



CITY OF BLACK DIAMOND
PLANNING COMMISSION MEETING AGENDA
November 18, 2014 7:00 PM
25510 Lawson Street, Black Diamond, Washington

- 1) CALL TO ORDER, ROLL CALL
- 2) APPROVAL OF MINUTES – October 7th, 2014
- 3) PUBLIC COMMENTS: Individuals wishing to address the Planning Commission regarding any item not on this meeting's agenda may do so at this time.
- 4) WORKSESSION ITEMS
 - a. Public hearing on repealing section 19.04 Environmental Policy and replacing it the proposed language.
 - b. Public hearing on revisions to the code and comprehensive plan amendment process in sections 16.10. 16.20 and 16.30 of Black Diamond Municipal Code.
- 5) UNFINISHED BUSINESS
 - a. Update on Public Participation Plan leaflet materials.
- 6) DEPARTMENT REPORT
- 7) PUBLIC COMMENTS
- 8) ADJOURN

ORDINANCE NO. 14-XXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, RELATING TO THE STATE ENVIRONMENTAL POLICY ACT (SEPA), REPEALING THE CITY'S CURRENT PROCEDURES FOR IMPLEMENTATION OF SEPA AND ADOPTING NEW PROCEDURES FOR REVIEW OF ALL "ACTIONS" UNDER SEPA, ISSUANCE OF THRESHOLD DECISIONS, PREPARATION OF ENVIRONMENTAL IMPACT STATEMENTS, PUBLIC NOTICE, COMMENT AND APPEALS; REPEALING CHAPTER 19.04 AND ADOPTING A NEW CHAPTER 19.04 OF THE BLACK DIAMOND MUNICIPAL CODE.

WHEREAS, the City's Environmental Policy Code (chapter 19.04 BDMC) was adopted in 1984 and with the exception of Section 19.04.250 relating to appeals, has not been amended since that time; and

WHEREAS, most of chapter 19.04 BDMC involves the adoption of the State Environmental Policy Act (SEPA) Rules (Washington State Administrative Code chapter 197-11) by reference; and

WHEREAS, because the Washington State Legislature has adopted new SEPA Rules since 1984, these new Rules have not been incorporated by reference into the City's Environmental Policy Code chapter 19.04 BDMC; and

WHEREAS, the City's existing chapter on SEPA needs to be so extensively revised in order to incorporate the new SEPA Rules that the existing chapter should be completely repealed; and

WHEREAS, on June 30, 2014, the City's SEPA Responsible Official determined that the adoption of this Ordinance is categorically exempt under WAC 197-11-800(19) as an ordinance relating to procedures only; and

WHEREAS, on July 17, 2014, the City Council held a first reading of this Ordinance; and

WHEREAS, on November 18th, 2014, this Ordinance was considered by the Planning Commission in a second reading; Now, Therefore,

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

Section 1. Chapter 19.04 of the Black Diamond Municipal Code is hereby repealed.

Section 2. A new chapter 19.04 is hereby added to the Black Diamond Municipal Code, which shall read as follows:

Chapter 19.04

**ENVIRONMENTAL REVIEW
STATE ENVIRONMENTAL POLICY ACT (SEPA)**

Sections.

19.04.010	Authority.
19.04.020	Definitions adopted by reference.
19.04.030	Additional definitions.
19.04.040	Process.
19.04.050	Designation of responsible official.
19.04.060	Lead agency determination and responsibilities.
19.04.070	Transfer of lead agency status to state agency.
19.04.080	Categorical exemptions – Adoption by reference.
19.04.090	Categorical exemptions – Determination.
19.04.100	Integration with permit and land use decisions.
19.04.110	Integration of SEPA with project permit decisions.
19.04.120	Threshold determinations.
19.04.130	Environmental checklist.
19.04.140	Timing.
19.04.150	Mitigated DNS.
19.04.160	Environmental impact statement.
19.04.170	Preparation of EIS – Additional considerations.
19.04.190	Additional elements to be covered by EIS.

19.04.200	Adoption by reference.
19.04.210	Public notice.
19.04.220	Designation of official to perform consulted agency responsibilities for the City.
19.04.230	Using existing environmental documents.
19.04.240	SEPA and agency decisions.
19.04.250	Substantive authority.
19.04.260	Appeals.
19.04.260	Notice/statute of limitations.
19.04.270	Agency compliance.
19.04.280	Fees.
19.04.300	Adoption of forms by reference.

19.04.010 Authority. The City adopts this chapter under the State Environmental Policy Act (SEPA), RCW 43.21C.120 and the SEPA Rules, chapter 197-11 WAC. This ordinance contains the City's SEPA procedures and policies. The SEPA Rules, chapter 197-11 WAC must be used in conjunction with this chapter.

19.04.020 Definitions. This part contains the basic requirements that apply to the SEPA process. The City adopts the following sections of chapter 197-11 of the Washington Administrative Code by reference:

WAC

197-11-040	Definitions.
197-11-220	SEPA/GMA definitions.
197-11-700	Definitions.
197-11-702	Act.
197-11-704	Action.
197-11-706	Addendum.
197-11-708	Adoption.
197-11-710	Affected Tribe.
197-11-712	Affecting.
197-11-714	Agency.
197-11-716	Applicant.
197-11-718	Built Environment.
197-11-720	Categorical exemption.
197-11-721	Consolidated appeal.
197-11-724	Consulted agency.
197-11-726	Cost-benefit analysis.
197-11-728	County/city.
197-11-730	Decision-maker.
197-11-732	Department.
197-11-734	Determination of nonsignificance (DNS).
197-11-736	Determination of significance (DS).

