



CITY OF BLACK DIAMOND
June 8, 2017 Special Meeting Agenda
25510 Lawson Street, Black Diamond, Washington

7:00 P.M. – CALL TO ORDER, FLAG SALUTE, ROLL CALL

PUBLIC COMMENTS: Persons wishing to address the City Council regarding items of new business are encouraged to do so at this time. When recognized by the Mayor, please come to the podium and clearly state your name. Please limit your comments to 3 minutes. If you desire a formal agenda placement, please contact the City Clerk at 360-886-5700. Thank you for attending.

UNFINISHED BUSINESS:

1) **AB17-038B** – Ordinance Regarding Traffic Concurrency Management

Mr. Boettcher

ADJOURNMENT:

CITY COUNCIL AGENDA BILL

City of Black Diamond
Post Office Box 599
Black Diamond, WA 98010

ITEM INFORMATION		
SUBJECT:	Agenda Date: June 8, 2017	AB17-038B
Ordinance amending exceptions to Concurrency regulations in Chapter 11.11.40 of the Black Diamond Municipal Code	Mayor Carol Benson	
	City Administrator	
	City Attorney David Linehan	
	City Clerk – Brenda L. Martinez	
	Com Dev/Nat Res –	
	Finance – May Miller	
	MDRT/Ec Dev – Andy Williamson	
	Police – Chief Kiblinger	
Cost Impact (see also Fiscal Note): \$0	Public Works – Seth Boettcher	X
Fund Source: --	Court – Stephanie Metcalf	
Timeline: April 2017		
Agenda Placement: <input checked="" type="checkbox"/> Mayor <input checked="" type="checkbox"/> Two Councilmembers <input type="checkbox"/> Committee Chair <input type="checkbox"/> City Administrator		
Attachments: Ordinance 17-xxx; BDMC 18.52.030 and 18.52.040; Dept. of Commerce Letter; Expedited Review E-mail		
<p>SUMMARY STATEMENT:</p> <p>Councilmembers Edelman and Deady have placed this item on the agenda.</p> <p>In implementing the concurrency ordinance, staff has found limited ability in making administrative decisions regarding temporary uses that are covered by temporary use permits covered in BDMC 18.52.030 (A & B) and 18.52.040. These temporary uses, structures, and activities (such as Christmas tree sales, seasonal fruit stands, temporary fireworks stands, etc.) are subject to concurrency regulations.</p> <p>Concurrency regulations would require these temporary uses, structures, and activities to pay the City for the City to conduct a traffic study (at times in excess of \$10,000) to determine the number of the long-term traffic impacts of these temporary items. As the items in BDMC 18.52.030 and 18.52.040 will not cause long-term traffic impacts, staff recommends clarifying the ordinance for traffic concurrency to exempt these practices.</p> <p>A public hearing was held on May 18th. Department of Commerce requires 15 days from their receipt of the proposed changes before adoption can take place. The Department of Commerce received these items for review on May 22nd and granted expedited review on June 6, 2017.</p> <p>FISCAL NOTE (Finance Department): N/A</p>		
COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:		
<p>RECOMMENDED ACTION: MOTION to adopt an Ordinance amending Chapter 11.11.040 of the Black Diamond Municipal Code to include additional</p>		

exemptions to the concurrency ordinance.

RECORD OF COUNCIL ACTION

<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
May 18, 2017	Public hearing	
June 1, 2017	Update to Council.	
June 8, 2017		

ORDINANCE NO. 17-_____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
BLACK DIAMOND, KING COUNTY, WASHINGTON,
RELATING TO EXCEPTIONS FROM CONCURRENCY;
AMENDING CHAPTER 11.11 OF THE BLACK DIAMOND
MUNICIPAL CODE; PROVIDING FOR SEVERABILITY;
AND ESTABLISHING AN EFFECTIVE DATE**

WHEREAS, BDMC 11.11.040 exempts certain development activity from the capacity reservation certificate process (as set forth in BDMC Ch. 11.11) because they do not create additional long-term impacts on transportation facilities; and

WHEREAS, the City Council finds that the temporary uses, structures, and activities described in BDMC 2.59, 18.52.030(A), 18.52.030(B), and 18.52.040 do not create additional long-term impacts on transportation facilities; and

WHEREAS, the City Council desires to alleviate the administrative and financial burdens of demonstrating concurrency for persons and businesses engaged in said temporary uses and activities;

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

Section 1 Amendment of BDMC 11.11.040 (Exempt development). Section 11.11.040 of the Black Diamond Municipal Code is hereby amended to read as follows:

