

ORDINANCE NO. 10- 948

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON, RELATED TO DEVELOPMENT REGULATIONS IN BLACK DIAMOND MUNICIPAL CODE TITLE 18, ZONING, AND SPECIFICALLY AMENDING BDMC 18.04.120 AND 18.04.130, RELATED TO BDMC CHAPTER 18.04, GENERAL PROVISIONS; AMENDING BDMC 18.08.010, 18.08.030, 18.08.040, 18.08.050, 18.08.060, 18.08.070, 18.08.080, 18.08.090, 18.08.100, 18.08.110(A), 18.08.120(C), 18.08.125, 18.08.130(A), 18.08.190, 18.08.200, 18.08.210 AND 18.08.220(D), AND REPEALING BDMC 18.08.020 AND TABLE 18.08.200-2, ALL RELATED TO BDMC CHAPTER 18.08, ADMINISTRATION: PROCEDURES, NOTICE AND APPEALS; AMENDING BDMC 18.12.020(B), AND REPEALING BDMC 18.12.040, 18.12.060 AND 18.12.070, ALL RELATED TO BDMC CHAPTER 18.12, DECISION CRITERIA FOR PERMITS; AMENDING BDMC CHAPTER 18.16 RELATED TO THE SITE PLAN REVIEW PROCESS; AMENDING BDMC 18.30.020, 18.30.030, 18.30.040(D) AND 18.30.050, ALL RELATED TO SINGLE-FAMILY RESIDENTIAL DISTRICTS – R4 AND R6; AMENDING BDMC 18.32.010, 18.32.020, 18.32.040 AND 18.32.050, ALL RELATED TO BDMC CHAPTER 18.32, THE MEDIUM DENSITY RESIDENTIAL DISTRICT – MDR8; AMENDING BDMC 18.34.030(B), RELATED TO BDMC CHAPTER 18.34, SUPPLEMENTAL RESIDENTIAL STANDARDS; AMENDING BDMC CHAPTER 18.36 RELATED TO THE NEIGHBORHOOD CENTER – NC ZONE; AMENDING BDMC 18.38.020, 18.38.030 AND 18.38.040(C), ALL RELATED TO BDMC CHAPTER 18.38, THE COMMUNITY COMMERCIAL DISTRICT– CC; AMENDING BDMC 18.40.020, 18.40.030, 18.40.040 AND 18.40.050, ALL RELATED TO BDMC CHAPTER 18.40, THE TOWN CENTER – TC; AMENDING BDMC 18.42.020 AND 18.42.050, RELATED TO BDMC CHAPTER 18.42, BUSINESS/INDUSTRIAL PARK – B/IP; AMENDING BDMC 18.44.020 AND 18.44.050, RELATED TO BDMC CHAPTER 18.44, INDUSTRIAL DISTRICT – I; AMENDING BDMC 18.46.040 AND 18.46.050; AMENDING BDMC 18.50.020(A), 18.50.030 AND 18.50.050, RELATED TO BDMC CHAPTER 18.50, ACCESSORY USES AND STRUCTURES; AMENDING BDMC 18.56.030, RELATED TO BDMC CHAPTER 18.56, ACCESSORY DWELLING UNITS; REPEALING BDMC 18.78.030 AND 18.78.060, RELATED TO BDMC CHAPTER 18.78, ENVIRONMENTAL PERFORMANCE STANDARDS; AMENDING BDMC 18.80.030(F), RELATED TO BDMC CHAPTER 18.80, OFF-STREET PARKING AND LOADING REQUIREMENTS; AMENDING BDMC 18.86.030, RELATED TO BDMC CHAPTER 18.86, RESIDENTIAL CLUSTER DEVELOPMENT (RCD); AMENDING BDMC 18.100.010 AND BDMC 18.100.030, RELATED TO BDMC CHAPTER 18.100, DEFINITIONS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

**WHEREAS**, in June 2009, the City of Black Diamond adopted a new Zoning Code as Title 18 of the Black Diamond Municipal Code; and

**WHEREAS**, since that time, city staff identified a number of sections that, if amended, would make the Code easier to use for both staff and the public; and

**WHEREAS**, the planning commission reviewed the proposed changes at public hearings held on April 6, 2010 and August 10, 2010 and recommended that the amendments be adopted; and

**WHEREAS**, the amendments were forwarded to the Washington State Department of Commerce for review as required under RCW 36.70A.106, were granted expedited review on August 9, 2010, and are thus eligible for adoption; and

**WHEREAS**, a Determination of Nonsignificance for the proposed changes was issued on July 23, 2010; and

**WHEREAS**, the City Council held a public hearing on the proposed amendments on September 16, 2010;

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

**Section 1. BDMC 18.04.120, Amended.** Black Diamond Municipal Code Section 18.04.120 (Building permit required) is hereby amended to read as follows:

**18.04.120 Building permit required.**

No building or other structure shall be erected, moved, added to, or structurally altered without a permit issued by the director. No building permit shall be issued unless the use:

- A. Conforms to the requirements of this title; or
- B. Has been approved by the director as a *similar or related* use as described in the several zoning districts; or
- C. Has been approved by the hearing examiner as a conditional use as defined in Chapter 18.28 of this title; or
- D. Has been granted a variance by the hearing examiner.

**Section 2. BDMC 18.04.130, Amended.** Black Diamond Municipal Code Section 18.04.130 (Enforcement and violations) is hereby amended to read as follows:

**18.04.130 Enforcement and violations.**

A. Enforcement. The director shall administer and enforce this title. If the director finds that any of the provisions of this title are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He shall take any action authorized by this title to insure compliance with or to prevent violation of its provisions.

B. Violation-Penalty. Any violation of any of the provisions of this title shall be subject to code enforcement action pursuant to BDMC Chapter 8.02.

**Section 3. BDMC 18.08.010, Amended.** Black Diamond Municipal Code Section 18.08.010 (Purpose) is hereby amended to read as follows:

**18.08.010 Purpose.**

The purpose of this chapter is to establish standard procedures for public notification and the timing of development decisions made by the City of Black Diamond. These procedures are intended to:

- A. Promote timely and informed public participation;
- B. Eliminate redundancy in the application, permit review, and appeals processes;
- C. Process permits equitably and expediently;
- D. Balance the needs of permit applicants with project neighbors;
- E. Ensure that decisions are made consistently and predictably; and
- F. Result in development that furthers City goals, objectives and policies as set forth in the Comprehensive Plan.

**Section 4. Repealer.** Black Diamond Municipal Code Section 18.08.020 (Supersedence) is hereby repealed in its entirety.

**Section 5. BDMC 18.08.030, Amended.** Black Diamond Municipal Code Section 18.08.030 (Decision types) is hereby amended to read as follows:

**18.08.030 Decision types.**

There are six types of decisions that may be made under the provisions of this title. The types are based on who makes the decision, the amount of discretion exercised by the decision making individual or body, the level of impact associated with the decision, the amount and type of public input sought, and the type of appeal opportunity. This chapter sets forth procedural requirements for applications, decisions, and appeals. Decision criteria and additional standards for specific permit types and for GMA legislative decisions are set forth in chapter 18.12. Decision types are summarized

below; not all permits are listed.

