

**ORDINANCE NO. 15-1050**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, RELATING TO LAND USE AND ZONING, EXTENDING A MORATORIUM ON THE ACCEPTANCE OF APPLICATIONS FOR NEW DEVELOPMENT WITHIN THE MASTER PLANNED DEVELOPMENT (MPD) DISTRICT FOR ANOTHER SIX MONTHS, EXCLUDING ANY APPLICATIONS SUBJECT TO THE DEVELOPMENT AGREEMENTS APPROVED FOR THE MPD DEVELOPMENTS ENTITLED THE VILLAGES AND LAWSON HILLS; DEFINING THE APPLICATIONS SUBJECT TO THE MORATORIUM, DIRECTING STAFF TO SET A DATE FOR A PUBLIC HEARING ON THE MORATORIUM WITHIN THE NEXT SIXTY DAYS, ESTABLISHING SIX MONTHS AS THE EXTENSION PERIOD UNTIL THE COUNCIL PUBLIC HEARING ON THE CONTINUED MAINTENANCE OF THE MORATORIUM EXTENSION DECLARING AN EMERGENCY TO MAKE THE ORDINANCE EFFECTIVE IMMEDIATELY.

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WHEREAS, on March 20, 2014, the City adopted Ordinance No. 14-1027, which imposed a six-month moratorium on the City's acceptance of certain applications for development for property zoned Master Planned Development ("MPD"); and

WHEREAS, on August 21, 2014, the City adopted Ordinance 14-1034 which extended the moratorium for additional six-months;

WHEREAS, Staff has sent potential options to the property owner in order to try to resolve this issue and have not heard back from the owner, therefore, more time is needed to review the moratorium;

WHEREAS, this moratorium is due to expire on February 28, 2015; and

WHEREAS, the reason the City imposed the moratorium has not changed, but additional time is needed for the City to undertake all of the tasks described in Ordinance No. 14-1027; and

WHEREAS, City Council may extend the moratorium for a period of up to six months on the acceptance of certain development permit applications as long as the City Council holds a

public hearing on the proposed moratorium extension within sixty days after adoption (RCW 35A.63.220, RCW 36.70A.390); and

WHEREAS, the City desires to extend the existing moratorium on the acceptance of development applications for any “development activity,” “development permit” or “project permit” as defined below, for any property within the Master Plan Development (MPD) district, as shown on the City’s Official Zoning Map, a copy of which is attached hereto as Exhibit A and incorporated herein by this reference for another six months; Now, therefore,

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

Section 1. Definitions. For the purpose of this Ordinance, the following definitions shall apply:

A. **“Exempt Development Permits”** shall include all of the following permit applications for “development” or “development activity” defined in Black Diamond Municipal Code (BDMC) Section 18.98.005 and for “project permit” applications as defined in BDMC 18.14.010, which: (1) are subject to the Development Agreements executed by the City for The Villages and Lawson Hills; or (2) were determined complete by City staff and submitted to the City on or before the effective date of this Ordinance; or (3) propose development or a development activity on property located outside the MDP Zone as identified in the City’s Official Zoning Map; or (4) any applications for permits which involve interior remodeling of existing structures in the MPD Zone.

B. **“Non-Exempt Development Permits”** shall include any permits or “project permit applications” for any “development activity” defined in the Black Diamond code sections

identified above, proposed to take place on property located within the MPD Zone and submitted after the effective date of this Ordinance.

Section 2. Purpose. The purpose of this moratorium extension is to allow the City to review and analyze the growth, environmental and secondary land use impact of the two large developments approved for the Villages and Lawson Hills on the City, and to determine whether any changes need to be made in the City's Comprehensive Plan and development regulations relating to MPD's. If necessary, the City will propose new Plan and development regulation amendments, hold the necessary public hearings, obtain Planning Commission recommendations and adopt ordinances.

Section 3. Moratorium Extension Imposed. The City Council hereby extends the moratorium due to expire on February 28, 2014, on the acceptance of all non-exempt development permit applications for development activities on property located within the MPD Zone, as shown in the map attached hereto as Exhibit A, which is derived from the City's Official Zoning Map for another six months. All such non-exempt applications shall be rejected and returned to the applicant. With regard to the City's acceptance of any exempt development application, such acceptance shall only allow processing to proceed, but shall not constitute an assurance that the application will be approved.

Section 4. Duration of Moratorium Extension. The moratorium extension imposed by this Ordinance shall commence on the effective date of this Ordinance. As long as the City holds a public hearing on the moratorium and adopts findings and conclusions in support of the moratorium extension (as contemplated by Section 5 herein), the moratorium extension shall not terminate until six (6) months after the date of adoption, or at the time all of the tasks described herein have been accomplished, whichever is sooner. The Council shall make the decision to

terminate the moratorium by ordinance, and termination shall not otherwise be presumed to have occurred.

Section 5. Public Hearing on Moratorium Extension. Pursuant to RCW 36.70A.390 and RCW 35A.63.220, the City Council shall hold a public hearing on this moratorium extension within sixty (60) days of its adoption, or before April 19, 2015. Immediately after the public hearing, the City Council shall adopt findings of fact on the subject of this moratorium extension and either justify its continued imposition or cancel the moratorium.


Section 6. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 7. Declaration of Emergency. The City Council hereby declares that an emergency exists necessitating that this moratorium take effect immediately upon passage by a majority vote plus one of the entire Council, and that the same is not subject to a referendum. If this moratorium is not adopted immediately, applications for development in the MPD zone could be submitted to the City and arguably become vested, leading to development that could be incompatible with the regulations eventually adopted by the City. Therefore, this moratorium must be adopted immediately as an emergency measure to protect the health, safety and welfare, and to prevent the submission of applications to the City in an attempt to vest rights for a period of time.

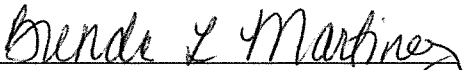
Section 8. Publication. This Ordinance shall be published by an approved summary consisting of the title.

PASSED by the Council and approved by the Mayor of the City of Black Diamond, this  
19<sup>th</sup> day of February, 2015.

CITY OF BLACK DIAMOND

  
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Mayor Carol Benson

ATTEST/AUTHENTICATED:

  
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Brenda L. Martinez, City Clerk

APPROVED AS TO FORM:  
Office of the City Attorney

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Carol A. Morris, City Attorney

FILED WITH THE CITY CLERK: February 20, 2015  
PASSED BY THE CITY COUNCIL: February 19, 2015  
PUBLISHED: February 24, 2015  
EFFECTIVE DATE: March 1, 2015  
ORDINANCE NO: 15-1050