

CITY OF BLACK DIAMOND, WASHINGTON

ORDINANCE NO. 10- 940

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON, REGARDING THE CONTROL OF ANIMALS WITHIN THE CITY AND AMENDING SECTIONS 6.08.010, 6.08.020, 6.08.030, 6.08.040, 6.08.050, 6.08.070, 6.08.080, 6.08.090, 6.08.120, 6.08.130, 6.08.160, 6.08.200, AND 6.08.210, ADDING NEW SECTIONS 6.08.005, 6.08.025, 6.08.212, AND 6.08.214, AND REPEALING SECTIONS 6.08.060 AND 6.08.110 OF THE BLACK DIAMOND MUNICIPAL CODE

WHEREAS, the City has reviewed its existing ordinances regulating the control of animals within the City and determined that a few procedural issues relating to animals needed to be addressed; and

WHEREAS, at the request of the Council, the City Planning Commission reviewed Chapter 6.08 of the Black Diamond Municipal Code, conducted a public hearing, and then recommended various amendments be made;

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

Section 1. A new section 6.08.005 is hereby added to the Black Diamond Municipal Code, to read as follows:

6.08.005 Definitions.

- A. "Adult dog or cat" means any dog or cat over the age of six (6) months.
- B. "Animal control officer" means a duly-commissioned officer employed by King County Animal Care and Control or successor agency.
- C. "Dangerous dog" means:
 - (1) Any dog with a known propensity, tendency or disposition to attack without provocation, to cause injury to, or to otherwise endanger the safety of humans or other domestic animals;
 - (2) Any dog which attacks a human being or other domestic animal without provocation;
- D. "Exotic animals" means venomous and constrictor species of snakes capable of inflicting serious physical harm or death to human beings; non-human primates and prosimians; bears; non-domesticated species of felines; non-domesticated species of canines and their hybrids, including wolf and coyote hybrids;

crocodilia, including alligators, crocodiles, caiman and gavials.

E. "Fowl" means domesticated birds generally kept for use or commercial sale, such as chickens, turkeys, ducks, geese, swans, quail, pheasants, and any other bird similar in nature and size.

F. "Hobby kennel" means the housing of between six to ten household pets at a residential property, generally with the intention of breeding for future sale.

G. "Household pets" means small domesticated animals or fish kept for pleasure rather than utility. Pets include animals such as dogs, cats, spayed or neutered pot-bellied pigs, hamsters, hedgehogs, pygmy goats, nonvenomous and nonconstrictor snakes, fish and birds such as parakeets, canaries, parrots and other related non-fowl birds.

H. "Kennel" means any premises used to conduct a commercial business involving the buying, selling, breeding for sale, letting for hire, boarding or training of dogs, but excluding animal hospitals or clinics where animals are kept only for treatment by licensed veterinarians.

I. "Large animal" means any animal exceeding 200 pounds in weight.

J. "Livestock" means domesticated animals generally kept for use or profit, such as horses, mules, donkeys, ponies, oxen, cattle, llamas, goats, sheep, mink, swine and any other animal similar in nature and size.

K. "Owner" means any person or entity possessing, harboring, keeping, having an interest in, or having control or custody of an animal.

L. "Small domestic animals" (mammals and fowl) means small mammals and fowl such as rabbits, ducks, quail, geese, swans, chickens, pigeons, and other similar animals kept as pets or for personal use, but not for commercial sale, less than 200 pounds in weight.

Section 2. Section 6.08.010 of the Black Diamond Municipal Code is hereby amended to read as follows:

6.08.010 Animals permitted where.

The keeping of animals is permitted within any zone district within the city, subject to the standards of this chapter.

Section 3. Section 6.08.020 of the Black Diamond Municipal Code is hereby amended to read as follows:

6.08.020 Number of household pets allowed.

A. In residential and MPD zones, each dwelling unit and the accompanying lot or common area is limited to a total of five (5) household pets, any three (3) of which

may be adult dogs, and any three (3) of which may be adult cats, plus one unweaned litter produced by any of the pets. Provided, this limitation shall not apply to gerbils, hamster, fish, birds defined as household pets, nonvenomous or nonconstrictor snakes, and similar pets maintained in cages or tanks.

