

ORDINANCE NO. 10-941

AN ORDINANCE OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON REGARDING THE DIVISION OF LAND AND AMENDING BLACK DIAMOND MUNICIPAL CODE SECTIONS 17.04.010, 17.04.020, 14.04.030, 17.08.010, 17.08.040, 17.12.010, 17.12.020, 17.12.030, 17.15.020, 17.15.030, 17.16.010, 17.16.020, 17.16.030, 17.20.010, 17.20.020, 17.20.030, 17.20.040, 17.20.050, 17.20.060, 17.20.070, 17.20.080, 17.32.010, 17.32.020, 17.32.030, 17.32.040, 17.32.050, 17.32.060, 17.32.070, 17.32.090, 17.32.100, 17.34.020(a), 17.34.060(a), 17.36.030, 17.36.040, 17.36.050, 17.36.060, 17.36.080, ADDING NEW SECTIONS 17.20.090 AND 17.32.055, AND REPEALING CHAPTER 17.14 AND SECTIONS 17.32.110 AND 17.36.070; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City reviewed its existing code provisions regarding divisions of land in Title 17 of the Black Diamond Municipal Code and determined that an update was appropriate; and

WHEREAS, the planning commission reviewed the proposed changes at a public meeting held on April 21, 2009 and recommended that the amendments be adopted; and

WHEREAS, the City Council held a public hearing on the proposed amendments on August 20, 2009;

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

Section 1. Black Diamond Municipal Code Section 17.04.010 is hereby amended to read as follows:

17.04.010 Title supplementary to state provisions.

This title shall be known as the city subdivision code and shall supplement and implement the state regulations concerning plats, subdivisions and dedications found in Chapter 58.17 of the Revised Code of Washington. In the case of conflict between code and statute sections, the most restrictive land use condition shall control. If a city code section cannot be construed to be harmonious with a state provision in a particular instance, then the state provision shall control.

Section 2. Black Diamond Municipal Code Section 17.04.020 is hereby amended to read as follows:

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17.04.020 Purpose.

The purpose of this chapter is to regulate the subdivision of land and to promote the public health, safety and general welfare in accordance with standards established by the state and the city to prevent the overcrowding of land; to lessen congestion in the streets and highways; to promote effective use of land; to promote safe and convenient travel by the public on streets and highways; to provide for adequate light and air; to facilitate adequate provision for water, sewerage, parks and recreation areas, sites for schools and school grounds and other public requirements; to provide for proper ingress and egress; to provide for the expeditious review and approval of proposed subdivisions which conform to zoning standards and local plans and policies; to adequately provide for the housing and commercial needs of the citizens of the city; to require uniform monumenting of land subdivisions and conveyancing by accurate land description; to protect environmentally sensitive areas; and to protect and preserve the community urban forest for its aesthetic, environmental, and health benefits.

Section 3. Black Diamond Municipal Code Section 17.04.030 is hereby amended to read as follows:

17.04.030 Scope.

This title shall apply to all divisions of land within the city for any purpose, regardless of the size of the resulting lots or tracts, except the following:

- A. Cemeteries and other burial plots while used for that purpose;
- B. Divisions of land made by testamentary provisions, or the laws of descent;
- C. A division for the purpose of lease when no residential structures other than mobile homes as defined by Title 18 are permitted to be placed upon the land and the city has approved a conditional use permit for the use of the land in accordance with city codes;
- D. A division made for the purpose of adjusting boundary lines which does not create any additional lot, tract, parcel, site or division nor create any lot, parcel, site or division which contains insufficient area and dimension to meet minimum requirements for width and area for a building site;
- E. A division which is made by subjecting a portion of a parcel or tract of land to Chapter 64.32 RCW, the Horizontal Property Regimes Act, under a binding site plan for the use of land in accordance with city ordinances;
- F. A division for the purpose of leasing land for facilities providing

personal wireless services while used for that purpose. “Personal wireless services” means any federally licensed personal wireless service. “Facilities” means unstaffed facilities that are used for the transmission or reception, or both, of wireless communication services, including, but not necessarily limited to, antenna arrays, transmission cables, equipment shelters, and support structures; and

G. A division of land into lots or tracts of less than three acres that is recorded in accordance with Chapter 58.09 RCW and is used or to be used for the purpose of establishing a site for construction and operation of consumer-owned or investor-owned electric utility facilities. For purposes of this subsection, “electric utility facilities” means unstaffed facilities except for the presence of security personnel, that are used for or in connection with or to facilitate the transmission, distribution, sale, or furnishing of electricity, including, but not limited to, electric power substations. This subsection does not exempt a division of land from the zoning and permitting laws and regulations of the city. Furthermore, this subsection only applies to electric utility facilities that will be placed into service to meet the electrical needs of a utility’s existing and new customers. New customers are defined as electric service locations not already in existence as of the date that electric utility facilities subject to the provisions of this subsection are planned and constructed.

Section 4. Black Diamond Municipal Code Section 17.08.010 is hereby amended to read as follows:

17.08.010 Definitions.

As used in this chapter, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the indicated meanings:

“Alteration” or “amendment” means the modification of a previously recorded subdivision, short subdivision, or binding site plan, or any portion thereof that results in changes to conditions of approval, the addition of new lots or more land, or the deletion of existing lots or the removal of plat or lot restrictions or dedications that are shown on the recorded plat.

“Binding site plan” means a drawing to a scale specified by the city binding site plan code which:

1. Identifies and shows the areas and locations of all streets, roads, improvements, utilities, open spaces, and any other matters specified by city code;
2. Contains inscriptions or attachments setting forth such appropriate limitations and conditions for the use of the land as are established by the community development director; and
3. Contains provisions making any development to be in

conformity with the site plan.

“Block” means a group of lots, tracts or parcels within well-defined and fixed boundaries.

“Dedication” means the deliberate appropriation of land by an owner for any general and public uses, reserving to himself or herself no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted. The intention to dedicate shall be evidenced by the owner by the presentation for filing of a final plat or short plat showing the dedication thereon; and, the acceptance by the public shall be evidenced by the approval of the plat for filing by the appropriate governmental unit.

“Final plat” means the final drawing of the subdivision and dedication prepared for recording with the county recorder and containing all elements and requirements set forth in this title.

“Hearing Examiner” means the person appointed or authorized by the city to carry out the duties of hearing examiner pursuant to BDMC Chapter 2.30.

“Lot” means a fractional part of divided lands having fixed boundaries, being of sufficient area and dimensions to meet minimum zoning requirements for width and area. The term shall include tracts and parcels.

“Monument” means a permanent concrete object four inches by four inches at the top, six inches by six inches at the bottom and twenty-four inches long with a metal marker cast in the center.

“Plat” means a map or representation of a subdivision, showing thereon the division of a tract or parcel of lands into lots, blocks, streets and alleys or other divisions and dedications.

“Paper plat” means a residential short subdivision with an existing single family residence, in which only one additional lot is created, and some or all of the required public improvements for the additional lot have been deferred until after final short subdivision approval and made a condition of building permit issuance on the additional lot.

“Public works director” means that person, firm or corporation appointed or authorized (including contractual authorization) by the mayor of the city to carry out the duties of the public works director as prescribed by this chapter.

“Preliminary plat” means a neat and approximate drawing of a proposed subdivision showing the general layout of streets and alleys, lots, blocks, and other elements of a subdivision consistent with the requirements of this chapter. The preliminary plat shall be the basis of the approval or disapproval of the general layout of the subdivision.

“Short subdivision” means the division or redivision of land into six or fewer lots, tracts, parcels, or sites for the purpose of sale, lease or transfer of ownership, except as provided in Section 17.04.030 of this title. The creation of tax parcels by the county shall not be deemed the division of

land for purposes of creating a lot, tract, parcel or site that can be sold, leased or transferred.

“Subdivision” means the division or redivision of land into seven or more lots, tracts, parcels, or sites for the purpose of sale, lease or transfer of ownership, except as provided in Section 17.04.030 of this title. The creation of tax parcels by the county shall not be deemed the division of land for purposes of creating a lot, tract, parcel or site that can be sold, leased or transferred.

