

ORDINANCE NO. 09-918

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON, AMENDING CHAPTER 9.86 OF THE BLACK DIAMOND MUNICIPAL CODE TO UPDATE THE PROVISIONS DEALING WITH PROHIBITED CONDUCT IN CITY PARKS**

WHEREAS, City parks perform a vital social function by providing a place for individuals and families to enjoy a natural setting and escape many of the sounds and activities that are otherwise part of city life; and

WHEREAS, this social function shall become even more important in the future as population growth brings increased density and commercial development occurs within our City; and

WHEREAS, the cost of maintaining the City's parks has made it necessary for the City to authorize the imposition of permit fees and user fees to help generate revenue to cover maintenance costs; and

WHEREAS, the Black Diamond Municipal Code is currently silent about many nuisance behaviors that detract from the public's ability to enjoy our City parks.

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

Section 1. The Black Diamond Municipal Code is hereby amended by the addition of a new section 9.86.015 to read as follows:

**9.86.015 Permit and user fees authorized.**

The City may require permits to be issued and user fees to be assessed prior to allowing certain activities to be conducted in city parks. The types of activities subject to permits and user fees, as well as the cost for such permits and fees, shall be established by the City's official fee schedule.

Section 2. Section 9.86.030 of the Black Diamond Municipal Code is hereby amended to read as follows:

**9.86.030 Motor vehicle restrictions.**

- a. motorized wheelchairs and other motorized mobility assistance devices necessary for disabled or handicapped persons or others with restricted mobility to access areas of the park are exempt from these restrictions unless noted otherwise.
- b. No unauthorized motor vehicles, including automobiles, trucks, buses, motorcycles, motor bikes, all terrain vehicles, camp trailers, campers or trailers shall be operated in any park except as allowed on designated roadways and parking areas.
- c. It is unlawful to speed in excess of the posted speed limit or in excess of fifteen miles per hour where no speed limit is posted in any park. In addition, no motorized vehicle, including motorized wheelchairs or other motorized mobility assistance devices, shall be operated in a negligent or reckless manner.
- d. It is unlawful for any person in any park to engage in, conduct or hold any trials or competitions for speed, endurance or hill climbing involving any vehicle, boat, aircraft or animal, except at specified places and times designated for such activities by the City Council upon determination that:
- (1) Reasonable provision has been made to insure that the health and safety of participants and spectators will be protected and not be subject to undue hazard, provided, the city shall not be liable for any injuries to participants and may require participants to expressly waive any potential claims against the city as a condition of participation in any event or activity;
  - (2) Such activities will be conducted in such a manner as to minimize potential damage to public or private property;
  - (3) Such activities will not constitute a public nuisance; and
  - (4) Such activities will not unduly interfere with the use of park facilities by the general public.
- e. No operator of any vehicle shall park or put such vehicle in any Black Diamond park area, except where the operator is using the area for an allowed recreational purpose and the vehicle is parked either in a designated parking area, or in another area with the permission of a park employee. For purposes of this section, "vehicle" shall mean an automobile, recreational vehicle, trailer of any kind, tent trailer, boat, camper, or other motorized conveyance not otherwise exempted under this chapter. No person shall park, leave standing, or abandon a vehicle in any Black Diamond park area after closing time. Any vehicle found parked in violation of this section may be towed away at the owner's or operator's expense.
- f. It is unlawful to park a motor vehicle in a designated handicapped parking space without the officially recognized symbol on the vehicle license plate. All improperly parked vehicles are subject to being towed away at the owner's or operator's expense.

Section 3. Section 9.86.040 of the Black Diamond Municipal Code is hereby amended to read as follows:

**9.86.040 Liquor.**

The possession and/or consumption of intoxicants are prohibited in all parks in the City without a permit.

Section 4. Section 9.86.050 of the Black Diamond Municipal Code is hereby amended to read as follows:

**9.86.050 Animals.**

No animal shall be allowed in any park without a permit except for police animals, service animals or domesticated animal under restraint by a person able to properly control the animal or while the animal is within a designated off-leash area. All horses shall be confined to those areas designated as roadways, parking areas, or trails that have City signs designating the trail for use by horses . The person who has brought the animal into the park shall be responsible for depositing all of the animal's solid wastes in a designated waste receptacle. No animal shall be abandoned or left to remain unattended in a city park.

Section 5. The Black Diamond Municipal Code is hereby amended to read as follows:

**9.86.060 Camping.**

It is unlawful for any person to camp overnight in any park except by permit of the Black Diamond Parks/Natural Resource's Director.

Section 6. The Black Diamond Municipal Code is hereby amended by the addition of a new section 9.86.070 to read as follows:

**9.86.070 Team sports and group athletic activities.**

Team sports and other group athletic activities, including but not limited to softball, baseball, football, soccer, volleyball, and frisbee football, shall be allowed only in designated areas or by permit.