B. Household pets shall be sheltered in the dwelling unit or in a structure located in the side or rear yard of the accompanying lot.

Section 4. A new section 6.08.025 is hereby added to the Black Diamond Municipal Code, to read as follows:

6.08.025 Number of small domestic animals allowed.

A. No more than four (4) small domestic animals shall be permitted on lots less than one-half (1/2) acre in size; provided that the combined total of household pets per 6.08.020 and small domestic animals does not exceed six (6). For lots greater than one-half (1/2) acre in size, additional small animals may be kept at a ratio not to exceed five (5) additional animals per one-half (1/2) acre.

B. Suitable measures shall be maintained to prevent animals from straying onto adjacent property or public right-of-ways.

Section 5. Section 6.08.030 of the Black Diamond Municipal Code is hereby amended to read as follows:

6.08.030 Noncomplying animals deemed nonconforming use.

Where, on the effective date of adoption or amendment of the ordinances codified in this chapter, an animal lawfully resides within the City which residence is made nonconforming by such adoption or amendment, such use may be continued as a legal nonconforming use. The owner of the animal shall lose the nonconforming use upon the death or removal of that specific animal from the residence. Any replacement animals must be in conformity with this chapter. The nonconforming use status of an animal is specific to the owner of the animal and not the property where the animal is located.

Section 6. Section 6.08.040 of the Black Diamond Municipal Code is hereby amended to read as follows:

6.08.040 Livestock and large farm animals.

Livestock and large farm animals are allowed in all zone districts, subject to the following requirements:

A. Minimum acreage shall be one-half (1/2) acre of enclosed pasture. No livestock or large farm animals shall be allowed on lots less than one-half (1/2) acre in size. Livestock and large farm animals may be kept at a maximum ratio of four (4) animals per enclosed acre of pasture.

B. Livestock shall be kept within an enclosure adequately built and maintained to prevent escape. Livestock shall be reasonably sheltered. Structures which provide confinement and feeding for such animals shall be located not less than fifty (50) feet away from any adjoining property line and not less than one hundred (100) feet from any residential dwelling unit on adjoining property.

Section 7. Section 6.08.050 of the Black Diamond Municipal Code has been amended to read as follows:

6.08.050 Sanitation.

The keeper of any livestock or farm animals must remove, recycle or compost all animal, solid and food waste, bedding and other debris to eliminate infestation of insects, rodents, or disease and to eliminate odors.

Section 8. Section 6.08.060 of the Black Diamond Municipal Code is hereby repealed.

Section 9. Section 6.08.070 of the Black Diamond Municipal Code is hereby amended to read as follows:

6.08.070 Hobby kennels.

A. A hobby kennel shall only be allowed pursuant to the granting of a conditional use permit. When considering a request for a conditional use permit, the hearing examiner shall consider the applicable standards, conditions, and policies established by this chapter, as well as the following:

1. Statements and testimony of surrounding neighbors relative to the request for the conditional use permit for the keeping of animals;
2. Review of past history of animal control complaints involving the applicant for the conditional use permit, or the property upon which the conditional use permit is sought;
3. The type of animals sought to be allowed relating to the nature of the neighborhood, surface water drainage, location of wells, size of lot where animal is to be kept, odor, fencing, shelter, removal of animal waste.

B. In addition to any other specific conditions imposed by the hearing examiner, all conditional use permits shall be subject to the following conditions:

1. The animals to be kept shall comply with the minimum area standards established in this chapter;
2. All open run areas shall be surrounded by a fence of at least six foot high located no closer than ten feet from all adjacent property lines;
3. Animals shall be kept in a manner so as not to create any objectionable noise, odor, or otherwise cause annoyance or become a public nuisance to the health, safety or welfare of any person;
4. The kennel area and run area must be kept free from animal and food wastes;
5. Shelters shall be kept clean and located in the rear yards unless there is a specific finding that a side yard would provide a better location. A shelter shall be located a minimum of ten feet from all property lines.

