

## Title 2

### ADMINISTRATION AND PERSONNEL

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Chapter 2.02

Chapter 2.04

CITY BUSINESS HOURS AND FACILITIES

CITY COUNCIL MEETINGS

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- 2.02.010 Hours of business.
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Sections:

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2.02.010 Hours of business.

General administrative offices and departments of the city shall be open for the transaction of business with the public from the hours of 8:00 a.m. to 4:00 p.m., five days per week, Monday through Friday, excepting legal holidays; provided, that the city manager may alter the hours of operations of city offices on a temporary basis, as the city manager deems necessary for the efficient operation of the city. Public safety services will be provided 24 hours per day. (Ord. 2009-21 § 2, 2009; Ord. 2000-06 § 1, 2000)

2.04.010 Held when.

The city council shall hold its meetings on the first, second, third and fourth Wednesday of each month. (Ord. 2010-31 § 1, 2010; Ord. 2002-41 § 1, 2002)

2.02.020 Rules of conduct.

The city manager may adopt rules which: (A) designate the areas in and around City Hall and other city-operated facilities which are open to the public; (B) establish limits on permitted conduct at such facilities; and (C) regulate, consistent with constitutional standards, methods of public communication activities at such facilities in order to allow for the orderly conduct of business and to protect the safety of citizens, employees, and elected officials. (Ord. 2011-09 § 2, 2011)

2.04.020 Place.

The meeting place for the city council meetings shall be at City Hall in the City Council Chambers located at 280 Madison Avenue North, Bainbridge Island, Washington. (Ord. 2002-41 § 2, 2002)

2.04.030 Time.

City council meetings on the first and third Wednesday of each month shall begin at 5:30 p.m. City council meetings on the second and fourth Wednesday of each month shall begin with an opportunity for executive session at 6:30 p.m., followed at 7:00 p.m. by the public agenda. (Ord. 2011-10 § 1, 2011; Ord. 2010-31 § 2, 2010; Ord. 2004-10 § 1, 2004; Ord. 2002-41 § 3, 2002)

2.04.040 Time limit.

*Repealed by Ord. 2010-11.* (Ord. 2004-10 § 2, 2004)

**Chapter 2.06**

**WARDS**

**Sections:**

- 2.06.010 City division – Boundaries.**
- 2.06.020 North Ward.**
- 2.06.030 South Ward.**
- 2.06.040 Central Ward.**
- 2.06.050 Council representation.**
- 2.06.060 Councilmember residency requirements.**
- 2.06.070 Voting – Residency.**
- 2.06.080 Population representation.**

**2.06.010 City division – Boundaries.**

The city of Bainbridge Island is divided into three wards, which shall be known as the North Ward, the Central Ward and the South Ward. The boundaries of each ward shall be as provided in this chapter. (Ord. 91-10 § 1, 1991)

**2.06.020 North Ward.**

The North Ward shall consist of voting precincts 321, 328, 330, 332, 335, 336, 340 and 345, which generally is that territory within the city limits lying north of Koura Road and east of Miller Road, south along Miller Road to and along the south edge of precinct 321, then north along Sportsman Club Road to State Route 305, and then east along the south boundary of precinct 328 (which follows Murden Beach Drive due east until it meets the Puget Sound). (Ord. 2003-01 § 1, 2003; Ord. 2002-25 § 1, 2002; Ord. 91-10 § 2, 1991)

**2.06.030 South Ward.**

The South Ward shall consist of voting precincts 310, 312, 314, 317, 318, 320, 325, and 333 except that portion of precinct 314 lying north of Wyatt Way and east of Finch Road, which generally is that territory within the city limits lying south of Koura Road and west of Miller Road, south along Miller Road and Fletcher Bay Road to and along High School Road then south along Finch Road to Wyatt Way and along Wyatt Way to the western terminus of Wyatt Way, and lying west of a line extending from the western terminus of

Wyatt Way to the centerline of Eagle Harbor. (Ord. 2003-01 § 2, 2003; Ord. 2002-25 § 2, 2002; Ord. 91-10 § 3, 1991)

**2.06.040 Central Ward.**

The Central Ward shall consist of voting precincts 301, 302, 303, 304, 305, those portions of 314 lying east of Finch Road and south of Wyatt Way but north of Eagle Harbor, 315 and 322, which generally is that territory within the city limits lying between the North Ward and the South Ward. (Ord. 2003-01 § 3, 2003; Ord. 2002-25 § 3, 2002; Ord. 91-10 § 4, 1991)

**2.06.050 Council representation.**

Each ward shall each be represented on the city council by two councilmembers, and one councilmember shall be elected from the city at large. City council position numbers 4 and 5 shall be assigned to the Central Ward; city council position numbers 2 and 7 shall be assigned to the North Ward; and city council position numbers 3 and 6 shall be assigned to the South Ward. City council position number 1 shall be elected from the city at large. A councilmember residing in the Central Ward on the effective date of the ordinance amending this section who is reassigned to election at large may serve out his or her unexpired term of office. (Ord. 2002-25 § 4, 2002; Ord. 91-10 § 5, 1991)

**2.06.060 Councilmember residency requirements.**

A councilmember must reside in the ward for which that councilmember is elected on the date of election. Removal of a councilmember's residence from the ward for which the councilmember was elected renders the office vacant; provided, that a change in the boundaries of the wards shall not affect the term of any councilmember, and the councilmember shall be allowed to serve out the term of office in the ward of the councilmember's residence at the time of election. (Ord. 91-10 § 6, 1991)

**2.06.070 Voting – Residency.**

At the primary election for councilmembers, qualified voters shall vote only for city council positions in the ward of their residence. At the general election for councilmem-

bers, qualified voters residing in the city shall vote for all city council positions. (Ord. 91-10 § 7, 1991)

**2.06.080 Population representation.**

Representation of each ward in the city council shall be in proportion to the population as nearly as is practicable. On the publication of the results of a federal census, the city shall review the federal census to determine whether the representation of each ward in the city council is in proportion to the population as nearly as is practicable. If the results of the federal census require that the boundaries of the wards be changed, the city council shall change the boundaries of the wards not less than 90 days before the primary election preceding the next general municipal election. (Ord. 91-10 § 8, 1991)

**Chapter 2.07**

**ETHICS PROGRAM**

**Sections:**

**2.07.010 City council shall establish ethics program.**

**2.07.010 City council shall establish ethics program.**

The city council shall establish by resolution or ordinance an ethics program for elected officials of the city of Bainbridge Island. (Ord. 2005-31 § 1, 2005)

## Chapter 2.08

### CITY OFFICERS<sup>1</sup>

#### Sections:

- 2.08.010 Council-manager form of government.**
- 2.08.020 Oath.**
- 2.08.030 Appointive offices designated.**
- 2.08.040 Official bonds.**
- 2.08.050 Creation, continuance or deletion of city employee position – Filling of emergency positions.**
- 2.08.060 *Repealed.***
- 2.08.070 *Repealed.***

#### **2.08.010 Council-manager form of government.**

Pursuant to an election held on May 19, 2009, in accordance with RCW 35A.06.040, 35A.06.050, 29.04.330 and other applicable law, the results of which were certified by the Kitsap County auditor on June 3, 2009, the city adopted the council-manager form of government as set forth in Chapter 35A.13 RCW, endowed with all the applicable rights, powers, privileges, duties and obligations of non-charter code cities as set forth in RCW Title 35A as the same now exists, including, but not by way of limitation, those set forth in Chapter 35A.11 RCW, and further including any and all supplements, amendments or other modifications of said RCW Title 35A which may hereafter be enacted. (Ord. 2009-12 § 1, 2009: Ord. 91-10 § 10, 1991: Ord. 74-06 § 1, 1974)

#### **2.08.020 Oath.**

The elected and appointed officers enumerated in this chapter shall before entering

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1. Code reviser's note: Section 2 of Ord. 91-28 designated the director of finance and administrative services to perform duties and responsibilities of a city treasurer under the laws of the state or the ordinances of the city. Section 3 of Ord. 91-28 designated the director of public works to perform the duties and responsibilities of a city engineer under the laws of the state or the ordinances of the city.

upon the performance of their duties take and execute an oath for the faithful performance of the duties of the office to which elected or appointed. (Ord. 74-06 § 3, 1974)

#### **2.08.030 Appointive offices designated.**

The following appointive offices of the city are established:

- A. Director of finance and administrative services;
- B. Chief of police;
- C. Municipal judge;
- D. Municipal judge pro tempore;
- E. City attorney;
- F. City prosecutor;
- G. Director of public works;
- H. Fire marshal;
- I. Director of planning and community development;
- J. Building official;
- K. City manager;
- L. City clerk;
- M. Court administrator;
- N. Director of information and technology;
- O. Accounting manager.

The salary of each appointive officer, and the salary or wage of each appointive officer working under such appointive officer, shall be set by the city council; provided, that the compensation for municipal judge, city attorney, city prosecutor and fire marshal shall be set by contract approved by the city council. (Ord. 2009-21 § 3, 2009: Ord. 91-28 § 1, 1991: Ord. 74-07 § 1, 1974)

#### **2.08.040 Official bonds.**

A. Before undertaking the duties of office, the director of finance and administrative services shall qualify by furnishing a fidelity bond at the expense of the city in the sum of \$100,000.

B. The auditing officer of the city and all persons authorized by the city to sign checks or warrants shall be covered by a blanket faithful performance bond in the sum of not less than \$75,000 or such greater amount as may be specified by state law as hereafter amended.

C. All other city officers and employees shall be covered by a blanket faithful performance bond in the sum of not less than \$50,000, with surety acceptable to the mayor. The premiums on said bond shall be paid by the city. (Ord. 2002-07 § 1, 2002: Ord. 91-28 § 4, 1991; Ord. 74-07 § 2, 1974)

**Chapter 2.09**

**CITY ADMINISTRATOR**

(Repealed by Ord. 2009-21)

**2.08.050 Creation, continuance or deletion of city employee position – Filling of emergency positions.**

A. Subject to all applicable laws and regulations, including those relating to civil service, the city council may provide for the creation, continuance, or deletion of any city employee position without the necessity of an amendment to the ordinance codified in BIMC 2.08.030 through this section. For the purposes of this section, the term “city employee” means any paid person on the staff of the city who is not an officer as defined in BIMC 2.08.030.

B. Subject to all applicable laws and regulations, including those relating to civil service, the city manager may authorize the hiring of personnel to fill emergency positions for a period not in excess of 30 days. Any positions thereby created shall be nonrenewable without the concurrence of a majority of the whole of the city council. (Ord. 2009-12 § 2, 2009: Ord. 74-07 § 3, 1974)

**2.08.060 Power of appointment.**

*Repealed by Ord. 2009-12.* (Ord. 91-46 § 1, 1991: Ord. 74-07 §§ 4, 5, 1974)

**2.08.070 Power of removal.**

*Repealed by Ord. 2009-12.* (Ord. 74-07 § 5, 1974)

**2.12.010**

**Chapter 2.12**

**FIRE MARSHAL**

**Sections:**

**2.12.010 Appointment.**

**2.12.010 Appointment.**

The city manager of the city is authorized to appoint a city fire marshal. (Ord. 2009-21 § 5, 2009; Ord. 121 § 1, 1963)

## Chapter 2.14

**PROCEDURES FOR ADOPTION  
AND AMENDMENT OF  
DEVELOPMENT REGULATIONS**

**Sections:**

- 2.14.010 Purpose.**  
**2.14.020 Review process – Public hearing.**  
**2.14.030 Notice.**  
**2.14.040 Council action.**  
**2.14.050 Appeals.**  
**2.14.060 Transmittal to state.**

**2.14.010 Purpose.**

This chapter establishes the process for adopting and amending Growth Management Act (“GMA”) development regulations, to ensure early and continuous public participation in the development and amendment of development regulations, which implement the city’s comprehensive plan. For the purposes of this chapter, “development regulations” means the controls placed on development or land use activities by the city, including, but not limited to, zoning ordinances, critical areas ordinances, shoreline master programs, official controls, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances, together with any amendments thereto. A development regulation does not include a decision to approve a project permit application, as defined in RCW 36.70B.020, even though the decision may be expressed in a resolution or ordinance of the city. (Ord. 2001-24 § 1, 2001)

**2.14.020 Review process – Public hearing.**

Proposed development regulations shall be reviewed under the process established in the governance manual, as approved by council resolution. The city council shall hold a public hearing on the proposed development regulation at the second reading of the proposed development regulation. Notice of public hearings for development regulations shall follow the criteria set forth in BIMC 2.14.030. (Ord. 2011-13 § 1, 2011; Ord. 2001-24 § 1, 2001)

**2.14.030 Notice.**

A. The city shall give notice of the public hearing required in BIMC 2.14.020 that is reasonably calculated to provide notice to property owners and other affected and interested individuals, tribes, government agencies, businesses, and organizations. Examples of reasonable notice include:

1. Posting the property for site-specific proposals;
2. Publishing notice in The Bainbridge Island Review;
3. Notifying public or private groups who have notified the city of an interest in a certain proposal or in the type of proposal being considered;
4. Placing notices in appropriate regional, neighborhood, ethnic, or trade journals as identified by the department of planning and community development; and
5. Publishing notice in city newsletters or sending notice to city mailing lists established by the department of planning and community development, including general lists or lists for specific proposals or subject areas.

B. Notice of the public hearing shall state when the public may submit written comments on the proposed development regulation; provided, that the public shall be given at least 10 days prior to the scheduled public hearing to submit written comments to the city.

C. The agenda for second reading of the proposed development regulation shall reflect the full title of the development regulation being reviewed.

D. Errors in exact compliance with this chapter shall not render the development regulation invalid if the spirit of the procedures established by this chapter is observed. (Ord. 2001-24 § 1, 2001)

**2.14.040 Council action.**

After the requirements of Resolution No. 96-48 and this chapter are met, the city council may act upon a proposed development regulation. The city council shall either adopt, adopt as modified, reject, or remand the development regulation to the department of planning

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and development or a city council committee or the planning commission for further consideration. (Ord. 2001-24 § 1, 2001)

**2.14.050 Appeals.**

Appeal of a city council decision on a development regulation is governed by state law. (Ord. 2001-24 § 1, 2001)

**2.14.060 Transmittal to state.**

The department of planning and community development shall notify the State of Washington Department of Community, Trade and Economic Development (“DCTED”) of its intent to adopt a development regulation at least 60 days prior to final passage. The department of planning and community development shall transmit a copy of all passed development regulations to DCTED within 10 days after passage by the city council. (Ord. 2001-24 § 1, 2001)

**Chapter 2.16**

**PERMIT REVIEW AND APPEAL PROCEDURES<sup>1</sup>**

**Sections:**

- 2.16.005 Purpose.**
- 2.16.015 Application initiating authority.**
- 2.16.020 Jurisdiction.**
- 2.16.025 Types of land use applications.**
- 2.16.030 Prohibited ex parte communications.**
- 2.16.035 Preapplication procedure.**
- 2.16.040 Repealed.**
- 2.16.045 Application submittal requirements.**
- 2.16.055 Determination of complete application.**
- 2.16.057 Voiding of application due to inactivity.**
- 2.16.060 Fees.**
- 2.16.065 Permit coordinator.**
- 2.16.075 Application timeframes.**
- 2.16.085 Notice requirements.**
- 2.16.095 Administrative decision procedures.**
- 2.16.100 Hearing examiner decision procedures.**
- 2.16.110 City council decision procedures.**
- 2.16.120 Consolidated project review.**
- 2.16.130 Appeal procedures – Appeal of an administrative decision to the hearing examiner.**
- 2.16.140 Repealed.**
- 2.16.150 Review procedures under Chapters 2.16 and 2.18 BIMC.**

**2.16.005 Purpose.**

The purpose of this chapter is to establish standard procedures for all land use applications processed by the city of Bainbridge Island. The procedures are designed to promote timely and informed public participation, to eliminate redundancy in the application,

<sup>1</sup> Prior legislation: Ords. 76-19, 77-24, 78-26 and 82-07.

permit review, and appeal processes, to minimize delay and expense, and to result in development approvals that further city goals as set forth in the comprehensive plan. (Ord. 96-03 § 2, 1996)

#### **2.16.015 Application initiating authority.**

A. In addition to the property owner, the following persons may submit land use applications:

1. An agent of the owner with authorized proof of agency may apply for any type of permit;

2. A resident of the dwelling may apply for a home occupation permit.

B. Any person may request an interpretation of the zoning code. The director of planning and community development may issue interpretations of the zoning code as needed. (Ord. 96-03 § 3, 1996)

#### **2.16.020 Jurisdiction.**

Jurisdiction of the department director or the hearing examiner is limited to those issues where ordinance or other appropriate authority grants the authority to issue a decision, recommendation, or issue an order. (Ord. 2003-07 § 1, 2003)

#### **2.16.025 Types of land use applications.**

Land use applications are classified into three major categories based on the review process: (1) administrative, (2) quasi-judicial and (3) consolidated project review.

A. Administrative Land Use Decision by a Department Director. The following applications require an administrative decision by a department director and shall be processed in accordance with BIMC 2.16.095:

- Administrative conditional use;
- Administrative variance;
- Boundary line adjustment;
- Building permit and other construction permits;
- Building administrative decisions;
- Clearing permit;
- Occupancy permit;
- Public works administrative decisions;
- Sign permit;
- Site plan and design review;

Shoreline substantial development permit and minor shoreline variance;

Short subdivision (short plat);

Zoning code interpretation; and

Any other administrative land use decision authorized by this code to be made by the department director.

B. Quasi-Judicial Decision by the Hearing Examiner or City Council.

1. The following applications require a hearing examiner decision and shall be processed in accordance with BIMC 2.16.100:

Regular variance;

Shoreline variance and shoreline conditional use permit; and

Regular conditional use permit (CUP).

2. The following applications require a city council decision and will be processed in accordance with BIMC 2.16.110:

Subdivision approval;

Planned unit development (PUD);

Master planned development (MPD); and

Rezone.

C. Consolidated Project Review. An optional consolidated project review process is available for a land use proposal that requires more than one related land use permit. These are processed in accordance with BIMC 2.16.120. (Ord. 2003-16 § 2, 2003; Ord. 2001-26 § 1, 2001; Ord. 96-03 § 4, 1996)

#### **2.16.030 Prohibited ex parte communications.**

A. Except as permitted under Chapter 42.36 RCW, a proponent or opponent, or his or her agent or representative, of a quasi-judicial matter that is pending before the hearing examiner or council, shall not communicate ex parte, directly or indirectly, with the examiner or a council member concerning the merits of the pending matter or a factually related quasi-judicial matter. This rule shall not prohibit ex parte communications concerning procedural matters.

B. Except as permitted under Chapter 42.36 RCW, the hearing examiner or a council member shall not communicate ex parte, directly or indirectly, with a proponent or

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opponent, or his or her agent or representative, of a quasi-judicial matter that is pending before the hearing examiner or council concerning the merits of the pending matter or a factually related quasi-judicial matter. This rule shall not prohibit ex parte communications concerning procedural matters.

C. If a prohibited ex parte communication is made to or by the hearing examiner or a council member, the examiner or council member shall comply with Chapter 42.36 RCW.

D. Any person seeking to rely on the provisions of this section to disqualify the hearing examiner or a council member from participating in a decision must raise the challenge as soon as the basis for disqualification is made known to the person. Where the basis is known or reasonably should have been known prior to the issuance of the decision and is not raised until after the issuance of the decision, it may not be relied on to invalidate the decision. (Ord. 2003-07 § 2, 2003)

### 2.16.035 Preapplication procedure.

A. A preapplication conference may be scheduled by the department director for any type of land use application, but is required prior to submitting an application for the following permits:

- Regular conditional use;
- Regular variance;
- Site plan and design review approval;
- Preliminary subdivision (long plat) and short subdivision (short plat);
- Shoreline substantial development and shoreline conditional use permit;
- Planned unit development;
- Comprehensive plan amendment; and
- Consolidated project review.

