

**CITY OF BLACK DIAMOND
WASHINGTON**

ORDINANCE NO. 13-1008

AN ORDINANCE OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON; RELATING TO STORM WATER AND SURFACE WATER SEWER UTILITY RATES; AMENDING SECTION 14.02.110 OF THE BLACK DIAMOND MUNICIPAL CODE; IMPLEMENTING A RATE INCREASE IN YEAR 2014 TO MEET STORM WATER AND SURFACE WATER SEWER SERVICE OBLIGATIONS; PROVIDING FOR SEVERABILITY; ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City of Black Diamond is a municipal corporation operating under the laws of the state of Washington as a code city pursuant to Chapter 35A of the Revised Code of Washington; and

WHEREAS, as a code city, the legislative body of the City of Black Diamond is vested with all powers possible for a city or town to have under the Constitution of this state, and not specifically denied to code cities by law; and

WHEREAS, RCW Ch. 35.92 and Ch. 35.67 authorizes the City of Black Diamond to construct, condemn and purchase, acquire, add to, alter, maintain, and operate storm and surface water sewer systems, and establish the rates therefore; and

WHEREAS, the City has established a storm water and surface water sewer utility system and regulations governing rates and charges for storm water and surface water sewer utility services codified at Chapter 14.02, of the Black Diamond Municipal Code; and

WHEREAS, BMDC 14.02.130 provides that the fees established by BDMC Ch. 14.02.110 shall be reviewed periodically by the Mayor City Council, and that, as part of such review, the City's finance department shall present to the City Council proposed amendments to any rates and charges necessary to enable the city to pay all costs to be incurred by the city's storm water and surface water utility system; and

WHEREAS, pursuant to Resolution No. 13-864 the City Council authorized a contract with Ashley M. Emery of Peninsula Financial Consulting (the “Consultant”) to conduct a cost-of-service study to determine whether existing storm water and surface water sewer utility rates are adequate to recover the cost of providing storm water and surface water sewer service; and

WHEREAS, the Consultant has, together with Finance Department and other City staff, analyzed and processed available data relating to storm water and surface water utility system maintenance and operations, including revenues, expenditures, debt service obligations, and certain future capital needs, as well as planned growth and impacts upon storm water and surface water sewer utility service, and utilizing this, and other data, has forecast total storm water and surface water sewer utility system cash flows and expenditures for future years utilizing proprietary computer modeling; and

WHEREAS, Consultant forecasts that the total annual storm water and surface water sewer utility system revenues in year 2014 will be less than the annual cost to provide storm water and surface water sewer utility service and that storm water and surface water sewer utility cash reserves are insufficient to sustain near-term storm water and surface water sewer utility service and to meet future capital needs; and

WHEREAS, based upon the foregoing, the City Council has determined that the monthly storm water and surface water sewer utility system rates for the year 2014 will be insufficient to fund the on-going maintenance, operational and capital costs of the storm water and surface water sewer utility system; and

WHEREAS, the City Council has determined that a rate increase is necessary in order to meet its obligation to adequately fund the on-going maintenance, operational and capital costs of the storm water and surface water sewer utility system, to meet its service obligations to storm water and surface water sewer utility system customers, and to protect the public health, safety and welfare; and

WHEREAS, in consideration of the report and recommendation of Consultant, projected future growth, and future anticipated on-going operational, maintenance and capital costs of the storm water and surface water sewer utility system, the City Council finds that the amendments to BDMC Ch. 14.02.110 increasing the storm water and surface water sewer utility system rates as set forth herein are reasonable and necessary to meet revenue requirements to cover the costs necessary to maintain a self-supporting and financially viable storm water and surface water sewer utility system;

WHEREAS, the City Council finds that it is in the public interest to implement the storm water and surface water sewer utility system rate increases as set forth herein in order to ensure that the storm water and surface water sewer utility has sufficient revenue to be self-supporting and financially viable;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND,
KING COUNTY, WASHINGTON DO ORDAIN AS FOLLOWS:**

Section 1. Incorporation of Recitals. The above-stated recitals are incorporated by this reference as though fully set forth herein and are adopted as the findings and conclusions of the City Council.

Section 2. Amendment of BDMC 14.02.110 (Service charge rates). Section 14.02.110 of the Black Diamond Municipal Code is hereby amended (*amendments shown in legislative revision marks*) to read as follows:

14.02.110 - Service charge rates.

A. Service charges are hereby imposed on each parcel of real property within the city served by or to which is available for service the stormwater and surface water management utility.

