

**ORDINANCE NO. 14-1036**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, RELATING TO LAND USE AND ZONING, ADOPTING FINDINGS AND CONCLUSIONS FOR THE EXTENSION OF A MORATORIUM ON THE ACCEPTANCE OF APPLICATIONS FOR NEW DEVELOPMENT WITHIN THE MASTER PLANNED DEVELOPMENT (MPD) DISTRICT, EXCLUDING ANY APPLICATIONS SUBJECT TO THE DEVELOPMENT AGREEMENTS APPROVED FOR THE MPD DEVELOPMENTS ENTITLED THE VILLAGES AND LAWSON HILLS, SUCH EXTENSION FOR SIX MONTHS AFTER THE ADOPTION OF ORDINANCE 14-1034, ESTABLISHING AN EFFECTIVE DATE.

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WHEREAS, on May 1, 2014, the City adopted Ordinance 14-1025, 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 Council adopted Ordinance 14-1034, extending the moratorium for another six months; and

WHEREAS, on October 2, 2014, the City Council held a public hearing on the continued maintenance of this moratorium for the six month period established in Ordinance 14-1034; and

WHEREAS, after this public hearing, the Council voted 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 (excluding any applications subject to the development agreements approved for the Villages and Lawson Hills developments), 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. Findings. A public hearing was held by the City Council on the moratorium extension in Ordinance 14-1034. Here is a summary of the testimony received during that hearing:

Carol Morris. City Attorney Carol Morris summarized the need for the moratorium as follows: (1) the City's ordinance on Master Planned Developments is basically an ordinance for planned unit developments (or "PUD"), which is an alternative zoning method to traditional lot-by-lot zoning, sometimes called cluster zoning; (2) normally, a PUD is an "overlay" to the underlying zoning that has been adopted for the property; (3) PUD ordinances allow specific variations from the underlying zoning in exchange for certain amenities that provide a benefit to the public; (4) a review of the City's MPD ordinance discloses that there is no underlying zoning district and the development regulations applicable to the property are identified for the first time in a development agreement, which procedure avoids the normal procedure and public notice requirements for the adoption of development regulations; and (5) the City has adopted a new development agreement ordinance that does not allow the adoption of new development regulations through the use of a development agreement. Based on these facts, the City plans to change the procedure to allow for the City Council's consideration of an ordinance establishing the zoning for the subject property, as well as a planned unit development ordinance.

The moratorium needed to be extended because there has been significant personnel turnover and budget changes at the City of Black Diamond. As a result, the MPD moratorium was not addressed during the first six months, but is now a priority.

Proposal by Palmer Coking Coal. In a previous hearing, the Council specifically exempted any tree cutting or forest practice activities (identified in Black Diamond Municipal Code Section 19.30.050(F) from this moratorium.

2. Council Deliberations. The Council voted to continue the moratorium.

3. Moratorium Continued. The City Council hereby continues the six-month moratorium adopted on August 21, 2014 in Ordinance 14-1034, on the acceptance of all non-exempt development permit applications (as defined in that Ordinance) for development activities on property located within the MPD zone, as such property is shown on the map attached to Ordinance 14-1034 as Exhibit A, which is derived from the City's Official Zoning Map. All such non-exempt applications shall be rejected and returned to the applicant. The moratorium imposed by Ordinance 14-1034 shall not prevent any property owner from submitting an application for an exemption under BDMC Section 19.30.050(F). With regard to the City's acceptance of any such application for an exemption under BDMC Section 19.30.050(F), the City's acceptance shall allow processing to proceed, but shall not constitute an assurance that the application will be approved.

Section 3. 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 4. Publication and Effective Date. This Ordinance shall be published by an approved summary consisting of the title. This ordinance shall be effective five days after publication, as provided by law.

PASSED by the Council and approved by the Mayor of the City of Black Diamond, this  
16<sup>th</sup> day of October, 2014.

CITY OF BLACK DIAMOND

  
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Mayor Dave Gordon

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: 10/17/14  
PASSED BY THE CITY COUNCIL: 10/16/14  
PUBLISHED: 10/21/14  
EFFECTIVE DATE: 10/26/14  
ORDINANCE NO: 14-1036