

ORDINANCE NO. 17- 1089

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
BLACK DIAMOND, KING COUNTY, WASHINGTON,  
ADOPTING LOW IMPACT DEVELOPMENT REGULATIONS  
TO MEET NPDES PERMIT REQUIREMENTS AND  
AMENDING TITLES 15, 17, 18, AND 19 OF THE BLACK  
DIAMOND MUNICIPAL CODE**

**WHEREAS**, the City has a National Pollutant Discharge Detection and Elimination System (NPDES) Phase 2 Permit from the Department of Ecology; and

**WHEREAS**, the 2013-2018 NPDES Permit requires the City to review, revise and make effective local development-related codes, rules, standards, or other enforceable documents to incorporate and require Low Impact Development (LID) principles and LID Best Management Practices (BMPs); and

**WHEREAS**, the intent of the revisions is to make LID the preferred and commonly-used approach to site development; to minimize impervious surfaces; to minimize native vegetation loss; and to minimize impervious surfaces in all types of development situations; and

**WHEREAS**, the City conducted a review of City code that needed changes to meet the requirements of the NPDES Permit; and

**WHEREAS**, the Black Diamond Planning Commission reviewed these code updates on February 7, 2017; and

**WHEREAS**, the Black Diamond Planning Commission recommended adopting these code updates in their March 7, 2017 Planning Commission meeting;

**WHEREAS**, adoption of these code updates to incorporate LID principles and BMPs will bring the City into compliance with the NPDES Permit;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND DO ORDAIN AS FOLLOWS:

Section 1. The definition for “Best management practices” in Section 15.28.020 of the Black Diamond Municipal Code is hereby amended to read as follows:

**15.28.020 Definitions**

“Best management practices” or “BMPs” means the best available and reasonable physical, structural, behavioral, and/or managerial practices that, when

used singly, or in combination, ~~prevent~~eliminate or reduce ~~pollution~~contamination of both surface and groundwaters.

Section 2. Section 17.04.020 of the Black Diamond Municipal Code is hereby amended to read as follows:

#### **17.04.020 Purpose**

The purpose of this chapter is to regulate the subdivision of land and to promote the public health, safety and general welfare in accordance with standards established by the state and the city to prevent the overcrowding of land; to lessen congestion in the streets and highways; to promote effective use of land; to promote safe and convenient travel by the public on streets and highways; to provide for adequate light and air; to facilitate adequate provision for water, sewerage, parks and recreation areas, sites for schools and school grounds and other public requirements; to provide for proper ingress and egress; to provide for the expeditious review and approval of proposed subdivisions which conform to zoning standards and local plans and policies; to adequately provide for the housing and commercial needs of the citizens of the city; to require uniform monumenting of land subdivisions and conveyancing by accurate land description; to protect environmentally sensitive areas; minimize native vegetation loss; minimize impervious surfaces; minimize stormwater flows; and to protect and preserve the community urban forest for its aesthetic, environmental, and health benefits.

Section 32. Section 17.12.020.L of the Black Diamond Municipal Code is hereby amended to read as follows:

#### **17.12.020 Preliminary plat contents**

L. A tree survey prepared in conformance with Section 19.30.060 and meeting the tree protection requirements of Section 19.30.080;

Section 43. Section 17.34.050.A of the Black Diamond Municipal Code is hereby amended to read as follows:

#### **17.34.050 Approval**

A. A proposed binding site plan shall be considered under the zoning and other land use control ordinances in effect at the time a fully completed application is filed with the city. The director shall consider and base a decision to approve, approve with conditions, deny or return the application for modifications, based on the following criteria:

1. Appropriate provisions are made for, but not limited to, the public health, safety, and general welfare for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, and sanitary wastes;
2. The proposed binding site plan is in conformity with the underlying zoning district requirements, tree preservation requirements of Section 19.30, other land

use controls, building requirements, and other applicable regulations which may exist at the time of a completed application;

3. All other relevant facts were considered, including sidewalks and other planning features that assure safe walking conditions for pedestrians;
4. The public interest is served by the binding site plan and any dedications;
5. If the proposal is in an approved MPD, the proposed binding site plan is consistent with the approved MPD, the MPD conditions of approval, the MPD design standards, and the MPD development agreement.

