

Title 8

HEALTH AND SAFETY

Chapters:

- 8.04 Enforcement of Health Regulations**
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Chapter 8.04

ENFORCEMENT OF HEALTH REGULATIONS

Sections:

- 8.04.010** Applicability of state and county regulations.
- 8.04.020** Enforcement authority.
- 8.04.030** Violation – Penalty.
- 8.04.040** Violation – Civil remedy.

8.04.010 Applicability of state and county regulations.

All rules and regulations adopted or promulgated by the State Health Department or the county health district and which affect property or residents of the city of Bainbridge Island shall be fully applicable within the respective city limits. (Ord. 76-17 § 1, 1976)

8.04.020 Enforcement authority.

Authority for enforcement of said rules and regulations shall be vested in the duly authorized representatives of the county health district. (Ord. 76-17 § 2, 1976)

8.04.030 Violation – Penalty.

In the event a violation of any rule or regulation referred to in this chapter occurs within the city of Bainbridge Island, the appropriate enforcement official shall prepare and serve a written notice setting forth the violation with a copy of the rule or regulation alleged to have been violated, which notice shall be served upon the owner or occupant of the premises wherein the violation occurred or is occurring and if the violation is continuing, the notice shall give a reasonable time to correct the violation. The notice so prepared and served shall state that unless the violation is corrected within the time provided therein, the enforcement official may request the municipal court of the city to issue a summons supported by a complaint alleging the violation and that, upon conviction thereof, the violator could be fined not more than \$500.00 or imprisoned for six months in the city jail, or both such fine and imprisonment. (Ord. 76-17 § 3, 1976)

8.04.040 Violation – Civil remedy.

In addition to the criminal penalties provided in BIMC 8.04.030, the enforcement official is authorized to request the city attorney to commence civil proceedings to enjoin the violation in superior court of the county. (Ord. 76-17 § 4, 1976)

Chapter 8.08

FALSE ALARMS

Sections:

- 8.08.010 Purpose.**
- 8.08.020 Definition.**
- 8.08.030 False alarm – Unlawful.**
- 8.08.040 False alarm – Registration.**
- 8.08.050 Duty to maintain alarm systems.**
- 8.08.060 Violation – Civil infraction.**
- 8.08.070 False alarms – Fees and corrective action.**
- 8.08.080 Notice.**
- 8.08.090 Appeal from administrative decision.**

8.08.010 Purpose.

The purpose of this chapter is to reduce the number of false alarms occurring within the city and the resultant waste of city resources by providing for corrective administrative action, including the imposition of fees. (Ord. 2003-05 § 2, 2003)

8.08.020 Definition.

As used in this chapter, “false alarm” means the activation of a burglary and/or robbery alarm at a time during which no forced entry, attempted forced entry, unlawful entry, robbery, attempted robbery, or an actual duress situation is occurring on the premises, or during which no foreseeable risk of grievous bodily harm or property damage is present at the premises. A false alarm shall include the incorrect, reckless, or careless use of any burglary and/or robbery alarm system, including operator error. (Ord. 2003-05 § 2, 2003)

8.08.030 False alarm – Unlawful.

No person shall intentionally, recklessly, or negligently activate or cause to be activated any burglary and/or robbery alarm for the purpose of summoning the police, except in the event of an actual or attempted burglary and/or robbery, or in other duress situations involving a foreseeable risk of bodily harm or property damage. (Ord. 2003-05 § 2, 2003)

8.08.040 False alarm – Registration.

It shall be unlawful to have or maintain on any premises a burglary, robbery, or panic alarm unless there is on file with the Bainbridge Island police department a current emergency response registration containing the name(s) and current telephone number(s) of person(s) authorized to enter such premises and turn off any such alarm at all hours of the day and night, and a registration fee has been paid in an amount set by resolution. (Ord. 2003-05 § 2, 2003)

8.08.050 Duty to maintain alarm systems.

Each person who owns, operates, uses, or maintains a robbery and/or burglary alarm system shall maintain the alarm system in satisfactory operating condition such that it will not generate false alarms. (Ord. 2003-05 § 2, 2003)