197-11-738	EIS.
197-11-740	Environment.
197-11-742	Environmental checklist.
197-11-744	Environmental document.
197-11-746	Environmental review.
197-11-750	Expanded scoping.
197-11-752	Impacts.
197-11-754	Incorporation by reference.
197-11-756	Lands covered by water.
197-11-758	Lead agency.
197-11-760	License.
197-11-762	Local agency.
197-11-764	Major action.
197-11-766	Mitigated DNS.
197-11-768	Mitigation.
197-11-770	Natural environment.
197-11-772	NEPA.
197-11-774	Nonproject.
197-11-775	Open record hearing.
197-11-776	Phased review.
197-11-778	Preparation.
197-11-780	Private project.
197-11-782	Probable.
197-11-784	Proposal.
197-11-786	Reasonable alternative.
197-11-788	Responsible official.
197-11-790	SEPA.
197-11-792	Scope.
197-11-793	Scoping.
197-11-794	Significant.
197-11-796	State agency.
197-11-797	Threshold determination.
197-11-799	Underlying government action.

19.04.030 Additional definitions. In addition to those definitions contained with WAC 197-11-700 through 197-11-799 and 197-11-220, when used in this chapter, the following terms shall have the following meanings, unless the context indicates otherwise:

- A. "Department" means any division, unit or department of the City.
- B. "Ordinance" or "chapter" means the ordinance, resolution or other procedure used by the City to adopt regulatory requirements.
- C. "Early notice" means the City's response to an applicant stating whether it considers issuance of a determination of significance likely for the

applicant's proposal (mitigated determination of nonsignificance (MDNS) procedures).

19.04.040 Process. The City adopts the following sections of Chapter 197-11 WAC by reference:

WAC

- 197-11-050 Lead Agency.
- 197-11-055 Timing of the SEPA Process.
- 197-11-060 Content of Environmental Review.
- 197-11-070 Limitations on actions during SEPA Process.
- 197-11-080 Incomplete or unavailable information.
- 197-11-090 Supporting documents.
- 197-11-100 Information required of applicants
- 197-11-158 GMA project review – reliance on existing plans, laws and regulations.
- 197-11-164 Planned actions – definitions and criteria.
- 197-11-168 Ordinances or resolutions designating planned actions.
- 197-11-172 Planned actions – project review.
- 197-11-210 SEPA/GMA integration.
- 197-11-228 Overall SEPA/GMA integration procedures.
- 197-11-230 Timing of an integrated GMA/SEPA process.
- 197-11-232 SEPA/GMA integration procedures for preliminary planning, environmental analysis, and expanded scoping.
- 197-11-235 Documents.
- 197-11-238 Monitoring.
- 197-11-250 SEPA/Model Toxics Control Act Integration.
- 197-11-253 SEPA Lead Agency for MTCA actions.
- 197-11-256 Preliminary evaluation.
- 197-11-259 Determination of nonsignificance and EIS for MTCA remedial actions.
- 197-11-265 Early scoping for MTCA remedial actions.
- 197-11-268 MTCA interim actions.

19.04.050 Designation of responsible official.

A. For those proposals for which the City is the lead agency, the responsible official shall be the Community Development Director.

B. For all proposals for which the City is the lead agency, the responsible official shall make the threshold determination, supervise scoping and preparation of any required environmental impact statement (EIS) and perform any other functions assigned to the “lead agency” or “responsible official” by those sections of the SEPA rules that were adopted by reference in this chapter.

19.04.060 Lead agency determination and responsibilities.

A. The SEPA Responsible Official shall determine the lead agency for any application for or initiation of a proposal that involves a nonexempt action, as provided in WAC 197-11-050, unless the lead agency has been previously determined or if another agency is in the process of determining the lead agency.

B. When the City is the lead agency for a proposal, the SEPA Responsible Official shall supervise compliance with the necessary threshold determination requirements, and if an EIS is necessary, shall supervise preparation of the EIS.

C. When the City is not the lead agency for a proposal, all departments of the City shall use and consider, as appropriate, either the DNS or the final DIS of the lead agency in making decisions on the proposal. No City department shall prepare or require preparation of a DNS or EIS in addition to that prepared by the lead agency, unless required under WAC 197-11-600. In some cases, the City may conduct supplemental environmental review under WAC 197-11-600.

D. If the City or any of its departments receives a lead agency determination made by any other agency that appears inconsistent with the criteria of WAC 197-11-253 or 197-11-922 through 197-11-940, it may object to the determination. Any objection must be made to the agency originally making the determination and resolved within fifteen days of receipt of the determination, or the City must petition the department of ecology for lead agency determination under WAC 197-11-946 within the fifteen day time period. Any such petition on behalf of the City may be initiated by the Community Development Director.

E. Departments of the City are authorized to make agreements as to lead agency status or shared lead agency duties for a proposal under WAC 197-11-942 and 197-11-944; PROVIDED, that the responsible official and any department that will incur responsibilities as the result of such agreement approve the agreement.

F. Any department making a lead agency determination for a private project shall require sufficient information from the applicant to identify which other agencies have jurisdiction over the proposal.

19.04.070 Transfer of lead agency status to a state agency. For any proposal for a private project where the City would be the lead agency and for which one or more state agencies have jurisdiction, the City's responsible official may elect to transfer the lead agency duties to a state agency. The state agency with jurisdiction appearing first on the priority listing in WAC 197-11-936 shall be the lead agency and the City shall be an agency with jurisdiction. To transfer

lead agency duties, the City's responsible official must transmit a notice of the transfer together with any relevant information available on the proposal to the appropriate state agency with jurisdiction. The responsible official of the City shall also give notice of the transfer to the private applicant and any other agencies with jurisdiction over the proposal.

19.04.080 Categorical exemptions – Adoption by reference. The City adopts the following rules for categorical exemptions from chapter 197-11 WAC:

WAC

- 197-11-300 Purpose of this part.
- 197-11-305 Categorical exemptions.
- 197-11-800 Categorical exemptions.
- 197-11-880 Emergencies.
- 197-11-890 Petitioning DOE to change exemptions.

19.04.090 Categorical exemptions – Determination. A. Each department within the City that receives an application for a license or, in the case of governmental proposals, the department initiating the proposal, shall determine whether the license, permit and/or proposal is exempt. The department's determination that a proposal is exempt shall be final and is not subject to administrative review. If a proposal is exempt, none of the procedural requirements of this chapter apply to the proposal. The City shall not require completion of an environmental checklist for an exempt proposal.

