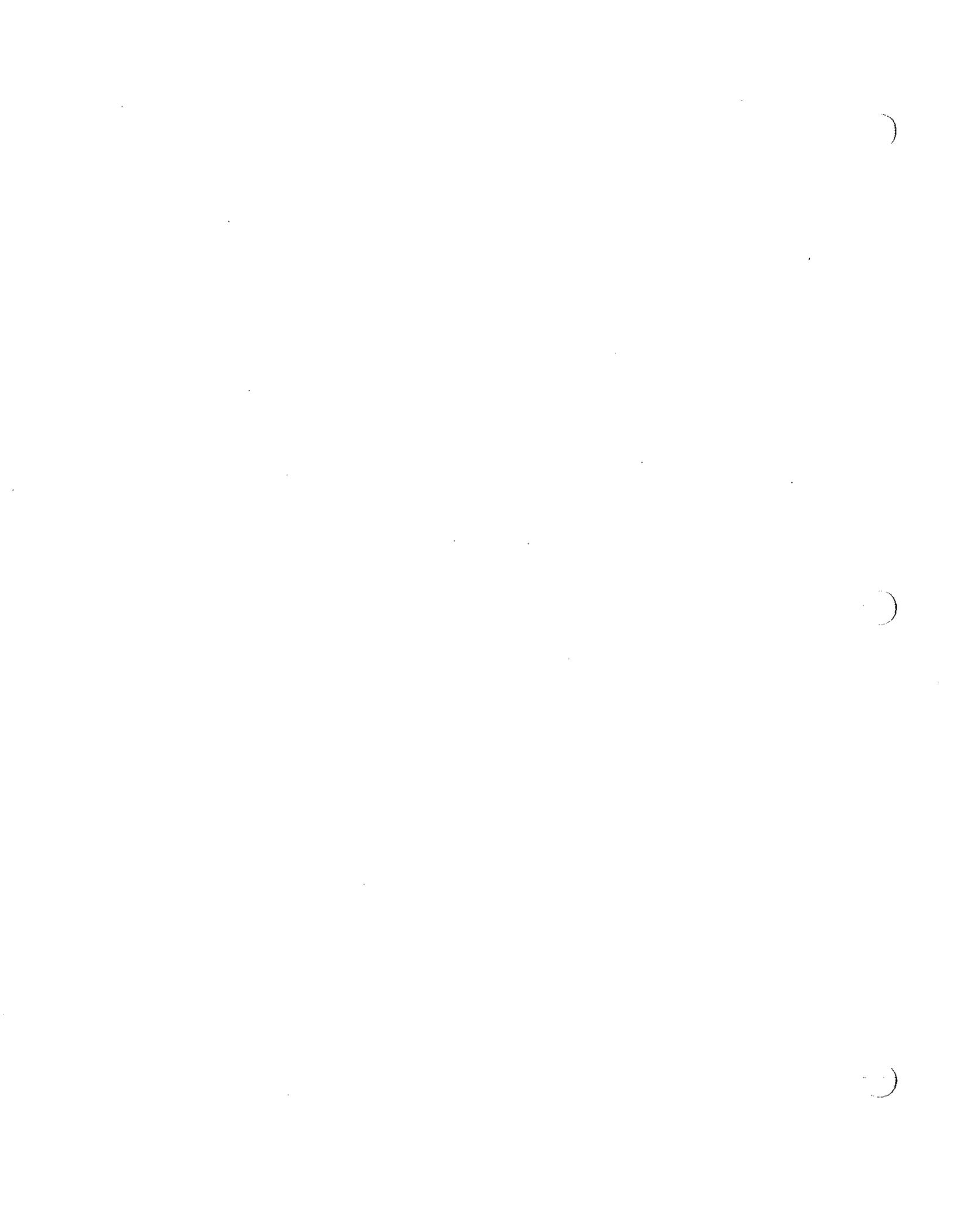


Title 12

STREETS, SIDEWALKS AND PUBLIC PLACES

Chapters:

- 12.04 Street Obstructions**
- 12.06 Parades and Assemblies**
- 12.08 Removal of Snow and Ice**
- 12.12 Restriction of Travel and Closure of Roadways**
- 12.16 Street and House Numbering**
- 12.20 Park Regulations**
- 12.24 Waterfront Park and Other City Harbors**
- 12.28 Comprehensive Sidewalk Plan**
- 12.30 Street Dedications**
- 12.32 Unopened Rights-of-Way**
- 12.34 Vacation of Streets and Alleys**
- 12.36 *Repealed***
- 12.38 Right-of-Way Maintenance**
- 12.40 Watercraft and Floating Homes**



Chapter 12.04

STREET OBSTRUCTIONS

Sections:

- 12.04.010 Violation –Penalty.
- 12.04.020 Violation –Nuisance –
Abatement.

12.04.010 Violation –Penalty.

Whoever, at any time, obstructs vision at an intersection thereby creating a traffic hazard, or obstructs or encumbers any of the streets, sidewalks, ways or alleys of the city by placing thereon any fences, lumber, firewood, posts, structures, brush or any material whatever which does in fact inhibit the free use thereof by the public, or whoever permits trees, shrubs, brush or any vegetation growing on their premises or property, or on premises or property under their control, to obstruct or hinder the public in the use of any of the streets, sidewalks, ways or alleys, shall on conviction be punished by a fine of not more than \$500.00 or by imprisonment for not more than six months, or by both such fine and imprisonment. (Ord. 74-09 § 1, 1974)

**12.04.020 Violation – Nuisance –
Abatement.**

Any violation of this chapter is declared a public nuisance and the owner of the property abutting any street, sidewalk, way or alley shall, upon notice by the city, immediately remove the obstruction, and if, within a reasonable time, the obstruction has not been removed, the city may abate the nuisance and assess the costs of so doing against the property offending. (Ord. 74-09 § 2, 1974)

Chapter 12.06

PARADES AND ASSEMBLIES

Sections:

- 12.06.010 Purpose.
- 12.06.020 Definitions.
- 12.06.030 Permit required.
- 12.06.040 Permit application.
- 12.06.050 Exemptions from permit
requirement.
- 12.06.060 Permit issuance.
- 12.06.070 Grounds for denial or
revocation of permit.
- 12.06.080 Content of permit.
- 12.06.090 Indemnification agreement.
- 12.06.100 Insurance.
- 12.06.110 Fees and deposits.
- 12.06.120 Appeal procedure.
- 12.06.130 Violation – Penalty.

12.06.010 Purpose.

The purpose of this chapter is to provide for the issuance of special event permits for parades, processions and other assemblies occurring on public property; to regulate events on the city's public streets and public property to protect the public's health, safety and welfare; and to provide for the fees, charges, and procedures required to administer the permit process. (Ord. 2002-33 § 2, 2002)

12.06.020 Definitions.

A. "Parade," "assembly" and "procession" mean any parade, march, ceremony, show, exhibition, pageant or procession of any kind, or any similar display or gathering, in or upon any street, park or other public place in the city, which would have a direct impact on traffic flow or congestion or the public's ability to use public streets, parks or other public places, or which would significantly impact the need for city-provided emergency services. "Parades," "assemblies" and "processions," as referenced herein, shall include, but are not limited to, traditional parades, fun runs, roadway foot races, fundraising walks or runs, auctions, bikeathons, parades, carnivals, shows or exhibitions, filming/movie events, circuses, block parties and street fairs.

B. "Use" means to construct, erect, or maintain in, on, over or under any street, right-of-way, park or other public place, any building, structure, sign, equipment or scaffolding, to deface any public right-of-way by painting, spraying or writing on the surface thereof, or to otherwise occupy in such a manner as to obstruct the normal public use of any public street, right-of-way, park or other public place within the city, including any use related to parades or processions. (Ord. 2002-33 § 2, 2002)

12.06.030 Permit required.

Any person desiring to conduct or sponsor a parade, assembly or other procession in the city shall first obtain a special event permit from the chief of police or other designated city official. No person shall conduct or knowingly participate in a parade, assembly or procession that has not been granted a special event permit. (Ord. 2002-33 § 2, 2002)

12.06.040 Permit application.

A. A special event permit may be obtained by submitting, on a form supplied by the city, an application to the chief of police or other designated city official at least 30 days prior to the proposed event date; provided, that an application for a special event permit which is filed less than 30 days prior to the proposed event date may be considered upon a showing of good cause. For purposes of this section, "good cause" means that, in the city's risk manager's opinion, the appropriate city official(s) have sufficient time to process and investigate the application and to obtain police and/or other city services for the proposed event, and/or that the circumstances giving rise to the permit application did not reasonably allow the applicant to file within the time prescribed.

B. The application for a special event permit shall be made in writing, on a form approved by the city. In order that adequate arrangements may be made for the proper protection of the parade, procession or assembly, the permit application shall contain the following information:

1. The name of the applicant, the name of the organization sponsoring the parade, procession or assembly, and the addresses and telephone numbers of each.

2. The purpose of the parade, procession or assembly, the date when the parade, procession or assembly is proposed to be conducted, the proposed location of the parade, procession or assembly area; the estimated number of participants; the location of the disbanding area; the proposed route to be traveled and the approximate time that the parade, procession or assembly will assemble, start and terminate.

3. Any description of the individual floats, marching units, vehicles and bands, including a description of any sound amplification equipment to be used.

4. Such other information as the chief of police may deem reasonably necessary to protect the public health, safety or welfare. (Ord. 2002-33 § 2, 2002)

12.06.050 Exemptions from permit requirement.

Notwithstanding the requirements of BIMC 12.06.030, a special event permit shall not be required for the following activities:

A. Parades, athletic events or other assemblies that occur exclusively on city property and are sponsored or conducted in full by the city. In such instances, the appropriate city official shall conduct an internal review process to ensure that the policies and purposes of this chapter are met;

B. Funeral and wedding processions;

C. Groups required by law to be so assembled;

D. Gatherings of less than 30 people assembled in a city park for a common purpose, unless such gathering is for the purpose of offering merchandise or services for sale or trade;

E. Activities of state and federal governmental agencies, including military units, which are performed within the scope of such agency's duties and functions. (Ord. 2002-33 § 2, 2002)

12.06.060 Permit issuance.

The chief of police or other designated city official shall act upon a timely and complete application for a special event permit within 14 days after the complete application is filed with the city. A timely and complete application for a special event permit shall be approved upon the applicant's written acceptance of the permit terms and conditions of this chapter, unless grounds exist for denying the permit pursuant to BIMC 12.06.070. The chief of police or other designated official shall notify the applicant in writing of the determination on the application, and shall set forth any additionally imposed permit conditions, or the grounds for denial, if applicable. If an application is denied, the chief of police or other designated official shall further notify the applicant in writing of the applicant's right to appeal the conditions or denial of the permit pursuant to BIMC 12.06.120. (Ord. 2002-33 § 2, 2002)

12.06.070 Grounds for denial or revocation of permit.

Approval of a special event permit may be denied and/or revoked if the chief of police or designated city official reasonably determines that:

- A. The proposed event would endanger public safety or health;
- B. The proposed event would seriously inconvenience or impair the general public's use of public property, services or facilities;
- C. The proposed event interferes with another parade, procession or assembly for which a permit has previously been issued or requested;
- D. The applicant fails to submit a timely and complete application form after having been notified that additional information and/or documents are required;
- E. Information contained in the application, or supplemental information requested from the applicant, is found to be false in any material detail;
- F. The applicant refuses or fails to agree to abide by, or comply with, all of the conditions and terms of the permit;

G. The location of the proposed event will substantially interfere with any construction or maintenance work scheduled to take place upon or along public property or right-of-way, or a previously granted encroachment permit;

H. The proposed event is scheduled to occur at a route or location adjacent to a school or class during a time when such school or class is in session, and the noise created by the activities of the event would substantially disrupt the educational activities of the school or class;

I. The purpose of the proposed event is to incite crime or the overthrow of the government by force or promote terrorism; or

J. The applicant refuses or fails to remit all customary and reasonable fees, charges, deposits, insurance or bonds, if any, required by the city for the use of the public place that is the subject of the permit application. (Ord. 2002-33 § 2, 2002)

12.06.080 Content of permit.

Each special event permit that is issued by the city shall specify:

- A. The assembly area for the parade, procession or assembly, and time therefor;
- B. The starting time of the parade, procession or assembly;
- C. The minimum and maximum traveling speeds of the participants of the parade, procession and assembly;
- D. The route of the parade, procession or assembly;
- E. The portions of the street or other public area to be traversed and which may be occupied by the parade, procession or assembly participants;
- F. The maximum number of units and the maximum and minimum intervals of space to be maintained between the units of the parade, procession or assembly;
- G. The maximum length or area of the parade, procession or assembly;
- H. The disbanding area of the parade, procession or assembly, and the disbanding time therefor;
- I. The number of persons required to monitor the parade, procession or assembly;

J. The number and type of vehicles used in the parade, procession or assembly;

K. That the materials used in the construction of floats used in the parade, procession or assembly shall be of fire-retardant materials and shall be subject to such requirements concerning fire safety as may be determined by the fire chief;

L. That the permittee shall advise the participants in the parade, procession or assembly of the terms and conditions of the permit prior to the commencement of such special event;

M. Any willful delay or willful stopping of the parade, procession or assembly, except when reasonably required for the safe and orderly conduct of the special event or due to breakdown or accident, shall constitute a violation of the permit;

N. That the vehicles and floats used in the parade, procession or assembly shall be subject to a safety inspection by the city police department and such vehicles and floats may not participate in the parade, procession or assembly until they have successfully completed such inspection;

O. Such other requirements as are found by the chief of police to be reasonably necessary for the protection of persons or property. (Ord. 2002-33 § 2, 2002)

12.06.090 Indemnification agreement.

Before a special event permit may be issued, the permit applicant and authorized officer of the sponsoring organization must agree to indemnify and defend the city, its officers, employees, and agents from all causes of action, claims or liabilities occurring in connection with the permitted event, except those which occur due to the city's sole negligence. (Ord. 2002-33 § 2, 2002)

12.06.100 Insurance.

The following insurance shall be required in connection with the issuance of special use permits which involve the use of motor vehicles, horses or other animals, other than dogs or cats, or the use of fireworks or other incendiary devices: \$1,000,000 commercial general

liability insurance per occurrence combined single limits, \$2,000,000 aggregate, unless waived by designated city official.

The chief of police or designated city official is authorized and directed to require written proof of such insurance prior to permit issuance. The insurance policy shall be written on an occurrence basis; shall name the city as an additional insured, shall be written for a period not less than 24 hours prior to the event and extending for a period not less than 24 hours following the completion of the event, and shall contain a provision prohibiting cancellation of the policy except upon 30 days' written notice to the city. (Ord. 2002-33 § 2, 2002)

12.06.110 Fees and deposits.

A. Application Fee. A nonrefundable permit processing fee will be charged in accordance with the city's fee schedule.

B. Clean-Up Deposit. The applicant or sponsoring organization of a special event involving the sale of food or beverages for immediate consumption, the erection of structures, the use of horses or other animals, other than dogs and cats, or the use of fireworks or other incendiary devices, will be required to provide a clean-up deposit prior to the issuance of a special event permit, in an amount reasonably anticipated to be incurred in removing debris or litter caused by such special event, as determined by the city. The clean-up deposit may be returned after the special event if the applicant or sponsoring organization cleans and restores the area used for the permitted event to the same condition as existed prior to the event. If the property used for the event has not been properly cleaned or restored, the clean-up deposit shall be applied toward the city's costs in cleaning up the permitted area with either city employees or contracted services at the city's sole discretion. (Ord. 2002-33 § 2, 2002)

12.06.120 Appeal procedure.

The applicant shall have the right to appeal a denial of a special event permit, or a condition imposed thereby, including the amount of fees or clean-up deposits imposed pursuant to

BIMC 12.06.110, or a determination that the applicant's certificate of insurance does not comply with the requirements of BIMC 12.06.100. A written notice of appeal shall be filed within 10 days from the date of the denial or conditional approval. The written notice of appeal shall set forth the specific grounds for the appeal and attach any relevant documents for consideration. The city council shall hear the appeal on the record provided from the designated city official and upon public comment given at the scheduled hearing before the council. The hearing shall be scheduled no later than 30 days after receipt of a timely and proper notice of appeal. The decision of the city council on the appeal shall be final.

