

Harbor Commission Recommendations To Bainbridge Island Administration and City Council

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1 Overview

The Harbor Commission is responding to widely expressed sentiments from Bainbridge citizens as well as specific requests from the City Administration, City Council, and Land Use Committee that, prior to the implementation of the approved Anchoring and Mooring Plan, management of our harbors must be brought into conformance with the operational tenets of that plan.

In this document we identify problems in our harbors and cite existing ordinances applicable to anchoring and mooring where the city can begin active enforcement to solve those problems. In addition, we are recommending some changes or adoption of new codes in order to resolve a few previously-overlooked problems and facilitate implementation of the Anchoring and Mooring Plan.

Recommendations focus primarily on boats, moorings, and the city dock at Waterfront Park. Recommendations apply to all the island’s harbors and vessels anchored or moored on public lands whether used as residences or not.

We have made these recommendations both in the interest of improving safety, navigation, and environmental conditions and to support future implementation of the Anchoring and Mooring Plan. No recommendations require payment of fees, formal vessel or liveaboard registration or further restrict liveboards vessels in Eagle Harbor. The following are recommendations to the Bainbridge Island City Administration, City Council, and Land Use Committee from the Harbor Commission.

2 Existing Codes

We have reviewed the existing Bainbridge Island Harbor Codes. The code includes a section on public nuisances that, if modified to include all waters of Bainbridge Island, could be applied uniformly.

2.1 Existing Harbor Codes

Recommend the following Harbor Code for Bainbridge Island section 12.24.040 (excluding item D) be revised to include all waters of Bainbridge Island.

BIHC 12.24.040 Nuisances designated – Removal required.

- A. “Sunken vessels or watercraft shall be public nuisances. The owner of any sunken vessel or watercraft shall raise and remove the sunken vessel or watercraft within a reasonable time after the sinking of the vessel or watercraft. The time in which an owners shall have to remove the sunken vessel or watercraft shall be determined by the city, based on the circumstances surrounding the removal, including, but not limited to, weather, the difficulty of removal and the degree of the public nuisance. Failure to raise and remove a sunken vessel or watercraft within the time required by the city shall be a civil infraction. If the owner fails to remove the vessel or watercraft, or if the owner cannot be ascertained, the city may remove the vessel or watercraft and dispose of the vessel or watercraft and its contents in accordance with Chapter 6.32 RCW.
- B. Refuse of all kinds, structures or pieces of any structure, dock sweepings, dead fish or parts thereof, timber, logs, piles, lumber, boxes, empty containers and oil of any kind, and all other substances or articles of a similar nature, floating uncontrolled on the water, shall be public nuisances. It shall be a misdemeanor for any person to throw or place in, or cause or permit to be thrown or placed, any of the above-mentioned articles in the waters within the city’s jurisdiction, or upon city shores or in such a position that the same may or can be washed into city waters or shores, either by high tides, storms, floods, or otherwise.
- C. Abandoned floats, buoys and all other structures used for the purpose of anchoring and mooring vessels or watercraft of any kind shall constitute public nuisances. For the purpose of this section a float or buoy is “abandoned” if it is not registered with the Department of Natural Resources and has not been used for more than 30 consecutive days. Any person causing or permitting such nuisances to be placed in the waters within the city’s jurisdiction shall be deemed to have committed a civil infraction and shall immediately remove such nuisances. If the person or persons causing or permitting such nuisances cannot be ascertained or located, the city may remove, or cause to be removed, the nuisances. The methods for disposing of the abandoned floats or buoys shall be governed by the provisions of Chapter 6.32 RCW.
- D. Except as permitted by BIMC 12.24.115, any vessel or watercraft that is left unattended in the park harbor, whether at the city boat dock, linear moorage, or otherwise, for a period exceeding 48 hours shall constitute a public nuisance and the owner of such vessel or watercraft shall be deemed to have committed a civil

infraction. The city may remove or cause to be removed these nuisances as provided in BIMC 12.24.050.”

