

ORDINANCE NO. 14-1044

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, RELATING TO LAND USE AND ZONING, AMENDING THE BLACK DIAMOND MUNICIPAL CODE PROVISIONS RELATING TO ADOPTION OF COMPREHENSIVE PLAN AND DEVELOPMENT REGULATION AMENDMENTS, ELIMINATING ALL OF THE CITY'S EXISTING CODE PROVISIONS ON THE SUBJECT, AND ADOPTING NEW PROCEDURES WHICH DESCRIBE THE DIFFERENT TYPES OF DEVELOPMENT REGULATION AND COMPREHENSIVE PLAN AMENDMENTS, IDENTIFY WHO MAY SUBMIT SUCH AMENDMENTS, WHEN THEY MAY BE SUBMITTED, LIST THE REQUIREMENTS FOR A COMPLETE APPLICATION FOR AN AMENDMENT, IDENTIFY THE REQUIREMENTS FOR NOTICE OF PUBLIC HEARINGS, DESCRIBE THE PROCEDURE FOR PROCESSING AMENDMENTS, THE CRITERIA FOR APPROVAL, THE PROCEDURE FOR ISSUANCE OF A FINAL DECISION, AND DESCRIBES THE PLANNING COMMISSION'S RESPONSIBILITIES WITH REGARD TO MAKING RECOMMENDATIONS FOR AMENDMENTS, HOLDING PUBLIC HEARINGS AND MAKING RECOMMENDATIONS, REPEALING BLACK DIAMOND MUNICIPAL CODE SECTIONS 16.10.005, 16.10.010, 16.20.010, 16.30.010, 16.30.020, 16.30.030, 16.30.040, 16.30.050, 16.30.060, 16.30.070, 16.30.080, 16.30.090, 16.30.100, 16.30.110, 16.30.120 AND 16.30.130; ADOPTING A NEW CHAPTER 16.10 TO THE BLACK DIAMOND MUNICIPAL CODE AND ADDING AN EFFECTIVE DATE.**

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WHEREAS, the City's procedures for the adoption of comprehensive plan and development regulation amendments are outdated and need to be revised; and

WHEREAS the SEPA Responsible Official has determined that this Ordinance is categorically exempt from SEPA as affecting only procedural and no substantive standards, pursuant to WAC 197-11-800(19); and

WHEREAS, public notice of a public hearing was provided and the Planning Commission held a public hearing on this ordinance on November 18, 2014; and

WHEREAS, the Community Development/Natural Resources Director submitted the DRAFT Ordinance (AMENDMENTS TO THE COMPREHENSIVE PLAN AND

**DEVELOPMENT REGULATIONS**), to the Washington State Department of Commerce on December 4, 2014 and requested expedited review by the Department; and

WHEREAS, the Planning Commission's recommendation on this Ordinance was forwarded to the City Council; and

WHEREAS, the City Council considered this Ordinance during its regular City Council meeting on December 18, 2014; Now, Therefore,

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

Section 1. Sections 16.10.005 and 16.10.010 of the Black Diamond Municipal Code are hereby repealed.

Section 2. Section 16.20.010 of the Black Diamond Municipal Code is hereby repealed.

Section 3. Sections 16.30.010, 16.30.020, 16.30.030, 16.30.040, 16.30.050, 16.30.060, 16.30.070, 16.30.080, 16.30.090, 16.30.100, 16.30.110, 16.30.120, and 16.30.130 of the Black Diamond Municipal Code are hereby repealed.

Section 4. A new Chapter 16.10 is hereby added to the Black Diamond Municipal Code, which shall read as follows:

**CHAPTER 16.10  
AMENDMENTS TO THE  
COMPREHENSIVE PLAN AND DEVELOPMENT  
REGULATIONS**

**Sections:**

**16.10.010 Purpose and Types of Amendments.**

**LEGISLATIVE AMENDMENTS TO DEVELOPMENT REGULATIONS**

- 16.10.020 Administration of Amendments to Development Regulations.**
- 16.10.030 Procedure for Amendments to Development Regulations.**
- 16.10.040 Submission of Applications for Amendments to Development Regulations.**
- 16.10.050 Requirements for a Complete Application.**
- 16.10.060 SEPA Compliance and Transmittal to State.**
- 16.10.070 Public Notice.**
- 16.10.080 Planning Commission Public Hearing.**
- 16.10.090 City Council Action.**
- 16.10.100 Final Decision, Transmittal to State and Appeals.**
- 16.10.110 Appeal of Amendments to Development Regulations.**

