



CITY OF BLACK DIAMOND
May 2, 2013 Meeting Agenda
25510 Lawson St., 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 and address. 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 this evening.

PUBLIC HEARINGS: None

APPOINTMENTS, PRESENTATIONS, ANNOUNCEMENTS:

- | | |
|--|--------------|
| 1.) Proclamation – Building Safety Month | Mayor Olness |
| 2.) AB13-035 – Confirmation of Mayor’s Appointment to Planning Commission | Mayor Olness |

UNFINISHED BUSINESS: None

NEW BUSINESS:

- | | |
|--|--------------|
| 3.) AB13-036 – Ordinance Regarding Address Changes | Ms. Welsh |
| 4.) AB13-037 – Ordinance Relating to Controlled Substances | Mr. Bacha |
| 5.) AB13-038 – Ordinance Relating to Civil Infractions | Mr. Bacha |
| 6.) AB13-039 – Resolution Confirming City Administrator and Executing an Employment Agreement | Mayor Olness |

DEPARTMENT REPORTS:

MAYOR’S REPORT:

COUNCIL REPORTS:

ATTORNEY REPORT:

PUBLIC COMMENTS:

CONSENT AGENDA:

- 7.) **Claim Checks** – May 2, 2013, Check No. 39600 through 39645 in the amount of \$47,253.56
8.) **Minutes** – Council Meeting of April 18, 2013

ADJOURNMENT:

Office of the Mayor
Black Diamond, Washington



PROCLAMATION

WHEREAS, our City's continuing efforts to address the critical issues of safety, energy efficiency and resilience in the built environment that affect our citizens, both in everyday life and in times of natural disaster, give us confidence that our structures are safe and sound; and

WHEREAS, our confidence is achieved through the devotion of building safety and fire prevention officials, architects, engineers, builders, tradespeople, laborers and others in the construction industry, who work year-round to ensure the safe construction of buildings; and

WHEREAS, the dedicated members of the International Code Council – use a governmental consensus process that brings together local, state and federal officials with expertise in the built environment to create and implement the highest-quality codes to protect Americans in the buildings where we live, learn, work, worship, play; and

WHEREAS, the International Codes, the most widely adopted building safety, energy and fire prevention codes in the nation, have been adopted for use in Washington State and in Black Diamond; these modern building codes also include safeguards to protect the public from natural disasters such as hurricanes, snowstorms, tornadoes, wildland fires and earthquakes, and

WHEREAS, Building Safety Month is sponsored by the International Code Council, to remind the public about the critical role of our local code officials, who assure us of safe, efficient and livable buildings; and

WHEREAS, "Building Safety Month: Code Officials Keep You Safe", the theme for Building Safety Month 2013, encourages all Americans to raise awareness of the importance of building safety; green and resilient building; pool, spa and hot tub safety; backyard safety; and new technologies in the construction industry. Building Safety Month 2013 also encourages appropriate steps everyone can take to ensure that the places where we live, learn, work, worship and play are safe and sustainable, and recognizes that countless lives have been saved due to the implementation of safety codes by local and state agencies; and

WHEREAS, each year, in observance of Building Safety Month, Americans are asked to consider projects to improve building safety and sustainability at home and in the community, and to acknowledge the essential service provided to all of us by local building departments in protecting lives and property;

NOW, THEREFORE, I, Rebecca Olness, Mayor of the City of Black Diamond, on behalf of the Black Diamond City Council do hereby proclaim in the City of Black Diamond, the month of May 2013 as

BUILDING SAFETY MONTH

Accordingly, I encourage our citizens to join with their communities in participation in building Safety Month activities.

Rebecca Olness, Mayor

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION			
SUBJECT: Confirmation of Mayor's Appointment to the Planning Commission	Agenda Date: May 2, 2013		AB13-035
	Department/Committee/Individual		
	Mayor Rebecca Olness	X	
	City Administrator – Pete Butkus		
	City Attorney – Chris Bacha		
	City Clerk – Brenda L. Martinez		
	Finance – May Miller		
	Public Works – Seth Boettcher		
	Economic Devel. – Andy Williamson		
	Police – Jamey Kiblinger		
Timeline:	Court – Stephanie Metcalf		
Cost Impact:	Comm. Dev. – Steve Pilcher		
Fund Source:			
Attachments: Planning Commission Vacancy Notices; Senecal Application			
SUMMARY STATEMENT: In February of this year staff advertised for a vacancy on the Planning Commission due to a recent resignation. A recruitment notice was published in the newspaper as well as being posted on the City's website and in various places around town. Two applications were received for this vacancy; Harvey Senecal and Kerri Hanrahan. Interviews were conducted for the two applicants by a selection panel consisting of the Mayor, Stacey Welsh, Planning Commission Chair Keith Watson and Councilmember Ron Taylor. The Mayor is seeking Council confirmation of her appointment of Harvey Senecal to Position # 3 of the City of Black Diamond's Planning Commission. This term will expire on December 31, 2016			
COMMITTEE REVIEW AND RECOMMENDATION:			
RECOMMENDED ACTION: MOTION to confirm the Mayor's appointment of Harvey Senecal to Position #3 of the City of Black Diamond's Planning Commission.			
RECORD OF COUNCIL ACTION			
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>	
May 2, 2013			

Please publish in the next edition of the paper.

**CITY OF BLACK DIAMOND
NOTICE OF PLANNING COMMISSION VACANCY RECRUITMENT**

The City of Black Diamond is seeking applicants for the Planning Commission to fill a vacancy for the unexpired term of Position #3, due to a recent resignation. The term will commence once a candidate is confirmed by a majority vote of the City Council, and will expire on December 31, 2016.

