

ORDINANCE 2004-11

AN ORDINANCE of the City of Bainbridge Island, Washington, amending the City of Bainbridge Island Municipal Code 18.06, and 18.99, to allow for the year around retail sales of island grown crops, value added products and agricultural tourism as an accessory use in zoning districts where agriculture is a permitted and preferred use.

WHEREAS, the City Comprehensive Plan Land Use Element Goals 1 and 3 Policies AG 3.5 and AG 3.8 and Economic Element Policies E 1.3 and E 1.4 state a desire to conserve and protect island agricultural land and to retain and enhance farming as part of a diverse local economy; and

WHEREAS, the City adopted the Municipal Code on September 1, 1994, (and subsequently amended), that established the procedures for the seasonal retail sales of agricultural products during harvest; and

WHEREAS, island farmers did identify year-around retail sales as an important tool to preserve island agricultural; and inform the City Council; and

WHEREAS, the City Council wishes to amend the seasonal restriction on agricultural retail sales and establish a process to allow for year-around agricultural retail sales; and

WHEREAS, the Notice of Intent to Adopt was sent to the Washington State Office of Community Development on May 23, 2004; Now, therefore

**Section 1** 18.99 is hereby amended as follows:

**18.99.030 Accessory uses to agriculture.**

The following are accessory uses to agriculture:

A. Processing agricultural products produced on the Island. Certain zones may permit agriculture but only allow processing as a conditional use.

B. Storage of heavy equipment used for agricultural purposes.

C. A produce stand and consequent seasonal agricultural retail sales ~~for the sale~~ of products grown or livestock raised primarily on the island, is allowed ~~during harvest time.~~

D. Retail sales, in R-0.4, R-1 and R-2 zoning districts, of crops grown, or livestock raised primarily on the island, or value added products made from those crops or livestock or agricultural-tourism associated with the growing of crops or raising of livestock, or incidental associated agricultural products, that meets the criteria found in 18.99.040, are allowed year-round.

**Section 2.** 18.06 Definitions is hereby amended to add the following:

18.06.065 *Agricultural Retail* The sale of crops grown or livestock raised by a farmer or value added products made from crops grown or livestock raised by the farmer, agricultural-tourism, and incidental associated agricultural products sold on-site where agricultural crops or livestock are grown or raised that is subordinate to the actual agriculture on site.

18.06.871 *Agricultural Retail Plan*, A document, filed with the City, which contains information on agricultural activity occurring at a specific location. Different from, but may be supplemented by, Trust for Working Landscapes or Kitsap County Conservation District Farm Plans.

18.06.072 *Agricultural-tourism* Agriculturally related accessory uses, that are subordinate to the growing of crops or the raising of livestock, designed to bring the public to the farm on a temporary or continuous basis, such as U-pick farm sales, retail sales of farm products, farm mazes, pumpkin patches, farm animal viewing and petting, wagon rides, farmland and facility tours, horticulture nurseries and associated display gardens, cider pressing, classes or workshops, wine or cheese tasting, ect.

18.06.567 *Associated Products and/or Activity* A required agricultural input, product or activity related to the primary crop, product or activity.

18.06.259 *Defining Ingredient* The part or component that describes the distinguishing characteristic of a product.

18.06.830 *Preferred Use* Favored choice, promoted or advanced in some way. An activity identified as a priority among the possible uses.

18.06.833 *Primarily Island Grown* For the purposes of on-site, year-around agricultural retail the term shall mean that the majority (75%, based on the value) of the crops and value added products being sold are grown on the island.

18.06.839 *Public Benefit, Agricultural* An economic, social, nutritional, environmental or aesthetic effects gained by individuals and/or the community from the existence of agricultural activity in the community.

18.06.850 *Seasonal Agricultural Sales* Agricultural retail sales of farm products occurring during a time in a calendar year when the crop being sold is actually being harvested lasting 12 weeks or less.

18.06.853 *Special Event* Activities that are desireable but unrelated to agriculture, such as weddings, that are held on farmland.

18.06.855 *Subordinate Retail Activity* Secondary, to be less than, to utilize a smaller portion of land and/or less time than is devoted to the agricultural activity on site.

18.06.630 Year–Around Agricultural Retail Sales *Any agricultural retail sales extending beyond seasonal agricultural sales.*

18.06.660 Value Added Products *Goods produced from harvested crops with the defining or distinguishing ingredient being grown by the producer.*

**Section 3.** 18.99 is amended to add the following:

**18.99.040 Agricultural accessory use with review**

18.99.040.1 Purpose

To provide for the economic viability of Bainbridge Island farmers by allowing certain year-round on-site retail activities as an accessory or administrative conditional use in zoning districts where agriculture is an allowed and preferred use.

18.99.040.2 Procedure

A. Agricultural retail complying with the criteria established in BIMC 18.99.040.3 shall be considered minor and permitted in zones R-0.4, R-1 and R-2, in which agriculture is a permitted and preferred use. An administrative review by the planning department will be conducted within 30 days of the city’s receipt of an Agricultural Retail Plan application to determine compliance with this chapter.

