



**CITY COUNCIL STUDY SESSION
TUESDAY, SEPTEMBER 18, 2018**

BAINBRIDGE ISLAND CITY HALL
280 MADISON AVENUE N.
BAINBRIDGE ISLAND, WASHINGTON

AGENDA

1. CALL TO ORDER / ROLL CALL - 6:00 PM

2. EXECUTIVE SESSION

- 2.A To discuss with legal counsel matters relating to litigation or potential litigation to which the city, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency pursuant to RCW 42.30.110(1)(i), 15 Minutes
- 2.B To evaluate the qualifications of an applicant for employment or to review the performance of a public employee pursuant to RCW 42.30.110(1)(g), 15 Minutes

3. APPROVAL OF AGENDA/ CONFLICT OF INTEREST DISCLOSURE - 6:30 PM

4. MAYOR'S REPORT - 6:35 PM

5. PRESENTATIONS

- 5.A (6:40 PM) Recognition of Service of City Manager Doug Schulze, 15 Minutes
- 5.B (6:50 PM) Report from Kitsap Economic Development Alliance ("KEDA"), 15 Minutes

6. UNFINISHED BUSINESS

- 6.A (7:05 PM) Update on Broadband Utility - Executive, 15 Minutes

- 6.B (7:20 PM) Update on Moratorium - Planning, 15 Minutes
[September 18, 2018 Moratorium Work Program Status Report](#)
[Ordinance No. 2018-23](#)
[Development Moratorium Summary](#)
- 6.C (7:35 PM) Proposal from Arborists for Code Review - Mayor Medina, 15 Minutes
[Summary Cover letter](#)
[ArboristProposal2](#)
- 6.D (7:50 PM) Council Endorsement for Hwy 305 Washington Department of Transportation (WSDOT) Plan - Mayor Medina, 10 Minutes

7. NEW BUSINESS

- 7.A (8:00 PM) Code Enforcement Update - Executive 20 Minutes
[September 18, 2018 Code Enforcement Update.pptx](#)
[COBI Standard Operating Procedures for Code Enforcement Actions](#)
[Chapter 1.26 BIMC - The City's Current General Code Enforcement Chapter](#)
[Chapter 15.08 BIMC - The City's Current Sign Code](#)
[MRSC: Reed v. Town of Gilbert Blog Post](#)
[Title 6 BIMC - The City's Current Title Related to Animal Control](#)
[Kitsap Humane Society Recommendations for COBI](#)

8. CITY COUNCIL DISCUSSION

- 8.A (8:20 PM) Regional Committee Reports by Councilmember Liaisons - Mayor Medina, 10 Minutes

9. FUTURE COUNCIL AGENDAS

- 9.A (8:30 PM) Future Council Agendas, 10 Minutes
[Special City Council Meeting 092518](#)
[City Council Regular Business Meeting 092518](#)
[City Council Study Session 100218](#)
[City Council Regular Business Meeting 100918](#)
[City Council Study Session 101618](#)

10. FOR THE GOOD OF THE ORDER - 8:40 PM

11. ADJOURNMENT - 8:50 PM

GUIDING PRINCIPLES

Guiding Principle #1 - Preserve the special character of the Island, which includes downtown Winslow's small town atmosphere and function, historic buildings, extensive forested areas, meadows, farms, marine views and access, and scenic and winding roads supporting all forms of transportation.

Guiding Principle #2 - Manage the water resources of the Island to protect, restore and maintain their ecological and hydrological functions and to ensure clean and sufficient groundwater for future generations.

Guiding Principle #3 - Foster diversity with a holistic approach to meeting the needs of the Island and the human needs of its residents consistent with the stewardship of our finite environmental resources.

Guiding Principle #4 - Consider the costs and benefits to Island residents and property owners in making land use decisions.

Guiding Principle #5 - The use of land on the Island should be based on the principle that the Island's environmental resources are finite and must be maintained at a sustainable level.

Guiding Principle #6 - Nurture Bainbridge Island as a sustainable community by meeting the needs of the present without compromising the ability of future generations to meet their own needs.

Guiding Principle #7 - Reduce greenhouse gas emissions and increase the Island's climate resilience.

Guiding Principle #8 - Support the Island's Guiding Principles and Policies through the City's organizational and operating budget decisions.



City Council meetings are wheelchair accessible. Assisted listening devices are available in Council Chambers. If you require additional ADA accommodations, please contact the City Clerk's Office at 206-780-8604 or cityclerk@bainbridgewa.gov by noon on the day preceding the meeting.



CITY OF
BAINBRIDGE ISLAND

City Council Study Session Agenda Bill

MEETING DATE: September 18, 2018

ESTIMATED TIME: 15 Minutes

AGENDA ITEM: To discuss with legal counsel matters relating to litigation or potential litigation to which the city, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency pursuant to RCW 42.30.110(1)(i),

STRATEGIC PRIORITY: Good Governance

PRIORITY BASED BUDGETING PROGRAM:

AGENDA CATEGORY: Discussion

PROPOSED BY: City Council

RECOMMENDED MOTION:

Executive session discussion only.

SUMMARY:

Council will hold an executive session to discuss with legal counsel matters relating to litigation or potential litigation to which the city, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency pursuant to RCW 42.30.110(1)(i).

FISCAL IMPACT:

Amount:	
Ongoing Cost:	
One-Time Cost:	
Included in Current Budget?	

BACKGROUND:

ATTACHMENTS:

FISCAL DETAILS:

Fund Name(s):

Coding:



CITY OF
BAINBRIDGE ISLAND

City Council Study Session Agenda Bill

MEETING DATE: September 18, 2018

ESTIMATED TIME: 15 Minutes

AGENDA ITEM: To evaluate the qualifications of an applicant for employment or to review the performance of a public employee pursuant to RCW 42.30.110(1)(g),

STRATEGIC PRIORITY: Good Governance

PRIORITY BASED BUDGETING PROGRAM:

AGENDA CATEGORY: Discussion

PROPOSED BY: City Council

RECOMMENDED MOTION:

Executive session discussion only.

SUMMARY:

Council will hold an executive session pursuant to RCW 42.30.110(1)(g) to evaluate the qualifications of an applicant for employment or to review the performance of a public employee.

FISCAL IMPACT:

Amount:	
Ongoing Cost:	
One-Time Cost:	
Included in Current Budget?	

BACKGROUND:

ATTACHMENTS:

FISCAL DETAILS:

Fund Name(s):

Coding:



CITY OF
BAINBRIDGE ISLAND

City Council Study Session Agenda Bill

MEETING DATE: September 18, 2018

ESTIMATED TIME: 15 Minutes

AGENDA ITEM: (6:40 PM) Recognition of Service of City Manager Doug Schulze,

STRATEGIC PRIORITY: Good Governance

PRIORITY BASED BUDGETING PROGRAM:

AGENDA CATEGORY: Presentation

PROPOSED BY: Executive

RECOMMENDED MOTION:

Presentation.

SUMMARY:

Recognition of service ceremony for City Manager Doug Schulze.

FISCAL IMPACT:

Amount:	
Ongoing Cost:	
One-Time Cost:	
Included in Current Budget?	

BACKGROUND:

ATTACHMENTS:

FISCAL DETAILS:

Fund Name(s):

Coding:



CITY OF
BAINBRIDGE ISLAND

City Council Study Session Agenda Bill

MEETING DATE: September 18, 2018

ESTIMATED TIME: 15 Minutes

AGENDA ITEM: (6:50 PM) Report from Kitsap Economic Development Alliance ("KEDA"),

STRATEGIC PRIORITY: Vibrant Economy

PRIORITY BASED BUDGETING PROGRAM:

AGENDA CATEGORY: Presentation

PROPOSED BY: Executive

RECOMMENDED MOTION:

Information only.

SUMMARY:

A representative from KEDA will update the City Council on KEDA's activities.

FISCAL IMPACT:

Amount:	
Ongoing Cost:	
One-Time Cost:	
Included in Current Budget?	

BACKGROUND:

ATTACHMENTS:

FISCAL DETAILS:

Fund Name(s):

Coding:



CITY OF
BAINBRIDGE ISLAND

City Council Study Session Agenda Bill

MEETING DATE: September 18, 2018

ESTIMATED TIME: 15 Minutes

AGENDA ITEM: (7:05 PM) Update on Broadband Utility - Executive,

STRATEGIC PRIORITY: Reliable Infrastructure and Connected Mobility

PRIORITY BASED BUDGETING PROGRAM:

AGENDA CATEGORY: Discussion

PROPOSED BY: Executive

RECOMMENDED MOTION:
Information only.

SUMMARY:
Update on broadband utility.

FISCAL IMPACT:

Amount:	
Ongoing Cost:	
One-Time Cost:	
Included in Current Budget?	No

BACKGROUND: During the past few months, conversations regarding a municipal broadband utility have involved community members, KPUD representatives, the Utility Advisory Commission, and City staff. As a result of the conversations, a proposal has surfaced that could eventually be an opportunity for a community broadband to be launched with private funds. This proposal has been brought forward by Net253, a local Internet Service Provider. Currently, Net253 is offering Internet services to a small number of customers on Bainbridge Island. The Net253 service center is located at 750 Erickson Avenue, which was the former Schmidt Appliance building. Through the standard right-of-way permit process, Net253 has installed fiber along Wallace Way and Erickson Avenue. Internet services are planned or currently being provided to multiple residential and business customers within the area between Erickson Avenue, Madison Avenue, Wallace Way, and Winslow Way. In addition, customers along Winslow Way E and Cave Avenue may also be added very soon.

This project is intended to demonstrate that high speed Internet services can be provided at a reasonable cost using a GPON (Passive Optical Network) rather than an Active Ethernet model. The Active Ethernet model requires multiple nodes, electronics, and electric services that add significant capital and operating costs. Since

the demonstration project is being done privately, it will not be an open access network, which means customers will only have one choice for their ISP (Net253). This is an important consideration for the City for a number of reasons. Most importantly, an open access network provides an opportunity for customers to select the Internet Service Provider of their choice, based on the level of service and fee they can or want to pay. In addition, if another provider desires to compete, multiple aerial or buried fiber bundles would be required if the network is closed. The result would create visual impacts for aerial fiber and right-of-way impacts for buried fiber that are not desirable for the community. Therefore, the City of Bainbridge Island will want to have an option to purchase or take over the system at some point in the future. Most likely, this option will need to be provided in the form of a franchise agreement. The City Attorney's Office is researching options to be considered and will have a report at a future date.

ATTACHMENTS:

FISCAL DETAILS:

Fund Name(s):

Coding:



CITY OF
BAINBRIDGE ISLAND

City Council Study Session Agenda Bill

MEETING DATE: September 18, 2018

ESTIMATED TIME: 15 Minutes

AGENDA ITEM: (7:20 PM) Update on Moratorium - Planning,

STRATEGIC PRIORITY: Green, Well-Planned Community

PRIORITY BASED BUDGETING PROGRAM:

AGENDA CATEGORY: Report

PROPOSED BY: Planning & Community Development

RECOMMENDED MOTION:

Discussion on extending the development moratorium, its duration, and what development actions would be included if the moratorium is extended.

SUMMARY:

City staff have been working to address the issues identified in the development moratorium (Ordinance No. 2018-02, amended by Ordinances Nos. 2018-03, 2018-05, 2018-09, and 2018-14); and, extended for 90-days, by Ordinance No. 2018-23. See attached Work Program Status Summary, Ordinance No 2018-23, and a Development Moratorium Summary.

The development moratorium expires on October 9, 2018.

FISCAL IMPACT:

Amount:	
Ongoing Cost:	
One-Time Cost:	
Included in Current Budget?	

BACKGROUND:

ATTACHMENTS:

[September 18, 2018 Moratorium Work Program Status Report](#)

[Ordinance No. 2018-23](#)

FISCAL DETAILS:

Fund Name(s):

Coding:

Moratorium on Accepting Certain Development Applications: Work Program Status Report September 18, 2018

Moratorium Topic	Status	Timeline
Critical Areas Ordinance (CAO)	The development moratorium was amended by the City Council on April 24, 2018 to continue to apply within the City's shoreline jurisdiction areas (Ordinance 2018-14). This effectively applies the aquifer recharge protection area (ARPA) requirement in the shoreline; however, no other provisions of the CAO update apply within the shoreline. The City has a Shoreline Master Program (SMP) Amendment in process to integrate the updated critical areas regulations into the SMP.	A public hearing on the SMP amendment was held at the September 11 City Council meeting. A study session is scheduled for October 2. The next steps are to respond to public comments, make any changes based on public comment and Council input, then transmit the proposed amendment to the Department of Ecology for initial review. Ecology then sends back the draft amendment with recommended changes and the City Council locally adopts the amendment. It is then sent back to Ecology for final approval. The amendment process is expected to be completed in late winter/early spring 2019.
Anticipated status on October 9:	Complete: CAO update effective outside shoreline jurisdiction. Incomplete: CAO update effective within shoreline jurisdiction.	

Moratorium on Accepting Certain Development Applications: Work Program Status Report September 18, 2018

Moratorium Topic	Status	Timeline
Subdivisions	The Planning Commission is reviewing three topics related to subdivisions: • Creation of design guidelines • Revisions to subdivision standards • Revisions to review process, decision criteria and decision-making authority The Planning Commission completed their review of new subdivision design guidelines. The Planning Commission forwarded recommendations to Council related to the review process and decision-making authority to the City Council. Additional recommendations to the City Council are forthcoming. The City Council accepted the Planning Commission recommendations related to the Planning Commission and Design Review Board review and recommendation role for subdivisions. The City Council did not accept the Planning Commission recommendation to have the City Council be the decision-maker for subdivisions.	The Planning Commission continues its consideration of subdivision standards and review process. A public hearing related to review process and Planning Commission/DRB review and recommendation roles will be scheduled for a future City Council meeting.
Anticipated status on October 9:	Complete: New subdivision design guidelines; decision-making authority determined. Incomplete: Revised standards, review process, and decision criteria	

Moratorium on Accepting Certain Development Applications: Work Program Status Report September 18, 2018

Moratorium Topic	Status	Timeline
Design Guidelines Update (related to Site Plan and Design Review and Conditional Use Permits).	A RFQ for professional services was published and closed on August 17, 2018. Staff is reviewing the three proposals received and will select and contract with a consultant in September.	The update to the City's Design Guidelines is expected to be completed by July 1, 2019.
Anticipated status on October 9:	Complete: Consultant under contract and project launch. Incomplete: Update to design guidelines.	

Moratorium on Accepting Certain Development Applications: Work Program Status Report September 18, 2018

Moratorium Topic	Status	Timeline
Review Process for Land Use Permits (related to Subdivisions, Site Plan and Design Review and Conditional Use Permits).	The Planning Commission and Design Review Board have been discussing this topic at their meetings in May through September, 2018. The Planning Commission provided recommendations to City Council related to roles and responsibilities for the Planning Commission, Design Review Board, and City Council and the legislative review process for amending the BIMC. The Planning Commission and Design Review Board will continue to discuss the review process and decision criteria at future meetings.	A public hearing related to review process and decision-making authority will be scheduled for a future City Council meeting.
Anticipated status on October 9:	Complete: Ordinance ready for Council consideration related to new roles and responsibilities for the Planning Commission and Design Review Board and revisions to legislative review process for amending the BIMC. Incomplete: Revisions to the review process and decision criteria.	

Moratorium on Accepting Certain Development Applications: Work Program Status Report September 18, 2018

Moratorium Topic	Status	Timeline
Affordable Housing	The Affordable Housing Task Force completed review of their draft final report to the City Council at their meeting on July 11, 2018. On June 12, 2018, the City Council approved a contract with ECONorthwest to conduct an economic market analysis and feasibility study regarding a new inclusionary zoning program and updates to the City's Transfer of Development Rights program.	The Affordable Housing Task Force Report with recommendations was presented to the City Council on July 24, 2018, and was discussed further at the August 21, 2018 City Council Study Session. The economic market analysis and program feasibility study is expected to be completed in November, 2018. A study session is scheduled for October 2, 2018.
Anticipated status on October 9:	Complete: Council discussion and endorsement of <i>Priority</i> and <i>Quick Wins</i> recommendations from the AHTF Report. Incomplete: Implementation/approval of AHTF recommendations including adoption of inclusionary zoning regulations.	

ORDINANCE NO. 2018-23

AN ORDINANCE of the City of Bainbridge Island, Washington, adopted pursuant to RCW 35A.63.220 and RCW 36.70A.390; amending Ordinance No. 2018-14, leaving the effective date of the moratorium unchanged; and extending the moratorium for an additional 90 days.

WHEREAS, on January 9, 2018, the City Council enacted Ordinance No. 2018-02 and thereby established a temporary emergency moratorium on the acceptance and processing of certain Permit Applications, as defined in Section 2 of Ordinance No. 2018-02; and

WHEREAS, the City Council and City staff received feedback and comment from individuals related to the moratorium and, based partly on that feedback and comment, the Council determined that certain exclusions to the moratorium needed to be amended to clarify the Council's intent regarding such exclusions; and

WHEREAS, on January 16, 2018, the Council enacted Ordinance No. 2018-03, which amended Ordinance No. 2018-02 to clarify some of the exclusions; and

WHEREAS, the Council and City staff received additional feedback and comment from individuals related to the moratorium and, based partly on that feedback, the Council determined that further amendment was necessary to clarify which types of activities are subject to the moratorium, and which activities are excluded from the moratorium; and

WHEREAS, on February 15, 2018, the Council enacted Ordinance No. 2018-05, which amended and restated Ordinance No. 2018-02 and Ordinance No. 2018-03; and

WHEREAS, based on additional information and consideration related to educational facilities and preschools, as well as related to the applicability of the moratorium in the Mixed Use Town Center/Central Core Overlay District, on March 13, 2018, the Council approved Ordinance No. 2018-09 to further clarify which types of activities are subject to the moratorium, and which activities are excluded from the moratorium; and

WHEREAS, this moratorium was imposed, in part, to allow the Council and City staff adequate time to complete the Critical Areas Ordinance Update process, and to address the Council's concerns about the City's development review process, standards, and guidelines, as well as regarding affordable housing related issues; and

WHEREAS, the Council adopted the Critical Areas Ordinance Update (Ordinance No. 2018-01) on February 27, 2018, and the updated Critical Areas Ordinance took effect on April 23, 2018; and

WHEREAS, critical areas within the City's shoreline jurisdiction are regulated by the City's shoreline master program (see, e.g., Chapter 16.12 BIMC, RCW 36.70A.480(3)(b)); and

WHEREAS, integration of applicable critical areas regulations into the shoreline master program is essential to ensuring adequate protection of critical areas within the shoreline jurisdiction and no net loss of shoreline ecological functions; and

WHEREAS, regulations for critical areas within the City's shoreline jurisdiction are in the process of being updated through an amendment of the City's shoreline master program consistent with the Shoreline Management Act and, at this time, that amendment process is not expected to be complete before July 9, 2018, which is the date that the moratorium is currently set to expire; and

WHEREAS, the City Council approved Ordinance 2014-14 on April 24, 2018, amending the development moratorium in order to have the provisions of Section 3.B. only apply within the City's shoreline jurisdiction areas (Chapter 16.12 BIMC); and

WHEREAS, a number of moratorium priorities were identified at a joint meeting of the City's Design Review Board and Planning Commission on February 22, 2018, including the following:

- (1) Revise review procedures for preliminary subdivisions to include the Design Review Board and Planning Commission in process; and
- (2) Analyze alternatives to decision-making authority for the Design Review Board, Planning Commission, and Hearing Examiner for subdivisions, conditional use permits, and site plan and design review; and
- (3) Identify specific development standards to review/revise in Chapters 18.12 and 18.15 of the Bainbridge Island Municipal Code; and
- (4) Initiate rewrite of subdivision design standards in Chapter 17.12 of the Bainbridge Island Municipal Code; and

WHEREAS, at the April 3, 2018, City Council study session, the City's Department of Planning and Community Development provided a briefing on the Design Review Board and Planning Commission joint meeting wherein the City Council authorized staff to proceed with a work plan addressing the priorities identified at the joint meeting; and

WHEREAS, on May 7 and 21 and on June 4, 2018, the City's Design Review Board discussed alternatives for revisions to the City's subdivision standards, dimensional standards, and land use review procedures, and a subset of the City's Planning Commission attended those meetings; and

WHEREAS, on May 10 and 24, June 7, June 14, and June 21, 2018, the City's Planning Commission discussed alternatives for revisions to the City's subdivision standards, dimensional standards, and land use review procedures; and

WHEREAS, on June 21, 2018, the City's Planning Commission completed its review of revisions to the City's land use review procedures related to the Planning Commission's roles and responsibilities and forwarded recommendations on these issues to the City Council; and

WHEREAS, the City's Planning Commission expects to complete its review of revisions to the City's subdivision standards, dimensional standards, and land use review procedures and forward recommendations on these issues to the City Council at an upcoming meeting or meetings; and

WHEREAS, City staff is working with the Design Review Board on a scope of services to solicit professional services to update the City's Design Guidelines (BIMC 18.18.030), which is work that is not expected to be completed until the end of 2018, and;

WHEREAS, each of the multiple Design Review Board and Planning Commission meetings as described above included an opportunity for public comment on the alternatives for revisions to the City's subdivision standards, dimensional standards, and land use review procedures; and

WHEREAS, the City provided legal background on the roles of land use bodies, presented in a memorandum from attorney James E. Haney (outside legal counsel for the City) entitled, "*Roles of City Council, Planning Commission, Design Review Board, and Hearing Examiner in Land Use Permits*," dated June 1, 2018; and

WHEREAS, the Affordable Housing Task Force has been meeting monthly and recently met to review its draft final report for the City Council and expects to have a final report issued in mid-July, 2018; and

WHEREAS, on June 12, 2018, the City Council authorized the execution of a professional services agreement to conduct an economic market analysis and feasibility study regarding a new inclusionary zoning program and updates to the City's Transfer of Development Rights program, both of which address affordable housing related issues; and

WHEREAS, on February 27, 2018, the City Council was provided with a moratorium work program; and

WHEREAS, on April 10, May 22, June 5, and June 19, and June 26, 2018, the City Council was provided moratorium work program status report updates; and

WHEREAS, the City Council held a public hearing on June 26, 2018, related to extending the development moratorium; and

WHEREAS, the City possesses land use jurisdiction and regulatory authority over the City's incorporated lands; and

WHEREAS, the moratorium promotes the public good and is necessary for the protection of public health, property, safety, and welfare, and the public emergency on which this

moratorium was imposed continues to exist and this ordinance does not change the basis for that declaration of emergency, except as described above, nor the effective date of the moratorium, which is January 9, 2018.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BAINBRIDGE ISLAND, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Findings of Fact. The recitals set forth above are hereby adopted as additional and supplemental findings of fact to the City Council's initial findings of fact in support of the moratorium, as established by Ordinance Nos. 2018-02, 2018-03, 2018-05, 2018-09, and 2018-14.

Section 2. Moratorium Amended. The moratorium is hereby amended, as also stated in Section 5 below, to extend the moratorium for ninety (90) days beyond the current six month duration of the moratorium, which, without this amendment, would expire on July 9, 2018.

