

ORDINANCE NO. 19-1130

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON, AMENDING CHAPTER 13.02 OF THE BLACK DIAMOND MUNICIPAL CODE TO EXTEND ELIGIBILITY FOR DISCOUNTED LIFELINE UTILITY RATES TO MULTI-FAMILY CUSTOMERS RESIDING IN SUCH UNITS AS: MOBILE HOME PARKS, APARTMENTS, DUPLEX AND ADU'S; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City's current utility rate codes and policies treat residential customers in apartment and mobile home parks as commercial customers; and

WHEREAS, the City Council desires to provide better customer equity for residential utility customers regardless of whether they live in a single-family home, mobile home, or apartment; and

WHEREAS, RCW 35.92.020(1) authorizes cities to, among other things, manage, regulate, operate, control, and fix the price of service and facilities of systems, plants, sites, or other facilities of sewerage within and without the limits of the city or town; and

WHEREAS, RCW 35.92.010 grants cities full power to regulate and control the use, distribution, and price of waterworks for the purpose of furnishing the city and its inhabitants, and any other persons, with an ample supply of water for all purposes, public and private; and

WHEREAS, the City Council finds that charging the same rates to all residential customers within the City limits, regardless of whether they live in a single-family residence, mobile home park, or apartment best meets the objectives of RCW 35.92.010 and 35.92.020(2) to ensure uniformity of rates for the same class of customers or service of the City's water, sewer, and stormwater utilities; and

WHEREAS, RCW 35.92.020(5) and RCW 74.38.070 authorize cities to provide assistance to aid low-income persons in connection with utility services provided by the city; and

WHEREAS, the City Council desires to continue providing discounts to utility lifeline customers and to update the utility codes to harmonize the lifeline program with the other changes implemented in this Ordinance;

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

Section 1. Amendment to BDMC Chapters 13.02. Black Diamond Municipal Code Chapter 13.02 is hereby as shown on Attachment A hereto.

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 OF THE CITY OF BLACK DIAMOND AT A REGULAR MEETING THEREOF ON THE 21ST DAY OF NOVEMBER 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: November 22, 2019
Passed by the City Council: November 21, 2019
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Effective Date: December 2, 2019

Chapter 13.02 UTILITIES "LIFELINE" RATES PROGRAM

Sections:

- 13.02.010 Purpose.
- 13.02.020 Lifeline utility rates.
- 13.02.030 Eligibility.
- 13.02.040 Application and approval procedure.
- 13.02.050 Appeals.
- 13.02.060 Violation—Penalties.

13.02.010 Purpose.

Pursuant to Article VIII, Section 7 of the Washington State Constitution and RCW 74.38.070, the City of Black Diamond wishes to provide necessary support for the poor and infirm who would otherwise be unable to afford the standard monthly service rates of the city's water, sewer, and ~~stormwater~~ storm-water utilities. At the same time, the city recognizes that its ability to offer special rates is limited by the financial constraints of the city and the limited revenues available to fund special rates for low-income residents. Therefore, the city has been forced to limit availability of these special rates according to the criteria described in this chapter.

13.02.020 Lifeline utility discount rates.

A.

The City of Black Diamond hereby authorizes a discount ~~reduced monthly rate~~ for residential low-income senior citizen (age 62 and older) and residential low-income disabled customers of the city's water, sewer, and ~~stormwater~~ storm-water utilities, per HUD guidelines. This discount ~~reduced rate~~ shall be known as the "lifeline" discount rate, and shall be a reduction of up to fifty percent of the city's share of the costs for services provided and billed under the city's water, sewer, and ~~stormwater~~ storm-water utilities. Fees or charges collected by the city on behalf of other entities ~~utilities~~, such as King County Water Treatment Division, shall be unaffected.

B.

The exact amount of the lifeline rate reduction shall be set annually by the city council and published on the city's official Utility Rate Schedule ~~fee schedule~~.

13.02.030 Eligibility.**A.**

Lifeline utility ~~discount rates~~ is shall be available to any household that meets the following criteria:

1. The residence or equivalent residential unit, such as a manufactured home or apartment, seeking to receive the lifeline rates-utility discount must be served by City of Black Diamond utilities; and.
2. For single-family residences, ~~t~~The account must be in the name of a residential customer who is sixty-two (62) years of age or older, or who can provide verification from an attending physician or other official document, such as a Supplemental Security Income (SSI) statement, of being permanently-disabled; and
3. Total household disposable income from all sources (such as Social Security; Disability payments; Veteran's benefits; pensions; rents; annuities; IRA withdrawals; etc.) must not exceed the official guidelines set annually by the federal Department of Housing and Urban Development (HUD); and
4. ~~The customer eligible for the lifeline rate must be living at the residence or apartment receiving the discount.~~

B.

