

City of Black Diamond

STATE ENVIRONMENTAL POLICY ACT (SEPA)

Determination of Nonsignificance (DNS)

Date of issuance: January 13, 2021

Lead agency: City of Black Diamond

Agency Contact: Mona Davis, Department of Community Development
mdavis@blackdiamondwa.gov
(360) 851-4447

Description of proposal: Non-Project action to update the City of Black Diamond Sensitive Area Ordinance (SAO), Black Diamond Municipal Code (BDMC) Chapter 19.10.

Location of proposal: Citywide

The City of Black Diamond, Lead Agency, has determined that this proposal will not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). The SEPA Official has reviewed the attached Environmental Checklist and supporting materials. This information is available at:
http://www.ci.blackdiamond.wa.us/public_notices.html

This determination is based on the following findings and conclusions:

The Lead Agency finds the proposed Non-Project action to update the City's SAO, as required under the Growth Management Act (GMA), is consistent with state and local policies and regulations and it demonstrates the City's commitment to protecting its natural environment.

This DNS is issued under WAC 197-11-340(2) and the comment period will end at 5:00 pm on January 27, 2021. Contact the Agency Contact at the City of Black Diamond, Community Development Department if you need assistance obtaining project documents for review. Comments must be submitted prior to the close of the comment period to City of Black Diamond, Department of Community Development either by mail to: PO Box 599, Black Diamond WA, 98010 or email to: mdavis@blackdiamondwa.gov.

You may appeal this determination at the Community Development Department via the methods listed above for submitting comments, no later than 5:00 pm on February 3, 2021 by completing the proper appeal form and paying an appeal fee of \$487.00. You should be prepared to make specific factual objections. Please contact the Agency Contact, Mona Davis, to obtain additional information about filing an appeal.

Signature _____



SEPA Nonproject Review Form

1) Background

- a) Name of proposal, if any, and brief description.

City of Black Diamond Sensitive Area Ordinance (Critical Area Ordinance) Update, Chapter 19.10 of the Black Diamond Municipal Code (BDMC).

The City of Black Diamond is proposing to adopt amendments to its Sensitive Area Ordinance (aka critical area ordinance) codified in BDMC Chapter 19.10, as required under the Growth Management Act (GMA).

- b) Agency and contact name, address, telephone, fax, email.

Mona Davis, City of Black Diamond Community Development Director/SEPA Official, 24301 Roberts Drive, PO Bos 599, Black Diamond, WA 98010.

Phone: 360.851.4447 Email: mdavis@blackdiamondwa.gov

- c) Designated responsible official.

Mona Davis, City of Black Diamond Community Development Director/SEPA Official

- d) Describe the planning process schedule/timeline

The City's current Sensitive Area Ordinance (SAO) was adopted in 2009 and is codified under BDMC Chapter 19.10. The GMA mandated the City to update its Comprehensive Plan in 2015 and the SAO in 2016 using checklists prepared by the Washington State Department of Commerce, "Commerce".

The City completed its required periodic Comprehensive Plan Update in May 2019 and began working on updating the SAO after completing the Commerce Checklist. The Planning Commission discussed proposed changes during public meetings and held a public hearing to take testimony on the proposed draft code revisions on October 6, 2020.

City staff forwarded a copy of the Planning Commission's recommenced draft to the Department of Commerce for the 60-day review on December 28, 2020. The review period ends on February 26, 2021. The anticipated date for presenting draft code revisions to City Council is March 4, 2021. The 14-day SEPA comment period will run concurrent with the 60-day review period and staff anticipates any changes made due to public or agency input during the review periods will be integrated into the final draft version presented to City Council for consideration.

- e) Location - Describe the jurisdiction or area where the proposal is applicable.

The Nonproject action to update the City's SAO applies to the entire city jurisdictional boundaries.

- f) What is the legal authority for the proposal?

This Nonproject action is required under the GMA with the authority for the City to regulate its critical areas provided under state and federal environmental protection laws as well the Planning Enabling Act.

