



# Planning & Development Services

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## Memorandum

To: Planning Commission

From: Sarah Ruether Long Range Planning Manager

Date: June 13, 2023

Re: **Agricultural Advisory Board (AAB) Code and Policy Recommendations for Agritourism**

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### Summary:

With a vested interest in agriculture and agritourism policy the AAB land use committee drafted recommendations for code changes. This memorandum presents those recommendations, modified based on the discussion with the Planning Commission at the April 25, 2023, meeting.

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### Action Requested of the Planning Commission:

Give Staff guidance on the direction for how to implement proposed code recommendations from the Agricultural Advisory Board.

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### Background/Discussion:

The Agricultural Advisory Board compiled a document to share their recommendations for code changes related to agritourism. (See Exhibit A: AAB Policy Recommendations) This document is the basis for the analysis and discussion in this memorandum and a continuation of the discussion that occurred at the April 25 Planning Commission meeting.

### Review of the Agritourism Study

After receiving multiple requests for agritourism related rezones and code changes, in 2018 a docket request for Samish Bay Cheese, the Board of County Commissioners decided that a broader study to understand the cumulative impacts and to take a more holistic approach was needed. As a result, Skagit County Staff and BERK consultant produced a situation assessment, in 2021. This report provided an overview of agritourism businesses existing in Skagit County

and a comparison of how other Counties regulate agritourism type businesses. After some public outreach, BERK consulting provided a report with 3 policy options and a no action alternative in March 2022. Additionally, public outreach continued with a survey in the fall of 2022 and multiple public meetings, and a Town Hall forum event. At the request of the Planning Commission, a joint meeting between the planning commission and the agricultural advisory board in early 2023 provided a consensus that enforcement was needed; and that current code was adequate if enforced.

### **AAB Code Change Recommendations, to ensure Agritourism is Incidental and Subordinate**

The code changes proposed by the Agricultural Advisory Board are not part of this original study. These changes have been initiated independently by the AAB. After studying the code for more than two years as part of the original study, this group developed recommended code changes for the purpose of clarifying the code. The intent of the proposed code changes by the AAB are not for the purpose of opening new allowances or new uses for agritourism. The intent of these code changes proposed by the AAB are for clarification and to ensure that any event businesses that go forward in AgNRL are intermittent and cannot operate as full-time event centers.

After the April 25<sup>th</sup> meeting, the AAB wanted the Planning Commission to understand the many uses that are currently permitted in AgNRL, some of which are agritourism related. The AAB developed flow charts and worksheets to help the Planning Commission understand the uses that are currently permitted in AgNRL and the proposed changes that the AAB has made. (Exhibit D) As part of this submittal, their letter states “The Agricultural Advisory Board feels the most important test of Agritourism is the tourism part is incidental and subordinate to a broader agricultural operation. Keeping the lands working by providing agricultural products is the most important part of these lands and should not be overlooked or forgotten.” The purpose of the AAB proposed code revisions, therefore, is to clarify and ensure that any agritourism activity that is permitted, is incidental and subordinate to the working farm.

### **Definition of Agritourism**

As discussed at the April 25<sup>th</sup> meeting, the AAB recommended adding the following definition of agritourism to the code:

A common, farm-based, commercial activity serving the public that promotes agriculture, is directly related to onsite agricultural production, is incidental and subordinate to the working farm operation, and is operated by the owner or operator of the farm or family members. REGULARLY OCCURRING celebratory gatherings, weddings, parties or similar uses that cause the property to act as an

event center or that take place in structures specifically designed for such events are not agritourism.

At the April 25<sup>th</sup> Planning Commission meeting there was a discussion about what exactly regularly occurring meant in the context of this discussion. Further discussion proposed removing this from the definition to avoid ambiguity. With this removed, the definition:

A common, farm-based, commercial activity serving the public that promotes agriculture, is directly related to onsite agricultural production, is incidental and subordinate to the working farm operation, and is operated by the owner or operator of the farm or family members. Celebratory gatherings, weddings, parties or similar uses that cause the property to act as an event center or that take place in structures specifically designed for such events are not agritourism.

### **Definition of Agricultural Accessory Use**

The AAB recommends refining the definition of Agricultural Accessory Use to clarify the use of agricultural support buildings and that any agritourism activity must be incidental and subordinate to the primary farming operation. Agricultural Accessory Uses must be accessory to an active farming operation and must be designed, located, and operated to not interfere with, and to support the continuation of, the overall agricultural use of the property. These recommendations can be seen in redline to the existing code in (Exhibit B). At the April 25 meeting, it was noted that in the AAB recommendation (Exhibit A) on page 5 reads, Note that (6), above, permits use of farm buildings for farming. Other uses of buildings would not be permitted and may be permitted only through administrative special use permits. This addition has been added to the proposed definition section for Agricultural Accessory Use to clarify that with a permit the farm buildings could be used for an event with an administrative special use permit. This language has been added in blue to the definition of Agricultural Accessory Use, and the red words have been changed from the original, to better reflect the permit is not guaranteed and conditional on meeting all code requirements. (Exhibit B).

### **Reduction in Number Allowable Events for the Purpose of Assuring that Agritourism Events are Temporary**

The AAB recommends amending SCC 14.06.900 to reduce the number of calendar days an event can occur per year from 24 to 12. The purpose of this proposed code change is to ensure that any agritourism event business is incidental and subordinate to a working farm.

The AAB believes that a reduction in the number of events permitted needs to be reduced to assure that any event business is truly temporary; and that the property does not become an

event center. There are some businesses that have used this permitting process to permit businesses that now operate as full-time event centers.

A comparison of other Counties event allowance are shown in a table (Exhibit D). This table shows that Thurston County allows 21 agritourism events for a home occupation permit and more than 21 events for a special use permit. Marion County, Oregon allows one large agritourism event per year and other smaller agritourism events, for up to 18 total. Spokane County does not have a limit on the number of events, but the event permit is only good for 6 months at a time and must be renewed. The Agricultural Advisory Board has proposed 12 events a year with an Administrative Special Use Permit, which is slightly more restrictive than Marion County, Oregon.