Section 3. Moratorium Work Plan. As provided for under RCW 35A.63.220 and RCW 36.70A.390, the City may renew a moratorium for one or more six-month periods if a work plan has been developed, a public hearing has been held, and findings of fact have been made, and the City is hereby extending the moratorium as described herein based on the work plan that has been developed and the findings of fact that have been made in this ordinance and the previous ordinances related to this moratorium.

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 preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 5. No Change to Basis for Declaration of Emergency and Effective Date; Extension to Duration. This ordinance shall take effect and be in force five (5) days from and after its passage and publication as required by law. Provided, that this ordinance is not intended to change the basis of the emergency declarations stated in the five moratorium ordinances which preceded this ordinance, Ordinance Nos. 2018-02, 2018-03, 2018-05, 2018-09, and 2018-14, except as described in the "Whereas" clauses of this ordinance. Pursuant to *Matson v. Clark County Board of Commissioners*, 79 Wn. App. 641 (1995), non-exhaustive underlying facts necessary to support the emergency declarations adopted as part of the enactment of this moratorium were included in the "Whereas" clauses of Ordinance No. 2018-02 and Ordinance No. 2018-03, and were restated and supplemented in Ordinance No. 2018-05, Ordinance No. 2018-09, and Ordinance No. 2018-14, as well as in this ordinance, and those "Whereas" clauses are adopted as findings of fact. This ordinance amending the moratorium shall extend the current six month moratorium for an additional ninety (90) days beyond that initial six month period, which moratorium has an effective date of January 9, 2018, unless terminated earlier by the City Council. The Council may, at its sole discretion, renew the moratorium for one or more six (6) month periods in accordance with state law. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City.

PASSED by the City Council this 26th day of June, 2018.

APPROVED by the Mayor this 26th day of June, 2018.



Kol Medina, Mayor

ATTEST/AUTHENTICATE:



DEPUTY CITY CLERK FOR
CHRISTINE BROWN

Christine Brown, City Clerk

FILED WITH THE CITY CLERK
PASSED BY THE CITY COUNCIL
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO:

June 15, 2018
June 26, 2018
June 29, 2018
July 5, 2018
2018-23

July 5, 2018

DEVELOPMENT MORATORIUM SUMMARY: Effective for six months beginning January 9, 2018 (Ordinance No. 2018-02, amended by Ordinance Nos. 2018-03, 2018-05, 2018-09, 2018-14, & 2018-23)

Development Activity PROHIBITED During the Moratorium:

- A. All applications for new short subdivisions (BIMC 2.16.070), new preliminary long subdivisions (BIMC 2.16.125), and new large lot subdivisions (BIMC 2.16.080).
- B. Structures, buildings, and land use permits and approvals in the R-1, R-2, and R-0.4 zones within the City's shoreline jurisdiction areas (see Chapter 16.12 BIMC):
 - (i) That will result in less than 65% of the subject property being retained as native vegetation; or
 - (ii) That will result in reducing the native vegetation on the subject property by any amount if that property had native vegetation existing on less than 65% of the property as of the effective date of the moratorium.
 - (iii) Provided, that this Section B does not apply to complete land use applications (see BIMC Table 2.16.010-1) that were submitted prior to the effective date of the moratorium, and to the resultant site work and associated approvals related to such complete land use applications.
- C. Major Site Plan and Design Review and Major Conditional Use Permit proposals that are not otherwise subject to this moratorium and that did not, before the effective date of the moratorium, have a pre-application conference on the Planning Department's calendar. Provided, that the moratorium does not apply to Major Site Plan and Design Review and Major Conditional Use Permit proposals for properties located in the Mixed Use Town Center/Central Core Overlay District.

EXCEPTIONS to the Above Development Activities Prohibited During the Moratorium:

- A. Permits and approvals for affordable housing projects that qualify as Housing Design Demonstration Project (HDDP) Tier 3 projects pursuant to BIMC 2.16.020.Q. and Table 2.16.020.Q-1, and
- B. Permits and approvals for government facilities and structures; educational facilities and preschools; wireless communication facilities; and emergency medical and disaster relief facilities.



CITY OF
BAINBRIDGE ISLAND

City Council Study Session Agenda Bill

MEETING DATE: September 18, 2018

ESTIMATED TIME: 15 Minutes

AGENDA ITEM: (7:35 PM) Proposal from Arborists for Code Review - Mayor Medina,

STRATEGIC PRIORITY: Green, Well-Planned Community

PRIORITY BASED BUDGETING PROGRAM:

AGENDA CATEGORY: Discussion

PROPOSED BY: City Council

RECOMMENDED MOTION:

Continue to consider proposal from arborists to do work for the City in reviewing certain code provisions.

SUMMARY:

This item is a continuation of a discussion that the City Council had at its meeting on September 4, 2018. The Council will continue to discuss and consider a proposal from arborists related to work they would do for the City in reviewing the City's code regarding certain tree regulations, including Chapter 16.18 BIMC.

FISCAL IMPACT:

Amount:	\$27,000
Ongoing Cost:	
One-Time Cost:	\$27,000
Included in Current Budget?	No

BACKGROUND:

ATTACHMENTS:

[Summary Cover letter](#)

[ArboristProposal2](#)

FISCAL DETAILS:

Fund Name(s): General Fund

Coding:

Summary Response to Request for Proposal Bainbridge Island Arborists

In response to the City of Bainbridge Island's desire for technical guidance updating Municipal Code 16.18 and Ordinance 2018-19.

To: City Council, City of Bainbridge Island
CC: Forestry Commission, City of Bainbridge Island
Department of Community Development, City of Bainbridge Island
From: Mike Juneau, Katy Bigelow, John Bornsworth, Olaf Ribeiro

SUMMARY:

Throughout the proposed revisions of 16.18 and during the introduction of the Landmark Tree Ordinance working arborists and citizens have found the code to be difficult to understand to a degree that an unprecedented amount of non-compliance (unmonitored) weekend work is occurring. Through difficult to understand regulations, the draft code encourages fear and confusion.

Parts of these codes are moving us in the right direction - that is towards less tree removal overall island wide.

What's working/will potentially work with the 16.18 code draft:

- 1) 16.20 Critical Areas ARPA: Significantly reduces tree removal in development or redevelopment sites (implemented). *This is what catches most residents eye/generates complaints.
- 2) Reducing metered amount of tree removal: Instead of 6 trees per year tree removal will drop to 3/36 months and potentially less in smaller sized lots (potentially implemented by this code). *This will slow tree removal quantity over time.
- 3) Reducing diameter size of trees allowed to be removed in MUTC and other high density areas (potentially implemented by this code). *This can potentially slow tree removal in these areas over time.

Trees are being removed but these three steps, already potentially implemented in this code version already and quantifiably can significantly reduce tree removal island wide.

That said, there are a significant amount of details and problems in the code draft that are not geared towards this simple goal. Not allowing local working companies who have been liaising with the City and the public to aid in this revision would be a mis-step which could actually cause more trees to be lost.

Perceived problem: Lay people have trouble navigating the code.

Reality: So do city staff and working arborists.

Solution: Consolidate the code for streamlined use and interpretation using code that solves problems as perceived by islanders and the City Council guided by arborists.

We arborists actively work on Bainbridge Island and are vested in its future and vested in helping our clients stay in compliance. This code revision has reached a critical moment and we invite you to accept our proposal to help you help your island. Thank you for your consideration.

Mike Juneau, 22 years' experience

ISA Board Certified Master Arborist

Tree Risk Assessment Qualified

Owner, Juneau Trees and Landscape, Inc., Poulsbo

Katy Bigelow, 18 years' experience

Registered Consulting Arborist #490

ISA Board Certified Master Arborist PN-6039B

Tree Risk Assessment Qualified

Owner, Bigelow Tree Consulting., Bainbridge Island

John Bornsworth, 15 years' experience

ISA Board Certified Master Arborist PN-7955BM

ISA Municipal Specialist Arborist

Executive Advisory Panel, WA Community Forestry Council (Department of Natural Resources)

Owner, Peninsula Urban Forestry LLC, Port Angeles

Proposal for Arborist Review of Ordinance 2018-19

In response to the City of Bainbridge Island's request for
technical guidance updating Municipal Code 16.18 and Ordinance 2018-19.

To: City Council, City of Bainbridge Island
CC: Forestry Commission, City of Bainbridge Island
Department of Community Development, City of Bainbridge Island
From: Mike Juneau, Katy Bigelow, John Bornsworth, Olaf Ribero, Scott Baker

SUMMARY:

The City of Bainbridge Island City Council ("Council") is currently revising its Municipal Code Chapter 16.18 related to the management of trees and vegetation in mostly residential areas, and adding the management of "Exceptional Trees" as adapted from Ordinance 2018-25 (Landmark Tree Ordinance). The complete Ordinance 2018-19 (16.18 as Exhibit A) also includes draft changes to tree retention standards for nearly all areas zoned residential.

A group of arborists ("Consultants") representing five consulting firms including arboricultural, natural resource, and community forestry professionals requests the Council to consider a technical review of the proposed code language and policy direction of the aforementioned documents. Best available science and collective knowledge and experience managing trees in this community will be used to provide critical upgrades to this code prior to approval of Ordinance 2018-19 and 16.18 Exhibit A by the Council.

This proposal outlines the background of the project, the scope of the technical review, a timeline, budget, resources, and staff requirements for this project.

BACKGROUND:

On April 23, 2018 the City of Bainbridge Island ("COBI") updated its Critical Areas Ordinance ("CAO"). Due diligence for the CAO revision was accomplished through guidance from the Washington State Department of Ecology and various consultants. Through the application of best available science, best management practices, and community interaction the Council approved this substantial CAO revision. On August 9, 2018, the Bainbridge Island Planning Commission ("Planning Commission") forwarded to Council the current draft of Ordinance 2018-19 including Chapter 16.18 as "Exhibit A." These documents contain recent and substantial changes to earlier drafts of Chapter 16.18 including integration of many provisions of the "Landmark Tree Ordinance" of June 26, 2018, which is recommended to be replaced by Ordinance 2018-19. There are also significant changes to the current Chapter 18 in this same Ordinance.

A group of specialists including both consulting and working arborists, a plant pathologist specializing in trees, and a community forester/ecologist with supporting staff, have identified this revision as a critical opportunity for COBI to use diligence in its revision of 16.18 by approving a Consultant review of 16.18 and Ordinance 2018-19. Our urban, community, and residential forest planning must be implemented with a rigorous technical review similar to the diligence applied to other natural resources. Our technical review will use clear visioning, situational assessments, research, and best available science to inform a final revision of 16.18 and Ordinance 2018-19. Our goal is to achieve the high level of code function (field effectiveness) necessary to accomplish real vegetation goals desired by the Council and our community.

The Consultants agree the revised code has the potential to greatly influence Island-wide forests and the interconnected human and ecosystem services they provide. The Consultants feel the revision's potential longevity increases this influence and the meaningfulness of the proposed technical review. Urban, communi-

ty and natural forest planning can and should be assessed, strategized and executed with equal rigor and technical review as other natural resources.

Given its significance, the Consultants request Council approval for the following Scope, Timeline, Budget, Staff and Council assistance for this project. Specifically, we request your approval of the following:

1. The proposed Timeline, which is set to commence in early September and complete in mid-December.
2. The proposed Budget, which allows consultants to set aside other projects and allocate sufficient energy and resources to complete this review in a timely manner.
3. Access to senior Planning staff for technical guidance with the code, including assistance integrating recommendations into Municipal Code draft language for Council review.
4. Assistance from a Council member who will review our progress from time to time and represent the project to Council, preferably a member of the Ad Hoc LID & Tree Committee (Ron Peltier, Sarah Blossom, or Rasham Nassar).

The Consultants understand this timeline may extend the Council's current conversation beyond the timeline Council previously considered for 16.18 approval. However, these upgrades to the code will greatly improve its effectiveness and applicability in our Bainbridge Island community, once approved by the Council.

IDENTIFIED CONCERNS

Arborist-identified issues for our review and recommendations (not in order of priority):

1. Must significantly streamline and clarify the 16.18 code for homeowners and PCD, making tree regs simpler to understand and easier to follow, without losing effectiveness.
2. Add best-available-science including ANSI A300 Standards and ISA BMPs for trees, and review for support of forest ecology. Include sufficient citation of the 9 parts (as applicable) of ANSI A300, and embedding several "shalls" and "shall nots" of important ANSI details into both code text and code Definitions.
3. The Exceptional Tree portion of 16.18 Exhibit A must be cleaned up and made workable in the field, and clarified for PCD interpretation and enforcement. We can generate criteria and process for identifying and protecting these trees that will work better in the field.
4. The activities allowed without a Permit (16.18.040) need to be checked for field accuracy and appropriateness.
5. The rates and Tree Unit requirements must be cross-checked on a representative sampling of sites to make sure they are adequate, appropriate, and sustainable. The "metered rate" for tree removal is an important provision of the code, but must also be "field checked" and adjusted to fit the zoning and lot size criteria presented in Ordinance 2018-19 and 16.18 Exhibit A, particularly for small lots and in higher-density areas.
6. The activities requiring a permit (16.18.050) need to be field checked for applicability etc.
7. The interaction between 16.18 and 16.20 ARPA needs to be clarified better.
8. The General Regulations and Standards (16.18.060) need to be field checked for accuracy, practicality, and ease of use for homeowners under field conditions and at PCD. Desired homeowner response: "Ok, I can do this."
9. Penalties should be set roughly proportional to the violation, such as a steep per tree cost per inch of tree removal violation, with some species counting less.
10. Mitigation sequencing and restoration needs to be checked for practicality. Keep it simple and effective.
11. Definitions need to be updated, clarified, and some new definitions need to be added to improve clarity and compliance.

SCOPE, TIMELINE & BUDGET:

Project Phase	Action Item:	Results	Deadline	Budget:
<u>Situation Assessment</u> “Where are we now”	Consultant Research	- Identify conflicts b/n best available science & 16.18 - Identify conflicts with current best practices - Identify other necessary enhancement to code	September 15	\$5,000
<u>Strategic Direction</u> “Where do we want to be?”	Analyses with PCD	- Review current code conflicts with planning staff at PCD. - Strategize with PCD staff on implementation of technical review	September 30	\$3,000
<u>Technical Implementation</u> “How do we know?”	Consultant Dialogue	- Consultant round-table, emails, phone calls. - Strategic planning of 16.18	December 20	\$9000
	Technical Research & Review	- Review of best available science - Review of Island forest dynamics (urban, community and natural forest) sample sites - Research as strategized by PCD	November 1	\$4,000
<u>Review (Feedback Loop)</u>	Council Revision 1	- Consultants deliver Draft 1 to Council (or Tree Committee) Council provides feedback	November 15	\$3,000
	Consultant Revision 1	- Consultant reviews Draft 2 from Council (or Tree Committee) - Consultant provides feedback	December 1	\$3,000
	Council Revision 2	- Council reviews Draft 3 from Consultant	December 10	-
<u>Delivery</u>	Delivery of Final Product	- Files delivered to Council & PCD in format agreed upon by PCD.	December 31	-
Estimated Project Completion by December 31, 2018				\$27,000

- Project will be billed on a time & materials basis, up to the approved budget.

PROJECT DETAILS

The Consultant team will support the goals of the Community Forest Management Plan (2006) during our review process. This process will proceed as follows:

- 1) Situational Assessment
- 2) Strategic Direction
- 3) Technical Implementation
- 4) Review

The Consultant team will require a rigorous code review by PCD. During our Situational Assessment step, the Consultant team will evaluate the current 16.18 codes including the Exceptional tree provisions, and Ordinance 2018-19. Strategic Direction planning will assist the Consultant team with a full understanding of where the City Staff time with Consultant team will be required to fully vet and gather information for code review & implementation.

The Consultant recommends a two-phase feedback loop (Review) with the Council/Ad Hoc Tree Committee prior to submission of deliverables. Feedback loop will begin with a draft submission from the Consultant team. Council will have 15 days to review and comment. Consultant team will deliver second draft 10 days later. Consultant will obtain no further project input past this point and will finalize and copy edit report.

Deliverables will consist of a technical report, in Microsoft Word format, authored by the Consultant team. All opinions and recommendations from the Consultant will be referenced with our technical review data and input from stakeholders. Recommendations from Consultant will be sequenced with potential outcomes of Council acceptance of recommendation, acceptance recommendation with alteration, or dismissal of recommendation, if desired.

PROJECT STAFF:

Staff for this project include some notable tree professionals statewide and nationally. Collectively, professional tree management experience totals nearly 150 years. A multidisciplinary approach to natural resource planning, including urban, community and natural forest planning is important. The team of Consultants have a diverse range of background and areas of specialty. Some of these fields include: commercial arboriculture and commercial tree management, forest pathology & disease research and practice, consulting arboricultural practice, tree scientific research, urban & community forest management, tree and vegetation legal practice and expert witness, restoration ecology & noxious weeds.

References and similar prior projects available upon request.

Olaf Ribeiro, Ph.D., 50 years' experience

Plant Pathologist and arborist

Ribeiro Consulting, Bainbridge Island, WA

Mike Juneau, 22 years' experience

ISA Board Certified Master Arborist PN2629B

Tree Risk Assessment Qualified (TRAQ)

Bachelor of Landscape Architecture/Horticulture

Owner, Juneau Trees and Landscape, Inc., Poulsbo, WA

www.juneautrees.com

Katy Bigelow, 18 years' experience

Registered Consulting Arborist #490

ISA Board Certified Master Arborist PN-6039B

Tree Risk Assessment Qualified (TRAQ)

Owner, Katy Bigelow, Arborist LLC, Edmonds, WA

www.katybigelow.com

John Bornsworth, 15 years' experience

ISA Board Certified Master Arborist PN-7955BM

ISA Municipal Specialist Arborist

Executive Advisory Panel, WA Community Forestry Council (Department of Natural Resources)

Owner, Peninsula Urban Forestry LLC, Port Angeles, WA

www.peninsulauf.com

Additional technical review:

Scott Baker, 40 years' experience

Registered Consulting Arborist #414

ISA Board Certified Master Arborist PN-0670B, Retired

Tree Risk Assessment Qualified & Instructor

Owner, Tree Solutions, Inc., Seattle, WA

www.treesolutions.net

Linden Lampman

Urban & Community Forestry Program Manager

Washington State Department of Natural Resources

EXHIBIT A:

Below are some “Guiding Questions” for Arborist review of Bainbridge Island vegetation code and proposed Forest Stewardship chapter including Ordinance 2018-19 and 16.18.

Summary question: “Do the regulations support the preaching?” (quote Bill Chester, Commissioner)

Does this adequately support “good and necessary tree care” on Bainbridge Island?

Does this strongly and adequately discourage “bad and unnecessary” tree work on Bainbridge Island—prohibiting the worst practices?

Does this support best-available-science in both ANSI A300 Standards and ISA BMPs for trees, including sufficient citation of the 9 parts (as applicable) of ANSI A300, and embedding several “shall” and “shall not” of important ANSI details into code text and code Definitions?

Does this promote “preserving trees” (rather than just “retaining trees”) before, during, and after development?

Does this enhance native forest ecology and forest structure, such as appropriate diversity of species?

Does this support replanting of trees?

Does it support all of the above, in the context of residential trees and risk management in those areas, for both now and into the future?

Are there adequate checks and balances in the code?

Does this reasonably balance the “carrot and stick” ratio for motivating compliance?



CITY OF
BAINBRIDGE ISLAND

City Council Study Session Agenda Bill

MEETING DATE: September 18, 2018

ESTIMATED TIME: 10 Minutes

AGENDA ITEM: (7:50 PM) Council Endorsement for Hwy 305 Washington Department of Transportation (WSDOT) Plan - Mayor Medina,

STRATEGIC PRIORITY: Reliable Infrastructure and Connected Mobility

PRIORITY BASED BUDGETING PROGRAM:

AGENDA CATEGORY: Discussion

PROPOSED BY: City Council

RECOMMENDED MOTION:

Consider endorsement of WSDOT's Hwy 305 Plan.

SUMMARY:

Council will consider endorsing WSDOT's plan for Hwy 305.

FISCAL IMPACT:

Amount:	
Ongoing Cost:	
One-Time Cost:	
Included in Current Budget?	

BACKGROUND:

ATTACHMENTS:

FISCAL DETAILS:

Fund Name(s):

Coding:



CITY OF
BAINBRIDGE ISLAND

City Council Study Session Agenda Bill

MEETING DATE: September 18, 2018

ESTIMATED TIME: 20 Minutes

AGENDA ITEM: (8:00 PM) Code Enforcement Update - Executive

STRATEGIC PRIORITY: Green, Well-Planned Community

PRIORITY BASED BUDGETING PROGRAM:

AGENDA CATEGORY: Discussion

PROPOSED BY: Executive

RECOMMENDED MOTION:

Discussion.

SUMMARY:

Code enforcement is one of the City Council's top priorities for 2018. This issue was last before the Council on January 17, 2017, when the City Manager gave a presentation to the Council. The purpose of this agenda item is for the City Attorney's Office to provide an update to the Council on this issue and then receive direction from the Council regarding possible next steps.

The goal is for the Council to identify areas related to code enforcement that should be priorities. Once such areas are identified, the next step will be for staff to, as needed, gather additional information and prepare recommendations related to each priority area for the Council to consider at future meetings.

In summary, three areas of potential focus have been identified:

1. General Code Enforcement;
2. Sign Code; and
3. Animal Control Code.

For each of these areas of potential focus, questions will be posed to the Council to guide a discussion of the Council's code enforcement priorities. For more information, please review the attached Code Enforcement Update powerpoint presentation.

For reference and context, attached are the following code enforcement background materials:

1. COBI Standard Operating Procedures for Code Enforcement Actions, which summarizes the City's current general code enforcement procedure.
2. Chapter 1.26 BIMC, the City's current general code enforcement chapter.
3. Chapter 15.08 BIMC, the City's current sign code.
4. A blog post from MRSC summarizing the Reed v. Town of Gilbert decision.
5. Title 6 BIMC, the City's current title related to animal control.

6. A memo prepared by Kitsap Humane Society outlining its recommendations for changes to Title 6 BIMC.

FISCAL IMPACT:

Amount:	
Ongoing Cost:	
One-Time Cost:	
Included in Current Budget?	

BACKGROUND:

ATTACHMENTS:

[September 18, 2018 Code Enforcement Update.pptx](#)

[COBI Standard Operating Procedures for Code Enforcement Actions](#)

[Chapter 1.26 BIMC - The City's Current General Code Enforcement Chapter](#)

[Chapter 15.08 BIMC - The City's Current Sign Code](#)

[MRSC: Reed v. Town of Gilbert Blog Post](#)

[Title 6 BIMC - The City's Current Title Related to Animal Control](#)

[Kitsap Humane Society Recommendations for COBI](#)

FISCAL DETAILS:

Fund Name(s):

Coding:



Code Enforcement Update

September 18, 2018 City Council Study Session

Why Are We Talking About Code Enforcement?

- ▶ Concerns from the City Council and from the community.
- ▶ A Top City Council Priority Item for 2018.

Goals for Tonight

- ▶ Two Goals:
 1. Check in with you, the City Council, about what progress has been made; and
 2. Get direction from the Council on what's important to you.

- ▶ Next Steps:
 - Priorities identified tonight will be scheduled for consideration or discussion at future City Council meetings.