**COMPREHENSIVE PLAN ADOPTION AND AMENDMENT**

- 16.10.120 Administration of Annual Comprehensive Plan Amendments.**
- 16.10.130 Submission of Applications.**
- 16.10.140 Preliminary Docket.**
- 16.10.150 Optional City Council/Planning Commission Workshop on Preliminary Docket.**
- 16.10.160 Planning Commission Hearing on Preliminary Docket.**
- 16.10.170 City Council Decision – Adoption of Final Docket.**
- 16.10.180 Final Docket – Contents.**
- 16.10.190 Effect of Final Docket.**
- 16.10.200 SEPA on Final Docket.**
- 16.10.210 Planning Commission Public Hearing on Final Docket.**
- 16.10.220 Evaluation Criteria for Proposed Amendments.**
- 16.10.230 City Council Action.**
- 16.10.240 Final Decision, Transmittal to State and Appeals.**
  
- 16.10.250 Planning Commission Periodic Assessment – Recommendations on Amendments.**

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**16.10.010 Purpose and Types of Amendments.**

A. Purpose. The purpose of this chapter is to establish procedures for legislative amendment of the City's Comprehensive Plan map/text and the Development Regulations. In addition, this chapter will describe the City's Public Participation process, which is intended to solicit comments and suggested amendments to the City's Comprehensive Plan and Development Regulations for consideration. The Public Participation process described herein is supplemented by a booklet that provides additional detail.

B. Comprehensive Land Use Plan and Development Regulations. The Comprehensive Land Use Plan is defined as the generalized, coordinated land use policy statement of the City, and the accompanying map, adopted under the Growth Management Act (chapter 36.70A RCW). The Development Regulations are the controls placed on development or land use activities by the City, including, but not limited to, the City's codes on zoning, critical areas, official controls, planned unit developments, subdivisions, binding site plans and the Shoreline Master Program.

C. Types of Amendments. The applications that will be processed under this Chapter as legislative amendments are Comprehensive Plan Amendments to the Comprehensive Plan Map or Policies and Development Regulation Amendments (to the text of the Development Regulations) which do not implement the existing Comprehensive Plan.

**16.10.020 Administration of Legislative Amendments to Development Regulations.** The Director is authorized to administer the provisions of this Chapter. The Planning Commission shall have the authority to hold the public hearing on any proposed legislative amendments to the Development Regulations, and to provide a recommendation to the City Council. The City Council shall consider the Planning Commission's recommendation during a public meeting or a public hearing and shall make a final decision.

**16.10.030 Procedure for Amendments to Development Regulations.** The following steps shall be followed in the processing of applications for Amendments to Development Regulations.

- A. Section 16.10.040(C): Director's Determination that the Application is Complete;
- B. Section 16.10.060: SEPA Compliance and Transmittal to State;
- C. Section 16.10.070: Notice of Public Hearing;
- D. Section 16.10.080: Public Hearing before the Planning Commission;
- F. Section 16.10.090: City Council consideration of application;
- G. Section 16.10.100: Final Decision, transmittal to state;
- H. Section 16.10.110: Appeal to Growth Management Hearings Board (if any).

**16.10.040 Submission of Applications for Amendments to Development Regulations (Who May Submit and When).**

A. Who May Submit Applications. Any interested person, including citizens, Hearing Examiners, staff of other agencies, Planning Commission and City Council members, may submit an application for an amendment of a Development Regulation.

B. When Applications May Be Submitted. The text of the City's adopted Development Regulations may be amended at any time, provided that the amendment is consistent

with the City's Comprehensive Plan and Land Use Map. When inconsistent with the Comprehensive Plan and Land Use Map, the amendment shall be processed concurrent with any necessary Plan amendments using the process and timelines for Comprehensive Plan Amendments in Sections 16.10.120 through .240 of this chapter. Applications that do not include the information required in Section 16.10.050 shall not be processed.

C. Director's Determination that the Application is Complete. The Director shall review the application(s) after submission to determine whether the application(s) include the information required by Section 16.10.050. Applicants shall be notified if additional information is required, but this procedure is not subject to the determination of completeness in RCW 36.70B.070 for project permits.

**16.10.050 Requirements for a Complete Application.** The following materials shall be submitted to the City for a complete application for a Development Regulation Amendment (or Comprehensive Plan Amendment, if applicable):

- A. An application form provided by the City;
- B. Name, address, phone number and e-mail of the applicant and if the applicant is not the property owner, proof of the property owner's consent to the submission of the application;
- C. Name, address, phone number and e-mail of the owner of the property identified in the application (if applicable);
- D. A legal description of the property, if applicable;
- E. A description of the proposed Amendment and any associated development proposals, if applicable. Formal site-specific or project-related amendments shall include plans, information and/or studies that accurately depict existing and proposed uses(s) and improvements. Proposed site-specific or project related Amendments that do not specify propose use(s) and potential impacts will be assumed to have maximum impact to the environment, public facilities and services;
- F. Proposed amendatory language, preferably shown in "bill" format (*i.e.*, new language underlined; language proposed for deletion in strikeouts);
- G. An explanation of the rationale for the proposed Amendment;
- H. An explanation of how the proposed Amendment and associated development proposal(s) if any, conform to, conflict with, or relate to the criteria set forth in Section 16.10.220;
- I. A completed SEPA checklist including the supplement sheet for nonproject actions (if applicable);
- J. Application fee as set forth in the City's resolution adopted for this purpose; and
- K. Any additional information reasonably deemed necessary by the Planning Director to evaluate the proposed amendment.