Furthermore, to ensure that this change does not affect other zones for which a permit for an Administrative Special Use is applicable, it is proposed to modify the code conditions so that only permits in the AgNRL have a reduction of temporary events allowable. Legal Council has recommended adding a condition in SCC 14.16.900 (h). Placing this condition in the code at this section as a special condition for AgNRL, therefore it is not applicable to other zones.

### **Customize Administrative Special Use Permits for AgNRL in 14.16.900**

#### 14.16.900(2) Special use permit requirements

##### (h) Temporary Events.

(i) Special use permits for temporary events are also subject to the following criteria:

- (A) Events may occur on no more than 24 calendar days per year.
- (B) Parking for all events shall be fully contained on the subject property and shall not include the use of any road right-of-way.
- (C) Does not create a detrimental level of electrical interference, line voltage fluctuation, noise, vibration, smoke, dust, odors, heat, glare, traffic or other environmental impacts on the surrounding area.
- (D) All lighting is directed away from neighboring residences or businesses.

(ii) Special use permits for temporary events in Ag-NRL are subject to the following criteria:

- (A) Events may occur on no more than 12 calendar days per year.
- (B) All events must be accessory to agricultural use and incidental and subordinate to a working farm.

### **Number of Administrative Special Use Permits per year in AgNRL**

During the April 25, 2025, Planning Commission meeting, there were questions about how many Administrative Special Use permits are issued by Planning and Development Services each year. Pulling permit data, in the last ten years, 21 Administrative Special Use permits were issued in AgNRL. Of those, two of those permits were related to event centers and wedding venues. While this is not many permits, these event centers now operate as full-time venues. The concern from the Agricultural Advisory Board is that because our code allows for an Administrative Special Use permit that allows 24 events, with a permit that never expires, these businesses are not temporary. The concern of the agricultural advisory board is that if these event businesses are legalized by the Administrative Special Use permitting process, even at a small rate, over time that will accumulate to many activities in AgNRL that are counter to the preservation of farmland. They believe that the Administrative Special Use Permit may have inadvertently created a code path to legalize event center venues in AgNRL. The purpose of this proposed code change, therefore, has less to do with accommodating many permit applications and more to do with closing an unintended loophole. It seeks to assure that temporary events in AgNRL do not become permanent event centers.

### **AgNRL Zoning Flow Chart**

At the April 25<sup>th</sup> Planning Commission meeting there were questions about what uses are permitted in the AgNRL zone, especially uses that relate to agritourism. In response to this, the Agricultural Advisory Board produced two flow charts and two additional documents listing allowed uses in AgNRL to help understand what uses are currently permitted in code. These flow charts also show how the proposed AAB code changes fit into the current code (Exhibit D)

The flow chart takes you through code options to illustrate what uses are permitted and what permits are required in AgNRL. Uses that relate to agritourism are the following:

- **Farm animal or horticultural viewing by the public**
- **U-pick sales to the public** (Special Use Permit required if over 300 square feet)
- **Farm Based Business:** an on-farm commercial enterprise devoted to the direct marketing of unprocessed and/or value added and soil dependent agricultural products that are produced, processed, and sold on-site.
- **Home Based Business:** Home based businesses are home occupations that remain incidental to the use of a residence for general dwelling purposes and are compatible with rural character. Three categories of home-based business are allowed in Skagit County: Home-Based Business 1, Home Based Business 2, and Home-Based Business 3. Home-Based Business 1 is generally a permitted use while Home-Based Business 2 and 3 require a special use permit, which requires SEPA and notice. (Exhibit E)

- **Administrative Special Use Permits:** These permits require SEPA and notice. These permits allow for seasonal roadside stands that are larger than 300 square feet and **temporary event permits**, which allow for up to 24 events in current code. Roadside stands that are larger than 2,000 square feet must go through a Hearing Examiner permit. **Bed and Breakfasts** are permitted with an Administrative Special Use Permit, this permit requires notice and SEPA.

**AgNRL Private Events vs Commercial Events:** There was a discussion at the April 25<sup>th</sup> meeting about whether and how intermittent private events are regulated, especially as it relates to the proposed code changes. Only events that are a commercial enterprise or business are regulated. Any intermittent private event or party with no financial gain is not subject to these code requirements. Non-profits or similar type organizations that have a budget and or hired professionals, those events would not be considered private events, because they are operated by a professional organization.

**Next Steps:**

Direct Staff on how to incorporate the recommended changes from the Agricultural Advisory Board.

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Exhibit A: AAB Policy Recommendations

Exhibit B: AAB Recommended Changes to definition of Agricultural Accessory Use

Exhibit C: Comparison of the Number of Agritourism Events permitted.

Exhibit D: AAB Letter, Zoning Matrices and Zoning Worksheets submitted 5/30/23.

Exhibit E: Skagit County Code for Home Based Businesses

## Exhibit A



# Skagit County Agricultural Advisory Board

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April 18, 2023

Board of Skagit County Commissioners, Skagit County Planning Commission, Skagit County  
Planning & Development Services  
1800 Continental Place  
Mount Vernon, WA 98273

### **RE: Agritourism Policy Review and Recommendations**

The Agricultural Advisory Board provides this review of agritourism policy with recommendations to the Skagit County Commissioners, Skagit County Planning Commission and Department of Planning and Development Services. This review and recommendations attempt to assemble essential state statutes and Skagit County Code regarding agritourism in one document to make the topic more accessible. The Review and Recommendations were unanimously approved by the AAB at its meeting on April 12, 2023.

The AAB finds existing state and county code provide the basis for protecting agricultural operations while allowing agritourism activities that supplement and enhance ongoing soil-based agricultural activities. The following document outlines these findings and provides clarifications and changes to protect agricultural activities on Agricultural Resource Lands along with allowing appropriate agritourism activities.

We hope our work is instructive and useful to readers and policymakers regarding Agritourism on Agricultural lands.

The Agricultural Advisory Board welcomes further discussion, questions and clarification as needed on the topic.

