

## Title 2

### ADMINISTRATION AND PERSONNEL

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**Chapter 2.04****CITY COUNCIL****Sections:****2.04.010 Meetings.****2.04.020 Tapes of council meetings.****2.04.010 Meetings.**

The regular meetings of the city council of the city shall be held at the Black Diamond Municipal Building, 25510 Lawson Street, Black Diamond, King County, Washington on the first and third Thursdays of each month at the hour of seven p.m., with the first such meeting to be May 7, 1998. (Ord. 635 § 1, 1998; Ord. 604 § 1, 1996; Ord. 571 § 1, 1995; Ord. 536 § 1, 1995; Ord. 274 § 1, 1982)

**2.04.020 Tapes of council meetings.**

The city may charge a fee in the amount set forth in the city's consolidated list of fees, as authorized in Section 2.62.010, for the taped duplication of any meeting of the city council or other city agency. This cost shall be for one meeting and shall be only if the meeting does not exceed one side of one tape. Each side of each tape shall be an additional amount, as set forth in the consolidated list of fees. (Ord. 561 § 1, 1995; Ord. 342 § 1, 1987)

**Chapter 2.08****APPOINTIVE OFFICERS AND EMPLOYEES GENERALLY****Sections:****2.08.010 Applicability.****2.08.020 Appointments.****2.08.030 Term of office—Vacancies.****2.08.040 Assignment of duties.****2.08.050 Records.****2.08.060 Salaries.****2.08.070 Termination of office.****2.08.010 Applicability.**

The provisions of this chapter shall apply alike to all officers or employees of the city, regardless of the time of appointment, or of the time of the creation of the office. (Ord. 38 § 1, 1961)

**2.08.020 Appointments.**

Excepting as otherwise specified by statute or ordinance, each officer may hire any employee assigned to his department. All employees shall be appointed in compliance with laws and regulations applicable thereto. (Ord. 38 § 2, 1961)

**2.08.030 Term of office—Vacancies.**

Every appointive-salaried officer or employee shall hold office for a term of one year or until his successor is appointed and qualified. Unless otherwise provided the term of each office shall expire on the last day of April following the appointment. (Ord. 38 § 3, 1961)

**2.08.040 Assignment of duties.**

The council shall have the power to assign to any appointive officer any duty which is not assigned by ordinance to some other specific officer; and shall determine disputes or questions relating to the respective powers or duties of officers. (Ord. 38 § 4, 1961)

**2.08.050 Records.**

All records kept by any officers of the city shall be open to inspection by the mayor, or any member of the city council at all reasonable times, whether or not such records are required to be kept by statute or ordinance. (Ord. 38 § 5, 1961)

**2.08.060 Salaries.**

All employees and officers of the city shall receive such salaries as may be provided from time to time by ordinance. No officer or employee receiving a salary from the city shall be entitled to retain any portion of any fees collected by him in the performance of his duties as municipal officer or employee in the absence of a specific ordinance to that effect. (Ord. 38 § 6, 1961)

**2.08.070 Termination of office.**

Every officer and employee of the city upon the expiration of his term for any cause whatsoever, shall deliver to his successor all books and records which may be the property of the city; and if no successor has been appointed within one week after the termination of office, such property shall be delivered to the city clerk-treasurer. (Ord. 38 § 7, 1961)

**Chapter 2.10****CITY ADMINISTRATOR****Sections:****2.10.010 Office created.****2.10.020 Duties.****2.10.030 Appointment—Removal.****2.10.040 Salary.****2.10.010 Office created.**

The city hereby creates the Office of City Administrator of the City of Black Diamond. (Ord. No. 881, § 2, 12-4-2008)

**2.10.020 Duties.**

The city administrator, under the direction and control of the mayor, shall be the individual responsible for administration of city personnel, and for the implementation, administration and enforcement of city ordinances and resolutions, and the policies and directives of the city council, which shall remain the legislative and policy-making body of the city. The city administrator, under the direction of the mayor, shall have the authority to draft, revise and enforce by whatever actions are necessary and lawful a set of administrative rules and procedures that will ensure the efficient and proper operation of city government and will carry out the ordinances and policies established by the city council. The city administrator shall also perform all duties and obligations of a city administrator as required by law, and such other duties as are set forth in city code, or as assigned from time to time by the mayor. The city administrator shall attend all special and regular meetings of the city council, unless excused, and such other meetings as requested by the mayor. (Ord. No. 881, § 3, 12-4-2008)

**2.10.030 Appointment—Removal.**

The city administrator shall be an at-will employee appointed by the mayor, subject to council confirmation, and terminable at will, subject to the provisions of any employment agreement re-

garding severance compensation. The position of city administrator shall not be required to be filled and may remain vacant at the discretion of the mayor. During periods of vacancy all duties generally performed by the city administrator shall be performed by the mayor.

(Ord. No. 881, § 4, 12-4-2008)

**2.10.040 Salary.**

The salary for the position of city administrator shall be set at the rate provided for in the annual budget of the city adopted by the city council. The city council may approve an employment agreement with the city administrator.

(Ord. No. 881, § 5, 12-4-2008)

**Chapter 2.12**

**CITY CLERK-TREASURER**

**Sections:**

**2.12.010 Offices combined.**

**2.12.020 Salary.**

**2.12.030 Duties.**

**2.12.040 City clerk to receive claims and lawsuits.**

**2.12.010 Offices combined.**

The position of city clerk and the position of city treasurer are combined under the single salary position of city clerk-treasurer effective June 1, 1975. (Ord. 178 § 1, 1975)

**2.12.020 Salary.**

The city clerk-treasurer will continue under the same salary and compensation as has previously been paid to the city clerk unless and until otherwise changed by future ordinance. (Ord. 178 § 2, 1975)

**2.12.030 Duties.**

The city clerk-treasurer shall perform all duties designated to be performed by the city clerk and/or the city treasurer as set forth in Title 35A of the Revised Code of Washington and shall also serve as the auditing officer for all purposes, including those enumerated in Chapter 42.24 of the Revised Code of Washington. (Ord. 666 § 1, 1999)

**2.12.040 City clerk to receive claims and lawsuits.**

In addition to the duties described in other sections of this chapter, the city clerk is appointed to be the city's recipient of claims and lawsuits as follows:

A. All claims and lawsuits brought against the city and/or its past and present officers and employees shall be filed or served upon the appointed city clerk during normal business hours at his or her office.

B. The city clerk's office is located at Black Diamond City Hall, 25510 Lawson Street, Black Diamond, WA 98010.

C. No other person or staff is authorized to receive such claims or lawsuits on behalf of the city. (Ord. 815 § 1, 2006)

**Chapter 2.16**

**POLICE CHIEF**

**Sections:**

- 2.16.010 Office created.**
- 2.16.020 Duties.**
- 2.16.030 Appointment—Removal.**
- 2.16.040 Salary.**

**2.16.010 Office created.**

There is created in the city the office of police chief. (Ord. 301 § 1, 1984)

**2.16.020 Duties.**

The police chief, under the direction of the mayor, is head of the municipal police department, and in this capacity is responsible for the planning, organizing and directing of the department in such matters as planning, coordinating, and supervision of patrol, investigation, crime prevention, training and all other programs and services of the police department. The police chief shall be responsible for and have the duty to see that order is maintained in the city and that state laws and city ordinances are enforced. (Ord. 301 § 2, 1984)

**2.16.030 Appointment—Removal.**

The police chief shall be appointed by the mayor, subject to confirmation by a majority vote of the city council. (Ord. 859 § 1, 2008: Ord. 845 § 1, 2007: Ord. 301 § 3, 1984)

**2.16.040 Salary.**

The salary for the position of police chief shall be set at the rate provided for in the annual budget adopted by the city council. (Ord. 301 § 4, 1984)

**Chapter 2.20****OFFICIALS' BONDS****Sections:****2.20.010 Designated.****2.20.010 Designated.**

The city shall maintain, at its own expense, a blanket employee bond for the employees of the city in an amount not less than fifty thousand dollars per employee through the Hartford Insurance Company. Said bond, at a minimum, shall cover the city clerk-treasurer and chief of police. (Ord. 557 § 1, 1995; Ord. 350 §§ 1, 2, 1987)

**Chapter 2.24****PLANNING COMMISSION****Sections:****2.24.010 Membership.****2.24.020 Powers and duties.****2.24.030 Secretary.****2.24.040 Quorum.****2.24.050 Referral by council.****2.24.010 Membership.**

A. Pursuant to RCW Chapter 35A.63, there is created for the city a planning agency to be known as the city planning commission, consisting of seven members who shall be appointed by the mayor and confirmed by the city council.

B. The term of office of each member of the planning commission shall be six years. Those members holding office as of January 1, 1984, shall continue to hold office, together with those members appointed during 1984 to fill vacancies occurring as of the dates of their appointments. The positions shall be designated numbers one through seven. The terms of office shall be staggered such that the terms of office of those members holding positions one through five shall terminate as of December 31, 1984, 1985, 1986, 1987 and 1988 respectively. The terms of office of those members appointed to positions six and seven shall expire as of December 31, 1989. Subsequent terms of office shall run for six years from the date of expiration of the preceding term.

C. The planning commission may adopt rules and procedures to address the conduct of its meetings, election of officers, and other administrative matters.

D. Vacancies occurring otherwise than through the expiration of terms shall be filled for the unexpired terms. Members shall serve without compensation. (Ord. 295 § 1, 1984)  
(Ord. No. 900, § 1, 4-16-2009)

**2.24.020 Powers and duties.**

A. The planning commission shall perform the function of a planning agency as set forth in

RCW 35A.63, provided, certain land use matters may be referred to the city's hearing examiner as elsewhere provided by the Black Diamond Municipal Code. The planning commission shall be an advisory body to the city council on matters relating to the city's comprehensive plan and land use regulations, including additions and amendments thereto, and shall be specifically responsible for reviewing and making a recommendation to the city council regarding proposed amendments to all or any portion of Titles 16, 17, 18 or 19 of the municipal code, or potential annexation of lands into the city limits and the zoning to be assigned thereto.

B. The planning commission shall review such other matters and take such further action as the city council may direct from time to time by motion, resolution, or ordinance. (Ord. 857 § 1, 2008; Ord. 295 § 2, 1984)  
(Ord. No. 900, § 3, 4-16-2009)

**2.24.030 Secretary.**

The mayor shall designate a city staff member to serve as secretary to the planning commission. The secretary shall be responsible for taking the minutes of each commission meeting and for assisting the commission with other administrative duties as assigned by the presiding member of the commission. (Ord. 570 § 1, 1995; Ord. 295 § 3, 1984)  
(Ord. No. 900, § 4, 4-16-2009)

**2.24.040 Quorum.**

A majority of the membership of the planning commission shall constitute a quorum for the transaction of business. Any action taken by a majority of those present, when those present constitute a quorum, at any regular or special meeting of the planning commission shall be deemed taken as the action of the commission. The commission may adopt such other rules governing its procedures and conduct of business as it deems appropriate. (Ord. 295 § 4, 1984)

**2.24.050 Referral by council.**

The city council may refer to the planning commission, for its recommendation and report,

any ordinance, resolution, or other proposal relating to any of the matters and subjects referred to in RCW Chapter 35A.63, and the commission shall promptly report to the city council thereon, making such recommendations and giving such counsel as it may deem proper. (Ord. 295 § 5, 1984)

## Chapter 2.28

### PUBLIC WORKS DEPARTMENT

#### Sections:

- 2.28.010 Office created.**
- 2.28.020 Duties.**
- 2.28.030 Appointment and removal.**
- 2.28.035 Duties performed by city administrator.**
- 2.28.040 Salary.**
- 2.28.050 Code enforcement officer position created.**
- 2.28.055 Code enforcement officer—Authority.**
- 2.28.060 City engineer office created.**
- 2.28.065 City engineer—Authority.**

#### **2.28.010 Office created.**

There is created in the city the office of the public works superintendent. (Ord. 300 § 1, 1984)

#### **2.28.020 Duties.**

A. The public works superintendent, under the direction of the mayor, is head of the municipal public works department and is responsible for performing the following duties:

1. The public works superintendent shall enforce the city building and related codes and city zoning, planning and subdivision ordinances.
2. The public works superintendent shall have charge of construction, maintenance, repair and cleaning of the streets, sidewalks, gutters, sewers and drains and other such related activities.
3. The public works superintendent shall exercise general supervision over the municipal water and sewer systems.
4. The public works superintendent shall exercise general supervision over the maintenance of all city owned properties, including, but not limited to, municipal parks.
5. The public works superintendent shall perform such other and further duties as may be delegated or authorized to him from time to time by either the city council or the mayor.

6. The public works superintendent shall serve as the city's SEPA responsible official.

B. Whenever the terms "city building inspector," or "official," "city engineer," "city health officer," "city SEPA responsible official," or "city utility superintendent" are used in any ordinance or resolution of the city, the terms shall, unless otherwise provided in the ordinance or resolutions containing them, be taken to refer to the public works superintendent, and all powers and duties given to or provided for those offices shall be held and performed by the public works superintendent. (Ord. 300 § 2, 1984)

#### **2.28.030 Appointment and removal.**

The public works superintendent shall be appointed by the mayor, subject to confirmation by a majority vote of the city council, and shall serve at the pleasure of the mayor. (Ord. 300 § 3, 1984)

#### **2.28.035 Duties performed by city administrator.**

Until such time as a public works superintendent is appointed by the mayor and confirmed by the city council, the city administrator or his/her duly authorized designee shall perform all of the duties of the public works superintendent, as set forth in Section 2.28.020. (Ord. 553 § 1, 1995)

#### **2.28.040 Salary.**

The salary for the position of public works superintendent shall be set at the rate provided for in the annual budget adopted by the city council. (Ord. 300 § 4, 1984)

#### **2.28.050 Code enforcement officer position created.**

The position of code enforcement officer is established. The code enforcement officer shall be appointed by the city administrator. The duties of the code enforcement officer can either be performed by a designated city employees, or by a designated independent contractor. (Ord. 851 § 1 (part), 2008)

**2.28.055 Code enforcement officer—  
Authority.**

The code enforcement officer is authorized to enforce the civil provisions of the Black Diamond Municipal Code, including but not limited to, the issuance of civil infractions, citations and penalties, when such remedies are provided by law. (Ord. 851 § 1 (part), 2008)

**2.28.060 City engineer office created.**

The office of city engineer is created. The city engineer shall be a professional engineer licensed in the state of Washington and shall be appointed by the mayor and confirmed by the city council. The duties of the city engineer can either be performed by a designated city employee, or by a designated independent contractor. (Ord. 853 § 1 (part), 2008)

**2.28.065 City engineer—Authority.**

The city engineer shall perform all duties and have all responsibilities that are set forth in the Black Diamond Municipal Code and state law, and such other duties as are assigned by the mayor or authorized by the city council. (Ord. 853 § 1 (part), 2008)

**Chapter 2.30**

**HEARING EXAMINER**

**Sections:**

- 2.30.010 Creation and purpose.**
- 2.30.020 Definitions.**
- 2.30.030 Appointment and term.**
- 2.30.040 Compensation.**
- 2.30.050 Conflict of interest.**
- 2.30.060 Improper influence.**
- 2.30.070 Organization and rules.**
- 2.30.080 Powers.**
- 2.30.085 Filing an appeal.**
- 2.30.090 Staff report to the examiner.**
- 2.30.100 Public hearing.**
- 2.30.110 Examiner's decision.**
- 2.30.120 Reconsideration.**
- 2.30.130 Effect of decision.**
- 2.30.140 Failure to appear—Default judgment.**
- 2.30.150 Notice of decision.**
- 2.30.160 Violation of order of hearing examiner—Gross misdemeanor.**

**2.30.010 Creation and purpose.**

A. *Creation.* The city creates the office of hearing examiner consistent with Article XI, Section 11 of the Washington State Constitution, and Chapters 35A.63 and 58.17 of the Revised Code of Washington, as currently written or hereafter amended.

B. *Purpose.* The purpose of this chapter is to provide an efficient and effective system for appeals of land use decisions, code enforcement violations, and other regulatory and administrative actions taken by the city; to provide for consistency and predictability in certain land use decision-making; to establish clear and understandable rules for the application of policies and regulations adopted by the city; and to provide for fair and impartial determinations of appealed matters while

ensuring procedural due process. (Ord. 857 § 3, 2008)  
(Ord. No. 899, § 1, 4-16-2009)

### **2.30.020 Definitions.**

As used in this chapter, unless the context clearly requires otherwise, the words defined in this section shall have the indicated meanings.