**16.10.060 SEPA Compliance and Transmittal to State.** If an application for an Amendment to the Development Regulations is submitted outside of the annual Comprehensive Plan Amendment process, SEPA shall be performed on the application as set forth in chapter 19.04 (City's SEPA ordinance). If applicable, the City shall notify the State Department of Commerce of its intent to adopt the proposed amendment(s) to the Development Regulations at least sixty (60) days prior to final adoption.

**16.10.070 Public Notice.**

A. Notice of any public hearing on an application for an Amendment to a Development Regulation submitted outside of the annual Comprehensive Plan Amendment process set forth in this chapter, shall be given by one publication in the official newspaper of the City at least 10 days prior to the date of the hearing and by posting a copy of the notice of public hearing in City Hall and on the City's website. Additional notice may be required by state or local law (e.g., statutory notice requirements for amendments to the Shoreline Master Program), or additional notice may be provided as deemed appropriate by the Director.

B. The public notice shall include the following:

1. The purpose(s) of the Amendment;
2. The deadline for submitting comments on the Amendment;
3. A tentative hearing schedule; continued hearings may be held by the Planning Commission but no additional notices need be published.

**16.10.080 Planning Commission Public Hearing.** The Planning Commission shall hold a public hearing on an application for an Amendment to a Development Regulation and shall make a recommendation to the City Council, using the criteria set forth in Section 16.10.220, as applicable. There is no limit on the number of public hearings or continuation of public hearings that the Commission (or City Council) may hold on a proposed Amendment.

**16.10.090 City Council Action.** The City Council shall consider the proposed Amendment to the Development Regulations and the Planning Commission's recommendation at a regularly scheduled meeting. The City Council shall also apply the criteria set forth in Section 2.1.220, as applicable, in order to make a final decision.

1. If the City Council concludes that no change in the recommendation of the Planning Commission is necessary, the City Council may make a final determination on the proposed amendment(s) without holding another public hearing, and make a final decision.

2. If the City Council concludes that a change in the recommendation of the Planning Commission is necessary, the City Council shall consider whether another opportunity for public review and comment is needed under RCW 36.70A.035(2)(a) and if so, it shall hold another public hearing before making a final decision.

**16.10.100 Final Decision, Transmittal to State and Appeals.** If the City Council decides not to adopt the proposed Amendment to the Development Regulations, it shall pass a resolution with the associated findings and conclusions to support its decision. If the City Council decides to adopt the proposed Amendment to the Development Regulations, it shall adopt an ordinance with the associated findings and conclusions to support its decision. A copy of this ordinance shall be sent to the State Department of Commerce within ten days after final adoption.

**16.10.110 Appeal of Legislative Amendments to Development Regulations.** Appeals of the City's final decision may be filed with the Growth Management Hearings Board, pursuant to RCW 36.70A.290.

**16.10.120 Administration of Annual Comprehensive Plan Amendments.**

A. Legislative Amendments to the Comprehensive Plan. The Director is authorized to administer the provisions of this Chapter. The Planning Commission shall have the authority to hold the public hearing on any proposed Comprehensive Plan amendment(s), and to provide a recommendation to the City Council. The City Council shall consider the Planning Commission's recommendation during a public meeting or a public hearing and make a final decision.

B. Development Agreement. A Legislative Amendment to the Comprehensive Plan that is site-specific may be approved subject to the execution, delivery and recording of a Development Agreement between the City Council and the property owner of the subject property (or the legal owner of a beneficial interest in the subject property). The Development Agreement may impose conditions to address the criteria set forth in Section 16.10.220, and approval of the Comprehensive Plan Amendment shall be conditioned upon performance or compliance with the terms and conditions of the Development Agreement. The City may revoke (or take other action allowed by law) a Comprehensive Plan Amendment executed with a Development Agreement for failure to comply with the Development Agreement. An applicant proposing a Comprehensive Plan Amendment with a Development Agreement shall submit the proposed Development Agreement with the application materials described in Section 16.10.050. The City will evaluate the proposed Development Agreement together with the proposed Comprehensive Plan Amendment (*see* Chapter 18.66 on Development Agreements), to determine whether the Amendment should be approved.

**16.10.130 Submission of Applications (Who May Submit and When).**

A. Who May Submit Applications for Amendments Related to a Site-Specific Development Proposal. Proponents of land development projects and/or property owner(s) or their authorized representative(s), may file an application for a proposed Amendment to the Comprehensive Plan relating to a site-specific proposal. The complete application shall consist of the materials described in Section 16.10.050. The application filing fee as set forth in the City's fee resolution shall accompany the application, which shall also require the applicant to pay for the applicant's portion of the SEPA review attributable to the application.