8.08.060 Violation – Civil infraction.

A violation of any provision of this chapter shall constitute a civil infraction punishable by a civil fine not to exceed \$250.00, which shall be enforced as provided in Chapter 1.26 BIMC. In addition to any fine imposed by the city for a violation of this chapter, the city may also charge a fee for costs incurred in responding to a false alarm, in accordance with BIMC 8.08.070. (Ord. 2003-05 § 2, 2003)

8.08.070 False alarms – Fees and corrective action.

For police response to any false alarm, the city shall charge the person owning or operating the premises upon which the robbery and/or burglary alarm system is maintained or used the following fees:

A. For a response to a false alarm at a premises at which no other false alarm has occurred within the preceding six months, hereinafter referred to as a “first response,” no response fee shall be charged to the owner or operator of the premises. Upon a first response, notice of conditions and requirements of this chapter shall be provided to the owner or operator of the premises on which the false alarm occurred.

B. For a second response to a false alarm at a premises within six months after the first response, a response fee in an amount to be established by resolution shall be charged to the owner or operator of the premises upon which the false alarm occurred. The chief of police may also require that the owner or operator take corrective action to prevent the occurrence of additional false alarms.

C. For a third response to a false alarm at a premises within six months after a second response, a response fee in an amount to be established by resolution shall be charged to the owner or operator of the premises upon which the false alarm occurred. The chief of police may also require that the owner or operator take corrective action as provided in subsection B of this section. If the third false alarm, or any succeeding false alarm, occurs as a result of failure to take necessary corrective action required by the chief of police, the chief of police may order the person having or maintaining the burglary and/or robbery alarm system to disconnect such alarm until the prescribed corrective action is taken and certification of such corrective action is provided to the police department; provided, that no disconnection shall be ordered for any premises required by law to have an alarm system in operation.

D. For a fourth response to a false alarm at a premises within six months after the third response, and for all succeeding responses within six months of the last response, a response fee in an amount to be established by resolution shall be charged. The chief of police may also require that the owner or operator take corrective action as provided in subsection B of this section, or order a disconnection of the alarm system as provided in subsection C of this section.

E. In addition to the requirements set forth in this section, the owner or operator of the premises at which more than one false alarm has occurred within a six-month period shall, within 10 working days after written notice to do so, make a written report to the chief of police on a form provided by the city, setting forth the cause of the false alarm, the corrective action taken, whether and when such

alarm has been inspected by authorized service personnel and such other information as the chief of police may reasonably require to determine the cause of the false alarm, any mitigating circumstances, and the corrective action necessary. (Ord. 2003-05 § 2, 2003)

8.08.080 Notice.

Written notice of the imposition of any administrative action taken pursuant to BIMC 8.08.070, including the imposition of a fee or order of disconnection, shall be provided to the owner or operator of the premises upon which the false alarm(s) occurred by personal delivery or by certified mail, return receipt requested. The notice shall include a statement of the violation, the fee imposed, any required corrective action, and/or terms of the disconnection order, if any. The notice shall further notify the owner or operator of the premises upon which the false alarm(s) occurred of the owner's or operator's right to appeal the administrative action, pursuant to BIMC 2.16.130.

For the purposes of this section, for business premises, the owner, manager or chief administrative agent regularly assigned or employed on the premises at the time of the false alarm shall be presumed to be the person having or maintaining the alarm on the business premises. (Ord. 2003-05 § 2, 2003)

8.08.090 Appeal from administrative decision.

Any owner or operator subject to an administrative action pursuant to BIMC 8.08.080 shall have a right to appeal the administrative action to the hearing examiner, pursuant to BIMC 2.16.130. (Ord. 2003-05 § 2, 2003)

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Bainbridge Island Municipal Code

Chapter 8.12

BURNING RESTRICTIONS

(Repealed by Ord. 2008-10)

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Chapter 8.16

LITTER CONTROL

Sections:

- 8.16.010 Title.
- 8.16.020 Definitions.
- 8.16.030 Litter in public places.
- 8.16.040 Placement of litter in receptacles to prevent scattering.
- 8.16.050 Sweeping litter into gutters prohibited.
- 8.16.060 Merchants' duty to keep sidewalks free of litter.
- 8.16.070 Litter thrown by persons in vehicles.
- 8.16.080 Truck loads causing litter.
- 8.16.090 Litter in parks.
- 8.16.100 Litter in lakes and fountains.
- 8.16.110 Throwing or distributing commercial handbills in public places.
- 8.16.120 Placing commercial and noncommercial handbills on vehicles.
- 8.16.130 Depositing commercial and noncommercial handbills on uninhabited or vacant premises.
- 8.16.140 Prohibiting distribution of handbills where properly posted.
- 8.16.150 Distributing commercial and noncommercial handbills at inhabited private premises.
- 8.16.160 Dropping litter from aircraft.
- 8.16.170 Posting notices prohibited.
- 8.16.180 Litter on occupied private property.
- 8.16.190 Owner to maintain premises free of litter.
- 8.16.200 Litter on vacant lots.
- 8.16.210 Litter on open private property – Notice to remove.
- 8.16.220 Litter on open private property – Action upon failure to remove.

- 8.16.230 Litter on open private property – Unpaid removal charges to become lien against premises – Recorded statement constitutes lien.

8.16.240 Violation – Penalty.

8.16.010 Title.

The ordinance codified in this chapter shall be known and may be cited as the "Bainbridge Island anti-litter ordinance." (Ord. 66-09 § 1, 1966)

8.16.020 Definitions.

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

A. "Aircraft" is any contrivance now known or hereafter invented, used or designated for navigation or for flight in the air. The word "aircraft" includes helicopters and lighter-than-air dirigibles and balloons.

B. "Authorized private receptacle" is a litter storage and collection receptacle.

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

D. "Commercial handbill" is any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature:

1. Which advertises for sale any merchandise, product, commodity, or thing; or
2. Which directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales; or

3. Which directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind, for which an admission fee is charged for the purpose of private gain or profit, but the terms of this clause shall not apply where an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition, or event of any kind, when either of the same is held, given or takes place in connection with

the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order; provided, that nothing contained in this subdivision shall be deemed to authorize the holding, giving or taking place of any meeting, theatrical performance, exhibition, or event of any kind, without a license, where such a license is or may be required by any law of this state or under any ordinance of this city;

4. Which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes, or for the private benefit and gain of any person so engaged as advertiser or distributor.

E. "Garbage" is putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

F. "Litter" is garbage, refuse, and rubbish, as defined in this section, and all other waste material which, if thrown or deposited as prohibited in this chapter, tends to create a danger to public health, safety and welfare.

G. "Newspaper" is any newspaper of general circulation as defined by general law, any newspaper duly entered with the Post Office Department of the United States, in accordance with federal statute or regulation, and any newspaper filed and recorded with any recording officer as provided by general law; and, in addition thereto, means and includes any periodical or current regularly published with not less than four issues per year, and sold to the public.

H. "Noncommercial handbill" is any printed or written matter, any sample, or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature not included in the aforesaid definitions of a commercial handbill or newspaper.

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

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

K. "Private premises" is any dwelling, house, building, or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and includes any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building, or other structure.

L. "Public place" is any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, squares, spaces, grounds, and buildings.

M. "Refuse" is all putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and solid market and industrial wastes.

N. "Rubbish" is nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

O. "Vehicle" is every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks. (Ord. 2003-24 § 20, 2003; Ord. 2003-22 § 10, 2003; Ord. 66-09 § 2, 1966)

8.16.030 Litter in public places.

No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the city except in public receptacles, in authorized private receptacles for collection, or in official city dumps. (Ord. 66-09 § 3, 1966)

8.16.040 Placement of litter in receptacles to prevent scattering.

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property. (Ord. 66-09 § 4, 1966)

8.16.050 Sweeping litter into gutters prohibited.

No person shall sweep into or deposit in any gutter, street, or other public place within the city the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter. (Ord. 66-09 § 5, 1966)

8.16.060 Merchants' duty to keep sidewalks free of litter.

No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or other public place within the city the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying places of business within the city shall keep the sidewalk in front of their business premises free of litter. (Ord. 66-09 § 6, 1966)

8.16.070 Litter thrown by persons in vehicles.

No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the city, or upon private property. (Ord. 66-09 § 7, 1966)

8.16.080 Truck loads causing litter.

No person shall drive or move any truck or other vehicle within the city unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposited upon any street, alley or other public place, nor shall any person drive or move any vehicle or truck within the city, the wheels or tires of which carry into or deposit in any street, alley or other public place, mud, dirt, sticky substances, litter or foreign matter of any kind. (Ord. 66-09 § 8, 1966)

