

Title 15

BUILDINGS AND CONSTRUCTION

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Chapter 15.04**TECHNICAL CODES ADOPTED***

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*Editor's note—Ord. No. 943, § 1, adopted June 17, 2010, repealed the former Chapter 15.04, §§ 15.04.010—15.04.050, and enacted a new Chapter 15.04 as set out herein. The former Chapter 15.04 pertained to similar subject matter and derived from Ord. No. 327, 1986; Ord. No. 411, 1989; Ord. No. 412, 1989; Ord. No. 453, 1992; Ord. No. 459, 1992; Ord. No. 464, 1992; Ord. No. 466, 1992; Ord. No. 467, 1992; Ord. No. 468, 1992; Ord. No. 469, 1992; Ord. No. 4702; amended during 9/92 supplement; Ord. No. 543, 1995; Ord. No. 612, 1997; Ord. No. 641, 1998; Ord. 810, 2006 and Ord. No. 830, 2007.

15.04.010 Chapter scope.

This chapter establishes the administrative, organizational, and enforcement rules and regulations for the adopted technical codes as amended pursuant to this chapter.

(Ord. No. 943, § 2, 6-17-2010)

15.04.020 Purpose.

The state legislature has established the state building code applicable throughout all cities and counties in the state of Washington for the purpose of promoting the health, safety, and welfare of the occupants or users of buildings and structures and the general public. Accordingly, this chapter is designed to effectuate the following purposes, objectives, and standards of the state building code:

A. To require minimum performance standards and requirements for construction and construction materials, consistent with accepted standards of engineering, fire and life safety;

B. To require standards and requirements in terms of performance and nationally accepted standards;

C. To permit the use of modern technical methods, devices and improvements;

D. To eliminate restrictive, obsolete, conflicting, duplicating and unnecessary regulations and requirements which could unnecessarily increase construction costs or retard the use of new materials and methods of installation or provide unwarranted preferential treatment to types or classes of materials or products or methods of construction;

E. To provide for standards and specifications for making buildings and facilities accessible to and usable by physically disabled persons; and

F. To consolidate within each authorized enforcement jurisdiction, the administration and enforcement of building codes.

(Ord. No. 943, § 2, 6-17-2010)

15.04.030 State building code adopted.

The state building code is made a part hereof, as though fully set forth in this chapter, and is hereby adopted, as amended herein, as the City of Black Diamond Building Code.
(Ord. No. 943, § 2, 6-17-2010)

15.04.040 Definitions.

Use of Words and Phrases. As used in this Chapter 15.04 BDMC, unless the context or subject matter clearly requires otherwise, the following words or phrases defined in this section shall have the indicated meanings:

"Building code" or "City of Black Diamond Building Code" shall mean and refer to the state building code as adopted herein and as amended pursuant to the provisions of this Chapter 15.04 BDMC.

"Buildings and construction code" shall mean and refer to the International Building Code, as amended pursuant to the provisions of this Chapter 15.04 BDMC.

"Building service equipment" means and refers to the plumbing, mechanical and electrical equipment including piping, wiring, fixtures, and other accessories which provide sanitation, lighting, heating, ventilation, cooling, refrigeration, firefighting, and transportation facilities essential to the occupancy of the building or structure for its designated use.

"BDMC" means the Black Diamond Municipal Code.

"Existing building" means a building erected prior to the adoption of this code, or one for which a legal building permit has been issued and approved.

"Fire code" shall mean and refer to the International Fire Code, as amended pursuant to the provisions of this Chapter 15.04 BDMC.

"International Building Code" shall mean and refer to those portions of the International Building Code, published by the International Code Council, Inc., as adopted and amended from time to time and made a part of the state building code by the Washington State Building Code Council

pursuant to Chapters 19.27 and 70.92 of the Revised Code of Washington and Title 51 of the Washington Administrative Code.

"International Existing Building Code" shall mean and refer to the International Existing Building Code, published by the International Code Council, Inc., as adopted and amended from time to time by the Washington State Building Code Council pursuant to Chapters 19.27 and 70.92 of the Revised Code of Washington and Title 51 of the Washington Administrative Code.

"International Fire Code" shall mean and refer to those portions of the International Fire Code, published by the International Code Council, Inc., as adopted and amended from time to time and made a part of the State Building Code by the Washington State Building Code Council pursuant to Chapters 19.27 and 70.92 of the Revised Code of Washington and Title 51 of the Washington Administrative Code.

"International Fuel Gas Code and the National Fuel Gas Code" shall mean and refer to those portions of the International Fuel Gas Code and the National Fuel Gas Code, published by the International Code Council, Inc., that are made a part of the International Mechanical Code, and as are adopted and amended from time to time and made a part of the state building code by the Washington State Building Code Council pursuant to Chapters 19.27 and 70.92 of the Revised Code of Washington and Title 51 of the Washington Administrative Code.

"International Mechanical Code" shall mean and refer to those portions of the International Mechanical Code, published by the International Code Council, Inc., as adopted and amended from time to time and made a part of the state building code by the Washington State Building Code Council pursuant to Chapters 19.27 and 70.92 of the Revised Code of Washington and Title 51 of the Washington Administrative Code.

"International Property Maintenance Code" shall mean and refer to International Property Maintenance Code, published by the Interna-

tional Code Council, Inc., as adopted pursuant to Section 101.4.5 of the International Building Code.

"International Residential Code" shall mean and refer to those portions of the International Residential Code, published by the International Code Council, Inc., as adopted and amended from time to time and made a part of the State Building Code by the Washington State Building Code Council pursuant to Chapters 19.27 and 70.92 of the Revised Code of Washington and Title 51 of the Washington Administrative Code.

"Mechanical code" shall mean and refer to the International Mechanical Code, as amended pursuant to the provisions of this Chapter 15.04 BDMC.

"Mobile home" or "manufactured home" as defined by RCW 46.04.302 means a structure, designed and constructed to be transportable in one or more sections, is built on a permanent chassis, and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities that include plumbing, heating, and electrical systems contained therein.

"Modular home" as defined by RCW 46.04.303 means a factory-assembled structure designed primarily for use as a dwelling when connected to the required utilities that include plumbing, heating, and electrical systems contained therein, does not contain its own running gear, and is mounted on a permanent foundation. A modular home does not include a mobile home or manufactured home.

"Occupancy" means the purpose for which a building, or part thereof, is used or intended to be used.

"Person" shall mean and refer to any individual, corporation, partnership, association, joint-stock-company, limited liability company, political subdivision, public corporation, taxing districts, trust, or any other legal entity.

"Plumbing code and plumbing code standards" shall mean and refer to the Uniform Plumbing Code and Uniform Plumbing Code Standards, as amended pursuant to the provisions of this Chapter 15.04 BDMC.

"Residential code" shall mean and refer to the International Residential Code, as amended pursuant to the provisions of this Chapter 15.04 BDMC.

"Shall" or "will" as used in this chapter, is mandatory.

"State building code" shall mean and consist of the following national model codes and the following standards, as such model codes and standards are adopted and amended from time to time by the Washington State Building Code Council pursuant to Chapters 19.27 and 70.92 of the Revised Code of Washington and Title 51 of the Washington Administrative Code:

1. The International Building Code, published by the International Code Council, Inc.;

2. The International Residential Code, published by the International Code Council, Inc.;

3. The International Mechanical Code, published by the International Code Council, Inc., including the International Fuel Gas Code and the National Fuel Gas Code, published by the International Code Council, Inc., except that the standards for liquified petroleum gas installations shall be NFPA 58 (Storage and Handling of Liquified Petroleum Gases) and ANSI Z223.1/NFPA 54 (National Fuel Gas Code);

4. The International Fire Code, published by the International Code Council, Inc., including Section 503 Fire Apparatus Access Roads, including the Appendices Chapters B, C and D, and those standards of the National Fire Protection Association specifically referenced in the International Fire Code: Provided that, notwithstanding any wording in this code, participants in religious ceremonies shall not be precluded from carrying hand-held candles;

5. Except as provided in RCW 19.27.170, the Uniform Plumbing Code and Uniform Plumbing Code Standards, published by the International Association of Plumbing and Mechanical Officials: Provided that, any provisions of the Uniform Plumbing Code and Uniform Plumbing Code Standards affecting sewers or fuel gas piping are not adopted; and

6. The rules adopted by the council establishing standards for making buildings and facilities accessible to and usable by the physically disabled or elderly persons as provided in RCW 70.92.100 through 70.92.160, as now or hereafter amended. All amendments to the state building code adopted by the Washington State Building Council from time to time are hereby, upon the effective date of such amendments, incorporated in this chapter as though fully set forth herein. In the event that any provisions of the state building code are renumbered, any reference in this chapter to such provision shall refer to such provision as renumbered.

"State energy code" shall mean and refer to the Washington State Energy Code as set forth at Chapter 51.11 of the Washington Administrative Code, including the Washington State Residential Energy Code and the Washington State Nonresidential Energy Code, and all amendments thereto as adopted from time to time.

"Technical codes" shall mean and refer to the national codes, standards and appendices incorporated as part of the state building code, including without limitation, the International Property Maintenance Code, all as amended pursuant to the provisions of this Chapter 15.04 BDMC, together with the International Existing Building Code and the state energy code, all as amended pursuant to the provisions of this Chapter 15.04 BDMC.

"Used mobile home" means a mobile home, which has been previously sold at retail and has been subjected to tax under chapter 82.08 RCW, or which has been previously used and has been subjected to tax under chapter 82.12 RCW, and which has substantially lost its identity as a mobile unit at the time of sale by virtue of its being fixed in location upon land owned or leased by the owner of the mobile home and placed on a foundation (posts or blocks) with fixed pipe connections with sewer, water, and other utilities.

"Uniform Plumbing Code and Uniform Plumbing Code Standards" shall mean and refer to those portions of the Uniform Plumbing Code

and Uniform Plumbing Code Standards, published by the International Association of Plumbing and Mechanical Officials, as adopted and amended from time to time and made a part of the state building code by the Washington State Building Code Council pursuant to Chapters 19.27 and 70.92 of the Revised Code of Washington and Title 51 of the Washington Administrative Code. (Ord. No. 943, § 2, 6-17-2010)

15.04.050 Order of precedence.

A. Except as provided in subsection (B) of this section, conflicts within the technical codes, standards and appendices shall be resolved in accordance with the provisions of Chapters 19.27 and 19.27A of the Revised Code of Washington and Title 51 of the Washington Administrative Code.

B. In the event of a conflict between the appeal and enforcement provisions contained in the technical codes and the appeal and enforcement provisions set forth at sections 15.04.230 and 15.04.240 BDMC, the provisions set forth at Sections 15.04.230 and 15.04.240 of this title shall control to the extent of the conflict.

(Ord. No. 943, § 2, 6-17-2010)

15.04.060 Appendices.

The appendices to the national codes are not adopted as part of the building code unless specifically made a part of the state building code or specifically adopted pursuant to the provisions of this Chapter 15.04 BDMC.

(Ord. No. 943, § 2, 6-17-2010)

15.04.070 Other laws.

The provisions of Chapter 15.04 shall not be deemed to nullify any provisions of local, state or federal law.

(Ord. No. 943, § 2, 6-17-2010)

15.04.080 Application of references.

References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section, or provision of this title.

