

## **Title 3**

### **REVENUE AND FINANCE**

#### **Chapters:**

- 3.04 Official Depository**
- 3.08 Sales and Use Tax**
- 3.12 Supplemental Sales and Use Tax**
- 3.16 Real Estate Excise Tax**
- 3.20 Gambling Tax**
- 3.23 Payment of City Claims or Obligations**
- 3.24 Petty Cash and Change Account**
- 3.25 Police Investigation Buy Account**
- 3.32 Witness/Jury Fee Account**
- 3.36 Drug Enforcement Fund**
- 3.44 Fire Department Capital Facilities Fund**
- 3.46 Mitigation Reserve Fund**
- 3.50 Development Impact Mitigation Code**
- 3.51 Water Supply and Facilities Funding Agreements Fund**
- 3.60 Capital Improvements Plan**

## Chapter 3.04

## OFFICIAL DEPOSITORY

## Sections:

3.04.010 Designated.

3.04.010 Designated.

Mt. Rainier National Bank, Black Diamond Branch, or its successor in interest, is designated as the city's financial depository for checking accounts, funds and savings accounts. (Ord. 701 § 1, 2001; Ord. 545 § 1, 1995; Ord. 56 § 1, 1963)

## Chapter 3.08

## SALES AND USE TAX

## Sections:

3.08.010 Imposition.

3.08.020 Rate.

3.08.030 Administration and collection.

3.08.040 Consent to inspection of records.

3.08.050 Violation—Penalty.

3.08.010 Imposition.

From and after April 1, 1970, there is imposed a sales or use tax, as the case may be, upon every taxable event, as defined in RCW 82.14.020, occurring within the city. The tax shall be imposed upon and collected from those persons from whom the state sales or use tax is collected pursuant to RCW Chapters 82.08 and 82.12. Except as provided in RCW 82.14.230, this sales and use tax shall not apply to natural or manufactured gas. (Ord. 558 § 1, 1995; Ord. 122 § 1, 1970)

3.08.020 Rate.

The rate of the tax imposed by Section 3.08.010 shall be one-half of one percent of the selling price or value of the article used, as the case may be; provided, however, that during such period as there is in effect a sales or use tax imposed by the county, the rate of tax imposed by this chapter shall be four hundred twenty-five one-thousandths of one percent. (Ord. 122 § 2, 1970)

3.08.030 Administration and collection.

The administration and collection of the tax imposed by this chapter shall be in accordance with the provisions of RCW 82.14.050. (Ord. 558 § 2, 1995; Ord. 122 § 3, 1970)

3.08.040 Consent to inspection of records.

The city hereby consents to the inspection of such records as are necessary to qualify the city for inspection of records by the Department of Revenue, pursuant to RCW 82.32.330. The mayor of the city

is authorized to enter into the contract with the Department of Revenue for administration of the tax in this chapter. (Ord. 122 § 4, 1970)

**3.08.050 Violation—Penalty.**

Any seller who fails or refuses to collect the tax imposed by this chapter with the intent to violate the provisions of this chapter or to gain some advantage or benefit, direct or indirect, and any buyer who refuses to pay any tax due under this chapter shall be guilty of a misdemeanor. (Ord. 558 § 3, 1995: Ord. 122 § 5, 1970)

**Chapter 3.12**

**SUPPLEMENTAL SALES AND USE TAX**

**Sections:**

<b>3.12.010</b>	<b>Imposition.</b>
<b>3.12.020</b>	<b>Rate.</b>
<b>3.12.030</b>	<b>Administration and collection.</b>
<b>3.12.040</b>	<b>Inspection of records.</b>
<b>3.12.050</b>	<b>Authorization to enter into agreement with state.</b>
<b>3.12.070</b>	<b>Violation—Penalty.</b>

**3.12.010 Imposition.**

In addition to the tax imposed by Section 3.08.010, there is imposed a sales or use tax, as the case may be, as authorized by RCW 82.14.030(2), upon every taxable event, as defined in RCW 82.14.020, occurring within the city. The tax shall be imposed upon and collected from those persons from whom the state sales or use tax is collected, pursuant to RCW Chapters 82.08 and 82.12. (Ord. 564 § 1, 1995: Ord. 267 § 1, 1982)

**3.12.020 Rate.**

The rate of the tax imposed by Section 3.12.010 shall be one-half of one percent of the selling price or value of the article used, as the case may be; provided, however, that during such period as there is in effect a sales tax or use tax imposed by King County under RCW 82.14.030(2) at a rate equal to or greater than the rate imposed by Section 3.12.010, the county shall receive fifteen percent of the tax imposed by said section; provided further, that during such period as there is in effect a sales tax or use tax imposed by King County under RCW 82.14.030(2) at a rate which is less than the rate imposed by Section 3.12.010, the county shall receive that amount of revenues from the city tax equal to fifteen percent of the rate imposed by the county under RCW 82.14.030(2). (Ord. 564 § 2, 1995: Ord. 267 § 2, 1982)

**3.12.030 Administration and collection.**

The administration and collection of the tax imposed by this chapter shall be in accordance with the provisions of RCW 82.14.050. (Ord. 267 § 3, 1982)

**3.12.040 Inspection of records.**

The city consents to the inspection of such records as are necessary to qualify the city for inspection of records of the Department of Revenue, pursuant to RCW 82.32.330. (Ord. 267 § 4, 1982)

**3.12.050 Authorization to enter into agreement with state.**

The mayor and clerk-treasurer are authorized to enter into a contract with the Department of Revenue for the administration of this tax. (Ord. 267 § 5, 1982)

**3.12.070 Violation—Penalty.**

Any seller who fails or refuses to collect the tax as required by this chapter with the intent to violate the provisions of this chapter or to gain some advantage or benefit, either direct or indirect, and any buyer who refuses to pay any tax due under this chapter, shall be guilty of a misdemeanor. (Ord. 564 § 4, 1995; Ord. 267 § 7, 1982)