B. A preapplication conference for a conditional use permit, variance, site plan and design review, shoreline substantial development permit or shoreline conditional use permit may be waived in writing by the director of planning and community development if the director determines the following:

1. The application is consistent with applicable codes and ordinances;

2. The proposed use is clearly listed as a permitted use in the zoning district in which it is located;

3. The proposal is exempt from review under the State Environmental Policy Act (SEPA); and

4. The applicant demonstrates knowledge and understanding of the city's permit processing procedures.

C. An applicant shall arrange for a preapplication conference by submitting forms and plans as prescribed by the applicable land use applications. For housing design demonstration projects authorized under Chapter 18.38 BIMC, the applicant shall submit additional information for the preapplication conference as outlined in BIMC 18.38.050. As established by the city council by resolution, a fee for a preapplication conference shall be charged.

D. The preapplication conference is an informal discussion between a potential applicant, interested citizens, city staff, and the design review board (if applicable) regarding a proposed project. A preapplication conference shall not include extensive field inspection or correspondence. The purpose of the preapplication conference is to assist the applicant by identifying the following:

1. Requirements for submittal, including types of permits necessary to complete the proposal and whether SEPA review is required, pursuant to the State Environmental Policy Act (SEPA), Chapter 43.21C RCW.

2. Compliance with applicable city plans, goals, policies, codes or guidelines and possible revisions to the proposed project which will enhance the proposal with respect to these requirements.

3. Required plans, studies, reports, and/or other materials specific to the proposal which will provide necessary information for staff to review the project.

4. If applicable, whether or not the project will likely qualify as a housing design demonstration project, and/or feedback about how to qualify.

E. The discussion at the preapplication conference shall not bind or prohibit the city's future application or enforcement of applicable codes and ordinances.

F. As outlined in BIMC 17.04.050, 18.105.045, 18.108.020, and 18.120.020, the review process for subdivisions, nonadministrative site plan and design review permits, regular conditional use permits, and planned unit developments shall include a public participation meeting following the procedures outlined in Resolution No. 2010-32. The meeting will be held after the design review board meeting, if one is required, during the preapplication conference phase of the project. (Ord. 2010-25 § 1, 2010: Ord. 2009-06 § 1, 2009; Ord. 2006-13 § 1, 2006: Ord. 2001-10 § 1, 2001; Ord. 96-03 § 5, 1996)

**2.16.040 Hearing examiner hearing and recommendation procedures.**

*Repealed by Ord. 96-03.* (Ord. 93-02 § 1, 1993)

**2.16.045 Application submittal requirements.**

An application for a specific type of land use decision shall be filed with the appropriate department on forms prescribed by that department and shall include fees as required by resolution of the city council. Each application has specific submittal requirements which are described in the code section pertaining to the application. Additional requirements may be requested on the application form. (Ord. 96-03 § 6, 1996)

**2.16.055 Determination of complete application.**

A. A land use application shall be deemed complete when all submittal requirements, as specified in the applicable code provision or application forms, and all fees as required by resolution of the city council have been submitted to the appropriate department and the application is sufficient for processing, even though additional information may be required or subsequent project modifications may occur. The department director may waive specific submittal requirements that are determined by the director to be unnecessary for review of the application.

B. A determination of a complete application shall not preclude the department director from requesting additional information or studies, if new information is required to complete final review or if substantial changes in the application are proposed.

C. If a land use application is determined to be incomplete, the city shall request additional information in writing. The application may be canceled for inactivity if an applicant fails to respond to the department's written request for revisions, corrections, or additional information within 60 days of the date of the request. The department director may extend the response period beyond 60 days if the applicant provides and adheres to an approved schedule with specific target dates for submitting the full revisions, corrections, or other information needed by the department. (Ord. 96-03 § 7, 1996)

**2.16.057 Voiding of application due to inactivity.**

A land use application, whether determined to be complete or incomplete, for which approval has not yet been granted, may be canceled for inactivity if an applicant fails to respond to the department's written request for revisions, corrections, or additional information within 60 days of the request. The planning director may extend the response period beyond 60 days if within that time period the applicant provides and subsequently adheres to an approved schedule with specific target dates for submitting the full revisions, corrections, or other information needed by the requesting department. (Ord. 2004-12 § 1, 2004)

**2.16.060 Fees.**

A. Fees and charges payable to the city prior to issuance of a land use permit or approval, except impact fees, shall be paid in an amount established by ordinance or resolution as of the date on which the land use application is accepted, except as provided in subsections B and C of this section.

B. Fees and charges payable to the city prior to issuance of a building permit, including utility participation and connection

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charges but except impact fees and fees for which an hourly charge has been established, shall be paid in an amount established by ordinance or resolution as of the date of the permit application.

C. Fees and charges payable to the city in relation to the issuance of land use permits or approvals do not vest except as provided in this chapter. Hourly rate charges shall be imposed for all work done by the city on and after the effective date(s) of the hourly charges, at the rate in effect on the date that work is performed by the city. Hourly charges shall be in addition to any amounts previously collected relative to the permits, approvals, or actions for which hourly fees are either now or subsequently imposed except that amounts paid prior to the imposition of hourly charges shall be considered a nonrefundable deposit against future charges for the same permits or approvals. (Ord. 2000-51 § 3, 2000: Ord. 2000-41 § 1, 2000: Ord. 99-47 § 3, 1999: Ord. 98-25 § 1, 1998)

### 2.16.065 Permit coordinator.

The department director shall designate a department staff permit coordinator for each land use application submitted to the city. The permit coordinator will serve as the city representative to the applicant. (Ord. 96-03 § 8, 1996)

### 2.16.075 Application timeframes.

A. Final decisions on land use applications shall be issued within 120 days from the date the application is determined to be complete pursuant to BIMC 2.16.055; provided, that the final decisions on subdivision applications shall be issued within the time periods stated in BIMC 17.04.050, 17.12.106 and 17.16.120. Where there is a conflict in time periods of state statutes, the state statute with the more restrictive time period shall govern. The time period for making a final decision as established by this section may be extended for any reasonable period of time mutually agreed upon by the applicant and the city.

B. For purposes of calculating time periods and counting days of permit processing, the time period shall begin on the first day fol-

lowing the date the application is determined to be complete. The following periods shall be excluded from the 120-day period:

1. Any period during which the applicant has been requested by the city to correct plans, perform required studies, or provide additional information, in accordance with BIMC 2.16.055;

2. Any period during which an environmental impact statement is being prepared following a determination of significance pursuant to Chapter 43.21C RCW;

3. Any period during which an appeal or project permit is being reviewed; and

4. Any extension of time mutually agreed upon by the applicant and the city.

C. The time limits established by this section do not apply if a land use application includes one of the following:

1. An amendment to the comprehensive plan or an amendment to a land use development regulation;

2. Siting of an essential public facility as provided in RCW 36.70A.200;

3. An application substantially revised by the applicant, in which case the time period shall start from the date at which the revised project application is determined to be complete under BIMC 2.16.055; or

4. An application for a street vacation.

D. If the city is unable to issue its final decision on a land use application within the applicable time periods, the city shall provide written notice of this fact to the project applicant. The notice will include a statement of reasons why the time periods have not been met and an estimated date for issuance of the notice of final decision. (Ord. 2001-26 § 2, 2001: Ord. 96-03 § 9, 1996)

### 2.16.085 Notice requirements.

A. Types of Notifications. All applications, except those exempted in subsection G of this section, require the following notifications:

1. Notice of complete application;

2. Notice of application and public comment period;

3. Notice of public hearing, if a public hearing is required; and

4. Notice of decision and appeal period.

**B. Notice of Complete Application.**

1. Within 28 days after receiving a land use permit application, the department director shall either mail, fax, or otherwise provide to the applicant a written determination, stating either that the application is complete or that the application is incomplete and what is necessary to make the application complete.

2. If the application is determined to be incomplete, the department director will request additional information in writing.

3. Within 14 days after an applicant has submitted additional information identified by the department director as being necessary for a complete application, the department director shall notify the applicant whether the application is complete or what additional information is necessary.

4. If the department director does not provide a written determination as to whether the application is complete within the 28 days, the application shall be deemed complete as of the twenty-eighth day.

**C. Notice of Application and Public Comment Period – Notice to Public.**

1. Within 14 days of a notice of complete application, the department director shall issue a notice of application for a land use application subject to SEPA review and/or requiring a public hearing. The notice of application shall provide a minimum comment period of 21 days. For projects requiring review under the State Environmental Policy Act (SEPA), the SEPA threshold determination shall not be issued prior to the expiration of the notice of application comment period.

2. Method of Notice. The notice of application shall be provided to the public and other government agencies with jurisdiction over some aspect of the application by the following means:

a. Mailing written notice to the addresses listed on the property tax records of Kitsap County for properties located within 500 feet of any boundary of the subject property and including any addresses within 500

feet of any contiguous property in the applicant's ownership;

b. Posting notice in the official posting places of the city, including the city website;

c. Publishing notice in the official newspaper of the city; and

d. Posting the subject property in a manner prescribed by the city.

3. Notice of Application Contents. The notice of application shall contain the following information:

a. Date of application, date of notice of complete application, and date of notice of application;

b. Description of proposed project, location and street address if applicable;

c. Identification of requested permits, requested studies, other permits not included in the application and existing environmental documents pertaining to the proposal;

d. A statement of the date, time and place of any scheduled public hearing related to the application;

e. A statement of the 21-day comment period and any appeal rights;

f. Statements of the right for any person to comment on the application, receive notice of and participate in any public hearing, and request a copy of any decision; and

g. A statement of the preliminary determination, if any, of development regulations that will be used for project mitigation.

D. Notice of Public Hearing. Notice for an application requiring a public hearing shall provide in the following manner:

1. Time of Notice. The hearing examiner shall provide notice of the public hearing at least 15 days prior to the hearing or as otherwise provided by law.

2. Method of Notice. The hearing examiner shall provide notice of an appeal hearing as provided in subsections D.2.a through D.2.c of this section and shall provide public notice for any other public hearing by:

a. Posting notice in the official posting places of the city, including the city website;

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b. Publishing notice in the official newspaper of the city at least 14 days prior to the hearing or as otherwise provided by law;

c. Mailing the applicant and appellant, if applicable;

d. Mailing notice to the address listed on the property tax records of Kitsap County for property located within 500 feet of any boundary of the subject property and including any property within 500 feet of any contiguous property in the applicant's ownership;

e. Mailing notice to any person who has submitted a written request for notice of the hearing; and

f. Posting the subject property in a manner prescribed by the city.

### 3. Public Hearing Notice Contents.

The hearing examiner shall prepare notice of an upcoming public hearing on the application containing the following information:

a. Applicant, agent and project name;

b. Name and telephone number of the permit coordinator and name of the hearing examiner;

c. Hearing date, time and place;

d. Location of the proposal and street address if applicable;

e. Brief description of the proposal and requested permit;

f. Vicinity map;

g. Citation of the code section requiring public hearing;

h. SEPA determination, if applicable;

i. Procedures for public comment;

j. Appeal procedures when appropriate;

k. The decision being appealed and the name of the appellant, if applicable;

l. A brief description of the decision being appealed, if applicable; and

m. A statement of who may participate in the appeal, if applicable.

### E. Notice of Decision and Appeal Period.

1. A notice of decision shall be issued upon a final decision on a land use application. Notice of decision shall include:

a. A statement indicating that the application is approved, approved with modifications, denied or remanded;

b. A statement of any conditions included as part of a decision for approval or approval with modifications;

c. A statement of facts upon which the decision, including any conditions, is based and the conclusions of law derived from those facts;

d. The SEPA threshold determination and mitigation conditions as specified in Chapter 16.04 BIMC, if applicable; and

e. Procedures for appeal under BIMC 2.16.130, if applicable.

2. The decision maker shall distribute the notice of decision by mail, fax, or personal service to the applicant, the applicable department director and any persons requesting notice or submitting comments on the application prior to the decision.

F. Combining Public Notices. If a land use application is subject to environmental review under Chapter 16.04 BIMC (Chapter 43.21C RCW) and requires a SEPA threshold determination, the SEPA public notice and notice of SEPA public comment period, if any, shall be combined with other land use application notices when possible. A combined notice shall include a statement that a single comment letter may be submitted to the SEPA official, addressing impacts as well as other issues subject to review under the decision criteria for the land use application.

G. Exemptions from Public Notice Requirements. The following land use applications do not require a notice of application and public comment period or notice of decision:

1. A building permit or other construction permit;

2. An administrative decision which is categorically exempt under SEPA (Chapter 43.21C RCW), unless the permit application procedures require a public comment period or public hearing. (Ord. 2011-13 § 2, 2011: Ord. 2003-25 § 1, 2003; Ord. 2003-07 § 3, 2003; Ord. 2001-41 § 1, 2001; Ord. 2000-36 § 1, 2000; Ord. 96-03 § 10, 1996)

**2.16.095 Administrative decision procedures.**

A. **Applicability.** This section applies each time a provision of this code authorizes administrative review of land use application.

B. **State Environmental Policy Act.** The State Environmental Policy Act (SEPA) and the Bainbridge Island SEPA ordinance (Chapter 16.04 BIMC) may also apply to actions processed under this section.

C. **Participation in the Decision.** Any person may comment on a proposed decision by submitting written comments on the application to the applicable department director prior to the end of the notice of application 21-day comment period for those applications not otherwise exempted under BIMC 2.16.085.G.

D. **Decision Procedures.** In making a decision, the department director shall consider the applicable decision criteria of this code, all other applicable law, and any necessary documents and approvals.

1. **Environmental Review.** For a land use application subject to Chapter 43.21C RCW and Chapter 16.04 BIMC, a SEPA threshold determination may be issued simultaneously with the final decision of the land use application.

2. **Planning Commission Recommendation.** When written public comments are received during the public comment period concerning the effect on the land use application of the comprehensive plan, shoreline master program or matters not addressed by specific provisions of this code, the director of planning and community development may request the planning commission to review an application and make a written recommendation prior to the director making a decision. The planning commission will consider the land use application at a public meeting.

a. The planning commission shall recommend approval, approval with modifications or denial of an application.

b. In making a recommendation, the planning commission shall consider the applicable decision criteria of this code, all other applicable law, and any necessary documents and approvals.

c. If the applicable criteria are not met, the planning commission shall recommend the proposal be modified or denied.

d. A planning commission recommendation is not a final decision and therefore there is no appeal of the recommendation.

3. **Transmittal of Planning Commission Recommendation.** The planning commission's recommendation and other documents upon which its decision is based shall be immediately transmitted to the director of planning and community development.

4. **Single Report.** The department director shall prepare a single consolidated report setting forth all the recommendations and decisions made on the application as of the date of the report. The report shall state any mitigation required or proposed under the development regulations or as required through SEPA, Chapter 43.21C RCW. The report shall include the SEPA determination if a determination has not previously been issued.

E. **Department Director Decision.** The department director may approve, approve with modifications or deny the application based on the decision criteria, findings of fact, recommendations of the planning commission and design review board as appropriate, and any necessary documents and approvals.

F. **Corrections or Clarification.**

1. The department director may amend the decision at any time to correct clerical errors clearly identifiable from the public record. Such a correction does not affect any time limit provided for in this chapter.

2. The department director may clarify a statement in the written decision at any time as long as the clarification does not materially alter the decision.

G. **Effect of Decision.** Subject to the provisions of subsection H of this section, the decision of the department director is the final decision of the city.

H. **Appeal of the Decision.** The decision of the department director to approve or deny a land use application may be appealed to the hearing examiner in accordance with the procedures of BIMC 2.16.130; provided, that the decision of the department director to approve

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or deny any of the following land use applications may not be appealed to the hearing examiner:

1. Administrative decisions of the public works director; and

2. Sign permit. (Ord. 2011-13 § 3, 2011; Ord. 2004-12 § 2, 2004; Ord. 2003-52 § 2, 2003; Ord. 96-03 § 11, 1996; Ord. 93-02 § 1, 1993. Formerly 2.16.010)

### 2.16.100 Hearing examiner decision procedures.

A. Applicability. This section applies each time a provision of this code authorizes a public hearing before the hearing examiner and a final decision by the hearing examiner.

B. Purpose. The purpose of the public hearing is to review a proposed project for consistency with the Bainbridge Island Municipal Code, appropriate elements of the comprehensive plan and all other applicable law, and to provide an opportunity for the public to comment on the project and its compliance with the municipal code, the comprehensive plan and all other applicable law.

C. State Environmental Policy Act. The State Environmental Policy Act (SEPA) and the Bainbridge Island SEPA ordinance (Chapter 16.04 BIMC) may also apply to an action processed under this section.

D. Decision Procedures. Land use applications requiring a hearing examiner decision shall first be reviewed by the director of planning and community development as follows:

1. Environmental Review. For a land use application subject to Chapter 43.21C RCW and Chapter 16.04 BIMC, the SEPA threshold determination shall be issued and any required public comment period shall be completed prior to a public hearing.

2. Planning Commission Review and Recommendation. For all land use applications decided by the hearing examiner, when written public comments are received during the public comment period concerning the effect of the land use application on the comprehensive plan, the shoreline master program or matters not addressed by specific provisions of this code, the director of planning and community development or the hearing examiner may

request planning commission review and recommendation prior to the final decision. The planning commission will consider the land use application at a public meeting.

a. The planning commission may recommend approval, approval with modifications or denial of an application.

b. In making a recommendation, the planning commission shall consider the applicable decision criteria of this code, all other applicable law, and any necessary documents and approvals.

c. If the applicable criteria are not met, the planning commission shall recommend the proposal be modified or denied.

d. A planning commission recommendation is not a final decision and therefore there is no appeal of the recommendation.

3. Transmittal of Planning Commission Recommendation. The planning commission's written recommendation and other documents upon which its decision is based shall be immediately transmitted to the director of planning and community development and hearing examiner.

4. Single Report. The director of planning and community development shall prepare a single consolidated report setting forth all the recommendations and decisions made on the application as of the date of the report. The report shall state any mitigation required or proposed under the development regulations or as required by SEPA, Chapter 43.21C RCW and shall include the SEPA determination if a determination has not previously been issued. The report shall be presented to the hearing examiner at the public hearing.

E. Public Hearing. The hearing examiner shall hold a public hearing prior to issuing a decision. The hearing examiner shall maintain a record of the exhibits presented and a tape recording of the testimony and arguments presented, which shall be kept by the city clerk. Any rules of procedure for hearings adopted by the hearing examiner shall be kept on file with the office of the city clerk and the department of planning and community development.

F. Participation in the Public Hearing. Participation in the hearing will be in accordance with the following procedures:

1. Any person may participate in the public hearing. The hearing examiner has discretion to limit testimony to relevant, non-repetitive comments and to set time limits.

2. In making a decision, the hearing examiner shall consider the applicable decisions criteria of this code, all other applicable laws, recommendations of the planning commission and design review board, and any necessary documents and approvals.

G. Hearing Examiner Action.

1. The hearing examiner may approve, approve with modifications, deny or remand an application.

2. In making a decision, the hearing examiner shall consider the applicable decision criteria of this code, all other applicable law, and any necessary documents and approvals.

H. Notice of Decision of the Hearing Examiner. The hearing examiner shall issue a written decision in accordance with BIMC 2.16.085.E, within 20 working days of the public hearing, unless a longer period is agreed upon by the hearing examiner and the applicant. If the hearing examiner and the applicant agree on a longer period for issuance of the written decision, the examiner shall provide notice of the extension to the applicant, the city, and any person who testified at the hearing or submitted written testimony for consideration at the hearing. The hearing examiner shall file the decision with the city clerk's office and distribute it in accordance with BIMC 2.16.085.E.2.

I. Continuation of Hearing. A hearing may be continued to a date certain without additional notice.

J. Motion for Reconsideration. A motion for reconsideration may be filed to correct obvious errors. Such motion shall be filed in writing 10 days from the date the hearing examiner's decision was filed. Such motion shall be decided on the record unless, at the hearing examiner's discretion, further public hearing is necessary. If a timely and appropri-

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ate request for reconsideration is filed, the appeal period shall begin from the date the decision on the reconsideration is issued.

**K. Corrections or Clarification.**

1. The hearing examiner at any time may amend the decision to correct clerical errors clearly identifiable from the public record. Such correction does not affect any time limit provided for in this chapter.

2. The hearing examiner may clarify a statement in the written decision as long as the clarification does not materially alter the decision.

