

Title 3

REVENUE AND FINANCE

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Chapter 3.04

Chapter 3.08

CLAIMS ACCOUNT

PAYROLL ACCOUNT

Sections:

- 3.04.010 Establishment.**
- 3.04.020 Distribution of funds.**

Sections:

- 3.08.010 Establishment.**
- 3.08.020 Distribution of funds.**

3.04.010 Establishment.

Effective July 1, 1970, a claims account shall be established in the accounting procedure for the payment of duly approved purchases by the city. (Ord. 70-13, 1970)

3.08.010 Establishment.

Effective with January, 1968, a payroll account shall be established for the payment of all salaries and wages due officers and employees of the city. (Ord. 68-02, 1968)

3.04.020 Distribution of funds.

Distribution of the amounts will be made by transfer from the appropriate fund in the proper amount chargeable to the individual fund. (Ord. 70-13, 1970)

3.08.020 Distribution of funds.

Distribution of the amount will be made by transfer from the appropriate fund in the proper amount chargeable to the individual fund. (Ord. 68-02, 1968)

Chapter 3.10

PETTY CASH FUND

Sections:

- 3.10.010 Established.**
- 3.10.020 Limits.**
- 3.10.025 Police investigative fund.**
- 3.10.030 Use policy – Disbursement restrictions.**

3.10.010 Established.

There shall be established within the current expense fund of the city a separate sub-fund, entitled the petty cash fund, for the purposes of making change and reimbursing small expenditures. In order to reduce the amount of funds requiring control, the petty cash fund shall be under the control and authority of the person primarily responsible for accepting and receipting payments from the public. The petty cash fund shall be reconciled and replenished at least monthly, and shall be audited periodically by someone who does not normally have access to the money involved. (Ord. 93-17 § 2, 1993)

3.10.020 Limits.

A finance department petty cash fund shall be established in the amount of \$300.00, and a police department petty cash fund shall be established in the amount of \$250.00. No reimbursement shall exceed \$40.00. Personal cash advances shall not be made from the petty cash fund. In addition, a change fund in the amount of \$100.00 shall be maintained for each person who shall regularly serve as cashier and be required to make change and a separate such fund shall be maintained for those persons serving as backup cashier. (Ord. 2010-22 § 1, 2010; Ord. 99-37 § 1, 1999; Ord. 97-04 § 1, 1997; Ord. 93-17 § 3, 1993)

3.10.025 Police investigative fund.

In addition to the amounts shown and described in BMC 3.10.020, there shall be maintained a police investigative fund in the amount of \$5,000 under the control of the chief of police and subject to no less than the same

controls described in this chapter for other portions of the city's petty cash fund. (Ord. 2007-09 § 1, 2007; Ord. 2002-03 § 1, 2002)

3.10.030 Use policy – Disbursement restrictions.

The city council shall adopt by resolution a policy governing use of the petty cash fund and restrictions on disbursements from it. Changes to the policy must be approved by the city council. (Ord. 93-17 § 4, 1993)

Chapter 3.12

INVESTMENT OF CITY FUNDS

Sections:

- 3.12.010** Contents of the city's investment policy.
- 3.12.020** Adoption of the city's investment policy.

3.12.010 Contents of the city's investment policy.

The city council shall adopt by resolution an investment policy to guide and control the investment of surplus city funds. This policy shall specifically address the areas of: scope of the policy, standards of prudence, investment objectives, delegation of authority, ethics and conflicts of interest, authorization of financial dealers, suitable investments, collateralization, safekeeping and custody, diversification, maximum maturities, internal controls, performance standards, and reporting. (Ord. 93-16 § 3, 1993)

3.12.020 Adoption of the city's investment policy.

The city's investment policy shall be adopted by resolution of the city council. The policy shall be reviewed annually by the city council and any modifications must be approved by the city council. (Ord. 93-16 § 4, 1993)

Chapter 3.16

POLICE COURT FUNDS

Sections:

- 3.16.010** Separate accounting established.
- 3.16.020** Deposit of moneys paid to court.
- 3.16.030** Disbursements.
- 3.16.040** Record maintenance.
- 3.16.050** Funds from closed court cases.
- 3.16.060** Signature of police judge required on checks.

3.16.010 Separate accounting established.

A separate accounting of receipts and disbursements by the city police court is established. (Ord. 65-13 § 1, 1965)

3.16.020 Deposit of moneys paid to court.

It shall be the responsibility of the appointed police judge to deposit all moneys paid to the court to an account in the name of the city police court at the Bainbridge Island Bank located in Bainbridge Island, Washington. (Ord. 65-13 § 2, 1965)

3.16.030 Disbursements.

All disbursements from the police court bank account shall be by duly signed and recorded check. (Ord. 65-13 § 3, 1965)

3.16.040 Record maintenance.

An approved record of all receipts and disbursements shall be maintained in accordance with accepted accounting procedure. (Ord. 65-13 § 4, 1965)

3.16.050 Funds from closed court cases.

Funds accumulating from closed court cases shall be transmitted by check to the city clerk at frequent intervals but not less than twice a month. (Ord. 65-13 § 5, 1965)

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3.16.060 Signature of police judge required on checks.

Responsibility for police court funds is established by state law, therefore all checks shall bear the signature of the appointed police judge, except that he may request the city council to provide one alternate authorized signature. (Ord. 65-13 § 6, 1965)

Chapter 3.17**EMERGENCY RESPONSE COST RECOVERY****Sections:**

- 3.17.010 Purpose and effect.**
- 3.17.020 Definitions.**
- 3.17.030 Fee.**
- 3.17.040 Deposits and disbursements.**

3.17.010 Purpose and effect.

The provisions of this chapter shall be deemed an exercise of the power of the city to recover the expense of alcohol-related and/or drug-related emergency response pursuant to the laws of the state of Washington. (Ord. 98-21 § 1, 1998)

3.17.020 Definitions.

For purposes of this chapter, the following definitions apply:

A. "Emergency" means an incident that requires a normal police, coroner, fire, rescue, emergency medical services, or utility response as a result of a violation of one of the statutes enumerated in RCW 38.52.430.

B. "Emergency response" means the city's use of emergency services during an emergency. (Ord. 98-21 § 1, 1998)

3.17.030 Fee.

Each person whose intoxication causes an incident resulting in an emergency response, and who, in connection with the incident is found guilty of or has prosecution deferred for (1) driving under the influence of intoxicating liquor or any drug, (2) operating an aircraft under the influence of intoxicants or drugs, (3) use of a vessel while under the influence of alcohol or drugs, (4) vehicular homicide while under the influence of intoxicating liquor or any drug, or (5) vehicular assault while under the influence of intoxicating liquor or any drug, shall pay the city an emergency response fee in an amount as established by city resolution. The emergency response fee shall be due on the entry of an order or judgment finding guilt or deferring prosecution for any offense listed in this section. If the fee is not paid when

due, the city may collect the fee in the same manner as any obligation under a contract, express or implied, including collection pursuant to BIMC 1.28.045 and 1.28.047. (Ord. 98-21 § 1, 1998)

3.17.040 Deposits and disbursements.

All emergency response fees paid to or recovered by the city shall be deposited into the current expense fund. (Ord. 98-21 § 1, 1998)

Chapter 3.20

**ADVANCE TRAVEL EXPENSE
REVOLVING FUND**

Sections:

- 3.20.010 Revolving working fund established.**
- 3.20.020 Advance travel expense revolving fund – Established.**
- 3.20.030 Checking account – Source and deposit of funds.**
- 3.20.040 Checking account – Maintenance.**
- 3.20.050 Request and issuance of advances.**
- 3.20.060 Settlement of advances.**
- 3.20.070 Default in accounting for or repaying advances.**

3.20.010 Revolving working fund established.

There shall be established a revolving working fund in an amount set by resolution of the city council. The custodian of the fund shall be the director of finance and administrative services for the city. (Ord. 98-44 § 1, 1998; Ord. 82-15 § 1, 1982)

3.20.020 Advance travel expense revolving fund – Established.

The advance travel expense revolving fund will be established. The treasurer will retain a copy of both the legislative authorization and receipt supporting his transfer of such cash to the revolving fund. (Ord. 82-15 § 2, 1982)

3.20.030 Checking account – Source and deposit of funds.

Upon receipt of the moneys, the custodian will open a checking account in a local bank in the name of the governmental unit entitled. "Advance Travel Expense Account – John Doe, Custodian." Moneys received from the following sources will be deposited to the account:

- A. From the treasurer or other disbursing officer in the total amount originally establishing the revolving fund or subsequently added thereto;

B. From officers and employees representing refunds of any unexpended advances; and

C. From the warrant-issuing officer reimbursing the custodian for travel expenses allowed in the settlement of employee advances. (Ord. 82-15 § 3, 1982)

3.20.040 Checking account – Maintenance.

A check register will be maintained in which will be recorded all transactions of the fund, including deposits, disbursements and bank service charges. A reconciliation shall be made with the bank statement at the end of each month. When possible, the reconciliation should be made by someone other than the custodian. The balance remaining in the checking account as of a given date, together with any outstanding advances and travel expense claims on hand but not yet reimbursed, should always equal the amount established by the governing body for the revolving fund. (Ord. 82-15 § 4, 1982)

3.20.050 Request and issuance of advances.

Employee advances for travel expenses will be made by the issuance of checks drawn on the special bank account, payable to the applicant. Approved requests will be retained in the files of the custodian to support such advances until final settlement is made and claim for reimbursement has been submitted. Requests for such advances shall be reasonable estimates of the applicants' travel expense requirements and shall contain as a minimum the following information:

- A. Date of request;
- B. Name of applicant;
- C. Destination;
- D. Purpose of travel;
- E. Anticipated departure and return dates;
- F. Amount requested;
- G. Signature of applicant;
- H. Official approval of trip;
- I. Check number, amount and date (to be provided by the custodian when advance is made). (Ord. 82-15 § 5, 1982)

3.20.060 Settlement of advances.

Settlement of advances will be made on or before the tenth day following the close of the travel period by filing with the custodian an expense voucher as required by RCW 42.24.090. The custodian will verify the amount shown on such form as having been advanced to the employee. In the event the traveler's actual expense is less than the amount of the advance received, his expense voucher will be accompanied by the unexpended portion of the advance. The expense voucher and original request for the advance will then be used to support the custodian's claim for a warrant replenishing his revolving fund for travel expenses reported. Expense vouchers containing expenses in excess of the amount advanced will be submitted in duplicate to the custodian at the time of final settlement. The original copy of the expense claim and the traveler's request for an advance will then be used to support the custodian's claim for a warrant, or check for municipalities which do not issue warrants, replenishing his revolving fund. The other copy of the expense claim will be submitted to the warrant issuing officer for reimbursement of the excess to the applicant. Claims for reimbursement to the fund should be submitted by the custodian periodically as needed and at the end of the fiscal year in order that all expenses incurred will be charged against the appropriations for the period then ending. (Ord. 82-15 § 6, 1982)

3.20.070 Default in accounting for or repaying advances.

Any default in accounting for or repaying an advance shall render the full amount which is unpaid immediately due and payable with interest at the rate of 10 percent per year from the date of default until repaid. To protect against any losses on account of advances the governing body shall have a prior lien against and a right to withhold any and all funds payable or to become payable to such officer or employee to whom such advance has been given. No advance of any kind may be made to any officer or employee at any time when he is delinquent in accounting for or repaying a prior advance. No such advance shall be con-

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sidered for any purpose as a personal loan to such officer or employee and any unauthorized expenditure of such funds shall be considered a misappropriation of public funds. (RCW 42.24.140, 42.24.150 and 42.24.160.) (Ord. 82-15 § 7, 1982)

Chapter 3.24

EQUIPMENT RENTAL FUND

Sections:

- 3.24.010** Created and established.
- 3.24.020** Administration.
- 3.24.030** Transfer of departments.
- 3.24.040** Placement of money.
- 3.24.050** Use of the fund.
- 3.24.060** Disposition of sale proceeds and purchases.
- 3.24.070** Rental charges – Schedule.
- 3.24.080** Accounts and records.
- 3.24.100** Manner of withdrawals and expenditures.
- 3.24.110** Retention of moneys.

3.24.010 Created and established.

There is hereby created and established a special fund to be known and designated as the "equipment rental fund," to be used as a revolving fund to be expended for salaries, wages, and operations required for the repair, replacement, purchase, and operation of equipment, and for the purchase of equipment, materials and supplies to be used in the administration and operation of the fund. (Ord. 2004-20 § 2, 2004)

3.24.020 Administration.

The equipment rental fund shall be administered by the director of finance and administrative services under the direction of the city manager. (Ord. 2009-21 § 18, 2009: Ord. 2004-20 § 2, 2004)

3.24.030 Transfer of departments.

All capital equipment of all offices and departments of the city of Bainbridge Island shall be transferred to the equipment rental fund, without charge. (Ord. 2004-20 § 2, 2004)

3.24.040 Placement of money.

Money may be placed in the fund from time to time by the Bainbridge Island city council. (Ord. 2004-20 § 2, 2004)

3.24.050

3.24.050 Use of the fund.

The city of Bainbridge Island shall purchase and sell all capital equipment by the use of such fund, subject to the laws governing the purchase and sale of property. Such equipment shall be rented for the use of the various offices and departments of the city and may be rented by the city to other governmental agencies. (Ord. 2004-20 § 2, 2004).

3.24.060 Disposition of sale proceeds and purchases.

The proceeds received by the city from the sale or rental of such equipment shall be placed in the equipment rental fund, and the purchase price of any such equipment or rental payments made by the city shall be made from moneys available in the fund. (Ord. 2004-20 § 2, 2004)

3.24.070 Rental charges – Schedule.

There shall be paid monthly into the equipment rental fund out of the moneys available to the department using any such equipment, which has not been purchased by that department for its own use and out of its own funds, reasonable rental charges fixed by the city council of the city of Bainbridge Island by approval of a schedule submitted at regular meetings of the city council by the administrative services director, which schedule shall be sufficient to cover the maintenance, operation and replacement of said equipment as set forth in BIMC 3.24.010, and which shall be revised from time to time to maintain the schedule so as to reflect the current and foreseeable needs of the equipment rental fund. (Ord. 2004-20 § 2, 2004)

3.24.080 Accounts and records.

There shall be kept, by those directed by the director of finance and administrative services, such books, accounts and records as are necessary to control and report the financial operations of the equipment rental fund, and shall further subdivide the cash account thereof into two separately designated accounts as follows:

A. Account A, which shall be the current operating account into which shall be placed those portions of the charges made to the various departments or offices of the city of Bainbridge Island, in accordance with the provisions of BIMC 3.24.070, which are specifically billed to provide sufficient moneys to pay the salaries and wages, materials, overhead and other costs necessary to operate and maintain all property rented thereto. There shall also be placed into Account A moneys which may from time to time be specifically available thereto by action of the city council.

B. Account B, which shall be the equipment reserve account into which shall be placed those portions of the charges made to the various departments or offices of the city, in accordance with the provisions of BIMC 3.24.070, which are specifically billed to provide sufficient moneys, having first taken into consideration the necessary operating and maintenance costs billed under subsection A of this section, to pay the costs of purchasing new equipment and replacing used equipment as required to carry out the purpose of the equipment rental fund. There shall also be placed in the Account B moneys which are derived from the direct sale of any equipment or other capital assets of the fund and any moneys made specifically available thereto by action of the city council. (Ord. 2004-20 § 2, 2004)

3.24.100 Manner of withdrawals and expenditures.

Any withdrawals or expenditures from the equipment rental fund shall be made only in the following manner:

A. Expenditures from Account A shall be made only upon duly approved payrolls and vouchers of the city of Bainbridge Island for the purposes hereinbefore ascribed to said account.