**Chapter 3.16****REAL ESTATE EXCISE TAX****Sections:**

- 3.16.010 Imposition.
- 3.16.020 Taxable events.
- 3.16.030 Consistency with state tax.
- 3.16.040 Distribution of tax proceeds and limiting the use thereof.
- 3.16.045 Fund No. 310 created.
- 3.16.050 Seller's obligation.
- 3.16.060 Lien provisions.
- 3.16.070 Notification of payment.
- 3.16.080 Date payable.
- 3.16.090 Excessive and improper payments.
- 3.16.100 Additional tax—Imposition.
- 3.16.105 Use of taxes collected.
- 3.16.108 Fund No. 320 created.
- 3.16.110 Additional taxes—Taxable events.
- 3.16.120 Additional—Consistency with state tax.
- 3.16.130 Additional—Distribution of tax proceeds.
- 3.16.150 Additional—Seller's obligation.
- 3.16.160 Lien provisions.
- 3.16.170 Notation of payment.
- 3.16.180 Date payable.
- 3.16.190 Excessive and improper payments.

**3.16.010 Imposition.**

There is imposed a tax of one-quarter of one percent of the selling price on each sale of real property within the corporate limits of this city. (Ord. 268 § 1, 1982)

**3.16.020 Taxable events.**

Taxes imposed in this chapter shall be collected from persons who are taxable by the state under RCW Chapter 82.45 and Chapter 458-61 WAC upon the occurrence of any taxable event within the corporate limits of the city. (Ord. 268 § 2, 1982)

**3.16.030 Consistency with state tax.**

The taxes imposed in this chapter shall comply with all applicable rules, regulations, laws and court decisions regarding real estate excise taxes as imposed by the state under RCW Chapter 82.45 and WAC Chapter 458-61. The provisions of those chapters to the extent they are not inconsistent with this chapter, shall apply as though fully set forth in this chapter. (Ord. 268 § 3, 1982)

**3.16.040 Distribution of tax proceeds and limiting the use thereof.**

A. The county treasurer shall place one percent of the proceeds of the taxes imposed in this chapter in the county current expense fund to defray costs of collection.

B. The remaining proceeds from city taxes imposed under Section 3.16.010 shall be distributed to the city monthly and shall be placed by the city clerk-treasurer in a municipal capital improvements fund. These capital improvements funds shall be used by the city for any capital purpose identified in a capital improvements plan and local capital improvements, including those listed in RCW 35.43.040.

C. This section shall not limit the existing authority of this city to impose special assessments on property benefited thereby in the manner prescribed by law. (Ord. 568 § 1, 1995; Ord. 268 § 4, 1982)

**3.16.045 Fund No. 310 created.**

A. There is established a capital improvements fund to be known as Fund No. 310.

B. Source. The moneys to be deposited into this fund shall be those collected pursuant to Section 3.16.010.

C. Use of Funds. Moneys in this fund shall be used by the city as set forth in Section 3.16.040. (Ord. 544 § 1, 1995)

**3.16.050 Seller's obligation.**

The taxes imposed in this chapter are the obligation of the seller and may be enforced through the action of debt against the seller or in the manner prescribed for the foreclosure of mortgages. (Ord. 268 § 5, 1982)

**3.16.060 Lien provisions.**

The taxes imposed in this chapter and any interest or penalties thereon are the specific lien upon each piece of real property sold from the time of sale or until the tax is paid, which lien may be enforced in the manner prescribed for the foreclosure of mortgages. Resort to one course of enforcement is not an election not to pursue the other. (Ord. 268 § 6, 1982)

**3.16.070 Notification of payment.**

The taxes imposed in this chapter shall be paid to and collected by the city clerk-treasurer of the county within which is located the real property which was sold. The county treasurer shall act as agent for the city within the county imposing the tax. The county treasurer shall cause a stamp evidencing satisfaction of the lien to be affixed to the instrument of sale or conveyance prior to its recording or to the real estate excise tax affidavit in the case of used mobile home sales. A receipt issued by the county treasurer for the payment of the tax imposed in this chapter shall be evidence of the satisfaction of the lien imposed in Section 3.16.060 and may be recorded in the manner prescribed for recording satisfactions or mortgages. No instrument of sale or conveyance evidencing a sale subject to the tax may be accepted by the county auditor for filing or recording until the tax is paid and the stamp affixed thereto; in case the tax is not due on the transfer, the instrument shall not be accepted until suitable notation of this fact is made on the instrument by the county treasurer. (Ord. 268 § 7, 1982)

**3.16.080 Date payable.**

The tax imposed under this chapter shall become due and payable immediately at the time of sale and, if not so paid within thirty days thereafter, shall bear interest at the rate of one percent per month from the time of sale until the date of payment. (Ord. 268 § 8, 1982)

**3.16.090 Excessive and improper payments.**

If, upon written application by a taxpayer to the county treasurer for a refund, it appears a tax has been paid in excess of the amount actually due or upon a sale or other transfer declared to be exempt, such excess amount or improper payment shall be refunded by the county treasurer to the taxpayer; provided, that no refund shall be made unless the state has first authorized the refund of an excessive amount or an improper amount paid, unless such improper amount was paid as a result of a miscalculation. Any refund made shall be withheld from the next monthly distribution to the city. (Ord. 268 § 9, 1982)

**3.16.100 Additional tax—Imposition.**

There is hereby imposed an additional tax of one-fourth of one percent of the selling price of each sale of real property within the corporate limits of the city as authorized by RCW 82.46.035(2). (Ord. 524 § 2, 1995)