<b>Decision Type</b>	<b>Decision Maker(s)</b>	<b>Types of Permits</b>
Type 1 – Ministerial	Director	Lot line adjustment Building permit Final short plat Shoreline exemptions Temporary use permits Use interpretation
Type 2 – Administrative	Director	Accessory dwelling unit Administrative conditional use Administrative variance Binding site plan Sensitive area reasonable use exception Formal code interpretation Preliminary short plat Site plan review
Type 3 – Quasi-Judicial	Hearing Examiner	Conditional use permit Plat alteration or vacation Preliminary plat Shoreline substantial development, conditional, use or variance Variance Sensitive Areas exceptions
Type 4 – Quasi-Judicial	Hearing Examiner/City Council	Development agreements Master Planned Development Rezoning (site specific)
Type 5 – Legislative	Planning Commission/ City Council	Comprehensive Plan amendments (text or map) Area-wide rezoning



		Zoning Code text amendments
Type 6 – City Council	City Council	Final Plat LID/ULID final assessment rolls

If a proposal requires multiple permits with decisions of different types (e.g., site plan approval and conditional use permit, Type 2 and Type 3), the higher type process applies to the entire proposal. Refer to 18.08.130.

**Section 6. BDMC 18.08.040, Amended.** Black Diamond Municipal Code Section 18.08.040 (Ministerial decisions – Type 1) is hereby amended to read as follows:

**18.08.040 Ministerial decisions – Type 1.**

A. Type 1 decisions are based on compliance with specific, nondiscretionary and/or technical standards that are clearly enumerated in the Code. These decisions are made by the director, are exempt from notice requirements, and are final actions. Type 1 decisions may be appealed to the Hearing Examiner and then to Superior Court.

B. The following decisions, actions and permit applications require a Type 1 decision:

1. Building permits and related technical code applications referenced in BDMC Title 15 (fire, mechanical, plumbing, etc.);
2. Lot Line Adjustments;
3. Use interpretation;
4. Shoreline exemptions;
5. Final short plat; and
6. Temporary use permit.

**Section 7. BDMC 18.08.050, Amended.** Black Diamond Municipal Code Section 18.08.050 (Administrative decisions – Type 2) is hereby amended to read as follows:

**18.08.050 Administrative decisions – Type 2.**

A. The Director makes Type 2 decisions based on standards and clearly identified criteria. Type 2 decisions require written documentation that the proposal meets all applicable City standards or is appropriately conditioned to meet requirements. The supporting documentation may be in the form of a checklist, letter, staff report, or combination of forms, reports and checklists.

B. Type 2 decisions require public notice as set forth in Section 18.08.120.

C. Type 2 decisions are subject to an administrative appeal to the Hearing Examiner unless specifically modified or excluded pursuant to this Section.

D. The following decisions, actions and permit applications require a Type 2 decision:

1. Preliminary short plats;
2. Accessory dwelling units;
3. Administrative Conditional Use Permits (ACUP);
4. Administrative Variances;
5. Sensitive Areas Reasonable Use Exceptions;
6. Formal code interpretations;
7. Binding site plans; and
8. Site plan reviews.

**Section 8. BDMC 18.08.060, Amended.** Black Diamond Municipal Code Section 18.08.060 (Quasi-judicial decisions – Type 3) is hereby amended to read as follows:

**18.08.060 Quasi-judicial decisions – Type 3**

A. Type 3 decisions are made by the Hearing Examiner following an open record public hearing and involve the use of discretionary judgment in the review of each specific application.

B. Type 3 decisions require public notice as set forth in Sections 18.08.120.

C. For each Type 3 decision, the Department shall forward a recommendation to the Hearing Examiner regarding whether the proposal is consistent with applicable regulations and policies and whether the proposal should be approved, approved with modifications or conditions, or denied. The Examiner shall issue a written decision including findings, conclusions, and conditions, if any.

D. The Director may require an applicant to participate in a public meeting to provide information and take public comment before the department forwards a recommendation to the Hearing Examiner.

E. A Type 3 decision may be appealed to Superior Court, except that a Type 3 decision on a shoreline application may be appealed only to the State Shorelines Hearings Board. (See also 18.08.200 regarding consolidated permit processing and appeals.)

F. The following decisions, actions, and permit applications require a Type 3 decision:

1. Preliminary plats;
2. Conditional Use Permits;
3. Shoreline substantial development, conditional use permit or variances;
4. Plat alterations or vacations;
5. Variances; and
6. Sensitive Areas Exceptions.

**Section 9. BDMC 18.08.070, Amended.** Black Diamond Municipal Code Section 18.08.070 (Quasi-judicial decisions – Type 4) is hereby amended to read as follows:

**18.08.070 Quasi-judicial decisions – Type 4.**

A. Type 4 decisions are made by the City Council following a closed record hearing based on a recommendation from the Hearing Examiner. Type 4 decisions proceed in the same way as Type 3 decisions, except that:

1. The Hearing Examiner makes a recommendation to the City Council rather than makes a decision;
2. The City Council holds a closed record hearing to consider the recommendation from the Hearing Examiner. Only parties of record who testified at the Hearing Examiner hearing may speak at the closed record hearing; however, testimony is limited to discussion about the recommendation from the Hearing Examiner. All argument and discussion must be based on the factual record developed at the Hearing Examiner open record hearing;
3. The City Council shall decide the application by motion and shall adopt formal findings and conclusions approving, denying, or modifying the proposal; and
4. Appeal of the City Council decision is to Superior Court.

B. Type 4 decisions require public notice as set forth in Sections 18.08.120.

C. The following decisions, actions and permit applications require a Type 4 decision:

1. Rezones (site specific);
2. Development Agreements; and
3. Master Planned Developments.

**Section 10. BDMC 18.08.080, Amended.** Black Diamond Municipal Code Section 18.08.080 (Legislative decisions – Type 5) is hereby amended to read as follows:

**18.08.080 Legislative decisions – Type 5.**

A. Type 5 decisions are legislative, non-project decisions made by the City Council under its authority to establish substantive policies and regulations pursuant to the Growth Management Act. Type 5 decisions do not include legislation of a procedural nature such as the adoption of fee ordinances or technical issues such as adoption of building codes, engineering standards and related matters.

B. Type 5 decisions require public notice as set forth in Section 18.08.120 and a public hearing before the Planning Commission, which will make a recommendation to the City Council.

C. There is no administrative appeal of Type 5 decisions, but they may be

appealed to the Washington State Growth Management Hearings Board.

D. The following actions require a Type 5 decision:

1. Comprehensive Plan Amendments (text or future land use maps);
2. Sub-area plan adoptions or amendments;
3. Area-wide rezones; and
4. Amendments of the Zoning Code or other development regulations.

**Section 11. BDMC 18.08.090, Amended.** Black Diamond Municipal Code Section 18.08.090 is hereby amended to read as follows:

**18.08.090 City Council decisions -- Type 6.**

A. Type 6 decisions are quasi-judicial decisions or other decisions, not necessarily requiring the filing of a project permit application, made by the City Council following a recommendation by staff.

B. Type 6 decisions include, but are not limited to, the following:

1. Final plat approvals; and
2. Final assessment roll hearings for local improvement districts and utility local improvement districts.

**Section 12. BDMC 18.08.100, Amended.** Black Diamond Municipal Code Section 18.08.100 (Application) is hereby amended to read as follows:

**18.08.100 Application.**

A. Who may apply:

1. The property owner or an agent of the owner with authorized proof of agency may apply for a Type 1, 2, 3, 4 or 5 decision. Eligibility and procedures for amending the Comprehensive Plan are found in BDMC Title 16.
2. The Mayor, Planning Commission, or City Council may initiate a site-specific rezone (a Type 4 decision) for City-owned or managed property, or an area-wide rezone, a Comprehensive Plan Amendment, or an amendment to the text of the Zoning Code (Type 5 decisions).
3. Any person may propose a text or map amendment to the Comprehensive Plan or request that the City initiate an area-wide rezone, or amendments to the text of the Zoning Code. Procedures for amending the Comprehensive Plan are outlined in BDMC 16.30.

