

ORDINANCE NO. 08-890

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY WASHINGTON AMENDING TITLE 13 OF THE BLACK DIAMOND MUNICIPAL CODE TO PUT MONTHLY WATER CHARGES IN 13.04.280 AND ONE-TIME CONNECTION CHARGES IN A NEW SECTION 13.04.285, METER INSTALLATION CHARGES IN 13.04.295, AND TO AMEND THE CODE TO RENAME WATER SERVICE CONNECTION FEE AS A CAPITAL FACILITIES CHARGE, AND TO CALCULATE A CAPITAL FACILITIES CHARGE BASED ON EQUIVALENT RESIDENTIAL UNITS RATHER THAN WATER METER SIZE

WHEREAS, the law recognizes that it is fair and equitable for a city to require new users of the City's water system to pay an equitable share of the cost of necessary future improvements to the system created by increased demands on the system; and

WHEREAS, the law also recognizes that the existing water system represents a significant monetary investment by the City and that the City may seek to recover an equitable share of this investment in exchange for granting the privilege of connecting to this system, especially since being able to connect to the system confers a significant monetary value on the new user; and

WHEREAS, for the reasons stated above, the law recognizes that a city may impose a reasonable fee as a requirement of being allowed to connect to the existing water system, and

WHEREAS, using Equivalent Residential Units (ERUs) rather than water meter size to calculate the fee for connecting to the City's water system allows for more accurate measuring of actual water usage, thereby resulting in each new user paying a more equitable share; and

WHEREAS, the ERU standard has been created based on careful analysis of existing average usage and reasonably expected usage from new growth, combined with improvements that will be required based on current usage and reasonably expected growth; and

WHEREAS, putting monthly service rates and one-time capital facilities charges in separate chapters of the municipal code, as well as referring to the one-time fee as a "capital facilities charge" rather than a "connection fee," will help avoid confusion in the public mind about these various fees and charges.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON, ORDAINS AS FOLLOWS:

Section 1. Section 13.04.020 of the Black Diamond Municipal Code is hereby amended to read as follows:

13.04.020 Definitions.

"Capital Facilities Charge" shall mean the fee to be paid by any new customer for the

privilege of connecting to the City of Black Diamond water system. Proceeds from this fee shall be used to offset the costs of future improvements to the water system made necessary by the impact of increased demand on the system and to recognize the value of the monetary investment in the system made by its current users.

“Equivalent Residential Unit” or *“ERU”* shall mean the amount of water typically used by a Black Diamond residence as set forth in the city’s most recently adopted water comprehensive plan.

“Person” shall mean and include natural persons of either sex, associations, partnerships and corporations, whether acting by themselves or by a servant, agent or employee. The singular number shall include the plural and both the masculine and feminine pronoun.

“Director” shall mean the city’s director of public works, and any act in this chapter required to be done by the director may be done on behalf of the director by any authorized officer or employee of the city.

Section 2. Section 13.04.030 of the Black Diamond Municipal Code is hereby amended to read as follows:

13.04.030 Application for use of water--Certificates required--Fee.

All applications for the use of water shall be made at the office of the water department by the landowner along with the required application fee, on printed forms furnished by the city for that purpose, and shall contain the name, property legal description, King County property tax identification number, name of the street upon which the property fronts, also the corresponding official or approximate house number that may be assigned to the premises now or subsequently as shown by the records of the city , the number of units and/or type of use for which water is being requested, and such other information as may be required by the city in determining the availability of water. Each applicant shall also agree to conform to the rules and regulations which the city may establish from time to time as a condition for the use of water, which agreement shall be contained in the application.

Section 3. Section 13.04.035 of the Black Diamond Municipal Code is hereby amended to read as follows:

13.04.035 Certificates of water availability.

A. The city shall not issue certificates of water availability until a complete building permit application has been received and any water system capital facilities charge and water meter installation fees have been paid.

B. No water availability certificates shall be issued unless the city's water system can provide the required amount of water and fire flow to the property for which the building permit is requested.

C. Any certificate of water availability shall expire upon the expiration of the building permit and is not transferable. If the permit expires the water system capital facilities charge and water meter installation fee will be refunded.

D. The city administrator is authorized to enact such administrative policies as are necessary to effectuate the intent of this section.

Section 4. Section 13.04.040 of the Black Diamond Municipal Code is hereby amended to read as follows:

13.04.040 Main extension required.

A. Where property is located within the city's water service area and within the city limits, and where there is no existing water main laid, or where the capacity of existing water mains is not sufficient to meet the demands of new construction, the installation and cost of a water main extension to service such property previously unserved shall be the responsibility of the applicant. The applicant shall enter into a developers' extension agreement with the city prior to water system plan extension approval. Extensions shall be made to, and past, at least one full side of the property; through all internal streets; loop to all adjacent mains which will, in the water superintendent's opinion, extend past or through the property in the future; and stub to the property line where it is likely that they will be needed to connect to future mains. In addition, the city may require mains to be constructed on more than one, and up to all, full side(s) of the property depending upon property size, shape and the water comprehensive plan. Installation of the main and all other required improvements shall be in accordance with city design and construction standards, and in the locations determined by the superintendent.

