



CITY OF BLACK DIAMOND
PLANNING COMMISSION MEETING AGENDA
August 10, 2010 7:30 PM
25510 Lawson Street, Black Diamond, Washington

**** PLEASE NOTE THE LATER STARTING TIME OF 7:30 P.M. ****

- 1) CALL TO ORDER, ROLL CALL
- 2) PUBLIC COMMENTS: Individuals wishing to address the Planning Commission regarding any item not on this meeting's agenda may do so at this time.
- 3) APPROVAL OF MINUTES – July 13, 2010
- 4) PUBLIC HEARING ON PROPOSED MISCELLANEOUS AMENDMENTS TO THE ZONING CODE, TITLE 18, BLACK DIAMOND MUNICIPAL CODE
- 5) PUBLIC HEARING ON PROPOSED AMENDMENTS TO CHAPTER 19.04, BLACK DIAMOND MUNICIPAL CODE, REGARDING THE SEPA PROCESS
- 6) PUBLIC HEARING ON PROPOSED 2010 COMPREHENSIVE PLAN AMENDMENTS
- 7) DEPARTMENT REPORT
- 8) ADJOURNMENT



CITY OF BLACK DIAMOND
PLANNING COMMISSION
25510 Lawson Street, Black Diamond, Washington

M E M O R A N D U M

Date: August 4, 2010
To: Planning Commission
From: Steve Pilcher, Community Development Director
Re: Miscellaneous Code Amendments

At your June meeting, staff introduced a series of amendments intended to address a number of issues that have been noted in the Zoning Code since its adoption in June 2009. These included such minor considerations such as incorrect cross-references from one section of the code to another to policy choices as to whether have Site Plan Review require Hearing Examiner approval.

At that meeting, and again in July, staff recommended amendments were reviewed. Attached to this memo is a compendium of the potential amendments, including the many pages where the only recommended change is to correct an erroneous cross-reference. Within the document, comments are provided in **bold italic** to address the reason for recommended change (other than for the cross-references).

Also included in these changes are revisions related to the current size limitation for detached accessory buildings (18.50.030). Based upon direction received from the Commission, the proposal is to now limit the size of an accessory structure to no greater than the building footprint of the primary structure on the lot, with lots 35,000 sq. ft. or greater in size having no size limitation whatsoever. We believe these will address the concerns raised by some members of the public.

Other major changes in the proposal include making Site Plan Review an administrative process (instead of requiring Hearing Examiner review).

Staff recommends the Commission conduct the public hearing, consider public testimony, and then either direct staff to make modifications or move to forward on to the City Council for its consideration.



CITY OF BLACK DIAMOND
PLANNING COMMISSION
25510 Lawson Street, Black Diamond, Washington

M E M O R A N D U M

Date: August 4, 2010, 2010
To: Planning Commission
From: Steve Pilcher
Re: 2010 Comprehensive Plan Amendments

Chapter 16.30 of the Black Diamond Municipal Code includes provisions for amending the Comprehensive Plan. Individuals are free to suggest amendments to the Plan and have them placed on “the docket,” or alternatively, file a separate application. Doing the latter guarantees consideration of a potential change by the Planning Commission and Council. Items that are placed on the docket pursuant BDMC 16.30.100 may move forward if the Commission decides they are worthy of further consideration.

Although items can be submitted to the docket at any time, to guarantee consideration in 2010, the public was notified via the City’s website that suggestions would need to be submitted by June 1st. No submissions were received. **The docket remains empty.** Also, no individual amendment requests were filed by members of the public.

However, BDMC 16.30.070 does allow the Commission to initiate potential amendments to the Plan. Staff had suggested a series of amendments, which the Commission agreed to initiate. These proposals fall into two main areas:

1. Adding additional text to the Capital Facilities Element of the Plan to address utilities provided by other entities other than the City, such as Puget Sound Energy, Covington Water, etc.
2. Miscellaneous updates to the background text throughout the document to reflect current data and/or eliminate outdated information.

Please note that no policy changes are being proposed.

Attached are those pages from the Comprehensive Plan for which amendments are being proposed.

Staff recommends the Commission conduct the public hearing and then either direct staff to draft possible adjustments or vote to move these on to the City Council for its consideration.

A small coal boom during and after World War II kept the coal mining tradition alive. Coal mining then continued a gradual decline until 1986 and the opening of the John Henry Mine, just northeast of the City.

Following the end of the company town period at the completion of major mining activities, community services were provided by King County and the community residents.

City residents initiated an incorporation petition and presented this petition to King County in 1958. The incorporation was approved by a favorable vote on January 20, 1959 and the first Black Diamond City Council meeting was held March 3, 1959.

In 1998, the City significantly increased its size and population through the annexation of the Lake Sawyer neighborhood. This annexation increased the City's size by approximately 786 acres, and its population by approximately 1,480 people.¹ Additional annexations of large parcels within the City's Urban Growth Area (UGA) occurred in 2005 in accordance with the Black Diamond Urban Growth Area Agreement (BDUGAA) and the related Black Diamond Area Open Space Protection Agreement.

1.3. City Planning Area

The planning area encompassed by this comprehensive plan includes the land within the City limits and the designated UGA of the City.

In the decade since the City completed its 1996 comprehensive plan, the City and King County came to an agreement on designation of an UGA with the BDUGAA. This agreement outlines mutually acceptable urban growth boundaries and conditions under which these areas may be annexed to the City. The UGA approved in this agreement includes several of the large ownership parcels which surround the City, providing opportunities for creating a fiscally balanced city while maintaining the City's unique character.

Designation of a UGA is a key element in the City's long-term planning. The City is located at the edge of the King County Urban Growth Boundary. Per county policies, and the approved BDUGAA, unincorporated lands not included in an UGA may be developed for low density (5-acre tracts or larger) rural/ residential uses, or preserved for commercial resource activities (agriculture, forestry and mineral extraction). Consistent with the BDUGAA, the City annexed its "West Annexation

¹ Washington State Office of Financial Management; Annexations Approved by the Office of Financial Management from 01/01/90 through 12/31/99.

Area” and the “North Triangle Annexation” in December 2005. The “South Annexation Area,” and the “East Potential Annexation Area” were annexed in December 2009. An area in the vicinity of Kentlake High School, and the Lake 12 Annexation Area are the remaining areas that will be considered for annexation in the future ~~subject to compliance with the BDUGAA.~~

1.4. Planning Authority

1.4.1. Growth Management Act

The City of Black Diamond Comprehensive Plan meets the requirements of the Growth Management Act (GMA), which was adopted by the Washington State Legislature on March 9, 1990 (Substitute House Bill 2929, Chapter 17, 1990 Laws of Washington), and as subsequently amended. The GMA required the state’s fastest growing counties and cities within those counties to prepare comprehensive plans which guide conservation and development for a 20-year period.

The GMA makes the City’s comprehensive plan the legal foundation and guide for all subsequent planning, zoning and development, all of which must be consistent with and implement the plan. The comprehensive plan must be both internally consistent and consistent with the plans of other jurisdictions which share either a common boundary or related regional issues. The GMA also requires that appropriate public facilities and services must be in place, or funds committed for their provision, “concurrent” (within 6 years) new development.

The GMA requires counties, in cooperation with cities, to designate UGAs. All cities are to be within an UGA, which is to include areas and densities sufficient to accommodate urban growth expected to occur in the City over the next 20 years. The GMA guidelines for defining urban boundaries state that urban growth is to be “...located first in areas already characterized by urban growth that have existing public facility and service capacities to serve such development, and second in areas that are provided by either public or private sources.” The UGA may include “...territory that is located outside of a city only if such territory already is characterized by urban growth or is adjacent to territory already characterized by urban growth.” Finally, UGAs “...shall include greenbelt and open space areas.”

The GMA establishes mandatory elements for local comprehensive plans. Required elements of comprehensive plans include land use, housing, capital facilities, utilities and transportation. Optional elements of comprehensive plans include solar energy, conservation, recreation, economic development and sub-area plans. The state legislature added Economic Development and Parks and Recreation as additional

environmentally sensitive areas and contribute to the City's quality of life and identity. The plan also uses *innovative techniques* -- including density bonuses, cluster housing, MPDs and the transfer of development rights, as encouraged by the GMA (RCW 36.70A. 090) – to creatively address local concerns and issues.

1.5. Consistency with County Plans and Policies

1.5.1. King County Countywide Planning Policies

The GMA mandates that counties, in cooperation with cities, adopt the King County Countywide Planning Policies (CPPs). The GMA defines CPPs as written policy statements used for establishing a countywide framework from which county and city comprehensive plans are developed and adopted. That framework is to ensure that city and county comprehensive plans are consistent with each other. At a minimum, the CPPs must address:

- implementation of UGAs,
- promotion of contiguous and orderly development and provision of urban services,
- siting of public capital facilities,
- transportation facilities and strategies,
- affordable housing,
- joint county and city planning within UGAs,
- countywide economic development and employment, and
- analysis of fiscal impact.

For King County, the CPPs established a UGA. Most future growth and development is to occur within the UGA to limit urban sprawl, enhance open space, protect rural areas and more efficiently use human services, transportation and utilities. The intent of these policies is to reduce future infrastructure costs and maintain a high quality of life by encouraging concentrated development in those areas where services already are or are planned to be provided. Cities are expected to absorb the largest share of future growth. Each city has the authority to make decisions regarding its local character and density.

The City finds that this comprehensive plan is consistent with the purpose and intent of the King County CPPs. The City includes the UGA agreed upon in the BDUGAA, and is generally consistent with the King County CPPs as updated in July

2006. The City is also updating its population and employment targets to reflect growth that is anticipated over the next 20 years. However, the population and job growth allocation to the City in recent amendments to the CPPs is not consistent with the amount of growth this Plan anticipates occurring over the next 20 years.

1.6. Comprehensive Plan Features

The City of Black Diamond Comprehensive Plan is based upon the premise that sustainable development is based upon a trilogy of ecology, sociology and economics. The plan embodies a holistic approach to treatment of nature and the human spirit. The extensive natural beauty and intricate ecosystem that comprise the planning area have been considered in determining lands that are appropriate for development at different intensities.

Planning for natural resources and open space are the cornerstone of the City of Black Diamond Comprehensive Plan. The plan supports recognition and protection of quality habitat including: the protection of key riparian corridors, wetlands, wildlife habitats and the design of green spaces between habitats; water quality protection measures and support for an environmental education area and program to build a strong community commitment to conservation and habitat improvement. Stewardship of the environment is supported by the plan.

The City's developed areas will be compact, preserving 35% to 40% of the entire City as open space. Interspersed among the built areas will be large connected areas of open space that act as a green necklace. Creeks, wetlands and significant wildlife habitat will be protected as part of the open space network. Trails, parks, community facilities will also define the open space network.

By the year 2025, the City is planning to be able to accommodate a population of 16,980 people. The community will also contain areas for retail and personal services, community parks, schools, churches, community buildings, other public services, and business and industrial parks. The plan emphasizes the need for a balance of jobs and housing, and sustainable economics for the growing community. Job growth is an essential part of the plan. Employment opportunities will grow as new companies and their support services are attracted to the City, and as existing companies expand.

Amidst this change, the City will also preserve the best of its past, including historical buildings and treasured community places. The essence of the historical community will be perpetuated through the use of design guidelines for new development. A village center concept has been included to bring together a visual, social and geographic center of the City. An innovative transfer of development

Chapter 2. Urban Growth Area

The Urban Growth Area (UGA) Element of the City of Black Diamond Comprehensive Plan was initially adopted in 2001 as an amendment to the City of Black Diamond's (City's) 1996 plan. It identified the City's UGA, which was determined based on a joint planning process and formal agreement (the Black Diamond Urban Growth Area Agreement [BDUGAA]) between the City, King County and several large property owners. It ~~is~~ ~~was~~ intended to guide future land use and annexations in the Urban Growth Area consistent with the Growth Management Act (GMA). Although ~~the majority major~~ portions of the UGA have ~~been annexed as of the 2008~~ ~~2009~~, ~~City of Black Diamond Comprehensive Plan Update~~, the UGA Element will continue to provide guidance and useful historical information until the balance of the UGA is annexed. ~~The UGA Element has been incorporated unchanged into the 2008 Update.~~

2.1. Introduction

The City and its residents worked with King County to define a UGA for the City since the latter part of the 1970s. For the City, the chief goals of these efforts reflect the plan vision of a healthy economy, improved housing, protection of the treasured natural resources in and around the City, and a better quality of life. The county's objectives were to limit urban sprawl and protect rural resource lands.

The GMA was the final impetus in deciding the Black Diamond UGA. The GMA established a framework for coordinated and comprehensive planning to help local communities manage their growth. It also led to the creation of the Black Diamond-King County Joint Planning Area (JPA). The 1996 comprehensive plan identified the Black Diamond UGA as an issue that was not resolved before the

Lake 12 Annexation Area

The Lake 12 Annexation Area can only be annexed after the following steps are completed:

- The City may extend sewer and water service to the Lake 12 Annexation Area before it is annexed provided that City funds are not required to do so and that this action does not affect the City's ability to provide these services within the existing City limits;
- The lake meets or exceeds state water quality standards (pursuant to Washington Administrative Code [WAC] 173-201A-030 (5)(c)); and
- The City completes a traffic study to determine the City road standards needed to improve the Green River Gorge Road.

Sequence of Annexations

When the conditions of annexation were achieved, annexation of the PAA began, in the following sequence:

- West Annexation Area (completed December 8, 2005)
- East Annexation Area (completed December 2009)
- South Annexation Area (completed December 2009)
- Lake 12 Annexation Area

Per the terms of the BDUGAA, (Two or more of these areas may be annexed simultaneously, except that the East Annexation Area could not be annexed unless the West Annexation Area was annexed, the South Annexation Area could not be annexed unless the West Annexation Area and East Annexation Area were annexed, and the Lake 12 Annexation Area could not be annexed unless the West Annexation Area was annexed. Pursuant to these terms, the annexation of the South Annexation Area and Lake 12 Annexation Area may now occur when conditions are favorable.

2.2.4. Consistency with the Plans and Policies

In accordance with the GMA, the UGA must be consistent with other related plans and policies and the City of Black Diamond Comprehensive Plan. The following discussion analyzes the Agreement in light of the relevant plans; the King County Comprehensive Plan and the City of Black Diamond Comprehensive Plan.

- Be maintained in large lots at densities of one unit per five acres, or less, with mandatory clustering until the City annexes it;
- Be implemented through inter local agreements between King County, the cities and special purpose districts, as appropriate, to ensure that annexation is phased, nearby open space is protected and development within the Urban Growth Area is compatible with surrounding Rural and Resource areas; and
- Not include designated forest or Agricultural District lands unless conservation of those lands and continued resource-based use, or other compatible use, is assured."

King County Comprehensive Plan Policy R-307

"Rural cities and their agreed-upon Urban Growth Areas shall be considered part of the UGA for purposes of planning land uses and facility needs. King County should work with rural cities to plan for growth consistent with long term protection of significant historic resources, the surrounding Rural Area, and Natural Resource Lands."

King County Growth Targets

King County CPPs establish growth targets for the City. In 1998, the county adopted growth targets for all cities in the county, in accordance with the GMA. These were ~~periodically~~ subsequently updated, most recently in 2005~~2009~~. The targets establish the ~~upper limits of the~~ minimum amount of growth which the City must plan to accommodate in ~~2022~~ the planning horizon.

The ~~2022-2032~~ target is 1,099 additional households, which equates to 2,945 individuals. However, the population and household allocation does not take into account the large Master Planned Developments (MPDs) anticipated to occur within the City during that time frame. The City expects to significantly surpass its household and population targets. This is discussed in greater detail in the Land Use Element of the plan.

~~2.3. UGA Policies~~

~~The objectives and policies identified in this section will be used to guide decisions that determine the pattern, timing, and impact mitigation of development in the UGA. They are intended to supplement the relevant policies and objectives elsewhere in this plan.~~

Chapter 3. Population and Employment Character

3.1. Population

At the turn of the twentieth century, the City of Black Diamond (City) was a thriving coal mining town and contained a population of 3,000 persons. In the early years of the twenty-first century, the City has passed that threshold again and is a thriving village community with a population of 4,085-180 (2007-2009). By 2025, the City is expected to grow to a population of 16,980 residents. Much of the growth will occur as a result of Master Planned Developments (MPDs) in areas annexed to the City in 2005 and 2009, together with ~~and other areas slated for future annexation, consistent with the Black Diamond Urban Growth Area Agreement (BDUGAA).~~

For the 2000 Census, the Black Diamond area consists of portions of three Census tracts: Tract 316.01, which covers the area surrounding Lake Morton; Tract 316.02, which includes the northwest quadrant of the City, as well as Lake Keevies, Lake Sawyer, and part of Maple Valley; and Tract 316.03, which covers most of the City, as well as territory south, east and north, extending to Ravensdale (Figure 3-1). The collective outer boundary of the tracts coincides with the Puget Sound Regional Council's (PSRC's) Forecast Analysis Zone (FAZ) 3310, and the three tracts continue to be closely tied. (Some discussion in the comprehensive plan refers to them collectively as "Tract 316," and combines data for the three separate census tracts.)

Much of the increase in population in the City between 1990 and 2000 can be attributed to the annexation of the Lake Sawyer neighborhood in 1998, which added 1,480 residents to the City. However, as can be seen from Table 3-1, development in this portion of the county has also been proceeding more rapidly than the county or state as a whole for the past 30 years.

3.1.1. Current Population

The State of Washington Office of Financial Management (OFM) estimated the April 2008-2009 population of the City at 4,155,180 people and the population of King County, as a whole, at 1,884,2001,909,300 people. The combined 2000 population of Census Tracts 316.01, 316.02, and 316.03 was 13,158 people, 3,970 residents which located within the City.