(Ord. No. 943, § 2, 6-17-2010)

15.04.090 Applicability.

Except as otherwise provided herein, this chapter shall apply to all:

A. New construction and additions; and

B. The entire building when all additions, alterations, remodels, or repairs to existing structures in which the area of the additions, alterations, or repairs exceeds more than fifty percent of the habitable area of the existing structure. In the case of a series of additions, alterations, or repair projects, this title shall become effective at the point where in any three-year period the cumulative area of additions, alterations, or repairs exceeds fifty percent of the area of the structure at the time such additions, alterations, or repairs are commenced and shall apply to the entire building.

(Ord. No. 943, § 2, 6-17-2010)

15.04.100 Building division established.

There is established for the city, the building division that shall be under the supervision and control of the city administrator or his/her designee.

(Ord. No. 943, § 2, 6-17-2010)

15.04.110 Building official designated.

The building official, as defined in Section 104 of the International Building Code, R104 of the International Residential Code, and Section 104 of the International Mechanical Code, shall be appointed by the city administrator, and in the absence of such appointment, shall be the city administrator.

(Ord. No. 943, § 2, 6-17-2010)

15.04.120 Administration and enforcement.

The building official is hereby authorized and directed to enforce the provisions of the technical

codes, with the exception of the fire code. The building official, with the exception of the fire code, shall have the authority to render interpretations of the technical codes and to adopt policies and procedures in order to clarify the application of their provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this chapter. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in the technical codes. Except as otherwise provided in this chapter, the provisions of this chapter shall be administered and enforced by the building official of the city.

(Ord. No. 943, § 2, 6-17-2010)

15.04.130 Fire chief and fire marshal designated.

The chief of fire district No. 44, or the District's successor, shall be deemed to be the "chief" or "chief of the fire department" or "fire code official" for the purposes of enforcing and administering all provisions of the fire code. The fire code official shall have the authority to render interpretations of the fire code and to adopt policies and procedures in order to clarify the application of their provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this chapter. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in the technical codes. Except as otherwise provided in this chapter, the provisions of fire code shall be administered and enforced by the fire code official, provided that, the building official shall also have authority to enforce the fire code.

(Ord. No. 943, § 2, 6-17-2010)

15.04.140 Fees.

Except as otherwise provided in this chapter, the fee for any permit issued by the city under the authority of this chapter shall be as established by the city council. A permit shall not be valid until

the fees prescribed by law have been paid, nor shall an amendment to a permit be released until the additional fee, if any, has been paid.
(Ord. No. 943, § 2, 6-17-2010)

15.04.150 Liability.

This chapter is not intended, nor shall this chapter shall be construed, to relieve or lessen the responsibility of a person owning, building, altering, constructing, or moving a building or structure as defined in this chapter; nor shall the city or an agent thereof be held as assuming such responsibility or liability by reason of inspection authorized in this chapter, by reason of a certificate of inspection issued by the city or any of its agents, or by reason of any duty imposed under this chapter. No provision of or any term used in this chapter is intended to impose any duty upon the city or any of its officers or employees which would subject them to damages in a civil action. The building official, or employee charged with the enforcement of this code, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by this chapter or other pertinent law or ordinance, shall not thereby be rendered liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties. Any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this chapter shall be defended by a legal representative of the city until the final termination of the proceedings. This chapter is intended for the purpose of pro-

moting the health, safety, and welfare of the general public further not intended to create a duty to any person or individual.
(Ord. No. 943, § 2, 6-17-2010)

15.04.160 Expiration of permit.

Notwithstanding any provision to contrary in the technical codes, every permit issued pursuant to this chapter shall become invalid unless the work on the site authorized by such permit is commenced within one hundred eighty days after its issuance, or if the work authorized on the site by such permit is suspended, abandoned or not substantially completed two years after the date the permit is issued. The building official is authorized to grant, in writing, a one-time extension of time, for a period not more than two years. The extension shall be requested in writing and justifiable cause demonstrated.
(Ord. No. 943, § 2, 6-17-2010)

15.04.170 Suspension or revocation.

The building official is authorized to suspend or revoke a permit issued under the provisions of this chapter wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation or any of the provisions of this chapter.
(Ord. No. 943, § 2, 6-17-2010)

15.04.180 Amendments to state building code.

The state building code is hereby amended as follows:

A. International Building Code:

1. Group Occupancies. The International Building Code is amended by the adoption of the following occupancy groups:

Occupancy Title	Description	
Assembly	A	Social, recreational or civic gatherings of 50 or more persons
Business	B	Office, professional, social activities and related records. Education facilities past 12th grade
Educational	E	Day care for children older than 2.5 years
Factory	F	Manufacturing and industrial processes, except those that are hazardous

Occupancy Title	Description	
Hazardous	H	High potential for health or physical safety hazards. Explosives, flammables, corrosives, toxic materials
Institutional	I	Facilities where occupants cannot fully care for themselves
Mercantile	M	Mercantile sales including stocking of goods
Residential	R	People live and sleep in an unsupervised setting
Storage	S	Storage
Utility	U	Agricultural buildings, aircraft hangers, barns, greenhouses, livestock shelters, tanks and towers

B. The International Property Maintenance Code.

1. Notwithstanding any provision in the International Property Maintenance Code to the contrary, all appeals shall be governed by Section 15.04.230 BDMC.

2. The following sections of the International Property Maintenance Code, or the corresponding section of any updated or amended version of the International Property Maintenance Code, are removed in their entirety and are not adopted:

111	Means of Appeal
302.9	Defacement of property
304.2	Protective treatment
304.13.2	Operable windows
404.4.1	Room area
404.5	Overcrowding
404.6	Efficiency unit
604	Electrical facilities

3. That portion of Section 103.5 of the International Property Maintenance Code, or the corresponding section of any updated or amended version of the International Property Maintenance Code, that is left for the decision of the local jurisdiction shall read as follows:

The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be set by the city council.

4. That portion of Section 302.4 of the International Property Maintenance Code, or the cor-

responding section of any updated or amended version of the International Property Maintenance Code, that is left for the decision of the local jurisdiction shall read as follows:

All premises and exterior property shall be maintained free from weeds or plant growth in excess of twelve (12") inches. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs, provided; however, this term shall not include cultivated flowers and gardens.

5. The last sentence of Section 304.9 of the International Property Maintenance Code, or the corresponding section of any updated or amended version of the International Property Maintenance Code, is not adopted so that Section 304.9 shall read only:

All overhang extensions, including but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition.

C. The International Fire Code.

1. Section 504.3 of the International Fire code section 504.3 is amended as follows:

504.3 Stairway access to roof. New buildings Three or more stories in height, except those with a roof slope greater than four units vertical and 12 units in horizontal (33.3 percent slope), shall be provided with a stairway to the

roof. Stairway access to the roof shall be provided in accordance with Section 1009.12. Such stairway shall be marked at the street and floor levels with a sign indicating that the stairway continues to the roof. Where roofs are used for roof gardens or for other purposes, stairways shall be provided as required for such occupancy classification.

2. Section 903.2 of the International Fire code is amended as follows:

903.2 Where required. Approved automatic sprinkler systems in new buildings and structures shall be provided in the locations described in this section.

Exception. Unless specifically required by another code section all non-residential occupancies shall be provided in buildings with a fire area in excess of 3500 square feet exclusive of fire walls.

(Ord. No. 943, § 2, 6-17-2010)

15.04.190 Energy code adopted.

The Washington State Energy Code, as amended in this chapter, is hereby adopted as the Energy Code of the City of Black Diamond, and made a part hereof as though fully set forth in this Chapter. All amendments to the Washington State Energy Code are hereby, upon the effective date of such amendments, incorporated in this Chapter as though fully set forth herein. In the event that any provisions of the Washington State Energy Code are renumbered, any reference in this chapter to such provision shall refer to such provision as renumbered.

(Ord. No. 943, § 2, 6-17-2010)

15.04.200 International Existing Building Code.

The International Existing Building Code, as amended in this chapter, is hereby adopted as the Existing Building Code of the City of Black Diamond, and made a part hereof as though fully set forth in this chapter. All amendments to the Washington State Existing Building Code are hereby,

upon the effective date of such amendments, incorporated in this chapter as though fully set forth herein. In the event that any provisions of the Washington State Existing Building Code are renumbered, any reference in this chapter to such provision shall refer to such provision as renumbered.

(Ord. No. 943, § 2, 6-17-2010)

15.04.210 Manufactured housing.

All manufactured homes shall be designed to support the local snow load of twenty-five pounds per square foot of ground snow load.

(Ord. No. 943, § 2, 6-17-2010)

15.04.220 Assurance device for building permit—Requirements.

Before issuing any permit pursuant to this chapter the city may require the applicant to execute and file with the city a cash bond or other security in a form approved by the city administrator in such reasonable sum and with the securities as the building official may specify, conditioned that the applicant will pay any and all damages that may be recovered against the city by any person on account of injury to persons or property occasioned by or in any manner resulting from the issuance of the permit or by reason of any act or thing done pursuant thereto, or from the occupancy or disturbance of any street or sidewalk in the city and also to save, keep, and defend the city free from all such damages and costs as may be incurred in defending any such claim, and/or further conditioned that the applicant shall pay to the city the cost of repairing any and all damage which may be done by the applicant or his/her agents to the streets, utilities, or property of the city during or pursuant to the work covered by such permit.

(Ord. No. 943, § 2, 6-17-2010)

15.04.230 Appeals.

A. Except as otherwise provided in this chapter, a person aggrieved by a decision or interpretation of the building official or fire code official

made pursuant to this chapter, or a decision or interpretation of the city administrator pursuant to Chapter 15.28 BDMC, shall be entitled to a review of such decision or interpretation by appeal to the hearing examiner in accordance with the provisions of Chapter 2.30 (hearing examiner). Such appeal shall be in writing and must be filed with the city clerk within ten days of such decision, in accordance with Chapter 2.30 BDMC.

B. An application for appeal shall be based on a claim that this chapter or the technical codes have been incorrectly interpreted, that the provisions of this chapter or the technical codes do not apply or that an equally good or better form of construction, method of protection or safety is proposed. The hearing examiner shall have no authority relative to interpretation of the administrative provisions of this chapter nor shall the hearing examiner be empowered to waive requirements of this chapter. The appellant shall bear the burden of proof by substantial evidence on the record.

C. All references to "board of appeals" in any of the technical codes shall hereafter mean and refer to the hearing examiner.

D. Standing. Standing to bring an appeal under this chapter is limited to the following persons:

1. The applicant and the owner of property to which the permit decision is directed.

2. Another person aggrieved or adversely affected by the order, determination, or decision, or who would be aggrieved or adversely affected by a reversal or modification of the order, determination, or decision. A person is aggrieved or adversely affected within the meaning of this section only when all of the following conditions are present:

- a. The order, determination, or decision has prejudiced or is likely to prejudice that person;

- b. A judgment in favor of that person would substantially eliminate or redress the prejudice to that person caused or likely to be caused by the order, determination, or decision; and

- c. The appellant has exhausted his or her administrative remedies to the extent required by law.

- E. The appeal shall contain a clear reference to the matter being appealed and a statement of the specific elements of the building official's or fire code official's order, decision or determination disputed by the appellant.

- F. The appeal will be an open record appeal hearing. The scope of the appeal is limited to the specific elements of the building official's or fire code official's order, decision or determination disputed by the appellant and the hearing examiner shall only consider comments, testimony and arguments on these specific elements.