Interested residents or owner of a business in Black Diamond may obtain application forms at City Hall, located at 24301 Roberts Drive, Black Diamond, WA 98010 or on the City's website www.ci.blackdiamond.wa.us under "Public Notices" on the homepage. Applications must be received at City Hall by 4:00 p.m. on March 22, 2013. For more information about this Commission vacancy position, please contact Steve Pilcher at 360-886-5700 or spilcher@ci.blackdiamond.wa.us.



PLANNING COMMISSION VACANCY

The City of Black Diamond is seeking applicants for the Planning Commission to fill the unexpired term of Position #3, due to a recent resignation. The term for this position will commence once a candidate is confirmed by a majority vote of the City Council, and will expire December 31, 2016.

The Planning Commission consists of seven (7) members. The Commission prepares and makes recommendations to the City Council on the Comprehensive Plan and various development regulations that guide the physical development of the City. The Commission typically meets once per month on a Tuesday evening, but may meet more frequently if needed.

Any resident or owner of a business in Black Diamond interested in serving the community on this important Commission is encouraged to submit an application to the City of Black Diamond, Attn: City Clerk, 24301 Roberts Drive, PO Box 599, Black Diamond, WA 98010. To be considered for this position applications need to be received by 4:00 p.m. on March 22, 2013. Interviews for this position will take place sometime the week of April 9-12, 2013. If you would like to know more about the Planning Commission please contact Steve Pilcher at 360.886.5700.

Application forms are available at City Hall, 24301 Roberts Drive or may be found on the City's web site <http://www.ci.blackdiamond.wa.us> under "Public Notices" on the homepage

Posted: February 22, 2013

Brenda Martinez

From: Harvey Senecal <hsenecal@sunset-club.org>
Sent: Wednesday, March 13, 2013 9:45 AM
To: Brenda Martinez
Subject: Planning Commission Application
Attachments: City of Black Diamond Commission Application - Harvey Senecal.pdf

Brenda,

Please find attached my application for Planning Commission. Can I deliver it to you this way?

What can you do today that will be of real lasting value tomorrow?

**Harvey Senecal, Facilities Mgr. Sunset Club, Seattle
Inc., VP Black Diamond
206-624-2545 ext. 33 fax 206-624-6346**

Mama Passarellis

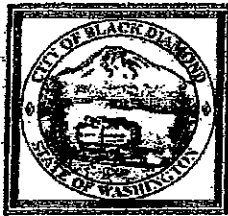
cell 206-459-4330
Papa@MamaPassarelli.co

www.MamaPassarelli.com



<http://www.sunset-club.org>

ATTN: CITY CLERK



CITY OF BLACK DIAMOND
Commission Application
 Mailing Address: PO Box 599
 Physical Address: 24301 Roberts Drive
 Black Diamond, WA 98010
 Phone: 360.886.5700 - Fax: 360.886.2592

Name: Harvey Senecal
 Address: 24306 Roberts Dr, Black Diamond, WA 98010
 Home Phone: cell 206-459-4330 Business Phone: restaurant 360-886-2524
 Email address: Papa @ Mama Passarelli.com
 How long at Residence: 8 years Best time to contact: 11:30-12:00 noon after 4:00 pm
 Commission desired: 1.) Planning Commission
 2.) _____

Reason you are interested in serving: I have a natural interest in Facilities, Services & Planning and a passionate interest in making Black Diamond a wonderful place to live.

Previous community activities: I have attended Council Meetings & shared my opinion at public hearings

Applicable education, occupational, and specialized experience: I have worked as a Facilities Manager at the King County Journal Newspapers before they liquidated and now at a private club in Seattle and own a business owner in Black Diamond.
 Commissions make recommendations regarding monetary expenditures and/or benefits to certain areas of the Community.

1.) Can you foresee possible conflicts of interest with any of your current employment or civic positions:
NO

2.) When making these recommendations do you feel you could be impartial and base your decision on the overall need and benefit of the Community: YES

Are there any days or evenings you are unavailable to meet? 3rd Thursday evenings & some Friday Evenings

Signature: Harvey Senecal Date: 21 February 2013

Please return completed form and any additional information to:
 City of Black Diamond - Attn: City Clerk, 24301 Roberts Drive., PO Box 599, Black Diamond, WA 98010
 For more information please call (360) 886-5700

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT: Ordinance No. 13-1001, providing for the change of a building address pursuant to an owner petition.	Agenda Date: May 2nd, 2013	
	AB13-036	
	Department/Committee/Individual	
	Mayor Rebecca Olness	
	City Administrator – Mark Hoppen	
	City Attorney – Chris Bacha	
	City Clerk – Brenda L. Martinez	
	Finance – May Miller	
	Natural Resources/Parks – Aaron Nix	
	Economic Devel. – Andy Williamson	
Cost Impact: \$0	Police – Jamey Kiblinger	
Fund Source: n/a	Court – Stephanie Metcalf	
Timeline:	Comm. Dev. – Amy D./Stacey W.	X
Attachments: Ordinance No. 13-1001, Owner request letter, Exhibit A		
SUMMARY STATEMENT:		
<p>On April 3rd, Mr. Sinh Dau applied for a tenant improvement to a space at the end of his building. It was discovered that there were no more available address numbers under the current building address scheme. After discussion with staff, Mr. Dau has requested a re-addressing of his entire building. This change will solve multiple inconsistencies within his building as well as bring it into compliance with current addressing policies.</p> <ol style="list-style-type: none"> 1. Though the building is over two parcels, it is all one structure and should have one identifying address number for the entire building with tenant spaces identified by unit #. 2. One address will allow the owner to add the address number to the property signage. 3. Using suite numbers will allow flexibility for the property owner to modify tenant spaces in the future without the requirement of an address revision. Increments of 10 allow the owner to change the size of his suites and create new units. 4. Using a suite system and one address number is the standard and preferred method for emergency services. 5. The property owner has discussed the change with his tenants and offered to replace their business cards. 6. The post office will forward mail for 1 year following the change, so the tenants should have time to notify all their vendors. 		
COMMITTEE REVIEW AND RECOMMENDATION:		
n/a		
RECOMMENDED ACTION: MOTION to adopt Ordinance No. 13-1001, relating to assignment of building addresses; providing for the change of a building address pursuant to an owner petition; providing for severability; and establishing an effective date.		
RECORD OF COUNCIL ACTION		
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
May 2, 2013		

