

ORDINANCE NO. 19-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON, AMENDING CHAPTERS 18.50 AND 18.56 OF THE BLACK DIAMOND MUNICIPAL CODE; UPDATING THE INTENT, GENERAL PROVISIONS, STANDARDS, AND PROCESSES RELATING TO APPLICATIONS FOR AND APPROVAL OF ACCESSORY USES AND STRUCTURES AND ACCESSORY DWELLING UNITS; AMENDING CHAPTERS 18.30 AND 18.32 MAKING MAXIMUM ACCESSORY STRUCTURE HEIGHTS IN RESIDENTIAL ZONING DISTRICTS CONSISTENT WITH UPDATED CHAPTERS 18.50 AND 18.56; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, BDMC Chapter 18.50, as amended by Ordinance 948 in 2010, recognizes and provides for Accessory Uses and Structures, which are defined as activities and structures that are subordinate and incidental to the principle use of the land or buildings; and

WHEREAS, Black Diamond Municipal Code (BDMC) Chapter 18.56, adopted under Ordinance 909, authorizes the establishment Accessory Dwelling Units (ADUs) which are separate and completely independent dwelling units on lots already occupied by a single-family detached dwelling; and

WHEREAS, an ADU is a special type of Accessory Use or Structure; and the provisions and standards for ADUs and Accessory Uses and Structures are contained within BDMC Title 18, Zoning, which designates land use districts to facilitate development within the City consistent with the requirements of the Growth Management Act (GMA) and goals of the City of Black Diamond Comprehensive Plan and to provide for compatibility and consistent administration and enforcement of regulations between zoning districts; and

WHEREAS, the Comprehensive Plan and GMA set goals to encourage the availability of affordable housing to all economic segments of the population and to promote a variety of residential densities and housing types; and

WHEREAS, having worked with the existing provisions of Chapters 18.50 and 18.56 for several years, City staff has identified several issues and concerns that needed to be addressed along with certain provisions that needed clarifying or amending such as height restrictions for certain property owners to construct ADUs, as well as creating more opportunities for building ADUs consistent with the GMA and City's goals; and

WHEREAS, the Black Diamond Planning Commission discussed and held a duly noticed public hearing on January 8, 2019 and forwarded a recommendation to the City Council on the proposed amendments; and

WHEREAS, the City Council discussed the Planning Commission recommendation and held a duly noticed public hearing on March 7, 2019; and

WHEREAS, the resulting additions and amendments to chapters 18.50, 18.56, 18.30, and 18.32 contained in this ordinance should ensure that all persons desiring to construct an ADU will be treated consistently and fairly; that the provisions and standards contained within Title 18 are internally consistent and that the terms and conditions placed on development approvals shall further the long-term vision of the City of Black Diamond as a livable, vibrant, desirable community in which to live and work.

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

Section 1. Amendment of BDMC 18.30.040.A.9.b. (Single-Family Residential Districts: Development Standards, Site area and dimensional standards, Maximum building height, Accessory building). Section 18.30.040.A.9.b. of the Black Diamond Municipal Code is hereby amended (amendments shown in legislative revision marks) to read as follows:

18.30.040.A.9.b. – Accessory building: ~~No greater than the height of the primary dwelling unit or twenty-six feet, whichever is less.~~ Twenty-six feet.

Section 2. Amendment of BDMC 18.32.040.A.9.b. (Medium Density Residential District: Development Standards, Site Area and dimensional standards, Maximum building height, Accessory buildings). Section 18.32.040.A.9.b. of the Black Diamond Municipal Code is hereby amended (amendments shown in legislative revision marks) to read as follows:

Section 18.32.040.A.9.b – Accessory buildings: ~~The height of the primary building(s) or twenty-six feet, whichever is less.~~ Twenty-six feet.

Section 3. Amendments of BDMC Chapters 18.50 and 18.56 (Accessory Uses and Structures and Accessory Dwelling Units). Chapters 18.50 and 18.56 are hereby amended to read as shown on Exhibit “A”, which is incorporated to this ordinance by reference.

