

**CITY OF BLACK DIAMOND  
WASHINGTON**

**ORDINANCE NO. 13-1003**

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**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**

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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.

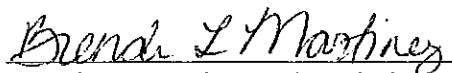
Section 4. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

**ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 20TH DAY OF JUNE, 2013.**

CITY OF BLACK DIAMOND

  
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Rebecca Olness, Mayor

ATTEST/AUTHENTICATED:

  
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Brenda L. Martinez, City Clerk

Approved as to form:

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Chris D. Bacha,  
Kenyon Disend PLLC  
City Attorney

Filed with the City Clerk:  
Passed by the City Council: 6/20/13  
Ordinance No.  
Date of Publication: 6/28/13  
Effective Date: 7/3/13