B. Who May Suggest Amendments. Any interested person, including citizens, Hearing Examiners, staff of other agencies, Planning Commission and City Council members, may suggest an Amendment to the Comprehensive Plan. Generally, suggested Amendments should be limited to proposals that broadly apply to the goals, policies and implementation strategies of the Comprehensive Plan rather than amendments designed to address site-specific issues of limited applicability. If an application is not submitted for the suggested Amendment by the interested person, the Planning Director shall include the suggested Amendment on a Docket that is maintained each year for this purpose. The process described in Sections 16.10.160 through .170 of this chapter shall resolve the question whether such suggested Amendments will be considered during the annual review process.

C. Amendments Considered Once a Year. Applications for Amendments to the City's Comprehensive Plan may not be considered more frequently than once every year, except: (1) under the circumstances described in RCW 36.70A.130(2)(i) through (v); (2) when needed to

resolve an emergency condition or situation that involves public health, safety or welfare and when adherence to the Amendment process set forth in this chapter would be detrimental to the public health, safety and welfare. Situations involving official legal or administrative action affecting the City will be reviewed by the City Council with advice from the City Attorney to determine whether an emergency exists warranting an emergency Comprehensive Plan Amendment. Except as otherwise provided in RCW 36.70A.130(2)(a), all Comprehensive Plan Amendments shall be considered concurrently so that the cumulative effect of the various proposals may be ascertained.

D. Deadline for Application Submittal. All applications for Comprehensive Plan Amendments shall be submitted to the Planning Director by March 1<sup>st</sup> of the current calendar year (or be included in the Director's docket of suggested amendments by this date) in order to be considered during that year's amendment process; except that City-sponsored proposals to amend the Capital Facilities Element of the Comprehensive Plan may be accepted later than other proposed amendments because of their relationship to the City's annual budget process. Applications that do not include the information required under subsection 16.10.050 for a complete application, or which are not received by the deadline set forth in this subsection, shall not be processed.

#### **16.10.140 Preliminary Docket.**

A. Contents. A preliminary docket shall be maintained by the Planning Director, which shall consist of the following:

1. All applications submitted before the March 1<sup>st</sup> deadline to amend the Comprehensive Plan;
2. All amendments suggested during the year by citizens, the Planning Commission, City Council, staff, departments or other agencies.

B. Planning Director Responsibilities. After compiling the preliminary docket, the Planning Director shall review the suggested amendments and prepare a report concerning which suggested amendments that the Planning Director believes should be placed on the final docket for consideration during the annual amendment process. In addition to addressing the need, urgency and appropriateness of each suggested amendment, the staff report shall include, but not be limited to, a consideration of the following:

1. The availability of sufficient planning staff to substantively review the suggested amendments and manage the public review process with available staff; and
2. Anticipated planning costs and budget for processing the suggested amendments.

**16.10.150 Optional City Council/Planning Commission Workshop on Preliminary Docket.** The City Council and Planning Commission may, but are not required to, hold a noticed joint workshop meeting to gather information regarding the items on the preliminary docket and the Planning Director's report and recommendation. If held, notice of the joint workshop meeting shall be given by publication in the City's official newspaper at least one time, ten (10) days prior to the date of the meeting and by posting a copy of the meeting notice at City Hall and the City's website, which shall include a statement of the purpose of the joint workshop.



**16.10.160 Planning Commission Hearing on Preliminary Docket.** The Planning Commission shall hold a noticed public hearing to accept public comment regarding the suggested amendments on the preliminary docket. Following the hearing, the Planning Commission shall prepare a report and recommendation identifying those suggested amendments that it is recommending for consideration by the City Council during the annual amendment process. The Planning Commission's recommendation shall be based upon the perceived need, urgency and appropriateness of each suggested amendment. The Planning Commission's report and recommendation shall also include those proposed amendments resulting from its periodic assessment set forth in Section 16.10.250, as applicable. Notice of the Planning Commission's hearing shall be given as set forth in Section 16.10.070.

**16.10.170 City Council Decision – Adoption of Final Docket.** The City Council shall review and consider the Planning Commission's report and recommended final docket at a regularly scheduled Council meeting. The City Council may adopt the Planning Commission's recommended final docket without a public hearing; however, in the event that a majority of the City Council decides to add or subtract suggested amendments, it shall first hold a public hearing, noticed as set forth in Section 16.10.070.

**16.10.180 Final Docket -- Contents.** The final docket adopted by the City Council shall include the following:

1. All applications for Comprehensive Plan Amendments for site-specific amendments timely submitted under Section 16.10.130; and
2. Any proposals for suggested amendments which the City Council elects to consider during the annual amendment process.

**16.10.190 Effect of Final Docket.** The City Council's decision to adopt the final docket does not constitute a decision or recommendation that the substance of any site-specific amendment or suggested amendment be adopted. No additional amendment proposals shall be considered by the City after adoption of the final docket for that year, except for those identified in RCW 36.70A.130(2)(i) through (v), and City-sponsored proposals to amend the capital facilities element of the Comprehensive Plan as set forth in RCW 36.70A.130(2)(a)(iv).