Progress So Far

- ▶ Reviewed the City's existing code enforcement provisions.
- ▶ Met with City of Bremerton staff to discuss Bremerton's effective code enforcement system.
- ▶ Began compilation of known issues with City's existing code enforcement provisions.
- ▶ Result - Identified three areas of potential focus:
 1. General Code Enforcement
 2. Sign Code
 3. Animal Control Code

General Code Enforcement – Council Direction

- ▶ Is the City Council interested in exploring:
 1. Whether to add more tools to the toolbox?
 2. Whether to increase existing penalties for code violations, where possible?
 3. Changing from a complaint-based to a more proactive enforcement system?
 4. Whether to make minor revisions to the City's current code enforcement procedure or adopt a new procedure?

General Code Enforcement – Toolbox

- ▶ Is the City Council interested in exploring:
 - Whether to add more tools to the toolbox?

- ▶ Potential Examples:
 - Junk vehicles
 - Unfit Dwellings, Buildings, & Structures
 - Nuisance Buildings
 - Nuisance Code

General Code Enforcement – Council Direction

- ▶ Is the City Council interested in exploring:
 - Whether to increase existing penalties for code violations, where possible?

- ▶ Example:
 - Identify specific code requirements and increase the corresponding penalty to deter violations.

General Code Enforcement – Council Direction

- ▶ Is the City Council interested in exploring:
 - Changing from a complaint-based to a more proactive enforcement system?
- ▶ Example:
 - City resources would be used proactively to search for certain violations of the City Code.

General Code Enforcement – Council Direction

- ▶ Is the City Council interested in exploring:
 - Whether to make minor revisions to the City's current code enforcement procedure or adopt a new procedure?

- ▶ Current Procedure:
 - Chapter 1.26 BMC
 - I. Complaint
 - II. Investigation
 - III. Warning
 - IV. Notice of Infraction → Municipal Court
 - V. Criminal penalties

General Code Enforcement – Next Steps

- ▶ Next Steps:
 - Priorities identified tonight will be scheduled for consideration or discussion at future City Council meetings.

Sign Code – Why Are We Talking About This?

- ▶ In 2015, the U.S. Supreme Court decided *Reed v. Town of Gilbert*.
- ▶ *Reed* dramatically changed the landscape of how sign codes can be enforced.
- ▶ City's sign code has not been updated since *Reed* was decided.

Sign Code – Council Direction

- ▶ Is the City Council interested in:
 1. Considering recommendations to update the City's current sign code as needed; or
 2. Undertaking a broader discussion on a comprehensive analysis and revision of the City's sign code?

Sign Code – Next Steps

- ▶ Next Steps:
 - Priorities identified tonight will be scheduled for consideration or discussion at future City Council meetings.

Animal Control Code – Why Are We Talking About This?

- ▶ The City contracts with the Kitsap Humane Society to enforce the City's Animal Control Code.
- ▶ Kitsap Humane Society also performs animal control functions for other jurisdictions in Kitsap County.
- ▶ Kitsap Humane Society made specific recommendations to the City on potential improvements to the City's Animal Control Code that it believes are effective in other jurisdictions.

Animal Control Code – Council Direction

1. Is the Council interested in proceeding with the Kitsap Humane Society's recommendations?
2. Are there other issues related to animal control that the Council would like to consider?

Goals for Tonight

► Two Goals:

1. Check in with the City Council about what progress has been made; and
2. Get some direction from the Council on what's important to you.

► Next Steps:

- o Priorities identified tonight will be scheduled for consideration or discussion at future City Council meetings.



The City of Bainbridge Island seeks code compliance and has the enforcement authority under Bainbridge Island Municipal Code Chapter 1.26 Code Enforcement

Standard operating procedures for Enforcement Action

It shall be the policy of the Bainbridge Island Code Compliance Office to treat all violations and violators the same under the Bainbridge Island Municipal Code (BIMC). Whenever the Code Compliance Officer determines a violation of the Code has occurred, there shall be served upon the responsible person either:

1. A Warning of Violation and Order to Correct; or
2. A Notice of Infraction ; or
3. A criminal charge filed with the Kitsap County Prosecutor's Office.

1) Warning of Violation and Order to Correct

The Code Compliance Officer shall first seek voluntary compliance by issuing a Warning of Violation and Order to Correct (W&O); provided that; 1) a Notice of Infraction (NOI) shall be issued if the person cited has been served with a prior warning of violation; 2) the person cited has committed prior violations of the code; or 3) due to life-safety issues, the situation or violation creates an immediate threat to public health, safety or welfare.

2) Notice of Infraction

After a W&O has been issued and the violator has failed to correct the violation in a timely manner, a NOI shall be issued to the person causing the violation and/or the property owner or business manager.

3) Misdemeanor and Gross Misdemeanor

Any person violating or failing to comply with this Code, having had a NOI issued, and is then found to have committed an infraction within the past five years, shall be guilty of a gross misdemeanor. In any section of the Code that authorizes a misdemeanor charge, the Code Compliance Officer will first issue a W&O, NOI and then file the misdemeanor charge unless the situation or the violation creates an immediate threat to public health, safety or welfare.

Voluntary compliance shall always be the goal of the Code Compliance Officer, however enforcement action is sometimes required.

Chapter 1.26 CODE ENFORCEMENT

Sections:

- 1.26.010 Applicability of chapter.**
- 1.26.020 Duty to enforce – Inspections – Duty to comply.**
- 1.26.025 Investigation and notice of violation.**
- 1.26.026 Notice of infraction – Service.**
- 1.26.027 Notice of infraction – Form – Contents.**
- 1.26.028 Notice of infraction – Filing – Hearing in municipal court.**
- 1.26.029 Notice of infraction – Determination infraction committed.**
- 1.26.030 Notice of infraction – Response requesting a hearing – Failure to respond or appear – Order to set aside.**
- 1.26.031 Notice, failure to sign, Nonappearance – Failure to satisfy penalty.**
- 1.26.032 Representation by attorney.**
- 1.26.033 Infraction – Hearing – Procedure – Burden of proof – Order – Appeal.**
- 1.26.034 Infraction – Explanation of mitigating circumstances.**
- 1.26.035 Judgment – Fine – Restitution – Costs – Attorneys' fees.**
- 1.26.036 Order of court – Civil nature – Modification of penalty – Community service.**
- 1.26.037 Notice of infraction does not limit further action.**
- 1.26.038 Violations – Failure to provide information identifying person.**
- 1.26.039 Reserved.**
- 1.26.040 Reserved.**
- 1.26.050 Stop work order.**
- 1.26.060 Emergency order.**

1.26.065 Notice of violation – Procedures.

1.26.070 Review by the director.

1.26.075 Time to comply.

1.26.080 Extension of compliance date – Revocation.

1.26.090 Civil penalty.

1.26.100 Criminal penalties.

1.26.110 Additional relief.

1.26.010 Applicability of chapter.

The provisions of this chapter shall apply to enforcement of BIMC Titles 16 and 18, Chapters 7.01 and 15.04 BIMC, and specified provisions outlined in BIMC Title 20. For purposes of this chapter, such titles and chapters shall be referred to as “the applicable titles and chapters of this code.” (Ord. 2018-07 § 4, 2018: Ord. 2015-03 § 1, 2015: Ord. 2008-10 § 6, 2008: Ord. 2003-16 § 3, 2003: Ord. 2002-15 § 3, 2002: Ord. 97-07 § 4, 1997; Ord. 95-02 § 1, 1995)

1.26.020 Duty to enforce – Inspections – Duty to comply.

A. It shall be the duty of the director of planning and community development to enforce the applicable titles and chapters of this code. The director may call upon other city departments and officers to assist in enforcement. Whenever used in this chapter the term “director” includes the code enforcement officer or other official duly authorized by the director.

B. Code Enforcement Officer – Definition. A city official charged with the responsibility to ensure compliance with all state, city and zoning codes and ordinances as adopted by the city council.

C. The director may enter any building or property to perform duties imposed by the applicable titles and chapters of this code in accordance with Chapter 1.16 BIMC.

D. This chapter and the applicable titles and chapters of this code shall be enforced for the benefit of the health, safety and welfare of the general public, and not for the benefit of any particular person or class of persons.

E. It is the intent of this chapter and the applicable title and chapters of this code to place the obligation of complying with their requirements upon the owner, occupier or other person responsible for the condition of the land and buildings within the scope of the applicable titles and chapters of this code.

F. No provisions of or term used in this chapter or the applicable titles and chapters of this code is intended to impose any duty upon the city or any of its officers or employees which would subject them to damages in a civil action. (Ord. 2018-07 § 5, 2018; Ord. 2003-28 § 2, 2003; Ord. 2001-02 § 1, 2001: Ord. 95-02 § 1, 1995)

1.26.025 Investigation and notice of violation.

A. The director shall investigate any structure or use which the director reasonably believes does not comply with the standards and requirements of the applicable titles and chapters of this code.

B. Whenever the director determines that a violation of the code has occurred there shall be served upon the responsible person either:

1. A notice of violation and corrective order; or
2. A notice of infraction.

C. The director shall issue a notice of violation and corrective order; provided, that a notice of infraction shall be issued if the person cited has been served with a prior notice of violation, the person cited has committed prior violations of the code, the person is cited for failing to comply with a stop work order or an emergency order, or the violation creates an immediate threat to public health, safety or welfare.

D. The director may issue a stop work order or emergency order in appropriate cases without regard to whether any other enforcement action has been or will be taken. (Ord. 2001-02 § 2, 2001: Ord. 95-02 § 1, 1995)

1.26.026 Notice of infraction – Service.

The director may issue a notice of infraction if the director reasonably believes that a provision of the applicable titles and chapters of this code has been violated. A notice of infraction may be served either by:

A. The director serves the notice of infraction on the person named in the notice of infraction at the time of issuance; or

B. The director files the notice of infraction with the court, in which case the court shall have the notice served either personally or by mail, postage prepaid, on the person named in the notice of infraction at his or her address. (Ord. 2001-02 § 3, 2001: Ord. 95-02 § 1, 1995)

1.26.027 Notice of infraction – Form – Contents.

The notice of infraction shall include the following:

- A. A statement that the notice represents a determination that the infraction has been committed by the person named in the notice and that the termination shall be final unless contested as provided in this chapter;
- B. A statement that the infraction is a noncriminal offense for which imprisonment shall not be imposed as a sanction;
- C. A statement of the specific infraction for which the notice was issued;
- D. A statement that monetary penalties as set forth below have been established for each infraction;
- E. A statement of the options provided in this ordinance for responding to the notice and the procedures necessary to exercise these options;
- F. A statement that at any hearing to contest the determination the city has the burden of proving by a preponderance of the evidence, that the infraction was committed; and that the person may subpoena witnesses, including the authorized representative who issued and served the notice of infraction;
- G. A statement, which the person who has been served with the notice of infraction shall sign, that the person promises to respond to the notice of infraction in one of the ways provided in this chapter;
- H. A statement that refusal to sign the infraction as directed in subsection G of this section is a misdemeanor and may be punished by a fine or imprisonment in jail; and
- I. A statement that a person's failure to respond to a notice of infraction as promised is a misdemeanor and may be punishable by a fine or imprisonment in jail. (Ord. 95-02 § 1, 1995)

1.26.028 Notice of infraction – Filing – Hearing in municipal court.

A notice of infraction shall be filed in municipal court within 48 hours of issuance, excluding Saturdays, Sundays, and holidays. Bainbridge Island municipal court shall have jurisdiction to hear and determine these matters. (Ord. 95-02 § 1, 1995)

1.26.029 Notice of infraction – Determination infraction committed.

Unless contested in accordance with this chapter, the notice of infraction represents a determination that the person to whom the notice was issued committed the infraction. (Ord. 95-02 § 1, 1995)

1.26.030 Notice of infraction – Response requesting a hearing – Failure to respond or appear – Order to set aside.

A. A person who receives a notice of infraction shall respond to the notice as provided in this section within 15 days of the date the notice was served.

B. If the person named in the notice of infraction does not contest the determination, the person shall respond by completing the appropriate portion of the notice of infraction and submitting it, either by mail or in person, to the court specified on the notice. A check or money order in the amount of the penalty prescribed for the infraction must be submitted with the response. When a response which does not contest the determination is received, an appropriate order shall be entered in the court's records, and a record of the response order shall be furnished to the department of planning and community development (DPCD).

C. If the person named in the notice of infraction wishes to contest the determination, the person shall respond by completing the portion of the notice of infraction requesting a hearing and submitting it, either by mail or in person, to the court specified on the notice. The court shall notify the person in writing of the time, place, and date of the hearing. The date of the hearing shall not be earlier than seven days nor more than 90 days from the date of the notice of the hearing, except by agreement.

D. If the person determined to have committed the civil infraction does not contest the determination but wishes to explain mitigating circumstances surrounding the infraction, the person shall respond by completing the portion of the notice of civil infraction requesting a hearing for that purpose and submitting it, either by mail or in person, to the court specified on the notice. The court shall notify the person in writing of the time, place, and date of the hearing, and that date shall not be earlier than seven days nor more than 90 days from the date of the notice of the hearing, except by agreement.

E. The court shall enter a default judgment assessing the monetary penalty prescribed for the civil infraction, and may notify the prosecuting attorney of the failure to respond to the notice of civil infraction or to appear at a requested hearing if any person issued a notice of a civil infraction;

1. Fails to respond to the notice of civil infraction as provided in subsection B of this section; or
2. Fails to appear at a hearing requested pursuant to either subsection C or D of this section. If a default judgment is entered, the court shall notify the DPCD of the entry of the default judgment, and the reason therefor. (Ord. 95-02 § 1, 1995)

1.26.031 Notice, failure to sign, Nonappearance – Failure to satisfy penalty.

A. A person who fails to sign a notice of civil infraction is guilty of a misdemeanor.

B. Any person willfully violating his or her written and signed promise to appear in court or his or her written and signed promise to respond to a notice of civil infraction is guilty of a misdemeanor regardless of the disposition of the notice of civil infraction; provided,

that a written promise to appear in court or a written promise to respond to a notice of civil infraction may be complied with by appearance of counsel.

C. A person who willfully fails to pay a fine or to perform community service as required by a court under this chapter may be found in civil contempt of a court after notice and hearing. (Ord. 2001-02 § 4, 2001: Ord. 95-02 § 1, 1995)

1.26.032 Representation by attorney.

A. A person subject to proceedings under this chapter may appear or be represented by counsel.

B. The city prosecutor may, but need not, appear in any proceedings under this chapter. (Ord. 95-02 § 1, 1995)

1.26.033 Infraction – Hearing – Procedure – Burden of proof – Order – Appeal.

A. A hearing held to contest the determination that an infraction has been committed shall be without a jury.

B. The court may consider the notice of infraction and any sworn statements submitted by the authorized representative who issued and served the notice in lieu of his or her personal appearance at the hearing. The person named in the notice may subpoena witnesses, including the authorized representative who has issued and served the notice, and has the right to present evidence and examine witnesses present in court.

C. The burden of proof is on the city to establish the commission of the infraction by a preponderance of evidence.

D. After consideration of the evidence and argument, the court shall determine whether the infraction was committed. If it has not been established that the infraction was committed, an order dismissing the notice shall be entered in the court's records. If it has been established that a civil infraction has been committed, an appropriate order shall be entered in the court's records.

E. An appeal from the court's determination or order shall be to the superior court in the manner provided by the Rules for Appeal of Decisions of Courts of Limited Jurisdiction. The decision of the superior court is subject only to discretionary review pursuant to the Rules of Appellate Procedure. (Ord. 95-02 § 1, 1995)

1.26.034 Infraction – Explanation of mitigating circumstances.

A. A hearing held for the purpose of allowing a person to explain mitigating circumstances surrounding the commission of an infraction shall be an informal proceeding. The person may not subpoena witnesses. The determination that a civil infraction has been committed may not be contested at a hearing held for the purpose of explaining mitigating circumstances.

B. After the court has heard the explanation of the circumstances surrounding the commission of the civil infraction, an appropriate order shall be entered in the court's records.

C. There shall be no appeal from the court's determination or order. (Ord. 95-02 § 1, 1995)

1.26.035 Judgment – Fine – Restitution – Costs – Attorneys' fees.

A. Upon a finding that a civil infraction has been committed the court shall enter judgment requiring:

1. Payment of a fine of not more than \$500.00 for each day of noncompliance.
2. Payment of court costs as defined by rule or statute.
3. Payment to the prevailing party of its reasonable attorneys' fees as allowed by RCW 7.80.140.

B. Whenever a fine is imposed by a court under this chapter it is immediately payable. If the person is unable to pay at that time, the court may grant an extension of the period in which the penalty may be paid. If the penalty is not paid on or before the time established for payment, the court may proceed to collect the penalty in the same manner as other civil judgments and may notify the prosecuting attorney of the failure to pay. The court shall also notify the department of planning and community development of the failure to pay the penalty, and the department shall not issue the person any future permits for any work until the monetary penalty has been paid.

C. The court may also order a person found to have committed a civil infraction to make restitution. (Ord. 2001-02 § 5, 2001: Ord. 95-02 § 1, 1995)

1.26.036 Order of court – Civil nature – Modification of penalty – Community service.

A. An order entered after the receipt of a response which does not contest the determination, or after it has been established at a hearing that the civil infraction was committed, or after a hearing for the purpose of explaining mitigating circumstances is civil in nature.

B. The court may waive, reduce, or suspend the monetary penalty prescribed for the civil infraction. If the court determines that a person has insufficient funds to pay the monetary penalty, the court may order performance of a number of hours of community service in lieu of a monetary penalty, at the rate of the then state minimum wage per hour. (Ord. 95-02 § 1, 1995)

1.26.037 Notice of infraction does not limit further action.

Issuance or disposition of a notice of infraction shall not limit or preclude any action or proceeding pursuant to Chapter 1.24 BIMC or BIMC 1.26.050, 1.26.060, 1.26.090 or 1.26.100. (Ord. 2001-02 § 6, 2001: Ord. 95-02 § 1, 1995)

1.26.038 Violations – Failure to provide information identifying person.

Willful refusal to provide information identifying a person as required by this section is a misdemeanor. (Ord. 95-02 § 1, 1995)

1.26.039 Reserved.

1.26.040 Reserved.

1.26.050 Stop work order.

Whenever a continuing violation of the applicable titles and chapters of this code will materially impair the director's ability to secure compliance with such titles and chapters, or when the continuing violation threatens the environment, health or safety of the public, the director or duly authorized representative of the director, may issue a stop work order specifying the violation and prohibiting any work or other activity at the site. A failure to comply with a stop work order shall constitute a violation of the applicable titles and chapters of this code. (Ord. 2001-02 § 7, 2001: Ord. 95-02 § 1, 1995)

1.26.060 Emergency order.

A. Whenever any use or activity in violation of the applicable titles and chapters of this code threatens the environment, health or safety of the occupants of the premises or any member of the public, the director may issue an emergency order directing that the use or activity be immediately discontinued and the condition causing the threat to the environment, health or safety be corrected. The emergency order shall be posted in a conspicuous place on the property, if posting is physically possible. A failure to comply with an emergency order shall constitute a violation of the applicable titles and chapters of this code.

B. Any condition described in the emergency order which is not corrected within the time specified is hereby declared to be a public nuisance and the director is authorized to abate such nuisance summarily by such means as may be available. The cost of such abatement shall be recovered from the owner or the person responsible or both in the manner provided by law. (Ord. 2001-02 § 8, 2001: Ord. 95-02 § 1, 1995)

1.26.065 Notice of violation – Procedures.

A. The notice of violation shall state separately each standard or requirement violated, shall state what corrective action, if any, is necessary to comply with the standards or requirements, and shall set a reasonable time for compliance. The notice shall state that any subsequent violations may result in criminal prosecution as provided in BIMC 1.26.100. In the event of violations of the standards or requirements of Chapter 16.20

BIMC, the required corrective action shall include, if appropriate, but shall not be limited to, mitigating measures such as restoration of the area and replacement of damaged or destroyed trees.

B. The code enforcement officer filing the notice of violation may file with the court, in which case the court shall have the notice served either personally or by mail, postage prepaid, on the person named in the notice of violation at his or her address, or in accordance with subsection C of this section.

C. The notice shall be served upon the owner, tenant or other person responsible for the condition by personal service, registered mail, or certified mail with return receipt requested, addressed to the last known address of such person. If, after a reasonable search and reasonable efforts are made to obtain service, the whereabouts of the person or persons is unknown or service cannot be accomplished and the director makes an affidavit to that effect, the service of the notice upon such person or persons may be made by mailing a copy of the notice to each person named on the notice of violation by first class mail to the last known address if known or if unknown, to the address of the property involved in the proceedings.

D. A copy of the notice shall be posted at a conspicuous place on the property, unless posting the notice is not physically possible.

E. Nothing in this section shall be deemed to limit or preclude any action or proceeding pursuant to BIMC 1.26.050 or 1.26.060.

F. The director may mail, or cause to be delivered to all residential and/or nonresidential units in the structure or post at a conspicuous place on the property, a notice which informs each recipient or resident about the notice of violation, stop work order or emergency order and the applicable requirements and procedures.

G. A notice or an order may be amended at any time in order to correct clerical errors or cite additional authority for a stated violation. (Ord. 2001-02 § 8, 2001: Ord. 97-07 § 5, 1997; Ord. 95-02 § 1, 1995)

1.26.070 Review by the director.

A. Any person affected by a notice of violation issued under BIMC 1.26.050 or 1.26.060 may request a review of the notice by requesting such review within seven days after service of the notice. When the last day of the period so computed is a Saturday, Sunday or federal or city holiday, the period shall run until 4:00 p.m. on the next business day. The request shall be in writing, clearly and concisely identifying the errors of the director, or the basis for any claimed mitigation, and upon receipt of the request, the director shall review the materials and:

1. Determine, in the sole discretion of the director, whether a review meeting should be held; or
2. Respond in writing denying the request for review citing the reasons for the denial. A director's review may be denied if:
 - a. The review is being requested for an obvious or flagrant violation for which fines or penalties, but no mitigation, are required;
 - b. The review is being requested solely to seek a reduction or elimination of fines and penalties;
 - c. The review is being requested to seek a waiver or reduction of the enforcement fee;
 - d. The review is being requested for any matter relating to burning violations.

If the director determines a review meeting should be held, the director shall notify any persons served the notice of violation and the complainant, if any, of the date, time and place set for the review, which shall be not less than 10 nor more than 20 days after the request is received. Before the date set for the review, any person affected by the notice of violation may submit any additional written material to the director for consideration at the review. During the administrative review, the order shall be in full force and effect until the order is corrected or the decision is overturned.

B. The review will consist of an informal review meeting held at the department of planning and community development. A representative of the director who is familiar with the case and the applicable ordinances will attend. The director or representative of the director will explain the reasons for the issuance of the notice and will listen to any additional information presented by the persons attending. At or after the review, the director may:

1. Sustain the notice of violation;
2. Withdraw the notice of violation;
3. Continue the review to a date certain for receipt of additional information; or
4. Modify the notice of violation, which may include an extension of the compliance date.

C. The director shall issue an order containing the decision within 10 working days of the date of the completion of the review and shall cause the same to be mailed by regular first class mail to the person or persons named in the notice of violation, mailed

to the complainant, if possible, and filed with the Bainbridge Island municipal court and Kitsap County auditor if necessary for recording on the title to the property.

