

CITY OF BLACK DIAMOND
WASHINGTON

ORDINANCE NO. 13-1014

**AN ORDINANCE OF THE CITY OF BLACK DIAMOND,
WASHINGTON, RELATING TO THE TIME PERIOD FOR
HEARINGS ON IMPOUNDMENT OF VEHICLES;
AMENDING CHAPTER 10.16.050 OF THE BLACK
DIAMOND MUNICIPAL CODE; PROVIDING FOR
SEVERABILITY; AND ESTABLISHING AN EFFECTIVE
DATE**

WHEREAS, BDMC 10.16.050 entitles a person seeking to redeem an impounded vehicle to obtain a hearing within five (5) days of written request, so long as the written request was sent within ten (10) days of receiving notice of impoundment; and

WHEREAS, the City Council finds such five (5) day time period is burdensome and impractical for the local courts hearing all impoundment cases; and

WHEREAS, the City Council desires to alleviate such burden on the local courts by extending the time period for a hearing on vehicle impoundment while also upholding due process concerns;

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

Section 1. Amendment of BDMC 10.16.050 (Redemption of Impounded Vehicles).
Section 10.16.050 of the Black Diamond Municipal Code is hereby amended to read as follows:

10.16.050 – Redemption of Impounded Vehicles.

Vehicles impounded by the city shall be redeemed only under the following circumstances:

A. Only the registered owner, a person authorized by the registered owner, or one who has purchased the vehicle from the registered owner, who produces

proof of ownership or authorization and signs a receipt therefor, may redeem an impounded vehicle. A person redeeming a vehicle impounded pursuant to Section 10.16.040 must prior to redemption establish that he or she has a valid driver's license and is in compliance with RCW 46.30.020. A vehicle impounded pursuant to subsections C to G of Section 10.16.040 can be released only pursuant to a written order from the court.

B. Any person so redeeming a vehicle impounded by the city shall pay the towing contractor for costs of impoundment removal, towing and storage prior to redeeming such vehicle, except as provided for by subsection C of this section. Such towing contractor shall accept payment as provided in RCW 46.55.120(1)(b) as now or hereafter amended. If the vehicle was impounded pursuant to Section 10.16.040 and was being operated by the registered owner when it was impounded, it may not be released to any person until all penalties, fines or forfeitures owed by the registered owner have been satisfied.

C. The Black Diamond Municipal Court is authorized to release a vehicle impounded pursuant to Section 10.16.040C to G prior to the expiration of any period of impoundment upon petition of the spouse of the driver based on economic or personal hardship to such spouse resulting from the unavailability of the vehicle and after consideration of the threat to public safety that may result from release of the vehicle including, but not limited to, the driver's criminal history, driving record, license status, and access to the vehicle. If such release is authorized, the person redeeming the vehicle still must satisfy the requirements of subsections A and B of this section.

D. Any person seeking to redeem a vehicle impounded as a result of a parking or traffic citation has a right to a municipal court hearing to contest the validity of an impoundment or the amount of removal, towing, and storage charges if such request for hearing is in writing, in a form approved by the Black Diamond municipal court and signed by such person, and is received by the Black Diamond municipal court within ten days (including Saturdays, Sundays and holidays) of the date the notice was given to such person by the registered tow truck operator pursuant to RCW 46.55.120(2)(a). Such hearing shall be provided as follows:

1. If all of the requirements to redeem the vehicle, including expiration of any period of impoundment under Section 10.16.040, have been satisfied, then the impounded vehicle shall be released immediately and a hearing as provided for in Section 10.16.060 shall be held within ninety days of the written request for hearing.

2. If not all of the requirements to redeem the vehicle, including expiration of any period of impoundment under Section 10.16.040, have been satisfied, then the impounded vehicle shall not be released until after the hearing

provided pursuant to Section 10.16.060, which shall be held within ten days (excluding Saturdays, Sundays and holidays), but no later than the next available court date, from the written request to the court for hearing.

3. Any person seeking a hearing who has failed to request such hearing within the time specified in subsection D of this section may petition the Black Diamond municipal court for an extension of time to file a request for hearing. Such extension shall only be granted upon the demonstration of good cause as to the reason(s) the request for hearing was not timely filed. For the purposes of this section, good cause shall be defined as circumstances beyond the control of the person seeking the hearing that prevented such person from filing a timely request for hearing. In the event such extension is granted, the person receiving such extension shall be granted a hearing in accordance with this chapter.

