed, or being developed as an MPD, or adjacent to property which is within an MPD Overlay zone, then the project is designed so that there is connectivity of trails, open spaces and transportation corridors, the designs of streetscape and public open space amenities are compatible and the project will result in the functional and visual appearance of one integrated project with the adjacent properties subject to MPD approvals.

So long as to do so would not jeopardize the public health, safety, or welfare, the Examiner may allow the applicant to voluntarily contribute money to the City in order to advance projects to meet the City's adopted concurrency or level of service standards, or to mitigate any identified adverse fiscal impact upon the City that is caused by the Project.

7. City Council: At its first regular meeting following the receipt of the Hearing Examiner's recommendations, the City Council shall schedule a time for its consideration of the MPD. The Council may:

- (a) Accept the Examiner's recommendation; or
- (b) Remand the MPD application to the Examiner with direction to open the hearing and provide supplementary findings and conclusions on specific issues; or
- (c) Modify the Examiner's recommendation. If modifying the Examiner's recommendation, the Council shall enter its own modified findings and conclusions as needed.

8. Appeals: The Council's decision with regard to an MPD permit shall be the City's final action for the purpose of any and all appeals.

18.98.070 MPD Permit - Environmental Review (SEPA).

A. Pursuant to the requirements of the State Environmental Policy Act (SEPA) and local SEPA regulations, the City shall determine whether an Environmental Impact Statement is required for the MPD proposal. An application for a MPD permit shall include, at a minimum, a completed Environmental Checklist. Prior to or concurrent with application submittal, the City and the Applicant may agree to prepare an Environmental Impact Statement for the proposal.

B. If desired by the applicant and deemed appropriate by the City, an MPD proposal may be designated by the City as a planned action pursuant to RCW 43.21C.031(2) and WAC 197-11-164 et seq.

C. Implementing City permits and approvals, such as preliminary plats, building permits, and design reviews, shall be subject to applicable SEPA requirements.

18.98.080 MPD Permit - Conditions of Approval.

A. The MPD permit shall contain such conditions as are necessary to ensure that the approved MPD complies with all applicable policies, standards, and objectives of the City, including the provisions of this Chapter and the criteria set forth in section 18.98.060 (B)(6)

18.98.090 MPD Permit - Development Agreement. The MPD conditions of approval shall be incorporated into a development agreement as authorized by RCW 36.70B.170. This agreement shall be binding on all MPD property owners and their successors, and shall require that they develop the subject property only in accordance with the terms of the MPD approval. This agreement shall be signed by the Mayor and all property owners and lien holders within the MPD boundaries, and recorded, before the City may approve any subsequent implementing permits or approvals (preliminary plat, design review, building permit, etc.).

18.98.100 MPD Permit - Amendments to an Approved MPD Permit. An applicant may request an amendment to any element or provision of an approved MPD. All applications for amendments shall be deemed either “minor” or “major” An amendment application shall be considered minor if it meets all of the following criteria:

1. Would not increase the total number of dwelling units in a MPD above the maximum number set forth in the approved MPD permit;
2. Would not increase the total floor area of non-residential uses;
3. Would not decrease the minimum, or increase the maximum density for residential areas of the MPD beyond density ranges approved in the MPD permit;
4. Would not decrease the approved amount of open space or recreation space;
5. Would not significantly increase any adverse environmental impact, provided that additional environmental review may be required to determine whether such change is likely to occur;
6. Would not adversely impact the project’s fiscal projections to the detriment of the City; and
7. Would not significantly impact the overall design of the approved MPD.

Minor amendments may be approved administratively by the City in accordance with the procedure set forth in the MPD development agreement, where applicable. Any amendment application that is not “minor” shall be deemed to be major. The final determination regarding whether an amendment is “minor” or “major” shall rest with the Planning Commission. Applications for major modifications shall be reviewed by the same procedures applicable to new MPD permit requests. The City, through the development agreement for the approved MPD, may specify additional criteria for determining whether a proposed modification is “major” or “minor”.

18.98.110 MPD Standards - Design Review Required.

A. Design Standards. The MPD master plan and each subsequent implementing permit or approval request, including all proposed building permits, shall be consistent with the City's MPD Design Standards, Chapter 18.98 BDMC.