The City was incorporated in 1959. The 1960 population was 1,026. Population growth is shown below in Table 3-1 for years 1970 to 2006. Between 1970 and 1980, the City experienced slow growth of less than 1%. From 1980 to 1990, the City experienced 21.5% growth, followed by a boom in population growth between 1990 and 2000, most of which was due to the annexation of the Lake Sawyer neighborhood in 1998. During this period, the City more than doubled in population, from 1,422 residents in 1990 to 3,970 residents in 2000, an increase of 179%. Growth since 2000 has been slower, with population increasing 2.9% from 2000 to 2006. Development moratoria were in effect for much of this period.

Table 3-1. 1970–2006 Population Growth

	1970	1980 % change	1990 % change	2000 % change	2008 % change
Washington State	3,143,250	4,132,353 31.5%	4,866,669 17.8%	5,894,121 21.1%	<u>6,587,600</u> <u>668,200</u> 44.8 <u>13.1%</u>
King County	1,145,314	1,269,749 9.8%	1,507,319 18.7%	1,737,046 15.2%	<u>1,884,200</u> <u>1,909,300</u> 8.4 <u>9.9%</u>
Census Tract 316/ FAZ 3310	4,185	6,858 63%	9,083 32.4%	13,158 44.9%	--
Black Diamond	1,160	1,170 0.86%	1,422 21.5%	3,970 179%	<u>4,155</u> <u>4,180</u> 4.7 <u>5.3%</u>

Source: U.S. Census for 1970-2000. Washington State OFM Estimate for ~~2008~~2009.

2000 Population estimate for Tract 316 represents combined totals for Tracts 316.01, 316.02, and 316.03.

King County Overview

King County as a whole contained 1,737,046 residents as of the 2000 Census, and the OFM estimates a ~~2008-2009~~ population of ~~1,884,200~~1,909,300. OFM forecasts that King County's population will increase by 460,000 residents by the year 2025. Per the 2004 King County Comprehensive Plan, 96% of this household growth from 2001 to 2022 is expected to locate within the designated Urban Growth Area (UGA), which makes up about one-fifth of the county.² How this growth will be distributed within the county will be a function of the King County CPPs, plans of individual jurisdictions, the regional economy, and the private marketplace.

King County CPPs allocated 1,099 new households (for the period ~~2001-2007-~~2022-2032) to be built in the City. This represents the amount of growth the City is obligated to plan for during that period of time. However, due to several large development proposals likely to occur during the upcoming 10 to ~~15-20~~ years, this plan assumes greater increases in the number of households and in population (Table 3-4).

Table 3-4. Comparison of New Household and New Employment Allocations and Projections

King County Allocation (2022 <u>2032</u>)	King County CPP Allocation (2022 <u>2032</u>)	Black Diamond Projection (2025)	
New Households	New Employment	New Households	New Employment
1,099	2,525	5,426	2,677

Note: Black Diamond projections are for the year 2025.
 CPP = Countywide Planning Policies

City of Black Diamond Building Activity

The City ~~has had~~ a moratorium on subdivisions in place ~~since from 2001 until June 2009~~, in order to update required plans and regulations. Thus, there ~~has been~~ little formal subdivision development ~~in the last five years~~ outside of what was vested prior to 2001. Residential in-fill development has continued over the past ten years, however, as population growth and increases in land prices have occurred throughout southeast King County.

Land for Future Growth

In December 1994, the City annexed 783 acres of land to the southwest of the City limits, near Black Diamond Lake. This annexation area is designated for

² King County, 2004 King County Comprehensive Plan, "Household Growth Targets by Subregion" table, page 2-6.

development as an MPD, including single-family and multifamily residential development, along with a small commercial area, recreation, and a 50% open space requirement. In December 2005, the City annexed the West Annexation Area, an area designated in the BDUGAA. This annexation added 338.6 acres of vacant land to the City’s land supply which can be developed with a mix of commercial, residential and mixed-use development types through application of the City of Black Diamond Master Planned Development Ordinance and the Pre-Annexation Development Agreements adopted for these properties. Finally, in December 2009, the City completed the “East” and “South” annexations, adding approx. 300 additional acres to the City, which are anticipated to be developed as part of larger Master Planned Development applications. MPD, residential subdivision, and building permit activity for the City is anticipated to increase beginning in 2009/2011, following the lifting of the now that the former development moratorium has been lifted. There is significant pent up demand and development potential within these recently annexed areas.

The City of Black Diamond Comprehensive Plan contemplates significant residential growth in the City limits. Growth is seen as a key to creating a balanced and fiscally sound community and will be managed pursuant to the plan and development regulations.

City of Black Diamond Population Forecast

The updated comprehensive plan is based on an extended 20-year planning period. In order to determine a population forecast for the year 2025, the City reviewed the PSRC preliminary 2003 forecasts for FAZ 3310, King County forecasts, existing City plans and policies, and forecasts regarding the long-term state of the regional economy. The City believes that considerable growth could occur within the City in the next 20 years, given its significant amount of developable land, GMA and King County CPPs directing growth to existing urban areas (i.e., cities), and a strong economy. Table 3-5 identifies population counts for 2000 and 2006, and the City’s population projections for 2025.

Table 3-5. City of Black Diamond Population Projections

Year	Population	Households	Annual Population Increase
2000	3,970	1,456	—
2006	4,085	1,578 (2.6 pph)	0.47%
2015	10,437	3,740 (2.79 pph)	9.8%
2020	15,770	5,776 (2.73 pph)	7.1%
2025	16,980	6,302 (2.68 pph)	1.2%-

Note: Projections for population and households include 2006 Black Diamond City limits and 2006 Potential Annexation Areas.

pph = persons per household. Error! Bookmark not defined. for 2015-2025 was derived from the 2006 PSRC FAZ (Forecast Analysis Zones) forecasts.

For purposes of the 2025 projection, the number of persons per household is projected to gradually decline to 2.68 persons per household (pph), and is reflected in the estimate.

The amount of growth the City plans for in its comprehensive plan should be consistent with the CPPs including the household allocation. Section 3.3.1 and Table 3-4 show the relationship between the City's projection and the CPP's household and employment allocation. It should be noted that the CPP projections and targets do not currently reach the year 2025, and the City has derived its own projections for a portion of this time period.

Population growth in the City is encouraged by the comprehensive plan provided it is consistent with the City's vision, respects the natural environment, and pays its "fair-share" of the costs associated with growth. Growth that is managed and occurs consistent with these principles will contribute to a more balanced and fiscally sound community.

There are many uncertainties inherent in population forecasting. In planning for its future growth, the City has intentionally planned for more land than is estimated to be needed for growth over the next 20 years. If substantial growth does occur at a significantly higher or lower rate than anticipated, adjustment of some aspects of this plan (particularly growth phasing) may be necessary.

The City uses a formula for calculating the amount, use, and density of land within the City to ensure that the forecast of population, housing, and employment is met and so that limitations of available land supply will not artificially drive up prices. This is important so that the fluctuations in population and employment growth can be absorbed, and unmet demand for housing and jobs is not displaced into rural unincorporated areas. To accomplish these objectives, King County recommends and uses a land supply factor of 140% (i.e., 40% more land should be provided above that calculated to be needed for projected growth based on land use designations, zoning regulations and household size). Existing comprehensive plan designations would supply enough land for approximately a 9% increase over the forecasted population of 16,980, which is significantly less than the 140% land factor recommended by King County. However, this smaller margin is considered to be acceptable for the City due to the fact that substantial developable land in large single-ownership tracts is expected to be coming on the market in the near future, is anticipated to build out during the planning period, and the resulting amount of population and household growth is significantly greater than allocated through the King County CPPs. This supply of land is anticipated to be built-out within the

Chapter 4. The Natural Environment

4.1. Introduction

4.1.1. Preserving the Natural Beauty

The first 100 years of the City of Black Diamond's (City's) history were based on extraction of the natural resources. The next 100 years of the City's future will be characterized by the preservation of the quality of its natural setting, its scenery and views, and the preservation of its historic treasures.

From the local fishing hole, to the field where deer graze, to the beaver dams, to the eagle flight overhead; these resources are a tangible part of living in the City. The extensive natural beauty and intricate ecosystem of the City form the basis for a natural resource and open space network. The network serves to define the edges for the existing and future development areas.

This Natural Environment chapter provides the framework for protection of natural resources. The City's forests and fields—along with the natural drainage system and its connections with lakes, streams and forests—form a rich habitat for fish and wildlife that is unlike any other city in King County.

Information contained within the Natural Environment chapter is based upon sensitive areas inventories conducted by the City in the early 2008-1990s to locate, identify, and categorize sensitive areas within the City's jurisdiction. ~~The City uses King County Map data as a basis for developing existing sensitive areas maps. Therefore, the King County Interactive Map Folio was used to provide sensitive areas inventory information for the current City boundaries.~~ The City's current Environmentally Sensitive Areas regulations (Chapter 19.4210, Black Diamond

Municipal Code) were adopted in ~~2009~~ ~~2008~~1993 and are in the process of being updated in 2008.

4.2. Existing Natural Features

4.2.1. Water and Natural Drainage

Drainage within the planning area is an interrelated system of surface water, groundwater, and wetlands. In order to identify existing drainage characteristics and potential impacts from urbanization, an understanding of the site-specific hydrologic interaction among the components of the drainage system is required.

Surface Water Drainage Basins

Nearly all of the planning area is located in the Rock Creek and Ravensdale Creek Drainage Basins. Rock Creek and Ravensdale Creek are two headwater drainage systems of Lake Sawyer and Covington Creek. Rock Creek drains to the south and southwest portion of Lake Sawyer, while Ravensdale Creek drains to the north and northwest portion of the Lake Sawyer area. Lake Sawyer is the fourth largest natural lake in King County. Lake Sawyer's outlet is Covington Creek which flows west into the Big Soos Creek drainage system. The Big Soos Creek discharges into the Green River about 1 mile east of the City of Auburn and about 7 miles west of the City. The southern and western most portions of the planning area touch upon watersheds oriented toward Green River and the Crisp Creek drainage basin (including Horseshoe Lake), respectively. The Lake 12 Annexation Area drains to the middle Cedar River indirectly via the lake and wetlands extending east from the lake.

Types of land cover presently found in the Rock Creek and Ravensdale Drainage Basins include remnant forest stands (second and third generation growth); grass; and limited impervious surfaces (roads and a few structures). Forest covered surfaces typically display higher infiltration capacity and less surface runoff potential than grass covered surfaces because the root system of trees is more extensive and deeper than that of grass. The flat to moderate topography of the Rock Creek Drainage Basin further reduces surface runoff potential.

Surface impoundments caused by lakes, wetlands, and streams influence surface runoff by providing storage that helps attenuate the peak rate of discharge. The storage effect of streams is less pronounced than that of lakes and wetlands. In streams, increased surface runoff volumes and prolonged duration of peak rates of discharge results in more impact.

The surface water drainage system in the planning area is shown in Figure 4-1.

Basin boundaries were identified from the 1990 King County Soos Creek Basin Plan (1992). Much of the area near the City is designated as Regionally Significant Resource Areas in the Soos Creek Basin Plan because of the relatively pristine condition of the watershed, including the streams, lakes, wetlands and surrounding forested upland areas.

The Rock Creek and Ravensdale Creek drainage basins received special attention in the City's resource planning.

Streams and Lakes

Both the Rock Creek and Ravensdale Creek basins drain to Lake Sawyer and ultimately to the Green River. A small portion of the planning area drains either to the Green River via an unnamed drainage network or via Lake Keevies and Crisp Creek, or to Horseshoe Lake, which has no outlet.

Major creeks in the City were inventoried in ~~2008~~1994 using guidelines provided by the Washington State Department of Natural Resources (DNR), in compliance with the Growth Management Act (GMA).

There are eight creeks located in the planning area—Covington Creek, Rock Creek, Jones Lake Creek, Ginder Creek, Lawson Creek, Mud Lake Creek, an unnamed tributary to Black Diamond Lake, and Ravensdale Creek. These water bodies are listed in Appendix A. Stream classifications shown in Appendix A are based on a water typing system used by DNR and are for information purposes only. Stream types are classified in the City's Sensitive Areas Ordinance (SAO) under "Water Typing System," which defines streams from Types S, F, Np or Ns-1 to Type-5 depending on the presence of fish, whether intermittent or year round, and other factors. Stream type will be determined using the definitions and criteria of the City's SAO.

Covington Creek is also classified as a Shoreline of the State, subject to the Shoreline Management Act (SMA). There is only a small segment of Covington Creek where it exits Lake Sawyer within the existing City limits.

In their present state, all of the larger streams are moderately important for water supplies, recreation, fish and wildlife habitat, and protection of water quality. Lawson Creek influences water quality in Jones Lake and the Rock Creek wetlands, and Mud Lake Creek influences the water quality of Ginder Creek. All other drainage courses within the Rock Creek watershed are considered minor.

There are ~~eight~~ seven existing lakes within the planning area — Lake Sawyer, Jones Lake, Black Diamond Lake, Oak Lake (also known as Lake Marjorie), Frog Lake, ~~Horseshoe Lake,~~ Lake Number 12, and Mud Lake.

Lake Sawyer is the fourth largest natural lake in King County at 286 acres with a watershed of 13 square miles. Lake Sawyer is considered a “shoreline of the state” and is subject to the SMA and the City’s King County’s Shoreline Master Program (as the City has not adopted regulations for Lake Sawyer since annexing the lake over 10 years ago). The lake is fed by the Rock Creek and Ravensdale Creek drainage systems. Lake Sawyer has experienced water quality problems from various sources, including discharge of inadequately treated sewage from the decommissioned the City’s sewage treatment plant located in the Rock Creek drainage. A lake management plan for Lake Sawyer was completed by King County in 2000. The City and King County have conducted stormwater monitoring in the lake’s watershed to help identify sources of phosphorus. Data collected by volunteer lake monitors indicate that Lake Sawyer is low to moderate in primary productivity with very good water quality.⁵ Ravensdale Creek has a disproportionately high discharge to drainage area ratio likely due to a high influx of groundwater. Although its drainage area is about half that of Rock Creek’s drainage area, Ravensdale Creek has a discharge about 3 times greater than that of Rock Creek during the dry summer months. The phosphorus concentrations in Ravensdale Creek are relatively low during the wet season but exceed those of Rock Creek during the dry season when most of the flow is comprised of naturally phosphorus rich groundwater. Consequently, Ravensdale Creek contributes about half as much phosphorus to Lake Sawyer as Rock Creek. Lake Sawyer is an important migration corridor for a late run of coho salmon that pass upstream shortly after Christmas. The fish spawn in upper Ravensdale Creek. Lake Sawyer also provides year-round recreational fishing for stocked rainbow trout and warm water fish. The lake is also used extensively for boating, water-skiing, and other recreation. Public access is provided at a boat launch on the northwest side of the lake. An undeveloped 168 acre park is located along the southern part of the lake.

Frog Lake is located in the northwestern part of the planning area at the southeastern portion of Lake Sawyer. Frog Lake is approximately 25 acres in size. It is largely a forested wetland with an open water area, identified as Wetland 2 by the City or as Covington Creek 22 by King County’s Interactive Map Folio Sensitive Areas layer. As a wetland related to Lake Sawyer, Frog Lake is considered a shoreline of the state regulated by the SMA.

Jones Lake ~~is under~~less than 20 acres in size, located within and ~~covers~~is 23 acres in size with a watershed of 740 acres. It is fed by Lawson Creek and two other unnamed tributaries, but is a highly groundwater-dependent lake that displays a seasonal fluctuation in water level. Jones Lake is classified as a dystrophic lake,

⁵ King County Lake Monitoring Report, Water Year 2004.

Ground water recharge to the shallow aquifer is primarily from precipitation or infiltration of surface water runoff from adjacent areas. As precipitation falls on the ground surface, a portion infiltrates into the soil. Precipitation that does not infiltrate remains on the surface, filling small depressions or moving downslope as surface runoff. Some shallow infiltrated water (soil moisture) is used by plants and returns to the atmosphere by evaporation. When the soil moisture content is high, such as occurs after a long period of rainfall, water within the soil migrates downward. Downward percolation of water is impeded by relatively impermeable till or bedrock that underlies most of the land. Where water is concentrated within topographically low areas, lowlands such as wetlands and streams, there is generally more recharge than in topographically high, upland, areas where the surficial aquifer is dry much of the time. The intermediate depth and deep bedrock aquifer systems are recharged by infiltrating water over an area much larger than the planning area.

Public Water Supplies

Groundwater withdrawal has not been necessary to supply the City's water needs. The City currently obtains all of its municipal water from a series of springs (Spring No. 1 through Spring No. 4) located on the east slope of Green River gorge about 2 miles southeast of the City. The City does not maintain any water wells at present. The spring system is located in a geologically active area of the Green River gorge as demonstrated by a large landslide in February 1996 immediately downstream of Spring No. 1. The water quality and quantity are very good; limited only by the approved water rights consumptive allocation of the spring water.

The City has a wholesale contract for water supply from the City of Tacoma that will provide future water supply. The City will also continue to withdraw water supply from its springs so long as this source remains feasible.

4.2.2. Sensitive Areas

Sensitive Areas (also referred to as critical areas) are environmentally sensitive features of the City for which protection is required by the GMA. They include wetlands, frequently flooded areas, fish and wildlife habitat conservation areas (FWHCA), geologically hazardous areas, and areas with a critical recharging effect on groundwater used for potable purposes.