(Ord. No. 943, § 2, 6-17-2010)

15.04.240 Enforcement—Violations.

The provisions of this chapter shall constitute a regulation within the meaning of section 8.02.020 BDMC, a violation of which is subject to the code enforcement provisions and penalties set forth at Chapter 8.02 BDMC, as now or hereafter amended.

(Ord. No. 943, § 2, 6-17-2010)

Chapter 15.08

MUNICIPAL PUBLIC WORKS CONSTRUCTION STANDARDS

Sections:

15.08.010 Engineering design and construction standards manual adopted.

15.08.020 Copies available for inspection.

15.08.030 Construction to be in accordance with adopted specifications.

**15.08.040 Public works director—
Enforcement responsibility.**

15.08.050 Failure to comply.

15.08.010 Engineering design and construction standards manual adopted.

A. The city hereby adopts a written set of guidelines and construction standards for public works projects within the city that affect public roads, water systems, and sewers, to be known as the City of Black Diamond Engineering Guidelines And Construction Standards. This written set of guidelines and standards may be amended annually or more often as needed by the public works director in coordination with the public works committee. Such amendments shall become effective upon being made by the director and shall not require review and separate approval by the city council, provided, whenever a section of the Guidelines and Construction Standards is amended, there shall be indicated at the end of the amended section the most recent date of amendment so as to provide notice that a change has occurred.

B. The city adopts by reference the most recent version of the American Public Works Association Standard Specifications for Municipal Public Works Construction and any future amendments thereto. Should any conflict exist between the APWA Standard Specifications and the city of Black Diamond Engineering Guidelines and Construction Standards, the Construction Standards shall control. Where disagreement occurs over the

proper application of the APWA Standard Specifications and the Construction Standards, the public works director shall interpret the APWA Standard Specifications and the Construction Standards and make a determination. (Ord. 362 § 1, 1987) (Ord. No. 915, § 3, 6-25-2009)

15.08.020 Copies available for inspection.

Copies of the American Public Works Association Standard Specifications for Municipal Public Works Construction and of the current Engineering Guidelines and Construction Standards Manual shall be available to the public for review on the city's website, at the city's public works department, and at the city clerk's office. Copies may be purchased on electronic disc format at the cost indicated on the city's official fee schedule. (Ord. 362 § 2, 1987) (Ord. No. 915, § 4, 6-25-2009)

15.08.030 Construction to be in accordance with adopted specifications.

All repairs to public works, or new public works construction, shall be performed in accordance with the APWA Standard Specifications and the city's Engineering Design and Construction Standards Manual, and all amendments thereto. (Ord. 362 § 3, 1987) (Ord. No. 915, § 5, 6-25-2009)

**15.08.040 Public works director—
Enforcement responsibility.**

The public works director of the city, or his or her designee, is authorized and empowered to enforce the provisions contained within the American Public Works Association Standard Specifications for Municipal Public Works Construction and in the city's Engineering Design and Construction Standards Manual on all public works repairs and new construction. (Ord. 362 § 4, 1987) (Ord. No. 915, § 6, 6-25-2009)

15.08.050 Failure to comply.

Any party failing to comply with the specifications set forth in this chapter on public works

construction shall be subject to the general penalty provisions of the municipal code and may also be required, at the discretion of the city, to bring the project into compliance with the standards in this chapter. Nothing in this section shall limit the city from pursuing any other remedies available at law. (Ord. 362 § 5, 1987)
(Ord. No. 915, § 7, 6-25-2009)

Chapter 15.10

RESERVED*

***Editor's note**—Ord. No. 943, § 1, adopted June 17, 2010, repealed Chapter 15.10, §§ 15.10.010—15.10.100, which pertained to additional fire protection requirements and derived from Ord. No. 486, 1993 and Ord. No. 563 1995.

Chapter 15.12

RESERVED*

Chapter 15.16

RESERVED†

***Editor's note**—Ord. No. 943, § 1, adopted June 17, 2010, repealed Chapter 15.12, § 15.12.010, which pertained to the Uniform Administrative Code adopted and derived from Ord. 326, 1986; Ord. No. 543, 1995; Ord. No. 641, 1998 and Ord. No. 830, 2007.

†**Editor's note**—Ord. No. 943, § 1, adopted June 17, 2010, repealed Chapter 15.16, § 15.16.010, which pertained to energy code adopted and derived from Ord. No. 325, 1986; Ord. No. 458, 1992; Ord. No. 543, 1995; Ord. No. 641, 1998 and Ord. No. 830, 2007.

Chapter 15.18

RESERVED*

Chapter 15.20

RESERVED†

***Editor's note**—Ord. No. 943, § 1, adopted June 17, 2010, repealed Chapter 15.18, §§ 15.18.010 and 15.18.020 which pertained to ventilation and indoor air quality code and derived from Ord. No. 448, 1992; Ord. No. 543, 1995; Ord. No. 641, 1998 and Ord. No. 830, 2007.

†**Editor's note**—Ord. No. 943, § 1, adopted June 17, 2010, repealed Chapter 15.20, § 15.20.010, which pertained to setback and lot lines and derived from Ord. No. 343, 1987.

Chapter 15.24

FLOOD DAMAGE PREVENTION

Sections:

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- 15.24.150 Manufactured homes.
- 15.24.160 Floodways.

15.24.010 Title.

This chapter shall be known as the "flood damage prevention ordinance." (Ord. 410 § 1, 1989)

15.24.020 Applicability.

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the city. (Ord. 410 § 2, 1989)

15.24.030 Adoption of flood insurance study.

The flood insurance study for the areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "Flood Insurance Study Rate Map dated October 30, 1979 for the City of Black Diamond" dated the thirtieth day of October, 1979, with accompanying flood insurance

maps, is adopted by reference and declared to be part of this chapter. The flood insurance study is on file with the city clerk-treasurer, city of Black Diamond, City Hall, Black Diamond, Washington. (Ord. 410 § 3, 1989)

15.24.040 Compliance.

No structure or land shall hereinafter be constructed, located, extended, converted or altered without full compliance with the terms of this chapter and other applicable regulations. Violations of the provisions of this chapter by failure to comply with any of the requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction, be penalized as set forth in the general penalty provision, Section 1.12.010 of this code, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation. (Ord. 410 § 4, 1989)

15.24.050 Development permit required.

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in the areas of special flood hazard, as set forth in this chapter. The permit shall be for all structures including manufactured homes, as set forth in the definitions provision of the Flood Damage Prevention Model Ordinance, for the state of Washington, as promulgated by the Federal Emergency Management Agency, hereinafter referred to as "Model Ordinance," and for all development including fill and other activities, also as set forth in the definitions provisions of the Model Ordinance. (Ord. 410 § 5, 1989)

15.24.060 Base flood elevation data—Use.

When base flood elevation data has not been provided in accordance with the area identified by

the Federal Insurance Administration, Scientific and Engineering Report, referred to in this chapter, the public works director shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source. (Ord. 410 § 6, 1989)

B. Require that maintenance is provided within the altered or relocated portion of the water course

15.24.070 Base flood elevation— Examination of structures.

A. Where base flood elevation data is provided through the flood insurance study, or as required as in Section 15.24.060, obtain and record the actual (as built) elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures, and whether or not the structure contains a basement.

B. For all new or substantially improved floodproof structures:

1. Verify and record actual elevation (in relation to mean sea level), and
2. Maintain the floodproof certifications required in Section 41(3) of Model Ordinance. (Ord. 410 § 7, 1989)

15.24.080 Administration.

The utility department supervisor is appointed to administer and implement this chapter by granting and denying development permit applications in accordance with these provisions. The duties of utility department supervisor shall include, but not be limited to, reviewing all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required. (Ord. 410 § 8, 1989)

15.24.090 Notification of water course alteration.

A. Notify adjacent communities and Washington State Department of Ecology prior to any alteration or relocation of a water course, submit evidence of such notification to federal insurance administration.

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so that the flood carrying capacity is not diminished. (Ord. 410 § 9, 1989)

15.24.100 Construction standards.

In all areas of special flood hazard, the following standards are required:

A. Anchoring.

1. All new Construction and substantial improvement shall be anchored to prevent flotation, collapse or lateral movement of structure.

2. All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, the use of over the top or frame ties to ground anchor (reference FEMA's "Manufactured Home Installation in Flood Hazard Area" guidebook for additional techniques).

B. Construction Materials and Methods.

1. All new construction and substantial improvement shall be constructed with materials and utility equipment resistant to flood damage.

2. All new construction and substantial improvement shall be constructed using methods and practices that minimize flood damage.

3. Electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located as to prevent water from entering or accumulating within the components during the condition of flooding.

C. Utilities.

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the system into flood waters.

3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. (Ord. 410 § 10, 1989)

15.24.110 Subdivision proposals.

A. All subdivision proposals shall be consistent with the need to minimize flood damage.

B. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, water systems located and constructed to minimize flood damage.

C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

D. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least fifty lots or five acres (whichever is less). (Ord. 410 § 11, 1989)

15.24.120 Building permit review.

Where elevation data is not available either through the flood insurance study or from other authoritative source, applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past floods, etc. where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates. (Ord. 410 § 12, 1989)

15.24.130 Residential construction.

A. New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.

B. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for entry and exit of floodwaters. Design for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

1. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

2. The bottom of all openings shall be not higher than one foot above grade.

3. Opening shall be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters. (Ord. 410 § 13, 1989)

15.24.140 Nonresidential construction.

New construction or substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to or above the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

A. Be floodproof so that below one foot above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

B. Have structural components capable of resisting hydrostatic and hydrodynamic loads and affects the buoyancy;

C. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based upon their development and/or review of the structural design, specifications and plans. Such certification shall be provided to the official as set forth in this chapter.

D. Nonresidential structures that are elevated, not floodproof, must meet the same standards for space below the lowest floor as described in subsection B of Section 15.24.130.

E. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based upon rates that are one foot below floodproof level (e.g. a building floodproof to one foot above the base flood level will be rated as at the base flood level). (Ord. 410 § 14, 1989)

15.24.150 Manufactured homes.

All manufactured homes will be placed or substantially improved within zones A1/30, AH and AE on the communities FIRM shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is to or above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provisions set forth in subsection A of Section 15.24.130. This section applies to manufactured homes to be placed or substantially improved in an expansion to an existing manufactured home park or subdivision. This section does not apply to manufactured homes to be placed or substantially improved in existing manufactured homes to be placed or substantially improved in existing manufactured homes to be placed or substantially improved in existing manufactured home park or subdivision except where the repair, construction or improvement of the streets, utilities and pads equals or exceeds fifty percent of the value of streets, utilities and pads before repair, reconstruction or improvement has commenced. (Ord. 410 § 15, 1989)

15.24.160 Floodways.

Located with areas of special flood hazard, as established in the section involving basis for establishing areas of special flood hazards set forth in this chapter, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions apply:

A. Prohibit encroachments, including fill, new construction, substantial improvement and other development unless certification by registered professional engineer or architect is provided demonstrating that the encroachment shall not result in increased flood levels during the occurrence of the base flood discharge.

B. Construction or reconstruction of residential structures is prohibited within designated floodways, except for:

1. Repairs, construction or improvements to a structure which do not increase the ground flood area; or

2. Repairs, reconstruction or improvements to a structure, the cost of which does not exceed fifty percent of the market value of the structure either (a) before the repair, reconstruction or repair has started; or (b) if the structure has been damaged, and is being restored, before damage occurred. Work done on structure is to comply with existing health, sanitary or safety codes or the structure is identified as historical places shall not be included in the fifty percent.