D. The decision of the director may be appealed pursuant to the procedures set forth in BIMC 2.16.130. (Ord. 2001-02 § 9, 2001: Ord. 95-02 § 1, 1995)

1.26.075 Time to comply.

A. When calculating reasonable time for compliance, the director shall consider the following criteria:

1. The type and degree of the violation cited in the notice;
2. The stated intent, if any, of a responsible party to take steps to comply;
3. The procedural requirements for obtaining a permit to carry out corrective action;
4. The complexity of the corrective action, including seasonal considerations, construction requirements and the legal prerogatives of landlords and tenants; and
5. Any other circumstances beyond the control of the responsible party.

B. Unless a request for review before the director is made in accordance with BIMC 1.26.070, the notice of violation shall become the final order of the director. A copy of the notice may be filed with the Bainbridge Island municipal court. The director may choose not to file a copy of the notice or order if the notice or order is directed only to a person other than the owner of the property. (Ord. 2001-02 § 10, 2001: Ord. 95-02 § 1, 1995)

1.26.080 Extension of compliance date – Revocation.

A. The director may grant an extension of time for compliance with any notice or order, whether pending or final, upon finding that substantial progress toward compliance has been made and that the public will not be adversely affected by the extension.

B. An extension of time may be revoked by the director if it is shown that the conditions at the time the extension was granted have changed, if the director determines that a party is not performing corrective actions as agreed, or if the extension creates an adverse effect on the public. The date of revocation shall then be considered as the compliance date. The procedures for revocation, notification of parties, and appeal of the revocation shall be established by rule. (Ord. 2001-02 § 11, 2001: Ord. 95-02 § 1, 1995)

1.26.090 Civil penalty.

A. In addition to any other sanction or remedial procedure which may be available, any person violating or failing to comply with any of the provisions of the applicable titles and

chapters of this code shall be subject to a cumulative penalty in the amount of \$1,000 per day for each violation from the date set for compliance until the date of compliance.

B. The penalty imposed by this section shall be collected by civil action brought in the name of the city. The director shall notify the city prosecutor in writing of the name of any person subject to the penalty, and the city prosecutor shall, with the assistance of the director or duly authorized representative of the director, take appropriate action to collect the penalty.

C. The violator may show as full or partial mitigation of liability that:

1. The violation giving rise to the action was caused by the willful act, neglect, or abuse of another; or
2. Correction of the violation was commenced promptly upon receipt of the notice thereof, but that full compliance within the time specified was prevented by the inability to obtain necessary materials or labor, inability to gain access to the subject structure, or other condition or circumstances beyond the control of the violator. (Ord. 2001-02 § 12, 2001: Ord. 95-02 § 1, 1995)

1.26.100 Criminal penalties.

A. In addition to any civil penalty that may be imposed, any person violating or failing to comply with the applicable titles and chapters of this code and having a judgment entered against the person pursuant to BIMC 1.26.090 within the past five years, shall be guilty of a gross misdemeanor, and shall be punished by a fine of not more than \$5,000 or by imprisonment for a period not to exceed one year, or by both such fine and imprisonment. Each day of noncompliance shall constitute a separate offense.

B. In addition to any civil penalty that may be imposed, a criminal penalty, not to exceed one year imprisonment and/or \$5,000 per violation, may be imposed:

1. For violations of BIMC 16.20.120.D and 18.123.010.D and Section 205(c) of the Uniform Building Code as amended by BIMC 15.04.030;
2. For any other violation of the applicable title and chapters of this code for which corrective action is not possible; and
3. For any refusal to comply with a stop work order or an emergency order. (Ord. 2001-02 § 13, 2001: Ord. 95-02 § 1, 1995)

1.26.110 Additional relief.

The city prosecutor, with the assistance of the director, may seek legal or equitable relief to enjoin any acts or practices and abate any condition which constitutes or will constitute a violation of the applicable titles and chapters of this code when civil or

criminal penalties are inadequate to effect compliance. (Ord. 2001-02 § 14, 2001: Ord. 95-02 § 1, 1995)

Chapter 15.08 SIGN CODE

Sections:

- 15.08.010 Purpose.**
- 15.08.020 Definitions.**
- 15.08.030 Signs not requiring a permit.**
- 15.08.040 Prohibited signs.**
- 15.08.050 Nonconforming signs.**
- 15.08.060 Measurement of sign area.**
- 15.08.070 Height of sign.**
- 15.08.080 General regulations.**
- 15.08.090 Commercial use signs.**
- 15.08.095 Political signs.**
- 15.08.100 Institutional or public use signs.**
- 15.08.110 Residential use signs.**
- 15.08.115 Temporary off-site commercial signs.**
- 15.08.120 Permits required.**
- 15.08.130 Permit fees.**
- 15.08.140 Sign variance.**
- 15.08.150 Enforcement and penalties.**

15.08.010 Purpose.

The purpose of this chapter is as follows:

- A. To promote and protect the public welfare, health and safety.
- B. To encourage the installation of signs which harmonize with building design, natural settings and other geographical characteristics of the locations in which they are erected.

C. To create a more attractive economic and business climate.

D. To reduce distractions and obstructions from signs which would adversely affect traffic safety and reduce hazards that may be caused by signs overhanging or projecting over or within public rights-of-way. (Ord. 2013-06 § 1, 2013: Ord. 96-32 § 1, 1996; Ord. 93-01 § 1, 1993)

15.08.020 Definitions.

A. “Agricultural products sign” means a sign advertising seasonal produce.

B. “Alteration” means any change of a sign, other than changeable copy as defined in this section.

C. “Awning and marquee sign” means a sign attached to a face or shelter, which face or shelter extends (12 inches or more) in a direction perpendicular to the wall of the building and may be supported by posts or the exterior wall of the building or any combination thereof.

D. “Banner” means a sign of flexible material designed to be displayed between two supports or against another surface.

E. “Banneret” means a small banner that is hung vertically from a freestanding support, i.e., curbside bannerets on light standards and bannerets in public squares.

F. “Bulletin board” means a surface designed for the affixing of temporary handbills, notices, posters or other similar items.

G. “Changeable copy” means but is not limited to that portion of sign copy consisting of individual interchangeable letters and numbers which may be rearranged to spell new words and to form new numbers on the sign face, without reworking, repainting, or otherwise altering the physical composition of the sign, for the primary objective of displaying frequently changing copy.

H. “Construction sign” means a temporary sign erected for the purpose of announcing future building plans and identifying the owner, architect, engineer, building contractor and/or other persons responsible for the development of the site.

I. “Cultural, historical or architecturally significant sign” means a sign with unique local characteristics which may not fit other defined categories.

J. “Director” means the city’s director of planning and community development.

K. “Erect” means to build, construct, raise, assemble, create, alter, display, relocate, attach, hang, place, suspend, affix, paint, draw, engrave, carve, cast, or in any other

way bring into being or establish, other than to replace changeable copy and other than in the course of normal sign maintenance as described in this chapter.

L. "Facade sign" means any sign which is erected (including painted) on the wall of a building or other structure, whose face is generally parallel to that wall or other structure and whose face does not extend outward more than 12 inches in a direction perpendicular to that wall or other structure.

M. "Facade" means the wall of a building or other structure whose face is generally parallel to that wall or other structure.

N. "Freestanding sign" means a sign supported by one or more uprights, poles or braces in or on the ground, and not supported by a building.

O. "Grade." See BIMC 18.12.050.I.

P. "Neon sign" means a sign illuminated in whole or part by gaseous tubes electrified by a current.

Q. "NC" means neighborhood centers.

R. "Political sign" means a sign advertising a candidate or candidates for public elective office, or a political party, or signs urging a particular vote on a public issue to be decided by ballot.

S. "Primary entrance" means the principal or main entrance of a building or structure which is used by the majority of patrons to access the building or structure.

T. "Projecting/hanging sign" means a sign, which is attached to or supported by a wall or suspended from the overhang of a building or other structure.

U. "Public right-of-way sign" means a sign in the public right-of-way.

V. "Repair" means the reconstruction or renewal of any part of an existing sign for the purpose of its maintenance.

W. "Sandwich board sign" means a sign which consists of two panels hinged or attached at the top or side, designed to be movable and stand on the ground.

X. "Sign" means any letter, figure, design, symbol, trademark or other device which is intended to attract attention to any activity, service, place, political office, subject, firm, corporation or merchandise, except traffic signs or signals, public or court notices, signs not visible from the public right-of-way or adjacent properties, signs on moving vehicles, newspapers, leaflets or other printed materials intended for individual use or individual

distribution to members of the public, government flags, flags and buntings exhibited to commemorate national patriotic holidays.

Y. "Street frontage" means that portion of any lot or building facing a street or sidewalk and with direct access to that street or sidewalk.

Z. "Two-sided" means a sign where only one face is visible from any viewing position.

AA. "Window sign" means a sign placed inside a building within 15 feet of the window or on a window and visible from the outside. This term does not include merchandise.

(Ord. 2017-02 § 1, 2017; Ord. 2005-23 § 1, 2005; Ord. 2001-40 § 1, 2001; Ord. 98-53 § 1, 1999; Ord. 96-32 § 1, 1996; Ord. 95-14 § 1, 1995; Ord. 94-29 § 19, 1995; Ord. 93-01 § 1, 1993)

15.08.030 Signs not requiring a permit.

The following signs shall not require a permit:

A. Signs erected or posted and maintained for public safety and welfare or pursuant to any law or regulation;

B. Bulletin boards, either one- or two-sided, with no face exceeding 20 square feet in display area, associated with any church, museum, library, school, or similar use; provided, that the top of such signs shall be less than eight feet high and such signs shall meet all other provisions of this chapter;

C. Directional signs solely indicating ingress or egress, the display area not exceeding three square feet;

D. Signs relating to trespassing and hunting, not exceeding two square feet of area;

E. Signs displaying address numbers only, not exceeding two square feet of area;

F. Culturally, historically or architecturally significant signs, existing at the time of passage of the ordinance codified in this chapter and officially recognized by the city. Designation of culturally, historically or architecturally significant signs will be adopted by separate resolution;

G. Any window sign four square feet or less in size; provided, that no single sign or combination of signs shall exceed 25 percent of an individual window area;

H. Agricultural product signs advertising products grown on or produced at the subject property. The signs shall be allowed at each street frontage, and shall be temporary, erected for a period not exceeding 10 days prior to the availability of the products for sale, and removed when the products are no longer available for purchase. The

maximum sign area shall not exceed 10 square feet for each face of a single- or two-faced sign;

I. Single signs, not exceeding 24 square feet in area, mounted at a height not exceeding 20 feet above grade, displaying the name of a farm. The farm shall meet the standards as defined in Chapter 16.26 BIMC;

J. Banners, not exceeding 30 square feet in area, displayed by a nonprofit or civic organization. The banners and flags are not required to be displayed on the premises of the organization, and may be displayed for a maximum of two periods not exceeding 14 days total within any calendar year;

K. Bannerets, not exceeding 12 square feet in area, displayed by a city council-designated civic organization. Bannerets shall not advertise or promote any individual business or the sale of any product or commodity, and shall only be erected on city-approved standards and in approved locations within the Mixed Use Town Center zone. The city council may delegate the authority to manage and coordinate the erection and removal of bannerets to a civic organization;

L. Construction signs, not exceeding one per construction site, and not exceeding 12 square feet in area, when erected in connection with a building permit. The sign shall be removed within 30 days of the occupancy of the structure. Public works projects are authorized to install signs at the ends of a project which shall not exceed 32 square feet in area;

M. For sale/rent or lease signs on the property being sold, rented or leased. One sign, not exceeding six square feet in area, shall be allowed on each street frontage;

N. Political signs in accordance with BIMC 15.08.095;

O. On-site signs, intended to be temporary, either the same sign or different sign, may be displayed for a maximum of two periods not exceeding 14 days total within any calendar year. Signs must conform to size and location limitations of this chapter;

P. Public right-of-way signs shall conform to the current Manual on Uniform Traffic Control Devices (MUTCD), as modified, and in developments shall be installed by and at the applicant's expense;

Q. Off-site noncommercial signs, intended to be temporary, in accordance with the following:

1. Located on private property must obtain the permission of the property owner. Posted within public right-of-way only if the sign does not interfere with sight distances and does not create a vehicular, cyclist, wheelchair or pedestrian traffic

obstruction or hazard, and permission to place the sign in the right-of-way has been obtained from the abutting property owner. Contact information for the owner of the sign (name, telephone number) must be included on all signs.

2. Freestanding (under 18 inches in height and 24 inches wide) or sandwich board signs (meeting the size requirements of BIMC 15.08.090.E).

3. Regularly inspected to ensure that they have not been damaged or destroyed by natural forces or vandalism. Damaged or destroyed signs shall be immediately removed or repaired so as to avoid threats to public health and safety or the accumulation of unclaimed refuse upon the public rights-of-way. (Ord. 2013-06 § 2, 2013; Ord. 2005-23 § 2, 2005; Ord. 98-53 § 2, 1999; Ord. 96-32 § 1, 1996; Ord. 95-14 § 2, 1995; Ord. 94-29 §§ 20, 21, 1995; Ord. 93-01 § 1, 1993)

15.08.040 Prohibited signs.

The following signs are prohibited:

- A. Billboards, streamers, pennants, ribbons, spinners or other similar devices.
- B. Flashing signs, roof signs, signs containing moving parts or appearing to move, and signs which sparkle or twinkle in the sunlight.
- C. Signs advertising or identifying a business or organization which is defunct.
- D. Signs, except for traffic, regulatory, or informational signs, using the words “stop,” “caution,” or “danger,” or incorporating red, amber, or green lights resembling traffic signals, or resembling “stop” or “yield” signs in shape or color.
- E. Signs advertising a business or organization not located on the parcel containing the business or organization except signs erected by the state of Washington.
- F. Signs erected within the public rights-of-way, access corridors or easements, except the following: signs erected by the city or state; those signs projecting/hanging over the public sidewalk, erected in compliance with the Mixed Use Town Center design guidelines; political signs displayed in compliance with BIMC 15.08.095; and temporary signs in compliance with BIMC 15.08.030.Q or 15.08.115.
- G. Signs with content or subject matter that constitutes obscenity as defined by law.
- H. Portable reader boards and signs mounted on stationary, unlicensed vehicles.
- I. Illuminated features, on the exterior of a building, that call attention to the building or product sold within the building.

J. Any window sign(s) exceeding four square feet in area or exceeding 25 percent of an individual window area.

K. Neon facade signs except as permitted in BIMC 15.08.080.C.6.

L. On-premises signs in the natural, conservancy, aquatic conservancy and aquatic shoreline environments, except for navigation aids and public information.

M. Signs placed on trees or other natural features.

N. Signs on any utility pole, traffic control device, lamp post, or any other public building or structure.

O. Any sign placed without the necessary permit or not in accordance with the size, place and manner limitations provided in this chapter. (Ord. 2013-06 § 3, 2013: Ord. 2005-23 § 3, 2005; Ord. 98-53 § 3, 1999; Ord. 96-32 § 1, 1996; Ord. 93-01 § 1, 1993)

15.08.050 Nonconforming signs.

A. A nonconforming sign lawfully existing prior to July 26, 1993, may remain and be used subject to the provisions of subsections B and C of this section.

B. A nonconforming sign cannot be enlarged, reworded, redesigned or altered in any way except to conform to this chapter. If the cost to repair a nonconforming sign exceeds 50 percent of its replacement cost, the sign shall not be repaired except to conform to this chapter.

C. A sign replacing a nonconforming sign shall conform to this chapter. (Ord. 2001-40 § 2, 2001; Ord. 98-53 § 7, 1999; Ord. 96-32 § 1, 1996; Ord. 93-01 § 1, 1993)

15.08.060 Measurement of sign area.

Sign measurement shall be based upon the entire area of the sign, with a single continuous perimeter enclosing the extreme limits of the sign surface. For freestanding signs, support structures (providing that they are not signs) extending up to one foot above the signs shall not be included in the calculation of the sign area. For signs which are a molded, cast, carved, or otherwise integral part of a solid concrete, masonry, wood, or composite wall, foundation, fence, or entry structure the sign area shall be measured within a continuous perimeter enclosing the extreme limits of the lettering and/or image. (Ord. 2001-40 § 3, 2001: Ord. 96-32 § 1, 1996; Ord. 93-01 § 1, 1993)

15.08.070 Height of sign.

A. The height of any sign shall be measured from the grade adjacent to the sign.

B. Signs for marinas shall not exceed 15 feet above the ordinary high water mark.

C. Awning structures on which sign images are attached shall be subject to regulation under the Uniform Building Code as adopted in BIMC 15.04.020. (Ord. 2001-40 § 4, 2001; Ord. 96-32 § 1, 1996; Ord. 93-01 § 1, 1993)

15.08.080 General regulations.

A. Signs which refer to a permitted use or an approved conditional use as set forth in the zoning ordinance and which are permitted under this chapter conform to this chapter.

B. Signs within the Shoreline Master Program Jurisdiction.

1. Sign permits shall be submitted for review and approval at the time of shoreline permit submittal.
2. All signs shall be located and designed to minimize interference with vistas, viewpoints, and visual access to the shoreline.
3. Over-water signs, or signs on floats or pilings, shall be related to water-dependent uses only.
4. Signs which impair visual access in view corridors are prohibited.
5. Signs indicating the public's right of access to shoreline areas shall be installed and maintained in conspicuous locations at all points of access. Signs shall also indicate all limitations on use of such areas including use of fire, alcohol, jet skis, and other recreational equipment, as well as requirements regarding pets.

C. Illumination Standards.

1. Signs, except for facade and awning signs, shall only be illuminated externally by light sources shielded so that the lamp is not visible from adjacent properties, the public right-of-way or watercourses.
2. Lights illuminating a sign shall project illumination toward the face of the sign.
3. Signs shall not flash, rotate, or have motorized parts or exposed electrical wires.
4. Signs shall not be illuminated between the hours of 10:00 p.m. and 6:00 a.m. unless the premises on which they are located is open for business.
5. Up to three neon signs are allowed in commercial zones for each business; provided, that they do not exceed four square feet for any individual sign. Total signage of all types shall not exceed 25 percent of an individual window area. For each retail business that has window area in excess of 100 square feet, an additional four square feet of neon sign area is allowed. Neon signs are allowed

only on properties zoned for commercial uses, shall not be visible from the shoreline, and shall not flash.

6. One commercial use sign for theaters, including film or performing arts buildings that were constructed prior to November 10, 1999, may be internally illuminated and may include external unshielded neon lights.

7. Facade signs may be internally illuminated if:

- a. The background does not emit light;
- b. The background constitutes a minimum of 80 percent of the sign area; and
- c. The illumination source is shielded.

D. Placement Standards.

1. No person shall affix a sign to a utility pole or a living tree or shrub.
2. Signs, including temporary banners, shall not be mounted on roofs, extend above the roof line, or be located more than 20 feet above the grade except for retail businesses with a second-floor exterior entrance.
3. Signs projecting from a building shall not be less than eight feet above grade, unless permitted by the city through an administrative variance procedure.
4. Freestanding signs shall not exceed five feet in height except in the LM and NC zones and except as regulated by BIMC 15.08.100.B. Supporting structures (providing that they are not signs) for freestanding signs may extend one foot higher than the height limit for freestanding signs. In the LM and NC zones, freestanding signs shall not exceed eight feet in height.

E. Safety Standards. No person may erect a sign that:

1. Is structurally or electrically unsafe;
2. Constitutes a hazard, by design or placement, to public safety and health; or
3. Obstructs free entrance or exit from a door or window that is required to be in place by this code or the city.

F. Freestanding signs shall be located within a landscaped area that is twice the area of the sign area, and the plantings or the landscaped area shall be located so as to shield illumination sources. (Ord. 2017-02 § 1, 2017; Ord. 2001-40 § 5, 2001; Ord. 99-60 § 1, 1999; Ord. 98-53 § 4, 1999; Ord. 96-32 § 1, 1996; Ord. 93-01 § 1, 1993)

15.08.090 Commercial use signs.

In addition to the general regulations of this chapter, the following regulations shall apply to all commercial use signs.

A. Facade Signs.

1. The total aggregate area of all facade signs on each wall shall not exceed 128 square feet.
2. Buildings may have one facade sign with a maximum area of 36 square feet for each tenant. If the building has street frontage on two or more streets, has access from an alley or parking area to the side or behind the building, or has retail uses on a second floor, a facade sign for each tenant is allowed; provided, that no additional sign shall exceed 20 square feet in area, face the same street, alley or parking area or be on the same floor as another facade sign.
3. Facade signs shall be located less than 20 feet above grade except for retail businesses with a second-floor exterior entrance.
4. A single directory, combining the name of the commercial complex and the individual names of businesses located within, is allowed provided no other facade sign on the building shall exceed 20 square feet in area except for retail businesses with a second-floor exterior entrance may have a facade sign up to 36 square feet. The maximum sign area for this directory is 48 square feet.
5. A single facade sign for a commercial complex is allowed at the primary entrance instead of a directory, provided no other facade sign for building tenants shall exceed 20 square feet in area except for retail businesses with a second floor exterior entrance may have a facade sign up to 36 square feet. The maximum area for this commercial complex sign is 36 square feet.
6. There may be up to three facade sign(s) per tenant in the High School Road commercial zone located more than 200 feet from the edge of any public right-of-way. No additional sign shall exceed 20 square feet in area, face the same street, alley or parking area or be on the same floor as another facade sign.

B. Freestanding Signs.

1. No more than one freestanding sign shall be allowed per tenant. The sign shall not exceed 20 square feet on any single face or 40 square feet on two faces. No more than two freestanding signs, regardless of the number of tenants, shall be allowed on any property.

2. A freestanding identification sign, for a commercial complex, with or without the individual names of businesses located therein, with a maximum sign area of 40 square feet on any single face and a total surface area of 60 square feet if two sided may be erected facing each street frontage. No individual tenant freestanding signs may be erected on such a property that contains this freestanding identification sign.

3. In the LM zone, freestanding identification signs may be located on adjacent LM zoned properties if the signs contain directional information to assist in locating the businesses listed and permission is obtained from the owner of the property where the sign is located. The maximum sign area shall be 36 square feet. The sign shall not be counted toward the maximum number of freestanding signs allowed.

C. An awning or marquee sign, not exceeding 20 square feet in area per commercial tenant, is allowed instead of a facade sign. The lowest point of the awning or marquee is at least eight feet above the sidewalk, and the awning shall have a dark background if illuminated from behind.

D. Projecting/Hanging Signs.

1. A business may have one projecting sign, located at least eight feet above grade, with a maximum area of five square feet for each side. The fixture used to suspend the hanging sign must be included in the permit design and approved by the designated officials, but shall not be included in the total size of the sign.

2. Signs for theaters, including film or performing arts buildings, shall not exceed 80 square feet on a single face and 140 square feet on multiple faces and shall be located at least 100 feet from any property zoned single-family.

E. Sandwich Board Signs. One nonilluminated sandwich board sign, with each face not exceeding six square feet in area, shall be allowed per business. The sign shall be a minimum of 30 inches high and a maximum of 48 inches high. (Ord. 2001-40 § 6, 2001: Ord. 98-53 § 5, 1999; Ord. 96-32 § 1, 1996; Ord. 93-01 § 1, 1993)

15.08.095 Political signs.

A. Political Signs Not Allowed on Public Utility Poles or Public Buildings or Structures. It is unlawful for any person to paste, paint, affix or fasten a political sign on any utility pole, traffic control device, lamp post, or any other public building or structure.