B. In determining whether or not a proposal is exempt, the Department shall make certain that the proposal is properly defined and shall identify the governmental licenses required (WAC 197-11-070). If a proposal includes exempt and non-exempt actions, the Department shall determine the lead agency, even if the license application that triggers the Department's consideration is exempt.

C. If a proposal includes both exempt and nonexempt actions, the City may authorize exempt actions prior to compliance with the procedural requirements of this chapter, except that:

1. The City shall not give authorization for:
 - a. any nonexempt action;
 - b. any action that would have an adverse environmental impact; or
 - c. any action that would limit the choice of alternatives.

2. The Department may withhold approval of an exempt action that would lead to modification of the physical environment, when such modification would serve no purpose if the nonexempt action(s) were not approved; and

3. A department may withhold approval of exempt actions that would lead to substantial financial expenditures by a private applicant when the expenditures would serve no purpose if the nonexempt actions were not approved.

The City will normally identify whether an action is categorically exempt within 14 days of receiving a completed application. The Community Development Director shall certify when an application is complete based upon review of the environmental checklist, or for project permit applications, based on the requirements for a complete application set forth in the City's code for each permit type. If additional information is required to supplement the checklist, the application shall not be certified complete until the required information is received by the Director.

19.04.100 Integration with permit and land use decision. Under chapter 36.70B RCW, the procedure for review and processing of project permit applications shall be combined with the environmental review process, both procedural and substantive. The process under the State Environmental Policy Act (SEPA) and this chapter shall integrate the following procedures, insofar as possible, with any applicable process for decision-making on permit and land use applications:

A. Staff review of the application under City codes and regulations and the environmental review and determination thereon;

B. The staff report on the application, and the report or documentation concerning environmental review;

C. Hearings and other public processes, including required public notices, required by City code or regulation, and hearings and other public processes, including public notices and appeals, required or conducted under SEPA.

D. Such other review processes as determined by the Community Development Director.

19.04.110 Integration of SEPA with project permit decision-making. Under chapter 36.70B RCW, the procedure for review of project permit applications (as defined in RCW 36.70B.020) shall be combined with the environmental review process, both procedural and substantive.

19.04.120 Threshold determinations. This part contains the rules for deciding whether a proposal has a “probable, significant, adverse environmental impact” requiring an environmental impact statement to be prepared. This part also contains rules for evaluating the impacts of proposals not requiring an EIS. The City adopts the following sections by reference, as supplemented in this part:

WAC

- 197-11-310 Threshold determination required.
- 197-11-315 Environmental Checklist.
- 197-11-330 Threshold Determination Process.
- 197-11-335 Additional Information.
- 197-11-340 Determination of Significance (DS)
- 197-11-350 Mitigated DNS.
- 197-11-355 Optional DNS process.
- 197-11-360 Determination of significance (DS)(initiation of scoping)
- 197-11-390 Effect of threshold determination

19.04.130 Environmental Checklist.

A. Except as provided in subsection (4) of this section, a completed environmental checklist (or a copy), in the form provided in WAC 197-11-960, shall be filed at the same time as an application for a permit, license, certificate or other approval not specifically exempted in this chapter, except that a checklist is not needed if the City and applicant agree that an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency. The City shall use the environmental checklist to determine the lead agency, and if the City is the lead agency, for determining the responsible official and for making the threshold determinations.

B. For private proposals, the City will require the applicant to complete the environmental checklist, providing assistance as necessary. For City proposals, the Department initiating the proposal shall complete the environmental checklist for that proposal.

C. The City may require that it, and not the private applicant, will complete all or part of the environmental checklist for a private proposal, if either of the following occurs:

1. The City has technical information on a question or questions that are unavailable to the private applicant; or
2. The applicant has provided inaccurate information on previous proposals or on proposals currently under consideration.

D. For applications submitted as planned actions under WAC 197-11-164, the City shall use its existing environmental checklist form or may modify the environmental checklist form as provided in WAC 197-11-315. The modified environmental checklist form may be prepared and adopted along with or as part of a planned action ordinance; or developed after the ordinance is adopted. In either case, a proposed modified environmental checklist form must be sent to the Department of Ecology to allow at least a thirty-day review prior to use.

19.04.140 Timing. For those project permit applications that are not subject to chapter 36.70B RCW, the following will apply:

A. The City will attempt to issue a threshold determination on a completed application within ninety (90) days after the application and supporting documentation are complete.

B. A complete application for a threshold determination consists of the following information:

1. A description of the proposed action;
2. Site information, including site plans, vicinity maps and other information required for a land use certification or other application;
3. The environmental checklist;
4. Additional information/environmental checklist (WAC 197-11-335). The environmental checklist covers sixteen (16) subjects. If, after review of the environmental checklist, it is determined that there is insufficient information to make a threshold determination, additional information will be required using any one or more of the following:

- a. The applicant will provide more information on subjects in the checklist;
- b. The City makes its own further study;
- c. The City will consult with other agencies, requesting information on the proposal's probable or potential impacts which lie within the other agency's jurisdiction or expertise.

C. It is the policy of the City that adequate information must be provided before a threshold decision can be made. The City will not commence processing environmental checklists which are not complete.

19.04.150 Mitigated DNS.

A. As provided in this section and in WAC 197-11-350, the responsible official may issue a DNS based on conditions attached to the proposal by the responsible official or on changes to, or clarifications of, the proposal made by the applicant.

B. An applicant may request in writing early notice of whether a DS is likely under WAC 197-11-350. The request must:

1. Follow submission of a permit application and environmental checklist for a nonexempt proposal for which the department is lead agency; and
2. Precede the City's actual threshold determination for the proposal.

