

ORDINANCE NO. 09- 912

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON, REPEALING TITLE 16 (“COMPREHENSIVE PLAN”) OF THE BLACK DIAMOND MUNICIPAL CODE IN ITS ENTIRETY AND REPLACING IT WITH A NEW TITLE 16

WHEREAS, the City of Black Diamond is required to adopt and regularly update a Comprehensive Plan that regulates and guides development within the City; and

WHEREAS, Title 16 of the Black Diamond Municipal Code addresses the Comprehensive Plan; and

WHEREAS, the majority of the existing Title 16 was adopted in 1981 and appears to be the Comprehensive Plan that was in effect at that time; and

WHEREAS, the City of Black Diamond now intends to adopt a new Comprehensive Plan to replace the current Plan that has been in effect since 1996; and

WHEREAS, it is beneficial to establish in the municipal code various aspects of the Comprehensive Plan and to provide clear guidance for considering its revision; and

WHEREAS, the proposed revisions are consistent with the Washington State Growth Management Act and sound legal principles; and

WHEREAS, on April 21, 2009, the City of Black Diamond Planning Commission conducted a public hearing on the proposal and voted to recommend its adoption by the City Council;

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

Section 1. The existing Title 16 of the Black Diamond Municipal Code is hereby repealed in its entirety.

Section 2. A new Title 16 entitled “Comprehensive Plan” is hereby added to the Black Diamond Municipal Code, to read as shown in the copy attached to this ordinance as Exhibit A and hereby incorporated by reference, with each page of the exhibit being initialed and dated by the mayor.

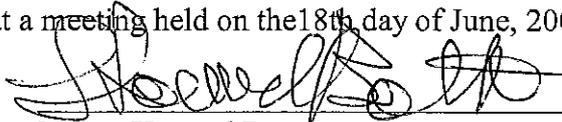
Section 3. This Ordinance shall be in full force and effect five days after its passage, approval, posting and publication as provided by law. A summary of this Ordinance may be

published in lieu of publishing the Ordinance in its entirety.

Section 4. If any provision of this Ordinance is determined to be invalid or unenforceable for any reason, the remaining provisions of this Ordinance shall remain in force and effect.

Introduced the 18th day of June, 2009.

Passed by a majority of the City Council at a meeting held on the 18th day of June, 2009.



Mayor Howard Botts

Attest:



Brenda L. Martinez, City Clerk

APPROVED AS TO FORM:

Loren D. Combs, City Attorney

Published: 6/23/09
Posted: 6/19/09
Effective Date: 6/28/09

EXHIBIT "A"
TITLE 16
COMPREHENSIVE PLAN

Chapters:

- 16.10 General Provisions.**
- 16.20 Conformance.**
- 16.30 Adoption and amendment procedures.**

16.10
GENERAL PROVISIONS

Sections:

- 16.10.005 Purpose and intent.**
- 16.10.010 Words and phrases defined.**

16.10.005 Purpose and intent.

- A. The comprehensive plan establishes the principles, goals, objectives and policies guiding future development of the city of Black Diamond in compliance with Chapter 36.70A RCW, the Washington State Growth Management Act. The plan serves as the basis of zoning, subdivision and other regulations controlling the use of private and public lands; as a guide for regulations which protect environmentally sensitive areas; as a guide for capital facilities programs, capital budgeting decisions, and the provision of adequate public facilities; as the framework for striving to meet the housing needs of the community; and for the design of transportation systems.
- B. The intent of this title is to provide procedures and criteria for amending the comprehensive plan and to encourage early and continuous opportunities for public participation in the amendment process and other city-initiated planning programs which may be carried out under the overall framework of the plan.

16.10.010 Words and phrases defined.

- A. "Amendment" means any change, revision, addition or group of changes, revisions, or additions to the text and/or maps of the adopted comprehensive plan considered by the planning commission and city council no more frequently than once every calendar year, or

whenever an emergency exists, as specified in Chapter 36.70A.130 RCW and BDMC
16.30.110.

- B. “City-initiated planning program” means a planning program begun by resolution of the city council or planning commission addressing a geographic sub-area of the city’s urban growth area (such as a neighborhood or urban design plan). These programs are intended to include continuous opportunities for public participation in the planning process and proposals made as part of these programs may be considered for adoption as part of the comprehensive plan at any time during the year.
- C. “Director” means the community development director or his/her designee.
- D. “Docket” means a list of suggested amendments to the comprehensive plan maintained by the director.

Chapter 16.20 CONFORMANCE

Sections:

16.20.010 Conformance and consistency.

16.20.010 Conformance and consistency.

The zoning code and other development regulations contained and/or referenced within the municipal code shall be interpreted and implemented in a manner consistent with the intent of the comprehensive plan. Capital budget decisions shall be consistent with the comprehensive plan.