B. Design Review Process.

1. MPD Permit: The Hearing Examiner shall evaluate the overall MPD master plan for compliance with the City's MPD Design Standards, Chapter 18.98 BDMC, as part of the Examiner's recommendation to the City Council on the overall MPD permit.

2. Implementing Permits or Approvals – Residential Subdivisions: Each residential subdivision that is part of an approved MPD shall be reviewed by the City's Planning/Design Commission at the time of preliminary plat review for compliance with the City's MPD Design Standards, Chapter 18.98 BDMC. This review shall include typical schematic drawings (floor plans, elevations, and exterior material samples) for the single-family residences and other structures to be built on the subdivided lots. This review shall be merged with the Planning Commission's review of the preliminary plat, and shall take place at the same meeting at which the Planning Commission holds its public hearing on the plat. The City shall merge its public notice of the design review with the required public notice of the preliminary plat hearing, utilizing the notice requirements for that hearing, as set forth in Subdivisions, Title 17 BDMC. The City's Planning/Design Commission shall make a recommendation to the City Council on the plat's compliance with the MPD Design Standards, including but not limited to the compliance of the proposed street layout and schematic design of the proposed residential structures. This recommendation shall be forwarded to the Council in conjunction with the Planning Commission's recommendation on the preliminary plat. The Planning/Design Commission shall adopt findings, conclusions and, where applicable, recommended conditions of approval with respect to the proposed subdivision's compliance with the City's MPD Design Standards. Individual detached single-family residential structures on lots 7,200 square feet or greater in size are subject to administrative review for compliance with the City MPD Design Standards but are exempt from the Planning/Design Commission schematic drawing review process set forth above.

3. Implementing Permits or Approvals – Short Subdivisions (Short Plats): Short subdivisions (short plats) within an approved MPD shall be reviewed by the Planning/Design Commission for compliance with the City's MPD Design Standards, Chapter 18.98 BDMC. This review shall include typical schematic drawings (floor plans, elevations, and exterior material samples) for the single-family residences and other structures to be built on the subdivided lots. This review shall take place at a regular public meeting of the Commission. The City shall provide public notice of the design review at least 14 business days prior to the scheduled Commission meeting, by publishing a notice in the City's newspaper of record, and posting the site in at least 3 locations visible from an adjacent public street or right-of-way. Mailed notice to individual adjacent property owners is not required. The Commission shall make a decision on the short plat's compliance with the MPD Design Standards, including but

not limited to the compliance of the proposed lot layout and schematic design of the proposed residential structures. The Commission shall adopt findings, conclusions and, where applicable, conditions of approval. This decision shall be final unless appealed to the City Council within 14 days of the City's issuance of a notice of decision.

4. Implementing Permits or Approvals – Single-Family Residential Building Permits in Approved Subdivisions or Short Subdivisions: Within an approved MPD, the City shall administratively review single-family residential building permit applications in approved and recorded subdivisions and short subdivisions for consistency with the schematic building drawings approved in conjunction with preliminary plat or short plat approval. No public notification is required for this administrative design review. Applications for single-family residential structures that are found to be not consistent with the approved schematic drawings, or for which no schematic approval took place (other than individual detached single-family residential structures on lots 7,200 square feet or greater in size), shall be referred to the Planning/Design Commission for its review.

5. Implementing Permits or Approvals – Other Building Permits: All other structures (including but not limited to commercial and multifamily buildings) within an approved MPD shall be reviewed by the Planning/Design Commission for compliance with the City's MPD Design Standards, Chapter 18.98 BDMC. This review shall be made on schematic drawings (floor plans, elevations, and exterior material samples), site plans, and landscape plans for the proposed structure or structures. This review shall use the process, notice, and appeal provisions described in Subsection (3) above. The Commission shall make a decision on the proposal's compliance with the MPD Design Standards, including but not limited to the compliance of the proposed site and landscape plans, and design of the proposed structure(s). The Commission shall adopt findings, conclusions and, where applicable, conditions of approval. Building permit applications that are found to be not consistent with the approved schematic drawings, or for which no schematic approval took place, shall be referred to the Planning/Design Commission for its review.

