

ORDINANCE NO. 2018-13

AN ORDINANCE of the City of Bainbridge Island, Washington, amending Chapter 18.09, and Sections 18.06.060, 18.15.020, and 18.36.030 of the Bainbridge Island Municipal Code.

WHEREAS, the City adopted its most recent Comprehensive Plan Update in 2017; and

WHEREAS, the Comprehensive Plan and subsequent zoning regulations allow a mixed use of businesses and industrial uses in the Business/Industrial District; and

WHEREAS, the purpose of the Business/Industrial District is to facilitate development of a diverse economy on the island with business retention, growth, and innovation, and to provide opportunities for knowledge-based business and expansion of island businesses, diversity of jobs, and low-impact industrial activity that is compatible with adjoining residential neighborhoods; and

WHEREAS, during the recent Comprehensive Plan update process, the City Council and the Planning Commission expressed concerns about the types of non-industrial, non-light manufacturing development that has occurred in the Business/Industrial Zoning District, leading to the City Council's enactment of a six-month partial development moratorium (Ordinances 2016-31 and 2016-35) at the end of 2016; and

WHEREAS, the City Council allowed the moratorium to expire after six months, directing staff to work with the business community to revise the Business/Industrial zoning regulations; and

WHEREAS, after the development moratorium related to the Business/Industrial Zoning District, the City held a series of community meetings (March 14, May 17, and September 20, 2017) with the business community in the Business/Industrial Zoning District to hear from them about the mix of business types that should be allowed in the zone; and

WHEREAS, on March 8, 2018, the Planning Commission discussed proposed Ordinance No. 2018-13 and held a public hearing on the proposed ordinance on April 12, 2018, and after closing the public hearing, recommended "live/work units" be defined and added as a permitted use in the B/I zone, and that related standards be developed by the Department of Planning and Community Development, and the Planning Commission forwarded the proposed ordinance to the City Council for review and further consideration and recommended approval of the ordinance; and

WHEREAS, the Planning Commission continued discussing Ordinance No. 2018-13 on April 19, 2018, and recommended to the City Council amendments to regulations related to "Healthcare facilities" and "Professional services"; and

WHEREAS, notice was given on May 16, 2018, to the Office of Community Development at the Washington State Department of Commerce in conformance with RCW

36.70A.106; and

WHEREAS, the City Council discussed and considered Ordinance No. 2018-13 on May 22, 2018.

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

Section 1. Section 18.06.060 of the Bainbridge Island Municipal Code is hereby amended as follows.

18.06.060 Business/Industrial.

A. Purpose. The purpose of the business/industrial district is to facilitate development of a diverse economy on the island with business retention, growth, and innovation. The district is intended to provide opportunities for knowledge-based businesses and expansion of Island businesses, for diversity of jobs, and for low-impact industrial activity that is compatible with adjoining residential neighborhoods. The B/I district was formerly called the light manufacturing (LM) district and is intended to implement comprehensive plan provisions related to light manufacturing uses. The B/I district encourages proper site planning and design of developments in order to minimize traffic congestion, visual impacts, environmental impacts, and other impacts and use conflicts within and beyond the district's boundaries as enabled through development and performance standards.

B. Performance Standards. All uses allowed in the B/I district shall conform to the performance standards listed in BIMC 18.06.050.B.

~~C. Natural Resource Protection Standards. The following provisions are intended to supplement those natural resource protection standards and requirements contained in BIMC Titles 16 (Environment) and 17 (Subdivisions), and specifically to supplement those provisions in Chapters 16.12 (Shoreline Master Program) and 16.20 BIMC (Critical Areas), which remain the primary source of regulation in those areas. In the event of a conflict between the provisions of this section and the provisions of BIMC Title 15 (Buildings and Construction) or Chapter 16.12 or 16.20 BIMC, the provisions of BIMC Title 15 or 16 shall apply.~~

~~1. Drainage. Surface and stormwater shall be managed in accordance with Chapter 15.20 BIMC.~~