“Tract” means a fractional part of subdivided lands having fixed boundaries, not meeting the requirements for a lot, or created for a special use, including public spaces, storm drainage facilities, or sensitive area protection, other than for a building lot.

“Vacation” means canceling or eliminating an approved subdivision or short subdivision completely; “partial vacation” means cancellation or elimination of a portion of an approved subdivision or short subdivision.

“Vested” means a proposed division of land will be considered under the requirements of this chapter, and the zoning or other land use control ordinances, in effect on the land at the time a fully completed application for preliminary plat approval of the subdivision, binding site plan, or short plat approval of the short subdivision, has been submitted to the city.

Section 5. Black Diamond Municipal Code Section 17.08.040 is hereby amended to read as follows:

17.08.040 Revocation or modification of conditions after approval.

A subdivision or short subdivision shall be governed by the terms of approval of the final plat, and the statutes, codes and regulations in effect at the time of final plat approval, including certificates of availability for water and sewer capacity, and approvals granted after approval by the public works director, unless the city council finds that a change in conditions creates a serious threat to the public health or safety in the subdivision.

Section 6. Black Diamond Municipal Code Section 17.12.010 is hereby amended to read as follows:

17.12.010 Application.

Any person desiring to subdivide land into seven or more parcels within the city shall first submit an application for preliminary plat approval to the community development department. The application shall be on forms provided by the city. To the extent that procedural requirements permit simultaneous proceedings, a subdivision application will be processed concurrently with applications for variances, residential cluster development, site plan approvals and similar approvals, unless the

applicant expressly requests sequential processing. A preliminary plat application will not be accepted for property within an MPD zone unless there is a previously approved MPD permit. A preliminary plat application will not be accepted for property that is part of a master planned development (MPD) permit application unless the city, pursuant to Section 18.98.050(C) of this code, authorizes the simultaneous processing of the subdivision application. The application shall include:

A. Copies of the preliminary plat drawing and vicinity map containing items specified in Section 17.12.020 of this chapter;

B. Copies of proposed street and utility plans showing proposed locations, sizing and alignment, and of plans showing areas of existing trees and natural vegetation to be retained, and those to be removed;

C. Copies of a completed environmental checklist, together with applicable 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;

D. A preliminary outline of any areas within the subdivision to be dedicated or reserved for public or common use, with the purposes indicated thereon and in the dedication or restrictive covenant;

E. A title report disclosing vesting of title, all existing easements of record or other existing restrictions on the proposed platted land;

F. Storm drainage design analysis at a level of detail to allow for accurate sizing of storm drainage facilities and tracts;

G. A listing of all property owners of record within three hundred feet of the exterior boundaries of all parcels proposed to be included within the subdivision. The three hundred feet shall be measured from the exterior boundary of adjacent property in the same ownership as the land to be subdivided;

H. Certificates of sewer and water availability;

I. If the property to be subdivided has been designated as a receiving area pursuant to the city's transfer of development rights program, a copy of all development right certificates (DRCs) proposed for use in obtaining the proposed net density;

J. The nonrefundable preliminary plat fee and review deposit in the amount specified in the city fee resolution;

K. Any further information required by the terms of a previously approved MPD permit that is required by the approval to be shown on the plat or required to be constructed as part of the subdivision approval process;

L. A tree survey prepared in conformance with BDMC 19.30.060;

M. The names and addresses of all persons having an ownership interest in the property or in the applicant. If the property is owned by, or the applicant is a partnership, limited liability company, corporation or other legal entity, then the names and addresses of all persons having a

financial interest in the legal entity or entities shall be provided; and

N. Any other information that is necessary and appropriate as determined in the reasonable discretion of the city in order to determine whether or not the application meets the preliminary plat approval criteria set forth in Chapter 17.15 of this title.

Section 7. Black Diamond Municipal Code Section 17.12.020 is hereby amended to read as follows:

17.12.020 Preliminary plat contents.

The preliminary plat shall be prepared by a professional land surveyor or engineer using acceptable drafting standards. The scale for the preliminary plat drawing, the drainage utilities, and tree preservation plans shall be not less than one inch equals one hundred feet and the horizontal and vertical scales for street and sewer plans shall be not less than one hundred feet and ten feet to the inch, respectively. After initial review, the public works director may request more detail for proper infrastructure review, including profiles. The documents shall be submitted in such form that when the maps and written data are considered together, they shall fully and clearly disclose the following information:

A. The proposed name of the proposed subdivision which shall not be the same as the name of any other subdivision or development in the city;

B. The legal description of land contained within the proposed subdivision;

C. The name, address and telephone number of the applicant and the property owner;

D. The name, address and telephone number and seal of the professional land surveyor or engineer who prepared the preliminary plat documents;

E. The boundary lines of the proposed subdivision;

F. The boundaries and approximate dimensions, including square feet of lot area for all lots and parcels within the proposed subdivision, together with the numbers to be assigned to each block and lot;

G. The proposed location and width of all existing and proposed streets, alleys, roads and easements within the proposed subdivision and adjacent thereto;

H. The location and, where ascertainable, sizes of all permanent buildings, wells, watercourses, bodies of water (indicating the high water mark or top of the bank), all overhead and underground utilities, municipal boundaries, section lines, township lines and other important features existing upon, over or under the land proposed to be subdivided;

I. Contour lines of at least five-foot intervals or sufficient intervals to show the topography of the land to be subdivided referenced to the mean sea level datum of the National Ocean Survey (USC and GS), and

extending at least one hundred feet in all directions from the property to be subdivided;

J. Generalized plans of proposed water distribution systems, storm sewers, sewerage systems and shoreline modifications, if any, indicating locations and sizing;

K. A layout of proposed buffer zones, or no-build areas and parcels proposed to be dedicated or reserved for public or community school, park, playground, open space and trail networks, wildlife corridors, and perimeter buffers or other uses;

L. Owners of land adjacent to the subdivisions and the names of any adjacent subdivisions shall be identified on the preliminary plat map;

M. If the plat constitutes a replat, the lots, block, streets, etc., lines of the original plat shall be shown with dotted lines in their proper positions in relation to the new arrangement on the plat, the new plat being clearly shown in solid lines;

N. If the proposed plat is part of an approved MPD, the proposed preliminary plat drawing shall show road, trail, utility, and other connections to adjacent MPD properties, as well as adjacent approved MPD land uses;

O. All environmentally sensitive areas, their buffers, and minimum building setbacks;

P. If the subdivision is proposed to occur in two or more phases, the proposed phases shall be clearly shown and labeled; and

Q. A table listing the gross density, net density, density proposed through use of the city's transfer of development rights program, minimum lot size, maximum lot size and average lot size for the proposed subdivision.

Section 8. Black Diamond Municipal Code Section 17.12.030 is hereby amended to read as follows:

17.12.030 Additional information.

An application, for vesting purposes, shall be deemed complete if it contains all of the information required by Sections 17.12.010 and 17.12.020 of this chapter, and chapter 18.14 (vesting). However, the city may require submittal of additional information, including, but not limited to, soil and geological studies, wetland assessments, or traffic studies prior to processing a preliminary subdivision application if city staff determine that such information is necessary for accurate environmental or technical review of such application. The city may also set reasonable deadlines for the supplemental submittal of such information if it is found to be necessary subsequent to the initial application submittal and determination of completeness. Failure to meet such deadlines shall cause the application to be deemed withdrawn, and plans or other data previously

submitted for review may thereafter be returned to the applicant. In no case shall an application be processed until it is adequate in terms of the type or amount of information necessary for accurate environmental and technical review.

Section 9. Black Diamond Municipal Code Chapter 17.14 is hereby repealed in its entirety.