Sincerely,

Michael Hughes  
Chair, Agricultural Advisory Board

#### Advisory Committee Members:

Michael Hughes (Chair), Kraig Knutzen (Vice Chair), Nels Lagerlund, Murray Benjamin,  
Justin Hayton, John Morrison, Steve Omdal, Terry Sapp,  
Tim Van Hofwegen, Steve Wright, Michael Trafton, Steve Skrinde

## **Review of Agritourism from the Skagit County Agricultural Advisory Board**

### **Purpose**

The Agricultural Advisory Board provides this review of agritourism policy with recommendations to the Skagit County Board of County Commissioners, Skagit County Planning Commission and Department of Planning and Development Services.

This review and recommendations attempt to assemble essential state statutes and Skagit County Code regarding agritourism in one document to make the topic more accessible.

(Italicized portions are existing law and code language.)

### **Standards for Recommendations**

1. State statutes (RCW) found in the Growth Management Act (GMA) provide overarching structure for allowable zoning rules for agricultural lands (RCW 36.70(A)).
2. GMA addresses agricultural and non-agricultural uses and provides specific standards for preservation of all commercial agricultural lands. (RCW 36.70(A).177)
3. Existing Skagit County Code (SCC) provides a firm foundation for preserving farmlands and restricting nonagricultural uses. (SCC 14.16.400, 14.16.900, in particular)
4. The six principles previously presented remain central to the AAB position, primarily asserting that non-agricultural commercial activities be directly connected to on-site farming and enforced.
5. Divergence between rules and practice necessitates policy reconsiderations for agritourism uses on ag lands and raises questions of observance and enforcement.

### **State Law Guidance**

Section 36.70(A).177 of GMA directly addresses preserving agricultural lands and controlling agricultural and nonagricultural accessory uses. While the term “agritourism” is not used in GMA, activities associated with agritourism for policy discussion, would certainly be covered by this section.

*Accessory uses shall be located, designed, and operated so as to not interfere with, and to support the continuation of, the overall agricultural use of the property and neighboring properties, and shall comply with the requirements of this chapter;*

*Accessory uses may include:*



*Agricultural accessory uses and activities, including but not limited to the storage, distribution, and marketing of regional agricultural products from one or more producers, agriculturally related experiences, or the production, marketing, and distribution of value-added agricultural products, including support services that facilitate these activities.*

*Nonagricultural accessory uses and activities as long as they are consistent with the size, scale, and intensity of the existing agricultural use of the property and the existing buildings on the site. Nonagricultural accessory uses and activities, including new buildings, parking, or supportive uses, shall not be located outside the general area already developed for buildings and residential uses and shall not otherwise convert more than one acre of agricultural land to nonagricultural uses.*

(Reformatted)

Generally, it is assumed that county code can be more restrictive than state law but cannot exceed the intent of state law (interpretations notwithstanding). The clear language of the state law centers on the preservation of agriculture and primary agricultural use of ag-zoned lands.

Significant value could be gained by clarifying in county code the application of “size, scale, and intensity” so administrative or hearing examiner review of applications fit the property, the neighborhood, the zone and are limited at any extent to one acre.

(Washington Administrative Code (WAC) also provides detailed guidance consistent with applicable RCW and can be found at WAC-365-196-815 Conservation of natural resource lands and WAC365-190-050 Agricultural resource lands, among other citations. While significant and reinforcing of the RCW, WACs are not included in this discussion.)

## **Recommendation**

The leading statement in RCW 36.70(A).177, above, should augment the existing Agricultural Accessory Use Definition (SCC14.04) by including:

*“[Agricultural] Accessory uses shall be located, designed, and operated so as to not interfere with, and to support the continuation of, the overall agricultural use of the property and neighboring properties.”*

This language would clarify that agricultural accessory uses are to be permitted when they support farming, and it adds to existing SCC language the consideration of neighboring properties. (See discussion of “Permitted Uses (SCC14.16.400 (2))” below).

The “Nonagricultural accessory uses” language from RCW 36.70(A).177 above should be inserted in existing code under “Special Use Permit Requirements,” discussed below. Inserted there, it would serve as guidance to administrators and hearing examiners when considering permits for activities not outright permitted. In particular, “size, scale, and intensity” would become a guideline (which may require greater definition) for permitting in the ag zone.

The one-acre limit would place the state rule into Skagit County Code when considering agritourism activities and would likely limit permanent retail commercial enterprises like restaurants and alcoholic beverage establishments. Also, because the limit is in state law, it would potentially control local demands to exceed the size limitation. This approach is preferable to addressing “size, scale, and intensity” by fixing the number of guests, tables, or square footage for occupancy. Considering the need for septic infrastructure, one acre is a significant constraint.

### **Existing County Code and Standards for Ag Lands Uses**

SCC provisions establishing general rules for uses in the ag zone deserve attention for providing a sound foundation. Those applicable zoning codes and related definitions have a weathered history and should largely withstand new policy considerations. Clarifications and improvements are appropriate, while changing course is unnecessary.

Primary provisions regarding practices on ag lands are found in SCC 14.16.400 Agricultural – Natural Resource Lands (Ag-NRL) and in SCC 14.16.900 Special Use Permit Requirements.

Definitions used in code are found in SCC 14.04.

### **Ag-NRL Purpose (SCC 14.16.400(1))**

*The purpose of the Agricultural—Natural Resource Lands district is to provide land for continued farming activities, conserve agricultural land, and reaffirm agricultural use, activities and operations as the primary use of the district. Non-agricultural uses are allowed only as accessory uses to the primary use of the land for agricultural purposes.*

*(Excerpted)*

### **Permitted Uses (SCC 14.16.400 (2))**

*(a) Agriculture.*

*(b) Agricultural accessory use.*

*(c) Agricultural processing facilities.*

*(h) Farm-based business carried on exclusively by a member or members of a family residing on the farm and employing no more than three nonresident full-time employees.*

*(j) Home-Based Business 1.*

(Excerpted)

#### **Agricultural Accessory Use Definition (SCC 14.04)**

*Agricultural accessory use: an agricultural accessory use shall predominantly serve the principal use of the farm, but may also serve other farms. It shall be considered accessory to an agricultural use if it is located on either the same lot or other lots that collectively or in singular comprise a principal use of a corporate farm or farm held or leased by a farm manager or his immediate family. An accessory use to an agricultural use, including, but not limited to, the following:*

*(1) Outdoor storage of processed and unprocessed natural materials, waste materials, or other similar materials;*

*(2) Impoundments under 1-acre feet in volume;*

*(3) Farm animal or horticultural viewing by the public;*

*(4) U-pick sales to the public;*

*(5) Storage of agricultural products, ingredients, packaging and/or equipment used on-site;*

*(6) Miscellaneous agricultural support buildings, including barns, sheds, corrals, farm offices, and coops, which are used for on-site soil-dependent agriculture; and*

*(7) Activities associated with tourism which promote local agriculture; provided, that adequate parking and specified ingress and egresses are designated and permitted.*

Note that (6), above, permits use of farm buildings for farming. Other uses of buildings would not be permitted or would be permitted only through special use permits.