"Department" means the community development department for the City of Black Diamond.

"Director" means the community development director for the City of Black Diamond.

"Examiner" means the regular hearing examiner or hearing examiner pro tem for the City of Black Diamond. (Ord. 857 § 4, 2008)

### **2.30.030 Appointment and term.**

The examiner shall be appointed by the mayor with confirmation by the council, and shall serve at the pleasure of the mayor. The examiner shall be appointed based on his or her qualifications for the duties of the office and shall have the necessary training and experience in land use and related legal matters to conduct administrative or quasi-judicial hearings, and to render decisions according to law. The examiner shall hold no other classified, appointive, or elected position in city government. The examiner shall suggest an examiner pro tem to serve in the event of his/her absence or disability, or in the event of a conflict of interest. The appointment of an examiner pro tem is expected to be infrequent in nature. The mayor will confirm the appointment of an examiner pro tem, in writing, and specify the term of service. Confirmation of appointment of an examiner pro tem is not required by the council. The examiner pro tem will be entitled to the same compensation as the examiner during his/her term of service. (Ord. 857 § 5, 2008)

### **2.30.040 Compensation.**

The examiner may be retained on a professional service contract on terms deemed appropriate by the mayor with any necessary approval for budget purpose, by the council. The contract shall

specify that the examiner serves at the pleasure of the mayor, and that the examiner has authority to suggest appointment of an examiner pro tem to the mayor, to serve in the absence or disability, or in the event of a conflict of interest of the examiner. (Ord. 857 § 6, 2008)

### **2.30.050 Conflict of interest.**

A. The examiner shall not conduct or participate in any hearing or decision in which:

1. The examiner has a direct or indirect personal interest; or

2. The examiner has a beneficial interest, directly or indirectly, in any aspect of the matter on which he or she is called upon to issue a decision; or

3. The examiner has a direct or indirect familial interest which might influence or interfere with his or her decision-making process or give rise to a violation of the appearance of fairness doctrine as codified in Chapter 42.36 RCW as written or hereafter amended, and the common law.

B. The examiner shall disclose matters involving ex parte contacts, conflicts of interest or appearance of fairness issues prior to or at the beginning of any matter or immediately upon becoming aware of the need for such disclosure. The examiner shall recuse himself or herself if the examiner believes his or her review of the matter would represent a conflict of interest or violate the appearance of fairness doctrine as set forth herein.

C. In the event the examiner recuses himself or herself, an examiner pro tem will be appointed, according to BDMC Section 2.30.030. (Ord. 857 § 7, 2008)

### **2.30.060 Improper influence.**

No city official either elected or appointed shall attempt to influence the examiner in any matter officially before him or her so as to constitute misconduct by a public officer under Chapter 42.20 RCW, as written or hereafter amended, or that would constitute a violation of the appearance of fairness doctrine as codified in Chapter

42.36 RCW, as written or hereafter amended. (Ord. 857 § 8, 2008)

**2.30.070 Organization and rules.**

A. Organization. The examiner operates independently of any department of the city, but will receive such administrative assistance from the director as is necessary to carry out the functions of his or her office.

B. Rules. The examiner shall have the power to prescribe rules not in conflict with this chapter for procedural matters including adopting procedures for pre-hearing conferences, the scheduling and conduct of hearings, the submission of legal motions, briefs and other written documents, the scheduling of discovery, issuance of subpoenas for the attendance of witnesses or the production of information, receipt of evidence, and issues relating to settlement. (Ord. 857 § 9, 2008)

**2.30.080 Powers.**

A. General. The examiner shall receive and examine all information in the official file, conduct hearings and administer preparation of the official record and issue a written recommendation or a written decision on the matter. The examiner is authorized to impose conditions on the applicant's proposal, consistent with federal, state and local law. The examiner is authorized, as applicable, to hear and decide issues related to a taking of private property for public use without just compensation, and/or the denial of substantive due process of law, in addition to challenges to imposition of conditions or exactions on a project, whether based on constitutional, statutory or common law.

B. Specific. In addition to the general authority as granted herein, the examiner shall have the specific authority granted to him or her in other chapters of the Black Diamond Municipal Code.

C. The city council may, from time to time, grant to the examiner additional powers and authority as the council deems appropriate, consistent with state law and city code, ordinances and resolutions. (Ord. 857 § 10, 2008)

**2.30.085 Filing an appeal.**

Unless prohibited by another section of the municipal code or other law, any regulatory decision or civil code enforcement action by the city may be appealed to the city's hearing examiner, including but not limited to denial of a permit and application of zoning or other land use policies and regulations. Such request for an appeal hearing must be in writing and must briefly describe the basis of the appeal, and must be postmarked or hand delivered to the city clerk no later than ten business days after the date of the decision being appealed. Requests transmitted via telephone, email, or facsimile shall not satisfy the requirements of this section.

(Ord. No. 899, § 2, 4-16-2009)

**2.30.090 Staff report to the examiner.**

The department shall coordinate and assemble the reviews of other city departments and governmental agencies having an interest in the subject application and shall prepare a report summarizing the factors involved and the department's findings, conclusions, and recommendations. The report shall be filed with the examiner and copies thereof shall be mailed to the applicant and made available for public inspection at least five working days prior to the scheduled hearing, unless otherwise provided in the ordinance governing the specific application or appeal. (Ord. 857 § 11, 2008)

**2.30.100 Public hearing.**

Before rendering a decision or recommendation on any application or appeal, the examiner shall hold one open record public hearing thereon. The department shall, in coordination with the examiner, be responsible for assigning a date and assuring due notice of public hearing for each such application or appeal. Notice of the time and place of the public hearing shall be given as provided in the ordinance governing the application or appeal. If none is specifically set forth, such notice shall be given at least ten days prior to such hearing. The public hearing shall be conducted in accordance with the ordinance governing the ap-

plication or appeal and such other rules as the hearing examiner may adopt pursuant to BDMC Section 2.30.080. (Ord. 857 § 12, 2008)

**2.30.110 Examiner's decision.**

A. All decisions or recommendations of the examiner must be supported by findings of fact and conclusions of law. The findings of fact must be supported by substantial evidence in the record and the conclusions of law must be based upon the policies of the comprehensive plan, subdivision regulations, environmental regulations, the standards set forth in the various land use codes of the city, or any other relevant plan, regulation, federal or state law, case law, growth management hearings board decisions, or any other applicable law. Decisions or recommendations of the examiner may be to approve, conditionally approve, or deny the application or appeal.

B. All decisions or recommendations of the examiner will be rendered within ten working days following the conclusion of all testimony and hearings and closing of the record, unless otherwise provided in the ordinance governing the specific application or appeal, or unless a longer period is mutually agreed to by the applicant or appellant and the examiner. Upon issuance of the examiner's decision, the examiner will transmit a copy of the decision to the director and, by certified mail, to the applicant or appellant and by regular mail to other parties of record. (Ord. 857 § 13, 2008)

**2.30.120 Reconsideration.**

A. Any party of record may, within seven working days of the date of the examiner's written decision, file with the department a written request for reconsideration based on any one of the following grounds: errors of procedure, errors of law or fact, error in judgment, or the discovery of new evidence which was not reasonably available at the open record public hearing.

B. The request shall set forth the specific errors or new information relied upon. The department shall forward the request for reconsideration to the examiner within three working days. Upon

receipt of a request for reconsideration, the examiner will review the request in light of the record and take such further action as is deemed proper, including, but not limited to: denying the request; granting the request; reopening the record and public hearing process, and may render a revised decision. The examiner shall take such action as he or she deems appropriate within ten days of receipt of the request. The decision of the examiner will be subject to reconsideration only one time, even if the examiner reverses or modifies the original decision.

C. The filing of a request for reconsideration shall effectively stay the appeal period until the examiner issues his or her decision on the request. (Ord. 857 § 14, 2008)

**2.30.130 Effect of decision.**

Unless specifically provided for elsewhere in this chapter or in another applicable ordinance, the decision of the examiner shall be the final administrative decision of the city and may be appealed by a party of record with standing to the King County superior court pursuant to Chapter 36.70C RCW. A petition for a judicial appeal must be filed within twenty-one days of the issuance of a decision. (Ord. 857 § 15, 2008)

**2.30.140 Failure to appear—Default judgment.**

Failure of appellant to appear for a scheduled hearing after proper notice of the hearing has been provided shall result in a default judgment being entered by the hearing examiner in favor of the city, affirming the action or decision taken by the city that was the subject of the appeal, provided, the hearing examiner may, at his or her discretion, nullify the default judgment and reschedule the hearing should appellant, within twenty-four hours of failing to appear, provide the hearing examiner with good cause for failing to appear. At the city's request, the costs of the missed hearing shall be assessed by the hearing examiner against the appellant.

(Ord. No. 899, § 3, 4-16-2009)

**2.30.150 Notice of decision.**

A copy of the hearing examiner's decision shall be served upon the appellant in person or by regular first class mail to the most recent address provided to the city by appellant, or, if the appellant has not provided an address, to any address for the appellant that is maintained in the city's current utility billing records, most recent county tax rolls, or current department of licensing records. When notice of a hearing examiner's decision has been given as required in this section, failure of appellant to receive such notice shall not relieve the defendant of the responsibility to pay any fees imposed or to take any other actions ordered in the hearing examiner's decision.

(Ord. No. 899, § 4, 4-16-2009)

**2.30.160 Violation of order of hearing examiner—Gross misdemeanor.**

A. Any person who intentionally violates or refuses to comply with an order of the hearing examiner shall be guilty of a gross misdemeanor punishable by a fine not to exceed five thousand dollars and imprisonment not to exceed three hundred sixty-five days, or by both such fine and imprisonment. Each day or portion thereof during which the violation or non-compliance continues shall constitute a separate violation.

B. Nothing in this chapter shall limit the right of the city to pursue all other lawful legal remedies and penalties for continued violation of, or non-compliance with, an order of the hearing examiner.

(Ord. No. 899, § 5, 4-16-2009)

**Chapter 2.36****MUNICIPAL COURT****Sections:**

- 2.36.010 Established—Name.**
- 2.36.020 Jurisdiction.**
- 2.36.030 Judges—Appointment and qualifications.**
- 2.36.040 Salaries and costs.**
- 2.36.050 Municipal court employees.**
- 2.36.060 Judges pro tem.**
- 2.36.070 Judicial vacancy.**
- 2.36.080 Municipal court hours.**
- 2.36.090 Sentences.**
- 2.36.100 Deferral and suspension of sentences.**
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- 2.36.120 Pleadings, practice and procedure.**
- 2.36.130 Case transfers.**
- 2.36.140 Court seal.**
- 2.36.150 Removal of judge.**
- 2.36.160 Civil jury trials.**
- 2.36.170 Criminal process.**

**2.36.010 Established—Name.**

There is established a municipal court entitled "The Municipal Court of the City of Black Diamond," hereinafter referred to as "municipal court," which court shall have jurisdiction and shall exercise all powers enumerated in this chapter and in RCW Chapter 3.50, as amended by Chapter 258, Laws of 1984, together with such other powers and jurisdiction as are generally conferred upon such a court in this state, either by common law or by express statute. (Ord. 296 § 2, 1984)

**2.36.020 Jurisdiction.**

A. The municipal court shall have exclusive original jurisdiction over traffic infractions arising under city ordinances, and exclusive original crim-

inal jurisdiction of all violations of city ordinances duly adopted by the city. The municipal court shall have original jurisdiction of all other actions brought to enforce or recover license penalties or forfeitures declared or given by such ordinances or by state statutes.

B. The municipal court is empowered to forfeit cash bail, or bail bonds, and issue execution thereon; and in general to hear and determine all causes, civil or criminal, including traffic infractions, arising under such ordinances and to pronounce judgment in accordance therewith. (Ord. 296 § 3, 1984)

**2.36.030 Judges—Appointment and qualifications.**

A. The municipal judge holding office on July 1, 1984, the effective date of the ordinance codified in this chapter, shall continue to hold office until expiration of his or her term or January 1, 1986, whichever occurs first. The term of a successor shall commence on January 1, 1986 and on January 1st of each fourth year thereafter, pursuant to appointment as provided below.

B. The municipal judge shall be appointed by the mayor, subject to confirmation by the city council, for a term of four years. Appointments shall be made on or before December 1st of the year next preceding the year in which the term commences.

C. A person appointed as municipal judge shall be a citizen of the United States of America and of the state of Washington and a resident of King County, Washington. (Ord. 575 § 1, 1995; Ord. 296 § 4, 1984)

**2.36.040 Salaries and costs.**

The salary of the municipal court judge shall be fixed by ordinance. All costs of operating the municipal court, including but not limited to salaries of judges and court employees, dockets, books of records, forms, furnishings and supplies, shall be paid wholly out of the funds of the city. The city shall provide a suitable place for holding court

and pay all expenses of maintaining it. (Ord. 296 § 5, 1984)

**2.36.050 Municipal court employees.**

All employees of the municipal court shall, for all purposes, be deemed employees of the city. They shall be appointed by and serve at the pleasure of the municipal judge. (Ord. 296 § 6, 1984)

**2.36.060 Judges pro tem.**

A. The mayor shall, in writing, appoint judges pro tem who shall act in the absence or disability of the regular judge of the municipal court, or subsequent to the filing of an affidavit of prejudice.

B. The judge pro tem shall be qualified to hold the position of judge of the municipal court, as provided in this chapter.

C. The judge pro tem shall receive such compensation as fixed by ordinance.

D. The term of the appointment shall be specified in writing, but in any event shall not extend beyond the term of the appointing mayor. (Ord. 862 § 1, 2008; Ord. 296 § 7, 1984)

**2.36.070 Judicial vacancy.**

Any vacancy in the municipal court due to a death, disability, or resignation of a municipal court judge shall be filled by the mayor for the remainder of the unexpired term. The appointment shall be subject to confirmation of the city council. The appointed judge shall be qualified to hold the position of judge of the municipal court as provided in this chapter. (Ord. 296 § 8, 1984)

**2.36.080 Municipal court hours.**

The municipal court shall be open and shall hold such regular and special sessions as may be prescribed by the municipal court judge; provided, that the municipal court shall not be open on nonjudicial days. (Ord. 296 § 9, 1984)

**2.36.090 Sentences.**

A. In all cases of conviction, unless otherwise provided in RCW Chapters 3.30 through 3.74 as

now or hereafter amended, where a jail sentence is given to the defendant, execution shall issue accordingly and where the judgment of the court is that the defendant pay a fine and costs, the defendant may be committed to jail until the judgment is paid in full.

B. A defendant who has been committed shall be discharged upon the payment for such part of the fine and costs as remains unpaid after deducting from the whole amount any previous payment, and after deducting the amount allowed for each day of imprisonment, which amount shall be the same and computed in the same manner as provided for superior court cases in RCW 10.82.030 and 10.82.040, as now or hereafter amended. In addition, all other proceedings in respect of such fine and costs shall be the same as in like cases in the superior court.

C. Every person convicted by the municipal court of a violation of the criminal provisions of an ordinance for which no punishment is specifically prescribed in the ordinance, shall be punished by a fine of not more than five thousand dollars or imprisonment in the city jail for a period not to exceed one year, or both such fine and imprisonment. (Ord. 296 § 10, 1984)

#### **2.36.100 Deferral and suspension of sentences.**

A. After a conviction, the court may defer sentencing and place the defendant on probation and prescribe the conditions thereof, but in no case shall it extend for more than two years from the date of conviction. During the time of the deferral, the court may, for good cause shown, permit a defendant to withdraw the plea of guilty, permit the defendant to enter a plea of not guilty, and dismiss the charges.

B. For a period not to exceed two years after imposition of sentence, the court shall have continuing jurisdiction and authority to suspend the execution of all or any part of the sentence upon stated terms, including installment payment of fines.

C. Deferral of sentence and suspension of execution of sentence may be revoked if the defendant violates or fails to carry out any of the conditions of the deferral or suspension. Upon the revocation of the deferral or suspension, the court shall impose the sentence previously suspended or any unexecuted portion thereof. In no case shall the court impose a sentence greater than the original sentence, with credit given for the time served and money paid on fine and costs.