3. If subsection A of this section is satisfied, all new construction, substantial improvement shall comply with the applicable flood hazard reduction provisions as set forth above in the provisions for flood hazard reduction. (Ord. 410 § 16, 1989)

Chapter 15.28

LAND CLEARING AND GRADING

Sections:

15.28.010	Land clearing and grading.
15.28.020	Definitions.
15.28.030	Responsible city official.
15.28.040	Clearing and grading permit required.
15.28.050	Exemptions.
15.28.060	Grading and clearing permit application.
15.28.070	Grading and clearing permit—Plans and specifications.
15.28.080	Grading and clearing permit—Review.
15.28.090	Grading and clearing permit—Approval or denial.
15.28.100	Bond required.
15.28.110	Liability insurance.
15.28.120	Operating conditions and standards of performance.
15.28.130	Land restoration.
15.28.140	Forest practices.
15.28.150	Hazards.
15.28.160	General grading inspection.
15.28.170	Right of entry.
15.28.180	Notice of violation.
15.28.190	Failure to comply with notice of violation.
15.28.200	Violations of this chapter.
15.28.210	Appeals.
15.28.220	Liability.
15.28.230	Application of other ordinances.

15.28.010 Land clearing and grading.

This chapter shall regulate the clearing and removal of vegetation, excavation, grading and earth-work construction, including cuts and fills, gravel pits, dumping, quarrying and mining operations within the city. This chapter is further intended to promote the public health, safety and welfare of the citizens of Black Diamond by:

A. Minimizing adverse stormwater impacts caused by the removal of vegetation and the alteration of land forms;

B. Protecting water quality from adverse impacts associated with erosion and sedimentation;

C. Minimizing aquatic and terrestrial wildlife habitat loss caused by the removal of vegetation;

D. Protecting environmentally sensitive areas from adverse clearing and grading activities;

E. Facilitating and encouraging long-term forest practices where appropriate;

F. Minimizing adverse impacts associated with quarrying and mining operations;

G. Preventing damage to property and harm to persons caused by excavations and fills;

H. Establishing an administrative procedure for the issuance of permits, approval of plans, and inspection of clearing and grading operations; and

I. Providing penalties for the violation of this chapter. (Ord. 591 § 2 (part), 1996)

15.28.020 Definitions.

Unless otherwise clearly indicated by the context, certain words and phrases used in this chapter shall have the following meanings. Words used in the singular include the plural, and words used in the plural, include the singular. Words used in the masculine gender include the feminine, and words used in the feminine gender include the masculine.

“Approval” means the proposed work or completed work conforms to this chapter.

“Bedrock” means in-place solid rock.

“Bench” means a relatively level step excavated or constructed on the face of a graded slope surface for drainage and maintenance purposes.

“Berm” means a mound or raised area used primarily for the purpose of screening a site or operation.

“Best management practices” means physical, structural, and/or managerial practices that, when used singly, or in combination, prevent or reduce pollution of water.

“City” means the city of Black Diamond, King County, Washington.

“City administrator” means the city administrator of the city of Black Diamond or his/her duly authorized designee.

“Clearing” means any activity which cuts, removes or seriously damages vegetation, ground-cover, trees or other organic plant matter, including but not limited to root-mat removal and/or topsoil removal, by physical, mechanical, chemical or any other means.

“Cut” means the changing of a grade through excavation.

“Earth material” means any rock, natural soil or combination thereof.

“Environmentally sensitive area” means an area designated and mapped by the city as such pursuant to Section 19.04.290 of this code.

“Erosion” means the wearing away of the ground surface as a result of the movement of wind, water or ice.

“Excavation” means the mechanical removal of earth material.

“Fill” means a deposit of earth material by artificial means.

“Grade” means the vertical location of the ground surface.

“Grading” means any excavating, filling or removal of the duff layer, or combination thereof.

“Grading and clearing permit” means the permit required by this chapter for grading and clearing activities, including temporary permits.

“Owner” means any person having title to, or control of a building or property, including a lessee, guardian, receiver or trustee and the owner’s authorized agent.

“Person” means any individual, partnership, corporation, association, organization, cooperative, public or municipal corporation or agency of the state or local government, however designated.

“Professional engineer” means an engineer currently registered and licensed in the state of Washington to perform, supervise and certify engineering work which he or she is qualified to direct.

“Reclamation” means the final grading and land restoration of a site.

"Road prism" means that portion of a roadway bounded on the top by the surface of the roadway and bounded on both sides by a forty-five-degree line projecting down from a point on a horizontal line extending at a right angle from the outer edges of the roadway surface.

"Site" means any lot or parcel of land or contiguous combination thereof, on which activities subject to this chapter are performed or permitted.

"Slope" means an inclined ground surface, the inclination of which is expressed as a ratio of horizontal distance to vertical distance.

"Soil" means naturally occurring superficial deposits overlying bedrock.

"Structure" means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite matter.

"Tree" means a large, living, woody perennial plant usually with a main single stem or trunk over twelve feet tall at maturity.

"Vegetation" means any and all organic plant life growing at, below or above the soil surface. (Ord. 591 § 2 (part), 1996)

15.28.030 Responsible city official.

The city administrator shall have general charge of and supervision over the administration and enforcement of this chapter. (Ord. 591 § 2 (part), 1996)

15.28.040 Clearing and grading permit required.

A. Unless exempted by Section 15.28.050, any person wishing to grade, excavate, clear or fill any site within the city shall first obtain a grading and clearing permit from the city administrator. A separate permit shall be required for each individual site and may cover both excavations and fills thereon.

B. The permit required by this section shall be in addition to any other permits which will or have been issued by the city or any other governmental agency with jurisdiction over all or part of

the proposed activities. (Ord. 591 § 2 (part), 1996)

15.28.050 Exemptions.

The following are exempt from the permit requirements of Section 15.28.040:

A. On-site excavation or fill for a basement, building footings, retaining wall, parking lot or other structure for which there has been issued a valid building permit as set forth in Appendix J of the International Building Code; except that neither a fill made with the material from such excavation nor an excavation having an unsupported height of greater than five feet after the completion of said structure, shall be exempt from the provisions of this chapter;

B. Maintenance of existing driveways or private access roads within their existing road prisms, provided that the standards and restoration requirements of this chapter are satisfied and city-approved best management practices are utilized to protect water quality;

C. Grading within a publicly owned right-of-way;

D. Clearing or grading by a public agency for the following normal and routine maintenance activities:

1. Roadside ditch cleaning, provided the ditch does not contain salmonoids,
2. Pavement maintenance,
3. Normal grading of gravel shoulders,
4. Maintenance or repair of culverts,
5. Maintenance of flood control facilities or other approved surface water management facilities, or
6. Routine clearing within public road rights-of-way;

E. Maintenance or reconstruction of the facilities of a railroad engaged in interstate commerce within its existing right-of-way; provided, that restoration of said right-of-way conforms to the requirements of this chapter; and further provided that this exemption does not apply if the facilities are located within an environmentally sensitive area;

F. Clearing or grading for cemetery gravesites; provided, that this exemption is limited to routine maintenance if the cemetery is located within an environmentally sensitive area;

G. Any excavation less than five feet in vertical depth and not involving more than one hundred cubic yards of earth or other material on a single site; provided, that this exemption shall not apply if the site is located within an environmentally sensitive area;

H. Any clearing or grading for road construction purposes in accordance with a residential plat which has received preliminary or final approval from the city council; provided, that the city administrator shall first approve said clearing or grading and a bond shall be posted in an amount to be determined by the city administrator;

I. Any clearing or grading in accordance with a plat which has received preliminary or final approval from the city council provided the excavation does not exceed five feet in vertical depth or the fill does not exceed three feet in vertical depth, regardless of the amount of material to be removed. This exception shall not apply if the clearing or grading is within an environmentally sensitive area;

J. Fill less than three feet in vertical depth not involving more than one hundred cubic yards of earth or other material on a single site; provided that this exemption shall not apply if the site is within an environmentally sensitive area;

K. Minor stream restoration projects for fish habitat enhancement conducted by a public agency, utility or tribe;

L. Clearing and Grading within the Mineral Extraction/Forestry District, conducted as a Class I, II, III or IV special forest practice in accordance with RCW 76.09 et seq. and Title 222, Washington Administrative Code. All other clearing will require a permit;

M. Any homeowner's normal and routine gardening, maintenance of existing lawns and landscaping, excavation and filling of fence post, swing set or play equipment holes;

N. The following activities are exempt from the clearing requirements of this chapter and no permit shall be required:

1. Clearing outside of environmentally sensitive areas and buffers as regulated by applicable city ordinances and/or state or federal governmental regulation,

2. Within environmentally sensitive areas otherwise regulated by city ordinance, the following activities are exempt from the clearing requirements of this chapter and no permit shall be required,

a. Normal and routine maintenance of existing lawns and landscaping, subject to the limitations on the use of pesticides and fertilizers in or adjacent to sensitive areas, as provided in this code,

b. Permitted agricultural uses, provided the clearing is consistent with the agricultural exemptions in any environmentally sensitive areas ordinance of the city,

c. Emergency tree removal to prevent imminent danger or hazard to persons or properties,

d. Normal and routine horticultural activities associated with commercial orchards, nurseries or Christmas tree farms in existence on the effective date of the city's environmentally sensitive areas ordinance, subject to the limitations on the use of pesticides as set forth in said ordinance. This does not include clearing or grading in order to develop or expand such activities,

e. Normal and routine maintenance of existing public parks and private and public golf courses. This does not include clearing or grading in order to develop or expand such activities,

f. Removal of noxious weeds from steep slope hazard areas and the buffers of streams and wetlands, subject to any limitations on the use of pesticides in environmentally sensitive areas as provided in this code,

g. Pruning and limbing of vegetation for maintenance of aboveground electrical and telecommunication facilities; provided that the clearing is approved by the city administrator and is consis-

tent with the electric, natural gas, cable communication and telephone utility exemptions in the city's environmentally sensitive areas ordinance,

h. Class I, II, III and IV special forest practices outside of areas zoned ME/F provided they occur on parcels that meet all of the following criteria for long term forestry:

i. The parcel is enrolled under the current use taxation program as timber land pursuant to RCW 84.34 or as forest land pursuant to RCW 84.33,

ii. A long term management plan is approved for the parcel by the Washington Department of Natural Resources, and

iii. The parcel equals or exceeds five acres in size. (Ord. 591 § 2 (part), 1996) (Ord. No. 943, § 3, 6-17-2010)

15.28.060 Grading and clearing permit application.

The applicant for a grading and clearing permit shall file a completed application for such with the city administrator. The application shall be on a form furnished by the city administrator. Every application shall include the following information:

A. Name, address and telephone number of the property owner and/or applicant;

B. A description of the work for which a clearing and grading permit is required;

C. A statement explaining the purpose for the proposed clearing and grading;

D. The legal description and street address of the site on which the proposed work is to be done;

E. A description of any environmentally sensitive area within the boundary of the site;

F. A statement of the approximate amount, in cubic yards, of material to be removed, filled or graded; existing and proposed finished contours at two-foot intervals on slopes less than thirty percent and at five-foot contours on slopes greater than thirty percent, and surface measurement, in square feet of the area to be cleared;

G. A completed environmental checklist, if required; and

H. Such other information as may be required by the city administrator.

The application shall be signed by the property owner or by his duly authorized agent. If by the latter, the application shall include evidence indicating his authority. Incomplete applications will not be processed. (Ord. 591 § 2 (part), 1996)

15.28.070 Grading and clearing permit—Plans and specifications.

A. Each application for a grading and clearing permit shall be accompanied by six sets of plans and specifications and other supporting data as may be required by the city administrator. If required by The city administrator, the plans and specifications shall be prepared and signed by a professional engineer.