Section 4. Severability. Each and every provision of this Ordinance shall be deemed severable. In the event that any portion of this Ordinance is determined by final order of a court of competent jurisdiction to be void or unenforceable, such determination shall not

affect the validity of the remaining provisions thereof, provided the intent of this Ordinance can still be furthered without the invalid provision.

Section 5. Effective date. This Ordinance shall be in full force and effect five (5) days after publication as required by law. A summary of this Ordinance may be published in lieu of the entire Ordinance, as authorized by State law.

Introduced on the ____ day of _____, 2019.

Passed by the City Council on the ____ day of _____, 2019.

Mayor Carol Benson

ATTEST:

Brenda L. Martinez, City Clerk

APPROVED AS TO FORM:

David Linehan, City Attorney

Published: _____

Posted: _____

Effective Date: _____

Chapter 18.50 ACCESSORY USES AND STRUCTURES

Sections:

18.50.010 Intent.

18.50.020 General provisions.

18.50.030 Residential zone accessory uses and structures.

18.50.040 Commercial zones accessory uses and structures.

18.50.050 Industrial zone accessory uses and structures.

18.50.060 Fences and walls.

18.50.010 Intent.

This chapter recognizes activities and structures that are customarily subordinate and incidental to a principal use of the land or building and that are not otherwise regulated by this title.

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

18.50.020 General provisions.

A. Accessory structures and uses shall only be allowed on lots in conjunction with a primary use. Accessory structures or uses may not be established until the principle structure is constructed on the lot.

B. Accessory structures shall be ~~complementary to the basic architectural character of the main building on the lot, and~~ appropriate to the nature of the accessory use. Accessory structures and are also subject to the applicable design guidelines of Chapter 18.74.

C. No accessory ~~building structure~~ shall be larger than the ground floor area of the primary structure on any lot; provided that this limitation shall not apply to lots greater than thirty-five thousand square feet in size.

D. Compatibility with surrounding structures:

1. To assure that an accessory structure is architecturally and aesthetically in harmony with the surrounding area, it shall be similar in height to the nearest adjacent structure as determined by the Director, provided and notwithstanding, an accessory structure may be built to a height that will accommodate a motor vehicle, not to exceed fourteen feet in height, or an accessory dwelling unit subject to Chapter 18.56.

2. The maximum accessory structure height shall be measured from the finished grade located within 2 feet of the foundation wall to the highest point on the building or structure, excluding architectural elements such as

ATTACHMENT A TO ORDINANCE 19-XX

chimneys, cupolas that do not extend more than three feet above roof line, flag poles, and other similar structures as determined by the director within zoning districts as follows:

- a. Residential zones: Twenty-six feet. ~~or the height of the principal structure, whichever is less.~~
- b. Neighborhood commercial, community business and town center zones: Twenty-six feet.
- c. Business/industrial park and industrial zones: Thirty-five feet. ~~or the height of the principal use structure, whichever is less.~~

E. Required Setbacks:

1. Accessory structures shall observe the front, side and rear yard setback requirements of the zone in which they are located, except as provided in this chapter.
 - a. For any lot nine thousand six hundred square feet or less, a detached accessory building not exceeding twenty-six feet in height may disregard rear and interior side yard setback requirements if such building is no greater than six hundred fifty square feet in floor area, is located in the rear thirty percent of the lot or further than seventy-five feet from the front lot line and is no closer than twelve feet from the centerline of an adjacent alley.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009; Ord. No. 948, § 50, 10-7-2010)

18.50.030 Residential zone accessory uses and structures.

- A. The following accessory uses/activities are allowed in residential zones:
 1. The cultivation of flowers, trees or produce intended primarily for personal use or enjoyment;
 2. The keeping of animals is permitted in compliance with the Title 6;
 3. Accessory dwelling units in accordance with Chapter 18.56;
 4. Detached garage(s), carport(s), and parking facilities for the residents of the property;