Section 5. Section 18.04.030 of the Black Diamond Municipal Code is hereby amended to read as follows:

#### **18.04.030 Intent**

It is the intent of this title to:

- A. Facilitate orderly growth and development of the city consistent with the requirements of the Growth Management Act, RCW 36.70A, and with the policies, goals and objectives of the city of Black Diamond comprehensive plan;
- B. Protect the health and general welfare of the city's residents;
- C. Promote sound economic development;
- D. Preserve and protect vital aspects of the natural environment;
- E. Designate land use districts and provide for compatibility between the several districts;
- F. Provide flexible and innovative development regulations to achieve the city's desired pattern, intensity and character of land use, and to preserve valuable resources and a network of open spaces;
- G. Incorporate Low Impact Development (LID) Best Management Practices (BMPs) and principles.
- H. Provide for the administration and enforcement of the regulations.

Section 64. Section 18.16.030.C of the Black Diamond Municipal Code is hereby amended to read as follows:

#### **18.16.030 Procedures**

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

1. A 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, and significant trees;
3. A topographic map, based on a site survey delineating existing contours at no less than five-foot intervals, and which locates existing streams, wetlands and other natural features;
4. A conceptual landscape plan;

5. A parking and circulation plan;
6. A preliminary stormwater management plan;
7. A utilities plan;
8. Other reports or studies as determined applicable by the director, including but not limited to geotechnical, critical areas, and/or traffic;
9. A SEPA environmental checklist, unless the proposal is categorically exempt per Chapter 19.04, SEPA regulations; and
10. A 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.

Section 75. Section 18.30.040.A of the Black Diamond Municipal Code is hereby amended to read as follows:

#### **18.30.040 Development standards**

##### **A. Site area and dimensional standards.**

1. Minimum lot area:
  - a. Districts designated R4: Nine thousand six hundred square feet.
  - b. Districts designated R6: Seven thousand two hundred square feet.
2. Maximum density.
  - a. R4 district: four dwelling units per acre.
  - b. R6 district: six dwelling units per acre.
3. Minimum lot width: Sixty feet.
4. Minimum lot depth: Eighty feet.
5. Minimum front yard:
  - a. On minor street: Twenty feet.
  - b. On major street: Twenty-five feet.
6. Minimum side yards: Seven feet.
  - a. Minimum on a flanking street: Ten feet.
7. Minimum rear yard: Twenty feet.
8. Maximum building coverage: Thirty percent.

9. Base Impervious Surface Coverage: 50%

10. Maximum Impervious Surface Coverage<sup>1</sup>: 70%

<sup>1</sup> If low impact development strategies are implemented, the base impervious surface percentage may be exceeded up to the maximum impervious surface percentage, subject to approval by the Community Development Director. If low impact development strategies are infeasible, as demonstrated by the applicant, the base impervious surface percentage may be exceeded up to the maximum impervious surface percentage.

911. Maximum building height:

- a. Primary dwelling unit: Thirty-two feet.
- b. Accessory building: No greater than the height of the primary dwelling unit or twenty-six feet, whichever is less.

Section 86. Section 18.34.030 of the Black Diamond Municipal Code is hereby amended to read as follows:

### **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. Stormwater conveyance and control facilities, both above and below ground, are allowed so long as such encroachments are:

1. Consistent with setback, easement, and access requirements specified in the 2012 Stormwater Management Manual, as amended in 2014; or
2. In the absence of said specifications, not within five feet of a rear or interior lot line.

AB. The following may project from a building into a required yard setback no more than two feet:

1. Fireplace structures not wider than eight 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.

BC. Porches and Platforms.

1. Uncovered porches and platforms which do not extend above the floor level of the first floor may project two feet into required side yards, six feet into required front yards and ten feet into required rear yards.
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 of the building's frontage may project five feet into a required front yard.