D. Any time before entering an order terminating probation, the court may revoke or modify its order suspending the imposition or execution of the sentence. If the ends of justice will be served and when warranted by the reformation of the probationer, the court may terminate the period of probation and discharge the person so held. (Ord. 296 § 11, 1984)

#### **2.36.110 Complaints.**

All criminal prosecutions for the violation of a city ordinance shall be conducted in the name of the city and may be upon the complaint of any person. (Ord. 296 § 12, 1984)

#### **2.36.120 Pleadings, practice and procedure.**

Pleadings, practice and procedure in cases not governed by statutes or rules specifically applicable to municipal courts shall, insofar as applicable, be governed by the statutes and rules now existing, or hereafter adopted, governing pleadings, practice and procedure applicable to district courts. (Ord. 296 § 13, 1984)

#### **2.36.130 Case transfers.**

A transfer of a case from the municipal court to either another municipal judge of the same city or to a judge pro tempore appointed in the manner prescribed by this chapter shall be allowed in accordance with RCW 3.66.090 in all civil and criminal proceedings. (Ord. 296 § 14, 1984)

#### **2.36.140 Court seal.**

The municipal court shall have a seal which shall be the vignette of George Washington, with

the words "Seal of the Municipal Court of Black Diamond, State of Washington," surrounding the vignette. (Ord. 296 § 15, 1984)

**2.36.150 Removal of judge.**

A municipal judge shall be removed only upon conviction of misconduct or malfeasance in office, or because of physical or mental disability rendering the judge incapable of performing the duties of the office. Any vacancy in the municipal court due to death, disability or resignation of the municipal court judge shall be filled by the mayor, for the remainder of the unexpired term. The appointment shall be subject to confirmation by the city council. The appointed judge shall be qualified to hold the position of judge of the municipal court as provided in this chapter and RCW Chapter 3.50 as amended by Chapter 258, Laws of 1984. (Ord. 296 § 16, 1984)

**2.36.160 Civil jury trials.**

In all civil cases, the plaintiff or defendant may demand a jury, which shall consist of six citizens of the state who shall be impaneled and sworn as in cases before district courts, or the trial may be by a judge of the municipal court; provided, that no jury trial may be held on a proceeding involving a traffic infraction. A party requesting a jury shall pay to the court a fee which shall be the same as that for a jury in district court. If more than one party requests a jury, only one jury fee shall be collected by the court. The fee shall be apportioned among the requesting parties. Each juror shall receive ten dollars for each day in attendance upon the municipal court, and in addition thereto shall receive mileage at the rate determined under RCW 43.03.060. (Ord. 296 § 17, 1984)

**2.36.170 Criminal process.**

All criminal process issued by the municipal court shall be in the name of the state, and run throughout the state, and be directed to and served by the chief of police, marshal, or other police officer of any city, or to a sheriff in the state. (Ord. 296 § 18, 1984)

**Chapter 2.40****ADMINISTRATIVE LAW JUDGE FOR DRUG-RELATED OFFENSES****Sections:**

- 2.40.010** Statutory authority.
- 2.40.020** Office created.
- 2.40.030** Authority of mayor to appoint.

**2.40.010 = Statutory authority.**

A state of emergency is declared to exist which affects the public peace, health and safety and which necessitates the immediate appointment of an administrative law judge to conduct requested hearings in drug-related forfeiture cases pursuant to RCW 69.50.505. (Ord. 282 § 1, 1983)

**2.40.020 Office created.**

There is created within the city the appointive office of administrative law judge for drug-related seizures and forfeitures. The duties of this office shall be to hear all requests for and to conduct and preside over all hearings required in drug-related seizures and forfeitures pursuant to RCW 69.50.505. (Ord. 282 § 2, 1983)

**2.40.030 Authority of mayor to appoint.**

The mayor of the city is authorized, pursuant to RCW Chapter 35A.11 to appoint an individual to fill the position created in Section 2.40.010 and to enter into an employment contract with the appointee for the provision of the appointee's services. (Ord. 282 § 3, 1983)

## Chapter 2.44

## EMERGENCY SERVICES

## Sections:

- 2.44.010 Established—Composition.
- 2.44.015 Definitions.
- 2.44.020 Director—Appointment—Responsibility.
- 2.44.030 Functions.
- 2.44.040 Service as mobile support team.
- 2.44.050 Agreements with other municipalities.
- 2.44.060 Use of services and equipment of city and citizens.
- 2.44.070 Compensation.
- 2.44.080 Reimbursement by state.
- 2.44.090 Purchases and expenditures.
- 2.44.110 Location of office.
- 2.44.120 Continuity of government.

**2.44.010 Established—Composition.**

A. There is created the department of emergency management for the city.

B. The department of emergency management shall consist of a director and such additional members as are selected by the director. (Ord. 573 § 1, 1995; Ord. 34 § 1, 1961)

**2.44.015 Definitions.**

When used in this chapter, the following words shall have the following meanings. Words used in the plural shall include the singular, and words in the singular shall include the plural. Words used in the masculine gender shall include the feminine, and words used in the feminine gender shall include the masculine:

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

“Emergency management” means the preparation for and the carrying out of all emergency functions, other than functions for which the military forces are primarily responsible, to mitigate, prepare for,

respond to, and recover from emergencies and disasters, and to aid victims suffering from injury or damage, resulting from disasters caused by all hazards, whether natural or manmade, and to provide support for search and rescue operations for persons and property in distress. However, “emergency management” does not mean preparation for emergency evacuation or relocation of residents in anticipation of nuclear attack.

“Emergency worker” means any person who is registered with the department of emergency management or the State Military Department and holds an identification card issued by the department of emergency management or the State Military Department for the purpose of engaging in authorized emergency management activities or who is an employee of the city who is called upon to perform emergency management activities.

“Emergency” or “disaster” means an event or set of circumstances which: (1) demands immediate action to preserve public health, protect lives, protect public property, or to provide relief to any stricken community overtaken by such occurrences; or (2) reaches such a dimension or degree of destructiveness as to warrant the governor declaring a state of emergency pursuant to RCW 43.06.010.

“Director” means the director of the city’s department of emergency management. (Ord. 573 § 2, 1995)

**2.44.020 Director—Appointment—Responsibility.**

A. The director of the department of emergency services shall be appointed by the mayor with the consent of the city council and shall serve until removed by the same.

B. The director shall have direct responsibility for the organization, administration, training and operation of the department of emergency services, subject to the direction and control of the mayor as provided by statute.

C. In the event of the absence, resignation, death or inability to serve of the director, the mayor or any person designated by him, shall be and act as director until a new appointment is made as provided in this chapter.

D. The director shall prepare and maintain a local emergency management plan and program in accordance with the state of Washington comprehensive emergency management plan and program. Before the local plan shall become effective, it shall be approved by the city council and certified for consistency with the state plan by the Adjutant General of the State Military Department, as directed in RCW 38.52.070(1). (Ord. 573 § 3, 1995; Ord. 34 § 2, 1961)

#### **2.44.030 Functions.**

It shall be the duty of the department of emergency management to perform all local emergency management functions within the city and outside the city boundaries as may be required by RCW Chapter 38.52. (Ord. 573 § 4, 1995; Ord. 34 § 3, 1961)

#### **2.44.040 Service as mobile support team.**

A. All or any member of the department of emergency services may be designated as members of a mobile support team created by the State Director of Emergency Services as provided by law.

B. The "leader" of the mobile support team shall be designated by the director of the department of emergency services.

C. Any member of a mobile support team who is a city employee or officer while serving on call to duty by the Governor, shall receive the compensation and have the powers, duties, rights and immunities incident to such employment or office and as are provided by RCW Chapter 38.52, and federal and state emergency management regulations for registered emergency workers. (Ord. 573 § 5, 1995; Ord. 34 § 4, 1961)

#### **2.44.050 Agreements with other municipalities.**

The director may, in collaboration with other public and private agencies within the state, develop or cause to be developed mutual aid arrangements for reciprocal emergency management aid and assistance in case of disaster too great to be dealt with unassisted. Such arrangements shall be consistent with the state emergency management plan and program and shall, in addition, not be effective until approved by the city council. (Ord. 573 § 6, 1995; Ord. 34 § 5, 1961)

#### **2.44.060 Use of services and equipment of city and citizens.**

In carrying out the provisions of this chapter:

A. The mayor is directed to utilize the city employees, services, equipment, supplies and facilities of existing departments, offices and agencies of the city, state and other municipal corporations, to the maximum extent possible;

B. The mayor and the director, in the event of a disaster, after proclamation by the Governor of the existence of such disaster, shall have the power to command the service and equipment of as many city employees and/or citizens as considered necessary in the light of the disaster proclaimed; provided, that all city employees and/or citizens so commandeered shall be entitled during the period of such service to all privileges, benefits and federal and state emergency management regulations for registered emergency workers. (Ord. 644 § 1, 1998; Ord. 573 § 7, 1995)

#### **2.44.070 Compensation.**

Members of the department of emergency services who are paid employees or officers of the municipality, if called for training by the State Director of Emergency Services, shall receive for the time spent in such training, the same rate of pay as is attached to the position held; members who are not such municipal employees or officers shall receive for such training time such compensation as may be established by the city council. (Ord. 34 § 7, 1961)

**2.44.080 Reimbursement by state.**

The city clerk-treasurer may receive and allocate to the appropriate fund any reimbursement by the state to the municipality for expenses incident to training members of the department of emergency services as prescribed by the state director, compensation for services and expenses of a mobile support team while serving outside the municipality in response to a call by the State Emergency Services Agency, and any other reimbursement made by the state incident to civil emergency activities as provided by law. (Ord. 34 § 8, 1961)

**2.44.090 Purchases and expenditures.**

A. The city council shall have the power to make appropriations in the manner provided by law for making appropriations for the ordinary expenses of the city for the payment of expenses of the department of emergency management.

B. In carrying out the provisions of this chapter, when an emergency or disaster has occurred, the city shall have the power to enter into any contracts and incur any obligations necessary to place the municipality in a position to combat effectively any disaster, and to protect the public health and safety, protect property and provide emergency assistance to victims in the case of such disaster. To that end, the director is authorized to exercise the city's powers under this chapter in the light of the exigencies of an extreme emergency situation without regard to time-consuming procedures and formalities prescribed by law (excepting mandatory constitutional requirements), including, but not limited to, budget law limitations, requirements of competitive bidding and publication of notices, provisions pertaining to the performance of public work, entering into contracts, the incurring of obligations, the employment of temporary workers, the rental of equipment, the purchase of supplies and materials, the levying of taxes, and the appropriation and expenditures of public funds; provided, that the director shall, whenever applicable, advise and consult with the city council with respect to disaster response activities,

and any such order of the director shall, at the earliest practicable time, be presented to the city council for review and appropriate legislation including:

1. Findings by resolution with respect to actions taken;

2. Authorization of payment for services, supplies, equipment loans and commandeered property used during disaster response activities;

3. Approval of gifts, grants or loans accepted by the director during the emergency;

and upon such review the city council may ratify and confirm, modify or reject any such order, and if rejected any such order shall be void. (Ord. 573 § 8, 1995: Ord. 34 § 9, 1961)

**2.44.110 Location of office.**

The mayor is authorized to designate space in the City Hall, or elsewhere as may be provided for by the city council for the department of emergency services as its office. (Ord. 34 § 11, 1961)

**2.44.120 Continuity of government.**

To avoid interruptions in the functioning of the city government, in the event that any officer or employee is killed or disabled at the time of any such disaster or emergency, such office or position may be filled by appointment by the mayor, or by the members of the city council who are available or by the city clerk-treasurer or the city attorney, in that order of preference. The successor so appointed may serve without furnishing bond or taking an oath of office, until such time as a successor may be appointed in the regular manner provided by law. (Ord. 573 § 10, 1995: Ord. 34 § 12, 1961)

## Chapter 2.48

## POLICE RESERVE

## Sections:

- 2.48.010 Established.
- 2.48.020 Duties.
- 2.48.030 Membership.
- 2.48.040 Powers.
- 2.48.050 Compensation.
- 2.48.060 Participation in volunteer firefighters' relief and pension plan.

**2.48.010 Established.**

There is created and established a reserve police force of not to exceed ten members who shall be appointed by the chief of police of the city and who shall function as a unit of the city and under the supervision of the chief of police and/or his designated subordinates, subject to the rules and regulations of the police department. (Ord. 566 § 1, 1995; Ord. 137 § 1, 1971)

**2.48.020 Duties.**

A reserve police officer shall exercise the same police authority as a regular police officer and shall supplement the regular police force, aid in the control of traffic and maintenance of order at parades and general policing of large assemblies of people, assist the regular police in the protection of life, property and preservation of peace and order, and perform such other duties as may, from time to time, be assigned them by the chief of police. (Ord. 566 § 2, 1995; Ord. 137 § 2, 1971)

**2.48.030 Membership.**

A. A person desiring an appointment as a reserve police officer shall complete and file an application with the chief of police on a form supplied by the chief and, in addition, indicate his willingness to serve as a reserve police officer an average minimum of twenty hours per month. The applicant shall also meet the below-stated qualifications and requirements prescribed for membership in the reserve

police force and satisfactorily complete such training as is deemed appropriate.

B. To be eligible for appointment as a reserve police officer, a person shall be twenty-one years of age or more, a citizen of the United States, have a high school or graduate equivalent degree, of good moral character, and shall not have been convicted of or have pleaded guilty to a felony, a crime of violence or an offense involving moral turpitude. The chief of police may establish such additional qualifications for appointment as he deems necessary. Within one year of the date of hire, the reserve officer shall obtain reserve officer academy certification.

C. Applicants appointed by the chief of police to serve as reserve police officers shall take an oath of office and be sworn in. The chief of police is authorized to furnish each member of the reserve police force with a membership identification card and police badge. The membership identification card is to be carried by such member at all times, and the police badge is to be worn only when the reserve police officer is authorized to wear the prescribed uniform.

D. Membership of any person in the police officer reserves may be revoked at any time by the chief of police or his designee for any violation of police department rules and regulations or for any other cause which the chief deems sufficient. Any reserve police officer may resign as such upon furnishing the chief of police with written notification of his intent to resign. Upon separation from the police reserve officer force, all equipment issued to the reserve police officer by the city shall be returned to the police department within five days thereafter.

E. No member of the reserve police force shall be regarded as a city employee for any purpose subject to civil service rules and regulations nor entitled to the benefits of any Police Pension Fund Act. (Ord. 566 § 3, 1995; Ord. 137 § 3, 1971)

**2.48.040 Powers.**

Members of the reserve police force shall have all those powers vested in them by the chief of police while in the performance of officially authorized duties, including such power to make arrest as any police officer of the city, but under no circumstances shall a reserve policeman exercise any power while not in the performance of duties ordered by the chief of police or by a regular police officer. (Ord. 137 § 4, 1971)

**2.48.050 Compensation.**

Unless compensation is otherwise provided for in the police department's rules and regulations, members of the reserve police force shall serve without compensation. The city may, in its discretion, pay all or part of the cost of furnishing uniforms and equipment for the reserve police officer when the appropriation therefore has been included as an item in the city's budget. (Ord. 566 § 4, 1995; Ord. 137 § 5, 1971)

**2.48.060 Participation in volunteer firefighters' relief and pension plan.**

A. For purposes of this chapter, the following terms are defined as follows:

"City" includes the city of Black Diamond, the Black Diamond fire department and the Black Diamond police department.

"Participant" means any firefighter, emergency worker or reserve officer who is or may become eligible to receive a benefit of any type under the retirement provisions of RCW Chapter 41.24 or whose beneficiary may be eligible to receive such benefit.

"Reserve officer" means the same as defined by the Washington State Criminal Justice Training Commission under RCW Chapter 43.101.

"State board" means the state board for volunteer firefighters created by RCW Chapter 41.24.

B. 1. Volunteer Firefighters' Relief and Pension Benefits Allowed For Police Reserve Officers. The state has by RCW 41.24 provided for the Volunteer Firefighters' Relief and Pension Act, the benefits of

which are extended to qualifying reserve police officers.

2. The State Board for Volunteer Firefighters administers the Volunteer Firefighters' Relief and Pension Act.

C. Participation in Volunteer Firefighters' Relief and Pension Plan. The city of Black Diamond shall allow participation in the volunteer firefighters' relief and pension plan, administered by the State Board for Volunteer Firefighters, by qualifying reserve officers under Option 3 which reads as follows:

- 3) To count and pay the costs of all credit for services as a reserve and to pay pension fees at the option of the member, who must agree to pay his/her portion of the fees plus interest, at an actuarial rate to be determined by the state board. Any portion of back fees may be assigned by the municipality to be paid by the member.