The above portions of the SCC refer to outright permitted activities. Other activities would require administrative or hearing examiner approval as guided by 14.16.900 according to the zone and the property in which the activity lies.

#### **Recommendations**

1. Clarify (6) above by adding “which agricultural support buildings shall not be a place of human habitation or place, or be a place used by the public” (extracted and edited from SCC 14.34 Flood Damage Prevention)

2. Clarify (7) above to identify “agritourism” in place of “tourism,” and thus, tie this permitted use to newly defined uses.

3. Add SCC definition of Agricultural Accessory Use as a new items (8) and (9):

(8) “Any agricultural or nonagricultural accessory use that is an agritourism event or activity shall be incidental and subordinate to the primary farming operation of the farm or site.”

(9) “Any agritourism accessory use must be part of an active farming operation.

4. Add “Agritourism” to Definitions (SCC 14.04)

Agritourism: A common, farm-based, commercial activity serving the public that promotes agriculture, is directly related to onsite agricultural production, is incidental and subordinate to the working farm operation, and is operated by the owner or operator of the farm or family members. Regularly occurring celebratory gatherings, weddings, parties or similar uses that cause the property to act as an event center or that take place in structures specifically designed for such events are not agritourism.

#### **Farm-based Business Definition (SCC 14.04)**

*Farm-based business: an on-farm commercial enterprise devoted to the direct marketing of unprocessed and/or value-added and soil-dependent agricultural products that are produced processed and sold on-site. Farm-based businesses are intended to supplement farm income, improve the efficiency of farming, and provide employment from agriculture support services.*

#### **Special Use Permit Requirements (SCC 14.16.900 (1) and (1)(b)(v))**

Special use permits in this section SCC 14.16.900 apply to each of the zones in 14.16 including Ag-NRL according to the specific language of the respective zone. Thus, permits in the ag zone must be compatible with existing and planned land use in the ag zone.

*Special Uses. Purpose. To provide a means to recognize and approve land uses not specifically identified as allowed uses. A special use permit must demonstrate that the proposed activity will not adversely affect or prevent those uses normally allowed within the respective district.*

*The burden of proof shall be on the applicant to provide evidence in support of the application.*

*The criteria for approval or denial shall include the following:*

*(A) The proposed use will be compatible with existing and planned land use.*

*(B) The proposed use complies with the Skagit County Code.*

(Excerpted)

### **Recommendation**

As discussed above under State RCW Guidance, language closely following GMA RCW 36.70(A).177 regarding nonagricultural accessory uses should be included in special uses for administrator and hearing examiner criteria as item (C). Language recommended for SCC 14.16.900 clarifies that no more than one acre is to be used for the nonagricultural activity.

(C) The proposed use complies with nonagricultural accessory uses and activities as long as they are consistent with the size, scale, and intensity of the existing agricultural use of the property and the existing buildings on the site. Nonagricultural accessory uses and activities, including new buildings, parking, or supportive uses, shall not be located outside the general area already developed for buildings and residential uses, provided the use for the agritourism activity and shall not otherwise use more than one acre of agricultural land.

### **Temporary Events (SCC 14.16.400 (3) (h))**

Temporary Events. *Special use permits for temporary events are also subject to the following criteria:*

*(i) Events may occur on no more than 24 calendar days per year.*

*(ii) Parking for all events shall be fully contained on the subject property and shall not include the use of any road right-of-way.*

(Excerpted)

### **Recommendation**

1. Change the number of “events” in this section to “no more than 12 calendar days per year.” This change clarifies the essential meaning of “temporary” and further separates temporary from permanent activities and facilities when requiring special use permits.
2. Add to permitting criteria for Temporary Events an additional item (v) indicating that fees are to be set and applied by the appropriate department of the county to the extent appropriate to recognize the cost and importance of county personnel who would enforce agritourism zoning codes:

(v) All approved temporary events shall be assessed fees appropriate to the scale of the activity based on the number of participants identified in the application for the temporary event at a rate of \$2.00 per proposed attendee, such rate to be adjusted over time for inflation.

3. Add item (vi) to temporary events criteria:

(vi) Temporary events related to agricultural production; and provided, that no agricultural land is converted and no permanent structures are constructed.

#### **Temporary Events Definition (SCC 14.04)**

*Temporary events: commercial use of a property for any musical, cultural, or social event either indoors or outdoors.*

#### **Recommendation**

Add to existing temporary events definition at the end: “including agritourism events.”

It is understood by the AAB that the definition of temporary events applies to “Temporary Events, Special Use Permits,” which, when such events occur in the Ag-NRL are subject to the rules of the ag zone.

#### **Special Use Permit Annual Self-Certification (SCC 14.16.900 (3))**

*(3) Special Use Permit Annual Self-Certification.*

*(a) Each year Planning and Development Services shall send an affidavit to the property owner(s) of record for all active special use permits. Planning and Development Services shall use the records of the Skagit County Assessor’s Office for determining owner(s) of record and the Department’s permit tracking system for determining active special use permits.*

*(b) The affidavit shall contain the special use permit number, applicant name, owner(s) of record name and address, parcel number and address of the subject property, a description of the original project approval, any conditions of the approval, the date of mailing, the required return date and a statement of acknowledgement.*

(Excerpted)

## **Divergence**

The inconsistency between county code and some actual agritourism activities is a source of perplexity for policy construction. Directing new policy to accommodate enterprises that do not comply with existing code is backward and sets an unfortunate precedent suggesting “if one builds it, it will be approved.” Indeed, this circumstance may well be a primary reason for the larger and lengthy agritourism study itself.