CD. Special Front Yard Depth. If buildings existing on July 17, 1980 occupy more than fifty percent 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 feet further than a building on an adjoining lot;
2. No front yard shall be less than twenty feet to a garage, either attached or detached.

DE. 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 feet, then the required interior side yard setback may be reduced to

three feet for all portions of the structure, including those noted in subsection A of this section.

Section 97. Section 18.46.040.A of the Black Diamond Municipal Code is hereby amended to read as follows:

#### **18.46.040 Development standards**

A. Dimensional Standards. ~~None.~~

1. Minimum front yard: None

2. Minimum side yards: None

3. Minimum rear yard: None

4. Maximum Impervious Surface Coverage: 70%

Section 108. Section 18.72.030.A of the Black Diamond Municipal Code is hereby amended to read as follows:

#### **18.72.030 Landscaping requirements**

A. The minimum portion of a site which must be a landscaped area or maintained as native vegetation depends on the zone district as follows:

1. R4 and R6: thirty percent;

2. MDR8: thirty percent;

3. NC, CC: twenty percent;

4. Light industrial/business park: twenty-five percent;

5. Industrial: ten percent;

6. Public: thirty percent.

Section 119. Section 18.72.030.F of the Black Diamond Municipal Code is hereby amended to read as follows:

#### **18.72.030 Landscaping requirements**

F. Landscaping requirements for non-residential site perimeters and parking lots:

1. Street Trees. At time of street construction, or time of development of the adjoining land, street trees and related landscaping shall be provided in medians and parking strips within the street right-of-way in accordance with the city's public works standards. Existing significant trees meeting the criteria below may count toward the planting requirement. Street trees shall be:

a. Provided at least one per thirty lineal feet of frontage – clustering of street trees may be permitted by the Community Development Director, provided the total number of street trees proposed is at least one per thirty lineal feet of frontage;

b. Located within the street right-at-way;

c. Of the same species as other street trees in the same streetscape or as otherwise specified on a city-approved street tree planting plan;

d. Spaced to accommodate sight distance requirements for driveways;  
and

- e. At least three-inch caliper DBH (diameter at breast height) at the time of planting.
2. Buffering of non-residential uses abutting residential zones: for non-residential uses, all required side and rear yard areas shall be landscaped with densely planted, evergreen vegetation to provide full visual screening of any adjacent residentially-zoned properties to a height of four feet at time of planting and at least eight feet high at maturity. Minimum planting width is equal to the required yard setback. Landscape-based stormwater management facilities are permitted within yard screening areas, provided that the screening objectives are met.
3. Parking areas:
  - a. All parking areas for multi-family and non-residential uses shall include a minimum six foot wide perimeter of landscaping, including trees, groundcover and shrubs, to provide full visual screening to a minimum height of forty-two inches at maturity; trees shall be planted at no more than twenty-five foot intervals.
  - b. The interior of all parking lots with twelve or more stalls shall include landscape islands comprising not less than ten percent in area of the total parking lot exclusive of required perimeter landscaping. Individual islands shall not be less than one hundred fifty square feet in area and not separated by more than one hundred twenty lineal feet in any direction from another island. Landscaping of these islands shall consist of trees, shrubs and groundcovers.
  - c. Landscape-based stormwater management facilities are permitted within perimeter and interior parking lot areas, provided they meet the applicable landscaping intent.

Section 1240. Section 18.76.030.C of the Black Diamond Municipal Code is hereby amended to read as follows:

#### **18.76.030 Definitions**

C. Multi-Modal Path. An eight-foot wide ~~concrete-pervious~~ path developed to Americans with Disabilities Act (ADA) standards and connecting to adjacent properties and other internal sidewalks or pathways. Impervious surfacing may be used if it is demonstrated by the applicant that pervious paving is infeasible.