Section 10. Black Diamond Municipal Code Section 17.15.020 is hereby amended to read as follows:

17.15.020 Approval criteria.

A. The following criteria must be met to approve any subdivision. The criteria may be met by conditions imposed by the hearing examiner as conditions of approval:

1. The proposed subdivision meets all city zoning regulations and is consistent with the city's comprehensive plan maps and policies, and with the Black Diamond design standards and guidelines where applicable;

2. The proposed subdivision results in a net density that is equal to or less than the allowable maximum density established by the zoning regulations, and is greater than or equal to any applicable minimum density requirement;

3. The public use and interest is served by the establishment of the subdivision and dedication. In considering this criteria, it shall be determined if appropriate provisions are made for all relevant matters, including, but not limited to, the public health, safety and general welfare, open spaces, storm drainage ways, streets, alleys, other public ways, water supplies, sanitary wastes, parks, playgrounds, sites for schools and school grounds;

4. The physical characteristics of the proposed subdivision site, as conditioned, do not increase the risk of flood or inundation conditions on- or off-site;

5. Applicable city development standards are met or exceeded;

6. All environmental impacts have been addressed consistent with the public health, safety and welfare and city goals and policies;

7. Concurrency exists for all utilities and transportation system improvements prior to occupancy of any structures;

8. If the proposal is in an approved MPD, the proposed subdivision shall be consistent with the approved MPD, the MPD conditions of approval, the MPD design standards, and the MPD development agreement;

9. There shall be connectivity of motorized and nonmotorized transportation routes, open spaces and wildlife corridors with existing or

proposed routes or corridors on adjacent properties;

10. The use of cul-de-sacs and other dead-end streets shall be minimized to the fullest extent possible;

11. Appropriate provision has been made for the dedication of land to any public body, and provision of public improvements has been made as necessary to serve the subdivision. This shall include appropriate provision for payment of any impact fees imposed in accordance with the provisions of RCW 82.02.050 through 82.02.090, and applicable city codes and regulations. Dedications shall clearly be shown on the final plat;

12. The streetscape and public open space amenities shall be compatible with any adjacent project that has been developed or approved for development as an MPD;

13. The proposed subdivision provides safe walking conditions for students who walk to and from school; and

14 The proposed subdivision provides for tree preservation consistent with the provisions of chapter 19.30.

Section 11. Black Diamond Municipal Code Section 17.15.030 is hereby amended to read as follows:

17.15.030 Site inspection.

A site inspection may be made by the hearing examiner in order to assist the hearing examiner in reviewing the proposed subdivision. When making a site inspection, the hearing examiner may not engage in communications with opponents or proponents with respect to the proposed subdivision.

Section 12. Black Diamond Municipal Code Section 17.16.010 is hereby amended to read as follows:

17.16.010 Staff review.

A. Completeness Check and SEPA. Community development department staff shall review the preliminary plat application for completeness within twenty-eight days of its receipt. If the application is determined to not be complete, department staff shall identify in its determination of completeness the items required to make the application complete. Once the application has been determined to be complete, city staff shall issue a formal notice of application which shall allow at least fourteen days for public comment regarding the application. Notice of the filing of a preliminary plat of a proposed subdivision adjacent to or within one mile of the municipal boundaries of another city or town, or which contemplates the use of any city or town utilities, shall be given to the appropriate city or town authorities. Any notice required by this title shall

include the hour and location of the hearing and a description of the property to be platted. Notice of the filing of a preliminary plat of a proposed subdivision located in the city and adjoining the municipal boundaries of another city or town shall be given to the appropriate city officials. Notice of the filing of a preliminary plat of a proposed subdivision located adjacent to the right-of-way of a state highway (SR-169), or within two miles of the boundary of a state or municipal airport, shall be given to the Secretary of Transportation.

B. At the time of issuing the notice of application, the community development director shall submit the proposed subdivision to all city department heads, including, but not limited to, the public works director, the police chief, the natural resources director and the fire marshal for staff review. The following review criteria shall apply:

1. The public works director shall review the proposed subdivision for engineering adequacy of the proposed street system, sewage disposal system, storm drainage system and water supply system, and shall review the same for compliance with all city standards, including, but not limited to, those set forth in the city's public works standards or standards approved as part of an MPD, if applicable. The public works director shall also review the proposed subdivision to ensure that all requirements as may be necessary to minimize flood damage are met;

2. The city fire chief shall review the proposed subdivision for adequacy of water supply and access for fire protection and medical aid purposes; and

3. The city natural resources director shall review the proposed subdivision for consistency with Chapter 19.10 and other environmental regulations.

C. SEPA Determination and Staff Report. Each department head and reviewing staff shall complete his or her review of the proposed subdivision and transmit written comments and recommendations to the community development department. At the conclusion of the SEPA process, staff will finish its detailed review of the proposal and will issue a SEPA threshold determination, pursuant to Chapter 19.04. Community development staff will also prepare a written staff report to the hearing examiner.

Section 13. Black Diamond Municipal Code Section 17.16.020 is hereby amended to read as follows:

17.16.020 Hearing examiner public hearing

A. Public Hearing Required. Upon completion of the SEPA review process, the community development department shall schedule the preliminary plat for public hearing before the hearing examiner, and provide notice pursuant to Chapter 18.08.

B. Public Hearing. At the public hearing, the hearing examiner shall consider all relevant evidence. Any hearing may be continued at the discretion of the hearing examiner in order to allow all relevant public input to be received.

Section 14. Black Diamond Municipal Code Section 17.16.030 is hereby amended to read as follows:

17.16.030 Hearing examiner review and decision.

A. If the hearing examiner finds that the proposed plat makes appropriate provisions for the public health, safety and general welfare, for such open spaces, drainage ways, water supplies, sanitary wastes, parks, playgrounds, sites for schools and school grounds, and other provisions required by city code and any applicable development agreement, and finds that the public use and interest will be served by the platting of the subdivision, then the preliminary plat shall be approved. If the hearing examiner finds that the proposed plat does not make such appropriate provisions or that the public use and interest will not be served, then the hearing examiner shall impose additional conditions so that appropriate provisions will be made and the public use and interest is served. If additional conditions would not be adequate to mitigate all adverse impacts and to otherwise protect the public health, safety and meet all city standards, then the examiner shall deny the proposed preliminary plat.

B. Not later than fourteen days following the close of the public hearing by the hearing examiner, the hearing examiner shall issue his/her decision.

C. Dedication and Improvements.

1. Conveyance of land to the city and/or construction of improvements within and/or outside the boundary of the proposed subdivision may be required as a condition of subdivision approval. All streets, alleys and other access to the lots within the subdivision shall be conveyed to the city and shall become city property upon acceptance by the city; provided, the hearing examiner may allow a private street if it finds that the private street is the best interest of the public, that adequate provision is made for street maintenance, repair and replacement through the CCR's, and that the street will be constructed to the same standards that would apply if the street were to be public street. The hearing examiner shall not, as a condition of the approval of any plat, require a release from damages to be procured from other property owners.

2. No plat shall be approved covering any land situated in a flood control zone as provided in RCW Chapter 86.16 without the prior written approval of the Department of Ecology.

3. Every decision or recommendation made under this chapter shall be made in writing and shall include findings of fact and conclusions

to support the decision or recommendation. A record of all public meetings and public hearings shall be kept by the city and shall be open to public inspection.

D. Applicant Notification. Preliminary plats or any proposed subdivision and dedication shall be approved, disapproved or returned to the applicant for modification or correction within ninety days from the date of the city staff determination of a complete application, unless the applicant consents to an extension of such time period; provided, that if additional information is requested from the applicant, or an environmental impact statement is required as provided in RCW 43.21C.030, the ninety-day period shall not include the time spent by the applicant in providing the requested information, or in preparing and circulating the environmental impact statement by the city.

E. Expiration of Preliminary Plat Approval. The approval given to a preliminary plat shall expire seven years following the approval date unless a proposed final plat meeting all the requirements of this chapter and the conditions of preliminary plat approval is submitted to the city. However, an applicant who files a written request with the community development department at least thirty days before the expiration of this seven-year period may be granted a one-year extension upon a showing by the applicant and finding by the department that the applicant has attempted in good faith to submit the final plat within the seven-year period. Any extension may be conditioned upon further review by the department and may contain additional or altered conditions and requirements to comply with city standards current at the time of the extension.