If there is insufficient time for a timely appeal to be heard by the city council prior to the date on which the event is scheduled, the applicant may, at the applicant's option, request that the city administrator hear the appeal. The city administrator shall hold a hearing no later than five business days after the filing of the appeal and shall render a decision no later than one business day after the hearing on the appeal is closed. If the appeal is requested and heard before the city administrator, the city administrator's decision shall be final. (Ord. 2002-33 § 2, 2002)

12.06.130 Violation – Penalty.

Any person or organization violating the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a penalty of a fine of not more than \$500.00 or by imprisonment of not more than 90 days, or both such fine and imprisonment. (Ord. 2002-33 § 2, 2002)

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permit pursuant to BIMC 12.06.070. The chief of police or other designated official shall notify the applicant in writing of the determination on the application, and shall set forth any additionally imposed permit conditions, or the grounds for denial, if applicable. If an application is denied, the chief of police or other designated official shall further notify the applicant in writing of the applicant's right to appeal the conditions or denial of the permit pursuant to BIMC 12.06.120. (Ord. 2003-21 § 2, 2003)

12.06.070 Grounds for denial or revocation of permit.

Approval of a special event permit may be denied and/or revoked if the chief of police or designated city official reasonably determines that:

- A. The proposed event would endanger public safety or health;
- B. The proposed event would seriously inconvenience or impair the general public's use of public property, services or facilities;
- C. The proposed event interferes with another parade, procession or assembly for which a permit has previously been issued or requested;
- D. The applicant fails to submit a timely and complete application form after having been notified that additional information and/or documents are required;
- E. Information contained in the application, or supplemental information requested from the applicant, is found to be false in any material detail;
- F. The applicant refuses or fails to agree to abide by, or comply with, all of the conditions and terms of the permit;
- G. The location of the proposed event will substantially interfere with any construction or maintenance work scheduled to take place upon or along public property or right-of-way, or a previously granted encroachment permit;
- H. The proposed event is scheduled to occur at a route or location adjacent to a school or class during a time when such school or class is in session, and the noise created by the

activities of the event would substantially disrupt the educational activities of the school or class;

I. The purpose of the proposed event is to incite crime or the overthrow of the government by force; or

J. The applicant refuses or fails to remit all customary and reasonable fees, charges, deposits, insurance or bonds, if any, required by the city for the use of the public place that is the subject of the permit application. (Ord. 2003-21 § 2, 2003)

12.06.080 Content of permit.

Each special event permit that is issued by the city shall specify:

- A. The assembly area for the parade, procession or assembly, and time therefor;
- B. The starting time of the parade, procession or assembly;
- C. The minimum and maximum traveling speeds of the participants of the parade, procession and assembly;
- D. The route of the parade, procession or assembly;
- E. The portions of the street or other public area to be traversed and which may be occupied by the parade, procession or assembly participants;
- F. The maximum number of units and the maximum and minimum intervals of space to be maintained between the units of the parade, procession or assembly;
- G. The maximum length or area of the parade, procession or assembly;
- H. The disbanding area of the parade, procession or assembly, and the disbanding time therefor;
- I. The number of persons required to monitor the parade, procession or assembly;
- J. The number and type of vehicles used in the parade, procession or assembly;
- K. That the materials used in the construction of floats used in the parade, procession or assembly shall be of fire-retardant materials and shall be subject to such requirements concerning fire safety as may be determined by the fire chief;

L. That the permittee shall advise the participants in the parade, procession or assembly of the terms and conditions of the permit prior to the commencement of such special event;

M. That the parade, procession or assembly shall continue to move at a fixed rate of speed, and that any willful delay or willful stopping of the parade, procession or assembly, except when reasonably required for the safe and orderly conduct of the special event, shall constitute a violation of the permit;

N. That the vehicles and floats used in the parade, procession or assembly shall be subject to a safety inspection by the city police department and such vehicles and floats may not participate in the parade, procession or assembly until they have successfully completed such inspection;

O. Such other requirements as are found by the chief of police to be reasonably necessary for the protection of persons or property. (Ord. 2003-21 § 2, 2003)

12.06.090 Indemnification agreement.

Before a special event permit may be issued, the permit applicant and authorized officer of the sponsoring organization must agree to indemnify and defend the city, its officers, employees, and agents from all causes of action, claims or liabilities occurring in connection with the permitted event, except those which occur due to the city's sole negligence. (Ord. 2003-21 § 2, 2003)

12.06.100 Insurance.

The following insurance shall be required in connection with the issuance of special use permits which involve the use of motor vehicles, horses or other animals, other than dogs or cats, or the use of fireworks or other incendiary devices: \$1,000,000 commercial general liability insurance per occurrence combined single limits, \$2,000,000 aggregate, unless waived by designated city official.

The chief of police or designated city official is authorized and directed to require written proof of such insurance prior to permit issuance. The insurance policy shall be written on an occurrence basis, shall name the city as an additional insured, shall be written for a

period not less than 24 hours prior to the event and extending for a period not less than 24 hours following the completion of the event, and shall contain a provision prohibiting cancellation of the policy except upon 30 days' written notice to the city. (Ord. 2003-21 § 2, 2003)

12.06.110 Fees and deposits.

A. Clean-Up Deposit. The applicant or sponsoring organization of a special event involving the sale of food or beverages for immediate consumption, the erection of structures, the use of horses or other animals, other than dogs and cats, or the use of fireworks or other incendiary devices, will be required to provide a clean-up deposit prior to the issuance of a special event permit, in an amount reasonably anticipated to be incurred in removing debris or litter caused by such special event, as determined by the chief of police or designee. The clean-up deposit may be returned after the special event if the applicant or sponsoring organization cleans and restores the area used for the permitted event to the same condition as existed prior to the event. If the property used for the event has not been properly cleaned or restored, the clean-up deposit shall be applied toward the city's costs in cleaning up the permitted area. There may be requirements for police officers to control traffic, provide security, and protect people and property. Public works may have costs for placing barricades, roadway preparation, and clean-up. (Ord. 2003-21 § 2, 2003)

12.06.120 Appeal procedure.

The applicant shall have the right to appeal a denial of a special event permit, or a condition imposed thereby, including the amount of fees or clean-up deposits imposed pursuant to BIMC 12.06.110, or a determination that the applicant's certificate of insurance does not comply with the requirements of BIMC 12.06.100. A written notice of appeal shall be filed within 10 days from the date of the denial or conditional approval. The written notice of appeal shall set forth the specific grounds for the appeal and attach any relevant documents for consideration. The city council shall hear

the appeal on the record provided from the designated city official and upon public comment given at the scheduled hearing before the council. The hearing shall be scheduled no later than 30 days after receipt of a timely and proper notice of appeal. The decision of the city council on the appeal shall be final.

If there is insufficient time for a timely appeal to be heard by the city council prior to the date on which the event is scheduled, the applicant may, at the applicant's option, request that the city manager hear the appeal. The city manager shall hold a hearing no later than five business days after the filing of the appeal and shall render a decision no later than one business day after the hearing on the appeal is closed. If the appeal is requested and heard before the city manager, the city manager's decision shall be final. (Ord. 2009-21 § 35, 2009; Ord. 2003-21 § 2, 2003)

12.06.130 Violation – Penalty.

Any person or organization violating the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a penalty of a fine of not more than \$500.00 or by imprisonment of not more than 90 days, or both such fine and imprisonment. (Ord. 2003-21 § 2, 2003)

Chapter 12.08

REMOVAL OF SNOW AND ICE

Sections:

12.08.010 Person occupying property deemed.

12.08.020 Duty of person occupying property.

12.08.030 Violation – Penalty.

12.08.010 Person occupying property deemed.

The term "persons occupying property" means owners, tenants, subtenants and licensees who occupy or are entitled to occupy and make general use of the property; provided, that in the case of apartment houses, rooming-houses, and similar buildings, the term "persons occupying property" means the person or persons owning or in control and management of the building on the property; and, provided further, that in the case of office buildings, duplexes, and other property occupied by more than one person, firm or family and not included above, the term "persons occupying property" means each of the owners or occupiers of such building whose premises or entrance are on street level, and they shall be responsible for so much of the sidewalk as is adjacent to their premises and/or entrance. (Ord. 74-08 § 2, 1974)

12.08.020 Duty of person occupying property.

It shall be the duty of persons occupying property abutting on public sidewalks to keep those sidewalks free from snow and ice. (Ord. 74-08 § 1, 1974)

12.08.030 Violation – Penalty.

Every person convicted of a violation of any provision of this chapter shall be punished by a fine of not more than \$500.00, or by imprisonment for not more than six months, or by both such fine and imprisonment. (Ord. 74-08 § 3, 1974)

Chapter 12.12

**RESTRICTION OF TRAVEL AND
CLOSURE OF ROADWAYS**

Sections:

12.12.010 Procedures established.

12.12.020 Restrictions due to climatic conditions.

12.12.030 Authority of city engineer to close roads.

12.12.040 School buses and certain emergency vehicles exempt.

12.12.050 Closure of state highways.

12.12.060 Signposting required.

12.12.070 Violation – Penalty.

12.12.010 Procedures established.

Whereas RCW 47.48.010 authorizes cities and towns to establish procedures allowing closure and restrictive travel of roadways within said cities and towns, and the city council finding that an emergency exists, the procedures set forth in this chapter are established. (Ord. 79-03 § 1, 1979)

12.12.020 Restrictions due to climatic conditions.

When, in the judgment of the city engineer, climatic conditions exist which could or would cause damage to roadways or streets within the city unless travel on such roadways or streets is restricted or eliminated, the city engineer so finding is authorized and empowered to close or restrict travel on such roadways or streets. (Ord. 79-03 § 2, 1979)

12.12.030 Authority of city engineer to close roads.

The city engineer is specifically authorized to order closure of such roadways or streets. The city engineer is specifically authorized to restrict by gross weight, axle weight, height, width, length, braking area, performance, or tire equipment what vehicles may pass upon such roadways or streets subject to his order. (Ord. 79-03 § 3, 1979)

12.12.040 School buses and certain emergency vehicles exempt.

Notwithstanding the foregoing, the city engineer is required to authorize travel of school buses, emergency vehicles, vehicles carrying perishables, and vehicles carrying items or products necessary for the public health and welfare. (Ord. 79-03 § 4, 1979)

12.12.050 Closure of state highways.

Notwithstanding the foregoing, the city engineer shall not restrict travel nor close to traffic, roadways or streets that are, or will be, designated as primary state highways without prior written approval from the Washington State Highway Commission. (Ord. 79-03 § 5, 1979)

12.12.060 Signposting required.

It shall be the duty of the city engineer to post, or cause to be posted, signs at both ends of any roadways or streets subject to closure or restrictive travel which signs shall apprise the public of the order of closure or restrictive travel. (Ord. 79-03 § 6, 1979)

12.12.070 Violation – Penalty.

There shall be imposed upon any person operating a vehicle in violation of the city engineer's order a fine not to exceed \$500.00, or imprisonment not to exceed six months, or both such fine and imprisonment. (Ord. 79-03 § 7, 1979)

Chapter 12.16**STREET AND HOUSE NUMBERING****Sections:**

- 12.16.010 Purpose.**
- 12.16.020 Definitions.**
- 12.16.030 Principles applied within the former city boundaries.**
- 12.16.040 Principles applied outside the former city boundaries.**
- 12.16.050 Way-of-travel names.**
- 12.16.060 Assignment of addresses.**
- 12.16.070 Signage.**
- 12.16.080 Powers and duties of the department.**
- 12.16.090 Violation – Penalty – Hearing.**
- 12.16.100 Repealed.**

12.16.010 Purpose.

The purpose of this chapter is to grant the department the sole authority to assign road names and numbers, and address structures within the city. This chapter generally maintains existing road names and numbers and provides a method for assigning new names and numbers. (Ord. 92-28 § 2, 1992)

12.16.020 Definitions.

The following words or phrases, whenever used in this chapter, shall have the following meanings, unless where used the context clearly indicates to the contrary:

A. "Alley" means a public or private way-of-travel 20 feet or less in width not designated or improved for general travel and used as a means of secondary access or to the rear of residential, business or other property.

B. "Avenue" means a way-of-travel which runs generally north and south.

C. "Boulevard" means a way-of-travel that meanders and crosses several grids separated by a maintained planting area.

D. "Circle" means a short way-of-travel which begins and returns back to end on itself.

E. "Court" means a way-of-travel under two grid blocks long ending in a dead end or cul-de-sac.

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F. "Department" means the department of planning and community development for the city.

G. "Designate" means to name a way-of-travel whether by name or number.

H. "Drive" means an irregular or diagonal way-of-travel over two grid blocks in length.

I. "Lane" means a privately owned way-of-travel.

J. "Loop" means a short drive which begins and ends on the same street.

K. "Official Map" means the Kitsap County Community Development Addressing System Map Book, dated July 1, 1977.

L. "Place" means a way-of-travel which is off the grid.

M. "Road" means a way-of-travel which heretofore has been designated as a road.

N. "Street" means a way-of-travel which runs generally east and west.

O. "Way" means a way-of-travel which meanders through several grids.

P. "Way-of-travel" means a roadway of whatever sort, including but not limited to, avenues, boulevards, circles, courts, drives, lanes, loops, places, tracts and ways, which is capable of carrying vehicular traffic. (Ord. 92-28 § 2, 1992)

12.16.030 Principles applied within the former city boundaries.

Within the boundaries of the city of Winslow, as they existed on February 27, 1991, the department shall apply the following principles:

A. All ways-of-travel shall be designated by names, assigned at intervals of one-sixteenth of a mile from the base or meridian lines herein established.

B. The base line for way names shall be Winslow Way and shall bear the suffix "E" (east) on the east side of Madison Avenue and the suffix "W" (west) on the west side of Madison Avenue.

C. Ways-of-travel running generally east-west, north of Winslow Way shall bear the suffix "NE" (northeast) on the east side of Madison Avenue and "NW" (northwest) on the west side of Madison Avenue.

D. Ways-of-travel running generally east-west, south of Winslow Way shall bear the suffix "SE" (southeast) on the east side of Madison Avenue and "SW" (southwest) on the west side of Madison Avenue.

E. The meridian line for ways-of-travel, running generally north-south shall be Madison Avenue and shall bear the suffix "N" (north) on the north side of Winslow Way and the suffix "S" (south) on the south side of Winslow Way.