For apartments, manufactured homes, and multi-family residential structures where residents are not billed directly by the city, the property owner or manager must submit a signed residency verification form provided by the city. This form shall require the property owner or manager to certify that approved lifeline discounts will be passed on to the eligible resident. To be entitled to the lifeline discount, the resident must meet the same eligibility criteria as residents of single-family residences established in subsection A, above, except the account need not be in the resident's name.

C.

5. ~~Households in which a person resides who is receiving kidney dialysis and where the household income does not exceed the HUD guidelines may receive a lifeline discount on water rates of fifty percent. The customer eligible for the lifeline rate~~ resident receiving kidney dialysis must be living at the residence or equivalent residential unit receiving the lifeline discount on water ~~apartment receiving the discount.~~

DB.

Lifeline utility rates shall be available for residential customers only; non-residential users shall be ineligible to receive lifeline rates.

13.02.040 Application and approval procedure.*A. Application procedures.*

1. Persons wishing to apply for a lifeline discount rate shall file an application with the city ~~clerk~~ on a form supplied ~~approved~~ by the city. This form shall include a statement in which the applicant attests under oath that the information provided by the applicant is true and correct to the best of applicant's knowledge.
2. The applicant shall provide all documentation requested in the city-supplied application, which verifies the applicant's residency, age or disability, and income ~~a copy of applicant's most recent tax return, or other reliable official document, that verifies the applicant's income.~~
3. If the applicant is asserting a disability or kidney dialysis that renders ~~them~~ him or her eligible for a lifeline utility discount rate, the applicant must provide verification of their condition from a licensed attending physician or through other official documents, such as a Supplemental Security Income (SSI) statement, that verifies that the applicant's claimed ~~is permanently disability~~ ed.
4. The city may require any other information from the applicant reasonably necessary to determine the applicant's eligibility.

B. Approval or denial of application.

1. Applications for lifeline utility rates ~~discount~~ shall be reviewed by the city's finance director, or his or her designee, for completeness and eligibility. An incomplete application shall not be processed.
2. The finance director, or his or her designee, shall inform the applicant ~~in writing~~ whether the application has been approved or denied. ~~If the application is denied, the applicant shall be informed in writing of the reason for the denial.~~
3. If denial is based on a knowing or intentional misrepresentation of information by the applicant, the applicant shall be ineligible to receive a lifeline rate discount for a period of five years.

C. Effective date of lifeline discount.

The lifeline discount shall take effect on the next bill following the approval of the applicant's complete application.

DC. ____—*Annual application required.*

Applicants for a lifeline utility ~~rate discount~~ shall be reviewed for approval based on the ~~applicant's~~ circumstances at the time of application; ~~it~~ provided, persons may apply only once in any calendar year, and persons who have previously been denied based on ~~knowing or intentional~~ misrepresentation to the city shall be ineligible to receive lifeline ~~rates discounts~~ for a period of five years. Persons who have previously been approved for a lifeline utility ~~rate discount~~ must reapply each year and demonstrate their continued eligibility. No lifeline ~~discount~~ shall be renewed without an application and approval as provided in this section.

D. *Revocation of lifeline rate.*

The city shall have the right to immediately revoke any lifeline utility ~~discount~~ ~~rate reduction~~ upon probable cause to believe the applicant and/or recipient of the rate is ineligible to receive it.

13.02.050 Appeals.

A person who has properly applied for and been denied a lifeline utility ~~rate discount~~ may appeal this denial by filing a request for reconsideration, in writing, within ten days of the denial to the mayor or his or her designee ~~city administrator~~. The appellant may provide additional information to support the appeal, if desired. A decision on the appeal shall be issued within thirty days of receipt. ~~If the position of city administrator is vacant at the time the appeal is filed, the mayor shall consider the appeal. The decision of the city administrator or the mayor or his or her designee shall be final.~~ Requests for reconsideration received by telephone, facsimile, or email shall not satisfy the requirements of this section. Denial of approval for a lifeline utility discount may not be appealed to the city hearing examiner.

13.02.060 Violation—Penalties.

The city shall have authority to take all measures, criminal and civil, allowed by law to seek reimbursement for any reduction in utility rates achieved based on intentional misrepresentation, fraud, or deceit, and to seek any other penalties available under the law.