ATTACHMENT A TO ORDINANCE 19-XX

5. Storage sheds, playhouses, decks, patios, cabanas, porches, gazebos, ~~swimming pools, workshops~~, garden sheds, greenhouses, and incidental household storage buildings;
6. Common recreational vehicle storage facilities limited to serving the development in which they are located;
7. Temporary storage containers used during an active construction project in compliance with 18.52;
8. Workshops and studios intended for noncommercial use by the occupants of the residences or permitted as a home occupation subject to 18.54, 8.12, Noise and 18.70, Lighting/Dark Sky;
9. Home offices and occupations in accordance with Chapter 18.54;
10. Swimming pools, including hot tubs and spas, and related equipment subject to fencing requirements and lighting regulations;
11. Tennis courts, sport courts, and recreation/exercise rooms for personal, noncommercial use by the occupants of the residence(s) subject to 18.54, subject to 8.12, Noise and 18.70, Lighting/Dark Sky;
12. Guesthouses subject to the following provisions:
 - a. A guesthouse shall be clearly subordinate, incidental and accessory from the main building on the same parcel; and
 - b. may contain living and sleeping spaces, including bathroom, but shall not contain a kitchen and shall not be used for residential occupancy independent from the principle residence or be rented separately from the main building. For the purpose of this section, kitchen facilities include any appliances for the preparation or preservation of food, including but not limited to cooking ranges and/or ovens, stovetops, refrigerators or freezers and cabinets designed to accommodate such appliances; and
 - c. no more than one guesthouse shall be established on any site.

~~B. Detached Accessory Buildings.~~

- ~~1. For any lot nine thousand six hundred square feet or less, a detached accessory building not exceeding twenty-six feet in height may disregard rear and interior side yard setback requirements if such building is no greater than six hundred fifty square feet in floor area, is located in the rear thirty percent of the lot or further than seventy-five feet from the front~~

ATTACHMENT A TO ORDINANCE 19-XX

~~lot line, and is no closer than twelve feet from the centerline of an adjacent alley.~~

- ~~2.—The total area of all accessory buildings located within a required rear yard shall not exceed twenty-five percent of the area of the required rear yard.~~
- ~~3.—Accessory buildings that exceed the building area, height and location standards noted above shall comply with all required yard setbacks.~~
- ~~4.—No accessory building shall be larger than the ground floor area of the primary structure on any lot; provided that this limitation shall not apply to lots greater than thirty-five thousand square feet in size.~~

(Ord. No. 909, § 2 (Exh. A), 6-18-2009; Ord. No. 948, § 51, 10-7-2010)

18.50.040 Commercial zones accessory uses and structures.

Accessory uses and structures in the Neighborhood Commercial (NC), Community Commercial (CC), and Town Center (TC) zones shall be consistent with those allowed under 18.50.030, limited to serving the residents of a mixed-use development, subject to site plan approval and applicable design standards.

~~The following accessory uses are allowed in the NC, CC, and TC zones:~~

- ~~A.—Storage buildings not to exceed the gross floor area of the principal use and in no case greater than two thousand square feet.~~
- ~~B.—Common storage facilities (including outdoor storage of recreational vehicles) limited to serving the residents of a mixed-use development.~~

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

18.50.050 Industrial zone accessory uses and structures.

The following accessory uses are allowed in the Business/Industrial Park (B/IP) and Industrial (I) zones subject to site plan approval and applicable design standards:

- A. Caretaker and security uses and structures ~~Accessory living quarters~~; and
- B. Storage buildings.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009; Ord. No. 948, § 52, 10-7-2010)

ATTACHMENT A TO ORDINANCE 19-XX

18.50.060 Fences and walls.

The height of the fence or wall shall be determined from the existing, established grade on the property.

