

**CITY OF BLACK DIAMOND  
WASHINGTON  
ORDINANCE NO. 13-1010**

---

**AN ORDINANCE OF THE CITY OF BLACK DIAMOND,  
WASHINGTON, RELATING TO ALLOWED DENSITIES  
WITHIN RESIDENTIAL CLUSTER DEVELOPMENTS;  
AMENDING BDMC CHAPTER 18.86; PROVIDING FOR  
SEVERABILITY; AND ESTABLISHING AN EFFECTIVE  
DATE**

---

WHEREAS, the City adopted a new Zoning Code in June 2009, which include provisions for allowing clustered residential development (BDMC 18.86); and

WHEREAS, in 2012, the City of Black Diamond Comprehensive Plan was amended to reflect that residential densities are to be calculated based upon “net” instead of “gross” acres; and

WHEREAS, this change in policy requires the Black Diamond Municipal Code to be amended to ensure consistency between the Comprehensive Plan and implementing development regulations; and

WHEREAS, the Planning Commission conducted a duly advertised public hearing on April 9, 2013 regarding the proposed change, at which no public comment was provided; and

WHEREAS, the Planning Commission voted to recommend that the City Council adopt the proposed amendments;

WHEREAS, an Environmental Checklist for a non-project action was prepared under the State Environmental Policy Act (RCW Chapter 43.21.C), pursuant to Washington Administrative Code Chapter 197-11, and a Determination of Non-Significance (“DNS”) was issued on March 22, 2013; and

WHEREAS, in accordance with RCW 36.70A.106 and WAC 365-196-620, a notice of intent to adopt the proposed amendments was sent to the State of Washington Department of Commerce and to other state agencies to allow for a 60-day review and comment period, which comment period ended prior to adoption of this ordinance; and

WHEREAS, the proposed amendments are consistent with, and serve to implement, the City’s adopted Comprehensive Plan; and

WHEREAS, the City Council finds that the amendments to BDMC Ch. 18.86 are in the best interest of the public health, safety and welfare;

NOW, THEREFORE, the City Council of the City of Black Diamond, Washington, do ordain as follows:

Section 1. Amendment of BDMC Chapter 18.86 (Residential Cluster Development). Chapter 18.86 of the Black Diamond Municipal Code is hereby amended (*amendments shown in legislative revisions marks*) to read as follows:

**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 or more dwelling units.

**18.86.030 - Procedures and criteria.**

- A. Review Procedures. RCD applications are processed as a Type 3 Hearing Examiner decision pursuant to the provisions set forth in Chapter 18.08. Proposals for clustering shall be subject to and consolidated with the provisions for preliminary plat approval, if individual lot ownership is proposed.
- 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 BDMC 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; and

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. Through a RCD, modifications to the setbacks, height, lot area, building coverage and development coverage standards of the underlying zone district may be granted.~~

~~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.~~

#### **18.86.040 - Development standards.**

A. The following standards are applicable to an RCD application:

1. Density. The maximum density of the underlying zone shall apply. Maximum density is determined by multiplying the allowable maximum density of the underlying zone district by the gross acreage of the site, less any area containing sensitive areas and buffers required pursuant to BDMC 19.10. ~~prior to development.~~

2. Minimum Site ~~Size~~Area Required. Three times the minimum lot size as required in the underlying zone district.

3. Minimum Lot Size. The minimum lot size by underlying zone district is:

- a. R4 Zone: six thousand square feet.
- b. R6 Zone: four thousand square feet.
- c. MDR8 Zone: two thousand eight hundred square feet.

4. Height. The maximum building height of the underlying zone may be increased, provided the height of buildings is compatible with the scale of the surrounding neighborhood, does not adversely affect existing scenic views, and ensures a reasonable balance of light and shadow on adjacent properties. Increased setbacks and location of structures may be used to mitigate effects of increased height and to insure compatibility.

5. Other Lot Standards. Deviations may be granted to the underlying zone development standards including setbacks, lot area, building coverage, and development coverage, except as limited herein.

B. Perimeter Setbacks. At a minimum, structures shall comply with the setbacks of the underlying zone along all perimeter lot lines of the overall site.

C. Circulation.

1. All public or private streets within the development and adjacent rights-of-way shall be designed and constructed in accordance with city street standards. Private driveways may provide different design alternatives.

2. Provision shall be made for a functional pedestrian circulation system that assures the safe movement of pedestrians both on the site and between nearby properties and activities.

3. All streets and parking areas shall contribute to the overall aesthetic design of the project while minimizing traffic congestion and the amount of impervious surface area.

4. The provision for adequate parking, loading, access and circulation facilities within the RCD shall be those contained in the parking requirements as set forth in Chapter 18.80. The hearing examiner may modify these standards to best meet the needs and objectives of the project, provided project parking will not spill over into nearby neighborhoods.

D. Screening. All utility facilities, loading areas, trash containers, and outdoor storage areas shall be screened from surrounding properties. Solid fences, walls, and blank walls of buildings shall be softened through the use of trees and/or other landscaping materials if their impact cannot be minimized through architectural design or orientation.

E. Open Space.

1. Open Space Designation. The remaining land not developed for a permitted use shall be maintained as common open space. If an RCD is being subdivided, open space areas shall be located on a separate tract or tracts and shall be developed for recreational uses or set aside to preserve environmentally sensitive areas. Open space shall not include land for streets, driveways, parking or other infrastructure improvements, unless such facilities are integral to providing public accessibility to an open space amenity.

2. Development. Facilities and other improvements that enhance recreational use may be located in an open space.

3. Open Space Plan. An open space plan is required to identify all improvements, including trails and other active and passive recreational facilities and areas, environmentally sensitive areas, significant trees pursuant to Chapter 19.30, other vegetation to be preserved, and designation of areas for general public access. A management plan outlining maintenance responsibility shall be included as part of the plan.

4. Guarantees. A legal instrument approved by the city and recorded with King County, which shall include a notice on the title referencing the legal instrument, shall be executed by the property owner. The legal instrument shall include the following types of guarantees:


- a. Retention of the open space per the open space plan prescribed in subsection (E)(3) of this section;
  - b. Provision for perpetual maintenance of the open space and commonly owned facilities;
  - c. Grant to or reservation for the use of property owners of all open space and commonly owned facilities within the development;
  - d. Conveyance to a property owners' association or corporation;
  - e. Execution of a conservation easement in favor of the city; and
  - f. Conveyance by deed or easement for public use.
- F. Site Design Elements Reflecting the Setting and Community Heritage. An RCD application shall indicate how the RCD proposal responds to the following community interests:
- 1. Maintaining, enhancing, or replacing existing native vegetation along arterial and collector streets;
  - 2. Integration of local cultural or historical features into site design; and
  - 3. Integration of local architectural components as identified in the design guidelines adopted pursuant to Chapter 18.74.

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.

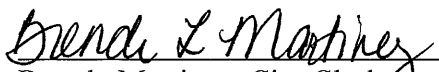
Section 3. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

**ADOPTED** BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 5<sup>TH</sup> DAY OF SEPTEMBER, 2013.

CITY OF BLACK DIAMOND

  
 \_\_\_\_\_  
 Rebecca Olness, Mayor

ATTEST/AUTHENTICATED:

  
 \_\_\_\_\_  
 Brenda Martinez, City Clerk

Approved as to form:

---

Chris D. Bacha,  
Kenyon Disend PLLC  
City Attorney

Filed with the City Clerk: *9/6/2013*  
Passed by the City Council: *9/5/2013*  
Ordinance No. 13-1010  
Date of Publication: *9/13/2013*  
Effective Date: *9/18/2013*