CITY OF BLACK DIAMOND WASHINGTON

ORDINANCE NO. 13-1001

**AN ORDINANCE OF THE CITY OF BLACK DIAMOND,
WASHINGTON, RELATING TO ASSIGNMENT OF
BUILDING ADDRESSES; PROVIDING FOR THE CHANGE
OF A BUILDING ADDRESS PURSUANT TO AN OWNER
PETITION; PROVIDING FOR SEVERABILITY; AND
ESTABLISHING AN EFFECTIVE DATE**

WHEREAS, Chapter 12.08 of the Black Diamond Municipal Code establishes the guidelines and process for the assignment of building addresses within the city and for changing the name of existing building numbers; and

WHEREAS, BDMC 12.08.070 provides that a building owner may petition the City Council for changing the name of existing building numbers, that a public hearing is not required in such circumstances, and that approval of such a change may only be approved by ordinance of the City Council; and

WHEREAS, the owner of the property located at 31509 et seq. 3rd Avenue in Black Diamond, has filed a written petition with the City requesting a change in the existing building numbers to accommodate additional occupancies within the building; and

WHEREAS, city staff have reviewed the petition and, in accordance with the addressing policy guide for assignment of building numbers maintained pursuant to BMDC 12.08.025, have recommended that if the City Council approves the requested change, the building address numbers be changed in accordance with Exhibit "A", attached hereto; and

WHEREAS, the City Council has reviewed the petition and the recommended changes to the address numbers for the building as set forth in Exhibit "A", and having been in all matters fully advised, finds that it is in the best interest of the public health, safety and welfare to approve the change as set forth in Exhibit "A";

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

Section 1. Approval of Address Numbering Change. That the existing address numbering for the building(s) located at 31509 et seq. 3rd Avenue in Black Diamond, King County, be and is, hereinafter changed as set forth in Exhibit "A", attached hereto and incorporated by this reference as though fully set forth herein.

Section 2. Notice. That the Mayor is requested to direct staff to provide notice of the approved building address change(s) to the appropriate agencies.

Section 3. 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 4. 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 2ND DAY OF MAY, 2013.

CITY OF BLACK DIAMOND

Rebecca Olness, Mayor

ATTEST/AUTHENTICATED:

Brenda L. Martinez, City Clerk

Approved as to form:

Chris D. Bacha,
Kenyon Disend PLLC
City Attorney

Filed with the City Clerk:
Passed by the City Council:
Ordinance No.
Date of Publication:
Effective Date:

EXHIBIT A

PARCEL #: 1121069043

<u>CURRENT ADDRESS</u>	<u>PROPOSED ADDRESS</u>	<u>TENANT</u>
31507 3 RD Ave	31509 3 rd Ave, #100	Moneyman Pawn
31509-B 3 rd Ave	31509 3 rd Ave, #110	Oshio's Teriyaki
31509-A 3 rd Ave	31509 3 rd Ave, #120	76 Gas/Grocery
31515 3 rd Ave	31509 3 rd Ave, #130	Lady Buds
31519 3 rd Ave	31509 3 rd Ave, #140	Liquor Store

PARCEL #: 1121069048

<u>CURRENT ADDRESS</u>	<u>PROPOSED ADDRESS</u>	<u>TENANT</u>
31521 3 RD AVE	31509 3 rd Ave, #150	Vacant
31523 3 rd Ave	31509 3 rd Ave, #160	Vacant
31525 3 rd Ave	31509 3 rd Ave, #170	Sahara Pizza
None available	31509 3 rd Ave, #180	New Tenant

Brenda Martinez

From: Sinh Dau <dau4nguyen@yahoo.com>
Sent: Sunday, April 14, 2013 8:01 PM
To: Amy Donlan
Subject: Re: Building address

From: Amy Donlan <ADonlan@ci.blackdiamond.wa.us>
To: "dau4nguyen@yahoo.com" <dau4nguyen@yahoo.com>
Cc: Stacey Welsh <SWelsh@ci.blackdiamond.wa.us>
Sent: Thursday, April 11, 2013 11:41 AM
Subject: Building address
Sinh-

I've discussed your addressing problem with Steve Pilcher, the Community Development Director. Upon review of your building it seems most appropriate to re-address the entire building. We can use one address number for the entire building even though it is technically on two pieces of property. Each suite would receive it's own identifier, but the entire building would be under one 5 digit address number.

Sample: 31509 3rd Ave, Ste. A or 31509 3rd Ave, Ste. 100

There is a process to make an address change. It must be processed through the City Council. Our department cannot just do it without Council approval. There are two methods to begin the process.

#1

You as the building owner can request your building be re-addressed in writing. You would need to indicate your reasons for this request (ex. New suite, no more eligible numbers, consistency). I would also suggest that you describe in the letter that you have discussed it with your tenants and intend to help with the costs of reprinting business cards, etc. When an address is requested by the business owner, no public hearing is required and we could put it up for approval at the next council meeting which would be May 2nd.

#2

The City makes the request to change the address due to accuracy, the new suite, and overall compliance with other City addresses. If the City requests the change, a public hearing is required. Before the public hearing could be performed we would have to do a 20 day notice by mail to affected parties. Then after that was complete, the Council could make a decision. It is unlikely that this could occur before the 2nd Council Meeting in May.

The choice is up to you, but I cannot address the new suite or move forward with an addressing process until you indicate which method you would like to take. If you intend to follow process number one, I would ask that you send in a written request ASAP.

Thank you and let me know if you have any questions.