~~a. Open Space Conservation Easement. A conservation easement approved by the director shall be placed on the designated open space and shall be recorded with the Kitsap County auditor along with the open space management plan (OSMP) as required in subsection C.1.e of this section. Fence standards contained in BIMC 17.12.030.A.8 shall apply when applicable.~~

~~b. Uses Allowed within Designated Open Space. Within open space areas, uses must conform with the provisions of Chapter 16.20 BIMC.~~

~~c. Open Space Management Plan. An open space management plan (OSMP) shall be prepared by the applicant for review and approval by the city at the time of the application submittal. The OSMP shall include provisions that allow the periodic inspection of the open~~

space by the city. The OSMP shall be recorded with the Kitsap County auditor. The OSMP shall include the following:

- i. A list of all approved uses for the open space areas. If a property has a variety of critical areas, the specific locations of each set of permitted uses shall be depicted graphically.
- ii. A management plan that clearly describes the frequency and scope of maintenance activities.
- iii. Identification of the entity responsible for the maintenance of the open space areas.

2. Maintenance of Open Space Areas. Open space areas shall be maintained permanently by the property owner, the property owners' association, or the public agency for publicly owned properties. In the event that open space is not maintained consistent with the open space management plan, the city shall have the right to provide the maintenance of the open space, and bill the owner for all costs incurred by the city for the maintenance. Such bill shall become delinquent 20 days after the date of mailing, and the amount due interest shall accrue on and after the date of delinquency at 12 percent per annum or the rate authorized by state statute, whichever is lower. Upon delinquency of 60 days, a lien shall be placed on the property.

Section 2. Section 18.09.005 of the Bainbridge Island Municipal Code is hereby amended as follows.

18.09.005 Permitted and conditional uses.

Permitted and conditional uses allowed in each zone district are shown in the use table. It is recognized that new uses will evolve over time. The Director has the authority to evaluate an application and compare a proposed unlisted use against the permitted and conditional uses listed in Table 18.09.020. When a proposed use is not specifically listed in this chapter, the use may be allowed if the Director determines that it is similar to other uses listed and compatible with other uses in the vicinity where it will be located. The Director will issue a Notice of Decision about whether an unlisted use is allowed or not allowed, pursuant to the procedures outlined in BIMC Sections 2.16.020.K.7 and 2.16.030.F. The Notice of Decision will be combined with issuing other required land use permits, building permits, or business licenses, as applicable.

Section 3. Table 18.09.020 *Use Table* of the Bainbridge Island Municipal Code is hereby amended as shown in Exhibit A.

Section 4. Section 18.09.030.A of the Bainbridge Island Municipal Code is hereby amended as follows.

4. Agricultural Processing. In the B/I district, agricultural processing is a permitted ("P") use, unless the business will be primarily out-of-doors. If primarily out-of-doors, then agricultural processing is a conditional ("C") use in the B/I district.

Section 5. Section 18.09.030.B of the Bainbridge Island Municipal Code is hereby amended as follows.

3. Commercial/Residential Mixed Use Development. Principal and accessory uses shall comply with the applicable development standards and performance standards of the ~~B/I and~~ NC districts as well as the other standards listed here.

~~a. In the B/I district, a single residential unit for security and/or insurability of the premises is permitted. No other residential uses are allowed; and~~

b. In the NC district, residential units must be located above the ground floor if the building is located on a collector or secondary arterial or higher road classification; however, for mixed use projects, if the building fronts on a local or private street, residential units can be located on the ground floor. Density for mixed use projects in the NC district shall be calculated pursuant to BIMC 18.12.030.D.

4. Live/Work Units: Live/work units are allowed in the B/I zoning district, and are a building use that combines business activities within the same structure as a residential living space. In addition, such units can provide affordable work and housing space, meet the needs of special groups such as artists, and serve to incubate new businesses.

a. A live/work unit is limited to three thousand square feet in gross floor area. The residential portion is limited to forty percent of the live/work unit's area, not including any internal stairs.

b. The nonresidential use portion must be located on the first floor of the unit or, if parking is the first floor, the unit's main floor area.

c. Living space shall be physically integrated into the live/work unit and not be rented, leased, sold, or occupied separately.

e. Access to outdoor open space shall be provided for the live/work units, such as a balcony or patio. The open space may be exclusive to the unit or shared with adjacent live/work units or businesses.