11.11.040 Exempt development and activities

No development activity as defined in Section BDMC 11.11.030 shall be exempt from the requirements of this chapter, unless the permit, use, structure, or activity is listed below. The following types of permits, uses, structures, and activities are not subject to the capacity reservation certificate (CRC) process because they do not create additional long-term impacts on transportation facilities:

- A. Administrative interpretations;
- B. Sign permit;
- C. Street vacations;
- D. Demolition permit;
- E. Street use permit;
- F. Interior alterations of a structure with no change in use;
- G. Excavation/clearing permit;
- H. Hydrant use permit;
- I. Right-of-way permit;
- J. Single-family remodeling with no change of use;
- K. Plumbing permit;

- L. Electrical permit;
- M. Mechanical permit;
- N. Excavation permit;
- O. Sewer connection permit;
- P. Driveway or street access permit;
- Q. Grading permit;
- R. Tenant improvement permit;
- S. Fire code permit;
- T. Design review approval.;
- U. Events permitted under BDMC 2.59;
- V. Temporary uses, structures, and activities permitted under BDMC 18.52.030(A) or (B); and
- W. Temporary uses, structures, and activities described under BDMC 18.52.040.

Notwithstanding the exemptions noted in this section, if any of the above permit applications will generate any permanent (as opposed to temporary) new p.m. peak hour trips, such application shall not be exempt from the requirements of this chapter.

Section 2. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 3. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

PASSED BY A MAJORITY OF THE CITY COUNCIL AT A MEETING HELD ON THE ___ DAY OF ____, 2017.

CITY OF BLACK DIAMOND:

Carol Benson, Mayor

Attest:

Brenda L. Martinez, City Clerk

APPROVED AS TO FORM:

David Linehan, City Attorney

Published: _____

Posted: _____

Effective Date: _____

operation shall mean any or part of any day in which the business is conducted. The six months need not run consecutively. The six months may occur at any time within a calendar year as long as each day is designated and approved.

E. All temporary uses shall obtain, prior to occupancy of the site, all applicable permits, licenses and other approvals (i.e., business license, building permit, administrative approvals, etc.)

F. The applicant for a temporary use shall supply written authorization from the owner of property on which the temporary use is located.

G. Each site occupied by a temporary use shall be left free of debris, litter, or other evidence of the temporary use upon completion of removal of the use.

H. All materials, structures and products related to the temporary use must be removed from the premises between days of operation on the site, provided that materials, structures and products related to the temporary use may be left on-site overnight between consecutive days of operation.

I. The director may establish such additional conditions as may be deemed necessary to ensure land use compatibility and to minimize potential impacts on nearby uses. These include but are not limited to, time and frequency of operation, temporary arrangements for parking and traffic circulation, requirement for screening or enclosure, and guarantees for site restoration and cleanup following temporary uses.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

18.52.030 Uses allowed only by temporary use permit.

A. The following temporary uses, activities and associated structures are allowed by a Type 1 application temporary use permit, subject to the specific limitations of this chapter and as may be established by the director:

1. Outdoor art and craft shows and exhibits;
2. Retail sales of Christmas trees, agricultural or horticultural products, firewood, seafood, and other items typically marketed seasonally;

3. Mobile services such as veterinary services for purposes of giving vaccinations;

4. Group retail sales such as swap meets, flea markets, parking lot sales, Saturday market, auctions, etc.;

5. A mobile home or travel trailer with adequate water and sewer service used as a dwelling while a residential building on the same lot is being constructed or while a damaged residential building is being repaired;

6. When elderly or disabled relatives of the occupant of an existing residence require constant supervision and care, a mobile home with adequate water and sewer services located adjacent to such residence may be permitted to house the relatives;

7. Circuses, carnivals, fairs, or similar transient amusement or recreational activities.

B. The director may authorize additional temporary uses not listed in this subsection, when it is found that the proposed uses are in compliance with the provisions of this section.

C. Temporary uses that exceed any of the standards of this section or are proposed to exist longer than six months shall require approval by the hearing examiner (Type 3 application). (Ord. No. 909, § 2 (Exh. A), 6-18-2009)

18.52.040 Uses allowed without a temporary use permit.

The following activities and structures are exempt from requirements to obtain a temporary use approval:

A. Mobile homes, residences or travel trailers used for occupancy by supervisory and security personnel on the site of an active construction project.

B. Guests of residents in recreational vehicles for not more than fourteen consecutive days and not more than sixty days per calendar year.

C. Model homes or apartments and related real estate sales and display offices/activities located within the subdivision or residential development to which they pertain.

D. Contractor's office, storage yard, and equipment parking and servicing on the site of an active construction project.

E. Garage sales, moving sales, and similar activities for the sale of personal belongings when operated not more than three days in the same week and not more than twice in the same calendar year. Allowed in all residential zoning districts only between the hours of 7:00 a.m. and 7:00 p.m.