Amy Donlan
Permit Center Supervisor
360-886-5718 ph
360-886-2592 fx

Building Inspections: Monday – Thursday between 2-4pm
Building Plans Examiner/Inspector: Mon & Thur 1:30-4:30, Tues & Wed 2:30-5:00
Permit Center is Open: Monday – Friday from 8:30-5:00

Amy,

The sample we prefer is: **31509 3rd Ave, Ste. A**

I would like to request the change in address through method #1.

The reason I require to have an address change is because currently the tenants on both north and south ends of the property have different addresses. This makes it difficult for us to decide on addresses for new tenants in between the two ends, since there is no clear midline between the north and south ends. This is why we would like the entire building under a single 5 digit address number. I have already discussed this with our tenants and they agree with this decision.

If you need any thing else, please let me know.

Sinh Dau

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT: Ordinance No. 13-1002, relating to controlled substances; amending BDMC to conform to amendments to state law resulting from passage of Initiative 502	Agenda Date: May 2, 2013	
	AB13-037	
	Department/Committee/Individual	
	Mayor Rebecca Olness	
	City Administrator – Mark Hoppen	
	City Attorney – Chris Bacha	X
	City Clerk – Brenda L. Martinez	
	Finance – May Miller	
	Natural Resources/Parks – Aaron Nix	
	Economic Devel. – Andy Williamson	
Police – Jamey Kiblinger		
Court – Stephanie Metcalf		
Comm. Dev. – Steve Pilcher		
Attachments: Proposed Ordinance No.13-1002		
SUMMARY STATEMENT: Ordinance No. 13-1002 is intended to implement changes to state law resulting from the passage of I-502. The proposed ordinance makes amendments to BDMC Chapter 9.90 to address changes in the paraphernalia and possession laws. Because Black Diamond has specific code provisions addressing some of these issues new code language was needed to fix conflicts we have under state law.		
COMMITTEE REVIEW AND RECOMMENDATION:		
RECOMMENDED ACTION: MOTION to adopt Ordinance No. 13-1002, relating to controlled substances; amending BDMC 9.90.020 and 9.90.170 and adding new section 9.90.200 BDMC to conform to amendments to state law resulting from passage of Initiative 502; providing for severability; and establishing an effective date.		
RECORD OF COUNCIL ACTION		
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
May 2, 2013		

**CITY OF BLACK DIAMOND
WASHINGTON**

ORDINANCE NO. 13-1002

**AN ORDINANCE OF THE CITY OF BLACK DIAMOND,
WASHINGTON, RELATING TO CONTROLLED
SUBSTANCES; AMENDING BDMC 9.90.020 AND 9.90.170
AND ADDING NEW SECTION 9.90.200 BDMC TO
CONFORM TO AMENDMENTS TO STATE LAW
RESULTING FROM PASSAGE OF INITIATIVE 502;
PROVIDING FOR SEVERABILITY; AND ESTABLISHING
AN EFFECTIVE DATE**

WHEREAS, the passage of Initiative 502 (“I-502”) has resulted in amendments to Chapter 69.51A RCW that include, among other things, legalization of the possession and private recreational use of marijuana and drug paraphernalia, and authorizes, subject to further regulation, the manufacture, packaging, distribution and retail sale of cannabis; and

WHEREAS, I-502 Section 21, also provides that it is unlawful, and constitutes a civil infraction for a person to open a package containing marijuana, or to consume marijuana or a marijuana-infused product in view of the general public; and

WHEREAS, Chapter 9.90 of the Black Diamond Municipal Code establishes the provisions of the criminal code prohibiting use of controlled substances and drug paraphernalia; and

WHEREAS, passage of I-502 makes it necessary now to amend BDMC Ch.9.90 to conform the City Code to changes in state law; and

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

Section 1. Amending BDMC 9.90.020 (Drug paraphernalia—Possession prohibited). Section 9.90.020 of the Black Diamond Municipal Code is hereby amended (amendments shown in legislative revisions marks) to read as follows:

9.90.020 - Drug paraphernalia—Possession prohibited.

It is unlawful for any person to possess drug paraphernalia, as defined in RCW 69.50.102, as amended, except that,

a. It is lawful for any person over the age of eighteen to possess sterile hypodermic syringes and needles for the purpose of reducing bloodborne diseases. A person who violates this section shall be guilty of a misdemeanor; and

b. It is not unlawful for any person to possess drug paraphernalia used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body, marijuana.*

*See, RCW 69.50.412 as amended by I-502.

Section 2. Amending Section 9.90.170 BDMC (Possession of forty grams or less of marijuana – Penalty). Section 9.90.170 of the Black Diamond Municipal Code is hereby amended (amendments shown in legislative revision marks) to read as follows:

9.90.170 - Possession of forty grams or less of marijuana—Penalty.

The city adopts by reference as though fully set forth herein RCW Section 69.50.4014 as currently existing or as hereafter amended; provided that, the possession, by a person twenty-one years of age or older, of usable marijuana or marijuana-infused products in amounts that do not exceed those set forth in RCW 69.50.360(3) is not a violation of this section.*

*See, RCW 69.50.4013 as amended by I-502.

Section 3. Adding new Section 9.90.200 BDMC (Opening or consuming package containing marijuana, useable marijuana, or marijuana-infused product in view of general public Penalty). Chapter 9.90 of the Black Diamond Municipal Code is hereby amended by the addition of new Section 9.90.200, to read as follows:

9.90.200 - Opening or consuming package containing marijuana, useable marijuana, or marijuana-infused product in view of general public — Penalty.

The city adopts by reference as though fully set forth herein RCW Section 69.50.445 as currently existing or as hereafter amended.