Chapter 16.30 ADOPTION AND AMENDMENT PROCEDURES

Sections:

- 16.30.010 Applicability.**
- 16.30.020 Public hearing required by the planning commission – Notice required.**
- 16.30.030 Adoption required by city council.**
- 16.30.040 Adoption of comprehensive plan.**
- 16.30.050 Adoption and amendment of future land use map.**
- 16.30.060 When amendments may be adopted.**
- 16.30.070 Proposals for amendments.**
- 16.30.080 Decision criteria for privately-initiated plan amendment proposals.**
- 16.30.090 Periodic assessment of comprehensive plan amendment needs.**
- 16.30.100 Docketing.**
- 16.30.110 Amendments considered in an emergency.**
- 16.30.120 Provisions for amendment transmittal and reporting to state.**
- 16.30.130 Appeals of the adoption or amendment of a comprehensive plan.**

16.30.010 Applicability.

This section shall apply to the adoption of amendments or additional elements to the comprehensive plan.

16.30.020 Public hearing required by the planning commission – Notice required.

A. When proposed adoption of the comprehensive plan, adoption of successive parts thereof, or an amendment to the comprehensive plan is under consideration, the planning commission shall hold at least one public hearing thereon, and notice of such hearing shall be given prior to the planning commission making a recommendation for city council adoption. The notice shall be given pursuant to BDMC 18.08.125.

B. As an alternative to these noticing procedures if the number of owners to whom notice would be sent is greater than 200 for any individual proposal, the city may choose to provide notice at least 15 calendar days prior to the hearing by placing a display advertisement that fills at least one-fourth of a page in a newspaper of general circulation in the city and in the newspaper that has been designated as the official newspaper of the city.

C. For all privately-initiated amendment requests, it shall be the responsibility of the applicant to bear the full cost of providing required notice.

16.30.030 Adoption required by city council.

The comprehensive plan or an amendment to the comprehensive plan requires adoption by the city council by ordinance. The city council shall not adopt a comprehensive plan amendment or addition without first conducting a public hearing and considering a report by the planning commission. In addition, amendments to the future land use plan map will generally require a change in zoning of specific properties; said changes shall be considered concurrently with a plan amendment request by the planning commission and city council and shall not require the payment of additional fees.

16.30.040 Adoption of comprehensive plan.

There is adopted by reference a comprehensive plan, which shall be on file with the community development department and city clerk, which shall be known as the City of Black Diamond Comprehensive Plan. This comprehensive plan may be amplified, augmented and amended pursuant to the provisions in this title, but as a minimum, shall consist of:

- (1) The city of Black Diamond Comprehensive Plan (2009) which includes the following:
 - (a) Overview Chapter;
 - (b) Urban Growth Area Chapter;
 - (c) Population and Employment Character Chapter;
 - (d) Natural Environment Element;
 - (e) Land Use Element;
 - (f) Housing Element;
 - (g) Transportation Element;
 - (h) Capital Facilities Plan Element;
- (2) Comprehensive Parks, Open Space and Recreation Plan (2008);
- (3) City of Black Diamond Comprehensive Sewer System Plan;

- (4) City of Black Diamond Water System Comprehensive Plan; and
- (5) City of Black Diamond Comprehensive Storm Drainage Plan.
- (6) The Enumclaw School District Capital Facilities Plan, which is adopted as a sub-element of the Capital Facilities Plan Element of the comprehensive plan.

16.30.050 Adoption and amendment of future land use map.

- A. The City shall create and maintain a map known, cited, and referenced as the city of Black Diamond Future Land Use Map. This map shall depict the location and boundaries of various land use classifications, references and other land use information and shall be an official document adopted by reference as part of the Comprehensive Plan.
- B. A true and correct copy of the Future Land Use Map shall be kept in the office of the community development department, and shall be revised to reflect all comprehensive plan land use map amendments within thirty days of enactment of said amendments. The Future Land Use Map shall contain the date of initial adoption and the date of each subsequent revision.

16.30.060 When amendments may be adopted.

- A. Except for the products of city-initiated planning programs, all amendments to the comprehensive plan shall be considered concurrently in order to assess their cumulative impact and no more frequently than once each calendar year except in the event of an emergency, as defined in BDMC 16.40.080. The city council shall consider proposed amendments concurrently and act on them just prior to, or concurrently with, the city's budget, or its modification, in the last quarter of each year.
- B. Additions of new elements as the result of a city-initiated planning program or the adoption or amendment of a shoreline master program under RCW 90.58 may occur at any time during the calendar year, provided the element must be consistent with the general framework and intent of the comprehensive plan.

16.30.070 Proposals for amendments.

- A. A proposed amendment to the comprehensive plan may be submitted by any individual, organization, corporation or partnership, general or special purpose government, or entity of any kind; provided, that if the proposal involves specific real property, the property owner must provide written consent to the proposal.
- B. The city council or the planning commission may by resolution initiate a planning program or any type of amendment to the comprehensive plan, regardless of whether site-specific or area-wide in scope.
- C. Except for city-initiated planning programs or individual amendments, all proposed amendments to the comprehensive plan shall be submitted to the planning commission in writing on a form as required by the community development department, together with required filing fees. An environmental checklist shall also be submitted if required. A proposed amendment request shall include the following information:
 - (a) Name, address and phone number of the applicant and contact person, if any;
 - (b) If the amendment concerns specific real property, both a general and legal description of the property;

(c) A description of the plan amendment being requested;

(d) Statements addressing the purpose of the amendment and why the amendment is being requested, including addressing the criteria listed in BDMC 16.30.090 below.

