

ORDINANCE NO. 17-\_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON REGARDING ILLICIT DISCHARGES INTO THE CITY'S STORMWATER DRAINAGE SYSTEM OR CREEKS, LAKES, WETLANDS AND WATERWAYS, AND AMENDING BLACK DIAMOND MUNICIPAL CODE SECTIONS 14.04.005 AND 14.04.390; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE**

**WHEREAS**, the City's National Pollution Discharge Elimination System (NPDES), Phase 2 Permit from the Department of Ecology requires the City to implement an ordinance or other regulatory mechanism to effectively prohibit non-stormwater, illicit discharges into the City's stormwater system to the maximum extent allowable under state and federal law; and

**WHEREAS**, in 2009 through Ordinance No. 09-917, the Black Diamond City Council adopted measures to effectively prohibit non-stormwater, illicit discharges into the City's stormwater system as required by the City's previous NPDES Phase 2 Permit; and

**WHEREAS**, the City's current NPDES Phase 2 Permit has modified the requirements for prohibiting such discharges into the City's stormwater system; and

**WHEREAS**, the City is required to implement these updated requirements by February 2, 2018; and

**WHEREAS**, the Council held a public hearing on this ordinance on January 18, 2018;

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

Section 1. Section 14.04.005 of the Black Diamond Municipal Code is hereby amended to read as follows:

**14.04.005 Definitions**

1. "AKART" means aAll kknown, aAvailable, and rReasonable methods of prevention, control, and tTreatment and as described in. ~~See also~~ the State Water Pollution Control Act, Sections RCW 90.48.010 ~~RCW~~ and RCW 90.48.520 ~~RCW~~ now or hereafter amended.

2. "Black Diamond waterway" means a lake, wetland, creek, stream, and/or secondary channels leading to these water features.

3. "Combined Sewer" means a system that collects sanitary sewage and stormwater in a single sewer system.

4. "Hazardous Materials" means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

5. "Hyperchlorinated" means water that contains more than ten milligrams/  
per liter of chlorine.

6. "Illicit connection" means any ~~man-made conveyance infrastructure connection that is connected~~ to a municipal separate storm sewer ~~without a permit that is not intended, permitted, or used for collecting and conveying stormwater or non-stormwater discharges~~, excluding roof drains and other similar type connections. Examples include, but are not limited to, sanitary sewer connections, floor drains, channels, pipelines, conduits, inlets, or outlets that are connected directly to the municipal separate storm sewer system.

7. "Illicit discharge" means any discharge to a municipal separate storm sewer or Black Diamond waterway that is not composed entirely of stormwater with the exception of discharges allowed under BDMC 14.04.390(B)(2) and discharges that meet the stated conditions in BDMC 14.04.390(B)(3) except discharges pursuant to a NPDES permit (other than the NPDES permit for discharges from the municipal separate storm sewer) and discharges resulting from fire fighting activities.

8. "Municipal separate storm sewer system" or ("MS4") means a conveyance or system of conveyances (including, but not limited to, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

1. Owned and operated by the City; and
2. Designed or used for collecting or conveying stormwater; and
3. Which is not part of a POTW ~~publicly owned treatment works (POTW). "POTW" means any device or system used in treatment of municipal sewage or industrial wastes of a liquid nature which is publicly owned;~~ and
4. Which is not a Combined Sewer. ~~"Combined sewer" means a system that collects sanitary sewage and stormwater in a single sewer system.~~

9. "Non-stormwater discharge" means any discharge to the storm drain system that is not composed entirely of stormwater.

10. "Pollutant" means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects and accumulations, so that the same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of f any kind.

11. "Premises" means any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

12. "Publicly Owned Treatment Works" or "POTW" means any device or system used in treatment of municipal sewage or industrial wastes of a liquid nature and which is publicly owned.

13. "Storm drainage system" means publicly owned facilities, including the Ccity's municipal separate storm sewer system, by which stormwater is collected and/or conveyed, including but not limited to, any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention or detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

14. "Stormwater Ppollution Prevention Plan" or "SWPPP" means a document which describes the best management practices and activities to be implemented by a person to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

Section 2. Section 14.04.390(-B) of the Black Diamond Municipal Code is hereby amended to read as follows:

#### **14.04.390 Protection of storm drainage systems**

##### **B. Illicit Discharges.**

1. Prohibited Discharges. Prohibition of illegal discharges. No person shall throw, drain, or otherwise discharge, cause or allow others under its control to throw, drain or otherwise discharge into the municipal storm drain system and/or surface and ground waters any materials other than stormwater. Examples of prohibited contaminants include, but are not limited to, the following:

- a. Trash or debris.
- b. Construction materials.
- c. Petroleum products including, but not limited to, oil, gasoline, grease, fuel oil and heating oil.