8.16.090 Litter in parks.

No person shall throw or deposit litter in any park within the city except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place. Where

public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided in this chapter. (Ord. 66-09 § 9, 1966)

8.16.100 Litter in lakes and fountains.

No person shall throw or deposit litter in any fountain, pond, lake, stream, bay or any other body of water in a park or elsewhere within the city. (Ord. 66-09 § 10, 1966)

8.16.110 Throwing or distributing commercial handbills in public places.

No person shall throw or deposit any commercial or noncommercial handbill in or upon any sidewalk, street, or other public place within the city, nor shall any person hand out or distribute or sell any commercial handbill in any public place; provided, however, that it shall not be unlawful on any sidewalk, street, or other public place within the city for a person to hand out or distribute, without charge to the receiver thereof, any noncommercial handbill to any person willing to accept it. (Ord. 66-09 § 11, 1966)

8.16.120 Placing commercial and noncommercial handbills on vehicles.

No person shall throw or deposit any commercial or noncommercial handbill in or upon any vehicle; provided, however, that it shall not be unlawful in any public place for a person to hand out or distribute without charge to the receiver thereof, a noncommercial handbill to any occupant of a vehicle who is willing to accept it. (Ord. 66-09 § 12, 1966)

8.16.130 Depositing commercial and noncommercial handbills on uninhabited or vacant premises.

No person shall throw or deposit any commercial or noncommercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant. (Ord. 66-09 § 13, 1966)

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8.16.140 Prohibiting distribution of handbills where properly posted.

No person shall throw, deposit or distribute any commercial or noncommercial handbill upon any private premises, if requested by anyone thereon not to do so, or if there is placed on the premises in a conspicuous position near the entrance thereof, a sign bearing the words, "No Trespassing," "No Peddlers or Agents," "No Advertisement," or any similar notice, indicating in any matter that the occupants of the premises do not desire to be molested or have their right of privacy disturbed, or to have any such handbills left upon such premises. (Ord. 66-09 § 14, 1966)

8.16.150 Distributing commercial and noncommercial handbills at inhabited private premises.

A. No person shall throw, deposit or distribute any commercial or noncommercial handbill in or upon private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant, or other person then present in or upon such private premises; provided, however, that in case of inhabited private premises which are not posted, as provided in this chapter, such person, unless requested by anyone upon such premises not to do so, may place or deposit any such handbill in or upon such inhabited private premises, if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or sidewalks, streets, or other public places, and except that mailboxes may not be so used when so prohibited by federal postal law or regulations.

B. Exemption for Mail and Newspapers. The provisions of this section shall not apply to the distribution of mail by the United States,

nor to newspapers, as defined in Section 8.16.020, except that newspapers shall be placed on private property in such a manner as to prevent their being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property. (Ord. 66-09 § 15, 1966)

8.16.160 Dropping litter from aircraft.

No person in an aircraft shall throw out, drop or deposit within the city any litter, handbill or any other object. (Ord. 66-09 § 16, 1966)

8.16.170 Posting notices prohibited.

No person shall post or affix any notice, poster or other paper or device, calculated to attract the attention of the public, to any lamp-post, public utility pole, traffic device or sign, or shade tree, or upon any public structure or building, except as may be authorized or required by law. (Ord. 90-10 § 1, 1990: Ord. 66-09 § 17, 1966)

8.16.180 Litter on occupied private property.

No person shall throw or deposit litter on any occupied private property within the city, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon the street, sidewalk or other public place or upon any private property. (Ord. 66-09 § 18, 1966)

8.16.190 Owner to maintain premises free of litter.

The owner or person in control of any private property shall at all times maintain the premises free of litter; provided, however, that this section shall not prohibit the storage of litter in authorized private receptacles for collection. (Ord. 66-09 § 19, 1966)

8.16.200 Litter on vacant lots.

No person shall throw or deposit litter on any open or vacant private property within the

city whether owned by such person or not. (Ord. 66-09 § 20, 1966)

8.16.210 Litter on open private property – Notice to remove.

The city marshal is authorized and empowered to notify the owner of any open or vacant private property within the city or the agent of such owner to properly dispose of litter located on such owner's property which is dangerous to public health, safety or welfare. Such notice shall be by registered mail, addressed to the owner at his last known address. (Ord. 66-09 § 21(a), 1966)

