

DRAFT

ORDINANCE NO. 2018-

AN ORDINANCE OF THE CITY OF BAINBRIDGE ISLAND, WASHINGTON, ESTABLISHING A NEW BAINBRIDGE ISLAND MUNICIPAL CODE CHAPTER 4.15 RELATING TO THE POWERS OF INITIATIVE AND REFERENDUM; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Council has chosen to extend the powers of initiative and referendum to the voters of the City of Bainbridge Island.

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

Section 1. New BIMC Chapter 4.15 Established. A new Bainbridge Island Municipal Code Chapter 4.15 ("Initiative and Referendum") is hereby established and adopted to read as follows:

**Chapter 4.15
INITIATIVE AND REFERENDUM**

Sections:

- 4.15.010 Purpose.
- 4.15.020 Ordinances not subject to initiative and referendum.
- 4.15.030 Initiative – Procedures.
- 4.15.040 Initiative – Sufficiency of the petition – Determination.
- 4.15.050 Initiative – City council action – Calling election.
- 4.15.060 Initiative – Ballot title – Ballot statement.
- 4.15.070 Initiative – Effective date – Recording.
- 4.15.080 Initiative – Appeal to court.
- 4.15.090 Initiative – Repeal or amendment.
- 4.15.100 Referendum – Procedures.
- 4.15.110 Referendum – Filing suspends ordinance – City council action.
- 4.15.120 Referendum – Effective date – Record.
- 4.15.130 Referendum – Other initiative provisions to apply.
- 4.15.140 Restriction or abandonment of powers.
- 4.15.150 Ordinances restricting or abandoning powers – Effective date.

4.15.010 Purpose.

The purpose of this chapter is to provide to the qualified electors of the City of Bainbridge Island the powers of initiative and referendum in accordance with Chapters 35.17 and 35A.11 RCW.

4.15.020 Ordinances not subject to initiative and referendum.

Ordinances of the City of Bainbridge Island which shall not be subject to the powers of initiative and referendum and which shall become effective five days following their passage and legal publication, or as otherwise provided by the general law or by applicable sections of RCW Title 35A, as now or hereafter amended, are as follows:

1. Ordinances initiated by petition;
2. Ordinances necessary for immediate preservation of public peace, health, and safety or for the support of city government and its existing public institutions which contain a statement of urgency and are passed by unanimous vote of the city council;
3. Ordinances providing for local improvement districts;
4. Ordinances appropriating money;
5. Ordinances providing for or approving collective bargaining matters;
6. Ordinances providing for the compensation of or working conditions of city employees;
7. Ordinances authorizing or repealing the levy of taxes;
8. Any other ordinance or subject matter exempted now or hereafter by state law from initiative and referendum processes; and
9. Ordinances enacted under authority delegated exclusively to the legislative body of the city by the state.

4.15.030 Initiative – Procedures.

Ordinances may be initiated by petition of electors of the city of Bainbridge Island only in accordance with the provisions of this chapter:

1. **Recommended Filing.** Persons or groups desiring to initiate an ordinance by petition are strongly encouraged to submit to the city clerk copies of the petition and proposed ordinance by initiative prior to seeking or obtaining signatures. Upon receipt of any such petitions or ordinances, the city clerk shall forward the same to the city attorney. Within 15 business days of receipt of the petition and proposed ordinance by initiative, the city attorney shall determine and report to the city council whether the proposed ordinance by petition is subject to the initiative process, and, if so, shall thereafter formulate an initiative statement, as described in subsection (2)(b) of this section, and shall transmit the initiative statement to the city clerk, city council, city manager, and the petitioner.
2. **Initiative Petition – Requirements – Form.** All initiative petitions submitted to the city clerk for validation shall contain the following:
 - a) **Title of the Proposed Ordinance.** The petition shall indicate the title of the proposed ordinance. The title shall be subject to change by the city as may be necessary to comply with state law or city code.
 - b) **Initiative Statement.** Every petition page shall contain an initiative statement, not exceeding 100 words, phrased in the form of a question that can be answered only with an affirmative or negative response. The initiative statement may be distinct from the petitioner's title of the measure, and shall express and give an impartial statement of the purpose of the measure.
3. **Petition Page(s).** An initiative petition may include any number of pages; provided, that each page shall contain the initiative statement defined in subsection (2)(b) of this section.