B. Unless otherwise approved by the city administrator, the plans required by this section shall be drawn to an engineer's scale of not less than one inch to fifty feet on sites ten acres or less; of not less than one inch to one hundred feet on sites greater than ten acres but less than or equal to sixty acres; not less than one inch to two hundred feet on sites larger than sixty acres, upon stable, reproducible "fixed line" mylar and shall be of sufficient clarity to indicate the nature and extent of the work proposed and show in detail that said work will conform to the provisions of this chapter and all other relevant laws, rules, regulations and standards. The first sheet of each set of plans shall state the location of the work and the name and address of the owner and the professional engineer who prepared said plans, if required.

C. The plans required by this section shall include the following minimum information:

1. A description of the general vicinity of the proposed site, including its legal description;

2. The property limits, adjacent right-of-way lines and property lines, accurate contours, at minimum two-foot contour intervals on slopes less than thirty percent and at minimum five-foot contour intervals on slopes greater than thirty percent, of the existing ground, extending fifty feet

beyond the property lines, and details of the terrain, vegetation, easements of record and historical drainage patterns;

3. Limiting dimensions, elevations or finished contours, at minimum two-foot intervals, to be achieved by the grading, and proposed drainage channels and related construction;

4. Detailed plans of all surface and subsurface drainage devices, walls, cribbing, dams, berms, settling ponds and other protective devices to be constructed with or as a part of the proposed project, together with maps showing the drainage area and the estimated runoff of the area served by any drains. Downstream analysis of an existing system may be required by the city administrator;

5. The location of any buildings or structures on the site where the work is to be performed and the location of any buildings or structures, on adjacent property, which are within fifty feet of the site or which may be otherwise affected by the proposed clearing and grading operations;

6. The landscape and restoration plan as required by Section 15.28.130;

7. The information required by Chapters 19.12 et seq. and 18.84 et seq., if the clearing or grading is proposed to take place in or immediately adjacent to an environmentally sensitive area. (Ord. 591 § 2 (part), 1996)

**15.28.080 Grading and clearing permit—
Review.**

Upon receipt of a completed application, the city administrator shall initially determine if the proposed activity will adversely affect the character of the site for its present lawful uses or the future development of the site and/or adjacent properties, as established in the city's comprehensive plan, zoning code and the shoreline master program. (Ord. 591 § 2 (part), 1996)

**15.28.090 Grading and clearing permit—
Approval or denial.**

A. The city administrator shall have the authority to approve, modify, approve with conditions or deny the permit in accordance with the

intended purposes of this chapter. If the city administrator determines that the application complies with the criteria set forth in this chapter, then he shall issue a grading and clearing permit to the applicant. Said permit shall be valid for the number of days stated therein, but in no case for more than one year, unless otherwise approved by the city council for up to three years; provided, that the permit may be renewed for up to one additional year if approved by the city administrator and subject to any conditions which he reasonably believes to be necessary.

B. No grading or clearing permit shall be issued until approved by any federal, state or local agency having concurrent jurisdiction over the proposed activity.

C. Upon approval of the application and issuance of the grading and clearing permit, no work shall be done that is not specifically authorized therein. Approvals granted on the basis of inaccurate or misleading information shall be revoked or suspended. (Ord. 591 § 2 (part), 1996)

15.28.100 Bonds required.

A. Prior to the issuance of a grading and clearing permit, the permittee shall post with the city administrator a cash operating bond, and a cash or surety reclamation bond in amounts approved by the city administrator. This amount shall be at least one hundred fifty percent of the city engineer's estimated cost of the project, but, in any event, not less than two thousand dollars. All such bonds shall be executed by the owner and/or permittee and a corporate surety authorized to do business in this state as a surety. All bonds or assignments of funds shall be in a form approved by the city attorney and shall include penalty provisions for failure to comply with the conditions of the permit. One or any of said bonds may be waived at the discretion of the city administrator based on his evaluation of the type and scope of the particular project. At his discretion, the city administrator may allow the permittee to deposit cash with the city or execute an assignment of funds in lieu of a bond.

B. The reclamation bond or assignment of funds required by this section shall be in an amount determined by the city administrator to be sufficient to cover the cost of conformance with the permit's conditions, including corrective work necessary to provide adequate drainage and to remove and eliminate geological hazards. The amount of any reclamation bond posted by the permittee with the state of Washington, Department of Natural Resources, in connection with a surface mining permit, may be applied towards the reclamation bond required by this section, provided the former bonds against the same costs and work as the reclamation bond required by this section.

C. In addition to the reclamation bond or assignment of funds referred to in subsection B of this section, the permittee shall post a cash operating bond with the city in an amount to be determined by the city administrator. Said bond may be used to correct, remedy or repair any defect, deficiencies or hazards caused by the permittee's activities and shall, during the life of the permit, be maintained at the full value established by the city administrator.

D. Every bond or assignment required by this section shall obligate the permittee to:

1. Comply with all of the provisions of this code and applicable laws and regulations;
2. Comply with all of the terms and conditions of the permit;
3. Complete all of the protective and restorative work required under the permit and in any notice of violation issued pursuant to Section 15.28.180 within the time specified therein; any extension of said time by the city administrator shall not operate to release the surety.

E. The city shall withhold issuing the permit until the required bonds or assignments are approved by the city administrator and filed. The city may enforce such bonds according to their terms, and pursuant to any and all legal and equitable remedies. (Ord. 591 § 2 (part), 1996)

15.28.110 Liability insurance.

The owner and/or permittee shall maintain a policy of liability insurance as outlined in "City of

Black Diamond Development Guidelines and Public Works Standards," Section 3 (Public Works Considerations), in an amount to be determined by the city administrator. Before a grading and clearing permit is issued, the owner or permittee on a project shall supply the city administrator with proof of standard liability insurance coverage naming the city of Black Diamond and its agents and employees as additional insureds. Said policy shall be in a form approved by the city attorney and shall include a provision prohibiting cancellation of said policy except upon thirty days' written notice to the city. The city administrator may, in his discretion, waive liability insurance for small residential projects which involve less than one thousand cubic yards. Liability insurance shall not be required if the permittee is a city department. (Ord. 591 § 2 (part), 1996)

15.28.120 Operating conditions and standards of performance.

Unless otherwise approved by the city administrator under the 1994 Edition of the Uniform Building Code, Chapter 33 and amended Chapter 33, the conditions and standards for all fills and cuts in the city shall be as follows:

A. Slope. No slope of a cut and fill surface shall be steeper than is reasonably safe for the intended use or which would otherwise unreasonably enhance erosion of the cut and fill surface. No slope of a cut and fill surface shall exceed two horizontal feet to one vertical foot, unless otherwise approved by the city administrator. The slope requirements of this subsection shall not apply to temporary stockpiling of excavated materials for removal or sale, not otherwise included in a permit issued under this chapter; provided that said stockpiles must be consistent with the provisions of the permit under which the excavating operations are conducted; and provided further that said temporary stockpiling:

1. Does not adversely affect the lateral support or increase the stresses in or pressure upon any adjacent or contiguous property; and

2. Does not adversely affect any receiving bodies of water; and
3. Is consistent with the physical constraints of the site; and
4. Does not adversely affect the health, safety and welfare of the citizens of Black Diamond; and
5. Is consistent with an approved erosion control plan, as required by Section 15.28.12(B); and
6. Is consistent with city-approved best management practices.

Anyone seeking an exemption under this subsection shall apply for such to the city administrator who shall determine whether the stockpile satisfies the above criteria for said exemption. If the exemption is granted, the city administrator may specify the maximum diameter of the stockpile and any other conditions necessary to ensure compliance with the criteria set forth above.

B. Erosion Control. All disturbed areas, including the face of any cut and fill slope, shall be prepared and maintained to control erosion. Said controls may include effective planting and shall be installed by the permittee as soon as practical prior to release of the bond referred to in Section 15.28.100.

C. Preparation of Ground. The ground surface shall be prepared to receive fill by removing and wastehauling unsuitable or deleterious material, including but not limited to, concrete, trees, brush, car bodies and tires. The permittee shall promptly dispose of all such wastehauled materials at an appropriate site in accordance with all applicable local, county and state laws.

D. Fill Material. Except in an approved sanitary landfill, only "clean," uncontaminated earth materials with no rocks exceeding a maximum dimension of twelve inches shall be used for fill material. Placement of larger rock may be permitted only with the specific written approval of the city's building official and as further identified in Section 3313 (Appendix 33) of the 1994 Uniform Building Code. Uncontaminated, clean, dredged spoils may only be used for fill with the express written approval of the city administrator. No contaminated soil may be utilized for fill, and the

city reserves the right to order a soils test, to be conducted at the permittee's or property owner's expense.

E. Drainage. Reasonable provisions shall be made by the permittee to ensure that:

1. Any surface water or seepage is prevented from damaging the cut face of any excavation or the sloping face of a fill;

2. Any surface waters that are or might be concentrated as a result of a fill or excavation are carried to a natural watercourse. An alternative means of removing said surface waters may be utilized if approved by the city administrator; and

3. Any sediment is prevented from leaving the site.

F. Bench/Terrace. In order to control surface drainage and debris, benches, if required by the city administrator, shall be at least ten feet in width, backsloped and established at not more than twenty-five-foot vertical intervals. Unless otherwise approved by the city administrator, swales or ditches on benches shall have a maximum gradient of three percent. In order to dissipate energy and/or mitigate erosion, the city administrator may require the permittee to install armor plating rock rip rap (eight-inch through twelve-inch size), which rip rap shall be immediately installed.

G. Access Roads—Maintenance. Access roads to grading sites shall be maintained and located to the satisfaction of the city utilities department so as to minimize dust, mud and traffic circulation.

H. Access Roads—Gate. When required by the city administrator, access roads to grading sites shall be controlled by a locking drive gate and fence. The permittee shall provide the city with a key to said gate.

I. Warning Signs. Signs warning of hazardous conditions, if such exist, shall be affixed at locations as directed by the city administrators.

J. Fencing. When required by the city administrator, fencing to protect the health, safety and welfare of people and property shall be installed by the permittee. The fence must be no less than five feet in height, and the fence material shall have no horizontal opening larger than two inches. Said

fencing shall be installed with a locking gate, a key to which shall be provided to the city. Said gate must be closed and locked when work on the site has halted.

K. Setbacks.

1. Slopes and setbacks shall be determined by the city administrator.

2. The tops and toes of cut and fill slopes shall be set back from property boundaries as far as is reasonably necessary for the safety of adjacent properties in order to prevent damage resulting from water runoff or erosion of said slopes.

3. The tops and toes of cut and fill slopes shall be set back from structures as far as is reasonably necessary for adequacy of foundation support in order to prevent damage as a result of water runoff or erosion of said slopes.