F. Ways-of-travel running generally north-south, north of Winslow Way shall bear the suffix "NE" (northeast) on the east side of Madison Avenue and "NW" (northwest) on the west side of Madison Avenue.

G. Avenues and places running generally north-south, south of Winslow Way shall bear the suffix "SE" (southeast) on the east side of Madison Avenue and "SW" (southwest) on the west side of Madison Avenue.

H. Block or grid numbering pattern shall be as follows:

1. Beginning at the east-west base line of Winslow Way (the zero point), all blocks or grids shall be numbered from one, with consecutively increasing numbers both to the north and to the south.

2. Likewise, beginning at the north-south base line of Madison Avenue (the zero point), all blocks or grids shall be numbered from one, with consecutively increasing numbers both to the east and to the west.

I. House or premises numbers shall be determined by adding two digits to the grid number in which such structure is located.

J. Consecutive numbers shall be assigned on ways or places running east-west for each 22-foot interval commencing from the nearest avenue intersection with the numbers beginning at the end of the block nearest the meridian.

K. Consecutive numbers shall be assigned on avenues or places running north-south for each 22-foot interval from the nearest way intersection with the numbers beginning at the end of the block nearest the base line.

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L. In the assignment of numbers, the department may take into consideration: drive-ways, principal entrances, topography and existing field conditions.

M. The houses or premises located on the south and/or west side of such ways-of-travel shall receive odd numbers and the premises or houses on the north and/or east side of such ways shall receive even numbers. (Ord. 92-28 § 2, 1992)

12.16.040 Principles applied outside the former city boundaries.

Outside the boundaries of the old city of Winslow, as they existed on February 27, 1991, the department shall apply the following principles:

A. The baseline shall be that shown in the Official Map.

B. Each numbered block in the system shall equal 330 feet.

C. Ways-of-travel running generally east and west shall have a prefix of NE (northeast) and the numbers will run from 4000 on the west to 12800 on the east.

D. Ways-of-travel running generally north and south shall have a suffix of NE (northeast) and the numbers will run from 1200 on the south to 17400 on the north.

E. Numerical Designations of Buildings and Real Property.

1. Structures designated by this chapter shall be designated numerically. The first numerals of such designation shall consist of the grid block number as shown by the Official Map in which the building or property is situated, for example, 80, 176. The last two numerals of such designation shall be determined by adding one digit for no less than 10 feet of distance as measured from the nearest, numerically lowest grid block but in any event the last two numerals shall be proportionally equivalent to the actual distance between grid blocks between which the building or property is situated, for example 02, 09, 52, 93.

The complete numerical designation for a building may be, for example, 8002 or 17652.

2. For measurement purposes in determining the last two numerals of the numerical

designation, the location of the main entrance to the property on which the building is situated shall be considered.

3. Except as provided in subsection 4 below, even numerical designations shall be assigned to the north and east sides of ways-of-travel and odd numerical designations shall be assigned to the south and west sides of ways-of-travel. The geographic direction of a way-of-travel shall be determined by observing its overall length and noting its general or predominant direction. When possible even and odd numerical designations shall be assigned consecutively and opposite one another.

4. Buildings situated on a circle, court, or loop shall be numbered consecutively beginning at the point of origin and proceeding progressively around such circle, court or loop.

5. Buildings with multiple tenantable or habitable units may receive one numerical designation. Individual units may be designated by suffixed letters or numbers, at the discretion of the department. (Ord. 92-28 § 2, 1992)

12.16.050 Way-of-travel names.

A. The department shall designate all public or private ways-of-travel, now existing or hereafter created; provided, that no name shall be assigned to a private way-of-travel unless the same serves two or more properties other than the tract of which it is a portion and unless an easement has been granted by recorded deed. When a private way-of-travel has branches that have more than three houses or lots on a branch, the way-of-travel shall be assigned a name.

B. New ways-of-travel shall be identified within the confines of the new definitions.

C. Extensions of existing ways-of-travel may bear the name and designation of the existing way-of-travel. Those extending outside the former city limits of the city of Winslow may be assigned the Kitsap County designations and numbers.

D. Ways-of-travel, designations and names existing prior to the adoption of this chapter shall remain the same except if, in the opinion of the department, such a change is

necessary to reduce or eliminate potential confusion or promote public safety, or upon application of a majority of persons having ownership of adjacent properties. Ways-of-travel, names and designations called out on old plot plans that do not conform to this chapter may be changed to conform.

E. Only entire way-of-travel lengths or distinct major portions of ways-of-travel shall be separately renamed by the city. For purposes of this chapter, "distinct major portions" shall mean a separate portion of a way-of-travel identifiable by either a directional shift of at least 45 degrees or an interrupted interval of at least one quarter mile.

F. Applications for way-of-travel names or name changes shall contain the signatures of the majority of persons having ownership in properties addressed on the way-of-travel to be designated.

G. Notice of proposed name changes shall be mailed to all property owners on the way-of-travel at least 20 days prior to action by the city.

H. When choosing a name, the department shall consider any applicant's preferences, local history and culture, location and developmental characteristics of the way-of-travel, and the impact of the change on existing businesses or residences and on emergency vehicle responsiveness. The department may reject names which are offensive or objectionable to the community or which could be confusing.

I. Any decision of the department is final unless within 10 days of the decision, the decision is appealed to the city council by filing a written notice of appeal with the city clerk. (Ord. 92-28 § 2, 1992)

12.16.060 Assignment of addresses.

A. The department shall assign addresses at the time of issuance of building permits. The department shall then notify the U.S. Postal Service and Fire District No. 2, and other appropriate agencies.

B. Should the department find that any building, structure or premises is not provided with an address, is not correctly addressed, or is not using the correct address, the department shall notify the owner, agent or renter of the

building, structure or premises of the correct address. The address shall be properly placed in accordance with the provisions of this chapter by the effective date shown on the notice. It shall be unlawful for any owner, agent or renter to display, advertise or use the wrong address after notification by the department.

C. Whenever there is a doubt or difference of opinion as to the correct road designation or correct address, the road designation or address shall be determined by the department and shall be guided by the specific provisions of this chapter. (Ord. 92-28 § 2, 1992)

12.16.070 Signage.

A. The owner, occupant or renter of any addressed building, structure or premises shall conspicuously display the address of each building or each front entrance immediately above, on or at the side of the proper door so the number can be plainly seen from the adjacent way-of-travel.

B. If the building is not clearly visible from an adjacent way-of-travel, the numbers shall be displayed at the main entrance from the way-of-travel and each branch of private ways-of-travel.

C. Numbers shall be easily legible against a contrasting background and shall be at least three inches in height if a residential use or individual multifamily unit, and at least five inches high if a commercial use. (Ord. 92-28 § 2, 1992)

12.16.080 Powers and duties of the department.

A. The department is authorized and empowered to promulgate reasonable rules and regulations to implement and effect this chapter and to insure the proper operation of the addressing and grid system.

B. The department shall maintain maps and files which catalog names or numerical designations of ways-of-travel and numerical designations of buildings. (Ord. 92-28 § 2, 1992)

12.16.090 Violation – Penalty – Hearing.

A. Any person failing to comply with the provisions of this chapter, or affixing to or displaying upon any house or building any numbers other than those assigned to the house or building, shall be assessed a civil penalty in an amount of not more than \$100.00 for each violation.

B. When the department determines that a violation exists, the department director may issue a notice of civil penalty to the person responsible for the violation. The notice shall include the name and address of the person responsible for the violation, the street address or other description of the building, structure or premises affected by the violation, a description of the violation and the required corrective action, the date, time and location of an appeal hearing before the hearing examiner which is at least 10 days from the date of the notice, a statement indicating that the hearing will be canceled and no monetary penalty assessed if the department director approves the completed corrective action at least 48 hours prior to the hearing, and a statement that the monetary penalty may be assessed as ordered by the hearing examiner.

C. The department director shall serve the notice of civil penalty upon the person to whom it is directed, either personally or by mailing a copy of the notice to such person at their last known address. If the person to whom the notice is directed cannot after due diligence be so served, the notice shall be served by posting a copy of the notice conspicuously on the affected property or structure.

D. The person to whom a notice of civil penalty is issued will be scheduled to appear before the hearing examiner not less than 10 days after date of the notice. The hearing will be canceled and no monetary penalty assessed if at least 48 hours prior to the scheduled hearing the department director approves the completed corrective action. At any hearing, the hearing examiner shall determine whether the city has established by a preponderance of the evidence that a violation has occurred and that the required correction is reasonable and shall affirm, vacate or modify the city's decision regarding the alleged violation and the

required corrective action. The hearing examiner shall mail a copy of the written decision to the appellant and to the department director within 30 days of the hearing. The decision of the hearing examiner shall be final unless, within 10 days after filing of the decision, an aggrieved party appeals the hearing examiner's decision by writ of review to the county superior court.

E. Payment of the monetary penalty pursuant to this chapter does not relieve the person to whom the notice of civil penalty was issued of the duty to correct the violation. Any monetary penalty assessed must be paid to the city within 10 days from the date of mailing of the hearing examiner's decision or a notice from the city that penalties are due. The city attorney or designee is authorized to take appropriate action to collect the monetary penalty. (Ord. 92-28 § 2, 1992)

12.16.100 Severability.

Repealed by Ord. 2003-24. (Ord. 92-28 § 2, 1992)

Chapter 12.20

PARK REGULATIONS

Sections:

- 12.20.010 Short title.
- 12.20.020 Definitions.
- 12.20.030 Park property.
- 12.20.040 Sanitation.
- 12.20.050 Traffic.
- 12.20.060 Recreational activities.
- 12.20.070 Behavior.
- 12.20.080 Merchandising, advertising and signs.
- 12.20.090 Hours of operation.
- 12.20.100 Closed areas.
- 12.20.110 Lost and found articles.
- 12.20.120 Permits – Required – Application.
- 12.20.130 Permits – Standards for issuance.
- 12.20.140 Permits – Conditions of issuance.
- 12.20.150 Permits – Damage deposit required.
- 12.20.160 Permits – Appeal.
- 12.20.170 Permits – Effect.
- 12.20.180 Permits – Liability of permittee.
- 12.20.190 Permits – Revocation.
- 12.20.200 Decisions of director final.
- 12.20.210 Enforcement authorized.
- 12.20.220 Ejectment of violators.
- 12.20.230 Seizure of property.
- 12.20.240 *Repealed*.
- 12.20.250 Violation – Penalty.

12.20.010 Short title.

The ordinance codified in this chapter shall be known and may be cited as the “Bainbridge Island park ordinance.” (Ord. 77-09 § 1, 1977)

12.20.020 Definitions.

For the purposes of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given in this section:

A. “Boat” is any floating vessel whether propelled or not.

B. *Repealed by Ord. 2003-22.*

C. *Repealed by Ord. 2003-22.*

D. “Park” is a park, reservation, playground, beach, recreation center or any other area in the city, owned or used by the city, and devoted to active or passive recreation.

E. *Repealed by Ord. 2003-22.*

F. “Vehicle” is any wheeled conveyance, whether motor powered, animal-drawn, or self-propelled. The term includes any trailer in tow of any size, kind or description. Exception is made for baby carriages and vehicles in the service of the city parks. (Ord. 2003-24 § 21, 2003; Ord. 2003-22 § 12, 2003; Ord. 77-09 § 2, 1977)

12.20.030 Park property.

No person in a park shall:

A. Buildings and Other Property.

1. Disfigurement and Removal. Wilfully mark, deface, disfigure, injure, tamper with, or displace or remove, any building, bridges, tables, benches, fireplaces, railings, paving or paving material, water lines or other public utilities or parts or appurtenances thereof, signs, notices or placards whether temporary or permanent, monuments, stakes, posts, or other boundary markers, or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal,

2. Restrooms and Washrooms. Fail to cooperate in maintaining restrooms and washrooms in a neat and sanitary condition,

3. Removal of Natural Resources. Dig, or remove any beach sand, whether submerged or not, or any soil, rock, stones, trees, shrubs or plants, down-timber or other wood or materials, or make any excavation by tool, equipment, blasting, or other means or agency,

4. Erection of Structures. Construct or erect any building or structure of whatever kind, whether permanent or temporary in character, or run or string any public service utility into, upon, or across such lands, except on special written permit issued under this chapter;

B. Trees, Shrubbery, Lawns.

1. Injury and Removal. Damage, cut, carve, transplant or remove any tree or plant or injure the bark, or pick the flowers or seeds, of any tree or plant; nor shall any person attach

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any rope, wire, or other contrivance to any tree or plant. A person shall not dig in or otherwise disturb grass areas, or in any other way injure or impair the natural beauty or usefulness of any area,

2. Climbing Trees, etc. Climb any tree or walk, stand or sit upon monuments, vases, fountains, railing, fences or upon any other property not designated or customarily used for such purposes,

3. Hitching of Animals. Tie or hitch a horse or other animal to any tree or plant;

C. Wild Animals, Birds, etc.

1. Hunting. Hunt, molest, harm, frighten, kill, trap, chase, tease, shoot or throw missiles at any animal, reptile or bird, nor shall he remove or have in his possession the young of any wild animal, or the eggs or nest, or young of any reptile or bird,

2. Feeding. Give or offer, or attempt to give, to any animal or bird any tobacco, alcohol or other known noxious substances;

D. Dogs at Large. Allow a dog under that person's care, custody or control to run at large. Such dog must be on leash or within immediate control of the person. (Ord. 86-21 § 1, 1986; Ord. 77-09 § 3, 1977)

12.20.040 Sanitation.

No person in a park shall:

A. Pollution of Waters. Throw, discharge, or otherwise place or cause to be placed in the waters of any stream, or other body of water in or adjacent to any park or any stream, storm sewer, or drain flowing into such waters, any substance, matter or thing, liquid or solid, which will or may result in the pollution of the waters;

B. Bring in, dump or deposit any trash, waste or garbage not generated during lawful use of the park or city moorage facilities. All trash, waste and garbage generated during lawful use of the park or city moorage facilities shall not be placed in any waters in or contiguous to the park nor left anywhere on the grounds, but shall be placed in the proper receptacles where provided. Where receptacles are not so provided, all such trash, waste and garbage shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere. (Ord. 86-21 § 2, 1986; Ord. 77-09 § 4, 1977)

12.20.050 Traffic.

No person in a park shall:

A. City Motor Vehicle Laws Apply. Fail to comply with all applicable provisions of the city motor vehicle traffic laws in regard to equipment and operation of vehicles together with such regulations as are contained in this chapter and other ordinances;

B. Enforcement of Traffic Regulations. Fail to obey all traffic officers and park employees, such persons being authorized and instructed to direct traffic whenever and wherever needed in the parks and on the highways, streets or roads immediately adjacent thereto in accordance with the provisions of these regulations and such supplementary regulations as may be issued subsequently by the director;

C. Obey Traffic Signs. Fail to observe carefully all traffic signs indicating speed, direction, caution, stopping, or parking, and all others posted for proper control and to safeguard life and property;

D. Speed of Vehicles. Ride or drive a vehicle or horse at a rate of speed exceeding 10 miles an hour, except upon such roads as the director may designate, by posted signs for speedier travel;

E. Operation Confined to Roads. Ride or drive any vehicle or horse on any area except the paved park roads or parking areas, or such other areas as may on occasion be specifically designated as temporary parking areas by the director;

F. Parking.

1. Designated Areas. Park a vehicle or

horse in other than an established or designated parking area, and such use shall be in accordance with the posted directions thereat and with the instructions of any attendant who may be present,