Section 4. 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 5. 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 2ND DAY OF MAY, 2013.**

CITY OF BLACK DIAMOND

Rebecca Olness, Mayor

ATTEST/AUTHENTICATED:

Brenda L. Martinez, City Clerk

Approved as to form:

Chris D. Bacha,
Kenyon Disend PLLC
City Attorney

Filed with the City Clerk:
Passed by the City Council:
Ordinance No.
Date of Publication:
Effective Date:

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT: Ordinance No. 13-1003, relating to civil infractions	Agenda Date: May 2, 2013	
	AB13-038	
	Department/Committee/Individual	
	Mayor Rebecca Olness	
	City Administrator – Mark Hoppen	
	City Attorney –Chris Bacha	X
	City Clerk – Brenda L. Martinez	
	Finance – May Miller	
	Natural Resources/Parks – Aaron Nix	
	Economic Devel. – Andy Williamson	
Cost Impact:	Police – Jamey Kiblinger	
Fund Source:	Court – Stephanie Metcalf	
Timeline:	Comm. Dev. – Steve Pilcher	
Attachments: Proposed Ordinance No. 13-1003		
SUMMARY STATEMENT: This ordinance is in conjunction with Ordinance No. 13-1002. Because open consumption is a civil infraction the proposed ordinance adopts a civil infraction system giving the municipal court authority to hear civil infractions.		
COMMITTEE REVIEW AND RECOMMENDATION: 		
RECOMMENDED ACTION: MOTION to adopt Ordinance No. 13-1003, relating to civil infractions; amending BDMC 1.12.010 to establish authority for issuance and enforcement of civil infraction notices; amending BDMC 2.36.020 granting jurisdiction to the Municipal Court to hear and determine civil infraction violations; providing for severability; and establishing an effective date.		
RECORD OF COUNCIL ACTION		
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
May 2, 2013		

CITY OF BLACK DIAMOND WASHINGTON

ORDINANCE NO. 13-1003

**AN ORDINANCE OF THE CITY OF BLACK DIAMOND,
WASHINGTON, RELATING TO CIVIL INFRACTIONS;
AMENDING BDMC 1.12.010 TO ESTABLISH AUTHORITY
FOR ISSUANCE AND ENFORCEMENT OF CIVIL
INFRACTION NOTICES; AMENDING BDMC 2.36.020
GRANTING JURISDICTION TO THE MUNICIPAL
COURT TO HEAR AND DETERMINE CIVIL
INFRACTION VIOLATIONS; PROVIDING FOR
SEVERABILITY; AND ESTABLISHING AN EFFECTIVE
DATE**

WHEREAS, the City desires to create a uniform system of civil infractions to be heard by the Black Diamond Municipal Court pursuant to and under authority of RCW Chapter 7.80 and the Infractions Rules for Courts of Limited Jurisdiction; and

WHEREAS, the City Council finds that implementation of such a uniform system of civil infractions will better protect the public and will aid and streamline enforcement; and

WHEREAS, the City Council finds it to be in the best interest of the public health, safety and welfare to amend BDMC Ch. 1-12 as set forth herein;

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

Section 1. Amending Section 1.12.010 BDMC (Violations of the municipal code—Penalty). Section 1.12.010 of the Black Diamond Municipal Code is hereby amended (amendments shown in legislative revisions marks) to read as follows:

1.12.010 - Violations of the municipal code—Penalty.

A. Unless otherwise provided in the penalty provisions of a specific section of the municipal code, any violation of the requirements of the municipal code, including any code, regulation or statute adopted into the municipal code by reference, shall be a gross misdemeanor punishable by a fine of up to five thousand dollars or imprisonment of up to one year, or by both such fine and imprisonment.

B. Each separate day or portion thereof during which a violation exists shall constitute a separate violation.

C. Unless otherwise prohibited by law, a violation of the municipal code may, at the discretion of the city attorney or his or her designee, be treated as a civil violation subject to a monetary penalty of five hundred dollars.

D. Consistency with State Law. Notwithstanding any other provisions in the Black Diamond Municipal Code or the non-codified ordinances of the City, the maximum penalty for any act or omission constituting a criminal offense under the Black Diamond Municipal Code or the non-codified ordinances of the City, shall be the same as the maximum penalty provided in Washington State law for the same or similar offense, and where the maximum penalty provided under the Black Diamond Municipal Code or the non-codified ordinances of the City is inconsistent with the maximum penalty as provided pursuant to State law, such maximum penalty as provided under State law shall prevail. The purpose and intent of this provision is to comply with RCW 35.21.163 and 35A.11.020 as now or may be hereinafter amended.

E. Civil Infractions

1. What Constitutes. Any act or omission that is designated in the Black Diamond Municipal Code or the non-codified ordinances of the City as a civil infraction shall be and does hereby constitute a civil infraction within the meaning of RCW Chapter 7.80 and the Infraction Rules for Courts of Limited Jurisdiction.

2. Issuance. A code enforcement officer, the City Prosecutor, and the Municipal Court shall have authority to issue a notice of infraction for each civil infraction committed in accordance with the provisions, and under authority of RCW Chapter 7.80 and pursuant to the Infraction Rules for Courts of Limited Jurisdiction.

3. Procedures – Municipal Court - Exclusions. It is the intent of this Chapter that civil infractions may be heard and determined by the Black Diamond Municipal Court in accordance with the provisions, and under authority, of RCW Chapter 7.80 and pursuant to the Infraction Rules for Courts of Limited Jurisdiction; provided that, traffic and vehicle infractions provided for pursuant to Title 7 of the Black Diamond Municipal Code are specifically excluded from this Chapter.

4. “Enforcement Officer” or “Code Enforcement Officer” means, for purposes of this Chapter, RCW Ch. 7.80 and the Infraction Rules for Courts of Limited Jurisdiction, a person authorized to enforce the provisions of the Black Diamond Municipal Code in which a civil infraction is established.