**16.10.200 SEPA on Final Docket.** The final docket as adopted by the City Council shall first be reviewed and assessed by the Planning Director, who shall prepare a staff report and recommendation on each proposed amendment. The Planning Director shall also be responsible for conducting SEPA review of all items on the final docket, as required by chapter 19.04 BDMC. As appropriate, the Planning Director shall solicit comments regarding the proposed amendments from the public and/or government agencies. The Planning Director shall also be responsible for providing notice and opportunity for public comment as deemed appropriate, given the nature of the proposed amendments and consistent with RCW 36.70A.140. and SEPA (chapter 43.21C RCW and chapter 197-11 WAC). Issuance of the SEPA threshold decision on the proposed Comprehensive Plan Amendments shall be coordinated such that if an appeal of the SEPA threshold decision is filed, the appeal can be considered under the procedure in chapter 19.04 BDMC.

**16.10.210 Planning Commission Public Hearing on Final Docket.**

A. All proposed amendments on the final docket shall be reviewed and assessed by the Planning Commission, which shall make a recommendation to the City Council after holding at least one public hearing.

B. After the public hearing(s), the Planning Commission shall develop findings and conclusions to support its recommendation to the City Council that the proposed amendment(s) be denied, approved, or approved with conditions or modifications.

**16.10.220 Evaluation Criteria for Proposed Amendments.** The Planning Commission shall review the proposed Amendments to the Comprehensive Plan and Development Regulations under the following criteria to develop findings and conclusions to support its recommendation:

A. All Amendments. All of the Comprehensive Plan Amendments shall be reviewed under the following criteria:

1. Whether the proposed amendment(s) conform to the Growth Management Act (chapter 36.70A RCW);
2. Whether the proposed amendment(s) are consistent with and implement the City's Comprehensive Plan, including the goals, policies and implementation strategies of the various elements of the Plan;
3. Whether circumstances related to the proposed amendment(s) and/or the area in which it is located have substantially changed since the adoption of the City's Comprehensive Plan;
4. Whether the assumptions upon which the City's Comprehensive Plan is based are no longer valid, or whether new information is available which was not considered during the adoption process or any annual amendments of the City's Comprehensive Plan; and
5. Whether the proposed amendment(s) reflects current, widely held values of the residents of the City.

B. Amendments for Site-Specific Proposals. In addition to the above, any proposal for a site-specific development or amendment shall be reviewed under the following criteria:

1. Whether the proposed site-specific amendment(s) meets concurrency requirements for transportation and does not adversely affect adopted level of service standards for other public facilities and services (*e.g.*, police, fire and emergency medical services, parks, fire flow and general governmental services);
2. Any proposed site-specific amendment(s) will not result in probable significant adverse impacts to the City's transportation network, capital facilities, utilities, parks and environmental features that cannot be mitigated, and will not place uncompensated burdens upon existing or planned service capabilities;
3. In the case of a site-specific amendment(s) to the Comprehensive Plan's Land Use Map, that the subject parcels are physically suitable for the requested land use designation and the anticipated land use development, including, but not limited to, the following: (i) access; (ii) provision of utilities; and (iii) compatibility with existing and planned surrounding land uses;
4. The proposed site-specific amendment(s) will not create pressure to change the land use designation of other properties, unless the change of land use designation for other properties is in the long-term best interests of the City as a whole;

5. The proposed site specific amendment(s) does not materially affect the land use and population growth projections that are the bases of the Comprehensive Plan;

6. If within an incorporated urban growth area (UGA), the proposed site-specific amendment(s) does not materially affect the adequacy or availability of urban facilities and services to the immediate area and the overall UGA;

7. The proposed amendment(s) is consistent with any applicable County-Wide Policies for the City and any other applicable inter-jurisdictional policies or agreements, and any other local, state or federal laws.

**16.10.230 City Council Action.** The City Council shall consider the proposed Comprehensive Plan Amendments and the Planning Commission's recommendation at a regularly scheduled meeting. The City Council shall also apply the criteria set forth in Section 16.10.220, as applicable, in order to make a final decision.

- If the City Council concludes that no change in the recommendation of the Planning Commission is necessary, the City Council may make a final determination on the proposed amendment(s) without holding another public hearing, and make a final decision.

- If the City Council concludes that a change in the recommendation of the Planning Commission is necessary, the City Council shall consider whether another opportunity for public review and comment is needed under RCW 36.70A.035(2)(a) and if so, it shall hold another public hearing before making a final decision.

**16.10.240 Final Decision, Transmittal to State and Appeals.**

A. The Council's final action on the docket must be taken by the second regular Council meeting in December of each year. If the City Council decides not to adopt the proposed Comprehensive Plan Amendments, it shall pass a resolution with the associated findings and conclusions to support its decision. If the City Council decides to adopt the proposed development regulations, it shall adopt an ordinance with the associated findings and conclusions to support its decision. A copy of this ordinance shall be sent to the State Department of Commerce within ten days after final adoption.