B. All applications for Type 1, 2, 3, 4, 5 or 6 decisions, actions, or permits shall be submitted on official forms or as prescribed and provided by the Department and be accompanied by the required filing fee.

C. The Department shall establish, and may revise from time to time, submittal requirements for each type of application.

1. Individual submittal requirements may be waived by the Director, in writing, only if the applicant can demonstrate that normally required information is not relevant to the proposed action and is not required to show that an application complies with applicable City codes and regulations.
2. For project permit applications, the submittal requirements established by the Director shall include a target turn-around period for initial review and an estimate of average turn-around times for permit issuance. Such time periods shall be established administratively and included in application submittal requirements available to the public, but shall not exceed one hundred twenty (120) days.

**Section 13. BDMC 18.08.110(A), Amended.** Black Diamond Municipal Code Subsection 18.08.110(A) (Determination of completeness) is hereby amended to read as follows:

A. An application for a Type 1, 2, 3, or 4 decision shall be determined complete when all information required in the applicable submittal requirements has been provided in a manner sufficient for processing the application. Additional information may be required by the City even though an application has been determined to be complete for processing.

**Section 14. BDMC 18.08.120(C), Amended.** Black Diamond Municipal Code Subsection 18.08.120(C) (Notice of application) is hereby amended to read as follows.

C. The notice of application shall be made available to the public by one or more of the following primary methods, as specified for each permit application type in Table 18-1:

1. By mailing a notice of the application to owners of real property located within 300 feet of the subject property. If the owner of the property that is the subject of the application owns other real property adjacent to the subject property, then the 300-foot measurement shall be taken from the boundary of any such adjacently located parcels. This distance shall be increased to 500 feet for a Master Planned Development;
2. By publishing a notice of the application in the official City newspaper of record;
3. By posting the property with a sign or placard as required by the department; or
4. By publishing or posting on the City's website a notice of the application. If this method is used, the Department shall either establish a specific calendar for online publishing or maintain an email

Other methods of notice are supplementary to a primary method listed above and may include press releases, notices to community newspapers, or notifying public or private groups known to have an interest in an area or certain type of proposal.

18.08.125 Notice requirements table.

Table 18-1

[illegible]

Decision Type	Mail	Publish	Post	Online	Other
Type 1	NA	NA	NA	NA	NA
Type 2 <ul style="list-style-type: none"> <li>Formal code interpretation</li> </ul>	X	X	X	X	X
Type 3	X	X	X	X	
Type 4	X	X	X	X	X
Type 5 <ul style="list-style-type: none"> <li>Zoning Code text amend.</li> </ul>	X	X	X	X	X
Type 6 <ul style="list-style-type: none"> <li>Final Plat</li> <li>Other</li> </ul>	X	X	X	X	X

**Section 16. BDMC 18.08.130(A), Amended.** Black Diamond Municipal Code Subsection 18.08.130(A) (Consolidated permit process) is hereby amended to read as follows:

A. If a project requires more than one type of land use application, the applications shall be processed concurrently unless the director determines that separate processing will result in a more efficient or effective review process.

**Section 17. BDMC 18.08.190, Amended.** Black Diamond Municipal Code Section 18.08.190 (Effective date of decision) is hereby amended to read as follows:

**18.08.190 Effective date of decision.**

Type 1 decisions shall be effective on the date the decision is made. Type 2 and 3 decisions shall be effective at the close of the appeal period, or if appealed, on the date of final City action on the appeal. Type 4 decisions are effective on the date final findings and conclusions are adopted by the City Council. Type 5 and 6 decisions are effective on the date of passage of the ordinance or resolution regarding the application by the City Council, or on a later date as may be specified in the resolution or ordinance.



**Section 18. BDMC 18.08.200, Amended.** Black Diamond Municipal Code Section 18.08.200 (Appeal structure) is hereby amended to read as follows:

**18.08.200 Appeal structure.**

Table 18.08.200-1 provides a summary of the appeal structure for Type 1- 6 applications.

**Table 18.08.200-1 Summary of Appeal Structure**

Process Type	Decision maker	Appeal to	Further appeal
Type 1	Director	Hearing Examiner	n.a.
Type 2	Director	Hearing Examiner	Court
Type 3, except shoreline applications	Hearing Examiner	Superior Court	Court
Type 4 and 6	City Council	Superior Court	n.a.
Type 5	City Council	Growth Management Hearings Board (GMHB)	Court
Type 3 Shoreline application	Hearing Examiner	Shorelines Hearings Board	Court
Note that a consolidated permit process may change the initial decision maker for Type 2 shoreline applications and for Type 3 applications consolidated with Type 4 applications.			

**Section 19. Repealer.** Black Diamond Municipal Code Table 18.08.200-2 (SEPA Appeal Structure) is hereby repealed in its entirety.

**Section 20. BDMC 18.08.210, Amended.** Black Diamond Municipal Code Section 18.08.210 (Administrative appeals) is hereby amended to read as follows:

**18.08.210 Administrative appeals.**

A. Who may appeal. Any aggrieved party of record may file an administrative appeal of a Type 1, 2 or 3 decision.

B. Time and place to appeal. Appeals of a Type 1, 2 or 3 decision shall be addressed to the hearing examiner and filed in writing with the department within 14 calendar days of the notice of decision, except for shoreline appeals.

C. Shoreline appeals. Appeals of a shoreline substantial development permit, shoreline conditional use permit, or shoreline variance decision shall be filed with the state shorelines hearings board pursuant to RCW 90.58.180.

D. Fees. Each appeal filed on a non-shoreline decision shall be accompanied

by a filing fee in the amount established in the City's schedule of fees.

E. Form of appeal. A person appealing a Type 1 decision must file a written statement setting forth:

1. Facts demonstrating that the person is aggrieved by the decision;
2. A concise statement identifying each alleged error and the manner in which the decision fails to satisfy the applicable decision criteria;
3. The specific relief requested; and
4. Any other information reasonably necessary to make a decision on appeal.

F. Limitation on new appeal issues. No new substantive appeal issues may be raised or submitted after the close of the time period for filing of the original appeal. The hearing examiner may allow an appellant not more than 15 days to perfect an otherwise timely filed appeal.

**Section 21. BDMC 18.08.220(D), Amended.** Black Diamond Municipal Code Subsection 18.08.220(D) (Appeal process) is hereby amended to read as follows:

D. The appellant shall carry the burden of proof in the appeal. The burden of proof shall be met by a preponderance of the evidence in order for the appellant to prevail.

**Section 22. BDMC 18.12.020(B), Amended.** Black Diamond Municipal Code Subsection 18.12.020(B) (Zoning reclassification (rezone) and zoning text amendments – Criteria – Map Amendments) is hereby amended to read as follows:

B. Criteria – Map Amendments. The City will consider the following criteria in reviewing applications for zoning reclassifications, and may only approve an application if the applicant demonstrates that all of the criteria are met:

1. The proposal is consistent with the goals and policies of the Comprehensive Plan, and with the Future Land Use Map;
2. The subject property is suitable for development in conformance with the standards applicable to the requested zoning designation;
3. The proposal will not be materially detrimental to properties in the immediate vicinity or the community based on the range of uses allowed in the proposed zoning classification;
4. Adequate services and facilities, including transportation facilities, will be available to serve the range of uses permitted in the proposed zoning classification;
5. The proposed reclassification is warranted because of a change in circumstances, or because of a demonstrated need for additional land within the proposed zoning classification;

6. The reclassification does not reflect special treatment of the subject property; and
7. The reclassification will promote the general health, safety and welfare of the community.