2. Immovable Vehicles. Leave any vehicle in the park with one or more wheels chained, or with motor set in gears and doors locked, or in any manner fixed or arranged so that such vehicle cannot readily be moved by hand,

3. Double Parking. Double park any vehicle on any road or parkway unless directed by a park official,

4. Muffler Required. Fail to use a muffler adequate to deaden the sound of the engine in a motor vehicle;

G. Bicycles.

1. Confined to Roads. Ride a bicycle on other than a paved vehicular road or path designated for that purpose. A bicyclist shall be permitted to wheel or push a bicycle by hand over any grassy area or wooded trail or on any paved area reserved for pedestrian use,

2. Operation. Ride a bicycle other than on the right-hand side of the road paving as close as conditions permit, and bicycles shall be kept in single file when two or more are operating as a group. Bicyclists shall at all times operate their machines with reasonable regard to the safety of others, signal all turns, pass to the right of any vehicle they are overtaking, and pass to the right of any vehicles they may be meeting,

3. Rider Prohibited. Ride any other person on a bicycle,

4. Designated Racks. Leave a bicycle in a place other than a bicycle rack when such is provided and there is a space available,

5. Immobile. Leave a bicycle lying on the ground or paving, or set against trees, or in any place or position where other persons may trip over or be injured by them. (Ord. 77-09 § 5, 1977)

12.20.060 Recreational activities.

No person in a park shall:

A. Bathing Areas. Erect, maintain, use or occupy on or in any beach or bathing area any tent, shelter or structure of any kind;

B. Boating.

1. Operation of Boats. Navigate, direct, or handle any boat in such a manner as to unjustifiably or unnecessarily annoy or frighten or endanger the occupants of any other boat,

2. Attach a boat to a mooring buoy for over a 48-hour period beginning at the first attachment. Anchor a boat over the bed of Eagle Harbor leased for the park in a manner to interfere with any boat attached to a buoy, or for a time exceeding the same time limit for use of the buoys,

3. "Raft" three boats together over the bed of Eagle Harbor leased for the park. This shall apply to boats using the city's mooring buoys, to boats at anchor both where the anchor is on city leased bed of Eagle Harbor and where the anchored boat drifts over city leased bed of Eagle Harbor, and to boats moored to adjacent piers;

C. Fishing. Engage in commercial fishing, or the buying or selling of fish caught in any waters;

D. Hunting and Firearms. Hunt, trap or pursue wildlife at any time. No person shall use, carry, or possess firearms of any descriptions, or air rifles, spring guns, bow and arrows, slings or any other forms of weapons potentially inimical to wildlife and dangerous to human safety, or any instrument that can be loaded with and fire blank cartridges, or any kind of trapping device. Shooting into park areas from beyond park boundaries is forbidden;

E. Picnic Areas and Use.

1. Regulated. Picnic or lunch in a place other than those designated for that purpose. Attendants shall have the authority to regulate the activities in such areas when necessary to prevent congestion and to secure the maximum use for the comfort and convenience of all. Visitors shall comply with any directions given to achieve this end,

2. Availability. Violate the regulation that use of the individual fireplaces together with tables and benches follows generally the rule of "first come, first served",

3. Nonexclusive. Use any portion of the picnic areas or of any of the buildings or

structures therein for the purpose of holding picnics to the exclusion of other persons, nor shall any person use such area and facilities for an unreasonable time if the facilities are crowded,

4. Duty of Picnicker. Leave a picnic area before the fire is completely extinguished and before all trash in the nature of boxes, papers, cans, bottles, garbage and other refuse is placed in the disposal receptacles where provided. If no such trash receptacles are available, then refuse and trash shall be carried away from the park area by the picnicker to be properly disposed of elsewhere;

F. Camping. Camp in the open, or in tents, shacks, or any other temporary shelter, nor shall any person leave any movable structure or special vehicle to be used or that could be used for such purpose, such as house trailer, camp trailer, camp wagon, or the like;

G. Games. Take part in or abet the playing of any games involving thrown or otherwise propelled objects such as balls, stones, arrows, javelins or model airplanes, except in areas set apart for such forms of recreation. The playing of rough or comparatively dangerous games such as football, baseball and quoits is prohibited except on the fields and courts or areas provided therefor. Roller skating and riding skateboards shall be confined to those areas specifically designated for such pastime;

H. Horseback Riding. Ride a horse except on designated bridle trails. Where permitted, horses shall be thoroughly broken and properly restrained, and ridden with due care, and shall not be allowed to graze or go unattended, nor shall they be hitched to any rock, tree or shrub. (Ord. 93-32 § 1, 1993; Ord. 88-09 § 1, 1988; Ord. 77-09 § 6, 1977)

12.20.070 Behavior.

No person in a park shall:

A. Intoxicating Beverages. Have entered or be under the influence of intoxicating liquor;

B. Fireworks and Explosives. Brought, or have in his possession, or set off or otherwise cause to explode or discharge or burn, any firecrackers, torpedo, rocket, or other fireworks or explosives of inflammable material, or dis-

charge them or throw them into any such area from land or water adjacent thereto. This prohibition includes any substance, compound, mixture, or article that in conjunction with any other substance or compound would be dangerous from any of the foregoing standpoints;

C. Domestic Animals. Have been responsible for the entry of a dog or other domestic animal into areas other than automobile parking concourses and walks immediately adjacent thereto; and in such other areas as may be clearly marked by signs bearing the words "Domestic Animals Permitted in This Area." Nothing in this section shall be construed as permitting the running of dogs at large. All dogs in those areas where such animals are permitted shall be restrained at all times on adequate leashes not greater than six feet in length;

D. Alms. Solicit contributions for any purpose, whether public or private;

E. Fires. Build or attempt to build a fire except in such areas and under such regulations as may be designated by the director. No person shall drop, throw, or otherwise scatter lighted matches, burning cigarettes or cigars, tobacco paper or other inflammable material, within any park area or on any highway, road or street abutting or contiguous thereto;

F. Closed Areas. Enter an area posted as "Closed to the Public," nor shall any person use, or abet the use of any area in violation of posted notices;

G. Games of Chance. Gamble, or participate in or abet any game of chance;

H. Loitering and Boisterousness. Sleep or protractedly lounge on the seat, or benches, or other areas, or engage in loud, boisterous, threatening, abusive, insulting or indecent language, or engage in any disorderly conduct or behavior tending to a breach of the public peace;

I. Exhibit Permits. Fail to produce and exhibit any permit from the director he claims to have upon request of any authorized person who desires to inspect the same for the purpose of enforcing compliance with any ordinance or rule;

J. Interference with Permittees. Disturb or interfere unreasonably with any person or

party occupying any area, or participating in any activity, under the authority of a permit. (Ord. 77-09 § 7, 1977)

12.20.080 Merchandising, advertising and signs.

No person in a park shall:

A. Vending and Peddling. Expose or offer for sale any article or thing, nor shall he station or place any stand, cart or vehicle for the transportation, sale or display of any such article or thing, except on special written permit issued under this chapter;

B. Advertising. Announce, advertise, or call the public attention in any way to any article or service for sale or hire, except on written permit issued under this chapter;

C. Signs. Paste, glue, tack or otherwise post any sign, placard, advertisement, or inscription other than by written permit under subsection B of this section, nor shall any person erect or cause to be erected any sign whatever on any public lands or roads in or adjacent to a park other than by written permit under subsection B of this section. (Ord. 79-19, 1979; Ord. 77-09 § 8, 1977)

12.20.090 Hours of operation.

A. Except for unusual and unforeseen emergencies, parks shall be open to the public every day of the year during designated hours, other than as provided in subsection B. The opening and closing hours for each individual park shall be posted therein for public information.

B. Minor Park Curfew. No minor child under the age of 18 shall enter or remain in the area known as Eagle Harbor Waterfront Park during designated nighttime hours as determined by the director; provided, that a minor child shall not be deemed to be "entering or remaining," as used in this subsection, when such minor child is accompanied by his or her parent or guardian. Appropriate signs shall be placed so as to give the public notice of the foregoing restriction. (Ord. 86-24 § 1, 1986; Ord. 77-09 § 9(1), 1977)

12.20.100 Closed areas.

Any section or part of any park may be declared closed to the public by the director at any time and for any interval of time, either temporarily or at regular and stated intervals (daily or otherwise) and either entirely or merely to certain uses, as the director finds reasonably necessary. (Ord. 77-09 § 9(2), 1977)

12.20.110 Lost and found articles.

The finding of lost articles by park attendants shall be reported to the director who shall make every reasonable effort to locate the owners. The director shall make every reasonable effort to find articles reported as lost. (Ord. 77-09 § 9(3), 1977)

12.20.120 Permits – Required – Application.

A. Use Permit. Any group or organization desiring to use park facilities for a specific purpose, which purpose will exclude the general public from the use thereof, shall obtain a use permit before engaging in such activity, which use permit shall be issued by the director, or his designee, on forms supplied by the director, or his designee.

B. Sales and Advertising Permit. Any group or organization desiring to engage in any of the activities described in Section 12.20.080, shall obtain a sales and advertising permit before engaging in such activity, which sales and advertising permit shall be issued by the Bainbridge Island city council on forms supplied by the director, or his designee.

C. Park Construction Permit. Any group or organization desiring to construct or erect any building or structure pursuant to subdivision 4 of subsection A of Section 12.20.030 shall obtain a park construction permit before engaging in such activity, which park construction permit shall be issued by the director, or his designee, on forms supplied by the director, or his designee. (Ord. 79-19, 1979; Ord. 77-09 § 9(4)(a), 1977)

12.20.130 Permits – Standards for issuance.

A. Use Permit. The director, or his designee, shall issue a use permit under this chapter when he finds:

1. That the proposed activity or use of the park will not unreasonably interfere with or detract from the general public enjoyment of the park;

2. That the proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation;

3. That the proposed activity or use is not reasonably anticipated to incite violence, crime or disorderly conduct;

4. That the proposed activity will not entail unusual, extraordinary or burdensome expense of police operation by the city. The city may require the applicant to hire private security personnel;

5. That the facilities desired have not been reserved for other use at the day and hour required in the application.

B. Sales and Advertising Permit. The city council shall issue a sales and advertising permit when it determines that:

1. The proposed sales and advertising will enhance public or private enjoyment of the park facilities;

2. The proposed sales and advertising activities will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation;

3. In those instances where proposed sales will include alcoholic beverages, the applicant has made a satisfactory showing that it has contacted the State Liquor Control Board and taken appropriate steps to secure that agency's approval of the proposed sales.

C. Park Construction Permit. The director, or his designee, shall issue a park construction permit under this chapter when he finds:

1. That the proposed structure will not unreasonably interfere with or detract from the general enjoyment of the park;

2. That the proposed structure will not unreasonably interfere with or detract from the promotion of public health, safety, welfare and recreation;

3. The proposed structure is not reasonably anticipated to encourage violence, crime or disorderly conduct;

4. That the proposed structure will not add unreasonably to the expense of police operation by the city;

5. That the proposed structure will conform in design and structure to all applicable building code requirements and other requirements imposed by statute, ordinance or regulation. (Ord. 79-19, 1979; Ord. 77-09 § 9(4)(b), 1977)

12.20.140 Permits – Conditions of issuance.

The director or his designee, or the city council, whoever issues the permits set forth in BIMC 12.20.120 and 12.20.130, may place such conditions on receipt of the permit as are necessary to ensure adherence to the standards set forth in BIMC 12.20.130. (Ord. 79-19, 1979; Ord. 77-09 § 9(4)(c), 1977)

12.20.150 Permits – Damage deposit required.

At the time of the issuance of any of the permits described in BIMC 12.20.120 and 12.20.130, the recipient shall deposit with the city a sum set by resolution of the city council, which sum shall be refunded to the recipient at the expiration of the permit upon a showing by the permit recipient of the following:

A. All conditions placed on the permit and all applicable park rules and regulations and all applicable ordinances have been complied with;

B. The park has been returned to the condition in which it existed prior to the effective date of the permit including removal of all temporary structures, litter, signs, advertising or other debris resulting from or associated with the activities engaged in pursuant to the permit. (Ord. 88-16 § 18, 1988; Ord. 79-19, 1979; Ord. 77-09 § 9(4)(d), 1977)

12.20.160 Permits – Appeal.

A. Use and Park Construction Permits. Within three days after the receipt of an application for a use permit or park construction permit, the director, or his designee, shall apprise an applicant in writing of his reasons

for refusing a permit, and any aggrieved person shall have the right to appeal in writing within 10 days to the city council, which shall consider the application under the standards set forth in BIMC 12.20.130 and sustain or overrule the director's, or his designee's, decision within 14 days.

B. Sales and Advertising Permits. Within five days of its receipt of the application for a sales and advertising permit or at the next regularly scheduled council meeting following the filing of such application, whichever is later, the city council shall either grant or refuse the sales and advertising permit. If it refuses the permit, it shall apprise the applicant in writing of its reasons for refusing the permit. The decision of the city council shall be final unless any aggrieved party appeals the decision to the county superior court within 10 days of the date of the decision. (Ord. 79-19, 1979; Ord. 77-09 § 9(4)(e), 1977)

12.20.170 Permits – Effect.

A permittee shall be bound by all park rules and regulations and all applicable ordinances fully as though the same were inserted in the permits. (Ord. 79-19, 1979; Ord. 77-09 § 9(4)(f), 1977)

12.20.180 Permits – Liability of permittee.

The person or persons to whom a permit is issued shall be liable for any loss, damage or injury sustained by any person whatever by reason of the negligence of the person or persons to whom such permit shall have been issued. (Ord. 79-19, 1979; Ord. 77-09 § 9(4)(g), 1977)

12.20.190 Permits – Revocation.

The director, or his designee, shall have the authority to revoke all permits issued under this chapter upon a finding of violation of any rule, condition, regulation or ordinance, or upon good cause shown. (Ord. 79-19, 1979; Ord. 77-09 § 9(4)(h), 1977)

12.20.200 Decisions of director final.

All decisions of the director, or his designee, regarding compliance by the recipient of any permit with the conditions of the permit

and the provisions of this chapter shall be final. (Ord. 79-19, 1979; Ord. 77-09 § 9(4)(i), 1977)

12.20.210 Enforcement authorized.

The director and park attendants shall, in connection with their duties imposed by law, diligently enforce the provisions of this chapter. (Ord. 77-09 § 10(1), 1977)

12.20.220 Ejection of violators.

The director and any park attendant shall have the authority to eject from the park any person acting in violation of this chapter. (Ord. 77-09 § 10(2), 1977)

12.20.230 Seizure of property.

The director and any park attendant shall have the authority to seize and confiscate any property, thing or device in the park, or used, in violation of this chapter. (Ord. 77-09 § 10(3), 1977)

12.20.240 Penalty for overtime or illegal mooring.

Repealed by Ord. 96-33. (Ord. 77-09 § 11(1), 1977)

12.20.250 Violation – Penalty.

Any person found guilty of violating any of the provisions of this chapter shall be fined not more than \$500.00 or punished by not more than six months in the city jail, or both such fine and penalty. (Ord. 96-33 § 2, 1996; Ord. 77-09 § 11(2), 1977)

Chapter 12.24

WATERFRONT PARK AND OTHER CITY HARBORS

Sections:

- 12.24.010 Definitions.**
- 12.24.020 Applicability.**
- 12.24.030 Authorization.**
- 12.24.040 Nuisances designated – Removal required.**
- 12.24.050 Moored or anchored vessels or watercraft.**
- 12.24.060 Repealed.**
- 12.24.065 Repealed.**
- 12.24.070 Repealed.**
- 12.24.080 Repealed.**
- 12.24.085 Repealed.**
- 12.24.090 Abatement of nuisances.**
- 12.24.100 Special events notices and special use permits.**
- 12.24.110 Use of dinghies.**
- 12.24.115 Unattended vessels or watercraft.**
- 12.24.120 Violation – Penalty.**

12.24.010 Definitions.

- A. *Repealed by Ord. 2003-22.*
- B. “Moor” or “moored” means to anchor or anchorage.
- C. “City boat dock” means any public city dock located in the waters of the city of Bainbridge Island.
- D. “Dinghy” or “dinghies” means any small boat, kayak, canoe, or rubber boat whether rowed or with motor, smaller than 16 feet.
- E. “Oil” means oil or liquid, whether of animal, vegetable or mineral origin, or a mixture, compound or distillation thereof.
- F. “Park harbor” means all waters or land under the water within the Waterfront Park and all other waters or land under water within Eagle Harbor that are owned or leased by the city.
- G. “Police department” means the law enforcement agency of the city.
- H. “Vessel” or “watercraft” means any contrivance used or capable of being used as a means of transportation on water. (Ord. 2007-

01 § 2, 2007; Ord. 2003-22 § 13, 2003; Ord. 98-43 § 1, 1998; Ord. 87-12 §§ 1, 8, 1987; Ord. 81-17 § 1, 1981)

12.24.020 Applicability.

The provisions of this chapter shall be applicable to all vessels and watercraft in the harbors of the city. (Ord. 2007-01 § 3, 2007; Ord. 81-17 § 3, 1981)

12.24.030 Authorization.

The city, in the exercise of its police power, assumes control and jurisdiction over waters within the city's harbors. (Ord. 2007-01 § 4, 2007; Ord. 98-43 § 2, 1998; Ord. 81-17 § 2, 1981)

12.24.040 Nuisances designated – Removal required.

A. Sunken vessels or watercraft shall be public nuisances. The owner of any sunken vessel or watercraft shall raise and remove the sunken vessel or watercraft within a reasonable time after the sinking of the vessel or watercraft. The time in which an owner shall have to remove the sunken vessel or watercraft shall be determined by the city, based on the circumstances surrounding the removal, including, but not limited to, weather, the difficulty of removal and the degree of the public nuisance. Failure to raise and remove a sunken vessel or watercraft within the time required by the city shall be a civil infraction. If the owner fails to remove the sunken vessel or watercraft, or if the owner cannot be ascertained, the city may remove the vessel or watercraft and dispose of the vessel or watercraft and its contents in accordance with Chapter 6.32 RCW.

B. Any vessel or watercraft dragging its anchor or mooring in such a manner as to impede navigation or endanger other vessels or improvements shall be considered a nuisance. If the owner fails to secure the dragging vessel or watercraft, or if the owner cannot be ascertained, the city may remove the vessel or watercraft and dispose of the vessel or watercraft and its contents in accordance with Chapter 6.32 RCW.

C. Abandoned floats, buoys and all other structures used for the purpose of anchoring or mooring vessels or watercraft of any kind shall constitute public nuisances. For the purpose of this section, a float or buoy is "abandoned" if it is not registered with the Department of Natural Resources and has not been used for more than 30 consecutive days. Any person causing or permitting such nuisances to be placed in the waters within the city's jurisdiction shall be deemed to have committed a civil infraction and shall immediately remove such nuisances. If the person or persons causing or permitting such nuisances cannot be ascertained or located, the city may remove, or cause to be removed, the nuisances. The methods for disposing of the abandoned floats or buoys shall be governed by the provisions of Chapter 6.32 RCW.

D. Except as permitted by BIMC 12.24.115, any vessel or watercraft that is left unattended in the Waterfront Park harbor, whether at a city boat dock, linear moorage, or otherwise, for a period exceeding 48 hours shall constitute a public nuisance and the owner of such vessel or watercraft shall be deemed to have committed a civil infraction. The city may remove or cause to be removed these nuisances as provided in BIMC 12.24.050. (Ord. 2007-01 § 3, 2007; Ord. 98-47 § 3, 1999; Ord. 96-33 § 3, 1996; Ord. 87-12 § 4, 1987; Ord. 81-17 § 4, 1981)

12.24.050 Moored or anchored vessels or watercraft.

A. Except as permitted by BIMC 12.24.115, vessels or watercraft shall not be moored, anchored, or left unattended in waters within the Waterfront Park harbor for a period exceeding 48 hours. Vessels or watercraft moored or left unattended in the park harbor in violation of this section shall be subject to the impound rules and regulations contained in Chapter 12.40 BIMC.

B. No person shall moor or tie a vessel or watercraft to the city boat dock or the city linear moorage for more than 48 hours at a time, nor for more than 48 hours within any seven-day period.

Each person who shall moor or tie up a separate vessel or watercraft to the city boat dock or the city linear moorage shall immediately complete and sign a registration form made available by the city at the city boat dock, and shall affix and deposit the same along with the required fee established by resolution in the box provided. It is unlawful to moor or tie up to the city boat dock or linear moorage without complying with this provision, and failure to do so while moored or tied up to the city boat dock or linear moorage shall be prima facie evidence of having moored or tied up to the city boat dock or linear moorage in violation of this chapter.

It is unlawful to moor or tie up any vessel or watercraft to the city boat dock or city linear moorage:

1. For purposes of vessel or watercraft construction;
2. For purposes of sale of a vessel or watercraft, or conducting sales therefrom;
3. Without first protecting the city boat dock or linear moorage from damage or wear and tear with adequate fenders or bumpers;
4. If the vessel or watercraft blocks use of the public boat ramp at Waterfront Park, except during the removal of the vessel or watercraft;
5. For purposes or in connection with a business or commercial venture or if it is a commercial or business craft without a special use permit;
6. If such vessel or watercraft exceeds 70 feet in length at the longest point, without a special use permit;
7. If such vessel or watercraft is a houseboat or barge;
8. By rafting more than two boats deep.

Vessels or watercraft moored or tied up in violation of this section shall be subject to towing and impoundment under Chapter 12.40 BIMC. (Ord. 2007-01 § 4, 2007; Ord. 98-47 § 4, 1999; Ord. 98-43 § 3, 1998; Ord. 93-32 § 2, 1993; Ord. 87-12 § 2, 1987; Ord. 81-17 § 5(A), 1981)

12.24.060 Moored vessels or watercraft – Action upon noncompliance with notice.

Repealed by Ord. 98-47. (Ord. 93-32 § 3, 1993; Ord. 81-17 § 5(B), 1981)

12.24.065 Moorage at boat dock limited.

Repealed by Ord. 98-47. (Ord. 98-43 § 4, 1998; Ord. 93-32 § 4, 1993; Ord. 87-12 § 3, 1987; Ord. 86-25 § 1, 1986)

12.24.070 Lien upon vessel or watercraft.

Repealed by Ord. 98-47. (Ord. 82-13, 1982; Ord. 81-17 § 6, 1981)

12.24.080 Authorized removal and redemption of vessels and watercraft.

Repealed by Ord. 98-47. (Ord. 88-09 § 2, 1988; Ord. 81-17 § 7, 1981)

12.24.085 Impound hearing.

Repealed by Ord. 98-47. (Ord. 95-24, 1995)

12.24.090 Abatement of nuisances.

Nothing in this title shall be interpreted to prohibit the city from bringing an action to abate a nuisance in the manner provided by law. The abatement of any public nuisance herein shall not excuse the person responsible therefor from prosecution under this section. (Ord. 98-47 § 5, 1999; Ord. 81-17 § 8, 1981)

12.24.100 Special events notices and special use permits.

A. Vessels or watercraft may also use the city boat dock, city linear moorage, or park harbor upon application to the city on appropriate city forms, and approval by the director or his designee, for special events. A special use permit shall be issued, upon such approval, designating that portion of the city boat dock, city linear moorage, or park harbor to be so used. It is unlawful for any person to moor or tie a vessel or watercraft in such an area designated by a special event notice, without first having obtained such special use permit.

B. A special use permit issued hereunder shall include at least the following information:

1. Name and address of vessel/watercraft owners and the group being reserved for;
2. Authorized dates and times of reserved use;
3. Location on city boat dock or in public harbor or reserved use, by cleat number, buoy, or area of designated use;
4. The reserved use shall be limited to the areas designated by the permit or signs;
5. The phone numbers of city departments responsible;
6. The amount of fees or charges to be paid for such reserved use;
7. Overall length of the vessel.

C. It is unlawful to use the designated areas beyond those times or locations authorized by such permits. (Ord. 98-43 § 5, 1998; Ord. 93-32 § 5, 1993; Ord. 87-12 § 6, 1987)

12.24.110 Use of dinghies.

A. No person shall moor or tie a dinghy at the city boat docks or city linear moorage or in the Waterfront Park harbor except in the areas designated for same. Dinghies may be rafted three deep in such designated areas.

B. No dinghy shall be moored or tied by any person so as to block the boat launch ramp, except for immediate loading or unloading.

C. Dinghies shall not be required to register as provided for herein, unless for purposes of a special event.

D. No dinghy shall be left unattended at the city boat docks or city linear moorage between the hours of 12:30 a.m. and 5:30 a.m. unless registered for overnight moorage or allowed pursuant to a city moorage agreement.

E. Any dinghy moored or tied contrary to the provisions of this chapter or of any posted signs shall constitute a nuisance.

F. Dinghies moored, tied, or left unattended in the park harbor or at the city boat docks or city linear moorage in violation of this section shall be removed and impounded in accordance with the procedures for impounding vessels and watercraft in Chapter 12.40 BIMC to the extent applicable; provided, that the notice requirements shall not apply to the removal and impound of dinghies violating subsections B or D of this section if signs notifying the public of the requirements

of this section have been posted in a conspicuous place or places on or near the docks. (Ord. 2007-01 § 5, 2007; Ord. 98-43 § 6, 1998; Ord. 96-33 § 4, 1996; Ord. 93-32 § 5, 1993; Ord. 88-09 § 3, 1988; Ord. 87-12 § 7, 1987)

12.24.115 Unattended vessels or watercraft.

The city, in its discretion, may designate a specific area within Eagle Harbor for the anchoring or mooring of vessels or watercraft to be left unattended in city waters for more than 30 days. Upon such designation, vessels or watercraft to be left unattended for more than 30 days shall be permitted to anchor in the designated area only, and shall be subject to the anchorage or mooring fees as established by resolution; provided, that this section shall not apply to vessels or watercraft which are properly moored or anchored in private marinas. (Ord. 98-47 § 6, 1999)

12.24.120 Violation – Penalty.

A. Any person committing overtime parking or illegal parking under BIMC 12.24.040, 12.24.100 or 12.24.110 shall be guilty of a civil infraction and shall be fined in an amount not to exceed \$100.00.

B. Except as provided otherwise in this chapter, any person violating any of the provisions of this chapter shall be guilty of a civil infraction upon a finding or agreement that the infraction was committed and shall be fined in an amount not to exceed \$500.00.

C. Each day that a violation of this chapter is committed or permitted to continue shall constitute a separate offense and shall be punishable as such under this section. Civil infractions under this chapter may be issued by any police officer, parking enforcement officer or code enforcement officer of the city. Infractions issued under this chapter shall be processed in the same manner as those issued under Chapter 1.26 BIMC. (Ord. 2007-01 § 6, 2007; Ord. 96-33 § 5, 1996; Ord. 95-26, 1995; Ord. 87-12 § 5, 1987; Ord. 81-17 § 9, 1981)

Chapter 12.28

COMPREHENSIVE SIDEWALK PLAN

Sections:

12.28.010 Map adopted.

12.28.020 Sidewalk required – Exception.

12.28.025 Deferral of construction authorized.

12.28.030 Construction standards.

12.28.040 Methods of compliance.

12.28.050 Appeal to council, court.

12.28.010 Map adopted.

That certain map labeled “Comprehensive Sidewalk Plan,” dated June, 1984, a copy of which has been on file in the office of the city clerk for use and examination by the public, is adopted by reference as the city’s comprehensive sidewalk plan. (Ord. 84-20 § 1, 1984)

12.28.020 Sidewalk required – Exception.

All projects requiring a building permit and located on property abutting any proposed sidewalk as shown on the comprehensive sidewalk plan or as required by Chapter 12.36 BIMC shall provide sidewalks and curbs along the street front. Such sidewalk construction shall meet the approval of the city engineer and shall provide appropriate curb crossings for vehicular ingress and egress; provided, this section shall not apply to minor remodeling or repair which does not increase the size or area of structure existing on June 1, 1984. (Ord. 93-23 § 2, 1993; Ord. 84-20 § 2, 1984)

12.28.025 Deferral of construction authorized.

Installation of any of the improvements herein required may be deferred if the land use administrator determines that the abutting street grade cannot be established at the time of proposed construction or that existing curb and sidewalks are adequate to serve the development in question. In either case the owner of the abutting property shall execute a covenant in a form approved by the city which runs with the land being developed and which provides for installation of sidewalks and other street

improvement at a specified later date. The covenant shall provide that the improvements shall be installed to city standards when any one of the following first occurs:

A. The grade of the abutting street is established;

B. The abutting street is improved through an LID, ULID, or other funding method;

C. Similar improvements are constructed on adjacent property; or

D. When existing sidewalks and/or curbs are inadequate in the opinion of the city. (Ord. 86-01 § 1, 1986)

12.28.030 Construction standards.

Construction standards for sidewalks shall be the same as required for subdivisions and shall be in compliance with the engineering design and development standards. In addition, the developer or abutting owner shall pave to city standards and specifications any unpaved portion of the right-of-way between the newly constructed curb and the existing road pavement. (Ord. 94-29 § 3, 1995; Ord. 93-23 § 3, 1993; Ord. 86-01 § 2, 1986; Ord. 84-20 § 3, 1984)

12.28.040 Methods of compliance.

At the discretion of the city, developers may satisfy the requirement for sidewalk construction by one of the following methods: (1) actual construction, if approved by the city; (2) by posting a bond or other suitable security in an amount approved by the city sufficient to cover the estimated costs of construction; (3) by execution of an agreement not to protest formation of a LID for construction of sidewalks. (Ord. 84-20 § 4, 1984)

12.28.050 Appeal to council, court.

Any person aggrieved by any decision of any city official in connection with the requirements of this chapter must file with the city clerk a written notice of appeal to the city council within 10 days of the date of the decision being appealed. Appeal from any decision of the city council must be made to superior court within 20 days of the council’s decision. (Ord. 84-20 § 5, 1984)

Chapter 12.30**STREET DEDICATIONS****Sections:****12.30.010 Dedication required.****12.30.020 Street map adopted.****12.30.030 Amendment of map.****12.30.040 Setbacks required.**

map. Required yard setbacks shall be measured from the proposed right-of-way shown on the map. (Ord. 94-29 § 6, 1995; Ord. 85-01 § 1, 1985)