## **Recommendation**

The Board offers that identifying those operations which do not conform with the SCC regarding agritourism should be given an opportunity to observe the law and come into conformity over a two-year period of time after notice of nonconformity. The determination of prior “vested” rights (grandfathering) is beyond the purview of the board.

## **Conclusion**

The Agricultural Advisory Board has observed the ongoing process of studying agritourism involving studies, surveys, reports and informal discussions. Overall, the AAB finds that existing state law and county code provide sound, basic standards for protecting farmlands and farming as the primary activity there, and the state laws and local codes are firmly restrictive regarding nonagricultural uses.

This paper principally assembles essential features of state law and of SCC into one (hopefully) readable narrative that reveals existing standards that have arisen over time and have their own histories. However, the term “agritourism,” and related uses, deserve a place in code that recognize current interests.

Recommendations offered reflect opportunities for clarification and improvement and not change the general direction of policy as reflected in Skagit County Code.

Most agriculturally-related, public facing activities can fit in the ag zone and satisfy existing code and improved standards. Some activities, however, highlight retail commercial enterprises that do not satisfy the growth management standard:

*Accessory uses shall be located, designed, and operated so as to not interfere with, and to support the continuation of the overall agricultural use of the property and neighboring properties (RCW 36.780(A).177).*

Exhibit B - Agricultural Advisory Board Recommended Changes to Agricultural Accessory Use

County	Term	Definition
Skagit County	Agricultural Accessory Use	<p><b>Agricultural Accessory Use</b> – an agricultural accessory use shall predominantly serve the principal use of the farm, but may also serve other farms. It shall be considered accessory to an agricultural use if it is located on either the same lot or other lots that collectively or in singular comprise a principal use of a corporate farm or farm held or leased by a farm manager or his immediate family. An accessory use to an agricultural use, including, but not limited to, the following:</p> <ol style="list-style-type: none"> <li>(1) Outdoor storage of processed and unprocessed natural materials, waste materials, or other similar materials.</li> <li>(2) Impoundments under 1-acre feet in volume;</li> <li>(3) Farm animal or horticultural viewing by the public;</li> <li>(4) U-pick sales to the public;</li> <li>(5) Storage of agricultural products, ingredients, packaging and/or equipment used on-site;</li> <li>(6) Miscellaneous agricultural support buildings, including barns, sheds corrals, farm offices, and coops, which are used for on-site soil-dependent agriculture and <u>which agricultural support buildings shall not be a place of human habitation or place, or be a place used by the public; This permits use of farm buildings for farming. Other uses of buildings would not be permitted and may be permitted only through administrative special use permits.</u></li> <li><u>(7) Activities associated with tourism which promote local agriculture; provided, that adequate parking and specified ingress and egress are designated and permitted.</u></li> <li><u>(8) Any agricultural or nonagricultural accessory use that is an agritourism event or activity shall be incidental and subordinate to the primary farming operation of the farm site.</u></li> <li><u>(9) Any agritourism accessory use must be part of an active farming operation.</u></li> <li><u>(10) Accessory uses shall be located, designed, and operated so as to not interfere with, and to support the continuation of, the overall agricultural use of the property and neighboring properties.</u></li> </ol>
Marion County, Oregon	Agricultural Accessory Use	Does not define



Exhibit C- Comparison of Number of Agritourism Events Permitted in Other Counties

County	Number of (Agritourism) Events Permitted	Permit Type and Conditions
Skagit County	24 Currently 12 Proposed	Permitted through an Administrative Special Use Permit with conditions
Thurston County	21+	<p>Short term events up to twenty-one days per year may be permitted through a special use permit for a home occupation and shall follow the public notice requirements of Section 18.10.030B(4) TCC</p> <p>Short term events exceeding twenty-one days per year may be permitted through a Special Use Permit for a home-based industry.</p>
Marion County, Oregon	18	<ul style="list-style-type: none"> <li>• One large agritourism event is permitted that does not exceed 72 hours and does not exceed 500 people;</li> <li>• If specific conditions are met the applicant may have up to 18 events total.</li> </ul>
Spokane County	No limit; however temporary use permit is only good for 6 months of the year	Any owner of any property located in the Small Tract Agricultural zone may submit an application for a temporary use provided that such use is of a temporary nature and that the specific criteria for said use in the underlying zone classification are met. A renewable zoning certificate for such use may be granted by the Division in the form of a temporary and revocable permit for not more than a 6-month period in any given year and may be renewed on an annual bases subject to such conditions as will safeguard the public health, safety, and general welfare. The temporary use permit may be revoked for failure to meet any condition of the temporary permit approval.



Exhibit D

# Skagit County Agricultural Advisory Board

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May 30, 2023

Skagit County Commissioners, Skagit County Planning Commission, Skagit County Planning and Development Services  
1800 Continental Place  
Mount Vernon, WA 98273

The Skagit County Agricultural Advisory Board has worked on Agritourism in detail, trying to understand its current status and what the future of Agritourism could look like. At the request of your organizations, we have dug into how Skagit County currently treats Agritourism and provided some opinion on how to further incorporate the parts of Agritourism we feel work with the existing agricultural community already working in Skagit County.

The attached documents outline how we understand current county code and what it allows or does not allow. The AAB has included documents that discuss and highlight the current allowances for Agritourism along with ways to improve the code to allow the forms of Agritourism our Board finds to be a fit for Skagit County. The document "Allowable Agritourism Activity in the Ag-NRL" includes references to the current County Code for clarity of what is currently allowed. We have also included flow chart that lays out the code in a way to help understand what is allowed and what steps must be taken for Agritourism activities. The Agricultural Advisory Board feels the most important test of Agritourism is the tourism part is incidental and subordinate to a broader agricultural operation. Keeping the lands working by providing agricultural products is the most important part of these lands and should not be overlooked or forgotten.

Thank you for the opportunity to work on this topic and we hope our work is helpful going forward. We look forward to further work on this topic as well as needed.