**L. Effect of Decision.** The decision of the hearing examiner shall be final unless, within 21 days after issuance of a decision, a person with standing appeals the decision in accordance with Chapter 36.70C RCW. (Ord. 2004-12 § 3, 2004; Ord. 2003-52 § 3, 2003; Ord. 2003-25 § 2, 2003; Ord. 2003-07 § 4, 2003; Ord. 2001-26 § 3, 2001; Ord. 96-03 § 15, 1996; Ord. 93-02 § 1, 1993. Formerly 2.16.050)

**2.16.110 City council decision procedures.**

**A. Applicability.** This section applies each time a provision of this code authorizes a final decision by the city council for a land use application.

**B. State Environmental Policy Act.** The State Environmental Policy Act (SEPA) and the Bainbridge Island SEPA ordinance, Chapter 16.04 BIMC, may also apply to actions processed under this section.

**C. Decision Procedures.** A land use application requiring a city council decision shall be reviewed as follows:

1. **Environmental Review.** For a land use application subject to Chapter 43.21C RCW and Chapter 16.04 BIMC, the SEPA threshold determination shall be issued and comment period shall be completed prior to a public hearing.

2. **Hearing Examiner Recommendation.** A land use application requiring a city council decision also provides opportunity for the hearing examiner to make a recommendation to the city council prior to the final decision.

3. The hearing examiner will consider the land use application at a public hearing following the procedures of BIMC 2.16.100.D through J.

4. **Transmittal of Hearing Examiner Recommendation to City Council.** The hearing examiner's written recommendation and other documents upon which the decision is based shall be immediately transmitted to the director of planning and community development and city council.

5. **Single Report.** The hearing examiner shall prepare a single consolidated report setting forth all the recommendations and decisions made on the application as of the date of the report. The report shall state any mitigation required or proposed under the development regulations or as required by SEPA, Chapter 43.21C RCW, and shall include the SEPA determination if a determination has not previously been issued. The report shall be presented to the city council.

**D. City Council Public Meeting.** The city council shall hold a public meeting to consider the land use application prior to issuing a decision. Notice of city council consideration of recommendations from the hearing examiner shall be posted in the official posting places of the city.

**E. City Council Action.**

1. **Elements to be Considered.** The city council shall consider the following in deciding upon an application:

- a. The contents of the application;
- b. The minutes of any public hearing on the application and any written material submitted as part of the public hearing process;
- c. The recommendation of the applicable department director;
- d. The recommendation of the hearing examiner; and
- e. The decision criteria listed in each section of this code under which the application was made.

2. **City Council Decision.** The city council shall take one of the following actions:

- a. Adopt an ordinance or resolution, including findings of fact and conclusions of law, approving the proposal;

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b. Adopt an ordinance or resolution, including findings of fact and conclusions of law, approving the proposal with modifications;

c. Adopt an ordinance or resolution, including findings of fact and conclusions of law, denying the proposal; or

d. Refer the proposal back to the hearing examiner for further proceedings.

F. Appeal of a City Council Decision. The decision of the city council shall be final unless, within 21 days after issuance of a decision, a person with standing appeals the decision in accordance with Chapter 36.70C RCW. (Ord. 96-03 § 16, 1996)

### 2.16.120 Consolidated project review.

A. An applicant for a single project proposal requiring more than one land use application may choose to follow the consolidated project review process. The procedures include consolidation of various land use applications, public notification of an application and opportunity for public comment prior to a final decision. Any combination of land use applications not otherwise exempted may be processed under the consolidated project review process.

B. Exemptions. The following land use applications are exempted from consolidated project review: boundary line adjustment, building and other construction permits and similar administrative decisions which are exempt from SEPA.

C. Procedures. A consolidated project permit application shall follow the application and notice procedures which require the most extensive review and decision process.

1. Environmental Review. For a consolidated land use application subject to Chapter 43.21C RCW and Chapter 16.04 BIMC, the SEPA threshold determination shall be issued and any required public comment period shall be completed prior to a public hearing.

2. Planning Commission or Hearing Examiner Recommendation. If a planning commission recommendation is required for any related consolidated land use application, the planning commission shall consider the land use application at a public meeting in

accordance with BIMC 2.16.095.D.2. A public meeting shall have the same definition as set forth in RCW 36.70B.020(5), as may be amended in the future, and does not include an open record hearing. If a hearing examiner recommendation is required for any related consolidated land use application, the hearing examiner will consider the land use application at a public hearing in accordance with BIMC 2.16.100.D through J.

3. Public Hearing. If a public hearing is required for any of the related land use applications of a consolidated project, the public hearing shall combine all the applicable permit application requests. If the public hearing is held prior to a decision on the project permit application(s), then it shall be an "open record predecision hearing" as defined by RCW 36.70B.020(3), as may be amended in the future. A public hearing may be held on an appeal, to be known as an "open record appeal hearing" as defined by RCW 36.70B.020(3), as may be amended in the future, if no open record predecision hearing has been held on the project permit application(s).

a. Related applications requiring a public hearing shall be considered at only one public hearing.

b. If the SEPA threshold determination is appealed for a proposal under the consolidated project review process, the SEPA appeal hearing shall be combined with the public hearing for the consolidated project application. (Ord. 2010-20 § 1, 2010: Ord. 96-03 § 17, 1996)

### 2.16.130 Appeal procedures – Appeal of an administrative decision to the hearing examiner.

A. Applicability. This section is applicable to all hearings conducted in response to appeals of administrative decisions, departmental rulings, and interpretations made in accordance with administrative review procedures of BIMC 2.16.095 and administrative decisions made under BIMC 1.26.070. Appeals of decisions made in accordance with Chapter 16.04 BIMC, the city's SEPA rules, shall be made according to the procedures in

that chapter and shall be combined with an appeal hearing as specified in subsection E of this section.

**B. Form of the Appeal.**

1. An appeal of an administrative decision shall be filed with the city clerk 14 days after the date of the decision or 21 days if the land use decision requires a SEPA threshold determination public comment period pursuant to WAC 197-11-340, or within a time frame otherwise specified by law.

2. All appeals shall be filed in writing with the city clerk, shall identify the decision appealed and the date of the decision, and shall contain a summary of the grounds for the appeal.

3. The appropriate fee as established by city resolution must be paid upon filing of the notice of appeal. No appeal will be processed without receipt of the appropriate fee before expiration of the period for filing the appeal.

4. Following receipt of a notice of appeal and payment of the appropriate fee, a public hearing shall be set by the hearing examiner.

5. All written comments and related documents received prior to the appeal hearing shall be transmitted to the hearing examiner no later than the hearing date.

6. Any rules of procedure for appeal hearings adopted by the hearing examiner shall be kept on file with the office of the city clerk and the department of planning and community development, and shall be provided to any person filing an appeal.

**C. Content of Appeal.** Appeal hearings shall be limited to the issues specified in the written appeal.

**D. Continuation of Hearing.** A hearing may be continued to a date certain without additional notice.

**E. Open Record Appeal Hearing.** Except as otherwise provided in this section, the appeal shall be heard at an open record appeal hearing. Participation in an open record appeal hearing is limited to the applicant, the applicant's representative, the appellant, the appellant's representative, appropriate city staff and consultants, any witnesses called by each and

any nonparty who submitted written comments during the public comment period if the hearing examiner determines that the testimony will be relevant to the issue on appeal and nonrepetitive of the testimony of other witnesses.

**F. Closed Record Appeal Hearing.** If the appeal is an appeal of an administrative decision for which there has already been a public hearing, either an open record predecision hearing or an open record appeal hearing, then the appeal shall be heard at a closed record appeal hearing, as defined by RCW 36.70B.020(1), as may be amended in the future. The hearing examiner shall not take additional testimony, exhibits, or other evidence into the record, and only appeal argument is allowed; provided, that the hearing examiner may view the property and surrounding area to better understand the evidence.

**G. Decision on the Appeal.**

1. **Hearing.** In considering appeals, the hearing examiner shall do one of the following:

- a. Affirm the decision;
- b. Reverse the decision;
- c. Affirm the decision with modifications; or

d. Remand the decision to the department director for further consideration. The hearing examiner shall include in the order the issues to be reviewed on remand.

2. **Standard of Review.** Upon completion of the appeal hearing, the hearing examiner shall render a decision, in accordance with subsection G.4 of this section, giving substantial weight to the decision of the department director.

3. **Conditions.** The hearing examiner may include conditions as part of a decision granting, or granting with modifications an appeal to ensure conformance with this code, the city's comprehensive plan and other applicable laws or regulations.

4. **Written Decision.** Within 20 working days after completion of the appeal hearing, unless the appellant and the hearing examiner have consented to an extension of time, the hearing examiner shall issue a written

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decision on the appeal which contains the following:

a. The decision of the hearing examiner granting or denying the appeal in whole or in part;

b. Any conditions included as part of the decision on the appeal;

c. Findings of facts upon which the decision, including any conditions, is based and the conclusions of law derived from those facts; and

d. A statement of the right of a person with standing to appeal the decision of the hearing examiner in accordance with Chapter 36.70C RCW.

5. Distribution. The hearing examiner or designee body shall mail a copy of the written decision to the applicant, the appellant, the applicable department director, and any person requesting the written decision or who submitted substantive comments on the application prior to the decision.

6. Appeal of the Decision of the Hearing Examiner. The decision of the hearing examiner shall be final unless, within 21 days after issuance of a decision, a person with standing appeals the decision in accordance with Chapter 36.70C RCW. (Ord. 2010-20 § 2, 2010; Ord. 2008-10 § 7, 2008; Ord. 2003-07 § 5, 2003; Ord. 2001-02 § 15, 2001; Ord. 96-03 § 18, 1996; Ord. 94-35 § 1, 1995; Ord. 93-02 § 1, 1993. Formerly 2.16.060)

**2.16.140 Appeal procedures – Appeal of a hearing examiner decision to the city council.**

*Repealed by Ord. 2003-25. (Ord. 96-03 § 19, 1996; Ord. 94-35 § 2, 1995. Formerly 2.16.070)*

**2.16.150 Review procedures under Chapters 2.16 and 2.18 BIMC.**

Application Type	Administrative	Planning Commission	Hearing Examiner	City Council
SEPA	D		A	
Site plan and design review	D	(R)	A	
LM and BP site design	D	R	A	
CUP – Administrative	D	(R)	A	
CUP – Regular		(R)	D	
Variance – Administrative	D	(R)	A	
Variance – Regular		(R)	D	
Shoreline SSDP and variance	D	(R)	A	
Shoreline variance and CUP		(R)	D/R to DOE	
Short plat	D		A	
PUD		(R)	R	D
Subdivision			R	D
Rezone			R	D
Rezone – Legislative		R		D

D = Decision  
A = Appeal  
R = Recommendation  
(R) = Recommendation upon request  
Note: The comprehensive plan amendment process is located in Chapter 18.117 BIMC and is not affected by this chapter.

(Ord. 2003-25 § 3, 2003; Ord. 99-30 § 1, 1999; Ord. 96-03 § 20, 1996)

## Chapter 2.18

## LEGISLATIVE REVIEW PROCEDURES

## Sections:

- 2.18.010 Purpose and applicability.**
- 2.18.020 Planning commission review and recommendation.**
- 2.18.030 City council review.**

**2.18.010 Purpose and applicability.**

This chapter applies to amendments to the comprehensive plan, zoning code, the Bainbridge Island official zoning map, and area-wide rezones initiated by the city. (Ord. 2006-13 § 2, 2006; Ord. 96-03 § 21, 1996)

**2.18.020 Planning commission review and recommendation.**

A. Public Hearing. The planning commission shall hold a public hearing for all amendments to the comprehensive plan, official zoning map and zoning code of the city prior to issuing a recommendation to the city council.

1. Notice of Public Hearing. The date, time and place of any scheduled hearing shall be provided to the public by the following means:

a. Publishing notice in the official newspaper of the city at least eight calendar days prior to the public hearing.

b. Posting notice in the official posting places of the city.

2. Participation in the Public Hearing.

a. Any person may participate in the public hearing. The planning commission has discretion to limit testimony to relevant, nonrepetitive comments and to set time limits.

b. Any person may submit written comments, photographs or other exhibits on the proposed amendment to the planning commission prior to or at the public hearing.

c. The planning commission shall maintain a record of the exhibits presented and a tape recording of the testimony and arguments presented, which shall be kept by the city clerk.

B. Planning Commission Action and Written Recommendation.

1. In making a recommendation, the planning commission shall consider applicable decision criteria of this code, all applicable law, and any necessary documents and approvals.

2. The planning commission shall issue a written recommendation which contains the following:

a. A statement indicating that the proposed amendment is approved, approved with modifications or denied; and

b. A statement of facts upon which the recommendation is based and the conclusions derived from those facts.

C. Transmittal to City Council. The planning commission's written recommendation and other documents upon which its decision is based shall be immediately transmitted to the city council and department director. (Ord. 2006-13 § 3, 2006; Ord. 2001-26 § 4, 2001; Ord. 96-03 § 21, 1996)

**2.18.030 City council review.**

A. Public Hearing. The city council may hold a public hearing to consider the proposed amendment prior to issuing a decision.

1. Participation in the Public Hearing.

a. Any person may participate in the public hearing. The city council has discretion to limit testimony to relevant, nonrepetitive comments and to set time limits.

b. Any person may submit written comments, photographs or other exhibits on the proposed amendment to the city council prior to or at the public hearing.

c. The city council shall maintain a record of the exhibits presented and a tape recording of the testimony and arguments presented, which shall be kept by the city clerk.

B. City Council Action.

1. Elements to Be Considered. The city council shall consider the following in deciding upon a proposed amendment:

a. The contents of the amendment;

b. The minutes on any public hearing on the proposed amendment and any written material submitted as part of the public hearing process;

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c. The recommendation of the planning commission and applicable department director;

d. Any applicable decision criteria.

2. City Council Decision. The city council shall adopt an ordinance or refer the proposal back to the planning commission for further proceedings. (Ord. 96-03 § 21, 1996)

## Chapter 2.19

### LAND USE MEDIATION

#### Sections:

**2.19.010 Purpose.**

**2.19.020 Applicability.**

**2.19.030 Mediation procedures.**

**2.19.040 Mediated agreement.**

**2.19.050 Findings and report.**

#### 2.19.010 Purpose.

A. Land use mediation is an optional, voluntary method for resolution of contested land use applications and code enforcement. Through mediation, disputes may be resolved in a manner which is less formal and more conciliatory than the formal appeal process. Use of mediation, however, does not alter any rights to an administrative or judicial appeal.

B. The goals of mediation are:

1. Provide a mechanism to identify issues and affected and responsible parties;

2. Provide a mechanism for parties to develop reasonable alternative resolutions; and

3. Provide a means for facilitating the resolution of disputed land use applications and code enforcement.

C. The mediation process should result in a recommendation to the decision-making body in the form of a mediation agreement consistent with the comprehensive plan, adopted codes and ordinances and the general public interest. (Ord. 96-03 § 22, 1996)

#### 2.19.020 Applicability.

This chapter shall apply to all disputed land use applications and code enforcement.

A. Who May Request. Mediation may be requested by responsible or directly affected parties to the dispute, the department director, the planning commission, the hearing examiner, or the city council. Time constraints of the project review process as set forth in BIMC 2.16.075 may be waived by the applicant to accommodate mediation proceedings.

B. When May Mediation Occur. Mediation may occur at any stage in the project

review process prior to the close of a public hearing.

1. If mediation is initiated during the public hearing, the hearing shall be continued in accordance with the hearing procedures for that decision body.

2. Mediation of code enforcement may occur prior to the initiation of legal action by the city. (Ord. 96-03 § 22, 1996)

#### **2.19.030 Mediation procedures.**

Upon request for a mediation process, the department director shall designate a mediator in accordance with subsection B of this section. The mediator will set a mediation meeting date and notify the interested parties.

A. Use of mediation shall not alter any rights to an administrative or judicial appeal.

##### **B. Mediator.**

1. All disputes shall be mediated by a mediator who understands Washington State growth management issues, has mediation experience and is acceptable to all the parties. Mediators shall be guided by the standards of practice of mediation of the American Bar Association. Compensation for the mediator shall be provided by the parties at the mediator's standard rate, or as negotiated by the parties, or by the city through a mediation compensation process adopted by resolution of the city council.

2. If one or more of the parties declares a loss of confidence in the mediator during the mediation, the mediation may be terminated upon agreement by the parties, or may continue after another mediator receives mutual approval.

##### **C. Mediator's Powers and Functions.**

1. The mediator is the facilitator of decision-making among the various parties to the dispute. As such the mediator will:

a. Assist the parties in developing procedures for conducting the negotiations, including ground rules, schedule of meetings, identification of essential parties, and identification of spokespersons for parties;

b. Request additional information from any party to the mediation and from any government official or body; and

c. Maintain mediator confidentiality throughout and subsequent to the process.

2. By participating in a mediation, the participants agree that all mediation sessions are confidential settlement negotiations, and that all offers, promises, conduct and statements, whether written or oral, made in the course of the mediation are inadmissible in any litigation or arbitration of the dispute, to the extent allowed by law.

D. Mediation Meeting. The mediator is authorized to have the following types of meetings:

1. Meetings with any and all participants;

2. Plenary sessions in which any and all participants participate;

3. Individual sessions as deemed necessary by the mediator; or

4. A final meeting to review and sign the mediation agreement. (Ord. 96-03 § 22, 1996)

#### **2.19.040 Mediated agreement.**

If at the conclusion of the mediation all parties agree to a resolution of the dispute, the parties will all sign a mediated agreement which will be forwarded to the appropriate body for consideration and official approval. (Ord. 96-03 § 22, 1996)

#### **2.19.050 Findings and report.**

At the conclusion of the mediation, the mediator will prepare a report. If the mediation is not successful, the report may be issued only on approval of all parties. The report will describe the issues that are in contention, identify the areas of agreement, and maintain as confidential information that the parties have requested be kept confidential. The report shall be reviewed by and be acceptable to all parties prior to transmittal to the decision authority. The purpose of this information is to help the decision authority to move expeditiously. (Ord. 96-03 § 22, 1996)

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## Chapter 2.20

## MUNICIPAL COURT

## Sections:

- 2.20.010 Court established.
- 2.20.015 Court of record.
- 2.20.020 Jurisdiction.
- 2.20.030 Judges – Appointment – Qualifications.
- 2.20.040 Salaries and costs.
- 2.20.050 Municipal court employees.
- 2.20.060 Judges pro tem.
- 2.20.070 Judicial vacancy.
- 2.20.080 Municipal court hours.
- 2.20.090 Sentences.
- 2.20.100 Deferral and suspension of sentences.
- 2.20.110 Complaints.
- 2.20.120 Pleadings, practice and procedure.
- 2.20.130 Case transfers.
- 2.20.140 Court seal.
- 2.20.150 Removal of judge.
- 2.20.160 Civil jury trials.
- 2.20.170 Criminal process.
- 2.20.180 Savings.

**2.20.010 Court established.**

There is established a municipal court entitled "The Municipal Court of the City of Bainbridge Island," hereinafter referred to as "municipal court," which court shall have jurisdiction and shall exercise all powers enumerated herein and in Chapter 3.50 RCW, as presently existing or hereafter amended, together with such other powers and jurisdiction as are generally conferred upon such court in this state either by common law or by express statute. (Ord. 94-19 § 1, 1994; Ord. 84-16 § 2, 1984)

**2.20.015 Court of record.**

The Bainbridge Island municipal court shall herewith be designated a court of record under the statutes and court rules of the state of Washington, pursuant to Article 4, Section 11, of the Constitution of the state of Washington, RCW 2.04.190, RCW 3.02.020 through 3.02.040, RCW 3.50.010, and the Rules of

Court, RALJ 5.1 through 6.4. Furthermore, the Bainbridge Island municipal judge shall be an attorney. (Ord. 88-19 § 1, 1988; Ord. 88-15 § 1, 1988)

**2.20.020 Jurisdiction.**

The municipal court shall have exclusive original jurisdiction over traffic infractions arising under city ordinances and exclusive original criminal jurisdiction of all violations of city ordinances duly adopted by the city. The municipal court shall have original jurisdiction of all other actions brought to enforce or recover license penalties or forfeitures declared or given by such ordinances or by state statutes. The municipal court is empowered to forfeit cash bail or bail bonds and issue execution thereon; and in general to hear and determine all causes, civil or criminal, including traffic infractions, arising under such ordinances and to pronounce judgment in accordance therewith. (Ord. 84-16 § 3, 1984)

**2.20.030 Judges – Appointment – Qualifications.**

A. The municipal judge holding office on July 1, 1984, the effective date of the ordinance codified in this chapter, shall continue to hold office until expiration of his or her term or January 1, 1986, whichever occurs first. The term of a successor shall commence on January 1, 1986, and/or January 1st of each fourth year thereafter, pursuant to appointment as provided below.