4. A copy of the proposed ordinance shall be attached to the petition and shall be made available to every person signing a petition.
5. Signature Lines. Every petition page shall contain consecutively numbered lines for signatures and shall include space for the printed name of the person signing, his or her address, and the date of signing. Signature lines shall be in substantially the following format:

	Petitioner's Signature	Petitioner's Printed Name	Address	Date
1.	_____	_____	_____	_____
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____

6. Warning. Every petition page shall contain the following warning directly above the signature lines:

WARNING

Any person who signs this petition with a name other than his/her true and legal name, or who knowingly signs more than one petition page, or who signs a petition when he/she is not a qualified elector of Bainbridge Island, or who signs a petition when he/she is otherwise not qualified to sign, or who otherwise makes herein any false statement, shall be guilty of a misdemeanor.

4.15.040 Initiative – Sufficiency of the petition – Determination.

1. Signatures. To be sufficient, an initiative petition submitted for validation to the city clerk must contain valid signatures of not less than 15 percent of the number of persons registered to vote at the last preceding general city election.
2. Determination of Sufficiency. Within 10 business days, or such additional time as may reasonably be necessary, from the filing of the

petition for validation, the city clerk or the city clerk's designee shall determine the sufficiency of the signatures and shall either accept the petition and issue a certificate of sufficiency, or reject the petition for insufficiency and issue a certificate of insufficiency. For purposes of this section, the city clerk or designee shall use the registration records and returns of the preceding general city election.

3. **Basis for Determination of Sufficiency.** The following bases shall apply to determinations of sufficiency:

- a) There shall be signatures of not less than 15 percent of the number of persons registered to vote in the last, preceding general city election;
- b) Variations in signatures between the petition and the voter's permanent registration caused by a substitution of initials instead of the voter's first or middle name, or both, shall not invalidate the signature if it is otherwise valid;
- c) Signatures, excluding the first time, of any person who has signed a petition two or more times shall be stricken; and
- d) Petitions shall also include the printed name of the person signing, his or her address, and the date signed.

4.15.050 Initiative – City council action – Calling election.

1. If the petition accompanying the proposed ordinance is determined to be sufficient by the city clerk, the city council shall, within 20 days after the city clerk's certification of sufficiency, pass the proposed ordinance without alteration, or reject the proposed ordinance.
2. The city council may, after rejection of any initiative measure, propose and pass an alternative ordinance dealing with the same subject; provided, that if the city council rejects any initiative measure, or fails to pass an initiative measure without alteration within 20 days of certification of sufficiency, or passes a different measure dealing with the same subject, then the initiative measure without alteration and the council's alternative measure, if any, shall be submitted to the qualified electors of the city for approval or rejection.
3. If the initiative and/or any alternative council measure are to be submitted to the voters, the city council shall call an election to be held pursuant to state law.

4.15.060 Initiative – Ballot title – Ballot statement.

1. When any initiative petition is determined to be sufficient by the city clerk and is to be submitted to the voters, the city clerk shall forward the initiative statement and summary to the city attorney.
2. The city attorney shall prepare, within 10 business days of receipt of the initiative statement and summary:
 - a) A ballot title to permit the voters readily to identify the proposition and distinguish it from other propositions on the ballot; and
 - b) A ballot statement, not to exceed 100 words, containing the essential features of the initiative as expressed in the initiative statement and summary. The ballot statement shall accompany the ballot title on the ballot.

4.15.070 Initiative – Effective date – Recording.

1. If a majority of the number of votes cast in an election on an initiative favor the initiative, it shall become effective and shall be made a part of the record of ordinances of the city.
2. In case the city council, after rejection of the initiative measure, has passed an alternative measure, the alternative measure shall be submitted at the same election with the initiative measure. If both the initiative and the council's alternative measure are approved by a majority vote, and if they are conflicting in any substantive manner, then the measure receiving the highest number of affirmative votes shall thereby be adopted, and the other shall be deemed rejected.

4.15.080 Initiative – Appeal to court.

If the city clerk finds the initiative petition insufficient or if the city council refuses either to pass an initiative ordinance or to order an election thereon, any aggrieved person may commence an action in the superior court against the city seeking to order an election to be held in the city for the purpose of voting upon the proposed ordinance. Any such action shall be filed with the court within 10 calendar days of such refusal by the city council or finding of insufficiency by the city clerk.

4.15.090 Initiative – Repeal or amendment.

1. Upon the adoption of an ordinance by initiative, the city clerk shall write on the margin of the record thereof “Ordinance by Petition No. _____” or “Ordinance by Vote of the People.”
2. The city council may, by ordinance, submit to a vote of the people at any general election a proposition for the repeal or amendment of an ordinance initiated by a petition. If a majority of the votes cast upon the proposition favor it, the ordinance by petition shall be repealed or amended accordingly. Propositions for repeal or amendment of an ordinance by petition shall meet the notice, publication and voting requirement of initiatives.
3. Upon the adoption of a proposition to repeal or amend an ordinance by petition, the city clerk shall write upon the margin of the record of the ordinance “Repealed (or Amended) by Ordinance No. _____” or “Repealed (or Amended) by Vote of the People.”