Section 15. Black Diamond Municipal Code Section 17.20.010 is hereby amended to read as follows:

17.20.010 Contents of application.

The final plat application shall include the following:

A. Final plat drawings in conformance with criteria set forth in this title and properly containing all information required by the conditions of preliminary plat approval;

B. A title insurance report confirming that the title of the lands as described and shown on the plat is in the name of the owners signing the plat's certificate or instrument of dedication;

C. Certified sets of "as-built" subdivision improvement drawings, or in the alternative, and at the city's sole discretion, a subdivision improvements completion bond as specified in this chapter;

D. A maintenance and guarantee bond as described in this chapter;

E. Survey information in conformance with criteria set forth in this chapter;

F. A nonrefundable final plat fee in the amount specified by the city's fee schedule;

G. Any other documentation which may be necessary to show compliance with conditions of preliminary plat approval; and

H. A title insurance policy in favor of the city in an amount as approved by the city attorney for all land within the subdivision to be dedicated to the city.

Section 16. Black Diamond Municipal Code Section 17.20.020 is hereby amended to read as follows:

17.20.020 Contents and standards for final plat drawings.

Every final plat shall consist of one or more pages, each eighteen inches by twenty-four inches, clearly and legibly drawn to the standards of the King County Recorder's Office. Each sheet of the final plat shall contain the subdivision name and sheet number, and each sheet containing a drawing shall also contain the scale and the north arrow showing the equation to true north where applicable. All signatures shall be written in permanent ink. Every final plat shall include an accurate map of the subdivided land based upon a complete survey thereof containing all elements described in and consistent with WAC chapter 332-130, which map shall include:

A. All section, township, municipal and city lines lying within or adjacent to the subdivision;

B. The location of all monuments or other evidence used as ties to establish the subdivision's boundaries;

C. The location of all permanent control monuments found and established within the subdivision;

D. The boundary of the subdivision with complete bearings and lineal dimensions;

E. The length and the bearings of all straight lines; the radii, arc lengths, semitangents and delta angle of all road centering curves and radii; and delta angle and arc lengths of right-of-way curves;

F. The length of each lot line, together with the bearings and other data necessary for the location of any lot line in the field;

G. The location, width, centerline and name or number of all streets within and adjoining the subdivision;

H. The location shown with broken lines, the width and description of all easements;

I. Numbers assigned to all lots and blocks within the subdivision;

J. Names of any adjacent subdivision(s);

K. Legal description of the land within the subdivision;

L. All dedications of streets or other areas to the public, an individual or individuals, religious society or societies or to any corporation, public or private. Roads not dedicated to the public must be clearly marked on

the face of the plat. Any dedication, donation or grant as shown on the face of the plat shall be considered for all intents and purposes as a quitclaim deed to the donee or donees, grantee or grantees for his, her or their use for the purpose intended by the donors or grantors aforesaid;

M. The location of all sensitive area boundaries, including any required buffer and/or setback areas;

N. The lot area in square feet for each lot or tract within the subdivision; and

O. Addresses of individual lots.

Section 17. Black Diamond Municipal Code Section 17.20.030 is hereby amended to read as follows:

17.20.030 Surveys and monumentation.

Surveys shall be required for all proposed subdivisions. The survey of every proposed subdivision shall be made by or under the supervision of a professional land surveyor. All surveys shall conform to standard practices and principles for land surveying as set forth in the laws of the state. Subdivision control and staking traverses shall close within an error of one foot in five thousand feet. Primary survey control points shall be referenced to section corners and monuments.

A. Information to be transmitted to the public works director. The surveyor shall furnish the public works director with a full set of survey notes, which shall clearly show:

1. The ties to each monument established for the plat;
 2. All necessary controlling reference points or monuments;
 3. Sufficient data to determine readily the bearing and length of each line which may be in the form of computer printout sheets or coordinate sheet;
 4. The base meridian referred to showing its relation to true north based on Polaris observation or tie to National Ocean Survey (USC and GS) triangulation system, or other control acceptable to the public works director;
 5. Complete subdivision of the section or sections, or as much thereof as necessary to properly orient the plat within the same;
 6. Corners of adjoining subdivisions or portions thereof, with ties;
- and
7. Primary survey control points shall be referenced to section corners and monuments.

B. Permanent Control Monuments. Permanent control monuments shall be established at:

1. All controlling corners on the boundaries of the subdivision;
 2. The intersections of centerlines of roads within the subdivision;
- and

3. The beginnings and ends of curves on centerlines or points of intersections on tangents.

C. The position and type of every monument shall be noted on all plats of the subdivision in accordance with the Survey Recording Act.

Section 18. Black Diamond Municipal Code Section 17.20.040 is hereby amended to read as follows:

17.20.040 Required certificates.

The following certificates shall be shown on the final plat. Items listed in subsections A through C of this section shall be signed before the final plat is submitted for review:

A. Surveyor. The surveyor shall place his or her seal and signature on the plat, along with:

1. A statement certifying that the plat was prepared by him or her, or under his or her supervision;

2. A statement certifying that the plat is a true and correct representation of the land surveyed and that the monuments shown thereon exist as located; and

3. A full and correct legal description of the land to be divided.

B. Owner. The following statements or certifications shall be placed upon the final plat by the owner:

1. A statement that the subdivision has been made with the free consent and in accordance with the desires of the owner or owners. Owners of other interests shown on the title report shall certify that they have notice of the subdivision; and

2. If the plat is subject to dedication, a certificate containing the dedication of all streets and other areas, together with a waiver of all claims for damages against any governmental authority which may be occasioned to the adjacent land from the required construction, drainage and maintenance of the areas. The certificates shall be signed and acknowledged before a notary public by all parties having any ownership interest in the lands subdivided.

C. Treasurer Certificate. A certification from the county treasurer that all taxes and delinquent assessments for which the property may be liable as of the date of certification have been duly paid, satisfied or discharged.

D. Public Works Director. A statement of approval from the public works director approving the survey data, the layout of the streets, alleys and other rights-of-way, design of bridges, sewage and water system and other structures.

E. Community Development Director. The date of examination and approval by the city community development director and the signature signifying such approval.

F. Council Approval. The resolution number and date of approval by the city council and the signature of the mayor signifying such approval.

G. Fire Chief Approval. The date of examination and approval by the city fire chief and the signature signifying such approval.

H. Mine Workings Warning. A mine workings warning that reads as follows:

“WARNING. The City of Black Diamond overlies numerous mine shafts, tunnels and other workings, the exact location, depth and size of which are unknown. The land encompassed by this subdivision may or may not overlie such a workings. In approving this subdivision, the City of Black Diamond makes no representations and assumes no liability or responsibility with respect to the suitability of this site for the development contemplated or the suitability or integrity of the subsoil against subsidence or collapse.”

I. Plats in an Approved MPD. A statement that reads as follows:

“This plat is part of an approved Master Planned Development (MPD). All development and construction within this plat must be consistent with the applicable requirements of the MPD development agreement, MPD design standards, and mitigation requirements.”

Section 19. Black Diamond Municipal Code Section 17.20.050 is hereby amended to read as follows:

17.20.050 Improvements.

A. The applicant shall either complete the required improvements before the final plat is approved or, at the applicant’s request and at the city’s sole discretion, the applicant may be permitted to financially guarantee installation of the same pursuant to criteria established in subsection B of this section. If the hearing examiner has determined that the completion before final plat approval of all required water system, sanitary sewer system, and storm sewer system improvements, and all street improvements other than the final overlay, is necessary to protect the public health, safety and welfare, then those improvements cannot be bonded in lieu of completion before final plat approval. Any required off-site improvements that are imposed as a condition of environmental review, the need for which is not triggered until more than one-half of all resulting lots are occupied, may be bonded, if the council makes a written finding, at the time of final plat approval, that to do so will not jeopardize

the public health, safety or welfare.