B. All appeals to the adoption of an amendment(s) to the City's Comprehensive Plan or development regulations shall be filed with the Growth Management Hearings Board in accordance with the provisions of RCW 36.70A.290 and Chapter 36.70A RCW.

**16.10.250 Planning Commission Periodic Assessment – Recommendations on Amendments.**

A. Timelines. The Planning Commission shall review, and if necessary, recommend revisions to the Comprehensive Plan during a periodic assessment performed in accordance with RCW 36.70A.130. The Planning Commission shall complete its assessment of the Comprehensive Plan by November 1st of the year prior to the assessment. Any amendments recommended by a majority vote of the Planning Commission shall be forwarded to the Planning Director by March 1st of the year in which the periodic assessment is conducted. The Planning Director shall place all such recommended amendments on the preliminary docket to be

considered during the final docket selection process set forth in Sections 16.10.140 through .170 of this chapter.

B. Criteria Governing Planning Commission Assessment. The Planning Commission's periodic assessment and recommendation shall be based upon, but shall not be limited to, an inquiry into the following growth management indicators:

1. Whether growth and development as envisioned in the Comprehensive Plan is occurring faster or slower than anticipated, or is failing to materialize;
2. Whether the capacity of the City to provide adequate services has diminished or increased;
3. Whether sufficient urban land is designated and zoned to meet projected demand and need;
4. Whether any of the assumptions upon which the plan is based are no longer found to be valid;
5. Whether changes in county-wide attitudes necessitate amendments to the goals of the plan and the basic values embodied within the Comprehensive Plan;
6. Whether changes in circumstances dictate a need for amendments; and
7. Whether inconsistencies exist between the Comprehensive Plan and the GMA or the Comprehensive Plan and any County-wide Planning Policies for the City.

Section 6. The City hereby adopts Exhibit A, attached hereto as the "Public Participation Program" for the adoption of the Comprehensive Plan, and amendments to the Comprehensive Plan and Development Regulations under chapter 16.10 of the Black Diamond Municipal Code.

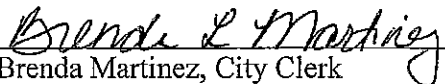
Section 7. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 10. Effective Date. This ordinance shall be effective five days after publication of an approved summary, which shall consist of the title.

PASSED by the Council and approved by the Mayor of the City of Black Diamond, this 18<sup>th</sup> day of December, 2014.

  
MAYOR CAROL BENSON

ATTEST/AUTHENTICATED:

  
Brenda Martinez, City Clerk

APPROVED AS TO FORM:  
Office of the City Attorney

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Carol A. Morris, City Attorney

PUBLISHED: December 23, 2014  
EFFECTIVE DATE: December 28, 2014  
POSTED DATE: December 19, 2014

## APPENDIX A

City of Black Diamond

GROWTH MANAGEMENT ACT (GMA)

PUBLIC PARTICIPATION PROGRAM

HANDBOOK

## Introduction

Citizen participation is an important element of the Growth Management Act (GMA). Public participation is one of the Planning Goals outlined in RCW 36.70A and that goal states that jurisdictions shall "...encourage the involvement of citizens in the planning process." The comprehensive plan development and amendment process, as well as the development and amendment of implementation regulations should be a "bottom up" effort, involving early and continuous public participation [RCW 36.70A.140 and WAC 365-195-600]. The City's program has citizen involvement meeting the legal public notification requirements found in chapter 35A.63 RCW – Planning and Zoning in Code Cities, chapter 36.70A - Growth Management Act, chapter 43.21C RCW – State Environmental Policy Act, and supplements chapter 42.30 RCW -- the Open Public Meetings Act, and chapter 42.56 RCW the Public Records Act. The City's methods and basic framework for achieving an interactive dialogue between local decision makers, City staff, and the public will be formed through this handbook and will apply throughout the local planning process leading to adoption of the comprehensive plan, development regulations to implement the plan, and legislative amendments to both.

The City's Community Development Department will oversee the public involvement in the local GMA planning process, but it is the City Council that decides on the direction and content of policy documents or regulations that they find to be in the community's best interest. The text that follows is intended to guide and form the basis for public participation programs related to GMA and the City's local planning process. The City intends to comply with these guidelines as appropriate to a situation. However, it should be noted that legitimate deviations from the guidelines may be warranted, given specific circumstances. The GMA, specifically RCW 36.70A.140, states that "... errors in exact compliance with the established program and procedures shall not render the comprehensive land use plan or development regulations invalid if the spirit of the program and procedures is observed."

You will find under the following outline numbers:

1. Communication and Information
2. Availability of Proposals and Alternatives
3. Public Meetings, Workshops & Hearings
4. Opportunity for Open Discussion
5. Opportunity for Written Comments
6. Consideration of and Response to Public Comment



# 1. Communication and Information

**The City will develop**, implement, and maintain communication programs and information services for the purpose of involving the broadest cross-section of the community in the planning process.