3 Waterfront Park

The City Dock at Waterfront Park is a public amenity and needs to be managed to allow proper access for the general public. The dock has numerous watercraft permanently tied to it and parking is occupied on a continual basis. In addition, a serious safety problem is occurring with electric plugs misused to obtain shore power for moored vessels.

3.1 Recommended Changes to Waterfront Park

Recommend the moorage collection and dinghy dock enforcement become a Parking Enforcement Officer duty. The officer can add it to their rounds, checking the dock every 3 to 4 hours daily. Recommend also an on-duty Police Officer check it regularly each night.

Recommend the following code changes be implemented:

1. Dinghies not be permitted to remain tied to the dock between the hours of 12:00 a.m. and 5:00 a.m., unless registered for overnight moorage.
2. No vessel allowed to utilize the dock moorage for more than 96 hours in any thirty (30) day period, with not more than two (2) weekend and/or Holiday days in a thirty (30) day period.
3. Recommend signage at the dock that moorage does not include parking, water, or electricity.
4. No maintenance work to be performed on vessels moored at the city dock.

4 Anchored or Moored Vessels

Most vessels anchored in Bainbridge Island waters do not pose safety or environmental problems, but some do. We have identified the following conditions that are either unsafe or pose an environmental hazard:

- Unsecured items on deck pose a potential hazard to other boaters, marine life, and pollution should they fall overboard.
- Overboard discharge of sewage pollutes the bay.
- In high winds vessels rafted together can swing erratically and drag, creating a hazard for other boats and our shoreline.

4.1 Recommendations for All Anchored or Moored Vessels

Vessels on Bainbridge Island waters shall:

1. Comply with United States Coast Guard (USCG) safety and marine sanitation device (MSD) regulations and Kitsap County Health Department regulations.

2. All generator noise levels must comply with City of Bainbridge Island noise ordinance, BIMC 16.16.020. The City of Bainbridge Island shall make available to the Harbormaster a testing device to insure compliance.
3. Comply with Bainbridge Island Harbor Code 12.24.040 Nuisances designated – Removal required, section B.
4. Not store trash or other refuse, liquid containers, storage containers, boxes, household goods, defunct marine gear, or any other debris on decks or other exposed surfaces. Only items suitable for, and having to do with, the ongoing operation of the vessel may be stored on deck. Suitability shall be determined by the Harbormaster.
5. Have a maximum of two dinghies, defined as vessels not in excess of 12' each, tied alongside or astern. No rafting of vessels or floats allowed.
6. Display required USCG lighting requirements during nighttime hours.

4.2 Derelict and Abandoned Vessels

There has been an increase in the number of derelict and abandoned vessels. These vessels are public nuisances and safety hazards as they often pose hazards to navigation, detract from the aesthetics of our harbors and threaten the environment with the potential release of hazardous materials. The costs associated with the disposal of derelict and abandoned vessels are substantial, and in many cases there is no way to obtain compensation from the vessel owner. As a result, the cost associated with the removal of derelict vessels has become a burden on the city and tax-paying public.

The best means for dealing with derelict and abandoned vessels is prevention. Under Chapter 79.100 RCW and Department of Natural Resources (DNR) rules, vessels anchored or moored in the same location for longer than 30 days, or 90 days in a year, are considered abandoned.

Chapter 79.100 RCW (1)

“Abandoned vessel” means the vessel’s owner is not know or cannot be located, or if the vessel’s owner is known and located but is unwilling to take control of the vessel, and the vessel has been left, moored, or anchored in the same area without the express consent, or contrary to the rules, of the owner, manager, or lessee of the aquatic lands below or on which the vessel is located for either a period of more than thirty consecutive days or for more than a total of ninety days in any three hundred sixty-five day period. For the purposes of this subsection (1) only, ‘in the same area’ means within a radius of five miles of any location where the vessels was previously moored or anchored on aquatic lands.”

4.3 Recommendations for Prevention of Abandoned and Derelict Vessels

4.3.1 Vessels Anchored or Moored Short Term

Vessels not in a marina, on a private dock or properly permitted buoy and anchored or moored in island waters shall:

1. Limit stay durations to thirty (30) days in one location and ninety (90) days total in a three hundred sixty-five (365) day period, commencing with their first arrival date.
2. Move the vessel to another location at least five miles from their previous anchorage after thirty (30) days in one location.