B. Completion and Maintenance Bonds. In lieu of the completion of the actual construction of required public improvements prior to approval of a final plat, other than the exempted improvements referenced in subsection A of this section, the city may accept a bond, in a form approved by the city attorney, or other secure method, in an amount equal to one hundred fifty percent of the public works director's estimate of the cost of public improvements guaranteeing the actual construction and installation of such public improvements within a period of time to be set by the city, but in no event more than one year after final plat approval. In addition, before final plat approval is granted, the applicant/property owner shall file a maintenance bond, or other secure method approved by the city, in an amount equal to twenty-five percent of the public works director's estimate of the cost of improvements for a period lasting through the period two years after final acceptance of the improvements. The city shall withhold approval of the final plat until the completion bond (if accepted by the city) and maintenance bond are filed. The city may enforce such bonds according to their terms, pursuant to any and all legal and equitable remedies. In addition, any completion or maintenance bond filed pursuant to this subsection shall be subject to enforcement in the following manner:

1. In the event the bonded public improvements are not completed as required, or maintenance is not performed satisfactorily, the city shall notify the property owner and the bonding company in writing which shall set forth the specific defects which must be remedied or repaired and shall state a specific time by which such shall be completed.

2. In the event repairs or maintenance are not completed as specified in the notice referred to in subsection (B)(1) of this section by the specified time, the city may, but shall not be obligated to, proceed to repair the defect or perform the maintenance by either: (a) force account, using city forces, or (b) by private contractor. To the extent that additional funds remain from the performance bond proceeds after the city has completed the work, these funds shall not be returned to the applicant/property owner until all work has been completed and accepted by the city. In the event the city is required to bring suit to enforce maintenance or completion bonds, or to collect the cost of repairs or maintenance, the applicant/property owner and bonding company shall be responsible for any costs and attorney's fees incurred by the city as a result of the action.

C. No Permits to be Issued. In the event that the city allows the applicant to file the performance bond instead of completing some or all of the required improvements prior to final approval of the plat, no building permits shall be issued for development within the subdivision until all required improvements have been completed to city standards and accepted by the city.

D. Improvement Construction. Construction of subdivision improvements prior to final plat approval or subsequent to final plat approval as a condition to meeting bond requirements shall proceed as follows:

1. Sets of complete construction drawings and specifications shall be submitted to the public works director for approval prior to the commencement of construction. The submitted drawings and specifications shall be designed and certified by a professional civil engineer. Construction drawings shall be in conformance with the conditions, if any, of preliminary plat approval and applicable city standards.

2. Construction of improvements shall not be initiated without authorization of the public works director. The public works director shall authorize the applicant/property owner to proceed with construction after approval of the construction drawings and specifications. The public works director may grant approval on condition that additions or changes are made in the drawings or specifications, or on the inclusion or implementation of mitigating measures necessary to minimize the impact of the subdivision or subdivision construction on the environment.

3. Any changes to the construction drawings or specifications involving the design of the subdivision improvements shall first be reviewed and approved by the public works director.

4. Construction of the subdivision improvements shall proceed as shown in the construction drawings and specifications. Construction shall proceed under the supervision of a professional civil engineer. The public works director shall ensure that construction progress is inspected to review compliance with construction plans and required standards. All costs of inspections by the public works director shall be borne by the applicant/property owner.

5. After the completion of construction, three sets of "as-built" drawings showing the subdivision improvement as constructed shall be certified as true and complete by a professional civil engineer and one shall be reproducible mylar. The certified "as-built" drawings shall be submitted to the city prior to final plat approval and/or acceptance of the subdivision improvements by the city.

Section 20. Black Diamond Municipal Code Section 17.20.060 is hereby amended to read as follows:

17.20.060 Final plat review and decision.

Final plats shall be approved, disapproved or returned to the applicant for modification or correction within sixty days from the date of filing thereof unless the applicant consents to an extension of such time period.

A. Staff Review. The public works director or designee acting on

behalf of the city shall review the survey data layout of streets, alleys and other rights-of-way, design of bridges, sewage, storm sewage and water systems and other structures. The public works director or designee acting on behalf of the city shall convey his or her findings to the city council regarding satisfaction of the following criteria:

1. The proposed final plat meets all standards established by state law, this title, the city's zoning, the preliminary plat conditions of approval, and the city's development standards ordinance relating to the final plat's drawings and subdivision improvements;

2. For plats within an approved MPD, the proposed final plat complies with all conditions of MPD approval, the MPD development agreement, and MPD design standards;

3. The proposed final plat bears the certificates and statements of approval required by this chapter;

4. The current title insurance report furnished by the applicant/property owner confirms the title of the land in the proposed subdivision is vested in the name of the owners whose signatures appear on the plat's certificate; and

5. The facilities and improvements required to be provided by the applicant/property owner have been completed or, alternatively, that the applicant/property owner has provided a bond in an amount and with sureties commensurate with improvements remaining to be completed, securing to the city the construction and installation of the improvements and that all survey monument lot corners are in place and visible.

B. City Council Decision. The city council shall review the findings of the public works director or designee and review the proposed final plat to assure that there is conformance with all terms of the preliminary plat approval and, where applicable, MPD approval, the MPD development agreement, and MPD design standards. If the council determines that the final plat conforms with these requirements, and adequate bonds, if applicable, have been posted, then, by resolution, it shall enter written findings to that effect, and shall authorize the mayor to execute the city's written approval on the face of the plat.

C. Notice of Final Decision. The city shall provide a notice of decision. The notice shall be provided to the applicant and any person who, prior to the rendering of the decision, requested notice of decision or submitted substantive comments on the application.

Section 21. Black Diamond Municipal Code Section 17.20.070 is hereby amended to read as follows:

17.20.070 Filing.

A. Required. No final plat shall be filed unless approved by the city council. The original of an approved final plat shall be filed for record with the county recorder.

B. Fees and Filing Procedure. The applicant shall submit the original final plat drawings together with the filing fees to the county recorder's office. After filing, the applicant shall provide copies of the recorded plat to the city for distribution.

C. Period of Approval. Any lots in a final plat filed for record shall be a valid land use notwithstanding any change in zoning laws for a period of seven years from the date of filing. A subdivision shall be governed by the terms of approval of the final plat, and the statutes, ordinances and regulations in effect at the time of approval by the city council pursuant to subsection A of this section for a period of seven years after final plat approval unless the city council finds that a change in conditions creates a serious threat to the public health or safety in the subdivision; except that a subdivision in an approved MPD shall be governed by the terms of the MPD conditions of approval and the development agreement, until and unless the conditions and agreement are amended.

D. If a final plat has not been submitted for recording within sixty (60) days after approval by the city council, the plat shall expire and be null and void. To reactivate the expired plat, the plat must be resubmitted as a preliminary plat application and processed accordingly.

Section 22. Black Diamond Municipal Code Section 17.20.080 is hereby amended to read as follows:

17.20.080 Violation--Permit not to be issued.

No building permit or other development permit shall be issued for any lot, tract or parcel of land divided in violation of this title unless the city finds that the public interest will not be adversely affected thereby; provided, that building permits for up to four (4) model homes may be issued prior to final plat recording. The prohibition contained in this section shall not apply to an innocent purchaser for value without actual notice. All purchasers' or transferees' property shall comply with the provisions of this chapter.

Section 23. A new Section 17.20.090 is hereby added to the Black Diamond Municipal Code to read as follows:

17.20.090 Vacation or Alteration of a Subdivision

A. Vacation. Whenever an applicant wishes to vacate a subdivision or any portion thereof, that person shall file an application for vacation with the community development department. The application shall set forth

the reasons for vacation and shall contain signatures of all parties having an ownership interest in that portion of the subdivision subject to vacation.

If the subdivision is subject to restrictive covenants which were filed at the time of the approval of the subdivision, and the application for vacation would result in the violation of a covenant, the application shall contain an agreement signed by all parties subject to the covenants providing that the parties agree to terminate or alter the relevant covenants to accomplish the purpose of the vacation of the subdivision or portion thereof.

When the vacation application is specifically for a city street or road, the procedures for street vacation under state law shall be utilized for the street vacation. When the application is for the vacation of the plat together with the streets or roads, the procedure for vacation in this section shall be used but vacations of streets may not be made that are prohibited under state law.