6. Future Project Consistency: The City shall not approve a preliminary plat or short plat, or issue a building permit or site plan review approval for a parcel located within an MPD, unless the City has found that the proposal is consistent with applicable MPD Design Standards.

18.98.120 MPD standards - Permitted Uses and Densities.

A. MPDs shall include a mix of residential and non-residential uses. Residential uses shall include a variety of housing types and densities.

B. Each MPD shall contain sufficient affordable housing, in each residential phase, in order to provide the percentage of affordable housing recommended in the County-wide Planning Policies.

C. An MPD shall contain retail, commercial, office, and/or business park uses as these uses are defined by Title 18 of the BDMC, and shall contribute positively to the City's job growth and achievement of fiscal balance.

D. The use mixes required to comply with the conditions of MPD approval shall override any underlying zoning code use restrictions to the contrary.

18.98.130 MPD Standards - Development Standards

A. An approved MPD permit and development agreement may allow development standards different from those otherwise imposed under the Black Diamond Municipal Code, in order to provide flexibility to achieve public benefits, responding to changing community needs, further the public benefits set for the in Sections 1 and 2 of this code, and encourage modifications which provide the functional equivalent or adequately achieve the purposes of City standards.

B. Any approved development standards that differ from those in the otherwise applicable Code shall not require any further zoning reclassification, variances, or other City approvals apart from the MPD permit approval.

C. Building permit applications shall be subject to the building codes in effect at the time a building permit application is deemed complete by the City.

18.98.140 MPD Standards – Open Space Requirements

A. An approved MPD shall contain at least 50% on-site open space. Open space is defined to include, but is not limited to, wildlife habitat areas, perimeter buffers, environmentally critical areas and their buffers, and trail corridors. It may also include developed recreation areas, such as golf courses, trail corridors, and play fields. Open space shall be calculated based on the gross acreage of the MPD. Provided, this requirement shall not apply to property within the City's Potential Annexation Areas as identified in the 1996 Black Diamond Urban Growth Area Agreement so long as the open space identified in that agreement that is located within the project boundaries remains permanently protected.

B. Open space shall be located and designed to form a coordinated open space network resulting in continuous greenbelt areas and buffers to minimize the visual impacts of development within the MPD, and provide connections to existing or planned open space networks, wildlife corridors, and trail corridors on adjacent properties.

C. The open space shall be located and designed to minimize the adverse impacts on wildlife resources and achieve a high degree of compatibility with wildlife habitat areas where identified.

D. The approved MPD permit and development agreement shall establish specific uses for open space within the approved MPD.

E. The approved MPD permit and development agreement shall establish which open space shall be dedicated to the City, which shall be protected by conservation easements, and which shall be protected and maintained by other mechanisms.

18.98.150 MPD Standards – On-Site Recreation and Trail Requirements.

A. An MPD shall provide on-site recreation areas and facilities sufficient to meet the needs of MPD residents, exceeding or at a minimum consistent with levels of service adopted by the City where applicable. This shall include providing for a coordinated system of trails and pedestrian linkages both within, and connecting to existing or planned regional or local trail systems outside of the MPD.

B. The approved MPD permit and development agreement shall establish the sizes, locations, and types of recreation facilities and trails to be built as part of the MPD. The approved MPD permit and development agreement also shall establish which recreation and trail areas shall be dedicated to the City, and which shall be owned and maintained by other mechanisms

18.98.160 MPD Standards – Transfer of Development Rights. All proposed transfers of development rights shall be consistent with the City’s adopted TDR program (Chapter 19.24). An approved MPD permit and development agreement shall establish the TDR requirements for a specific MPD. Maximum allowable MPD residential densities can only be achieved through participation in the City’s TDR program as a receiving site.

18.98.170 MPD Standards – Street Standards.

A. The City may consider street standards that modify those standards that apply generally within the City.

B. The MPD application shall include street standards consistent with the MPD design guidelines. These standards may deviate from typical City-wide street standards in order to incorporate “low impact development” concepts such as narrower pavement cross- sections, enhanced pedestrian features, low impact storm water facilities, and increased connectivity. Cul-de-sacs are to be discouraged. Standards incorporating “green street” or “low impact development” storm water drainage features (such as grass-lined swales) shall be encouraged where their implementation does not result in abnormal long-term maintenance costs.