Section 7. The Black Diamond Municipal Code is hereby amended by the addition of a new section 9.86.080 to read as follows:

**9.86.080 Damaging uses prohibited.**

It is unlawful for any person to remove, destroy, mutilate or deface any structure, or any part of any structure, or any fixture therein, or attached thereto, or any monument, statue, vase, fountain, wall, fence, railing, vehicle, bench, shrub, tree, fern, plant, flower, lighting system or sprinkling system, or any other property lawfully located within a City of Black Diamond park area, *provided*, insignificant damage to sod or playfield surfaces as a result of permitted activities is exempt.

Section 8. The Black Diamond Municipal Code is hereby amended by the addition of a new section 9.86.090 to read as follows:

**9.86.090 Harassing wildlife or disturbing wildlife habitat prohibited.**

- a. The intentional harassment of wildlife or intentional disturbing of wildlife habitat is prohibited within city parks.
- b. Disturbance by animals. It is unlawful for any person to permit any dog or other pet, whether on or off a leash, to disturb or harass any park personnel, users, neighboring property owners, farm animals, wildlife or other pets.

Section 9. The Black Diamond Municipal Code is hereby amended by the addition of a new section 9.86.100 to read as follows:

**9.86.100 Erecting poles or signs prohibited.**

- a. It is unlawful for any person, without prior written permission of the City Council, to attach any notice, bill, banner, poster, sign, wire, rod, or cord to any tree, shrub, railing, post or structure within any park; provided that the director may allow the erection of temporary directional signs or decorations on occasions of public celebration and picnics.
- b. It is unlawful for any person, without prior written permission of the City Council, to use, place or erect any signboard, sign, banner, billboard, bulletin board, post, pole, or device of any kind for advertising in any park, or to place or erect in any park a permanent or temporary structure of any kind; provided, that before granting any such permit, the city council shall establish general rules and regulations pertaining hereto, including provisions pertaining to removal, protection of the City Parks/Natural Resources Department and its employees, protection of the interests of the general public, and of persons using said park.

Section 10. The Black Diamond Municipal Code is hereby amended by the addition of a new section 9.86.110 to read as follows:

**9.86.110 Soliciting and commercial activity prohibited.**

No person may engage in soliciting or commercial activity in any City park without a permit.

Section 11. The Black Diamond Municipal Code is hereby amended by the addition of a new section 9.86.120 to read as follows:

**9.86.120 Aggressive begging—Misdemeanor.**

No person may engage in aggressive begging in a City park. “Aggressive begging” shall be defined as using threats, profane language, blocking passage or engaging in intentionally intimidating behavior combined with a request for money or other assistance, or making continued requests for money or other assistance from the same person after that person has clearly indicated that they decline to assist. Engaging in aggressive begging shall be a misdemeanor.

Section 12. The Black Diamond Municipal Code is hereby amended by the addition of a new section 9.86.130 to read as follows:

**9.86.130 Firearms and Explosives.**

It is unlawful to shoot, fire, or explode any firearms, rockets, fireworks, firecrackers, torpedo or explosive of any kind or to shoot or fire any air gun, bows and arrows, BB gun, or use any slingshot or other propelling device wherein the applied human energy or force is artificially aided, directed or added to in any park, except in such designated recreational areas as may be permitted by the City Council and/or law enforcement officials acting in their official capacity.

Section 13. The Black Diamond Municipal Code is hereby amended by the addition of a new section 9.86.140 to read as follows:

**9.86.140 Open Fires—Fires prohibited.**

- a. It is unlawful for any person to build a fire in any park.
- b. The City may prohibit barbecues, or other sources of flame within any City park whenever, in the opinion of the Fire Chief, allowing such activities would create risk of fire.

- c. Nothing in this section shall prohibit commissioned members of the Fire Department from enforcing any other rules or regulations related to open fires and any flame-related cooking activities.
- d. Recreational fires may be permitted in City parks, for special events, with prior approval of the Fire Chief or designee. A special permit as approved by the Fire Department must be obtained, prior to any recreational fires in City parks.
- e. Barbeques, charcoal grills, hibachis and gas fired cooking grills must be raised at least two feet above the ground. Disposal of barbeque coals directly onto the ground or in to park garbage receptacles is forbidden and shall be disposed of in approved receptacles provided by the City.

Section 14. The Black Diamond Municipal Code is hereby amended by the addition of a new section 9.86.150 to read as follows:

**9.86.150 Overnight Moorage Prohibited.**

It is unlawful for any person to moor a watercraft overnight in any park, except by permit of the City Parks/Natural Resource's Director.

Section 15. The Black Diamond Municipal Code is hereby amended by the addition of a new section 9.86.160 to read as follows:

**9.86.160 Amplified music and public address systems.**

It is unlawful to operate a powered public address system or amplified music speaker system or other means of amplifying sound at any park areas without a written permit from the director. Battery-operated portable radios and tape players are permitted, provided they shall not be operated at a volume or in any manner which unreasonably disturbs the peace of others.