L. Excavations to Water-Producing Depth. The purpose of this section is to allow for the reclamation of land which will result in the establishment of a lake of sufficient water area and depth to be useful for residential or recreational purposes. In order to permit natural drainage, all excavations must be made to a water producing depth or backfilled and graded. Excavations made to a water-producing depth shall be reclaimed in the following manner:

1. The depth of the excavations must not be less than two feet, measured below the low-water mark.

2. All banks shall be sloped to the water line at a grade no steeper than three feet horizontal to one foot vertical.

3. All banks shall be sloped from the low water line into a pond or lake at a minimum slope of three feet horizontal to one foot vertical, to a distance of at least twenty-five feet.

4. In no event shall the term "water-producing depth" as herein used be construed so as to allow stagnant water to collect or remain in the excavation.

All work shall be performed in strict compliance with local, state and federal regulatory re-

quirements. When regulatory conflicts exist, the most stringent requirements shall be those imposed.

M. Hours of Operation. Unless otherwise authorized by the city administrator, hours of operation, including start-up or warm-up of equipment, shall be between seven a.m. and six p.m. (Ord. 591 § 2 (part), 1996)

15.28.130 Land restoration.

The standards and conditions for the restoration of land in the city shall be as follows:

A. Upon the exhaustion of minerals or materials or upon the permanent abandonment of any quarrying or mining operation, all nonconforming buildings, structures, apparatus or appurtenances accessory to the quarrying or mining operation shall be removed or otherwise dismantled by the permittee at his sole expense to the satisfaction of the city administrator;

B. Final grades shall encourage all uses permitted within the underlying zone classification;

C. Grading or backfilling shall be made with nonnoxious, nonflammable, noncombustible and nonputrescible solids;

D. Except for roads, graded or backfilled areas shall be sodded or surfaced with soil in compliance with best management practices, as approved by the city administrator.

E. Revegetation of the topsoil referred to in subsection D of this section shall be in accordance with best management practices, as approved by the city administrator.

F. Graded or backfilled areas shall be reclaimed so that water does not collect and stagnant water does not remain in said areas. If natural drainage is not possible or adequate for that purpose, suitable drainage systems approved by the city administrator shall be constructed or installed.

G. Waste or soil piles shall be leveled and that area shall be sodded or surfaced and planted as required in Subsections D and E of this section. (Ord. 591 § 2 (part), 1996)

15.28.140 Forest practices.

A. Under a Class IV general forest practice, as defined in RCW 76.09.050, all clearing and grading not otherwise exempt under Section 15.28.050 shall be subject to the requirements of this chapter. Said clearing shall be subject to the State Environmental Policy Act, and the city shall accept or assume lead agency status. The review of the Class IV forest practice application shall be consolidated with the review of the associated city development permit application and with SEPA review of the forest practice.

B. Development applications on lands located outside the ME/F zone and cleared or graded pursuant to a Class I, II, III or IV special forest practice, as defined in RCW 76.09.050, or cleared or graded without city or Department of Natural Resources approval, shall be denied for a period of six years from the date the forest practices application is approved by the Department of Natural Resources or, if a violation, from the time the clearing occurred, unless the applicant adequately restores the site to its original condition. Restoration shall include, but is not limited to, reforestation, erosion control, sensitive area enhancement and restoration, surface water management controls, and compliance with other applicable city of Black Diamond regulations. Administrative rules promulgated by the city administrator shall further detail the means and manner of accomplishing sufficient restoration. (Ord. 603 § 1, 1996; Ord. 591 § 2 (part), 1996)

15.28.150 Hazards.

Whenever the city administrator determines that, as a result of clearing, grading, excavation, embankment or fill, an existing site has become a hazard to life and limb, and endangers property or adversely affects the safety, use or stability of a public way or drainage channel, the owner of said site or some other person or agent in control of said site, shall, upon receipt of a written notice from the city administrator within the time specified therein, restore the site so as to eliminate the hazard and bring the site into conformance with

the requirements of this chapter. If restoration has not been completed within the time established to the satisfaction of the city administrator, the city may, but shall not be obligated to, perform all necessary corrective and restorative work necessary to eliminate the hazard and bring the site into conformance with the requirements of this chapter by utilizing city employees or by employing a private contractor. Upon completion of said work, the cost thereof, plus interest at the then highest allowable legal rate, shall be due and owing to the city from the owner and his surety. In the event the city is required to bring suit or consult with an attorney to collect the costs referred to herein, the permittee and his surety shall be jointly and severally responsible for any costs and attorney's fees incurred by the city. (Ord. 591 § 2 (part), 1996)

15.28.160 General grading inspection.

The city administrator may require periodic inspection of the work site at any reasonable time to determine if the work is being performed in accordance with the terms and conditions of the permit. If the city administrator finds that the work is not in accordance with the permit or this chapter, he may order the work stopped by written notice served in the form and manner set forth in Section 15.28.180. (Ord. 591 § 2 (part), 1996)

15.28.170 Right of entry.

Upon presentation of proper credentials, the city administrator may, with the consent of the owner of the land or pursuant to a lawfully issued warrant, enter the premises subject to said consent or warrant for the purpose of inspection and investigation to determine compliance with a permit and/or this chapter. (Ord. 591 § 2 (part), 1996)

15.28.180 Notice of violation.

If, after investigation or inspection, the city administrator determines that clearing or grading has occurred which is inconsistent with the purposes and requirements of this chapter or for which the required permit was not obtained or otherwise fails to comply with any term or condi-

tion of the permit, he shall cause to be served a notice of violation which separately states each violation of this chapter or the permit. Said notice shall notify the permittee and the surety of the specific items which must be completed, remedied or repaired and shall set a reasonable time for compliance. The notice may also order all operations subject to this chapter to immediately cease and not resume until authorized to do so by the city administrator. Said notice shall be served by certified mail, return receipt requested, addressed to the last known addresses of the owner and the surety. The city shall not grant any approval or development permit for the site except as required to restore the site or otherwise bring the site into conformance, until the permittee restores the site to the satisfaction of the city administrator. (Ord. 591 § 2 (part), 1996)

15.28.190 Failure to comply with notice of violation.

In the event the items are not timely completed as directed in the notice, the city may, but shall not be obligated to, perform all necessary corrective and restorative work necessary to eliminate the hazard created by the permittee's noncompliance, by utilizing city employees or by employing a private contractor. Upon completion of said work, the cost thereof, plus interest at the then highest allowable legal rate, shall be due and owing to the city from the permittee and the surety as a joint and several liability. In no event shall the liability of the surety exceed the amount stated in its bond, regardless of the number of years the bond remains in force. In the event the city is required to bring suit or consult with an attorney to enforce the bonds or to collect the costs referred to herein, the permittee and the surety shall be responsible for any costs and attorney's fees incurred by the city. (Ord. 591 § 2 (part), 1996)

15.28.200 Violations of this chapter.

Failure to comply with any requirements of this chapter or the conditions of any clearing and grading permit shall be considered a violation of

this chapter. Any person who violates any of the provisions of this chapter shall be guilty of a misdemeanor, subject to the penalties set forth in Section 1.12.010. The city is authorized to utilize any other available legal means to enforce the provisions of this chapter. (Ord. 591 § 2 (part), 1996)

15.28.210 Appeals.

A. Any decision of the city administrator with respect to the enforcement or administration of this chapter shall be final unless timely appealed pursuant to the provisions of Section 15.04.230 BDMC. (Ord. 591 § 2 (part), 1996) (Ord. No. 943, § 4, 6-17-2010)

15.28.220 Liability.

Nothing contained in this chapter is intended to be nor shall be construed to create or form the basis for any liability on the part of the city, or its officers, employees or agents for any injury or damage resulting from the failure of an owner of property or land to comply the provisions of this chapter, or by reasons or in consequence of any inspection, notice, order or approval authorized or issued or done in connection with the implementation or enforcement of this chapter or by reason of any action or inaction on the part of the city related in any manner to the enforcement of this chapter by its officers, employees or agents. (Ord. 591 § 2 (part), 1996)

15.28.230 Application of other ordinances.

Compliance with this chapter shall not in and of itself constitute compliance with any other code or ordinance to which property development or improvement may be subject, nor shall compliance with such other applicable codes or ordinances constitute compliance with this chapter. (Ord. 591 § 2 (part), 1996)

Chapter 15.36

RESERVED*

Chapter 15.38

**LANDMARK DESIGNATION AND
PRESERVATION**

Sections:

- 15.38.010 Purposes.**
- 15.38.020 Landmarks commission authorized.**
- 15.38.030 Special member appointment.**
- 15.38.040 Definitions.**
- 15.38.050 Designation criteria.**
- 15.38.060 Designation procedure.**
- 15.38.070 Certificate of appropriateness procedure.**
- 15.38.080 Adoption by reference.**
- 15.38.090 Nomination approval.**
- 15.38.100 Appeal procedure.**

15.38.010 Purposes.

The purposes of this chapter are to designate, preserve, protect, enhance and perpetuate those sites, buildings, districts, structures and objects which reflect significant elements of the city's cultural, ethnic, social, economic, political, architectural, aesthetic, archeological, engineering, historic and other heritage; foster civic pride in the beauty and accomplishments of the past; stabilize and improve the economic values and vitality of landmarks; protect and enhance the city tourist industry by promoting heritage related tourism; promote, assist, encourage and provide incentives to public and private owners to preserve, restore, rehabilitate and use landmark buildings, sites, districts, structures and objects to serve the purposes of this chapter; and to provide the framework for the implementation of the inter-local agreement between King County and the city of Black Diamond relating to landmark designation and protection services. (Ord. 527 § 1 (part), 1995)

15.38.020 Landmarks commission authorized.

A. The King County landmarks and heritage commission established pursuant to King County

*Editor's note—Ord. No. 943, § 1, adopted June 17, 2010, repealed Chapter 15.36, § 15.36.010, which pertained to the historic building code and derived from Ord. No. 460, 1992.

Code, Chapter 20.62 is designated and empowered to act as the landmarks commission for the city pursuant to the provisions of this chapter.

B. The commission shall not conduct any public hearings required under this chapter with respect to properties located within the city until its rules and regulations, including procedures consistent with this chapter, have been filed with the city clerk-treasurer. (Ord. 527 § 1 (part), 1995)

15.38.030 Special member appointment.

The mayor shall, subject to confirmation of the city council, appoint one individual to act as a special member of the King County landmarks and heritage commission as provided for in Section 20.62.030 of the King County Code. The special member shall have a demonstrated interest and competence in historic preservation. The special member shall be appointed for a three-year term. Each special member shall serve until his or her successor is duly appointed and confirmed. In the event of a vacancy, an appointment shall be made to fill the vacancy in the same manner and with the same qualifications as if such appointment were made at the beginning of the term, and the person appointed to fill the vacancy shall hold the position for the remainder of the unexpired term. A special member may be re-appointed, but may not serve more than two consecutive three-year terms. A special member shall be deemed to have served one full term if that special member resigns at any time after appointment or if that special member serve more than two years of an unexpired term. Special members shall serve without compensation except for out of pocket expenses incurred in connection with commission meetings or programs. The city shall reimburse such expenses incurred by the special member. (Ord. 527 § 1 (part), 1995)

15.38.040 Definitions.

A. The city council adopts by reference the definitions contained in King County Code Section 20.62.020 except as stated below.