(Ord. 674 §§ 1—3, 1999)

## Chapter 2.52

## DEPARTMENTAL EXPENSES

## Sections:

2.52.010 Authority to expend funds.

2.52.010 Authority to expend funds.

The heads of the various executive departments of the city are authorized to expend such funds and in such amounts (within departmental budget limitations) as are deemed necessary by them for the proper operation and function of their various departments. Provided, however, that prior to the expenditure of any funds, the department heads are required to check with the city clerk-treasurer to assure that funds exist in their departmental budgets to cover such expenditures, and provided further, that each department head shall report on a monthly basis to the city council of the city, and shall at such time present to the council a detailed accounting of all expenditures for the preceding month. (Ord. 257 § 2, 1982)

## Chapter 2.56

## TRAVEL EXPENSES

## Sections:

2.56.010 Mileage rate.

2.56.010 Mileage rate.

Whenever any person or persons attend any convention or association or travel on behalf of the city, the person or persons shall receive the sum for their mileage, from and to Black Diamond, set forth in the city's consolidated list of fees, as authorized in Section 2.62.010, and the further sum of expenses incurred during his or her traveling and attendance thereof, by council approval. (Ord. 552 § 1, 1995; Ord. 197 § 1, 1977)

## Chapter 2.57

## REIMBURSEMENT POLICY FOR CITY EMPLOYEES AND OFFICIALS

## Sections:

2.57.010 Reimbursement of expenses authorized.

2.57.020 Qualifications.

2.57.030 Documentation of expenses—  
Receipts required.

2.57.040 Reimbursement for meals.

2.57.050 Reimbursement for travel.

2.57.060 Reimbursements for  
accommodations and lodging.

2.57.070 Reimbursement for incidental  
expenses.

2.57.080 Reimbursement claims and  
approval procedure.

2.57.010 Reimbursement of expenses  
authorized.

A. Officials and employees of the city are entitled to reimbursement of certain expenditures incurred while on official business of the city. Reimbursable expenses shall include expenses for transportation, lodging, meals, tips and other actual and necessary expenses related to official business.

B. Official business means performance of officially assigned duties, travel for approved public purposes, attendance at approved meetings or training or education seminars, attendance at approved conferences, and other approved sessions involving municipal affairs or other activities concerning the business of the city. Approval shall be obtained from the mayor/designee. (Ord. 504 § 1, 1994)

2.57.020 Qualifications.

To qualify for reimbursement, expenses must be directly related to the conduct of business or service to the city and be actual, reasonable and necessary under the circumstances. Unnecessary or excessively costly expenditures will not be reimbursable. Exceptions to the policies and regulations set forth herein

may be made only for unusual or extenuating circumstances upon the written directive of the mayor regarding expenses of the employees and the city council for the elected officials. (Ord. 504 § 2, 1994)

**2.57.030 Documentation of expenses—  
Receipts required.**

No claim for reimbursement shall be paid unless it is accompanied by a bona fide receipt. Receipts should show the date, a description of the purchase, vendor identification, and amount paid. Credit card receipts are required if credit cards are used. Meal ticket stubs or invoices will be accepted as long as the name of the restaurant and date of issue are included. Other rules for documenting specific types of expenses are identified below. (Ord. 504 § 3, 1994)

**2.57.040 Reimbursement for meals.**

A. The actual and necessary costs of meals incurred while conducting official business is reimbursable. Payment for table service at a restaurant, commonly referred to as a tip, is reimbursable but may not exceed fifteen percent of the restaurant price of the meal. Actual meal costs must be documented by a receipt.

When a receipt is unavailable, amounts on the following schedule may be claimed subject to the policies of this chapter. The listed amounts are amounts allowable (tip included) for meal claims submitted without a receipt:

Breakfast	\$ 7.00
Lunch	10.00
Dinner	<u>16.00</u>
Daily maximum	33.00

B. Meal costs must be actually incurred by the claimant to be reimbursable. Direct billing to the city by a restaurant is prohibited. If meal costs for persons other than the claimant are included, those persons must be entitled to reimbursement in their

own right, and they shall be listed by name and title in the claim documentation.

C. Unauthorized and unpermitted meal costs include, but are not limited to, liquor and expenses of a spouse or other person authorized to receive reimbursement under this chapter. (Ord. 504 § 4, 1994)

**2.57.050 Reimbursement for travel.**

A. The actual and necessary costs of travel for official business are reimbursable pursuant to the following guidelines.

B. City Vehicles. Necessary out of area costs for operation of city vehicles, such as gas, oil, tires and repairs.

C. Personal Vehicles. Authorized use of private vehicles shall be reimbursed at the prevailing Internal Revenue Service reimbursement rate for actual miles traveled. In no event shall reimbursement for actual miles driven exceed an amount equal to round trip coach fare by common carrier. No reimbursement shall be allowed for mileage from home to normal work location or return.

D. Rental Vehicles. Vehicle rentals must be approved in writing in advance by the mayor/designee.

E. Air Travel. Advance arrangements and authorization for air travel should be made using a travel request memo. No reimbursement shall exceed the cost of a coach fare by common carrier. Pricing quotes should be obtained by the city before booking to ensure low cost.

F. Other Travel Expenses. Other travel expenses such as bus and taxi fare, bridge or other tolls, parking, ferry, porter, bellman and the like (not including maid service) are reimbursable if itemized on the reimbursement form. Reasonable amounts for porter service, bellman service and the like are considered to be necessary payment for such service. Receipts shall be submitted where possible. If any individual item exceeds ten dollars, a receipt is required before reimbursement will be authorized. (Ord. 504 § 5, 1994)

**2.57.060 Reimbursements for accommodations and lodging.**

Actual and necessary hotel/motel accommodations will be reimbursed or paid in advance, limited to the maximum single room rate of the specific hotel or motel. A vendor's receipt is required for all accommodations. In the event the receipt includes nonreimbursable expenses, the claimant shall be responsible for the expense. When booking accommodations every effort should be made to book a government rate or any other favorable rate made available by the vendor for official business. (Ord. 504 § 6, 1994)

**2.57.070 Reimbursement for incidental expenses.**

A. Reimbursable incidental expenses include:

1. Baggage checking;
2. Laundry expenses if away from home on official business four or more working days;
3. Telephone, FAX and postage expenses. One telephone call home if away from home for more than twenty-four hours shall be considered a business expense if the call is for a reasonable amount of time (no longer than fifteen minutes).

B. Nonreimbursable incidental expenses include:

1. Personal entertainment;
2. Theft, loss or damage to personal property;
3. Expense of a spouse, family or other person not authorized to receive reimbursement under this chapter;
4. Barber or beauty parlor;
5. Airline or other trip insurance;
6. Personal postage, reading material, and telephone calls not related to official business;
7. Personal toilet articles;
8. Medications. (Ord. 504 § 7, 1994)

**2.57.080 Reimbursement claims and approval procedure.**

A. All claims for reimbursement shall be submitted on approved forms supplied by the administrator. If a travel advance has been obtained, the

amount of the advance and the actual costs incurred must be reconciled within five days of the return of the employee. All claims for reimbursement must be submitted within thirty days of incurring the expense or the claim will be denied.

B. Claims requiring special or written approval by the administrator must include such documentation.

C. All noncouncil reimbursement claims must be authorized by the claimant's department head and administrator.

D. Claims of councilmembers must be approved by the council audit committee.

E. All approved reimbursable expense claims shall be paid and charged to the fund and department responsible for the expenses of the claimant. Minor expense items may be paid out of the petty cash fund. (Ord. 504 § 8, 1994)

## Chapter 2.58

### BUSINESS LICENSES

#### Sections:

- 2.58.010 Business license required.
- 2.58.020 Definitions.
- 2.58.025 Exemptions.
- 2.58.030 Eligibility for license.
- 2.58.040 Application procedure—  
Issuance—Term of License—  
Renewal—Replacement.
- 2.58.050 License fees.
- 2.58.060 Separate license required for each  
business location—Display of  
license.
- 2.58.070 Change in ownership or death of  
licensee.
- 2.58.080 Enforcement.
- 2.58.090 Grounds for revocation or  
suspension.
- 2.58.100 Appeal of suspension or  
revocation.
- 2.58.110 Service of notice.
- 2.58.120 Violations—Penalties.

#### 2.58.010 Business license required.

No person shall engage in any business in the city without having first obtained from the city administrator a valid business license to conduct that business. This license shall be in addition to any other licenses or permits required by any other section of the Black Diamond Municipal Code. (Ord. 530 § 2 (part), 1995)

#### 2.58.020 Definitions.

For purposes of this chapter, the following terms, phrases and words shall have the meanings specified in this section. 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.

"Business" means all activities, occupations, pursuits or professions located and/or engaged in within the city, with the object of gain, benefit or advantage to the person engaging in the same, or to any other person or class, directly or indirectly. Each business location shall be deemed a separate business.

"City" means the City of Black Diamond.

"Employee" means anyone employed by a person engaged in business within the city regardless of the amount of wage paid or the number of hours worked. It shall include the owner or owners of the business if they perform any work within the city.

"Engaging in business":

1. The term "engaging in business" means commencing, conducting, or continuing in business, and also the exercise of corporate or franchise powers, as well as liquidating a business when the liquidators thereof hold themselves out to the public as conducting such business.

2. This section sets forth examples of activities that constitute engaging in business in the city, and establishes safe harbors for certain of those activities so that a person who meets the criteria may engage in de minimus business activities in the city without having to register and obtain a business license under this chapter. The activities listed in this section are illustrative only and are not intended to narrow the definition of "engaging in business" in subsection 1 of this definition. If an activity is not listed, whether it constitutes engaging in business in the city shall be determined by considering all the facts and circumstances and applicable law.

3. Without being all inclusive, any one of the following activities conducted within the city by a person, or its employee, agent, representative, independent contractor, broker or another acting on its behalf constitutes engaging in business and requires a person to register and obtain a business license under this chapter:

a. Owning, renting, leasing, maintaining, or having the right to use, or using, tangible personal

property, intangible personal property, or real property permanently or temporarily located in the city;

b. Owning, renting, leasing, using, or maintaining, an office, place of business, or other establishment in the city;

c. Soliciting sales;

d. Making repairs or providing maintenance or service to real or tangible personal property, including warranty work and property maintenance;

e. Providing technical assistance or service, including quality control, product inspections, warranty work, or similar services on or in connection with tangible personal property sold by the person or on its behalf;

f. Installing, constructing, or supervising installation or construction of, real or tangible personal property;

g. Soliciting, negotiating, or approving franchise, license, or other similar agreements;

h. Collecting current or delinquent accounts;

i. Picking up and transporting tangible personal property, solid waste, construction debris, or excavated materials;

j. Providing disinfecting and pest control services, employment and labor pool services, home nursing care, janitorial services, appraising, landscape architectural services, security system services, surveying, and real estate services including the listing of homes and managing real property;

k. Rendering professional services such as those provided by accountants, architects, attorneys, auctioneers, consultants, engineers, professional athletes, barbers, baseball clubs and other sports organizations, chemists, consultants, psychologists, court reporters, dentists, doctors, detectives, laboratory operators, teachers, veterinarians;

l. Meeting with customers or potential customers, even when no sales or orders are solicited at the meetings;

m. Training or recruiting agents, representatives, independent contractors, brokers or others,

domiciled or operating on a job in the city, acting on its behalf, or for customers or potential customers;

n. Investigating, resolving, or otherwise assisting in resolving customer complaints;

o. In-store stocking or manipulating products or goods, sold to and owned by a customer, regardless of where sale and delivery of the goods took place;

p. Delivering goods in vehicles owned, rented, leased, used, or maintained by the person or another acting on its behalf;

q. Accepting or executing a contract with the city, irrespective of whether goods or services are delivered within or without the city, or whether the person's office or place of business is within or without the city.

4. If a person, or its employee, agent, representative, independent contractor, broker or another acting on the person's behalf, engages in no other activities in or with the city but the following, it need not register and obtain a business license under this chapter:

a. Meeting with suppliers of goods and services as a customer;

b. Meeting with government representatives in their official capacity, other than those performing contracting or purchasing functions;

c. Attending meetings, such as board meetings, retreats, seminars, and conferences, or other meetings wherein the person does not provide training in connection with tangible personal property sold by the person or on its behalf;

d. Renting tangible or intangible property as a customer when the property is not used in the city;

e. Attending, but not participating in a "trade show" or "multiple vendor events." Persons participating at a trade show shall review the city's trade show or multiple vendor event ordinances;

f. Conducting advertising through the mail;

g. Soliciting sales by phone from a location outside the city; and

h. Delivering goods in the city by a common carrier with no offices located within the city limits.

5. A seller located outside the city merely delivering goods into the city by means of common carrier is not required to register and obtain a business license under this chapter, provided that it engages in no other business activities in the city. Such activities do not include those in subsection 4 of this definition.

6. The city expressly intends that engaging in business include any activity sufficient to establish nexus for purposes of applying the tax under the law and the constitutions of the United States and the state of Washington. Nexus is presumed to continue as long as the taxpayer benefits from the activity that constituted the original nexus generating contact or subsequent contacts.

"License" means and includes the word permit.

"Licensee" means the holder of any license issued in accordance with the provisions of this chapter.

"Person" means any individual, partnership, firm, company, society, association, club or other group or organization acting by themselves or by a servant, agent or employee.

"Premises" means all lands, structures and places, and also any personal property which is either fixed to, or is otherwise used in connection with any such business conducted on such premises.

"Year" means a calendar year. (Ord. 848 §§ 1, 2, 2007; Ord. 530 § 2 (part), 1995)

#### **2.58.025 Exemptions.**

The following shall be exempt from the provisions of this chapter:

A. Businesses that do not maintain an office or branch in the City of Black Diamond and who are not engaged in door to door sales or selling goods or services on the streets of the city and are merely performing a service at the request of a Black Diamond resident, including but not limited to home repairs or the installation of appli-

ances, provided, the person performing the service must possess any other licenses or certifications required under state or federal laws and the service provider is providing services in Black Diamond on no more than four occasions in any one calendar year.

B. Casual or isolated sales made by persons who are not engaged in the ongoing business of selling the type of property involved, providing that not more than four such sales events are made during any tax year.

C. Minors engaged in babysitting, delivery of newspapers, lawn mowing, car washing, and similar activities.

D. Any instrumentality of the United States, State of Washington, or any political subdivision thereof, with respect to the exercise of governmental functions.

E. All special events sponsored by the city, but not to include participating commercial vendors.

F. Nonprofit organizations, including but not limited to religious, civic, charitable, benevolent, nonprofit, cultural or youth organizations.

G. Businesses subject to the city's utility tax, Chapter 5.08. (Ord. 848 § 3, 2007) (Ord. No. 893, § 2, 1-15-2009)

#### **2.58.030 Eligibility for license.**

No person shall be eligible for a City of Black Diamond business license if any of the following conditions apply:

(1) The applicant is under the age of eighteen.

(2) The type of business to be conducted under the license is prohibited by zoning or other regulations from being conducted at the location indicated on the license application.

(3) The applicant knowingly provided false or materially misleading information on the business license application or during the application process.

(4) The applicant is not eligible under any other statute, law, ordinance, or regulation to be licensed to conduct the type of business for which the city license would be issued.

(5) At the time of making the application, the applicant's eligibility for the type of license sought is revoked or suspended pursuant to this chapter.

(6) The applicant, or a business within the city which is owned in whole or part by the applicant, owes to the City of Black Diamond any unpaid license fees and/or unpaid fines imposed for violations of this chapter. (Ord. 530 § 2 (part), 1995)

(Ord. No. 893, §§ 1, 2, 1-15-2009)

**2.58.040 Application procedure—Issuance—  
Term of License—Renewal—  
Replacement.**

*A. Application.*

(1) Every person required to obtain a license under the provisions of this chapter shall submit an application for such license to the city clerk on a form provided by the city. The applicant is required to provide all information requested on said form, and failure to do so shall be grounds for refusing to issue the business license.

(2) An application for a business license shall be accompanied by the full amount of the fee chargeable for said license, and said fee shall be nonrefundable. The city administrator shall issue a receipt to the applicant for all fees paid.

*B. Issuance.*

(1) A business license shall be issued only upon payment of all required license fees, review of the application and approval by the city administrator.

(2) Every license issued shall contain the year of issue, the name and location of the business and any other information the city shall deem necessary.

