

ORDINANCE NO. 19-1124

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON, ADDING A NEW CHAPTER TO THE MUNICIPAL CODE CONCERNING THE POSITION OF CITY ATTORNEY; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Washington state law applicable to noncharter code cities states, "Provision shall be made for obtaining legal counsel for the city, either by appointment of a city attorney on a full-time or part-time basis, or by any reasonable contractual arrangement for such professional services"; and

WHEREAS, the Black Diamond Municipal Code currently lacks any provisions governing the process for selecting and retaining a City Attorney; and

WHEREAS, by custom and practice the City has historically chosen to obtain necessary legal services by contract rather than by employing a full-time or part-time City Attorney; and

WHEREAS, to avoid uncertainty, the City Council desires to clarify the process by which the City obtains the legal services of a City Attorney; and

WHEREAS, the City Council believes that the long-standing provisions in the Black Diamond Municipal Code concerning the appointment of the city's Hearing Examiner are effective and provide appropriate guidance for the position of City Attorney;

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

Section 1. Adoption of BDMC Chapter 2.14. The City Council hereby establishes and adopts a new Chapter 2.14 of the Black Diamond Municipal Code, which shall be titled "City Attorney" and which shall provide as follows:

2.14.010 Purpose.

The purpose of this chapter is to provide a clear, efficient, and effective process for retaining the services of a city attorney, consistent with past practice and the requirements of RCW 35A.12.020. Consistent with the Washington Rules of Professional Conduct, the city attorney shall owe his or her professional responsibilities and obligations to the city as a municipal entity, rather than to any particular branch, department, or individual member of the city government.

2.14.020 Selection and qualifications.

The city attorney shall be selected by the mayor with confirmation by the council, and shall serve at the pleasure and under the primary direction of the mayor. The city attorney shall be selected based on his or her qualifications for the duties of the office and shall have the necessary training and experience in municipal law and related legal matters to effectively advise the city (including its staff and all elected and appointed officials) regarding the rights and responsibilities of the city, its staff, and its officials, and to promote compliance with applicable laws. The city attorney shall be licensed to practice law in the state of Washington, be a member in good standing of the state bar association, and have practiced law for a minimum of five years. The city attorney shall hold no other classified, appointive, or elected position in city government. The duties and powers of the city attorney include those duties and powers specified elsewhere in the municipal code, as well as those specified in his or her contract.

2.14.030 Contract approval and term.

The city attorney shall be retained on a professional service contract on terms deemed appropriate by the mayor with any necessary approval for budget purposes by the council. The contract shall specify that the city attorney serves at the pleasure of the mayor and under the mayor's primary direction. In no event may the city attorney contract purport to limit the city attorney to advising only certain persons or city officials. Rather, the city attorney shall advise all duly appointed and elected officials and staff of the city, subject to budgetary limitations as set by the council and administered by the mayor. The city attorney contract shall be for an initial term of up to five years, and the contract shall not be extended beyond a total of five years without council confirmation.

Section 2. Affirmation of Existing Ordinances. All other current City ordinances and municipal code sections specifying the powers, rights, and obligations of the city attorney are hereby affirmed and shall continue in full force and effect except where such codes and ordinances are inconsistent with the foregoing provisions of this Ordinance.

Section 3. Avoidance of Conflicts of Interest. Per the recommendation of the current city attorney, and to avoid the appearance or influence of any conflicts of interest resulting from his involvement in the drafting of this Ordinance, the City has consulted with legal counsel at its risk pool, the Association of Washington Cities – Risk Management Service Agency, to ensure that the terms of this Ordinance are reasonable and appropriate and not contrary to the city's interests.

Section 4. 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 5. 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.

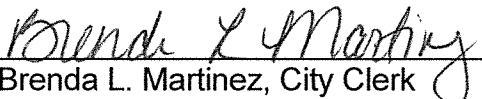
ADOPTED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND AT A REGULAR MEETING THEREOF ON THE 1ST DAY OF AUGUST, 2019.

CITY OF BLACK DIAMOND



Carol Benson, Mayor

Attest:



Brenda L. Martinez, City Clerk

Approved as to form:

David Linehan, City Attorney

Filed with the City Clerk: 08/02/2019
Passed by the City Council: 08/01/2019
Ordinance No.19-1124
Date of Publication: 08/06/2019
Effective Date: 08/11/2019