f. The live/work unit shall be occupied and used only by the owner of the business or manufacturing activity, or the owner's employee, and that person's household.

g. The business may employ up to three persons who do not reside in the live/work unit. Additional parking spaces may be required to be developed, assigned, or designated to accommodate such employees, pursuant to BIMC Table 18.15.020-1.

h. On-premises sales of goods shall be limited to those produced within the live/work unit or related to the permitted business activity, and comply with the standards outlined in BIMC Section 18.09.030.D.

i. A valid business license associated with the business or manufacturing activity must be obtained from the city.

j. Other restrictions may apply subject to the requirements of the adopted International Building Code.

k. A site plan and design review permit may be required pursuant to BIMC 2.16.040.B prior to any other city approval of business licenses or other required permits.

l. The live/work unit and its related business operations shall conform to the performance standards listed in BIMC 18.06.050.B.

m. The live/work unit shall meet the requirements of the Kitsap Public Health District.

Section 6. Section 18.09.030.C of the Bainbridge Island Municipal Code is hereby amended as follows.

1. Educational Facilities.

a. ~~In the B/I district, educational facilities, including vocational schools, preschools (including kindergarten classes), martial arts academies, and other facilities not classified as public or private schools offering primary and secondary education through the high school level are permitted (“P”) uses.~~

b. ~~In the B/I district, educational facilities meeting the definition of common schools referred to in Article IX of the state constitution and established by law and maintained at public expense and private learning institutions established by law and maintained at private expense, offering primary and secondary education through the high school level, are conditional (“C”) uses.~~

c. In the WD-I district, educational facilities are a conditional (“C”) use. Conference centers with overnight accommodations are not permitted.

d. In the ferry terminal overlay district educational facilities are only allowed south of Winslow Way.

Section 7. Section 18.09.030.D of the Bainbridge Island Municipal Code is hereby amended as follows.

4. Craft Food and Beverage

a. Retail activity is limited primarily to items manufactured or assembled on site, pursuant to subsection 18.09.030.D.9.

b. Retail and on-site tasting or consumption areas shall be limited to 40 percent of the gross floor area or 4,000 square feet, whichever is less. A craft food and beverage business is not a restaurant, however, in zoning districts where restaurants are permitted, a craft food and beverage business may include a restaurant, such as a brewpub type of use.

c. The business shall meet the requirements of the Kitsap Public Health District, including the requirements to obtain a Food Establishment Permit when applicable.

d. A site plan and design review permit may be required pursuant to BIMC 2.16.040.B prior to any other city approval of business licenses or other required permits.

89. Retail Sales.

g. In the B/I district, on-site retail sales to the general public must comply with the following standards:

i. Sales are ~~limited to~~ primarily focused on goods or products manufactured or

- utilized on the premises;
- ii. Sales to the general public are clearly subordinate to the primary use of the property as permitted in the B/I district; storefront retail businesses are not permitted in the B/I district;
- iii. ~~There shall be no signage advertising the on-site sales or services to the general public;~~
- iv. There shall be no additional on-site parking allowed beyond what is required for the primary use; and
- v. ~~Notwithstanding subsections D.8.g.i through iv of this section, semiannual sales to the general public of items manufactured on site is allowed; provided, that each sales event lasts no more than two consecutive days.~~

Section 8. Section 18.09.030.E of the Bainbridge Island Municipal Code is hereby amended as follows.

1. Auto Repair Services. In the B/I district, auto repair services are a permitted (“P”) use, unless the business will be primarily out-of-doors. If primarily out-of-doors, then auto repair services are a conditional (“C”) use in the B/I district.

- a. Auto repair services are subject to standards in BIMC 16.20.120.
- b. Any automobiles remaining on site for more than 72 hours are to be screened according to the outdoor storage development standards in BIMC 18.06.050.B.10.

Section 9. Section 18.09.030.H of the Bainbridge Island Municipal Code is hereby amended as follows.