8.16.220 Litter on open private property – Action upon failure to remove.

Upon the failure, neglect or refusal of any owner or agent so notified, to properly dispose of litter dangerous to the public health, safety or welfare within 10 days after receipt of written notice provided for in Section 8.16.210, or within 10 days after the date of such notice in the event the same is returned to the city post office department because of its inability to make delivery thereof; provided, the same was properly addressed to the last known address of such owner, or agent, the city marshal is authorized and empowered to pay for the disposing of such litter or to order its disposal by the city. (Ord. 66-09 § 21(b), 1966)

8.16.230 Litter on open private property – Unpaid removal charges to become lien against premises – Recorded statement constitutes lien.

Where the full amount due the city is not paid by such owner within 15 days after the disposal of such litter, as provided for in Sections 8.16.210 and 8.16.220, then, and in that case, the city shall cause to be recorded, in the office of the county auditor, a sworn statement showing the cost and expense incurred for the work, the date the work was done and the location of the property on which the work was done. The recordation of such sworn statement shall constitute a lien and privilege on the property, and shall remain in full force and effect for the amount due in principal and

interest, plus costs of court, if any, for collection, until final payment has been made. The costs and expenses shall be collected in the manner fixed by law. Sworn statements recorded in accordance with the provisions of this chapter shall be prima facie evidence that all legal formalities have been complied with and that the work has been done properly and satisfactorily, and shall be full notice to every person concerned that the amount of the statement, plus interest, constitutes a charge against the property designated or described in the statement and that the same is due and collectible as provided by law. (Ord. 66-09 § 21(c), 1966)

8.16.240 Violation - Penalty.

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not exceeding \$500.00, or be imprisoned in the county jail for a period not exceeding six months, or be both so fined and imprisoned. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such under this section. (Ord. 66-09 § 22, 1966)

Chapter 8.20

EMERGENCY PROCLAMATION

Sections:

- 8.20.010 Power of mayor to impose regulations.**
- 8.20.020 Proclamation effective upon issuance and dissemination to public.**
- 8.20.030 Termination of proclamation.**
- 8.20.040 Violation - Penalty.**

8.20.010 Power of mayor to impose regulations.

Whenever, in the judgment of the mayor or, in the event of his inability to act, the chairman of the council's public safety committee, determines that an emergency exists as a result of mob action or other disobedience causing danger of injury to or damages to persons or property, he shall have the power to impose by proclamation any or all of the following regulations necessary to preserve the peace and order of the city:

A. To impose a curfew upon all or a portion of the city thereby requiring all persons in such designated curfew areas to forthwith remove themselves from the public streets, alleys, parks or other public places; provided, however, that nurses and ambulance operators performing medical services, utility personnel maintaining public essential services, firemen and city authorized or requested law enforcement officers and personnel may be exempted from such curfew;

B. To order the closing of any business establishments anywhere within the city for the period of the emergency, such businesses to include, but not be limited to, those selling intoxicating liquors, cereal malt beverages, gasoline or firearms;

C. Designate any public street, thoroughfare or vehicle parking areas closed to most vehicles and pedestrian traffic;

D. To call upon regular and auxiliary law enforcement agencies and organizations within or without the city to assist in preserv-

ing and keeping the peace within the city.
(Ord. 68-22 § 1, 1968)

8.20.020 Proclamation effective upon issuance and dissemination to public.

The proclamation of emergency provided in this chapter shall be effective upon its issuance and dissemination to the public by appropriate news media. (Ord. 68-22 § 2, 1968)

8.20.030 Termination of proclamation.

Any emergency proclaimed in accordance with provisions of this chapter will terminate after 48 hours from the issuance thereof, or upon the issuance of a proclamation determining that an emergency no longer exists, whichever occurs first; provided, however, that such emergency may be extended for such additional periods of time as determined necessary by resolution of the governing body. (Ord. 68-22 § 3, 1968)

8.20.040 Violation – Penalty.

Any person who wilfully fails or refuses to comply with the orders of duly authorized law enforcement officers or personnel charged with the responsibility of enforcing the proclamation of emergency provided for in this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$500.00, or by imprisonment in jail for a period of not to exceed six months, or by both such fine and imprisonment. (Ord. 68-22 § 4, 1968)