- A. Fences and walls may be constructed to a height not to exceed the following in each of the required setback areas, as regulated per each zone, or as modified by subsection B of this section:
1. Front yard: Forty-two inches; provided, that fences constructed of wrought iron or similar materials that provide visibility may be seventy-two inches in height. Exception: Fences protecting a [swimming pool](#), agricultural use or community garden may exceed forty-two inches in height, provided they are at least seventy-five percent open;
 2. Side yard: Seventy-two inches;
 3. Rear yard: Seventy-two inches;
 4. Street side yard: Seventy-two inches.
 5. These limitations do not apply within the public zone district.
- B. Special Height Restrictions. There shall not be anything constructed or reconstructed, and no obstruction permitted to grow, other than a post, column or tree not exceeding one-foot square or one foot in diameter, between a height three feet and ten feet above the established grade within the triangular areas described below, without the express approval of the public works director:
1. The triangular area formed by a line extending twenty feet along the right-of-way lines of a street and alley or edge of a private driveway, measured from the point of intersection and the line connecting the two ends of the two twenty-foot lines;
 2. Fences located at the corner of intersecting streets shall comply with the sight distance requirements of the city public works standards.
- C. In general, no fence, wall, hedge, structure or other obstruction shall act as a sight hazard to traffic, and the public works director may order the removal of such hazard whether or not such object otherwise complies with the provisions of this title.
- D. Other than in the public, industrial or business/industrial park zones, no fence may include the use of barbed wire, ~~fazor wire, etc.~~; provided, that pasture areas a minimum of one acre in area may be fenced with barbed wire in any

ATTACHMENT A TO ORDINANCE 19-XX

zone. Barbed wire may be attached to the top of and in addition to the height of a seventy-two-inch fence, provided it does not extend more than one additional foot in height.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009; Ord. No. 962, § 3, 7-7-2011)

Chapter 18.56 ACCESSORY DWELLING UNITS

Sections:

[18.56.010 Intent.](#)

18.56.010 Definitions.

18.56.020 Where authorized.

18.56.030 Performance standards for accessory dwelling units.

18.56.040 Review process.

18.56.050 Recognition of existing accessory dwelling units.

[18.56.010 Intent.](#)

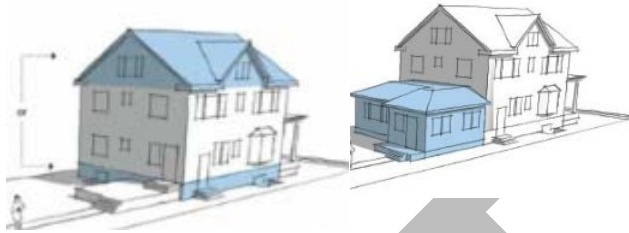
This Chapter is intended to promote and encourage the creation of accessory dwelling units (ADUs) in a manner that enhances residential neighborhoods in order to meet the city's housing needs and realize the benefits of ADUs to (1) provide homeowners flexibility in establishing separate living quarters within or adjacent to their homes for the purpose of caring for and providing housing for family members or obtaining rental income; (2) increase the range of housing choices and the supply of accessible and affordable housing units within the city; and (3) ensure that the development of ADUs does not cause unanticipated impacts on the character or stability of single-family neighborhoods.

18.56.010 Definitions.

- A. "Accessory dwelling unit" (ADU) means a ~~second~~ smaller, auxiliary dwelling unit located on a lot occupied by a single-family detached dwelling. This unit provides a separate and completely independent dwelling unit with facilities for cooking, sanitation and sleeping, and has a separate and independent entry/exist than one utilized for the primary residence

ATTACHMENT A TO ORDINANCE 19-XX

B. “Attached accessory dwelling unit” means an accessory dwelling unit that is attached to or part of the primary single-family housing unit. Examples include converted living space, basements or attics, attached garages, additions, or a combination thereof.



Examples of Attached ADUs.

C. “Detached accessory dwelling unit” means an accessory dwelling unit that consists of a building that is separate and detached from the primary single-family housing unit. Examples include converted garages or new standalone construction.