B. The municipal judge shall be appointed by the city manager, subject to confirmation by the city council, for a term of four years. Appointments shall be made on or before December 1st of the year next preceding the year in which the term commences.

C. A person appointed as municipal judge shall be a citizen of the United States of America and of the state of Washington; and an attorney admitted to practice law before the courts of record of the state of Washington. (Ord. 2009-21 § 6, 2009; Ord. 84-16 § 4, 1984)

**2.20.040 Salaries and costs.**

The salary of the municipal court judge shall be fixed by ordinance. All costs of operating the municipal court, including, but not limited to, salaries of judges and court employees, dockets, books of records, forms, furnishings and supplies, shall be paid wholly out of the funds of the city. The city shall provide a suitable place for holding court and pay all expenses of maintaining it. (Ord. 84-16 § 5, 1984)

**2.20.050 Municipal court employees.**

All employees of the municipal court shall, for all purposes, be deemed employees of the city. They shall be appointed by and serve at the pleasure of the municipal judge. (Ord. 84-16 § 6, 1984)

**2.20.060 Judges pro tem.**

The municipal judge shall, in writing, designate judges pro tem who shall act in the absence or disability of the regular judge of the municipal court or subsequent to the filing of an affidavit of prejudice. The judge pro tem shall be qualified to hold the position of judge of the municipal court as provided herein. The judge pro tem shall receive such compensation as shall be fixed by ordinance. (Ord. 2009-21 § 7, 2009; Ord. 84-16 § 7, 1984)

**2.20.070 Judicial vacancy.**

Any vacancy in the municipal court due to a death, disability or resignation of a municipal court judge shall be filled by the mayor for the remainder of the unexpired term. The appointment shall be subject to confirmation of the city council. The appointed judge shall be qualified to hold the position of judge of the municipal court as provided in this chapter. (Ord. 84-16 § 8, 1984)

**2.20.080 Municipal court hours.**

The municipal court shall be open and shall hold such regular and special sessions as may be prescribed by the municipal court judge, provided, that the municipal court shall not be open on nonjudicial days. (Ord. 84-16 § 9, 1984)

**2.20.090 Sentences.**

A. In all cases of conviction, unless otherwise provided in Chapters 3.30 through 3.74 RCW, as now or hereafter amended, where a jail sentence is given to the defendant, execution shall issue accordingly and where the judgment of the court is that the defendant pay a fine and costs, the defendant may be committed to jail until the judgment is paid in full.

B. A defendant who has been committed shall be discharged upon the payment for such part of the fine and costs as remains unpaid after deducting from the whole amount any previous payment, and after deducting the amount allowed for each day of imprisonment, which amount shall be the same and computed in the same manner as provided for superior court cases in RCW 10.82.030 and 10.82.040, as now or hereafter amended. In addition, all other proceedings in respect of such fine and costs shall be the same as in like cases in the superior court.

C. Every person convicted by the municipal court of a violation of the criminal provisions of an ordinance for which no punishment is specifically prescribed in the ordinance shall be punished by a fine of not more than \$5,000 or imprisonment in the city jail for a period not to exceed one year, or both such fine and imprisonment. (Ord. 84-16 § 10, 1984)

**2.20.100 Deferral and suspension of sentences.**

A. After a conviction, the court may defer sentencing and place the defendant on probation and prescribe the conditions thereof, but in no case shall it extend for more than two years from the date of conviction. Any defendant placed on probation shall pay a fee to the city in the amount established by the city by resolution. During the time of the deferral, the court may, for good cause shown, permit a defendant to withdraw the plea of guilty, permit the defendant to enter a plea of not guilty, and dismiss the charges.

B. For a period not to exceed two years after imposition of sentence, the court shall have continuing jurisdiction and authority to

suspend the execution of all or any part of the sentence upon stated terms, including installment payment of fines.

C. Deferral of sentence and suspension of execution of sentence may be revoked if the defendant violates or fails to carry out any of the conditions of the deferral or suspension. Upon the revocation of the deferral or suspension, the court shall impose the sentence previously suspended or any unexecuted portion thereof. In no case shall the court impose a sentence greater than the original sentence, with credit given for time served and money paid on fine and costs.

D. Any time before entering an order terminating probation, the court may revoke or modify its order suspending the imposition or execution of the sentence. If the ends of justice will be served and when warranted by the reformation of the probationer, the court may terminate the period of probation and discharge the person so held. (Ord. 92-24 § 10, 1992; Ord. 84-16 § 11, 1984)

#### **2.20.110 Complaints.**

All criminal prosecutions for the violation of a city ordinance shall be conducted in the name of the city and may be upon the complaint of any person. (Ord. 84-16 § 12, 1984)

#### **2.20.120 Pleadings, practice and procedure.**

Pleadings, practice and procedure in cases not governed by statutes or rules specifically applicable to municipal courts shall, insofar as applicable, be governed by the statutes and rules now existing or hereafter adopted governing pleadings, practice and procedure applicable to district courts. (Ord. 84-16 § 13, 1984)

#### **2.20.130 Case transfers.**

A transfer of a case from the municipal court to either another municipal judge of the same city or to a judge pro tempore appointed in the manner prescribed by this chapter shall be allowed in accordance with RCW 3.66.090 in all civil and criminal proceedings. (Ord. 84-16 § 14, 1984)

#### **2.20.140 Court seal.**

The municipal court shall have a seal which shall be the vignette of George Washington, with the words "Seal of The Municipal Court of Bainbridge Island, State of Washington," surrounding the vignette. (Ord. 84-16 § 15, 1984)

#### **2.20.150 Removal of judge.**

A municipal judge shall be removed only upon conviction of misconduct or malfeasance in office, or because of physical or mental disability rendering the judge incapable of performing the duties of the office. For any vacancy in the municipal court due to death, disability or resignation of the municipal court judge, the city manager shall appoint a municipal court judge for the remainder of the unexpired term. The appointment shall be subject to confirmation by the city council. The appointed judge shall be qualified to hold the position of judge of the municipal court as provided in this chapter and Chapter 3.50 RCW, as amended by Chapter 258, Laws of 1984. (Ord. 2009-21 § 8, 2009; Ord. 84-16 § 16, 1984)

#### **2.20.160 Civil jury trials.**

In all civil cases, the plaintiff or defendant may demand a jury, which shall consist of six citizens of the state who shall be impaneled and sworn as in cases before district courts, or the trial may be by a judge of the municipal court; provided, that no jury trial may be held on a proceeding involving a traffic infraction. A party requesting a jury shall pay to the court a fee which shall be the same as that for a jury in district court. If more than one party requests a jury, only one jury fee shall be collected by the court. The fee shall be apportioned among the requesting parties. Each juror shall receive \$10.00 for each day in attendance upon the municipal court, and in addition thereto shall receive mileage at the rate determined under RCW 43.03.060. (Ord. 84-16 § 17, 1984)

**2.20.170**

**2.20.170 Criminal process.**

All criminal process issued by the municipal court shall be in the name of the state and run throughout the state, and be directed to and served by the chief of police, marshal, or other police officer of any city or to a sheriff in the state. (Ord. 84-16 § 18, 1984)

**2.20.180 Savings.**

The enactments of this chapter shall not affect any case, proceeding, appeal or other matter pending in the municipal court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this chapter and Chapter 3.50 RCW, as amended by Chapter 258, Laws of 1984. (Ord. 84-16 § 19, 1984)

**Chapter 2.24**

**POLICE RESERVE**

**Sections:**

- 2.24.010 Established – Appointment of members – Supervision.**
- 2.24.020 Membership – Application and qualifications.**
- 2.24.030 Membership – Identification card and police badge.**
- 2.24.040 Membership – Revocation or resignation.**
- 2.24.050 Duties.**
- 2.24.060 Powers.**
- 2.24.070 Compensation.**
- 2.24.080 Compensation while on temporary full-time duty.**

**2.24.010 Established – Appointment of members – Supervision.**

The city creates and establishes a police reserve force to provide and make available additional manpower to assist the regular police force within the city in the protection of life and property. The members of the police reserve force shall be appointed by the chief of police of the city with the concurrence of the mayor. The Bainbridge Island police reserve force shall function as a unit under the supervision of the chief of police and/or his designated subordinate. (Ord. 78-34, 1978; Ord. 76-05 § 1, 1976)

**2.24.020 Membership – Application and qualifications.**

Each applicant must file an application with the chief of police, indicate his willingness to serve an average or minimum of 18 hours per month in the public service, meet the qualification and requirements prescribed for membership in the police reserve force, complete any training program created by the city and be appointed by the chief of police, with the concurrence of the city manager, take an oath of office and be sworn in. Members of the police reserve force are to be citizens of the United States, trustworthy, and of good moral character, and not have been convicted of a fel-

ony or any offense involving moral turpitude. (Ord. 2009-21 § 9, 2009; Ord. 76-05 § 3, 1976)

**2.24.030 Membership – Identification card and police badge.**

The chief of police is authorized to furnish each member of the police reserve force with membership identification card and police badge. A membership identification card is to be carried by such member at all times, and the police badge is to be worn only when the reserve policeman is authorized to wear the prescribed uniform. (Ord. 76-05 § 3, 1976)

**2.24.040 Membership – Revocation or resignation.**

Membership of any person in the police reserve force may be revoked at any time by the chief of police. Any member of the police reserve force may resign upon written notification to the chief of police or his designated subordinate. Upon separation from the organization, all equipment issued to him by the city must be returned within 24 hours. No member of the police reserve force shall be regarded as a city employee for any purpose subject to civil service rules and regulations, nor shall any member of the police reserve force be entitled to the benefits of any police pension fund act. (Ord. 76-05 § 3, 1976)

**2.24.050 Duties.**

The duties of the police reserve force are to supplement the regular police force in their ordinary duties for the protection of life, property and preservation of peace and order. In addition, the police reserve force will aid in the control of traffic and maintenance of order at parades and generally policing of large assemblies of people, and in the event of a declared emergency shall assist the regular police in all ways deemed necessary by the chief of police and/or his designated subordinate. (Ord. 76-05 § 2, 1976)

**2.24.060 Powers.**

Members of the police reserve force shall have all those powers vested in them by the chief of police while in the performance of

officially authorized duties, including such powers to make arrest as any police officer of the city, but under no circumstances shall the police reserve officer exercise any power while not in the performance of duties ordered by the chief of police or by his designated subordinate. (Ord. 76-05 § 4, 1976)

**2.24.070 Compensation.**

Members of the police reserve force shall serve without compensation except as provided herein, but the city may in its discretion pay all or part of the cost of furnishing uniforms and equipment and any premiums required by the state industrial insurance program. (Ord. 76-05 § 5, 1976)

**2.24.080 Compensation while on temporary full-time duty.**

In the event it is deemed necessary by the chief of police, with the concurrence of the mayor, that one or more officers of the police reserve force be requested to and agree to provide not less than 20 hours per week of police duty, the chief of police shall designate the officer, prescribe the hours and shifts of work and any special powers that may be necessary because of the increased time involved. Under such circumstances the police reserve officer shall be compensated by the city at the same rate per hour as is then paid beginning patrolmen with the city. Such temporary full-time duty shall not be extended beyond three months in any one year. (Ord. 76-05 § 6, 1976)

## Chapter 2.28

## POLICE CIVIL SERVICE

## Sections:

- 2.28.010 System adopted.**
- 2.28.020 Applicability.**
- 2.28.030 Civil service commission – Created – Composition – Appointments, terms and vacancy filling.**
- 2.28.040 Civil service commission – Administration and performance of duties.**
- 2.28.050 Employment, advancement and vacancy filling in police department.**
- 2.28.060 Appointing power.**
- 2.28.070 Continuation of existing rules and regulations.**

**2.28.010 System adopted.**

Except as provided in this chapter, the city adopts a civil service system as set forth in Chapter 41.12 RCW (Laws of 1937, Chapter 13) for the police department of the city, and all full-time paid employees therein, and all advancements, demotions, suspensions, discharges or control thereof, and of the members thereof, shall be under the control of and governed by civil service rules prescribed in or adopted pursuant to Chapter 41.12 RCW as if the same may have been heretofore or may be hereafter amended. (Ord. 76-15 § 1, 1976)

**2.28.020 Applicability.**

The provisions of this chapter shall be applicable to only full-time employees employed by the city after the effective date of the ordinance codified in this chapter. (Ord. 76-15 § 3, 1976)

**2.28.030 Civil service commission – Created – Composition – Appointments, terms and vacancy filling.**

There is created for the administration of such civil service for the police department, a civil service commission composed of three members who shall be appointed by the mayor

of the city with the concurrence of the city council. Term of office of such civil service commission shall be six years, and the present civil service commissioners shall serve in said position until expiration of their existing terms of office, resignation or removal. In the event any civil service commissioner resigns, becomes disqualified or is removed for cause, another commissioner shall be appointed to take his place for the unexpired portion of the term. (Ord. 76-15 § 2, 1976)

**2.28.040 Civil service commission – Administration and performance of duties.**

The commission shall organize itself, hold meetings, adopt rules and regulations, and perform the duties and exercise the powers of the commission in accordance with the provisions of state law. (Ord. 76-15 § 4, 1976)

**2.28.050 Employment, advancement and vacancy filling in police department.**

All applicants for employment with, advancement in, or the filling of a vacancy in, the police department of the city shall be required to have specified qualifications, have tenure of office, and be subject to removal, as provided in the civil service regulations adopted by the commission consistent with the law of the state, except that in the employment, advancement and filling of vacancies in the department, the commission shall certify to the appointing power the names of the three persons highest on the eligible list for the class (or the list held appropriate for such class) to which the vacant position has been allocated, or willing to accept employment, the appointing power shall select one of the three persons to be appointed to the available position. (Ord. 76-15 § 5, 1976)

**2.28.060 Appointing power.**

The appointing power for the position of the chief of police shall be the city manager. All other positions shall be appointed by the chief of police but only with the concurrence of the city manager of the city. (Ord. 2009-21 § 10, 2009; Ord. 76-15 § 6, 1976)

**2.28.070 Continuation of existing rules  
and regulations.**

Any rules and regulations adopted by the existing civil service commission pursuant to Ordinance 70-8 are deemed in full force and effect until amended or repealed by the civil service commission. (Ord. 76-15 § 7, 1976)

**Chapter 2.32**

**PARK ADVISORY COMMITTEE**

(Repealed by Ord. 2010-13)

## Chapter 2.33

### UTILITY ADVISORY COMMITTEE

#### Sections:

- 2.33.010 Created – Membership, appointment, compensation and term.**
- 2.33.025 Vacancies – Removal.**
- 2.33.030 Organization.**
- 2.33.040 Powers and duties.**
- 2.33.060 Meetings, officers, records and quorum.**
- 2.33.070 Expenditures and staff assistance.**

#### **2.33.010 Created – Membership, appointment, compensation and term.**

A. There is created a utility advisory committee for the city, hereinafter referred to as the committee. The committee shall consist of a minimum of seven and no more than nine voting members who shall be appointed by the mayor and confirmed by vote of the city council. The members shall not be officers or employees of the city and shall be residents of the city. Additionally, at least one member of the city council shall serve as an ex officio, nonvoting member of the committee.

B. The members of the committee shall serve without compensation and shall initially be appointed for staggered terms as follows: two of the original members shall be appointed and confirmed for one-year terms, two of the original committee members shall be appointed and confirmed for two-year terms, and three members shall be appointed for three-year terms. The terms for all subsequent annually appointed members shall be three years.

C. A member may be re-appointed, and shall hold office until his or her successor has been appointed and has qualified. Members may be removed by the mayor upon consent of the city council. (Ord. 2010-27 § 1, 2010: Ord. 99-11 § 1, 1999)

#### **2.33.025 Vacancies – Removal.**

In the event of a vacancy, the mayor, subject to confirmation of the city council, shall make an appointment to fill the unexpired portion of the term of the vacated position. Unexcused absence by any committee member from three consecutive meetings shall constitute grounds for removal, and 10 absences by any committee member, excused or unexcused, occurring within a 12-month period shall likewise be grounds for removal. (Ord. 2010-27 § 1, 2010: Ord. 99-11 § 1, 1999)

#### **2.33.030 Organization.**

The mayor shall make the initial appointment of one voting member of the committee to serve as chairperson for a one-year term. The committee shall make the initial appointment of a vice-chairperson. The committee shall adopt such rules and regulations as are necessary to accomplish the duties prescribed in BIMC 2.33.040, and consistent with other provisions of this chapter. These rules and regulations shall be placed on file with the city clerk. (Ord. 2010-27 § 1, 2010: Ord. 99-11 § 1, 1999)

#### **2.33.040 Powers and duties.**

The committee shall act in an advisory capacity to the city council with respect to issues relevant to the operation and management policies of the city's water, sanitary sewer, and other utilities. The committee shall not supplant administrative advice on policy issues to the city council but shall be in addition to staff advice. The committee shall not interfere with the administrative staff functions involving day to day operation of the city utilities. In its advisory capacity, the committee shall:

A. Consult with and make recommendations to the city council regarding such utility-related matters as the city council or the committee deems appropriate;

B. Give advisory recommendations to the city council on matters relating to the city's water, sanitary sewer, and storm water utility policy and operation;

C. Consult with and make recommendations to the city council regarding utility rates, rate structures and other charges made to water, sanitary sewer, and storm water utility customers;

D. Consult with and make recommendations to the city council, give advisory recommendations to the city council relative to the planning for, financing, operation and maintenance of water, sanitary sewer, and storm water utility capital facilities;

E. Keep the city council regularly informed of activities of the committee in a timely manner. (Ord. 2010-27 § 1, 2010: Ord. 99-11 § 1, 1999)

## Chapter 2.34

### PARKING ADVISORY COMMITTEE

(Repealed by Ord. 2010-14)

#### **2.33.060 Meetings, officers, records and quorum.**

The committee shall elect a chairperson and vice-chairperson. The committee shall hold regular meetings at least once during each quarter year. Meetings shall be open to the public. The committee shall keep a record of its meetings, resolutions, transactions, findings and determinations. A majority of the voting members then serving on the committee shall constitute a quorum for the transaction of business. (Ord. 2010-27 § 1, 2010: Ord. 99-11 § 1, 1999)

#### **2.33.070 Expenditures and staff assistance.**

A. The expenditures of the committee, exclusive of donations, shall be limited to appropriations made by the city council.

B. The city staff, as assigned by the city manager, shall provide assistance to the committee. Except for purposes of inquiry, the committee and its members shall deal with employees of the city only through the city manager or administrative staff assigned by the city manager for that purpose. (Ord. 2010-27 § 1, 2010: Ord. 99-11 § 1, 1999)

## Chapter 2.36

PLANNING COMMISSION<sup>1</sup>

## Sections:

- 2.36.010 Purpose and role of the planning commission.
- 2.36.020 Established – Duties and responsibilities.
- 2.36.030 Composition – Appointments – Terms – Residency – Chairpersons.
- 2.36.040 Forfeiture of office.
- 2.36.050 Meetings.
- 2.36.055 Quorum and voting.
- 2.36.060 Public records.
- 2.36.070 Consultants.
- 2.36.075 Planning staff.
- 2.36.080 *Repealed.*
- 2.36.090 Conflict of interest.