B. Agricultural Retail Plans that meet the established criteria shall be kept on file at the City and the applicant shall be notified about review of the Plan, and the criteria required by this chapter for the agricultural retail activity.

C. The Agricultural Retail Plan shall be updated by the applicant as necessary to reflect current and accurate retail operation conditions.

D. Agricultural retail activity complying with the criteria established in BIMC 18.99.040.4, thresholds for major agricultural retail operations, shall follow an administrative conditional use permit process as outlined in Chapter BIMC 18.108

**18.99.040.3 Criteria for minor agricultural retail sales.**

A. Agricultural retail in zones R-0.4, R-1 and R-2, shall meet all of the following criteria:

1. The retail activity shall be on site(s) where crops are grown or livestock is raised, and joint use of farmstands by multiple producers is allowed, including use of retail sites for pick-up of Community Supported Agricultural (CSA) deliveries.
2. The retail activity shall be subordinate to the agricultural activity on site.
3. Products sold shall be primarily island grown crops, value added products if the defining ingredient was island grown, and associated products that are incidental to the agricultural activity on the site.
4. Parking shall be provided on site that does not adversely impact sensitive areas or water quality and accommodates the anticipated traffic volumes.
5. Noise thresholds as established in Chapter 16.16 shall not be violated.
6. Lighting shall meet the City’s standards as established in Chapter 15.34.

7. Shall be allowed up to 4 special events per year.
8. No more than ~~36~~ 24 (round trip) retail related automobile trips per day (on average, annually) shall be generated except that:
  - a. An agricultural retail operation activity within a R-0.4, R-1 or R-2 zoning district, that is located on a road classified as a secondary arterial or above, and has the capacity on-site to accommodate the required parking may generate an unlimited number of automobile trips per day for agricultural retail activities.
9. Agricultural-tourism activities are allowed as defined in 18.06.
10. All applicable local, county, state and/or federal requirements must be met.

**18.99.040.4 Major agricultural retail.**

A. Major agricultural retail shall be determined as follows:

1. Agricultural retail in zones R-0.4, R-1 and R-2 with volumes that are located on a roadway classified as a collector or lower, that are expected to exceed the allowed thresholds of 36 (round-trip) trips per day average; or

2. Agricultural retail in zones R-0.4, R-1 and R-2 offering more than 4 special events on site per year.

B. All agricultural retail activity that exceeds the thresholds set in 18.99.040.4 shall be considered major agricultural retail operation and shall be processed according to BIMC 18.108.020.C, an Administrative Conditional Use process.

18.95.040.5 Fees.

Fees shall be established by resolution as 2.16.060 except that property with an existing conservation easement or a property that is currently enrolled in the Kitsap County current use assessment program or property that has had the development rights removed shall be exempt from fees for the agricultural retail sales review.

18.99.040.6 Time limitation.

A. Agricultural retail operations shall continue as long as the use continues to comply with the criteria that were in effect at the time of original approval and as long as the business complies with the conditions established in the Agricultural Retail Plan for the site and with any other applicable city, county, state or federal regulations.

1. Any on-site agricultural retail activity that ceases operation for more than one year (four consecutive seasons) shall be required to reapply.

2. Agricultural Retail Plans, for ongoing operations, may be updated at any time, without a review fee, to reflect changes in agricultural retail operations, as long as the proposed changes continue to meet the criteria established in 18.99.040.

18.99.040.7 Enforcement.

A. Upon notification that a violation of the required criteria may have occurred, the director shall notify the property owner of the alleged violation and a code enforcement investigation shall be conducted.

B. If it is determined that there was a violation of the criteria found in 19.99.040 the Code Enforcement Officer shall notify the owner of the property by certified mail of the findings and required actions for compliance.

**Section 4.** 18.30.030 (R-2) Conditional Uses is amended to add the following:

18.30.030.A Agricultural processing and agricultural retail as established in BIMC 18.99.040.4.

**Section 5.** 18.33.030 (R-1) Conditional Uses is amended to add the following:

18.33.030.N Agricultural retail as established in BIMC 18.99.040.4.

**Section 6.** 18.36.030 (R-0.4) Conditional Uses is amended to add the following:

18.36.030.N Agricultural retail as established in BIMC 18.99.040.4.

**Section 7.** This ordinance shall be effective five days after passage, approval and publication as required by law.

PASSED by the City Council this 23<sup>rd</sup> day of June, 2004.

APPROVED by the Mayor this 24<sup>th</sup> day of June, 2004.

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Darlene Kordonowy, Mayor

ATTEST/AUTHENTICATE:

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Susan P. Kasper, City Clerk

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| FILED WITH THE CITY CLERK:  | May 18, 2004  |
| PASSED BY THE CITY COUNCIL: | June 23, 2004 |
| PUBLISHED:                  | June 30, 2004 |
| EFFECTIVE DATE:             | July          |
| ORDINANCE NUMBER:           | 2004-11       |