Example of Detached ADU.

D. “Dwelling unit” means a residential living unit that provides complete independent living facilities for one or more persons and that includes permanent provisions for living, sleeping, eating, cooking, and sanitation.

~~E. “Owner occupancy” means a property owner, as reflected in the real estate tax rolls who makes his or her legal residence at the subject lot as evidenced by voter registration, vehicle registration, or similar means, and actually resides upon the lot more than six months out of any given year.~~

ATTACHMENT A TO ORDINANCE 19-XX

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

18.56.020 Where authorized.

ADUs shall be permitted within any residential district subject to review and compliance with the standards and requirements of this chapter.

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

18.56.030 Performance standards for accessory dwelling units.

- A. Performance Standards. ~~Minimum Lot Size.~~ All performance standards, including lot size, minimum yard setbacks and overall building coverage as set forth for the applicable zoning district and in Chapter 18.50, ~~except as modified by this chapter, shall~~ be met with respect to the ADU. ~~accessory dwelling unit. An accessory dwelling unit shall not be permitted upon any lot that is nonconforming due to lot size.~~
- B. Number. ~~No more than one accessory dwelling unit~~ No more than two ADUs shall be permitted in conjunction with the primary dwelling unit on a single lot of record provided that adequate provisions for water and sewerage are met. One attached ADUs may be allowed within the existing building footprint and no more than one ADU resulting from new construction shall be allowed, including additions and garage or accessory structure conversions.
- ~~C. Location in Relation to Principal Residence. The accessory dwelling unit may be either detached or a part of the principal residence or an accessory building.~~
- ~~D. Zoning/Building Code Compliance. All new construction associated with an accessory dwelling unit shall meet the development standards for the applicable zone for an efficiency dwelling unit as set forth in the International Building Code adopted by the city.~~
- ~~E. Owner Occupancy. An owner of the property for which an accessory dwelling unit permit is requested must occupy at least one dwelling unit located on the property.~~

ATTACHMENT A TO ORDINANCE 19-XX

- C. Future Subdivision. Parcels upon which an ADU ~~accessory dwelling unit~~ has been approved shall not be subdivided or otherwise segregated in ownership in a manner that would separate the ADU ~~accessory dwelling unit~~ from the principal dwelling.
- D. Maximum Size. ~~An accessory dwelling unit shall not exceed fifty percent of the size of the primary dwelling on the lot or eight hundred square feet, whichever is less. A detached ADU shall be no greater than 1,000 square feet, not including the garage or covered porches. The following areas shall be counted when calculating the size of an ADU:~~
1. Habitable space as defined by the International Residential Code (IRC), and
 2. Kitchens, bathrooms, and utility/laundry rooms.
- ~~Accessory dwelling units~~ ADUs shall comply with the required site coverage, yard area requirements or building code setbacks as provided within the subject property's zone.
- E. Scale. A detached ADU ~~accessory dwelling unit~~ or accessory structure containing an accessory dwelling unit shall not exceed the maximum height allowed for a detached accessory building per the underlying zoning district.
- ~~F. Additions. Additions to an existing structure or newly constructed detached structures created for the purpose of creating an accessory dwelling unit, shall be designed in a manner that is consistent with existing roof pitch, siding and windows for the principal dwelling unit.~~
- F. Parking. At least one off-street parking space in addition to the minimum required off-street parking from the primary dwelling unit, shall be provided for ~~an~~ each ADU. ~~accessory dwelling unit.~~
- G. Utility Connections. Utility accounts for ADUs ~~accessory dwelling units~~ shall be maintained in the name of the property owner. ADUs ~~Accessory dwelling units~~ may be served by the same water meter and sewer connection utilized for the primary residence if approved by the city. The city may require an applicant to provide documentation demonstrating capacity availability prior to allowing a joint connection. The city may require upgrades to a utility connection and the cost of such upgrades

ATTACHMENT A TO ORDINANCE 19-XX

shall be borne by the applicant. Utility fees charged for the ADU shall be in accordance with Chapter 13.04. ~~but shall be assessed a monthly service fee as established by the city's fee schedule or applicable ordinance.~~ If water or sewer service is not provided by the city, then the rules of the water or sewer district shall apply as to whether an additional hook-up and connection fees are required. Any water or sewer service as referenced in this section is subject to water or sewer availability.