Section 10. Section 6.08.080 of the Black Diamond Municipal Code is hereby amended to read as follows:

6.08.080 Exotic or dangerous animals.

A. The keeping of an exotic and/or dangerous animal is prohibited unless such animal is part of an animal exhibition, which is mobile and travels from location to location such as circus or a traveling display of a zoological park.

B. A dangerous animal is an animal with a known propensity, tendency or disposition to attack without provocation, to cause injury to, or to otherwise endanger the safety of humans or other domestic animals; or which attacks a human being or other domestic animal without provocation.

Section 11. Section 6.08.090 of the Black Diamond Municipal Code is hereby amended to read as follows:

6.08.090 Revocation of conditional use permit.

A conditional use permit may be revoked by the hearing examiner upon a finding of any violation of this chapter, any conditions of the conditional use permit, or upon any change in circumstances or additional information provided within the guidelines set forth for the issuance of a conditional use permit, which results in the animals kept under the conditional use permit being a hazard, nuisance or in any way offensive to neighbors, their health, safety or enjoyment of their property.

Section 12. Section 6.08.110 of the Black Diamond Municipal Code is hereby repealed.

Section 13. Section 6.08.120 of the Black Diamond Municipal Code is hereby amended

to read as follows:

6.08.120 Killing animals.

Other than vermin and small domestic animals, it is unlawful for any person, except King County animal control or law enforcement authorities, to kill any animal within the city limits, unless evidence is presented that the animal is vicious and presenting a threat to the safety of any person or farm animal. Provided that, with prior notification to the police department, any livestock or large farm animal may be slaughtered for human consumption.

Section 14. Section 6.08.130 of the Black Diamond Municipal Code is hereby amended to read as follows:

6.08.130 Animal traps-Spring traps.

A coyote getter or similar spring trigger device for the killing, harming or trapping of an animal is unlawful within the city limits unless done by the Washington State Department of Fish and Wildlife or such other state or federal agency, provided it advises the city of the nature of the device, the area to be used in and will monitor the device and insure its timely removal.

Section 15. Section 6.08.160 of the Black Diamond Municipal Code is hereby amended to read as follows:

6.08.160 Tracking dogs.

It is unlawful to use dogs to pursue any wild animals within the city limits unless such dog is under the control of animal control or law enforcement officers for the purposes of the apprehension or tracking of a dangerous or diseased animal.

Section 16. Section 6.08.200 of the Black Diamond Municipal Code is hereby amended to read as follows:

6.08.200 Unlawful Acts--Nuisances designated.

It is unlawful for the owner or person responsible to cause, allow, and/or permit, either willfully or by failure to exercise due care, or participate in, any of the following, which in addition to any other penalties provided in this chapter, shall singly or together constitute a public nuisance:

A. A dog running at large within the city. Running at large shall be defined as being off

of the owner or tenant's property and not on a leash fixed to the animal and a person. This shall not apply to a guide dog, an animal performance, dog training classes or animal shows or exhibitions;

B. Any animal which habitually snaps, growls, barks, snarls, jumps at or otherwise threatens persons using public sidewalks, streets, alleys or other public rights of ways;

C. Any animal which howls, yelps, whines, barks or makes other oral noises on a continual basis and in such a manner as to disturb individuals residing on at least three distinct properties;

D. Any animal which enters upon the property of a person not that animal's owner without the permission of that person;

E. Animals staked, tethered or kept on public property without the written consent of the city;

F. Animals on any public property not under control of the owner or other competent person;

G. Animals kept, harbored, or maintained and known to have a contagious disease unless under treatment by a licensed veterinarian;