4.3.2 Vessels Anchored or Moored Long Term

Vessels not in a marina or on a private dock or properly permitted buoy and anchored or moored in island waters in one location over thirty (30) days or anchored or moored in island waters over ninety (90) days in a three hundred sixty-five (365) day period, commencing with their first arrival date shall:

1. Participate in the City of Bainbridge Island approved Anchoring and Mooring Plan.
2. Provide proof of vessel insurance or a bond to provide cost recovery to the City in the event of sinking, abandonment, or the vessel becoming derelict and requiring processing and/or disposal.
3. Annually submit to and pass a Coast Guard vessel safety check and marine sanitation device (MSD) inspection.

4.3.3 Owners in Default

Any individual or entity with a vessel processed under the DNR's Derelict Vessel Removal Program (DVRP) shall be prohibited from anchoring or mooring a vessel in City of Bainbridge Island waters until such times as all costs incurred by the City of Bainbridge Island have been reimbursed from the individual or entity.

5 Moorings

Mooring buoys are regulated by the City of Bainbridge Island Shoreline Master Program, section VI, DNR, and other government agencies. Recommend a public awareness brochure/poster to be placed at marinas, yacht clubs, etc. to help educate the public as to the existing laws and requirements.

5.1 Existing Moorings within Anchor and Mooring Boundaries

To support the adopted Bainbridge Island Anchoring and Mooring Plan, we recommend existing unauthorized moorings located along the south shore of Eagle Harbor that are within the no mooring zone as established by boundaries described in the Bainbridge Island Anchoring and Mooring Plan, or located within the Waterfront Park boundaries, be subject to immediate condemnation and removal irrespective of them being currently used to moor vessels or not. Vessels currently moored in these areas should be given ninety (90) days from adoption of this rule to move their moorings.

5.2 Abandoned Moorings

Recommend that boundary of the Anchoring and Mooring Plan moorage area be delineated as soon as possible.

Recommend proactive implementation of existing Bainbridge Island Harbor Code 12.24.040 Nuisances designated – Removal required, section C.

Moorings tagged by the city as condemned but not yet removed may not be utilized by any vessels for any period of time as a mooring. Vessels tying to a condemned mooring are subject to immediate impoundment.

5.3 Floats

Floats, rafts, dock sections and other over-water structures, including floating houses without conventional marine hulls or approved encapsulated flotation are not allowed on moorings. Floats, rafts, dock sections, and other over-water structures are not permitted except as allowed by Chapter 16.12.340.G.10-13 of the current Bainbridge Island Harbor Code (recreational floats) and except as provided in the Shoreline Master Plan, section VI.

We recommend enforcement of this existing code.

BIHC Chapter 16.12.340.G.10-13

“10. Recreational floats shall be located as close to shore as possible. They shall be located no farther than the following limits:

- a. In Eagle Harbor, the construction limit line.
 - b. Elsewhere, the distance necessary to obtain a depth of four feet of water as measured at extreme low tide at the landward end of the float, or the line of navigation, whichever is closer to shore.
11. Recreational floats must be built so that the deck surface is one foot above the water's surface and shall have reflectors for night visibility.
12. Single property owner recreational floats shall not exceed eight feet by eight feet.
13. All recreational floats shall include stops which serve to keep the floats off the bottom of tidelands at low time.”

6 Enforcement

6.1 Harbor Codes Enforcement

Recommend the Bainbridge Island Harbormaster or another person in the employ of the city be given the responsibility of actively enforcing all existing or newly-established codes, ordinances, or statutes having to do with managing the island's waters. This individual shall receive all of the support required from the administration, the Police Department, and the lawmaking body in order to accomplish this task.

6.2 Enforcement of Vessel Codes

Vessels unable or owners unwilling to comply with rules governing city jurisdictional waters will be required to leave the jurisdiction within five (5) days of receiving notice of eviction. Vessels not complying with eviction shall be impounded.