~~H. Design and Appearance. The accessory dwelling unit shall be designed so that, to the degree reasonably feasible, the appearance of the building is consistent with that of the primary residence. At a minimum, the new exterior construction associated with creating an accessory dwelling unit should match the existing exterior materials and design of the principal residence, and the pitch of any new roof should match that of the principal residence. New landscaping shall conform with or improve existing landscaping.~~

H. Entrance Location. An attached ADU ~~accessory dwelling unit~~ shall have a separate entrance to the outside from the entrance for the primary dwelling. ~~For attached accessory dwelling units, the entrance to the accessory dwelling unit shall be~~ located in such a manner as not to appear as a second primary entrance to the structure. ~~which contains the principal residence in an effort to maintain the appearance of a single-family residence.~~

I. ADUs shall be subject to applicable design guidelines under Chapter 18.74.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009; Ord. No. 948, § 53, 10-7-2010)

18.56.040 Review process.

A. Application. An applicant for an ADU ~~accessory dwelling unit~~ shall submit an application on a form as provided by the department, including all application fees as set forth in the city's fee schedule. At a minimum, an application for an ADU ~~accessory dwelling unit~~ permit shall include plans

ATTACHMENT A TO ORDINANCE 19-XX

for creating the [ADU accessory dwelling unit](#), evidence of current ownership and a certification of owner occupancy.

~~B. Certification of Owner Occupancy. The certification of owner occupancy shall be in the form of a notarized affidavit completed by the property owner as reflected in title records affirming that they make their legal residence upon the subject lot.~~

B. Review by Director. [ADU Accessory dwelling unit](#) permit applications shall be processed as Type 2 permit pursuant to [Chapter 18.08](#). Upon receipt of a complete application for an [ADU accessory dwelling unit](#), the director shall review and either approve, disapprove or approve with conditions ~~the ADU an application for an accessory dwelling unit. As a condition of approval, the applicant shall record a covenant in a form approved by the city attorney with the King County department of records and elections, providing notice to future owners for the subject lot of the existence of the accessory dwelling unit, the owner occupancy requirements of the city, any conditions imposed as a part of the approval of the accessory dwelling unit and notice of the requirements for continued use of an accessory dwelling unit as set forth in this chapter.~~

~~C. Approval. Approval of the ADU shall be subject to the applicant recording a document in a form approved by the city with the King County Department of Records and Elections prior to approval which runs with the land and identifies the legal description and address of the property with a statement that the owner(s) will notify any prospective purchasers of any conditions imposed as part of the ADU approval with the requirements for continued use of the ADU as set forth in this chapter.~~

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

18.56.050 Recognition of existing accessory dwelling units.

[ADUs Accessory dwelling units](#) that existed on or before the effective date of the ordinance codified in this chapter may be granted an [ADU accessory dwelling unit](#) permit subject to the provisions of this section.

ATTACHMENT A TO ORDINANCE 19-XX

- A. Time Limit. An application for an ADU accessory dwelling unit permit for a pre-existing unit must be filed with the city for review by the director planning commission within eighteen months of the effective date of the ordinance codified in this chapter.
- B. Construction Code Compliance. Any space used for or included in the ADU accessory dwelling unit shall have been constructed pursuant to a building permit issued by the city, and in compliance with the building and other construction codes that were in effect when construction was completed. ~~The applicant must provide written documentation to verify construction code compliance. Alternatively, the applicant may verify code compliance for existing construction through the building department.~~
- C. Development and Use Standards. Development and use of the pre-existing ADU accessory dwelling unit shall comply with all provisions of this chapter section.

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