B. "Council" is the Black Diamond city council.

C. "Manager" shall be read to be the city administrator. (Ord. 527 § 1 (part), 1995)

15.38.050 Designation criteria.

The designation criteria for landmarks as contained in King County Code Section 20.62.040 is adopted by reference for the designation criteria of landmarks within the city. (Ord. 527 § 1 (part), 1995)

15.38.060 Designation procedure.

The designation procedure for landmarks as contained in King County Code Section 20.62.070 is adopted by reference for the designation procedure of landmarks within the city. (Ord. 527 § 1 (part), 1995)

15.38.070 Certificate of appropriateness procedure.

The certificate of appropriateness procedure for landmarks as contained in King County Code Section 20.62.080 is adopted by reference by the city, except the last sentence of King County Code Section 20.62.080(a). (Ord. 527 § 1 (part), 1995)

15.38.080 Adoption by reference.

The following sections of King County Code 20.62, are here adopted by this reference.

Topic Title	Source of Adopted Law
Nomination Procedure	KCC 20.62.050
Evaluation of Economic Impact	KCC 20.62.100

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Topic Title	Source of Adopted Law
Penalty for Violation	KCC 20.62.130
Special Valuation for Historic Properties (Ord. 527 § 1 (part), 1995)	KCC 20.62.140

15.38.090 Nomination approval.

No historic resource may proceed through the nomination procedure of King County Code Section 20.62.050 until such time as the city council has approved the historic resource for nomination. A minimum of four councilmembers must vote in favor in order that the resource be eligible for nomination. Said approval by the council is a condition precedent to any nomination procedure. (Ord. 527 § 1 (part), 1995)

15.38.100 Appeal procedure.

A. Any person aggrieved by a decision of the commission designating or rejecting a nomination for designation of a landmark or issuing or denying a certificate of appropriateness may, within thirty-five calendar days of mailing of notice of such designation or rejection of nomination, or of such issuance of denial or approval of a certificate of appropriateness, appeal such decision in writing to the council. The written notice of appeal shall be filed with the historic preservation officer and the clerk-treasurer of the council and shall be accompanied by a statement setting forth the grounds of the appeal, supporting documents and argument.

B. If after examination of the written appeal and the record, the council determines:

1. An error in fact may exist in the record, it shall remand the proceeding to the commission for reconsideration or, if the council determines that:

2. The decision of the commission is based on an error in judgment or conclusion, it may modify or reverse the decision of the commission.

C. The council's decision shall be based solely upon the record; provided, that the council may at its discretion publicly request additional information of

the appellant, the commission or the historic preservation officer.

D. The council shall take final action on any appeal from a decision of the commission by adoption of an ordinance, and when so doing, it shall make and enter findings of fact from the record and reasons therefrom which support its action. The council may adopt all or portions of the commission's findings and conclusions.

E. The action of the council sustaining, reversing, modifying or remanding a decision of the commission shall be final unless within twenty calendar days from the date of action an aggrieved person obtains a writ of certiorari from the superior court of King County, state of Washington, for the purpose of review of the action taken. (Ord. 527 § 1 (part), 1995)

Chapter 15.42

WIRELESS COMMUNICATION FACILITIES

Sections:

- 15.42.010 Purpose and intent.
- 15.42.020 Exemptions and applicability.
- 15.42.030 Definitions.
- 15.42.040 Permit requirements.
- 15.42.050 Fees.
- 15.42.060 Permit Processing.
- 15.42.070 General siting criteria and policy guidelines.
- 15.42.080 General Development Standards.
- 15.42.090 Application contents.
- 15.42.100 Location in a residential or commercially zoned area.
- 15.42.110 Annual certification.
- 15.42.120 Radio frequency standards.
- 15.42.130 Change of ownership.
- 15.42.140 Maintenance.
- 15.42.150 Variances.

15.42.010 Purpose and intent.

The purpose of this chapter is to establish appropriate siting standards, site development standards, and permit requirements to address the location and construction of wireless communication facilities within the city of Black Diamond. Key goals of this chapter relate to the need to minimize the unsightly visual characteristics associated with the full range of wireless communication facilities, and the encouragement of creative approaches to locating wireless communications facilities within the scenic city of Black Diamond.

In general, it is the goal of this chapter to ensure that (1) wireless communications facilities and support structures are encouraged to locate only in nonresidential or commercially zoned or designated areas and preferably on city owned property, (2) co-location be strongly encouraged prior to the construction of any new support structures exclusively for wireless com-

munications facilities, (3) the adverse visual impact of WCF towers and antennas be minimized to the greatest degree possible, especially where views of Mount Rainier could be impacted, and (4) the ability of wireless telecommunications facility providers to provide service within the city be enhanced through a clearly defined permitting process. (Ord. 719 § 1 (part), 2001)

15.42.020 Exemptions and applicability.

A. Pre-existing WCF's. WCF's for which approval has been issued prior to the effective date of this chapter shall not be required to meet the requirements of this chapter. Location of new equipment, antennas or other facilities by other providers upon pre-existing WCF's may require city approval as set forth in this chapter.

B. Amateur Radio Facilities. This chapter shall not govern the installation of any amateur radio facility that is owned and operated by a federally licensed amateur radio station operator, or which is utilized exclusively for a receive only antenna.

C. Small Satellite Dishes. This chapter shall not apply to the installation of satellite dishes utilized for purposes other than wireless telecommunications.

D. Relationship to Other Ordinances. Where conflict may occur with other ordinances and codes relating to the permitting or construction of WCF's, this chapter shall supersede.

E. Minor Modifications. Minor modifications to existing and previously permitted WCF facilities shall be exempt from the provisions of this chapter so long as such modifications do not significantly impact the visual character of a permitted facility as determined by the city administrator or his/her designee. (Ord. 719 § 1 (part), 2001)

15.42.030 Definitions.

As used in this chapter, the following terms shall be defined as follows:

"Alternative antenna support structure" means alternative support structures including bell towers, church steeples, water towers, street light standards, or other man-made structures and devices that extend vertically from the ground to a sufficient height to ac-

commodate the attachment of antennas at an altitude or elevation that is commercially desirable for wireless communications signal transmission and reception.

“Ancillary antenna.” This antenna is less than twelve inches in height and is not directly utilized to provide personal wireless communications services, but is utilized by WCF providers for GPS or global positioning satellite purposes.

“Antenna support structure” means a structure or device specifically designed, constructed and/or erected for the purpose of attaching, mounting, or otherwise affixing antennas at a height or altitude which is significantly above the base of such structure, and may include the following:

1. “Lattice tower.” A vertical support structure consisting of a network of crossed metal braces forming a tower, which may be three, four, or more sided.

2. “Monopole tower.” A vertical support structure consisting of a single vertical metal, concrete or wooden pole, typically round or square, and driven into the ground or attached to a foundation.

“Co-location” means the use of a single antenna support structure by one or more wireless telecommunications service providers.

“Directional antenna.” Also known as a “panel” antenna, this antenna receives and transmits radio frequency signals in a directional pattern, typically encompassing an arc of one hundred twenty degrees.

“Equipment enclosure” means a small structure, shelter, cabinet, box, or vault designed for and used to house and protect the electronic equipment necessary for processing wireless communications signals and data, including any provisions for air conditioning, ventilation or auxiliary generators.

“FAA” means the Federal Aviation Administration of the United States of America.

“FCC” means the Federal Communications Commission of the United States of America as charged with the responsibility for regulation of interstate and foreign communications by radio, television, wire, satellite and cable.

“Micro cells” means a wireless communications facility consisting of an antenna that is either: (1) Four feet in height and with an area of not more than five hundred eighty square inches; or (2) if a tubular an-

tenna, no more than four inches in diameter and not more than six feet in length.

“Omnidirectional antenna.” Also known as a “whip” antenna, this antenna receives or transmits radio frequency signals in a three hundred and sixty degree radio pattern, and is up to fifteen feet in height and up to four inches in diameter.

“Other.” All other transmitting and receiving devices and equipment not specifically defined herein shall be regulated in conformity with the type of antenna described herein which most closely resembles such equipment as determined by the city administrator or his/her designee.

“Parabolic antenna.” Also known as a “dish” antenna, this antenna is a bowl shaped device for the reception and/or transmission of radio frequency signals in a specific direction.

“Small satellite dish” means a satellite dish that is one meter or less in diameter.

“Wireless communications facility (WCF)” means an unstaffed facility for the transmission and/or reception of radio frequency (RF), microwave, or other signals for communications purposes, typically consisting of an equipment enclosure, an antenna support structure, or an alternative antenna support structure and one or more antennas.

“Wireless communications service” means the providing or offering for rent, sale, lease, or other consideration of the transmittal and reception of voice, data, image, graphic, and other information by the use of wireless communications facilities.

“Wireless communications service provider” means every person who provides wireless telecommunications service, for rent, sale, or in exchange for other consideration, through the use of wireless telecommunications facilities, whether or not such facilities are owned by or under the control of such person. (Ord. 719 § 1 (part), 2001)

15.42.040 Permit requirements.

A. Building Permit(s). A building permit is required for all wireless telecommunications facilities and equipment unless otherwise exempted by this chapter.

B. Wireless Communications Facility Permit(s). A

wireless communications facility permit is required for all wireless telecommunications facilities, including those that do not require a conditional use permit. A wireless communications facility permit will be required for all WCF's attached to existing structures such as existing WCF antenna support structures, utility poles, buildings, water towers, etc.

C. Conditional Use Permit. A conditional use permit is required for any WCF requiring the construction of an antenna support structure as defined in this chapter, unless said proposed antenna support structure is proposed to be located upon city owned property or city controlled facilities.

D. Site Plan Review. Applications for the new construction or installation of WCF facilities shall be exempt from the site plan review process. (Ord. 719 § 1 (part), 2001)

15.42.050 Fees.

Application fees and review deposits for all permits required as a part of this chapter shall be as set forth in the Black Diamond Fee Schedule as adopted by resolution by the city of Black Diamond. (Ord. 719 § 1 (part), 2001)

15.42.060 Permit Processing.

A. Building permit(s) shall be reviewed and subject to approval by the city of Black Diamond building official and/or his or her designee for all aspects of a proposed wireless communications facility.

B. Telecommunications facility permits shall be reviewed by the city's planning commission subject to the following guidelines:

1. Conditional Use Permit Required. Any conditions set forth in the conditional use permit shall be incorporated by the planning commission as a part of their final review. No public hearing by the planning commission shall be required.

2. No Conditional Use Permit Required. If no conditional use permit is required by this chapter, the planning commission shall have the authority to issue a telecommunications facility permit, and may elect to hold a public hearing as a part of their application review process.

C. Conditional use permits shall be processed as

set forth in Chapter 18.28 of this code.

D. For applications requiring both a telecommunications facility permit and conditional use permit approval, no final decision by the planning commission on the telecommunications facility permit shall occur prior to the expiration of the appeal period associated with the conditional use permit approval. (Ord. 719 § 1 (part), 2001)

15.42.070 General siting criteria and policy guidelines.

A. Location Priority. The following sites shall be considered by applicants as the preferred order of location of proposed wireless telecommunications facilities within the city of Black Diamond. These sites are generally described as follows:

1. Existing WCF Antenna Support Structures. On any existing site or tower where a legal wireless telecommunications facility is currently located regardless of underlying zoning, so long as the overall height is not increased.

2. Publicly-Used Structures. On any existing public facilities or property including water towers, radio towers or other public buildings within all zoning districts.

3. Industrial or Light Industrial Zones. Upon structures or sites zoned for industrial or light industrial use as identified in the city's zoning code.

4. Commercial, Residential or Other Zoning Districts. New WCF's antenna support structures shall be prohibited from locating within any of the city's commercial, residential or other zoning districts unless it can be demonstrated by the applicant, and confirmed by the city, that the coverage area sought by the applicant cannot be met outside an industrial or light industrial zoning district.