- g) Identify any other future nonproject actions believed necessary to achieve the objectives of this action.

The City adopted its required periodic GMA Comprehensive Plan update in May 2019. This Nonproject action to review and revise the City's SAO is part of the required GMA action. The implementation of environmental protection is based on Best Available Science and the City's adopted comprehensive plan policies and is codified in BDMC Chapter 19.10.

2) Need and Objectives

- a) Describe the need for the action. (Whenever possible this should identify the broad or fundamental problem or opportunity that is to be addressed, rather than a legislative or other directive.)

The Nonproject action to update the City's SAO is required under the GMA. The mandate to do so is an opportunity to ensure the environmental projections in place are consistent with new state or federal regulations as well as the newly adopted Comprehensive Plan polices. For example, the City's current SAO adopted an old version of the State's Wetland Identification and Delineation Manual and Wetland Rating System and these need to be consistent with the Washington State DOE manuals and guidance for transparency and ease of administration.

Additionally, there were several areas in the adopted SAO that were improved by adding additional language to remove ambiguity and to cross reference with other code provisions such as the Chapter regulating development in floodplains. The outcome of the City's Comprehensive Plan update resulted in some strengthening of environmental policies and it set the stage for considering new or emergent topics such as the need to better protect important species and habitats, including identification of conservation areas and species of local importance. This new language is the result of public concerns about the impacts not being sufficiently addressed as the city is experiencing significant development.

- b) Describe the objective(s) of the proposal, including any secondary objectives which may be used to shape or choose among alternatives.

As stated above in part a, the objectives of this Nonproject action are to make sure the city's SAO is up to date and consistent with new or revised state and federal rules, to correct references that are not accurate, to clarify and remove ambiguity, and to implement stronger environmental protections within the City. A specific new/emergent topic which

was discovered during public input was the need for the City to better protect wildlife and habitat.

- c) Identify any assumptions or constraints, including legal mandates, which limit the approach or strategy to be taken in pursuing the objective(s).

There are no restrictions the city is aware of that would impede achieving the above stated objectives. There biggest constraints will budgetary in that the City will need to work to better educate the community about its SAO and the necessity to implement environmental protections.

The development of incentives and other non-regulatory ways to protect habitat conservation areas through open space planning and the identification and designation of priority species and habitats will need funding. As both money and staff time is scarce to engage in long range planning efforts and to develop new programs, such an effort will need to be a priority of the City's elected official.

- d) If there is no legislative or other mandate that requires a particular approach, describe what approaches could reasonably achieve the objective(s).

As previously described, nonregulatory approaches such as incentives and educational programming will be necessary to achieve the objectives of expanding open space protections to support conserve habit and wildlife areas.

3) Environmental Overview

Describe in broad terms how achieving the objective(s) would direct or encourage physical changes to the environment. Include the type and degree of likely changes such as the likely changes in development and/or infrastructure, or changes to how an area will be managed.

What is envisioned in a broad, big picture objective is for the City to move toward identification and designation of open space corridors necessary to provide better long-term protections/conservation of lands needed to support important habitat and species. While most of the SAO is comprised of correcting and clarifying language, the new language relating to fish and wildlife habitat conservation areas, the WDFW priority species and habitat program, and habits of local importance is targeted to change the physical environment to expand open space corridors and buffers to better protect City's native plants and wildlife. In proposing this draft language, staff envisions several planning efforts focused on the mapping of conservation areas as open space corridors based on the identification of certain important species and their habitat needs. If achieved, this may change the location of where and what types of uses and development may occur within the city. Management of these areas would be a combination of new regulations and voluntary programs.

4) Regulatory Framework

- a) Describe the existing regulatory/planning framework as it may influence or direct the proposal.

The existing planning framework includes the City's adopted Comprehensive Plan policies. As stated, the community is very concerned about losing environmental resources due to

development. During the periodic Comprehensive Plan update and the update to the City's Shoreline Master Program update, the planning department received considerable public input about the loss of wildlife and need to strengthen environmental policies and regulations. These two policy documents directly influence this proposal.