Chapter 8.24

USE OF NONBIODEGRADABLE PACKAGING MATERIALS

Sections:

- 8.24.010 Definitions.**
- 8.24.020 Prohibition.**
- 8.24.030 Exemptions.**
- 8.24.040 Rules and regulations.**
- 8.24.050 Penalties.**

8.24.010 Definitions.

A. "Biodegradable materials" means those made of cellulose-based or other substances that are capable of being readily attacked, decomposed, assimilated, and otherwise completely oxidized or broken down by bacteria or other natural biological organisms into carbonaceous soil material or water and carbon dioxide within a reasonable period of time.

B. "Nonbiodegradable materials" means those made in whole or in part of polystyrene plastic.

C. "Packaging" means all food-related wrappings, boxes, containers and disposable or nonreusable plates, cups, or drinking utensils.

D. "Retail food establishment" means all sales outlets, stores, shops or other places of business located within the city, which sell or convey foods directly to the ultimate consumer. "Retail food establishment" shall include, but not be limited to, any place where food is prepared, mixed, cooked, baked, smoked, preserved, bottled, packaged, handled, stored, manufactured, and sold or offered for sale, including, but not limited to, any fixed or mobile restaurant; drive-in; coffee shop; cafeteria; short-order cafe; delicatessen; luncheonette; grill; sandwich shop; soda fountain; tavern; bar; cocktail lounge; nightclub; roadside stand; take out prepared food establishment; industrial feeding establishment; catering kitchen; commissary; grocery store; public food market; food stand; or similar place in which food or drink is prepared for sale or for service on the premises or elsewhere; and any other establishment or opera-

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tion, including homes, where food is processed, prepared, stored, served or provided for the public for charge. (Ord. 89-03 § 1, 1989)

8.24.020 Prohibition.

A. No retail food establishment licensed to do business or required to be licensed within the city shall sell or convey food directly to ultimate consumers within the city unless such food is placed, wrapped, or packed in biodegradable packaging at the conclusion of a sales transaction for the purchase of such food.

B. No retail food establishment licensed to do business or required to be licensed within the city shall sell, give, or provide food containers to any persons within the city if such food container is composed of nonbiodegradable materials. (Ord. 89-03 § 2, 1989)

8.24.030 Exemptions.

BIMC 8.24.020 shall not apply to the following items:

A. Any flexible transparent covering;

B. Any food packaging used at hospitals, nursing homes;

C. Any paper or other cellulose-based packaging that is coated with polyethylene plastic on only one side, or wax coated;

D. Any plastic covers, covering material, food containers, or lids that are biodegradable;

E. Any glass container or glass packaging which is recyclable;

F. Any plastic bags dispensed at the request of a customer at the check-out counter of a grocery store for the purpose of carrying groceries, provided that paper bags are customarily dispensed for that purpose;

G. Plastic eating utensils, such as forks, knives or spoons, straws, or beverage container covers; and

H. Any foods sold by a retail food establishment packaged by a wholesale distributor, manufacturer, processor, bakery or similar wholesaler whose premises is located outside the city; provided, not more than 10 percent of the total volume of food sold at the retail food establishment is packaged in nonbiodegradable packaging. (Ord. 89-03 § 3, 1989)

8.24.040 Rules and regulations.

The city manager charged with the enforcement of this chapter shall be authorized from time to time to adopt reasonable rules and regulations for its implementation, which shall be consistent with these provisions. (Ord. 2009-21 § 30, 2009; Ord. 89-03 § 4, 1989)

8.24.050 Penalties.

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not exceeding \$500.00, or be imprisoned in the county jail for a period not exceeding six months, or be both so fined and imprisoned. Each such violation committed or permitted to continue shall constitute a separate offense and shall be punishable as such under this section. (Ord. 89-03 § 6, 1989)

Chapter 8.28

FIREWORKS

Sections:

- 8.28.010 Definitions.**
- 8.28.020 Date and times when sale or discharge of consumer fireworks permitted.**
- 8.28.030 Acts prohibited without a permit.**
- 8.28.040 Application for public/private fireworks display.**
- 8.28.050 Standards for public/private fireworks displays.**
- 8.28.060 Special effects for entertainment media.**
- 8.28.070 Acts not prohibited – Signal purposes, forest protection, etc.**
- 8.28.080 Sales from temporary stands required.**
- 8.28.090 Standards for fireworks stands and transportation and temporary storage of fireworks.**
- 8.28.100 Prohibition due to extreme fire danger.**
- 8.28.110 Applicability.**
- 8.28.120 Chapter in connection with state law.**
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8.28.010 Definitions.