**3.16.105 Use of taxes collected.**

The taxes assessed and collected under Section 3.16.100 shall be used solely for financing capital projects specified in a capital facilities plan element of the city's comprehensive plan. Capital projects shall be those as identified in RCW 82.46.035(5). Such moneys shall be held in a segregated city fund. (Ord. 524 § 3, 1995)

**3.16.108 Fund No. 320 created.**

A. There is hereby established a capital projects fund to be known as Fund No. 320.

B. Source. The moneys to be deposited into this fund shall be those collected pursuant to Section 3.16.100.

C. Use. Moneys in this fund shall be used by the city as set forth in Section 3.16.105. (Ord. 544 § 2, 1995)

**3.16.110 Additional taxes—Taxable events.**

Taxes imposed pursuant to the Section 3.16.100 shall be collected from persons who are taxable by the state under RCW Chapter 82.45 and Washington Administrative Code Chapter 458-61 upon the occurrence of any taxable event within the corporate limits of the city. (Ord. 524 § 4, 1995; Ord. 440 § 2, 1991)

**3.16.120 Additional—Consistency with the state tax.**

The taxes imposed in Section 3.16.100 shall comply with all applicable rules, regulations, laws and court decisions regarding real estate excise taxes as imposed by the state under RCW Chapter 82.45 and WAC Chapter 458-61. The provisions of these chapters, to the extent that they are not inconsistent with Sections 3.16.100 through 3.16.190, shall apply as though fully set forth in this section. (Ord. 440 § 3, 1991)

**3.16.130 Additional—Distribution of tax proceeds.**

A. The county treasurer shall place one percent of the proceeds of the taxes imposed in Section 3.16.100 in the county expense fund to defray costs of collection.

B. The remaining proceeds from city taxes imposed in Section 3.16.100 shall be distributed to the city monthly and shall be placed by the city clerk-treasurer in the city's capital improvement fund.

C. This section shall not limit the existing authority of this city to impose special assessments on property benefitted thereby in the manner prescribed by law. (Ord. 440 § 4, 1991)

**3.16.150 Additional—Seller's obligation.**

Taxes imposed in Section 31.16.100 are the obligation of the seller and may be enforced through the action of debt against the seller or in the manner prescribed for the foreclosure of mortgages. (Ord. 440 § 6, 1991)

**3.16.160 Lien provisions.**

The taxes imposed in Section 3.16.100 and any interest or penalties thereon are the specific lien upon each piece of property sold from the time of sale or until the tax is paid, which lien may be enforced in the manner prescribed for the foreclosure of mortgages. Resort to one manner of enforcement is not an election not to pursue another type of enforcement. (Ord. 440 § 7, 1991)

**3.16.170 Notation of payment.**

The taxes imposed in Section 31.16.100 shall be paid to and collected by the treasurer of King County and the county treasurer shall act as agent for the city for the purpose of collecting this tax. The county treasurer shall cause a stamp evidencing the satisfaction of the lien to be affixed to the instrument of sale or conveyance prior to its recording or to the real estate excise tax affidavit in the case of used mobile home sales. A receipt issued by the county treasurer for the payment of the tax imposed in Section 3.16.100 shall be evidence of the satisfaction of the lien imposed in Section 3.16.160 and may be recorded in the manner prescribed for recording satisfactions of mortgages. No instrument of sale or conveyance evidencing a sale subject to the tax may be accepted by the county auditor for filing or recording until the tax is paid and the stamp affixed thereto; in case the tax is not due on the transfer, the instrument shall not be accepted until a suitable notation of this fact is made on the instrument by the county treasurer. (Ord. 440 § 8, 1991)

**3.16.180 Date payable.**

The tax imposed under Section 3.16.100 shall become due and payable immediately at the time of sale and, if not so paid within thirty days thereafter, shall bear interest at the rate of one percent per month from the time of sale until the date of payment. (Ord. 440 § 9, 1991)

**3.16.190 Excessive and improper payments.**

If, upon written application by a taxpayer to the county treasurer for a refund, it appears a tax has been paid in excess of the amount actually due or upon the sale or other transfer declared as exempt, such excess amount or improper payment shall be refunded by the county treasurer to the taxpayer; provided; that no refund shall be made unless the state has first authorized the refund of an excessive amount or an improper amount paid, unless such improper amount was paid as a result of a miscalculation. Any refund shall be withheld from the next monthly distribution to the city. (Ord. 440 § 10, 1991)

## Chapter 3.20

### GAMBLING TAX

#### Sections:

<b>3.20.010</b>	<b>Authority to tax.</b>
<b>3.20.020</b>	<b>Police chief to be notified.</b>
<b>3.20.030</b>	<b>Rates of taxation.</b>
<b>3.20.040</b>	<b>Payment of tax.</b>
<b>3.20.050</b>	<b>Copy to be filed with state.</b>
<b>3.20.060</b>	<b>Violation—Penalty.</b>

#### **3.20.010 Authority to tax.**

A. Upon the effective date of this chapter, all gambling activities authorized under the laws of the state, and particularly Substitute House Bill No. 711, Chapter 218, Laws of 1973 (43rd Legislative First Extraordinary Session), and Substitute House Bill No. 473, Chapter 155, Laws of 1974, First Extraordinary Session (43rd Legislative Third Extraordinary Session), and Substitute House Bill No. 212, Laws of 1975, (44th Legislative First Extraordinary Session), as the same amend said Chapter 218, and any amendments thereof, shall be authorized within the city limits of the city, subject to any licensing requirements and regulatory requirements of the state.