12.30.010 Dedication required.

No building permit, subdivision, short subdivision, or planned unit development shall be approved or granted until the owner of the affected property dedicates to the city the portion of land designated on the official street map or required by the engineering design and development standards as a street right-of-way. Dedications may also be required as a condition of approval for variances and conditional use permits. Upon a finding of good cause, the director of planning and community development, with the concurrence of the director of public works, may grant an exemption from the street dedication requirement; provided, that no exemption shall be granted which would be materially detrimental to the public welfare or injurious to property located in the vicinity of the affected property. (Ord. 94-29 § 4, 1995; Ord. 93-23 § 4, 1993; Ord. 92-32 § 1, 1992; Ord. 85-01 § 1, 1985)

12.30.020 Street map adopted.

The city adopts as its official street map that certain map labeled "Official Street Map," dated January 5, 1995, on file in the city clerk's office. (Ord. 94-29 § 5, 1995; Ord. 85-01 § 1, 1985)

12.30.030 Amendment of map.

The official street map may be amended by ordinance passed by the city council. Dedications may be entered in the map without an ordinance after acceptance by the city. (Ord. 85-01 § 1, 1985)

12.30.040 Setbacks required.

No building permit shall be issued or improvement built within an existing or proposed right-of-way shown on the official street

Chapter 12.32

UNOPENED RIGHTS-OF-WAY

Sections:

- 12.32.010 Purpose.**
- 12.32.020 Definitions.**
- 12.32.030 Permit required.**
- 12.32.040 Access permits – Contents.**
- 12.32.050 Standards.**
- 12.32.060 Access permits – Additional requirements.**
- 12.32.070 Fee.**
- 12.32.080 Appeal.**
- 12.32.090 Penalties.**

12.32.010 Purpose.

It is the purpose of this chapter to establish a permit system for and standards regulating the private access use of unopened city rights-of-way in order to insure that private road improvements are minimally sufficient for normal and emergency vehicular traffic, to provide for the equitable sharing of private improvement costs, to further the orderly and economic development of city maintained roads, and to otherwise protect the public health, safety and welfare. (Ord. 85-02 § 1, 1985)

12.32.020 Definitions.

“Access permit” means a permit issued pursuant to BIMC 12.32.040 authorizing construction and permanent use of a privately maintained roadway within unopened or unmaintained city street right-of-way. (Ord. 2003-22 § 14, 2003; Ord. 85-02 § 1, 1985)

12.32.030 Permit required.

Unopened or unmaintained city street rights-of-way shall not be privately improved or used for access purposes, nor shall development approval necessitating such improvement or use be granted, unless an access permit has been issued pursuant to this chapter. In addition to an access permit, to enter onto public property or roadways, a right-of-way approach permit shall be obtained from the department of public works. (Ord. 94-29 § 7, 1995; Ord. 85-02 § 1, 1985)

12.32.040 Access permits – Contents.

Upon filing of a complete application, payment of the fee, posting of a construction bond and dedication of additional right-of-way, if required, the land use administrator may issue a permit authorizing the construction of road improvements and permanent use thereof on unopened or unmaintained city street right-of-way for access to the applicant’s property. Such permit shall contain the following:

A. **Required Improvements.** The permit shall specify minimum improvements required by the land use administrator in accordance with the standards set forth in BIMC 12.32.050. Construction of such improvements to the satisfaction of the land use administrator shall be completed prior to occupancy or within one year, whichever occurs first, or the permit shall lapse. The permittee shall be responsible for proper notice to the land use administrator requesting necessary inspections.

B. **Signs.** The permit shall require that the authorized roadway be posted at its entrance with “Privately Maintained Road” and/or “End of City Maintained Road” signs provided by the land use administrator.

C. **Approvals.** Upon completion of required improvements, the public works director or designee shall indicate his approval on the permit and make appropriate notation thereof upon official city street right-of-way records.

D. **Covenant.** The permit shall include a covenant running with the land for the benefit of the city of Bainbridge Island which covenant shall be filed with the Kitsap County auditor and contain:

1. A legal description of the lot or parcel to be served by the access permit;
2. A statement regarding the nature of access to such parcel;
3. A statement that the owner(s) of the parcel will not oppose participation in a local improvement district for road improvements, when formation of such a district is deemed necessary by the city;

4. A statement that responsibility for maintenance of the road rests jointly and equally upon all permit holders;

5. A prohibition against allowing additional lots access to the road and a prohibition against subdividing such parcel without obtaining either plat or short plat approval therefor, or if exempt from platting, an access permit for the additional lots being created;

6. Provision is made for the road to be open at all times for emergency and public service vehicle use;

7. A statement that the covenant is binding on the successors and assigns of the owner(s); and

8. The acknowledged signature(s) of the owner(s) of record of such parcel. (Ord. 2001-41 § 2, 2001; Ord. 85-02 § 1, 1985)

12.32.050 Standards.

Road improvements shall be constructed in accordance with the engineering design and development standards, except that residential rural standards rather than residential urban standards shall be applied to the portion of Historic Winslow located west of Lovell Avenue, south of High School Road, east of Weaver Avenue, and north of Wyatt Way. (Ord. 96-43 § 1, 1996; Ord. 94-29 § 8, 1995; Ord. 93-23 § 5, 1993; Ord. 85-02 § 1, 1985)

12.32.060 Access permits – Additional requirements.

A. Plans. Detailed engineering plans and/or a drainage study may be required when considered necessary by the director of public works or otherwise required by law. Costs for the development of such plan and costs of required studies shall be borne by the permit applicant. When required, such plans and study shall be in accordance with the requirements for plat development.

B. Survey. When considered necessary by the director of public works to adequately define the limits of right-of-way, the permit applicant shall cause the right-of-way to be surveyed by a licensed land surveyor. Such survey shall be recorded in accordance with the Survey Recording Act.

C. Dedication.

1. A permit applicant shall be required to deed additional right-of-way across property under the applicant's authority when necessary to fulfill the minimum road right-of-way width prescribed by Chapter 12.36 BIMC.

2. Slope, wall and drainage easements beyond the right-of-way line may be required to be dedicated by the director of public works.

D. Illegal Subdivision. A permit shall not be issued to provide access to a lot or parcel created in violation of then existing platting law. (Ord. 93-23 § 6, 1993; Ord. 85-02 § 1, 1985)

12.32.070 Fee.

The applicant shall pay an appropriate fee as established by the city by resolution at the time of application. (Ord. 92-24 § 7, 1992; Ord. 85-02 § 1, 1985)

12.32.080 Appeal.

A. An aggrieved person may appeal the action of the land use administrator in granting, denying, conditioning, or otherwise acting upon a permit by filing a written notice of appeal to the city council with the city clerk within 30 days of the date of such action. The clerk, upon receipt of an appeal, shall schedule a public meeting before the city council at which time testimony will be taken. Based upon the data supplied at this meeting and such other information as the city council may request, the council may either sustain, reverse or modify the action of the land use administrator.

B. The decision of the city council shall be final unless an appropriate lawsuit is instituted in Kitsap County superior court within 20 days of the council's action. (Ord. 85-02 § 1, 1985)

12.32.090 Penalties.

Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, punished by a fine of up to \$5,000 or imprisonment for up to 30 days, or both such fine and imprisonment. (Ord. 85-02 § 1, 1985)

Chapter 12.34

VACATION OF STREETS AND ALLEYS

Sections:

- 12.34.010 Statement of purpose.**
- 12.34.020 Initiation of vacation.**
- 12.34.030 Petition for vacation.**
- 12.34.040 Petition fees.**
- 12.34.050 Survey, vicinity map, plat map and legal description.**
- 12.34.060 Setting of hearing.**
- 12.34.070 Staff report.**
- 12.34.080 Notice of hearing.**
- 12.34.090 Protest.**
- 12.34.100 Hearing and committee report.**
- 12.34.110 City council decision.**
- 12.34.120 Vacation of waterfront streets.**
- 12.34.130 Compensation for vacation.**
- 12.34.135 Alternative compensation.**
- 12.34.140 Appraisals.**
- 12.34.150 Payment of compensation for conveyance.**
- 12.34.160 Recording of ordinance.**

12.34.010 Statement of purpose.

The purpose of this chapter is to establish procedures, notice requirements and fees for the vacation of streets and alleys within the city. This chapter is intended to implement the authority granted to the city by Chapter 35.79 RCW and RCW 35A.47.020 and to conform to their provisions. In case of conflict between this chapter and those statutes, the statutory provisions shall be controlling. (Ord. 91-30 § 1, 1991)

12.34.020 Initiation of vacation.

The owners of an interest in any real property abutting upon any street or alley who may desire to vacate the street or alley, or any part thereof, may petition the city council. In the alternative, the city council may itself initiate a vacation by resolution. The petition or resolution shall be filed with the city clerk. (Ord. 91-30 § 1, 1991)

12.34.030 Petition for vacation.

The petition shall be in a form prescribed by the director of public works and shall contain a name, address and telephone number of a representative for the petitioners. The petition shall also discuss the criteria set forth in BIMC 12.34.110. The sufficiency of the petition shall be governed by RCW 35A.01.040. (Ord. 91-30 § 1, 1991)

12.34.040 Petition fees.

Every petition for the vacation of any street or alley or any part thereof, shall be accompanied by a fee in an amount established by resolution of the city to defray a portion of the administrative costs incurred in processing the petition and publishing, posting and mailing notices. The fees shall not be refunded under any circumstances. (Ord. 94-32 § 1, 1995; Ord. 91-30 § 1, 1991)

12.34.050 Survey, vicinity map, plat map and legal description.

A. Every petition shall be accompanied by: (1) a survey, (2) a vicinity map showing the general area of the proposed vacation, (3) a plat map prepared and sealed by a professional land surveyor, registered in the state of Washington, indicating the specific parcels abutting the proposed street or alley to be vacated, and (4) an exact legal description of the portion of road to be vacated prepared and sealed by a professional land surveyor, registered in the state of Washington.

B. Flagging which indicates the boundaries of the street or alley shall be installed when the survey is conducted. (Ord. 91-30 § 1, 1991)

12.34.060 Setting of hearing.

Upon receipt of the petition, the fee and all required documents, the city clerk shall forward the petition and required documents to the director of public works, or the director's designee, who shall determine whether the petition has been signed by the owners of more than two-thirds of the property abutting the part of the street or alley to be vacated. If the petition has been signed by the requisite percentage of such owners, the director of public

works, or the director's designee, shall bring the petition before the city council within 30 days of receipt of the petition, and the city council shall by resolution fix the time when the petition will be heard by the city council, or a committee of the city council, which time shall not be more than 60 days nor less than 20 days after the adoption of the resolution. Where the city council initiates the vacation by resolution, that resolution shall fix the time when the proposed vacation will be heard by the city council or a committee of the city council. (Ord. 94-32 § 2, 1995; Ord. 91-30 § 1, 1991)

12.34.070 Staff report.

The public works department shall prepare a report concerning the proposed vacation, which report shall address the criteria (see BIMC 12.34.110) to be considered by the city council in determining whether to vacate the street or alley, and such other information as deemed appropriate by the public works department. In preparing the report, the public works department shall solicit comments from the department of planning and community development and the police department, and may solicit comments from other governmental agencies and utility companies having jurisdiction or utilities within the boundaries of the city. The report shall be submitted to the city council, or the city council committee hearing the matter and to the representative of the petitioners, not less than five days before the hearing. (Ord. 91-30 § 1, 1991)

12.34.080 Notice of hearing.

Upon the passage of the resolution fixing the time for hearing the petition or proposal for vacation, the city clerk, or the director of public works, acting under direction and supervision of the city clerk, shall give not less than 20 days' notice of the time, place and purpose of the hearing by (1) publishing written notice once in the city's official newspaper, (2) posting a placard in a conspicuous place at each end of the street or alley sought to be vacated, and (3) mailing written notice to all petitioners at the addresses on the petition and all owners of property abutting the street or alley proposed to be vacated, as shown on the records of

the Kitsap County assessor. The public works department shall send the same written notice to the representative of the petitioners at the address on the petition. The placards shall be highly visible and at least 11 by 14 inches in size, and shall include a map showing the location of the street or alley proposed to be vacated. (Ord. 91-30 § 1, 1991)

12.34.090 Protest.

If 50 percent or more of the owners of the abutting property file written objections to a city council-initiated vacation with the city clerk, prior to the time of the hearing, the city shall be prohibited from proceeding with the vacation. (Ord. 91-30 § 1, 1991)

12.34.100 Hearing and committee report.

The hearing on the petition or proposal shall be held before the city council, or a committee of the city council, upon the day fixed by resolution or at the time to which a hearing may be adjourned. Following the hearing the committee shall report its recommendation on the petition or proposal to the city council, which may adopt or reject the recommendation. If a hearing is held before a committee, it shall not be necessary to hold a hearing before the city council. (Ord. 94-32 § 3, 1995; Ord. 91-30 § 1, 1991)

12.34.110 City council decision.

Following the hearing and receipt of the committee report, if applicable, the city council shall determine whether to vacate the street or alley. The determination shall include, but not be limited to, consideration of the following criteria:

A. Whether a change of use or vacation of the street or alley will better serve the public;

B. Whether the street or alley is no longer required for public use or public access;

C. Whether the substitution of a new and different public way would be more useful to the public;

D. Whether conditions may so change in the future as to provide a greater use or need than presently exists; and

E. Whether objections to the proposed vacation are made by owners of private prop-

12.34.120

erty (exclusive of petitioners) abutting the street or alley or other governmental agencies or members of the general public.

If the city council determines to grant the vacation, the action shall be made by ordinance with such conditions or limitations as the city council deems necessary and proper to preserve any desired public use or benefit. The ordinance may contain a provision retaining or requiring conveyance of easements for construction, repair and maintenance of existing and future utilities and services. (Ord. 94-32 § 4, 1995; Ord. 91-30 § 1, 1991)

12.34.120 Vacation of waterfront streets.

A. The city shall not vacate a street or alley if any portion of the street or alley abuts a body of salt or fresh water unless:

1. The vacation is sought to enable the city to acquire the property for port purposes, beach or water access purposes, boat moorage or launching sites, park, public view, recreation, educational purposes, or other public uses;

2. The city council, by resolution, declares that the street or alley is not presently being used as a street or alley and that the street or alley is not suitable for any of the following purposes: port, beach or water access, boat moorage, launching sites, park, public view, recreation, or education; or

3. The vacation is sought to enable the city to implement a plan, adopted by resolution or ordinance, that provides comparable or improved public access to the same shoreline area to which the street or alley sought to be vacated abuts, had the properties included in the plan not been vacated.

B. Before adopting an ordinance vacating a street or alley under subsection (A)(2) of this section, the city council shall:

1. Cause an inventory to be compiled of all rights-of-way within the city that abut the same body of water that is abutted by the street or alley sought to be vacated;

2. Cause a study to be conducted to determine if the street or alley to be vacated is unsuitable for use by the city for any of the following purposes: port, boat moorage,

launching sites, beach or water access, park, public view, recreation, or education;

3. Hold a public hearing on the proposed vacation in the manner required by Chapter 35.79 RCW and this chapter; and

4. Include in its written decision a finding that the street or alley sought to be vacated is not suitable for any other purposes listed under subsection (B)(2) of this section, and that the vacation is in the public's interest.

C. Notice of the public hearing on the proposed vacation shall be provided in accordance with the notice provisions of BIMC 12.34.080; provided, that the city shall also post notice of the public hearing conspicuously on the street or alley sought to be vacated, which notice shall indicate that the area is a public access, that the street or alley is proposed to be vacated, and that anyone objecting to the proposed vacation should attend the public hearing or send a letter to the director of public works indicating the objection.