(3) An issued license shall be immediately rendered invalid if payment of the required fees is made by a dishonored check, credit card, or any method that results in the city failing to receive proper payment.

(4) No license issued under this chapter shall be transferable or assignable except as provided in Section 2.58.070.

*C. Term of license.* A business license issued pursuant to this chapter shall only be valid during the same calendar year in which it was issued and shall expire as of the 31st of December. Business license renewals must be obtained prior to the thirty-first day of January each year or shall be subject to monetary penalties. See subsection D, below.

*D. Renewal.* Upon payment of all applicable fees or charges and verification by the applicant that the information on the renewal license is correct, the city shall renew any business license for the new calendar year, subject to the following conditions:

(1) If a business renews its license after January 31st, it shall be subject to a monetary penalty in addition to the regular license fee specified in this chapter. No renewal license shall be issued until both the regular license fee and the penalty have been paid in full.

(2) A license shall not be renewed if, at the time of submitting the application, the license sought to be renewed is revoked or suspended pursuant to this chapter.

(3) A license shall not be renewed if the applicant, or a business within the city which is owned in whole or part by the applicant, owes the City of Black Diamond any unpaid license fees and/or unpaid fines imposed for violations of this chapter.

*E. Replacement.* A replacement license shall be issued by the city administrator to replace any license previously issued which has been lost, stolen, defaced or destroyed without willful conduct on the part of the licensee, upon the filing by the licensee of an affidavit attesting to that fact and the payment of a twenty-five-dollar fee to the city administrator. (Ord. 530 § 2 (part), 1995)  
(Ord. No. 893, §§ 1, 3, 1-15-2009)

**2.58.050 License fees.**

A. *Calculation of fee.* The fee for a city business license shall be determined according to the formulas below and the current fee schedule adopted by the city.

(1) *Renewals.* For businesses renewing their license, the annual license fee shall be based on how many persons were employed by the business at any one time between January 1 and December 31 of the year immediately preceding the year for which the license is sought. The number of employees shall be provided by the employer.

(2) *New businesses.* For a new business that has not yet been established or has not yet reported employee information to the state, the fee shall be determined based on the business owner's estimate of the maximum number of employees likely to be employed during that calendar year.

(3) *Businesses located outside city.* Any business that is located outside the city but furnishes or performs services within the city and is not exempt under Section 2.58.025(A), shall pay a license fee measured by the number of employees of such business that perform any part of their duties within the city.

B. *Penalty for late payment.* In addition to any other penalties provided for in this chapter, any business which fails to make application for an original business license after commencing business within the City of Black Diamond, or fails to renew an existing license by January 31st, shall be subject to the following penalties based on the number of days delinquent:

Days Delinquent	Penalty
Up to one month	\$10.00
One month to two months	20.00
Two months to three months	30.00

Days Delinquent	Penalty
Three months or more	Twice the cost of the license renewal and this amount may be sent to a collection agency if unpaid after thirty days' notice

C. *Reinstatement fee.* Any license that has been suspended pursuant to this chapter shall not be reinstated until a fee equal to one-half of the annual licensing fee for that business has been paid and the period of suspension has ended. (Ord. 848 § 4, 2007; Ord. 530 § 2 (part), 1995) (Ord. No. 893, §§ 1, 4, 1-15-2009)

**2.58.060 Separate license required for each business location—Display of license.**

A. Unless otherwise specifically provided herein, no license issued under this chapter shall entitle the license holder to maintain or conduct the business for which the license was issued at any other place or location than that stated in such license. If the place of business is changed from one location to another, the licensee shall return the license to the city administrator, and a new license shall be issued for the new place of business, free of charge.

B. A separate license is required for each branch establishment or location in the city where business is conducted or engaged in, as if such branch establishment or location were a separate business; provided, no separate license fee shall be imposed to obtain the license for such branch establishment or location.

C. A person engaging in two or more businesses at the same location shall be required to obtain separate licenses for each business.

D. All licenses issued pursuant to this chapter shall at all times be posted in a conspicuous place at the location of the business; provided, when the licensee has no established place of business and goes from place to place, then such license must be carried on the person of such lic-

ensee while actually engaged in the licensed business. (Ord. 530 § 2 (part), 1995) (Ord. No. 893, §§ 1, 5, 1-15-2009)

**2.58.070 Change in ownership or death of licensee.**

A. *Change in ownership.* A new license shall be required to be obtained within thirty days of the occurrence of any of the following events:

(1) A business has been sold or otherwise transferred to an owner whose name does not appear on the existing license;

(2) A license has been issued to a business that is a partnership and the members of the partnership change;

(3) A sole proprietor incorporates;

(4) A corporation dissolves and the business is continued under a new corporation or other type of business entity. In each of these cases, the new owner(s) must submit a new application and pay all fees required.

B. *Death of licensee.* Should a license holder become deceased before expiration of the license, his or her duly appointed administrator or executor may continue to engage in business under the existing license until the license expires. (Ord. 848 § 5, 2007; Ord. 530 § 2 (part), 1995) (Ord. No. 893, §§ 1, 6, 1-15-2009)

**2.58.080 Enforcement.**

A. It is unlawful for any person, either directly or indirectly, to conduct any business for which a license is required without a license being first procured and kept in effect at all such times as required by this chapter.

B. Any license fee due, but unpaid and delinquent under this chapter, and all penalties thereon, may be assigned to a collection agency as allowed by law or collected in a civil action, which remedy shall be in addition to any and all other existing remedies and penalties provided by the Black Diamond Municipal Code.

C. The city administrator, or his or her designee, shall have the power and authority to suspend or revoke any license issued under the provisions

of this chapter. Notice of such revocation or suspension shall be in writing and shall inform the licensee of the grounds for said suspension or revocation, the length of the suspension or revocation, and the date such suspension or revocation shall begin and end. The notice shall also inform the licensee of the right to appeal, the deadline for filing such an appeal, and that failure to file a timely appeal shall waive all appeal rights. Notice shall be served upon the licensee by one of the methods described in Section 2.58.110. Unless an appeal is timely filed as provided in Section 2.58.100, the suspension or revocation of a business license shall take effect on the eleventh day after receipt of a notice of suspension or revocation.

D. It is unlawful for any person whose license has been revoked or suspended to keep the license issued to him in his possession or under his control, and the same shall be immediately surrendered to the city administrator. When revoked, the license shall be canceled, and when suspended, the license shall be retained by the city administrator during the period of suspension. A licensee who continues to engage in the business for which the license has been revoked or suspended shall be deemed to be operating without a license and shall be subject to any or all penalties provided herein. (Ord. 530 § 2 (part), 1995) (Ord. No. 893, §§ 1, 7, 1-15-2009)

**2.58.090 Grounds for revocation or suspension.**

The city administrator may revoke or suspend any business license issued under the provisions of this chapter on any one or more of the following grounds:

A. The license was procured by fraud or by false representation of fact; or

B. The licensee has violated or failed to comply with any of the provisions of this chapter; or

C. The licensee's continued conduct of the business for which the license was issued will result in a substantial threat to the public health, safety or welfare by reason of any of the following:

1. The licensee, his employees or agents acting within the scope of their employment have

been convicted of a crime which bears a direct relationship to the conduct of the business for which the license has been issued; or

2. The licensee, or his agents or employees while acting within the scope of their employment, have, in the conduct of the business for which the license has been issued, violated a law or ordinance relating to the public health, welfare or safety; or

3. The conduct of the business for which the license was issued has resulted in the creation of a public nuisance, as defined by the Black Diamond Municipal Code or by state law. (Ord. 530 § 2 (part), 1995)  
(Ord. No. 893, § 8, 1-15-2009)

### **2.58.100 Appeal of suspension or revocation.**

*A. Request for appeal—Scheduling of hearing.*

(1) A licensee wishing to appeal a notice of suspension or revocation must file a written request to appeal with the city clerk. Such requests must be received by the city or postmarked no later than ten days after the date of service of the notice of suspension or revocation. Telephone, facsimile, or email requests shall not satisfy the requirements of this section. The request to appeal must specify the grounds upon which the appeal is based.

(2) The city clerk shall set a date for a hearing before the city hearing examiner, which date shall be at least fourteen but not more than thirty days from the date the appeal is filed, provided, the hearing date may be rescheduled and additional time allowed upon motion of a party or the hearing examiner for good cause shown or upon mutual agreement of the licensee and the city. At least ten days before said hearing, the city clerk shall cause licensee to be served with notice of the hearing as provided in Section 2.58.110. The notice shall set forth the date, time and place of the hearing.

*B. Failure to appear—Default judgment.* Failure of licensee to appear for the scheduled hearing after notice of the hearing has been served upon

licensee in the manner provided for in this chapter shall result in a default judgment being entered by hearing examiner in favor of the city, affirming the original suspension or revocation action taken by the city administrator. At the city's request, the costs of the hearing shall be assessed by hearing examiner against licensee.

*C. Hearing procedure—Decision.*

(1) Except as specifically supplemented by this chapter, the hearing shall be conducted according to Chapter 2.30 of the Black Diamond Municipal Code.

(2) Within ten days of the conclusion of the hearing, the hearing examiner shall enter written findings of fact and conclusions of law and shall affirm, modify or reverse the suspension or revocation of the license. The decision of the hearing examiner may impose any reasonable terms as a requirement for continuance of the license. A copy of the hearing examiner's decision shall be served upon the licensee by the methods allowed under Section 2.58.110.

*D. License in effect pending hearing decision.* When a suspension or revocation has been properly appealed, the license shall remain in effect pending the hearing examiner's decision.

*E. License must be surrendered upon decision to suspend or revoke.* If the hearing examiner's decision is to suspend or revoke the license, the licensee shall immediately surrender the license to the city administrator on the next business day following receipt of the notice of the city council's determination. (Ord. 530 § 2 (part), 1995)  
(Ord. No. 893, § 9, 1-15-2009)

### **2.58.110 Service of notice.**

Any notices required by this chapter shall be served upon a party by personal service or sent by both regular first class mail and certified mail, return receipt requested, to the address of the licensee or applicant as shown in the records of the city administrator, or if no such address is shown, to such address as the city administrator is able to ascertain by reasonable effort, or by posting at the location of the business if service by registered

mail and two attempts at personal service have failed. Upon a showing by the city that notice has been attempted as provided for in this section, failure of the licensee or applicant to receive such notice shall not release the licensee or applicant from any fees or penalties that result, nor shall such failure extend any time limit set by the provisions of this chapter. (Ord. 530 § 2 (part), 1995) (Ord. No. 893, §§ 1, 10, 1-15-2009)

#### **2.58.120 Violations—Penalties.**

A. Any person who operates a business in the City of Black Diamond without a valid business license shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine in any sum not exceeding one thousand dollars or by imprisonment in jail for a period not exceeding ninety days, or both such fine and imprisonment.

B. Civil Penalties. Any person who fails to comply with the provisions of this chapter is, in addition to any criminal penalties, subject to a maximum civil penalty of two hundred fifty dollars for each day or portion of the day that the violation continues.

C. Other Legal Remedies. Nothing in this chapter limits the right of the city to pursue other lawful, criminal, civil or equitable remedies to abate, discontinue, correct or discourage unlawful acts under or in violation of this chapter. (Ord. 848 § 6, 2007; Ord. 530 § 2 (part), 1995) (Ord. No. 893, § 1, 1-15-2009)

## **Chapter 2.59**

### **SPECIAL EVENT PERMITS**

#### **Sections:**

- 2.59.010 Definitions.**
- 2.59.020 Permit required.**
- 2.59.030 Permit application.**
- 2.59.040 Approval.**
- 2.59.050 Fees.**
- 2.59.060 Departmental analysis.**
- 2.59.070 Insurance required.**
- 2.59.080 Denial of permit.**
- 2.59.090 Appeal.**
- 2.59.100 Sanitation.**

#### **2.59.010 Definitions.**

"Public property" means all property owned by any public entity, well as public waters, or on a public right-of-way.

"Special events" means and includes any event, that is not otherwise permitted by the underlying zoning code, which is to be conducted on public property or private property which would have a direct significant impact on traffic congestion; or traffic flow to and from the event over public streets or rights-of-way; or which would significantly impact the need for city-provided emergency services such as police, fire or medical aid. It is presumed that any event on private property which involves an open invitation to the public to attend or events where the attendance is by private invitation of one hundred or more people are each presumed to be an event that will have a direct significant impact on the public streets, rights-of-way or emergency services. Special events might include, but not be limited to fun runs, roadway foot races, fundraising walks, auctions, bikathons, parades, boat races, regattas, carnivals, shows or exhibitions, filming/movie events, circuses, block parties, markets, sporting events and fairs. Special events shall also include a use of property that meets all of the following criteria: (1) the use will occur on private property that will be included in a

master plan community; and (2) the use is directly and solely related to the preparation or processing of an application for a master plan community, such as temporary office space for personnel that are preparing or processing the application; and (3) the use is solely for employees or consultants of the property owner or master plan community permit applicant; and (4) the use is temporary. (Ord. 834 § 1 (part), 2007)

#### **2.59.020 Permit required.**

A. No person or organization shall conduct a special event that affects the customary and ordinary use of public streets, rights-of-way, sidewalks and publicly owned property, i.e., parks or lakes, without first having obtained a special event permit from the City of Black Diamond.

B. A special event permit is not required for the following:

1. Parades, athletic events or other special events that occur exclusively within the city and are sponsored or conducted in full by the City of Black Diamond. An internal review process will be conducted for these events;

2. Funerals and weddings;

3. Groups required by law to be so assembled;

4. Gatherings of fifty or fewer people in a city park, unless merchandise or services are offered for sale or trade;

5. Temporary sales conducted by businesses on the business premises, such as holiday sales, grand opening sales, or anniversary sales; or

6. Garage sales and rummage sales conducted no more than four times per year at a residence. (Ord. 834 § 1 (part), 2007)

#### **2.59.030 Permit application.**

A. An application for a special event permit can be obtained at the office of the city clerk and will be completed and submitted to the city clerk no later than thirty days prior to the proposed event. A completed application does not constitute approval of the permit.

B. A waiver of application deadline shall be granted upon a showing of good cause or at the discretion of the city clerk (risk manager). The city clerk shall consider an application that is filed after the filing deadline if there is sufficient time to process and investigate the application and obtain police and other city services for the event. Good cause can be demonstrated by the applicant showing that the circumstances that gave rise to the permit application did not reasonably allow the participants to file within the time prescribed, and that the event is for the purpose of exercising the right of free speech.

C. The following information shall be provided on the special event permit application: purpose of the special event; name, address and telephone number of the sponsoring organization and/or individual(s); proposed date of event, location and hours of operation, schedule of events, estimated attendance, special facility requirements, city assistance required, and such other information as the city deems reasonably necessary to determine that the permit meets the requirements of this chapter and to determine the impacts and mitigation measures that are necessary to protect the public health, safety and welfare. (Ord. 834 § 1 (part), 2007)

#### **2.59.040 Approval.**

Based on the type of event and the event to which city services will be required, approval of special event permit applications will be made by the following authorities:

A. Approval by City Staff. The city administrator shall be responsible for issuing the special events permit for one-day events occurring on a single site.

B. Approval by City Council. The city council shall be responsible for approving all special events permits except those delegated to the city administrator in the previous subsection. A public hearing is required prior to the approval of a special event involving uses on a property that will be included within a master plan community.

C. The city council will be notified of all special event approvals made by the city staff.

D. If permits and/or coordination is required from other agencies, i.e., community transit, department of transportation, etc., these must be submitted prior to the issuance of the permit. (Ord. 834 § 1 (part), 2007)

#### **2.59.050 Fees.**

There is no fee for a special event permit. Failure to obtain a special event, however, shall be a civil infraction. (Ord. 834 § 1 (part), 2007)

#### **2.59.060 Departmental analysis.**

A. The city clerk will send copies of special event permit applications to all pertinent city departments for review and determination of services required.

B. The applicant is required to contract with the city in order to provide for such police and fire protection as is determined necessary for security, public safety and traffic control.