D. The community development department shall broadly disseminate information regarding the annual amendment process and identify a general time period when amendments will be solicited; however, a request will be accepted at any time. Those amendment requests received after the established general time period will not be considered in that year's amendment process unless an emergency exists as defined in BDMC 16.30.110. If an amendment request received after the established general time period is not considered in that year's amendment process, it will be considered in the next year. Proposed plan amendments consisting of changes to the capital facilities plan (CFP) element will generally be accepted later than other proposed amendments because of the CFP's relationship to the city budget or its modification.

E. The planning commission shall consider an assessment and recommendation on all proposed amendment requests from the community development department and shall make and forward a recommendation on each to the city council.

16.30.080 Decision criteria for privately-initiated plan amendment proposals.

A. In consideration that the comprehensive plan was developed and adopted after significant study and public participation, the principles, goals, objectives and policies contained therein shall be granted substantial weight when considering any proposed amendment. Therefore, the burden of proof for justifying a proposed amendment rests with the applicant, who must demonstrate that the request fully complies with subsections (1) and (2) and/or (3) of this section as follows:

(1) The proposed change will further and be consistent with the goals, objectives and policies of the comprehensive plan;

(2) If the request is to change the land use designation of a specific property on the future land use map, the applicant must demonstrate either of the following:

(a) The existing land use designation was clearly made in error or due to an oversight;

(b) There has been a change in conditions since the plan was adopted/last amended;

(3) Any of the criteria listed in BDMC 16.30.100.

16.30.090 Periodic assessment of comprehensive plan amendment needs.

A. The director will monitor the comprehensive plan and regulatory procedures that implement the plan, and may add potential changes to the docket as specified in 16.30.100. This assessment shall be based on, but not limited to:

(1) Whether growth and development are occurring at a faster or slower rate than envisioned in the plan; or

(2) Whether the capacity to provide adequate services is diminished or increased; or

(3) The availability of land to meet demand; or

(4) Assumptions upon which the plan is based are found to be invalid; or

(5) The effect of the plan on land values and housing is contrary to the plan goals; or

(6) A determination that sufficient change or lack of change in circumstances dictate the need for a recommended amendment; or

(7) A determination that inconsistency may exist between the comprehensive plan and Chapter 36.70A RCW, the Countywide Planning Policies for King County, and Vision 2040: Growth and Transportation Strategy for the Central Puget Sound Region.

B. A major reassessment of the comprehensive plan shall occur at least every 10 years from the date of initial adoption of the plan.

16.30.100 Docketing.

A. In accordance with RCW 36.70A.470, suggested changes to the comprehensive plan which are not site-specific may be submitted by any individual, organization or general or special purpose government and shall be coordinated by the director. The director shall create appropriate forms for such submittals that require the submittal to address the criteria outlined in subsection C of this section. The director shall maintain a list of all submittals; this list shall be known as the “docket” and shall be the official method of tracking all known requested changes or additions to the comprehensive plan that are not site-specific. An item may be submitted to the docket at any time during the calendar year. There is no fee associated with submitting an item to the docket.

B. Annually, the director shall review such suggestions with the planning commission, which may choose to initiate formal consideration as part of the amendment process.

C. Proposed amendments on the docket may be considered appropriate for action if the following criteria are met:

1. A proposed comprehensive plan text amendment addresses a matter appropriate for inclusion in the plan;
2. The proposal demonstrates a strong potential to serve the public interest by implementing specifically identified goals and policies of the plan;
3. The proposal addresses the interests and changed needs of the entire city as identified in the plan;
4. The proposal does not raise policy or land use issues that are more appropriately addressed by an ongoing work program approved by the mayor;
5. The proposal can be reasonably reviewed and evaluated, given existing staff and budget resources; and
6. The proposal has not been voted on by the city council in the last three years. This time limit may be waived if it is demonstrated that a) the proposal addresses an obvious technical error in the existing plan or b) a change in circumstances justifies the need for the proposed amendment.

D. Any item on the docket that is not determined to be appropriate for action may be proposed 16.30.080, provided it is timely and properly filed.

16.30.110 Amendments considered under emergency situation.

The planning commission and city council may consider amendments to the comprehensive plan at any time during a calendar year as a result of an emergency situation in which property or human safety is in jeopardy, or to resolve an appeal of the comprehensive plan filed with the Central Puget Sound Growth Management Hearings Board or Superior Court or as required to comply with any court order or change in the law.

16.30.120 Provisions for amendment transmittal and reporting to state.

The community development department shall notify and transmit copies of all proposed plan amendments and development regulations to the Washington State Department of Community, Trade and Economic Development and designated state agencies at least 60 days prior to adoption as consistent with Chapter 36.70A RCW, as currently enacted or hereafter amended.

16.30.130 Appeals to the adoption or amendment of a comprehensive plan.

All appeals to the adoption of the comprehensive plan or an amendment thereto shall be filed with and processed by the Central Puget Sound Growth Management Hearings Board in accordance with the provisions of Chapter 36.70A RCW, as currently enacted or hereafter amended.