5. Monetary Penalties – Restitution. All persons deemed or found to have committed a civil infraction shall be subject to assessment and payment of monetary penalties and restitution as follows, unless otherwise provided by law:

a. The maximum penalty and the default amount for a civil infraction designated as a class 1 civil infraction shall be two hundred fifty dollars, not including statutory assessments;

b. The maximum penalty and the default amount for a civil infraction designated as a class 2 civil infraction shall be one hundred twenty-five dollars, not including statutory assessments;

c. The maximum penalty and the default amount for a civil infraction designated as a class 3 civil infraction shall be fifty dollars, not including statutory assessments; and

d. The maximum penalty and the default amount for a civil infraction designated as a class 4 civil infraction shall be twenty-five dollars, not including statutory assessments.

e. All civil infractions which are not classified in the Black Diamond Municipal Code as class 1, class 2, class 3 or class 4 civil infractions, are hereby designated as class 1 civil infractions.

6. Restitution. The court may also order a person found to have committed a civil infraction to make community restitution.

7. When Payment Due. Whenever a monetary penalty is assessed by a court for a violation or violations constituting a civil infraction under this chapter it is immediately payable. If the person is unable to pay at that time the court may grant an extension of the period in which the penalty may be paid. If the penalty is not paid on or before the time established for payment, the court may proceed to collect the penalty in the same manner as other civil judgments and may notify the City Attorney of the failure to pay.

8. Failure to Respond - Misdemeanor. Any person who, after receiving a statement of the options provided in RCW Ch. 7.80 for responding to a notice of civil infraction and the procedures necessary to exercise these options, fails to exercise one of the options in a timely manner is guilty of a misdemeanor regardless of the disposition of the notice of civil infraction. A notice of civil infraction may be complied with by an appearance by counsel.

9. Prohibited acts Include Causing and Permitting. Whenever in the Black Diamond Municipal Code or the non-codified ordinances of the City, any act or omission constitutes a civil infraction, it includes causing, allowing, permitting, aiding, abetting, suffering or concealing the fact of such act or omission.

10. Separate offense. Every act or omission which constitutes a civil infraction under the Black Diamond Municipal Code, shall constitute a separate violation for each and every day during any portion of which the act or omission constituting the violation is committed, continued or permitted.

Section 2. Amending Section 2.36.020 BDMC (Jurisdiction). Section 2.36.020 of the Black Diamond Municipal Code is hereby amended (amendments shown in legislative revision marks) to read as follows:

2.36.020 - Jurisdiction.

A. The municipal court shall have exclusive original jurisdiction over traffic infractions and civil infractions arising under city ordinances, and exclusive original criminal jurisdiction of all violations of city ordinances duly adopted by the city. The municipal court shall have original jurisdiction of all other actions brought to enforce or recover license penalties or forfeitures declared or given by such ordinances or by state statutes.

B. The municipal court is empowered to forfeit cash bail, or bail bonds, and issue execution thereon; and in general to hear and determine all causes, civil or criminal, including traffic infractions and civil infractions, arising under such ordinances and to pronounce judgment in accordance therewith.

Section 3. 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 4. 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 2ND DAY OF MAY, 2013.

CITY OF BLACK DIAMOND

Rebecca Olness, Mayor

ATTEST/AUTHENTICATED:

Brenda L. Martinez, City Clerk

Approved as to form:

Chris D. Bacha,
Kenyon Disend PLLC
City Attorney

Filed with the City Clerk:
Passed by the City Council:
Ordinance No.
Date of Publication:
Effective Date:

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT: Resolution No. 13-872, confirming the Mayor's appointment of Mark Hoppen as City Administrator and authorizing the execution of an Employment Agreement	Agenda Date: May 2, 2013	
	AB13-039	
	Department/Committee/Individual	
	Mayor Rebecca Olness	X
	City Administrator – Mark Hoppen	
	City Attorney –Chris Bacha	
	City Clerk – Brenda L. Martinez	
	Finance – May Miller	
	Natural Resources/Parks – Aaron Nix	
	Economic Devel. – Andy Williamson	
Cost Impact: \$91,214.28 (8 months)	Police – Jamey Kiblinger	
Fund Source: Various Funds	Court – Stephanie Metcalf	
Timeline: May, 2013	Comm. Dev. – Steve Pilcher	
Attachments: Resolution No. 13-872; Employment Agreement		
SUMMARY STATEMENT: Mayor Olness will be addressing this.		
COMMITTEE REVIEW AND RECOMMENDATION:		
RECOMMENDED ACTION: MOTION to adopt Resolution No. 13-872, confirming the Mayor's appointment of Mark Hoppen as City Administrator and authorizing the Mayor to execute an Employment Agreement.		
RECORD OF COUNCIL ACTION		
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
May 2, 2013		

RESOLUTION NO. 13-872

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON CONFIRMING THE MAYOR'S APPOINTMENT OF MARK HOPPEN AS CITY ADMINISTRATOR AND AUTHORIZING THE MAYOR TO EXECUTE AN EMPLOYMENT AGREEMENT

WHEREAS, during the 2013 Budget adoption Council approved the appropriation of funds for a City Administrator for the year 2013 as a contracted position; and

WHEREAS, since February 2013 Mark Hoppen has been serving as City Administrator through a contract with the Prothman Company; and

WHEREAS, the Mayor and City Council feel it would now benefit the City to make the City Administrator position an employee rather than contracted position; and

WHEREAS, the Mayor has appointed Mark Hoppen to the position of City Administrator and seeks City Council confirmation of this appointment and authority to execute an employment agreement; and

WHEREAS, the Council supports the Mayor's selection of Mr. Hoppen and finds the proposed contract to be fair and reasonable;

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

Section 1. The City Council hereby confirms the Mayor's appointment of Mark Hoppen as City Administrator and authorizes the Mayor, on behalf of the City, to execute the Employment Agreement substantially in the form of the agreement attached hereto as Exhibit A.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 2ND DAY OF MAY, 2013.

