

**ORDINANCE NO. 24-1201**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON ESTABLISHING THE AUTHORITY TO ADOPTING NEW CROSS CONNECTION CONTROL PROGRAM RESTRICTIONS AND FEES AND AMENDING BLACK DIAMOND MUNICIPAL CODE SECTIONS 13.04.085 AND 13.04.095; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE**

**WHEREAS**, it is the responsibility of a water purveyor to provide water to the customer at the meter that meets Washington state water quality standards; and

**WHEREAS**, it is the water purveyor's responsibility to prevent the contamination of the public water system from the source of supply (i.e., to the customer's connection to the service pipe or meter); and

**WHEREAS**, it is a requirement of the Washington State Department of Health ("DOH") for the Purveyor to establish a cross connection-control program satisfactory to DOH; and

**WHEREAS**, cross-connections within the customer's plumbing system pose a potential source for the contamination of the public water supply system; and

**WHEREAS**, the Council established the authority to adopt and implement a cross-connection control program to protect the City-owned water system from the risk of contamination, to apply equally to all new and existing customers for public health and safety through Ordinance 18-1102; and

**WHEREAS**, required annual testing as part of the Cross Connection Program has been difficult for customers and administration of the enforcement has been difficult for the City;

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

Section 1. Section 13.04.085 of the Black Diamond Municipal Code is hereby amended to read as follows:

**13.04.085 Cross-connection restrictions and fees**

A. No water service connection from the city water system to any premises shall be installed or maintained unless the city water supply is protected by backflow prevention devices as required by the director or his/her designee, the rules and regulations of the State Board of Health, the county department of health, this code, and the city's cross-connection control program. The installation or maintenance of a cross-connection

which will endanger the water quality of the city water supply is unlawful. Any such cross-connection is hereby declared a nuisance and shall be abated. The control and/or elimination of cross-connections within the city systems shall be in accordance with WAC 246-290-490, the rules and regulations of the state and county, and the city's cross-connection control program, as amended.

B. Service to any property, landowner, or water user receiving its water supply from the city water supply system shall be contingent upon compliance with all requirements of the rules and regulations of the state and county boards of health, the city, and this code pertaining to cross-connections. Service shall be discontinued to any premises, water user, or property owner for failure to comply with such regulations of the State Board of Health, the city, and this code pertaining to cross-connections, and any discontinued service will not be re-established until the public works department has approved compliance with such requirement of the rules and regulations of the State Board of Health, the city, and this code pertaining to cross-connections.

C. Costs and Fees. The property owner or developer shall be responsible for paying all utility costs and fees associated with the installation, inspection, testing, certification, repair, replacement or upgrade of backflow prevention assemblies in accordance with the City's adopted Fee Schedule, as applicable. [The City reserves the right to provide testing and maintenance service\(s\) for all backflow prevention equipment attached to its system and charge back all related costs to the responsible customer.](#)

Section 2. Section 13.04.095 of the Black Diamond Municipal Code is hereby amended to read as follows:

**13.04.095 Cross-Connections and Backflow Prevention Assemblies – Enforcement**

A. Unlawful cross-connections and installation of backflow prevention assemblies. Cross-connections declared in BDMC Chapter 13.04 and/or the City's cross-connection control program to be unlawful, whether presently existing or hereinafter installed, and/or services requiring backflow prevention assemblies and/or unlawful use or operation of a private water supply system served by the City public water supply system are public nuisances, and in addition to any other provisions of this code or the ordinances of the City where abatement of public nuisances shall be subject to abatement in accordance with the following procedure:

(1) In the event that the Public Works Director determines that a nuisance as herein provided does exist, written notice shall be sent to the person in whose name the water service is established under the records of the City water department, or alternatively, a copy of such written notice shall be posted on the premises served.

(2) The notice shall provide that the nuisance described herein shall be corrected within 30 days of the date said notice is mailed or posted on the premises.

(3) In the event said nuisance is not abated within the prescribed time, water service to said premises shall be discontinued.

(4) In the event that the nuisance, in the opinion of the Public Works Director, or his or her designee, presents an immediate danger of contamination to the public water supply, service from the City water supply system to the premises may be terminated without prior notice, provided, however, notice will be posted on the premises in the manner heretofore provided at the time said service is terminated.

~~B. Annual Testing Failure to complete inspections/test reports. Annual inspection is required to ensure all assemblies are operating properly and not likely to contaminate the public water system per the City's Cross Connection Program. The City, or contractor hired by the City, may complete the annual testing for all customers with a backflow device at the expense of the customer, which will be added to the customer's utility bill. The customer can opt out of annual inspections by the City by providing a written request. When a customer opts out of the City testing program, the customer must have their backflow device tested annually by a certified Backflow Assembly Tester on the City's approved list of testers and backflow preventer inspection/test reports required by the cross-connection control program must be submitted to the City within 15 days after the due date. When if a customer fails to send in backflow preventer inspection/test reports required by the cross-connection control program within 15 days after the due date specified and the City has not approved an extension, the City will complete the test and bill the customer for costs associated with the test and any administrative time taken to coordinate the test. take the following enforcement action:~~

~~(1) The City will send a second notice giving the customer an additional 15 days to comply.~~

~~(2) If the customer has not complied within 10 days of the due date given in the second notice, the City will send a third notice, by certified mail or by hand delivery, giving an additional 15 days to send in the inspection/test report. The notice will inform the customer that failure to satisfactorily respond to the notice will result in water service shut-off.~~

~~(3) The purveyor will send copies of the third notice to the occupants of the premises (if different from the customer) and to the local administrative authority.~~

~~(4) If the customer has not responded satisfactorily within 10 days of the due date specified in the third notice, the purveyor will implement service shut-off procedures.~~

~~(5) Prior to shut off, the City will offer to arrange for the inspection and/or testing of the customer-owned backflow preventers by a certified BAT and will bill the customer the actual cost of inspection and/or testing in the service area plus associated costs for staff time as determined in the City's adopted Fee Schedule. Collection and enforcement procedures for such charges will be the same as for other water utility charges.~~

Section 3. 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.

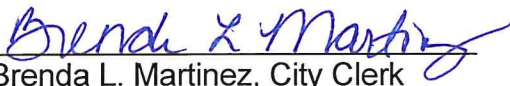
Section 4. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

PASSED BY A MAJORITY OF THE CITY COUNCIL AT A MEETING HELD ON THE 4<sup>TH</sup>  
DAY OF JANUARY 2024.

CITY OF BLACK DIAMOND:

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

Attest:

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

APPROVED AS TO FORM:

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

Published: 1/10/2024

Posted: 1/05/2024

Effective Date: 1/15/2024