C. The responsible official should respond to the request for early notice within 10 working days. The response shall:

1. Be written;
2. State whether the City currently considers issuance of a DS likely and if so, indicate the general or specific area(s) of concern that is/are leading the City to consider a DS; and
3. State that the applicant may change or clarify the proposal to mitigate the indicated impacts, revising the environmental checklist and/or permit application as necessary to reflect the changes or clarifications.

D. As much as possible, the City should assist the applicant with identification of impacts to the extent necessary to formulate mitigation measures.

F. When an applicant submits a changed or clarified proposal, along with a revised or amended environmental checklist, the City shall base its threshold determination on the changed or clarified proposal and should make the determination within fifteen days of receiving the changed or clarified proposal;

1. If the City indicated specific mitigation measures in its response to the request for early notice, and the applicant changed or clarified the proposal to include those specific mitigation measures, the City shall issue and circulate a DNS under WAC 197-11-340(2).
2. If the City indicated areas of concern, but did not indicate specific mitigation measures that would allow it to issue a DNS, the City shall make the threshold determination, issuing a DNS or DS as appropriate.
3. The applicant's proposed mitigation measures (clarifications, changes or conditions) must be in writing and must be specific. For example, proposals to "control noise" or "prevent storm water runoff" are inadequate, whereas proposals to "muffle machinery to X decibel" or "construct 200-foot storm water retention pond at Y location" are adequate.

4. Mitigation measures which justify issuance of a mitigated DNS may be incorporated in the DNS by reference to agency staff reports, studies or other documents.

G. A mitigated DNS is issued under WAC 197-11-340(2), requiring a fourteen-day comment period and public notice.

H. Mitigation measures incorporated in the mitigated DNS shall be deemed conditions of approval of the permit decision and may be enforced in the same manner as any term or condition of the permit, or enforced in any manner specifically prescribed by the City.

I. If the City's tentative decision on a permit or approval does not include mitigation measures that were incorporated in a mitigated DNS for the proposal, the City should evaluate the threshold determination to assure consistency with WAC 197-11-340(3)(a) (withdrawal of DNS).

J. The City's written response under subsection (B) of this section shall not be construed as a determination of significance. In addition, preliminary discussion of clarifications or changes to a proposal, as opposed to a written request for early notice, shall not bind the City to consider the clarifications or changes in its threshold determination.

19.04.160 Environmental Impact Statement. This part contains the rules for preparing environmental impact statements. The City adopts the following sections by reference, as supplemented by this part:

WAC

197-11-400	Purpose of EIS
197-11-402	General Requirements
197-11-405	EIS types
197-11-406	EIS timing
197-11-408	Scoping
197-11-410	Expanded Scoping (Optional)
197-11-420	EIS preparation
197-11-425	Style and Size
197-11-430	Format
197-11-435	Cover letter or memo
197-11-440	EIS contents
197-11-442	Contents of EIS on nonproject proposals
197-11-443	EIS contents when prior nonproject EIS
197-11-444	Relationship of EIS to other considerations
197-11-450	Cost-benefit analysis
197-11-455	Issuance of DEIS

19.04.170 Preparation of EIS – Additional Considerations.

A. Preparation of draft and final EISs (DEIS and FEIS) and draft and final supplemental EISs (SEIS) is the responsibility of the City under the direction of the responsible official. Before the City issues an EIS, the responsible official shall be satisfied that it complies with this ordinance and chapter 197-11 WAC. When there is a project permit application, preparation of the EIS is the responsibility of the applicant, under direction of the responsible official. However, when there is no project permit application, the Community Development Director shall have the discretion to determine the responsibility for preparation of the EIS, under the direction of the responsible official based on the circumstances.

B. The DEIS and FEIS or draft and final SEIS shall be prepared by the City staff, the applicant, or by a consultant selected by the City. If the responsible official requires an EIS for a proposal and determines that someone other than the City will prepare the EIS, the responsible official shall notify the applicant immediately after completion of the threshold determination. The responsible official shall also notify the applicant of the City's procedure for EIS preparation, including approval of the DEIS and FEIS prior to distribution.

C. The City may require an applicant to provide information the City does not possess, including specific investigations. However, the applicant is not required to supply information that is not required under this chapter or that is being requested from another agency. However, this does not apply to information the City may request under another ordinance or statute.

D. Subject to delays caused by the applicant's failure to provide information requested by the City and other delays beyond the City's control, an EIS will be completed within one (1) year of the date of the declaration of significance, unless an appeal is filed or the City and applicant agree in writing to a different estimated time period for completion of the EIS.

19.04.180 Additional elements to be covered by EIS. The following additional elements are part of the environment for the purpose of EIS content, but do not add to the criteria for threshold determinations or perform any other function or purpose under this chapter: economy; social policy analysis and cost-benefit analysis.

19.04.200 Adoption by reference. This part contains rules for consulting, commenting and responding on all environmental documents under SEPA, including rules for public notice and hearings. The City adopts the following sections by reference, as supplemented by this part:

WAC

197-11-500	Purpose of this part
197-11-502	Inviting comment
197-11-504	Availability and cost of environmental documents
197-11-508	SEPA register
197-11-510	Public notice
197-11-535	Public hearings and meetings
197-11-545	Effect of no comment
197-11-550	Specificity of comments
197-11-560	FEIS response to comments
197-11-570	Consulted agency costs to assist lead agency

19.04.210 Public notice.

A. Whenever the City issues a DNS under WAC 197-11-340(2) or a DS under WAC 197-11-360(3), the City shall give public notice as follows:

1. If public notice is required for a nonexempt license, the notice shall state whether a DS or DNS has been issued and when comments are due;
2. If no public notice is required for the permit or approval, the City shall give notice of the DNS or DS by:
 - a. Posting the property, for a site-specific proposal;
 - b. Publishing notice in a newspaper of general circulation in the county, city or general area where the proposal is located;
 - c. Notifying public or private groups which have expressed interest in a certain proposal or in the type of proposal being considered;
 - d. Notifying the news media;
 - e. Placing notices in appropriate regional, neighborhood, ethnic or trade journals; and/or
 - f. Publishing notice in agency newsletters and/or sending notice to agency mailing lists (either general lists or lists for specific proposals for subject areas); or
 - g. Black Diamond's Website under the Public Notices section of the webpage.