B. Political Signs Within Public Right-of-Way. Subject to subsection A of this section, political signs may be posted within public right-of-way only if the sign does not interfere with sight distances and does not create a vehicular or pedestrian traffic obstruction or hazard, and permission to place the sign in the right-of-way has been obtained from the

abutting property owner. Political signs in the right-of-way are limited to a maximum surface area of six square feet and a maximum height of five feet.

C. Removal of Political Signs.

1. A political sign promoting or publicizing candidates for public office or issues that are to be voted upon in a general or special election must be removed within seven days following an election; provided, that political signs promoting successful candidates in a primary election may remain displayed until seven days following the immediately subsequent general election.

2. It shall be the responsibility of the campaign director or political candidate to have the signs removed in accordance with this section. If any sign is placed or allowed to remain in violation of this section, the city may remove the sign, and the campaign director or political candidate shall be liable to the city for all costs and expenses incurred by the city in removing and storing said sign.

D. The display of any political sign in violation of this section, or any portion or part thereof, shall be presumed to have been done at the direction and request of the campaign director or political candidate. (Ord. 2007-14 § 1, 2007: Ord. 2005-23 § 4, 2005)

15.08.100 Institutional or public use signs.

In addition to the general regulations of this chapter, public institutions or public entities:

A. May have a single sign, either facade-mounted or a freestanding identification sign, visible from each street frontage;

B. May have one additional freestanding identification sign at the principal entrance not to exceed a maximum height of six feet. The maximum sign area of any face shall be no greater than 40 square feet;

C. Civic organizations may erect temporary banner signs, not addressed in BIMC 15.08.030, that are not smaller than 90 square feet and no larger than 160 square feet. Banners may be displayed for maximum of six periods not to exceed a total of 84 days within any calendar year. These signs shall not advertise or promote any individual business or the sale of any product or commodity and are only allowed to be erected upon city-approved support standards at city-designated locations on Winslow Way and Olympic Drive. The city council may delegate the authority to manage and coordinate the erection and removal of banners to a civic organization. (Ord. 98-53 § 6, 1999; Ord. 96-32 § 1, 1996; Ord. 93-01 § 1, 1993)

15.08.110 Residential use signs.

In addition to the general regulations of this chapter, the following regulations shall apply to all residential use signs.

A. Residential developments may have a single freestanding identification sign with a maximum sign area of 10 square feet.

B. Home occupations, legally established, may have an identification sign as allowed in BIMC 18.09.030.I.12.

C. Multifamily residential developments may have a directory sign, with a maximum sign area of 20 square feet, at one vehicular entrance on each street frontage. (Ord. 96-32 § 1, 1996; Ord. 93-01 § 1, 1993)

15.08.115 Temporary off-site commercial signs.

A. Off-site signs, intended to be temporary, either the same sign or different sign, may be displayed for a maximum of 36 days within a 12-month period. Temporary off-site signs located on private property must obtain the permission of the property owner. Temporary off-site signs may be posted within public right-of-way only if the sign does not interfere with sight distances and does not create a vehicular, cyclist, wheelchair or pedestrian traffic obstruction or hazard, and permission to place the sign in the right-of-way has been obtained from the abutting property owner. Contact information for the owner of the sign (name, telephone number) must be included on all signs.

B. All temporary off-site signs relating to a specific meeting, event, or occurrence shall be removed immediately following the conclusion of the meeting, event, or occurrence to which they relate.

C. Temporary off-site signs shall be freestanding (under 18 inches in height and 24 inches wide) or sandwich board signs (meeting the size requirements of BIMC 15.08.090.E).

D. Temporary off-site signs shall be regularly inspected to ensure that they have not been damaged or destroyed by natural forces or vandalism. Damaged or destroyed signs shall be immediately removed or repaired so as to avoid threats to public health and safety or the accumulation of unclaimed refuse upon the public rights-of-way.

E. Temporary off-site signs are exempt from BIMC 15.08.030.C, 15.08.040.E, and 15.08.090.B.1.

F. A permit in accordance with BIMC 15.08.120 and identifying the dates the signs will be displayed shall be obtained for each 12-month period.

G. All signs visible from Highway 305 must be in conformance with the standards of the Scenic Vistas Act (Chapter 47.42 RCW and Chapter 468-66 WAC) that is incorporated herein by this reference as well as the related Washington State Department of Transportation (“WSDOT”) rules, regulations, and noncompliance penalties; provided, that all signs within the city shall also be subject to any additional restrictions as provided in this chapter. In the case of conflict between the requirements of the Scenic Vistas Act and this chapter, the more restrictive requirement shall apply. (Ord. 2013-06 § 4, 2013: Ord. 2003-12 § 1, 2003)

15.08.120 Permits required.

A. No signs, except those described in BIMC 15.08.030 and 15.08.100(C), shall be erected without a valid sign permit.

B. Permit application requirements shall be determined by the director and shall include a site plan showing the location of the signs, the position of buildings and landscaped areas, the elevations of the signs and the configuration and size of the signs.

C. A valid sign permit is required before altering an existing sign or repairing a sign where the repair exceeds 50 percent of the replacement cost.

D. Legally established signs that include changeable copy are exempt from permit requirements for altering the changeable copy. (Ord. 2013-06 § 5, 2013: Ord. 96-32 § 1, 1996; Ord. 93-01 § 1, 1993)

15.08.130 Permit fees.

Permit fees shall be as established by the city council by resolution. (Ord. 2013-06 § 6, 2013: Ord. 96-32 § 1, 1996; Ord. 93-01 § 1, 1993)

15.08.140 Sign variance.

A. A variance is the mechanism by which the city may grant relief from the provisions of this chapter where practical difficulty renders compliance with the provisions of this chapter an unnecessary hardship and where the hardship is a result of the physical characteristics of the subject property.

B. The variance procedure shall be administrative and determined by the director. (Ord. 96-32 § 1, 1996; Ord. 95-14 § 3, 1995; Ord. 93-01 § 1, 1993)

15.08.150 Enforcement and penalties.

A. Anyone violating or failing to comply with the provisions of this chapter shall, upon conviction thereof, be punishable by fine of not more than \$500.00, or by imprisonment for not more than six months, or by both fine and imprisonment, and each day’s violation or failure to comply shall constitute a separate offense.

B. In addition to any other sanction or remedial procedure which may be available, any person failing to comply with a notice of violation or order issued by the building official, or failing to comply with any other provision of this chapter, shall be subject to cumulative civil penalty in the amount of \$500.00 per day from the date set for compliance until compliance with such notice of violation or order.

C. In addition to instituting criminal prosecution for violation of any of the provisions of this chapter, the city, through the city attorney, may institute civil proceeding in the Bainbridge Island municipal court or the superior court of the county to obtain a temporary restraining order or injunction prohibiting violation of this chapter and to collect any fines, fees or penalties due under the provisions of this chapter.

D. The city may remove and dispose of signs that it determines are a threat to public safety and recover costs from the owner of the property on which the sign is located or the sign owner. Within 10 days of removal of a sign, and upon payment of the costs of removal, the owner may recover a sign. Any temporary off-site sign posted in the public right-of-way in violation of the regulations set forth in BIMC 15.08.115 constitutes a trespass upon public property and is declared to be a public nuisance. Such signs shall be subject to immediate abatement by removal and confiscation. (Ord. 2013-06 § 7, 2013: Ord. 96-32 § 1, 1996; Ord. 93-01 § 1, 1993)

US Supreme Court Issues Significant Sign Code Decision

June 24, 2015 by [Maurice King](#)

Category: [Court Decisions](#), [AGO Opinions and Regulations](#), [Sign Control](#)



On June 18, 2015, the U.S. Supreme Court ruled unanimously that an Arizona town's sign code placed unconstitutional content-based restrictions on speech, in violation of the First Amendment. The court's decision in *Reed v. Town of Gilbert* almost certainly places many sign ordinances throughout the state, and the country, on questionable legal footing.

The Town of Gilbert sign code identified various categories of signs

based on the type of information they convey, and then subjected each category to different restrictions. For example, the sign code created a category they called "Temporary Directional Signs Relating to a Qualifying Event," which it defined as signs directing the public to a meeting of a nonprofit group. The sign code imposed more stringent restrictions on these signs (in terms of size, location, duration, etc.) than it did on signs conveying other types of messages, such as political signs or ideological signs. (It is common for local governments to make the types of distinctions in their sign codes that the Town of Gilbert made here.)

In this case, the town cited a church that held Sunday church services at various temporary locations in and near the town for violating the durational restrictions on temporary directional signs. Unable to reach an accommodation with the town, the church and its pastor filed suit, claiming that the sign code abridged their freedom of speech.

The Court determined that the sign code drew distinctions based on the content of the signs:

Ideological messages are given more favorable treatment than messages concerning a political candidate, which are themselves given more favorable treatment than messages announcing an assembly of likeminded individuals. That is a paradigmatic example of content-based discrimination.

When a municipality regulates the content of signs, those regulations are subject to strict judicial scrutiny, the highest constitutional hurdle, which requires a municipality to show that the content-based restrictions further a compelling governmental interest and are narrowly tailored to that end. Applying strict scrutiny to the sign code, the Court held that its content-based distinctions were unconstitutional:

The Town cannot claim that placing strict limits on temporary directional signs is necessary to beautify the Town while at the same time allowing unlimited numbers of other types of signs that create the same problem.

The Town similarly has not shown that limiting temporary directional signs is necessary to eliminate threats to traffic safety, but that limiting other types of signs is not. The Town has offered no reason to believe that directional signs pose a greater threat to safety than do ideological or political signs.

The Court emphasized, however, that its decision won't prevent local governments from enacting effective sign laws:

The Town has ample content-neutral options available to resolve problems with safety and aesthetics. For example, its current Code regulates many aspects of signs that have nothing to do with a sign's message: size, building materials, lighting, moving parts, and portability. And on public property, the Town may go a long way toward entirely forbidding the posting of signs, so long as it does so in an evenhanded, content-neutral manner.

(Citations omitted.) And Justice Alito, in his concurring opinion, offered some "rules" for effective regulations that are not content-based:

Rules regulating the size of signs. These rules may distinguish among signs based on any content-neutral criteria, including any relevant criteria listed below.

Rules regulating the locations in which signs may be placed. These rules may distinguish between freestanding signs and those attached to buildings.

Rules distinguishing between lighted and unlighted signs.

Rules distinguishing between signs with fixed messages and electronic signs with messages that change.

Rules that distinguish between the placement of signs on private and public property.

Rules distinguishing between the placement of signs on commercial and residential property.

Rules distinguishing between on-premises and off-premises signs.

Rules restricting the total number of signs allowed per mile of roadway.

Rules imposing time restrictions on signs advertising a one-time event.

Justice Alito asserted that "Rules of this nature do not discriminate based on topic or subject and are akin to rules restricting the times within which oral speech or music is allowed."

As noted by Justice Kagan in her concurring opinion:

Countless cities and towns across America have adopted ordinances regulating the posting of signs, while exempting certain categories of signs based on their subject matter . . .

Given the Court's analysis, many sign ordinances of that kind are now in jeopardy.

Cities and counties across the state will need to heed Justice Kagan’s warning. Accordingly, we strongly recommend that cities and counties review their sign codes in consultation with their legal counsel to ensure their codes are in compliance with the *Reed* decision. If you take this opportunity to do a full sign code update, the [City of Lacey’s sign code update](#) experience provides some useful insights.

Photo courtesy of [Henry de Saussure Copel](#).

About Maurice King

[VIEW ALL POSTS BY MAURICE KING](#) ▶

Comments

0 comments on US Supreme Court Issues Significant Sign Code Decision

Blog post currently doesn't have any comments.

© 2018 MRSC of Washington. All rights reserved. [Privacy & Terms](#)

Title 6 ANIMALS¹

Chapters:

6.04 Animal Control

6.08 Licensing of Dogs and Cats

6.12 Impoundment

¹Prior legislation: Ords. 88-16, 87-22, 87-06, 85-12, 85-10, 79-26, 78-14, 78-09, 76-07, 74-12, 107, 106, all repealed by Ord. 91-41.

Chapter 6.04 ANIMAL CONTROL

Sections:

6.04.010 Definitions.

6.04.020 Power of deputies and authorized persons.

6.04.030 Running at large.

6.04.040 Animal at large while in heat.

6.04.050 Declaring an animal as potentially dangerous – Levels of violation.

6.04.053 Failure to control an animal declared potentially dangerous – Declaration of an animal as dangerous.

6.04.055 Registration of a dangerous animal.

6.04.060 Howling and barking.

6.04.070 Injury to property.

6.04.075 Removal of fecal matter.

6.04.080 Chasing vehicles or cyclists.

6.04.090 Jumping and barking at pedestrians or cyclists.

6.04.100 *Repealed.*

6.04.110 Cruelty – Violations declared unlawful.

6.04.113 Selling animals from puppy or kitten mills prohibited.

6.04.115 *Repealed.*

6.04.117 *Repealed.*

6.04.120 Injured or diseased animals.

6.04.122 Failure to report – When striking an animal with motor vehicle.

6.04.125 Found stray animals.

6.04.130 Violation – Abatement.

6.04.140 Violation – Penalty.

6.04.010 Definitions.

For the purpose of this title, the following words shall have the following meanings unless the context indicates otherwise:

1. “Abandonment” means the owner has left the animal for a period of 24 hours without making effective provisions for its proper care.
2. “Adequate shelter” means a moisture proof and wind proof structure that allows the animal to turn around freely, sit easily, stand and lie normally, and that keeps the animal clean, dry and comfortable.
3. “Altered” means any spayed female or castrated male dog or cat.
4. “Animal” means any living vertebrate creature, including reptiles or birds, and excepting man, marine mammals, and fish.
5. “Animal control authority” means the department or officer of the city appointed by the city manager, or the person appointed by the city council to carry out the duties of an animal control authority or animal control officer under this title.
6. “Animal rescue league” means any association or corporation which routinely obtains unwanted dogs or cats, the primary goal of which is to place the dogs or cats into adoptive homes, as long as the dogs or cats are neutered.
7. “Animal shelter” means a licensed facility used to care for homeless or unwanted animals by a governmental entity, animal welfare society or other organization devoted to the welfare, protection and humane treatment of animals.

8. "At large" means a dog on public property or private property without permission of the property owner or lessor except:
- a. In parks, on Bainbridge Island school district property, in Winslow in an area bounded by Eagle Harbor, Madison Avenue, High School Road and Ferncliff Avenue, and in the Lynwood Neighborhood Service Center unless the dog is on a leash or chain no longer than six feet in length or is within an area of a park during hours which the owner of the park has designated as available to off-leash dogs, if under its owner's direct control and obedient to its owner's commands.
 - b. Elsewhere on Bainbridge Island, unless the animal is under physical restraint adequate to the size and nature of the animal or is sufficiently near its owner to be under its owner's direct control and is obedient to its owner's commands.
9. "Boarding kennel/cattery" means a kennel or cattery where dogs or cats are boarded or trained for compensation, except a pet shop, animal shelter or veterinary hospital where the boarding is incidental to the primary purpose of the facility.
10. "Cat" means and includes female, spayed female, male and castrated male cats.
11. "Commercial kennel" means a kennel or cattery where adult dogs or cats are bred for compensation.
12. "Dangerous" means an animal that according to the records of the animal control authority: (a) has inflicted severe injury on a human without provocation while on public or private property; (b) has killed a domestic animal without provocation while off the owner's property; or (c) has been previously found to be potentially dangerous, the owner has received notice of such potential and the animal subsequently aggressively bites, attacks or endangers the safety of humans or domestic animals. This definition shall not include a police dog as defined in RCW 4.24.410.
13. "Dog" means and includes female, spayed female, male and castrated male dogs.
14. "Foster home" means a temporary home with a permit approved by the animal control authority to house lost, abandoned or unwanted dogs and cats until an adoptive home is located.
15. "Grooming parlor" means a facility with the primary function to bathe, clip or comb animals for compensation for hygienic or aesthetic reasons.
16. "Hobby kennel" means a noncommercial kennel at or adjacent to a private residence where adult dogs or cats are maintained for purposes other than breeding.
17. "Impound" or "impoundment" means an authorized official taking control of any animal found to be in violation of this title pursuant to the terms of this title.

18. "Inhumane treatment" means every act, omission or neglect whereby unnecessary or unjustified physical pain or suffering is caused or permitted.
19. "Neglect" means the failure to provide proper food, potable water, adequate shelter, opportunity for exercise, or other care normal, usual, and proper for an animal's health and well being.
20. "Owner" means any person owning, keeping, having an interest in, or having control, custody or possession of, an animal.
21. *Repealed by Ord. 2003-22.*
22. "Pet shop" means a commercial establishment which acquires animals by purchase for the purpose of resale, except farms.
23. "Provocation" means teasing, taunting, striking or other like action, or the unauthorized entry onto the premises where an animal is kept.
24. "Potentially dangerous" means an animal that when unprovoked: (a) chases or approaches a person upon the streets, sidewalks, or any other public grounds in a menacing fashion or apparent attitude of attack; (b) causes injury to or otherwise threatens the safety of a human or domestic animal; or (c) inflicts a bite upon a human or domestic animal either on public or private property.
25. "Public property" shall mean public rights-of-way, property owned by the city of Bainbridge Island, property owned by the Bainbridge Island metropolitan park and recreation district, and property owned by the Bainbridge Island school district.
26. "Secure enclosure" means a chain link enclosure consisting of secure sides and a secure top, or if without a top, having sides which are at least eight feet high, and with a floor permanently attached to the sides, or having sides which are embedded at least one foot into the ground, and which is constructed of such material and closed in such manner that the animal cannot exit on its own. (Ord. 2015-02 §§ 1, 2, 2015; Ord. 2009-21 § 29, 2009; Ord. 2003-24 §§ 18, 19, 2003; Ord. 2003-22 § 9, 2003; Ord. 91-41 § 2, 1991)

6.04.020 Power of deputies and authorized persons.

Whenever a power is granted to or a duty is imposed upon animal control authority or other public officer, the power may be exercised or the duty may be performed by a deputy of the officer or by a person authorized pursuant to law by the officer, unless this chapter expressly provides otherwise. (Ord. 91-41 § 2, 1991)

6.04.030 Running at large.

It is unlawful for the owner of an animal to permit the animal, whether licensed or not, to run at large as defined in BIMC 6.04.010.8. (Ord. 2015-02 § 2, 2015; Ord. 91-41 § 2, 1991)

6.04.040 Animal at large while in heat.

It is unlawful for an owner to allow or permit a female animal, whether licensed or not, to run at large while in heat. An animal at large while in heat is declared to be a nuisance and may be seized and impounded. It is further unlawful for an owner to fail to keep an animal in heat confined within the owner's residence or within a building that other animals cannot enter. If an animal in heat attracts male animals in a manner which causes a nuisance or disturbance in the neighborhood, the animal's owner may be required to place the animal in a veterinary hospital or boarding kennel, or to otherwise remove the animal from the neighborhood. It is unlawful for an owner of an animal in heat to fail or refuse to comply with a requirement to remove the animal from the neighborhood. (Ord. 91-41 § 2, 1991)

6.04.050 Declaring an animal as potentially dangerous – Levels of violation.

A. Declaration of an Animal as Potentially Dangerous. The animal control authority has the authority to declare an animal potentially dangerous in any of the levels described as follows:

1. Level 1. An animal is level 1 potentially dangerous when without provocation it chases or approaches a person upon the streets, sidewalks or other public property in a menacing fashion or apparent attitude of attack.
2. Level 2. An animal is level 2 potentially dangerous when it causes injury to or otherwise threatens the safety of a human or domestic animal.
3. Level 3. An animal is level 3 potentially dangerous when it bites a human or domestic animal, either on public or private property.

An animal shall not be declared level 2 or level 3 potentially dangerous if the threat, injury or bite is sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner of the animal, or was tormenting, abusing, or assaulting the animal or has, in the past, been observed or reported to have tormented, abused or assaulted the animal or was committing or attempting to commit a crime.

B. Restraint of Potentially Dangerous Animal. Potentially dangerous animals shall be restrained in the following manner:

1. A level 1 potentially dangerous animal, whenever outside the owner's residence and not on a leash, shall be restrained by a physical device or structure that

prevents the animal from reaching a public sidewalk, easement, right-of-way, road or adjoining property and must be located where the animal does not interfere with legal access to the owner's property.

2. A level 2 potentially dangerous animal must comply with the restrictions on a level 1 potentially dangerous animal, and in addition the animal control authority may require the owner to obtain and maintain proof of public liability insurance. The owner may be required to complete a responsible pet ownership program administered by the animal control authority. All costs associated with the program shall be paid by the owner.

3. A level 3 potentially dangerous animal shall be confined within a secure enclosure whenever the animal is not inside the owner's residence. The secure enclosure must be located where it does not interfere with the public's legal access to the owner's property. In addition, the animal control authority may require the owner to obtain and maintain proof of public liability insurance. The owner shall not permit the animal to be outside the secure enclosure or off the owner's property unless the animal is muzzled and restrained by an adequate leash and under the control of a capable person. In addition, the owner must complete a responsible pet ownership program administered by the animal control authority. All costs associated with the program shall be paid by the owner.

C. Notice. When the animal control authority determines that an animal is potentially dangerous, the animal control authority shall notify the owner in writing that the animal has been declared potentially dangerous. The notice shall contain a description of the animal, the name and address of the animal's owner, if known, a brief summary of the facts upon which the declaration is based, a statement of any restrictions placed on the animal as a consequence of the declaration, a statement of the penalties for further violations, and notice of the right to appeal the declaration, including a statement of the deadline for the appeal.

D. Service of Notice. The animal control authority shall personally serve or mail the written declaration of a potentially dangerous animal to the owner. If the owner is unknown, the animal control authority shall make reasonable efforts to locate and notify the owner of the declaration.

E. Appeal of Declaration to Animal Control Authority. The owner of an animal declared potentially dangerous shall have seven calendar days from receipt of the written declaration to appeal the declaration to the animal control authority. The owner's appeal must be in writing and must be filed with the animal control authority.

F. Hearing Before Director of Animal Control or Designee. Upon receiving the written notice of appeal, the director of animal control shall promptly schedule an appeal

hearing and provide written notice of the hearing to the appellant. At the hearing, the animal control authority shall have the burden of proving that the animal is potentially dangerous by a preponderance of the evidence. The director of animal control shall issue a written decision to the appellant which either sustains or reverses the animal control authority's declaration. The decision shall be the final decision of the animal control authority. If the declaration is sustained, the appellant shall be notified of the right to an appeal.

G. Appeal of Decision of Director of Animal Control. The owner of an animal declared potentially dangerous may appeal the decision of the director of animal control. A written appeal shall be filed with the clerk of the municipal court within 14 calendar days after the date of the director's written decision.

H. Court Hearing. Upon receiving a written appeal from the owner of an animal declared potentially dangerous, the clerk of the municipal court shall promptly set a date for hearing the appeal. Written notice of the time, date and place of the hearing shall be delivered or mailed at least ten working days prior to the hearing to the appellant and to the animal control authority.

I. Burden of Proof and Standard of Review. It shall be the appellant's burden to prove that the decision by the director of animal control that the animal is potentially dangerous is arbitrary and capricious.

