

ORDINANCE NO. 2019-21

AN ORDINANCE of the City of Bainbridge Island, Washington, relating to the transfer, sale, possession, use, or discharge of fireworks; repealing and replacing Chapter 8.28 of the Bainbridge Island Municipal Code (BIMC).

WHEREAS, the City Council is concerned about public safety and desires to protect the public from injuries and fires resulting from fireworks; and

WHEREAS, the City Council is concerned about the impacts of fireworks on the environment and desires to minimize such impacts; and

WHEREAS, state law, Chapter 70.77 RCW and Chapter 212-17 WAC, generally regulates the transfer, sale, possession, use, and discharge of fireworks within Washington State; and

WHEREAS, under Chapter 70.77 RCW, the City Council is authorized to adopt local fireworks ordinances that are more restrictive than state law, provided that such an ordinance does not take effect until at least one year after its adoption; and

WHEREAS, the City Council now desires to prohibit the transfer, sale, possession, use, and discharge of consumer fireworks within the City of Bainbridge Island.

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

Section 1. Chapter 8.28 of the Bainbridge Island Municipal Code is hereby repealed and replaced as shown on **Exhibit A**, which is attached hereto and made a part hereof by this reference.

Section 2. In accordance with RCW 70.77.250(4), this ordinance shall take effect and be in force one year from the date of its passage and publication as required by law.

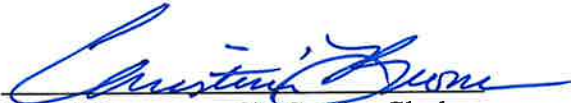
PASSED by the City Council this 8th day of October, 2019.

APPROVED by the Mayor this 8th day of October, 2019.



Kol Medina, Mayor

ATTEST/AUTHENTICATE:



Christine Brown, CMC, City Clerk

FILED WITH THE CITY CLERK:	September 20, 2019
PASSED BY THE CITY COUNCIL:	October 8, 2019
PUBLISHED:	October 11, 2019
EFFECTIVE DATE:	October 11, 2020
ORDINANCE NUMBER:	2019-21

Exhibit A: Chapter 8.28 BIMC

Exhibit A

Chapter 8.28 Fireworks

Sections:

8.28.010	Definitions.
8.28.020	Consumer fireworks .
8.28.040	Display fireworks
8.28.060	Special effects for entertainment media.
8.28.070	Acts not prohibited – Signal purposes, forest protection, etc.
8.28.100	Prohibition due to extreme fire danger.
8.28.110	Applicability.
8.28.120	Chapter in connection with state law.
8.28.130	Enforcement.
8.28.140	Penalty for violations.

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, 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, 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. “Trick or novelty devices” shall have the same meaning as provided in WAC 212-17-025.

F. “Display fireworks” shall have the same meaning as provided in RCW 70.77.131.

G. "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.

H. "Fire marshal" means the fire marshal of the Bainbridge Island Fire Department, or his or her designee.

I. "Consumer fireworks" shall have the same meaning as provided in RCW 70.77.136, and the term shall include the devices outlined as examples of consumer fireworks in WAC 212-17-025.

8.28.020 Consumer fireworks.

The transfer, sale, possession, use, or discharge of consumer fireworks is prohibited within the city.

8.28.040 Display fireworks.

A. Except as allowed under this section, the transfer, sale, possession, use, or discharge of display fireworks is prohibited within the city.

B. No person shall hold, conduct, or operate a public display or a private display of display fireworks in the city without having first obtained a valid permit issued by the fire marshal to do so.

C. Applications for a permit to hold, conduct, or operate a public display or a private display of display 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 displays under Chapter 70.77 RCW, the fire code adopted in Chapter 20.04 BIMC, and all applicable National Fire Protection Association standards. If the application is approved, the applicant shall comply with all conditions listed in the permit issued by the fire marshal.

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.

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.

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 within the city, regardless of whether or not such discharge would otherwise be allowed under this chapter.

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 that are not consumer or display fireworks.

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.

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.

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, or used in violation of this chapter according to the seizure and forfeiture procedures contained in RCW 70.77.435 and 70.77.440.