**2.36.010 Purpose and role of the planning commission.**

The Bainbridge Island planning commission (the commission) is responsible to the mayor, serves as an advisory body to the mayor and city council, and provides recommendations to the director of planning, the hearing examiner and/or the city council. The commission does not make final decisions. The commission's role can be to consider legislative, as well as quasi-judicial matters, depending upon the action before it. Pursuant to Chapter 35A.63 RCW, the commission has primary responsibility for preparing, reviewing and updating the comprehensive plan. (Ord. 2002-17 § 1, 2002)

**2.36.020 Established – Duties and responsibilities.**

Pursuant to the provisions of Chapter 35A.63 RCW, there is established within the city a planning commission which shall have the following duties and responsibilities:

A. Participate in the preparation and review of the comprehensive plan for the city;

B. Review and make recommendations on all applications for amendments to the comprehensive plan, official zoning map and official zoning ordinance of the city; and

C. Such other advisory duties as may be assigned to it by the city council or the mayor, or as specified in the BIMC.

D. The title "planning commission" is substituted for the title "planning agency" in all city ordinances and other documents approved prior to the effective date of the ordinance codified in this chapter. (Ord. 2002-17 § 2, 2002; Ord. 93-10 § 1, 1993. Formerly 2.36.010)

**2.36.030 Composition – Appointments – Terms – Residency – Chairpersons.**

A. The commission shall consist of seven members appointed by the mayor and confirmed by the city council. All seven members of the commission shall be residents of the city. The commission shall reflect the diverse perspectives, work experiences and backgrounds represented in the community. Each commissioner shall endeavor to understand and agree to uphold the city's adopted comprehensive plan.

B. All members shall serve without compensation for three-year terms. Terms are to be staggered, with no more than three positions expiring in any given year.

C. The officers of the commission shall consist of a chairperson and a vice chairperson elected by the members of the commission. The election of officers shall take place no later than February 28th of each year. The term of each officer shall run from February 1st until January 31st of the following year. In the event of the vacancy of the chair, the chairperson would be replaced by the vice chairperson, and the vice chairperson would be replaced by a vote of the members of the commission.

**D. Offices of the Commission.**

1. Meetings. The chairperson shall preside over meetings of the commission and may exercise all the powers usually incident to the office. Duties of the chairperson shall include, but not be limited to, committees of the whole, handling meeting items and discus-

1. Prior legislation: Ords. 102, 76-18, 78-04, 82-28, 89-30.

sion, conflict of interest, suspension of meetings, timing or discussion of issues, and clarification of issues and questions.

2. The chairperson shall sign all approved commission minutes, reports or other official documents.

3. The Vice Chairperson. In the absence of the chairperson, the vice chairperson shall perform all the duties incumbent upon the chairperson. The chairperson and the vice chairperson both being absent, the members present may elect for the meeting a temporary chairperson who shall have the full powers of the chairperson during the absence of the chairperson and the vice chairperson.

4. Subcommittees. The chair shall have full power to create subcommittees that would include up to three commissioners. Standing or temporary committees may be charged with such duties, examinations, investigations and inquiries relative to one or more subjects of interest to the commission. No committee shall have the power to commit the commission to the endorsement of any plan or program without the approval of quorum of the commission. (Ord. 2002-17 § 3, 2002; Ord. 93-10 § 1, 1993. Formerly 2.36.020)

#### **2.36.040 Forfeiture of office.**

A. A member appointed to the commission shall forfeit his or her office, creating a vacancy, if he or she ceases to have the qualifications prescribed for such office by law or ordinance, or if he or she is convicted of a crime involving moral turpitude or a violation of the oath of office.

B. In the event of a commission member being absent from three consecutive regular meetings, or being absent from 50 percent of all meetings (including committee) in any six-month period, the office shall become vacant and forfeited; provided, that the mayor, with city council approval, may grant an exception when warranted by individual circumstances.

C. For an extended absence, a commissioner may request a leave of absence, to be approved by the mayor.

Any unexpired term of a vacant or forfeited office shall be filled by a qualified person appointed by the mayor and confirmed by

the city council. (Ord. 2002-17 § 4, 2002; Ord. 98-16 § 1, 1998; Ord. 93-10 § 1, 1993. Formerly 2.36.030)

#### **2.36.050 Meetings.**

A. The planning commission shall meet on the second and fourth Thursday of each month and may hold such special meetings as the planning commission may determine necessary. All regularly scheduled meetings shall begin at 7:00 p.m. and shall endeavor to adjourn by 9:30 p.m.; provided, that the hours of a regular meeting may be modified for exceptional purposes, as determined by the chairperson.

B. Planning commission meetings shall be held at the city of Bainbridge Island City Hall. Under special circumstances, regular and special meetings and retreats may be held in other locations as publicly announced.

C. The planning commission shall give public notice of its meetings as provided by law. Any special meeting of the commission shall be held only after notice thereof has been published in the official newspaper of the city at least 24 hours in advance.

D. All meetings of the planning commission shall be open to the public. In the event a regular meeting falls upon a legal holiday, the meeting shall be held on the next following business day.

E. All meetings shall be conducted according to Robert's Rules of Order.

F. The planning commission shall review and approve rules of procedure and code of conduct annually. (Ord. 2002-17 § 5, 2002; Ord. 99-42 § 1, 1999; Ord. 93-10 § 1, 1993. Formerly 2.36.040)

#### **2.36.055 Quorum and voting.**

A. A simple majority of the appointed members shall constitute a quorum for the transaction of business.

B. The chairperson shall be entitled to vote on a matter when it is necessary to break a tie or to make a quorum.

C. When a commissioner has stepped down because of a potential conflict of interest, he or she shall not be counted for purposes of establishing a quorum during considerations

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undertaken while he or she is not sitting with the commission. (Ord. 2002-17 § 6, 2002)

### 2.36.060 Public records.

Minutes of each meeting, including a record of attendance, shall be prepared by the secretary and approved and signed at a subsequent meeting. The minutes do not need to reflect the actual discussion but only the formal actions taken by the planning commission. (Ord. 2002-17 § 8, 2002; Ord. 99-42 § 2, 1999; Ord. 93-10 § 1, 1993)

### 2.36.070 Consultants.

Upon approval of the city council, the planning commission may recommend the retention of a planning consultant who assists the planning commission in its deliberations. The consultant shall be hired by the city. The planning commission, through its chairman, may request formal opinions or recommendations from the city attorney, city engineer, public works director or the director of planning and community development on any matter that is pending before it. (Ord. 93-10 § 1, 1993)

### 2.36.075 Planning staff.

The planning staff shall perform the following roles in its work with the planning commission:

A. Provide the initial record which includes the standards of review, relevant municipal code and comprehensive plan provisions and provisions of other permitting agencies. The staff report shall include findings of fact and conclusions of law based on evidence in the record;

B. Provide technical information and research, prepare documents and maintain records. This includes drafting transmittal memos, preparing alternative findings and conclusions when appropriate, and obtaining legal opinions from the city attorney;

C. Respond to questions and discussion of procedures;

D. Assist the commission in articulating their collective will;

E. Set up meeting room and prepare for meetings, provide clerical support and prepare notices. (Ord. 2002-17 § 9, 2002)

### 2.36.080 Interim procedures.

*Repealed by Ord. 99-42.* (Ord. 93-10 § 1, 1993)

### 2.36.090 Conflict of interest.

If a planning commission member is an applicant or a paid or unpaid advocate, agent or representative for an applicant on a comprehensive plan amendment or land use permit or approval that will be reviewed or considered by the planning commission, the planning commission member shall not participate in a decision or recommendation on the application, and he or she will be asked to leave the meeting facility prior to commencement of discussion of that agenda item. (Ord. 2002-17 § 10, 2002; Ord. 98-16 § 2, 1998)

## Chapter 2.38

## HEARING EXAMINERS

## Sections:

- 2.38.010 Policy.**
- 2.38.020 Appointment – Term – Removal – Duties.**
- 2.38.025 Hearing examiner responsibilities and duties.**
- 2.38.030 Noninterference in performance of duties.**
- 2.38.040 Legal counsel for hearing examiner.**
- 2.38.050 Disqualification of hearing examiner.**

**2.38.010 Policy.**

The conduct of public hearings in quasi-judicial matters generally involve disputed issues. It is in the best interest of the residents of the city to create officers designated in this chapter as "hearing examiners," whose duties shall be judicial in nature. Whenever any ordinance of the city requires a public hearing to be conducted by the hearing examiner, the hearing shall be conducted in accordance with the procedures established in Chapter 2.16 BIMC. (Ord. 93-11 § 1, 1993)

**2.38.020 Appointment – Term – Removal – Duties.**

The hearing examiner shall be appointed by the city manager, confirmed by the city council, and shall serve for a term of two years. The appointed hearing examiner shall be removed only (A) upon conviction of a gross misdemeanor or felony, (B) because of physical or mental disability rendering the hearing examiner incapable of performing the duties of the office, (C) upon conviction of a violation of BIMC 2.38.030, or (D) upon conviction of a violation of Chapter 42.23 RCW, the violation of which shall constitute a misdemeanor under this code. The duties of the hearing examiner shall be as established by the city council by ordinance. (Ord. 2009-21 § 11, 2009; Ord. 96-34 § 1, 1996; Ord. 93-11 § 1, 1993)

**2.38.025 Hearing examiner responsibilities and duties.**

A. The hearing examiner is responsible for conducting hearings on and adjudicating quasi-judicial cases involving a variety of complex land use and regulatory compliance issues, and other issues which the city council may designate to the hearing examiner by ordinance. The hearing examiner shall issue decisions or recommendations based on relevant ordinances, regulations, policies, statutes, and other authorities.

B. Duties. In addition to any other duty established by ordinance, the hearing examiner:

1. Supervises and evaluates the work of employees as required.
2. Develops procedural rules for the scheduling and conduct of hearings and related matters. Such rules shall be kept on file with the office of the city clerk.
3. Reviews properties that are the subject of hearings to become familiar with the terrain and relationships to other properties.
4. Receives and examines hearing related documents, and reviews case files, city codes and policies, environmental impact statements, plot plans and topographical maps.
5. Evaluates testimony and evidence, prepares records, enters final written findings, and imposes conditions to conform projects to city ordinances and land use policies.
6. Maintains knowledge of current relevant state and city land use laws, policies and related state and federal court decisions.
7. Prepares reports and correspondence to the city manager, city council, and planning commission as requested.
8. Prepares and submits annual written reports to the city manager and city council, including how many hearings have been conducted, the final outcome of hearings, the time required to issue decisions and the cost of hearings.
9. Meets with the city manager, city council, planning commission and staff as requested, to identify conflicts in the code.

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10. When necessary, recommends candidates for pro tem hearing examiner, for approval by the city manager. (Ord. 2009-21 § 12, 2009; Ord. 2004-17 § 2, 2004; Ord. 2003-08 § 1, 2003)

**2.38.030 Noninterference in performance of duties.**

No person shall attempt to influence the hearing examiner in the performance of duties. The hearing examiner shall not discuss the merits of any case considered by the hearing examiner until all city review and court appeals have been concluded and a final decision has been rendered. Any violation of this provision shall be deemed a misdemeanor and may be punished by the provisions set out in Chapter 1.24 BIMC. (Ord. 96-34 § 2, 1996; Ord. 93-11 § 1, 1993)

**2.38.040 Legal counsel for hearing examiner.**

General legal advice to the hearing examiner will be provided by the city attorney, except that in a contested case wherein the city will be represented by the city attorney, the mayor may appoint independent counsel to render legal advice to the hearing examiner, the cost of which shall be borne by the city. (Ord. 93-11 § 1, 1993)

**2.38.050 Disqualification of hearing examiner.**

A. The hearing examiner on his or her own initiative may enter an order of disqualification in the event of personal bias or prejudice or to preserve the appearance of fairness.

B. Prior to any hearing on a matter, a party may file an affidavit, which is a sworn statement in writing and under oath, stating that such party cannot have a fair and impartial hearing by reason of the hearing examiner's personal bias or prejudice. The hearing examiner shall rule on the affidavit prior to making other ruling and prior to the hearing. No party shall be permitted to file more than one such affidavit under this section in regard to any one proceeding. (Ord. 93-11 § 1, 1993)

**Chapter 2.40**

**HOUSING AUTHORITY**

**Sections:**

- 2.40.010 Created – Title.**
- 2.40.020 Territorial boundaries.**
- 2.40.030 Powers and functions.**
- 2.40.040 Board of commissioners – Appointment and tenure.**
- 2.40.050 Board of commissioners – Chairman.**
- 2.40.060 Board of commissioners – Vice-chairman.**
- 2.40.070 Board of commissioners – Quorum.**
- 2.40.080 Board of commissioners – Compensation.**
- 2.40.090 Board of commissioners – Staff and legal services.**
- 2.40.100 Termination of participation.**
- 2.40.110 Assumption of assets and liabilities of existing authority.**
- 2.40.120 Allocation of costs.**

**2.40.010 Created – Title.**

A joint housing authority by and between Kitsap County, the city of Port Orchard, the city of Poulsbo and the city of Bainbridge Island, is created under the title of "Kitsap County consolidated housing authority." (Ord. 83-03, 1983; Ord. 81-35 § 1, 1981)

**2.40.020 Territorial boundaries.**

The area of operation of the Kitsap County consolidated housing authority shall include the combined area that lies within the territorial boundaries of the county, and the territorial boundaries of the city of Port Orchard, and city of Poulsbo and the city of Bainbridge Island. (Ord. 83-03, 1983; Ord. 81-35 § 2, 1981)

**2.40.030 Powers and functions.**

The Kitsap County consolidated housing authority shall constitute a public body corporate and politic exercising public and essential governmental functions and having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of

RCW Chapter 35.82, as amended by RCW 35.82.300 (1980). (Ord. 83-03, 1983; Ord. 81-35 § 3, 1981)

**2.40.040 Board of commissioners –  
Appointment and tenure.**

The Kitsap County consolidated housing authority shall be governed by a board of seven commissioners composed of the following:

A. Elected Officials. The elected members of the board of commissioners shall be the board of county commissioners of Kitsap County, the mayor of Port Orchard, Washington, the mayor of Poulsbo, Washington, and the mayor of Bainbridge Island.

1. Appointment to the board of commissioners of the Kitsap County consolidated housing authority as a result of holding such elective office shall take effect upon election and confirmation of office as a county or municipal official. A certificate of appointment or re-appointment to the board of commissioners of the Kitsap County consolidated housing authority shall be filed with the clerk of said board and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner.

2. Each commissioner shall serve on the board of the Kitsap County consolidated housing authority during that commissioner's tenure as an elected official of the county or municipality respectively, and the commissioner shall continue to serve on the board until the commissioner's successor has been appointed.

B. Participant. One individual who is directly assisted by the Kitsap County consolidated housing authority, and who shall be elected by a majority affirmative vote of the elected officials referenced in subsection A of this section shall serve on the board of the Kitsap County consolidated housing authority for a term of two years. Such individual participant board member may be removed from the board at any time by a two-thirds affirmative vote by the elected officials referenced in subsection A of this section. (Ord. 99-46 § 1, 1999; Ord. 86-07 § 1, 1986; Ord. 83-03, 1983; Ord. 81-35 § 4, 1981)

**2.40.050 Board of commissioners –  
Chairman.**

A. At its first scheduled meeting of the board of commissioners of the Kitsap County consolidated housing authority, the board shall elect one of its members as the first chairman.

B. The first elected chairman shall serve in that capacity through the calendar year to December 31, 1982, or through his/her term as an elected official of the county or municipality respectively, whichever occurs first. In each successive year, the board of commissioners of the county consolidated housing authority at its first scheduled meeting in January shall elect one of its members as its chairman for the following calendar year. The chairman elect shall serve in that capacity as chairman for a period of one year or until the expiration of his/her term as an elected official of the county or municipality respectively, whichever occurs first.

C. In the event the chairman's position becomes vacant prior to December 31st of any calendar year, the board of commissioners of the Kitsap County consolidated housing authority shall elect a new chairman to serve the remaining portion of such term. (Ord. 83-03, 1983; Ord. 81-35 § 5(a), 1981)

**2.40.060 Board of commissioners – Vice-  
chairman.**

A. At its first scheduled meeting of the board of commissioners of the Kitsap County consolidated housing authority, the board shall elect one of its members as the first vice-chairman.

B. The first elected vice-chairman shall serve in that capacity through the calendar year to December 31, 1982, or through his/her term as an elected official of the county or municipality respectively, whichever occurs first. In each successive year, the board of commissioners of the Kitsap County consolidated housing authority at its first scheduled meeting in January shall elect one of its members as its vice-chairman for the following calendar year. The vice-chairman elect shall serve in that capacity as vice-chairman for a period of one

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year or until the expiration of his/her term as an elected official of the county or municipality respectively, whichever occurs first.

C. In the event the vice-chairman's position becomes vacant prior to December 31st of any calendar year, the board of commissioners of the Kitsap County consolidated housing authority shall elect a new vice-chairman to serve the remaining portion of such term. (Ord. 83-03, 1983; Ord. 81-35 § 5(b), 1981)

### **2.40.070 Board of commissioners – Quorum.**

Four members of the board of commissioners of the Kitsap County consolidated housing authority shall constitute a quorum for the purposes of conducting its business and exercising its powers and for all other purposes. (Ord. 83-03, 1983; Ord. 81-35 § 5(c), 1981)

### **2.40.080 Board of commissioners – Compensation.**

The board of commissioners of the Kitsap County consolidated housing authority shall receive no compensation for their services for the Kitsap County consolidated housing authority, in any capacity, but a member may be entitled to necessary expenses, including traveling expenses incurred in the discharge of his/her duties. (Ord. 83-03, 1983; Ord. 81-35 § 5(d), 1981)

### **2.40.090 Board of commissioners – Staff and legal services.**

A. Staff. The board of commissioners of the Kitsap County consolidated housing authority may employ an executive director, secretaries, technical experts and such other officers, agents and employees, permanent or temporary, as it may require and shall determine their qualifications, duties and compensation.