J. Court Decision. If the court finds that the decision of the director of animal control is arbitrary and capricious, the declaration shall be rescinded and any restrictions imposed shall be removed. Court costs shall not be assessed against either party. If the court finds that the decision by the director of animal control was not arbitrary and capricious, the court shall award the city its court costs, including attorneys' fees, and may impose additional restrictions on the animal.

K. Change of Ownership, Custody or Residence. The owners of an animal that has been declared potentially dangerous who sells or otherwise transfers the ownership, custody or residence of the animal, shall within ten working days of the change, inform the animal control authority in writing of the name, address and telephone number of the new owner, the new address where the animal is located and the name, description and license number of the animal. The owner shall notify the new owner in writing of the details of the animal's record relating to the declaration that the animal is potentially dangerous, and the terms and conditions of the declaration. The owner shall also provide the animal control authority with a copy of the written notification which shall contain a notarized statement by the new owner acknowledging receipt of the notice. (Ord. 91-41 § 2, 1991)

6.04.053 Failure to control an animal declared potentially dangerous – Declaration of an animal as dangerous.

A. Violation. After an animal is declared potentially dangerous pursuant to this chapter, the owner of the potentially dangerous animal shall be guilty of a violation of this chapter if the animal runs at large, chases or approaches a person upon the streets, sidewalks or other public grounds in a menacing fashion or apparent attitude of attack, causes injury to or otherwise threatens the safety of a human or domestic animal, or bites a human or domestic animal. This section shall not preclude criminal prosecution under RCW 16.08.100(3) in a first-bite situation causing severe injury or death to a human.

B. Declaration of an Animal as Dangerous. The animal control authority has the authority to declare an animal dangerous. If the owner of a potentially dangerous animal is found guilty of violating this section, the court shall make a further determination as to whether the animal should be declared dangerous. Pursuant to RCW 16.08.090(3), animals shall not be declared dangerous if the threat, injury, or damage was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner of the animal, or was tormenting, abusing or assaulting the animal or has, in the past, been observed or reported to have tormented, abused, or assaulted the dog or was committing or attempting to commit a crime.

C. Notice. When the animal control authority determines that an animal is dangerous, the animal control authority shall notify the owner in writing that the animal has been declared dangerous. The notice shall contain a description of the animal, the name and address of the animal's owner, if known, a brief summary of the facts upon which the declaration is based, a statement of any restrictions placed on the animal as a consequence of the declaration, a statement of the penalties for further violations, and notice of the right to appeal the declaration, including a statement of the deadline for the appeal.

D. Service of Notice. The animal control authority shall personally serve or mail its written declaration of a dangerous animal to the owner. If the owner is unknown, the animal control authority shall make reasonable efforts to locate and notify the owner of the declaration.

E. Appeal of Declaration to Animal Control Authority. The owner of an animal declared dangerous by the animal control authority shall have seven calendar days from receipt of the written declaration to appeal the declaration to the animal control authority. The owner's appeal must be in writing and must be filed with the animal control authority.

F. Hearing Before Director of Animal Control or Designee. Upon receiving the written notice of appeal, the director of animal control shall promptly schedule an appeal hearing and provide written notice of the hearing to the appellant. At the hearing, the animal control authority shall have the burden of proving that the animal is dangerous by

a preponderance of the evidence. The director of animal control shall issue a written decision to the appellant which either sustains or reverses the animal control authority's declaration. The decision shall be the final decision of the animal control authority. If the declaration is sustained, the appellant shall be notified of the right to an appeal.

G. Appeal of Decision of Director of Animal Control. The owner of an animal declared dangerous may appeal the decision of the director of animal control. A written appeal shall be filed with the clerk of the municipal court within 14 calendar days after the date of the director's written decision.

H. Court Hearing. Upon receiving a written appeal from the owner of an animal declared dangerous, the clerk of the municipal court shall promptly set a date for hearing the appeal. Written notice of the time, date and place of the hearing shall be delivered or mailed at least ten working days prior to the hearing to the appellant and to the animal control authority.

I. Burden of Proof and Standard of Review. It shall be the appellant's burden to prove that the decision by the director of animal control that the animal is dangerous is arbitrary and capricious.

J. Court Decision. If the court finds that the decision of the director of animal control is arbitrary and capricious, the declaration shall be rescinded and any restrictions imposed shall be removed. Court costs shall not be assessed against either party. If the court finds that the decision by the director of animal control was not arbitrary and capricious, the court shall award the city its court costs, including attorneys' fees, and may impose additional restrictions on the animal. (Ord. 91-41 § 2, 1991)

6.04.055 Registration of a dangerous animal.

A. Registration Required. The owner of an animal declared to be dangerous by the animal control authority or by a court shall register the dangerous animal with the city pursuant to RCW 16.08.080 within 30 days of the date the animal is declared dangerous. Thereafter, the owner of the dangerous animal shall register the animal annually before or during the month of July.

B. Registration Expiration. Certificates of registration for dangerous animals shall expire on June 30th of each year.

C. Registration Fee. The annual registration fee for a dangerous animal is \$100.00. This registration fee is in addition to regular licensing fees. The initial registration fee shall be prorated according to the number of months remaining in the registration year.

D. Certificate of Registration Application. An application to obtain a certificate of registration of a dangerous animal shall contain the following information:

1. Name, address and telephone number of the applicant owner;
2. Type, name, age, color, sex and distinguishing characteristics of the animal;
3. A diagram to approximate scale, showing the secure enclosure proposed to confine the dangerous animal;
4. Evidence of the posting of the owner's premises with a clearly visible warning sign that there is a dangerous dog on the property, and a conspicuously displayed sign with a warning symbol that informs children of the presence of a dangerous dog;
5. Pursuant to RCW 16.08.080, sufficient proof of a surety bond issued by a surety qualified under Chapter 48.28 RCW in the amount of at least \$50,000; and
6. Sufficient proof of a liability insurance policy in the amount of at least \$100,000 insuring the applicant owner for personal injuries inflicted by the dangerous animal.

E. Pre-Certificate On-Site Inspection. An employee of the animal control authority shall make an on-site inspection of the applicant's site for keeping the dangerous animal to ensure that the site is properly enclosed and posted. The inspection shall occur within 30 days of the animal being declared dangerous.

F. Non-Compliance. In the event the owner of a dangerous animal fails to comply with the requirements of this section or RCW 16.08.080, the animal control authority may take immediate action pursuant to RCW 16.08.100. Rules and regulations for notifying owners of the confiscation of a registered dangerous animal shall be formulated by the animal control authority.

G. Issuance of Certificate of Registration. The city shall issue the certificate of registration, if the registration fee is paid and the application and site inspection show that the applicant meets the requirements of this section and applicable state law. The certificate of registration shall contain its expiration date, and a statement of the applicable state criminal penalties. The certificate of registration shall be prominently displayed by the owner of the dangerous animal in an appropriate location.

H. Annual Inspections. Prior to the renewal of a certificate of registration, the animal control authority shall inspect the premises where the dangerous animal is kept at a time mutually convenient to both the animal control authority and the owner of the dangerous animal. The purpose of the annual inspection shall be to ascertain that the site remains in compliance with this section. The inspection shall occur during the month of June before the expiration of the certificate of registration. Failure of the owner of the dangerous animal to cooperate in the inspection may result in further action pursuant to RCW 16.08.100 and subsection F of this section.

I. Change of Ownership Prohibited. An owner of an animal declared dangerous shall not sell or otherwise transfer the ownership, custody or residence of the animal without first obtaining a written court order authorizing the transfer. An owner or keeper seeking court approval shall notify the animal control authority of its intent. In determining whether to grant or deny approval, the court shall consider the following criteria:

1. The information set forth in subsection D of Section 6.04.055;
2. Any previous violations of this title by the proposed new owner;
3. The facilities proposed to contain the animal at its new site; and
4. The characteristics of the neighborhood surrounding the proposed new owner's premises, i.e., number of children, schools, day care facilities, etc. (Ord. 91-41 § 2, 1991)

6.04.060 Howling and barking.

It is unlawful for a person to keep or harbor any animal exclusive of livestock and domestic or fancy fowl which habitually howls, yelps, whines, barks, or makes other oral noise in such a manner as to unreasonably disturb others. Any such animal is declared to be a nuisance and may be seized and impounded if the disturbance reoccurs after the animal's owner has received three warnings within six months from the animal control authority. (Ord. 91-41 § 2, 1991)

6.04.070 Injury to property.

It is unlawful for an animal's owner to suffer or permit the animal to trespass on property so as to damage or destroy any property or thing of value. Any such animal is declared to be a nuisance and may be seized and impounded. (Ord. 91-41 § 2, 1991)

6.04.075 Removal of fecal matter.

It is unlawful for an owner of an animal to:

- A. Fail to remove fecal matter deposited by the animal on public playgrounds, lawn areas and sidewalks, parks or other public property where posted before the owner leaves the immediate area where the fecal matter was deposited; or
- B. Fail to possess the equipment necessary to remove animal fecal matter when accompanied by the animal on public property as set forth in subsection A above. (Ord. 91-41 § 2, 1991)

6.04.080 Chasing vehicles or cyclists.

It is unlawful for an owner of a dog to fail to prevent the dog from chasing or jumping on or at vehicles or cyclists lawfully using the public streets, avenues, parks, alleys or ways. Any such dog is declared to be a nuisance and may be seized and impounded. (Ord. 91-41 § 2, 1991)

6.04.090 Jumping and barking at pedestrians or cyclists.

It is unlawful for an owner of a dog to fail to prevent the dog from snarling, growling, snapping at, or threatening any pedestrian or cyclist lawfully upon the public sidewalks, streets, alleys, parks, or public places of the city. Any such dog is declared to be a nuisance and may be seized and impounded. (Ord. 91-41 § 2, 1991)

6.04.100 Animal at large.

Repealed by Ord. 2015-02. (Ord. 91-41 § 2, 1991)

6.04.110 Cruelty – Violations declared unlawful.

It is unlawful for a person to:

- A. Willfully and inhumanely injure or kill any animal by any means;
- B. Negligently or intentionally cause or fail to alleviate any pain, suffering or injury of any animal;
- C. Willfully and maliciously lay out, leave or expose any poison intended for humans, animals or fowl, on any premises, or aid or abet any person in so doing, unless in accordance with the provisions of RCW 16.52.190;
- D. Abandon any domestic animal by leaving the animal on the street, road or highway, or in any other public place, or on the private property of another;
- E. Confine an animal within a motor vehicle under conditions that may endanger the health or well being of the animals, including but not limited to extreme temperatures, or lack of food, water or attention. Any animal control or police officer is authorized to remove an animal from a motor vehicle, at any location, when the officer reasonably believes the animal is confined in violation of this subsection. An animal so removed shall be delivered to the animal control shelter of the animal control authority. The removing officer shall leave written notice of the removal and delivery, including the officer's name, in a conspicuous, secure location on or within the vehicle; or
- F. Transport an animal in the open bed of a pickup truck; provided, that an owner may transport an animal in the bed of a pickup truck where the animal is in a kennel and the kennel is secured in such a manner so as to prevent injury to the animal pursuant to RCW 46.61.660. (Ord. 91-41 § 2, 1991)

6.04.113 Selling animals from puppy or kitten mills prohibited.

A. Definitions. To supplement the definitions found at BIMC 6.04.010, for the purposes of this section the following words shall have the following meanings unless the context indicates otherwise. If there is a conflict between a definition in this section and a definition in BIMC 6.04.010, the definition in this section shall control for the purposes of this section:

1. "Offer for sale" means to sell, offer for sale or adoption, advertise for the sale of, barter, auction, give away, or otherwise dispose of a dog or cat.

2. "Pet shop" means a retail establishment where dogs and cats are sold, exchanged, bartered, or offered for sale as pet animals to the general public at retail. Such definition shall not include an animal shelter or animal rescue league, as defined.

B. Restrictions on the Sale of Animals.

1. A pet shop may offer for sale only those dogs and cats that the pet shop has obtained from or displays in cooperation with an animal shelter or an animal rescue league.

2. A pet shop shall not offer for sale a dog or cat that is younger than eight weeks old.

C. Record Keeping and Disclosure. A pet shop shall maintain records stating the name and address of the animal shelter or animal rescue league that each cat or dog was obtained from for at least two years following the date of acquisition. Such records shall be made available, immediately upon request, to the city or animal control authority. Each pet shop shall display on each cage a label stating the name and address of the animal shelter or animal rescue league of each animal kept in the cage. (Ord. 2017-16 § 1, 2017)

6.04.115 Keeping wild animals prohibited.

Repealed by Ord. 2010-04. (Ord. 94-13 § 1, 1994; Ord. 91-41 § 2, 1991)

6.04.117 Animal advisory committee established.

Repealed by Ord. 2010-04. (Ord. 94-13 § 2, 1994)

6.04.120 Injured or diseased animals.

An animal suffering from serious injury or disease may be humanely destroyed by the impounding authority; provided, that the impounding authority shall immediately notify the owner if the owner is known, and if the owner is unknown, make all reasonable efforts to locate and notify the owner. (Ord. 91-41 § 2, 1991)

6.04.122 Failure to report – When striking an animal with motor vehicle.

A person who strikes a domestic animal, domestic livestock, or deer, while operating a motor vehicle shall stop at once, render reasonable assistance and immediately attempt to report the injury or death to the animal's owner. If the animal's owner cannot be ascertained and located, the person shall at once report the accident to the animal control authority or police. This section shall not be construed to require the person

striking the animal with a motor vehicle to be financially responsible for any injury to or death of the animal. (Ord. 91-41 § 2, 1991)

6.04.125 Found stray animals.

A. It shall be the duty of a person who takes possession of a stray animal, not owned by the person or not placed into the person's possession by the person having lawful custody and control thereof, to notify the animal control authority or police at once, and to release the animal to the animal control authority upon demand and without charge.

B. If the animal is released upon demand to the animal control authority and if the animal control authority is able to locate the lawful owner of the animal, then the person who found the animal shall be notified upon request of that fact. If the animal control authority is unable to locate the animal's lawful owner, then the person who found the animal shall be given the opportunity to adopt the animal, if requested, before the animal may be adopted by another person or euthanized by the animal control authority. (Ord. 91-41 § 2, 1991)

6.04.130 Violation – Abatement.

A. A person violating any provision of this chapter by keeping or maintaining a nuisance as defined in this chapter, in addition to the fine or imprisonment or both provided for by BIMC 6.04.140, shall be ordered by the court to immediately abate and remove such nuisance and if the same is not done by the offender with 24 hours of the order, the nuisance shall be abated and removed under the direction of the officer authorized by the court, which order of abatement shall be entered upon the docket of the court and made a part of the judgment in the action.

B. The person ordered to abate the nuisance shall be liable for all costs and expenses of abating the nuisance when the nuisance is abated by the city, which costs and expenses shall be taxed as a part of the costs of prosecution against the party, to be recovered as other costs are recovered. In all cases where the officer authorized by the court abates a nuisance, the officer shall keep an account of the expenses related to the abatement, and in addition to other authority granted by this chapter to collect such costs and expenses, the city may bring suit for the costs and expenses in any court of competent jurisdiction against the person keeping or maintaining the abated nuisance. (Ord. 91-41 § 2, 1991)

6.04.140 Violation – Penalty.

A. Any person violating Sections 6.04.050, 6.04.053, 6.04.055 or 6.04.110 of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed \$1000 or by imprisonment for a period not to exceed one year, or by both such fine and imprisonment. For each violation of this chapter of a continuing nature, each day of violation may be considered a separate offense.

B. Any person violating any of the provisions of this chapter, or who creates, keeps or maintains a nuisance as defined in this chapter, is guilty of a civil infraction, and shall upon conviction be fined in an amount not to exceed \$300.00; provided, that the violation of Sections 6.04.050, 6.04.053, 6.04.055, and 6.04.110 constitute criminal offenses. (Ord. 91-41 § 2, 1991)

Chapter 6.08 LICENSING OF DOGS AND CATS

Sections:

- 6.08.010 License – Required for dogs – Optional for cats.**
- 6.08.020 License – Fee – Certification of spaying or neutering.**
- 6.08.025 License exemptions.**
- 6.08.030 License – Date due.**
- 6.08.031 Boarding kennels/catteries, commercial kennels, pet shops and animal shelters.**
- 6.08.032 Hobby kennels.**
- 6.08.033 Grooming parlors.**
- 6.08.034 Foster home permit.**
- 6.08.040 License – License tag – Issuance.**
- 6.08.050 License – Nontransferable.**
- 6.08.060 License tags – Replacement.**
- 6.08.070 License tags – Removal unlawful.**
- 6.08.080 Impoundment of unlicensed dogs.**
- 6.08.090 Violation – Penalty.**

6.08.010 License – Required for dogs – Optional for cats.

To facilitate reuniting pets with their owners, it is unlawful for any person to own, keep or have control of any dog over the age of six months within the city unless the person has procured a license for the dog or cat as provided in this chapter. The owner of a cat over the age of six months may procure a license for the cat as provided in this chapter. (Ord. 91-41 § 3, 1991)

6.08.020 License – Fee – Certification of spaying or neutering.

A. As of July 1, 1992, fees for licenses for dogs are as follows:

1. For each dog which is spayed or castrated, as established by resolution, for the life of the dog.
2. For each dog not spayed or castrated, an annual fee as established by resolution.

B. A statement or letter from a veterinarian, certifying that the dog has been spayed or castrated must be presented when applying for the initial lifetime license.

C. As of July 1, 1992, the fee for the optional license for each cat shall be as established by resolution, for the life of the cat.

D. The cost of a license purchased after January 1st of a licensing year shall be reduced by 50 percent. This reduced fee is not applicable to renewals and lifetime licenses. (Ord. 91-41 § 3, 1991)

6.08.025 License exemptions.

A. Licenses and license tags shall be provided free of charge by the city to service dogs properly trained to assist the handicapped as follows:

1. When such dogs are actually being used by the handicapped for the purpose of aiding the handicapped in going from place to place;
2. To dogs currently being trained for the purpose of aiding the handicapped in a school or program which has been approved or accredited by a professional organization or association, either for profit or not for profit; or
3. To pups and young dogs being raised under the 4-H program known as “Guide Dogs for the Blind”, “Service Dogs”, etc.

B. The provisions of this chapter shall not apply to dogs used by a law enforcement agency for law enforcement work or to dogs in the custody of a veterinarian, pet store, or animal shelter, or whose owners are non-residents temporarily within the city for a period not to exceed 30 days. (Ord. 91-41 § 3, 1991)

6.08.030 License – Date due.

The fee for a dog license, except a lifetime license, shall be due and payable on the first day of July of each year. If the license fee is not paid on or before July 31st of each year, the applicant shall pay a penalty fee as established by resolution for each license in addition to the regular license fee; provided, that the applicant shall not pay the penalty fee if as of July 31st:

- A. The applicant has been a resident of the city for 30 days or less;
- B. The applicant has owned, kept or been in control of the dog for 30 days or less;
- C. The dog, at the time of the application for the license, is six months of age or less; or
- D. The applicant voluntarily applies for a license prior to being warned or cited by the animal control officer. (Ord. 91-41 § 3, 1991)

6.08.031 Boarding kennels/catteries commercial kennels, pet shops and animal shelters.

A. License Required. Boarding kennels/catteries, commercial kennels, pet shops and animal shelters shall be licensed annually before or during the month of July or within 30 days of commencement of operation.

B. License Expiration. Licenses issued pursuant to this section shall expire on June 30th of each year.

C. License Fees. License fees shall be as follows:

- 1. Commercial Kennel *
- 2. Boarding Kennel/Cattery *
- 3. Pet Shop *
- 4. Animal Shelter *

*As established by resolution.

D. Additional License Fee. If a license is not obtained by July 31st, there shall be an additional license fee as established by resolution for a commercial kennel or boarding kennel/cattery and for a pet shop.

E. Proration of License Fee. Upon commencement of operation, the initial license fee for a commercial kennel, boarding kennel/cattery or pet shop shall be prorated according to the number of months remaining in the license year.

F. License Application. A license application for a commercial kennel, boarding kennel/cattery, pet shop or animal shelter shall be made to the animal control authority and shall contain the following:

- 1. Name, address and telephone number of the owner or operator of the facility, and the name and address of the facility;
- 2. The type of license sought and a brief description of the magnitude and nature of the contemplated operation;

3. A written statement from the city's department of community development or other satisfactory proof that the proposed operation conforms to the city's zoning code and all other land use regulations.

G. License Issuance. The animal control authority shall issue the license or renewal thereof if the license fee is paid, if the application meets the requirements of subsection F of this section, and if, upon inspection, the operation or contemplated operation meets or will meet the requirements of subsections H and I of this section. The license shall contain its expiration date and shall be prominently displayed at the place of operation.

H. Operation Requirements.

1. Suitable food, water and medical attention shall be provided to all animals.
2. Food shall be stored in a fashion which prevents contamination or infestation.
3. The facilities shall be maintained and operated in a healthful, sanitary manner free from disease, infestation and foul odors.
4. Sick animals shall be isolated from healthy animals in quarters adequately ventilated to prevent contamination of healthy animals.
5. Animals shall receive adequate food, water and care on days when the facility is not open for business.
6. Animals shall be immunized from disease as is usual and customary for the animal's age and species.

I. Facility Requirements.

1. Animal housing facilities shall be structurally sound, in good repair, designed to protect the animals from injury and shall provide sufficient security to contain the animals while preventing entry of unwanted animals.
2. The facilities shall include a washroom with sinks for hot and cold running water.
3. Indoor facilities shall:
 - a. Be heated or cooled to protect the animals from temperatures to which they are not acclimated;
 - b. Be adequately ventilated;
 - c. Have interior walls, ceilings and floors which are sealed and are resistant to absorption of moisture or odors;

- d. Have flooring with an impervious surface that can be sanitized and which slopes no less than one-fourth inch to the foot; and
- e. Have a drainage system which is connected to a septic system or sanitary sewer to facilitate cleaning.

4. Outdoor facilities shall:

- a. Provide shelter and protection from adverse weather;
- b. Provide sufficient room for adequate exercise and movement;
- c. Have flooring with an impervious surface that can be sanitized; and
- d. Have a drainage system which is connected to a septic system or sanitary sewer to facilitate cleaning.

J. Inspections. The animal control authority shall inspect existing or proposed commercial kennels, catteries, pet shops and animal shelters in connection with its licensing investigation and when inspections are necessary to insure compliance with this chapter. Inspections shall be made during regular business hours.

K. Revocation. Licenses issued pursuant to this chapter may be revoked by the animal control authority if the licensed commercial kennel, boarding kennel/cattery or pet shop is operating in violation of subsections H or I of this section. (Ord. 94-13 § 3, 1994; Ord. 91-41 § 3, 1991)

6.08.032 Hobby kennels.

A. License Required. A person must apply for a hobby kennel license if the person owns, keeps, or maintains five or more unaltered dogs and/or cats over six months of age. Hobby kennels containing any unaltered dogs or cats shall be licensed annually before or during the month of July or within 30 days of commencement of operation. A person owning up to 10 dogs and/or cats all of which are altered may apply for a lifetime hobby kennel license for those animals.

B. License Expiration. Hobby kennel licenses shall expire on June 30th of each year.

C. License Fee. The annual license fee for a hobby kennel shall be as established by resolution. Lifetime hobby kennel license fees for kennels containing up to 10 altered animals shall be as established by resolution. There shall be an additional fee as established by resolution if the license is not obtained by July 31st.