4.15.100 Referendum – Procedures.

1. A petition for referendum may be timely filed with the city clerk within 30 days from the adoption of an ordinance by the city council, petitioning the council to reconsider an ordinance which is subject to referendum, or to submit the same to a vote of the people for their approval.
2. Referendum Petition – Requirements – Form. All referendum petitions submitted to the city clerk for validation shall contain the following:
 - a) Referendum Statement. The petition for referendum shall contain a referendum statement that shall be phrased substantially in the following language:

Should City of Bainbridge Island Ordinance No.
_____ relating to _____, enacted by
the Bainbridge Island City Council on
_____, be repealed in its entirety?
Your signature on this petition indicates your vote in
favor of repeal of the attached ordinance in its
entirety.
 - b) A copy of the challenged ordinance in the form adopted by the city council shall be attached to each referendum petition for the information of the parties requested to sign such petition and shall be made available to every person signing a petition.
 - c) Petition Pages. A referendum petition may contain any number of pages; provided, that each page contains the referendum

statement described in subsection (1)(b) of this section.

- d) **Signature Lines.** Every petition page shall contain consecutively numbered lines for signatures, and shall include space for the printed name of the person signing, his or her address and the date of signing. Signature lines shall be in substantially the following format:

	Petitioner's Signature	Petitioner's Printed Name	Address	Date
1.	_____	_____	_____	_____
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____

- e) **Warning.** Every petition page shall contain the following warning directly above the signature lines:

WARNING

Any person who signs this petition with a name other than his/her true and legal name, or who knowingly signs more than one petition page, or who signs a petition when he/she is not a qualified elector of Bainbridge Island, or who signs a petition when he/she is otherwise not qualified to sign, or who otherwise makes herein any false statement, shall be guilty of a misdemeanor.

4.15.110 Referendum – Filing suspends ordinance – City council action.

Upon the timely filing of a referendum petition determined to be sufficient by the city clerk, the city council shall reconsider the challenged ordinance and upon reconsideration shall defeat it in its entirety or shall submit it to a vote of the people. The operation of an ordinance timely challenged by referendum shall be suspended from the time a referendum petition is submitted for validation until the referendum petition is finally found insufficient or until the ordinance challenged has received a majority of the votes cast thereon at the election held for the purposes of the referendum.

4.15.120 Referendum – Effective date – Record.

If a majority of the number of votes cast thereon oppose the ordinance subject to the referendum, such ordinance shall be deemed repealed immediately.

4.15.130 Referendum – Other initiative provisions to apply.

The following provisions of this chapter relating to initiatives shall also apply to every referendum:

1. Sufficiency of the petition (BIMC 4.15.040);
2. Ballot title and ballot statement (BIMC 4.15.060); and
3. Appeal to court (BIMC 4.15.080).

4.15.140 Restriction or abandonment of powers.

The exercise of the initiative and referendum powers governed by this chapter may be restricted or abandoned upon passage of a resolution by the city council declaring the council's intent to put a vote to the people calling for restriction or abandonment of the initiative and referendum powers, or by the filing of a petition meeting the sufficiency requirements of BIMC 4.15.040, and seeking the abandonment or restriction of the initiative and referendum powers. The council resolution or the petition shall be submitted to the voters at the next general municipal election if one is to be held within 180 days from the date of filing of the petition or passage of the resolution, or at a special election to be called for that purpose not less than 90 days nor more than 180 days after the passage of the resolution or the certification of sufficiency of the petition. The ballot title and ballot statement of the proposition shall be prepared by the city attorney as provided in BIMC 4.15.060.

4.15.150 Ordinances restricting or abandoning powers – Effective date.

If a majority of votes cast at the election favor restriction or abandonment, such powers of initiative or referendum shall be deemed so restricted or abandoned.

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section sentence, clause or phase of this ordinance.

Section 3. Effective Date. This ordinance is subject to referendum as provided by law and shall take effect and be in full force ninety (90) days after publication of the enabling Resolution which will be _____, 2018.

PASSED by the City Council this ____ day of _____, 2018.

APPROVED by the Mayor this ____ day of _____, 2018.

Kol Medina, Mayor

ATTEST / AUTHENTICATE:

Christine Brown, City Clerk

FILED WITH THE CITY CLERK: _____, 2018
PASSED BY THE CITY COUNCIL: _____, 2018
PUBLISHED: _____, 2018
EFFECTIVE DATE: _____, 2018
ORDINANCE NO: 2018-1