2. Boat Building. In the WD-I district, boat building is a permitted (“P”) use for property located on the north shore of Eagle Harbor. For property south of Eagle Harbor, boat building is a conditional (“C”) use. In the B/I district, boat building is a permitted (“P”) use, unless the business will be primarily out-of-doors. If primarily out-of-doors, then boat building is a conditional (“C”) use in the B/I district.

3. Boat Repair Facilities. In the B/I district, boat repair facilities is a permitted (“P”) use, unless the business will be primarily out-of-doors. If primarily out-of-doors, then boat repair facilities is a conditional (“C”) use in the B/I district. Boat repair facilities are subject to standards in BIMC 16.12.040.C.

Section 10. Section 18.09.030.I of the Bainbridge Island Municipal Code is hereby amended as follows.

10. Accessory Security Residence. In the B/I district, a single residential unit for security and/or insurability of the premises is permitted. No other residential uses are allowed. The accessory security residence shall comply with the applicable development standards and performance standards of the B/I district.

Section 11. Section 18.15.020.B *General Requirements* of the Bainbridge Island Municipal Code is hereby amended as follows.

12. For all development except for single-family residential, the required parking for two or more complementary uses may be reduced up to 50 percent when provided by a common parking lot, but may not be reduced below the highest parking requirement. The reduction shall be reviewed and authorized by the Director of Planning and Community Development together with a Site Plan and Design Review Permit, building permit, or business license, depending on when the parking space reduction is proposed ~~the issuance of a conditional use permit.~~

Section 12. Table 18.15.020-1 of the Bainbridge Island Municipal Code is hereby amended as follows.

Table 18.15.020-1: Off-Street Parking Spaces Required for Residential, Neighborhood Center, Business/Industrial, and Water-Dependent Industrial Zone Districts

Land Use	Spaces Required
Residential dwelling unit in a single-family residential district [1]	2 spaces for each primary dwelling unit and 1 space for each accessory dwelling unit.
Residential dwelling unit in a multifamily residential, NC, or B/I district	1 space per primary dwelling unit that is a studio or 1 bedroom unit, and 2 spaces for all other primary dwelling units.
	Dwelling units situated directly above a commercial use or directly above parking serving a commercial use in the NC <u>district</u> or <u>Live/Work Units in the B/I districts</u> shall require 1 parking space. Dwelling units separate from the commercial use or its parking by one or more intervening floors shall not be considered to be located “directly above” that use, and therefore 2 parking spaces are required.
	The director may require guest parking in excess of the required parking spaces, whether or not the required parking is reduced pursuant to BIMC 18.15.020.B.12 , up to a maximum additional 0.5 stall per dwelling unit, if there is inadequate guest parking on the subject property.
Retail, commercial and personal services in a building with less than 1,000 square feet of floor area	5 spaces per 1,000 square feet of floor area, except as modified by the parking standards for the mixed use overlay districts and High School Road districts below.
Retail, commercial and personal service in a building with 1,000 square feet of floor area or more	4 spaces per 1,000 square feet of floor area, except as modified by the parking standards for the mixed use overlay districts and High School Road districts below.
Industry light manufacturing uses	1 space for each employee plus 1 space for each 250 square feet of office space.
Places of public accommodation serving food and beverage, including but not limited to restaurants, <u>craft</u>	<u>1 space for each employee plus</u> 1 space for each 4 occupants as determined by the department.

Table 18.15.020-1: Off-Street Parking Spaces Required for Residential, Neighborhood Center, Business/Industrial, and Water-Dependent Industrial Zone Districts

Land Use	Spaces Required
<u>food and beverage businesses</u> and taverns	
For motels/hotels, inns, and bed and breakfasts	1 space for each sleeping room.
For places of assembly, including auditoriums, theaters, banquet rooms and religious institutions	10 spaces for each 1,000 square feet of floor area or 1 space for each 5 fixed seats, except for movie theaters which shall require 1 space per 4 seats.
Elementary, middle, and junior high schools	1 space per 50 students and 1 space per employee.
High schools	1 space per 10 school students and 1 per employee.
Educational, governmental, health care and recreational facilities not included as part of an elementary, middle, junior high or high school or a religious institution	A number of spaces adequate to accommodate the peak shift as determined by the director based on information submitted by the applicant as required for other uses and special cases below.
Day care centers	1 stall for each on-duty shift employee plus 1 stall for each 12 adults/children served by the facility. Capacity is determined by state license requirements.
Other uses and special cases	For other uses or special cases, parking requirements shall be established by the director. For determination by the director, the applicant shall supply (a) documentation regarding actual parking demand for the proposed use; or (b) technical studies prepared by a qualified professional relating to the parking need for the proposed use; or (c) required parking for the proposed use as determined by other comparable jurisdictions.