D. Proration of License Fee. Upon commencement of operation, the initial license fee for a hobby kennel shall be prorated according to the number of months remaining in the license year.

E. License Application. An application for a hobby kennel license shall be made to the animal control authority and shall contain the following:

1. The name, address and telephone number of the applicant;
2. A diagram in approximate scale showing the property and structures for which the license is sought;
3. A diagram of the kennel facility;
4. A description of the uses to which the properties surrounding the proposed hobby kennel are devoted; and
5. The number and breeds of dogs and/or cats for which the license is sought.

F. License Issuance. The animal control authority shall issue the license or renewal thereof if the license fee is paid, if the application meets the requirements of subsection E of this section, and if, upon inspection, the existing or proposed hobby kennel is compatible with the uses of property in the surrounding area, would not create a burdensome annoyance to those in the vicinity, and would not cause a significant risk to health. In applying the foregoing standards, the animal control authority shall consider the layout and construction of the hobby kennel, setbacks, fencing, screening, soundproofing and appropriate sanitation procedures to prevent disease, infestation and foul odors. A license may be issued subject to conditions in the nature of physical alterations and improvements if the conditions would bring the hobby kennel within the foregoing standards. As a part of a hobby kennel license, the licensee shall receive a license tag for each dog or cat owned by the licensee. No further licensing is required for such animals.

G. Limitations Upon Number of Dogs/Cats. No hobby kennel shall have more than ten dogs or cats without the written consent of the animal control authority. A person desiring more than ten dogs or cats must seek permission in writing from the animal control authority. In considering such a request, the animal control authority shall consider the characteristics of the breed and the layout and surroundings of the kennel. Permission to have more than ten dogs or cats may be granted only if the increased number would not make the hobby kennel incompatible with the uses of property in the surrounding area.

H. Inspections. Prior to the issuance of a hobby kennel license or any renewal thereof, the animal control authority shall inspect the applicant's premises at a mutually convenient time. The purpose of the inspection shall be to determine if the hobby kennel does or can meet the standards set forth in subsection F of this section.

I. Revocation. A hobby kennel license may be revoked by the animal control authority if the hobby kennel is operating in violation of subsection F or G of this section.

J. Exemption. An animal rescue league foster home which has been issued a permit under BIMC 6.08.034 shall be exempt from hobby kennel license requirements; provided that all personally owned animals shall be licensed in accordance with this chapter. (Ord. 91-41 § 3, 1991)

6.08.033 Grooming parlors.

A. License Required. Grooming parlors shall be licensed annually before or during the month of July or within 30 days of commencement of operation.

B. License Expiration. Grooming parlor licenses shall expire on June 30th of each year.

C. License Fee. The license fee for a grooming parlor shall be as established by resolution. There shall be an additional fee as established by resolution if the license is not obtained by July 31st; provided, that if the grooming parlor is operated in conjunction with a commercial kennel or pet shop by the owner or operator thereof, the license fee shall not be collected.

D. Proration of License Fee. Upon commencement of operation the initial license fee for a grooming parlor shall be prorated according to the number of months remaining in the license year.

E. License Application. An application for a grooming parlor license shall be made to the animal control authority and shall contain the following:

1. The name, address and telephone number of the owner or operator of the facility, and the name and address of the facility;
2. A brief description of the magnitude and nature of the contemplated operation; and
3. A written statement from the city's department of community development or other satisfactory proof that the contemplated operation conforms to city's zoning code and all other land use regulations.

F. License Issuance. The animal control authority shall issue the license or renewal thereof if the license fee is paid, if the application meets the requirements of subsection E of this section, and if, upon inspection, the operation or contemplated operation meets or will meet the requirements of subsection G of this section. The license shall contain its date of expiration. The license shall be prominently displayed at the place of operation.

G. Operation and Facility Requirements. Grooming parlors shall:

1. Not board animals;
2. Provide restraining straps for animals to prevent injury to animals while being groomed;
3. Sterilize grooming equipment after each use;
4. Not leave animals unmonitored while drying before a dryer;
5. Not prescribe or administer treatment or medicine or otherwise engage in veterinary practice as defined by RCW 18.92.010;
6. Not cage animals in the same cage unless so requested by the owner of the animals;
7. Be structurally sound and in good repair;
8. Have grooming areas with walls, ceilings and floors which are sealed and are resistant to absorption of moisture and odors; and
9. Be cleaned and sanitized on a regular basis.

H. Inspections. The animal control authority shall inspect existing or proposed grooming parlors in connection with its licensing investigation and when inspections are necessary to insure compliance with this chapter. Inspections shall be made during regular business hours.

I. Revocation. Grooming parlor licenses may be revoked by the animal control authority if the grooming parlor is operating in violation of subsection G of this section. (Ord. 91-41 § 3, 1991)

6.08.034 Foster home permit.

A. Permit Required. A person must obtain a foster home permit from the animal control authority or a designee of the animal control authority, which may be an animal rescue league.

B. Standards. The animal control authority shall establish standards for foster homes and shall consider recommendations for such standards submitted by an animal rescue league operating in the city.

C. Permit Issuance. The animal control authority shall issue the permit if the application meets the standards. Permits must be received annually and the animal control authority or its designee shall inspect the foster home prior to any renewal.

D. Compliance. All foster homes must comply with all city ordinances.

E. Revocation. Permits issued pursuant to this section may be revoked by the animal control authority if the foster home is operating in violation of subsections B, C or D of this section. (Ord. 91-41 § 3, 1991)

6.08.040 License – License tag – Issuance.

A. The city clerk or animal control authority shall issue individual animal licenses to persons applying upon payment of the license fee. A license tag shall be issued by the city clerk or animal control authority for each dog or cat licensed. All fees collected under this section shall be submitted to the city clerk.

B. Commercial kennel, boarding kennel, cattery, grooming parlor, pet shop, and hobby kennel licenses shall be issued by the animal control authority upon receipt of application, payment of fees, and an inspection by the animal control authority. All fees collected under this section shall be retained by the animal control authority.

C. The license shall be dated and numbered and shall bear the name of Bainbridge Island, Washington, the name, address, and telephone number of the owner of the licensed dog or cat, the name of the dog or cat, and a description of the dog or cat, including its age, sex and color.

D. The license tag shall bear the name of Bainbridge Island, Washington, a serial number corresponding to the number on the license, and the date of expiration; provided, that lifetime license tags issued to cats or spayed or castrated dogs shall have no expiration date.

E. Every owner of a dog shall keep a substantial collar on the dog with a lifetime license tag or a license tag for the current licensing year. Alternatively, an owner may tattoo the lifetime license number inside the ear or right thigh of the dog or cat. (Ord. 91-41 § 3, 1991)

6.08.050 License – Nontransferable.

A. Dog or cat licenses issued pursuant to this chapter shall not be transferable from one pet to another; provided, that this chapter shall not be construed to prevent a license from being transferred with the ownership of the dog or cat from one owner to another.

B. If an owner of an animal moves from another political subdivision of the county into the city during the year in which the license is current, the license shall be honored by the city so long as the license is current.

C. A lifetime license as issued cats or to spayed or castrated dogs may be transferred to new owners as long as information relating to the transfer is given to the animal control authority within 30 days of the transfer. (Ord. 91-41 § 3, 1991)

6.08.060 License tags – Replacement.

Lost license tags may be replaced by a substitute identification tag upon payment of a replacement fee as established by resolution to the city clerk. (Ord. 91-41 § 3, 1991)

6.08.070 License tags – Removal unlawful.

It is unlawful for a person other than the owner to remove a license tag from an animal licensed under the provisions of this chapter. (Ord. 91-41 § 3, 1991)

6.08.080 Impoundment of unlicensed dogs.

All dogs not licensed pursuant to this chapter, or who do not exhibit the license identification tag required by this chapter, are deemed to be a nuisance and may be seized and impounded. (Ord. 91-41 § 3, 1991)

6.08.090 Violation – Penalty.

A. Any person who refuses, fails to comply with, or violates, Section 6.08.010 of this chapter, is guilty of a civil infraction, and shall upon conviction be fined in an amount not to exceed \$300.00.

B. Any person who refuses, fails to comply with or violates, Sections 6.08.031, 6.08.032, or 6.08.033 of this chapter shall be guilty of a misdemeanor and shall be punished by a fine not to exceed \$500.00 or by imprisonment of not more than ninety 90 days, or by both such fine and imprisonment. (Ord. 91-41 § 3, 1991)

Chapter 6.12 IMPOUNDMENT

Sections:

6.12.010 Animal control authority – Appointed.**6.12.020 Animal control authority – Duties.****6.12.030 Animal control authority – Employees to be special police.****6.12.040 Impoundment – Notice.****6.12.050 Redemption of dog, cat or other animal.****6.12.060 Redemption of horse, cow, goat or other domestic animal.****6.12.070 Sale of unclaimed horse, cow, goat or other livestock.****6.12.080 Animal bite quarantine.**

6.12.010 Animal control authority – Appointed.

The Kitsap Humane Society, a corporation existing under RCW 16.52.020, is appointed as and declared to be the official animal control authority of the city commencing September 1, 1991. (Ord. 91-41 § 4, 1991)

6.12.020 Animal control authority – Duties.

A. The animal control authority shall impound all animals subject to impounding pursuant to city ordinance. Impounded animals shall be provided with proper care, feed and water while so confined. The animal control authority shall collect and dispose of all dead animals found in the city, and if the owner is known a fee may be collected for such services. Sick or injured animals shall be impounded when not in the owner's possession and may be euthanized at the discretion of the animal control authority; provided, that the animal control authority shall immediately notify the owner, if the owner is known, and if the owner is unknown, make all reasonable effort to locate and notify the owner.

B. The animal control authority is granted authority to establish reasonable fees for the services provided pursuant to this title. In establishing such fees, the animal control authority shall endeavor where possible to make fees conform to those charged in neighboring jurisdictions for similar services. A current schedule of all fees established by the animal control authority pursuant to this title shall be filed by the animal control authority with the city clerk and made available by the clerk for public inspection at all times during normal business hours. (Ord. 91-41 § 4, 1991)

6.12.030 Animal control authority – Employees to be special police.

Each employee of the animal control authority over the age of 21 years, except clerks and stenographers, is made a special police officer or marshal of the city, and is charged with the duty of enforcing all city ordinances relating to the control, care, treatment and impounding of animals, but without pay from the city; provided, that the employees shall be first sworn in and provided with a suitable badge of authority furnished by the city, to be withdrawn from the officer at any time by a vote of the majority of the city council present at any meeting of the council. (Ord. 91-41 § 4, 1991)

6.12.040 Impoundment – Notice.

Upon the impoundment of an animal pursuant to this chapter, the impounding animal control authority shall as soon as possible notify the animal's owner, if the owner is known, of the animal's impoundment, and the terms upon which the animal can be redeemed. If the owner of the impounded animal is unknown, the animal control authority shall make reasonable efforts to locate and notify the impounded animal's owner. (Ord. 91-41 § 4, 1991)

6.12.050 Redemption of dog, cat or other animal.

A. The owner of a dog, cat or other animal impounded pursuant to this chapter may redeem the dog, cat or other animal within 96 hours from the time of impounding by paying to the animal control authority a redemption fee together with any unpaid applicable license fee. An additional charge per day or part thereof may be imposed.

B. If an impounded dog, cat or other animal is not redeemed by the owner within 96 hours of the time of impoundment, the dog, cat or other animal may be adopted by another person or euthanized.

C. An animal so impounded which is less than two months of age may be adopted or euthanized at any time after animal control at the discretion of the animal control authority. (Ord. 91-41 § 4, 1991)

6.12.060 Redemption of horse, cow, goat or other domestic animal.

The owner of a horse, cow, goat or other domestic animal impounded pursuant to this chapter may redeem the animal within 48 hours from the time of impoundment by paying the animal control authority a fee for each day or part thereof that the animal is detained, plus an impound fee which shall include costs of care and feeding the animal for the days impounded. An additional fee shall be paid to the animal control authority for transportation of animals requiring the use of special equipment for impounding. (Ord. 91-41 § 4, 1991)

6.12.070 Sale of unclaimed horse, cow, goat or other livestock.

A horse, cow, goat or other livestock not claimed and released upon required payment shall at the expiration of 48 hours be sold at a public auction upon five days notice. The notice shall be published in the city's official newspaper and shall state the time and place of the public auction, and the name of the owner, if known, and if the name of the owner is not known, a statement to that effect. A copy of the notice shall be served upon the owner, if the identity of the owner is known to the animal control authority and the owner can be found in the city, at least one day prior to the public auction. The animal control authority shall deduct from the proceeds of sale all expenses of feeding and caring for the animal and all expenses of advertising and selling the animal, and shall retain the balance in reserve for six months from the date of the sale. If the balance is unclaimed at the expiration of six months, the balance shall revert to the animal control authority for operation of the animal shelter. No such money shall be paid any claimant except upon proof satisfactory to the animal control authority that the claimant is entitled to the same. (Ord. 91-41 § 4, 1991)

6.12.080 Animal bite quarantine.

A. Any animal that bites or otherwise breaks the skin of a person shall be quarantined for at least ten days from the date of bite, to determine whether the animal is infected with any disease that may have been transmitted to the victim. The place of quarantine

shall be established by the animal control authority. After an investigation by the animal control authority, the animal control authority may in its discretion allow the owner of the animal to maintain quarantine.

B. Kennel fees, if any, for the quarantine period shall be paid by the animal's owner and the release of the animal shall be conditioned upon payment of the kennel fees. (Ord. 91-41 § 4, 1991)

**COBI ANIMAL CODE
RECOMMENDED CHANGES**

Submitted by Kitsap Humane Society
June 4, 2018

City of Bainbridge Island officials asked Kitsap Humane Society's Animal Control Division to submit recommendations for amending the City's animal ordinances to be more consistent with surrounding jurisdictions (e.g. Kitsap County Code). Our recommendations are consistent with best practices in animal welfare and animal control. This page provides an executive summary of the proposed changes. Additional pages provide specific code language illustrations.

Category/Section	Rationale for Change	Summary of Specific Proposed Changes
1. Potentially Dangerous Animals	Restrictions on Potentially Dangerous Animals are intended to protect public safety. COBI's enforcement options against owners of Potentially Dangerous Animals (PDA) who do not comply with restrictions previously placed on the animal(s) are more limited than elsewhere. Proposed changes are consistent with Kitsap County's code and would provide a stronger deterrent for failure to comply with restrictions.	Proposes amending BIMC 6.04.053, Failure to control an animal declared potentially dangerous. Consistent with Kitsap County Code, give Animal Control the authority to impound an animal(s) where the owner has failed to comply with PDA restrictions.
2. Adding various infractions and enforcement options	COBI's current code does not include infractions for various offenses that are illegal in other jurisdictions, specifically: • Owning an excess number of dogs or cats • Operating or maintaining a "hobbyist" facility without a valid license, or operating such facility in a fashion contrary to code requirements • Failure to license a cat or dog • Animal bites (separate from a PDA) • Failure to notify the Animal Control Authority of change of ownership, custody or residence of an animal that has been declared Potentially Dangerous or Dangerous • Sale, barter or transfer of pets in public places, unless sanctioned • Failure to provide adequate care for pets or livestock • Confinement of an animal in a wheeled vehicle (where the pet's life is at risk) • Pets chasing livestock	Proposes additional infractions under Chapter 6.04 BIMC, for the items listed to the left, consistent with the Kitsap County Code.
3. Disposition of impounded animals not redeemed	Only 25% of stray animals brought to the Kitsap Humane Society shelter get redeemed (reclaimed) by their owner. Of those animals who are redeemed, most redemptions occur in the first two days after impoundment, reflecting the attachment most owners have with their pet. But for pets not reclaimed within a day or two, KHS takes on the humane and costly responsibility of trying to adopt out each pet. Several years ago, Kitsap County reduced the time that an adult animal could be redeemed from 96 hours to 72 hours, to allow those animals to find a new home sooner. At the same time, animals with a license are held for 7 days to allow KHS more time to locate the owner.	Reduces the redemption period from 96 hours to 72 hours, but increases the redemption period for animals that are licensed.
4. Pet licensing	Standardization (i.e. per Kitsap County and other local jurisdictions) would make pet licenses required for cats as well as dogs. Currently, a pet license for a cat is "optional" per the code. Very few lost cats are returned to their owners – licenses and microchips would help increase the success rate.	Remove "optional" from licensing of cats.

SECTION 1: POTENTIALLY DANGEROUS ANIMALS – RECOMMENDED CHANGE

THESE WOULD TAKE THE PLACE OF COBI CODE CHAPTER 6.04.053 – FAILURE TO CONTROL AN ANIMAL DECLARED POTENTIALLY DANGEROUS

THIS LANGUAGE IS FROM KITSAP COUNTY’S CODE – CHAPTER 7.12.020

NOTE: BI’s approach to Potentially Dangerous Animals is somewhat different from Kitsap County, in that that the BI Code defines different levels of PDA, with different specified restrictions, e.g. physical restraints, liability insurance, secure enclosures (i.e. fencing, muzzling, etc. COBI may wish to review the entire Kitsap County code section on PDA’s and consider whether it wants to revamp the entire section to be consistent. If so, here is the link to the Kitsap County section on PDA: <http://www.codepublishing.com/WA/KitsapCounty/#!/Kitsap07/Kitsap0712.html#7.12>

KHS immediate focus/recommendations: KHS Animal Control’s more immediate concern is effective enforcement of PDA restrictions. Restrictions that accompany a PDA are intended to ensure public safety. We have seen many situations where public safety has been placed at risk because owners have failed to fully comply with restrictions. Our recommendations are intended to provide Animal Control with the additional option of a more direct and immediate consequence for failure to comply with PDA restrictions. We believe this will also serve as a deterrent to owners who avoid or skirt restrictions.

Recommendation #1: Add a section that allows for the Animal Control Authority to impound the animal(s). Kitsap County Code Chapter 7.12.010(n) states the following:

(n) Failure to Abide by Restraints. Failure on the part of the owner(s) of a potentially dangerous animal to abide by the restraints placed upon the owner(s) or their animal by the animal control authority, hearing examiner, or district court may result in impoundment of the potentially dangerous animal by the animal control authority, pursuant to Section [7.12.020\(c\)](#).

Recommendation #2: We recommend the code language contain a more clear statement that a misdemeanor may be charged directly through the BI Code for failure to comply with PDA restrictions. Kitsap County Code Chapter 7.12.020 states the following:

7.12.020 Failure to control an animal declared potentially dangerous – Declaration of animal as dangerous. 

(a) Misdemeanor. When an animal has been declared potentially dangerous pursuant to Section [7.12.010](#), the owner of the potentially dangerous animal shall be guilty of a misdemeanor if such animal is thereafter found:

- (1) At large;
- (2) To have, when unprovoked, inflicted a bite(s) upon a human, pet, or livestock either on public or private property;

(3) To have chased or approached a person upon the streets, side-walks, or any other public grounds in such a manner as to significantly threaten the safety of humans, pets, or livestock; or

(4) To have caused injury to or otherwise threatened the safety of humans, pets, or livestock. This section shall not preclude immediate criminal prosecution under RCW [16.08.100](#) in a first bite situation causing severe injury or death of any human.

Recommendation #3: We recommend under Section 2 below that COBI adds an infraction for Animal Bites. The relevance to the PDA issue is that the BI Code defines an animal as a Level 3 PDA if it has bitten a human or domestic animal. A more typical practice in Animal Control enforcement is that if an animal has no prior history of biting, and it is a first offense, and the bite is mild versus a severe attack, officers will have discretion to enforce the violation at a level that is below the severity of a Potentially Dangerous Animal declaration. Kitsap County Code has the following ordinance under Section 7.14.030(12):

7.14.030 Infractions.

The following are declared to be Class 1 civil infractions

(12) Animal Bites. To own a pet or livestock that bites a person while such person is on public property or lawfully on private property;

Recommendation #4: We believe there are situations where it is warranted to remove a PDA label from an animal. Oftentimes, the PDA is as much, if not more, the result of poor owner management. We found language in a code in Clallam County that speaks to this. We intend to propose such amendments to the County, the City of Bremerton and other local jurisdictions:

17.03.130 Inactive potentially dangerous dog.

If, after 24 months, no violations of this title or the Clallam County Code have occurred, the owner of a potentially dangerous dog may request review of the designation. The request shall be made in writing and submitted to the County Animal Control Authority.

Review and notification to the owner of the outcome will be made within 30 days of the written request.

Reclassification of a potentially dangerous dog means that it will no longer have to be restrained as required in CCC [17.03.060](#) nor will it have to be licensed per CCC [17.03.040](#). The requirements of CCC [17.03.080](#) still apply.

Any dog on the inactive potentially dangerous list that violates the reasons to declare a dog potentially dangerous will be immediately reclassified to potentially dangerous and may be reclassified to dangerous per CCC [17.03.020](#)(3).

SECTION 2: Adding various infractions and enforcement options

THESE WOULD ADD INFRACTIONS UNDER COBI CHAPTER 6.04.

THIS LANGUAGE IS FROM KITSAP COUNTY'S CODE – CHAPTER 7.14.030

We would be glad to provide more discussion on WHY it is beneficial for the community to have these infractions be listed as unlawful activity.