C. Cost of city services, i.e., police, fire, public works employees, etc. for special events will be estimated prior to the event. Additional costs incurred will be evaluated following the completion of the event. The city may in its discretion require a cash deposit for such costs. (Ord. 834 § 1 (part), 2007)

#### **2.59.070 Insurance required.**

The applicant is required to obtain and present evidence of comprehensive liability insurance naming the City of Black Diamond as an additional insured for use of streets, public rights-of-way and publicly owned property such as parks or lakes. The insurance requirement is a minimum of one million dollars for individual incidents, two million dollars aggregate, per event, against all claims arising from permits issued pursuant to this chapter. A certificate of insurance shall be required naming the city as an additional insured and indemnifying the city, its officers, employees and agents from all causes of action, claims or liabilities occurring in connection with the permitted

event. In circumstances posing an unusual risk of liability the city may, in its discretion, increase the minimum insurance requirements. (Ord. 834 § 1 (part), 2007)

#### **2.59.080 Denial of permit.**

Reasons for denial of a special event permit include, but are not limited to:

A. The event will disrupt traffic within the City of Black Diamond beyond practical solution;

B. The event will protrude into the public space open to vehicle, boat or pedestrian travel in such a manner as to create a likelihood of endangering the public;

C. The event will interfere with access to emergency services;

D. The location or time of the special event will cause undue hardship or excessive noise levels to adjacent businesses or residents;

E. The event will require the diversion of so many city employees that it would unreasonably affect other city services;

F. The application contains incomplete or false information;

G. The applicant fails to provide proof of insurance;

H. The applicant fails to obtain a city business license and/or fails to pay the special event permit fee;

I. The event would violate current zoning requirements, and the permit cannot be conditioned in such a way as to eliminate adverse impacts on city services and surrounding properties;

J. The applicant has not made adequate provisions to ensure that the health and safety of participants in, and spectators of, such special event will not be unduly endangered;

K. The applicant fails to obtain local, county, state and federal permits as required. (Ord. 834 § 1 (part), 2007)

#### **2.59.090 Appeal.**

The applicant has the right to appeal any denial of a special events permit to the city council. (Ord. 834 § 1 (part), 2007)

**2.59.100 Sanitation.**

A. A special event permit may be issued only after adequate waste disposal facilities have been identified and obtained by the applicant. The permittee is required to clean all permitted public and private properties and the right-of-way of rubbish and debris, returning it to its pre-event condition.

1. If the permittee fails to clean up such refuse, the clean-up will be arranged by the city and the costs charged to the permittee.

B. A Special event, permit may be issued only after adequate restroom and washroom facilities have been identified and arranged for or obtained by the applicant subject to the King County health district's review and certification process. (Ord. 834 § 1 (part), 2007)

**Chapter 2.60****LICENSE AND PERMIT FEES****Sections:**

**2.60.010 Current use assessment.**

**2.60.030 Rezones.**

**2.60.040 Long plats.**

**2.60.050 Fee where professional or technical assistance or environmental impact statement required.**

**2.60.060 Building permits.**

**2.60.070 Plumbing permits.**

**2.60.075 Mechanical permits.**

**2.60.080 Short plats.**

**2.60.090 Variances.**

**2.60.100 Planned unit developments.**

**2.60.110 Applications involving shorelines.**

**2.60.120 Fees nonrefundable.**

**2.60.010 Current use assessment.**

There is established a processing fee of thirty dollars for each and every application to aid in behalf of an owner of land desiring current use assessment, all as established by Section 3 of Chapter 87 of the 1970 First Extraordinary Session, which fee shall accompany the application as the same is presented to the city. (Ord. 351 § 1, 1987; Ord. 131 § 1, 1970)

**2.60.030 Rezones.**

A fee of one hundred dollars shall be charged and accompany each application or petition for a rezone. (Ord. 258 § 2, 1982; Ord. 230 § 2, 1980)

**2.60.040 Long plats.**

A fee of one hundred dollars plus fifty dollars per lot shall accompany any petition or application for a long plat. (Ord. 258 § 3, 1982; Ord. 230 § 3, 1980)

**2.60.050 Fee where professional or technical assistance or environmental impact statement required.**

The city council acknowledges that there will be occasions when it will be necessary for the city

to obtain professional and technical assistance to verify and review data as a result of the technical, environmental and social impacts that will result in the event the applications, as set out in Sections 2.60.020 through 2.60.040, are approved. The applicant, owner, operator or developer shall pay for or reimburse the city for all costs incurred in the event the city, at its discretion, elects to employ professional or technical assistants to conduct tests, review applications, and make recommendations with regard to the findings submitted by or on behalf of the developer. In addition, for any application where an environmental impact statement is required, a minimum fee of fifty dollars per home shall be charged to review the environmental impact statement. (Ord. 258 § 4, 1982: Ord. 230 § 4, 1980)

**2.60.060 Building permits.**

A fee shall be charged in connection with and accompany each application for a building permit. Said fee shall be as established in the city's consolidated list of fees, as authorized in Section 2.62.010. (Ord. 577 § 1, 1995: Ord. 271 § 1, 1982: Ord. 258 § 5, 1982: Ord. 230 § 6, 1980)

**2.60.070 Plumbing permits.**

A fee shall be charged in connection with and accompany each application for a plumbing permit. Said fee shall be as set forth in the city's consolidated list of fees, as authorized in Section 2.62.010. If a second or additional inspection is required, an additional fee shall be paid to the city in the amount set forth in the city's consolidated list of fees. (Ord. 577 § 2, 1995: Ord. 258 § 6, 1982: Ord. 230 § 7, 1980)

**2.60.075 Mechanical permits.**

A fee shall be charged in connection with and accompany each application for a mechanical permit. The fee shall be as set forth in the city's consolidated list of fees, as authorized in Section 2.62.010. (Ord. 577 § 3, 1995)

**2.60.080 Short plats.**

A fee of one hundred dollars plus twenty dollars per lot shall be charged and accompany each

application or petition for a short plat. (Ord. 258 § 7, 1982: Ord. 230 § 8, 1980)

**2.60.090 Variances.**

A fee of one hundred dollars shall be charged and accompany each application or petition for a zoning variance. (Ord. 258 § 8, 1982: Ord. 230 § 9, 1980)

**2.60.100 Planned unit developments.**

A fee of one hundred dollars plus fifty dollars per lot shall be charged and accompany any application or petition for a planned unit development. (Ord. 258 § 9, 1982: Ord. 230 § 10, 1980)

**2.60.110 Applications involving shorelines.**

An additional fee of fifty dollars shall be charged for any of the applications in Sections 2.60.020 through 2.60.100 which involve the use or development of a shoreline area. (Ord. 258 § 10, 1982: Ord. 230 § 11, 1980)

**2.60.120 Fees nonrefundable.**

All fees established in the ordinance codified in Sections 2.60.020 through 2.60.120 are nonrefundable. (Ord. 258 § 11, 1982)

## Chapter 2.62

### CONSOLIDATED LIST OF FEES

#### Sections:

- 2.62.010 Established.
- 2.62.012 Land development proposals—  
Review and processing fees.
- 2.62.014 Initial project review.
- 2.62.016 Notice of requirements.
- 2.62.018 Costs incurred by the city.
- 2.62.019 Review rates.
- 2.62.020 Fees superceded.
- 2.62.025 Deviations from fee schedule—  
When authorized—Deposits.
- 2.62.030 Severability.

#### 2.62.010 Established.

A consolidated list of fees charged for various city services may be established by resolution and amended periodically by resolution. (Ord. 388 § 1, 1988)

#### 2.62.012 Land development proposals— Review and processing fees.

The proponent of all land development proposals shall pay the city costs associated with the review and processing of the proposal. The phrase "land development proposal" shall include, but not be limited to, annexations, extensions of city utility service, proposals which will require building, grading, clearing, filling or other permits, short plat and subdivision approval, binding site plan approval, planned unit development approval, approval under the city shoreline management regulations, all business licenses involving the change of use of a building, rezones, conditional use permits, developer extension agreements, and any other approvals relating to the use of land within the city. The phrase "land development proposals" is intended to be construed broadly and to include all permits or approvals of like nature which are now required or may be required in the future; provided, applications relating to the

construction, reconstruction or remodeling of a single-family residence shall be categorically exempt. (Ord. 518 § 1, 1995)

#### 2.62.014 Initial project review.

A. All land development proposals shall be directed initially to the city administrator. Proponents are encouraged to commence the land use review process as soon as the proposal is sufficiently mature to enable the city to identify the permits and approvals which will or may be required for the proposal. The land use proponent may request a meeting with the city administrator before submitting a land development application. At such meeting the city administrator will advise the applicant as to the permits that will be required and will provide an estimate of anticipated fees. There shall be no charge for one pre-application meeting.

B. Concurrent application for and processing of all required permits is encouraged. The city administrator shall forward a copy of the application to the directors of all affected departments and city consultants. The department director shall review the application and then the department directors and consultants, if necessary, shall meet within two weeks of the date the application is submitted in order to discuss the proposal. (Ord. 518 § 2, 1995)

#### 2.62.016 Notice of requirements.

Within one week of the meeting of the department directors, as required by Section 2.62.014, the city administrator shall notify the land use proponent, in writing, of the necessary approvals, the estimated review time, the city officials responsible for processing the application, an estimate of review fees, and the amount that will be required to be deposited with the city. The application shall not be deemed complete without the required deposit. The application will not be processed until such time as the deposit is paid. If the deposit is not paid within thirty days of receiving notice of the amount of the deposit, then the development

proposal shall be deemed withdrawn. (Ord. 518 § 3, 1995)

#### **2.62.018 Costs incurred by the city.**

The proponent of all land development proposals shall pay to the city all costs incurred by the city that are associated with processing the proposal, including engineering, inspection, legal, secretarial and administrative costs, including staff time for preliminary consultations. The proponent shall deposit with the city the amount required as a deposit in the notice of requirements. If it appears that the actual cost to review will exceed the amount of the initial deposit, then the city administrator shall immediately notify the proponent, in writing, of the estimated amount of additional fees that will be required in order to complete review and an explanation as to the reason why the cost to review exceeds the estimate contained in the notice of requirements. The proponent shall then deposit the additional amount with the city. The city may discontinue reviewing the application until such time as the additional required deposits are made. The city council may authorize the mayor to enter into contracts for alternative payment arrangements for city processing costs for phased land development proposals or those for which processing is anticipated to exceed one hundred twenty days. This section is intended to supplement the fee schedules of any and all other city ordinances and resolutions to add thereto the obligation of the proponent to pay, in addition to scheduled fees, actual city costs incurred in processing the land development proposal; provided, however, the developer shall only be required to pay the fees set forth in any applicable fee schedule if the actual city costs incurred in processing the land development proposal does not exceed the fee set forth in the applicable fee schedule. (Ord. 518 § 4, 1995)

#### **2.62.019 Review rates.**

Hourly rates for city staff time for processing land development proposals shall be as follows:

City administrator:	See current fee resolution for rate
Public works director:	See current fee resolution for rate
Building official:	See current fee resolution for rate
City clerk-treasurer:	See current fee resolution for rate
City engineer:	Per contract
City attorney:	Per contract
Consultants:	Per contract
Landscape architect:	See current fee resolution for rate

(Ord. 518 § 5, 1995)

#### **2.62.020 Fees superceded.**

Those fees set forth in other ordinances or resolutions inconsistent with the fees established in the resolution consisting of the consolidated listing of fees charged for various city services are superceded and repealed. (Ord. 388 § 2, 1988)

#### **2.62.025 Deviations from fee schedule— When authorized—Deposits.**

When, in the judgment of the mayor, or his or her designee, the actual costs to the city of providing a service in a particular situation are likely to be significantly less, or significantly more, than a particular fee amount indicated on the fee schedule, the mayor or his or her designee shall be authorized to impose a fee that reflects the expected costs to the city of providing the service. For the purposes of this section, "significant" shall mean a situation where the actual costs are expected to vary from the amount indicated on the fee schedule by greater than ten percent. Where the city's expected costs for providing any service are expected to be significantly higher than the amount shown on the fee schedule, the mayor or his or her designee may require a deposit of twenty percent of the expected cost prior to providing the service. Nothing in this section shall prohibit the

city from requiring deposits for other city services as indicated on the fee schedule, or for requiring payment in full prior to providing any services. (Ord. No. 906, § 1, 5-7-2009)

**2.62.030 Severability.**

If any provisions of the ordinance codified in this chapter, or any fees established in the resolution consisting of the consolidated list of fees charged for various city services is held unenforceable or invalid for any reason, the remaining provisions of this chapter or fees established in the resolution consisting of the consolidated list of fees charged for various city services shall remain in force and effect. (Ord. 388 § 3, 1988)

## Chapter 2.64

POLICE DEPARTMENT AND FIRE  
DEPARTMENT CIVIL SERVICE\*

## Sections:

- 2.64.010 Definitions.
- 2.64.020 Commission created—  
Appointment—Terms—  
Removal—Quorum.
- 2.64.030 Organization of commission—  
Secretary—Powers and duties.
- 2.64.040 Persons included under civil  
service—Competitive  
examinations—Transfers,  
discharges and reinstatements.
- 2.64.050 Existing personnel continued  
under civil service.
- 2.64.060 Qualifications of applicants.
- 2.64.070 Tenure of employment—  
Grounds for discharge,  
reduction or deprivation of  
privileges.
- 2.64.080 Procedure for removal,  
suspension, demotion or  
discharge—Investigation—  
Hearing—Appeal.
- 2.64.090 Filling of vacancies.
- 2.64.100 Power to create offices, make  
appointments and fix salaries  
not infringed.
- 2.64.110 Enforcement by civil action—  
Legal counsel.
- 2.64.120 Deceptive practices, false marks  
and similar prohibited.
- 2.64.130 Applicability.
- 2.64.140 Violation—Penalty.

\* Editor's Note: The title of Chapter 2.64 was amended by Ord. 758 § 1.

## 2.64.010 Definitions.

As used in this chapter, the words and terms set forth in this section shall be given the following definitions:

A. "Appointing authority or power" includes every person or group of persons who, acting singly or in conjunction, as a mayor, mayor's designee, council, or otherwise, is or are invested with power and authority to select, appoint or employ any person to hold any office, place, position or employment subject to civil service.

B. "Appointment" includes all means of selection, appointing or employing any person to hold any office, place, position or employment subject to civil service.

C. "Commission" means the civil service commission created in this chapter, and "commissioner" means any one of the three commissioners appointed to that commission.

D. "City" means the city of Black Diamond. (Ord. 302 § 1, 1984)

2.64.020 Commission created—  
Appointment—Terms—  
Removal—Quorum.

A. There is created in the city a civil service commission which shall be composed of three persons. The members of such commission shall be appointed by the mayor; provided that, the members of the civil service commission constituted pursuant to Ordinance No. 146 of the city, repealed by Section 15 of the ordinance codified in this chapter, shall be the initial commissioners of the newly created civil service commission and shall continue in office until the term of their current appointment expires. Confirmation of the appointment or appointments of commissioners by the city council shall be required. The members of such commission shall serve without compensation.

B. No person shall be appointed a member of such commission who is not a citizen of the United States, a resident of the city for at least three years immediately preceding such appointment, and an elector of the county wherein he resides. Except for the initial commission, the term of office of such commissioners shall be six years. Any member of such commission may be removed from office for incompetency, incompatibility or dereliction of duty, or malfeasance in office, or other good cause; pro-

vided, however, that no member of the commission shall be removed until charges have been preferred, in writing, due notice, and a full hearing held.