B. Expenditures from Account B shall be made only upon duly approved vouchers of the city for the purposes hereinbefore ascribed to said account. (Ord. 2004-20 § 2, 2004)

3.24.110 Retention of moneys.

All moneys in the equipment rental fund shall be retained there from year to year and shall not be transferred to any other fund or expended for any other purpose. (Ord. 2004-20 § 2, 2004)

Chapter 3.25

**EQUIPMENT AND
AUTOMATION FUND**

(Repealed by Ord. 2002-43)

Chapter 3.28

**INTERIM FUND FOR PROVIDING
LEGAL COUNSEL TO INDIGENT
DEFENDANTS SUBJECT TO JAIL
CONFINEMENT**

Sections:

- 3.28.010 Emergency declared.**
- 3.28.020 Establishment authorized –
Disbursements.**
- 3.28.030 Duration of fund.**

3.28.010 Emergency declared.

The council finds and declares that an emergency exists with regard to funding the defense of indigent defendants which the city's municipal court may, from time to time, be required to confine to jail on conviction of mandatory jail sentence offenses; said emergency arises out of the finding by the United States Supreme Court, announced in its decision of *Argersinger v. Hamlin*, to the effect that the Sixth Amendment prohibits imposition of a jail sentence on any indigent misdemeanant who has not been provided counsel. (Ord. 72-11 § 1, 1972)

**3.28.020 Establishment authorized –
Disbursements.**

The Bainbridge Island municipal judge is authorized and directed to establish from routine municipal court receipts an interim fund entitled "interim emergency defense fund for compensating appointed counsel to indigent defendants subject to mandatory jail sentence," said fund not to exceed the sum of \$500.00 and to be disbursed by the municipal court in its discretion on findings of bona fide indigency and subjection to confinement in jail. Disbursements on account of any one indigent defendant shall not exceed the sum of \$100.00 and shall in all cases be supported by a written acceptance of the appointment, acknowledgment of the limitations set forth in this chapter and voucher or certification that the services have been rendered. (Ord. 72-11 § 2, 1972)

3.28.030 Duration of fund.

The foregoing authorization, direction and emergency fund shall remain in effect for so long as, in the discretion of the municipal court, such appointments may be required, subject to and limited by preempting state legislation and/or regulation, or other state, county or district regulation for the purpose of providing and/or compensating the defense of bona fide indigents found to be subject to confinement in jail on municipal charges. (Ord. 72-11 § 3, 1972)

Chapter 3.32

**LOCAL IMPROVEMENT
GUARANTY FUND**

Sections:

- 3.32.010 Established.**
- 3.32.020 Tax levy – City responsible for payment of interest coupons, bonds or warrants.**
- 3.32.030 Payment of defaulted interest coupon, bond or warrant.**
- 3.32.040 Issuance of warrants.**
- 3.32.050 Moneys received from bank deposit interest and funds guaranteed under state law.**
- 3.32.060 Restriction on claims against city.**

3.32.010 Established.

In accordance with RCW Chapter 35.54, the city establishes and creates a fund for the purpose of guaranteeing, to the extent of such fund, the payment of its bonds and warrants issued to pay for any local improvement ordered in local improvement districts in the city, including local improvement district No. 1 created by Ordinance No. 56, passed and approved July 23, 1957, and any local improvement districts created subsequent to the date of taking effect of the ordinance codified in this chapter. This fund shall be known and designated as "local improvement guaranty fund." (Ord. 59 § 1, 1957)

3.32.020 Tax levy – City responsible for payment of interest coupons, bonds or warrants.

After the passage of the ordinance codified in this chapter, there shall be levied, from time to time as other taxes are levied, such sums as may be necessary to meet the financial requirements of the local improvement guaranty fund created by this chapter, and whenever the city pays out of said guaranty fund any sum on account of principal and interest on a local improvement bond or warrant guaranteed under this chapter, the city, as trustee for such fund, shall be subrogated to all of the rights of

3.32.030

the holder of the bond, interest coupon, or warrant so paid and the proceeds thereof shall become a part of said fund. (Ord. 59 § 2, 1957)

3.32.030 Payment of defaulted interest coupon, bond or warrant.

Whenever any interest coupon, bond or warrant guaranteed under the provisions of the laws of the state, in pursuance of which the ordinance codified in this chapter is passed, is in default, the city clerk shall be and is authorized and directed, upon the presentation and delivery of such defaulted bond, coupon or warrant, to execute, sign and deliver to the person or persons presenting the same, in the order of their presentation, and the city clerk shall honor and pay, a warrant on the local improvement guaranty fund in such amount as may be necessary to pay in full any such coupon, bond or warrant with any interest that may be due thereon. Any defaulted coupon, bond or warrant received by the city clerk under the provision of this chapter shall be held for the benefit of the local improvement guaranty fund. (Ord. 59 § 3, 1957)

3.32.040 Issuance of warrants.

Warrants drawing interest at a rate not to exceed six percent shall be issued, as other warrants are issued by the city, against the local improvement guaranty fund to meet any liability accruing against it and, at the time of making its annual budget and tax levy, the city shall provide for the levying of a sum sufficient, with the other resources of the fund, to pay warrants so issued during the preceding fiscal year; provided, that such warrants shall at no time exceed five percent of the outstanding bond obligations guaranteed by the fund. (Ord. 59 § 4, 1957)

3.32.050 Moneys received from bank deposit interest and funds guaranteed under state law.

The city clerk is authorized and directed to pay into such local improvement guaranty fund all interest received from bank deposits of the fund, as well as any surplus remaining in any local improvement district fund guaranteed under said state laws after the payment of

all outstanding bonds or warrants payable primarily out of such local improvement district fund. (Ord. 59 § 5, 1957)

3.32.060 Restriction on claims against city.

Neither the owner nor the holder of any bond, interest coupon, or warrant issued against a local improvement fund after the passage of the ordinance codified in this chapter shall have any claim therefor against the city, except for payment from the special assessments made for the improvements for which said bond or warrant was issued, and except as against the local improvement guaranty fund created by this chapter, and the city shall not be liable to any holder or owner of such bond, interest coupon, or warrant for any loss to the guaranty fund occurring in the lawful operation thereof by the city. The remedy of the holder or owner of a bond or warrant in case of nonpayment shall be confined to the enforcement of the assessment and to the guaranty fund. A copy of this section of the ordinance codified in this chapter shall be plainly written, printed or engraved on each bond issued and guaranteed under this chapter, and the writing, printing or engraving shall be deemed sufficient compliance with the requirements of RCW 35.45.070. (Ord. 59 § 6, 1957)

Bainbridge Island Municipal Code

Chapter 3.33

GRANT FUND

(Repealed by Ord. 2002-43)

Chapter 3.36

PARKING METER FUND

(Repealed by Ord. 2002-43)

Chapter 3.38

HOUSING TRUST FUND

Sections:

- 3.38.010 Established.
- 3.38.015 Subfund.
- 3.38.020 Accounting.
- 3.38.030 Definitions.
- 3.38.040 Functions and disbursements.
- 3.38.050 Advisory board.
- 3.38.060 Reporting.

3.38.010 Established.

There is established in the city treasury a fund designated as the "affordable housing fund" to support the development and preservation of affordable housing and to provide segregated accounting and control for expenditure of moneys. (Ord. 2010-43 § 1, 2010; Ord. 99-45 § 1, 1999)

3.38.015 Subfund.

A special revenue subfund is established under the affordable housing fund named the "city of Bainbridge Island housing trust fund". The city of Bainbridge Island housing trust fund may receive and distribute private funds donated to assist households below middle income as defined in BIMC 18.06.565. Sources of funding for this subfund shall include donations from public and private sources, and any other revenues specifically dedicated to the city of Bainbridge Island housing trust fund, the city council, affordable housing loan repayments or other appropriate sources. (Ord. 99-45 § 1, 1999)

3.38.020 Accounting.

Accounting within the housing trust fund shall segregate revenues and expenditures so that support for persons with incomes higher than 80 percent of the median household income as defined in BIMC 18.06.565 shall be funded solely from private donations. (Ord. 99-45 § 1, 1999)

3.38.030 Definitions.

"Housing" means promotion, facilitation, preservation and development of decent and safe dwellings affordable to all economic segments of the community through loans, financial assistance, technical assistance and capacity building to public and private non-profit agencies providing affordable housing services to the city. (Ord. 99-45 § 1, 1999)

3.38.040 Functions and disbursements.

A. The Bainbridge Island housing trust fund is intended to accept funds from sources that include, but are not limited to, private donations, public allocations and the proceeds from the sale of development rights.

B. The Bainbridge Island housing trust fund is intended to:

1. Support the repair and rehabilitation of housing serving senior and disabled residents;
2. Provide direct financial and technical assistance to qualified housing projects;
3. Provide financial assistance to public and private nonprofit organizations supporting housing activities consistent with city policy;
4. Provide financial assistance to pay for utility connections for qualified housing activities; and
5. Fund approved, eligible operating expenditures related to the provision of assistance covered by this chapter. (Ord. 99-45 § 1, 1999)

3.38.050 Advisory board.

The Bainbridge Island health, housing and human services council will provide an advisory board to the Bainbridge Island housing trust fund. (Ord. 99-45 § 1, 1999)

3.38.060 Reporting.

A separate written annual report on the status of activities, programs, and projects funded through the use of the city of Bainbridge Island housing trust fund shall be prepared. (Ord. 99-45 § 1, 1999)

Chapter 3.40

**UNEMPLOYMENT COMPENSATION
RESERVE FUND**

(Repealed by Ord. 2002-43)

Chapter 3.44

UTILITIES AND ENTERPRISE FUNDS

Sections:

3.44.010 Separate utilities.

**3.44.020 Building and development
services.**

3.44.010 Separate utilities.

The city shall maintain a separate utility fund for each city utility. The funds shall be known as: the "water fund," the "sewer fund," and the "storm and surface water management fund." Each such utility shall be accounted for as a separate fund. (Ord. 2011-07 § 1, 2011)

**3.44.020 Building and development
services.**

The city shall maintain a separate enterprise fund entitled its "building and development services fund." The building and development services fund shall contain at least the following separate subfunds: land use actions, building permits, and developer improvements. (Ord. 2002-43 § 2, 2002: Ord. 74-02, 1974)

3.45.010

Chapter 3.45

**UTILITIES CAPITAL
IMPROVEMENT FUND**

Sections:

3.45.010 Established

3.45.020 *Repealed.*

3.45.010 **Established.**

There shall be established within each utility fund maintained by the city a capital improvement fund to better identify and to provide segregated accounting and control for expenditure of moneys identified for the purpose of making capital improvements connected with each of the city's utilities, and as contained in the capital facilities element of the city's comprehensive plan. (Ord. 2011-07 § 2, 2011; Ord. 92-46 § 1, 1992)

3.45.020 **Transfer of funds.**

Repealed by Ord. 2011-07. (Ord. 92-46 § 2, 1992)

Chapter 3.46

**EXPENDABLE TRUST FUND FOR
SENIOR CITIZEN ACTIVITY CENTER**

(Repealed by Ord. 2002-43)

Chapter 3.48

LOCAL IMPROVEMENTS AND SPECIAL ASSESSMENTS

Sections:

- 3.48.010** Procedures.
- 3.48.020** Filing of petitions.
- 3.48.030** Preliminary estimates and assessment roll.
- 3.48.040** Sufficiency of petition.
- 3.48.050** Publication of resolution.
- 3.48.060** Hearing on resolution for improvement.
- 3.48.070** Notice of hearing on resolution for improvement.
- 3.48.080** Preformation expenditures.
- 3.48.090** Notice of hearing on assessment roll.
- 3.48.100** Penalties for delinquent assessment installments.
- 3.48.110** Foreclosure of delinquent assessment installments.
- 3.48.120** Acceleration of assessment installments – Foreclosure.

3.48.010 Procedures.

All proceedings relating to local improvements and assessments shall be conducted in accordance with Chapter 35A.43 RCW and all laws referenced therein. (Ord. 94-05 § 1, 1994)

3.48.020 Filing of petitions.

Petitions for local improvements shall be filed with the director of the department of public works, together with a fee in the amount established by resolution. (Ord. 94-29 § 33, 1995; Ord. 94-05 § 1, 1994)

3.48.030 Preliminary estimates and assessment roll.

Upon the filing of a petition or upon the adoption of a resolution initiating a proceeding for the formation of a local improvement district or utility local improvement district, the director of public works or the director's designee shall cause to be prepared a preliminary assessment roll and an estimate of the cost and expense of the proposed improvement. The director of public works or the director's des-

ignee shall certify the estimate to the city council, together with all papers and information in the director's or the director's designee's possession relating to the proposed improvement, a description of the boundaries of the district, and a statement of what portion of the cost and expense of the improvement should be borne by the property within the proposed district. The estimates, together with a detailed copy of the preliminary assessment roll and the plans and assessment maps of the proposed improvement, shall be kept on file in the office of the director of public works or the city engineer. (Ord. 94-05 § 1, 1994)

3.48.040 Sufficiency of petition.

The director of public works or the director's designee shall determine the sufficiency of any petition for local improvements and whether the facts set forth in the petition are true. (Ord. 94-05 § 1, 1994)

3.48.050 Publication of resolution.

The city clerk shall cause any resolution of the city council declaring the council's intent to order a public improvement to be published in at least two consecutive issues of the city's official newspaper, the first publication to be at least 15 days before the day fixed for the hearing on the resolution. (Ord. 94-05 § 1, 1994)

3.48.060 Hearing on resolution for improvement.

The hearing on any resolution declaring the city council's intent to order a public improvement may be before the council, a committee of the council, or such other hearing officer as the council may designate in the resolution. (Ord. 94-05 § 1, 1994)

3.48.070 Notice of hearing on resolution for improvement.

The city clerk shall cause notice of the hearing on any resolution declaring the council's intent to order an improvement to be mailed at least 15 days before the day fixed for the hearing to the owners or reputed owners of all lots, tracts, and parcels of land or other property to be specially benefited by the proposed improvement, as shown on the rolls of the

3.48.080

county assessor, directed to the address shown on the rolls of the county assessor. The notice shall set forth the nature of the proposed improvement, the estimated cost, a statement that actual assessments may vary from assessment estimates so long as they do not exceed a figure equal to the increased true and fair value the improvement adds to the property, and the estimated benefits of the particular lot, tract or parcel. (Ord. 94-05 § 1, 1994)

2. That at the time and place of the hearing, and at times to which the hearing may be adjourned, the city council will sit as a

3.48.080 Preformation expenditures.

The director of public works with the prior approval of the city council may contract pursuant to RCW 35.43.184 with owners of real property to provide for payment by the owners of the cost of the preparation of engineering plans, surveys, studies, appraisals, legal services, and other expenses associated with improvements to be financed in whole or in part by a local improvement district or utility local improvement district, not including the cost of actual construction of the improvements, that the owners elect to undertake. (Ord. 94-05 § 1, 1994)

3.48.090 Notice of hearing on assessment roll.

A. At least 15 days prior to the day fixed for a hearing on an assessment roll, the city clerk shall cause notice of the hearing to be mailed to the owner or reputed owner of the property whose name appears on the assessment roll, at the address shown on the tax rolls of the county treasurer for each item of property described on the list. In addition, the city clerk shall cause the notice to be published at least once a week for two consecutive weeks in the city's official newspaper, the last publication to be at least 15 days before the day fixed for the hearing.