**Section 23. Repealer.** Black Diamond Municipal Code Section 18.12.040 (Preliminary plats and short plats) is hereby repealed in its entirety.

**Section 24. Repealer.** Black Diamond Municipal Code Section 18.12.060 (Development agreements) is hereby repealed in its entirety.

**Section 25. Repealer.** Black Diamond Municipal Code Section 18.12.070 (Comprehensive plan amendments) is hereby repealed in its entirety.

**Section 26. BDMC Chapter 18.16, Amended.** Black Diamond Municipal Code Chapter 18.16 (Site Plan Review Process) is hereby amended to read as follows:

## **Chapter 18.16 SITE PLAN REVIEW PROCESS**

### **Sections:**

**18.16.010 Purpose**

**18.16.020 Applicability**

**18.16.030 Procedures**

**18.16.040 Criteria for Approval**

**18.16.050 Amendments to Approved Site Plans**

### **18.16.010 Purpose.**

Site plan review is an evaluation of development plans to identify compliance with applicable regulations, requirements and standards and to ensure that development will protect the health, safety and general welfare of residents of the City.

### **18.16.020 Applicability.**

Site plan review and approval is required prior to the location, occupancy or use of any commercial or industrial project, building or facility and for any multi-family residential use or structure containing four or more dwelling units. Site plan review shall apply to all new development, expansion or site improvements that will change the physical conditions of a site and is required prior to issuance of building permit. Site plan review is not intended to review and determine the appropriateness of a given use on a particular site.

#### **18.16.030 Procedures.**

A. Site plan review is processed as a Type 2 decision, for both new applications and minor amendments to an approved site plan, pursuant to BDMC Chapter 18.08. Site plan review may be conducted independently or concurrently with any other development permit required by this title.

B. Pre-application conference required. A pre-application conference between the site plan applicant or representative and City staff is mandatory. The purpose of this conference is for the applicant to familiarize the staff with the proposed site plan, and for the staff to review with the applicant the City's submittal requirements, processing procedures, development standards and City requirements applicable to site plans. The City may establish a fee for the pre-application conference.

C. Application Requirements. An application for site plan review shall include the following:

1. a Vicinity map, showing site boundaries and existing roads and accesses within and bounding the site;
2. Site plans, drawn to a scale no less than one inch equals fifty feet, showing the location and size of uses, buffer and open space areas, landscaped areas, areas of disturbance outside building footprints, and any existing structures, easements and utilities;
3. a topographic map, based on a site survey delineating existing contours at no less than 5-foot intervals, and which locates existing streams, wetlands and other natural features;
4. A conceptual landscape plan;
5. A parking and circulation plan;
6. A preliminary stormwater management plan;
7. A utilities plan;
8. Other reports or studies as determined applicable by the director, including but not limited to geotechnical, critical areas, and/or traffic;
9. A SEPA environmental checklist, unless the proposal is categorically exempt per BDMC 19.04, SEPA regulations; and
10. A narrative description of the proposal including: (i) site size, building size, and impervious surface coverage, and amount of area devoted to open space and recreation, landscaping and parking; calculations of gross and net density; (ii) Comprehensive Plan and zoning designations; (iii) elevations and perspective drawings of proposed structures and other proposed improvements; (iv) any agreements, covenants or other provisions that affect the proposal; and (v) signatures, mailing addresses and phone numbers of all owners of record or agents of the subject property.

The Director may modify these requirements based on the size, scope and complexity of the proposal.

**18.16.040 Criteria for approval.**

To be approved, or approved with conditions, a site plan must be consistent with the City's Comprehensive Plan and must comply with all applicable development regulations, codes and other city requirements.

**18.16.050 Amendments to approved site plans.**

Alterations to an approved site plan may be approved by the director, subject to the same procedures required for the initial site plan approval.

**Section 27. BDMC 18.30.020, Amended.** Black Diamond Municipal Code Section 18.30.020 (Permitted uses) is hereby amended to read as follows:

**18.30.020 Permitted uses.**

- A. Residential.
  - 1. Single-family detached structures on individual lots.
  - 2. Manufactured housing as provided in BDMC Chapter 18.90.
- B. Other or Related Uses.
  - 1. Accessory buildings or structures as provided in BDMC Chapter 18.50.
  - 2. Temporary uses as provided in BDMC Chapter 18.52.
  - 3. Home occupations as provided in BDMC Chapter 18.54.
  - 4. Accessory dwelling units as provided in BDMC Chapter 18.56.
  - 5. Utilities, under-ground.
  - 6. Child day care for up to 12 children.

**Section 28. BDMC 18.30.030, Amended.** Black Diamond Municipal Code Section 18.30.030 (Conditional uses) is hereby amended to read as follows:

**18.30.030 Conditional uses.**

The following uses not allowed as permitted uses in BDMC Section 18.30.020 may be allowed by approval of a Conditional Use Permit in accordance with BDMC Chapters 18.08 and 18.12:

- A. Child care for more than 12 children, including nursery schools, day care centers and preschools;
- B. Utilities, above-ground;
- C. Public uses/facilities;
- D. Religious institutions, not to exceed 10,000 sq. ft. gross floor area;

- E. Bed and breakfasts;
- F. Duplexes, subject to the following criteria:
  - 1. The minimum lot size for a duplex shall be 1.5 times that required for a single family detached structure. Only one duplex shall be permitted per lot meeting this standard;
  - 2. A lot on which a duplex is proposed shall not be located within 300 feet of any other lot on which a duplex or multiple unit structure is found (accessory dwelling units excluded), or constitute more than ten percent (10%) of the dwelling units in a single block; and
  - 3. Duplexes shall be subject to design standards to ensure their compatibility in terms of bulk, scale and architectural style with the surrounding neighborhood; and
- G. Private schools, K-12.

**Section 29. BDMC 18.30.040(D), Amended.** Black Diamond Municipal Code Subsection 18.30.040(D) is hereby amended to read as follows:

D. Signs. Regulation of signs is provided in Chapter 18.82.

**Section 30. BDMC 18.30.050, Amended.** Black Diamond Municipal Code Section 18.30.050 (Additional Requirements) is hereby amended to read as follows:

**18.30.050 Additional requirements.**

A. All development within the R4 and R6 zones shall comply with applicable environmental performance standards of BDMC Chapter 18.78 and, if applicable, the design review requirements of BDMC Chapter 18.74.

**Section 31. BDMC 18.32.010, Amended.** Black Diamond Municipal Code Section 18.32.010 (Intent) is hereby amended to read as follows:

**18.32.010 Intent.**

It is the intent of this section to:

- A. Enhance the residential quality of the City by providing a high standard of development for multi-family residential areas;
- B. Designate appropriate areas in which medium density residential structures on individual lots are the predominant type of dwelling unit;
- C. Guide the development of multi-family residential dwellings to such areas and in such manner as to assure availability of public services and community facilities such as utilities, police and fire protection, schools, parks and recreation, and convenient access to public transportation consistent with City level of service standards;

D. Encourage the preservation of critical areas and other significant places identified in the City's Transfer of Development Rights Program (BDMC 19.24) by allowing increased densities when the TDR mechanism is used; and

G. Apply appropriate guidelines to ensure that structures developed for medium density residential use are well designed.