The City conducted sensitive areas inventories in its planning area in ~~2008, the early 1990s~~ and is also using ~~King County mapping data as its source of sensitive areas information.~~ The Black Diamond Sensitive Areas Map was produced by Parametrix (a consulting firm) in 2008. ~~King County geographic information systems (GIS) data.~~ This plan relies on the King County Interactive Map Folio, Sensitive Areas layer to identify locations of known sensitive areas both within the City limits and the City's

UGA. This information will be updated in 2008 as a result of the update of the City's current Environmentally Sensitive Areas regulations (Ch. 19.12 BDMC).

Development adjacent to wetlands and streams inside the City is regulated by the City's SAO. The SAO contains requirements for designating, rating and mapping wetlands and streams, requires the establishment of wetland and stream buffers, identifies activities allowed within the buffers and describes applicable performance standards, and outlines appropriate mitigation requirements.

Wetlands

Known wetlands and streams in the City have been identified and classified (i.e., rated on a reconnaissance level) in the 2008-1992 study entitled "City of Black Diamond Wetland and Stream Inventory." The City's SAO designates and rates wetlands according to the Washington State Department of Ecology's (Ecology's) wetland ratings system found in the Washington State Wetland Rating System documents (Western Washington Ecology Publication #93-74). Known wetlands in and adjacent to the City are identified in Appendix A. The wetland classifications listed in the appendix are preliminary and for information purposes only. For project proposals, wetland classifications will be determined using the definitions, criteria and procedures contained in the City's SAO.

The City has classified and designated frequently flooded areas using the Federal Housing and Urban Development Flood Map (Figure 4-1). This map identifies the following flood hazard areas inundated by a 100 year flood: along Rock Creek from Morganville to Jones Lake; the southern portion of Ginder Creek; surrounding Jones Lake and along the east side of Highway 169 (across from Jones Lake). New development in these areas will continue to be regulated by the City.

The 2006 King County Interactive Map Folio Sensitive Areas layer shows a small segment of Section 15 in the 100 year floodplain in the City. The floodplain is generally along the Rock Creek wetlands and Covington Creek Wetland No. 26.

Fish and Wildlife Habitat Conservation Areas

Fish and wildlife habitats in the City were identified and ranked in terms of value in the 2008 Sensitive Areas Inventory, 1992 "City of Black Diamond Fish and Wildlife Habitat Study." High value habitats include the Rock Creek and Ginder Creek corridors, open water ponds, lakes, and riparian forests. These habitats exist around streams and wetlands, which are identified, classified, and regulated under the City's SAO. The SAO contains requirements for designating and mapping FWHCA, sets buffer requirements and performance standards for activities allowed within FWHCAs and their buffers, and outlines appropriate mitigation requirements. There are areas of high quality habitat that relate closely to the City's wetland and stream

network. Two of these areas may meet the City's SAO criteria for FWHCAs: 1) Ravensdale Creek and its adjacent wetlands; and 2) Black Diamond Lake and its adjacent wetlands (Figure 4-2) ~~Shouldn't we know this by now? - The City is currently updating its SAO and may revise the criteria for FWHCAs in the update process.~~

The general habitat types in the Black Diamond area include mixed deciduous and unmanaged evergreen forest, areas of regenerating managed forest, wetlands, lakes, riparian areas, and creeks. Wetlands, riparian areas, and lakes meeting certain criteria are listed as "priority habitats" in the Washington Department of Fish and Wildlife's (WDFW's) Priority Habitats and Species (PHS) program. WDFW has compiled draft maps of priority habitat areas in the City.

Wildlife corridors provide a means for wildlife, particularly species that roam widely or have large home ranges, to move freely within and among habitat types. Creeks and streams and their associated buffers function as wildlife corridors in urban areas. Rock Creek, Ravensdale Creek and the associated riparian habitat, functions as a corridor between the upper and lower Soos Creek basin. The Rock Creek corridor likely serves as a route to the Green River and upper parts of the Green River watershed as well, linking wildlife that use the lower Green River watershed and the upper Soos Creek basin. The following list of drainages and the known fish species are updated from the Water Resource Inventory Area (WRIA) 9 Fish Distribution maps (2000, King County DNR):

Covington Creek. Coho, cutthroat trout and steelhead are known to inhabit Covington Creek. The WRIA 9 Fish Distribution Map indicates that Covington Creek also provides good habitat for Chinook salmon, though presence of that species has not been verified.

Lake Sawyer. Covington Creek drains Lake Sawyer, which is fed by Ravensdale and Rock Creeks. Lake Sawyer supports populations of cutthroat trout, steelhead, largemouth and smallmouth bass, yellow perch, and rainbow trout (WRIA 9 2000 and WDFW 1991). The lake is impounded by a small dam at the head of Covington Creek. The dam has a fish ladder that allows passage of migrating coho. Due to low water flows and creekbed infiltration, however, the fish ladder is not typically passable until December. This factor limits coho use of the upper watershed, including Rock Creek.

Ravensdale Creek. Ravensdale Creek has significant fisheries value and is known to support coho and cutthroat trout. The headwater wetlands are important for maintaining perennial flow, as well as maintaining water quality in Rock Creek.

land uses contained in the City's SAO help protect the functions and values of these streams as critical fish and wildlife corridors.

Geologically Hazardous Areas

Geologically hazardous areas include erosion hazards, landslide hazards, and mine hazards. Areas of abandoned coal mine workings are identified and mapped in Figure 4-3 and are regulated by the City's Sensitive Areas regulations.

Areas of steep slopes are similarly identified in City Sensitive Areas maps and regulated by the SAO. The SAO contains designation and mapping requirements, a description of allowed activities and performance standards, and appropriate mitigation requirements for erosion, landslide, seismic and mine hazard areas. ~~Additional geologically hazardous areas not currently regulated by the SAO include seismic hazard areas and steep slopes.~~

Erosion Hazard Areas

Erosion hazard areas are defined as those areas identified by the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS) as having a "severe" to "very severe" erosion hazard.

~~Black Diamond's King County's Interactive Map Folio, Sensitive Areas Layer Map~~ indicates five small locations within the planning area, including the Ravensdale Creek corridor, as "erosion hazard." Among the Natural Resources Conservation Service (formerly Soil Conservation Service [SCS]) soil types identified within the planning area, one is identified by King County as potentially severely erosive. It is shown as AkF and AgD. Relatively small areas of this soil type exist within Sections 22 and 23, but both are located along the edge of wetlands (southwest of Black Diamond Lake and east of Jones Lake). These erosion prone soils are constrained for development, especially the area of AkF near Black Diamond Lake.

Landslide Hazard Areas

Landslide hazard areas are defined in the City's SAO as those areas that are potentially subject to risk of mass movement due to a geologic landslide resulting from a combination of geologic, topographic, and hydrologic factors. These areas are typically susceptible to landslides because of a combination of factors including: bedrock, soil, slope gradient, slope aspect, geologic structure, groundwater, or other factors. ~~Black Diamond's King County's Interactive Map Folio (IMap)-Sensitive Areas Layer Map delineates a small landslide area within it's Black Diamond the City's wWatershed property no known landslide hazardous areas within the planning area.~~

SINK HOLES

Coal Mine Hazard Areas

Coal mine hazard areas include abandoned and improperly sealed mine openings and areas underlain by mine workings shallower than 200 feet in depth (steeply dipping seams) or shallower than 15 times the thickness of the seam or workings (gently dipping seams) may be affected by collapse or other subsidence.

Although the City is underlain by numerous coal mines, the “mine hazard” areas by definition are limited due to the accuracy of past mapping and the depth of most of the shafts. ~~Black Diamond’s King County’s IMap Sensitive Areas Layer Map~~ identifies one large area of "coal mine hazard" in the central part of the City, and a smaller area to the east in the Lawson Hill neighborhood. The ~~county~~ map layer appears to locate coal mine areas without specific information on the degree of hazard.

Information provided by Palmer Coking Coal (PCC) indicates that much of the existing City is built over deep underground coal mine working. Most underground coal mining in the Black Diamond area consisted of the "room and pillar" mining technique. "Pillars" of coal were left to provide support for the mining of adjacent areas, creating rooms. Once abandoned, these "pillars" would collapse and the "rooms" would fill with collapsed roof material, coal debris, and water.

There are known coal mine entrances, stockpiles of coal tailings or mine spoil in the planning area. Mining records indicate that underground mining has occurred in Section 2, 10, 11, 12, 13, 14, 15, and 23. Most of these are areas underlain by deep underground coal workings. The coal mine hazards identified in the SAMF are based upon maps available at the Department of Natural Resources. The approximate location of the mine areas is shown on Figure 4-3.

Prior to development in areas of coal mine working and potential subsidence, the City requires studies by geologic engineers detailing the depth to workings, the presence of surface openings or potential sinkholes, and a detailed examination of historic coal mine maps.

Seismic Hazard Areas

Seismic hazard areas are subject to severe risk of earthquake damage as a result of earthquake-induced ground shaking, slope failure, settlement, or soil liquefaction. These conditions occur in areas underlain by cohesion’s soils of low density, usually in association with a shallow groundwater table. For the City, these areas are primarily wetlands and saturated soils. According to ~~Black Diamond’s to King County’s IMap Sensitive Areas Layer Map~~, no seismic hazard areas are identified within the planning area.

Steep Slopes

The City of Black Diamond's Sensitive Area map layer identifies areas that approach 40% slope, county's SAMF does not identify steep slopes (greater than 40%) in the planning area and did not map inside the existing City limits. The steepest slope in the City occurs along the south side of Lawson Hill (aka Franklin Hill), where isolated portions of the hillside approach 430% slope. Most of Lawson Hill contains 6% to 15% slopes with an area of 16% to 24% slopes. Isolated slopes within the City's watershed property approach 40% slope. Some isolated slopes which are in the 16% to 24% slope range, are located east of the Black Diamond Lake, along Lawson Road east of Mud Lake, near SE 288th Street and crossing SR 169 north of the City limits. The remainder of the City of Black Diamond Comprehensive Plan area appears to contain slopes from 0 to 15%. Isolated steep slopes may exist throughout the City.

Ground Water Management Areas

The City is located within the South King County Groundwater Management Area. In the "South King County Groundwater Management Plan," the western and northwestern portions of the City have been identified within the large area of coarse and highly pervious Qvr (Vashon Recessional Outwash) geologic deposits. As a result, the Qvr areas of the City have the potential to serve as aquifer recharge areas but offer little contaminant removal ability leaving groundwater susceptible to contamination. The King County Comprehensive Plan mapped these areas as "Areas Highly Susceptible to Ground Water Contamination," that are shown in Figure 4-3. As noted on Figure 4-3 this map is provided for information purposes only and is not specific enough to be used as an integral part of regulations.

This area of Qvr geology contains a shallow aquifer serving as a source of water supply to the City of Kent system and Lake Sawyer. Lake Sawyer, Ravensdale Creek, and Rock Creek are identified as being hydraulically coupled to this shallow aquifer. Mapping provided by King County's IMap shows that areas with high susceptibility to groundwater contamination are located surrounding Lake Sawyer in the northwestern portion of the City, and in the southwestern portion of the City. An area southeast of Lake Sawyer and a small area in the southeastern part of the City are shown as medium susceptibility to groundwater contamination.

To protect critical groundwater recharge areas of domestic water supply aquifers, the City requires that development within the City limits served by City utilities be served by sanitary sewers. Areas served by Soos Creek Water and Sewer District where sewer service is not available are still allowed to use septic systems.

Maintaining the water quality and quantity of stormwater runoff is important within aquifer recharge areas so that aquifers are protected from pollutants. Maintaining

- Policy NE-5: Within areas highly susceptible to groundwater (aquifer) contamination, adopt special protection measures. The special protection measures require businesses that use hazardous chemicals to have containment facilities to capture potential chemical spills, and require the use of best management practices for applying pesticides and fertilizers for business residential, and recreational uses.
- Policy NE-6: The special protection measures noted in NE-5 should evaluate and define “high risk” uses and address the siting of such uses in sensitive aquifer recharge areas. The protection measures should also evaluate and include measures to reduce pollutant loads, including phosphorous discharged to Lake Sawyer.
- Policy NE-7: Require temporary erosion control measures to be installed before construction begins and maintenance of those control measures through the stabilization of the site following the completion of construction to control the quantity of sediment entering surface water.

4.3.3. Critical Sensitive Area Concepts, Objectives, and Policies

Critical Sensitive Area Concepts

~~Critical Sensitive~~ Areas include wetlands, aquifer recharge, fish and wildlife habitat conservation areas (FWHCAs), frequently flooded areas, and geologically hazardous areas. These features of the natural environment are critical to maintaining local environmental quality, quality of life, and maintaining the City's character. Some of the critical areas may present potential development constraints, i.e., floodplains, and geologically hazardous areas (including coal mine hazards).

Critical Sensitive Area Objectives

The City will control development in all critical areas through its ~~Sensitive~~Critical Areas Ordinance (SCAO). Those areas designated as posing a hazard to life or property will be identified prior to development approvals. Development will not be permitted unless detailed technical studies find the hazardous condition can be safely mitigated. Monitoring of the ~~S~~CAO should result in periodic updates to assure effectiveness of the ordinance.

- Objective NE-2: Implement the Natural Resources Management Plan for the Comprehensive Plan planning area.

Objective NE-3: Promote preservation of fish and wildlife habitats of documented threatened and endangered species.

SENSITIVE
Critical Area Policies

Policy NE-8: Coordinate with King County and the Muckleshoot Indian Tribe in the developing natural resources planning for the areas surrounding the City.

Policy NE-9: Protect sensitive areas from inappropriate land uses, activities, or development through continued application of and periodic updates to the SCAO and development regulations. The City of the City will monitor the effectiveness of its SCAO and will modify this ordinance as necessary, based upon the information gathered during monitoring.

Policy NE-10: Avoid disturbance to valuable fish and wildlife habitat through the proper location, design, construction, and management of new development.

Policy NE-11: Minimize disruption of areas in current use by endangered wildlife species or by unique wildlife populations.

Policy NE-12: Establish an open space network, linking critical habitat areas to enhance their ecological value.

Policy NE-14: Update and enforce comprehensive regulations pertaining to development in critical areas.

Policy NE-15: Manage land uses to be compatible with aquifer recharge areas and to minimize potential groundwater contamination.

4.3.4. Air Quality Concepts, Objectives and Policies

Air Quality Concepts

Because of the surrounding geographic and climatic characteristics, the City experiences prevailing winds, long summer days and higher inland temperatures. Although there are no air quality monitoring stations in the planning area, southeast King County has a higher ozone pollution concentration than the rest of the county.

Burlington Northern Railroad land), Palmer Coking Coal Company, and the Berklid family.

The City completed its first GMA comprehensive plan in 1996. That same year, the City negotiated a Potential Annexation Area (PAA) with King County and nearby property owners that was formalized in the Black Diamond Urban Growth Area Agreement (BDUGAA). Subsequently, the City annexed an additional 786 acres to the northwest, including and surrounding Lake Sawyer, in 1998. This annexation added 1,480 residents to the City, increasing the population by 82.6% in one year.⁷ In December 2005, the City completed annexation of its West Annexation Areas totaling approximately 345 acres.⁸ In December 2009, the City further expanded by completing the South Annexation (approx. 233.6 acres) and the East Annexation (approx. 50 acres). With the December 2005 annexation, the following PAAs remain to be annexed: Of the areas defined in the BDUGAA, this leaves the Lake 12 Annexation area (approximately 160 acres in the northeast corner of the UGA, including portions of the Green River Gorge Road connecting the Lake 12 Annexation Area to the City limits) still to be annexed.

~~*South Annexation Area: Approximately 233.6 acres in the southern portion of the City's Urban Growth Area (UGA).~~

~~*East Annexation Area: Approximately 50 acres along the eastern boundary of the City in the City's UGA.~~

~~□Lake 12 Annexation Area: Approximately 160 acres in the northeast corner of the UGA, including portions of the Green River Gorge Road connecting the Lake 12 Annexation Area to the City limits.~~

There is also an area within the King County UGA located west of Lake Sawyer along the Covington-Sawyer road and including Kentlake High School, which is not identified in the BDUGAA. This “unclaimed” urban growth area, which abuts the City’s northwest boundary, was not historically designated as a Black Diamond PAA. However, with this plan; the City is now including this area as part of its PAA.

5.2.2. Planning Area Land Use

The Land Use Element addresses the existing City limits (approximately 4,179 acres) and the adjacent unincorporated UGA, referred to in this plan as the PAA. The PAA, which is currently outside the City’s corporate boundaries, will

⁷ Washington State Office of Financial Management. Annexations Approved by OFM 1/1/1990 through 12/31/1999.

⁸ Washington State Office of Financial Management. Annexations Approved by OFM 1/1/2000 through 8/31/2006.

Designation Criteria: Properties designated Urban Reserve should be only be those areas currently lacking public water and sanitary sewer service within the City's Potential Annexation Area.

~~Transfer of Development Rights (TDR) Receiving Areas Overlay~~

~~Purpose: The TDR Receiving Areas Overlay is applied to lands that, pursuant to City policies, annexation agreements, or other legal instruments of records, are intended to remain in an undeveloped state until such time that development rights are received pursuant to the City's TDR program as outlined in BDMC 19.24. A Master Planned Development (MPD) overlay may also apply in these areas. In order to maintain a "baseline" value to these lands and avoid the necessity of acquiring significant amounts of development rights, a base density of either one or two dwelling units per acre should be allowed, provided that development at higher urban densities consistent with the other plan designations can be achieved through the receipt of transferred development rights from designated "sending areas."~~

~~Allowed Uses and Description: Low density, single-family residential uses (not exceeding 1 or 2 dwelling units per acre) should be allowed in these areas as a basic development right, recognizing that higher density development is expected to occur with the acquisition of development rights from designated "sending areas."~~

~~Designation criteria: Properties to which the TDR Receiving Area Overlay is applied should be those identified through the City's TDR program that are intended to develop as urban densities only after the transfer of development rights. For the majority of these areas, approval of an MPD is a prerequisite to development.~~

Master Planned Development (MPD) Overlay

Purpose: The MPD overlay is applied to areas to take advantage of opportunities to create a clustered mix of residential, commercial and civic uses along with open space and public facilities, on large sites in appropriate locations. These sites typically consist of large parcels in common ownership where a master plan will be developed to guide unified development over a period of many years. The MPD designation is applied to meet the special needs and opportunities presented by such sites while managing impacts on nearby uses.