B. The notice of the hearing on the assessment roll shall specify the time and place of the hearing and shall notify all persons who may desire to object thereto:

1. To make their objections in writing and to file them with the city clerk on or before the date of the hearing;

board of equalization for the purpose of considering the roll; and

3. That at the hearing the city council will consider the objections made and will correct, revise, raise, lower, change or modify the roll or any part of the roll, or set aside the roll and order the assessment to be made de novo. (Ord. 94-05 § 1, 1994)

3.48.100 Penalties for delinquent assessment installments.

Whenever any installment, including principal or interest, of any local improvement assessment approved after the effective date of the ordinance codified in this chapter is delinquent, each such delinquent installment remaining unpaid on the date of delinquency together with delinquent interest, if any, shall be subject to a penalty equal to the rate of interest provided by ordinance for the bonds or warrants, plus five percent. Penalties and interest on delinquent installments shall be computed as set forth in Exhibit A, on file in the office of the city clerk and incorporated herein as if set forth in full, consistent with this section. (Ord. 94-05 § 1, 1994)

3.48.110 Foreclosure of delinquent assessment installments.

If, on the first day of January in any year, two installments of any local improvement assessment are delinquent, or if the final installment thereof has been delinquent for more than one year, the city attorney is authorized to commence foreclosure proceedings on the delinquent assessments or installments by an appropriate action on behalf of the city in Kitsap County superior court. Such foreclosure proceedings shall be commenced on or before June 1st of that year; provided, that thirty days before the commencement of the proceedings, the director of finance and administrative services shall provide notice by certified mail to the persons whose names appear on the assessment roll as owners of the property charged with the delinquent installment or assessment, at the address last known to the director. The notice shall state the amount due upon each separate lot, tract, or parcel of land and the date after which the pro-

ceedings will be commenced. If the person whose name appears on the tax rolls of the county assessor as owner of the property, or the address shown for the owner, differs from that appearing on the city assessment roll, then the director shall also mail a copy of the notice to that person or that address. (Ord. 94-05 § 1, 1994)

3.48.120 Acceleration of assessment installments – Foreclosure.

In any action brought for the foreclosure of a delinquent assessment or installment, future installments not otherwise due and payable may, at the election of the city, be accelerated and the entire balance of the assessment with interest, penalties and costs shall become due and payable and the collection thereof shall be enforced by foreclosure as set forth in this chapter. (Ord. 94-05 § 1, 1994)

Chapter 3.50

HEARING OFFICER FOR LOCAL IMPROVEMENT DISTRICT FINAL ASSESSMENT ROLL HEARINGS

Sections:

- 3.50.010 Final assessment roll hearing officer procedures and requirements.
- 3.50.020 Independent and alternative hearing officer process for final assessment roll hearings.
- 3.50.030 Procedural rules.

3.50.010 Final assessment roll hearing officer procedures and requirements.

A. As authorized by RCW 35.44.070, the city council hereby provides for delegating, whenever directed by majority vote of the city council, the duty of conducting public hearings for the purpose of considering and making recommendations on final assessment rolls and the individual assessments upon property within local improvement districts to a hearing officer appointed under this section, and the hearing officer is directed to conduct such hearings in the manner provided by law and make those recommendations when thus authorized by the city council.

B. All objections to the confirmation of the assessment roll shall be in writing and identify the property, be signed by the owners and clearly state the grounds of the objection. Objections not made within the time and in the manner prescribed and as required by law shall be conclusively presumed to have been waived.

C. The hearing officer shall conduct the final assessment roll hearing to be commenced at the time and place designated by the city council, cause an adequate record to be made of the proceedings, and make written findings, conclusions and recommendations to the city council following the completion of such hearing, which may be continued and recontinued as provided by law whenever deemed proper by the hearing officer.

D. The recommendations of the hearing officer shall be that the city council correct, revise, lower, change or modify the roll or any part thereof, or set aside the roll in order for the assessment to be made de novo, or that the city council adopt or correct the roll or take other action on the roll as appropriate, including confirmation of the roll without change. The recommendations of the hearing officer shall be filed with the city clerk and be open to public inspection. All persons whose names appear on the assessment roll who timely filed written objections to their assessments shall receive mailed written notification of their assessments recommended by the hearing officer.

E. All persons who shall have timely filed written objections to their assessments may appeal the recommendations of the hearing officer regarding their properties to the city council by filing written notice of such appeal with the city clerk within 10 calendar days after the date of mailing of the hearing officer's recommendations.

F. Such appeals shall be based exclusively upon the record made before the hearing officer and shall be considered by the city council at a public meeting. No new evidence may be presented. Arguments on appeal shall be either oral or written as the city council may order.

G. The city council shall adopt, modify or reject the recommendations of the hearing officer in whole or in part, in the discretion of the council, at a public meeting and shall act by ordinance in confirming the final assessment roll.

H. Any appeal from a decision of the city council regarding any assessment may be made to the superior court within the time and in the manner provided by law. (Ord. 2006-14 § 1, 2006)

3.50.020 Independent and alternative hearing officer process for final assessment roll hearings.

The procedures set forth in this chapter are independent of and alternative to any other hearing or review processes heretofore or hereafter established by the city, and shall govern

the conduct and review of final assessment roll hearings conducted before hearing officers and related proceedings when authorized and directed by the city council. (Ord. 2006-14 § 1, 2006)

3.50.030 Procedural rules.

Rules of procedure for the office of the hearing examiner, known as the hearing examiner rules, approved by Resolution No. 2003-14, as now in effect or hereafter amended, may be applied, at the discretion of the hearing officer, to the procedures set forth in this chapter if they are consistent with the provisions of this chapter, and Chapter 35A.43 RCW. (Ord. 2006-14 § 1, 2006)

Chapter 3.52

LEASEHOLD EXCISE TAX

Sections:

- 3.52.010 Levy.**
- 3.52.020 Rate of tax – Credits allowed.**
- 3.52.030 Exemption.**
- 3.52.040 Inspection of records.**
- 3.52.050 Administration and collection.**
- 3.52.060 Contracts with state authorized.**
- 3.52.070 Violation – Penalty.**

3.52.010 Levy.

There is levied and shall be collected a leasehold excise tax on and after January 1, 1976, upon the act or privilege of occupying or using publicly owned real or personal property within the cities of Poulsbo and Bainbridge Island, respectively, through a "leasehold interest" as defined by Section 2, Chapter 61, Laws of 1975-76, Second Extraordinary Session, codified as RCW 82.29A.020, (hereafter "the state act"). The tax shall be paid, collected, and remitted to the Department of Revenue of the state at the time and in the manner prescribed by Section 5 of the state act. (Ord. 76-06 § 1, 1976)

3.52.020 Rate of tax – Credits allowed.

The rate of the tax imposed by Section 3.52.010 shall be four percent of the taxable rent (as defined by Section 2 of the state act); provided, that the following credits shall be allowed in determining the tax payable:

A. With respect to a leasehold interest arising out of any lease or agreement, the terms of which were binding on the lessee prior to July 1, 1970, where such lease or agreement has not been renegotiated (as defined by Section 2 of the state act) since that date, and excluding from such credit:

1. Any leasehold interest arising out of any lease of property covered by the provisions of RCW 28B.20.394, and
2. Any lease or agreement including options to renew which extends beyond January 1, 1985, as follows:

3.52.030

a. With respect to taxes due in calendar year 1976, a credit equal to 80 percent of the tax produced by the above rate,

b. With respect to taxes due in calendar year 1977, a credit equal to 60 percent of the tax produced by the above rate,

c. With respect to taxes due in calendar year 1978, a credit equal to 40 percent of the tax produced by the above rate,

d. With respect to taxes due in calendar year 1979, a credit equal to 20 percent of the tax produced by the above rate;

B. With respect to a product lease (as defined by Section 2 of the state act), a credit of 33 percent of the tax produced by the above rate. (Ord. 76-06 § 2, 1976)

3.52.030 Exemption.

Leasehold interests exempted by Section 13 of the state act as it now exists or may hereafter be amended shall be exempt from the tax imposed pursuant to Section 3.52.010. (Ord. 76-06 § 4, 1976)

3.52.040 Inspection of records.

The cities of Poulsbo and Bainbridge Island consent to the inspection of such records as are necessary to qualify each city respectively for inspection of records of the Department of Revenue pursuant to RCW 82.32.330. (Ord. 76-06 § 5, 1976)

3.52.050 Administration and collection.

The administration and collection of the tax imposed by this chapter shall be in accordance with the provisions of the state act. (Ord. 76-06 § 3, 1976)

3.52.060 Contracts with state authorized.

The city manager is authorized to execute a contract or contracts with the Department of Revenue of the state for the administration and collection of the tax imposed by Section 3.52.010; provided, that the city attorney shall first approve the form and content of said contract. (Ord. 2009-21 § 19, 2009; Ord. 76-06 § 6, 1976)

3.52.070 Violation – Penalty.

Any person who wilfully violates any of the provisions of this Act shall be deemed guilty of misdemeanor and may be punished by imposition of a fine of not more than \$500.00 or imprisonment for not more than six months, or both such fine and imprisonment. (Ord. 76-06 § 8, 1976)

Chapter 3.56

REAL ESTATE EXCISE TAX

Sections:

- 3.56.010** Imposition – Rate.
- 3.56.015** Additional tax – Distribution of proceeds.
- 3.56.016** Real estate excise tax fund.
- 3.56.020** Taxable events.
- 3.56.030** Consistency with state tax.
- 3.56.040** Distribution of proceeds from tax imposed under Section 3.56.010 and limiting use thereof.
- 3.56.050** Seller's obligation.
- 3.56.060** Lien provisions.
- 3.56.070** Notation of payment.
- 3.56.080** Date payable.
- 3.56.090** Excessive and improper payments.

3.56.010 Imposition – Rate.

There is imposed a tax of one-quarter of one percent of the selling price on each sale of real property within the corporate limits of the city. (Ord. 82-24 § 1, 1982)

3.56.015 Additional tax – Distribution of proceeds.

A. There is imposed an additional tax of one quarter of one percent of the selling price on each sale of real property located within the corporate limits of the city. The tax imposed by this section shall be in addition to the tax imposed under Section 3.56.010.

B. The proceeds from the tax imposed under this section shall be placed by the city treasurer in a separate account entitled "capital facilities fund," and shall be used by the city solely for financing capital projects specified in the capital facilities plan element of the city's comprehensive plan. (Ord. 91-45 § 4, 1991).

3.56.016 Real estate excise tax fund.

There shall be established a real estate excise tax fund to receive all revenue from real estate excise tax collections and to provide segregated accounting and control for expen-

diture of monies as directed by Washington state law, and as contained in the city's capital facilities plan element in the city's comprehensive plan. (Ord. 91-47 § 1, 1991).

3.56.020 Taxable events.

Taxes imposed in this chapter shall be collected from persons who are taxable by the state under RCW Chapter 82.45 and Chapter 458-61 WAC upon the occurrence of any taxable event within the corporate limits of the city. (Ord. 82-24 § 2, 1982)

3.56.030 Consistency with state tax.

The taxes imposed in this chapter shall comply with all applicable rules, regulations, laws and court decisions regarding real estate excise taxes as imposed by the state under RCW Chapters 82.45 and 82.46 and Chapter 458-61 WAC. The provisions of those chapters, to the extent they are not inconsistent with this chapter, shall apply as though fully set forth in this chapter. (Ord. 91-45 § 1, 1991; Ord. 82-24 § 3, 1982)

3.56.040 Distribution of proceeds from tax imposed under Section 3.56.010 and limiting use thereof.

The proceeds from the taxes imposed by Section 3.56.010 shall be distributed as follows:

A. The county treasurer shall place one percent of the proceeds in the county current expense fund to defray costs of collection.

B. The remaining proceeds shall be distributed to the city monthly and shall be placed by the city treasurer in a municipal capital improvements fund. On or before July 1, 1990, revenues generated from the taxes shall be used for local improvements, including those listed in RCW 35.43.040. After July 1, 1990, revenues generated from the taxes shall be used primarily for financing capital projects specified in a capital facilities plan element of the city's comprehensive plan and housing relocation assistance under RCW 56.18.440 and 59.18.450.

C. This section shall not limit the existing authority of the city to impose special assessments on property benefitted thereby in the

3.56.050

manner prescribed by law. (Ord. 91-45 § 2, 1991; Ord. 82-24 § 4, 1982)

3.56.050 Seller's obligation.

The taxes imposed in this chapter are the obligation of the seller and may be enforced through the action of debt against the seller or in the manner prescribed for the foreclosure of mortgages. (Ord. 82-24 § 5, 1982)

3.56.060 Lien provisions.

The taxes imposed in this chapter and any interest or penalties thereon are the specific lien upon each piece of real property sold from the time of sale or until the tax is paid, which lien may be enforced in the manner prescribed for the foreclosure of mortgages. Resort to one course of enforcement is not an election not to pursue the other. (Ord. 82-24 § 6, 1982)

3.56.070 Notation of payment.

The taxes imposed in this chapter shall be paid to and collected by the treasurer of the county within which is located the real property which was sold. The county treasurer shall act as agent for the city within the county imposing the tax. The county treasurer shall cause a stamp evidencing satisfaction of the lien to be affixed to the instrument of sale or conveyance prior to its recording or to the real estate excise tax affidavit in the case of used mobile home sales. A receipt issued by the county treasurer for the payment of the tax imposed in this chapter shall be evidence of the satisfaction of the lien imposed in Section 3.56.060 and may be recorded in the manner prescribed for recording satisfactions or mortgages. No instrument of sale or conveyance evidencing a sale subject to the tax may be accepted by the county auditor for filing or recording until the tax is paid and the stamp affixed thereto. In case the tax is not due on the transfer, the instrument shall not be accepted until suitable notation of this fact is made on the instrument by the county treasurer. (Ord. 82-24 § 7, 1982)

3.56.080 Date payable.

The taxes imposed under this chapter shall become due and payable immediately at the

time of sale and, if not so paid within 30 days thereafter, shall bear interest at the rate of one percent per month from the time of sale until the date of payment. (Ord. 91-45 § 3, 1991; Ord. 82-24 § 8, 1982)

3.56.090 Excessive and improper payments.

If, upon written application by a taxpayer to the county treasurer for a refund, it appears a tax has been paid in excess of the amount actually due or upon a sale or other transfer declared to be exempt, such excess amount or improper payment shall be refunded by the county treasurer to the taxpayer; provided, that no refund shall be made unless the state has first authorized the refund of an excessive amount or an improper amount paid, unless such improper amount was paid as a result of a miscalculation. Any refund made shall be withheld from the next monthly distribution to the city. (Ord. 82-24 § 9, 1982)

Chapter 3.60**SALES OR USE TAX****Sections:**

- 3.60.010 Imposition.**
- 3.60.020 Rate.**
- 3.60.030 Consent to inspection of records.**
- 3.60.040 Administration and collection.**
- 3.60.050 Contract with state authorized.**
- 3.60.060 Violation – Penalty.**

3.60.010 Imposition.

There is imposed a sales or use tax, as the case may be, upon every taxable event, as defined in Section 3, Chapter 94, Laws of Washington, 1970, First Extraordinary Session, codified at RCW 82.14.020, occurring within the city. The tax shall be imposed upon and collected from those persons from whom the state sales or use tax is collected pursuant to Chapters 82.08 and 82.12 RCW. (Ord. 70-07 § 1, 1970)

3.60.020 Rate.

The rate of the tax imposed by BIMC 3.60.010 shall be one-half of one percent of the selling price or value of the article used, as the case may be; provided, however, that during such period as there is in effect, a sales or use tax imposed by the county, the rate of tax imposed by this chapter shall be four hundred twenty-five one thousandths of one percent. (Ord. 70-07 § 1, 1970)

3.60.030 Consent to inspection of records.

The city consents to the inspection of such records as are necessary to qualify the city for inspection of records of the Department of Revenue, pursuant to RCW 82.32.330. (Ord. 70-07 § 3, 1970)

