

**ORDINANCE NO. 16-1073A**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
BLACK DIAMOND, KING COUNTY, WASHINGTON,  
ADOPTING NEW STORMWATER MANAGEMENT  
REGULATIONS AND AMENDING CHAPTER 14.04 OF THE  
BLACK DIAMOND MUNICIPAL CODE**

WHEREAS, in 2009, the Black Diamond City Council adopted the Washington State Department of Ecology's 2005 Stormwater Management Manual for Western Washington ("2005 SWMMWW") as the stormwater standards for the City of Black Diamond; and

WHEREAS, The Department of Ecology's current stormwater manual is the 2012 Stormwater Management Manual for Western Washington, as amended in December 2014 ("2014 SWMMWW"), which incorporates some current best management practices and best available science; and

WHEREAS, Black Diamond is a National Pollution Discharge Elimination System (NPDES) Phase II community, and as such is required to adopt stormwater standards equivalent or more stringent than the 2014 SWMMWW by December 31, 2016; and

WHEREAS, the Council held a public hearing on this ordinance on October 6, 2016; and

WHEREAS, the Council makes the following findings:

1. Urban development can cause changes in patterns of stormwater flow from land into receiving waters if not reasonably assessed and addressed. Increased surface runoff flows can cause stream channel changes that destroy habitat for fish if reasonable detention and retention is not applied. Water quality can be harmed when runoff carries pollutants such as eroded soil, oil, metals or pesticides into streams, wetlands, lakes, and marine waters or into ground water if proper treatment of stormwater is not applied. Proper management of stormwater runoff helps to reduce these significant pollution problems to preserve and protect waterways for people and fish.

2. Adoption of the 2014 SWMMWW is recommended in order to promote the public health, safety and welfare by providing for the comprehensive management of surface water and stormwater, erosion control, and flooding.

3. This ordinance is an important step in keeping keeps the City in compliance with the best available science in stormwater management in order to minimize water quality degradation; prevent flood damage, siltation and habitat destruction in the City's creeks, streams and other water bodies; protect property owners adjacent to developing land from increased

runoff rates which could cause stream erosion and damage to public and private property; promote sound development and redevelopment policies which respect and preserve the City's watercourses and aquatic habitat; promote and prioritize low impact development strategies that reduces impervious surface and stormwater runoff; ensure the safety of City roads and rights-of-way; and promote ground water recharge through the implementation of comprehensive and thorough permit review, construction inspection, enforcement, and maintenance programs that facilitate the effectiveness of the requirements contained in this chapter.

4. The City has many large undeveloped and underdeveloped parcels that, if developed before adoption of the new stormwater management standards are in place, could result in stormwater management plans and facilities that do not meet current best management practices and are not based on best available science. Such inadequate plans and facilities could have a detrimental impact to water quality, fish habitat, and flood control for many years to come.

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

Section 1. Section 14.04.020 of the Black Diamond Municipal Code is hereby amended to read as follows:

**14.04.020 Adoption of Manual--Applicability.**

A. Stormwater Management Manual Adopted. The 2012 Edition of the Department of Ecology's Stormwater Management Manual for Western Washington ("SWMMWW"), as amended in December 2014, and as subsequently amended by the Department of Ecology or applicable law, is hereby adopted by reference (the "Stormwater Manual"), Stormwater management measures shall be designed, constructed and maintained in accordance with the standards and specifications as set forth in the Stormwater Manual.

B. All Development and Redevelopment within the City shall comply with the provisions of this chapter and the Stormwater Manual.

Section 2. Section 14.04.030 of the Black Diamond Municipal Code is hereby amended to read as follows:

**14.04.030 Responsible City Official**

The City Public Works Director (the "Director") shall have general charge of and supervision over the administration and enforcement of this chapter. The Director is authorized to adopt policies—and procedures for the purposes of implementing the provisions of this

chapter.

Section 3. Section 14.04.130 of the Black Diamond Municipal Code is hereby amended to read as follows:

**14.04.130 Maintenance and source control.**

A. For residential subdivisions, after the Director has released bonds for the project pursuant to Section 14.04.360, the maintenance duties shall be in accordance with the conditions and requirements of final plat approval, but the property owner's association shall have principal

responsibility for the source control practices of its members that may impact quality of runoff.

B. For all projects except residential subdivisions, the proponent or successors shall maintain stormwater drainage facilities in full compliance with the requirements of the approved operation and maintenance manual.

C. The articles of the property owners' association shall include by reference the project's operation and maintenance manual.

D. A covenant stating the property owners' or property owners' association's specific responsibilities shall be included on the face of the plat and recorded against each lot in the subdivision.

Section 4. Section 14.04.170 of the Black Diamond Municipal Code is hereby amended to read as follows:

**14.04.170 Review and acceptance.**

A. The Director shall review all drainage-related submittals for compliance with the specific criteria set forth in this chapter. Incomplete submittals shall be returned to the proponent without being reviewed. An acceptance of a stormwater site plan or construction stormwater pollution prevention plan by the Director does not relieve the proponent or the project engineer of responsibility for ensuring that all facilities are safe and that calculations, plans, specifications, construction and drawings of record comply with applicable engineering standards, this chapter and applicable federal, state and local laws and codes.