Section 1344. Section 18.76.060.C of the Black Diamond Municipal Code is hereby amended to read as follows:

#### **18.76.060 Site design standards**

C. Landscaping Plan. A landscaping plan shall be submitted with all applications for development, showing all existing and proposed features, including existing significant trees and other relevant features. Significant trees should not be removed unless their removal is necessary for placement of a structure or approved parking or access corridor, or as otherwise as approved by the director. In general, native plant materials are required, although the use of ornamental plant materials may be approved if planted in a naturalistic manner and allowed to develop in their natural form. The



landscape plan must also demonstrate pedestrian connectivity within the development, to the required multi-modal path, and to future access roads and path systems. These landscaping requirements are in addition to any landscaping required in the underlying zone.

1. Tree Requirement. In addition to the preservation of significant trees, all development shall provide an additional two trees, with an expected height at maturity of at least thirty feet, per each twenty linear feet of road frontage along either SR-169 or Auburn-Back Diamond Road. These trees shall be planted within the development setback in a staggered or clustered configuration to ensure maximum canopy development when not in conflict with scenic view protection. These trees shall be a mixture of both native evergreen and deciduous trees, with deciduous trees preferred near buildings to allow for winter solar access. Trees shall have a minimum caliper of three inches at planting, as measured two feet from base of tree.

2. Screening. If the required development setback does not provide adequate screening of parking lots and service and loading zones from the public right-of-way, there shall be additional landscaping, walls, fences, hedges, shrubbery and/or earthen berms to provide the screening of utilities and loading areas.

Landscape-based stormwater management facilities are permitted within the required screening area, provided that the screening objectives are met.

Section 1412. Section 18.76.090.B of the Black Diamond Municipal Code is hereby amended to read as follows:

#### **18.76.090 Driveways, paths, and parking**

B. Stormwater runoff shall be collected in ~~bio-swales~~ landscape-based stormwater facilities per city standards or best management practices.

Section 1513. Section 18.80.010 of the Black Diamond Municipal Code is hereby amended to read as follows:

#### **18.80.010 Intent**

It is the intent of this section to:

A. Assure that space is provided for the parking, loading and unloading of motor vehicles on the site of premises or uses which attract motor vehicles.

B. Provide minimum standards of space and parking arrangements, and for the movement of motor vehicles into and out of such spaces.

C. Avoid or reduce traffic congestion on public streets by:

1. Minimizing the need for on-street parking; and
2. Controlling access to sites.

D. Enhance safety for pedestrians and motor vehicle operators.

E. Encourage the creation of an aesthetically pleasing and functionally adequate system of off-street parking and loading facilities.

F. Minimize impervious surface coverage created by under-utilized parking areas.



G. Use Low Impact Development (LID) Best Management Practices (BMPs) within required landscaping areas.

Section 1644. Section 18.80.020 of the Black Diamond Municipal Code is hereby amended to read as follows:

**18.80.020 General requirements**

A. Off-street parking spaces and driveways required by this chapter shall not be used at any time for purposes other than their intended use, e.g., the temporary storage of motor vehicles used by persons visiting or having business to conduct on the premises for which the parking is provided, unless a temporary use as been authorized by this title.

B. The maximum amount of parking permitted shall be 150% of the required minimum, as established by the use tables in this subsection. The parking maximum may be exceeded by producing a parking study, pursuant to Section 18.80.050.E.

BC. Minimum parking spaces required and intended for use by occupants or users of specific premises shall not be leased or rented to others, nor shall such space be made unavailable through other means to the users for whom the parking spaces are intended. This, however, does not preclude shared parking arrangements.

CD. Except where specifically permitted in certain zoning districts, off-street parking spaces shall not be used for loading or unloading of commercial vehicles larger than those vehicles for which the parking spaces are intended.

DE. Whenever a building or a parcel of land is put to a use different from the immediately preceding use, or when a building is remodeled, reconstructed or expanded, adequate off-street parking shall be provided consistent with the new use, reconstruction or expansion of the premises.

EE. Site development activities are prohibited if they would either render a site or land use nonconforming as to the standards of this chapter or make the site more nonconforming.