3.60.040 Administration and collection.

The administration and collection of the tax imposed by this chapter shall be in accordance with the provisions of Section 6, Chap-

ter 94, Laws of Washington, 1970, First Extraordinary Session, codified at RCW 82.14.050. (Ord. 70-07 § 2, 1970)

3.60.050 Contract with state authorized.

The city manager is authorized to enter into any appropriate contract or contracts with the Department of Revenue of the state for administration and collection of the tax. (Ord. 2009-21 § 20, 2009; Ord. 70-07 § 4, 1970)

3.60.060 Violation – Penalty.

Any seller who fails or refuses to collect the tax as required by this chapter with the intent to violate the provisions of this chapter or to gain some advantage or benefit either direct or indirect, and any buyer who refuses to pay any tax due under this chapter shall be guilty of a misdemeanor and punished by a fine not to exceed \$500.00 or by imprisonment in the city jail for not to exceed six months, or by both such fine and imprisonment. (Ord. 70-07 § 5, 1970)

Chapter 3.64

ADDITIONAL SALES AND USE TAX

Sections:

- 3.64.010 Imposition.**
- 3.64.020 Rate.**
- 3.64.030 Administration and collection.**
- 3.64.040 Consent to inspection of records.**
- 3.64.050 Authorizing execution of contract for administration.**
- 3.64.070 Violation – Penalty.**

3.64.010 Imposition.

There is imposed a sales or use tax, as the case may be as authorized by RCW 82.14.030(2), upon every taxable event, as defined in RCW 82.14.020, occurring within the city. The tax shall be imposed upon and collected from those persons from whom the state sales tax or use tax is collected pursuant to Chapters 82.08 and 82.12 RCW. (Ord. 82-23 § 1, 1982)

3.64.020 Rate.

The rate of the tax imposed by BIMC 3.64.010 shall be one-half of one percent of the selling price or value of the article used, as the case may be; provided, however, that during such period as there is in effect a sales tax or use tax imposed by the county under Section 17(2), Chapter 49, Laws of 1982, First Extraordinary Session at a rate equal to or greater than the rate imposed by this section, the county shall receive 15 percent of the tax imposed by BIMC 3.64.010; provided further, that during such period as there is in effect a sales tax or use tax imposed by the county under Section 12(2), Chapter 49, Laws of 1982, First Extraordinary Session at a rate which is less than the rate imposed by this section, the county shall receive from the tax imposed by BIMC 3.64.010 that amount of revenues equal to 15 percent of the rate of the tax imposed by the county under Section 17(2) Chapter 49, Laws of 1982, First Extraordinary Session. (Ord. 82-23 § 2, 1982)

3.64.030 Administration and collection.

The administration and collection of the tax imposed by this chapter shall be in accordance with the provisions of RCW 82.14.050. (Ord. 82-23 § 3, 1982)

3.64.040 Consent to inspection of records.

The city consents to the inspection of such records as are necessary to qualify the city for inspection of records of the Department of Revenue, pursuant to RCW 82.32.330. (Ord. 82-23 § 4, 1982)

3.64.050 Authorizing execution of contract for administration.

The city manager is authorized to enter into a contract or contracts with the Department of Revenue for the administration of this tax. (Ord. 2009-21 § 21, 2009; Ord. 82-23 § 5, 1982)

3.64.070 Violation – Penalty.

Any seller who fails or refuses to collect the tax as required with the intent to violate the provisions of this chapter or to gain some advantage or benefit, either direct or indirect, and any buyer who refuses to pay any tax due under this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined no more than \$500.00 or imprisoned for not more than six months, or by both such fine and imprisonment. (Ord. 82-23 § 7, 1982)

Chapter 3.65

EXCISE TAX ON LODGING

Sections:

- 3.65.010** Levied.
- 3.65.020** Definitions.
- 3.65.030** Tax additional to other taxes – Allowable deductions.
- 3.65.040** Civic improvement fund.
- 3.65.050** Collection agent – Administration.
- 3.65.060** Violation – Penalty.

3.65.010 Levied.

There is levied a special excise tax of four percent on the sale of or charge made for the furnishing of lodging by a hotel, rooming house, tourist court, motel, bed and breakfast or trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property. It shall be presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or enjoy the same. (Ord. 98-56 § 1, 1999; Ord. 94-18 § 1, 1994; Ord. 92-20 § 1, 1992)

3.65.020 Definitions.

The definitions of “selling price,” “seller,” “buyer,” “consumer,” and all other definitions as are now contained in RCW 82.08.010, and subsequent amendments thereto, are adopted as the definitions for the tax levied in this chapter. (Ord. 92-20 § 2, 1992)

3.65.030 Tax additional to other taxes – Allowable deductions.

The tax levied in this chapter shall be in addition to any license fee or any other tax imposed or levied under any law or any other ordinance of the city; provided, that pursuant to RCW 67.28.190, the tax shall be deducted from the amount of tax the seller would otherwise be required to collect and pay to the Department of Revenue under Chapter 82.08 RCW. (Ord. 92-20 § 3, 1992)

3.65.040 Civic improvement fund.

There is created a special fund in the treasury of the city, to be known as the “civic improvement fund.” All taxes collected under this chapter shall be placed in the fund (1) to pay for all or any part of the cost of acquisition, construction, or operation of stadium facilities, convention center facilities, performing arts center facilities, and/or visual arts center facilities, or any other such facilities; (2) to pay or secure the payment of all or any portion of the general obligation bonds or revenue bonds issued for such purposes, or purposes provided for in Chapter 67.28 RCW, and any amendments thereto; (3) to pay for advertising, publicizing, or otherwise distributing information for the purpose of attracting visitors and encouraging tourist expansion; or (4) to pay for such other uses as may from time to time be authorized for the taxes pursuant to statute. No more than one-half of the taxes collected under this chapter shall be used to pay for advertising, publicizing or otherwise distributing information for the purpose of attracting visitors and encouraging tourist expansion unless an exception is approved by a vote of a majority of all council members plus one more vote. (Ord. 96-37 § 1, 1996; Ord. 92-20 § 4, 1992)

3.65.050 Collection agent – Administration.

For the purposes of the tax levied in this chapter:

A. The Department of Revenue is designated as the agent of the city for the purposes of collection and administration of the tax.

B. The administrative provisions contained in RCW 82.08.050 through 82.08.070 and in Chapter 82.32 RCW shall apply to administration and collection of the tax by the Department of Revenue.

C. All rules and regulations adopted by the Department of Revenue for the administration of Chapter 82.08 RCW are adopted by reference.

D. The Department of Revenue is authorized to prescribe and utilize such forms and reporting procedures as the Department may deem necessary and appropriate. (Ord. 92-20 § 5, 1992)

3.65.060

3.65.060 Violation – Penalty.

It is unlawful for any person, firm, or corporation to violate or fail to comply with any of the provisions of this chapter. Every person convicted of a violation of any provision of this chapter shall be punished by a fine in a sum not to exceed \$500.00 or by imprisonment for not more than 30 days, or by both such fine and imprisonment. Each day of violation shall be considered a separate offense. (Ord. 92-20 § 6, 1992)

Chapter 3.68

SPECIAL INITIATIVE PROCEDURE

Sections:

- 3.68.010 Applicability.
- 3.68.020 Filing of petition – Special election.
- 3.68.030 Special initiative petition – Form of repealing ordinance.
- 3.68.040 Special initiative petition – Signatures – Affidavit.
- 3.68.050 Special initiative petition – Certificate of sufficient signatures.
- 3.68.060 Action against city in case of insufficient petition or city council refusal.
- 3.68.070 Conduct of special election – Limitations.
- 3.68.080 Publication of ordinance – When.
- 3.68.090 Ballots – Form.
- 3.68.100 Effective date of adopted ordinance.
- 3.68.110 Notation to adopted ordinance.

3.68.010 Applicability.

Every ordinance imposing or altering an excise tax under Section 17(2), Chapter 49, Laws of 1982, First Executive Session; every ordinance imposing or altering an excise tax on the sale of real property under Section 11 (2) of that chapter; and every ordinance first imposing, or increasing the rate of, a business and occupation tax shall be subject to a special initiative procedure as provided in this chapter. (Ord. 83-02 § 1, 1983)

3.68.020 Filing of petition – Special election.

A. An initiative petition proposing to repeal a tax ordinance referred to in Section 3.68.010 may be filed at any time. The petition shall be filed with the city council, signed by a number of registered voters equaling at least 15 percent of the total number of persons listed as registered voters within the city, on the day of the last preceding municipal general elec-

tion. Upon the filing of such a petition the city council shall either:

1. Pass the proposed ordinance without alteration within 20 days after the city clerk’s certification that the number of signatures on the petition are sufficient; or
2. Immediately after the clerk’s certificate of sufficiency is attached to the petition, cause to be called a special election as provided by state law for submission of the proposed ordinance without alteration to a vote of the people.

B. Pending an election, the tax ordinance subject to the special initiative shall remain in effect and the tax shall continue to be collected until the result of the election repealing the ordinance is declared or certified as provided by state law. (Ord. 83-02 § 2, 1983)

3.68.030 Special initiative petition – Form of repealing ordinance.

The special initiative petition shall include a proposed ordinance repealing the existing tax ordinance and shall be as follows:

AN ORDINANCE OF THE CITY OF BAINBRIDGE ISLAND, WASHINGTON, REPEALING ORDINANCE NO. _____ AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the voters of the City of Bainbridge Island, Washington:

Section 1. Ordinance No. _____ of the City of Bainbridge Island, Washington, adopted _____, 19__, is hereby repealed.

Section 2. This ordinance shall take effect on the first day of the calendar quarter which begins 30 days or more after the effective date of the approval of the Special Initiative by the City Council or on the first day of the calendar quarter which begins 30 days or more after the certification of the results of the election at which the Special Initiative was approved by voters.

 Official Signature

(Ord. 83-02 § 3, 1984)

**3.68.040 Special initiative petition –
Signatures – Affidavit.**

Every signer to a petition submitting a proposed ordinance to the city council shall add to the signature the signer's place of residence giving street and number. The signatures need not all be appended to one paper, but one of the signers on each paper must attach thereto an affidavit stating the number of signatures thereon, that each signature thereon is a genuine signature of a person whose name it purports to be and that the statements therein made are true as such person believes. (Ord. 83-02 § 4, 1984)

**3.68.050 Special initiative petition –
Certificate of sufficient
signatures.**

Within 10 days from the filing of a petition submitting a proposed ordinance, the city clerk shall ascertain and append to the petition a certificate stating whether or not it is signed by a sufficient number of registered voters, using the registration records and returns of the preceding municipal election as the sources of information, and the city council shall allow extra help for that purpose, if necessary. If the signatures are found by the clerk to be insufficient, the petition may be amended in that respect within 10 days from the date of the certificate. Within 10 days after submission of the amended petition the clerk shall make an examination thereof and append a certificate thereto in the same manner as before. If the second certificate shall also show the number of signatures to be insufficient, the petition shall be returned to the person filing it. (Ord. 83-02 § 5, 1984)

**3.68.060 Action against city in case of
insufficient petition or city
council refusal.**

If the clerk finds the petition insufficient or if the city council refuses either to pass an initiative ordinance or order an election thereon, any taxpayer may commence an action in the

superior court against the city and procure a decree ordering an election to be held in the city for the purpose of voting upon the proposed ordinance if the court finds the petition to be sufficient. (Ord. 83-02 § 6, 1984)

**3.68.070 Conduct of special election –
Limitations.**

Publication of notice, the election, the canvass of the returns and declaration of the results, shall be conducted in all respects as are other city elections. Any number of proposed ordinances may be voted on at the same election, but there shall not be more than one special election for the purpose during any one 6-month period unless otherwise provided by state law. (Ord. 83-02 § 7, 1984)

**3.68.080 Publication of ordinance –
When.**

The clerk shall cause any ordinance required to be submitted to the voters at an election to be published once in each of the daily newspapers in the city not less than five nor more than 20 days before the election. If no daily newspaper is published in the city, publication shall be made in each of the weekly newspapers published in the city not less than five nor more than 20 days before the election. The publication required by this section shall be in addition to the notice required in RCW Chapter 29.27. (Ord. 83-02 § 8, 1984)

3.68.090 Ballots – Form.

The ballots used for voting upon the proposed ordinance initiated by petition shall be similar to those used at a general municipal election in the city, and shall contain the words "for the ordinance" (stating the nature of the proposed ordinance) and "against the ordinance" (stating the nature of the proposed ordinance). (Ord. 83-02 § 9, 1984)

**3.68.100 Effective date of adopted
ordinance.**

If a majority of votes cast thereon favor the proposed ordinance initiated by petition, it shall become effective on the first day of the calendar month following the month in which the election is officially certified, or a later

date specified in the proposed ordinance in conformity with state law, and shall be made a part of the record of ordinance of the city. (Ord. 83-02 § 10, 1982)

3.68.110 Notation to adopted ordinance.

Upon the adoption of an ordinance initiated by petition, the clerk shall write on the margin of the record thereof, "Ordinance by Petition No. _____," or "Ordinance by vote of the people." (Ord. 83-02 § 11, 1983)

Chapter 3.70

CONTRACTS FOR SERVICES OTHER THAN PUBLIC WORKS

Sections:

- 3.70.010 Applicability.**
- 3.70.020 Contract requirements for professional and nonprofessional services.**
- 3.70.030 Contract procedures for architectural, surveying or engineering services.**

3.70.010 Applicability.

This chapter shall govern all city contracts for professional and nonprofessional services. (Ord. 2004-05 § 3, 2004)

3.70.020 Contract requirements for professional and nonprofessional services.

A. All professional and nonprofessional services to be performed for or on behalf of the city by persons other than city employees shall be by contract and shall be subject to the requirements set forth herein.

B. Except as set forth in BIMC 3.70.030 or as otherwise governed by Chapter 3.72 BIMC, relating to public works, no formal or informal bidding shall be required for the purchase of professional or nonprofessional services.

C. Staff shall continue on an ongoing basis to obtain the lowest practical price for professional and nonprofessional services pursuant to this section.

D. All contracts for professional or nonprofessional services with a value of \$30,000 or more a year, or with a value likely to meet or exceed \$30,000 a year, shall be approved by the city council. Nothing in this subsection shall be construed to permit the division of a contract for professional or nonprofessional services into more than one phase or unit for purposes of avoiding this limitation.

E. Contracts for professional or nonprofessional services with a value of less than \$30,000 a year, or with a value which is not likely to meet or exceed \$30,000 a year, shall

3.70.030

be approved by the city manager or his/her designee; provided, that the funds for such contracts have been appropriated in the subject budget. If the funds for any such contract have not been appropriated in the budget, such contract shall be approved by the council, irrespective of the value of the contract. Additionally, during the annual budget process, the council may designate and require that any particular contract for professional or nonprofessional services be subject to future council approval irrespective of the value of the contract.

F. For purposes of this section, a contract shall be deemed to have a value of \$30,000 or more if the contract on its face requires a city expenditure of \$30,000 or more in any year, or if pursuant to the terms of the contract, it is likely that the city's expenditures will meet or exceed \$30,000 in a year. (Ord. 2009-18 § 1, 2009: Ord. 2008-02 § 1, 2008: Ord. 2007-04 § 1, 2007: Ord. 2004-05 § 3, 2004)

3.70.030 Contract procedures for architectural, surveying or engineering services.

A. Once each calendar year, the public works director shall publish in the official newspaper, or a newspaper of general circulation, an announcement stating the city's projected requirements for certain categories or types of architectural, surveying and engineering services. The announcement shall state concisely the general scope and nature of the project(s) or work for which the services are required and shall provide the city's address.