Sincerely,

Michael Hughes  
Chair, Agricultural Advisory Board

Advisory Committee Members:

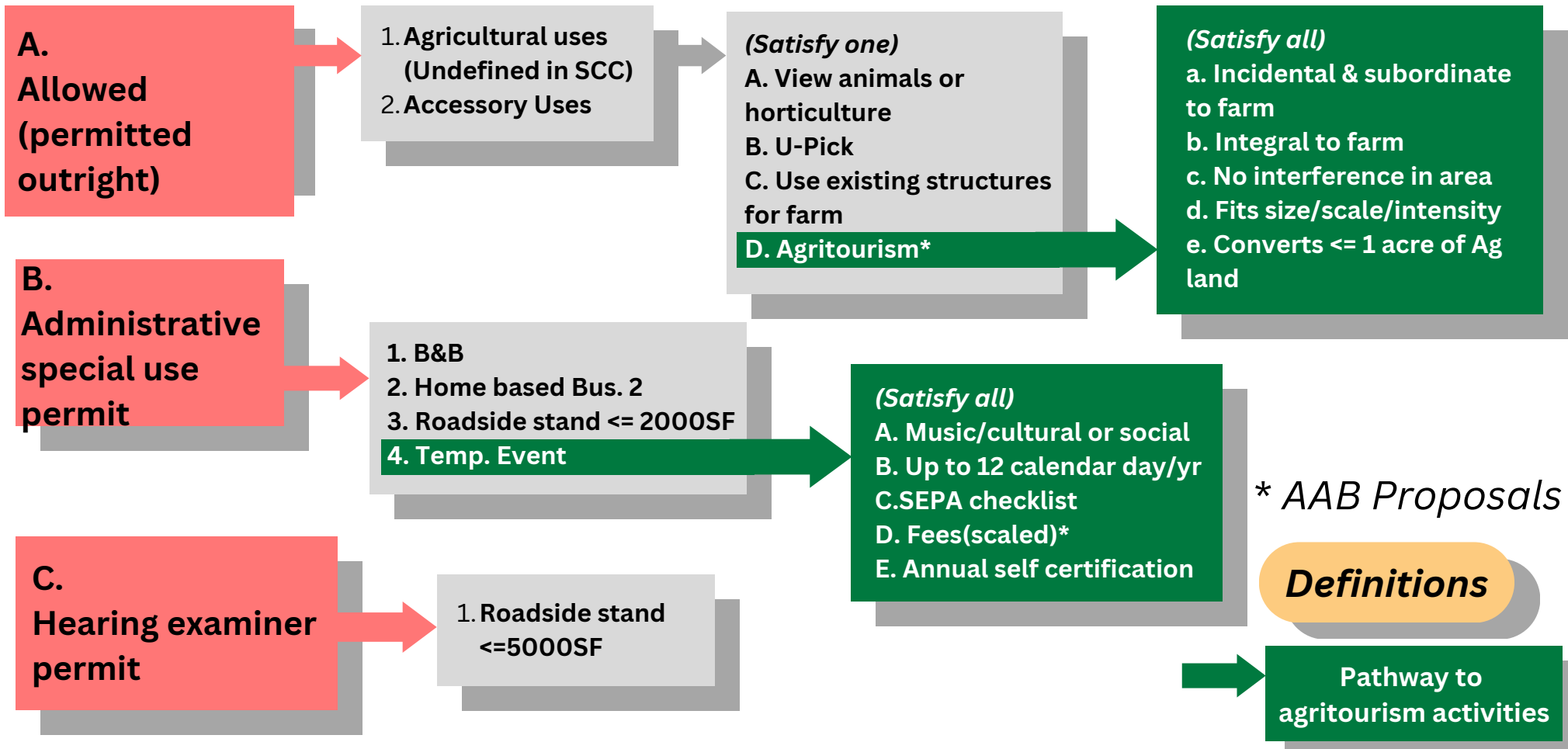
Michael Hughes (Chair), Kraig Knutzen (Vice Chair), Nels Lagerlund, Murray Benjamin,  
Justin Hayton, John Morrison, Steve Omdal, Terry Sapp,  
Tim Van Hofwegen, Steve Wright, Michael Trafton, Steve Skrinde

# Agritourism AG-NRL ZONE

**Agriculture** : Natural resource lands district is to provide land for continuous farming activities, conserve agricultural land, and reaffirm agriculture use activities and operations as the primary use of the district. SCC

**SCC** : Skagit County code

**Agritourism** : A common farm-based, commercial activity serving the public that promotes agriculture, is directly related to onsite agriculture production, is incidental and subordinate to the working farm operation, and is operated by the owner or operator of the farm or family members. Regularly occurring celebratory gatherings, weddings, parties or similar uses that cause the property to act as an event center or that take place in structures specifically designed for such events are not agritourism.



START

1. Is the activity agricultural? **yes** ✓

no

2. Accessory to agriculture  
A) Does it serve the primary use of the farm?  
**yes** ✓  
**no** Continue to 3

(B) Is Activity Farm animal or horticultural viewing?  
**yes** ✓

no

(C) Is activity U-Pick sales to the public?  
**yes** ✓

no

(D) Are Farm structures used for farm operation?  
**yes** ✓

no

(E) Is activity associated with agritourism promoting agriculture?  
**yes** ✓  
**no** Continue to 3

(F) Is activity non-agricultural but subordinate to primary farm operation?  
**no** Continue to 3  
**yes**

(G) Is activity integral to ongoing farm operation?  
**no** Continue to 3  
**yes**

(H) Will activity not interfere with farm and adjoining farm activities?  
**no** Continue to 3  
**yes**

(I) Is Activity consistent with seize scale and intensity in area?  
**yes** Continue to 3  
**no** STOP

# AG-NRL ZONING FLOW CHART

3. Is it a farm based business operated by farmer & (3) or less employees?  
**yes** ✓

no

4. Is it a home-based business unrelated to farming?  
**yes** ✓

no

5. Is it a seasonal roadside AG stand under 300 sq. ft?  
**yes** ✓

no

6. Does it qualify as a special use administrative permit?  
**yes** Continue to 7  
**no** STOP

no

## 7. Special use

(A) Is activity a bed & breakfast accessory to ongoing agriculture operations?  
**yes** ✓

no

(B) Is activity home based business incidental to agricultural operation?  
**yes** ✓

no

(C) Is activity seasonal roadside stand under 2000 sq.ft?  
**yes** ✓

no

(D) Is activity a temporary event related to AG operation with no AG land converted & no permanent structures?  
**yes**

no

(E) Does activity qualify as a special use roadside stand 2000 sq. ft - 5000 sq. ft?  
**no** STOP

yes

Apply for hearing examiner permit.