The community development department shall give notice to all property owners within the subdivision and within three hundred (300) feet of subdivision boundaries and to all applicable agencies. The hearing examiner shall conduct a public hearing on the request for vacation, and forward a recommendation to the city council. The application for vacation of the subdivision may be approved or denied after the city council has determined the public use and interest to be served by the vacation of the subdivision. If any portion of the land contained in the subdivision was dedicated to the public for public use or benefit, such land, if not deeded to the city, shall be deeded to the city unless the city council sets forth findings that the public use would not be served in retaining title to those lands.

Title to the vacated property shall vest with the rightful owners shown in the county records. If the vacated land is land that was dedicated to the public, for public use other than a road or street, and the city council has found that retaining title to the land is not in the public interest, title thereto shall vest with the person or persons owning the property on each side thereof, as determined by the city council following a recommendation from the hearing examiner. When the road or street that is to be vacated was contained wholly within the subdivision and is part of the boundary of the subdivision, title to the vacated road or street shall vest with the owner or owners of property contained within the vacated subdivision.

This section shall not be construed as applying to the vacation of any plat of state-granted tide or shore lands.

B. Alteration. If an applicant is interested in the alteration of any subdivision or any portion thereof, except as provided in RCW 58.17.040 (6), that person shall submit an application to the community development department requesting the alteration. The application shall contain the signatures of all persons having an ownership interest in lots, tracts, parcels, sites, or divisions in the subject subdivision or portion to be altered.

If the subdivision is subject to restrictive covenants which were filed at the time of the approval of the subdivision, and the application for alteration would result in the violation of a covenant, the application shall contain an agreement signed by all parties subject to the covenants providing that the parties agree to terminate or alter the relevant covenants to accomplish the purpose of the alteration of the subdivision or portion thereof.

If the alteration to a subdivision is requested prior to final plat approval, a minor alteration may be approved by the community development director. A major alteration requested prior to final plat approval shall require approval of the hearing examiner after appropriate public notice and holding of a public hearing. The community development department shall have the authority to determine whether the proposed alteration constitutes a minor or major alteration. For purposes of this section, a "major alteration" means the creation of additional lots, the elimination of open space, or changes to conditions of approval on an approved preliminary subdivision, and a "minor alteration" means (a) modifications to engineering design, unless the proposed design alters or eliminates features specifically required as a condition of preliminary subdivision approval, (b) a modification to lot dimensions, provided that such modified dimensions conform to city code, or (c) a reduction in the number of lots to be created, provided that the reduction otherwise conforms to the provisions of city code. If the alteration to a subdivision is requested after final plat approval, but prior to filing the final plat with King County, a plat alteration may be approved with consent of the city council. Upon receipt of an application for alteration, the community development department shall provide notice of the application to all owners of property within the subdivision, and as was required by the subdivision application. The notice shall establish a date for a public meeting.

If the alteration to a subdivision is requested after filing the final plat with King County, a minor plat alteration may be approved with consent of the city council. If the community development department determines that the proposed alteration is a major alteration, then the department may require replatting pursuant to this title. Upon receipt of an application for alteration, the community development department shall provide notice of the application to all owners of property within the subdivision, and as was required by the subdivision application.

The city shall determine the public use and interest in the proposed alteration and may deny or approve the application for alteration. If any land within the alteration is part of an assessment district, any outstanding assessments shall be equitably divided and levied against the remaining lots, parcels, or tracts resulting from the alteration. If any land within the alteration contains a dedication to the general use of persons residing within the subdivision, such land may be altered and divided equitably between properties.

After approval of the alteration, the city shall order the applicant to produce a revised drawing of the approved alteration of the subdivision. The final plat shall accurately reflect the approved alteration and shall be filed with the County Auditor to become the lawful plat of the property, after receiving final plat approval.

This section shall not be construed as applying to the alteration or replatting of any plat of state-granted tide or shore lands.

Section 24. Black Diamond Municipal Code Section 17.32.010 is hereby amended to read as follows:

17.32.010 Applicability.

- A. Any short subdivision shall comply with the provisions of this chapter.
- B. Exemptions. The provisions of this section are not applicable to the following:
 - 1. Cemeteries and other burial lots which are used for that purpose;
 - 2. Divisions made by testamentary provisions or the laws of descent and;
 - 3. A division for the purpose of leasing land for facilities providing personal wireless services while used for that purpose. "Personal wireless services" means any federally licensed personal wireless service. "Facilities" means unstaffed facilities that are used for the transmission or reception, or both, of wireless communication services,

including, but not necessarily limited to, antenna arrays, transmission cables, equipment shelters, and support structures.

C. Further Divisions. Land within a short subdivision shall not be further divided in any manner for a period of five years from the date the approved short plat is recorded with the auditor without complying with the subdivision requirements of the code, except that when a short subdivision contains fewer than six lots, nothing in this section shall prevent the owner from filing an alteration within the five-year period to create up to a total of six lots within the original short subdivision boundaries.

D. Contiguous parcels that have one or more common owners, one or more persons who have an interest in the entity that owns or has an ownership interest in contiguous parcels, or a developer who intends to develop contiguous properties, must comply with the subdivision requirements of this title if the total number or resultant lots will exceed six in number. The short subdivision code may not be used as a mechanism to avoid the requirements of the subdivision code where there are adjacent parcels under common ownership, as described herein, that, but for the property boundaries, would be required to comply with the subdivision requirements.

Section 25. Black Diamond Municipal Code Section 17.32.020 is hereby amended to read as follows:

17.32.020 Filing procedure and fee.

A. Prints of a proposed short subdivision shall be filed with the city. A short subdivision shall meet the following standards:

1. Drawn in ink to a scale of not smaller than one inch represents one hundred feet on sheet size of eighteen inches by twenty-four inches;
2. The short subdivision shall show the boundary and dimensions of the "original tract," including its bearings and length of all boundary lines, assessor's parcel number, section, township and range, and all adjoining public or private roads and identifying names of such;
3. A vicinity map drawn to a scale of four inches represents one mile of sufficient detail to orient the location of the original tract;
4. Name and address of the owner of record of the "original tract," scale of the drawing, and north directional arrow;
5. The tract(s) of land proposed to be sold or leased, each tract of which is identified by numerical designation, dimensions and bearing of each lot boundary line;
6. Width and location of access to all short-subdivided lots proposed;
7. Space on a second sheet shall be reserved for comments and appropriate signatures;

8. The form of the short subdivision shall be as required by the Survey Recording Act, Chapter 50, Washington Laws of 1973, or as amended;

9. Location of all public and/or private utility service lines, including underground telephone service lines;

10. If the proposed short subdivision is part of an approved MPD, the proposed short plat drawing shall show road, trail, utility, and other connections to adjacent MPD properties, as well as adjacent approved MPD land uses; and

11. All environmentally sensitive areas and their buffers.

B. If the proposed short subdivision is located in an approved MPD, a copy of the signed and recorded MPD development agreement shall be filed with the city.

C. A nonrefundable short subdivision fee in the amount specified by the city fee schedule shall be filed with the city.

Section 26. Black Diamond Municipal Code Section 17.32.030 is hereby amended to read as follows:

17.32.030 Application of environmental analysis and impact statement.

All actions by the city in approving a short subdivision shall be exempt from any SEPA environmental analysis or environmental impact statement as provided in WAC 197-11-800(6)(a) unless the SEPA Responsible Official determines that the short subdivision is located wholly or partially within an “environmentally sensitive area” as defined by Black Diamond Municipal Code Chapter 19.10.

Section 27. Black Diamond Municipal Code Section 17.32.040 is hereby amended to read as follows:

17.32.040 Survey.

A. Surveys shall be required for all short subdivisions.

B. All surveys shall be accomplished as required by the Survey Recording Act (Chapter 50, Washington Laws of 1973), and shall be monumented as stated in this chapter.

Section 28. Black Diamond Municipal Code Section 17.32.050 is hereby amended to read as follows:

17.32.050 Review and summary approval.

A. Completeness Check. Community development department staff shall review the short subdivision application for completeness within

twenty-eight days of its receipt. If the application is determined to not be complete, city staff shall identify in its decision the items required to make the application complete. Once the application has been determined to be complete, city staff will issue a formal notice of application which shall allow at least fourteen days for public comment regarding the application. Whenever the city receives an application for the approval of a short subdivision that is located adjacent to the right-of-way of a state highway (SR-169), the community development director shall give written notice of the application, including a legal description of the short subdivision and a location map to the Washington State Department of Transportation.