**Section 32. BDMC 18.32.020, Amended.** Black Diamond Municipal Code Section 18.32.020 (Permitted uses) is hereby amended to read as follows:

**18.32.020 Permitted uses.**

A. Residential.

1. Single-family structures on individual lots, whether attached or detached.
2. Multi-family residential structures, provided that no individual structure shall contain more than six dwelling units.
3. Cottage Housing, as provided in BDMC Chapter 18.88.
4. Manufactured Housing as provided in BDMC Chapter 18.90.
5. Accessory dwelling unit, as provided in BDMC Chapter 18.56.

B. Other or Related Uses.

1. Accessory buildings or structures as provided in BDMC Chapter 18.50.
2. Temporary uses as provided in BDMC Chapter 18.52.
3. Home occupations as provided in BDMC Chapter 18.54.
4. Utilities, under-ground.
5. Child day care for up to 12 children.

**Section 33. BDMC 18.32.040, Amended.** Black Diamond Municipal Code Section 18.32.040 (Development standards) is hereby amended to read as follows:

**18.32.040 Development standards.**

A. Site area and dimensional standards.

1. Maximum density: Eight (8) dwelling units per acre without Transfer of Development Rights; twelve (12) dwelling units per acre with Transfer of Development Rights.
2. Minimum Lot Area:
  - a. Multi-family structures: seven thousand two hundred (7,200) square feet.
  - b. Single-family structures on individual lots: three thousand six hundred (3,600) square feet.
3. Minimum Lot Width: Fifty (50) feet.
4. Minimum Lot Depth: Seventy (70) feet.



5. Minimum Front Yard:
  - a. On minor street: Twenty (20) feet.
  - b. On major street: Twenty-five (25) feet.
6. Minimum Side Yards:
  - a. Minimum on interior lot lines: Seven (7) feet.
  - b. Minimum on a flanking street: Ten (10) feet.
7. Minimum Rear Yard: Ten (10) feet.
8. Maximum Building Coverage: Fifty percent (50%).
9. Maximum Building Height:
  - a. Main building: Thirty-five (35) feet.
  - b. Accessory buildings: The height of the primary building(s) or twenty-six (26) feet, whichever is less.
10. Structure separation: On lots containing more than one structure, there shall be a distance of not less than ten (10) feet, between all buildings, including accessory buildings.

B. Parking. Off-street parking shall be provided in accordance with BDMC Chapter 18.80.

C. Landscaping.

1. Landscaping shall be planned and provided in accordance with BDMC Chapter 18.72.
2. Development shall also comply with the tree preservation requirements of BDMC 19.30.

D. Signs. Regulation of signs is provided in BDMC Chapter 18.82.

E. Lighting. Lighting shall comply with the requirements of BDMC Chapter 18.70.

F. Storage and exterior displays.

1. Required landscaping or buffer areas shall not be used for storage of any sort.
2. Storage or parking of motor vehicles for rental income is prohibited.

**Section 34. BDMC 18.32.050, Amended.** Black Diamond Municipal Code Section 18.32.050 (Additional requirements) is hereby amended to read as follows:

**18.32.050 Additional requirements.**

A. All development within the MDR8 zone shall comply with the applicable environmental performance standards of BDMC Chapter 18.78, the site plan review requirements of BDMC Chapter 18.16, and design review requirements of BDMC Chapter 18.74.

**Section 35. BDMC 18.34.030(B), Amended.** Black Diamond Municipal Code Subsection 18.34.030(B) (Yards and open space – Porches and platforms) is hereby amended to read as follows:

B. Porches and platforms.

1. Uncovered porches and platforms which do not extend above the floor level of the first floor may project two (2) feet into required side yards, six (6) feet into required front yards and ten (10) feet into required rear yards.
2. Covered but enclosed porches and platforms which do not extend above the floor level of the first floor and which are no wider than fifty percent (50%) of the building's frontage may project five (5) feet into a required front yard.

**Section 36. BDMC 18.36, Amended.** Black Diamond Municipal Code Chapter 18.36 (Neighborhood Center - NC) is hereby amended to read as follows:

**Chapter 18.36  
NEIGHBORHOOD CENTER– NC**

Sections:

- 18.36.010 Intent.
- 18.36.020 Permitted uses.
- 18.36.030 Conditional uses.
- 18.36.040 Development standards.
- 18.36.050 Additional requirements.

**18.36.010 Intent.**

It is the intent of this section to:

A. Enhance residents' access to goods and services needed daily in a setting that contributes to neighborhood character, encourages pedestrian activity, reduces automobile use, and serves as a focus of neighborhood life;

B. Create a complementary mix of neighborhood-serving retail, personal service, general office, entertainment/cultural, public service, and residential uses for a range of lifestyles;

C. Guide the development of multi-family residential dwellings to such areas and in such manner as to assure availability of public services and community facilities such as utilities, police and fire protection, schools, parks and recreation, and convenient access to public transportation consistent with city level of service standards;

D. Allow mixed use developments that integrate residential uses into neighborhood centers, either within the same building or on the same development site, to enhance living convenience;

E. Encourage orientation to the street and pedestrian amenities to create a pleasant pedestrian environment;

F. Ensure that the nature of development is harmonious with the surrounding single family neighborhood in intensity, scale, quality, and character; and

G. Allow more intensive uses to be maintained and expanded under certain conditions.

#### **18.36.020 Permitted uses.**

A. Retail. Only the following uses are allowed:

1. Supermarket and grocery stores: Limited to not more than forty thousand square feet gross floor area.

2. All other typical neighborhood retail uses: Limited to not more than ten thousand square feet gross area for each individual use, whether in a separate building or combined with other uses in one building, not to exceed one hundred thousand square feet gross floor area in total; and excluding drive-through facilities and automobile fueling stations.

B. Personal services provided primarily to neighborhood residents: Limited to not more than four thousand square feet gross floor area per business.

C. General offices: Limited to not more than four thousand square feet gross floor area per business and excluding drive-through facilities.

D. Entertainment/culture: Limited to not more than five thousand square feet gross floor area or capacity of not more than one hundred patrons per business, whichever is greater, and excluding drive-through facilities.

E. Residential uses in attached structures if included as an element of mixed use site development or on upper floors of a mixed use structure.

F. Utilities, below ground.

G. Existing light manufacturing uses, provided no expansion is allowed.

H. Veterinary clinics and pet stores; no boarding of dogs or outdoor kennels allowed.

I. Other or Related Uses:

1. Accessory uses and structures as provided in BDMC Chapter 18.50.

2. Temporary uses as provided in BDMC Chapter 18.52.

#### **18.36.030 Conditional uses.**

The following uses may be allowed by Conditional Use Permit in accordance with BDMC Chapters 18.08 and 18.12:

A. Bed and breakfasts;

B. Religious institutions;

- C. Drive-through facilities, maximum one per property;
- D. Essential public facilities;
- E. Utilities, aboveground;
- F. Public uses/facilities;
- G. Senior housing;
- H. Automobile fueling stations; and
- I. Any expansion of the space, volume or facilities of any light manufacturing use that existed before June 27, 2009. Any such expansion must be contained within the same lot as the existing use.