B. For the purposes of this section, "architectural, surveying and/or engineering services" shall mean professional services rendered by any persons, other than as an employee of the city, contracting to perform activities within the general definition of professional practice in Chapters 18.08, 18.43 and/or 18.96 RCW.

C. If the city requires any architectural, surveying and/or engineering services not contained in the city's annual announcement, the public works director shall publish additional announcements on each occasion. An additional announcement for architectural, survey-

ing and/or engineering services shall be published in the official newspaper not less than two weeks prior to the closing date for receipt of requests for qualifications.

D. In the procurement of architectural, surveying and/or engineering services, the public works director shall encourage firms engaged in the lawful practice of their profession to submit annually a statement of qualifications and performance data.

E. Firms responding to the annual or additional announcements shall submit to the public works director:

1. A proposed scope of services;
2. Performance data; and
3. A letter of interest that includes

statements regarding the availability of the firm to complete the work within the stated time period, current references, the firm's insurance coverage and the firm's financial stability.

F. The public works director shall evaluate current statements of qualifications and performance data on file, together with those that may be submitted by other firms regarding the proposed project, and shall conduct discussions with one or more firms regarding anticipated concepts and the relative utility of alternate methods of approach for furnishing the required services.

G. The public works director shall select from the firms responding to the city's annual or additional announcements, based upon the criteria and guidelines established by the public works director, the firm deemed to be the most highly qualified to provide the services required for the proposed project.

H. After the public works director has determined the firm most highly qualified to provide the services required, the public works director shall negotiate a contract with that firm for the services at a price which the public works director determines to be fair and reasonable. In making the determination, the public works director shall take into account the estimated value of the services to be rendered, as well as the scope, complexity, and professional nature thereof.

If the public works director is unable to negotiate a satisfactory contract with the firm

selected at a price the director determines to be fair and reasonable, negotiations with that firm shall be formally terminated and the public works director shall select other firms in accordance with this section, until an agreement is reached or the process is terminated.

I. Once the public works director has negotiated a satisfactory contract for architectural, surveying and/or engineering services with a value of \$30,000 or more per year, the city council shall review and approve the contract.

J. Once the public works director has negotiated a satisfactory contract for architectural, surveying and/or engineering services with a value of less than \$30,000 per year, the city manager shall approve the contract; provided, that the funds for such contract have been appropriated in the subject budget. If the funds for any such contract have not been appropriated in the budget, such contract shall be subject to council approval, irrespective of the value of the contract.

Additionally, during the annual budget process, the council may designate and require that any particular contract for architectural, surveying and/or engineering services be subject to future council approval irrespective of the value of the contract.

K. For purposes of this section, a contract shall be deemed to have a value of \$30,000 or more if the contract on its face requires a city expenditure of \$30,000 or more in any year, or if pursuant to the terms of the contract it is likely that the city's expenditures will meet or exceed \$30,000 in a year.

L. The city shall not be required to comply with this section when an emergency situation exists. In cases of emergency, contracts for architectural, surveying and/or engineering services may be awarded pursuant to the procedures set forth in BIMC 3.72.130. (Ord. 2010-07 § 1, 2010: Ord. 2004-05 § 3, 2004)

Chapter 3.72

PURCHASING AND PUBLIC WORKS PROCEDURES

Sections:

- 3.72.010** **Applicability.**
- 3.72.020** **Purchases.**
- 3.72.030** *Repealed.*
- 3.72.040** *Repealed.*
- 3.72.050** **Purchase by government contract.**
- 3.72.060** **Public works – Limitations on work by city employees.**
- 3.72.070** **Public works – Formal bids.**
- 3.72.080** **Public works – Small works roster established.**
- 3.72.090** *Repealed.*
- 3.72.100** **Public works – Small works roster use.**
- 3.72.110** **Public works – Small works roster procedure.**
- 3.72.120** **Public works – Limited public works projects process.**
- 3.72.130** **Waiver of bidding procedures in cases of emergency.**
- 3.72.140** **Public works – Acceptance of work.**

3.72.010 Applicability.

This chapter shall govern the procedures for all public works projects and purchases by the city. For purposes of this chapter, the term "public works" shall include all work, construction, building, alteration, repair or improvement other than ordinary maintenance, executed at the cost of the city, or which is by law a lien or charge on any property therein, except when such work is performed pursuant to a contract exempted by state law from the public works process. For purposes of evaluating the costs of public works projects hereunder, such costs shall include the costs of all materials, supplies, equipment and labor associated with the public works project. For purposes of this chapter, "public works direc-

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tor" shall mean the director of public works or the director's designee. (Ord. 2003-23 § 2, 2003; Ord. 84-05 § 1, 1984)

3.72.020 Purchases.

A. No formal or informal bidding shall be required for the purchase of supplies, materials, or equipment that are not part of a public works project.

B. Staff shall continue on an ongoing basis to obtain the lowest practical price for supplies, materials, and equipment purchased pursuant to this section.

C. Except as specifically provided in subsection D of this section, all purchases of supplies, materials and equipment equal to or in excess of \$10,000 shall be by contract approved by the city council. Nothing in this subsection shall be construed to permit the division of a purchase into more than one phase or unit for purposes of avoiding this limitation.

D. Any capital equipment that has been budgeted for in the city's then-current annual budget, the cost of which does not exceed \$35,000 total, may be purchased by staff at auction or via an Internet offering without prior council approval; provided, that staff has made a good faith determination that (1) the capital equipment may be acquired at auction or via the Internet at a price lower than or competitive with the purchase price that substantially equivalent capital equipment would fetch on the conventional market; and (2) seeking prior council approval of the purchase would effectively exclude staff from bidding or otherwise participating in the auction or Internet offering. For any capital equipment purchased pursuant to this subsection D, staff shall, within 20 days of such purchase, provide the city council with a summary report of the purchase, which report shall include the date, nature and mechanism of the purchase and the total purchase price paid for the capital equipment. (Ord. 2004-05 § 1, 2004; Ord. 2003-23 § 3, 2003; Ord. 87-19 § 1, 1987; Ord. 84-05 § 2, 1984)

3.72.030 Purchases – More than \$7,500.

Repealed by Ord. 2003-23. (Ord. 96-17 § 5, 1996; Ord. 87-19 § 2, 1987; Ord. 84-05 § 3, 1984)

3.72.040 Purchases – Single source and other exceptions.

Repealed by Ord. 2003-23. (Ord. 87-19 § 3, 1987; Ord. 84-05 § 4, 1984)

3.72.050 Purchase by government contract.

Nothing in this chapter shall be construed as limiting or otherwise compromising the city's authority to contract with the state or any other municipality, special purpose district or political subdivision for the right to purchase, under the same terms and conditions negotiated by the other entity, any supplies, materials, equipment or services for which the other entity has performed a formal or informal bidding process. (Ord. 2003-23 § 6, 2003; Ord. 96-18 § 1, 1996; Ord. 84-05 § 5, 1984)

3.72.060 Public works – Limitations on work by city employees.

A. As limited by subsection B of this section, the city may have public works performed by city employees in any budget period; provided, that the collective cost of such public works shall not exceed 10 percent of the public works construction budget, including any amount in a supplemental public works construction budget, for that budget period. Once the city has exhausted the maximum percentage rate set forth herein for employee-performed public works projects in any budget period, all further public works projects for that budget period must be performed by contract pursuant to the applicable bidding process set forth in this chapter.

B. In addition to the percentage limitation provided in subsection A of this section, the city shall not have city employees perform a public works project if the cost of the project exceeds \$50,000 if more than one craft or trade is involved with the project, or in excess of \$30,000 if a single craft or trade is involved with the project or the project is street signalization or street lighting.

C. Effective January 1, 2010, the craft limits set forth in this section shall be increased to \$40,000 for single crafts and \$65,000 for multiple crafts.

D. Nothing in this section shall be construed to permit the division of a public works project into units of work or classes of work to avoid the restriction on work that may be performed by day labor on a single project. (Ord. 2003-23 § 7, 2003; Ord. 87-19 § 4, 1987; Ord. 84-05 § 6, 1984)

3.72.070 Public works – Formal bids.

Whenever the estimated costs of a public works project, including materials, supplies, equipment and associated labor, will exceed the limitations set forth in RCW 39.04.155, as now existing or as hereafter amended, the same shall be done by contract awarded pursuant to the following formal bid procedure:

A. Staff shall prepare bid specifications for completion of the public works project upon prior authorization by the city council.

B. Calls for sealed bids shall be published in the official newspaper, or a newspaper of general circulation most likely to bring responsive bids, at least 13 days prior to the last date upon which bids will be received.

C. Calls for sealed bids will be posted in the same manner as ordinances.

D. Calls for bids shall contain the following information:

1. The general nature of the work;
2. A statement that the plans and specifications for the work are on file and available for public inspection at the City Hall;
3. Instructions that bids must be sealed and filed with the city before a specified date;
4. Instructions that bids must be accompanied by a bid deposit of at least five percent of the amount of the bid in the form of a cashier's check, postal money order or surety bond made payable to the city. Calls for bids shall specify that no bids will be considered without the required deposit.

E. Bids shall be opened on the date and time and at the place specified in the bid specifications, advertisements and public notices.

F. Staff shall prepare bid tabulation sheets and shall recommend that the contract be

awarded to the bidder determined to be the lowest responsible bidder who meets the terms of the specifications, conditions and qualifications of the call for bids. Alternatively, staff may recommend the rejection of any or all bids received.

G. The city council shall review the bids, specifications and related materials, together with the staff recommendation, and may award the contract to the lowest responsible bidder. Alternatively, the city council may reject any or all submitted bids and may make a further call for bids in the same manner as the original call.

H. If no bids are received on the first call, the city council may elect to re-advertise and make a second call for bids or may enter into a contract without any further call or may perform the work or improvement by day labor.

I. Amendments or Change Orders.

1. Amendments or change orders to contracts requiring city council approval under this chapter may be administratively approved by the city manager if the changes are:

- a. Within the scope of the original contract;
- b. Consistent with an initial bid process, if any;
- c. Executed in writing;
- d. Within the budgeted amount for the projects; and
- e. An increase of the contract award amount (CAA) as follows:

| Contract Award Amount | Percentage Increase in CAA (the greater of) | Limits |
|------------------------|---|----------------------------------|
| Less than \$100,000 | 30% or minimum | Min. \$0 Max. \$30,000 |
| \$100,000 to \$500,000 | 20% or minimum | Min. \$30,000 Max. \$100,000 |
| Greater than \$500,000 | 10% or minimum | Min. \$100,000 Max. \$250,000 |

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2. The value of all change orders to a single contract shall be aggregated. When any single change order, or combined change orders to the same project or single purchase, exceeds the value limit, the change must be approved by the city council, except in the following instances:

a. On service contracts used to accomplish an ongoing city program as opposed to completing a short-term project or purchase, change order rules, including the aggregate rule, shall be applied on an annual basis.

b. Where the size of the contract and the exhausting of change order authority make further change order authorization impractical, the city council may, upon recommendation of the city manager, extend the aggregate limits of subsection I.1 of this section for specific contracts.

c. The public works director shall provide reports on public works project change orders to the city council during the normal budget process.

3. A work change directive may be used to:

a. Authorize and direct work that will result in an increase in contract price within the administrative authority of the city manager as provided in subsection I.1 of this section for specific contracts. Work change directives that affect the contract price shall be incorporated into a change order.

b. Authorize and direct work that will result in an increase in contract price in excess of the administrative authority of the city manager as provided in subsection I.1 of this section, where unforeseen conditions necessitate an immediate change to avoid a contractor's claim against the city for delays. The work change directive shall be incorporated into a change order and presented to the city council as soon thereafter as practicable.

c. Authorize and direct emergency work that may result in an increase in contract price in excess of the administrative authority of the city manager as provided in subsection I.1 of this section, where public health, safety and welfare are endangered. The work change directive shall be incorporated into a change

order and presented to the city council as soon thereafter as practicable.

The city council will be notified of work change directives issued in excess of the administrative authority of the city manager as soon as practicable. (Ord. 2009-21 § 22, 2009; Ord. 2003-23 § 8, 2003; Ord. 89-17 § 1, 1989; Ord. 87-19 § 5, 1987; Ord. 84-05 § 7, 1984)

3.72.080 Public works – Small works roster established.

A. A single general small works roster shall be established. The small works roster shall be maintained by the public works director and shall consist of all responsible contractors who have requested to be on the roster, and who, where required by law, are properly licensed to work in the state and in the city, and who keep current records of applicable licenses, certifications, registrations, bonding, insurance or other appropriate matters on file with the public works director.

B. At least once each year, the public works director shall publish in the official newspaper or a newspaper of general circulation within the city a notice of the existence of the small works roster. The notice shall solicit the names of the contractors for the small works roster.

C. Responsible contractors shall be added to the small works roster at any time they submit to the public works director a written request to be added to the small works roster and provide copies of the records required herein. (Ord. 2003-23 § 9, 2003; Ord. 96-17 § 1, 1996; Ord. 84-05 § 8, 1984. Formerly 3.72.100)

3.72.090 Waiver of procedures in case of emergency.

Repealed by Ord. 2003-23. (Ord. 96-17 § 2, 1996; Ord. 84-05 § 9, 1984)

3.72.100 Public works – Small works roster use.

As permitted pursuant to this chapter, and as an alternative to the procedures set forth in BIMC 3.72.060 and 3.72.070, a small works roster and award of a contract thereunder may be used for public works projects where the

estimated cost of such projects does not exceed the amount authorized by RCW 39.04.155, as now existing or as hereafter amended. (Ord. 2003-23 § 11, 2003; Ord. 2001-28 § 1, 2001; Ord. 96-17 § 3, 1996; Ord. 87-19 § 6, 1987; Ord. 86-09 § 1, 1986. Formerly 3.72.110)

3.72.110 Public works – Small works roster procedure.

Whenever the city uses the small works roster for a public works project with an estimated cost below the small works roster threshold authorized by RCW 39.04.155, as now existing or hereafter amended, the city shall follow the following procedure:

A. To ensure that a competitive price is established and that the public works contract is awarded to the lowest responsible bidder, the public works director shall secure written or electronic proposals from the appropriate contractors on the roster. Proposals may be invited from all contractors on the roster. Alternatively, proposals may be invited from at least five contractors on the roster who have indicated the capability of performing the kind of work being contracted, in a manner that will equitably distribute the opportunity among the contractors; provided, that if the estimated cost of the work is \$300,000 or less and proposals are invited from less than all the appropriate contractors on the small works roster, the public works director shall notify the remaining appropriate contractors that proposals on the work are being sought. The public works director, at the director's option, shall notify the remaining appropriate contractors by:

1. Publishing notice in the official newspaper or a newspaper of general circulation in the city;
2. Mailing notice to the remaining appropriate contractors; or
3. Sending a notice to the remaining appropriate contractors by facsimile or other electronic means.

For purposes of this subsection, "equitably distribute" shall mean that the city shall not favor certain contractors on the small works roster over other contractors on the small works roster who perform similar services.

B. The invitation for proposals shall include an estimate of the scope and nature of the work to be performed as well as the materials and equipment to be furnished. However, detailed plans and specifications need not be included in the invitation.

C. A contract awarded from the small works roster need not be advertised.

D. The city manager shall award the contract to the lowest responsible bidder.

E. Immediately after an award is made pursuant to the small works roster procedure, the public works director shall record the bid proposals obtained for the contract. The bid proposals shall be open to public inspection and shall also be available to the public by telephone inquiry.

F. The public works director shall post a list of the contracts awarded using the small works roster at least once a year. The list shall contain the names of the contractors awarded the contracts, the amount of the contracts, a brief description of the type of work performed under the contracts, and the date the contracts were awarded. The list shall also state the location where the bid proposals for the contracts are available for public inspection.