Allowed Uses and Descriptions: The MPD overlay is applied to areas that are intended to allow a mix of those land uses and residential densities as depicted on the Future Land Use Map. Areas with an MPD overlay designation are intended to develop only subsequent to approval of an MPD permit pursuant to Black Diamond Municipal Code. An MPD may include residential and commercial uses clustered around private and community open space, supported by adequate services and facilities. As part of the process of approving an MPD, a specific development plan

by two volunteer firefighters/EMTs. Station 99 is staffed only by volunteers responding from home. The staff the City is supported by a cadre of volunteers assigned to Station 98 and Station 99, as well as career staff assigned to nearby stations. Nighttime coverage, between 1800 hours and 0600 hours, is augmented by volunteer staff at Station 92, Station 93 on SE Covington Sawyer Road, Station 97 on Green Valley Road, and Station 94 near Krain Corner.

The National Fire Protection Association (NFPA) establishes six trained firefighters arriving to a scene within 14 minutes of an alarm 80% of the time for volunteer fire departments in rural areas (defined as areas with a population density less than 500 people per square mile; District 44 has roughly 350 people per square mile) as a sufficient number of members to operate safely and effectively.

2007 response data indicates Station 98 had a response time of 6.98 minutes or less 80% of the time, and Station 99 has a response time of 8.28 minutes or less 80% of the time. Both stations' response times are well below the NFPA's standard. Note, both fire and EMS responses were considered together because of the limited database.

8.7.4. Future Needs

As the City and district increase in population, the district may need to increase the number of volunteer and career firefighters available per shift.

The City should create a work plan to address its long-term fire and emergency services needs as a result of anticipated development and growth.

8.8. Utilities

This Utilities Element has been developed in accordance with Section 36.70A.070 of the GMA. It describes how the existing and planned utility capacity will be financed, and supports the City's Land Use Element.

Suggested items to be included in the when addressing uUtilities Element and recommendations for preparing the element discussing utilities are delineated in WAC 365-195-320. These are as follows:

- Integration of the general location and capacity of existing and proposed utility lines with the Land Use Element of the City of Black Diamond Comprehensive Plan. For the purposes of this step, proposed utilities are understood to be those awaiting approval when the comprehensive plan is adopted.

- An analysis of the capacity needs for various utilities over the planning period to serve the growth anticipated at the location and densities proposed within the jurisdiction's planning area.
- A schematic identification of the general location of utility lines and facilities required to furnish anticipated capacity needs for the planning period within the jurisdiction's planning area. This should be a part of the process of identifying lands useful for public purposes to be carried out by planning jurisdictions.
- Evaluation of whether any utilities should be identified and classified as essential public facilities, subject to the separate siting process established under the comprehensive plan for such facilities, and if so, provision for applying that process as appropriate.
- Creation of local criteria for siting utilities over the planning period, involving:
 - a. Consideration of whether any siting proposal is consistent with the locations and densities for growth contemplated in the Land Use Element.
 - b. Consideration of any public service obligations of the utility involved.
 - c. Evaluation of whether the siting decision will adversely affect the ability of the utility to provide service throughout its system.
 - d. Balancing of local design considerations against articulated needs for system-wide uniformity.
- Policies should be adopted which call for:
 - e. Joint use of transportation rights-of-way and utility corridors, where possible.
 - f. Timely and effective notification of interested utilities of road construction, and of maintenance and upgrades of existing roads to facilitate coordination of public and private utility trenching activities.
 - g. Consideration of utility permits simultaneously with the proposals requesting service and, when possible, approval of utility permits when the project to be served is approved.

It is the intent of this section to fulfill the RCW requirements relating to the Capital Facilities Element and Utilities Element of the comprehensive plan.

The Utilities ~~Element~~ section has also been developed in accordance with the Countywide Planning Policies (CPPs) and has been integrated with all other

planning elements to ensure consistency through the comprehensive plan. ~~The~~This section Utilities Element specifically considers the location and LOS of all existing and proposed utilities, including electrical, telecommunication, natural gas, and non-city water transmission line; public schools; and fire protection. ~~This element-section~~ also provides a process and policies for the siting of “Essential Public Facilities” as defined by the GMA.

8.8.1. Inventory and Analysis

The inventory presented in this element provides information useful to the planning process. The inventory summarizes general information pertaining to the existing utility service system in the City. Many public and private agencies are involved in regulation, coordination, production, delivery, and supply of utility services. This section of the element identifies those providers as well as the legislation regulating the utility. The inventory includes:

City-Provided Utilities

- Water (except around Lake Sawyer)
- Sanitary Sewer (except around Lake Sawyer)
- Stormwater

Utilities Provided by Other Entities

- Electricity (Puget Sound Energy)
- Telecommunications (Qwest and Comcast)
- Natural Gas (Puget Sound Energy)
- Tacoma Water Transmission Pipeline #5 provides wholesale water supply
- Covington Water District provides water service around Lake Sawyer
- Soos Creek Water and Sewer District provides sewer service to a small area in the northwest corner of the City and has a sewer service around Lake Sawyer.
- Solid Waste (Allied Waste)

Federal and State Utility Laws and Regulations

RCW and Washington Utilities and Transportation Commission – Utilities and transportation are regulated in Washington by the Washington Utilities and Transportation Commission (WUTC). The WUTC, composed of three members appointed by the governor, is empowered to regulate utilities (including but not

8.12. Utilities Provided By Other Entities

As independent utilities, the private companies providing the services described in this section, for the most part, fund capital investments and ongoing operations and maintenance costs independently through their rate base.

This section should provide a framework for efficient and predictable provision and siting of utility facilities and services within the city, consistent with serving the utility's public service obligations.

This section describes how the goals in the other plan elements will be implemented through utility policies and regulation, and is an important element in implementing the comprehensive plan. The main purpose of this section is to ensure that the City will have utility capacity to adequately serve the Land Use Element.

8.12.1. Utilities Concept, Goal, Objective, and Policies

Utilities Concept

The City should consider, when reasonable and feasible, the co-location of new public (non-City owned) and private utility distribution facilities in shared trenches, and coordination of construction timing, to minimize construction-related disruptions to the public and reduce the cost to the public of utility delivery. The City will encourage provision of an efficient, cost effective and reliable utility service by ensuring land will be made available for the location of utility lines and utility facilities.

The City will review and amend existing regulations, including ~~Critical-Sensitive~~ Areas Ordinances (~~CAOs~~SAOs), as necessary within existing corridors to allow maintenance, repair, installation, and replacement of utilities in a timely manner.

The City will provide standard locations for gas, power, phone, and cable within the street section of the City's construction standards.

The City will encourage communication among the private utility providers to support service planning for the City. It will be important for the City to encourage system design practices intended to minimize the number and duration of interruptions to customer service. The City supports necessary amendments to the Utility and Public Services Element for the purposes of updating individual provider plans.

As a strategy, the City will facilitate and encourage conservation of resources to delay the need for additional facilities for electrical energy and water resources, and to achieve improved air quality. In addition, the City will support the conversion to

cost-effective and environmentally sensitive alternative technologies and energy sources.

Utilities Goal, Objectives, and Policies

- Utilities Goal: Coordinate City land use and utility facility planning to ensure consistency and to enable utility service providers to meet public service obligations.
- Objective U-1: Design and construction standards will be environmentally sensitive, safe, cost effective, and consistent with utilities' public service obligations.
- Policy U-1: Facilitate the development of all utilities at the appropriate levels of service to accommodate growth that is anticipated to occur in the City.
- Policy U-2: Facilitate the provision of utilities and ensure environmentally sensitive, safe, and reliable service that is aesthetically compatible with the surrounding land uses and results in a reasonable economic cost.
- Policy U-3: Process permits and approvals for utility facilities in a fair and timely manner and in accordance with development regulations which encourage predictability.
- Policy U-4: Encourage conservation of all non-renewable non-municipal resources.

8.12.2. Utilities Overview

Electricity and Natural Gas

~~Electricity is provided by Puget Sound Energy (PSE) provides electrical and natural gas service to the city of Black Diamond and its potential annexation area. PSE is an investor owned private utility that provides service to approximately 1.4 million electric and natural gas customers in a service area that covers 6,000 square miles. Various facilities are located throughout the City and King County, including one substation and one overhead transmission line within existing City limits.~~

Existing Electric Facilities

Various electric transmission and distribution facilities are located through the City and King County. At present, one 115kV passes through the City generally south to

north along SR 169. This transmission line serves the Black Diamond Substation located at approximately SE 316th St. and SR 169.

The Bonneville Power Administration has a 500 kV transmission corridor which easement and line that lies approximately about one mile north of the City limits. The transmission line is the BPA Ravensdale – BPA Covington, connecting power from Ravensdale to Covington.

Future Electrical Facilities

Electrical facility planning is ongoing for south King County, and Black Diamond is included in the larger general study area. The potential addition of 6,000 homes in two proposed Master Planned Developments would require PSE to expand the existing electrical facilities to meet the needed energy requirements. To serve the electrical load of the planned 2015 population, the following projects have been identified for possible future construction:

- Expansion of the Black Diamond Substation to include a second transformer, 115 kV breakers, and an additional 115 kV transmission line which could potentially head west along Auburn Black Diamond Road or east along Black Diamond Ravensdale Road.
- Possible construction of a new substation within the Black Diamond area. (May not be necessary if current growth load predictions/development is high). No exact site has been determined and would depend on more detailed information regarding the proposed Master Planned Developments.
- Reconductoring and rebuilding of the existing 115 kV transmission line that passes through the city.
- Construction of a new 115 kV transmission line from Berrydale Substation to Krain Corner Substation. One possible route would be along Kent-Black Diamond Road and Auburn Black Diamond Road to the existing Black Diamond substation. A future substation called Lake Holm is planned for this line east of Black Diamond.

Existing Gas Distribution Facilities

Natural gas is supplied to the City of Black Diamond from Williams (formerly Northwest) Pipeline Corporation through gate stations. Gas service is generally extended to new development upon evaluations of requests based on an economic feasibility study.

Supply mains (measuring 16", 12", 8", 6" and 4" in diameter) transport gas from the gate stations to district regulators. This pipe material is typically wrapped

steel (STW). District regulators (DR) reduce supply main pressures to typical distribution operating pressures of 25 to 60 psig. Distribution mains are fed from the district regulators. These typically are 8", 6", 4", 2" and 1-1/4" diameter lines. The pipe material typically is polyethelene (PE) or wrapped steel.

Individual residential service lines are fed by distribution mains and are typically 5/8" in diameter. Individual commercial and industrial service lines are typically 1-1/4", 2", or 4" in diameter.

Future Gas Distribution Facilities

Minimum pressure delivery to distribution systems is approximately 15 psig. If growth would result in design pressures below 15 psig, there are several methods of increasing the pressure in the line, including:

- Looping the distribution and/or supply lines to provide an alternative route for the gas to travel to an area needing additional supply. This method often involves construction of supply mains, district regulators and distribution mains.
- Installing mains parallel to existing mains to supplemental supply of natural gas to a particular service area.
- Replacing/upsizing existing pipelines to increase volume.

There are three types of construction:

1. New or replacement of existing facilities to increase capacity requirements due to new building construction and conversion from alternate fuel.
2. Main replacement to facilitate improved maintenance of the facility.
3. Replacement or relocation of facilities due to municipal and state projects.

PSE makes an effort to coordinate construction work with municipal projects in order to minimize cost and impacts to the surrounding community. Due to franchise agreements, PSE is required to relocate existing facilities when required due to the municipal project.

The following major projects are anticipated between now and the year 2018 to serve customers to in the city:

- Replacement of a section of a 2" main on Roberts Drive east of Morgan Street working with city project schedule.

Tentative future projects:

- Future extension of the 8" PE IP main on Auburn Black Diamond Road (will be determined by growth in the surrounding areas).

Due to the growing popularity of natural gas in Black Diamond and surrounding areas, PSE will continually evaluate the necessity of the above projects and alternatives. Changes in project route, construction schedule and detail could occur as they are dependent on budgets and WUTC approval.

Telecommunications

Telecommunications include, but are not limited to, telephone, personal wireless services, microwave and cable television. The City is served by Qwest Communications. There are various facilities located throughout King County and the City. Many of the telecommunication facilities, including aerial and underground, are co-located with those of the electrical power provider.

Cellular service in the City is currently available through a variety of providers, including Verizon Wireless, AT&T Wireless, T-Mobile, and Sprint. There are at least three cellular towers located in or near the City. Additional cellular sites are located around the City in the vicinity of the cities of Maple Valley, Covington, and Enumclaw. Generally, locating new cellular tower sites would depend on the density and location of new cell phone users, not overall population trends.

The City should promote new technological advances while still considering the implications of continued availability of basic communication services to all people. Effective communication services are critical to all citizens in several ways. They promote and enhance information exchange, a strong regional economy and public information, such as delivering emergency services, education and citizen involvement.

Telecommunication services are regulated by the Federal Communications Commission and the Washington Utilities and Transportation Commission. The City has some regulatory authority of telecommunication services through franchise agreements and the development approval process.

In most cases, telecommunication services will use existing utility corridors, public right-of-ways, and/or City-owned properties. Providers of new wireless communication facilities within the city and its Potential Annexation Area should demonstrate through area-wide service planning the lower impacts consistent with telecommunications customer needs.

Cable television service throughout the City is provided by Comcast. Comcast usually locates its cable lines on private property, or on the power company lines

within street right-of-way. They will also locate their lines within other utility easements along the right-of-way. No new major facilities would be required to accommodate population increases. Only additional cable lines would need to be provided to new development. Comcast also uses these lines to deliver broadband internet and digital phone service to its customers.

Natural Gas

~~Puget Sound Energy provides natural gas via existing pipelines to the City. Gas service is generally extended to new development upon evaluations of requests based on an economic feasibility study. Currently the gas supply system meets the existing demand.~~

Tacoma Water Transmission Pipeline #5

The City of Tacoma, Department of Public Utilities Water Division completed a project to improve its water supply system with construction of the second supply pipeline (Pipeline No. 5) in May 2006. Construction of the project allows diversion and transmission of an additional 100 cubic feet per second (or an additional 65 MGD) of water from the Green River to the Tacoma Regional Water Supply Area. The pipeline begins at the headworks near Kanaskat located approximately 0.5 mile downstream of the diversion dam and river intake, and travels in a westerly direction through the City and other communities, terminating near the Portland Avenue Reservoir in Tacoma.

The section of the pipeline through the City first passes through a wetland east of Lake 12, then south of Lake 12, to within 150 feet of the north right-of-way of the Green River Gorge Road (along the edge of the John Henry Mine), then along the south boundary of the John Henry mine to SR 169. The pipeline continues north along SR 169 to the existing Palmer Coking Coal roadway and turns west, to Lake Sawyer Road then north along Lake Sawyer Road to SE 305th Street then west to where it leaves the City limits.

Solid Waste

Allied Waste provides garbage, recycling and yard debris collection services for residential, multifamily and commercial customers in Black Diamond. Allied Waste, along with affiliated Allied Waste Companies, operates solid waste collection systems, landfills, recycling centers and portable sanitation services throughout the northwest. Collection companies are located in Seattle, Bellevue, Lynnwood, Kent and Goldendale. Landfill operations are located in Roosevelt, Washington.

Other solid waste services are available to residents at the King County Transfer Station located in Enumclaw.



CITY OF BLACK DIAMOND
PLANNING COMMISSION
25510 Lawson Street, Black Diamond, Washington

M E M O R A N D U M

Date: August 4, 2010
To: Planning Commission
From: Steve Pilcher, Community Development Director
Re: Amendments to Chapter 19.04, SEPA

The Commission will be conducting a public hearing next week on proposed amendments to Chapter 19.04, the City's SEPA regulations. These amendments:

1. clarify that the Responsible Official will be the Community Development Director or whatever other individual may be appointed by the Mayor (19.04.040);
2. clarify the public notice process for SEPA actions (19.04.180.C & D);
3. clarify application fees for both environmental checklists and EISes (19.04.300).

The Commission initially reviewed these proposals earlier this year. Due to an oversight by staff, these were not scheduled for public hearing at the time.

The recommended changes are generally "housekeeping" in nature, reflecting current practice (e.g., that the Community Development Director serves as the SEPA Responsible Official; how staff bills for the costs of preparing EIS documents) and also clarifies how notice of SEPA actions is to occur. The latter is recommended to be included in this section of the Municipal Code, rather than the Zoning Code.

Staff recommends the Commission conduct the public hearing, consider public testimony, and then either direct staff to make modifications or move to forward on to the City Council for its consideration.

18.04.120 Building permit required.

No building or other structure shall be erected, moved, added to, or structurally altered without a permit issued by the director. No building permit shall be issued unless the use:

- A. Conforms to the requirements of this title; or
- B. Has been approved by the director as a *similar or related* use as described in the several zoning districts; or
- C. Has been approved by the hearing examiner as a conditional ~~or special~~ use as defined in Chapter 18.28 of this title; or
- D. Has been granted a variance by the hearing examiner.

Comment: There are no “special uses” or “special use permit” defined in the code; therefore, this reference is unnecessary.

