

City of Bainbridge Island
Planning & Community Development
Building Division
280 Madison Avenue N
Bainbridge Island, WA 98110
206-842-2552 fax 206-780-0955

**BUILDING DIVISION POLICY
PRIVATE ART AND SCULPTURE ON PRIVATE LAND**

PREPARED BY: James R. Weaver
Building Official

Effective Date: July 9, 2015

Question:

Should the City of Bainbridge Island Building Division require a Building Permit for Private Art and Sculpture located on Private Land?

Issue:

Bainbridge Island has been embraced as an Arts Community, and the municipality recognizes its role in the promotion and support of local activities, programs and projects in the arts and humanities while balancing the needs for public safety.

The City of Bainbridge Island adopted Comprehensive Plan includes a Cultural Element with multiple goals and policies supporting both private and public art, in the effort to support, protect and enhance the value of the arts and humanities as essential to education, quality of life, economic vitality, broadening of mind and spirit, and as treasure in trust for our descendants.

Sculpture and the visual arts are an investment in the cultural vitality and freedom of expression embodied and representative of an artist and of a community. Sculptures can become place-makers, landmarks, and foster culturally dynamic, economically vibrant communities. Sculpture can provide the artist and the community a way to make a lasting and visible contribution to the “sense of place” that is Bainbridge Island and improve the visual aesthetic and environments of our surrounding day-to-day experience.

The mission of the Bainbridge Island Building Division has been to ensure the public safety and welfare of the built environment and the inhabited structures on the island. Art and sculpture are by nature, temporary in existence and would not to be construed as habitable structures.

While significant public input and consensus surrounds the location of public art on public land, the Bainbridge Island Building Division records have been silent regarding any requirement of building permits for temporary installations of private art or sculpture on private land.

On Bainbridge Island, the individual installation of a private art and sculpture on one’s own land has not been subjected to the same rigors of community approval, regulation, and oversight that public art or art located on public land may demand. Upon review, most private art or sculpture would not fall into the habitable structure category. Additionally, the City of Bainbridge Island has not specifically adopted a “sculpture code” or “private art code” that outlines additional requirements for installation of temporary art or sculpture on private property.

Based upon the above information, a Bainbridge Island Building Division policy, providing an interpretation related to this issue was deemed to be of assistance in providing clarification. Applicable code sections are provided below.



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APPLICABLE CODE SECTION(S):

BAINBRIDGE ISLAND MUNICIPAL CODE (BIMC) SECTION 15.04 BUILDING CODE BIMC Section 15.04.020 Codes adopted by reference.

The following codes are adopted by reference subject to the amendments set forth in BIMC 15.04.021 through 15.04.050 and Resolution 99-31:

- A. The International Building Code, 2012 Edition, published by the International Code Council, and amended by the State Building Code Council in Chapter 51-50 WAC, together with ICC A117.1-2009, Appendix C (Agricultural Buildings), Appendix E (Supplementary Accessibility Requirements), Appendix J (Grading), and the 2012 International Existing Building Code;*
- B. The International Residential Code, 2012 Edition, published by the International Code Council, and amended by the State Building Code Council in Chapter 51-51 WAC, together with Appendix F (Radon Control Measures) and Appendix G (Swimming Pools, Spas and Hot Tubs);*

2012 International Building Code Section 101: General

Section 101.2 Scope. *The provisions of this code shall apply to the construction, alteration, relocation, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures.*

Section R101.3 Intent. *The purpose of this code is to establish the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment and to provide safety to fire fighters and emergency responders during emergency operations.*

2012 International Building Code Section 104: Duties and Powers of the Building Official

Section 104.1 General. *The building official is hereby authorized and directed to enforce the provisions of this code. The building official shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.*

2012 International Residential Code Section R101: General

Section R101.2 Scope. *The provisions of the International Residential Code for One- and Two-family Dwellings shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal and demolition of detached one- and two-family dwellings and townhouses not more than three stories above grade plane in height with a separate means of egress and their accessory structures.*

Section R101.3 Intent. *The purpose of this code is to establish minimum requirements to safeguard the public safety, health and general welfare through affordability, structural strength, means of egress facilities, stability, sanitation, light and ventilation, energy conservation and safety to life and property from fire and other hazards attributed to the built environment and to provide safety to fire fighters and emergency responders during emergency operations.*

2012 International Residential Code Section R104: Duties and Powers of the Building Official

Section R104.1 General. *The building official is hereby authorized and directed to enforce the provisions of this code. The building official shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in conformance with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.*



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Additional Information:


This policy was created in the effort to ensure that the goals and vision of the Bainbridge Island Comprehensive Plan were applied in guiding the decision making process within the community. The value brought to a community toward the visual arts, towards acceptance of a diversity of opinions & viewpoints, and in support of the freedoms of individual expression have been embraced by Bainbridge Island in the application of this policy. The Bainbridge Island Comprehensive Plan goals influence the Building Division efforts to support, protect and enhance the value of the arts and humanities as essential to education, quality of life, economic vitality, broadening of mind and spirit, and as treasure in trust for our descendants.

The Bainbridge Island Building Division endeavors to accomplish its mission of protecting the public health and safety of the built environment, while simultaneously balancing the private rights of the individual land owner, being respectful of the creative process of the artist, and acknowledging the protected rights under the Visual Arts Rights Act (VARA). The intent and application of this policy exists toward that effort.

Determination:

The temporary installation of art or sculpture on private property within City of Bainbridge Island would not require a building permit as an accessory structure provided the following conditions are met:

1. The temporary art or sculpture installation does not exceed the height limits of the property zoning.
2. The temporary art or sculpture installation does not impede emergency access or egress from the property or structures located on the property.
3. The temporary art or sculpture installation does not contain 120 square feet or more of occupiable space.
4. The temporary art or sculpture installation has not been determined to contain hazardous materials or been determined to propose a danger to the public or to the environment.
5. The temporary art or sculpture installation does not include permanent connection to sewer, water, electrical, gas, or similar utilities as a real property "fixture".
6. The temporary art or sculpture is located entirely upon private land and may only be physically accessed by an individual through property owner invitation or trespass.
7. Property owner assumes all liability and insurance provisions for private temporary art or sculpture installation on parcel.
8. Upon review and determination by the Building Official or by the Bainbridge Island Fire Department Fire Marshall that a risk to the public health and safety may exist, a given temporary art or sculpture installation may be required to obtain a Bainbridge Island Building permit.
9. Upon review and determination by the Building Official or by the Bainbridge Island Fire Department Fire Marshall that a risk to the public health and safety may exist, a given temporary art or sculpture installation may be required to be removed.
10. The temporary art or sculpture exemption from a Bainbridge Island Building permit would not preclude compliance with shoreline, zoning, critical areas, or other land use permits or requirements.
11. Upon review and determination, at any point this policy may be rescinded, revised, or replaced by the Bainbridge Island Building Official.


James R. Weaver
City Building Official