A. "Fireworks" means any composition or device designed to produce a visible or an audible effect by combustion, deflagration or detonation, and which meets the definition of "articles pyrotechnic" as set forth in RCW 70.77.138, or "consumer fireworks" or "display fireworks."

B. "Public display" means an entertainment feature where the public is invited, admitted and/or permitted to view the display or discharge of display fireworks.

C. "Private display" means an entertainment feature where the public is not invited,

admitted and/or permitted to view the display or discharge of display fireworks.

D. "Special effects," pursuant to RCW 70.77.146, means any combination of chemical elements or chemical compounds capable of burning independently of the oxygen in the atmosphere, and designed and intended to produce an audible, visual, mechanical or thermal effect as an integral part of a motion picture, radio, television, theatrical or opera production, or live entertainment.

E. "Display fireworks" means large fireworks designed primarily for display and classified as such by the U.S. Department of Transportation, as further set forth in RCW 70.77.131 and WAC 212-17-040.

F. "Extreme fire danger" means a period of hot, dry weather accompanied by low fuel moistures. It is during this period that wildland fires can be expected and fire growth will be accelerated.

G. "Fire marshal" means the fire marshal of the Bainbridge Island fire department or his/her designee.

H. "Consumer fireworks" means any fireworks designed primarily to produce visible or audible effects by combustion as defined by RCW 70.77.136, and includes the following:

1. Ground and handheld sparkling devices, dipped sticks, sparklers, cylindrical fountains, cone fountains, illuminating torches, wheels, ground spinners and flutter sparklers as those terms are defined by WAC 212-17-035;

2. Smoke devices as defined by WAC 212-17-035;

3. Helicopters, aerials, spinners, Roman candles, mines and shells, and mortars as those terms are defined by WAC 212-17-035;

4. Division 1.4G explosives classified on January 1, 1984, as consumer fireworks by the United States Department of Transportation, except that the term does not include firecrackers, salutes, chasers, skyrockets and missile-type rockets. (Ord. 2009-05 § 2, 2009)

8.28.020

8.28.020 Date and times when sale or discharge of consumer fireworks permitted.

A. Consumer fireworks may be sold by state-licensed and permitted vendors within the city between the hours of 12:00 noon and 11:00 p.m. July 1st through July 4th.

B. Consumer fireworks may be discharged within the city between the hours of 5:00 p.m. and 11:00 p.m. on July 4th. (Ord. 2009-05 § 2, 2009)

8.28.030 Acts prohibited without a permit.

No person shall do any of the following acts in the city without having first obtained and having in full force and effect a valid permit issued by the fire marshal to do so:

A. Manufacture, import, possess or sell any fireworks, including agricultural and wild-life fireworks, at wholesale or retail for any use; provided, however, no permit is required for the possession or use of consumer fireworks lawfully purchased at retail;

B. Discharge special fireworks at any place; or

C. Make a public or private display of fireworks other than consumer fireworks during legal discharge times. (Ord. 2009-05 § 2, 2009)

8.28.040 Application for public/private fireworks display.

Applications for a permit to hold, conduct or operate a public/private display of fireworks, other than consumer fireworks, shall be made to the fire marshal at least 10 days prior to the scheduled event. Applicants shall meet all qualifications and permit requirements of state law regarding public display of fireworks and all fire and safety requirements as set forth in the standards for public display per Chapter 70.77 RCW, the fire code adopted in Chapter 20.04 BIMC, and all applicable National Fire Protection Association standards. (Ord. 2009-05 § 2, 2009)

8.28.050 Standards for public/private fireworks displays.

All public/private fireworks displays shall conform to the following:

A. A permit issued by the fire marshal in accordance with BIMC 8.28.040 must be obtained.

B. Compliance with all conditions listed in the permit issued by the fire marshal. (Ord. 2009-05 § 2, 2009)

8.28.060 Special effects for entertainment media.

This chapter does not prohibit the assembling, compounding, use and display of special effects of whatever nature by any person engaged in the production of motion pictures, radio or television productions, theatricals or operas when such use and display is a necessary part of the production and such person possesses a valid permit issued by the fire marshal to purchase, possess, transport or use such fireworks, and meets the requirements of BIMC 8.28.040 and 8.28.050. (Ord. 2009-05 § 2, 2009)

8.28.070 Acts not prohibited – Signal purposes, forest protection, etc.

This chapter does not prohibit the use of flares or fuses in connection with the operation of motor vehicles, motor or sail vessels, or other transportation agencies for signal purposes or illumination or for use in forest protection activities or those uses described in RCW 70.77.311. (Ord. 2009-05 § 2, 2009)

8.28.080 Sales from temporary stands required.

All sales of consumer fireworks shall be from temporary stands, which shall not be erected prior to the eighteenth day of June of any year and which shall be removed not later than the tenth day of July of the same year. (Ord. 2009-05 § 2, 2009)

8.28.090 Standards for fireworks stands and transportation and temporary storage of fireworks.

Construction, location, maintenance, use and cleanup of fireworks stands and related transportation and temporary storage of fireworks shall be done in accordance with Chapter 70.77 RCW, Chapter 212-17 WAC Part V and all other applicable federal, state and local law. In addition, fireworks stands shall conform to the following conditions:

A. No fireworks stand shall be located within 100 feet of any other building or structure, nor within 500 feet of any gasoline station, oil storage tank, or premises where flammable liquids are kept or stored.

B. No fireworks stand shall be located within a radius of one-quarter mile from any other stand.

C. Fireworks stands shall be located only in those areas or zones within the city wherein commercial activities are authorized under the applicable zoning laws of the city. The sale of fireworks shall not be deemed an enlargement of an existing nonconforming use. No fireworks shall be sold in any residential area where a commercial enterprise does not exist.

D. Each fireworks stand shall have a provision for sufficient off-street parking, in the opinion of the fire marshal, to avoid impeding continuous flow of traffic at entrances and exits from the premises. (Ord. 2009-05 § 2, 2009)

8.28.100 Prohibition due to extreme fire danger.

During periods of extreme fire danger, the fire marshal may prohibit the discharge of all fireworks. (Ord. 2009-05 § 2, 2009)

8.28.110 Applicability.

The provisions of this chapter shall be applicable to the sales and use of all fireworks except toy paper caps containing not more than twenty-five-hundredths grain of explosive compound for each cap and trick or novelty devices not classified as common fireworks. (Ord. 2009-05 § 2, 2009)

8.28.120 Chapter in connection with state law.

This chapter is intended to augment Chapter 70.77 RCW, and shall be construed in connection with that law and any and all rules or regulations issued pursuant thereto. (Ord. 2009-05 § 2, 2009)

8.28.130 Enforcement.

Commissioned law enforcement officers of the Bainbridge Island police department are authorized to enforce all provisions of this chapter except those provisions where enforcement authority is explicitly provided to the fire marshal. (Ord. 2009-05 § 2, 2009)

8.28.140 Penalty for violations.

A. Except as provided in subsection B of this section, conduct made unlawful by this section shall be a civil infraction and is subject to a monetary penalty and a default amount of \$500.00 plus statutory assessments. A civil infraction under this section shall be processed in the manner set forth in Chapter 7.80 RCW.

B. Any person who continues to be in violation of this section after receiving a notice of infraction pursuant to subsection A of this section, or who again violates this section within 12 months after receiving a notice of infraction pursuant to subsection A of this section, commits a misdemeanor and any person who is convicted thereof shall be punished by a fine not to exceed \$1,000, or by imprisonment in jail for a term not exceeding 90 days, or by both such fine and imprisonment.

C. In addition to the penalties provided in subsections A and B of this section, the fire marshal and commissioned law enforcement officers of the Bainbridge Island police department may seize and dispose of fireworks that are possessed, sold, purchased, offered for sale, and/or used in violation of this chapter according to the seizure and forfeiture procedures contained in RCW 70.77.435 and 70.77.440. (Ord. 2009-05 § 2, 2009)