18.04.130 Enforcement and violations.

- A. Enforcement. The director shall administer and enforce this title. If the director finds that any of the provisions of this title are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He shall take any action authorized by this title to insure compliance with or to prevent violation of its provisions.

~~B. B.—Violation-Penalty. Whoever violates any of the provisions of this title shall be fined not more than five hundred dollars for each offense. Each day a violation continues may be considered as a separate offense. A violation of this title shall constitute a misdemeanor. In the event an individual or legal entity does not correct the violation within thirty days of receiving notice of the violation, and in addition to the misdemeanor and potential fine, the city, at its discretion, shall seek to stop the violation through civil action in the appropriate courts in the state. In the event a civil action is necessary to abate the violation, the violator shall be responsible for reimbursing the city for all costs including legal fees and court expenses incurred by the city due to the necessity of bringing the action. In addition, the city shall have a lien for any criminal or civil penalty or cost of any work of abatement, against the real property on which the civil penalty was imposed and against any works performed. The civil penalty and/or criminal penalty and cost as set forth herein shall also be the personal obligation of the property owner. The city attorney for the city, on behalf of the city, may collect the civil penalty and criminal penalty and the costs of abatement by use of all appropriate legal remedies. No lien created by this title shall bind the property subject to the lien for a period longer than three years after the claim has been filed with the King County department of records and elections unless an action is commenced in the proper court within that time to enforce the lien. The lien provided for in this section may be foreclosed and enforced by civil action in a court having jurisdiction. Any violation of any of the provisions of this title shall be subject to code enforcement action pursuant to BDMC 8.02.~~

Comment: Code enforcement provisions are contained within BDMC 8.02, which was adopted independent of the Zoning Code.

Chapter 18.12 DECISION CRITERIA FOR PERMITS

Sections:

18.12.010 Conditional Use & Administrative Conditional Use Permits

18.12.020 Zoning Reclassification (Rezone)

18.12.030 Variances

~~**18.12.040** Preliminary plats & Short plats~~

~~**18.12.060** Development Agreements~~

~~**18.12.070** Comprehensive Plan Amendments~~

~~**18.12.010** Conditional use & administrative conditional use permits.~~

Comment: Preliminary plat & short plat criteria is located in Title 17; the Development Agreement criteria isn't really decision criteria and is otherwise addressed in the Dev. Agreement chapter of the Code; Comprehensive Plan amendment criteria is addressed in Title 16; the second 18.12.010 in the list is a typographical error.

- A. Purpose. Conditional uses, which are identified in various zones in this Title, are those uses which require additional review and special conditions to ensure that they are compatible with their site and surrounding area. This chapter sets forth the criteria that the City will use to review such proposals.
- B. Criteria. The City, whether the director or the hearing examiner in the appropriate case, will consider the following criteria in reviewing conditional use permit applications, and may only approve an application if the applicant demonstrates that all of the criteria are met:
1. The proposal is consistent with the goals and policies of the Comprehensive Plan;
 2. Environmental and operational impacts associated with the use can be adequately mitigated through the imposition of reasonable conditions;
 3. The use is designed so as to be compatible with the character of the surrounding area;
 4. The location, size and height of buildings, structures, walls and fences and screening vegetation for the conditional use will not hinder permitted development or discourage the use of neighboring properties;
 5. The conditional use is designed in a manner that is compatible with the physical characteristics of the subject property;
 6. It is not in conflict with the health and safety of the community;
 7. Pedestrian and vehicle traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood; and

- 8. The conditional use will be supported by adequate public services and facilities, including any services and facilities that the applicant funds or provides.
- C. Process. Consideration of conditional use and administrative conditional use permit applications shall follow the procedures in Chapter 18.08.
- D. Essential Public Facilities. In addition to the criteria set forth in Chapter 18.58, essential public facilities are also subject to the criteria of this section.

18.12.020 Zoning reclassification (rezone) & zoning text amendments.

- A. Purpose. A reclassification of property or rezone is a mechanism through which the City can ensure that development occurs consistent with the Comprehensive Plan. It also recognizes that conditions applicable to individual properties may change over time in response to new or differing land use needs or practices, or new land use policies. A zoning text amendment is a mechanism for ensuring consistency between the Comprehensive Plan and development regulations, and a means to recognize new land use policies, implementing techniques, or land use practices.
- B. Criteria – Map Amendments. The City will consider the following criteria in reviewing applications for zoning reclassifications, and may only approve an application if the applicant demonstrates that all of the criteria are met:
 - 1. The proposal is consistent with the goals and policies of the Comprehensive Plan, and with the Future Land Use Map;
 - 2. The subject property is suitable for development in conformance with the standards applicable to the requested zoning designation.
 - 3. ~~Environmental impacts associated with the use can be adequately mitigated through the imposition of reasonable conditions;~~
Comment: the SEPA process addresses environmental impacts; does not need to be repeated here. Also, this would imply there might be site-specific conditions of rezone approval imposed, which are difficult to track over time and generally, should not be imposed.
 - 43. The proposal will not be materially detrimental to properties in the immediate vicinity or the community based on the range of uses allowed in the proposed zoning classification;
 - 54. Adequate services and facilities, including transportation facilities, will be available to serve the range of uses permitted in the proposed zoning classification;
 - 65. The proposed reclassification is warranted because of a change in circumstances, or because of a demonstrated need for additional land within the proposed zoning classification;
 - 76. The reclassification does not reflect special treatment of the subject property; and
 - 87. The reclassification will promote the general health, safety and welfare of the community.
- C. Criteria – Text Amendments. The City will review proposed amendments to the text of the zoning code using the following criteria:
 - 1. The amendment is consistent with and furthers the goals and policies of the Comprehensive Plan;

2. Amendment of the text of the code would not render the zoning code internally inconsistent;
 3. The amendment corrects an error or omission in the text of the code; and/or
 4. The amendment does not result in the grant of a special privilege to an individual property owner.
- D. Process. Consideration of reclassification and text amendment applications shall follow the procedures in Chapter 18.08.

18.12.030 Variances.

- A. Purpose. A variance is a mechanism whereby the City may allow variations to the provisions of the zoning code applicable to a specific property where unique conditions exist and make compliance with zoning standards impractical or an unnecessary hardship. A variance is not appropriate, and shall not be granted, to change a use or to allow establishment of a use that is not otherwise permitted in the zone in which the proposal is located.
- B. Criteria. The City will consider the following criteria in reviewing applications for variances, and may only approve an application if the applicant demonstrates that all of the criteria are met:
1. Granting of the proposed variance would not allow a use which is not classified as a permitted, accessory, or conditionally permitted use in the applicable zoning district;
 2. The variance is necessary because of special circumstances relating to the unique size, shape, topography, location or surroundings of the subject property;
 3. The need for the variance and the special circumstances applicable to the subject property are not the result of deliberate actions of the applicant or property owner;
 4. Strict enforcement of the requirements of this title creates an unnecessary hardship to the property owner or would deprive the property owner of the rights commonly enjoyed by others in the same area;
 5. The variance does not create health or safety problems, will not be injurious to the public welfare, and does not grant a special privilege to the property owners;
 6. The variance from height or setback requirements does not infringe upon or interfere with the requirements of any easement or covenant; and
 7. The variance is the minimum necessary to grant relief to the applicant.
- C. Administrative Variance. An administrative variance may be granted if the application complies with the following criteria:
1. The variance would not decrease by more than twenty (20) percent any required front, side or rear yard between buildings;
 2. The variance would not increase by more than ten (10) percent any permitted projection of cornices, sills, eave projections, fences or structures, maximum permitted lot coverage, and unenclosed and uncovered decks into a front, side or rear yard; or
 3. The variance would not increase by more than ten (10) percent the permitted height of a structure.

4. Strict enforcement of the requirements of this title creates an unnecessary hardship to the property owner or would deprive the property owner of the rights commonly enjoyed by others in the same area;
 5. The variance would not create health or safety problems, will not be injurious to the public welfare, and does not grant a special privilege to the property owner;
 6. The variance is the minimum necessary to grant relief to the applicant.
- D. Granting of a variance shall not relieve an applicant from complying with any other standard or requirement of this Title unless and only to the extent that such standard or requirement is specifically addressed as part of the decision on the requested variance.
- E. Process. Consideration of variance requests shall follow the procedures in Chapter 18.08.

~~18.12.040 — Preliminary plats & short plats.~~

- ~~A. The City will consider the following criteria in reviewing applications for preliminary plats and short plats, and may only approve an application if the applicant demonstrates that all of the criteria are met:~~
- ~~1. The proposal is consistent with the goals, policies and map designations of the Black Diamond Comprehensive Plan;~~
 - ~~2. The proposed lots sizes are consistent with those allowed within the applicable zoning classification and is consistent with applicable development standards and requirements of this title;~~
 - ~~3. The subdivision or short subdivision adequately provides for the following facilities: open spaces, drainage ways, streets, roads, alleys, other public ways, transit stops (where applicable), potable water supplies, sanitary wastes, parks and recreation, playgrounds, sites for schools and school grounds, fire protection, other public facilities and utilities, and consideration of other relevant factors;~~
 - ~~4. The layout of lots, and their size and dimensions take into account topography and vegetation on the site, and the presence of regulated critical areas;~~
 - ~~5. The preliminary plat or short plat promotes the public health, safety, and general welfare;~~
 - ~~6. The proposal satisfies the requirements of Title 17 BDMC and any other criteria properly considered by the decision maker.~~
- ~~B. Consideration of proposed preliminary plats and short plats shall follow the procedures of BDMC 18.08.~~

~~18.12.060 — Development agreements.~~

- ~~A. Purpose. RCW 36.70B.170 et seq authorizes the City to enter into development agreements with property owners. Development agreements are intended to be used to address and establish development standards, mitigation requirements, vesting provisions and review procedures that will apply to and govern large, complex and/or phased development proposals located within the City during the term of any agreement.~~
- ~~B. Development Standards Subject to Agreement. Any development agreement shall be consistent with applicable City development regulations except as such regulations~~

~~may be modified in the development agreement. For purposes of this chapter, “development standards” include but are not limited to:~~

- ~~1. Project elements such as uses, densities and intensities of land uses and buildings;~~
- ~~2. Mitigation measures, conditions and other requirements identified pursuant to RCW 43.21C;~~
- ~~3. Design standards such as maximum heights, setbacks, landscaping and other development features;~~
- ~~4. Road and sidewalk standards;~~
- ~~5. Affordable housing;~~
- ~~6. Water, sewer, storm drainage, water quality, and other infrastructure and utility requirements;~~
- ~~7. Parks and open space preservation, and recreation facilities;~~
- ~~8. Phasing of development and construction;~~
- ~~9. Development review processes, procedures and standards for implementing decisions, including methods of reimbursement to the city for review processes;~~
- ~~10. A build-out or vesting period for applicable development standards;~~
- ~~11. A process for amending the development agreement; and~~
- ~~12. Any other appropriate development requirement or procedure.~~

~~C. Conformity with Standards. During the term specified in the development agreement, a development permit or approval issued by the City for the subject property shall be consistent with the standards contained in such agreement. The standards contained in the development agreement shall govern during the term of the agreement and may not be subject to an amendment of City development standards or regulations adopted after the effective date of the development agreement. Provided, that the development agreement shall reserve to the City the authority to impose new or different regulations to the extent required by a serious threat to public health and safety.~~

~~D. A development agreement shall be recorded with the real property documents of King County. During the term of the agreement, it shall be binding on the parties and their successors, including a city that assumes jurisdiction through incorporation or annexation of the area or property subject to the development agreement. Unless terminated, the agreement shall be enforceable by a party to the agreement.~~

~~E. A development agreement shall be reviewed and adopted following a public hearing pursuant to the procedures and requirements set forth in Chapter 18.08.~~

18.12.070 — Comprehensive plan amendments.

~~A. Decision Criteria. The Planning Commission and City Council shall consider the following criteria in their review of proposed map or text amendments to the Comprehensive Plan:~~

- ~~— 1. Consistency with the Growth Management Act;~~
- ~~— 2. Consistency with the King County Countywide Planning Policies and other regional or inter-jurisdictional plans or agreements;~~
- ~~— 3. Consistency with the policies of the Comprehensive Plan, particularly land use, natural environment, transportation, capital facilities, public service and utilities;~~
- ~~— 4. Furtherance of the Plan’s vision statement;~~
- ~~— 5. Compatibility with adjacent land uses and Land Use Map designations;~~

- ~~—6. Impacts to the natural environment; and~~
- ~~—7. Whether adopted development regulations will address anticipated impacts of the proposed amendment, or whether additional conditions or regulations are necessary.~~
- ~~B. Process. Additional requirements and procedures related to Comprehensive Plan amendments are contained in Chapter 18.08~~

Chapter 18.16

SITE PLAN REVIEW PROCESS

Sections:

- 18.16.010 Purpose**
- 18.16.020 Applicability**
- 18.16.030 Procedures**
- 18.16.040 Criteria for Approval**
- 18.16.050 Amendments to Approved Site Plans**

18.16.010 Purpose.

Site plan review is an evaluation of development plans to identify compliance with applicable regulations, requirements and standards and to ensure that development will protect the health, safety and general welfare of residents of the City.

18.16.020 Applicability.

Site plan review and approval is required prior to the location, occupancy or use of any commercial or industrial project, building or facility and; for any multi-family residential use or structure containing four or more dwelling units, ~~and for any proposal using the clustering provisions of Chapter 18.84.~~ Site plan review shall apply to all new development, expansion or site improvements that will change the physical conditions of a site and is required prior to issuance of building permit. Site plan review is not intended to review and determine the appropriateness of a given use on a particular site.

18.16.030 Procedures.

- A. Site plan review is processed as a Type 3-2 decision, ~~or Type 2 decision~~ for both new applications and a minor amendments to an approved site plan, pursuant to Chapter 18.08. Site plan review may be conducted independently or concurrently with any other development permit required by this title, ~~including but not limited to a preliminary plat, short plat or master planned development.~~
- B. Pre-application conference required. A pre-application conference between the site plan applicant or representative and City staff is mandatory. The purpose of this conference is for the applicant to familiarize the staff with the proposed site plan, and for the staff to review with the applicant the City's submittal requirements, processing procedures, development standards and city requirements applicable to site plans. The City may establish a fee for the pre-application conference.

C. Application Requirements. An application for site plan review shall include the following:

1. Vicinity map, showing site boundaries and existing roads and accesses within and bounding the site.
2. Site plans, drawn to a scale no less than one inch equals fifty feet, showing the location and size of uses, buffer and open space areas, landscaped areas, areas of disturbance outside building footprints, and any existing structures, easements and utilities,
3. Topographic map, based on a site survey delineating existing contours at no less than 5-foot intervals, and which locates existing streams, wetlands and other natural features.
4. Conceptual landscape plan
5. Parking and circulation plan
6. Preliminary stormwater management plan
7. Utilities plan
- ~~8. An open space plan if the clustering provisions of Chapter 18.84 are being used~~
98. Other reports or studies as determined applicable by the director, including but not limited to geotechnical, critical areas, and/or traffic;
109. SEPA environmental checklist unless the proposal is categorically exempt per BDMC 19.04, SEPA regulations
110. Narrative description of the proposal including: (i) site size, building size, and impervious surface coverage, and amount of area devoted to open space and recreation, landscaping and parking; calculations of gross and net density (ii) Comprehensive Plan and zoning designations; (iii) elevations and perspective drawings of proposed structures and other proposed improvements; (iv) any agreements, covenants or other provisions that affect the proposal; and (v) signatures, mailing addresses and phone numbers of all owners of record or agents of the subject property.

The Director may modify these requirements based on the size, scope and complexity of the proposal.

18.16.040 Criteria for approval.

To be approved, or approved with conditions, a site plan must be consistent with the City's Comprehensive Plan and must comply with all applicable development regulations, codes and other city requirements. ~~Site plans that incorporate clustered development must also meet the criteria of Chapter 18.84.~~

18.16.050 Amendments to approved site plans.

~~A. Minor alterations to an approved site plan are Type 2 administrative decisions that may be approved by the director, subject to the same procedures required for the initial site plan approval. "Minor alterations" are defined to mean and are limited to those which may affect the precise dimensions or siting of buildings—such as site coverage, height or setbacks—but which do not affect the basic character, arrangement or density of development, or the amount or quality of open space or~~

~~landscaping. Such dimensional adjustments shall not vary more than ten percent and shall not exceed the standards of the applicable zoning district.~~

~~B. Major amendments are Type 3 permit applications and are processed in accordance with Chapter 18.08. Major amendments are those which substantially change the character, basic design, density, open space or other conditions or requirements of the site plan. No building or other permit shall be issued unless and until the major amendment has been approved pursuant to applicable procedures.~~

Chapter 18.30

SINGLE-FAMILY RESIDENTIAL DISTRICTS – R4 & R6

Sections:

- 18.30.010 Intent.**
- 18.30.020 Permitted uses.**
- 18.30.030 Conditional uses.**
- 18.30.040 Development standards.**
- 18.30.050 Additional requirements**

18.30.010 Intent.

It is the intent of this chapter to:

- A. Enhance the residential quality of the city by providing a high standard of development for single-family residential areas.
- B. Designate certain areas in which single-family structures on individual lots are the predominant type of dwelling unit.
- C. Guide residential development to those areas where public sewers are in place or can be extended efficiently at reasonable cost.
- D. Guide development of residential areas in such manner as to assure availability of public services and community facilities such as utilities, police and fire protection, schools, parks and recreation.