F. Fund raising carwashes.

G. Vehicular or motorized catering such as popsicle/ice cream scooters and self-contained lunch wagons which cater to construction sites or manufacturing facilities.

H. Weekend (Saturday and Sunday) only, warehouse sales when held no more than once a calendar quarter in an existing facility in business/industrial park or industrial zoned districts.

I. Fireworks stands, which comply with the requirements of Chapter 8.04, and subject to the following requirements:

1. Only one sign is allowed.
2. Signage must be attached to the firework stand.
3. No "sandwich" board type signs are allowed.
4. All firework stand operations and sales must take place outside of landscaped areas and public rights-of-way.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

Chapter 18.54

HOME OCCUPATIONS

Sections:

18.54.010 Intent.

18.54.020 General requirements.

18.54.030 When permitted as a matter of right.

18.54.040 When permitted by administrative conditional use permit.

18.54.050 Exemptions.

18.54.060 Enforcement.

18.54.070 Activities not permitted as home occupations.

18.54.010 Intent.

It is the intent of this section to:

A. Permit residents of the community a broad choice in the use of their homes as a place of livelihood and the production or supplementing of personal/family income.

B. Protect residential areas from potential adverse impact of activities defined as home occupations.

C. Establish criteria and development standards for the use of residential structures or dwelling units for home occupations.

1. *Home occupation* means any activity conducted for financial gain or profit in a dwelling unit, in a building other than a dwelling unit, but located on the property of the dwelling unit, or located on adjacent property to the dwelling unit but having the same zoning as the dwelling unit, or activity conducted on the property, even though not within the structure, and which activity is not generally or customarily characteristic of the activities for which the dwelling units and/or their property surrounding are intended or designed.

2. The activity is clearly incidental or secondary to the residential use of the dwelling units; and is conducted only by persons residing in the dwelling unit.



STATE OF WASHINGTON

DEPARTMENT OF COMMERCE

1011 Plum Street SE • PO Box 42525 • Olympia, Washington 98504-2525 • (360) 725-4000
www.commerce.wa.gov

May 22, 2017

Scott Hanis
Capital Project/Program Manager
City of Black Diamond
24301 Roberts Drive
Post Office Box 599
Black Diamond, Washington 98010

Dear Mr. Hanis:

Thank you for sending the Washington State Department of Commerce (Commerce) the following materials as required under RCW 36.70A.106. Please keep this letter as documentation that you have met this procedural requirement.

City of Black Diamond - Proposed amendment to exempt certain events, temporary uses, structures, and activities from requirements in the City's transportation concurrency ordinance. Proposed exemptions are exempt in other parts of the City's code (Title 11 - Concurrency). These materials were received on May 22, 2017 and processed with the material ID # 23731. Expedited Review is requested under RCW 36.70A.106(3)(b).

If this submitted material is an adopted amendment, then please keep this letter as documentation that you have met the procedural requirement under RCW 36.70A.106.

If you have submitted this material as a draft amendment requesting expedited review, then we have forwarded a copy of this notice to other state agencies for expedited review and comment. If one or more state agencies indicate that they will be commenting, then Commerce will deny expedited review and the standard 60-day review period (from date received) will apply. Commerce will notify you by e-mail regarding of approval or denial of your expedited review request. If approved for expedited review, then final adoption may occur no earlier than fifteen calendar days after the original date of receipt by Commerce. Please remember to submit the final adopted amendment to Commerce within ten days of adoption.

If you have any questions, please contact Growth Management Services at reviewteam@commerce.wa.gov, or call Dave Andersen (509) 434-4491 or Paul Johnson (360) 725-3048.

Sincerely,

Review Team
Growth Management Services

Scott Hanis

From: COM GMU Review Team <reviewteam@commerce.wa.gov>
Sent: Tuesday, June 06, 2017 6:37 AM
To: Scott Hanis
Cc: Andersen, Dave (COM)
Subject: 23731, City of Black Diamond, Expedited Review Granted, DevRegs

Dear Mr. Hanis:

The City of Black Diamond has been granted expedited review for the: Proposed amendment to exempt certain events, temporary uses, structures, and activities from requirements in the City's transportation concurrency ordinance. Proposed exemptions are exempt in other parts of the City's code (Title 11 - Concurrency). This proposal was submitted for the required state agency review under RCW 36.70A.106.

As of receipt of this email, the City of Black Diamond has met the Growth Management Act notice to state agency requirements in RCW 36.70A.106 for this submittal. For the purpose of documentation, please keep this email as confirmation.

If you have any questions, please contact reviewteam@commerce.wa.gov