4. If a person fails to file a timely request for hearing and no extension to file such a request has been granted, the right to a hearing is waived, the impoundment and the associated costs of impoundment are deemed to be proper, and the city shall not be liable for removal, towing, and storage charges arising from the impoundment.

Section 2. 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 3. 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.

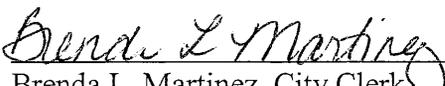
ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 7TH DAY OF NOVEMBER, 2013.

CITY OF BLACK DIAMOND



Rebecca Olness, Mayor

ATTEST/AUTHENTICATED:



Brenda L. Martinez, City Clerk

Approved as to form:

Chris D. Bacha,
Kenyon Disend PLLC
City Attorney

Filed with the City Clerk: *11/8/2013*
Passed by the City Council: *11/7/2013*
Ordinance No. *13-1014*
Date of Publication: *11/15/2013*
Effective Date: *11/20/2013*

CURRENT CODE LANGUAGE

10.16.050 Redemption of impounded vehicles.

Vehicles impounded by the city shall be redeemed only under the following circumstances:

A.

Only the registered owner, a person authorized by the registered owner, or one who has purchased the vehicle from the registered owner, who produces proof of ownership or authorization and signs a receipt therefor, may redeem an impounded vehicle. A person redeeming a vehicle impounded pursuant to Section 10.16.040 must prior to redemption establish that he or she has a valid driver's license and is in compliance with RCW 46.30.020. A vehicle impounded pursuant to subsections C to G of Section 10.16.040 can be released only pursuant to a written order from the court.

B.

Any person so redeeming a vehicle impounded by the city shall pay the towing contractor for costs of impoundment removal, towing and storage prior to redeeming such vehicle, except as provided for by subsection C of this section. Such towing contractor shall accept payment as provided in RCW 46.55.120(1)(b) as now or hereafter amended. If the vehicle was impounded pursuant to Section 10.16.040 and was being operated by the registered owner when it was impounded, it may not be released to any person until all penalties, fines or forfeitures owed by the registered owner have been satisfied.

C.

The Black Diamond Municipal Court is authorized to release a vehicle impounded pursuant to Section 10.16.040C to G prior to the expiration of any period of impoundment upon petition of the spouse of the driver based on economic or personal hardship to such spouse resulting from the unavailability of the vehicle and after consideration of the threat to public safety that may result from release of the vehicle including, but not limited to, the driver's criminal history, driving record, license status, and access to the vehicle. If such release is authorized, the person redeeming the vehicle still must satisfy the requirements of subsections A and B of this section.

D.

Any person seeking to redeem a vehicle impounded as a result of a parking or traffic citation has a right to a municipal court hearing to contest the validity of an impoundment or the amount of removal, towing, and storage charges if such request for hearing is in writing, in a form approved by the Black

Diamond municipal court and signed by such person, and is received by the Black Diamond municipal court within ten days (including Saturdays, Sundays and holidays) of the date the notice was given to such person by the registered tow truck operator pursuant to RCW 46.55.120(2)(a). Such hearing shall be provided as follows:

1.

If all of the requirements to redeem the vehicle, including expiration of any period of impoundment under Section 10.16.040, have been satisfied, then the impounded vehicle shall be released immediately and a hearing as provided for in Section 10.16.060 shall be held within ninety days of the written request for hearing.

2.

If not all of the requirements to redeem the vehicle, including expiration of any period of impoundment under Section 10.16.040, have been satisfied, then the impounded vehicle shall not be released until after the hearing provided pursuant to Section 10.16.060, which shall be held within five business days (excluding Saturdays, Sundays and holidays) of the written request to the court for hearing.

3.

Any person seeking a hearing who has failed to request such hearing within the time specified in subsection D of this section may petition the Black Diamond municipal court for an extension of time to file a request for hearing. Such extension shall only be granted upon the demonstration of good cause as to the reason(s) the request for hearing was not timely filed. For the purposes of this section, good cause shall be defined as circumstances beyond the control of the person seeking the hearing that prevented such person from filing a timely request for hearing. In the event such extension is granted, the person receiving such extension shall be granted a hearing in accordance with this chapter.

4.

If a person fails to file a timely request for hearing and no extension to file such a request has been granted, the right to a hearing is waived, the impoundment and the associated costs of impoundment are deemed to be proper, and the city shall not be liable for removal, towing, and storage charges arising from the impoundment.