B. Three copies of said statutes are on file with the city clerk-treasurer of the city. (Ord. 218 § 1, 1979)

#### **3.20.020 Police chief to be notified.**

Any person, association or organization required to obtain a license for gambling under the laws of the state, which receives such a license, shall upon receipt thereof immediately file a copy thereof with the city chief of police and shall thereafter promptly notify the chief of police of any change, suspension or action pertaining to such license. (Ord. 218 § 2, 1979)

#### **3.20.030 Rates of taxation.**

Any person, association or organization engaging in gambling activities pursuant to a state license or as authorized under the laws of the state, shall be subject to a city tax thereon as follows:

A. Taxation of amusement games shall be two percent of the gross receipts from the amusement game less the amount awarded as prizes;

B. Taxation on bingo and raffles shall be five percent of the gross receipts from a bingo game or raffle less the amount awarded as cash or merchandise prizes;

C. Taxation on social card games shall be twenty percent of the gross revenue from such games;

D. Taxation on punch boards and pull-tabs for bona fide charitable or nonprofit organizations and/or commercial stimulant operators shall be ten percent of the gross receipts from the operation of the games less the amount awarded as cash or merchandise prizes.

No tax shall be imposed on bingo or amusement games when such activities or any combination thereof are conducted by any bona fide charitable or nonprofit organization, which organization has no paid operating or management personnel and has gross receipts from bingo or amusement games, or a combination thereof, not exceeding five thousand dollars per year, less the amount awarded as cash or merchandise prizes. No tax shall be imposed on the first ten thousand dollars of gross receipts less the amount awarded as cash or merchandise prizes from raffles conducted by any bona fide charitable or nonprofit organization. (Ord. 729 § 1, 2002; Ord. 618 § 1, 1997; Ord. 408 § 1, 1989; Ord. 387 §§ 1, 2, 1988; Ord. 354, 1987; Ord. 218 § 3, 1979)

#### **3.20.040 Payment of tax.**

The taxes called for as set forth in subsections A, B, C and D of Section 3.20.030 shall be paid to the city clerk-treasurer as follows:

A. Upon the filing of any report of gambling moneys received by a license holder to the State Gambling Commission, a duplicate copy of such report shall be filed simultaneously with the city clerk-treasurer along with the payment of the tax thereon and a duplicate report shall be simultaneously filed with the city clerk-treasurer and the city police chief.

B. In the event a report is not required by the State Gambling Commission, then a report of the

gross receipts and payment of the tax shall be made within twenty days of the gambling activity to the city clerk-treasurer. (Ord. 618 § 2, 1997; Ord. 218 § 4, 1979)

**3.20.050 Copy to be filed with state.**

Upon the effective date of the ordinance codified in this chapter, the city clerk-treasurer shall mail a certified copy of this ordinance to the chairman of the State Gambling Commission. (Ord. 218 § 5, 1979)

**3.20.060 Violation—Penalty.**

Any person violating or failing to comply with any of the provisions of this chapter shall (in addition to being liable for civil remedies in favor of the city for collection of any delinquent taxes under the provisions of this chapter, and in addition to any penalties that might be imposed by the state) be punished by a fine not to exceed five hundred dollars or six months in the city jail, or both such fine and imprisonment. (Ord. 218 § 6, 1979)

**Chapter 3.23**

**PAYMENT OF CITY CLAIMS OR OBLIGATIONS**

**Sections:**

- 3.23.010 Payment of claims or obligations of the city.**
- 3.23.020 Warrant and check authority.**
- 3.23.030 Expenditures and disbursements.**
- 3.23.040 Disapproval of claims.**

**3.23.010 Payment of claims or obligations of the city.**

Claims or obligations of the city shall be paid by check or warrant as determined from time to time by the city administrator to be the most advantageous for the city. (Ord. 850 § 2 (part), 2008)

**3.23.020 Warrant and check authority.**

All warrants and checks shall be drawn and signed by any two of the following:

- A. Mayor;
- B. City administrator;
- C. Finance director; or
- D. City clerk.

(Ord. 850 § 2 (part), 2008)

**3.23.030 Expenditures and disbursements.**

The finance director, city administrator, city clerk or mayor of the city of Black Diamond are authorized to issue warrants or checks in payment of claims before the city council has acted to approve the claims only upon meeting all of the following conditions:

A. The finance director shall cause to be submitted to the city council for approval a listing of all such checks or warrants issued in payment of claims at a regularly scheduled public meeting within one month of issuance, and shall provide for the review of supporting documentation by the city council; and

B. The finance director, city administrator, city clerk and mayor have each furnished a fidelity bond in the amount of fifty thousand dollars for the faithful discharge of each of their duties; and

C. The council has adopted contracting, hiring, purchasing and disbursing policies that implement effective internal control. (Ord. 850 § 2 (part), 2008)

**3.23.040 Disapproval of claims.**

If, upon review by the city council, some claims are disapproved, the finance director and city administrator shall jointly cause the disapproved claims to be recognized as receivables and to pursue collection diligently until the amounts disapproved are collected or until the city council is satisfied and approves the claims. (Ord. 850 § 2 (part), 2008)

**Chapter 3.24**

**PETTY CASH AND CHANGE ACCOUNT**

**Sections:**

**3.24.010 Petty cash and change account established.**

**3.24.010 Petty cash and change account established.**

A. The finance director or designee is authorized to establish a general fund petty cash and change account as follows:

<b>Change Accounts</b>	<b>Petty Cash</b>
1. Finance/utilities	\$300
2. Municipal court	100
3. Police department	100
4. Finance department	200
5. Community development	150

B. The petty cash and change account total of eight hundred fifty dollars shall be administered and allocated by the finance director, or designees, in accordance with the rules or policies providing for such lawful administration. (Ord. 874 § 1, 2008; Ord. 860 § 2, 2008)

**Chapter 3.25**

**POLICE INVESTIGATION BUY ACCOUNT**

**Sections:**

**3.25.010 Police investigation buy account established.**

**3.25.020 Account administered by police chief.**

**3.25.010 Police investigation buy account established.**

The finance director or designees is authorized to establish a general fund police investigation buy account as follows:

- 1. Police Department      \$20,000 Investigation buy account

(Ord. 861 § 2, 2008)

**3.25.020 Account administered by police chief.**

This account shall be administered by the police chief, or designees, in accordance with rules or policies providing for such lawful administration. The finance director or designees will have audit responsibility. (Ord. 861 § 3, 2008)

**Chapter 3.32**

**WITNESS/JURY FEE ACCOUNT**

**Sections:**

**3.32.010 Established.**

**3.32.010 Established.**

There is established fund #107, witness/jury fee account. The witness/jury fee account is to maintain a balance of one hundred dollars to be balanced on a monthly basis with funds to be paid from the city's portion of fines and forfeitures. (Ord. 380 § 1, 1988)

## Chapter 3.36

## DRUG ENFORCEMENT FUND

## Sections:

3.36.010      **Established—Imposed.**

3.36.010      **Established—Imposed.**

A. The mayor is authorized to enter into an agreement regulating the administration and use of a drug enforcement fund.

B. The Black Diamond municipal court may impose as an additional penalty in a drug or alcohol related offense an amount up to one hundred fifty dollars, which amount shall be deposited into the criminal justice fund. (Ord. 670 § 1, 1999; Ord. 592 § 1, 1996; Ord. 401 §§ 1, 2, 1989)

## Chapter 3.44

## FIRE DEPARTMENT CAPITAL FACILITIES FUND

## Sections:

3.44.010      **Fund created.**

3.44.020      **Sources of money.**

3.44.030      **Purpose of fund.**

3.44.010      **Fund created.**

There is created a fund to be known as the "Black Diamond fire department capital facilities fund." (Ord. 507 § 2, 1995)

3.44.020      **Sources of money.**

The moneys to be deposited into the Black Diamond fire department capital facilities fund are those which have been collected subsequent to January 1, 1994 by the city for fire department capital expenditures, and all other moneys as directed by the city council. The city authorizes the city clerk-treasurer to transfer into the Black Diamond fire department facilities fund all such moneys previously held. (Ord. 507 § 3, 1995)

3.44.030      **Purpose of fund.**

Moneys held in the Black Diamond fire department capital facilities fund shall be used for land acquisition, station construction and improvements, only within the corporate limits of the city. (Ord. 507 § 4, 1995)

**Chapter 3.46**

**MITIGATION RESERVE FUND**

**Sections:**

- 3.46.010 Fund created.**
- 3.46.020 Source of funds.**
- 3.46.030 Expenditure of funds.**

**3.46.010 Fund created.**

There is created a mitigation reserve fund for the city of Black Diamond which shall be known as Fund 110. (Ord. 593 § 2, 1996)

**3.46.020 Source of funds.**

The city shall deposit into this account all moneys received from preannexation agreements to which the city is a party for the purposes as set forth in Section 3.46.030. (Ord. 593 § 3, 1996)

**3.46.030 Expenditure of funds.**

The moneys in the mitigation reserve fund shall be used to reimburse the city for costs and fees incurred in processing any annexation of property to the city, preparing the necessary documentation to effectuate an annexation to the city, revising and completing the city's comprehensive plan, preparing development regulations, conducting water and sewer availability studies, preparing and drafting capital facilities plans for various city facilities and paying for the cost of other modifications or expansions of existing city regulations regarding development and zoning. The expenditures referred to herein may be used to reimburse the city for actual consultant fees and costs incurred or to contribute towards the city budget for city staff and expenses. (Ord. 593 § 4, 1996)

## Chapter 3.50

DEVELOPMENT IMPACT MITIGATION  
CODE

## Sections:

3.50.010	Title.
3.50.020	Purpose.
3.50.040	Definitions.
3.50.050	Applicability of impact fee.
3.50.060	Identification of development impacts.
3.50.070	Mitigation review— Alternatives.
3.50.080	Imposition of impact fee.
3.50.090	Establishment of development service areas.
3.50.100	Calculation of impact fee.
3.50.120	Impact fee exemptions.
3.50.130	Impact fee credits.
3.50.140	Appeals.
3.50.150	Impact mitigation fee fund.
3.50.160	Expenditures.
3.50.170	Refunds.
3.50.180	Impact fee as additional and supplemental requirement.

**3.50.010 Title.**

This chapter shall be known as the "Black Diamond development impact mitigation code" and may be cited as such. (Ord. 580 § 1, 1995)

**3.50.020 Purpose.**

It is the purpose of this chapter to:

- A. Ensure that adequate facilities are available to serve new growth and development;
- B. Promote orderly growth and development by requiring that new development pay a proportionate share of the cost of new facilities needed to serve growth; and in order to promote sound financial management practices in the operation of city government the council finds that the cost of having governmental officials review and process land use

proposals should be borne by the land developer and not the taxpayers in general; and whereas, the land developer is entitled to some certainty in knowing what approvals are required for her development proposal, the estimated time in obtaining those approvals, and the government officials that will be accountable for each aspect of the approval;

C. Ensure that impact fees are imposed through established procedures and criteria so that specific developments do not pay arbitrary fees or duplicate fees for the same impact. (Ord. 580 § 2, 1995)

**3.50.040 Definitions.**

As used in this chapter:

"Applicant" means the person, firm or corporation proposing a development in the city.

"Building permit" means the permit required for new construction and additions pursuant to Chapter 15.04. The term "building permit," as used herein, shall not be deemed to include:

1. Permits required for the remodeling, rehabilitation or other improvements to an existing structure or rebuilding a damaged or destroyed structure, provided there is no increase in the square footage space (for nonresidential construction) or number of dwelling units (for residential construction) resulting therefrom;
2. Permits required for temporary dwellings;
3. Permits required for placement of a mobile home within an approved mobile home park.