CITY OF BLACK DIAMOND:

Rebecca Olness, Mayor

Attest:

Brenda L. Martinez, City Clerk

**EMPLOYMENT AGREEMENT
BETWEEN
CITY OF BLACK DIAMOND AND MARK HOPPEN
REGARDING CITY ADMINISTRATOR POSITION**

1. Date and Parties. This agreement (“Agreement”), for reference purposes only, is dated the ____ day of _____, 2013, and is entered into between the City of Black Diamond, a Washington municipal corporation (“City”) and Mark Hoppen, (“Mr. Hoppen”) and shall be referred to as the “Agreement”.

2. Purpose. The purpose of this Agreement is to define the terms and conditions of Mr. Hoppen’s employment with the City of Black Diamond.

3. Appointment to City Administrator Position. Mr. Hoppen is hereby appointed, effective _____, 2013, to the position of City Administrator and Mr. Hoppen hereby accepts that appointment.

4. Term. It is the desire of both parties that Mr. Hoppen shall continue to serve as the City’s City Administrator for a long period of time. The parties acknowledge, however, that the City Administrator position is an “at will” employment position, and the Mayor and Mr. Hoppen are at liberty to terminate his employment with the City at any time, subject only to the terms and conditions set forth in this Agreement.

5. Duties. Mr. Hoppen shall perform all duties and obligations of the City Administrator as required by law, and such other duties as are set forth in the City Code, or as assigned from time to time by the Mayor. Mr. Hoppen recognizes that the City Council is the legislative and policy making body of the City. The City Administrator, under the direction and control of the Mayor, is the individual responsible for administration of City Personnel, and for the administration and enforcement of the City’s ordinances, resolutions, policies and directives of the City Council. Mr. Hoppen shall attend all special and regular meetings of the City Council, unless excused, and such other meetings as required by the Mayor.

6. Work Schedule. The City and Mr. Hoppen acknowledge that the proper performance of the duties of the City Administrator will require Mr. Hoppen to generally observe normal business hours Monday through Thursday and attend regular and special meetings of the City Council, and will also sometimes require the performance of necessary services outside of this schedule. The City and Mr. Hoppen acknowledge and agree that the compensation herein provided includes compensation for the performance of all such services.

7. Salary. Mr. Hoppen’s starting salary shall be \$8,583.33 per month, plus any supplemental benefits that are set forth in the City’s Personnel Manual, as amended from time to time. His salary shall be paid in accordance with the procedures for other employees of the City. Mr. Hoppen’s salary shall be annually reviewed to determine whether or not an increase is appropriate, taking into account Mr. Hoppen’s performance, the prevailing compensation for

other City Administrators with similar responsibilities in the Puget Sound Region and such other factors as the Mayor and City Council deems appropriate. In addition, the City Administrator shall receive Cost of Living Adjustment (COLA) as otherwise provided to City Department Heads.

8. Benefits. All health care (medical, dental, and vision), leave (sick, vacation, administrative), disability insurance, and life insurance benefits applicable to City Department Director employees, as set forth in the City's Personnel Manual, as it now exists or may subsequently be amended, shall also be applicable to Mr. Hoppen, except as may be modified by this agreement. Mr. Hoppen shall further be entitled to the following:

a. Sick Leave. Mr. Hoppen shall immediately be credited with 10 days sick leave.

b. Vacation. Mr. Hoppen shall immediately be credited with 20 days vacation.

c. Retirement. Mr. Hoppen has elected not to participate in the Public Employees Retirement System (PERS) plan. The City agrees that, in lieu of Mr. Hoppen's participation in the PERS plan, the City will establish a retirement annuity (i.e. a tax-deferred investment product), at the direction of Mr. Hoppen, within 30 days of the effective date hereof. The City and Mr. Hoppen agree that the fees associated with the administration and management of the retirement annuity shall be funded from the contributions to the retirement annuity. The City agrees that it will contribute to the retirement annuity on a quarterly basis the equivalent of the rate that would be paid into the PERS plan by the City on behalf of Mr. Hoppen if he had elected to participate in the PERS plan.

d. Deferred Compensation. The City agrees that, in addition to the contributions to the retirement annuity established pursuant to Section 7(c) above, the City shall contribute an additional 25% match each month for contributions by Mr. Hoppen, up to \$25.00 per month total, with such payments coinciding with the schedule for payments into said retirement annuity pursuant to Section 7(c) above.

e. Membership Dues. The City shall pay membership dues for Mr. Hoppen's membership in the International City Managers Association (ICMA) and the Washington City/County Managers Association (WCCMA). The City shall pay for Mr. Hoppen's attendance at such conferences and for such other memberships, subscriptions, or dues, desirable for Mr. Hoppen's continued professional growth, advancement for the good of the City, and as shall be contained in the City's adopted annual budget.

f. Professional Development. The City agrees to budget for and pay for travel and subsistence expenses of Mr. Hoppen for professional and office travel, meetings and occasions adequate to continue the professional development of Mr. Hoppen and to adequately pursue necessary official functions for City, including, but not limited to the Association of Washington Cities, the Washington City/County Administrators Association and such other regional, state and local governmental groups and committees thereof which Mr. Hoppen serves as a member.

g. General Expenses. The City recognizes that certain expenses of a non-personal and generally job-affiliated nature are incurred by Mr. Hoppen, and agrees to reimburse or to pay said general expenses allowed by the laws of the State of Washington and City personnel manual and policies, and the Finance Director is authorized to disburse such monies upon receipt of duly executed expense or petty cash vouchers, receipts, statements or personal affidavits as approved by the City.

h. Car Allowance. The City shall pay a monthly allowance of \$200 for automobile expenses incurred by Mr. Hoppen using his personal vehicle for City related business. Said allowance is in lieu of the City otherwise providing Mr. Hoppen with use of a City vehicle on a regular basis. This allowance shall be adjusted annually, commencing January 1, 2014, in amount equal to the percentage increases to the Internal Revenue Service's motor vehicle mileage expense rate using 2013 as the base year. In addition to the foregoing, in the event that Mr. Hoppen, in the performance of his duties and obligations is required to use his automobile for travel outside the Puget Sound Region, Mr. Hoppen will be entitled to reimbursement for mileage incurred outside said Region at the City's adopted mileage reimbursement rate.

i. Civic Club Membership. The City recognizes the desirability of representation in local civic clubs and other organizations, and Mr. Hoppen is authorized to become a member of one (1) civic club for which the City shall pay dues and meeting expenses. Mr. Hoppen shall report to the City on membership he has taken at the City's expense.