Section 16. The Black Diamond Municipal Code is hereby amended by the addition of a new section 9.86.170 to read as follows:

**9.86.170 Littering**

- a. No person shall throw or deposit litter on any park property, except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by animals or the elements upon any part of the park, or upon any street or other

public place. Where public receptacles are not provided, all litter shall be carried away and properly disposed of.

b. No person shall use the Parks/Natural Resources Department litter receptacles in the following manner:

1. No person shall damage, deface, abuse, or misuse any litter receptacle so as to interfere with its proper function or detract from its proper appearance.
2. No person shall deposit leaves, clippings, prunings, or gardening refuse in any litter receptacle.
3. No person shall deposit household garbage in any litter receptacle; provided that this subsection shall not be construed to mean that wastes of food consumed on park property may not be deposited in litter receptacles.

c. For purposes of this section, "litter" means garbage, refuse, rubbish, or any other waste material which, if thrown or deposited as prohibited in this section tends to create a nuisance which annoys, injures, or endangers the health, safety, or comfort of the public.

d. Any person littering in an amount less than or equal to one cubic foot the maximum penalty and the default amount shall be \$50, not including statutory assessments; any person littering in an amount greater than one cubic foot the maximum penalty and the default amount shall be \$250, not including statutory assessments. Unless suspended or modified by a court, the person shall also pay a litter cleanup fee of \$25 per cubic foot of litter. The court may, in addition to or in lieu of part or the entire cleanup fee, order the person to pick up and remove litter from the property.

Section 17. The Black Diamond Municipal Code is hereby amended by the addition of a new section 9.86.180 to read as follows:

**9.86.180 Smoking in City Parks**

Smoking in City of Black Diamond Parks shall be prohibited, unless done within designated smoking areas.

Section 18. The Black Diamond Municipal Code is hereby amended by the addition of a new section 9.86.190 to read as follows:

**9.86.190 Interference with Employees**

No person, firm or corporation shall prevent, delay or interfere with the employees of the City in the lawful performance of their duties, including but not limited to planting, pruning, spraying or removing of trees, plants, or shrubs in a public park or a public place.

Section 19. The Black Diamond Municipal Code is hereby amended by the addition of a new section 9.86.200 to read as follows:

**9.86.200 Feeding Waterfowl Prohibited**

No person, other than authorized personnel, shall feed waterfowl on public property. Nor shall any person supervising a minor and having the ability to control the minor allow the minor to feed waterfowl on public property.

Section 20. The Black Diamond Municipal Code is hereby amended by the addition of a new section 9.86.210 to read as follows:

**9.86.210 Park Hours**

City parks shall be open from dawn until dusk each day. No unauthorized person shall go upon any City park except during open hours.

Section 21. The Black Diamond Municipal Code is hereby amended by the addition of a new section 9.86.220 to read as follows:

**9.86.220 Violations – Penalties**

- a. The acts or conditions enumerated in this chapter are proclaimed to be public nuisances. Those persons responsible for maintaining with knowledge such nuisances shall be subject to immediate ejection from the City park area and served with a no trespass order by the police department. Unless otherwise specifically set forth herein, a violation of any of the provisions of this chapter is an infraction. Unless otherwise specified, the penalty for the infraction, not including statutory assessments, shall be as follows:

1 <sup>st</sup> offense within one year	\$45.00
2 <sup>nd</sup> offense within one year	\$150.00
3 <sup>rd</sup> offense within one year	\$200.00

- b. Persons charged with infractions shall be processed by the municipal court in the same manner as persons charged with traffic infractions. Persons failing to appear for hearings for violations of this chapter shall be subject to the penalties set forth with Black Diamond Municipal Code.
- c. Nothing in this section shall limit or prohibit the ability of the City to pursue additional civil penalties for violations of this chapter, or to seek criminal penalties for behavior that constitutes a crime under any ordinance, law, or regulation adopted under the City Municipal Code.



Section 22. The Black Diamond Municipal Code is hereby amended by the addition of a new section 9.86.230 to read as follows:

**9.86.230 Adoption of Rules and Regulations by Director**

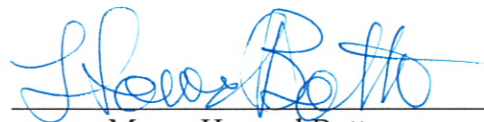
The Black Diamond Parks/Natural Resource's Director shall have the power to promulgate and adopt reasonable rules and regulations pertaining to the operation, management and use of the parks, and shall post the same in conspicuous places in the parks. Such rules and regulations shall include a procedure for granting blanket permits encompassing any particulars of this chapter to locally and nationally recognized organizations or associations. Such rules and regulations may include the establishment of hours during which any park or portion thereof as designated by signs located within the designated portion, shall be closed to the general public; such closures may be for reasons of public safety, welfare and convenience, or for reasons of park maintenance. It is unlawful for any person to violate or fail to comply with any park rule or regulation duly adopted and posted by the department.

Section 23. 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 24. 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 6th day of August, 2009.

Passed by the City Council on the 6<sup>th</sup> day of August, 2009.

  
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Mayor Howard Botts

ATTEST:

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Brenda L. Martinez  
Brenda L. Martinez, City Clerk

APPROVED AS TO FORM:

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Loren D. Combs, City Attorney

Published: 8/11/09  
Effective Date: 8/16/09