C. The street layout shall be designed to preserve view corridors of Mt. Rainier or other view corridors identified in the City’s Comprehensive Plan.

D. The City shall review the proposed street standards as part of the MPD permit review process. The approved street standards shall become part of the MPD permit approval, and shall apply to public and private streets in all subsequent implementing projects within the MPD except when new or different standards are specifically determined by the City Council to be necessary for public safety.

18.98.180 MPD Standards – Stormwater Management Standards.

A. The MPD applicant shall, at a minimum, abide by the adopted storm water management regulations of the City at the time of a complete application. The City may consider the application of stormwater management standards that enhance those standards that apply generally within the City, in order to implement the design concepts in the MPD design standards, provided that it can be determined to the City's satisfaction that the functional requirements of the citywide stormwater management standards are met.

B. The City shall review the proposed standards as part of the MPD permit review process. The approved standards shall become part of the MPD permit approval, and shall apply to public and private stormwater management systems in all subsequent implementing projects within the MPD, except when new or different standards are specifically determined by the City Council to be necessary for public health or safety.

C. Where conditions allow, opportunities to infiltrate stormwater to the benefit of the aquifer, including opportunities for re-use, shall be implemented as part of the stormwater management plan for the MPD.

18.98.190 MPD Standards - Water and Sewer Standards.

A. An MPD shall be served with public water and sewer systems that:

1. Employ innovative water conservation measures including metering technologies, irrigation technologies, landscaping and soil amendment technologies, and re-use technologies to reduce and/or discourage the reliance upon potable water for non-potable uses including outdoor watering.

2. Are designed in such a way as to eliminate or at a minimum reduce to the greatest degree possible the reliance upon pumps, lift stations, and other mechanical devices and their associated costs to provide service to the MPD.

B. Each MPD shall develop and implement a water conservation plan to be approved as part of the development agreement that targets a maximum water consumption of no greater than 230 gallons of water per day per equivalent residential unit, and sets forth MPD-wide strategies for achieving water conservation during and after project completion to achieve consumption rates of less than 230 gallons of water per day per equivalent residential unit.

18.98.195 Vesting

A. Except to the extent earlier terminated, modified by the provisions of this Chapter, or as otherwise specified in the conditions of approval, the MPD Permit approval vests the applicant for 15 years to all conditions of approval and to the development regulations in effect on the date of approval.

B. Vesting as to stormwater regulations shall be on a phase by phase basis.

C. Vesting as to conditions necessary to meet the fiscal impacts analysis criteria required by section 18.98.060(B)(6)(C) shall only be for such period of time as is justified by the required updated analysis.

18.98.200 Revocation of MPD Permit. The City Council may amend or revoke any or all conditions of MPD approval, after public hearing and notice under the following circumstances:

- A. If the development was phased, and a phase has not been approved within five (5) years of the approval of the previous phase or the original MPD approval and an extension of said phase has not been previously granted. An extension may be granted for up to an additional two years on such additional conditions as the Council determines are necessary in order to assure that the extension does not adversely impact the intent and purpose of the initial MPD approval.
- B. A condition of the MPD approval has been violated and the violation has not been corrected after sixty (60) days notice of the violation unless said violation can be corrected through the use of a duly posted performance or maintenance bond provided at the time of MPD approval.
- C. A violation of an MPD condition of approval that cannot be corrected, such as the destruction of wetlands or removal of trees and vegetation that was specifically prohibited and cannot be restored to their original state within 60 days. .
- D. The MPD permit has been approved for more than five (5) years and the City Council finds that further development will present a threat to the public health, safety and welfare unless the amendment or revocation is implemented. Provided, however, the City shall first determine that the condition cannot be amended in order to eliminate the threat to the public health, safety or welfare before it revokes the permit approval.

The above provisions notwithstanding, the vacation and/or amendment of the MPD approval shall not affect previously approved building permits.