G. Nothing in this section shall be construed to permit the division of a public works project into units of work or classes of work to avoid the maximum dollar amount of a contract that may be awarded using the limited public works process. (Ord. 2010-36 § 1, 2010; Ord. 2003-23 § 12, 2003; Ord. 2001-28 § 2, 2001; Ord. 87-19 § 6, 1987; Ord. 86-09 § 2, 1986. Formerly 3.72.120)

3.72.120 Public works – Limited public works projects process.

A. In lieu of awarding contracts under BIMC 3.72.110, the city manager may award a contract for a public works project estimated to cost less than \$35,000 pursuant to the limited public works process set forth in this section. Public works projects awarded under this section are exempt from the other requirements of the formal bidding and small works roster process set forth in this chapter.

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B. For any limited public works projects, the public works director shall solicit electronic or written quotations from a minimum of three appropriate contractors from the small works roster.

C. The city manager shall award the contract to the lowest responsible bidder.

D. After an award is made, the quotations shall be open to public inspection and available by electronic request.

E. The public works director shall attempt to distribute opportunities for limited public works projects equitably among contractors willing to perform in the geographic area of the work.

F. The public works director shall maintain a list of the contractors contacted and the contracts awarded during the previous 24 months under the limited public works project process, including the name of the contractor, the contractor's registration number, the amount of the contract, a brief description of the type of work performed, and the date that the contract was awarded.

G. For limited public works projects, the public works director may waive the payment and performance bond requirements of Chapter 39.08 RCW, and the retainage requirements of Chapter 60.28 RCW; provided, however, that such waiver shall not compromise or limit the city's right of recovery against the contractor for any payments made by the city on the contractor's behalf.

H. Nothing in this section shall be construed to permit the division of a public works project into units of work or classes of work to avoid the maximum dollar amount of a contract that may be awarded using the limited public works process.

I. At the completion of contracted public works projects, as confirmed by the public works director or designee, the city manager shall accept said work. (Ord. 2010-36 § 2, 2010: Ord. 2003-23 § 13, 2003: Ord. 2001-28 § 3, 2001: Ord. 96-17 § 4, 1996: Ord. 87-19 § 6, 1987: Ord. 86-09 § 3, 1986)

3.72.130 Waiver of bidding procedures in cases of emergency.

A. The bidding requirements of this chapter for public works contracts shall not apply in cases of emergency. If an emergency exists, the mayor shall declare that an emergency situation exists, recite the facts constituting the emergency, waive competitive bidding requirements, and award all necessary contracts on behalf of the city. If a contract is awarded without competitive bidding due to an emergency, the mayor shall report to the city council such emergency expenditures within seven days of the declaration of emergency. The city council shall by resolution make and duly enter a written finding of the existence of an emergency no later than 14 days following award of the contract.

B. For the purposes of this section, "emergency" means unforeseen circumstances beyond the control of the city that either present a real and immediate threat to the proper performance of essential functions or will likely result in material loss or damage to property, bodily injury or loss of life if immediate action is not taken. (Ord. 2003-23 § 14, 2003: Ord. 87-19 § 7, 1987. Formerly 3.72.090)

3.72.140 Public works – Acceptance of work.

At the completion of contracted public works projects, as confirmed by the public works director or designee, the city manager is authorized to accept said work. (Ord. 2011-12 § 1, 2011)

Chapter 3.76

BOND ISSUANCE AND REGISTRATION**Sections:**

- 3.76.010 Bond registration system adopted – Terms defined.**
- 3.76.020 Recordation of bonds and obligations required.**
- 3.76.030 Denomination of bonds – Agents – Provisions of issuing ordinance.**
- 3.76.040 Contract with state agency.**
- 3.76.050 Payment to registered owner only.**

3.76.010 Bond registration system adopted – Terms defined.

Pursuant to Chapter 167, Laws of 1983, a system of registering the ownership of bonds and other interest-bearing obligations of the city is adopted. The terms “bond” and “obligation,” as used in this chapter, shall have the meanings defined in Section 2, Chapter 167, Laws of 1983, as the same may be from time to time amended. The term “registrar” shall be the person or persons designated by the city to register the ownership of bonds and other obligations under this chapter. The term “fiscal agencies” shall mean the duly appointed fiscal agencies of the state serving as such at any given time. (Ord. 83-10 § 1, 1983)

3.76.020 Recordation of bonds and obligations required.

All bonds and other obligations issued or entered into by the city which bear or require the city to pay interest, which interest is intended by the city to be exempt from federal income taxation, shall be registered as to both principal and interest as provided in this chapter. Such registration may be carried out by a book entry system of recording the ownership of a bond or other obligation whether or not a physical instrument is issued on the books of the city or the fiscal agencies of the state, or by recording the ownership of a bond or other obligation together with requiring that any transfer of ownership may be effected only by the surrender of the old bond or other obliga-

tion and either the reissuance of the old bond or other obligation or the issuance of a new bond or other obligation to the new owner. No transfer of any such bonds or other obligations shall be effective until the name of the new owner and the new owner’s mailing address, together with such other information deemed appropriate by the registrar, shall be recorded on the books of the registrar of the city. (Ord. 83-10 § 1, 1983)

3.76.030 Denomination of bonds – Agents – Provisions of issuing ordinance.

A. Except as may be otherwise provided by the ordinance authorizing the issuance of bonds or other obligations, registered bonds or other registered obligations may be issued in any denomination to represent several registered bonds or other obligations of small denominations and the city may permit the issuance of bonds or other obligations in denominations smaller than a larger denomination bond or obligations requested to be transferred.

B. The ordinance authorizing the issuance of the bonds or other obligations shall provide for an authenticating trustee, transfer agent, registrar and paying agent, which shall be one or more of the fiscal agencies of the state appointed in accordance with RCW Chapter 43.80, except that with respect to interest-bearing warrants, installment contracts, interest-bearing leases and other instrument or obligations not usually subject to trading, assignment or transfer, the clerk-treasurer of the city may serve as the transfer agent, registrar and paying officer. Any transfer agent, registrar and paying agent or officer shall comply with all applicable federal and state laws and regulations respecting the carrying out of such duties.

C. Unless provided for in the contract between the city and the fiscal agencies or between the State Finance Committee and the fiscal agencies, each such ordinance authorizing the issuance of such bonds or other obligations shall specify the terms and conditions of making payments of principal and interest, for the provision of printing any physical instruments including the use of identifying num-

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bers or other designations, the specifying of record and payment dates, the determination of denominations, the manner of communicating to the owners of such bonds or other obligations, the receipt of the physical instruments for payment of principal, the destruction of such instruments and the certification of such destruction, the registration and release of securing interests and for such other matters pertaining to the registration of such bonds or other obligations authorized by such ordinance as the city may deem to be necessary or appropriate. (Ord. 83-10 § 3, 1983)

3.76.040 Contract with state agency.

A. The clerk-treasurer of the city is authorized to enter into a contract with the fiscal agency or agencies of the state in connection with the establishment and maintenance by such fiscal agency or agencies of a central depository system for the transfer or pledge of bonds or other obligations and for the services as authenticating trustee, transfer agent, registrar and paying agent for such bonds and other obligations. Such contract shall define the rights and duties of such fiscal agency so acting and the means and amount of compensation thereof.

B. In addition, in lieu of making provisions in each ordinance authorizing the issuance of bonds or other obligations, such contract may make specific provision for the procedures for payment, identification by numbers or other designations, the manner of issuance or reissuance of certificates, the manner of transfer, the manner of communication to owners of bonds or other obligations for accounting to the city and for canceled certificate of destruction, registration and release of securing interest and for such other matters as may be appropriate.

C. Until such contract is entered into, the city incorporates by reference all the terms of the contract respecting registration of bonds and other obligations entered into between the State Finance Committee and the fiscal agencies. (Ord. 83-10 § 4, 1983)

3.76.050 Payment to registered owner only.

Any physical instrument issued or executed by the city subject to registration under this chapter shall state on its face that the principal thereof and interest thereon shall be paid only to the owner thereof registered as such on the books of the registrar as of the record date defined in the instrument and to no other person, and that such instrument, either principal or interest, may not be assigned except on the books of the registrar. (Ord. 83-10 § 5, 1983)

Chapter 3.80

PUBLIC ART WORKS
PROGRAM AND FUND

Sections:

- 3.80.010 Purpose and policy.**
- 3.80.020 Cultural resources subfund.**
- 3.80.030 Private sources of public art works.**
- 3.80.040 Designated agency.**

3.80.010 Purpose and policy.

A. It is the policy of the city to further the inclusion of art in public places in the city in order to better enhance the spirit and sensibilities of its citizens. Art shall include the production or arrangement of sounds, colors, forms, movements or other elements in a manner that enhances the sense of beauty and has aesthetic value, and shall be called herein "public art."

B. Public art shall not be inconsistent with the city's comprehensive plan goals and purposes, zoning and subdivision ordinances, and land uses contemplated therein.

C. Public art consisting of natural materials and requiring little or no maintenance, and which are appropriate in size, color and configuration for their location, will be preferred.

D. Whenever appropriate, public art by artists with local or regional emphasis and backgrounds will be given priority. (Ord. 96-48 § 1, 1996; Ord. 96-23 § 1, 1996; Ord. 92-30 § 1, 1992)

3.80.020 Cultural resources subfund.

A. Creation. There is established in the city treasury a fund designated the city of Bainbridge Island cultural resources subfund. Two accounts shall be established in the subfund:

1. A public art account;
 2. An arts and humanities account;
- and
3. The city's finance director shall create a third account in the city of Bainbridge Island cultural resources subfund. This account shall be for the maintenance, restoration, renovation, illumination or relocation of existing works of public art in the city's collec-

tion. This account shall be funded by taking a maximum of 10 percent of all new funds added to the public art account each year, starting with the contribution recorded in 2000 for capital improvements completed in 1999.

a. Public art commissions that are Artist-Made Building Parts (AMBP) shall not be maintained, restored, renovated, illuminated or relocated with funds from this new account. These AMBP become part of the facility in which they are installed and are to be maintained, restored, renovated, illuminated or relocated within general city funds. All new public art works shall be designated as either AMBP or not. A listing of existing public art work indicating AMBP designation is provided in Appendix 1, City of Bainbridge Island Public Art Collection.* The list shall be revised administratively from time to time as new public art projects are approved by the city and the public arts committee.

b. This new public art maintenance account is not intended to be used for everyday cleaning or polishing of public art works. This everyday maintenance is to be paid for by the facility where the piece is located.

All funds authorized or appropriated pursuant to this chapter shall be deposited into and maintained in the cultural resources subfund in separate accounts established for that purpose. Expenditures from the cultural resources subfund shall be made at the sole discretion of the city council, except as provided otherwise in this chapter or Chapter 3.82 BIMC. The cultural resources subfund shall be administered by the city's finance director.

B. Definitions of Project. "Project" means all capital municipal construction or improvement projects or portions of projects, paid for wholly or in part by the city, including:

1. Construction or renovation of any city street or sidewalk;
2. Construction, renovation or remodel of any public park, building, parking facility or any portion thereof within the city limits;
3. Construction of sewer or water facilities, or other utilities, except those projects which are completely underground; or

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4. The acquisition of equipment which becomes affixed to real property owned by the city.

C. Source of Funds.

1. For each project, the city council shall place in the public art account an amount equal to two percent of the project's capitalized costs to the city regardless of whether the project is completed. The city's contributions to the public art account pursuant to this chapter shall be funded from the city's current expense general fund.

2. In computing the amount to place in the public art account, the project's capitalized costs to the city shall include:

a. All capitalized amounts paid by the city to third parties in connection with the project including, but not limited to, amounts paid on contracts relating to the project and consultant fees incurred in connection with the project; and

b. All capitalized project costs of city staff time spent on the project.

3. In computing the amount to place in the public art account, the project's capitalized costs to the city shall not include any portion of the project's cost which is not funded by the city.

4. The city's contributions to the public art account pursuant to this chapter may include developer art contributions if the contributions have been approved by the designated agency.

D. In the event any law, rule or regulation establishing a source of funds for a project prohibits, limits or excludes art as a proper expenditure of funds on the part of any other entity participating in the cost of the project, then the amount of funds acquired from such source shall be limited or excluded to the extent required by law in computing the amount to include in the authorization or appropriation for the project and to place in the cultural resources subfund.

E. Funds authorized or appropriated pursuant to this chapter in connection with a project, but not spent on that project, shall be placed in the cultural resources subfund. If the transfer to the cultural resources subfund is prohibited by law, funds authorized or appro-

priated pursuant to this chapter as a part of one project shall be spent either on that project, or for another project assigned to the fund or department which is the source of the funds, whichever is permissible by law, for selection, acquisition, maintenance or installation of public art works.

F. Any funds placed in the public art account, which are not spent, shall be carried over automatically from year to year. Upon the approval of the city council and at the request of the designated agency, funds placed in the public art account pursuant to this chapter may be transferred to an arts and humanities account in the cultural resources subfund.

G. Whenever it determines that the prudent management of city financial priorities or other significant public interest would be served, the city council may, by motion at a city council meeting, suspend city contributions to the public art account. (Ord. 2010-39 § 1, 2010; Ord. 2008-01 § 1, 2008; Ord. 2000-09 § 1, 2000; Ord. 96-48 § 2, 1996; Ord. 96-23 § 2, 1996; Ord. 93-35 § 1, 1993; Ord. 92-30 § 1, 1992)

*Code reviser's note: A copy of Appendix 1 is attached to Ordinance 2000-09, available in the office of the city clerk.

3.80.030 Private sources of public art works.

In the event that a private source proposes to donate art work to the city, the designated agency shall review the proposal and make recommendations to the city council regarding the proposal. The city council, after consideration of the designated agency's recommendation, may (1) accept the art work as a gift to the city, (2) accept the art work as a loan to the city, or (3) not accept the art work. If private ownership in the art work is retained, the private owner shall be responsible for any insurance for, and the maintenance, repair and replacement of, the art work. (Ord. 92-30 § 1, 1992)

3.80.040 Designated agency.

A. The Bainbridge Island Arts and Humanities Council, a nonprofit Washington

corporation, is designated to carry out the duties set forth in this chapter relating to public art. The designated agency shall follow the guidelines for implementing public art projects adopted by the city council by resolution.

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B. Duties and Responsibilities as to Public Art.

1. The designated agency shall review all municipal construction and improvement projects, as adopted by the city council, to determine which projects should be recommended to the city council to include public art, and to anticipate the source and amount of funds to be provided for public art. The designated agency may, with the permission of any affected public agency or entity, review any real property or building within the city to determine whether it should be recommended to the city council to include public art, if the real property or building is (a) owned or leased by the city or any other public agency or entity, or (b) owned by a nonprofit corporation and operated by a public agency or entity and the placement of art will be pursuant to an interlocal agreement between the city, the nonprofit corporation, and the public agency or entity.

a. For public art anticipated to cost less than \$10,000, the designated agency shall submit a proposal, including a proposed site and budget, to the designated city council committee which is authorized to approve expenditures of up to 30 percent of the estimated total project cost for such things as project administrative funding and full project concept development. If the total cost of project administration plus full project concept development is anticipated to exceed 30 percent of the estimated total project cost, approval of the full city council will be required. The designated agency shall keep the council committee informed with regular progress reports on the public art. The designated agency shall present the recommended public art concept to the city council for final funding approval. The city council may approve or disapprove the proposal as submitted, or may determine to hold a public hearing on the proposal. Following the public hearing, if any, the city council shall approve or disapprove the proposal.

b. For public art anticipated to cost \$10,000 or more, the designated agency shall submit a proposal, including a proposed site and budget, to the designated city council committee. The council committee shall present the proposal to the city council and request that

the council approve the cost of project administration and/or full project concept development. The designated agency shall keep the council committee informed with regular progress reports on the public art. The designated agency shall present the recommended public art concept to the city council for final funding approval. The city council may approve or disapprove the proposal as submitted, or may determine to hold a public hearing on the proposal. Following the public hearing, if any, the city council shall approve or disapprove the proposal.