B. All water services and meter setters shall, if possible, be installed at a location in front of the property within the public right-of-way, and in accordance with city design and construction standards. No water service connection shall be authorized until the water system extension has been approved and accepted by the city in accordance with the executed developer extension agreement, and all water system general facilities charges have been paid.

Section 5. Section 13.04.045 of the Black Diamond Municipal Code is hereby amended to read as follows:

13.04.045 Exceptions—Single-family residential property.

A. The city administrator may waive the requirements of Section 13.04.040 for the extension of water service for one-single family residence if, and only if, all of the conditions set forth in this section are met.

B. No exception from the requirements of Section 13.04.040 shall be considered unless the city administrator, upon recommendation from the public works director, makes written findings that: (1) the extension of water service to the single-family residence would require significant capital improvements to the city water system in addition to the water main extension; (2) that the cost of the significant system improvements would bear no rational relationship to the increase in value of the property to be served that results from the

availability of public water service; and (3) the single-family residence is to be located upon a lot in existence at the time of the adoption of the ordinance codified in this chapter.

C. The water meter shall be installed at the city's nearest standard main, and the property owner shall construct and maintain, at his/her own expense, a service line from the meter to the point of use. The property owner shall pay the city's applicable water system capital facilities charge charge prior to making connection to the city's water system.

D. The property owner shall sign and record against the property an agreement approved by the city attorney to waive any and all rights granted by statute or otherwise, to object or to protest against formation by the city of a local improvement district or utility local improvement district for the purpose of constructing the system improvements that would have been constructed but for the exemption granted by this section, and acknowledges that if the subject property is subdivided the system improvements for which an exemption was obtained must be constructed as a condition of subdivision approval.

E. The city's granting of an exception pursuant to this section does not guarantee that water can be provided to a piece of property without a main extension or other improvements to the city's water system. The property owner shall be responsible for all design and construction necessary to provide water from the meter to the site. The property owner will be responsible for all city costs associated with the review of the proposed design, in addition to all other city charges.

F. Approval Procedure.

1. An application for an exception submitted by a landowner pursuant to this section shall be presented to the city's director of public works, who shall review the request and provide a recommendation to the city administrator. The city administrator may refer the request to the city's hearing examiner for consideration or take action to approve or deny the application based on the recommendation of the public works director.

2. If the city administrator or the hearing examiner approve the request, the property owner shall execute the required agreements and waivers set forth in this section, in addition to the requirements of Section 13.04.030, prior to receiving a water availability certificate. Any exception granted pursuant to this section shall expire at the same time as the water availability certificate.

Section 6. Section 13.04.050 of the Black Diamond Municipal Code is hereby amended to read as follows:

13.04.050 Installation of service between main and setter—Cost.

The installation of water service lines and appurtenances extending from an existing main to the meter setter or meter, together with the necessary labor and materials for such connection including any roadway restoration, shall be made by the water department and charged to the applicant. This installation cost shall be in addition to any other required water system capital facilities charges and meter installation fees adopted by the city. When a new main is installed,

the developer shall be responsible for establishing or re-establishing the service lines and appurtenances between the water main and the meter setter.

Section 7. Section 13.04.120 of the Black Diamond Municipal Code is hereby amended to read as follows:

13.04.120 Installation of service--Cost.

A. The installation of service pipes and appurtenances extending from the main to the meter setter or meter, together with the necessary labor and materials for such construction and roadway restoration if applicable, shall be made by the water department and charged to the applicant. This installation cost shall be in addition to any required water system capital facilities charge and water meter installation fees adopted by the city.

B. All pipes and connections from the city's stop cock located in or over the sidewalk shall be put in at the expense of the owner who will be responsible for all damages resulting from leaks and breaks.

C. All pipes from the city's stop cock shall be laid not less than eighteen inches below the surface of the ground and no work shall be covered until it has been inspected and accepted by the water superintendent.

Section 8. Section 13.04.280 of the Black Diamond Municipal Code is hereby amended to read as follows:

13.04.280 Monthly Water Rates.

A. 1. The water service rates for customers of the City's water utility shall be as set forth in section 2 through 8 below, plus \$1.82 per one hundred cubic feet of water used, for water consumption ranging between 0 to 600 cubic feet of water, per month, plus \$2.09 per one hundred cubic feet of water used, for water consumption ranging between 601 to 1,200 cubic feet of water per month, plus \$2.40 per one hundred cubic feet of water used, for consumption greater than 1,200 cubic feet of water per month.