H. Any animals running in packs.

Section 17. Section 6.08.210 of the Black Diamond Municipal Code is hereby amended to read as follows:

6.08.210 Cruelty to animals.

The following, singly or together, are deemed to constitute cruel treatment to animals. Therefore, it is unlawful for any person, firm, or corporation to:

A. Willfully and cruelly kill, injure, poison, torture, or torment any animal;

B. Intentionally or negligently cause or allow any animal to endure pain, suffering or injury or to fail or neglect to aid or attempt to alleviate pain, suffering or injury, including not providing needed veterinarian care, he has so caused to any animal;

C. Neglect or failure to provide minimum care to any animal within his care, custody, or control. For the purpose of this section, "minimum care" means care sufficient to preserve the health and well-being of an animal and, except for emergencies or circumstances beyond the reasonable control of the owner, including, but is not limited to, the following requirements:

1. In each period of 24 consecutive hours, food of sufficient quantity and quality to allow for growth or maintenance of body weight;

2. In each period of 24 consecutive hours, open or adequate access to potable water in sufficient quantity to satisfy the animal's needs. Neither snow nor ice is an adequate water source;

3. In the case of pets or domestic animals, access to a barn, doghouse, or other enclosed structure sufficient to protect the animal from wind, rain, snow or sun, and which has adequate bedding to protect against cold and dampness; In the case of livestock, protection from adverse environmental elements detrimental to the health and well-being of the animal;

4. Veterinary care deemed necessary by a reasonably prudent person to relieve distress from injury, neglect, or disease;

5. Pets or domestic animals shall not be confined to an area without adequate space for exercise necessary for the health of the animals or which does not allow access to a dry place for the animals to rest. The air temperature in a confinement area must be suitable for the animal involved. The confinement area must be kept reasonably clean and free from excess waste or other contaminants which could affect the animal's health;

D. Tether, confine, or restrain any animal in such a way as to permit said animal to become frequently entangled in such tether, or render said animal incapable of consuming food or water provided for it, while at the same time failing to allow adequate space for freedom of movement necessary when tethered for extended periods of time, said tether to be not shorter than three times the length of the animal, measured from the tip of its nose to the base of its tail;

E. Abandon any animal by dropping off or leaving said animal on the street, road, or highway, or in a public place, or the private property of another person, firm, or corporation;

F. Confine an animal within or on a motor vehicle or other enclosure or structure when unattended and under such conditions as may endanger the health and well-being of the animal. Such conditions include, but are not limited to, dangerous temperature, lack of food or water, and confinement with a vicious animal;

G. Knowingly place food of any description containing poisonous or other injurious ingredients in any area reasonably likely to be accessible to domesticated animals or livestock;

H. Knowingly and intentionally, whether for amusement of self or others, or for financial gain, cause any animal to fight or injure any other animal, cause it to be fought or injured by any animal, or train or keep for the purpose of training any animal with the intent that the animal shall be exhibited combatively with any other animal. Anyone who permits such conduct on premises under that person's control, and any person present as a spectator at that exhibition, shall be considered a violator of this subsection and subject to punishment upon conviction;

I. Transport or confine any living animal on the outside part of a motor vehicle except when attached to or enclosed in the vehicle by a harness, leash, cage or other enclosure which protects the animal from falling or being thrown from the vehicle and which prevents the animal from leaving the vehicle while unattended. The outside part of a motor vehicle includes the running board, fender or hood of any motor vehicle or the flatbed of a truck and/or the open portion (bed) of a pickup truck;

J. Dying, coloring or otherwise treating any living baby rabbits, chicks, ducklings or other fowl so as to have an artificial color;

K. Any practice of good animal husbandry is not a violation of this section. "Good animal husbandry" includes, but is not limited to, the dehorning of cattle, the docking of horses, sheep or swine, and the castration or neutering of livestock, according to accepted practices of veterinary medicine or animal husbandry.