**approved** ✓  
**not approved** STOP

**STOP! Find land in other zones** (Red light icon)

**PROCEED WITH CAUTION** (Yellow light icon)

**GO! It is allowed!** (Green light icon)

Proceed with up to 12 calendar days of special use

8. Special use permit  
Apply for up to 12 calendar days per year of special use

**Must find land in other zones** (Red octagon icon)

- Code reference -  
This document is not inclusive of all AG-NRL zoning. For further reference please refer to 14.16.400 agricultural-Natural Resource Lands (AG-NRL) @ <https://www.skagitco.net>

## **Allowable Uses in Ag-NRL** “Streamlined”

### **Outline of uses in Ag-NRL**

Ag-NRL code allows 21 itemized uses **without permit**.

6 are pertinent to agritourism:

- (a) Agriculture
- (b) Agricultural accessory uses\*
- (h) Farm-based business
- (i) Home-based business 1
- (n) Seasonal roadside stands (300 sq. ft.)

Ag-NRL code provides for 13 itemized uses with an **administrative special use permit**.

4 are pertinent to agritourism:

- (b) Bed and breakfast
- (e) Home-based business 2
- (i) Seasonal roadside stands (2,000 sq. ft.)
- (k) Temporary events\*

Ag-NRL code provides for 15 itemized uses with a **hearing examiner permit**.

1 is pertinent to agritourism:

- (i) Seasonal roadside stands (5,000 sq. ft.)

\*Most agritourism policy focuses on just 2 parts: agricultural accessory uses and temporary events

7 Agricultural accessory uses are itemized in definitions

4 are pertinent to agritourism:

- (3) Farm animal or horticultural viewing by the public
- (4) U-pick sales to the public
- (6) Agricultural support buildings, soil-dependent use
- (7) Activities associated with tourism which promote local agriculture

## **Brief discussion of accessory uses and temporary events**

### **Agricultural accessory uses**

The purpose of the Ag-NRL zone is to provide for farming, conserve ag land, and reaffirm ag uses as primary. **Non-agricultural uses are allowed only as accessory uses** to the primary use of the land for ag purposes. (Abbreviated.)

**Agricultural accessory use** is defined in code as predominantly serving the principal use of the farm or farms, located on the lot or other lots of the same farm. (Abbreviated.)

**AAB recommends** code changes to agricultural accessory uses mainly by changing “tourism” to “agritourism” in agricultural accessory uses and defining agritourism to confirm that non-agricultural uses are incidental and subordinate to farming.

### **Temporary events**

Temporary events are permitted activities requiring an administrative special use permit. Two have been permitted by PDS. They must be musical, cultural, or social. They must annually self-certify that their activities comply with the original permit. They are limited to 24 calendar days per year.

**The AAB recommends** reducing the number of events to 12. No other changes.

(See Skagit County Agricultural Advisory Board, Agritourism Policy Review and Recommendations, April 14, 2023 and Allowable Agritourism Activity in the Ag-NRL, AAB Land Use Committee, May 4, 2023 for further discussion.)

Allowable Agritourism Activity in the Ag-NRL  
Agricultural Advisory Board  
Land Use Committee  
May 4, 2023

Question: Are agritourism-type activities allowed in the Ag-NRL currently and are activities that are not agritourism allowed?

Simple answer: Yes, both under existing code and under the proposed changes to code. Use the following tests to find out.

*Agritourism is not part of current code, but businesses generally satisfying the meaning of agritourism as existing businesses are subject to the law. AAB recommends a definition for agritourism activities and a change to code to clarify uses.*

The test under current code **with AAB recommended changes in red:**

1. Is the activity agricultural?

If yes, it's OK. Stop here.  
If no, continue.

(14.16.400(2)(a) allows agricultural uses. Agriculture is not defined in code.)

2. Is the activity accessory to agriculture, predominately serving the principal use of the farm and is it operated by the farmer?

(14.16.440(2)(b) allows agricultural accessory uses. 14.04 Definitions defines agricultural accessory use. The preamble of the definitions -- in the question above -- qualifies all activities in the list.)

If yes, continue. It must qualify as one of (A) – (D) **(H)** below.  
If no, it's not ag accessory. Skip to 3, special uses, below.

Check the following list:

(A) Is it farm animal or horticultural viewing by the public?

If yes, it's OK.  
If no, continue.

(B) Is it U-pick sales to the public?

If yes, it's OK.  
If no, continue.



(C) Is it the use of ag buildings used for on-site soil dependent ag and not a dwelling and not used by the public commercially?

(14.04 Definitions, Agricultural accessory uses, item (6) in list. Language, above, added at item (6).)

If yes, it's OK.

If yes, it's OK.

If no, continue.

(D) Is it an activity associated with ~~tourism~~ agritourism promoting agriculture?

(14.04 Definitions, Agricultural accessory uses, at item 7, "agritourism" replaces "tourism". Definition of Agritourism is added to 14.04 Definitions.)

Agritourism: A common, farm-based, commercial activity serving the public that promotes agriculture, is directly related to onsite agricultural production, is incidental and subordinate to the working farm operation, is operated by the owner or operator of the farm or family members. Regularly occurring celebratory gatherings, weddings, parties, or similar uses that cause the property to act as an event center or that take place in structures specifically designed for such events are not agritourism.

If yes, it's OK, unless it would require a special use permit, then skip to 6, below.

If yes, continue.

If no, skip to 3, below.

(E) Is the activity an agricultural or non-agricultural accessory use that is an agritourism event or activity and incidental and subordinate to the primary farming operation of the farm?

If yes, continue

If no, it's not agritourism, skip to 3, below.

(F) Is the accessory use part of the active farm operation?

If yes, continue. If no, it's not agritourism, skip to 3, below.

(G) Is the use located and designed, and operated so as to not interfere with, and to support the continuation of the overall agricultural use of the property and neighboring properties?

If yes, continue.