18.30.020 Permitted uses.

- A. Residential.
 - 1. Single-family detached structures on individual lots
 - 2. Manufactured housing as provided in Chapter 18.90.
- B. Other or Related Uses.
 - 1. Accessory buildings or structures as provided in Chapter 18.50.
 - 2. Temporary uses as provided in Chapter 18.52.
 - 3. Home occupations as provided in Chapter 18.54.
 - 4. Accessory dwelling units as provided in Chapter 18.56.
 - Comment: Helpful cross-reference.*
 - 45. Utilities, under-ground.
 - 5-6 Child day care for up to 12 children.

18.30.030 Conditional uses.

The following uses not allowed as permitted uses in Section 18.30.020 may be allowed by approval of a Conditional Use Permit in accordance with Chapters 18.08 and 18.12:

- A. Child care for more than 12 children, including nursery schools, day care centers and preschools.
- B. Utilities, above-ground
- C. Public uses/ facilities
- D. Religious institutions, not to exceed 10,000 sq. ft. gross floor area.

E. Bed and breakfast.

Comment: Since a B&B would typically occur within a single family home, it makes sense to include them as conditionally permitted uses. .

EF. Duplexes, subject to the following criteria:

- 1. The minimum lot size for a duplex shall be 1.5 times that required for a single family detached structure. Only one duplex shall be permitted per lot which meets this standard;
- 2. A lot on which a duplex is proposed shall not be located within 300 feet of any other lot on which a duplex or multiple unit structure is found (accessory dwelling units excluded), or constitute more than ten percent (10%) of the dwelling units in a single block;
- 3. Duplexes shall be subject to design standards to ensure their compatibility in terms of bulk, scale and architectural style with the surrounding neighborhood.

FG. Private schools, K-12.

18.30.040 Development standards.

- D. Signs. Regulation of signs is provided in Chapter 18.82.

18.30.050 Additional requirements.

- A. All development within the R4 and R6 zones shall comply with applicable environmental performance standards of Chapter 18.~~80~~78 and, if applicable, the design review requirements of Chapter 18.~~76~~74.

Chapter 18.32

MEDIUM DENSITY RESIDENTIAL DISTRICT – MDR8

Sections:

- 18.32.010 Intent.**
- 18.32.020 Permitted Uses.**
- 18.32.030 Conditional Uses.**
- 18.32.040 Development Standards**

18.32.050 Additional Requirements

18.32.010 Intent.

It is the intent of this section to:

- A. Enhance the residential quality of the city by providing a high standard of development for multi-family residential areas;
- B. Designate appropriate areas in which medium density residential structures on individual lots are the predominant type of dwelling unit;
- ~~C. Guide medium density residential development to those areas where (i) public sewers are in place prior to building construction, or (ii) where sewers can be extended at minimal cost;~~

Comment: This is more of a Comp Plan policy statement and, since a developer will bear the cost of sewer extension, costs are a moot point from a City perspective.

- ~~DC.~~ Guide the development of multi-family residential dwellings to such areas and in such manner as to assure availability of public services and community facilities such as utilities, police and fire protection, schools, parks and recreation, and convenient access to public transportation consistent with City level of service standards;
- ~~ED.~~ Encourage the preservation of critical areas and other significant places identified in the City's Transfer of Development Rights Program (BDMC 19.24) by allowing increased densities when the TDR mechanism is used; and
- ~~FG.~~ Apply appropriate guidelines to ensure that structures developed for medium density residential use are well designed.

18.32.020 Permitted uses.

A. Residential:

- 1. Single-family structures on individual lots, whether attached or detached.
- 2. Multi-family residential structures, provided that no individual structure shall contain more than six dwelling units.
- 3. Cottage Housing, as provided in Chapter 18.88.
- 4. Manufactured Housing as provided in Chapter 18.90.
- 5. Accessory dwelling unit, as provided in Chapter 18.56.

Comment: Helpful cross-reference.

B. Other or Related Uses.

- 1. Accessory buildings or structures as provided in Chapter 18.50.
- 2. Temporary uses as provided in Chapter 18.52.
- 3. Home occupations as provided in Chapter 18.54.
- 4. Utilities, under-ground.
- 5. Child day care for up to 12 children.

18.32.030 Conditional uses.

The following uses not allowed as permitted uses in Section 18.32.020 may be allowed by Conditional Use Permit in accordance with Chapters 18.08 and 18.12:

- A. Child care including nursery schools, day care centers and preschools for more than 12 children;
- B. Utilities, above-ground;

- C. Public uses/ facilities;
- D. Religious institutions, not to exceed 10,000 square feet gross floor area.
- E. Bed and breakfast;
- F. Senior housing;
- G. Elderly housing – assisted;
- H. Manufactured home parks;
- I. Group homes;
- J. Private schools, K-12.

18.32.040 Development standards.

A. Site area and dimensional standards

1. Maximum density: Eight (8) dwelling units per acre without Transfer of Development Rights; twelve (12) dwelling units per acre with Transfer of Development Rights.
2. Minimum Lot Area:
 - a. Multi-family structures: seven thousand two hundred (7,200) square feet;
 - b. Single-family structures on individual lots: three thousand six hundred (3,600) square feet.
3. Minimum Lot Width: Fifty (50) feet.
4. Minimum Lot Depth: Seventy (70) feet.
5. Minimum Front Yard:
 - a. On minor street: Twenty (20) feet.
 - b. On major street: Twenty-five (25) feet.
6. Minimum Side Yards:
 - a. Minimum on interior lot lines: Seven (7) feet.
 - b. Minimum on a flanking street: Ten (10) feet.
7. Minimum Rear Yard: Ten (10) feet.
8. Maximum Building Coverage: Fifty percent (50%).
9. Maximum Building Height:
 - a. Main building: Thirty-five (35) feet.
 - b. Accessory buildings: The height of the primary building(s) or twenty-six (26) feet, whichever is less.
10. Structure separation: On lots containing more than one structure, there shall be a distance of not less than ten (10) feet, between all buildings, including accessory buildings.

- ~~11. Bonus Density. The inclusion of senior or elderly assisted housing within a project may be granted a bonus density as follows:

 - a. The additional density may be one percent for each one percent of total project dwelling units dedicated to senior or elderly assisted housing;
 - b. The bonus shall be calculated on the total units dedicated, regardless of type; and
 - c. The maximum bonus density shall not exceed 20% for a project.~~

Comment: The bonus density factor in this section doesn't make a lot of sense, as it is very low. The Commission is recommending to eliminate this provision at this time.

- B. Parking. Off-street parking shall be provided in accordance with Chapter 18.80.
- C. Landscaping.

1. Landscaping shall be planned and provided in accordance with Chapter 18.72.
2. Development shall also comply with the tree preservation requirements of BDMC 19.30.

D. Signs. Regulation of signs is provided in Chapter 18.~~92~~82.

E. Lighting. Lighting shall comply with the requirements of Chapter 18.70.

F. Storage and exterior displays.

1. Required landscaping or buffer areas shall not be used for storage of any sort.
2. Storage or parking of motor vehicles for rental income is prohibited.

18.32.050 Additional requirements.

A. All development within the MDR8 zone shall comply with the applicable environmental performance standards of Chapter 18.~~80~~78, the site plan review requirements of Chapter 18.16, and design review requirements of Chapter 18.~~76~~74.

Chapter 18.34

SUPPLEMENTAL RESIDENTIAL STANDARDS

Sections

18.34.010 Purpose.

18.34.020 Height.

18.34.030 Yards and open space.

18.34.040 Lots.

18.34.010 Purpose.

The purpose of this chapter is to ensure adequate light, air and open space within residential areas, while protecting the rights of owners to attain a reasonable use of their property that would be denied by strict adherence to the development standards of the applicable zone district.

18.34.020 Height.

The maximum basic height limitation for all principal and accessory buildings in the various zone districts shall not apply to cupolas that do not extend more than three (3) feet above the roof line, flagpoles, transmission lines, residential antennas, and other similar structures as determined by the director.

18.34.030 Yards and open space.

Except as provided in this section, every required yard shall be open and unobstructed from the ground to the sky.

A. The following may project from a building into a required yard setback no more than two (2) feet:

1. Fireplace structures not wider than eight (8) feet measured in the general direction of
the wall of which it is a part;

2. Bay windows and garden windows which do not require a foundation;
 3. Enclosed stair landings;
 4. Personal television satellite dishes;
 5. Cornices, sills, eave projections and awnings without enclosing walls or screening;
 6. Planting boxes or masonry planters not exceeding 30 inches in height.
- B. Porches and platforms.
1. Uncovered porches and platforms which do not extend above the floor level of the first floor may project two (2) feet into required side yards, ~~and~~ six (6) feet into required front yards and ten (10) feet into required rear yards;
Comment: recommend allowing greater intrusions into these required yards, since these porches/decks won't be very high above the ground.
 2. Covered but enclosed porches and platforms which do not extend above the floor level of the first floor and which are no wider than fifty percent (50%) of the building's frontage may project five (5) feet into a required front yard.
- C. Special Front Yard Depth. If buildings existing on July 17, 1980 occupy more than fifty (50%) or more of the buildings on one side of a street are set back less than the required front yard of the applicable zone district, then in lieu thereof, the depth of the front yard shall not be less than the average depth of the front yards on that block front, provided that:
1. No building shall be required to set back more than two (2) feet further than a building on an adjoining lot;
 2. No front yard shall be less than twenty (20) feet to a garage, either attached or detached.
- D. Side yard width reductions. In the R4, R6 and MDR8 districts, where there exists a lot on which it is possible to construct a single family dwelling, and the lot has a width of less than forty (40) feet, then the required interior side yard setback may be reduced to three feet for all portions of the structure, including those noted in (A) above.

Chapter 18.36

NEIGHBORHOOD CENTER - NC

Sections

- 18.36.010 Intent.**
- 18.36.020 Permitted uses.**
- 18.36.030 Conditional Uses**
- 18.36.040 Development Standards**
- 18.36.050 Additional Requirements**

18.36.010 Intent.

It is the intent of this section to:

- A. Enhance residents' access to goods and services needed daily in a setting that contributes to neighborhood character, encourages pedestrian activity, reduces automobile use, and serves as a focus of neighborhood life;
- B. Create a complementary mix of neighborhood-serving retail, personal service, general office, entertainment/cultural, public service, and residential uses for a range of lifestyles;
- C. Guide the development of multi-family residential dwellings to such areas and in such manner as to assure availability of public services and community facilities such as utilities, police and fire protection, schools, parks and recreation, and convenient access to public transportation consistent with City level of service standards;
- D. Allow mixed use developments that integrate residential uses into neighborhood centers, either within the same building or on the same development site, to enhance living convenience;
- E. Encourage orientation to the street and pedestrian amenities to create a pleasant pedestrian environment; and
- F. Ensure that the nature of development is harmonious with the surrounding single family neighborhood in intensity, scale, quality, and character.
- G. Allow more intensive uses to be maintained and expanded under certain conditions.

18.36.020 Permitted uses.

- A. Retail; the following uses only are allowed:
 - 1. Supermarket and grocery stores: limited to not more than 40,000 square feet gross floor area.
 - 2. All other typical neighborhood retail uses: limited to not more than 10,000 square feet gross area for each individual use, whether in a separate building or combined with other uses in one building, not to exceed 100,000 square feet gross floor area in total; and excluding drive-through facilities and automobile fueling stations.
- B. Personal services provided primarily to neighborhood residents: limited to not more than 4,000 square feet gross floor area per business.
- C. General offices: limited to not more than 4,000 square feet gross floor area per business and excluding drive-through facilities.
- D. Entertainment/culture: limited to not more than 5,000 square feet gross floor area or capacity of not more than 100 patrons per business, whichever is greater, and excluding drive-through facilities.
- E. Residential uses in attached structures if included as an element of mixed use site development or on upper floors of a mixed use structure.
- F. Utilities, below-ground
- G. Existing light manufacturing uses, provided no expansion is allowed.
- H. Veterinary clinics and pet stores; no boarding of dogs or outdoor kennels allowed.
Comment: Staff had a recent contact from a vet looking to locate in the city and realized the code did not address this issue.
- II. Other or Related Uses:
 - 1. Accessory uses and structures as provided Chapter 18.50.
 - 2. Temporary uses as provided in Chapter 18.52.

18.36.030 Conditional uses.

The following uses may be allowed by Conditional Use Permit in accordance with Chapters 18.08 and 18.12:

- A. Bed and breakfast;
- B. Religious institutions;
- C. Drive through facilities, maximum one (1) per property;
- D. Essential public facilities;
- E. Utilities, above-ground;
- F. Public Uses / Facilities;
- G. Senior housing.
- H. Automobile fueling stations.
- I. Any expansion of the space, volume or facilities of any light manufacturing use that existed before June 27, 2009. Any such expansion must be contained within the same lot as the existing use.

18.36.040 Development standards.

- A. Dimensional Standards:
 - 1. Bulk limit: For structures without residential uses, floor area ratio (F.A.R.) shall not exceed 1.0 (total gross floor area shall not be greater than total site area); for mixed-use structures containing residential uses, F.A.R. shall not exceed 2.0 (total gross floor area shall not be greater than twice total site area).
 - 2. Maximum allowed height: thirty-five (35) feet, without residential on upper floors; fifty (50) feet, with residential on upper floors.
 - 3. Minimum Lot Area, Width and Depth: None.
 - 4. Maximum Front Yard Setback: At least 60% of the width of any street façade of a primary use shall be set back no more than ten (10) feet from the front property line, provided that the maximum allowed setback is (fifteen) 15 feet for structures with first floor residential uses.
 - 5. Minimum Side Yard Setback: Twenty (20) feet if abutting a residential zone plus one foot additional setback for each foot of building height over thirty-five (35) feet.
 - 6. Minimum Rear Yard Setback: If abutting a residential zone, fifteen (15) feet for a building without residential use and twenty (20) feet for a building with residential use plus one foot additional setback for each foot of building height over thirty-five feet.
 - 7. Maximum Impervious Surface Coverage: eighty percent (80%).
 - 8. Maximum residential density:
 - ~~(a)~~ Without bonuses: twelve (12) dwelling units per acre in an exclusively residential building; in a mixed use building, none (only as limited by F.A.R., height, parking and other site development standards).
 - ~~(b)~~ Inclusion of senior housing within a project may be granted a bonus density as follows:
 - ~~(c)~~ A one percent (1%) density bonus for each percent of total project dwelling units dedicated to senior housing;
 - ~~(d)~~ The bonus shall be calculated on the total units dedicated, regardless of type; and

~~(e) — The maximum bonus density shall not exceed twenty percent (20%) for a project.~~

Comment: Same issue as before.

- 9. Maximum Site Area: 10 acres
- B. Parking. Off-street parking shall be provided in accordance with Chapter 18.80.
- C. Landscaping.
 - 1. Landscaping shall be planned and provided in accordance with Chapter 18.72.
 - 2. Development shall also comply with the tree preservation requirements of BDMC 19.30.
- D. Signs. Regulation of signs is provided in Chapter 18.9882.
- E. Lighting. Lighting shall comply with the requirements of Chapter 18.70.
- F. Storage and exterior displays.
 - 1. Required landscaping or buffer areas will not be used for storage of any sort.
 - 2. There shall be no exterior storage of any items whether or not for sale, other than sidewalk displays of retail items during operating hours only or as otherwise permitted as a temporary use.

18.36.050 Additional requirements.

- A. All development within the NC zone shall comply with applicable environmental performance standards of Chapter 18.8078, and the site plan review requirements of Chapter 18.16 and the design review requirements of Chapter 18.6474.

Chapter 18.38

COMMUNITY COMMERCIAL DISTRICT – CC

Sections:

- 18.38.010 Intent.**
- 18.38.020 Permitted uses.**
- 18.38.030 Conditional uses.**
- 18.38.040 Development standards.**
- 18.38.050 Additional Requirements**

18.38.010 Intent.

It is the intent of this section to:

- A. Encourage the development of retail facilities which offer a relatively wide range of goods to consumers within the community and the broader regional marketplace;
- B. Encourage the clustering of such facilities on sites of sufficient size to provide opportunity for attractive design and arrangement of buildings, safe and convenient access and parking;
- C. Limit location of such sites to major arterials or intersections of major traffic ways in order that said sites may serve the entire community and broader region;

- D. Encourage mixed-use developments that integrate residential uses into commercial projects, either within the same building or on the same development site, to enhance living convenience.

18.38.020 Permitted uses.

- A. Retail, including automobile fueling stations and uses involving outdoor product display or storage;
- B. Personal and professional services
- C. Entertainment / Cultural
- D. Religious institutions
- E. Drive through facilities, including automobile fueling stations.
- F. Hotel, motel, and other visitor lodging
- G. Residential, if developed as an element of mixed use site development, either in separate buildings or on the upper floors of a mixed use building; provided that, residential is not allowed at street level within buildings fronting an arterial street.

H. Veterinary clinics and pet daycare.

Comment: allow vet clinics with no limitations, also doggie daycare.

H. Public Uses / Facilities

I. Utilities, below-ground; and

J. Other or Related Uses:

1. Accessory uses and structures as provided Chapter 18.50.
2. Temporary uses as provided in Chapter 18.52.

18.38.030 Conditional uses.

The following uses not allowed as permitted uses in Section 18.38.020 may be allowed by Conditional Use Permit in accordance with Chapters 18.08 and 18.12:

- A. Major institutions;
- B. Essential public facilities;
- C. Utilities, above-ground;
- D. ~~Wholesale or retail establishments, or h~~Hybrid wholesale/retail establishments, ~~larger than 50,000 square feet;~~ and

Comment: Recommend cleaning this up to require some retail sales and to not allow an exclusive wholesale establishment (those are typically only allowed in industrial zones).

E. Mini storage facilities.

18.38.040 Development standards.

C. Landscaping.

1. Landscaping shall be planned and provided in accordance with Chapter 18.8672.
2. Development shall also comply with the tree preservation requirements of BDMC 19.30.