B. When the City issues a DS under WAC 197-11-360(3), the City shall state the scoping procedure for the proposal in the DS as required in WAC 197-11-408 and in the public notice.

C. Whenever the City issues a DEIS under WAC 197-11-455(5) or SEIS under WAC 197-11-620, notice of the availability of those documents shall be given by:

1. Indicating the availability of the DEIS in any public notice required for a nonexempt license; and
 - a. Posting the property, for site-specific proposals;
 - b. Publishing notice in a newspaper of general circulation in the County, City or general area where the proposal is located;
 - c. Notifying public or private groups which have expressed interest in a certain proposal or in the type of proposal being considered;
 - d. Notifying the news media;
 - e. Placing notices in appropriate regional, neighborhood, ethnic or trade journals; and/or
 - f. Publishing notice in agency newsletters and/or sending notice to agency mailing lists (general lists or specific lists for proposal or subject areas); and/or
 - g. Black Diamond's Website under the Public Notices section of the webpage.

D. Whenever possible, the City shall integrate the public notice required under this Section with existing notice procedures for the City's nonexempt permit(s) or approval(s) required for the proposal.

E. The City may require an applicant to complete the public notice requirements for the applicant's proposal at his/her expense.

19.04.220 Designation of official to perform consulted agency responsibilities for the City.

A. The Community Development Director shall be responsible for preparation of written comments for the City in response to a consultation requires prior to a threshold determination, participation in scoping, and reviewing a DEIS.

B. The Community Development Director shall be responsible for the City's compliance with WAC 197-11-440 whenever the City is a consulted agency and is authorized to develop operating procedures that will ensure that responses to consultation requests are prepared in a timely fashion and include data from all appropriate departments of the City.

19.04.230 Using Existing Environmental Documents. This part contains rules for using and supplementing existing environmental documents prepared

under SEPA or National Environmental Policy Act (NEPA) for the City's own environmental compliance. The City adopts the following sections by reference:

WAC

197-11-600	When to use existing environmental documents
197-11-610	Use of NEPA documents
197-11-620	Supplemental environmental impact statement –procedures
197-11-625	Addenda – procedures
197-11-630	Adoption – procedures
197-11-635	Incorporation by reference – procedures
197-11-640	Combining documents

19.04.240 SEPA and Agency Decisions. This part contains rules (and policies) for SEPA's substantive authority, such as decisions to mitigate or reject proposals as a result of SEPA. This part also contains procedures for appealing SEPA determinations to agencies or the courts. The City adopts the following sections by reference:

WAC

197-11-650	Purpose of this part
197-11-655	Implementation
197-11-660	Substantive authority and mitigation
197-11-680	Appeals

19.04.250 Substantive authority.

A. The policies and goals set forth in this ordinance are supplementary to those in the existing authorization of the City.

B. The City may attach conditions to a permit or approval for a proposal, so long as:

1. Such conditions are necessary to mitigate specific probable adverse environmental impacts identified in environmental documents prepared pursuant to this chapter; and

2. Such conditions are in writing; and

3. The mitigation measures included in such conditions are reasonable and capable of being accomplished; and

4. The City has considered whether other local, state, or federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts; and

5. Such conditions are based on one or more policies in subsection (D) of this section and cited in the license or other decision document.

C. The City may deny a permit or approval for a proposal on the basis of SEPA so long as:

1. A finding is made that approving the proposal would result in probable significant adverse environmental impacts that are identified in a FEIS or final SEIS prepared pursuant to this chapter; and

2. A finding is made that there are no reasonable mitigation measures capable of being accomplished that are sufficient to mitigate the identified impact; and

3. The denial is based on one or more policies identified in writing the decision document.

D. The City designates and adopts by reference the following policies as the basis for the City's exercise of authority pursuant to this section:

1. The City shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and its citizens may:

a) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

b) Assure for all people of Washington safe, healthful, productive and aesthetically and culturally pleasing surroundings;

c) Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

d) Preserve important historic, cultural and natural aspects of our national heritage;

e) Maintain, wherever possible, an environment which supports diversity and variety of individual choice;

f) Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

g) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources;

2. The City recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

3. The City adopts by reference the policies in the following City codes, ordinances, resolutions and plans, as they now exist or may hereafter be amended, as a possible basis for the exercise of substantive SEPA authority in the conditioning or denying of proposals:

- a. Chapter 43.21C RCW – State Environmental Policy Act.
- b. Chapter 5.08 of the BDMC Business Licenses and Regulations.
- c. Chapter 6.04 of the BDMC – Animals.
- d. Title 8 and 9 of the BDMC – Health and Safety.
- e. Title 10 of the BDMC -- Vehicles and Traffic.
- f. Title 12 of the BDMC -- Streets and Sidewalks.
- g. Title 13 of the BDMC -- Water and Sewers.
- h. Title 15 of the BDMC – Buildings and Construction.
- i. Title 17 of the BDMC – Subdivisions.
- j. Title 18 of the BDMC – Zoning.
- k. Chapter 18.08 of the BDMC – Administration of Development Regulations.
- l. The City of Black Diamond’s Comprehensive Plan.
- m. The City of Black Diamond’s Shoreline Master Program.
- n. The City’s Six Year Road Program.
- o. The City’s Comprehensive Water Plan.
- p. The City’s Comprehensive Sewer Plan.
- q. Chapter 19.12 of the BDMC – Critical Areas.
- r. City’s Public Works Standards.
- s. City’s Storm Water Management Ordinance.
- t. Comprehensive Parks, Recreation and Open-Space Plan.
- u. School District’s Capital Facilities Plans;

4. The City establishes the following additional policies:

- A. **Schools.** In order to ensure that adequate school facilities are available to serve new growth and development, as well as to ensure that such new growth

and development provides mitigation for direct impacts on school facilities identified by the school district as a consequence of proposed development, the City may impose school mitigation fees, all as provided in RCW 82.02.020.