For the purpose of this subsection, the term "full project concept development" means that the project is defined to the point where the city council or members of the public can comprehend the project and be in a position to approve the project completion.

2. The designated agency shall advise the city manager and city council on matters pertaining to cultural and artistic endeavors, projects, acquisition of funds, and expenditures in which the city becomes involved and shall act as the representative of the community in such matters. (Ord. 2009-21 § 24, 2009; Ord. 96-48 § 3, 1996; Ord. 96-23 § 3, 1996; Ord. 92-30 § 1, 1992)

Chapter 3.82

BAINBRIDGE ISLAND ARTS AND HUMANITIES ACCOUNT¹**Sections:**

- 3.82.010** Definitions.
- 3.82.020** Establishment of Bainbridge Island arts and humanities account.
- 3.82.030** Sources of funds.
- 3.82.040** Administrative expenses.
- 3.82.050** Balance between arts and humanities.
- 3.82.060** Authority to publish information.

3.82.010 Definitions.

A. "Designated agency" means the Bainbridge Island arts and humanities council.

B. "Arts" shall include the production or arrangement of sounds, colors, forms, movements or other elements in a manner that enhances the sense of beauty and has aesthetic value.

C. "Humanities" means the study of history, literature, philosophy, archeology, modern and classical languages, jurisprudence, ethics, comparative religion, cultural anthropology, history and criticism of the arts, linguistics, and those aspects of the social and natural sciences that are historical or philosophical in approach. It embodies a critical examination of all areas of human interest, improving the quality and depth of public discourse, and cultivating a reflective and informed life for citizens of all segments of society.

D. "Administrative expenses" mean those expenses incurred by the designated agency in carrying out the duties and responsibilities indicated in BIMC 2.42.020. Administrative expenses incidental to a program or project funded by or through the designated agency shall be considered as program/project costs

1. Code reviser's note: This chapter, added as 3.84 by Ord. 92-31, has been renumbered to 3.82 to avoid duplicate chapter numbers.

and are not considered administrative expenses with reference to BIMC 3.82.040. (Ord. 92-31 § 2, 1992)

3.82.020 Establishment of Bainbridge Island arts and humanities account.

All public and private funds authorized, appropriated, or received by the city for the arts and humanities, pursuant to BIMC 3.82.030 shall be maintained in a separate account within the city's cultural resources subfund designated the "Bainbridge Island Arts and Humanities Account." (Ord. 2009-21 § 25, 2009; Ord. 92-31 § 2, 1992)

3.82.030 Sources of funds.

A. An amount not less than \$24,000 shall be placed in the Bainbridge Island arts and humanities account in each of the fiscal years 1993, 1994 and 1995. Thereafter the arts and humanities council shall receive regular funding from each year's annual appropriated budgets.

B. All funds received by the city as rent for use of the Bainbridge Island Performing Arts Center, pursuant to Paragraph 7.1 of the Ground Lease for the Performing Arts Center, shall be placed in the Bainbridge Island arts and humanities account.

C. The designated agency is authorized to solicit and receive on behalf of the city public and private funds to promote local activities, programs and projects in the arts and humanities. Funds from the Bainbridge Island arts and humanities account may be utilized as the city's local share to acquire matching or grant funds for the arts and humanities. (Ord. 92-31 § 2, 1992)

3.82.040 Administrative expenses.

No more than 15 percent of the funds in the Bainbridge Island arts and humanities account may be used for the designated agency's administrative expenses; provided, that if an audit or other administrative expense required by the city results in the designated agency's administration expenses exceeding 15 percent of the funds in the Bainbridge Island arts and humanities account, then the city council may

approve the designated agency's use of more than 15 percent of funds in the account for the designated agency's administrative expenses. (Ord. 92-31 § 2, 1992)

3.82.050 Balance between arts and humanities.

The designated agency shall allocate funds received from the Bainbridge Island arts and humanities account to activities, programs and projects in a manner which ensures a reasonable balance between the arts and humanities. (Ord. 92-31 § 2, 1992)

3.82.060 Authority to publish information.

The city shall have the unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data, materials or other information prepared with or in connection with funds from the Bainbridge Island arts and humanities account. (Ord. 92-31 § 2, 1992)

Chapter 3.84

CITY PAYMENT BY CHECK

Sections:

3.84.010 Procedures.

3.84.010 Procedures.

All claims or other obligations of the city which are payable out of solvent funds shall be paid by the issuance of a bank check or warrant; provided, that no check shall be issued when the applicable fund is not solvent at the time payment is ordered, but a warrant shall be issued instead. The public depository upon which such checks are to be drawn shall be that banking institution under contract with the city and approved by the city council. Two signatures of the following officers of the city shall validate a check: city manager, finance director, accounting manager, budget manager, cost accountant and senior accountant. (Ord. 2010-28 § 1, 2010; Ord. 2009-21 § 26, 2009; Ord. 91-24 § 1, 1991)

Chapter 3.86

HEALTH, HOUSING, AND HUMAN SERVICES ACCOUNT

Sections:

- 3.86.010** Definitions.
- 3.86.020** Establishment of health, housing, and human services account.
- 3.86.030** Sources of funds.
- 3.86.040** Administrative expenses.
- 3.86.050** Authority to publish information.

3.86.010 Definitions.

A. "Designated agency" means the Bainbridge Island health, housing, and human services council.

B. "Health" means the overall condition of a person at a given time, soundness of body and mind as well as access to the delivery of primary health care services which enhance the optimal well being of an individual.

C. "Housing" means promotion and facilitation of the availability of decent and safe dwellings affordable to all economic segments of the community through appropriate response to housing crises and avoidance of homelessness through such programs as rental assistance.

D. "Human services" means provision for meeting basic human needs, including but not limited to the need for food, clothing, shelter, and social support especially in times of personal and family crisis.

E. "Administrative expenses" mean those expenses incurred by the designated agency in carrying out the duties and responsibilities indicated in BIMC 2.50.020. Administrative expenses incurred by the designated agency incidental to a program or project funded by or through the city's health, housing, and human services account shall be considered as program or project costs and not as administrative expenses. (Ord. 93-44 § 2, 1993)

3.86.020 Establishment of health, housing, and human services account.

All public and private funds authorized, appropriated, or received by the city for health, housing, and human services, pursuant to BIMC 3.86.030, shall be maintained in a separate account within the city's social services sub-fund designated the "Bainbridge Island health, housing, and human services account." (Ord. 2009-21 § 27, 2009; Ord. 93-44 § 2, 1993)

3.86.030 Sources of funds.

A. For fiscal year 1994, \$3,000 or a higher alternative amount to be specified by the city council shall be placed in the health, housing, and human services account for administrative expenses;

B. For 1995 and each year thereafter, the city council shall allocate funds to the health, housing, and human services account;

C. After January 1, 1994, all funds received by the city as rent for use of the Bainbridge Island Community Commons Health Center shall be placed in the Bainbridge Island health, housing, and human services account.

D. The designated agency is authorized to solicit and receive on behalf of the city public and private funds to promote local activities, programs and projects in the health, housing, and human services arena. The city's grant specialist may assist the health, housing, and human services council in obtaining grant funds. Funds from the Bainbridge Island health, housing, and human services account may be utilized as the city's local share to acquire matching or grant funds for health, housing, and human services. (Ord. 93-44 § 2, 1993)

3.86.040 Administrative expenses.

Beginning in the year 1995, no more than fifteen percent of the funds in the Bainbridge Island health, housing, and human services account may be used for the designated agency's administrative expenses; provided, that if an audit or other administrative expense required by the city results in the designated agency's administration expenses exceeding

fifteen percent of the funds in the Bainbridge Island health, housing, and human services account, then the city council may approve the designated agency's use of more than fifteen percent of funds in the account for the designated agency's administrative expenses.

3.86.050 Authority to publish information.

The city shall have the unrestricted authority to publish, disclose, distribute, and otherwise use, in whole or in part, any reports, data, materials, or other information prepared with or in connection with funds from the Bainbridge Island health, housing, and human services account. (Ord. 93-44 § 2, 1993)

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Chapter 3.88

UTILITIES LICENSES AND TAXES –
TELEPHONE, ELECTRIC*

Sections:

- 3.88.010 Purpose and effect.**
- 3.88.020 Definitions.**
- 3.88.030 License required – Violation.**
- 3.88.040 Monthly periods.**
- 3.88.050 Occupations subject – Rate.**
- 3.88.060 Return required – Due dates and payment.**
- 3.88.070 Payment procedure.**
- 3.88.080 More than one business.**
- 3.88.090 Failure to pay – Violation.**
- 3.88.100 Exceptions and deductions.**
- 3.88.110 Allocation of income – Cellular telephone service.**
- 3.88.120 Books and records required – Returns confidential.**
- 3.88.130 Investigation and audit regarding tax liability.**
- 3.88.140 Overpayment or deficiency.**
- 3.88.150 Failure to file return.**
- 3.88.160 Sale of business.**
- 3.88.170 Failure to comply, unlawful acts.**
- 3.88.180 Not exclusive.**
- 3.88.190 Penalty for late payment – Interest.**
- 3.88.200 Debt to city when unpaid.**
- 3.88.210 Rate change.**
- 3.88.220 Rules and regulations.**
- 3.88.230 Appeals.**
- 3.88.240 Penalty.**

* Code reviser's note: For additional provisions on utility taxes, see Chapter 5.08 BIMC.

3.88.010 Purpose and effect.

The provisions of this chapter shall be deemed an exercise of the power of the city to license for revenue and to levy a tax on utilities pursuant to the laws of the state of Washington. (Ord. 97-33 § 1, 1997)

3.88.020 Definitions.

Unless the context clearly indicates otherwise, the words, phrases and terms used in this chapter shall have the following meanings:

A. "Gross income" means the value proceeding or accruing from the sale of tangible property or service, and receipts (including all sums equal or charged, whether received or not) by reason of investment of capital in the business engaged in (including rentals, royalties, receipts, or proceeds from the use or sale of real property or any interest therein, and proceeds from the sale of notes, bonds, mortgages or other evidence of indebtedness, or stocks and the like) and without any deduction on account of the cost of the property sold, cost of materials used, labor costs, taxes, interest or discount paid, or any expenses whatsoever, and without any deduction on account of losses. Further deductions and exceptions from gross income upon which the fee or tax described in this chapter is computed are set forth in BIMC 3.88.100.

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

C. "Taxpayer" means any person liable for the license fee or tax imposed by this chapter.

D. "Tax year or taxable year" means the year commencing January 1st and ending on December 31st, of such year, or in lieu thereof, the taxpayer's fiscal year when permission is obtained from the finance director to use the same as the tax period, or in lieu thereof, commencing December 15th and ending December 14th of the next following calendar year when permission is obtained from the finance director to use the period as the tax year.

E. "Telephone business" means the business of providing access to a local telephone network, local telephone network switching service, toll service, or coin telephone services, or providing telephonic, video, data or similar communication or transmission for hire, via a local telephone network, toll line or channel, cable, microwave, or similar communication or transmission system. It includes cellular telephone service and cooperative or farmer line telephone companies or associations operating an exchange. It does not

3.88.030

include the providing of competitive telephone service, cable television service, or radio and television station broadcast service.

F. "Competitive telephone service" means the providing by any person of telecommunications equipment or apparatus, or service related to that equipment or apparatus such as repair or maintenance service, if the equipment or apparatus is of a type which can be provided by persons that are not subject to regulation as telephone companies under RCW Title 80 and for which a separate charge is made.

G. "Cellular telephone service" means a two-way voice and data telephone/telecommunications system based in whole or substantially in part on wireless radio communications and which is not subject to regulation by the Washington Utilities and Transportation Commission (WUTC). This includes cellular mobile service. The definition of cellular mobile service includes other wireless radio communications services such as specialized mobile radio (SMR), personal communications services (PCS), and any evolving wireless radio communications technology which accomplishes a purpose similar to cellular mobile service. (Ord. 2003-22 § 4, 2003; Ord. 97-33 § 1, 1997)

3.88.030 License required – Violation.

On and after the first day of the month succeeding the month in which 60 days after passage of the ordinance codified in this chapter has occurred, no person subject to the payment of tax provided herein shall engage in any business, occupation or activity in the city without first having obtained and being the holder of a valid and existing license so to do, to be known as a "utility license" for which the applicant shall pay the sum of \$50.00; provided, that there shall be no fee if the person has obtained a business license pursuant to Chapter 5.04 BIMC. Such "utility license" shall expire at the end of the calendar year in which it is issued and a new license shall be required for each calendar year, unless the taxpayer is transacting business on a fiscal year and not on a calendar year and with the consent of the finance director, obtains the license for the period of the current fiscal year which shall

be deemed the tax year for such taxpayer. Application for a "utility license" shall be made to the finance director who shall provide the forms therefor and shall issue the license upon payment of the license fee. There shall be no prorate of license fee for an applicant who makes application for part of any year or period. Any person engaging in or carrying on more than one such business, occupation, pursuit or privilege within the city shall make application for and procure a "utility license" for each of the same. Each "utility license" shall be numbered, shall show the name, place and character of business of the taxpayer, and such other information as the finance director shall deem necessary, and shall be conspicuously posted in the place of business for which it is issued at all times. Such license shall be personal and nontransferable. No person to whom a "utility license" has been issued pursuant to this chapter shall suffer or allow any other person for whom a separate license is required to operate under or display the license; nor shall such other person operate under or display such license. Any taxpayer who engages in or carries on any business subject to tax hereunder without having a "utility license" so to do shall be guilty of a violation of this chapter for each day during which the business is so engaged in or carried on and the taxpayer who fails or refuses to pay the license fee or tax on any part thereof on or before the due date shall be deemed to be operating without having his license so to do. (Ord. 97-33 § 1, 1997)

3.88.040 Monthly periods.

On and after the first day of the month succeeding the month in which 60 days after passage of the ordinance codified in this chapter has occurred, there is levied upon and shall be collected from, and paid by as hereinafter provided, every person on account of transacting, carrying on, or engaging in such business activities within the city limits as are described in BIMC 3.88.050, a utility tax (sometimes

herein referred to as "tax") against the gross monthly income of the business. (Ord. 97-33 § 1, 1997)

3.88.050 Occupations subject – Rate.

There are levied and shall be collected annual license fees and utility taxes against the persons designated on account of the business activities, and in the amounts to be determined by the application of the respective rates against gross income as follows:

A. Telephone (Including Cellular Telephone) Business. Upon every person engaged in or carrying on any telephone (including cellular telephone) business within the city, a fee or tax equal to two percent of the total gross income, including revenues from intrastate long distance toll service, from such business in the city during the 1998 calendar year, four percent of such gross income during the 1999 calendar year, and six percent of such gross income during subsequent calendar years.