2. All 5/8" and 3/4" meters shall be charged a minimum fee of \$17.88 per month. Each additional dwelling/business served from the above described meter shall be charged \$14.95 for each additional unit for each month inside the City limits and \$29.90 for each additional unit for each month outside the City limits.

3. All 1" meters shall be charged \$22.60 per month plus the additional amount per unit served by such meter as established in subsection A(2) above.

4. All 1 1/2" meters shall be charged \$24.38 per month plus the additional amount per unit served as established in subsection A(2) above.

5. All 2" meters shall be charged \$42.55 per month plus the additional amount per unit served as established in subsection A(2) above.

6. All 3” meters shall be charged a minimum of \$51.61 per month plus the additional amount per unit served as established in subsection A(2) above.

7. All 4” meters shall be charged a minimum of \$96.95 per month. For additional dwellings, apartments, or units, there shall be a minimum charge of \$14.95 per month for each additional dwelling, apartment or unit, and \$14.95 for each additional commercial use.

8. All 6” meters shall be charged a minimum of \$250.70 per month. For additional dwellings, apartments, or units, there shall be a minimum charge of \$14.95 per month for each additional commercial use.

B. Customers Outside City Limits. The minimum monthly water rates for all users outside the city limits shall be twice the monthly rate charged to in-city users pursuant to subsection A. In addition, in the event of a shortage of water, all water users within the city limits shall have a first priority over users outside the city limits.

C. Change of Owner or Renter. An additional service charge as set forth in the most recently-adopted city fee schedule shall be assessed each time the water billing records are required to be amended as a result of change from owner to renter, or from seller to new owner, or as a result of any other change due to the actions of the owner or user of water.

Section 9. A new section 13.04.285 is hereby added to the Black Diamond Municipal Code, to read as follows:

13.04.285 Meter installation fees—Approval required for larger meter.

A. Meter installation fees. The monthly service rates in section 13.04.280 do not include meter installation fees. The cost of meter installation shall be as established on the city’s current official fee schedule.

B. Approval required for larger meter. No connections requiring meters larger than five-eighths-inch shall be approved until a water needs report is submitted for city review and approval. This report shall include information detailing anticipated water needs and justification for requested meter size.

Section 10. A new section 13.04.295 is hereby added to the Black Diamond Municipal Code, to read as follows:

13.04.295 Capital facilities charge.

Prior to being allowed to physically connect a property or properties to the city’s water system for the first time, a customer shall be assessed a water system capital facilities charge. The amount of this charge shall be as follows:

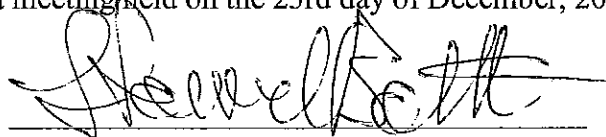
1. Single family. For water system connections serving a single family residential home, the charge shall be five thousand nine hundred seventy-six dollars and thirty-nine cents (\$5,976.39).
2. Duplex. For water connections serving a duplex, the charge shall be eleven thousand nine hundred fifty two dollars and seventy eight cents (\$11,952.78).
3. Multi-family. For water system connections serving a multi-family complex, the charge shall be five thousand nine hundred seventy-six dollars and thirty-nine cents per equivalent residential unit (\$5,976.39).
4. Trailer park. For water system connections serving a trailer park, the charge shall be five thousand nine hundred seventy-six dollars and thirty-nine cents per equivalent residential unit (\$5,976.39).
5. Other. For water system connections serving other uses the charge shall be five thousand nine hundred seventy-six dollars and thirty-nine cents (\$5,976.39) per equivalent residential unit, based on the projected average annual water consumption needed to serve the connecting facility, provided, if at the end of each year of usage the city determines that actual usage exceeds projected usage by greater than ten percent (10%), the customer shall be billed the capital facility charge for the amount of usage exceeding the equivalent residential units purchased at time of connection to the City water system. If the customer does not pay the outstanding capital facility charge within 6 months or has not entered into an installment plan with the City for payment, the water connection will be shut off after notice according to BDMC section 13.04.190.

Section 5. Severability. If any provision of this Ordinance is determined to be invalid or unenforceable for any reason, the remaining provisions of this Ordinance shall remain in force and effect.

Section 6. Effective date. This Ordinance shall be in full force and effect five days after its passage, approval, posting and publication as provided by law. A summary of this Ordinance may be published in lieu of publishing the Ordinance in its entirety.

Introduced the 23rd day of December, 2008.

Passed by a majority of the City Council at a meeting held on the 23rd day of December, 2008.



Howard Botts, Mayor

Attest:

Brenda L. Streepy
Brenda Streepy, City Clerk

APPROVED AS TO FORM:

Loren D. Combs, City Attorney

Published: 12/30/08
Posted: 12/24/08
Effective Date: 1-4-09