B. The city shall not issue any underlying permit (e.g., preliminary plat, building permit) until the Director has determined that all requirements of this chapter have been met. The implementation of the applicable Minimum Requirements shall be a condition of said permit.

Section 5. Section 14.04.330 of the Black Diamond Municipal Code is hereby amended to read as follows:

**14.04.330 Director may modify minimum requirements.**

A. This chapter presents minimum standards for achieving the city's goals. The Director has the authority to increase requirements to protect the public interest on the basis of reports pertaining to threatened water quality, erosion, habitat destruction, protection of uninterrupted services and endangerment to property.

B. Alternatives to standard plans, specifications and design details found in the Stormwater Manual may be accepted by the Director, if they meet or exceed the performance of the standards set forth herein.

C. Where requirements in this chapter are covered in any other law, ordinance, resolution, rule or regulation, the more restrictive of the two shall govern.

Section 6. Section 14.04.360 of the Black Diamond Municipal Code is hereby amended to read as follows:

**14.04.360 Performance and maintenance bond required.**

A. Performance bonding or other appropriate financial guarantees in the amount of 150% of the Director's estimate of the construction costs, shall be required for all projects to ensure construction of drainage facilities in compliance with this chapter. In addition, a project applicant shall post a two-year financial guarantee of the satisfactory performance and maintenance of any drainage facilities that are scheduled to be assumed by the City for operation and maintenance. Upon completion and before acceptance of the stormwater facilities the developer shall provide the City with a 2 year maintenance bond or an assignment of funds for 15% of the construction cost of the stormwater facility. At the end of the two-year period, the Director may use any portion of the bond (or funds in an escrow account) to correct facilities constructed with design flaws, restore facilities that have been damaged during the two-year period, or perform maintenance necessary to the operation of facilities. If in the judgment of the Director, no such corrective work is necessary, the Director will release the bond (or funds in an escrow account).

B. The Director may approve combining this bond with other bonds associated with the project into a single bond; provided, that at no time shall the amount of the bond be less than the amount which would

have been required by separate bonds; and provided, that such a bond on its face shall identify those separate bonds that it is intended to replace; and provided, that the portion of the bond for storm drainage and erosion control facilities may be released at a different time than the portions bonding other facilities.

Section 7. Section 14.04.410 of the Black Diamond Municipal Code is hereby amended to read as follows:

**14.04.410 Fees.**

A. The city's fee for review of storm drainage and erosion control plans and facilities and on-site inspection of facilities during construction shall be based on the actual amount of time expended at an hourly rate as

identified in the City's fee schedule. If such fees are not paid when due, the Director may revoke or refuse to grant the underlying permit or approval. If as a result of such action work is not completed, the Director may judge the incomplete work to constitute a drainage problem subject to sanctions described in Section 14.04.400. Additional fees may be assessed according to the City's fee schedule.

B. A connection fee will be charged to the proponent if the designed system will discharge from the site. Said fee shall be adopted by resolution and amended from time to time. Such fee will represent the estimated proportionate share of the proposed connection necessary to cover the cost of public capital stormwater facilities including but not limited to conveyance, treatment, detention/retention systems, and/or comprehensive planning, stream protection and rehabilitation, public education and outreach programs and other activities associated with construction of stormwater facilities or the avoidance of such construction, impacted by that parcel or parcels of property.

Section 8. Each and every provision of this Ordinance is severable. If any provision of this Ordinance is found to be unconstitutional or otherwise unenforceable or contrary to law by a court of competent jurisdiction, that finding shall not affect the validity of the remaining provisions, which shall remain in force and effect.

**PASSED BY A MAJORITY OF THE CITY COUNCIL AT A MEETING HELD ON  
THE 6TH DAY OF OCTOBER, 2016.**

CITY OF BLACK DIAMOND:

**VETO**

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Carol Benson, Mayor

Attest:

Ordinance No. 16-1073A

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Brenda L. Martinez, City Clerk

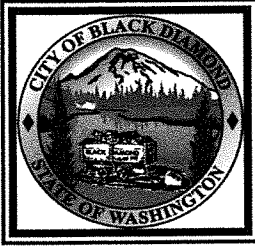
APPROVED AS TO FORM:

\_\_\_\_\_  
David Linehan, City Attorney

Published: \_\_\_\_\_

Posted: \_\_\_\_\_

Effective Date: \_\_\_\_\_



## CITY OF BLACK DIAMOND

### Interoffice Memorandum

**TO: BLACK DIAMOND CITY COUNCILMEMBERS**

**FROM: CAROL BENSON, MAYOR** *CB*

**SUBJECT: VETO OF AMENDED ORDINANCE ADOPTING 2012 STORMWATER  
MANUAL**

**DATE: OCTOBER 11, 2016**

I have vetoed the attached ordinance under authority provided by RCW 35A.12.100, and pursuant to RCW 35A.12.130 I am "returning" this ordinance to you and providing the following reasons for my veto:

- Lack of legal review and approval;
- Failure to timely provide the ordinance for review and consideration by the whole Council and the public;
- Concern with language in the ordinance which provides that any amendment Department of Ecology may make will automatically be brought into the City's code

If the Council wishes to reconsider this ordinance pursuant to RCW 35A12.130 at the next regular meeting, which is October 20, 2016, please contact the Clerk to have it placed on the agenda. Alternatively, City Attorney David Linehan can provide the Council with a revised version of this ordinance that would meet with my approval.

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