"Capital improvement plan" means the capital facilities plan element of the city's comprehensive plan adopted pursuant to the provisions of RCW 36.70A.070 and that contains the elements identified in RCW 82.02.050 and that is in effect at the time the impact fee is imposed.

"City" means the city of Black Diamond.

"Development" means any proposed land use, zoning or rezoning, comprehensive plan amendment, annexation, subdivision, short subdivision, planned unit development, planned area development, building permit, binding site plan or any other property

development action permitted or regulated by this code.

“Development approval authority” means the city official or tribunal having code authority to approve a development.

“Impact” means any effect on public facilities or services attributable or directly related to the proposed development.

“Impact fee” means the fee or charge levied pursuant to this chapter as a condition of issuance of a building permit or development approval and which mitigates all or any portion of an impact.

“Mitigation” or “mitigate” means an action which avoids any negative or adverse impact, or which ameliorates any such impact.

“Project improvements” means site improvements and facilities that are planned and designed to provide service for a particular development project and that are necessary for the use and convenience of the occupants or users of the project, and are not system improvements. No improvement or facility included in the capital improvement plan shall be considered a project improvement.

“Public facilities” means any city-owned, operated or contracted facility or service, in whole or in part, whether existing or planned, including but not limited to parks, utilities, recreational facilities, schools, libraries, playgrounds, streets, transportation facilities, open spaces, police, fire or garbage services, buildings and all such facilities or services, including related equipment.

“Service area” means a geographical area in which a defined set of public facilities provides services to developments within the area. Service areas may be separately described for each type of public facility.

“System improvements” means public facilities that are included in the capital improvement plan and are designed to provide service to service areas within the community at large, in contrast to project improvements. (Ord. 580 § 3, 1995)

### **3.50.050 Applicability of impact fee.**

A. This chapter shall be applied as part of and integrated into the city’s land use and development approval procedures, so that mitigation decisions under this chapter are incorporated into development approval and permitting decisions at the earliest stage, thus permitting public review and comment.

B. This chapter shall be uniformly applicable to development that occurs within a designated service area.

C. Mitigation conditions imposed pursuant to this chapter shall be deemed conditions of the development permit and may be enforced by any suitable means. (Ord. 580 § 4, 1995)

### **3.50.060 Identification of development impacts.**

A. **Impact Identification Required.** Before a development is given approval or is allowed to proceed, the city shall identify all impacts of the development, if any.

B. **Impact Criteria.** The city shall consider, but not be limited to, the following items in identifying or quantifying an impact, to the extent the items are applicable to the development.

1. The provisions of this code, the capital improvement plan, or any other adopted city plan;

2. Technical documents which discuss or analyze public facilities or services or adopted city plans;

3. Pre-development versus post-development demands upon public facilities and services;

4. Impact of the development on the size, number, capacity, condition, availability, proximity or other characteristics of public facilities and services;

5. Likelihood that an impact from a development, when aggregated with impacts of future development in the immediate vicinity, will require mitigation due to its cumulative effect;

6. Nature, quantity, cost, identified completion date, if any, and pro rata share if applicable, of contributions, improvements or dedications to public

facilities and services, including those offered or suggested by the applicant;

7. Likelihood that the development will benefit from or use public facilities and services;
8. Existing or planned alternatives for financing capital improvements;
9. Whether the development furthers the public health, safety and general welfare;
10. Likelihood of city growth through annexation of areas adjacent to the development;
11. Whether impacts have been previously mitigated, in whole or in part;
12. Any other criteria useful for identifying and quantifying impacts deemed relevant by the city;
13. The cost of system improvements previously incurred by the city to the extent that the proposed growth and development is served by the previously constructed improvements.

C. Identification Cost. The cost of any special investigation, analysis or report necessary for the identification of impacts related to any development shall be borne by the applicant. (Ord. 580 § 5, 1995)

### 3.50.070 Mitigation review—Alternatives.

A. Mitigation of Impacts Required. The city shall not give development approval unless satisfactory provisions have been made to mitigate identified impacts and such provisions meet the policies and goals of this chapter and of the city's development regulations.

B. Review. The city shall review the identified impacts and any proposed alternatives for mitigating such impacts to determine whether the policies and goals of this chapter and of the city's development regulations can be met.

C. Mitigation Alternatives. The following alternatives or any combination, either on-site or off-site, may be used as necessary to mitigate or avoid identified impacts. The list is not exhaustive and does not purport to describe all available and viable alternatives. Other alternatives may be used as necessary

to achieve the policies and goals of this chapter and of the city's development regulations.

1. Modification of the development so that identified impacts are avoided;
2. Dedication of land to the city for public purposes;
3. Contributions or payments offered by the applicant for use in mitigating on-site or off-site impacts as authorized under RCW 82.02.020. Contributions pursuant to RCW 82.02.020 shall not be required as a condition of development approval and shall be subject to the limitations of RCW 82.02.020 as now existing or hereafter amended; provided, however, that persons entitled to a refund and/or payment of interest may voluntarily and in writing waive their right to such refund or payment in whole, in part, or for a specified time period to facilitate completion of the designated improvement. No such waiver shall be required as a condition of development approval, but when made shall be recorded with the King County department of records and shall be binding upon subsequent owners;
4. Environmental mitigation agreements under the authority of RCW Chapter 43.21C and Chapter 19.04 of this code. Such agreements shall not fall within the purview of RCW 82.02.020 and shall be distinct from voluntary contribution agreements;
5. Impact fees assessed pursuant to this chapter. Such fees, if assessed, shall be used only to fund system improvements. Formulas for determining the amount of such fees will be adopted, from time to time, by ordinance of the city council;
6. Contractual arrangements between the applicant and the city permitting use by the general public of private facilities or services within the development;
7. Contractual arrangements between the applicant and the city whereby the applicant constructs, funds or commits to construct or fund public facilities and services which mitigate identified impacts;