B. Legal Services. For such legal services as it may require, the board of commissioners of the Kitsap County consolidated housing authority may call upon the chief law officer of the county and/or cities heretofore enumerated or may employ its own counsel and legal staff. (Ord. 83-03, 1983; Ord. 81-35 § 6, 1981)

### **2.40.100 Termination of participation.**

A county or any municipality may terminate its participation in the Kitsap County consolidated housing authority by providing written notice of such intent 90 days prior to the specific termination date; provided, that participation can only be terminated at the end of a calendar year. The termination of participation by the county and/or a municipality shall not affect the existence of the joint authority. (Ord. 83-03, 1983; Ord. 81-35 § 7, 1981)

**2.40.110 Assumption of assets and liabilities of existing authority.**

The Kitsap County consolidated housing authority, upon the effective date of the ordinance codified in this chapter, as first enacted, assumes all assets and liabilities heretofore held by the Kitsap County housing authority. (Ord. 83-03, 1983; Ord. 81-35 § 8, 1981)

**2.40.120 Allocation of costs.**

In the event of a requirement for funding for the Kitsap County consolidated housing authority, the costs shall be borne by the county and individual municipality in a ratio based on the use of the facilities provided by the Kitsap County consolidated housing authority per capita within the territorial boundaries of the county and individual municipality to the total use per capita within the boundaries of the Kitsap County consolidated housing authority. Any additional funding required under this section must be authorized by the legislative body of county or municipality respectively. Funding for discontinued federal or state program will not be required unless authorized by the city. (Ord. 83-03, 1983; Ord. 81-35 § 9, 1981)

**Chapter 2.42**

**ARTS AND HUMANITIES COUNCIL**

**Sections:**

**2.42.010 Designation of arts and humanities council.**

**2.42.020 Duties and responsibilities.**

**2.42.010 Designation of arts and humanities council.**

The Bainbridge Island arts and humanities council, a nonprofit Washington corporation, is designated by the city council as the official body of the city empowered to act on all matters pertaining to the development and enrichment of the arts and humanities within the city consistent with the provisions of this chapter. (Ord. 92-31 § 1, 1992)

**2.42.020 Duties and responsibilities.**

As the city's designated agency, Bainbridge Island arts and humanities council shall:

A. Serve as the primary voice for the arts and humanities within the city and as the principal advisory board to the mayor and city council, fostering a high level of quality, creativity and diversity in the arts and humanities and advocating for inclusion of aesthetic considerations in local decisionmaking that may have cultural implications;

B. Provide a public forum for discussion of issues and ideas affecting the arts and humanities in the city, serve as a point of contact for information about the arts and humanities in the city, and arrange for or provide technical, managerial and planning assistance to organizations and individuals engaged in the arts and humanities;

C. Prepare a plan for the arts and humanities within the city which is consistent with and may be approved for inclusion in the city's comprehensive plan;

D. Initiate, sponsor or conduct, alone or in cooperation with other public or private agencies, public programs to further the development and public awareness of interest in the arts and humanities;

E. Serve as the designated agency for carrying out duties associated with the public art works programs and fund in accordance with Chapter 3.80 BIMC;

F. Encourage grants and donations to the Bainbridge Island arts and humanities account, and make recommendations to the city council regarding expenditures from the account;

G. Submit a quarterly financial statement to the city council detailing the use of the funds received from the Bainbridge Island arts and humanities account;

H. Maintain complete records of all transactions, and give the city council, through any authorized representatives, access to and the right to examine all records, books, papers or documents, regarding all operations funded in whole or in part by funds from the Bainbridge Island arts and humanities account;

I. Submit to the city annually, in a form acceptable to the city, a written report on the status of the activities, programs and projects funded through the use of Bainbridge Island arts and humanities account;

J. At the discretion of the city council, provide the city council with a copy of a financial report regarding all operations funded in whole or in part by funds from the Bainbridge Island arts and humanities account. The report shall be prepared in conformity with generally accepted accounting and reporting principles, and shall be audited by an independent auditor in conformity with generally accepted auditing standards established by the American Institute of Certified Public Accountants;

K. Establish safeguards to prohibit its employees, board members, advisors and agents from using their position for a purpose that is, or gives the appearance of being, motivated by a desire for private gain for themselves or others, particularly others with a family, business or other connection to the employee, board member, advisor or agent. Immediately upon discovery of any conflict of interest or potential conflict of interest as described above, the designated agency shall disclose the conflict or potential conflict to the city council;

L. Adopt such rules and regulations as are necessary for the conduct of its business as the city's designated agency. The rules and regulations shall be reviewed by the mayor and the city council and shall be revised as may be required. The designated agency shall keep minutes of its proceedings relating to its duties as the city's designated agency which shall be a public record; and

M. Nothing in Title 2 or Title 3 of this code shall (1) prevent, restrict or limit the designated agency from engaging in any legal activity, decision or expenditure that does not involve funds from the Bainbridge Island arts and humanities account or (2) require any reporting or accountability to the city or its agencies for any legal activity, decision or expenditure of the designated agency that does not involve funds from the Bainbridge Island arts and humanities account, unless otherwise required by state statute or municipal ordinance. The city and its agencies shall not possess or exercise any oversight or control over any legal activities, decisions or expenditures of the designated agency other than those activities that involve the Bainbridge Island arts and humanities account, the activities, decisions or expenditures of the designated agency acting in its capacity as designated agency of the city, or as provided for in state law or municipal ordinance. (Ord. 92-30 § 1, 1992)

Chapter 2.44

**INTERLOCAL AGREEMENT FOR  
EMERGENCY MANAGEMENT  
SERVICES<sup>1</sup>**

(Decodified)

Chapter 2.46

**HARBOR COMMISSION**

Sections:

- 2.46.010 Created.
- 2.46.020 Authority.
- 2.46.030 Duties and responsibilities.
- 2.46.040 Harbormaster – Position.
- 2.46.050 Harbormaster – Duties and responsibilities.

**2.46.010 Created.**

A. There is created a harbor commission. The harbor commission is designated as the official body of the city empowered to act on all matters pertaining to the harbors and waters of the city consistent with the provisions of this code and other direction of the city council.

B. The harbor commission shall consist of at least five and not more than seven members who shall serve without compensation, appointed by the mayor and confirmed by the city council. The mayor shall also appoint annually one member of the harbor commission to serve as chairperson for a one-year term.

C. Members of the harbor commission shall serve for a period of three years and shall be residents of the city. The initial members shall be appointed for staggered terms.

D. If a vacancy in the harbor commission is created prior to the expiration of any member's term, that vacancy shall be filled by a person appointed by the mayor and confirmed by the city council. A person appointed to fill a vacancy created under this section shall serve the remainder of the unexpired term. (Ord. 99-71 § 1, 1999; Ord. 98-52 § 1, 1999)

**2.46.020 Authority.**

The harbor commission shall have authority to develop and implement the harbor management rules and regulations adopted by the city council and to govern all harbors and waters within the city's jurisdiction, as authorized by RCW 35A.21.090 and 35.21.160 and as further defined in BIMC 12.40.010. (Ord. 98-52 § 1, 1999)

1. Ord. 86-29, authorizing a specific interlocal agreement, has been removed from the code. A copy of the ordinance is on file in the city clerk's office.

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### 2.46.030 Duties and responsibilities.

As the city's designated agency, the harbor commission shall:

A. Implement the policies of the harbor management plan through measures which include, but are not limited to, recommendation of ordinances, regulations, and other means;

B. Seek ways to implement the goals and policies of the harbor management plan through public education and community outreach;

C. Develop and recommend new harbor management policies as needed;

D. Coordinate its work with local, state and federal agencies;

E. Recommend to the city council sources of revenue to support the harbor commission's activities and to support the management and enhancement of city waters and water dependent and related uses;

F. Such other duties and responsibilities as may be assigned by the city council; and

G. Report annually to the city council on the progress of the implementation of the harbor management plan and the general state of the harbors and waters of the city. This report shall be delivered by the chairperson of the harbor commission. The city council shall review the performance of the harbor commission after three years and evaluate its benefit to the community. (Ord. 98-52 § 1, 1999)

### 2.46.040 Harbormaster – Position.

The position of harbormaster shall be filled by appointment by the city manager. The appointment shall be made from a list of qualified candidates. The harbormaster shall serve at the pleasure of the city manager. The purpose of the harbormaster position is to work in concert with the harbor commission to implement the harbor management plan and manage and protect the waters of Bainbridge Island. (Ord. 2009-21 § 13, 2009; Ord. 2005-19 § 1, 2005; Ord. 98-52 § 1, 1999)

### 2.46.050 Harbormaster – Duties and responsibilities.

The harbormaster shall:

A. Assist the harbor commission in the implementation of the harbor management plan;

B. Coordinate with the city's marine officer in the enforcement of rules and regulations governing the harbors and waters of the city;

C. Collect such fees as may be established by resolution for the management and use of the harbors and waters of the city;

D. Inspect, as allowed by law, boats, buoys, anchorages, or any other watercraft or devices located in city waters to ensure compliance with federal, state and local regulations;

E. Take such measures as the harbor commission deems necessary to promote and protect the public's interest in the waters of the city. The harbormaster may be granted a limited commission by the chief of police. (Ord. 98-52 § 1, 1999)

## Chapter 2.48

**DESIGN REVIEW BOARD****Sections:**

- 2.48.010 Created – Membership, appointment, compensation and term.**
- 2.48.020 Vacancies – Removal.**
- 2.48.030 Organization.**
- 2.48.040 Powers and duties.**
- 2.48.050 Design review board review and recommendation process.**
- 2.48.060 Design review process.**
- 2.48.070 Public records.**
- 2.48.080 Conflict of interest.**

**2.48.010 Created – Membership, appointment, compensation and term.**

A. There is created a design review board (board) for the city. The design review board shall consist of seven members who shall be appointed by the mayor and confirmed by the city council. Board membership shall include at least one representative with expertise in the following disciplines and/or groups: landscape architecture; urban design; city art commission; local artists; developers; at-large community member; and at least two architects. The members of the design review board shall not be officers or employees of the city.

B. The members of the board shall serve without compensation. The terms for appointed members shall be three years. Terms are to be staggered, with no more than three positions expiring in any given year.

C. A member may be reappointed and shall hold office until his or her successor has been appointed and confirmed. Members may be removed by the mayor upon consent of the city council. (Ord. 2009-06 § 2, 2009: Ord. 2007-03 § 1, 2007: Ord. 2003-52 § 1, 2003)

**2.48.020 Vacancies – Removal.**

In the event of a vacancy, the mayor, subject to the confirmation of the city council, shall make an appointment to fill the unexpired portion of the term of the vacated position. (Ord. 2009-06 § 2, 2009: Ord. 2003-52 § 1, 2003)

**2.48.030 Organization.**

A. The board shall annually select one member to serve as chair for a one-year term.

B. The board shall adopt such rules and regulations as are necessary to accomplish its duties and responsibilities. These rules and regulations shall be placed on file with the city clerk.

C. The city shall provide necessary supplies and support staff to the board, consistent with available resources. (Ord. 2009-06 § 2, 2009: Ord. 2003-52 § 1, 2003)

**2.48.040 Powers and duties.**

The board shall have the following duties and responsibilities:

A. Serve in an advisory capacity to the site plan and design reviews and conditional use permits that are authorized under Chapters 18.105 and 18.108 BIMC and that are subject to city-adopted design guidelines.

B. Serve in an advisory and review capacity to housing design demonstration project applications pursuant to Chapter 18.38 BIMC, including those design demonstration project applications involving land subdivision.

C. Applications related to single-family residences such as family day care homes, minor/major home occupations, and single-family residential height variations are exempt from design review board consideration. In addition, applications related to utility facilities and to outdoor recreation facilities are exempt from design review board consideration. (Ord. 2009-06 § 2, 2009: Ord. 2007-03 § 2, 2007: Ord. 2006-19 § 1, 2006: Ord. 2003-52 § 1, 2003)

**2.48.050 Design review board review and recommendation process.**

The design review board shall review and make recommendations on all land use applications as set forth in this section. This design process reflects a collaborative effort between an applicant, the design review board, and community to better incorporate the vision of the city as outlined in the adopted comprehensive plan and regulations.

A. In order to identify potential design issues and opportunities, planning staff shall direct a prospective applicant to meet with the

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board during the conceptual stages of development formulation. This initial review is optional, but strongly recommended, and shall occur prior to the proposal's preapplication conference. The applicant shall submit conceptual drawings and diagrams as well as site information (topographic, existing development, surrounding development, and critical area information). Following this optional initial review, an applicant may proceed with the design of the project, including development of the site plan and elevations that must be submitted as part of the preapplication materials.

B. Subsequent to submittal of preapplication materials, the board shall review a proposal for conformance with applicable design guidelines. For housing design demonstration projects, the board shall evaluate the criteria outlined in BIMC 18.38.060 in addition to any applicable design guidelines. The board's written recommendations shall be attached to the formal preapplication letter generated by planning staff.

C. Subsequent to submittal of the site plan and design review and/or conditional use permit application, the board shall review a pro-

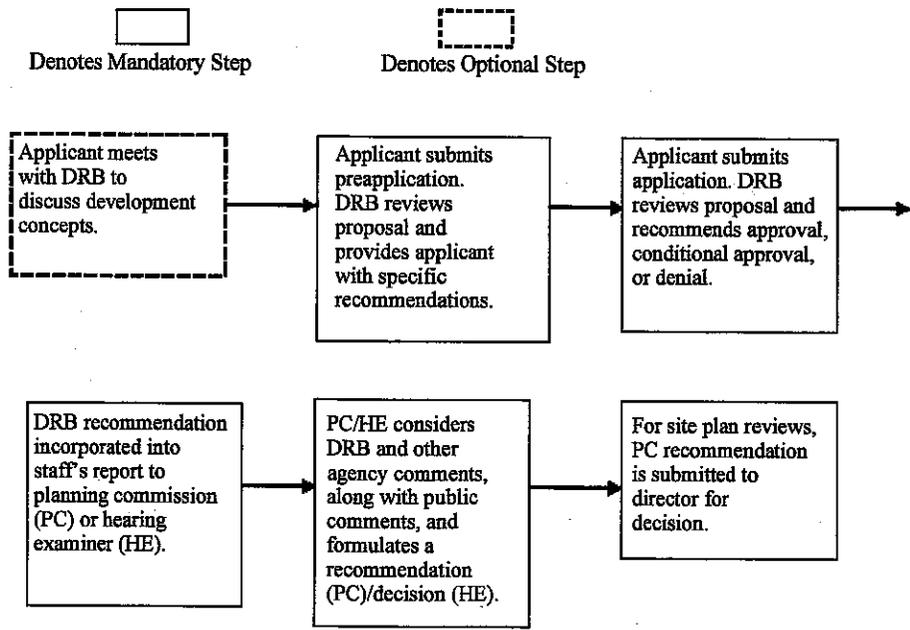
posal for incorporation of the board's previous comments into the project's design. For housing design demonstration projects, the board shall also evaluate the criteria outlined in BIMC 18.38.060. At the conclusion of its consideration, the board shall submit to the director a recommendation of approval, approval with modifications, or denial of the application based on compliance with design guidelines. The director shall consider the board recommendation prior to making a decision on the application.

D. A board recommendation is not a decision and there is no city appeal of the recommendation.

E. A board recommendation shall be valid for the term of the underlying permit or approval.

F. All board meetings shall be open to the public. The board, in its discretion, may allow interested citizens to speak and submit documents. (Ord. 2009-06 § 2, 2009: Ord. 2007-03 § 3, 2007: Ord. 2006-19 § 2, 2006: Ord. 2003-52 § 1, 2003)

**2.48.060 Design review process.**



(Ord. 2009-06 § 2, 2009: Ord. 2007-03 § 4, 2007: Ord. 2003-52 § 1, 2003)

**2.48.070 Public records.**

All recommendations, reports and other official documents of the board shall be signed by the chair. The board shall keep minutes of each meeting, and shall approve them at the next board meeting. The minutes do not need to reflect the actual discussion but only the formal actions taken by the board. (Ord. 2009-06 § 2, 2009; Ord. 2003-52 § 1, 2003)

**2.48.080 Conflict of interest.**

If a design review board member is an applicant for a commercial or mixed use land use application, has a financial interest in a project, or is a paid or unpaid advocate, agent or representative for such applicant, the board member shall not participate in review of and recommendation on the application. (Ord. 2009-06 § 2, 2009; Ord. 2003-52 § 1, 2003)

**Chapter 2.50****HEALTH, HOUSING, AND HUMAN SERVICES COUNCIL****Sections:**

**2.50.010 Designation of health, housing, and human services council.**

**2.50.020 Duties and responsibilities.**

**2.50.010 Designation of health, housing, and human services council.**

Effective March 1, 1994, the Bainbridge Island health, housing, and human services council, a nonprofit corporation of the state of Washington, is designated by the city council as the official body of the city empowered to act on all matters pertaining to the development and delivery of health, housing, and human services within the city consistent with the provisions of this chapter. The purpose of the council shall be to support services and foster appropriate improvements in the range and quality of health, housing, and human service programs provided in the city, to ensure access to all in need, and to facilitate service delivery sensitive to the cultural perspectives of those in need; the city manager or his or her designee shall be a member of the council. This chapter and Chapter 3.86 BIMC shall not apply to nor affect the contract between Bremerton-Kitsap County health district and the city of Bainbridge Island for delivery of the district's specified health services. (Ord. 2009-21 § 14, 2009; Ord. 93-44 § 1, 1993)

**2.50.020 Duties and responsibilities.**

As the city's designated agency, Bainbridge Island health, housing, and human services council shall:

A. Serve as the primary voice for health, housing, and human services within the city and as the principal advisory board to the mayor and city council;

B. Provide a public forum for discussion of issues and ideas affecting health, housing, and human services in the city and serve as point of contact for information;

**2.50.020**

C. Arrange for and provide financial assistance to non-profit organizations delivering health, housing, and human services beginning in fiscal year 1995;

D. Prepare a plan for health, housing, and human services within the city which is consistent with and may be approved for inclusion in the city's comprehensive plan;

E. Initiate, sponsor, or conduct, alone or in cooperation with other public or private agencies, public programs to further the development and public awareness of needs, programs and results in health, housing, and human services;

F. Encourage grants and donations to the Bainbridge Island health, housing, and human services account, and make recommendations to the city council regarding the city's level of funding;

G. Submit a quarterly financial statement to the city council detailing the use of the funds received from the Bainbridge Island health, housing, and human services account;

H. Maintain complete records of all transactions, and give the city council, through authorized representatives, access to and the right to examine all records, books, papers or documents, regarding all operations funded in whole or part by funds from the Bainbridge Island health, housing, and human services account;

I. Submit to the city annually, in a form acceptable to the city, a written report on the status of activities, programs, and projects funded through the use of the Bainbridge Island health, housing, and human services account;

J. At the discretion of the city council, provide the city council with a copy of a financial report regarding all operations funded in whole or in part by funds from the Bainbridge Island health, housing, and human services account. The report shall be prepared in conformity with generally accepted accounting and reporting principles, and upon special request by the city council shall be audited by an independent auditor in conformity with generally accepted auditing standards established by the American Institute of Certified Public Accountants;

K. Establish safeguards to prohibit its employees, board members, advisors and agents from using their position for a purpose that is, or gives the appearance of being, motivated by a desire for private gain for themselves or others, particularly others with a family, business or other connection to the employee, board member, advisor, or agent. Immediately upon discovery of any conflict of interest or potential conflict of interest as described above, the designated agency shall disclose the conflict or potential conflict to the city council;

L. Adopt such bylaws, rules and regulations as are necessary for the conduct of its business as the city's designated agency. The bylaws, rules and regulations shall be reviewed by the mayor and the city council and shall be revised as may be required. The designated agency shall keep minutes of its proceedings with regard to its duties as the city's designated agency which shall be a public record; and

M. Nothing in BIMC Title 2 or 3 shall (1) prevent, restrict or limit the designated agency from engaging in any legal activity, decision, or expenditure that does not involve funds from the Bainbridge Island health, housing, and human services account or (2) require any reporting or accountability to the city or its agencies for any legal activity, decision or expenditure of the designated agency that does not involve funds from the Bainbridge Island health, housing, and human services account, unless otherwise required by state statute or municipal ordinance. The city and its agencies shall not possess or exercise any oversight or control over any legal activities, decisions, or expenditures of the designated agency other than those activities that involve the Bainbridge Island health, housing, and human services account, the activities, decisions, or expenditures of the designated agency acting in its capacity as designated agency of the city, or as provided for in state law or municipal ordinance. (Ord. 93-44 § 1, 1993)

## Chapter 2.52

### HEALTH DISTRICT

#### Sections:

- 2.52.010 Definitions.**
- 2.52.020 Organization established.**
- 2.52.030 Powers and duties of the health district.**
- 2.52.040 Board of health established.**
- 2.52.050 Control by the board of health.**
- 2.52.060 Composition of the board of health.**
- 2.52.070 Conduct of business by the board of health.**
- 2.52.080 Health officer – Appointment.**
- 2.52.090 Powers and duties of health officer.**
- 2.52.100 Budget.**
- 2.52.110 Funding.**
- 2.52.120 Fund established.**
- 2.52.130 Construction.**

#### **2.52.010 Definitions.**

The following terms are defined as follows:

A. "Board of health" means the board of health for the Bremerton-Kitsap County health district.

B. "Cities" means the cities of Bainbridge Island, Bremerton, Port Orchard and Poulsbo.

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

D. "Health district" means the territory within the cities and within the county which provides public health services to persons.

E. "Health officer" means the legally qualified physician who has been appointed by the board of health. (Ord. 2003-22 § 3, 2003; Ord. 96-41 § 1, 1996)

#### **2.52.020 Organization established.**

The existence of the health district as a separate entity is reaffirmed in accordance with Chapter 70.46 RCW et seq. (Ord. 96-41 § 2, 1996)

## 2.52.030

### **2.52.030 Powers and duties of the health district.**

The health district shall provide public health services to the residents of and on behalf of the county and cities. In addition, the health district is vested with all the powers to perform all duties as set forth in Chapter 70.05 RCW et seq. and Chapter 70.46 RCW et seq. (Ord. 96-41 § 3, 1996)

### **2.52.040 Board of health established.**

The board of health is hereby reaffirmed and established. (Ord. 96-41 § 4, 1996)

### **2.52.050 Control by the board of health.**

The control, direction and management of the health district are hereby vested in the board of health. (Ord. 96-41 § 5, 1996)

### **2.52.060 Composition of the board of health.**

The board of health shall be composed of nine persons as follows: (1) the three county Commissioners; (2) the mayor, city council president and one at-large council member of Bremerton; (3) the mayors of Bainbridge Island, Port Orchard and Poulsbo. (Ord. 96-41 § 6, 1996)

### **2.52.070 Conduct of business by the board of health.**

A. Meetings. The business and other matters which come before the board of health shall be transacted at open, public meetings. Meetings may be scheduled at regular times or may be called as necessary.