B. At the time of issuing the notice of application, the community development director shall submit the proposed short subdivision to all city department heads, including, but not limited to, the public works director and the city fire marshal for staff review. The following review criteria shall apply:

1. The public works director shall review the proposed short subdivision for engineering adequacy of the proposed street system, sewage disposal system, storm drainage system and water supply system, and shall review the same for compliance with all city standards, including, but not limited to, those set forth in the city's development standards ordinance. Minimum improvement standards shall include the following:

a. Public streets, curbs, storm sewers, sidewalks (and other planning features that assure safe walking conditions for students who walk to and from school) and streetlights shall be designed and constructed in accordance with the standards of the city and to the approval of the city public works director;

b. The water distribution system, including fire hydrants and service lines, shall be designed and constructed in accordance with the standards of the city and to the approval of the public works director;

c. The sanitary sewer system shall be constructed in accordance with the standards of the city and to the approval of the public works director;

d. Permanent survey monuments shall be erected and lot corners set according to the standards of the city and under the approval of the public works director; and

e. The public works director shall also review the proposed short plat to ensure that all requirements as may be necessary to minimize flood damage are met;

2. The city fire chief shall review the proposed short subdivision for adequacy of water supply and access for fire protection purposes; and

3. The city natural resources director shall review the proposed short subdivision for environmental impacts.

C. Department Review. Each department head shall, within fourteen

days after receipt, complete his or her review of the proposed short subdivision and transmit written comments and recommendations to the community development director. The items noted in subsections (B)(1) through (B)(3) of this section shall be considered as criteria for which a short subdivision may be denied. City standards in place at the time of submittal of a complete application shall be applied during the review process.

D. Notice of Preliminary Decision by Community Development Director. The community development director shall review comments from staff and coordinate and transmit final determinations to the applicant. The community development director shall complete his/her review and issue either preliminary approval or disapproval of the proposed short subdivision within one hundred twenty days after the short subdivision is determined to be complete, unless an environmental impact statement is required. The approval criteria set forth in Chapter 17.15 of this title shall apply to short subdivision applications.

Section 29. A new section 17.32.055 is hereby added to the Black Diamond Municipal Code to read as follows:

17.32.055 Appeal Procedures

Within fourteen calendar days following the notice of decision issued for a proposed short subdivision issued pursuant to Section 17.32.050, the applicant may appeal the decision to the hearing examiner. The appeal shall be accomplished by filing of a written request with the city clerk for a hearing. The notice of appeal shall briefly specify the issues of the appeal. Decisions not timely appealed shall be final and conclusive.

Section 30. Black Diamond Municipal Code Section 17.32.060 is hereby amended to read as follows:

17.32.060 Expiration of short subdivision approval.

The preliminary approval given to a short subdivision shall expire within five years following approval, and no extensions shall be granted.

Section 31. Black Diamond Municipal Code Section 17.32.070 is hereby amended to read as follows:

17.32.070 Final approval and improvement construction.

A. The short subdivision shall receive final approval within thirty working days after all required improvements have been constructed, as-built provided, and the construction approved by the public works director, or at the applicant's request and at the city's sole discretion, the applicant may be permitted to financially guarantee installation of the

same pursuant to subsection B of this section. Any short subdivision approved by the community development director as a paper plat need not construct required improvements or provide financial guarantees prior to receiving final approval. The community development director may establish standards and procedures for approval of a paper plat.

B. Completion and Maintenance Bonds. In lieu of the completion of the actual construction of required public improvements prior to approval of a short subdivision, the city may accept a bond, in a form approved by the city attorney, or other secure method, in an amount equal to one hundred fifty percent of the public works director's estimate of the cost of public improvements guaranteeing the actual construction and installation of such public improvements within one year of final short subdivision approval; provided, the city council has not determined that the completion of all required water system, sanitary sewer system, and storm sewer system improvements, and all street improvements other than the final overlay, is necessary to protect the public health, safety and welfare and thus those improvements cannot be bonded in lieu of completion before final approval. In addition, before final short subdivision approval is granted, the applicant/property owner shall file a maintenance bond, or other secure method approved by the city, in an amount equal to twenty-five percent of the public works director's estimate of the cost of improvements for a period lasting through the period two years after final acceptance of the improvements. The city shall withhold approval of the final short subdivision until the completion bond (if accepted by the city) and maintenance bond are filed. The city may enforce such bonds according to their terms, pursuant to any and all legal and equitable remedies. In addition, any completion or maintenance bond filed pursuant to this subsection shall be subject to enforcement in the following manner:

1. In the event the bonded public improvements are not completed as required, or maintenance is not performed satisfactorily, the city shall notify the property owner and the bonding company in writing which shall set forth the specific defects which must be remedied or repaired and shall state a specific time by which such shall be completed.

2. In the event repairs or maintenance are not completed as specified in the notice referred to in subsection (B)(1) of this section by the specified time, the city may, but shall not be obligated to, proceed to repair the defect or perform the maintenance by either: (a) force account, using city forces, or (b) by private contractor. To the extent that additional funds remain from the performance bond proceeds after the city has completed the work, these funds shall not be returned to the applicant/property owner until all work has been completed and accepted by the city. In the event the city is required to bring suit to enforce maintenance or completion bonds, or to collect the cost of repairs or maintenance, the applicant/property owner and bonding company shall be responsible for

any costs and attorney's fees incurred by the city as a result of the action.

C. No Permits to be Issued. In the event that the city allows the applicant to file the performance bond instead of completing some or all of the required improvements prior to final approval of the short subdivision, no building permits shall be issued for development within the short subdivision until all required improvements have been completed to city standards and accepted by the city.

D. Improvement Construction. Construction of short subdivision improvements prior to final short subdivision approval or subsequent to final short subdivision approval as a condition to meeting bond requirements shall proceed as follows:

1. Complete construction drawings and specifications shall be submitted to the public works director for approval prior to the commencement of construction. The submitted drawings and specifications shall be designed and certified by a professional civil engineer. Construction drawings shall be in conformance with the conditions, if any, of preliminary plat approval and applicable city standards;

2. Construction of improvements shall not be initiated without authorization of the public works director. The public works director shall authorize the applicant/property owner to proceed with construction after approval of the construction drawings and specifications. The public works director may grant approval on condition additions or changes made in the drawings or specifications, or on the inclusion or implementation of mitigating measures necessary to minimize the impact of the short subdivision or short subdivision construction on the environment. Conditions required to minimize environmental impacts shall conform with the requirements of the city's current SEPA ordinance;

3. Any changes to the construction drawings or specifications involving the design of the short subdivision improvements shall first be reviewed and approved by the public works director;

4. Construction of the short subdivision improvements shall proceed as shown in the construction drawings and specifications. Construction shall proceed under the supervision of a professional civil engineer. The public works director shall ensure that construction is inspected to review compliance with construction plans and required standards. All costs of inspections by the public works director shall be borne by the applicant/property owner; and

5. After the completion of construction, "as-built" drawings showing the short subdivision improvement as constructed shall be certified as true and complete by a registered civil engineer and one shall be reproducible mylar. The certified "as-built" drawings shall be submitted to the city prior to final short subdivision approval and/or acceptance of the short subdivision improvements by the city.

E. Notice of Decision. Within ten days of final city action on the short subdivision, the city shall provide a mailed notice of decision to the applicant, to all parties of record, and to all parties requesting such notice in writing.

Section 32. Black Diamond Municipal Code Section 17.32.090 is hereby amended to read as follows:

17.32.090 Public utility service.

No public utility service shall be provided to any buildings or improvements constructed within a short subdivision until the construction of all required improvements has been completed and approved by the public works director.

Section 33. Black Diamond Municipal Code Section 17.32.100 is hereby amended to read as follows:

17.32.100 Filing.

A. Fees and Filing Procedure. No short subdivision shall be filed for recording unless approved by the community development director and the public works director. The original drawings of the approved short subdivision along with the applicable fees shall be filed for record with the King County recorder's office and shall not be deemed approved until filed. One reproducible copy shall be furnished to the public works director. One paper copy each shall be filed with the county assessor, the community development department, and the public works department. No permits shall be issued until these copies have been received.