**18.36.040 Development standards.**

**A. Dimensional Standards:**

1. Bulk limit: For structures without residential uses, floor area ratio (F.A.R.) shall not exceed 1.0 (total gross floor area shall not be greater than total site area); for mixed-use structures containing residential uses, F.A.R. shall not exceed 2.0 (total gross floor area shall not be greater than twice total site area).
2. Maximum allowed height: thirty-five (35) feet, without residential on upper floors; fifty (50) feet, with residential on upper floors
3. Minimum Lot Area, Width and Depth: None.
4. Maximum Front Yard Setback: At least 60% of the width of any street façade of a primary use shall be set back no more than ten (10) feet from the front property line, provided that the maximum allowed setback is (fifteen) 15 feet for structures with first floor residential uses.
5. Minimum Side Yard Setback: Twenty (20) feet if abutting a residential zone plus one foot additional setback for each foot of building height over thirty-five (35) feet.
6. Minimum Rear Yard Setback: If abutting a residential zone, fifteen (15) feet for a building without residential use and twenty (20) feet for a building with residential use plus one foot additional setback for each foot of building height over thirty-five feet.
7. Maximum Impervious Surface Coverage: eighty percent (80%).
8. Maximum residential density:
  - (a) Without bonuses: twelve (12) dwelling units per acre in an exclusively residential building; in a mixed use building, none (only as limited by F.A.R., height, parking and other site development standards).
9. Maximum Site Area: 10 acres.

**B. Parking.** Off-street parking shall be provided in accordance with BDMC

Chapter 18.80.

C. Landscaping.

1. Landscaping shall be planned and provided in accordance with BDMC Chapter 18.72.
2. Development shall also comply with the tree preservation requirements of BDMC 19.30.

D. Signs. Regulation of signs is provided in BDMC Chapter 18.82.

E. Lighting. Lighting shall comply with the requirements of BDMC Chapter 18.70.

F. Storage and exterior displays.

1. Required landscaping or buffer areas will not be used for storage of any sort.
2. There shall be no exterior storage of any items whether or not for sale, other than sidewalk displays of retail items during operating hours only or as otherwise permitted as a temporary use.

**18.36.050 Additional requirements.**

A. All development within the NC zone shall comply with applicable environmental performance standards of BDMC Chapter 18.78, and the site plan review requirements of BDMC Chapter 18.16 and the design review requirements of BDMC Chapter 18.74.

**Section 37. BDMC 18.38.020, Amended.** Black Diamond Municipal Code Section 18.38.020 (Permitted uses) is hereby amended to read as follows:

**18.38.020 Permitted uses.**

- A. Retail, including automobile fueling stations and uses involving outdoor product display or storage.
- B. Personal and professional services.
- C. Entertainment/Cultural.
- D. Religious institutions.
- E. Drive through facilities, including automobile fueling stations.
- F. Hotels, motels, and other visitor lodging.
- G. Residential, if developed as an element of mixed use site development, either in separate buildings or on the upper floors of a mixed use building; provided that, residential is not allowed at street level within buildings fronting an arterial street.
- H. Veterinary clinics and pet daycare.
- I. Public Uses/Facilities.
- J. Utilities, below-ground.
- K. Other or Related Uses:

1. Accessory uses and structures as provided BDMC Chapter 18.50; and
2. Temporary uses as provided in BDMC Chapter 18.52.

**Section 38. BDMC 18.38.030, Amended.** Black Diamond Municipal Code Section 18.38.030 (Conditional uses) is hereby amended to read as follows:

**18.38.030 Conditional uses.**

The following uses not allowed as permitted uses in BDMC Section 18.38.020 may be allowed by Conditional Use Permit in accordance with BDMC Chapters 18.08 and 18.12:

- A. Major institutions;
- B. Essential public facilities;
- C. Utilities, above-ground;
- D. Hybrid wholesale/retail establishments; and
- E. Mini storage facilities.

**Section 39. BDMC 18.38.040(C), Amended.** Black Diamond Municipal Code Subsection 18.38.040(C) (Development Standards - Landscaping) is hereby amended to read as follows:

C. Landscaping.

1. Landscaping shall be planned and provided in accordance with BDMC Chapter 18.72.
2. Development shall also comply with the tree preservation requirements of BDMC Chapter 19.30.

**Section 40. BDMC 18.40.020, Amended.** Black Diamond Municipal Code Section 18.40.020 (Permitted uses) is hereby amended to read as follows:

**18.40.020 Permitted uses.**

- A. Retail.
- B. Personal and professional services.
- C. General office.
- D. Entertainment/culture.
- E. Public uses/facilities, limited to general governmental administrative offices.
- F. Residential, if in an attached building and developed as an element of mixed use site development or on the upper floors of a mixed use building; residential is not allowed at street level if fronting an arterial street.
- G. Utilities, below-ground.

**Section 41. BDMC 18.40.030, Amended.** Black Diamond Municipal Code Section 18.40.030

(Conditional uses) is hereby amended to read as follows:

**18.40.030 Conditional uses.**

The following uses not allowed as permitted uses in BDMC Section 18.40.020 may be allowed by Conditional Use Permit in accordance with BDMC Chapters 18.08 and 18.12:

- A. Child care including nursery schools and day care centers;
- B. Utilities, above-ground;
- C. Major Institution;
- D. Private clubs, fraternal lodges and similar organizations;
- E. Religious institutions;
- F. Public Uses/Facilities not otherwise permitted in BDMC Section 18.40.020;
- G. Parking structures not associated with a primary, permitted use; and
- H. Senior housing.

**Section 42. BDMC 18.40.040, Amended.** Black Diamond Municipal Code Section 18.40.040 (Development Standards) is hereby amended to read as follows:

**18.40.040 Development standards.**

- A. Development within the Town Center District.
  - 1. All new construction and reconstruction of existing buildings shall be designed and built so that the exterior appearance of the finished building complements and enhances the historic character of the district.
  - 2. At the time of site plan review, the applicant shall submit a color architectural rendering showing the elevations of the proposed construction including the types of materials to be used.
  - 3. The director shall solicit and consider the comments of the Black Diamond Historical Society, and any other agency or entity with expertise, in reaching a decision on the proposed building and site plan.
- B. Dimensional Standards.
  - 1. Floor Area Ratio (F.A.R.) limit: For structures without residential uses, F.A.R. shall not exceed 1.0 (total gross floor area shall not be greater than total site area); for mixed-use structures with residential uses, F.A.R. shall not exceed 2.0 (total gross floor area shall not be greater than twice the total site area).
  - 2. Maximum allowed height: thirty-five (35) feet, without residential; fifty (50) feet, with residential.
  - 3. Minimum Lot Area, Width and Depth: None.



4. Maximum Front Yard Setback: One hundred percent (100%) of the width of any street façade of a primary use shall set back no more than five (5) feet from the front property line, unless a public plaza or similar amenity is provided between the façade and the street. The maximum allowed setback is ten (10) feet for structures.
  5. Minimum Side Yard Setback: Ten (10) feet if abutting a residential zone plus one foot additional setback for each foot of building height over thirty-five (35) feet.
  6. Minimum Rear Yard Setback: If abutting a residential zone, ten (10) feet for a building without residential use and fifteen (15) feet for a building with residential use, plus one foot additional setback for each foot of building height over thirty-five (35) feet .
  7. Maximum impervious surface coverage: one hundred percent (100%).
  8. Maximum residential density: None; only as limited by F.A.R., height, parking and other site requirements. Inclusion of senior housing within a project may be granted a bonus density as follows:
    - (a) Density may be increased by one percent for each one percent of total project dwelling units that are dedicated to senior housing;
    - (b) The bonus shall be calculated on the total units dedicated, regardless of type;
    - (c) The maximum bonus density shall not exceed twenty percent (20%) for a project;
  9. Parking. Off-street parking is not required for any use in the Town Center zone; and
  10. Landscaping.
- C. Landscaping.
1. Landscaping shall be planned and provided in accordance with BDMC Chapter 18.72.
  2. Development shall also comply with the tree preservation requirements of BDMC Chapter 19.30.
- D. Signs. Regulation of signs is provided in BDMC Chapter 18.82.
- E. Lighting. Lighting shall comply with the requirements of BDMC Chapter 18.70.
- F. Storage and exterior displays.
1. Landscaping or buffer areas will not be used for storage of any sort.
  2. There shall be no exterior storage of any items whether or not for sale, other than sidewalk displays of retail items during operating hours only.