B. Quorum. Five members of the board of health shall constitute a quorum and business may be transacted by a majority vote.

C. Election. At the first meeting of each calendar year the board of health shall elect one of its members chairperson and another vice chairperson. Each shall serve for the balance of the calendar year or until successors are elected.

D. Minutes. The health officer or someone designated by him or her shall keep the minutes of all meetings.

E. Rules. The board of health meetings shall be conducted in accordance with Robert's Rules of Order. (Ord. 96-41 § 7, 1996)

### **2.52.080 Health officer – Appointment.**

The board of health shall appoint a health officer who shall organize, administrate and operate the health district on a day-to-day basis. The health officer shall serve at the pleasure of the board of health. (Ord. 96-41 § 8, 1996)

### **2.52.090 Powers and duties of health officer.**

The health officer shall:

A. Enforce public health statutes of the state, rules of the state board of health and the secretary of health, and all local rules and regulations regarding public health.

B. Take such action as is necessary to maintain the health and sanitation supervision over the county and cities.

C. Control and prevent the spread of any dangerous, contagious or infectious diseases.

D. Inform the public as to the causes, nature, and prevention of disease and disability and preservation, promotion and improvement of health.

E. Prevent, control or abate nuisances which are detrimental to the public health.

F. Attend all conferences called by the secretary of health or his or her authorized representative.

G. Collect such fees as are established by the state board of health or the board of health for the issuance or renewal of licenses or permits or such other fees as may be authorized.

H. Inspect, as necessary, expansion or modifications of existing public water systems, and the construction of new public water systems, to assure that the expansion, modification, or construction conforms to system design and plans.

I. Take such measures as he or she deems necessary in order to promote the public health, to participate in the establishment of health educational or training activities, and to authorize the attendance of employees of the health district or individuals engaged in community health programs related to or part of the programs of the health district. (Ord. 96-41 § 9, 1996)

**2.52.100 Budget.**

A. Submittal of basic budget. Prior to the expiration of each calendar year, the health officer shall submit a proposed basic budget to the budget director of Kitsap County. The proposed basic budget shall include expenditures funded by: Kitsap County's contribution, the motor vehicle excise tax amount pursuant to RCW 82.44.110(1)(1), user fees, grants, gifts and any other available revenue. Kitsap County's contribution to the basic budget shall be consistent with budgetary guidelines issued by the Kitsap County budget director. Thereafter, the proposed basic budget shall be submitted to the board of health after the county budget department has verified the county's contribution in accordance with the guidelines.

B. Adoption. The board of health shall adopt a basic budget each calendar year.

C. Submittal of supplemental budget. If the health officer determines that supplemental funding is required, he or she will simultaneously submit a supplemental proposal with the basic budget proposal. The proposed supplemental budget shall be submitted to the budget director of the county and of each city for his or her recommendation. Thereafter, the proposed supplemental budget, together with the recommendations of each budget director, shall be submitted to the board of health.

D. Adoption. The board of health shall adopt a supplemental budget, if applicable, each calendar year. Approval shall require unanimous vote from the members contributing funds to the supplemental budget.

E. Special projects. The county or any city, or any combination therefor, may voluntarily fund a special project of the health district. (Ord. 96-41 § 10, 1996)

**2.52.110 Funding.**

A. Basic Budget. The annual basic budget amount of the health district shall be funded by the county's contribution from the general fund, receipt of grants, gifts, and the public health account, which is created from a portion of the cities' motor vehicle excise tax and distributed by the state treasurer.

B. Supplemental Budget. The supplemental budget amount of the health district not funded in the basic budget shall be funded by assessments from cities. The assessment amount for each city shall be that amount which is proportionate to the population of that city, and that percentage is then multiplied by the budget amount. The county, in its discretion, may agree to participate in the funding of the supplemental budget. In the event that the county does agree to participate, the assessment amount for the county shall be that amount which is proportionate to the population of the unincorporated portion of the county and that percentage is then multiplied by the budget amount. Population figures utilized shall be the latest figures available from the Bureau of Census as updated periodically by the state department of health or other official source.

C. Special projects. Funding for special projects may be obtained from any entity agreeing to commit funds. The county and cities shall not have the authority to commit funds of another entity. (Ord. 96-41 § 11, 1996)

**2.52.120 Fund established.**

Moneys received and collected on behalf of the health district shall be deposited in a fund known as the health district fund maintained by the county's treasurer. Expenditures by the health district shall be made from this fund. (Ord. 96-41 § 12, 1996)

**2.52.130 Construction.**

This chapter shall be liberally construed to secure the public health, safety and welfare, and the rule of strict construction shall have no application. (Ord. 96-41 § 13, 1996)

## Chapter 2.56

## RETIREMENT SYSTEM

## Sections:

**2.56.010 Participation authorized.****2.56.010 Participation authorized.**

The city council authorizes and approves the membership and participation of its eligible employees in the Washington Public Employees' Retirement System pursuant to RCW 41.40.410, and authorizes the expenditure for the necessary funds to cover its proportionate share for participation in said system. (Ord. 73-15 § 1, 1973)

## Chapter 2.60

## REIMBURSEMENT OF EXPENSES

## Sections:

- 2.60.010 Use of personal automobile or other transportation.**
- 2.60.020 Travel expense other than automobile or ferry.**
- 2.60.030 Lodging, meals, ferries or other purposes in connection with official duties.**
- 2.60.040 Claims for reimbursement – Certification.**
- 2.60.050 Claims for reimbursement – Submittal to city council.**
- 2.60.060 Reimbursement of mayor and councilmembers.**
- 2.60.080 Credit card use.**

**2.60.010 Use of personal automobile or other transportation.**

Any person representing the city in an official capacity shall be reimbursed for the use of personal automobiles or other vehicles at a rate equal to the rate allowed by the Internal Revenue Service of the United States as a deduction for business travel costs. Reimbursement shall only be allowed when the travel is performed in connection with officially assigned duties and is for an approved public purpose. (Ord. 92-22 § 1, 1992; Ord. 79-29 § 1, 1979)

**2.60.020 Travel expense other than automobile or ferry.**

Travel expense other than automobile or ferry fare will be reimbursed based upon actual expense incurred. (Ord. 79-29 § 2, 1979)

**2.60.030 Lodging, meals, ferries or other purposes in connection with official duties.**

Any official or employee of the city will be reimbursed for actual expenses incurred for lodging, meals, ferries or other purposes in connection with officially assigned duties. (Ord. 79-29 § 3, 1979)

**2.60.040 Claims for reimbursement – Certification.**

All claims for reimbursement authorized under this chapter shall be duly certified by the officer or employee submitting such claims on forms and in the manner prescribed by the division of municipal corporations in the office of the State Auditor. (Ord. 79-29 § 4, 1979)

**2.60.050 Claims for reimbursement – Submittal to city council.**

The city clerk will submit all such claims for reimbursement to the city council for their approval prior to payment. (Ord. 79-29 § 5, 1979)

**2.60.060 Reimbursement of mayor and councilmembers.**

The mayor and members of the city council may be reimbursed for their actual and necessary expenses incurred in the performance of the duties of their office, upon presentation of a claim therefor to the city clerk and its allowance and approval by the city council. (Ord. 77-15 § 1, 1977)

**2.60.080 Credit card use.**

A. The director of finance shall implement and maintain a system for the distribution, authorization and control of credit cards issued to or for the benefit of the city and used by city officials and employees:

1. Distribution. Credit cards may be distributed to those city officials and employees who, in the opinion of the director or his designee, have job responsibilities which would cause their job performance to benefit by use of a credit card.

2. Authorization and Control. The director shall develop and implement policies subject to the approval of the city council to ensure the proper usage of credit cards and credit card funds.

3. Credit Limits. The director shall set credit limits on each credit card issued subject to the approval of the city manager or his or her designee.

4. Payment of Bills. The director shall establish and implement a written procedure or policies for the payment of all credit card bills.

5. Personal Charges Not Authorized. Personal charges may not be made with a city credit card. Any charges which cannot be properly identified or which are not properly allowed shall be paid promptly by the card user and, together with interest and all other charges made by the credit card company, shall constitute a prior lien against all amounts owed by the city to the card user until paid in full.

B. The director of finance is authorized to adopt any additional procedures and policies necessary to implement the provisions of this section. (Ord. 2011-06 § 1, 2011; Ord. 96-19 § 1, 1996)

**Chapter 2.64**

**COLLECTION AND PRESENTATION OF INFORMATION TO LEGISLATIVE AND ADMINISTRATIVE BODIES**

**Sections:**

- 2.64.010 Purpose.**
- 2.64.020 Authority to designate city employees for informational activity.**
- 2.64.030 Authority of representatives restricted.**
- 2.64.040 Compensation and reimbursement of representatives.**
- 2.64.050 Expenditures restricted.**
- 2.64.060 Compliance with state regulations.**

**2.64.010 Purpose.<sup>1</sup>**

It is determined by the city council of the city of Bainbridge Island that the study and collection of information, data and opinions on the administrative and enforcement efficiency and costs attendant therewith and the societal effects of proposed, pending or enacted legislation is necessary for legislative planning or revisions, and that a prompt, informative response to inquiries from legislators and public administrators, and attendance at legislative committee hearings, relating to the effect of legislation on municipal finances, services and authority, is necessary and helpful to the legislator in the enlightened performance of the legislative function and serves the best interests of the citizens and the public, and is declared to be a municipal purpose. (Ord. 76-01 § 1, 1976)

**2.64.020 Authority to designate city employees for informational activity.**

The city manager is authorized to designate city employees or representatives to collect, accumulate and analyze information

1. At the city's request, reference to the city of Poulso has been deleted from this and other sections of the code.

concerning the effect of enacted legislation or the anticipated effect of proposed or pending legislation, to consult with the employees or representatives of other municipalities or counties and associations thereof, to respond and provide data and information and give testimony to state legislators, legislative committees, state administrative officers, or other municipalities investigating the city's experience or anticipated costs, benefits or problems from such enacted or proposed legislation. (Ord. 2009-21 § 15, 2009: Ord. 76-01 § 2, 1976)

**2.64.030 Authority of representatives restricted.**

In all matters in which an official, staff employee, or other representative appears on behalf of the city, such representative shall observe, carry out or support the known relevant policies of the respective city council and shall consult with the city manager for advice and guidance when required. All such informational activity shall be conducted with prudence and good judgement and within all legal regulation of such activity. Such representative shall not have any authority to make any statements, commitments or promises binding upon the city, but may speak to influence the passage, defeat or amendment of legislation affecting the city in accordance with the policy or position approved by the city council. (Ord. 2009-21 § 16, 2009: Ord. 76-01 § 3, 1976)

**2.64.040 Compensation and reimbursement of representatives.**

While engaged in such informational, educational and testimonial activity, a city employee shall continue to receive his or her current salary as a city employee. No additional compensation shall be paid or accrue to an elected official during his or her term of office with the city for such research, informational or lobbying services to this city. An employee or official shall receive reimbursement for the reasonable costs of travel, lodging, and personal meals reasonably incurred in

the course of such service, in accordance with the city's regular policies and rates as to such reimbursement. (Ord. 76-01 § 4, 1976)

**2.64.050 Expenditures restricted.**

No expenditures from city funds for the hosting, entertainment or campaign assistance of any legislator or state officer shall be authorized, expended or reimbursed. (Ord. 76-01 § 5, 1976)

**2.64.060 Compliance with state regulations.**

The city's employee or representative in such informational or lobbying activities shall comply fully with all state regulations relating to ethical practices and conduct, and comply with all regulations relating to the reporting of expenditures in connection therewith. (Ord. 76-01 § 6, 1976)

**Chapter 2.68**

**DEFENSE AND INDEMNIFICATION OF CITY OFFICERS AND EMPLOYEES**

**Sections:**

- 2.68.010 Definitions.**
- 2.68.020 Legal representation.**
- 2.68.030 Exclusions – Determination of representation.**
- 2.68.040 Payment of claims – Conditions of representation.**
- 2.68.050 Refusal to cooperate.**
- 2.68.060 Conflict with provisions of insurance policies.**
- 2.68.070 Pending claims.**
- 2.68.080 Union contracts.**

**2.68.010 Definitions.**

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

- A. "Claim" means a claim or lawsuit.
- B. "Employee" means any person who is or has been employed in the service of the city.
- C. "Official" means any person who is serving or has served as an elected city official and any person who is serving or has served as an appointed member of any city board, commission, agency or committee. (Ord. 90-23 § 1, 1990)

**2.68.020 Legal representation.**

Subject to the conditions and requirements of this chapter, the city shall provide to an official or employee such legal representation as may be reasonably necessary to defend any claim filed against the official or employee, arising out of the performance, purported performance or failure of performance in good faith of duties for or employment with the city. This legal representation shall be a condition of employment with the city and shall be provided by the city attorney or the city attorney's designee, except as may be provided under an insurance policy or self-insurance or joint insurance program. (Ord. 90-23 § 1, 1990)

## **2.68.030**

### **2.68.030 Exclusions – Determination of representation.**

This chapter shall not apply to any dishonest, fraudulent, criminal or malicious act, to any act outside the scope of service or employment, to any lawsuit brought by or on behalf of the city or to any accident, occurrence or circumstance in which the city or an official or employee is insured against loss or damages under the terms of an insurance policy or self-insurance or joint insurance program.

The city attorney shall determine whether an official or employee was performing duties for or employment with the city in good faith, and whether an official or employee committed a dishonest, fraudulent, criminal or malicious act. The official or employee may appeal such determination to the city council. (Ord. 90-23 § 1, 1990)

### **2.68.040 Payment of claims – Conditions of representation.**

At the request of an official or employee, the city attorney or the city attorney's designee shall investigate and defend a claim which is covered by this chapter. If that claim is deemed by the city attorney or the city attorney's designee to be a proper claim against the official or employee, the claim shall be paid by the city as long as the following requirements are met:

A. As soon as practicable after receipt of notice of a claim, the official or employee shall give the city attorney written notice of the claim, specifying the names of the officials or employees involved, the date, time, place and circumstances surrounding the incident or conduct giving rise to the claim, the names and addresses of all persons allegedly injured, the names and addresses of owners of allegedly damaged property, and the names and addresses of all witnesses;

B. The official or employee shall cooperate with the city attorney or the city attorney's designee and, upon request, shall assist in making settlements of any lawsuits and in enforcing any claim for subrogation against any persons or organizations that may be liable to the city because of any damages or losses arising from the incident or conduct; and

C. The official or employee shall attend interviews, depositions, hearings and trials as requested, and assist in securing and giving evidence and obtaining the attendance of witnesses.

If the city attorney determines that a claim against an official or employee is not covered by this chapter and a court of competent jurisdiction in a final judgement finds that the claim is covered by this chapter, the city shall pay the claim and reasonable attorney's fees. (Ord. 90-23 § 1, 1990)

**2.68.050 Refusal to cooperate.**

If any official or employee fails or refuses to meet the requirements of BIMC 2.68.040 or elects to provide his or her own representation on any claim, this chapter shall be inapplicable and of no force and effect with respect to that claim. (Ord. 90-23 § 1, 1990)

**2.68.060 Conflict with provisions of insurance policies.**

Nothing contained in this chapter shall be construed to modify or amend any provision of an insurance policy or any coverage through a self-insurance or joint insurance program. If there is a conflict between this chapter and the provisions of any such policies or coverage, the provisions of any such policies or coverage shall control. (Ord. 90-23 § 1, 1990)

**2.68.070 Pending claims.**

This chapter shall apply to any pending claim against an official or employee and to any claim hereafter filed irrespective of the date of the events or circumstances giving rise to the claim. (Ord. 90-23 § 1, 1990)

**2.68.080 Union contracts.**

If a bargaining unit contract covers any of the terms and conditions of this chapter, all employees under the contract shall be governed by the provisions of the contract. If there is a conflict between the provisions of the contract and this chapter, the provisions of the contract shall control. (Ord. 90-23 § 1, 1990)

**Chapter 2.70**

**COMMUTE TRIP REDUCTION  
INCENTIVE PROGRAM**

**Sections:**

**2.70.010 Incentives.**

**2.70.020 Program participation.**

**2.70.010 Incentives.**

The city will provide the following monetary incentives to encourage commute trip reduction:

A. \$40.00 monthly to all full-time city employees who rideshare through utilization of one of the alternatives to the use of a single occupancy vehicle as described in BIMC 2.70.020 for 60 percent or more of their shifts worked per month. For the purpose of this program, full-time employees are those employees who work more than 20 hours per week.

B. \$20.00 monthly to part-time workers who rideshare through utilization of one of the alternatives to the use of a single occupancy vehicle as described in BIMC 2.70.020 for 60 percent or more of their shifts worked per month. Part-time employees are those who work 20 or fewer hours per week.

C. Rideshare incentives will be paid on a quarterly basis by the city following the end of the quarter. (Ord. 2000-08 § 1, 2000)

**2.70.020 Program participation.**

All city employees, except temporary and seasonal, are eligible to participate in this program. The program options are as follows:

**A. Car Pool.**

1. Two or more city employees who commute together 60 percent or more of their shifts worked per month.

2. A city employee who commutes with a noncity employee 60 percent or more of their shifts worked per month.

B. Transit. Any city employee who rides the bus 60 percent or more of their shifts worked per month.

C. Van Pool. Any city employee who participates in a Kitsap Transit van pool for 60 percent or more of their shifts worked per month.

D. Other. Walking, running, motorcycle commute, drop-offs, and bicycles qualify under 60 percent or more participation options.

E. Program Restrictions.

1. Unless you presently (or will in the future) walk from your home to your worksite, or unless you are part of a car pool, van pool, or other city-approved commuter method which requires that you drive to work, program participants may park no closer than one mile (except in a parking area approved for this purpose) to their worksites. In other words, program participants will not be allowed to drive alone in their cars part way to work, park within a few blocks of their worksite, and then walk the short distance to work in order to qualify for the incentive payment. This would not be consistent with the purposes of the program.

2. Program participants will not be allowed to rideshare exclusively with city employees who normally walk from their home to their worksite. In other words, a participant cannot make arrangements to pick up or drop off a city employee who normally walks to work in order to qualify for the incentives payment. (Ord. 2000-08 § 1, 2000)

## Chapter 2.74

## SALARY COMMISSION

## Sections:

- 2.74.010** Created – Membership, appointment, compensation, term.
- 2.74.020** Vacancies.
- 2.74.030** Removal.
- 2.74.040** Mission and responsibilities.
- 2.74.050** Referendum.
- 2.74.051** Repealed.

**2.74.010** Created – Membership, appointment, compensation, term.

A. There is created a salary commission for the city. The commission shall consist of seven members, to be appointed by the mayor with the approval of the city council.

B. A member of the commission shall serve for a three-year term without compensation, and shall be a resident of the city. The initial members shall be appointed for staggered terms.

C. No member of the commission shall be appointed to more than two terms.

D. A member of the commission shall not be an officer, official, or employee of the city or an immediate family member of an officer, official, or employee of the city. For purposes of this section, "immediate family member" means the parents, spouse, siblings, children, or dependent relatives of an officer, official, or employee of the city, whether or not living in the household of the officer, official, or employee. (Ord. 2007-15 § 1, 2007: Ord. 2005-25 § 1, 2005: Ord. 2001-31-B § 1, 2001)

**2.74.020** Vacancies.

In the event of a vacancy in office of commissioner, the mayor shall appoint, subject to approval of the city council, a person to serve the unexpired portion of the term of the vacant position. (Ord. 2007-15 § 2, 2007: Ord. 2005-25 § 2, 2005: Ord. 2001-31-B § 1, 2001)

**2.74.030** Removal.

A member of the commission shall only be removed from office for cause of incapacity, incompetence, neglect of duty, or malfeasance in office, or for a disqualifying change of residence. (Ord. 2001-31-B § 1, 2001)

**2.74.040** Mission and responsibilities.

A. The commission shall have the duty, at such intervals as determined by the commission, to review the salaries paid by the city to each elected city official. If after such review the commission determines that the salary paid to any elected city official should be increased or decreased, the commission shall file a written salary schedule with the city clerk indicating the increase or decrease in salary.