If a short subdivision has not been submitted for recording within sixty (60) days after approval by the community development director, the short subdivision shall expire and become null and void. To reactivate the expired short subdivision, the short subdivision shall be resubmitted as a preliminary short subdivision application and processed accordingly. Upon written request of the subdivider, the community development director may grant one (1) extension of not more than six (6) months. Such request must be received by the community development department no later than thirty (30) calendar days prior to the sixty (60) day deadline for recording submittal.

Section 34. Section 17.32.110 of the Black Diamond Municipal Code is hereby repealed.

Section 35. Black Diamond Municipal Code Subsection 17.34.020(A) is hereby amended to read as follows:

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A. One original 18-inch by 24-inch drawing, copies as specified by the community development director, and one eight-and-one-half-inch by 11-inch copy containing the following information:

1. The location and size of all proposed lots, tracts, and buildings;
2. Proposed and existing structures, including elevations and floor plans as known (plans which show building envelopes rather than footprints must include post-construction treatment of unoccupied areas of the building envelopes);
3. All proposed or existing uses;
4. The location of proposed or existing open space, including any required landscaped areas;
5. The location and identification of critical areas;
6. The layout of an internal vehicular and pedestrian circulation system, including proposed ingress and egress for vehicles;
7. The number and location of proposed or existing parking spaces on and off the site;
8. A drainage plan which will accommodate the maximum proposed square footage of impervious surface, including the maximum proposed square footage of impervious surface exposed to vehicular use, subject to the requirements of the city's storm water drainage design standards;
9. The location and size of utility trunk lines serving the site;
10. The location and size of water bodies and drainage features, both natural and manmade;
11. A grading plan showing proposed clearing and tree retention and the existing and proposed topography, detailed to two-foot contours, unless smaller contour intervals are otherwise required by the city code;
12. A layout of sewers and the proposed water distribution system;
13. Proposed easements and access;
14. Proposed signage;
15. If the proposed binding site plan is part of an approved master planned development (MPD), the proposed binding site plan shall show road, trail, utility, and other connections to adjacent MPD properties, as well as adjacent approved MPD land uses;
16. If the proposed binding site plan is part of an approved MPD, a copy of the signed and recorded MPD development agreement; and
17. Depiction of easements, deed restrictions and other encumbrances referred to in sections D and G below.

Section 36. Black Diamond Municipal Code Subsection 17.34.060(A) is hereby amended to read as follows:

A. After a binding site plan application has received approval from the director, the applicant shall have sixty (60) days to present to the city a final binding site plan in accordance with this section.

Section 37. Black Diamond Municipal Code Section 17.36.030 is hereby amended to read as follows:

17.36.030 Adjustment request contents.

The written request for lot line adjustment shall be accompanied by and shall contain the following:

A. Prints meeting the following requirements:

1. Drawn in ink to a scale of not smaller than one inch to one hundred feet on a sheet size of eighteen inches by twenty-four inches;

2. The proposed lot line adjustment shall show the boundary and dimensions of the existing parcel including its bearings and length of all boundary lines, assessor's parcel number section, township and range, all adjoining public or private roads and identifying names of such, and existing structures, along with the proposed adjustment(s);

3. A vicinity map, drawn to a scale of four inches represents one mile, of sufficient detail to orient the location of the original parcel;

4. Name and address of the owner of record of the original parcel and same for all other proposed adjustment parcels, scale of the drawing, and north directional arrow;

5. The proposed lot line adjustment shall identify each parcel of land proposed to be included by numerical designation, dimensions and bearing of each lot boundary line;

6. Width and location of access to all lot line adjustment parcels proposed;

7. If needed, space on a second sheet shall be reserved for comments and appropriate signatures;

8. The form of the lot line adjustment shall be as required by the Survey Recording Act, Chapter 50, Washington Laws of 1973, or as amended;

9. Location of all public or private utility service lines, including underground telephone lines;

10. If the proposed lot line adjustment is part of an approved MPD, the proposed lot line adjustment drawing shall show road, trail, utility, and other connections to adjacent MPD properties, as well as adjacent approved MPD land uses; and

11. All environmentally sensitive areas and their buffers;

B. An application fee in the amount specified by the city fee schedule;

C. A title report from a title company authorized to do business in the state of Washington, disclosing all encumbrances against the property and the names of the persons in whom title is vested.

Section 38. Black Diamond Municipal Code Section 17.36.040 is hereby amended to read as follows:

17.36.040 Adjustment request review standard.

The community development director, the public works director, and the fire marshal shall review the proposed lot line adjustment request in accordance with the following standards:

A. The resulting lots must have dimensions meeting the minimum lot size requirements in effect at the time the request is made for the zone in which each lot is located;

B. Setbacks in effect at the time the request is made must be met as to all structures upon the lots as they relate to the new lot line;

C. No lot shall be created which does not have adequate drainage, access to water supply and sanitary sewer disposal, and/or access for vehicles, utilities and fire protection; and

D. The use of the provisions of this chapter are not being used as a mechanism to avoid the requirements intended to protect the public health, safety and welfare that would have otherwise been required if the property were required to comply with the subdivision or short subdivision requirement.

Section 39. Black Diamond Municipal Code Section 17.36.050 is hereby amended to read as follows:

17.36.050 Approval conditions.

The following shall be required as conditions of approval of a lot line adjustment request:

A. Payment of all fees owed to the city for its services;

B. A survey and setting of the corners of the new lot(s) by a professional land surveyor;

C. Execution of deeds and related documents by the affected landowners and lienholders, on forms provided by the applicant and recorded by the city with King County in order to effectuate the lot line adjustment;

D. A determination of the identity of affected owners by a title report or other documentation satisfactory to the community development director; and

E. Such other conditions as may be reasonably necessary to protect the public health, safety and welfare.

Section 40. Black Diamond Municipal Code Section 17.36.060 is hereby amended to read as follows:

17.36.060 Approval--Authority--Finalization.

A. The community development director may approve the lot line adjustment request if it complies with the review criteria.

B. After approval of any lot line adjustment by the director, the applicant shall have a period of sixty days in which to present to the city the final lot line adjustment on the form required by this chapter, for signature by all appropriate city officials. After the city has returned the duly executed lot line adjustment to the applicant, the applicant shall record the lot line adjustment with the King County recorder's office within thirty days. Failure to present the city with a formal lot line adjustment on the required form or to record the executed lot line adjustment with the County recorder's office within the time limits set forth herein shall render the lot line adjustment approval null and void. No lot line adjustment shall be deemed complete until such time as it is recorded with the King County recorder's office in accordance herewith.

Section 41. Black Diamond Municipal Code Section 17.36.070 is hereby repealed.

Section 42. Black Diamond Municipal Code Section 17.36.080 is hereby amended to read as follows:

17.36.080 Appeal to hearing examiner.

Within fourteen calendar days following the decision for a proposed lot line adjustment, the applicant may appeal the decision to the hearing examiner. The appeal shall be accomplished by filing of a written request with the community development director for a hearing. The notice of appeal shall briefly specify the issues of the appeal. Decisions not timely appealed are deemed final and conclusive.

Section 43. Severability. Each and every provision of this Ordinance shall be deemed severable. In the event that any portion of this Ordinance is determined by final order of a court of competent jurisdiction to be void or unenforceable, such determination shall not affect the validity of the remaining provisions thereof, provided the intent of this Ordinance can still be furthered without the invalid provision.

Section 44. Effective date. This Ordinance shall be in full force and effect five (5) days after publication as required by law. A summary of this Ordinance may be published in lieu of the entire Ordinance, as authorized by State law.

Introduced on the ____ day of _____, 2010

Passed by the City Council on the ____ day of _____, 2010.



Rebecca Olness, Mayor

ATTEST:



Brenda Martinez, City Clerk

APPROVED AS TO FORM:

Michael Kenyon, City Attorney

Published: 6/8/2010
Effective Date: 6/13/2010