8. Any contractual agreement, including but not limited to latecomers agreement, no protest agreement, maintenance agreement or funding agreement which mitigates any identified impact;

9. Any alternative offered by the applicant which is satisfactory to the city and has the effect of mitigating identified impacts;

10. If the city determines that identified impacts would be best mitigated on a regional basis, the city may independently or in conjunction with any other jurisdiction prepare or have prepared a cost estimate and define a benefit area for the regional improvement. The fair share of the total costs to be allocated to the proposed development shall then be determined. (Ord. 580 § 6, 1995)

### **3.50.080 Imposition of impact fee.**

A. No building permit shall be issued for a development in a designated service area as herein defined unless the impact fee is calculated, imposed and collected pursuant to this chapter.

B. 1. For single-family/duplex residential subdivisions and short subdivisions hereinafter approved, the per lot impact fee shall be calculated and assessed at the time of final plat or short plat approval, noted on the face of the final plat, and collected on a per lot basis at the time of building permit application; provided, however, if an improvement for which an impact fee is being collected must be constructed prior to occupancy of any phase of the development, then the impact fee for said improvement shall be paid at the time of assessment.

2. For new multifamily and nonresidential development hereinafter approved, the impact fee shall be calculated and assessed at the time of site plan approval and collected at the time of building permit application; provided, however, if an improvement for which an impact fee is being collected must be constructed for occupancy of any phase of the development, then the impact fee for said improvement shall be paid at the time of impact fee assessment. If the nature of the development is then not sufficiently defined, then calculation and assessment

of the impact fee shall be deferred until the building permit application is submitted.

3. Notwithstanding the foregoing, the fee shall be recalculated for building permit applications filed more than three years following the date of the applicable final plat approval, short plat approval or site plan approval, using the city regulations and capital facility and impact fees in effect at the time the building permit application is submitted.

4. If a building permit for a model home is allowed prior to the time of final plat or short plat approval, then the developer shall pay the impact fee in effect at the time the model home building permit application is submitted.

C. For development not necessitating or having previously been granted preliminary plat, preliminary short plat or site plan approval, the impact fees shall be calculated, assessed and collected at the time of building permit application.

D. For development not necessitating a building permit, the impact fee shall be calculated, assessed and collected at the time of site plan approval.

E. For mobile home parks, the impact fee shall be calculated, imposed and collected at the time of site plan approval, provided, if the mobile home park is approved for construction in phases, then the fee for the first phase shall be paid at the time of site plan approval, and the fee for each subsequent phase shall be paid prior to the issuance of permits for construction of improvements within that phase. (Ord. 580 § 7, 1995)

### **3.50.090 Establishment of development service areas.**

Service areas, which may vary by type of public facility, are to be established.

A. Such areas will provide a nexus between those paying the fees and receiving the benefits to ensure that those developments paying impact fees receive substantial benefits.

B. Service areas may be designated by the city council, by ordinance or through amendment to the

capital improvement plan upon consideration of the following factors:

1. The comprehensive plan;
2. Standards for adequate public facilities incorporated in the capital improvement plan;
3. The projections for full development as permitted by land use ordinances and timing of development;
4. The need for funding unprogrammed capital improvements necessary to support projected development;
5. Such other factors as the city may deem relevant. (Ord. 580 § 8, 1995)

### **3.50.100 Calculation of impact fee.**

A. Formulas for determining the amount of the impact fees assessed under this chapter will be adopted, from time to time, by ordinance of the city council. The city council shall hold a public hearing before adopting or amending impact fee formulas.

B. If the development for which approval is sought contains a mix of use, the impact fee must be separately calculated for each type of use.

C. Upon application by the developer supported by studies and data, the impact fee may be reduced or eliminated if it is shown that either:

1. The formulas adopted by the city council do not accurately reflect the impact; or
2. Due to unusual circumstances:
  - a. Facility improvements identified for the applicable service are not reasonably related to the proposed development, or
  - b. Such facility improvements will not reasonably benefit the proposed development.

D. Prior to making an application for any development approval, an applicant, upon payment of the applicable fee, may request an impact fee determination, which determination shall be based upon information supplied by the applicant sufficient to permit calculation of the impact fee. The impact fee determination shall be binding upon the city for a period of six months unless there is a material change in either the development proposal or this chapter. The

fee for a binding preapplication impact fee determination shall be not less than fifty dollars. The fee shall be the actual cost of making the determination, including all legal, administrative, engineering and planning fees, and shall be paid before the written determination is provided to the applicant. (Ord. 580 § 9, 1995)

### **3.50.120 Impact fee exemptions.**

The city council may exempt designated development activities with broad public purposes from any impact fees that would have been paid by such development activity is paid from public funds other than the impact fee fund. (Ord. 580 § 10, 1995)

### **3.50.130 Impact fee credits.**

A. The developer shall be entitled to a credit against the applicable impact fee for the present value of any dedication of land, for improvement to or new construction of any system improvements provided by the developer (or the developer's predecessor in interest) to facilities that are/were identified in the capital improvement plan and that are required by the city as a condition of approval for the immediate development proposal, if such prior dedication, improvement or construction is located within the same service area as the immediate development proposal.

B. The amount of the credit shall be determined at the time of building permit issuance (or site plan approval where no building permit is required). In the event the amount of the credit is calculated to be greater than the amount of the impact fee due, the developer may apply such excess credit toward impact fees imposed on other developments within the same service area; provided, however if the improvement is one for which a latecomers agreement would be authorized, then the developer shall only be entitled to a latecomers agreement. In any event the city shall not be responsible for payment to the developer of any amount credited and not used. (Ord. 580 § 11, 1995)

**3.50.140 Appeals.**

The determination of the development approval authority as to the applicability and amount of and/or credit against an impact fee shall be appealable as provided for in this section.