- b) Identify any potential impacts from the proposal that have been previously designated as acceptable under the Growth Management Act (GMA), chapter 36.70A RCW.

I don't really understand this question. There are no potential impacts from this proposal to increase environmental protections that have previously been designated as acceptable under the GMA. The potential impacts could be the loss of land to develop future housing units, the City is working on a housing action plan that will consider opportunities for infill and increased densities in areas that do not impact critical areas.

5) Related Documentation

- a) Briefly describe any existing regulation, policy or plan that is expected to be replaced or amended as a result of the proposal. (Adequate descriptions in section 4.a may be referenced here, rather than repeated.)

This non project action is to amend the City's SAO (CAO) which is codified in BDMC Chapter 19.10.

- b) List any environmental documents (SEPA or NEPA) that have been prepared for items listed in 4.a. or that provide analysis relevant to this proposal. **Note:** Impacts with previous adequate analysis need not be re-analyzed but should be adopted or incorporated by reference into the NPRF.

- i) Type of document:

City of Black Diamond Best Available Science Review and Recommendation, September 2008.

Determination of Non-Significance, February 22, 2008. Issued by City of Black Diamond SEPA official.

- c) List other relevant environmental documents/studies/models which have been identified as necessary to support decision making for this proposal.

The Department of Commerce checklist for SAO updates.

6) Affected Environment

Generally, describe the existing environmental landscapes or elements (e.g., character and quality of ecosystem, existing trends, infrastructure, service levels, etc.) likely to be affected if the proposal is implemented. Include a description of the existing built and natural environment where future "on the ground" activities would occur that would be influenced by the nonproject proposal.

This Nonproject action, to update the City's SAO (CAO) ordinance applies to the entire City. The City is approximately 7.19 square miles of which a significant portion is

impacted by sensitive/critical areas: wetlands, waterbodies, and their associated buffers. In addition, the City of Black Diamond was originally settled as a historical coal mining town. Therefore, much of the City is underlain by coal mine workings. Other large tracts of land were historically held by timber companies and were forested.

With the passing of the GMA and through the establishment of the City's urban growth area boundaries and future annexation areas, the large timber tracts annexed into the City and sold for development parcels. Two large master planned developments (MPDs) have since been permitted and are under construction. The master builder for these MPDs have an agreement with the City to construct new and expanded infrastructure concurrent with buildout to maintain adopted levels of service. The construction of the MPDs is spurring other land owners to develop their land, outside of the MPDs. All of this has the community concerned about the ability to maintain the City's rural feel and in particular to ensure that habitat and wildlife in and around the wetlands and water bodies is sufficiently protected.

During the City's periodic Comprehensive Plan update, the concepts of creating better habitat and wildlife protections and maintaining the City's "rural, small town character" were repeatedly brought up. City staff intends to explore ways to achieve this through voluntary and regulatory means which may include identification and designation of future open space corridors necessary to support habitat and wildlife and to further separate or buffer development tracts from open space.

7) Consistency of the proposal with other plans, policies, and laws.

- a) Internal consistency - If there are internal inconsistencies between this proposal and your agency's previously adopted or ongoing plans and regulations, identify any strategies or ideas for resolving these inconsistencies.

The new language in this Nonproject proposal, to amend the City's SAO (CAO), will require the City to conduct an audit for potential internal inconsistencies and revise it's comprehensive plan policies and development regulations if any are found.

- b) External consistency - If there are external inconsistencies between this proposal and adopted or ongoing plans and regulations of adjacent jurisdictions and/or other agencies, identify any strategies or ideas for resolving these inconsistencies.

None exist to my knowledge.

8) Monitoring and Follow-up

- a) Describe any monitoring that will occur to ensure the impacts were as predicted and that mitigation is effective, including responsible party, timing, and method(s) to be used.

No mitigation or monitoring will occur with this Nonproject action.

- b) Identify any plans or strategies for updating this proposed action based on deviation from impact projections or other criteria. None.