18.38.050 Additional Requirements

- A. All development within the CC zone shall comply with applicable environmental performance standards of Chapter 18.78, the site plan review requirements of Chapter 18.16, and design review requirements of Chapter 18.7674.

Chapter 18.40

TOWN CENTER - TC

Sections

- 18.40.010 Intent.**
- 18.40.020 Permitted uses.**
- 18.40.030 Conditional Uses**
- 18.40.040 Development Standards**
- 18.40.050 Additional Requirements**

18.40.010 Intent.

It is the intent of this section to:

- A. Encourage a range of retail, service, civic, entertainment, recreation, and residential uses to maintain a town center as the primary district of community activity and social interaction;
- B. Provide opportunities for an integration of living, working, shopping, entertainment, civic and recreation activities to serve a variety of lifestyles;
- C. Insure that new development occurs in a manner that is complementary to surrounding uses and neighborhoods;
- D. Encourage street-oriented store frontages and sidewalk amenities to enhance the pedestrian atmosphere;
- E. Reduce the amount of vehicular travel required of the consumer to access goods and services needed in daily living;
- F. Encourage mixed-use developments that integrate residential uses into commercial projects, either within the same building or on the same development site, to enhance living convenience; and
- G. Create a place that serves as the social and activity heart of the community and is recognized as the central venue of community life.

18.40.020 Permitted uses.

- A. Retail
- B. Personal and Professional Services
- C. General Office
- D. Entertainment / Culture
- E. Public Uses / Facilities, limited to general governmental administrative offices.
- F. Residential, if in an attached building and developed as an element of mixed use site development or on the upper floors of a mixed use building; residential is not allowed at street level if fronting an arterial street.

G. Utilities, below-ground

18.40.030 Conditional uses.

The following uses not allowed as permitted uses in Section 18.40.020 may be allowed by Conditional Use Permit in accordance with Chapters 18.08 and 18.12:

- A. Child care including nursery schools and day care centers;
- B. Utilities, above-ground;
- C. Major Institution;
- D. Private clubs, fraternal lodges and similar organizations;
- E. Religious institutions;
- F. Public Uses / Facilities not otherwise permitted in 18.40.020;
- G. Parking structures not associated with a primary, permitted use;
- H. Senior housing.

18.40.040 Development standards.

A. Development within the Town Center District.

- 1. All new construction and reconstruction of existing buildings shall be designed and built so that the exterior appearance of the finished building complements and enhances the historic character of the district
- 2. At the time of site plan review, the applicant shall submit a color architectural rendering showing the elevations of the proposed construction including the types of materials to be used.
- 3. The director shall solicit and ~~the Hearing Examiner shall~~ consider the comments of the Black Diamond Historical Society, and any other agency or entity with expertise, in reaching a decision on the proposed building and site plan.

Comment: recommend that Site Plan Review be an exclusively administrative process.

B. Dimensional Standards:

- 1. Floor Area Ratio (F.A.R.) limit: For structures without residential uses, F.A.R. shall not exceed 1.0 (total gross floor area shall not be greater than total site area); for mixed-use structures with residential uses, F.A.R. shall not exceed 2.0 (total gross floor area shall not be greater than twice the total site area).
- 2. Maximum allowed height: thirty-five (35) feet, without residential; fifty (50) feet, with residential.
- 3. Minimum Lot Area, Width and Depth: None.
- 4. Maximum Front Yard Setback: One hundred percent (100%) of the width of any street façade of a primary use shall set back no more than five (5) feet from the front property line, unless a public plaza or similar amenity is provided between the façade and the street. The maximum allowed setback is ten (10) feet for structures.
- 5. Minimum Side Yard Setback: Ten (10) feet if abutting a residential zone plus one foot additional setback for each foot of building height over thirty-five (35) feet.
- 6. Minimum Rear Yard Setback: If abutting a residential zone, ten (10) feet for a building without residential use and fifteen (15) feet for a building with residential

use, plus one foot additional setback for each foot of building height over thirty-five (35) feet .

7. Maximum impervious surface coverage: one hundred percent (100%).
 8. Maximum residential density: None; only as limited by F.A.R., height, parking and other site requirements. Inclusion of senior housing within a project may be granted a bonus density as follows:
 - (a) Density may be increased by one percent for each one percent of total project dwelling units that are dedicated to senior housing;
 - (b) The bonus shall be calculated on the total units dedicated, regardless of type; and
 - (c) The maximum bonus density shall not exceed twenty percent (20%) for a project.
 - (d). Parking. Off-street parking is not required for any use in the Town Center zone.
 - (e) Landscaping.
- C. Landscaping.
1. Landscaping shall be planned and provided in accordance with Chapter 18.8672.
 2. Development shall also comply with the tree preservation requirements of BDMC 19.30.
- D. Signs. Regulation of signs is provided in Chapter 18.82.
- E. Lighting. Lighting shall comply with the requirements of Chapter 18.70.
- F. Storage and exterior displays.
1. Landscaping or buffer areas will not be used for storage of any sort.
 2. There shall be no exterior storage of any items whether or not for sale, other than sidewalk displays of retail items during operating hours only.

18.40.050 Additional requirements.

- A. All development within the TC zone shall comply with applicable environmental performance standards of Chapter 18.8078, -the site plan review requirements of Chapter 18.16, and design review requirements of Chapter 18.7674.

Chapter 18.42

BUSINESS/INDUSTRIAL PARK – B/IP

Sections:

- 18.42.010 Intent.**
- 18.42.020 Permitted Uses.**
- 18.42.030 Conditional Uses.**
- 18.42.040 Development Standards.**
- 18.42.050 Additional Requirements**

18.42.010 Intent.

It is the intent of this section to:

- A. Provide areas for the development and growth of non-retail businesses engaged in high technology and software development, research and development, general office, wholesale, distribution and limited manufacturing activities to expand the community's economic and employment base;
- B. Promote concentrated, master-planned developments with cohesive design elements for architecture, landscaping, and circulation; development with high-visual quality and park-like site characteristics; functional and aesthetic compatibility with adjacent uses and neighborhoods; and enhanced opportunities for walking, biking and transit; and
- C. Insure a mix of complementary support uses, including technical consulting, personnel and productivity support services, and limited retail and service uses to support the principal business/industrial uses and reduce off-site vehicle trips to access business support services.

18.42.020 Permitted uses.

- A. Office, research and technology and light manufacturing activities that do not create significant noise, emissions, risk of explosion or release of hazardous materials, or air or water pollution ;
 - B. General Office, including call centers and other customer service communication centers;
 - C. Research and Development;
 - D. Technology, biotechnology and medical equipment;
 - E. Light Manufacturing, providing all production and storage activity is conducted indoors;
 - F. Wholesaling;
 - G. Business Support Services, such as technology services and support, copy centers, and eating and drinking establishments to serve the occupants of the business park. The total gross floor area of such uses is not to exceed twenty percent (20%) of the total project gross floor area and a 5,000 gross square feet maximum for any individual use;
 - H. Child care, including nursery schools and day care centers, when -integrated within a ~~master-planned~~ development;
- Comment: An MPD is a distinct zone district, so this reference is not needed here.*
- I. Utilities, below-ground;
 - J. Private schools; and
 - K. Other Uses.

18.42.050 Other requirements.

- A. All development within the B/IP zone shall comply with applicable environmental performance standards of Chapter 18.78, the site plan review requirements of Chapter 18.16, and the design review requirements of Chapter 18.7674.

Chapter 18.44

INDUSTRIAL DISTRICT – I

Sections

- 18.44.010 Purpose.**
- 18.44.020 Permitted Uses.**
- 18.44.030 Conditional Uses**
- 18.44.040 Development Standards**
- 18.44.050 Additional Requirements**

18.44.010 Purpose.

The intents of this section are to:

- A. Provide areas for the development and growth of general manufacturing and other industrial activities to contribute to the community's economic health, provide employment opportunities for residents, and generate tax revenues to support the provision of public services;
- B. Keep industrial activities within reasonable scale and consistent with the character of the city;
- C. Protect industrial areas from such other uses as may interfere with the purpose and efficient functioning of such areas;
- D. Protect residential and other non-industrial areas from adverse or damaging impact of any kind emanating or resulting from industrial areas; and
- E. Provide standards for development of industrial areas.

18.44.020 Permitted Uses

- A. Heavy ~~manufacturing industry~~.

Comment: "industry" is the term used in the definitions section.

- B. Light Manufacturing;
- C. Research and Development
- D. General office associated with a primary manufacturing use.
- E. Wholesaling;
- F. Warehousing and Distribution;
- G. Business Support Services including eating establishments primarily serving the immediate work force; the total gross floor area of such uses shall not exceed twenty percent (20%) of the total district area and a 5,000 gross square feet maximum area for any individual use;
- H. Utilities;
- I. Public Uses / Facilities;
- J. Private schools; and
- K. Other Uses:
 - 1. Accessory uses as provided in Chapter 18.50.
 - 2. Temporary uses as provided in Chapter 18.52.

18.44.050 Other requirements.

- A. All development shall comply with applicable environmental performance standards of Chapter 18.78, the site plan review requirements of Chapter 18.16 and design review requirements of Chapter 18.~~76~~74.

Chapter 18.46

PUBLIC – PUB

Sections

- 18.46.010 Intent.**
- 18.46.020 Permitted uses.**
- 18.46.030 Conditional Uses**
- 18.46.040 Development Standards**
- 18.46.050 Additional Requirements**

18.46.040 Development standards.

- A. Dimensional Standards. None.
- B. Parking. Off-street parking shall be provided in accordance with Chapter 18.80.
- C. Landscaping.
 - 1. Landscaping shall be planned and provided in accordance with Chapter 18.~~86~~72.
 - 2. Development shall also comply with the tree preservation requirements of BDMC 19.30.

18.46.050 Additional requirements.

- A. All development within the PUB zone shall comply with applicable environmental performance standards of Chapter 18.78, the site plan review requirements of Chapter 18.16, and design review requirements of Chapter 18.~~76~~74.

Chapter 18.50

ACCESSORY USES AND STRUCTURES

Sections:

- 18.50.010 Intent.**
- 18.50.020 General provisions.**
- 18.50.030 Residential zones accessory uses and structures.**
- 18.50.040 Commercial zones accessory uses and structures.**
- 18.50.050 Industrial zones accessory uses and structures.**
- 18.50.060 Fences and walls.**

18.50.010 Intent.

This chapter recognizes activities and structures that are customarily subordinate and incidental to a principal use of the land or building and that are not otherwise regulated by this Title.

18.50.020 General provisions.

- A. Accessory structures shall be complementary to the basic architectural character of the main building on the lot, and appropriate to the nature of the accessory use, and are subject to the applicable design guidelines of Chapter ~~18.76~~18.74.
- B. Required setbacks:
 - 1. Accessory structures shall observe the front, side and rear yard setback requirements of the zone in which they are located, except as provided in this chapter.
- C. Maximum accessory structure height:
 - 1. Residential zones: twenty-six (26) feet or the height of the principal structure, whichever is less.
 - 2. Neighborhood Commercial, Community Business and Town Center zones: twenty-six (26) feet.
 - 3. Business/Industrial Park & Industrial zones: thirty-five (35) feet or the height of the principal use structure, whichever is less.

18.50.030 Residential zone accessory uses and structures.

- A. The following accessory uses/activities are allowed in residential zones:
 - 1. The cultivation of flowers, trees or produce intended primarily for personal use or enjoyment.
 - 2. The keeping of animals is permitted in compliance with the Title 6 BDMC.
 - 3. Accessory dwelling units in accordance with Chapter 18.56.
 - 4. Detached garage(s), carport(s), and parking facilities for the residents of the property.
 - 5. Storage sheds ~~not greater than two hundred (200) square feet in gross floor area.~~
Comment: no need for a size limitation in the Zoning Code.
 - 6. Playhouses, patios, cabanas, porches, gazebos, swimming pools, workshops, garden sheds and incidental household storage buildings.
 - 7. Common recreational vehicle storage facilities limited to serving the development in which they are located.
 - 8. Temporary storage containers used during an active construction project.
- B. Detached accessory buildings.
 - 1. For any lot 9600 sq. ft. or less, a detached accessory building not exceeding 26 feet in height may disregard rear and interior side yard setback requirements if such building is no greater than 650 sq. ft. in floor area, is located in the rear thirty percent (30%) of the lot or further than 75 feet from the front lot line, and is no closer than 12 feet from the centerline of an adjacent alley.
 - 2. The total area of all accessory buildings located within a required rear yard shall not exceed twenty-five percent (25%) of the area of the required rear yard.
 - 3. Accessory buildings that exceed the building area, height and location standards noted above shall comply with all required yard setbacks.

4. No accessory building shall be larger than ~~fifty percent (50%) of~~ the ground floor area of the primary structure on any lot; provided that this limitation shall not apply to ~~accessory dwelling units or for agricultural buildings on~~ lots greater than 35,000 sq. ft. in size.

Comment: This amendment will allow larger accessory buildings than currently allowed.

18.50.050 Industrial zone accessory uses and structures.

The following accessory uses are allowed in the B/IP and I zones:

- A. ~~Caretaker / security guard residence~~ Accessory living quarters.

Comment: This is the proper term, as it is included in the Definitions chapter.

- B. Storage buildings.

Chapter 18.56

ACCESSORY DWELLING UNITS

Sections:

18.56.010 Definitions.

18.56.020 Where Authorized.

18.56.030 Performance Standards for Accessory Dwelling Units.

18.56.040 Review Process.

18.56.050 Recognition of Existing Accessory Dwelling Units

18.56.010 Definitions.

- A. “Accessory dwelling unit” - a second dwelling unit either attached to or located on a lot occupied by a single-family detached dwelling. This unit provides a separate and completely independent dwelling unit with facilities for cooking, sanitation and sleeping, and has a separate and independent entry/exit than one utilized for the primary residence.
- B. “Owner occupancy” means a property owner, as reflected in the real estate tax rolls, who makes his or her legal residence at the subject lot, as evidenced by voter registration, vehicle registration, or similar means, and actually resides upon the lot more than six months out of any given year.

18.56.020 Where authorized.

Accessory dwelling units shall be permitted within any residential district subject to review and compliance with the standards and requirements of this chapter.

18.56.030 Performance standards for accessory dwelling units.

- A. Minimum Lot Size. All performance standards, including minimum yard setbacks and overall building coverage as set forth for the applicable zoning district shall be met with respect to the accessory dwelling unit. An accessory dwelling unit shall not be permitted upon any lot that is nonconforming due to lot size.
- B. Number. No more than one accessory dwelling unit shall be permitted on a lot.

- C. Location in Relation to Principal Residence. The accessory dwelling unit may be either detached or a part of the principal residence or an accessory building.
- D. Zoning/Building Code Compliance. All new construction associated with an accessory dwelling unit shall meet the development standards for the applicable zone, except as modified by this chapter, and shall comply with all applicable city codes, including requirements for an efficiency dwelling unit as set forth in the International Building Code adopted by the city.
- E. Owner Occupancy. An owner of the property for which an accessory dwelling unit permit is requested must occupy at least one dwelling unit located on the property.
- F. Future Subdivision. Parcels upon which an accessory dwelling unit has been approved shall not be subdivided or otherwise segregated in ownership in a manner that would separate the accessory dwelling unit from the principal dwelling.

- G. Maximum Size. An accessory dwelling unit shall not exceed fifty percent (50%) of the size of the primary dwelling on the lot or 800 sq. ft., whichever is less. Accessory dwelling units shall comply with the required site coverage, yard area requirements or building code setbacks as provided within the subject property's zone.
- H. Scale. A detached accessory dwelling unit or accessory structure containing an accessory dwelling unit shall not exceed the maximum height allowed for a detached accessory building per the underlying zoning district.
- I. Additions. Additions to an existing structure or newly constructed detached structures created for the purpose of creating an accessory dwelling unit, shall be designed in a manner consistent with existing roof pitch, siding and windows for the principal dwelling unit.
- ~~J. Detached Structures. An accessory dwelling unit may be permitted in a detached structure, subject to compliance with the requirements of this chapter.~~
- Comment: Detached ADUs already allowed by definition.*
- K. Parking. At least one off-street parking space in addition to the minimum required off-street parking from the primary dwelling unit shall be provided for an accessory dwelling unit ~~of nine hundred square feet of living area or less. All accessory dwelling units greater than nine hundred square feet of living space shall provide the minimum off-street spaces required for a single-family residence.~~
- Comment: leftover from old code; this current version will not allow 900+ sq. ft. ADUs.*
- L. Utility Connections. Utility accounts for accessory dwelling units shall be maintained in the name of the property owner. Accessory dwelling units may be served by the same water meter and sewer connection utilized for the primary residence if approved by the city, but shall be assessed a monthly service fee as established by the city's fee schedule or applicable ordinance. The city may require an applicant to provide documentation demonstrating capacity availability prior to allowing a joint connection. The city may require upgrades to a utility connection and the cost of such upgrades shall be borne by the applicant. ~~Accessory dwelling units having nine hundred square feet or greater of living area shall pay for the cost of a separate single-family water and sewer service connection in accordance with the city's adopted fee schedule regardless of whether separate physical connections are required.~~ If water or sewer service is not provided by the city, then the rules of the water or sewer district

shall apply as to whether an additional hook-up and connection fees are required. Any water or sewer service as referenced in this section is subject to water or sewer availability.

Comment: leftover from old code; this version will not allow 900+ sq. ft. ADUs.

~~***M. Number Permitted. A maximum of one accessory dwelling unit shall be permitted on a lot otherwise meeting the requirements of this chapter.***~~

Comment: already addressed in (B) above.