**Section 43. BDMC 18.40.050, Amended.** Black Diamond Municipal Code Section 18.38.050 (Additional requirements) is hereby amended to read as follows:

**18.40.050 Additional requirements.**

A. All development within the TC zone shall comply with applicable environmental performance standards of Chapter 18.78, the site plan review requirements of BDMC Chapter 18.16, and design review requirements of BDMC Chapter 18.74.

**Section 44. BDMC 18.42.020, Amended.** Black Diamond Municipal Code Section 18.42.020 (Permitted uses) is hereby amended to read as follows:

**18.42.020 Permitted uses.**

A. Office, research and technology and light manufacturing activities that do not create significant noise, emissions, risk of explosion or release of hazardous materials, or air or water pollution;

B. General Office, including call centers and other customer service communication centers;

C. Research and Development;

D. Technology, biotechnology and medical equipment;

E. Light Manufacturing, providing all production and storage activity is conducted indoors;

F. Wholesaling;

G. Business Support Services, such as technology services and support, copy centers, and eating and drinking establishments to serve the occupants of the business park. The total gross floor area of such uses is not to exceed twenty percent (20%) of the total project gross floor area and a 5,000 gross square feet maximum for any individual use;

H. Child care, including nursery schools and day care centers, when integrated within a development;

I. Utilities, below-ground;

J. Private schools; and

K. Other Uses.

1. Accessory uses as provided in BDMC Chapter 18.50.

2. Temporary uses as provided in BDMC Chapter 18.52.

**Section 45. BDMC 18.42.050, Amended.** Black Diamond Municipal Code Section 18.42.050 (Other requirements) is hereby amended to read as follows:

**18.42.050 Other requirements.**

A. All development within the B/IP zone shall comply with applicable environmental performance standards of Chapter 18.78, the site plan review requirements of BDMC Chapter 18.16, and the design review requirements of BDMC Chapter 18.74.

**Section 46. BDMC 18.44.020, Amended.** Black Diamond Municipal Code Section 18.44.020 (Permitted uses) is hereby amended to read as follows:

**18.44.020 Permitted Uses**

- A. Heavy industry.
- B. Light Manufacturing.
- C. Research and Development.
- D. General office associated with a primary manufacturing use.
- E. Wholesaling.
- F. Warehousing and Distribution.
- G. Business Support Services including eating establishments primarily serving the immediate work force; the total gross floor area of such uses shall not exceed twenty percent (20%) of the total district area and a 5,000 gross square feet maximum area for any individual use.
- H. Utilities.
- I. Public Uses/Facilities.
- J. Private schools.
- K. Other Uses:
  - 1. Accessory uses as provided in BDMC Chapter 18.50; and
  - 2. Temporary uses as provided in BDMC Chapter 18.52.

**Section 47. BDMC 18.44.050, Amended.** Black Diamond Municipal Code Section 18.44.050 (Other requirements) is hereby amended to read as follows:

**18.44.050 Other requirements.**

A. All development shall comply with applicable environmental performance standards of Chapter 18.78, the site plan review requirements of BDMC Chapter 18.16 and design review requirements of BDMC Chapter 18.74.

**Section 48. BDMC 18.46.040, Amended.** Black Diamond Municipal Code Section 18.46.040 (Development Standards) is hereby amended to read as follows:

**18.46.040 Development standards.**

A. Dimensional Standards. None.

- B. Parking. Off-street parking shall be provided in accordance with Chapter 18.80.
- C. Landscaping.
  - 1. Landscaping shall be planned and provided in accordance with BDMC Chapter 18.72.
  - 2. Development shall also comply with the tree preservation requirements of BDMC Chapter 19.30.
- D. Signs. Regulation of signs is provided in BDMC Chapter 18.82.
- E. Lighting. Lighting shall comply with the requirements of BDMC Chapter 18.70.
- F. Storage and exterior displays.
  - 1. Landscaping or buffer areas shall not be used for storage of any sort.
  - 2. There shall be no exterior storage of any items whether or not for sale, other than sidewalk displays of retail items during operating hours only or as otherwise allowed by a temporary use permit.

**Section 49. BDMC 18.46.050, Amended.** Black Diamond Municipal Code Section 18.46.050 (Additional Requirements) is hereby amended to read as follows:

**18.46.050 Additional requirements.**

- A. All development within the PUB zone shall comply with applicable environmental performance standards of Chapter 18.78, the site plan review requirements of Chapter 18.16, and design review requirements of Chapter 18.74.

**Section 50. BDMC 18.50.020(A), Amended.** Black Diamond Municipal Code Subsection 18.50.020(A) (General provisions) is hereby amended to read as follows:

- A. Accessory structures shall be complementary to the basic architectural character of the main building on the lot, and appropriate to the nature of the accessory use, and are subject to the applicable design guidelines of BDMC Chapter 18.74.

**Section 51. BDMC 18.50.030, Amended.** Black Diamond Municipal Code Section 18.50.030 (Residential zone accessory uses and structures) is hereby amended to read as follows:

**18.50.030 Residential zone accessory uses and structures.**

- A. The following accessory uses/activities are allowed in residential zones:
  - 1. The cultivation of flowers, trees or produce intended primarily for personal use or enjoyment;
  - 2. The keeping of animals is permitted in compliance with the Title 6 BDMC;

3. Accessory dwelling units in accordance with BDMC Chapter 18.56;
  4. Detached garage(s), carport(s), and parking facilities for the residents of the property;
  5. Storage sheds;
  6. Playhouses, patios, cabanas, porches, gazebos, swimming pools, workshops, garden sheds and incidental household storage buildings;
  7. Common recreational vehicle storage facilities limited to serving the development in which they are located; and
  8. Temporary storage containers used during an active construction project.
- B. Detached accessory buildings.
1. For any lot 9600 sq. ft. or less, a detached accessory building not exceeding 26 feet in height may disregard rear and interior side yard setback requirements if such building is no greater than 650 sq. ft. in floor area, is located in the rear thirty percent (30%) of the lot or further than 75 feet from the front lot line, and is no closer than 12 feet from the centerline of an adjacent alley.
  2. The total area of all accessory buildings located within a required rear yard shall not exceed twenty-five percent (25%) of the area of the required rear yard.
  3. Accessory buildings that exceed the building area, height and location standards noted above shall comply with all required yard setbacks.
  4. No accessory building shall be larger than the ground floor area of the primary structure on any lot; provided that this limitation shall not apply to lots greater than 35,000 sq. ft. in size.

**Section 52. BDMC 18.50.050, Amended.** Black Diamond Municipal Code Section 18.50.050 (Industrial zone accessory uses and structures) is hereby amended to read as follows:

**18.50.050 Industrial zone accessory uses and structures.**

The following accessory uses are allowed in the B/IP and I zones:

- A. Accessory living quarters; and
- B. Storage buildings.

**Section 53. BDMC 18.56.030, Amended.** Black Diamond Municipal Code Section 18.56.030 (Performance standards for accessory dwelling units) is hereby amended to read as follows:

**18.56.030 Performance standards for accessory dwelling units.**

A. Minimum Lot Size. All performance standards, including minimum yard setbacks and overall building coverage as set forth for the applicable zoning district shall be met with respect to the accessory dwelling unit. An accessory

dwelling unit shall not be permitted upon any lot that is nonconforming due to lot size.