D. The city council shall not adopt an ordinance vacating a street or alley under subsection (A)(2) of this section until the fair market value of the street or alley to be vacated, plus the full cost of any physical closures and/or road repairs required by the director of public works, has been paid in accordance with BIMC 12.34.140 and 12.34.150, or a conveyance of real property in lieu of compensation has been effectuated in accordance with BIMC 12.34.135 and 12.34.150.

E. Moneys received from the vacation of a street or alley abutting a body of fresh or salt water may be used by the city only for the purpose of acquiring additional beach or water access, acquiring additional public view sites to a body of water, or acquiring additional moorage or launching sites. (Ord. 2001-07 § 1, 2001; Ord. 91-30 § 1, 1991)

12.34.130 Compensation for vacation.

A. Where a vacation for a street or alley which does not abut a body of fresh or salt water has been initiated by petition, the owners of the property abutting the area to be vacated shall pay to the city, prior to the passage of the ordinance vacating the area, the full cost of any physical closures and/or road repairs required

by the director of public works and (1) one-half of the fair market value of the area to be vacated; or (2) if area was acquired at public expense or has been part of a dedicated public right-of-way for 25 years or more, the full fair market value of the area to be vacated.

B. Where a vacation for a street or alley which does not abut a body of fresh or salt water has been initiated by the city or has been required by the city as a condition to a permit approval, the owners of the property abutting the area to be vacated shall not be required to pay compensation for the area to be vacated. (Ord. 2002-13 § 1, 2002: Ord. 2001-07 § 2, 2001: Ord. 94-32 § 5, 1995; Ord. 91-30 § 1, 1991)

12.34.135 Alternative compensation.

A. Conveyance of other property acceptable to the city may be made in partial satisfaction of or in lieu of the required compensation for the vacation of a street or alley, whether the conveyance is required to mitigate adverse impacts of the vacation or otherwise.

B. Where the conveyance of real property is made for street purposes and in exchange for the vacation of a street or alley that does not abut a body of fresh or salt water, one-half of the fair market value of the property conveyed shall be credited to the required compensation payment for the area to be vacated. Where the conveyance is made in fee for purposes other than street purposes, the full fair market value of the property conveyed shall be credited to the required compensation payment for the area to be vacated.

C. Real property may be conveyed in exchange for the vacation of a street or alley that abuts a body of salt or fresh water only where the property to be conveyed is conveyed for port, beach, water access, park, public view, recreation or educational purposes, boat moorage or launching sites, or other public uses, in accordance with BIMC 12.34.120.A.1, or as part of a plan implemented by the city council pursuant to BIMC 12.34.120.A.3. Where such property is conveyed for street purposes, one-half of the fair market value of the property conveyed shall be credited to the required compensation payment for the area to be vacated.

Where the conveyance is made in fee for purposes other than street purposes, the full fair market value of the property conveyed shall be credited to the required compensation payment for the area to be vacated.

D. Where the value of the conveyed property is less than the required compensation payment, the owners of the property abutting the property to be vacated shall pay the difference to the city. When the value of the conveyed property exceeds the required compensation payment, the city shall pay the difference to the owners of the conveyed property. (Ord. 2001-07 § 3, 2001)

12.34.140 Appraisals.

A. The director of public works shall determine the fair market value of the area to be vacated based upon an appraisal from a state-certified real estate appraiser who has an MAI or SRA designation from the Appraisal Institute. To obtain such appraisal, the director of public works shall present to the petitioners a list of three such certified and designated appraisers from which the petitioners shall select one appraiser. The petitioner shall pay all costs associated with the appraisal.

B. If the director of public works is not satisfied with the appraisal submitted by the petitioners under subsection A of this section, the director may order a second appraisal from a state-certified real estate appraiser who has an MAI or SRA designation from the Appraisal Institute. The city shall pay for this second appraisal. The director of public works shall use the appraisal having the highest value for the area vacated.

C. The director of public works shall determine the fair market value of the real property proposed to be granted or dedicated to the city in partial satisfaction of or in lieu of cash payment under BIMC 12.34.130 in accordance with the appraisal procedures set forth in this section. (Ord. 2001-07 § 4, 2001: Ord. 94-32 § 6, 1995; Ord. 91-30 § 1, 1991)

12.34.150 Payment of compensation for conveyance.

After the fair market value of the property to be vacated has been determined in accor-

dance with BIMC 12.34.140, the director of public works shall notify the representative of the petitioners of the amount of compensation required for the area to be vacated. The required payment shall be delivered to the director of public works who, upon receipt of the payment, shall transmit it to the city treasurer.

At least one-half of the received compensation shall be dedicated to the acquisition, improvement, development and related maintenance of public open space and/or transportation capital projects within the city; provided, that all compensation for the vacation of streets and alleys which abut a body of water shall be deposited in a fund designated for the sole purpose of acquiring additional beach or water access, additional public view sites to a body of water, or additional moorage or launching sites. Any compensation received by the city which is not dedicated to public open space or transportation capital projects or to the acquisition of additional water access, view sites or launching sites, shall be deposited into the street fund. The city treasurer shall make a written report of the payment to the city council.

If the petitioners have been authorized to deliver an instrument granting or dedicating to the city property in addition to or in lieu of a cash payment pursuant to BIMC 12.34.135, the director of public works may, at the petitioner's expense, obtain either a policy of title insurance insuring title of the conveyed property in the city, or a certificate of title as to the title thereof. Upon the director of public works' receipt of such policy or certificate, the director of public works shall transmit the policy or certificate to the city council. (Ord. 2002-13 § 2, 2002: Ord. 2001-07 § 5, 2001: Ord. 94-32 § 7, 1995; Ord. 91-30 § 1, 1991)

12.34.160 Recording of ordinance.

A certified copy of the ordinance vacating a street or alley or part thereof, shall be recorded by the city clerk in the office of the Kitsap County auditor. (Ord. 91-30 § 1, 1991)

Chapter 12.36

**INTERIM STREET AND
ROAD STANDARDS**

(Repealed by Ord. 94-29)

Chapter 12.38

RIGHT-OF-WAY MAINTENANCE

Sections:

- 12.38.010 Definitions.**
- 12.38.020 Existing public right-of-way.**
- 12.38.030 Upgrading unpaved roads.**
- 12.38.040 Private utilities.**
- 12.38.050 Open cuts.**
- 12.38.060 Plugs.**
- 12.38.070 Street lights.**
- 12.38.080 Sidewalks and bike paths.**
- 12.38.090 Conflicting provisions.**

12.38.010 Definitions.

A. "Right(s)-of-way (ROW)" means the public property limits, whether in fee simple or easement, identified for public use and/or facilities.

B. "Roadway" means the road wearing surface, including shoulders, and any drainage system constructed to protect the adjoining properties and the road base.

C. "Road" means the wearing surface only.

D. "Minimum maintenance" means the grading of unpaved roads, to be performed a maximum of twice a year, within budgetary constraints. (Ord. 2003-22 § 15, 2003; Ord. 94-11 §§ 1, 10, 1994)

12.38.020 Existing public right-of-way.

Maintenance of existing public ROW shall be as follows:

A. Paved Roads. The city will maintain all paved roads in accordance with city procedures and within budgetary constraints.

B. Unpaved Roads. The city will perform minimum maintenance on unpaved roads in accordance with city procedures and within budgetary constraints. (Ord. 2001-29 § 1, 2001; Ord. 94-11 § 2, 1994)

12.38.030 Upgrading unpaved roads.

Upgrading of unpaved roads in public right-of-way, at the request of the adjoining property owners, shall be done through the local improvement district (LID) process, property owner funding, or with other sources of funds. Upon completion of the upgrade

project to city standards, the city will accept the road for perpetual maintenance in accordance with BIMC 12.38.020.A. (Ord. 2001-29 § 2, 2001; Ord. 94-11 § 3, 1994)

12.38.040 Private utilities.

Private utilities may not be placed in public ROW, except as franchised in accordance with RCW 35A.47.040. Ongoing maintenance of such authorized private utilities shall be the owner's responsibility including the requirement to repair any damages to public property. (Ord. 94-11 § 4, 1994)

12.38.050 Open cuts.

"Open cuts" of roads for utilities will not be allowed unless the road is scheduled to be overlaid within 12 months after the "open cut," or unless the utility being worked on exists within the road, or unless no reasonable alternative exists. (Ord. 94-11 § 5, 1994)

12.38.060 Plugs.

Right-of-way "plugs" such as those on Palomino Drive and Sorrel Way, or as subsequently identified, shall be deemed as public ROW. (Ord. 94-11 § 6, 1994)

12.38.070 Street lights.

Street lights, at city expense, may be installed in the ROW within the urban area only, as approved by the director of public works, and in no case closer than 300 feet apart. No street lights will be allowed in the right-of-way in rural areas, unless approved by the director of public works, and at other than the city's expense. (Ord. 94-11 § 7, 1994)

12.38.080 Sidewalks and bike paths.

Sidewalks and bike paths/paved shoulders, will be placed as indicated in the current city plan for such facilities. No street lights or mail boxes will be installed within these facilities. (Ord. 94-11 § 8, 1994)

12.38.090 Conflicting provisions.

If there is conflict between this chapter and any existing ordinances, this chapter will prevail. (Ord. 94-11 § 9, 1994)

Chapter 12.40

WATERCRAFT AND
FLOATING HOMES

Sections:

- 12.40.010 **Jurisdiction and authorization.**
- 12.40.020 **State statutes adopted.**
- 12.40.030 **Federal statutes and regulations adopted.**
- 12.40.040 **Canadian vessels.**
- 12.40.050 **Littering.**
- 12.40.060 **Uniform speed limit – Restricted areas – Exceptions – Water skiing – Penalties.**
- 12.40.065 *Repealed.*
- 12.40.070 *Repealed.*
- 12.40.080 **Resident anchor-out live-aboard vessels.**
- 12.40.100 **Impoundment.**
- 12.40.110 **Creation and foreclosure of lien.**
- 12.40.120 **Impound hearing.**

12.40.010 Jurisdiction and authorization.

The city, in the exercise of its police power, assumes power and jurisdiction over all waters within its limits, as authorized by statute, including but not limited to RCW 35A.21.090 and 35.21.160. Pursuant to RCW 35.21.160, the power and jurisdiction of the city is extended into and over the waters of Puget Sound to the middle of the Puget Sound and into and over any bays adjacent to or fronting the city, in every manner and for every purpose that such power and jurisdiction could be exercised if the waters were within the city limits. For the purpose of this chapter, "waters of the city" means the waters over which the city assumes power and jurisdiction. (Ord. 94-12 § 1, 1994)

12.40.020 State statutes adopted.

The following state statutes are adopted by reference:

- A. RCW 7.84.010 (decriminalization) and 7.84.020 (infraction defined);
- B. Chapter 88.02 RCW (watercraft registration);

C. Chapter 88.12 RCW (regulation of motorboats) except the last sentence of RCW 88.12.055, which is amended to read as follows:

In the exercise of this responsibility, all such officers, having reasonable and articulable suspicion of criminal activity or a violation of this chapter, may stop and board any vessel and direct it to a suitable pier or anchorage if necessary, to investigate the suspected criminal activity or violation or to conduct reasonable safety inspections otherwise authorized by law; and

D. RCW 88.28.050 (obstructing navigation). (Ord. 94-12 § 1, 1994)

12.40.030 Federal statutes and regulations adopted.

The following acts of Congress and implementing regulations are adopted by reference:

A. 33 Code of Federal Regulations, Appendix A to Part 81-72 COLREGS and 33 Code of Federal Regulations, Part 82-72 (rules of the road);

B. 33 Code of Federal Regulations, 175.105, 175.110, 175.113, 175.120, 175.128, 175.130 and 175.140 (visual distress signals); and

C. 46 Code of Federal Regulations, 25.30 (fire extinguishing equipment). (Ord. 94-12 § 1, 1994)

12.40.040 Canadian vessels.

When used on the waters of the city for a period of less than 60 days in any one calendar year, all Canadian vessels which comply with the boating safety laws of the government of Canada shall be exempted from BIMC 12.40.020.B and 12.40.030. (Ord. 94-12 § 1, 1994)

12.40.050 Littering.

It shall be unlawful for any person to dump, throw, discharge, pump, or otherwise deposit junk, oil, trash, garbage, refuse, ballast or other waste of any kind on or into the waters of the city. This section shall also be applicable to persons owning, using or occupying floating

homes. For purpose of this section, "floating home" means a building on a float used in whole or in part for human habitation as a dwelling, which is moored, anchored or otherwise secured in the waters of the city. (Ord. 94-12 § 1, 1994)

12.40.060 Uniform speed limit – Restricted areas – Exceptions – Water skiing – Penalties.

A. Except as permitted in subsection C of this section, it is unlawful for any person to operate a watercraft at a speed sufficient to create a wake or in excess of five nautical miles per hour, whichever is less, within the restricted areas identified in subsection B of this section, or within 150 feet of any shoreline, dock, breakwater, or nonmotorized boating class, group, or event.

B. Restricted Areas.

1. Aquatic conservancy areas pursuant to BIMC 16.12.140.J or future amendments thereto. Uses within aquatic conservancy areas are also regulated by the shoreline master program (Chapter 16.12 BIMC).

2. Eagle Harbor extending west from a line that runs from the Eagle Harbor Ferry Terminal to USCG buoy No. 5 and Bill Point.

3. Port Madison Bay extending out to one-fourth mile north of the port community dock.

4. Manzanita Bay extending south of latitude 47 degrees 40.200 minutes north.

C. Exceptions.

1. Eagle Harbor Water Ski Area. From May 1st through September 15th, a maximum of two watercraft 13 to 22 feet in length operating within the marked water ski course at least 200 feet from shore and docks between Stetson (also known as "Hornbeck") Spit and the aquatic conservancy area at the extreme west end of Eagle Harbor may exceed the uniform speed limit identified in subsection A of this section, provided such operation:

a. Is conducted only between 7:00 a.m. and 8:00 p.m. (but not before sunrise or after sunset);

b. Is conducted only while towing a person on water skis or other similar device.

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2. Emergencies. Police, fire, Coast Guard, or other official vessels responding to an emergency may exceed the uniform speed limit identified in subsection A of this section.

3. Human Powered Watercraft. Watercraft propelled by only human power may exceed the uniform speed limit identified in subsection A of this section; provided they are not operated in a negligent or reckless manner.

4. Wakeless Support Vessels. Except in aquatic conservancy areas restricted under subsection B,1 of this section, wakeless motorized vessels in direct support of human powered watercraft may exceed the uniform speed limit identified in subsection A of this section; provided:

a. Wakeless motorized vessels providing support must be clearly marked as a support and/or rescue vessel and include the name or seal of the organization providing support;

b. Wakeless motorized vessels, when exceeding the speed limit, must do so only within obvious proximity to or in pursuit of human powered vessel(s) being supported; and

c. In no event shall a wakeless motorized vessel be operated in a negligent or reckless manner.

D. Water Skiing. Any watercraft towing a person on water skis or other similar device shall carry at least two occupants, one driver and one observer; use an orange warning flag any time a person is in the water; comply with speed limits in accordance with subsection A of this section; maintain the operational distance of 150 feet as specified in subsection A of this section, except when beginning or ending a water skiing run, and abide by all other local, state and federal regulations pertaining to watercraft.