- N. Design and Appearance. The accessory dwelling unit shall be designed so that, to the degree reasonably feasible, the appearance of the building is consistent with that of the primary residence. At a minimum, the new exterior construction associated with creating an accessory dwelling unit should match the existing exterior materials and design of the principal residence, and the pitch of any new roof should match that of the principal residence. New landscaping shall conform with or improve existing landscaping.
- O. Entrance Location. An attached accessory dwelling unit shall have a separate entrance to the outside from the entrance for the primary dwelling. For attached accessory dwelling units, the entrance to the accessory dwelling unit shall be located in such a manner as not to appear as a second primary entrance to the structure which contains the principal residence in an effort to maintain the appearance of a single-family residence.

Chapter 18.78

ENVIRONMENTAL PERFORMANCE STANDARDS

Sections:

18.78.010	Intent
18.78.020	Environmental Performance Standards-Generally
18.78.030	Noise
18.78.040	Emissions
18.78.050	Storage and Appearance
18.78.060	Other Ordinances Applicable
18.78.070	Enforcement

18.78.010 Intent.

It is the intent of this section to:

- A. Protect public health and general welfare;
- B. Establish minimum standards for the control of environmental pollution;
- C. Minimize the adverse effects of contaminants which may result from the use of land by any activity or person.

18.78.020 Environmental Performance Standards-Generally.

It shall be the responsibility of the operator and/or the proprietor of any permitted use to provide such reasonable evidence and technical data as the director may require to

demonstrate that the use or activity is, or will be, in compliance with the performance standards of this chapter.

~~18.78.030 — Noise.~~

- ~~A. The maximum allowable noise levels as measured at the property line of noise impacted uses or activities shall be those set forth in WAC Chapter 173-60, entitled “Maximum Environmental Noise Levels,” which chapter is incorporated by reference.~~
- ~~B. The “Environmental Designation for Noise Abatement” (EDNA) for the several land use classifications of this title shall be as follows:
 - ~~1. All living areas (single family, multifamily, etc.): A;~~
 - ~~2. All commercial areas: B;~~
 - ~~3. Industrial: C.~~~~

~~***Comment: allowable noise standards are established in BDMC 8.12 and in State law.***~~

18.78.040 Emissions.

- A. Air pollution, including the emission of odors, shall be controlled by the operator and/or proprietor of any land use or activity; and the ambient air quality standards of the Puget Sound Clean Air Agency shall apply to all air contaminants listed therein.
- B. Toxic substances shall be kept to concentrations not exceeding one-fiftieth of interior standards by use of the best available control methods and technology in all phases of plant operation and handling of materials, and by an active commitment to good housekeeping practices.
 - 1. Toxic substances not listed in Regulation I of PSCAA, but released into the air shall be limited in accordance with the most current publication entitled “Threshold Limit Values”, of the American Conference of Governmental Hygienists.
- C. Liquid wastes shall be disposed of through local sanitary sewer systems only upon approval of affected sewer district authorities.
- D. Liquid or solid wastes unacceptable to public sewer authorities shall be disposed of on a regular basis in keeping with the best operating characteristics of the industry, and in compliance with the regulations and requirements of local, regional, state or federal agencies having jurisdiction in waste disposal and environmental health and safety.
- E. Heat and Glare. Any operation producing intense heat or glare shall be performed within an enclosure so as to completely obscure such operation from view from any point along the property line.
- F. Radioactive Materials and Radiation Devices. The use, storage, transportation and disposal of all radioactive materials and radiation machines shall be subject to the regulatory jurisdiction and control of the Radiation Control Agency of the Washington State Department of Social and Health Services as amended.
- G. Vibration and Concussion. No use shall cause earth vibrations or concussions detectable without the aid of instruments beyond its lot lines, with the exception of the temporary vibration produced as a result of construction activity. Such temporary construction activity shall be restricted to the hours between seven a. m. and six p.m.

18.78.050 Storage and appearance.

In the conduct of any business, the storage of merchandise, raw materials, equipment, fixtures, scraps or solid wastes shall comply with the following requirements:

- A. Every reasonable effort shall be made by persons operating a business to store all such materials within an enclosed building, with the following exceptions:
 - 1. Where such inside storage is not practical or desirable for reasons related to health, fire or safety codes.
 - 2. Where the outside storage of merchandise, manufactured products, or raw materials is normal and standard practice, such as in the sale of automotive equipment, mobile homes, lumber, gardening materials, nursery stock and the like, or on the site of construction projects.
 - 3. When materials or products are temporarily stored outside incidental to shipping, delivery, loading or unloading thereof.
- B. Outside storage shall be maintained in an orderly manner and shall create no:
 - 1. Visual offense to the premises, adjacent properties or the public right-of-way;
 - 2. Fire, safety, health or sanitary hazard.
- C. Storage in residential areas shall comply with the same requirements as those specified for business establishments and shall, in addition, comply with the following:
 - 1. Motor vehicles, appliances, and any other mechanical equipment which is no longer operable shall not be stored outside for a period exceeding thirty days.
 - 2. Operable motor vehicles, boats, trailers, recreational vehicles and the like may be stored on the premises provided that they do not obstruct the use of public right-of-way or interfere with traffic visibility, especially the visibility of and at intersections of streets. Vehicles so stored shall not be used as living quarters.
- D. Storage in or on the public right-of-way is prohibited.

~~**18.78.060 Other ordinances.**~~

~~A. All uses in every zoning district shall be in compliance with the city's Shoreline Master Program.~~

~~B. Wherever applicable, all construction, site preparation, drainage and erosion controls and the like, shall comply with the requirements of the International Building Code and International Residential Code or as those codes may be amended.~~

~~**Comment: this section is redundant and unnecessary.**~~

18.78.070 Enforcement.

- A. The director is authorized and required to enforce the minimum standards of this chapter.
- B. In the enforcement of this chapter, the director may require the operator or owner of an existing or proposed activity or use to submit reasonable evidence and technical data to demonstrate that the use or activity is or will be in compliance with the performance standards of this chapter.
- C. The director may undertake independent studies and engage such technical assistance as may be needed for such studies or to evaluate data or information submitted by an applicant in connection with the performance standards of any activity.

- D. The applicant, owner, operator or developer shall pay for or reimburse the city for the costs incurred in the conduct of such tests as the city may require and for costs incurred by the city to engage technical consultants for review and interpretation of data and findings submitted by or on behalf of the developer.

18.80.030 Minimum requirements.

- A. The requirements for off-street parking and loading facilities and their design shall be regarded as the minimum; however, the owner, developer, or operator of the premises for which the parking facilities are intended shall be responsible for providing adequate amount and arrangement of space for the particular premises even though such space or its arrangement is in excess of the minimum set forth in this Title.
- B. For Conditional Uses permitted under this Title that are not within a category in the Table at 18.80.030 E., the parking requirement shall be as provided by the applicable decision maker in the conditions of approval.
- C. There shall be no parking or loading allowed in any required side or rear yard that abuts a residential zone.
- D. The parking requirement tables (E., F., and G. below) group uses in the zone in which they are most commonly found, but these uses may also be permitted in other zones and are subject to the same parking standards.
- E. Parking requirements in Residential zones, unless otherwise modified by other provisions within this Code.

USES	REQUIRED SPACES (*Gross sq ft of primary building area)
Single-family dwellings	2
Multi-family structures (3 or more dwellings)	1.75 per unit
Multi-family studio/efficiency dwellings	1 per unit
Senior housing	¾ per unit
Manufactured home on individual lot	2
Manufactured or mobile home in a manufactured home park	2 per home, of which one may be located in on-site, shared parking areas
Religious Institutions, less than 10,000 gsf*	0.5 per seat or 4 lineal feet of pew space or 1 per 4 seats

- F. Parking requirements in Commercial zones.

USES	REQUIRED SPACES (*Gross sq ft of primary building area)
Retail, 10,000 gsf* and less	1 per 350 gsf*
Retail, over 10,000 gsf*	1 per 300 gsf*
Entertainment / Culture	

Restaurant	1 per 150 gsf*
Theaters and places of public assembly	1 per 4 seats
Other Entertainment / Culture	1 per 4 seats
General Office	1 per 500 gsf*
Personal and Professional Service	1 per 400 gsf*
Public Uses / Facilities	Depends on use and determined at site plan review
Major Institution	Depends on use and conditions of approval
Multi-family residential structures in a mixed-use project	1.5 per unit in a free-standing building; 1 per unit if within a mixed-use building
Day Care Center serving more than 12 children	Minimum of 6, plus one for each employee
Religious Institutions, 10,000 gsf* or larger	0.7 per seat or 4 lineal feet of pew space or 1 per 4 seats

Comment: only one reference to entertainment/culture is needed.

Chapter 18.86

RESIDENTIAL CLUSTER DEVELOPMENT (RCD)

Sections:

- 18.86.010 Intent**
- 18.86.020 Applicability**
- 18.86.030 Procedures**
- 18.86.040 Development Standards**

18.86.010 Intent

The intent of the residential cluster development (RCD) provisions is to accommodate the overall density of the underlying zoning district while allowing residential development to utilize less land area. The RCD standards are intended to allow for innovative design, and promote the City’s vision of a “Rural by Design” development pattern.

18.86.020 Applicability

- A. All residential zoning districts are eligible to apply for approval of residential cluster development.
- B. Cluster development may be applied to both multi-family and attached/detached single-family residential developments of three (3) or more dwelling units.

18.86.030 Procedures and Criteria

- A. Review Procedures. RCD applications are processed as a Type 3 Hearing Examiner decision (~~site plan approval~~) **[Note: this change will also require a change to 18.08]** pursuant to the provisions set forth in Chapter 18.08. Proposals for clustering shall be subject to and consolidated with the provisions ~~and procedures for site plan review, Chapter 18.16 and for~~ preliminary plat approval, if individual lot ownership is proposed.

Comment: With Site Plan Review becoming an administrative decision process, RCD will be separately addressed as a Type 3 decision. .

B. Criteria for Approval. The Hearing Examiner may approve a RCD only if it is found that:

1. The location, design, and uses are consistent with the goals and policies of the Comprehensive Plan, the City's development codes and other City plans and ordinances;
2. The residential development integrates with its surroundings and is designed to harmonize with existing or proposed development in the neighborhood, including the project's response to ~~F of this section~~ 18.86.040.F;
3. The traffic generated by the development can be accommodated safely and within adopted level of service for affected streets;
4. All development will be served by existing or planned facilities and services;
5. The development makes provision for the preservation of the natural environment and/or identified open space or trails per the Comprehensive Plan.

C. Scope of Approval.

1. ~~Approval of an RCD occurs as an element of site plan review and is not a separate permit.~~ Through a RCD, modifications to the setbacks, height, lot area, building coverage and development coverage standards of the underlying zone district may be granted.

Comment: same reason as noted above.

2. Approval of an RCD shall constitute a deviation of standards on the design of the site for only those designs and standards that are specifically included. Such revision of standards shall remain in effect until the residential development is constructed, or until its approval expires, at which time the underlying zoning standards automatically return to effect.

CHAPTER 18.100

DEFINITIONS

18.100.010 Generally.

In addition to the words and terms defined in this chapter, several sections of this title contain definitions specifically related to those sections. In the event of conflict between definitions in this list and those shown in other sections of this title the definition in the other section shall govern within the context of the section within which it appears. (See sections on Home Occupations, Accessory Dwelling Units, ~~Special Uses Signs and Mobile Homes~~ Manufactured Housing.)

Comment: additional areas that include specific definitions are added to this list, while other terms that are not found in the code are proposed for deletion.

18.100.030 Accessory building.

A building, or structure, or portion of a building, devoted to an activity subordinate to the principal use of the premises ~~detached accessory buildings in residentially zoned districts~~

~~not exceeding one story of fifteen feet in height and not occupying greater than fifty percent of the area of a rear or side yard and not closer than ten feet to each other or the principal building are permitted~~

Comment: This is a code writing faux pas 101; never put a standard in a definition. Plus, it is inconsistent with what the R zones otherwise allow.

19.04.040 Designation of responsible official.

A. For those proposals for which the city is a lead agency, the responsible official shall be the ~~public works superintendent community development director~~ or such other person as the ~~superintendent mayor~~ may designate in writing.

B. For those proposals for which the city is a 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 have been adopted by reference.

19.04.180 Public notice.

A. Whenever public notice is required, the city shall follow the procedures set forth in this section.

B. Public notice will be given in the following situations:

1. When the city issues the following determinations of nonsignificance (DNS):

a. DNS involving another agency with jurisdiction;⁵

b. DNS involving the demolition of any structure or facility not exempted by WAC 197-11-800(2)(f) or 197-11-880;⁵

c. DNS involving the issuance of a clearing or grading permit not exempted by WAC 197-11-800 through 197-11-890;⁵

d. DNS issued following a request for early notice pursuant to WAC 197-11-350(2);⁵

e. Mitigated DNS issued pursuant to WAC 197-11-350(3);⁵

f. DNS issued following the withdrawal of a DS pursuant to WAC 197-11-360(4);

2. When the city issues a determination of significance to commence scoping;

3. When a draft EIS (DEIS) is available for public comment;

4. Whenever the city holds a public hearing pursuant to WAC 197-11-535;

5. Whenever the responsible official determines that public notice is required.

C. The city shall give public notice by using at least one of the following methods:

1. Posting the property, for site-specific proposals;
2. Publishing notice in the official city a newspaper and, optionally, a newspaper of general circulation in the county, city, or general area where the proposal is located;
3. Mailing notice to owners of property within 300 ft. of the proposal and other known interested individuals;
34. Any other method reasonably calculated to inform the public and other agencies or required by statute or ordinance, including posting notice on the city's website.

D. Notice of public hearings shall be published no later than ten days before the hearing in the city's official newspaper and, optionally, a newspaper of general circulation in the city. ~~Notice of public hearings on nonproject proposals shall be published in a newspaper of general circulation in the city.~~

E. The city may require an applicant to compensate the city for the costs of compliance with the public notice requirements for the applicant's proposal or provide services and materials to assist.

19.04.250 Appeals.

A. Any aggrieved person may appeal a threshold determination, adequacy of a final EIS and the conditions or denials of a requested action made by a nonelected city official pursuant to the procedures set forth in this section. No other SEPA appeal shall be allowed. No person may seek judicial review of a SEPA decision without first exhausting the administrative appeal process set forth herein.

B. All appeals filed pursuant to this section must be filed in writing with the community development director within fourteen calendar days of the date of the decision appealed. The written appeal shall state concisely the basis or bases for the appeal, and the specific relief or remedy sought.

C. A fee of \$250.00 shall accompany each appeal.

D. On receipt of a timely written notice of appeal, the director shall advise the hearing examiner of the appeal and request that a date for considering the appeal be established. Provided that, if there is a concurrent land use application requiring a hearing examiner public hearing, then the two hearings shall be combined. The hearing examiner shall make the final decision on a SEPA appeal.

E. All relevant evidence shall be received during the hearing of the appeal and the decision shall be made de novo. The procedural determination by the city's responsible official shall carry substantial weight in any appeal proceeding. The burden of proof shall be on the appellant, to demonstrate error by a preponderance of the evidence.

F. For any appeal under this section, the hearing examiner shall provide a record that shall consist of the following:

1. Findings and conclusions;
2. Testimony under oath; and
3. A taped or written transcript.

G. The city may require the applicant to provide an electronic transcript.

H. The city shall give official notice whenever it issues a permit or approval for which a statute or ordinance establishes a time limit for commencing judicial appeal. Appeal from the hearing examiner's decision on a SEPA appeal is to superior court. The judicial appeal must be filed within 21 days after the hearing examiner renders a decision, unless the SEPA appeal is consolidated with the underlying governmental action, such as a permit application. If there is consolidation, judicial appeal of the hearing examiner's decision on the SEPA appeal must be filed within 21 days after the city's final decision on the underlying governmental action.

I. This chapter constitutes the exhaustive administrative process to appeal a SEPA decision. Notwithstanding any other provision of the Municipal Code, the provisions of this chapter shall apply. This provision shall be construed in conjunction with BDMC 18.98, RCW 36.70B, and WAC 197-11-680 (3)(a)(v).

19.04.300 Fees.

The city shall require the following fees for its activities in accordance with the provisions of this chapter:

A. Threshold Determination. For every environmental checklist the city will review when it is lead agency, the city shall collect a fee ~~of sixty dollars~~ as established in the city's fee schedule from the proponent of the proposal prior to undertaking the threshold determination. The time periods provided by this chapter for making a threshold determination shall not begin to run until payment of fees. When the city assists the applicant or completes the environmental checklist at the applicant's request or under Section 19.04.120 of this chapter, an additional ~~thirty dollars~~ fee, as established in the fee schedule, shall be collected.

B. Environmental Impact Statement.

1. 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 costs incurred, including overhead, ~~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.

2. 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 persons or entity other than the city and may bill such costs and expenses (plus an administrative fee) directly to the applicant. Such consultants shall be selected by the city.

3. The applicant shall pay at least 50% of the total projected amount to prepare the EIS to the city prior to ~~commencing~~-work commencing. Additional funds shall be provided when so requested by the city. The city will refund the excess, if any, at the completion of the EIS. If the city's costs exceed the projected costs, the applicant shall immediately pay the excess. If a proposal is modified so that an EIS is no longer required, the responsible official shall refund any fees collected under subdivisions 1 and 2 of this subsection which remain after incurred costs, including overhead, are paid.

C. The city may collect a reasonable administrative fee from an applicant to cover the cost of meeting the public notice requirements of this chapter ~~relating to the applicant's proposal and its overhead expenses for overseeing preparation of the EIS.~~

D. 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 RCW Chapter 42.17.