To ensure the overall success of the GMA planning process, there are several things that must occur.

- a. First, the public should understand the basic concepts of GMA, the local planning process, and how their own participation can affect local plans and regulations.
- b. Secondly, the public needs to know how and when to get involved.
- c. And finally, they need to understand how their input is used.

**The City will inform** the public through various techniques including, but not limited to, the following:

- **Produce** and make available through the City's website, at City Hall, and at public workshops and hearings, this Public Participation Program Handbook, and Ordinance 14-XXX (on the subject of comprehensive plan and legislative development regulation adoption/amendment), notices to public meetings and public hearings regarding the comprehensive plan development and amendment process, application forms for amendments to the comprehensive plan and development regulations, etc.. Notice procedures should be reasonably calculated to provide notice to property owners and other affected and interested individuals, government agencies, businesses and organizations.
- **Design**, display, and distribute other printed and visual material as needed to inform the public about the local planning process and engage them in relevant discussion;

**Special workshops and hearings** - provide public legal notices for upcoming special workshops and hearings in our official City newspaper, and through the City's website site, at least **1 week prior** to the meeting/hearing date. Notices should state the availability and location of documents under consideration.

- **Regular Meetings** - post agendas for regular meetings on the City's website at least **5 working days prior** to the meeting;
- **Special meetings** - post agendas for special meetings on the City's website, at the public library, at City Hall, and at the Community Center, as required by RCW 42.30.080 (at least **48 hours prior** to the time of the meeting);
- **Interested Parties** - compile, on an ongoing basis, a list of parties interested in GMA and local planning issues. Names should come from meeting and hearing sign-in sheets, written correspondence, and known community groups, as well as specific requests to be included. The list should be used for mailing of public notices as appropriate, or e-mails to those who have signed up for e-mail notification.

## 2. Availability of Proposals and Alternatives

**The City will maintain documents so that they are readily available** to distribute in a timely fashion to all who want to review them. Documents that contain or describe proposed plans, policies, maps, regulations, or the amendment of those, as well as supporting documents such as reports, analyses, recommendations, or environmental reviews should be easily accessible. Documents must be available for review in advance of opportunities for public discussion or testimony.

Proposals or alternatives should be available at least 5 days prior to a public hearing or a public workshop or meeting scheduled for discussion or a decision.

- **Through** the City's website or by e-mail upon request;
- **Hard** copies will be available for review or reproduction at the City Hall or, as appropriate, through other agencies;
- **Hearing** and workshop notices should state the availability and location of documents describing proposals and alternatives or other supporting documents under consideration.

In addition, the City may provide additional notice as follows:

- **Posting** the property for site-specific proposals;
- **Notifying** public or private groups with known interest in a certain proposal or in the type of proposal being considered;
- **Placing** notices in appropriate regional, neighborhood, ethnic, or trade journals; and
- **Publishing** notice in agency newsletters or sending notice to agency mailing lists, including general lists or lists for specific proposals or subject areas.

### 3. Public Meetings, Workshops, and Hearings

The City will provide public notice of public workshops and hearings to ensure that the community is made aware of the opportunities to become involved in the planning process. At a minimum, the requirements of chapter 35A.63 RCW, chapter 36.70A RCW, chapter 43.21C RCW and Ordinance \_\_\_\_\_ (pertaining to public hearings and notification), will always be met. However, the City may go beyond the legal minimums to ensure the public is aware of meetings or hearings and of their opportunity to be involved in local planning efforts.

- a. **Public meetings, workshops, open houses, and design forums** are opportunities for open discussion between the public, staff, and decision-makers that do not normally involve public testimony.
  - As appropriate, given the specific proposal, public workshops should be hosted prior to the public hearing(s) as a means to involve and educate the public and solicit their opinions, reactions, or suggestions. The number of workshops should be based upon the specific circumstances of the case;
- b. **Public hearings** are more formalized, legal proceedings where public testimony is presented to a decision-maker for consideration. The result of a public hearing generally consists of an official recommendation in the case of the Planning Commission or a legislative decision by the City Council.
  - At least one public hearing will be conducted prior to making either a recommendation or an official decision on a comprehensive plan, a development regulation implementing the plan, or an amendment to either;
- c. The public shall also have the opportunity to attend **regular or special meetings** to observe and aid in discussion topics.
- d. **Working subgroup meetings** may deviate from the above techniques due to the unique circumstances associated with their function. These include the rapid, high volume, recurring meetings of technical committees, subcommittees, or work groups which focus their efforts on specific issues or limited supporting tasks (as opposed to meetings of a quorum of the Planning Commission or City Council in which they consider complete draft plans, regulations, or amendment proposals meant to result in a formal recommendation of official decision.

