

CITY OF BLACK DIAMOND WASHINGTON

ORDINANCE NO. 13-1002

**AN ORDINANCE OF THE CITY OF BLACK DIAMOND,
WASHINGTON, RELATING TO CONTROLLED
SUBSTANCES; AMENDING BDMC 9.90.020 AND 9.90.170
AND ADDING NEW SECTION 9.90.200 BDMC TO
CONFORM TO AMENDMENTS TO STATE LAW
RESULTING FROM PASSAGE OF INITIATIVE 502;
PROVIDING FOR SEVERABILITY; AND ESTABLISHING
AN EFFECTIVE DATE**

WHEREAS, the passage of Initiative 502 (“I-502”) has resulted in amendments to Chapter 69.51A RCW that include, among other things, legalization of the possession and private recreational use of marijuana and drug paraphernalia, and authorizes, subject to further regulation, the manufacture, packaging, distribution and retail sale of cannabis; and

WHEREAS, I-502 Section 21, also provides that it is unlawful, and constitutes a civil infraction for a person to open a package containing marijuana, or to consume marijuana or a marijuana-infused product in view of the general public; and

WHEREAS, Chapter 9.90 of the Black Diamond Municipal Code establishes the provisions of the criminal code prohibiting use of controlled substances and drug paraphernalia; and

WHEREAS, passage of I-502 makes it necessary now to amend BDMC Ch.9.90 to conform the City Code to changes in state law; and

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

Section 1. Amending BDMC 9.90.020 (Drug paraphernalia—Possession prohibited).
Section 9.90.020 of the Black Diamond Municipal Code is hereby amended (amendments shown in legislative revisions marks) to read as follows:

9.90.020 - Drug paraphernalia—Possession prohibited.

It is unlawful for any person to possess drug paraphernalia, as defined in RCW 69.50.102, as amended, except that,

a. It is lawful for any person over the age of eighteen to possess sterile hypodermic syringes and needles for the purpose of reducing bloodborne diseases. A person who violates this section shall be guilty of a misdemeanor; and

b. It is not unlawful for any person to possess drug paraphernalia used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body, marijuana.*

*See, RCW 69.50.412 as amended by I-502.

Section 2. Amending Section 9.90.170 BDMC (Possession of forty grams or less of marijuana – Penalty). Section 9.90.170 of the Black Diamond Municipal Code is hereby amended (amendments shown in legislative revision marks) to read as follows:

9.90.170 - Possession of forty grams or less of marijuana—Penalty.

The city adopts by reference as though fully set forth herein RCW Section 69.50.4014 as currently existing or as hereafter amended; provided that, the possession, by a person twenty-one years of age or older, of usable marijuana or marijuana-infused products in amounts that do not exceed those set forth in RCW 69.50.360(3) is not a violation of this section.*

*See, RCW 69.50.4013 as amended by I-502.

Section 3. Adding new Section 9.90.200 BDMC (Opening or consuming package containing marijuana, useable marijuana, or marijuana-infused product in view of general public Penalty). Chapter 9.90 of the Black Diamond Municipal Code is hereby amended by the addition of new Section 9.90.200, to read as follows:

9.90.200 - Opening or consuming package containing marijuana, useable marijuana, or marijuana-infused product in view of general public — Penalty.

The city adopts by reference as though fully set forth herein RCW Section 69.50.445 as currently existing or as hereafter amended.

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 AT A REGULAR MEETING THEREOF ON
THE 20TH DAY OF JUNE, 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:
Passed by the City Council: 6/20/13
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