B. Mount Rainier View Corridors. WCF's shall be prohibited from locating upon any site that would result in an obstruction or interference with the views of Mount Rainier enjoyed by residents, business owners, and/or visitors to the city of Black Diamond, unless compelling cause can be shown. View corridors of special concern to the city of Black Diamond include those from the Black Diamond Historic District, State Route 169 (Third Avenue), Robert's Drive, 222nd Pl.

S.E., S.E. Lake Sawyer Road, Lake Sawyer itself, and any established residential neighborhood within the city, and as otherwise may be determined by the city council.

C. Cooperation in Co-location Efforts. A permittee shall coordinate with other WCF providers in co-locating additional antennas on support structures, provided that such proposed co-locators have received city approval. A permittee shall exercise good faith in co-locating with other providers and sharing a permitted site, provided that such use does not give rise to substantial technical level of impairment of the ability to provide the permitted use (i.e. a significant interference in broadcast or reception capabilities as opposed to a competitive conflict or financial burden). Such good faith shall include sharing of technical information to evaluate the feasibility of co-location. In the event a dispute arises as to whether a permittee has exercised good faith in accommodating other users, the city may require a third party technical study at the expense of either or both the applicant and permittee.

D. Reasonable Co-location Efforts. All applicants shall demonstrate reasonable efforts in developing a co-location alternative for their proposal. (Ord. 719 § 1 (part), 2001)

15.42.080 General Development Standards.

A. Setback and Clear Zones. No WCF equipment or antenna support structures shall be proposed or located within the required building setback areas of a parcel set forth within the Black Diamond zoning code. New WCF support structures shall be located in such a manner that if the structure should fall along its longest dimension, it will avoid habitable structures, public rights-of-way, sidewalks, parks, trails, and children's play areas.

B. Maximum Height. The maximum height of any WCF shall include both the antenna support structure and the antenna(s). The maximum height of any WCF shall be one hundred seventy-five feet.

C. Signage. No WCF shall be utilized for the purpose of signage or message display of any kind, except as may be required by this chapter or the FAA.

D. Screening. Location of wireless communications antennas upon alternative support structures shall

be screened or camouflaged to the greatest extent possible through the use of compatible materials, location, color, and/or other "stealth" tactics to maximize compatibility of the antenna with its support structure.

E. Equipment Enclosures, Vaults, Sheds, Etc. All equipment enclosures, cabinets, vaults, etc., designed for and used to house and protect the electronic equipment necessary to process wireless communication signals and data, including any provisions for air conditioning, ventilation or auxiliary electric generators, shall be placed in close proximity to the antenna support structures, antenna arrays, or antennas to which they are connected. Such enclosures shall be kept locked at all times, and shall be clearly labeled on at least two sides with information including owner's name, operator or a person to contact in case of emergency (twenty-four hours), and the telephone numbers for each.

F. Fencing. Security fencing is required to enclose all antenna support structures and related WCF equipment. Fencing shall be one hundred percent sight obscuring if the site is visible from any public right-of-way or residentially zoned parcel. All fencing shall be no less than six feet in height, topped with barbed wire, and shall be vinyl coated and colored as approved by the planning commission.

G. Landscaping. Landscaping shall be required in addition to required fencing of the proposed WCF if the equipment is visible from the public right-of-way or a residential zoning district. Landscaping shall be approved by the planning commission during their review or as conditioned by the city council as a part of any conditional use approval.

H. Lighting. WCF antenna support structures shall not be artificially lighted unless specifically required by the FAA or applicable authority. Any proposed lighting shall be submitted at the time of original application. Security lighting for the on-ground equipment or shelters shall be permitted so long as it is appropriately shielded so that the light generated is kept within the site or lease area.

I. Noise. No equipment shall be operated so as to produce noise in levels above forty-five dB as measured from the nearest property line on the parcel upon which the facility is located. Operation of a back-up

power generator in the event of a natural disaster or power failure is exempt from this standard.

J. Safety and Access. All new antenna support structures shall incorporate access safety features to prevent unauthorized access to WCF equipment and support structures. A minimum separation or demonstrated effective barrier of fifteen feet shall be maintained between the lowest ladder rung and the ground or any equipment cabinet or related equipment located within six feet of the base of the support structure.

K. Antenna Support Structures. Monopole towers are required by the city except in situations where it can be demonstrated to the satisfaction of the city's planning commission that an alternative support structure will provide for the significant achievement of the goals of this ordinance. In no case shall an antenna support structure requiring wire-guys be permitted. (Ord. 719 § 1 (part), 2001)

15.42.090 Application contents.

A. In addition to other application requirements of the city for required permits or approvals, including the conditional use permit required for certain WCF's, the following additional information shall be provided at the time of all telecommunications facility permit and conditional use for wireless telecommunications facility applications. A complete application for telecommunications facility permit shall include the following:

- 1. A site plan drawing at a scale no less than one inch equaling fifty feet showing:
 - a. Location of existing and proposed support structures;
 - b. Setbacks from property lines and any existing structures or facilities located within a distance equal to one hundred fifty percent of the height of the proposed facility;
 - c. Proposed landscaping and/or methods of screening of the proposed facility or equipment;
 - d. Means of vehicular ingress and egress, including gate locations and dimensions;
 - e. Detail drawings for all proposed or required fencing and landscaping, including size and type;
 - f. The boundaries and dimensions in feet of the subject parcel or lease area; and

g. An elevation view drawing showing the support structure and all proposed equipment or equipment cabinets.

2. Map. A map showing the entire geographical service area of the proposed facility.

3. Map of View Area. A diagram or map depicting where within the city limits and urban growth area of the city of Black Diamond any portion of the proposed facility would be visible.

4. Photo Simulations. If any portion of the proposed facility would fall within thirty horizontal degrees on either side of a snow covered portion of Mt. Rainier as viewed from a commercial or residentially zoned area of the city, a photo simulation of the proposed facility shall be provided showing the visual impact from these areas. The planning commission may require additional simulations as part of their review.

5. Minimum Height. A report, signed by a qualified radio frequency engineer or expert with similar qualifications, explaining and attesting to the fact that the height of the facility, equipment, or antenna support structure proposed is the minimum height necessary to fulfill the site's function within the provider's system.

6. Statement. A signed statement indicating and providing evidence that:

- a. The wireless communications service provider holds a valid FCC license as required by state and/or federal law;
- b. The applicant agrees to allow for the collocation of additional WCF equipment or antenna owned by other providers upon the applicant's proposed structure or site;
- c. The applicant agrees to purchase and maintain a city of Black Diamond business license within thirty days of building permit issuance, and agrees to require the same for any contractor or subcontractor hired by the applicant to install or otherwise construct the proposed facility; and
- d. The applicant agrees to remove the facility within nine months after the site is discontinued for the use proposed in the application.

A notarized signed affidavit by the property owner, if different from the applicant, stating that (1) the ap-

plicant has a legal lease agreement, or option to lease agreement, (2) such agreement does not restrict future co-location by other service providers, and (3) if the applicant fails to remove the WCF upon nine months of its discontinued use, the responsibility for removal falls upon the property owner.

7. If a conditional use permit is also required due to the construction of a new WCF antenna support structure, the applicant shall provide evidence to the city demonstrating that no existing tower or structure can accommodate the applicant's proposed antenna. Evidence submitted to demonstrate that no existing tower or structure can accommodate the applicant's proposed antenna may consist of any combination of the following:

a. No existing structures or towers are located within the geographic area required to meet the applicant's engineering requirements;

b. Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements;

c. Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment;

d. The applicant's antenna would cause interference with the antenna on the existing tower or structure, or the antenna on the existing tower or structure would cause interference with the applicant's proposed antenna;

e. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for co-location are unreasonable. Costs exceeding the new tower development are considered to be unreasonable; and

f. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

8. **Lighting.** If artificial lighting is required to be placed upon the support structure or antenna as required by the FAA or other applicable authority, the applicant shall provide a copy of the report or decision requiring said lighting.

9. **Inventory of Existing Sites.** A list of the provider's existing WCF sites located within the city of

Black Diamond and within two miles of the city limits of the city of Black Diamond. The listing shall include the type of support structure if one exists, the age of the structure, and the existing or proposed height for each facility.

10. **Structural Integrity Documentation.** Documentation establishing the structural integrity for the support structure's proposed use.

11. **Checklist.** A statement signed by the applicant or applicant's agent attesting to the understanding of the application requirements as set forth in this chapter, and stating that all information submitted is true and correct to the best of their knowledge.

12. **Color Photograph, Etc.** An eight and one-half inch by eleven inch color photograph of a similar facility illustrating the proposed color of the WCF including equipment cabinets, etc. If not photo is available, a color swatch shall be provided matching the proposed color. (Ord. 719 § 1 (part), 2001)

15.42.100 Location in a residential or commercially zoned area.

When an applicant seeks to locate a WCF antenna support structure outside one of the city's industrial or light industrial zoning districts, the applicant shall bear the responsibility of proving that the needs of the applicant cannot be met within the city's industrial or light industrial zoning districts at the time of conditional use approval. The applicant shall be responsible for all costs associated with the city's review and confirmation of the documentation supporting the application, including review by city hired engineers or technicians qualified to perform this work. (Ord. 719 § 1 (part), 2001)

15.42.110 Annual certification.

A. Each permitted WCF provider within the city of Black Diamond shall provide to the city at the time of their annual business license renewal, a letter of certification providing the following:

1. Evidence that the provider continues to hold a valid operating permit as may be required by the FCC or other regulating agency.

2. A statement certifying the number of months each facility owned and operated by the provider

within the city of Black Diamond was actually utilized for the purposes set forth in the original application. (Ord. 719 § 1 (part), 2001)

15.42.120 Radio frequency standards.

A. Verification of Compliance. The applicant shall comply with federal standards for radio frequency emissions. Within sixty days after the issuance of its final building inspection approval, the applicant shall submit a project implementation report which shall provide cumulative field measurements of radio frequency emissions of all antennas installed at the subject site, and shall compare these emissions with the established federal standards. If upon review it is determined that the WCF does not meet federal standards, the city may revoke or modify such permit.

B. Interference with Local TV or Radio. The applicant shall ensure that the WCF will not cause localized interference with the reception of area television or radio broadcasts. If, upon review or complaint investigation, the city finds that the WCF interferes with such reception, and if said interference is not remedied within thirty days, the city may revoke or modify the permit. (Ord. 719 § 1 (part), 2001)

15.42.130 Change of ownership.

A. The applicant shall notify the city planning department of any changes in ownership or operation of a WCF within thirty days of the change. Notice shall be provided in a written form and shall identify the new owner and a new contact address and phone number.

B. Within thirty days of a change in ownership or operation of a WCF, required site signage shall be replaced with new owner, operator, and emergency contact phone information. (Ord. 719 § 1 (part), 2001)

15.42.140 Maintenance.

A. The applicant shall maintain the WCF site to standards that may be imposed by the city at the time of permit approval. Such maintenance shall include, but shall not be limited to, maintenance of the paint, structural integrity, safety measures, fencing, and landscaping. (Ord. 719 § 1 (part), 2001)

15.42.150 Variances.

A variance from the requirements of this chapter may be granted by the city council as set forth in Chapter 18 of this code. (Ord. 719 § 1 (part), 2001)