#### 4. Opportunity for Open Discussion

The City will ensure that public meetings allow for an open discussion of the relevant issues and that hearings allow for appropriate public testimony. When public meetings, workshops, or hearings are conducted, The City will ensure that those who choose to participate in the planning process have the opportunity to actually take part and have their opinions heard. To ensure participation opportunities, the following actions will be implemented:

- **Establish** an agenda that clearly defines the purpose of the meeting or hearing, the items to be considered, and actions that may be taken. If available early, the agenda should be included or summarized in the notice(s);
- **The scheduled** date, time, and place should be convenient so as to encourage the greatest number of people to attend;
- **A clearly** identifiable facilitator or chair will conduct the meeting or hearing in an orderly fashion to ensure that all attendees have an opportunity to discuss issues, offer comments, or provide testimony;
- **The facilitator** or chair should provide introductory remarks outlining the purpose of the meeting or hearing and describing how the attendees can best participate and how their input may be used;
- **As appropriate**, City staff may provide a brief overview of any documents or proposals to be considered;
- **All persons** desiring to participate should be allowed to do so. However, specific factors, such as the purpose of the meeting, size of attendance, time factors, or other opportunities to participate, may suggest some appropriate constraints to be applied. Rules of order for the meeting or hearing should be set forth clearly by the chair or facilitator;
- **All attendees** will be encouraged to identify themselves on sign-in sheets;
- **All meetings** and hearings should be tape recorded;
- **Written** findings, decision, and minutes should be prepared and available as soon as possible following a hearing;
- **Special** arrangements for meetings or hearings will be made under the provisions of the Americans with Disabilities Act (ADA) with advance notice;
- **If the City Council** chooses to consider a change to an amendment to the comprehensive plan or development regulation, and the change is proposed after the opportunity for review and comment has passed under the City's procedures, an opportunity for public review and comment on the proposed change shall be provided before the City Council votes on the proposed change (all as required by RCW 36.70A.035(2)).
- **As set forth in RCW 36.70A.035(2)(b)**, an additional opportunity for public

review and comment is not required if:

- An environmental impact statement has been prepared under Chapter 43.21C RCW for the pending resolution or ordinance and the proposed change is within the range of alternatives considered in the environmental impact statement;
- The proposed change is within the scope of the alternatives available for public comment;
- The proposed change only corrects typographical errors, corrects cross-references, makes address or name changes, or clarifies language of a proposed ordinance or resolution without changing its effect;
- The proposed change is to a resolution or ordinance making a capital budget decision as provided in RCW 36.70A.120; or
- The proposed change is to a resolution or ordinance enacting a moratorium or interim control adopted under RCW 36.70A.390.

## 5. Opportunity for Written Comments

The City will encourage submission of written comments or written testimony throughout the planning process. In many instances, detailed, technical, or personal comments can be best expressed and understood in written format. The following steps should be taken to encourage written comments:

- **As appropriate**, notices for meetings, workshops, and hearings should include the name and address of the person(s) to whom written comments should be sent, along with the deadline for submitting comments;
- **Persons** speaking or testifying should be encouraged to concisely express their comments verbally and provide specific details in written format;
- **The deadline** for submitting written comments, if allowed subsequent to a meeting or hearing, should be clearly announced by the facilitator or chair;
- **Comment sheets** for written public input should be available at all workshops with the deadline for submitting the completed sheets to City Hall noted;
- **Innovative** techniques, as appropriate to a specific planning task, should be developed and implemented to solicit and document the public's concerns, suggestions, or visions for the community. Techniques may include, but are not limited to, surveys, interactive displays or the innovative use of electronic communication technologies.

## 6. Consideration of and Response to Public Comments

The City will consider relevant public comments and public testimony in the decision-making process. Various methods for informing and involving the public, providing public notice of proposals, and soliciting public opinion or comments have been established above. Many of those represent the initial steps for bringing public comments into the decision-making process. Other guidelines set the stage for decision-makers to consider those comments. (For example, tape recording meetings or hearings and soliciting written comments allow decision-makers the opportunity to review and consider relevant information in detail before a decision is actually made.)

Additional steps will be taken so that comments and recommendations from the public are reviewed by the decision-makers for relevancy. Those would include the following:

- **Time** should be reserved subsequent to the close of a hearing or comment deadline and prior to an actual decision so that the decision maker(s) can adequately review all relevant material or comments. Reconvening a hearing for the purpose of addressing comments is an option that the decision maker(s) may use on a case-by-case basis;
- **Substantive comments** pertaining to studies, analyses, or reports, along with necessary responses, should be included in the published document itself (such as occurs in the SEPA process of developing a Draft Environmental Impact Statement (EIS) and then a Final EIS with comments and responses);
- **The record** (such as tape recordings, written comments or testimony, documents, summaries, etc.) will be compiled and maintained by the City. That record will be made available to the decision maker(s) for their consideration and review prior to a decision. Relevant comments or testimony should be addressed through the findings-of-fact portion of the decision maker's written decision or recommendation.