C. The members of such commission shall devote due time and attention to the performance of the duties hereinafter specified and imposed upon them by this chapter. Two members of such commission shall constitute a quorum, and the votes of any two members of such commission concurring shall be sufficient for the decision of all matters, and the transaction of all business to be decided or transacted by the commissioners under or by virtue of the provisions of the ordinance codified in this chapter. (Ord. 302 § 2, 1984)

**2.64.030 Organization of commission—  
Secretary—Powers and duties.**

A. Immediately after appointment, the commission shall organize by electing one of its members chairperson, and shall hold regular meetings at least once a month, and such additional meetings as may be required for the proper discharge of its duties. It shall be the duty of the civil service commission:

1. To make suitable rules and regulations to implement this chapter which are not inconsistent with the provisions of this chapter. Such rules and regulations shall provide in detail the manner in which examinations may be held, and appointments, promotions, transfers, reinstatements, demotions, suspensions and discharges shall be made, and may also provide for any other matters connected with the general subject of personnel administration, and which may be considered desirable to carry out the purposes of this chapter, or which may be found to be in the interest of good personnel administration. The rules and regulations and any amendments thereof shall be printed, mimeographed or multigraphed for free public distribution. Such rules and regulations may be changed from time to time;

2. All tests shall be practical, and shall consist only of subjects which will fairly determine the capacity of persons examined to perform duties of the position to which appointment is to be made, and may include tests of physical fitness and/or manual skill;

3. The rules and regulations adopted by the commission shall provide for a credit in accordance with RCW 41.04.010 in favor of all applicants for appointment under civil service who, in time of war, or in any expedition of the armed forces of the United States, have served in and been honorably discharged from the armed forces of the United States, including the army, navy and marine corps and the American Red Cross. These credits apply to entrance examinations only;

4. The commission shall make investigations concerning and report upon all matters touching the enforcement and effect of the provisions of this chapter, and the rules and regulations prescribed hereunder; inspect all institutions, departments, offices, places, positions and employments affected by this chapter, and ascertain whether this chapter and all such rules and regulations are being obeyed;

5. Such investigations may be made by the commission or by any commissioner designated by the commission for that purpose. Not only must these investigations be made by the commission as aforesaid, but the commission must make like investigation on petition of a citizen, duly verified, stating the irregularities or abuses exist, or setting forth in concise language in writing, the necessity for such investigation. In the course of such investigation, the commission or designated commissioner, or chief examiner, shall have the power to administer oaths, subpoena and require the attendance of witnesses and the production by them of books, papers, documents and accounts appertaining to the investigation, and also to cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the superior court; and the failure upon the part of any person so subpoenaed to comply with the provisions of this section shall be deemed a violation of this chapter and punishable as such;

6. All hearings and investigations before the commission or designated commissioner, or chief examiner, shall be governed by this chapter and by rules of practice and procedure to be adopted by the commission, and in the conduct thereof, neither the commission nor designated commissioner shall be

bound by the technical rules of evidence. No informality in any proceedings or hearing, or in the manner of taking testimony before the commission or designated commissioner, shall invalidate any order, decision, rule or regulation made, approved or confirmed by the commission; provided, however, that no order, decision, rule or regulation made by any designated commissioner conducting any hearing or investigation alone shall be of any force or effect whatsoever unless and until concurred in by at least one of the other two members;

7. To hear and determine appeals or complaints respecting the administrative work of the personnel department related to the commission's duties, the rejection of any examination, and such other matters as may be referred to the commission pursuant to the duties outlined in subdivision 1 of this subsection;

8. Establish and maintain in card or other suitable form a roster of employees covered by the civil service;

9. Provide for, formulate and hold competitive tests to determine the relative qualifications of persons who seek employment in any class or position, and as a result thereof establish eligible lists for the various classes of positions as established by the city; and to provide that employees laid off because of curtailment of expenditures, reduction in force, and for like cause, head the list in the order of their seniority, to the end that they shall be the first to be re-employed;

10. When a vacant position is to be filled, to certify to the appointing authority, on written request, the names of the three persons highest on the eligible list for the class. The commission shall make provision in its rules for provisional or temporary appointment to be utilized when there is no such eligible list applicable to the vacant position, or which may be utilized at the discretion of the appointing authority when there are less than three names on the eligibility list applicable to the vacant position. Such temporary or provisional appointment shall not exceed a period of six months in duration but may be extended for up to an additional six months if for any reason it cannot be determined at the end of the initial appointment that the position being filled by

temporary or provisional appointment will in fact continue to be vacant, such as in the instance of a position vacant due to an officer or firefighter on disability leave under the LEOFF Act, or for other good cause which in the discretion of the commission warrants an additional extension of such provisional or temporary appointment;

11. Keep such records as may be necessary for the proper administration of this chapter.

B. The commission shall appoint a person to hold the position of secretary and chief examiner. The duties of the secretary and chief examiner shall be to keep the records of the commission, preserve all reports made to it, superintend and keep a record of all examinations held under its direction, and perform such other duties as the commission may prescribe. The secretary and chief examiner shall serve without compensation. (Ord. 758 §§ 2 and 3, 2004; Ord. 302 § 3, 1984)

**2.64.040 Persons included under civil service—Competitive examinations—Transfers, discharges and reinstatements.**

The provisions of this chapter shall include all full-time, fully commissioned officers of the city's police department. All clerical, dispatchers, mechanics and other employees of the police department who are not full-time, fully commissioned police officers are excluded from coverage under this chapter. The position of civil service secretary and chief examiner shall not be a civil service position. All appointments to and promotions covered by this chapter shall be made solely on merit, efficiency and fitness, which shall be ascertained by open, competitive examination and impartial investigation. No person shall be reinstated in or transferred, suspended or discharged from any such place, position or employment contrary to the provisions of this chapter. (Ord. 859 § 2, 2008; Ord. 841 § 1, 2007; Ord. 758 § 4, 2004; Ord. 302 § 4, 1984)

**2.64.050 Existing personnel continued under civil service.**

For the benefit of the public service and to prevent delay, injury or interruption therein by reason of the enactment of the ordinance codified in this chapter, all persons having completed probation in the police or fire departments are declared permanently appointed under civil service to the offices, places and positions or employments which they shall then hold respectively, and not on probation; and every such person is automatically adopted and inducted permanently into civil service, into such office, place, position or employment which such person then holds even though that office, place, position or employment is not subject to the civil service requirements of this chapter. (Ord. 758 § 5, 2004; Ord. 302 § 5, 1984)

**2.64.060 Qualifications of applicants.**

An applicant for a position of any kind under civil service must be a citizen of the United States of America who can read and write the English language. An applicant for a position of any kind under civil service must be of an age suitable for the position applied for, in ordinary good health, of good moral character, and of temperate and industrious habits, these facts to be ascertained in such manner as the commission may deem advisable. (Ord. 302 § 6, 1984)

**2.64.070 Tenure of employment—Grounds for discharge, reduction or deprivation of privileges.**

The tenure of everyone holding an office, place, position or employment under the provisions of this chapter shall be only during good behavior, and any such person may be removed or discharged, suspended without pay, demoted, or reduced in rank or deprived of vacation privileges or other special privileges for any of the following reasons:

A. Incompetency, inefficiency or inattention to or dereliction of duty;

B. Dishonesty, intemperance, immoral conduct, insubordination, discourteous treatment of the public or a fellow employee, or any other act of omission or

commission tending to injure the public service; or any other wilful failure on the part of the employee to properly conduct himself; or any wilful violation of the provisions of this chapter or the rules and regulations to be adopted hereunder;

C. Mental or physical unfitness for the position which the employee holds;

D. Dishonest, disgraceful, immoral or prejudicial conduct;

E. Drunkenness or use of intoxicating liquors, narcotics, or any other habit-forming drug, liquid or preparation to such extent that the use thereof interferes with the efficiency or mental or physical fitness of the employee, or which precludes the employee from properly performing the function and duties of any position under civil service;

F. Conviction of a felony or a misdemeanor, involving moral turpitude;

G. Any other act or failure to act which, in the judgment of the civil service commissioners, is sufficient to show the offender to be an unsuitable and unfit person to be employed in the public service. (Ord. 302 § 7, 1984)

**2.64.080 Procedure for removal, suspension, demotion or discharge—Investigation—Hearing—Appeal.**

A. No person in the classified civil service who shall have been permanently appointed or inducted into civil service under provisions of this chapter shall be removed, suspended, demoted or discharged except for cause, and only upon written accusation of the appointing authority, or any citizen or taxpayer; a written statement of which accusation, in general terms, shall be served upon the accused, and a duplicate filed with the commission.

B. Any person so removed, suspended, demoted or discharged may, within ten days from the date of his removal, suspension, demotion or discharge, file with the commission a written demand for an investigation, whereupon the commission shall conduct

such investigation. The investigation shall be confined to the determination of the question of whether such removal, suspension, demotion or discharge was or was not made for political or religious reasons, and was or was not made in good faith for cause.

C. After such investigation, the commission may affirm the removal, suspension, demotion or discharge, or if it finds that the removal, suspension or demotion was made for political or religious reasons, or was not made in good faith for cause, shall order the immediate reinstatement or reemployment of such person in the office, place, position or employment from which such person was removed, suspended, demoted or discharged, which reinstatement shall, if the commission so provides in its discretion, be retroactive, and entitle such person to pay or compensation from the time of such removal, suspension, demotion or discharge. The commission, upon such investigation, in lieu of affirming the removal, suspension, demotion or discharge, may order that such action that it deems appropriate be taken in lieu of removal, suspension, demotion or discharge. The findings of the commission shall be certified, in writing, to the appointing power, and shall be forthwith enforced by such officer.

D. All investigations made by the commission pursuant to the provisions of this section shall be had by public hearing after reasonable notice to the accused of the time and place of such hearing, at which hearing the accused shall be afforded an opportunity of appearing in person and by counsel, and presenting his/her defense.

E. The accused may appeal from the commission's judgment or order to the court of original and unlimited jurisdiction in civil suits of the county wherein he/she resides. Such appeal shall be taken by serving the commission, within thirty days after the entry of the commission's judgment or order, a written notice of appeal, stating the grounds thereof, and demanding that a certified transcript of the record and all papers on file in the office of the commission affecting or relating to

such judgment or order, be filed by the commission with such court. The commission shall, within ten days after the filing of such notice, make, certify and file such transcript with such court. The court of original and unlimited jurisdiction in civil suits shall thereupon proceed to hear and determine the appeal in a summary manner; provided, however, that the hearing shall be confined to the determination of whether the judgment or order made by the commission, was or was not made in good faith for cause, and no appeal to such court shall be taken except upon such ground or grounds. (Ord. 302 § 8, 1984)

**2.64.090 Filling of vacancies.**

(Reserved)

**2.64.100 Power to create offices, make appointments and fix salaries not infringed.**

All offices, places, classifications, job descriptions, positions and employments coming within the purview of this chapter shall be created by the mayor and city council or mayor alone or whomever otherwise is vested with power and authority to select, appoint or employ any person coming within the purview of this chapter, and nothing contained in this chapter shall infringe upon the power and authority of any such person or group of persons, or appointing authority, to fix the salaries and compensation of all employees employed hereunder. (Ord. 302 § 10, 1984)

**2.64.110 Enforcement by civil action—Legal counsel.**

It shall be the duty of the commission to begin and conduct all civil suits which may be necessary for the proper enforcement of this chapter and of the rules of the commission. The commission shall be represented in such suits by the chief legal officer of the city, or his/her designee, but the commission may in any case be represented by special counsel appointed by it. (Ord. 302 § 11, 1984)

**2.64.120 Deceptive practices, false marks and similar prohibited.**

No commissioner or any other person, shall, by himself or in cooperation with one or more persons, defeat, deceive or obstruct any person in respect of his right of examination or registration according to the rules and regulations of this chapter; or falsely mark, grade, estimate or report upon the examination or proper standing of any person examined, registered or certified pursuant to the provisions of this chapter; or aid in so doing; or make any false representation concerning the same or concerning the person examined; or furnish any person any special or secret information for the purpose of improving or injuring the prospects or chances of any person so examined, registered or certified, or to be examined, registered or certified; or persuade any other person, or permit or aid in any manner any other person to personate him in connection with any examination or registration or application or request to be examined or registered. (Ord. 302 § 12, 1984)

**2.64.130 Applicability.**

The examination and eligibility provisions of this chapter and establishment of positions covered by civil service by the provisions of this chapter shall be effective for all appointments made after the effective date of the ordinance codified in this chapter. (Ord. 302 § 14, 1984)

**2.64.140 Violation—Penalty.**

Any person who wilfully violates any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than one thousand dollars or by imprisonment in jail for not longer than one year, or by both such fine and imprisonment. (Ord. 302 § 13, 1984)

**Chapter 2.66**

**INDEMNIFICATION OF EMPLOYEES**

**Sections:**

- 2.66.010 Definitions.
- 2.66.020 Legal representation.
- 2.66.030 Exclusions.
- 2.66.040 Determination of exclusions.
- 2.66.050 Representation and payment of claims—Conditions.
- 2.66.060 Compliance with conditions.
- 2.66.070 Failure to comply with conditions.
- 2.66.080 Reimbursement of expenses.
- 2.66.090 Conflict with provisions of insurance policies.
- 2.66.100 Pending claims.

**2.66.010 Definitions.**

Unless the context indicates otherwise, the words and phrases used in this chapter shall have the following meanings:

A. "Employee" means any person who is or has been employed by the city.

B. "Official" means any person who is serving or has served as an elected city official, and any person who is serving or has served as an appointed member of any city board, commission, committee or other appointed position with the city. (Ord. 384 § 1, 1988)

**2.66.020 Legal representation.**

A. As a condition of service or employment, the city shall provide to an official or employee, subject to the conditions and requirements of this chapter, and notwithstanding the fact that such official or employee may have concluded service or employment with the city, such legal representations as may be reasonably necessary to defend a claim or lawsuit filed against such official or employee resulting from any conduct, act or omission of such official or employee performed or omitted on behalf

of the city in their capacity as a city official or employee, which act or omission is within the scope of their service or employment with the city. This chapter is subject to repeal or modification at the sole discretion of the city council.

B. The legal services shall be provided by the office of the city attorney unless:

1. Any provision of an applicable policy of insurance provides otherwise; or
2. A conflict of interest or ethical bar exists with respect to the representation.

C. In the event that outside counsel is retained under subsection B 2 of this section, the city shall indemnify the employee for the reasonable cost of defense; provided, that in no event shall the officer or employee be indemnified for attorney fees in excess of the hourly rates established by the city's contract with its city attorney. The hourly rate of the city attorney, who is on a retainer, shall be calculated by taking the average number of hours directed towards city work for the last complete fiscal year, dividing that into the total retainer amount to determine an hourly rate. The officer or employee shall be liable for all hourly rates in excess of the rate for the city attorney. Before the city shall have any liability to indemnify the employee for a reasonable cost of defense as provided in this section, the employee or official must first obtain consent from the city council, by motion, approving the representation by the attorney, other than the city attorney. (Ord. 384 § 2, 1988)

#### **2.66.030 Exclusions.**

A. In no event shall protection be offered under this chapter by the city to:

1. Any dishonest, fraudulent, criminal, wilful, intentional or malicious act or course of conduct of any official or employee;
2. Any act or course of conduct by an official or employee which is not performed on behalf of the city;
3. Any act or course of conduct which is outside the scope of the official or employee's service or employment with the city; and/or

4. Any lawsuit brought against an official or employee by or on behalf of the city. Nothing in this chapter shall be construed to waive or impair the right of the city council to institute suit or counterclaim against any official or employee nor to limit its ability to discipline or terminate an employee.

B. The provisions of this chapter shall have no force or effect with respect to any accident, occurrence or circumstance for which the city or the official or employee is insured against loss or damages under the terms of any valid insurance policy; provided, that this chapter shall provide protection, subject to its terms and limitations, above any loss limit of such policy. The provisions of this chapter are intended to be secondary to any contract or policy of insurance owned or applicable to any official or employee. The city shall have the right to require an employee to utilize any such policy protection prior to requesting protection afforded by this chapter. (Ord. 384 § 3, 1988)

#### **2.66.040 Determination of exclusions.**

The determination of whether an official or employee shall be afforded a defense for the city under the terms of this chapter shall be finally determined by the city council on recommendation of the mayor. The decision by the city council shall be final as a legislative determination of the council. Nothing in this chapter shall preclude the city from undertaking an officer or employee's defense under a reservation of rights. (Ord. 384 § 4, 1988)

#### **2.66.050 Representation and payment of claims—Conditions.**

The provisions of this chapter shall apply only when the following conditions are met:

- A. In the event of any incident or course of conduct potentially giving rise to a claim for damage, or the commencement of a suit, the official or employee involved, as soon as practical, give the city attorney written notice thereof, identifying the official or employee involved, all information known to

the official or employee with respect to the date, time, place and circumstances surrounding the incident or conduct giving rise to the claim or lawsuit, as well as the names and addresses of all persons allegedly injured or otherwise damaged hereby, and the names and addresses of all witnesses.

B. Upon receipt thereof, the official or employee shall forthwith deliver any claim, demand, notice or summons or other process relating such incident or conduct to the city attorney, and shall cooperate with the city attorney or attorney designated by the city attorney, and upon request, assist in making settlement of any suit and enforcing any claim for any right of subrogation against any person or organization that may be liable to the city because of any damage or claim of loss arising from the incident or course of conduct, including but not limited to rights of recovery for costs and attorney fees arising out of state or federal statute upon determination that the suit brought is frivolous in nature.