- d. Antifreeze and other automotive products.
- e. Metals in either particulate or dissolved form.
- f. Flammable or explosive materials.
- g. Radioactive material.
- h. Batteries.
- i. Acids, alkalis, or bases.
- j. Paints, stains, resins, lacquers, or varnishes.
- k. Degreasers and/or solvents.
- l. Drain cleaners.
- m. Pesticides, herbicides, or fertilizers.
- n. Steam cleaning wastes.
- o. Soaps, detergents, or ammonia.
- p. Swimming pool or spa filter backwash, including cleaning wastewater.
- q. Chlorine, bromine, or other disinfectants.
- r. Heated water.
- s. Domestic animal wastes.
- t. Sewage.
- u. Recreational vehicle waste.
- v. Animal carcasses.
- w. Food wastes.
- x. Bark and other fibrous materials.
- y. Lawn clippings, leaves, or branches.
- z. Silt, sediment, concrete, cement or gravel.
- aa. Dyes.
- bb. Chemicals not normally found in uncontaminated water.
- cc. Any other process-associated discharge except as otherwise allowed in this section.
- dd. Any hazardous material or waste not listed above.

2. Allowable Discharges. The following types of discharges shall not be considered illegal discharges for the purposes of this chapter unless the director determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution of surface water or groundwater:

- a. Diverted stream flows.
- b. Rising ground waters.
- c. Uncontaminated ground water infiltration, as defined in 40 CFR 35.2005(20).
- d. Uncontaminated pumped ground water.
- e. Foundation drains.
- f. Air conditioning condensation.
- g. Irrigation water from agricultural sources that is commingled with urban stormwater.
- h. Springs.
- i. Uncontaminated Water from crawl space pumps.
- j. Footing drains.
- k. Flows from riparian habitats and wetlands.
- l. Non-stormwater discharges authorized by another NPDES or state waste discharge permit.
- m. Discharges from emergency ~~fire fighting~~ firefighting activities.

3. Conditional Discharges. The following types of discharges shall not be considered illegal discharges for the purposes of this chapter if they meet the stated conditions, or unless the director determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution of surface water or groundwater:

- a. Potable water, including but not limited to, water from water line flushing, hyperchlorinated water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water. Planned discharges shall be de-chlorinated to a total residual chlorine concentration of 0.1 ppm or less, pH-adjusted, if necessary and in volumes and velocities controlled to prevent re-suspension of sediments in the stormwater system;
- b. Lawn watering and other irrigation runoff are permitted but shall be minimized;
- c. De-chlorinated swimming pool (including spa and hot tub) discharges. These discharges shall be de-chlorinated to a total residual chlorine

concentration of 0.1 ppm or less, pH-adjusted, if necessary and in volumes and velocities controlled to prevent re-suspension of sediments in the stormwater system. Discharges shall be thermally controlled to prevent an increase in temperature of the receiving water;

d. Street and sidewalk wash water, water used to control dust, and routine external building wash-down that does not use detergents are permitted if the amount of street wash and dust control water used is minimized. At active construction sites, street sweeping must be performed prior to washing the street;

e. Non-stormwater discharges covered by another NPDES permit, provided, that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations; and provided, that written approval has been granted for any discharge to the storm drain system;

f. Other non-stormwater discharges. The discharges shall ~~comply~~be in compliance with the requirements of a ~~S~~stormwater ~~P~~ollution ~~P~~revention ~~P~~lan (~~SWPPP~~) reviewed and approved by the ~~C~~eity, which addresses control of such discharges by applying AKART to prevent contaminants from entering surface or ground water.

Section 3. Section 14.04.390~~(-D)~~ of the Black Diamond Municipal Code is hereby amended to read as follows:

#### **14.04.390 Protection of storm drainage systems**

D. Enforcement.

~~Enforcement.~~—In addition to any other remedies set forth in this chapter or available at law, the ~~C~~eity shall have the remedies set forth in this subsection for any violation of the provisions of this section. The choice of enforcement action and the severity of any penalty shall be based on the nature of the violation, the damage or risk to the public or to public resources, and/or the degree of bad faith of the person subject to the enforcement action. Repeated violations shall escalate the severity of the enforcement action.

Section 4. 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.

Section 5. 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.

**PASSED BY A MAJORITY OF THE CITY COUNCIL AT A MEETING HELD ON THE 1<sup>ST</sup> DAY OF FEBRUARY, 2018.**

CITY OF BLACK DIAMOND:

\_\_\_\_\_  
Carol Benson, Mayor

Attest:

\_\_\_\_\_  
Brenda L. Martinez, City Clerk

APPROVED AS TO FORM:

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

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

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

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