Section 18. A new Section 6.08.212 is hereby added to the Black Diamond Municipal Code to read as follows:

6.08.212 Dangerous dogs.

It is unlawful for any person to have in their possession, or to allow to be maintained upon premises within their possession or control, a dangerous dog as defined in BDMC 6.08.005.

Section 19. A new section 6.08.214 is hereby added to the Black Diamond Municipal Code to read as follows:

6.08.214 Procedure for abating dangerous dogs.

A. Investigation. The animal control officer shall have the authority to investigate any dog reasonably believed by the officer to be a dangerous dog. The investigation may include the observations of the particular dog by the animal control officers, and other witnesses who have personally observed the dog.

B. Confinement of dog. If the animal control officer determines that there is probable cause to believe that a dog is dangerous and a risk to public safety, the animal control officer may affect entry into the yard of any private residence or business with the consent of the rightful occupant in order to seize any such dog, whether running at large or not, and confine said dog at an appropriate animal shelter pending the decision of the police chief following the hearing provided for in subsection (E) of this section. If the animal control officer is unable to gain

consent by the rightful occupant, then the animal control officer may enter pursuant to warrant, to seize any such dog unless a public safety emergency justifies warrantless entry.

C. Notice. If, based on his/her investigation, the animal control officer determines that there is probably cause to believe that the dog is dangerous, the officer shall cause to be sent to the owner a "Notice Regarding Dangerous Dog." The notice shall be personally served on such person or sent to the last known address of such person by regular and certified mail, return receipt requested. The notice must state: the basis for the proposed action; the reasons the officer considers the dog dangerous; a statement that upon final determination the dog must be removed from the City; and an explanation of the owner's rights, including the right to meet with the officer prior to a final determination being made, at which meeting the owner may give, orally or in writing, any reasons or information as to why the dog should not be declared dangerous. The notice shall also state the date, time, and location of the meeting, which must occur prior to expiration of 10 calendar days following delivery of the notice. The owner may propose an alternative meeting date and time, but such meeting must occur within the 10-day time period set forth in this section. After such meeting, the officer must issue its final determination, in the form of a written order, within 10 calendar days. In the event the officer declares a dog to be dangerous, the order shall include a recital of the authority for the action, a brief, concise statement of the facts that support the determination, the proper procedure for appealing the decision, and the signature of the person who made the determination. The order shall be sent by regular and certified mail, return receipt requested, or delivered in person to the owner at the owner's last address known to the authority.

D. Appeal. The owner may appeal the authority's final determination that the dog is dangerous to the city's hearing examiner, which appeal shall be in accordance with the provisions herein and pursuant to the procedures of the city code. Any such appeal by the owner shall be perfected by filing a written notice of such appeal with the city clerk within 15 days of the date the owner received the final determination if the order was delivered in person, or within 20 days of the date the order was mailed to the owner, by filing a written notice of appeal with the city clerk.

E. Hearing Examiner Determination. If the hearing examiner upholds the determination of the animal control officer that the dog is dangerous, he/she shall so specify in writing, together with the reasons therefore. Any dog found to be dangerous is deemed a public nuisance and shall be, pursuant to the order of the hearing examiner, humanely destroyed, or removed from the city by appropriate order of the hearing examiner. The decision of the hearing examiner shall be made

within ten (10) days after the conclusion of the hearing and shall be final. A copy of the decision shall be sent by certified mail or personally served upon the owner of the dog.

F. Cost of impoundment. If the hearing examiner finds the dog is dangerous, costs of impoundment incurred by the city shall be paid by the owner or the person controlling the dog. If the hearing examiner finds the dog is not dangerous, then the dog shall be released to the owner, and the cost of impound and kenneling shall be paid by the city.

Section 20. 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 21. 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 3 day of June, 2010.

Passed by the City Council on the 3 day of June, 2010.



Mayor Rebecca Olness

ATTEST:



Brenda Martinez, City Clerk

APPROVED AS TO FORM:

Chris Bacha, City Attorney

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