7.14.030 Infractions.

The following are declared to be Class 1 civil infractions:

- (8) Excess Number of Cats and/or Dogs. To own five or more adult cats and/or dogs at the same place or residence without a valid commercial pet facility, animal welfare facility, hobbyist or enthusiast license;
- (9) No Valid License. To operate or maintain a hobbyist (i.e. hobby kennel under COBI) facility without a valid license;
- (10) Failure to License. To fail to license a cat or dog as required by Section [7.08.010](#);
- (11) Regulatory Violations. To operate a hobbyist (i.e. hobby kennel under COBI) facility in a fashion contrary to that required by Sections [7.08.050](#) and [7.08.065](#);
- (12) Animal Bites. To own a pet or livestock that bites a person while such person is on public property or lawfully on private property;
- (14) Failing to Notify Animal Control Authority of Change of Ownership, Custody, and/or Residence. For any owner of an animal that has been declared dangerous or potentially dangerous to sell, barter, or otherwise transfer the ownership, custody, or residence of such an animal without notifying the animal control authority within fourteen calendar days of the change as required by Section [7.12.010](#)(n) or to otherwise fail to comply with the requirements of that section;
- (15) Sale, Barter, or Other Transfer of Pets in Public Places Prohibited. It is unlawful to sell, barter, or otherwise transfer for the purpose of changing ownership any pet in an area open to the public, unless such activity is pursuant to Section [7.08.040](#), or occurs at a sanctioned dog or cat show;
- (16) Failure to Provide Adequate Care. For any owner of a pet or livestock to fail to:
 - (A) Provide adequate food and water for any pet or livestock, as defined in Section [7.04.020](#)(1);
 - (B) Provide adequate shelter for any pet or livestock, as defined in Section [7.04.020](#)(2), except as may be appropriate for short term medical requirements or generally accepted livestock husbandry practices such as swine farrowing;
 - (C) Provide appropriate habitat and medical care; or
 - (D) Maintain facilities housing pets in a healthful, sanitary, and safe manner;

(17) Confinement of an animal in a wheeled vehicle. No person shall confine any pet or livestock in a wheeled vehicle in such a manner that places the animal in a life- or health-threatening situation by exposure to a prolonged period of heat or cold, without proper ventilation or other protection from such heat or cold. In order to protect the health and safety of such animal, an animal control authority employee or law enforcement officer who has probable cause to believe that this section is being violated shall have the authority to enter such vehicle to remove such animal by any reasonable means under the circumstances after making a reasonable effort to locate the owner. No law enforcement officer or animal control authority employee shall be held liable for any damage to property resulting from actions taken under this section or pursuant to Chapter [16.52](#) RCW;

(19) Pets Chasing Livestock. For the owner of a pet to permit that animal to harass or chase another owner's livestock, when not engaged in the specific work of herding approved by the owner of the livestock;

SECTION 3: DISPOSITION OF IMPOUNDED ANIMALS NOT REDEEMED – RECOMMENDED CHANGE
THESE WOULD TAKE THE PLACE OF COBI CODE CHAPTERS 6.12.050, 060, 070)
THIS LANGUAGE IS FROM KITSAP COUNTY'S CODE – CHAPTER 7.10.010(f)

RATIONALE: The best practice in animal welfare is to find a permanent, loving home for all lost pets, with the exception of pets too sick or injured to be saved, or animals too dangerous to adopt out. Our initial goal is to find the existing owner of a lost pet. Unfortunately, less than 25% of stray animals that come to KHS get reclaimed by their owners. And among the animals that do get reclaimed (redeemed) by their owners, most come to find their pet within a day or two after that pet has arrived at KHS. If an owner does not show up in 2-3 days, and we do not have contact information regarding the owner, it is a more humane practice to attempt to adopt that animal out as soon as possible, rather than have the pet languish in the shelter waiting for an owner that is not showing up. Several years ago, we worked with Kitsap County and other jurisdictions to agree to reduce the time that an adult animal could be redeemed from 96 hours to 72 hours, to allow those animals to find a new home sooner. At the same time, we allow for animals with a current pet license to be held up to 7 days – so that we can attempt to find the owner via the identifying information from the license. As a result, this law provides a greater incentive for pet owners to license their pet – it is an added “insurance policy.” The following is the current language from the Kitsap County Code

(f) Disposition of Impounded Animals Not Redeemed.

(1) When a pet is not redeemed within the following time periods, the animal control authority may give or adopt the animal to an animal welfare organization or qualified person, or euthanize the animal.

(A) Seventy-two hours for unlicensed adult cats and dogs.

(B) Seven days for licensed adult cats and dogs.

(C) Forty-eight hours for juvenile cats or dogs.

(D) Twenty-four hours for litters of juvenile cats or dogs under seven weeks of age.

(2) Impounded horses, mules, donkeys, or cattle shall be addressed as set forth by Chapter [16.24](#) RCW. When all other livestock is not redeemed, no sooner than seventy-two hours following impoundment, the animal control authority may give or adopt the animal to an animal welfare organization or qualified person, or may commence to auction the animal to the highest bidder that can provide the animal with a suitable environment, or euthanize the animal. Notice of the auction and a description of the livestock to be auctioned shall be published at least seven calendar days prior to the sale in the official county newspaper. Such notice shall also be mailed to the owner of the livestock, if known.

(3) When a feral cat is not redeemed, no sooner than twenty-four hours following impoundment, the animal control authority may give or adopt the animal to an animal welfare organization or qualified person, or euthanize the animal.

By adding the new stray hold for “feral cat”, BI would need to add a definition of feral cat to your definitions section. This is what Unincorporated KC has under their definitions:

(13) “Feral cat” means any cat that has no apparent owner or identification and is apparently wild, untamed, unsocialized, unmanageable, and unable to be approached or handled. A feral cat is not considered a pet per this title.

SECTION 4 : DISPOSITION OF IMPOUNDED ANIMALS NOT REDEEMED – RECOMMENDED CHANGE

THESE WOULD AMEND COBI CHAPTER 6.08 – LICENSING OF DOGS AND CATS – TO BE CONSISTENT WITH ALL OTHER JURISDICTIONS IN KITSAP COUNTY

COBI makes it optional (Chapter 6.08.010) for owners of cats to have a pet license for their cat. BI is the only local jurisdiction to make that distinction.



CITY OF
BAINBRIDGE ISLAND

City Council Study Session Agenda Bill

MEETING DATE: September 18, 2018

ESTIMATED TIME: 10 Minutes

AGENDA ITEM: (8:20 PM) Regional Committee Reports by Councilmember Liaisons - Mayor Medina,

STRATEGIC PRIORITY: Good Governance

PRIORITY BASED BUDGETING PROGRAM:

AGENDA CATEGORY: Discussion

PROPOSED BY: City Council

RECOMMENDED MOTION:

Information only.

SUMMARY:

Councilmembers will provide an update on regional committees.

FISCAL IMPACT:

Amount:	
Ongoing Cost:	
One-Time Cost:	
Included in Current Budget?	

BACKGROUND:

ATTACHMENTS:

FISCAL DETAILS:

Fund Name(s):

Coding:



CITY OF
BAINBRIDGE ISLAND

City Council Study Session Agenda Bill

MEETING DATE: September 18, 2018

ESTIMATED TIME: 10 Minutes

AGENDA ITEM: (8:30 PM) Future Council Agendas,

STRATEGIC PRIORITY: Good Governance

PRIORITY BASED BUDGETING PROGRAM:

AGENDA CATEGORY: Discussion

PROPOSED BY: City Council

RECOMMENDED MOTION:

Review of future Council agendas.

SUMMARY:

Proposed Council agendas are provided for review.

FISCAL IMPACT:

Amount:	
Ongoing Cost:	
One-Time Cost:	
Included in Current Budget?	

BACKGROUND:

ATTACHMENTS:

[Special City Council Meeting 092518](#)

[City Council Regular Business Meeting 092518](#)

[City Council Study Session 100218](#)

[City Council Regular Business Meeting 100918](#)

[City Council Study Session 101618](#)

FISCAL DETAILS:

Fund Name(s):

Coding:



**SPECIAL CITY COUNCIL MEETING
TUESDAY, SEPTEMBER 25, 2018**

BAINBRIDGE ISLAND CITY HALL
280 MADISON AVENUE N.
BAINBRIDGE ISLAND, WASHINGTON

AGENDA

1. CALL TO ORDER/ROLL CALL - 5:30 PM

2. EXECUTIVE SESSION

- 2.A Pursuant to RCW 42.30.110(1)(i), to discuss with legal counsel matters relating to litigation or potential litigation to which the city, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency.
30 Minutes

3. ADJOURNMENT - 5:55 PM

GUIDING PRINCIPLES

Guiding Principle #1 - Preserve the special character of the Island, which includes downtown Winslow's small town atmosphere and function, historic buildings, extensive forested areas, meadows, farms, marine views and access, and scenic and winding roads supporting all forms of transportation.

Guiding Principle #2 - Manage the water resources of the Island to protect, restore and maintain their ecological and hydrological functions and to ensure clean and sufficient groundwater for future generations.

Guiding Principle #3 - Foster diversity with a holistic approach to meeting the needs of the Island and the human needs of its residents consistent with the stewardship of our finite environmental resources.

Guiding Principle #4 - Consider the costs and benefits to Island residents and property owners in making land use decisions.

Guiding Principle #5 - The use of land on the Island should be based on the principle that the Island's environmental resources are finite and must be maintained at a sustainable level.

Guiding Principle #6 - Nurture Bainbridge Island as a sustainable community by meeting the needs of the present without compromising the ability of future generations to meet their own needs.

Guiding Principle #7 - Reduce greenhouse gas emissions and increase the Island's climate resilience.

Guiding Principle #8 - Support the Island's Guiding Principles and Policies through the City's organizational and operating budget decisions.



City Council meetings are wheelchair accessible. Assisted listening devices are available in Council Chambers. If you require additional ADA accommodations, please contact the City Clerk's Office at 206-780-8604 or cityclerk@bainbridgewa.gov by noon on the day preceding the meeting.



**CITY COUNCIL REGULAR BUSINESS MEETING
TUESDAY, SEPTEMBER 25, 2018**

BAINBRIDGE ISLAND CITY HALL
280 MADISON AVENUE N.
BAINBRIDGE ISLAND, WASHINGTON

AGENDA

1. **CALL TO ORDER/ROLL CALL/PLEDGE OF ALLEGIANCE - 6:00 PM**
2. **APPROVAL OF AGENDA / CONFLICT OF INTEREST DISCLOSURE**
3. **PUBLIC COMMENT**
4. **MAYOR'S REPORT**
5. **CITY MANAGER'S REPORT**
6. **PRESENTATION(S)**
 - 6.A Proclamation Declaring October 2018 as Filipino American History Month - Mayor Medina, 5 Minutes
[Filipino American History Month Proclamation 2018](#)
 - 6.B Recognition of Indigenous Peoples Day - Councilmember Peltier, 5 Minutes
[Resolution No. 2016-21 Indigenous Peoples Day Approved 092716.pdf](#)
 - 6.C Proclamation Declaring October 2018 as National Community Planning Month - Planning, 5 Minutes
[2018 October National Community Planning Month Proclamation.docx](#)
 - 6.D Proclamation Declaring the Month of October, 2018 as Resilience Awareness Month - Mayor Medina, 5 Minutes
[Resilience Awareness Month Proclamation](#)
 - 6.E 2019-2020 Proposed Budget Presentation - Finance, 30 Minutes
7. **PUBLIC HEARING(S)**

- 7.A Ordinance No. 2018-19 Modifying BIMC Chapter 16.18 Land Clearing and BIMC Section 18.15.010. 45 Minutes
[Ordinance No. 2018-19 Tree Regulations](#)
[Exhibit A 2018-19 Ch 16.18](#)
- 7.B Ordinance No. 2018-32, Amending the Procedure for Review of Applications for Removal of Landmark Trees - Executive, 20 Minutes
[Ordinance No. 2018-32 Modifying Chapter 16.32 Relating to Landmark Trees-Emergency Approved 082118](#)
- 7.C Ordinance No. 2018-41 Relating to the Extension of Moratorium for Certain Developments - Planning, 30 Minutes

8. UNFINISHED BUSINESS

- 8.A Shoreline Master Program (SMP) Limited Amendment on Aquaculture - Planning, 30 Minutes
[Ecology comments_7.16.2018.pdf](#)
- 8.B Ordinance No. 2018-20 Relating to Revisions to BIMC Title 2 related to Land Use Review Approval Bodies and Procedures - Planning, 15 Minutes
- 8.C Set Public Hearing on Ordinance No. 2018-42, Amending BIMC Chapter 16.32 Protection of Landmark Trees - Planning, 15 Minutes
[Ordinance No. 2018-42 - Revising Landmark Trees Regulations](#)
- 8.D Manitou Park Boulevard Shoreline Stabilization Project Professional Services Agreement - Public Works, 10 Minutes
[ManitouPark_PSA_Coastal Geologic.docx](#)
[ManitouPark_PSA_Attachment A.pdf](#)
- 8.E Resolution No. 2018-26, Stating the City Council's Position on City of Bainbridge Island Proposition No. 1, the Connecting Bainbridge Safe Mobility Levy - Executive, 20 Minutes
[Resolution No. 2018-26, Stating the City Council's Position on City of Bainbridge Island Proposition No. 1, the Connecting Bainbridge Safe Mobility Levy](#)

9. NEW BUSINESS

- 9.A Resolution No. 2018-27, Stating the City Council's Position on "Clean Air Clean Energy" Initiative 1631 - Mayor Medina, 10 Minutes
[Resolution No. 2018-27, Stating City Council's Position on I-1631](#)
- 9.B Country Club Road Bulkhead Repair and Outfall Replacement Project Professional Services Agreement - Public Works, 10 Minutes
- 9.C Ordinance 2018 - 36 Adopting the 2019-2024 Capital Improvement Plan - Finance, 20 Minutes
[Ordinance 2018-36 Adopting the 2019-2024 CIP.doc](#)

10. CONSENT AGENDA

10.A Agenda Bill for Consent Agenda 5 Minutes

10.B Accounts Payable and Payroll

10.C Ordinance 2018-35 Amending BIMC Chapter 5 and Adopting Model Business License Code - Finance, 5 Minutes

[Ordinance No. 2018-35](#)

[MRSC - July 2018 Business License Code Update Explanation](#)

[MRSC - April 2018 Business Licensing Background](#)

10.D Ordinance No. 2018-37, relating to the City Water Utility and Providing for No Automatic Fee Adjustment for Monthly Water Service Rates in 2019 - Finance, 5 Minutes

[Ordinance No. 2018-37 Providing for No Automatic Annual Adjustment for Water Rates in 2019](#)

10.E Ordinance No. 2018-38, Providing for No Automatic Annual Adjustment for Monthly Sewer Service Utility Rates in 2019 - Finance, 5 Minutes

[Ordinance No. 2018-38 Providing for No Automatic Annual Adjustment for Sewer Rates in 2019](#)

10.F Interlocal Agreement Between Kitsap Public Utility District No. 1 and the City of Bainbridge Island Transferring Wireless Frequency Interface (Wi-Fi) Assets - Executive, 5 Minutes

[Interlocal Agreement Transferring Wi-Fi Assets](#)

[Exhibit A - Interlocal Agreement with KPUD Transferring WiFi Assets](#)

11. COMMITTEE REPORTS

12. FOR THE GOOD OF THE ORDER

13. ADJOURNMENT

GUIDING PRINCIPLES

Guiding Principle #1 - Preserve the special character of the Island, which includes downtown Winslow's small town atmosphere and function, historic buildings, extensive forested areas, meadows, farms, marine views and access, and scenic and winding roads supporting all forms of transportation.

Guiding Principle #2 - Manage the water resources of the Island to protect, restore and maintain their ecological and hydrological functions and to ensure clean and sufficient groundwater for future generations.

Guiding Principle #3 - Foster diversity with a holistic approach to meeting the needs of the Island and the human needs of its residents consistent with the stewardship of our finite environmental resources.

Guiding Principle #4 - Consider the costs and benefits to Island residents and property owners in making land use decisions.

Guiding Principle #5 - The use of land on the Island should be based on the principle that the Island's environmental resources are finite and must be maintained at a sustainable level.

Guiding Principle #6 - Nurture Bainbridge Island as a sustainable community by meeting the needs of the present without compromising the ability of future generations to meet their own needs.

Guiding Principle #7 - Reduce greenhouse gas emissions and increase the Island's climate resilience.

Guiding Principle #8 - Support the Island's Guiding Principles and Policies through the City's organizational and operating budget decisions.



City Council meetings are wheelchair accessible. Assisted listening devices are available in Council Chambers. If you require additional ADA accommodations, please contact the City Clerk's Office at 206-780-8604 or cityclerk@bainbridgewa.gov by noon on the day preceding the meeting.



**CITY OF
BAINBRIDGE ISLAND**

**CITY COUNCIL STUDY SESSION
TUESDAY, OCTOBER 02, 2018**

BAINBRIDGE ISLAND CITY HALL
280 MADISON AVENUE N.
BAINBRIDGE ISLAND, WASHINGTON

AGENDA

- 1. CALL TO ORDER / ROLL CALL**
- 2. APPROVAL OF AGENDA/ CONFLICT OF INTEREST DISCLOSURE**
- 3. PRESENTATIONS**
- 4. UNFINISHED BUSINESS**
 - 4.A Amendments to the Shoreline Master Program (SMP) Relating to Integration of Critical Areas Regulations and Nonconforming Structures, Uses, and Lots - Planning 60 Minutes
[Staff Memo re SMP Amendment](#)
[Draft SMP Amendment - Critical Areas & Nonconforming - Public Hearing Draft - All track changes Existing SMP Nonconforming Chapter.pdf](#)
[Nonconforming Structures Summary Table.pdf](#)
- 5. NEW BUSINESS**
 - 5.A Solar Access Ordinance - Deputy Mayor Deets, 20 Minutes
- 6. CITY COUNCIL DISCUSSION**
 - 6.A Update from ECONorthwest & Forterra on Inclusionary Zoning/Transfer of Development Rights Analysis 60 Minutes
 - 6.B Update on Moratorium Work Plan 15 Minutes
- 7. FUTURE COUNCIL AGENDAS**
- 8. FOR THE GOOD OF THE ORDER**

9. ADJOURNMENT

GUIDING PRINCIPLES

Guiding Principle #1 - Preserve the special character of the Island, which includes downtown Winslow's small town atmosphere and function, historic buildings, extensive forested areas, meadows, farms, marine views and access, and scenic and winding roads supporting all forms of transportation.

Guiding Principle #2 - Manage the water resources of the Island to protect, restore and maintain their ecological and hydrological functions and to ensure clean and sufficient groundwater for future generations.

Guiding Principle #3 - Foster diversity with a holistic approach to meeting the needs of the Island and the human needs of its residents consistent with the stewardship of our finite environmental resources.

Guiding Principle #4 - Consider the costs and benefits to Island residents and property owners in making land use decisions.

Guiding Principle #5 - The use of land on the Island should be based on the principle that the Island's environmental resources are finite and must be maintained at a sustainable level.

Guiding Principle #6 - Nurture Bainbridge Island as a sustainable community by meeting the needs of the present without compromising the ability of future generations to meet their own needs.

Guiding Principle #7 - Reduce greenhouse gas emissions and increase the Island's climate resilience.

Guiding Principle #8 - Support the Island's Guiding Principles and Policies through the City's organizational and operating budget decisions.



City Council meetings are wheelchair accessible. Assisted listening devices are available in Council Chambers. If you require additional ADA accommodations, please contact the City Clerk's Office at 206-780-8604 or cityclerk@bainbridgewa.gov by noon on the day preceding the meeting.



**CITY OF
BAINBRIDGE ISLAND**

**CITY COUNCIL REGULAR BUSINESS MEETING
TUESDAY, OCTOBER 09, 2018**

BAINBRIDGE ISLAND CITY HALL
280 MADISON AVENUE N.
BAINBRIDGE ISLAND, WASHINGTON

AGENDA

- 1. CALL TO ORDER/ROLL CALL/PLEDGE OF ALLEGIANCE - 7:00 PM**
- 2. APPROVAL OF AGENDA / CONFLICT OF INTEREST DISCLOSURE**
- 3. PUBLIC COMMENT**
- 4. MAYOR'S REPORT**
- 5. CITY MANAGER'S REPORT**
- 6. PRESENTATION(S)**
- 7. PUBLIC HEARING(S)**
 - 7.A Public Hearing on Ordinance No. 2018-42, Amending BIMC Chapter 16.32 Protection of Landmark Trees 10 Minutes
- 8. UNFINISHED BUSINESS**
 - 8.A Budget Discussions 60 Minutes
 - 8.B Ordinance 2018 - 36 Adopting the 2019-2024 Capital Improvement Plan (place holder) 5 Minutes
- 9. NEW BUSINESS**
 - 9.A 2018 Culvert Replacement Project 10 Minutes

9.B Resolution No. 2018-25 County Road #229 Road Vacation 10 Minutes

9.C Resolution No. 2018-04 Amending the 2018 Fee Schedule to Update Fees for Obtaining Public Records - Executive, 10 Minutes

[Resolution No. 2018-24 Amending Fee Schedule to Provide for Public Records Fees](#)
[Public Record Administrative Rules \(2018\)](#)

10. CONSENT AGENDA

11. COMMITTEE REPORTS

12. FOR THE GOOD OF THE ORDER

13. ADJOURNMENT

GUIDING PRINCIPLES

Guiding Principle #1 - Preserve the special character of the Island, which includes downtown Winslow's small town atmosphere and function, historic buildings, extensive forested areas, meadows, farms, marine views and access, and scenic and winding roads supporting all forms of transportation.

Guiding Principle #2 - Manage the water resources of the Island to protect, restore and maintain their ecological and hydrological functions and to ensure clean and sufficient groundwater for future generations.

Guiding Principle #3 - Foster diversity with a holistic approach to meeting the needs of the Island and the human needs of its residents consistent with the stewardship of our finite environmental resources.

Guiding Principle #4 - Consider the costs and benefits to Island residents and property owners in making land use decisions.

Guiding Principle #5 - The use of land on the Island should be based on the principle that the Island's environmental resources are finite and must be maintained at a sustainable level.

Guiding Principle #6 - Nurture Bainbridge Island as a sustainable community by meeting the needs of the present without compromising the ability of future generations to meet their own needs.

Guiding Principle #7 - Reduce greenhouse gas emissions and increase the Island's climate resilience.

Guiding Principle #8 - Support the Island's Guiding Principles and Policies through the City's organizational and operating budget decisions.



City Council meetings are wheelchair accessible. Assisted listening devices are available in Council Chambers. If you require additional ADA accommodations, please contact the City Clerk's Office at 206-780-8604 or cityclerk@bainbridgewa.gov by noon on the day preceding the meeting.



**CITY OF
BAINBRIDGE ISLAND**

**CITY COUNCIL STUDY SESSION
TUESDAY, OCTOBER 16, 2018**

**BAINBRIDGE ISLAND CITY HALL
280 MADISON AVENUE N.
BAINBRIDGE ISLAND, WASHINGTON**

AGENDA

- 1. CALL TO ORDER / ROLL CALL**
- 2. APPROVAL OF AGENDA/ CONFLICT OF INTEREST DISCLOSURE**
- 3. PRESENTATIONS**
 - 3.A Budget discussions - Intergovernmental Agency requests - Kitsap Public Health, Kitsap 911, and Kitsap Housing Authority 30 Minutes
- 4. UNFINISHED BUSINESS**
 - 4.A Budget Discussions - Finance, 60 Minutes
- 5. NEW BUSINESS**
- 6. CITY COUNCIL DISCUSSION**
 - 6.A Update on Moratorium Work Plan 15 Minutes
- 7. FUTURE COUNCIL AGENDAS**
- 8. FOR THE GOOD OF THE ORDER**
- 9. ADJOURNMENT**

GUIDING PRINCIPLES

Guiding Principle #1 - Preserve the special character of the Island, which includes downtown Winslow's small town atmosphere and function, historic buildings, extensive forested areas, meadows, farms, marine views and access, and scenic and winding roads supporting all forms of transportation.

Guiding Principle #2 - Manage the water resources of the Island to protect, restore and maintain their ecological and hydrological functions and to ensure clean and sufficient groundwater for future generations.

Guiding Principle #3 - Foster diversity with a holistic approach to meeting the needs of the Island and the human needs of its residents consistent with the stewardship of our finite environmental resources.

Guiding Principle #4 - Consider the costs and benefits to Island residents and property owners in making land use decisions.

Guiding Principle #5 - The use of land on the Island should be based on the principle that the Island's environmental resources are finite and must be maintained at a sustainable level.

Guiding Principle #6 - Nurture Bainbridge Island as a sustainable community by meeting the needs of the present without compromising the ability of future generations to meet their own needs.

Guiding Principle #7 - Reduce greenhouse gas emissions and increase the Island's climate resilience.

Guiding Principle #8 - Support the Island's Guiding Principles and Policies through the City's organizational and operating budget decisions.



City Council meetings are wheelchair accessible. Assisted listening devices are available in Council Chambers. If you require additional ADA accommodations, please contact the City Clerk's Office at 206-780-8604 or cityclerk@bainbridgewa.gov by noon on the day preceding the meeting.