B. Any increase or decrease in salary established by the commission shall become effective and incorporated into the city budget without further action of the city council or the commission.

C. Salary increases established by the commission shall be effective as to all city elected officials, regardless of their terms of office.

D. Salary decreases established by the commission shall become effective as to incumbent city-elected officials at the commencement of their next subsequent terms of office. (Ord. 2007-15 § 3, 2007: Ord. 2005-25 § 3, 2005: Ord. 2001-31-B § 1, 2001)

**2.74.050** Referendum.

Any salary increase or decrease established by the commission pursuant to this chapter shall be subject to referendum petition by the voters of the city, in the same manner as a city ordinance, upon filing of a referendum petition with the city clerk within 30 days after filing of a salary schedule by the commission. In the event of the filing of a valid referendum petition, the salary increase or decrease shall not go into effect until approved by a vote of the people. Referendum measures under this section shall be submitted to the voters of the city at the next following general or municipal election occurring 30 days or more after the petition is filed, and shall otherwise be governed by the provisions of the State Constitu-

**2.74.051**

tion and the laws generally applicable to referendum measures. (Ord. 2007-15 § 4, 2007: Ord. 2005-25 § 4, 2005: Ord. 2001-31-B § 1, 2001)

**2.74.051 Council consideration.**

*Repealed by Ord. 2007-15. (Ord. 2005-25 § 5, 2005)*

**Chapter 2.80**

**PUBLIC RECORDS DISCLOSURE**

**Sections:**

- 2.80.010 Relationship to Public Records Act.**
- 2.80.020 Disclosure of public records.**
- 2.80.030 Definitions of public records and writing.**
- 2.80.040 City organization and rules for obtaining information.**
- 2.80.050 Indexing of records.**
- 2.80.060 Exemptions.**
- 2.80.070 Procedure for inspection or copying.**
- 2.80.080 Reimbursement for copying costs.**
- 2.80.090 Decision on public records requests – Procedure for review of decision.**
- 2.80.100 Disclosure prohibited by other statutes.**
- 2.80.110 Administrative rules.**
- 2.80.120 Disclaimer of liability.**

**2.80.010 Relationship to Public Records Act.**

This chapter constitutes the city's rules and regulations to carry out and implement the Public Records Act, Chapter 42.56 RCW. Except as provided in this chapter, Chapter 42.56 RCW shall apply to all city public records. (Ord. 2011-04 § 1, 2011: Ord. 2001-17 § 1, 2001)

**2.80.020 Disclosure of public records.**

Unless exempt from disclosure under this chapter, public records shall be available for inspection and copying in accordance with this chapter. The city shall make public records promptly available, and shall provide them on a partial or installment basis as they are assembled or are available for inspection or disclosure. The city shall not deny a public records request for identifiable public records solely on the basis that the request is overbroad. The city clerk is designated as the city's public records officer who shall oversee the city's compliance with the public records require-

ments of this chapter and Chapter 42.56 RCW. The public records officer may delegate the duties and responsibilities of complying with a public records request to the deputy city clerk or other city employee. The public records officer shall make available for public inspection and copying, in accordance with this chapter, all public records filed with the public records officer, including but not limited to ordinances, resolutions, general city policies, city council meeting minutes, contracts, agreements, deeds and leases. (Ord. 2011-04 § 2, 2011: Ord. 2005-30 § 1, 2005: Ord. 2001-17 § 1, 2001)

**2.80.030 Definitions of public records and writing.**

A. "Public record" means any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by the city, regardless of physical form or characteristics.

B. "Writing" means handwriting, type-writing, printing, photostating, photographing, and every other means of recording, any form of communication or representation, including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, emails, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated. (Ord. 2011-04 § 3, 2011: Ord. 2001-17 § 1, 2001)

**2.80.040 City organization and rules for obtaining information.**

The city clerk shall make available for inspection and copying for guidance of the public:

A. Descriptions of the city's organization; and

B. The city's Public Records Act administrative rules. (Ord. 2011-04 § 4, 2011: Ord. 2001-17 § 1, 2001)

**2.80.050 Indexing of records.**

Maintaining a central index of city records is unduly burdensome, costly, and would interfere with city operations due to the number and complexity of records generated as a result of a wide range of city activities. The public records officer may, however, index and maintain general administrative records. Other records that relate to the specific function or responsibility of a particular department shall be maintained in the offices of the particular department. The public records officer will coordinate responses to public records requests with the departments and responsive records shall be made available for public inspection and copying. (Ord. 2011-04 § 5, 2011: Ord. 2001-17 § 1, 2001)

**2.80.060 Exemptions.**

A. The public records identified in Chapter 42.56 RCW, and future amendments thereto, are incorporated in this chapter and shall be exempt from public inspection and copying. The city clerk shall maintain and make available for public inspection and copying a current version of Chapter 42.56 RCW.

B. The exemptions from public disclosure set forth in Chapter 42.56 RCW and as incorporated into subsection A of this section, shall be inapplicable to the extent that information, the disclosure of which would violate personal privacy, can be deleted from the specific public record sought. A person's right to personal privacy is violated if disclosure of information about the person would be highly offensive to a reasonable person and is not of legitimate concern to the public. No exemption shall be construed to permit the non-disclosure of statistical information not descriptive of any readily identifiable person or persons.

C. Inspection or copying of any public records exempt under this section may be permitted if any superior court finds, after a hearing with notice to the requester, all persons mentioned in the public records and the city, that the exemption of such public records is clearly unnecessary to protect any individual's right of privacy or any vital governmental function.

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D. Nothing in this section shall affect a duty of the city to disclose or withhold information pursuant to any other law. (Ord. 2011-04 § 6, 2011: Ord. 2001-17 § 1, 2001)

### 2.80.070 Procedure for inspection or copying.

A. Persons wishing to inspect or copy public records shall file a request in person, by phone or by mail (U.S., special delivery or electronic) to the public records officer.

All assistance necessary to help the requester locate the public records shall be provided promptly by the public records officer; provided, that the assistance shall not unreasonably disrupt the daily operations of the city clerk or other duties of any assisting employee(s) in other city departments.

B. The public records officer shall not distinguish among persons requesting public records. Persons requesting public records shall not be required to provide information as to the purpose for the request, except to establish whether the inspection or copying would violate the prohibition on providing a list of individuals for commercial purposes or any other statute or ordinance which exempts or prohibits disclosure of specific information or records based on the purpose of the request or the intended use of the records. (Ord. 2011-04 § 7, 2011: Ord. 2005-30 § 2, 2005: Ord. 2001-17 § 1, 2001)

### 2.80.080 Reimbursement for copying costs.

A. There shall be no charge for inspection of public records or for locating public records and making them available for copying. The per-page cost for copies of public records made by city equipment shall be established by city council resolution. If copies of public records are mailed or delivered, the city shall charge the actual postage or delivery charge and a fee for the container or envelope, in amounts established by city council resolution. The city may require a deposit in an amount not to exceed 10 percent of the estimated cost of providing the copies. If the city makes copies of public records available on a partial or installment basis, the city may charge for each

part of the partial disclosure or installment. If an installment of a records request is not claimed or reviewed, the city need not fulfill the balance of the request.

B. At its option, the city may send out public records for copying by companies or other municipalities. The requester shall pay the actual cost to the city of copying such public records.

C. For making copies of audio and video tape recordings and copying electronic records onto compact discs, the charges shall be established by city council resolution based on the actual costs to the city. If the city uses a company or another municipality to make a copy of the tape or audio or video recording, the requester shall pay the actual cost to the city of making such recording.

D. Where the request is for a certified copy of a public record, there shall be an additional charge in the amount established by city council resolution.

E. The public records officer may provide copies of public records at no charge to governmental agencies doing business with the city, if the public records officer determines that such action is in the best interests of the city. (Ord. 2011-04 § 8, 2011: Ord. 2005-30 § 3, 2005: Ord. 2001-17 § 1, 2001)

### 2.80.090 Decision on public records requests – Procedure for review of decision.

A. Upon receiving a request to inspect or copy a public record, the public records officer shall grant the request unless the public records officer determines that the public record requested is or may be exempt from disclosure in whole or in part. Within five business days of the date of receipt by the city of the request, the public records officer shall respond by:

1. Providing the record; or
2. Acknowledging that the city has received the request and providing a reasonable estimate of the time required by the city to respond to the request; or
3. Denying the request.

Additional time to respond to a request may be based upon the need to clarify the

request, to locate and assemble the information requested, to notify third persons or agencies affected by the request, or to determine the exemption from disclosure of any of the requested information. If a request is unclear, the public records officer may ask the requester to clarify the request. If the requester fails to clarify the request, the city need not respond to the request.

B. If the public records officer determines that the document is exempt in part but can be made available after deletion of exempt portions or after deletion of portions which would invade personal privacy, the request shall be granted; provided, that such exempt portions shall first be deleted. If the public records officer determines to deny the request, in whole or in part, a written statement of the specific reasons for the deletion of portions of the public record or the denial of the request shall be provided to the requester.

C. A decision by the public records officer denying inspection shall be reviewed by the city manager. The review shall be deemed completed at the end of the second business day following the denial of inspection and shall constitute final city action for the purposes of judicial review. The requester shall be notified in writing of the decision to grant or deny the request. (Ord. 2011-04 § 9, 2011: Ord. 2005-30 § 4, 2005: Ord. 2001-17 § 1, 2001)

#### **2.80.100 Disclosure prohibited by other statutes.**

The city shall not be required by this chapter to permit public inspection and copying of any public record to the extent public disclosure of the public record is prohibited, restricted or limited by any state or federal statute or regulation including, but not limited to, Chapter 10.97 RCW, the Washington State Criminal Records Privacy Act, Chapter 13.50 RCW, relating to release of records by juvenile justice or care agencies, or Chapter 46.52 RCW, relating to accident reports and abandoned vehicles. (Ord. 2001-17 § 1, 2001)

#### **2.80.110 Administrative rules.**

The city manager may issue rules for the implementation of this chapter. (Ord. 2011-04 § 10, 2011: Ord. 2009-21 § 17, 2009: Ord. 2001-17 § 1, 2001)

#### **2.80.120 Disclaimer of liability.**

The city shall not be liable, nor shall a cause of action exist for any loss or damage based upon the release of a public record if the city acted in good faith in attempting to comply with the provisions of this chapter and Chapter 42.56 RCW. (Ord. 2011-04 § 11, 2011: Ord. 2001-17 § 1, 2001)

## Chapter 2.82

## CITY BUDGET PROCESS

## Sections:

- 2.82.010 Policy.
- 2.82.020 *Repealed.*
- 2.82.030 *Repealed.*
- 2.82.040 City council suggestions and proposals.
- 2.82.050 *Repealed.*
- 2.82.060 Capital facilities plan update.
- 2.82.070 Mid-year financial review.
- 2.82.080 Initial budget requests.
- 2.82.090 *Repealed.*
- 2.82.100 *Repealed.*
- 2.82.110 Hearings and consideration of departmental budget submissions.
- 2.82.120 Mayor's preliminary budget and message.
- 2.82.130 Public hearing on taxes and revenues.
- 2.82.140 Public hearing before the planning commission on capital facilities.
- 2.82.150 Hearings and work sessions on the preliminary budget.
- 2.82.160 Budget estimates – Revenue and expenditures.
- 2.82.170 Approval of property tax levy for ensuing year.
- 2.82.180 Due date for city manager changes.
- 2.82.190 Due date for councilmember changes.
- 2.82.200 Final hearing on the budget.
- 2.82.210 Adoption of the budget and capital facilities plan update.

**2.82.010 Policy.**

It is hereby declared to be the policy of the city of Bainbridge Island that the budget shall be prepared on a biennial basis in accordance with state law. (Ord. 2011-08 § 1, 2011: Ord. 2007-29 § 1, 2007: Ord. 2002-11 § 2, 2002)

**2.82.020 Annual budget and planning calendar.**

*Repealed by Ord. 2011-08. (Ord. 2007-29 § 2, 2007: Ord. 2002-11 § 3, 2002)*

**2.82.030 Public hearing on goals and objectives.**

*Repealed by Ord. 2011-08. (Ord. 2002-11 § 4, 2002)*

**2.82.040 City council suggestions and proposals.**

The city council may propose individually or collectively any items, programs or services to be included in, or removed from, the city budget which will assist in the accomplishment of existing or proposed city and department goals, objectives, and outcomes, and which should be consistent with existing or proposed performance measurement targets, information, and results. The primary purpose of this city council activity is for the administration to receive suggestions and proposals for consideration early in the city budgeting process. This section does not modify, prevent, or in any way limit the authority or privilege of any councilmember to later submit amendments to the annual budget according to the provisions of this chapter. (Ord. 2011-08 § 4, 2011: Ord. 2002-11 § 5, 2002)

**2.82.050 Approval of goals and objectives.**

*Repealed by Ord. 2011-08. (Ord. 2002-11 § 6, 2002)*

**2.82.060 Capital facilities plan update.**

An annual review shall include the preparation of a financial capacity analysis showing how the proposed capital facilities improvements for at least the ensuing six years shall be funded. This information shall be considered in the preparation of the proposed preliminary budget and provided so that the planning commission will have a proper basis upon which to base its consideration and to develop its recommendations. (Ord. 2011-08 § 6, 2011: Ord. 2002-11 § 7, 2002)

**2.82.070 Mid-year financial review.**

On or before August 1st of each year, the finance director shall present to the council a "mid-year" financial report, together with such other additional information or factors as may be needed (such as recent state, county or federal legislative action), to clearly assess: (1) the financial condition of the city; (2) the financial status of the current budget year; (3) what appear to be the financial projections for the next budget year; and (4) what, if any, substantial impact(s) on revenue and/or expenditures may be foreseen. (Ord. 2007-29 § 3, 2007; Ord. 2002-11 § 8, 2002)

**2.82.080 Initial budget requests.**

The initial budget requests for the ensuing fiscal year shall be prepared by the city manager, and shall be delivered to the city council as provided in RCW 35A.33.050. The required information to be included in each proposed preliminary budget shall be as follows:

A. The revenue section shall set forth in comparative and tabular form for each fund:

1. Actual receipts for the last completed fiscal year by each significant revenue source;
2. Estimated receipts for the current fiscal year by significant revenue source;
3. Estimated receipts for the ensuing fiscal year and the amount expected from each significant revenue source;
4. Estimated receipt of ad valorem taxes; and
5. The balance for each fund estimated to be available at the close of the current fiscal year.

B. The expenditure section shall set forth in comparative and tabular form for each fund and every department operating within each fund:

1. Actual expenditures for the last completed fiscal year;
2. Appropriations for the current fiscal year;
3. Estimated expenditures for the ensuing fiscal year; and
4. For each proposed full-time or part-time employee, the annual salary (without benefits) for that employee, together with the

exact personnel classification title of the employee's position, and any other working title or position designation, if any.

C. Each department shall submit, as a specific section of the proposed preliminary budget, a narrative and descriptive summary of differences and changes between the current year appropriations and the proposed preliminary budget. Such summary shall be in a form annually reviewed and approved by the city council.

D. The city shall develop performance measures for all its major programs and will use those measures in its budget process. (Ord. 2011-08 § 7, 2011; Ord. 2007-29 § 4, 2007; Ord. 2002-11 § 9, 2002)

**2.82.090 Review of budget hearing and work session dates.**

*Repealed by Ord. 2011-08.* (Ord. 2007-29 § 5, 2007; Ord. 2002-11 § 10, 2002)

**2.82.100 Proposed annual budget and planning calendar.**

*Repealed by Ord. 2007-29.* (Ord. 2002-11 § 11, 2002)

**2.82.110 Hearings and consideration of departmental budget submissions.**

The city council shall hold hearings and conduct work sessions to inquire into the programs and services, and financial information contained in the proposed preliminary budget developed as required by BIMC 2.82.080. A recorded public budget hearing shall be held for the presentation of department budget requests based upon the proposed preliminary budget. (Ord. 2011-08 § 9, 2011; Ord. 2002-11 § 12, 2002)

**2.82.120 Mayor's preliminary budget and message.**

The mayor shall, on a date not later than the date established by resolution of the city council but in no case later than 60 days before the ensuing fiscal year, file with the city clerk and immediately forward to the city council a preliminary budget together with a budget message in accordance with RCW

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35A.33.055. The mayor shall prepare and deliver to the city council, inserts or such other documentation as necessary to explain and show in detail the mayor's recommendations contained in the preliminary budget. The preliminary budget shall be certified by both the mayor, and the finance director, that all changes, amendments or other revisions known to them, or known to each department, are contained within the preliminary budget as filed. (Ord. 2002-11 § 13, 2002)

### 2.82.130 Public hearing on taxes and revenues.

A recorded budget hearing shall be held for the purpose of obtaining public comment on the revenue sources for the ensuing budget. This hearing shall include an opportunity for the public to comment on all proposed increases in tax revenues. Notice of the public hearing shall be published for the public and media. (Ord. 2011-08 § 10, 2011: Ord. 2007-29 § 7, 2007: Ord. 2002-11 § 14, 2002)

### 2.82.140 Public hearing before the planning commission on capital facilities.

A public hearing shall be held by the planning commission for the purpose of providing public comment on the proposed update to the city's capital facilities plan. Notice of the public hearing shall be published for the public and media. The planning commission may hold such other public meetings as it deems proper in order to prepare its recommendations to the city council. The recommendations of the planning commission regarding the update to the city's capital facilities plan shall be delivered to the city council not later than 60 days following receipt by the planning commission of the proposed update to the capital facilities plan. (Ord. 2011-08 § 11, 2011: Ord. 2007-29 § 8, 2007: Ord. 2002-11 § 15, 2002)

### 2.82.150 Hearings and work sessions on the preliminary budget.

The city council and/or committees of the city council shall hold hearings and conduct work sessions to inquire into the programs and

services, and financial information. (Ord. 2011-08 § 12, 2011: Ord. 2002-11 § 16, 2002)

### 2.82.160 Budget estimates – Revenue and expenditures.

The finance director shall prepare and certify to the city council the best available revenue and expenditure estimates for the next budget year, and estimates of current end-of-year unexpended funds. (Ord. 2011-08 § 13, 2011: Ord. 2007-29 § 9, 2007: Ord. 2002-11 § 17, 2002)

### 2.82.170 Approval of property tax levy for ensuing year.

The city council shall adopt an ordinance setting the property tax levy for the ensuing year. (Ord. 2011-08 § 14, 2011: Ord. 2002-11 § 18, 2002)

### 2.82.180 Due date for city manager changes.

All changes proposed by the administration after the filing of the preliminary budget shall come with an analysis of the merits and financial impact of the proposed change. (Ord. 2011-08 § 15, 2011: Ord. 2002-11 § 19, 2002)

### 2.82.190 Due date for councilmember changes.

All changes to the preliminary budget proposed by councilmembers shall be by motion. An oral change or a written change submitted by any councilmember, or as requested by the city manager, and which is not clearly within the scope of a change submitted under this section shall be subject to a point of order by any one councilmember. The presiding officer shall rule out of order any proposed change: (A) that has not been submitted for review under this section; or (B) which is not clearly within the scope of another change which was timely submitted pursuant to this section; or (C) which is then under actual consideration for action by the council. A majority of the council may override such a ruling by the presiding officer. (Ord. 2011-08 § 16, 2011: Ord. 2002-11 § 20, 2002)

**2.82.200 Final hearing on the budget.**

There shall be a final public hearing on the proposed budget. Notice of the public hearing shall be published for the public and media. (Ord. 2011-08 § 17, 2011; Ord. 2007-29 § 10, 2007; Ord. 2002-11 § 21, 2002)

**2.82.210 Adoption of the budget and capital facilities plan update.**

The budget and the update to the capital facilities plan shall both be considered for amendment, adoption and other appropriate action by the city council. (Ord. 2011-08 § 18, 2011; Ord. 2007-29 § 11, 2007; Ord. 2002-11 § 22, 2002)