B. Number. No more than one accessory dwelling unit shall be permitted on a lot.

C. Location in Relation to Principal Residence. The accessory dwelling unit may be either detached or a part of the principal residence or an accessory building.

D. Zoning/Building Code Compliance. All new construction associated with an accessory dwelling unit shall meet the development standards for the applicable zone, except as modified by this chapter, and shall comply with all applicable city codes, including requirements for an efficiency dwelling unit as set forth in the International Building Code adopted by the city.

E. Owner Occupancy. An owner of the property for which an accessory dwelling unit permit is requested must occupy at least one dwelling unit located on the property.

F. Future Subdivision. Parcels upon which an accessory dwelling unit has been approved shall not be subdivided or otherwise segregated in ownership in a manner that would separate the accessory dwelling unit from the principal dwelling.

G. Maximum Size. An accessory dwelling unit shall not exceed fifty percent (50%) of the size of the primary dwelling on the lot or 800 sq. ft., whichever is less. Accessory dwelling units shall comply with the required site coverage, yard area requirements or building code setbacks as provided within the subject property's zone.

H. Scale. A detached accessory dwelling unit or accessory structure containing an accessory dwelling unit shall not exceed the maximum height allowed for a detached accessory building per the underlying zoning district.

I. Additions. Additions to an existing structure or newly constructed detached structures created for the purpose of creating an accessory dwelling unit, shall be designed in a manner consistent with existing roof pitch, siding and windows for the principal dwelling unit.

J. Parking. At least one off-street parking space in addition to the minimum required off-street parking from the primary dwelling unit shall be provided for an accessory dwelling unit.

K. Utility Connections. Utility accounts for accessory dwelling units shall be maintained in the name of the property owner. Accessory dwelling units may be served by the same water meter and sewer connection utilized for the primary residence if approved by the city, but shall be assessed a monthly service fee as established by the city's fee schedule or applicable ordinance. The city may require an applicant to provide documentation demonstrating capacity availability prior to allowing a joint connection. The city may require upgrades to a utility

connection and the cost of such upgrades shall be borne by the applicant. If water or sewer service is not provided by the city, then the rules of the water or sewer district shall apply as to whether an additional hook-up and connection fees are required. Any water or sewer service as referenced in this section is subject to water or sewer availability.

L. Design and Appearance. The accessory dwelling unit shall be designed so that, to the degree reasonably feasible, the appearance of the building is consistent with that of the primary residence. At a minimum, the new exterior construction associated with creating an accessory dwelling unit should match the existing exterior materials and design of the principal residence, and the pitch of any new roof should match that of the principal residence. New landscaping shall conform with or improve existing landscaping.

M. Entrance Location. An attached accessory dwelling unit shall have a separate entrance to the outside from the entrance for the primary dwelling. For attached accessory dwelling units, the entrance to the accessory dwelling unit shall be located in such a manner as not to appear as a second primary entrance to the structure which contains the principal residence in an effort to maintain the appearance of a single-family residence.

**Section 54. Repealer.** Black Diamond Municipal Code Section 18.78.030 (Noise) is hereby repealed in its entirety.

**Section 55. Repealer.** Black Diamond Municipal Code Section 18.78.060 (Other ordinances) is hereby repealed in its entirety.

**Section 56. BDMC 18.80.030(F), Amended.** Black Diamond Municipal Code Subsection 18.80.030(F) (Minimum requirements – Parking Requirements in Commercial Zones) is hereby amended to read as follows:

F. Parking requirements in Commercial zones.

USES	REQUIRED SPACES (*Gross sq ft of primary building area)
Retail, 10,000 gsf* and less	1 per 350 gsf*
Retail, over 10,000 gsf*	1 per 300 gsf*
Restaurant	1 per 150 gsf*
Theaters and places of public assembly	1 per 4 seats
Entertainment/Culture	1 per 4 seats



General Office	1 per 500 gsf*
Personal and Professional Service	1 per 400 gsf*
Public Uses/Facilities	Depends on use and determined at site plan review
Major Institution	Depends on use and conditions of approval
Multi-family residential structures in a mixed-use project	1.5 per unit in a free-standing building; 1 per unit if within a mixed-use building
Day Care Center serving more than 12 children	Minimum of 6, plus one for each employee
Religious Institutions, 10,000 gsf* or larger	0.7 per seat or 4 lineal feet of pew space or 1 per 4 seats

**Section 57. BDMC 18.86.030, Amended.** Black Diamond Municipal Code Section 18.86.030 (Procedures and criteria) is hereby amended to read as follows:

**18.86.030 Procedures and Criteria**

A. Review Procedures. RCD applications are processed as a Type 3 Hearing Examiner decision pursuant to the provisions set forth in Chapter 18.08. Proposals for clustering shall be subject to and consolidated with the provisions for preliminary plat approval, if individual lot ownership is proposed.

B. Criteria for Approval. The Hearing Examiner may approve a RCD only if it is found that:

1. The location, design, and uses are consistent with the goals and policies of the Comprehensive Plan, the City's development codes and other City plans and ordinances;
2. The residential development integrates with its surroundings and is designed to harmonize with existing or proposed development in the neighborhood, including the project's response to BDMC 18.86.040(F);
3. The traffic generated by the development can be accommodated safely and within adopted level of service for affected streets;
4. All development will be served by existing or planned facilities and services; and
5. The development makes provision for the preservation of the natural environment and/or identified open space or trails per the Comprehensive Plan.

C. Scope of Approval.

1. Through a RCD, modifications to the setbacks, height, lot area, building coverage and development coverage standards of the underlying zone district may be granted.

2. Approval of an RCD shall constitute a deviation of standards on the design of the site for only those designs and standards that are specifically included. Such revision of standards shall remain in effect until the residential development is constructed, or until its approval expires, at which time the underlying zoning standards automatically return to effect.

**Section 58. BDMC 18.100.010, Amended.** Black Diamond Municipal Code Section 18.100.010 (Generally) is hereby amended to read as follows:

**18.100.010 Generally.**

In addition to the words and terms defined in this chapter, several sections of this title contain definitions specifically related to those sections. In the event of conflict between definitions in this list and those shown in other sections of this title the definition in the other section shall govern within the context of the section within which it appears. (See sections on Home Occupations, Accessory Dwelling Units, Signs and Manufactured Housing.)

**Section 59. BDMC 18.100.030, Amended.** Black Diamond Municipal Code Section 18.100.010 (Accessory building) is hereby amended to read as follows:

**18.100.030 Accessory building.**

A building, or structure, or portion of a building, devoted to an activity subordinate to the principal use of the premises.

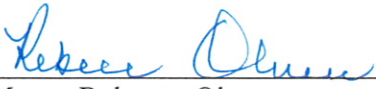
**Section 60. Severability.** Each and every provision of this Ordinance shall be deemed severable. In the event that any portion of this Ordinance is determined by final order of a court of competent jurisdiction to be void or unenforceable, such determination shall not affect the validity of the remaining provisions thereof, provided the intent of this Ordinance can still be furthered without the invalid provision.

**Section 61. 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.

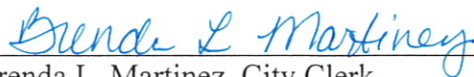
Introduced on the 7<sup>th</sup> day of October, 2010.

Passed by the City Council on the 7<sup>th</sup> day of October, 2010.

CITY OF BLACK DIAMOND

  
\_\_\_\_\_  
Mayor Rebecca Olness

ATTEST:

  
\_\_\_\_\_  
Brenda L. Martinez, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Chris Bacha, City Attorney

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