- B. **Police.** In order to ensure that the City's acceptable level of service for police response is not diminished as a result of new growth and development and to ensure that new growth and development provides mitigation for the direct impacts on the City's Police Department that are identified by the City as a consequence of proposed development, the City may impose Police and Emergency Response mitigation fees, all as provided in RCW 82.02.020.
- C. **Other City Services.** In order to that the City's acceptable level of service to citizens for all other government services and utilities is not diminished as a result of new growth and development, as well as to ensure that such new growth and development provides mitigation for direct impacts on school facilities identified by the school district as a consequence of proposed development, the City may impose mitigation fees, all as provided in RCW 82.02.020 for parks.

19.04.260 Appeals.

The City establishes the following administrative appeal procedures under RCW 43.21C.075 and WAC 197-110-680:

A. Appealable Decisions.

1. Only the following decisions may be administratively appealed under this chapter: (a) Final threshold determination; (2) mitigation or failure to mitigate in the SEPA decision; (3) Final EIS; and (4) project denials.

2. If the City does not provide for a hearing or appeal on the underlying action/permit, then the SEPA administrative appeal on the decisions listed in Subsection 19.04.260(A)(1) above shall be the only hearing and appeal allowed on the underlying action/permit.

B. Notice of Decision.

1. In the Notice of Decision issued by the City pursuant to BCMC 18.08.150 and for every decision for which an appeal is available in this

Section, the SEPA Responsible Official shall give official notice of the date and place for commencing an appeal. The notice shall include:

a) Notice that the SEPA issues must be appealed within the time limit set by statute or ordinance for appealing the underlying governmental action;

b) The time limit for commencing the appeal of the underlying governmental action and SEPA issues, and the statute or ordinance establishing the time limit;

c) Where the appeal may be filed.

2. Written notice shall be provided to the applicant, all parties to any administrative appeal and all persons who have requested notice of decisions concerning the project. Such notice may be appended to the permit, the decision documents, the SEPA compliance documents or may be printed separately.

C. Timing of Appeal. The appeal shall take place prior to the City's final decision on a proposed action. However, the SEPA open record appeal hearing may be consolidated with any other hearing on the underlying permit or action.

D. Number of Appeals. Only one administrative appeal to the City is allowed of the decisions listed in Subsection 19.04.260(A) above.

E. Consolidated Appeals. If the underlying action/permit requires a hearing, any SEPA appeal shall be consolidated with the hearing or appeal of the underlying action/permit into one simultaneous hearing, with the exception of the following:

1. An appeal of a determination of significance (DS);

2. An appeal of a procedural determination made by the City when the City is a project proponent, or is funding a project, and chooses to conduct its review under SEPA, including any appeals of its procedural determinations, prior to submitting an application for a project permit. Subsequent appeals of substantive determinations by an agency with jurisdiction over the proposed project shall be allowed under the SEPA appeal procedures of the agency with jurisdiction;

3. An appeal of a procedural determination made by the City on a nonproject action; and

4. An appeal to the City Council under RCW 43.21C.060.

F. Timing of Appeal.

1. *SEPA Decision issues at the same time as underlying action.* An appeal of a SEPA decision that issued at the same time as the decision on a project action shall be filed within fourteen days (14) days

after issuance of a notice of decision under BDMC 18.08.150 (or RCW 36.70B.130), or after notice that a decision has been made and is appealable.

2. *SEPA Decision allows Public Comment.* For a DNS or MDNS for which public comment is required (under this chapter) the appeal period shall be extended for an additional seven days.

3. *SEPA Threshold Decision issues prior to decision on underlying action.* An appeal of a threshold decision issued prior to a decision on a project action shall be filed within fourteen (14) days after notice that the decision has been made and is appealable.

G. Consideration of SEPA Responsible Official's Decision. Procedural determinations made by the SEPA Responsible Official shall be entitled to substantial weight by the hearing examiner or city council in an appeal.

H. Administrative Record. An administrative record of the appeal must be provided, and the record shall consist of the following:

- a. Findings and conclusions;
- b. Testimony under oath; and
- c. A taped or written transcript. [The City may require that the appellant provide an electronic transcript.]

I. Exhaustion of Administrative Remedies. The City's administrative appeal procedure must be used before anyone may initiate judicial review of any SEPA issue for which the City allows an appeal in this Section.

J. Content of Appeal. Every appeal must be in writing, and must include the following:

1. The applicable appeal fee, as established by Resolution of the City Council;
2. Appellant's name, address and phone number;
3. A statement describing the appellant's standing, or why the appellant believes that he or she is aggrieved by the decision appealed from;
4. Identification of the application and decision which is the subject of the appeal;
5. Appellant's statement of grounds for appeal and the facts upon which the appeal is based with specific references to the facts in the record;
6. The specific relief sought;
7. A statement that the appellant has read the appeal and believes the content to be true, followed by the appellant's signature.

K. Timeliness of Appeals. On receipt of a written notice of appeal, the SEPA Responsible Official shall forward the appeal to the hearing examiner or city council (whichever is the hearing officer/body on the appeal), who shall determine whether the appeal is timely prior to the scheduling of any appeal hearing or consolidated open record hearing on an underlying project permit. A written decision will issue if the appeal is untimely and the appeal will not proceed.

L. Hearing Examiner Appeals.

1. *Jurisdiction.* All administrative appeals relating to project permit applications or any type of quasi-judicial or ministerial development applications that are not appealable to the City Council (pursuant to subsection M below) shall be heard by the Hearing Examiner.

2. *Hearing.* The Hearing Examiner shall hold an open record public hearing on the appeal, as provided in BDMC 2.30.100.

2. *Date for Issuance of Decision.* The hearing examiner shall issue a decision on the appeal within the time period set forth in 2.30.110, unless a longer period is agreed to in writing by the applicant and hearing examiner.