Section 13. Section 18.36.030 of the Bainbridge Island Municipal Code is hereby amended as follows.

29. “Artist’s studio” means the workshop of an artist, writer, craftsperson, or photographer, ~~but not a place where members of the public come to receive instruction on a more than incidental basis or to sit for portraits.~~ An artist’s studio does not include a residence or living unit.

“Boat building and boat repair facility” means a business involving the fabricating, manufacturing, or repair of boats.

“Craft Food and Beverage” means the production and sale of locally-produced food or beverage products. A craft food and beverage business is not a restaurant.

78. “Educational facilities” means a public or private school or educational or training institution that offers a program of college, professional, environmental, preparatory, high school, middle school, junior high school, elementary, ~~or kindergarten instruction, or preschool,~~ or any combination of those facilities, ~~or any other program of trade, technical or artistic instruction (excluding single day programs of instruction),~~ together with associated staff housing and/or conference facilities and other typical educational accessory uses.

113. “Health care facility” means a building or buildings used for human health care with more than 10,000 square feet in floor area, such as a hospital or major medical clinic.

132. “Kennel” means a place where ~~five~~ three or more adult domestic animals are kept commercially, generally overnight. A commercial kennel ~~is considered a professional service under this title and~~ is maintained to board, breed or treat the animals ~~for profit~~ and shall exclude pet shops and agriculture. This use includes a boarding kennel/cattery, animal shelter, animal day care or animal foster home. An “indoor kennel” is a kennel where all activity at the business location is conducted indoors. An “outdoor kennel” is a kennel where any part of business activity is out-of-doors at the business location, excluding parking areas.

“Live/Work Unit” means a building use that combines business activities within the same structure as a residential living space. Live/work units are distinctive from other mixed-use development because the commercial and residential space are internally connected and the business owner or employee must live in the dwelling unit.

199. “Personal service” means an establishment that provides on-site service(s) in a nonoffice environment including, but not limited to, beauty shops, shoe repair, laundry, dry cleaning services, animal ~~grooming parlor-care services,~~ and tanning salons. Auto repair and body shops are not included under this definition.

200. “Professional service” means a business or agency that provides services in an office environment and includes, but is not limited to, legal services, counseling services, real estate offices, financial services, insurance services, massage therapy, acupuncture, medical, and dental offices ~~and government offices.~~ Professional service does not include a health care clinic, such as a hospital.

207. Recreation Activities, Indoor. “Indoor recreation activities” means gymnasiums not accessory to an education institution, racket clubs, sports arenas, and similar uses. Martial arts, dance, yoga, and other fitness classes are considered indoor recreation.

238. “Solar panel” means ~~a single panel or combination of panels or elements that does or will use direct sunlight as a source of energy for such purposes as heating or cooling of a structure, heating or pumping of water, and generating electricity. Solar panels include both photovoltaic and hot water devices.~~

“Vocational/Trade Instruction Facilities” means a school that offers instruction and practical introductory experience in skilled trades such as mechanics, carpentry, plumbing, and construction.

Section 14. This ordinance shall take effect and be in force on and after five days from its passage and publication as required by law.

PASSED BY THE CITY COUNCIL this ____ of _____, 2018.

APPROVED BY THE MAYOR this ____ of _____, 2018.

Kol Medina, Mayor

ATTEST/AUTHENTICATE:

Christine Brown, City Clerk

FILED WITH THE CITY CLERK:	April XX, 2018
PASSED BY THE CITY COUNCIL:	_____
PUBLISHED:	_____
EFFECTIVE DATE:	_____
ORDINANCE NUMBER:	2018-13