Section 1745. Section 18.80.050.B.3 of the Black Diamond Municipal Code is hereby amended to read as follows:

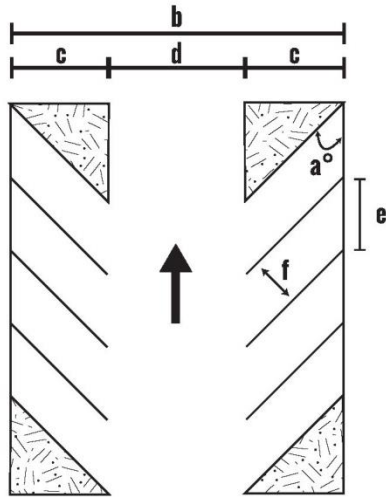
**18.80.050 Development standards**

**B. Parking Area Design**

3. Parking Spaces—Access and Dimensions. Adequate provision shall be made for individual ingress and egress by vehicles to all parking stalls at all times by means of unobstructed maneuvering aisles. Maneuvering aisles and parking stall dimensions shall be as shown in Diagrams 1, 2, and 3 ~~1 and 2~~ of this chapter.

Diagrams 1 and 2 updated for clarity and to specify dimensions for a perpendicular stall (see below and attached). Diagram 3 has been removed.

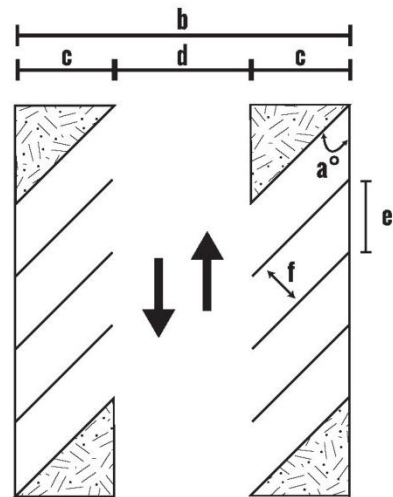
**DIAGRAM 1**



**ONE-WAY TRAFFIC**

	a	b	c	d	e	f
	0°	28'	8'	12'	23'	8'
	35°	48'	18'	12'	14.8'	8.5'
	40°	49'	18.5'	12'	13.2'	8.5'
	45°	50'	19'	12'	12'	8.5'
	50°	51'	19.5'	12'	11.1'	8.5'
	55°	53'	20'	13'	10.4'	8.5'
	60°	55'	20'	15'	9.8'	8.5'
	65°	57'	20'	17'	9.7'	8.5'
	70°	59'	20'	19'	9.6'	9'
	90°	56'	18'	20'	9'	9'
COMPACT CAR PARKING	45°		17'	11'		9'
	60°		16.7'	14'		8.7'
	75°		16.3'	17.4'		7.8'
	90°		15'	20'		7.5'

**DIAGRAM 2**



**TWO-WAY TRAFFIC**

	a	b	c	d	e	f
	0°	36'	8'	20'	23'	8'
	35°	56'	18'	20'	14.8'	8.5'
	40°	57'	18.5'	20'	13.2'	8.5'
	45°	58'	19'	20'	12'	8.5'
	50°	59'	19.5'	20'	11.1'	8.5'
	55°	60'	20'	20'	10.4'	8.5'
	60°	60'	20'	20'	9.8'	8.5'
	65°	60'	20'	20'	9.7'	8.5'
	70°	64'	20'	24'	9'	9'
	90°	60'	18'	24'	9'	9'
COMPACT CAR PARKING	45°		17'	20'		9'
	60°		16.7'	20'		8.7'
	75°		16.3'	20'		7.8'
	90°		15'	20'		7.5'

Section 1816. The following definitions in Section 18.100 of the Black Diamond Municipal Code are hereby amended to read as follows:

### 18.100 Definitions

18.100.~~450~~445 Lot, through.

A lot that fronts on two parallel or nearly parallel streets.

18.100.~~580~~575 Parking space.

An unobstructed space or area other than a street or alley which is permanently reserved and maintained for the parking of one motor vehicle.

18.100.~~590~~585 Person.

An individual or any group of individuals, acting as a unit, whether or not legally constituted as an association, company, corporation, estate, family, partnership, syndicate, trust or other entity.

18.100.~~595~~590 Personal and professional service uses.