B. Electric Light and Power. Upon every person engaged in or carrying on the business of furnishing electric light and power within the city, a fee or tax equal to two percent of the total gross income from such business in the city during the 1998 calendar year, four percent of such gross income during the 1999 calendar year, and six percent of such gross income during subsequent calendar years. (Ord. 97-33 § 1, 1997)

3.88.060 Return required – Due dates and payment.

The tax imposed by this chapter, except the annual license fee required to accompany the application for the utility license and renewal, shall be due and payable in monthly installments. The remittance shall be made as herein-after provided and shall be accompanied by a return on a form to be provided and prescribed by the finance director. The return and remittance shall be in the finance director's office by 5:00 p.m. Pacific time, on or before the last day of each month succeeding the end of the month in which the tax accrued. The taxpayer shall be required to swear or affirm in writing on the return that the information therein given is full and true and that the taxpayer knows it

to be so. Whenever the total tax for which any person is liable under this chapter (1) does not exceed the sum of \$25.00 for any monthly period, an annual return may be made upon written request and subject to the approval of the finance director, and (2) does not exceed the sum of \$500.00 for any monthly period, a quarterly return may be made upon written request and subject to the approval of the finance director. Whenever a taxpayer commences to engage in business during any monthly period, the taxpayer's first return and tax shall be based upon and cover the portion of the month during which the taxpayer engaged in business. (Ord. 97-33 § 1, 1997)

3.88.070 Payment procedure.

The tax shall be paid at the time the tax return is filed with the finance director by bank draft, certified check, cashier's check, personal check or money order. If payment is made by draft or check, the tax shall not be deemed paid until the check or draft is honored in the usual course of business; nor shall the acceptance of any sum by the finance director be an acquittance or discharge of the tax due unless the amount of payment is in full and is the actual amount due. (Ord. 97-33 § 1, 1997)

3.88.080 More than one business.

Any person engaged in, or carrying on more than one such business, occupation, pursuit, or privilege shall pay the tax so imposed separately for each of the same. (Ord. 97-33 § 1, 1997)

3.88.090 Failure to pay – Violation.

Any taxpayer who engages in, or carries on, any business subject to the tax hereunder, and fails or refuses to pay the tax or any part thereof on or before the due date, shall be operating in violation of this chapter. (Ord. 97-33 § 1, 1997)

3.88.100 Exceptions and deductions.

A. There shall be excepted and deducted from the total gross income upon which the license fee or tax is computed the following:

1. That portion of the gross income derived from charges to another telecommuni-

cations company, as defined in RCW 80.04.010, for connecting fees, switching charges, or carrier access charges relating to intrastate toll telephone services, or for access to, or charges for, interstate services.

2. Charges by a taxpayer engaging in a telephone business or to a telecommunications company, as defined in RCW 80.04.010, for telephone service that the purchaser buys for the purpose of resale. Once a calendar year, as determined by the finance director, the taxpayer shall provide the names and addresses of the purchasers for whom this deduction is claimed. Within 30 days of a request from the finance director, the taxpayer shall provide the amount of this deduction claimed for each purchaser.

3. Adjustments made to a billing or to a customer account or to a telecommunications company accrual account in order to reverse a billing or charge that had been made as a result of third-party fraud or other crime and was not properly a debt of a customer.

4. Case discounts allowed and actually granted to customers of the taxpayer during the tax year.

5. Income derived from transactions in interstate or foreign commerce, or from business done for the government of the United States, its officers or agents in their official capacity, and any amount paid by the taxpayer to the United States and the state of Washington as excise taxes levied or imposed on the sale or distribution of property or service.

6. All bad debts for services incurred, rendered or charged for during the tax year. Debts shall be deemed bad and uncollectible when they have been written off the books of the taxpayer. In the event debts are subsequently collected, the income shall be reported in the return for the quarter in which the debts are collected and at the rate prevailing in the tax year when collected.

B. Nothing in this chapter shall be construed as requiring a license, or the payment of a license fee or tax, or the doing of any act, which would constitute an unlawful burden or interference in violation of the Constitution or laws of the United States or which would not

be consistent with the Constitution or laws of the state of Washington. (Ord. 97-33 § 1, 1997)

3.88.110 Allocation of income – Cellular telephone service.

A. Service Address. Payments by a customer for the telephone service from telephones without a fixed location shall be allocated among taxing jurisdictions to the location of the customer's principal service address during the period for which the tax applies.

B. Presumption. There is a presumption that the service address a customer supplies to the taxpayer is current and accurate, unless the taxpayer has actual knowledge to the contrary.

C. Roaming Phones. When the service is provided while a subscriber is roaming outside the subscriber's normal cellular network area, the gross income shall be assigned consistent with the taxpayer's account system to the location of the originating cell site of the call, or to the location of the main cellular switching office that switched the call.

D. Dispute Resolution. If there is a dispute between or among the city and one or more other cities, as to the service address of a customer who is receiving cellular telephone services and the dispute is not resolved by negotiation among the parties, then the dispute shall be resolved by the city and the other city or cities by submitting the issue for settlement to the Association of Washington Cities (AWC). Once the taxes on the disputed revenues have been paid to one of the contesting cities, the cellular telephone service company shall have no further liability with respect to additional taxes on the disputed revenues so long as it changes its billing records for future revenues to comport with the settlement facilities. (Ord. 97-33 § 1, 1997)

3.88.120 Books and records required – Returns confidential.

It shall be the duty of each taxpayer to keep and enter in a proper book or set of books or records an account which shall accurately reflect the amount of gross income, which account shall always be open at the principal

place of business to the inspection of the finance director, or the finance director's duly authorized agent, and from which the officer or agent may verify the return made by the taxpayer. Such records shall be preserved for a period of five years. The finance director, or the finance director's duly authorized agent, shall not publicly reveal any facts or information contained in any return filed by any taxpayer or disclosed in any investigation or examination of the taxpayer's books and records; provided, the finance director, or the finance director's duly authorized agent, may disclose such information pursuant to exceptions authorized by state law. (Ord. 97-33 § 1, 1997)

3.88.130 Investigation and audit regarding tax liability.

If any taxpayer fails to apply for a "utility license" or make a return as required hereunder, or if the finance director is dissatisfied as to the correctness of the statements made in the application or return of any taxpayer, the finance director or authorized agent may enter the premises of such taxpayer at any reasonable time for the purpose of inspecting the books or records of account to ascertain the amount of the fee or tax or to determine the correctness of such statements, as the case may be, and may examine any person under oath administered by the finance director or his agent, touching the matters inquired into, or the finance director or his agent may fix a time and place for an investigation of the correctness of the return and may issue a subpoena to the taxpayer, or any other person, to attend upon such investigation and there testify under oath administered by the finance director or his agent, in regard to the matters inquired into and may, by subpoena, require the taxpayer or any person, to bring such books, records and papers as may be necessary. (Ord. 97-33 § 1, 1997)

3.88.140 Overpayment or deficiency.

If the finance director upon investigation or upon checking returns finds that the tax paid on any of them is more than the amount required of the taxpayer, the finance director

shall refund the amount by a treasurer's check upon the general fund; provided, that if the taxpayer in all probability will have a tax liability in the ensuing quarter, such overpayment may be held and applied by the finance director as a credit against the tax to become due. If the finance director finds that the tax is less than required, the finance director shall mail a statement to the taxpayer showing the balance due, which shall be paid to the finance director within 10 days of the date of the notice. (Ord. 97-33 § 1, 1997)

3.88.150 Failure to file return.

If any taxpayer fails, neglects or refuses to make a return as and when required, the finance director is authorized and directed to determine the amount of tax payable and by mail to notify the taxpayer of the amount so determined. The amount so fixed shall thereupon become the tax and shall be immediately due and payable unless the taxpayer shall file a true and correct return with full payment within seven days of the date such notification is sent. (Ord. 97-33 § 1, 1997)

3.88.160 Sale of business.

Upon the sale or transfer during a quarterly period of a business or account of which a tax is required, the purchaser or transferee shall, if the tax has not been paid in full for the quarterly period, be responsible for the payment of the tax for that portion of the quarterly period. (Ord. 97-33 § 1, 1997)

3.88.170 Failure to comply, unlawful acts.

It is unlawful for any person liable for tax to fail or refuse to secure the utility license, to make the returns when required, or to pay the license fee or tax when due. It is unlawful for any person to make any false or fraudulent application or return, to make any false statement or representation in, or in connection with, any application or return, to aid or abet another in an attempt to evade payment of the fee or tax, or any part thereof, to fail to appear and/or testify in response to subpoena issued pursuant hereto, to testify falsely upon any investigation of the correctness of a return, or upon the hearing of any appeal, or to hinder or

3.88.180

delay the city or any of its officers in carrying out the provisions of this chapter. (Ord. 97-33 § 1, 1997)

3.88.180 Not exclusive.

The license fee or tax levied in this chapter shall be additional to any license fee or tax imposed or levied under any law or any other ordinance of the city. (Ord. 97-33 § 1, 1997)

3.88.190 Penalty for late payment – Interest.

For each payment due, if such payment is not made by the due date and time, there shall be added penalties and interest as follows:

A. For each month or portion thereof that the payment is overdue, a penalty of five percent of the tax due shall be imposed; provided, that the total penalty shall not exceed a total of 25 percent.

B. In addition to the penalties imposed, interest on the amount due shall accrue at the rate of eight percent per annum from the date of the delinquency.

The finance director is authorized to waive all or any portion of the penalties and interest if the director determines that late payment was the result of excusable neglect or extreme hardship. (Ord. 97-33 § 1, 1997)

3.88.200 Debt to city when unpaid.

Any license fee or tax due and unpaid under this chapter, and all penalties and interest thereon, shall constitute a debt to the city and may be collected by court proceedings in the same manner as any other similar debt, which remedy shall be in addition to all other remedies. (Ord. 97-33 § 1, 1997)

3.88.210 Rate change.

No change in the rate of tax imposed by this chapter shall apply to business activities occurring before the effective date of the change and, except for a change in the tax rate authorized by RCW 35.21.870, no change in the rate of the tax may take effect sooner than 60 days following the passage of the ordinance establishing the change. The city shall send to each business at the address on its license, a

copy of any ordinance changing the rate of tax promptly upon its enactment. (Ord. 97-33 § 1, 1997)

3.88.220 Rules and regulations.

The finance director shall have the power and authority, and it shall be the director's duty from time to time, to adopt, publish and enforce rules and regulations consistent with this chapter and applicable law to carry out its provisions, and it shall be unlawful for any person to violate or fail to comply with any such rule or regulation. (Ord. 97-33 § 1, 1997)

3.88.230 Appeals.

A. Any taxpayer aggrieved by the amount of the fee or tax determined by the finance director to be due under the provisions of this chapter may appeal such determination to the city hearing examiner.

B. The appeal shall be in writing and shall contain the following:

1. The name and address of the taxpayer;
2. A statement identifying the determination of the finance director from which the appeal is taken;
3. A statement setting forth the grounds upon which the appeal is taken, and identifying the specific errors the finance director is alleged to have made in making the determination;
4. A statement identifying the requested relief from the determination being appealed;
5. The appeal fee as provided by city council resolution.

C. The appeal must be filed with the city clerk within 10 days from the date the taxpayer was mailed notice of the finance director's decision.

D. The hearing examiner shall conduct an appeal hearing, at which the appellant taxpayer and the finance director shall have the opportunity to be heard and to introduce evidence relevant to the subject of the appeal. The hearing examiner shall establish rules for such hearings consistent with the provisions of this section, including rules relating to the issuance and reconsideration of decisions.

E. Appeal proceedings before the hearing examiner shall be tape recorded and all exhibits admitted by the examiner shall be made part of the record.

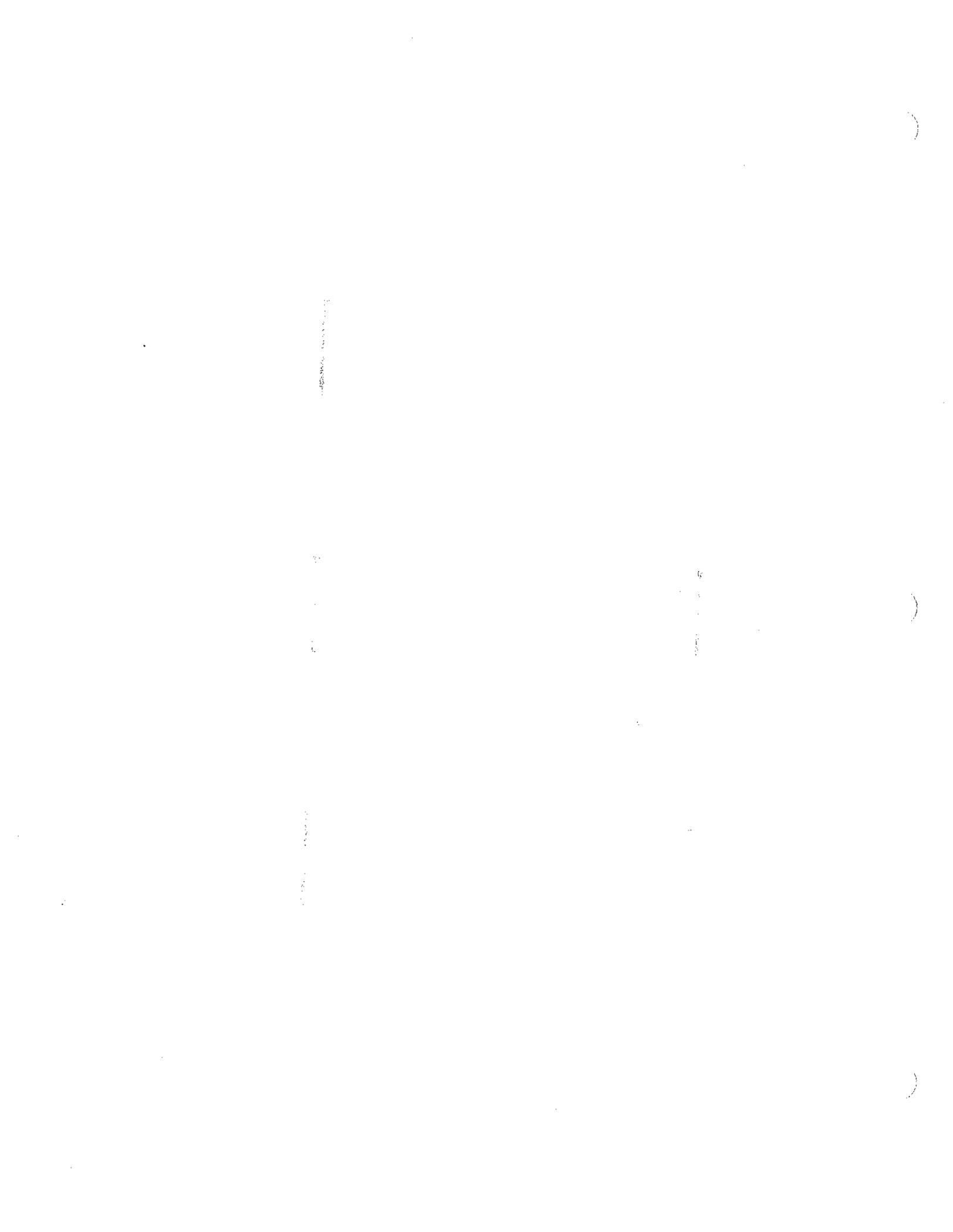
F. Following the hearing, the hearing examiner shall render a decision on the appeal, entering written findings and conclusions in support thereof and giving substantial weight to the decision of the finance director. A copy of the findings, conclusions, and decision shall be mailed to the appellant taxpayer and the finance director. The decision shall state the correct amount of tax owing as determined by the hearing examiner.

G. The decision of the hearing examiner shall be final unless, within 21 days after issuance, it is appealed in accordance with Chapter 36.70C RCW.

H. Any and all actions seeking judicial review of a city council decision under this section must be filed in the King County superior court within 10 calendar days following the date of the decision. Any action not brought within this time limit is barred. (Ord. 2003-25 § 4, 2003; Ord. 97-33 § 1, 1997)

3.88.240 Penalty.

Any person violating any of the provisions of this chapter shall, upon conviction thereof, be punished as provided in Chapter 1.24 BIMC. (Ord. 97-33 § 1, 1997)



Title 4
(Reserved)