B. The following service charge rate is hereby established for all parcels of real property in the city, subject to any credits as described in subsection (C), below:

1. Fourteen dollars per ERU per month.

2. Effective January 1, 2014, the service charge rate shall increase to ~~fifteen~~sixteen dollars per ERU per month.

C. Credits. Where applicable, the following credits may be applied in calculating the service rate for a parcel of real property within the City of Black Diamond:

1. Department of ecology permit credit. Any customer within the City of Black Diamond that is required to obtain a general or individual wastewater permit from the Washington State Department of Ecology shall receive a credit, prorated monthly, in the amount paid each year for such permit toward the amount owed to the City of Black Diamond under this chapter. In order to qualify for this credit, the business must provide the city with a copy of the department of ecology permit and proof of payments along with a letter to the city utility clerk requesting the credit.

2. Storm pond investment credit. Any customer that is assessed a stormwater utility fee under Section 14.02.070.B.4 and that constructs and has approved by the city a storm water detention/retention facility shall be eligible for a credit toward the storm water utility rate for the site served by the facility, subject to the following:

(a) To qualify for a credit, the detention/retention pond and associated facilities must adequately perform storm water treatment functions through the use of such methods as oil/water separators, bioswales, wet ponds, cartridge filter systems, or other means. The city may revoke any credit granted under this section upon a determination that the facilities are out of compliance with this section.

(b) The owner of record must provide the city's public works department with a copy of the facility's "as built" plans, stamped and signed by the owner's engineer, to verify that the drainage system has adequate capacity to meet the design criteria for which the

owner is requesting a credit. The engineer shall also provide a stamped and signed operations manual for the retention/detention pond. New capacity calculations, "as built" plans, and a new operations manual shall be provided to the city if the retention/detention pond is increased or decreased in size.

(c) Annually by January 1 of the year preceeding the year for which the credit is being requested, each owner of record shall provide a certified statement on a form provided by the city verifying that all required maintenance has been performed in accordance with the operations manual. Once every five years, the certified statement shall be stamped and signed by the owner's engineer.

(d) The owner of record shall provide the city with a "hold harmless" statement on a form provided by the city that indemnifies the city from any loss arising from the construction and maintenance and operation of the retention/detention pond and associated private drainage facilities for both the quantity and quality of water runoff from the owner's property. This statement shall be signed by the owner and will be recorded with the county auditor by the owner of record. The owner of record shall provide a copy to the city showing the county auditor's recording number stamped on it before the credit will be given by the city.

(e) Each owner of record must enter into an agreement that allows the city to enter upon the owner's property to inspect the retention/detention pond and associated drainage facilities and verify all information submitted by the owner and his or her engineer. The agreement shall be on a form provided by the city and shall be recorded with the county auditor by the owner. The owner shall provide a copy to the city showing the county auditor's recording number stamped on it before the credit will be given by the city.

(f) Credit shall be given as follows:

(1) Retention facilities:

- a. One hundred-year storage: Eighty-five percent credit.
- b. Fifty-year storage: Forty percent credit.
- c. Twenty-five-year storage: Twenty percent credit.
- d. Ten-year storage: Ten percent credit.


(2) Detention facilities:

- a. One hundred-year storage facility with release rate of fifty percent of the predevelopment discharge rate for a two-year storm: Eighty-five percent credit.
- b. Fifty-year storage facility with release rate of fifty percent of the predevelopment discharge rate for a two-year storm: Forty percent credit.
- c. Twenty-five-year storage facility with release rate of fifty percent of the predevelopment discharge rate for a two-year storm: Twenty percent credit.
- d. Ten-year storage facility with release rate of fifty percent of the predevelopment discharge rate for a two-year storm: Ten percent credit.

Section 3. Effective Date. This Ordinance shall be in full force and effect on **August 1, 2013**. A summary of this Ordinance may be published in lieu of publishing the ordinance in its entirety.

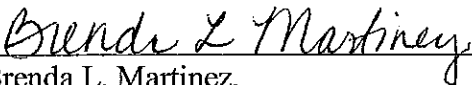
Section 4. Severability. If any provision of this ordinance, or ordinance modified by it is determined to be invalid or unenforceable for any reason, the remaining provision of this ordinance and ordinances and/or resolutions modified by it shall remain in force and effect.

ADOPTED BY THE CITY COUNCIL AT A SPECIAL MEETING THEREOF ON THE 11TH DAY OF JULY, 2013.



Mayor, Rebecca Olness

Attested:



Brenda L. Martinez,
City Clerk

APPROVED AS TO FORM:

Chris Bacha
Kenyon Disend, PLLC
City Attorney

Published: 7/19/2013
Posted: 7/12/2013
Effective Date: 7/24/2013