3. *Appeals of Hearing Examiner's Decision.* The hearing examiner's decision on the timeliness of an appeal within his/her jurisdiction, and any other appeals allowed under this subsection within his/her jurisdiction shall be the final decision of the City. The hearing examiner's decision shall state that any appeal of the final decision shall be filed in King County Superior Court (pursuant to chapter 36.70C RCW), or the Shorelines Hearings Board, if applicable.

M. City Council Appeals.

1. *Jurisdiction.* The City Council shall hear all administrative appeals relating to legislative actions and applications. In addition, the City Council shall hear appeals relating to any other applications that are appealable to the City Council (pursuant to 16.30.130).

2. *Hearing.* For all legislative actions and applications, the City Council shall hold a public hearing. For any SEPA appeals relating to applications for which the City Council has jurisdiction (legislative actions and applications), the City Council shall hold a public hearing.

3. *Record on Appeal.* The evidence and testimony received by the Council in a SEPA appeal shall be presented in an open record hearing.

4. *Appeals of City Council's Decision.* The City Council's decision on the timeliness of an appeal within its jurisdiction and any other appeals allowed under this subsection within its jurisdiction shall be the final decision of the City. The City Council's decision shall state that any

appeal of the final decision may be filed in King County Superior Court within 21 days (if applicable) or within 60 days to the Growth Management Hearings Board, pursuant to RCW 36.70A.290(2).

N. Judicial Appeals.

1. When SEPA applies to a decision, any judicial appeal of that decision potentially involves both those issues pertaining to SEPA and those which do not. This Section and RCW 43.21C.075 establish the time limits for raising SEPA issues, but existing statutes of limitation control the appeal of non-SEPA issues.

2. Appeals of the City's final decision shall be filed in superior court (or the Growth Management Hearings Board), but appellants must follow RCW 43.21C.075(6)(c), which provides that "judicial review under chapter 43.21C RCW shall without exception be of the governmental action together with its accompanying environmental determinations," which contemplates a single lawsuit.

19.04.260 Notice/statute of limitations.

A. The City, applicant for, or proponent of an action may publish a notice of action pursuant to RCW 43.21C.080 for any action.

B. The form of the notice shall be substantially in the form provided by WAC 197-11-990. The notice shall be published by the City Clerk or County Auditor, applicant or proponent, pursuant to RCW 43.21C.080.

19.04.270 Agency Compliance. This part contains rules for agency compliance with SEPA, including rules for charging fees under the SEPA process, designating categorical exemptions that do not apply within critical areas, listing agencies with environmental expertise, selecting the lead agency and applying these rules to current agency activities. The City adopts the following sections by reference:

WAC

197-11-900	Purpose of this part.
197-11-902	Agency SEPA policies.
197-11-916	Application to ongoing actions.
197-11-920	Agencies with environmental expertise.
197-11-922	Lead agency rules.
197-11-924	Determining the lead agency.
197-11-926	Lead agency for governmental proposals.
197-11-928	Lead agency for public and private proposals.
197-11-930	Lead agency for private projects with one agency with jurisdiction.

197-11-932	Lead agency for private projects requiring licenses from more than one agency, when one of the agencies is a county/city.
197-11-934	Lead agency for private projects requiring licenses from a local agency, not a county/city, and one or more state agencies.
197-11-936	Lead agency for private projects requiring licenses from more than one state agency.
197-11-938	Lead agencies for specific proposals.
197-11-940	Transfer of lead agency status to a state agency.
197-11-942	Agreements on lead agency status.
197-11-944	Agreements on division of lead agency duties.
197-11-946	DOE resolution of lead agency disputes.
197-11-948	Assumption of lead agency status.

19.04.280 Fees.

A. The City shall require the fees from the applicant for the following activities, in accordance with the provisions of this chapter:

1. Threshold determination: The City will review an environmental checklist when it is lead agency, and the City shall collect a fee from the proponent of the proposal prior to undertaking the threshold determination. The time periods provided in this Chapter shall not begin to run until payment of the fee.

2. Environmental impact statement.

(a) When the City is the lead agency for a proposal requiring an EIS and the responsible official determines that the EIS shall be prepared by employees of the city, the city may charge and collect a reasonable fee from any applicant to cover the costs incurred by the city in preparing the EIS. The responsible official shall advise the applicant of the projected costs for the EIS prior to actual preparation; the applicant shall post bond or otherwise ensure payment of such costs.

(b) The responsible official may determine that the city will contract directly with a consultant for preparation of an EIS or a portion of the EIS, for activities initiated by some person or entity other than the City and may bill such costs and expenses directly to the applicant. The City may require the applicant to post bond or otherwise ensure payment of such costs. Such consultants shall be selected after input from the applicant, after a call for proposals. The City shall have the final decision on the selection of the consultant.

(c) If a proposal is modified so that an EIS is no longer required, the responsible official shall refund any fees collected under (a) or (b) of this subsection which remain after incurred costs are paid.

3. The City may recover its reasonable expenses of preparation of a non-project environmental impact statement prepared under RCW 43.21C.229 and 43.21C.440 using the procedures set forth in RCW 43.21C.428.

4. The City may collect a reasonable fee from an applicant to cover the cost of meeting the public notice requirements of this chapter relating to the applicant's proposal.

5. The City shall not collect a fee for performing its duties as a consulted agency.

6. The City may charge any person for copies of any document prepared under this chapter, and for mailing the document, in a manner provided by the City's resolution on public records disclosure.

19.04.300 Adoption by reference. The City adopts the following forms and sections by reference:

WAC

197-11-960	Environmental checklist
197-11-965	Adoption notice
197-11-970	Determination of nonsignificance (DNS)
197-11-980	Determination of significance and scoping notice (DS)
197-11-985	Notice of assumption of lead agency status
197-11-990	Notice of action

Section 3. Severability. If any section, sentence, clause or phrase of this Ordinance shall be held to be unconstitutional or invalid by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 4. Effective Date. This Ordinance shall take effect and be in full force five (5) days after passage and publication of an approved summary consisting of the title.

PASSED by the Black Diamond City Council this ____th day of _____, 2014.