A. The determination of the development approval authority shall be appealable to the city council. Such appeal may be perfected by the proponent or any aggrieved party by giving notice to the city administrator within ten days of the decision being appealed. Review by the city council shall be on a de novo basis; provided, however, where the city council is the development approval authority the only appeal shall be to the King County Superior Court pursuant to the provisions of subsection D of this section.

B. The notice of appeal shall be made upon a form to be supplied by the city administrator. A nonrefundable fee of two hundred fifty dollars shall be paid at the time the notice of appeal is submitted. A hearing shall then be scheduled before the city council within thirty days of the filing of the notice of appeal and appeal fee.

C. The decision of the city council shall be in writing and shall include findings of fact and conclusions to support the decision.

D. The decision of the city council shall be final unless, within ten calendar days, a party of record files and serves upon all city and all affected parties, a petition for writ of review with the King County Superior Court. (Ord. 580 § 12, 1995)

**3.50.150 Impact mitigation fee fund.**

A. There is created a fund to be known as the "impact mitigation fee fund." The city clerk-treasurer shall establish separate accounts within such fund and maintain records for each such account whereby impact fees collected can be segregated by type of facility and by service area. All interest shall be retained in the account and expended for the purposes for which the impact fees were imposed.

B. By April of each year, the city clerk-treasurer shall provide a report for the previous calendar year

on each impact fee account showing the source and amount of moneys collected, earned or received and system improvements that were financed in whole or in part by impact fees. (Ord. 580 § 13, 1995)

**3.50.160 Expenditures.**

Impact fees for system improvements shall be expended only in conformance with the capital improvement plan. Impact fees shall be expended or encumbered for a permissible use within six years of receipt, unless there exists an extraordinary and compelling reason for fees to be held longer than six years. Such extraordinary and compelling reasons shall be identified in written findings by the city council. (Ord. 580 § 14, 1995)

**3.50.170 Refunds.**

A. The current owner of property in which an impact fee has been paid may receive a refund of such fee if the city fails to expend or encumber the impact fees within six years or when the fees were paid or such other period of time established pursuant to this section on public facilities intended to benefit the development activity for which the impact fees were paid. In determining whether impact fees have been encumbered, impact fees shall be considered encumbered on a first in, first out basis. The current owner likewise may receive a proportionate refund where the public funding of applicable service area projects by the end of such six-year period has been insufficient to satisfy the ratio of public to private funding for such service area as established in the capital improvement plan. The city shall notify potential claimants by first class mail deposited with the United States Postal Service addressed to the last known address of claimants.

B. The request for refund money must be submitted to the city council in writing within one year of the date the right to claim a refund arises or the date the notice is given, whichever is later. Any impact fees that are not expended within these time limitations, and for which no application for refund has been made within this one-year period, shall be

retained and expended on the indicated capital improvements. Refunds of impact fees under this subsection shall include interest earned on the impact fees.

C. A developer may request and shall receive a refund, including interest earned on the impact fees, when the building permit for which the impact fee has been paid has lapsed for failure to commence construction. (Ord. 580 § 15, 1995)

**3.50.180 Impact fee as additional and supplemental requirement.**

The impact fee is additional and supplemental to, and not in substitution of, any other requirements imposed by the city on the development of land or the issuance of building permits; provided, that any other such city development regulation which would require the developer to undertake dedication or construction of a facility contained within the city capital improvement plan shall be imposed only if the developer is given a credit against impact fees as provided for in Section 3.50.130. (Ord. 580 § 16, 1995)

**Chapter 3.51**

**WATER SUPPLY AND FACILITIES  
FUNDING AGREEMENTS FUND**

**Sections:**

**3.51.010 Fund created.**

**3.51.020 Purpose of fund.**

**3.51.010 Fund created.**

There is created a new fund in the city of Black Diamond accounting system for the water utility to be known as the water supply and facilities funding agreements fund. (Ord. 747 § 1, 2003)

**3.51.020 Purpose of fund.**

The purpose of this fund shall be solely for tracking monies, and interest earned thereon, that is paid to the city pursuant to the terms of water supply and facilities funding agreements entered into between the city and owners of property within the city or its potential annexation areas. (Ord. 747 § 2, 2003)

**Chapter 3.60**

**CAPITAL IMPROVEMENTS PLAN**

**Sections:**

- 3.60.010 Definitions.**
- 3.60.020 Capital improvements plan authorized.**

**3.60.010 Definitions.**

Capital Improvements. For the purpose of this chapter and any plan adopted under authority of this chapter, “capital improvements” means the creation or acquisition of any tangible asset, including, but not limited to, buildings, streets, water and sewer systems, items of equipment, and parks and other real property, or the major maintenance, repair, or betterment of any tangible asset, including, but not limited to, city buildings, streets, water and sewer systems, items of equipment, and parks and other real property owned or controlled by the city.

Capital Improvements Plan. For the purpose of this chapter, “capital improvements plan” means a multiyear plan, updated annually, that contains the city’s capital improvement projects and the recommended methods of funding these projects. (Ord. 873 § 2, 2008)

**3.60.020 Capital improvements plan authorized.**

The city shall develop and adopt a multiyear capital improvements plan. This capital improvements plan shall effectuate the goals expressed in the capital improvements section of the city’s comprehensive plan. Any capital improvements plan adopted by the city may authorize expenditures to be made during the same budget year in which the plan is adopted. The capital improvements plan shall be adopted following a public hearing and opportunity to comment by the public. (Ord. 873 § 3, 2008)