9. Performance Review. Mr. Hoppen's performance shall be reviewed annually on or about the anniversary date of his commencement of employment. Provided, however, in the first year of Mr. Hoppen's employment the Mayor will conduct a facilitated review with Mr. Hoppen at the six-month anniversary of employment. The Mayor, as a part of the performance review process, shall define the goals and performance objectives which he determines necessary for the proper operation of the City and to attain the City's policy objectives. The Mayor, in consultation with Mr. Hoppen, will establish a priority amongst the various goals and objectives and said objectives and priorities shall be reduced to writing. Mr. Hoppen's salary and other benefits may be adjusted by mutual agreement of the parties during the review process as specified in this Agreement. In recognition of accomplishments and excellent performance, a merit increase may be granted to Mr. Hoppen.

10. Termination.

a. By the City. The parties recognize and acknowledge that the provisions of the City Personnel Manual, and paragraph 7 above notwithstanding, Mr. Hoppen is an "at will" employee and the Mayor may terminate Mr. Hoppen with or without cause at any time and for any reason,

b. Termination Pay and Termination Benefits. In the event the City elects to terminate Mr. Hoppen for any reason other than "cause", Mr. Hoppen shall receive a cash

payment equal to four (4) months of Mr. Hoppen's base rate and education incentives, plus a sum equal to the premiums for the City medical plan for four (4) months medical and dental for Mr. Hoppen and dependents ("Termination Pay"). Mr. Hoppen shall also receive payment for all accumulated vacation leave, administrative leave, and sick leave to the extent it is authorized by the City's Personnel Manual ("Termination Benefits"). Said sum shall be subject to applicable federal withholding taxes. In consideration of said payment, Mr. Hoppen agrees to execute a release of all claims against the City, its elected or appointed officers, employees or agents, for any claims arising out of Mr. Hoppen's employment or Mr. Hoppen's termination of employment with the City. Provided, if Mr. Hoppen is terminated for "cause", then Mr. Hoppen shall not be entitled to any Termination Pay, but will remain entitled to his Termination Benefits; provided that, such Termination Benefits shall only include payment for any remaining accrued sick leave and vacation leave that is in excess of the amount of sick leave and vacation leave provided as a credit pursuant to Sections 7(a) & (b) of this Agreement. For purposes of this Agreement, the term "cause" shall mean misfeasance, malfeasance, or nonfeasance in office.

c. Termination by Mr. Hoppen. In the event Mr. Hoppen elects to terminate his employment with the City, Mr. Hoppen agrees to provide the City with not less than sixty (60) days' notice prior to the effective date of said termination of employment. Notwithstanding the foregoing notice requirement, nothing shall prevent the Mayor, upon receiving Mr. Hoppen's notice of intent to terminate his employment, from compensating Mr. Hoppen at the rate of Mr. Hoppen's base salary for the unexpired portion of the sixty (60) days notice and releasing Mr. Hoppen prior to the expiration of said notice period. Mr. Hoppen shall not be entitled to Termination Pay, but shall receive Termination Benefits; provided that, such Termination Benefits shall only include payment for any remaining accrued sick leave and vacation leave that is in excess of the amount of sick leave and vacation leave provided as a credit pursuant to Sections 7(a) & (b) of this Agreement.

11. Indemnification. Mr. Hoppen shall be entitled to the benefits and subject to the responsibilities, set forth in Black Diamond Municipal Code Chapter 2.66.

12. Bonding. The City shall bear the full costs of any fidelity or other bonds required of Mr. Hoppen under any law or ordinance associated with performing the City Administrator duties.

13. Integration. This Agreement constitutes the entire agreement between the parties, and both parties acknowledge that there are no other agreements, oral or otherwise, that have not been fully set forth in the text of this Agreement.

14. Modification. The parties agree that this Agreement can be amended or modified only by written addendum to this Agreement, approved by the City Council, and signed by both parties.

15. Authorization. The Mayor's appointment of Mr. Hoppen to the position of City Administrator was confirmed by the City Council on the _____ day of _____, 2013

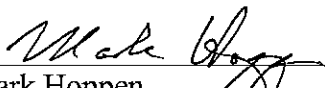
and the Mayor was authorized by the City Council to execute this agreement by the adoption of Resolution number 13-_____.

16. Review by Independent Legal Counsel. Mr. Hoppen represents and acknowledges that he has read this Agreement in its entirety and has had an opportunity to review the Agreement. He further represents and acknowledges that it is his understanding that this Agreement has been reviewed and approved by the City of Black Diamond Attorney on behalf of the City only, and not on behalf of Mr. Hoppen. By virtue of this passage, he further acknowledges that he has been advised that he has the right to consult independent counsel concerning this Agreement, and that by signing this Agreement he acknowledges that he has afforded himself the opportunity to do so, or hereby expressly waives his right to have the Agreement reviewed by independent legal counsel, and agrees to the terms hereof by signing the same.

CITY OF BLACK DIAMOND

By: _____
Rebecca Olness, Mayor

Date: _____



Mark Hoppen
Date: 4-26-13

ATTEST:

By: _____
Brenda L. Martinez, City Clerk

Approved as to form:

By: _____
Chris Bacha, City Attorney