Personal services include establishments that provide frequent, needed services to individuals such as barbers, beauticians, health clubs, massage parlors, instruction studios, dry-cleaning, shoe repair, tanning salon, space and tailor/seamstress. Professional services include consulting, real estate sales, accounting, legal services, financial advisors, professional design services, insurance companies and medical and dental offices providing out-patient care.

Section 1947. The following definitions are hereby added to Section 18.100 of the Black Diamond Municipal Code as follows:

**18.100 Definitions**

18.100.140 Best Management Practices (BMPs).

“Best Management Practices” or “BMPs” means the best available and reasonable physical, structural, behavioral, and/or managerial practices that, when used singly or in combination, eliminate or reduce the contamination of both surface waters and groundwaters.

18.100.350 Impervious surface.

“Impervious surface” means a non-vegetated surface that either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development, and/or that causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roofs, walkways, patios, driveways, parking lots, storage areas, areas which are paved, graveled or made of packed or oiled earthen materials, or other surfaces which similarly impede the natural infiltration of surface and stormwater. Impervious surfaces do not include areas of turf, landscaping, or natural vegetation.

18.100.450 Low impact development (LID) / LID Best Management Practices (BMPs).

“Low impact development (LID)” means a stormwater management and land development strategy that strives to mimic pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation and transpiration by emphasizing conservation, use of on-site natural features, site planning, and distributed stormwater management practices that are integrated into a project design. Other common names for “LID” are “Green Stormwater Infrastructure” or “Natural Drainage Systems.” “LID best management practices” or “LID BMPs” means distributed stormwater management practices, integrated into a project design, that emphasize pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation and

transpiration. LID BMPs are referred to as flow control BMPs in the Stormwater Management Manual and include, but are not limited to, bioretention, permeable pavements, limited infiltration systems, roof downspout controls, dispersion, soil quality and depth, and minimal excavation foundations.

#### 18.100.580 Permeable pavement.

“Permeable pavement” means pervious concrete, porous asphalt, permeable pavers or other forms of pervious or porous paving material intended to allow passage of water through the pavement section. It often includes an aggregate base that provides structural support and acts as a stormwater reservoir.

Section 2048. Section 19.30.050.D of the Black Diamond Municipal Code is hereby amended to read as follows:

### **19.30.050 Exemptions**

D. The owner or person in control of a lot may remove no more than six significant trees under sixteen inches diameter at breast height, in any period of thirty-six consecutive months. Prior to removal, the owner, or person in control of the lot, shall file an exemption application for tree removal with the community development department and request exemption from the requirement to obtain a tree removal permit. The mayor or his/her designee may grant an exemption from the permit requirement subject to the following conditions:

1. There is no current application for development on the subject lot;
2. The tree(s) is (are) not within, an easement protecting a regulated critical area, a designated primary or secondary open space or a required buffer area;
3. At least two significant trees must remain on each lot; and
4. Removal of the trees will not reduce the density of significant trees on the lot below the density approved as part of the landscape plan pursuant to BDMC Section 19.30.060(C).

5. If development activities occur within 1 year of the receipt of an approved tree exemption under this provision, the owner will be subject to the tree replacement requirements established in Section 19.30.070 for all trees removed in association with the exemption. The requirement to plant replacement trees shall be placed as a condition of approval on any permit for development activities.

Section 2149. Each and every provision of this Ordinance is severable. If any provision of this Ordinance is found to be unconstitutional or otherwise unenforceable or contrary to law by a court of competent jurisdiction, that finding shall not affect the validity of the remaining provisions, which shall remain in force and effect.

**PASSED BY A MAJORITY OF THE CITY COUNCIL AT A MEETING HELD ON THE 4<sup>th</sup> DAY OF MAY, 2017.**

CITY OF BLACK DIAMOND:

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Carol Benson, Mayor

Attest:

\_\_\_\_\_  
Brenda L. Martinez, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
David Linehan, City Attorney

Published: \_\_\_\_\_

Posted: \_\_\_\_\_

Effective Date: \_\_\_\_\_