

ORDINANCE NO. 2009-15

AN ORDINANCE of the City of Bainbridge Island, Washington relating to regulations for illicit discharge detection and elimination and amending City of Bainbridge Island Municipal Code 15.22.080 relating to enforcement of illicit discharge regulations.

WHEREAS, the City of Bainbridge Island (the "City") is regulated under the Washington State Department of Ecology's Western Washington Phase II Municipal Stormwater Permit (the "Permit"); and

WHEREAS, the City will be adopting code policies and procedures as needed to comply with the Permit; and

WHEREAS, the City Council adopted a new Chapter 15.22 to Title 15 of the City of Bainbridge Island Municipal Code on October 22, 2008;

WHEREAS, the City desires to amend the enforcement section of Chapter 15.22, now, therefore,

THE CITY COUNCIL OF THE CITY OF BAINBRIDGE ISLAND, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Section 15.22.080 of the Bainbridge Island Municipal Code is hereby amended to read as follows:

"15.22.080 Enforcement.

A. Failure to Comply.

It is unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter.

B. Emergency Access and Reparation.

In the event the violation constitutes an immediate danger to public health or safety, the administrator is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. Any expense related to such remediation undertaken by the city shall be fully reimbursed by the property owner and/or responsible party. Any relief obtained under this section shall not prevent the city from seeking further relief or applying other penalties as provided in this chapter.

C. Civil Infraction.

Except as provided in subsection D of this section, conduct made unlawful by this chapter shall constitute a civil infraction and is subject to enforcement and fines as provided in BIMC 1.26.035. A civil infraction under this section shall be processed in the manner set forth in BIMC Chapter 1.26.

D. Misdemeanor.

Any person who again violates this chapter within twelve (12) months after having been found by the Bainbridge Island Municipal Court to be in violation of this chapter, commits a misdemeanor and any person who is convicted thereof shall be punished as provided in BIMC 1.24.010.A.

E. Civil penalty.

In addition to any civil infraction fine, criminal penalty, and/ or other available sanction or remedial procedure, any person engaging in conduct made unlawful by this chapter shall be subject to a cumulative civil penalty in the amount of \$1,000 per day for each violation from the date set for compliance until the date of compliance. Any such civil penalty shall be collected in accordance with BIMC 1.26.090.

F. Additional Remedies.

1. In addition to any other remedy provided by this chapter or under the Bainbridge Island Municipal Code, the city may initiate injunction or abatement proceedings or any other appropriate action in courts against any person who violates or fails to comply with any provision of this chapter to prevent, enjoin, abate, and/or terminate violations of this chapter and/or to restore a condition which existed prior to the violation. In any such proceeding, the person violating and/or failing to comply with any provisions of this chapter shall be liable for the costs and reasonable attorneys' fees incurred by the city in bringing, maintaining and/or prosecuting such action.
2. The administrator may provide the option for compensation of all or part of any penalties incurred by any person(s) to be made in the form of community service approved by the administrator that will be of benefit to the environment and the city. The person(s) and administrator will enter into a formal, written agreement providing for the community service. This agreement shall include in detail description of the service(s) to be rendered by the person(s) in penalty for noncompliance of this chapter. The description shall include a completion date with a mutually agreed compensation structure to offset the above mentioned penalties.
3. Any person who violates any provision of this chapter may also be in violation of the Federal Clean Water Act, NPDES Phase II Permit, and/or

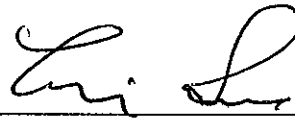
RCW 90.48 and may be subject to sanctions including civil and criminal penalties. Any enforcement action authorized under this chapter shall also include written notice to the violator of such potential liability.”

Section 2. Severability. If any one or more section, subsections, or sentences of this ordinance are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance and the same shall remain in full force and effect.

Section 3. Effective Date. This ordinance shall take effect on and be in force five (5) days from and after its passage, approval, and publication as required by law.


PASSED by the City Council this 12th day of August, 2009.

APPROVED by the Mayor this 18th day of August, 2009.



Christopher Snow, Mayor

ATTEST/AUTHENTICATE:



Rosalind D. Lassoff, City Clerk

FILED WITH THE CITY CLERK:	July 14, 2009
PASSED BY THE CITY COUNCIL:	August 12, 2009
PUBLISHED:	August 21, 2009
EFFECTIVE DATE:	August 26, 2009
ORDINANCE NUMBER:	2009-15