C. Such official or employee shall attend interviews, depositions, hearings and trials and shall assist in securing and giving evidence and obtaining attendance of witnesses all without any additional compensation to the official or employee and, in the event that an employee has left the employ of the city, no fee or compensation shall be provided; and

D. Such official or employee shall not accept nor voluntarily make any payment, assume any obligation, or incur any expense related to the claim or suit; other than for first aid to others at the time of any incident or course of conduct giving rise to such claim, loss or damage. (Ord. 384 § 5, 1988)

#### **2.66.060 Compliance with conditions.**

If legal representation of an official or employee is undertaken by the city attorney, all of the conditions of representation are met, and a judgment is entered against the official or employee, or a settlement is made, the city shall pay such judgment or settlement; provided, that the city may, in its discretion appeal as necessary such judgment. (Ord. 384 § 6, 1988)

#### **2.66.070 Failure to comply with conditions.**

In the event that any official or employee fails or refuses to comply with any of the conditions of Section 2.66.050, or elects to provide his/her own representation with respect to such claim or litigation, then all of the provisions of this chapter shall be inapplicable, and have no force or effect with respect to any such claim or litigation. (Ord. 384 § 7, 1988)

#### **2.66.080 Reimbursement of expenses.**

A. If the city determines that an official or employee does not come within the provisions of this chapter, and a court of competent jurisdiction later determines that such claim does come within the provisions of this chapter, then the city shall pay any judgment rendered against the official or employee and reasonable attorney fees incurred in defending against the claim. The city shall pay any attorney fees incurred in obtaining the determination that such claim is covered by the provisions of this chapter.

B. If the city determines that a claim against a city official or an employee does come within the provisions of this chapter, and a court of competent jurisdiction later finds that such claim does not come within the provisions of this chapter, then the city shall be reimbursed for costs or expenses incurred in obtaining the determination that such claim is not covered by the provisions of this chapter. (Ord. 384 § 8, 1988)

#### **2.66.090 Conflict with provisions of insurance policies.**

Nothing contained in this chapter shall be construed to modify or amend any provisions of any policy of insurance where any city official or employee thereof is named insured. In the event of any conflict between this chapter and provisions of any such policy of insurance, the policy provision shall be controlling; provided, however, that nothing contained in this section shall be deemed to limit or restrict any employee or official's right to full

coverage pursuant to this chapter, it being the intent of this chapter and section to provide coverage detailed in this chapter outside and beyond insurance policies which may be in effect, while not compromising the terms and conditions of such policies by any conflicting provisions of this chapter. (Ord. 384 § 9, 1988)

**2.66.100 Pending claims.**

The provisions of this chapter shall apply to any pending claim or lawsuit against any official or employee, or such claim or lawsuit hereinafter filed, irrespective of the date of the events or circumstances which are the basis of such claim or lawsuit. (Ord. 384 § 10, 1988)

**Chapter 2.68**

**SOCIAL SECURITY**

**Sections:**

- 2.68.010 Participation in social security system.
- 2.68.020 Plans to be submitted.
- 2.68.030 Fiscal officers to make payments.
- 2.68.040 Continuity.

**2.68.010 Participation in social security system.**

The city council has ordained in the ordinance codified in this chapter that the municipality become a participant in the social security system and that the benefits of old age and survivors' insurance be extended to its employees and officers. (Ord. 68 (part), 1964)

**2.68.020 Plans to be submitted.**

The city council has further ordained that the mayor and the city clerk-treasurer are authorized to execute and deliver to the Washington Department of Employment Security for its approval the plan or plans required under the provisions of Section 5 of the enabling act and of the Social Security Act to extend coverage to the employees and officers of this municipality and to do all other things necessary to that end. (Ord. 68 (part), 1964)

**2.68.030 Fiscal officers to make payments.**

The city council has further ordained that the proper fiscal officers are authorized to make all required payments into the contribution fund established by the enabling act and to establish such system of payroll deductions from the salaries of employees and officers as may be necessary to their coverage under the old age and survivors' insurance system. (Ord. 68 (part), 1964)

**2.68.040 Continuity.**

The city council has further ordained that the proper officials of the municipality do all things necessary for the continued implementation of the system. (Ord. 68 (part), 1964)

**Chapter 2.72**

**STATEWIDE CITY EMPLOYEES' RETIREMENT SYSTEM**

**Sections:**

- 2.72.010 Participation—Basis for credit.**
- 2.72.020 Membership in Washington State Public Employees' Retirement System.**

**2.72.010 Participation—Basis for credit.**

The city council has ordained in the ordinance codified in this section, as follows:

A. That the city council has elected to participate as a member of the statewide city employees' retirement system for pension, relief, disability and retirement for the employees of the city as provided by RCW Chapter 41.44; that all employees and officials of the city shall be included in the system provided that no elective official shall be included unless the official so elects and files a written notice of such election with the board of trustees of the pension system and with the city clerk-treasurer;

B. That a certified copy of the ordinance codified in this chapter shall be transmitted to the board of trustees of the statewide system as evidence of an election of the city council to join such pension system;

C. That the basis for prior-service credit shall be 1.33 percent of final compensation known as "full prior service credit";

D. That the basis for social security coverage will be "coordination";

E. That the basis for contribution shall be full compensation. (Ord. 110 §§ 1, 3—6, 1969)

**2.72.020 Membership in Washington State Public Employees' Retirement System.**

Pursuant to RCW 41.44.300, the Statewide City Employees' Retirement System was specified to no longer exist after January 1, 1972, at which time, all assets, liabilities and responsibilities of the Statewide City Employees' Retirement System were

transferred to and assumed by the Washington Public Employees' Retirement System, as provided in RCW Chapter 41.40. The city council authorizes and approves membership of its eligible employees in the Washington Public Employees' Retirement System, as established in RCW Chapter 41.40 et seq., and authorizes the expenditure of necessary funds to cover the city's proportionate share for participation in said system. (Ord. 572 § 1, 1995)

## Chapter 2.76

### DRUG ENFORCEMENT FUND AGREEMENT

#### Sections:

- 2.76.010** Authority of mayor.  
**2.76.020** Severability.

#### **2.76.010** Authority of mayor.

The mayor is authorized to enter into an agreement regulating the administration and use of the King County drug enforcement fund as set forth in King County Ordinance No. 7796. (Ord. 330 § 1, 1986)

#### **2.76.020** Severability.

Should any provision of this agreement, or King County Ordinance No. 7796, or provisions of the state statute establishing such fund be declared invalid or unconstitutional for any reason, the remaining provisions shall remain in force and effect. (Ord. 330 § 2, 1986)

**Chapter 2.80**

**DISPOSAL OF SEIZED PROPERTY**

**Sections:**

**2.80.010 Trade of seized property valued less than two thousand dollars— Duties of police chief.**

**2.80.010 Trade of seized property valued less than two thousand dollars— Duties of police chief.**

The chief of police of the city may trade property received under RCW Ch. 69.50 for other property, of like value, if the property received would be of use to the city and if the property involved has market value less than two thousand dollars. If the market value of the property received, and the property being contemplated for trade is in excess of two thousand dollars, then the chief of police shall receive the approval from the city council for the trade. (Ord. 385 § 1, 1988)

**Chapter 2.90**

**PURCHASING AND PUBLIC WORKS CONTRACTING**

**Sections:**

**2.90.010 Purchase of materials, supplies or equipment in an amount of seven thousand five hundred dollars or less, not connected to a public works project.**

**2.90.020 Purchase of materials, supplies or equipment in an amount greater than seven thousand five hundred dollars and less than or equal to fifteen thousand dollars, not connected to a public works project.**

**2.90.030 Small public works roster procedures.**

**2.90.010 Purchase of materials, supplies or equipment in an amount of seven thousand five hundred dollars or less, not connected to a public works project.**

The city is not required to use informal or formal sealed bidding procedures or the procedures set forth in this chapter for the purchase of any materials, supplies of equipment, not connected to a public works project, where the cost will not exceed seven thousand five hundred dollars. The city will attempt to obtain the lowest practical price for such goods and services. (Ord. 828 § 2, 2007)

**2.90.020 Purchase of materials, supplies or equipment in an amount greater than seven thousand five hundred dollars and less than or equal to fifteen thousand dollars, not connected to a public works project.**

For the purchase of any materials, supplies or equipment in an amount greater than seven thousand five hundred dollars and less than or equal to fifteen thousand dollars, not connected to a public works

project, in lieu of informal or formal sealed bidding procedures, the city may use the following process:

A. **Publication of Notice.** At least twice a year, the city shall publish, in the city's official newspaper, notice of the existence of a roster(s) of vendors for materials, supplies, and equipment, and shall solicit names of vendors for the roster.

B. **Electronic Rosters.** In addition to paper and/or electronic vendor lists kept on file in the appropriate department, the city may also use the state wide electronic database developed and maintained jointly by the Daily Journal of Commerce and the Municipal Research and Services Center of Washington.

C. **Telephone Quotations.** The city shall use the following process to obtain telephone quotations from vendors for the purchase of materials, supplies, or equipment:

1. A written description shall be drafted of the specific materials, supplies, or equipment to be purchased, including the number, quantity, quality, and type desired, the proposed delivery date, and any other significant terms of purchase;

2. A city representative shall make a good faith effort to contact at least three of the vendors on the roster to obtain telephone solicitation quotations from the vendors for the required materials, supplies, or equipment;

3. The city representative shall not share telephone quotations from any vendor with other vendors solicited for the bid on the materials, supplies, or equipment;

4. A written record shall be made by the city representative of each vendor's bid on the material, supplies, or equipment, and of any conditions imposed on the bid by such vendor;

5. The city representative shall present to the city council all telephone quotations and a recommendation for award of the contract to the lowest responsible bidder.

D. **Determining the Lowest Responsible Bidder.** The city shall purchase the materials, supplies or equipment from the lowest responsible bidder, provided that whenever there is reason to believe that the lowest acceptable bid is not the best price obtainable,

all bids may be rejected and the city may call for new bids. Pursuant to RCW 43.19.191(9), the following factors, in addition to price, may be given consideration in determining lowest responsible bidder:

1. The ability, capacity, and skill of the bidder to perform the contract or provide the service required;

2. The character, integrity, reputation, judgment, experience, and efficiency of the bidder;

3. Whether the bidder can perform the contract within the time specified;

4. The quality of performance of previous contracts or services;

5. The previous and existing compliance by the bidder with laws relating to the contract or services;

6. Such other information as may be secured having a bearing on the decision to award the contract.

E. **Award.** The city council shall review quotations and recommendation by city staff and award the contract to the lowest responsible bidder. A written record of each vendor's quotations shall be made open to public inspection or telephone inquiry after the award of the contract. Any contract awarded under this subsection need not be advertised.

F. **Posting.** A list of all contracts awarded under these procedures shall be posted at City Hall once every two months. The list shall contain the name of the vendor awarded the contract, the amount of the contract, a brief description of the items purchased, and the date it was awarded. (Ord. 828 § 3, 2007)

#### **2.90.030 Small public works roster procedures.**

The following small works roster procedures are established for use by the city pursuant to RCW 35.23.352, RCW 35A.40.210, and Chapter 39.04 RCW:

A. **Cost.** The city need not comply with formal sealed bidding procedures for the construction, building, renovation, remodeling, alteration, repair, or improvement of real property where the estimated cost does not exceed two hundred thousand dollars, which includes the costs of labor, material, equipment and sales and/or use taxes as applicable. Instead, the city

may use the small works roster procedures for public works projects as set forth herein. The breaking of any project into units or accomplishing any projects by phases is prohibited if it is done for the purpose of avoiding the maximum dollar amount of a contract that may be left using the small works roster process.

B. Number of Rosters. The city may create a single general small works roster, or may create a small works roster for different specialties or categories of anticipated work. Small works rosters may make distinctions between contractors based upon different geographic areas served by the contractor.

C. Contractors on Small Works Roster(s). The small works roster(s) shall consist of all responsible contractors who have requested to be on the roster(s), and where required by law are properly licensed or registered to perform such work in this state. Contractors desiring to be placed on a roster or rosters must keep current records of any applicable licenses, certifications, registrations, bonding, insurance, or other appropriate matters on file with the city as a condition of being placed on a roster or rosters.

D. Publication. At least once a year, the city shall publish in a newspaper of general circulation within the jurisdiction a notice of the existence of the roster or rosters and solicit the names of contractors for such roster or rosters. Responsible contractors shall be added to an appropriate roster or rosters at any time that they submit a written request and necessary records. The city may require master contracts to be signed that become effective when a specific award is made using a small works roster. An inter-local contract or agreement between city of Black Diamond and other local governments establishing a small works roster or rosters to be used by the parties to the agreement or contract must clearly identify the lead entity that is responsible for implementing the small works roster provisions.

E. Electronic Rosters. In addition to paper and/or electronic rosters kept on file in the appropriate department, the city may also use the state wide electronic database developed and maintained jointly by the Daily Journal of Commerce and the Municipal Research and Services Center of Washington.

F. Telephone or Written Quotations. The city shall use the following process to obtain telephone, written or electronic quotations for public works contracts from contractors on the appropriate small works roster to assure that a competitive price is established:

1. A contract awarded from a small works roster need not be advertised. Invitations for quotations shall include an estimate of the scope and nature of the work to be performed as well as materials and equipment to be furnished. However, detailed plans and specifications need not be included in the invitation. This subsection does not eliminate other requirements for architectural or engineering approvals as to quality and compliance with building codes.

2. Quotations may be invited from all appropriate contractors on the appropriate small works roster. As an alternative, quotations may be invited from at least five contractors on the appropriate small works roster who have indicated the capability of performing the kind of work being contracted, in a manner that will equitably distribute the opportunity among the contractors on the appropriate roster.

If the estimated cost of the work is from one hundred thousand dollars to two hundred thousand dollars, the city may choose to solicit bids from less than all the appropriate contractors on the appropriate small works roster but must also notify the remaining contractors on the appropriate small works roster that quotations on the work are being sought. The city has the sole option of determining whether this notice to the remaining contractors is made by:

- a. Publishing notice in a legal newspaper in general circulation in the area where the work is to be done;
- b. Mailing a notice to these contractors; or
- c. Sending a notice to these contractors by facsimile or other electronic means.

3. For purposes of this section, "equitably distribute" means that the city may not favor certain contractors on the appropriate small works roster over other contractors on the appropriate small works roster who perform similar services. At the time bids are solicited, the city representative shall not inform a

contractor of the terms or amount of any other contractor's bid for the same project.

4. A written record shall be made by the city representative of each contractor's bid on the project and of any conditions imposed on the bid. Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by telephone inquiry.

G. Limited Public Works Process. If a work, construction, alteration, repair, or improvement project is estimated to cost less than thirty-five thousand dollars, the city may award such a contract using the limited public works process provided under RCW 39.04.155, subsection (3). For limited public works project, the city will solicit electronic or written quotations from a minimum of three contractors from the appropriate small works roster and shall award the contract to the lowest responsible bidder as defined under RCW 43.19.1911(9). After an award is made, the quotations shall be open to public inspection and available by electronic request.

For limited public works projects, the city may waive the payment and performance bond requirements of Chapter 39.08 RCW and the retainage requirements of Chapter 60.28 RCW, thereby assuming the liability for the contractor's nonpayment of laborers, mechanics, subcontractors, materialmen, suppliers, and taxes imposed under Title 82 RCW that may be due from the contractor for the limited public works project. However, the city shall have the right of recovery against the contractor for any payments made on the contractor's behalf.

The city shall maintain a list of the contractors contacted and the contracts awarded during the previous twenty-four months under the limited public works process, including the name of the contractor, the contractor's registration number, the amount of the contract, a brief description of the type of work performed, and the date the contract was awarded.

H. Determining Lowest Responsible Bidder. The city shall award the contract for the public works project to the lowest responsible bidder, provided that, whenever there is a reason to believe that the lowest acceptable bid is not the best price obtainable, all bids may be rejected and the city may call for new

bids. Pursuant to RCW 43.19.1911(9), the following factors, in addition to price, may be given consideration in determining lowest responsible bidder:

1. The ability, capacity, and skill of the bidder to perform the contract or provide the service required;
2. The character, integrity, reputation, judgment, experience, and efficiency of the bidder;
3. Whether the bidder can perform the contract within the time specified;
4. The quality of performance of previous contracts or services;
5. The previous and existing compliance by the bidder with laws relating to the contract or services;
6. Such other information as may be secured having a bearing on the decision to award the contract.

I. Award. The mayor or his or her designee shall present to the city council all telephone quotations/bids and recommendation for award of the contract to the lowest responsible bidder. (Ord. 828 § 4, 2007)