E. Penalties. Violation of this section shall be a civil infraction punishable by a fine of up to \$250.00 for each violation. (Ord. 2006-15 § 1, 2006; Ord. 2002-23 § 1, 2002; Ord. 98-39 § 2, 1999; Ord. 95-31 §§ 1 – 5, 1995; Ord. 94-12 § 1, 1994)

12.40.065 Speed limit – Port Madison.

Repealed by Ord. 2002-23. (Ord. 98-39 § 1, 1999)

12.40.070 Penalties.

Repealed by Ord. 99-24. (Ord. 94-12 § 1, 1994)

12.40.080 Resident anchor-out live-aboard vessels.

A. For the purposes of this section, “resident anchor-out live-aboard vessel” (“live-aboard vessel”) means (1) a vessel licensed, if applicable, and designed for use as a mobile structure, with adequate self-propulsion and steering equipment to be operated as a vessel, but which is principally used as an over-water residence; or (2) floats and barges used as residences that were present in city waters on September 7, 1998. Principal use as an over-water residence means essentially full-time occupancy within the city’s jurisdiction for a total of more than 60 days, whether or not consecutive, in any calendar year.

B. Notwithstanding any other provision in this section, the registration, renewal of registration and location requirements of subsections C through I of this section shall not apply to live-aboard vessels that are properly moored or anchored in any private marina.

C. Those live-aboard vessels which were present in city waters on September 7, 1998, or were registered with the city on or before September 7, 1998, shall be permitted to remain in Eagle Harbor pursuant to the conditions and regulations provided by this chapter; provided, that nothing in this chapter shall be construed as limiting, usurping or prejudicing the Washington State Department of Natural Resources’ ownership rights in the bedlands of Eagle Harbor or the department’s ability to enforce these rights against the otherwise permitted live-aboard vessels in Eagle Harbor; and provided further, that live-aboard vessels which are permitted to remain in Eagle Harbor pursuant to this chapter shall be subject to any further terms and conditions imposed upon the vessels by the city pursuant to any leasehold interest in the Eagle Harbor bedlands that the city may acquire from the Washington State Department of Natural Resources subsequent to the effective date of the ordinance codified in this section. Except as provided by subsection H of this section, an owner of a live-aboard vessel which was not present in city waters on September 7, 1998, or registered with the city as of

September 7, 1998, must immediately remove the live-aboard vessel from the waters within the city's jurisdiction.

D. Those live-aboard vessels which are permitted to remain within the city's jurisdiction pursuant to this chapter may anchor or moor only in Eagle Harbor and only at the location or locations designated by the city, as provided in this section. The general anchorage location of permitted live-aboard vessels within Eagle Harbor shall be determined by the city council upon recommendation of the harbor commission. The specific anchorage location of each individual live-aboard vessel shall be determined by the city manager. The designated anchorage location or locations shall be limited to an area or areas where the presence of the live-aboard vessels shall not compromise the public's interest in water-dependent navigation, commerce, environmental quality and other related considerations.

Until such time as the city designates the general and specific anchorage locations within Eagle Harbor pursuant to this section, the live-aboard vessels permitted to remain in Eagle Harbor pursuant to this chapter shall remain in the location they occupied as of the passage date of the ordinance codified in this section; provided, that any live-aboard vessels which are not located within Eagle Harbor as of the passage date of the ordinance codified in this section shall move to a location within Eagle Harbor, as designated by the city manager.

Upon the city's designation of the general and specific anchorage locations of the permitted live-aboard vessels, each owner of a live-aboard vessel shall move the owner's live-aboard vessel to the designated anchorage location within one month of the designation and shall not be permitted to moor or anchor the live-aboard vessel in any other area within Eagle Harbor.

E. The city manager or the city manager's designee shall maintain a registration log of those live-aboard vessels permitted to remain within Eagle Harbor pursuant to this chapter. The city's registration log of permitted live-aboard vessels shall annually be renewed by

the city clerk during the month of January. At the time of the annual registration update, owners of permitted live-aboard vessels shall pay a registration renewal fee as established by resolution. The registration renewal fee shall be in addition to any lease payment or permit or licensing fee imposed by the state or the city.

F. An owner of a permitted live-aboard vessel who removes the live-aboard vessel from Eagle Harbor for a period longer than 130 consecutive days, as determined by the chief of police or designee, shall forfeit the live-aboard vessel registration privileges under this section; provided, that vessels used for commercial fishing may be absent for a period of 150 consecutive days without forfeiture. Exceptions for absences supported by good cause, including, but not limited to, emergency rebuilds, may be allowed by the city manager or designee in the city manager's or designee's discretion.

G. The registration privileges provided by this section are nontransferable and may not be assigned, conveyed or otherwise transferred to another person.

H. The owner of any live-aboard vessel that is not permitted to remain in Eagle Harbor pursuant to subsection C of this section may apply to the city clerk for live-aboard vessel registration privileges. The city clerk shall maintain a waiting list for those additional live-aboard vessels, and any registration privileges issued after the effective date of the ordinance codified in this section shall be on a first-come, first-served basis. No additional live-aboard vessels shall be permitted to register with the city, or to moor or anchor in Eagle Harbor, unless and until the future number and permitted location of the live-aboard vessels in Eagle Harbor have been determined by the city council.

I. No more than one access float and two dinghies or skiffs per live-aboard vessel shall be permitted. Ownership of the dinghies and skiffs shall be clearly identified; unidentified dinghies and skiffs shall be impounded. The total surface water coverage for a live-aboard vessel and accompanying float and dinghies or skiffs shall not exceed 1,000 square feet.

J. No owner, operator or occupant of any live-aboard vessel shall discharge sewage or dump garbage into the water. All sewage generated upon any live-aboard vessel shall be properly disposed of at a suitable upland sewage facility.

K. Unless otherwise provided by statute, regulation or ordinance, a violation of any provision of this chapter shall constitute a civil infraction punishable by a civil fine not to exceed \$250.00, which shall be enforced as provided in Chapter 1.26 BIMC.

Failure to comply with the provisions of this chapter shall also constitute grounds for the revocation of the live-aboard vessel registration privileges. A notice of revocation of the live-aboard vessel registration privileges shall be in writing, and shall be served upon the owner or operator of the live-aboard vessel by personal delivery or by certified mail, return receipt requested. Any revocation of live-aboard vessel registration privileges may be appealed to the hearing examiner by the owner or operator of the affected live-aboard vessel by filing a written notice of appeal with the city clerk within 15 days after the notice of revocation is served upon the owner or operator. For the purposes of this section, service of the notice of revocation shall be deemed to have been effectuated on the date of personal delivery or three days after the notice is placed in the mail. (Ord. 2009-21 § 36, 2009: Ord. 99-24 § 1, 1999: Ord. 98-08 § 1, 1998: Ord. 96-39 §§ 1, 2, 3, 6, 1997)

12.40.100 Impoundment.

A. The city and its local law enforcement officials may take immediate possession of and impound any vessel or watercraft located in any waters within the city's jurisdiction when:

1. The operator or owner of the vessel or watercraft is incapable of safely operating the vessel or watercraft or is incapable of directing the disposition of the vessel or watercraft;

2. The operator or owner of the vessel or watercraft refuses to sign a citation or notice of civil infraction, or refuses or neglects to obey an order of any local law enforcement

official to proceed from or to an area following a citation or civil infraction or in an emergency;

3. The operator or owner operates the vessel or watercraft in a negligent, reckless or other manner so as to endanger the safety of others or to unreasonably interfere with the navigation of other watercraft and vessels, and the local law enforcement official believes such operation of the vessel or watercraft would continue unless the vessel or watercraft is impounded;

4. The vessel or watercraft in operation is unsafe for water transportation;

5. The vessel or watercraft is obstructing a launch area, ferry dock or public dock, or is trespassing or blocking ingress and egress on private property;

6. The vessel or watercraft has remained at a city dock or linear moorage for one hour longer than the maximum mooring or anchoring time, or is otherwise moored or anchored in violation of BIMC 12.24.050.B; provided, the city shall post signs in a conspicuous manner on or near the city dock and linear moorage which notify the public that vessels anchored or moored in violation of the city's dock or moorage requirements shall be removed or impounded by the city; or

7. An unattended vessel or watercraft is a navigational hazard or threat to public safety, or must otherwise be impounded or removed in response to an emergency situation.

B. The city and its local law enforcement officials may take possession of or impound a vessel or watercraft located in any waters within the city's jurisdiction upon 10 days' notice to the owner of the vessel or watercraft when the vessel or watercraft is abandoned, or is moored or anchored in the park harbor for one hour longer than the maximum mooring or anchoring time, in violation of BIMC 12.24.050.A. For the purposes of this subsection, a vessel or watercraft that is left unattended for more than 30 consecutive days shall be deemed abandoned.

If a vessel or watercraft is to be impounded pursuant to this subsection, the city or its local law enforcement officials shall notify the

owner of the vessel or watercraft of the pending impound by posting a notice in a conspicuous manner upon the vessel or watercraft and also by mailing the notice, via U.S. certified mail, return receipt requested, to the registered owner of the vessel or watercraft at the owner's last known address. The notice shall contain the following information:

1. The date and time the notice was attached;

2. The identity of the city official attaching the notice;

3. The nature of the violation for which the vessel or watercraft is subject to removal or impound by the city;

4. A statement that if the vessel or watercraft is not removed within 10 days from the date and time the notice is attached, the vessel or watercraft may be removed or impounded and stored at the owner's expense, and that such expense will constitute a lien on the vessel or watercraft; and

5. The address and telephone number where additional information may be obtained.

Upon the failure, neglect or of any owner to remove the owner's vessel or watercraft within 10 days after the date the notice was posted and placed in the U.S. mail as provided by this subsection, the city and its local law enforcement officials shall be authorized to remove or impound the vessel or watercraft in the manner provided by this section.

C. In lieu of removing or towing a vessel or watercraft pursuant to this section, the city and its local law enforcement officials may impound any vessel or watercraft in place by

posting one or more signs or notices in conspicuous places on the vessel or watercraft that read: "POLICE IMPOUND – KEEP OFF." Upon the posting of an impound notice, it shall be unlawful for any person:

1. To move, load, unload, rebuild or enter upon such vessel or watercraft without written permission from the city, other than for necessary maintenance and repair to prevent the deterioration or sinking of the vessel or watercraft; or

2. To remove, mutilate destroy or conceal any notice or sign posted by the city pursuant to this section.

The city and its local law enforcement officials, in their discretion, may appoint the owner or operator of the facility or property at which the vessel or watercraft is moored or anchored as custodian of the impounded vessel or watercraft.

D. At the time of the impound of a vessel or watercraft pursuant to subsections A through C of this section, the city or its local law enforcement officials shall provide the owner or operator of the vessel or watercraft written notice of the impound. If the owner or operator is not present, the notice shall be mailed, via certified mail, return receipt requested, to the registered owner of the vessel or watercraft at the owner's last known address. Such notice shall state the date and time of the impound, the identity of the city official impounding the vessel or watercraft, the nature of the violation for which the vessel or watercraft was impounded, information on how and where to redeem the impounded vessel or watercraft, the owner's right to a hearing on the impound pursuant to Chapter 12.40 BIMC, a hearing request form, and the address and telephone number where additional information may be obtained.

E. The city and its local law enforcement official shall have the authority to remove or tow any vessel or watercraft pursuant to this section by using such methods necessary to prevent unnecessary damage to the vessel or watercraft. Alternatively, the city and its local law enforcement officials may assign the removal and impound of the vessel or watercraft to a private corporation.

F. The city shall not be responsible for damages incurred as a result of the impoundment of a vessel or watercraft.

G. Notwithstanding any other provisions of this chapter, this section shall not apply to resident anchor-out live-aboard vessels. (Ord. 98-47 § 1, 1998)

12.40.110 Creation and foreclosure of lien.

A. The expenses incurred by the city in removing, impounding and mooring any vessel or watercraft pursuant to this chapter shall be borne by the owner of the vessel or watercraft. When a vessel or watercraft is moored or impounded at a city facility, the city shall assess a reasonable moorage charge established by resolution. The expenses incurred by the city in removing, impounding and mooring the vessel or watercraft, and the city's moorage charge, if applicable, shall constitute a lien against the vessel or watercraft and shall be paid in full by the owner of the vessel or watercraft prior to the city's release of the vessel or watercraft.

B. If an impounded vessel or watercraft is not redeemed within 60 days after the date of impoundment, the lien upon the vessel or watercraft arising under this chapter may be foreclosed by the city pursuant to Chapter 60.10 RCW.

C. Funds received from the sale of a vessel or watercraft pursuant to this section shall be applied towards payment of the costs and fees incurred by the city in removing, impounding and mooring the vessel or watercraft, to the city's moorage charges, if applicable, and to the costs of foreclosure, including reasonable attorney's fees. The city may maintain an action against the owner of the vessel or watercraft to recover the expense of removing, impounding and mooring the vessel or watercraft, the city's moorage charge, and the costs of foreclosure of the lien, if not fully satisfied by the sale of the vessel or watercraft.

D. Any remaining proceeds from the foreclosure sale of a vessel or watercraft shall be remitted to the owner of the vessel or watercraft, if known. If the city is unable to locate the owner of the vessel or watercraft, the remainder of the proceeds from the sale shall

12.40.120

be retained by the city for six months, and shall be released to the owner upon sufficient proof of ownership. If the six-month period expires without the owner of the vessel or watercraft claiming the remainder of the proceeds from the sale, the funds shall be deposited into the general fund of the city. (Ord. 98-47 § 2, 1998)

12.40.120 Impound hearing.

A. Any owner of a vessel or watercraft that has been impounded pursuant to this chapter may request an impound hearing in the Bainbridge Island municipal court to contest the propriety of the impound and the amount of the impound and storage fees.

B. Any request for an impound hearing pursuant to this section shall be made in writing on the form provided by the city, and must be received by the municipal court within 21 days of the date that the notice of the right to a hearing, was provided to the person seeking to challenge the impound or amount of the impound and storage fees. If the impound hearing request is not received by the municipal court within the 21-day period, the right to a hearing is waived and the owner of the vessel or watercraft is liable for any removal, storage or impound charges permitted by this chapter. Upon receipt of a timely request for an impound hearing, the municipal court shall proceed to hear and determine the propriety of the impound.

C. The municipal court, within five days after it receives a request for an impound hearing, shall notify the person requesting the hearing and the city in writing of the hearing date and time.

D. At the hearing, the person or persons requesting the hearing may produce any relevant evidence to show that the removal, impound, or storage fees charged were not proper. The city has the burden of proving a valid impound and reasonable fees by a preponderance of the evidence.

E. At the conclusion of the hearing, the municipal court shall determine whether the impound was proper, whether the removal, impound or storage fees charged were proper, and who is responsible for the payment of the fees.

F. If the impound is found proper, the removal, impound and storage fees as permitted under this chapter together with court costs may be assessed against the person or persons requesting the hearing

G. If the impound is found to be in violation of this code, then the owner of the impounded vessel or watercraft shall not be responsible for any removal, impound or storage fees, and any security shall be returned or discharged as appropriate, and the person or agency who authorized the impound shall be liable for any removal, storage or other impoundment fees permitted under this chapter. (Ord. 98-47 § 3, 1998)