CITY OF BLACK DIAMOND

DAVE GORDON, MAYOR

ATTEST/AUTHENTICATED:

By: _____
BRENDA MARTINEZ, CITY CLERK

APPROVED AS TO FORM:

By: _____
CAROL A. MORRIS, CITY ATTORNEY

FIRST READING:
DATE PASSED:
DATE OF PUBLICATION:
EFFECTIVE DATE:

ORDINANCE No. 14-_____

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

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

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

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

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

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

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

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

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

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

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

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

Sections:

16.10.010 Purpose and Types of Amendments.

LEGISLATIVE AMENDMENTS TO DEVELOPMENT REGULATIONS

16.10.020 Administration of Amendments to Development Regulations.

16.10.030 Procedure for Amendments to Development Regulations.

16.10.040 Submission of Applications for Amendments to Development Regulations.

16.10.050 Requirements for a Complete Application.

16.10.060 SEPA Compliance and Transmittal to State.

16.10.070 Public Notice.

- 16.10.080 Planning Commission Public Hearing.**
- 16.10.090 City Council Action.**
- 16.10.100 Final Decision, Transmittal to State and Appeals.**
- 16.10.110 Appeal of Amendments to Development Regulations.**

COMPREHENSIVE PLAN ADOPTION AND AMENDMENT

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

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

16.10.010 Purpose and Types of Amendments.

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

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

C. Types of Amendments. The applications that will be processed under this Chapter as legislative amendments are Comprehensive Plan Amendments to the Comprehensive

Plan Map or Policies and Development Regulation Amendments (to the text of the Development Regulations) which do not implement the existing Comprehensive Plan.

16.10.020 Administration of Legislative Amendments to Development Regulations.

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

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

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

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

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

B. When Applications May Be Submitted. The text of the City's adopted Development Regulations may be amended at any time, provided that the amendment is consistent with the City's Comprehensive Plan and Land Use Map. When inconsistent with the Comprehensive Plan and Land Use Map, the amendment shall be processed concurrent with any necessary Plan amendments using the process and timelines for Comprehensive Plan Amendments in Sections 16.10.120 through .240 of this chapter. Applications that do not include the information required in Section 16.10.050 shall not be processed.

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

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

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

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

16.10.070 Public Notice.

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

B. The public notice shall include the following:

- 1. The purpose(s) of the Amendment;

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

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

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

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

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

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

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

16.10.120 Administration of Annual Comprehensive Plan Amendments.

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

- B. Development Agreement. A Legislative Amendment to the Comprehensive Plan that is site-specific may be approved subject to the execution, delivery and recording of a

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

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

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

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

C. Amendments Considered Once a Year. Applications for Amendments to the City's Comprehensive Plan may not be considered more frequently than once every year, except: (1) under the circumstances described in RCW 36.70A.130(2)(i) through (v); (2) when needed to resolve an emergency condition or situation that involves public health, safety or welfare and when adherence to the Amendment process set forth in this chapter would be detrimental to the public health, safety and welfare. Situations involving official legal or administrative action affecting the City will be reviewed by the City Council with advice from the City Attorney to determine whether an emergency exists warranting an emergency Comprehensive Plan Amendment. Except as otherwise provided in RCW 36.70A.130(2)(a), all Comprehensive Plan Amendments shall be considered concurrently so that the cumulative effect of the various proposals may be ascertained.

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

16.10.140 Preliminary Docket.

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

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

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

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

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

16.10.160 Planning Commission Hearing on Preliminary Docket. The Planning Commission shall hold a noticed public hearing to accept public comment regarding the suggested amendments on the preliminary docket. Following the hearing, the Planning Commission shall prepare a report and recommendation identifying those suggested amendments that it is recommending for consideration by the City Council during the annual amendment process. The Planning Commission's recommendation shall be based upon the perceived need, urgency and appropriateness of each suggested amendment. The Planning Commission's report

and recommendation shall also include those proposed amendments resulting from its periodic assessment set forth in Section 16.10.250, as applicable. Notice of the Planning Commission's hearing shall be given as set forth in Section 16.10.070.

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

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

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

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

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

16.10.210 Planning Commission Public Hearing on Final Docket.

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

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

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

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

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

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

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

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

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

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

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

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

16.10.240 Final Decision, Transmittal to State and Appeals.

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

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

16.10.250 Planning Commission Periodic Assessment – Recommendations on Amendments.

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

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

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

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

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

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

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

PASSED by the Council and approved by the Mayor of the City of Black Diamond, this ___th day of _____, 2014.

MAYOR DAVE GORDON

ATTEST/AUTHENTICATED:

Brenda Martinez, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney

Carol A. Morris, City Attorney

PUBLISHED:
EFFECTIVE DATE:

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City of Black Diamond

GROWTH MANAGEMENT ACT (GMA)

PUBLIC PARTICIPATION PROGRAM

HANDBOOK

Introduction

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

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

You will find under the following outline numbers:

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

1. Communication and Information

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

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

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

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

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

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

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

2. Availability of Proposals and Alternatives

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

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

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

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

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

3. Public Meetings, Workshops, and Hearings

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

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

4. Opportunity for Open Discussion

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

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

- As set forth in RCW 36.70A.035(2)(b), an additional opportunity for public review and comment is not required if:
 - An environmental impact statement has been prepared under Chapter 43.21C RCW for the pending resolution or ordinance and the proposed change is within the range of alternatives considered in the environmental impact statement;
 - The proposed change is within the scope of the alternatives available for public comment;
 - The proposed change only corrects typographical errors, corrects cross-references, makes address or name changes, or clarifies language of a proposed ordinance or resolution without changing its effect;
 - The proposed change is to a resolution or ordinance making a capital budget decision as provided in RCW 36.70A.120; or
 - The proposed change is to a resolution or ordinance enacting a moratorium or interim control adopted under RCW 36.70A.390.

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5. Opportunity for Written Comments

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

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

6. Consideration of and Response to Public Comments

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

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

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