

CITY OF BLACK DIAMOND

WASHINGTON

ORDINANCE NO. 10-951

AN ORDINANCE OF THE CITY OF BLACK DIAMOND, WASHINGTON, RELATING TO THE ADOPTION OF KING COUNTY CODE CHAPTER 11.04 ANIMAL CARE AND CONTROL PROVISIONS, SPECIFICALLY REPEALING AND REENACTING BDMC CHAPTER 6.04; REPEALING BDMC 6.08.200, 6.08.210, 6.08.215, AND 6.08.219; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, on June 17, 2010 the City Council passed Resolution No. 10-694 authorizing the Mayor to enter into an interlocal agreement on behalf of the City with King County for animal control services; and

WHEREAS, the interlocal agreement provides that the City shall promptly enact an ordinance or resolution that includes license, fee, penalty, enforcement, impound/redemption and sheltering provisions that are substantially the same as those of Title 11 King County Code as now in effect or hereafter amended; and

WHEREAS, RCW 35A.12.140 authorizes code cities to adopt by reference provisions within county codes, and any amendments thereto; provided that, such code provisions and amendments thereto are filed in the office of the city clerk; and

WHEREAS, the City Council has previously adopted by reference certain provisions of the King County animal control code; however, these provisions need to be updated; and

WHEREAS, the City Council finds that it would be in the best interests of the City of Black Diamond to repeal and re-adopt the animal control code of the City to conform to the requirements of the interlocal agreement;

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

Section 1. BDMC Chapter 6.04 Repealed. Chapter 6.04 of the Black Diamond Municipal Code entitled "County Animal Control Ordinances" is hereby repealed in its entirety and re-adopted to read as follows:

6.04.010 County code adopted – Animal care and control regulations – Licensing, fees, penalties, enforcement, impoundment, redemption, and sheltering.

A. Adoption. Except as set forth at subsection B below, the following provisions of the King County Code Title 11 are adopted, by reference as now or hereafter amended:

- 11.04.010 Purpose and scope – conflicts.
- 11.04.020 Definitions.
- 11.04.030 Pet licenses – required – issuance – penalty – fee use – improper checks – exceptions.
- 11.04.035 License fees and penalties.
- 11.04.170 Enforcement power.
- 11.04.180 Violations – deemed nuisance – abatement.
- 11.04.190 Violations – misdemeanor – penalty.
- 11.04.200 Violations – civil penalty.
- 11.04.210 Impounding.
- 11.04.220 Additional enforcement.
- 11.04.225 Additional enforcement – cruelty to animals.
- 11.04.230 Nuisances defined.
- 11.04.235 Transfer of unaltered dogs and cats prohibited.
- 11.04.240 Unlawful acts against police department dogs – penalty for violation.
- 11.04.250 Violations – unlawful acts – cruelty to animals – database.
- 11.04.270 Appeals
- 11.04.280 Redemption procedures.
- 11.04.290 Vicious animals – corrective action.
- 11.04.300 Civil penalty and abatement costs – liability of owner.
- 11.04.310 Costs of enforcement action.
- 11.04.330 Additional rules and regulations.
- 11.04.335 Waiver of fees and penalties.

B. Amendments; Exceptions. The following provisions of the King County Code Title 11 adopted and incorporated herein pursuant to BDMC 6.04.010.A, are hereby amended as follows:

1. Section 11.04.035.B. relating to fees for hobby kennels is specifically not adopted.
2. Section 11.04.270 is hereby amended to read as follows:

11.04.270 Appeals.

A. The City of Black Diamond Hearing Examiner is designated to hear appeals by parties aggrieved by actions of the City or its agents under this chapter for which no right of appeal exists pursuant to BDMC 6.04.050. The Hearing Examiner may adopt reasonable rules or regulations for conducting its business. Copies of all rules and regulations adopted by the Hearing Examiner shall be freely accessible

to the public. All decisions and findings of the Hearing Examiner shall be rendered to the appellant in writing with a copy to the City.

B. Any person entitled to appeal from any notice and order or any action of the manager of the City, or its agents under this chapter may do so by filing, with the City Clerk within fourteen days from the service of the order or action, a written appeal containing:

1. A heading in the words: "Before the Hearing Examiner of the City of Black Diamond";
2. A caption reading: "Appeal of _____ giving the names of all appellants participating in the appeal;
3. A brief statement setting forth the legal interest of each of the appellants in the animal involved in the notice and order;
4. A brief statement in concise language of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant;
5. A brief statement in concise language of the relief sought, and the reasons why it is claimed the protested order or action should be reversed, modified or otherwise set aside;
6. The signatures of all parties' names as appellants, and their official mailing addresses;
7. The verification, by declaration under penalty of perjury, of at least one appellant as to the truth of the matters stated in the appeal.

C. The Hearing Examiner shall set a time and place, not more than thirty days from the notice of appeal for a hearing on the appeal. Written notice of the time and place of hearing shall be given at least ten days before the hearing to each appellant by the manager-clerk of the board.

D. At the hearing, the appellant shall be entitled to appear in person, to be represented by counsel and to offer evidence that is pertinent and material to the action of the City, or its agents. Only those matters or issues specifically raised by the appellant in the written notice of appeal shall be considered.

6.04.020 References to "King County" or "County."

Any reference to "King County" or the "County" shall be considered the same as the "City of Black Diamond."

6.04.030 References to the King County Code Title 21A.

Any reference to "King County Code Title 21A" or specific provisions of King County Code Title 21A or to King County Ordinance 10870 shall refer to comparable provisions of Black Diamond municipal code Title 18.

6.04.040 Authority to enforce chapter.

The Animal Control Division of King County is designated the agency authorized to enforce the provisions of this chapter, as provided by the King County Animal Control code described in

BDMC 6.04.010. The Chief of Police and his or her appointees are authorized to enforce the provisions of the Chapter.

6.04.050 Violations – Hearings and appeals.

Violations of this chapter shall be enforced pursuant to enforcement provisions of BDMC 8.02.

6.04.060 Copy of King County Code Title 11 on file.

A copy of King County Code Title 11, as amended, is made available for public inspection and copying during regular business hours with the city clerk-treasurer.

Section 2. Repealer. Black Diamond Municipal Code Section 6.08.200 (Nuisances designated) is hereby repealed in its entirety.

Section 3. Repealer. Black Diamond Municipal Code Section 6.08.210 (Cruelty to animals) is hereby repealed in its entirety.

Section 4. Repealer. Black Diamond Municipal Code Section 6.08.219 (Animals in parks to be leashed – Penalty) is hereby repealed in its entirety.

Section 5. 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 6. 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.

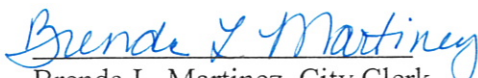
ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 16TH DAY OF DECEMBER, 2010.

CITY OF BLACK DIAMOND



Rebecca Olness, Mayor

ATTEST/AUTHENTICATED:



Brenda L. Martinez, City Clerk

Approved as to form:

Chris D. Bacha, City Attorney

Filed with the City Clerk:

Passed by the City Council: 12/16/2010

Ordinance No. 10-951

Date of Publication: 12/21/2010

Effective Date: 12/26/2010