If no, it's not agritourism, skip to 3, below.



(H) Is the non-agricultural use consistent with the size, scale, and intensity of use of the property and all non-agricultural uses and activities in the general developed area and not convert more than one acre of ag land?

(From RCW 36.70(A)177 Growth Management Act regarding agricultural and non-agricultural accessory uses and limitations.)

If yes, continue.

If no, it does not satisfy (H), above, in proposed code or in existing state law, continue.

3. Is it a farm-based business carried on exclusively by family residing on the farm and employing no more than 3 full-time employees?

(14.16.400(2)(h) allows farm-based businesses. 14.04 Definitions defines Farm-based business as on-farm, commercial enterprise for direct marketing of soil-dependent agricultural products.)

If yes, it's OK.

If no, continue.

4. Is it a home-based business, conducted in the home and incidental to residence?

(14.16.400(2)(j) allows limited business in the home where one dwells.)

If yes, it's OK.

If no, continue.

5. Is it a seasonal roadside ag stand under 300 sq. ft.?

(14.16.400(2)(n) allows small stands up to 300 sq. ft.)

If yes, it's OK.

If no, continue.

6. Does it qualify as a special use, requiring an administrative permit?

(14.16.400(3) provides for specific uses requiring an administrative special use permit. Uses are listed (a) through (m), those relevant are below.)

Check the following list:

- (A) Is the activity a bed and breakfast accessory to an actively managed, ongoing agricultural operations with no new structures?

(14.16.400(3)(b) provides for the use is accessory to an actively managed, ongoing agricultural operation and no new structures are constructed outside of the home for lodging purposes.)

If yes, apply for a special use permit.  
If no, continue.

- (B) Is the activity a home-based business clearly incidental and secondary to dwelling?

(14.16.400(3)(e) provides for home-based business provided no conversion of agricultural land is required to accommodate the business activity, it is incidental to dwelling, and compatible with rural character.)

If yes, apply for a special use permit.  
If no, continue.

- (C) Is the activity a seasonal roadside stand under 2,000 sq. ft.?

(14.16.400(3)(i) provides for stands up to 2,000 sq. ft.)

If yes, apply for a special use permit.  
If no, continue.

- (D) Is the activity a temporary event related to ag production with no ag land converted and no permanent structures added?

(14.16.400(3)(k) allows temporary events. 14.16.900(1) and (1)(b)(v) primarily control special use permitting for temporary events.)

If yes, qualify the activity as a special use requiring a permit, continue.  
If no, skip to 7.

- (1) Is the event musical, cultural, or social?

(14.04 Definitions defines a temporary event as musical, cultural or social.)

If yes, continue.  
If no, skip to 7.

(2) Does the applicant agree to self-certify annually?

(14.16.900(3) Special Use Permit Annual Self-Certification requires annual confirmation of permitted uses and 14.16.900(3)(a) and (b) are directive for recording.)

If yes, continue.

If no, skip to 7.

(3) Is the activity, as one or more events, self-limited to **24 12** calendar days per year?

(14.16.900(2)(h)(i) limits events to 24 calendar days per year.)

If yes, it's OK, provided a special use permit is obtained.

If no, continue.

7. Does the activity qualify as special use road side stand between 2,000 and 5,000 sq. ft. requiring hearing examiner permit?

(14.16.400(4)(i) requires a hearing examiner approval of seasonal roadside stands between 2,000 and 5,000 sq. ft. No other agritourism-type activities are subject to hearing examiner approval.)

If yes, a hearing examiner permit is required. **If no, STOP, the activity is not allowed in the Ag-NRL.**

End of test under existing (April 2023) Skagit County Code **or as recommended by AAB.**

## Exhibit E – SCC for Home Based Business

### 14.16.730 Home-based businesses.

(1) There are three types of home-based businesses. [Uses](#) specifically identified in this Chapter are allowed in the [zoning districts](#) for which they are designated and are not eligible for consideration as a [home-based business](#) in any other [zone](#).

(2) [Home-Based Business 1](#).

(a) The [use](#) must meet the following criteria:

- (i) Is carried out exclusively by a member or members of a [family](#) residing in the [dwelling unit](#);
- (ii) Is clearly incidental and secondary to the [use](#) of the property for dwelling purposes, with the [floor area](#) devoted to the home occupation not exceeding 25 percent of the living area of the [dwelling unit](#) (business activity may be conducted in [buildings](#) other than the dwelling; provided, that the size of such [use](#) does not exceed 25 percent of the living area of the [dwelling unit](#));
- (iii) Has no outside storage, no outside [signs](#) of any size or type, nor other exterior indication of the home occupation or variation from the residential character of the property;
- (iv) Does not require the installation of heavy equipment, large power tools or power sources not common to a residential dwelling;
- (v) Does not create a level of noise, vibration, smoke, dust, odors, heat or glare beyond that which is common to a residential area; and
- (vi) Does not have clients come to the site.

(b) The intent of this [use](#) category is to allow a [home-based business](#) to operate with the above-noted limitations. When the [business](#) grows beyond the criteria established above, the [business](#) shall apply for a [Home-Based Business 2](#) or 3 special [use](#) permit (if allowed by the applicable [zone](#)) or shall relocate to a zoning classification which would permit the activity. Special [use](#) permits issued after June 1, 1997, shall not be used as justification for [Comprehensive Plan amendment](#) and/or [rezone](#) requests.

(3) [Home-Based Business 2](#).

(a) Special [use](#) permits are subject to the following criteria:

- (i) Is carried out by a member or members of a [family](#) residing in the dwelling;
- (ii) Is clearly incidental and secondary to the [use](#) of the property for dwelling purposes (business activity may be conducted in [buildings](#) other than the dwelling; provided, that the size of such [use](#) does not exceed 50 percent of the living area of the [dwelling unit](#));
- (iii) Has no outside storage nor other exterior indication of the home occupation or variation from the residential character of the property with the exception of one [sign](#) not to exceed four square feet, provided such [sign](#) shall not be illuminated;
- (iv) Does not require the installation of heavy equipment, large power tools or power sources not common to a residential dwelling;
- (v) Does not create a level of electrical interference, line voltage fluctuation, noise, vibration, smoke, dust, odors, heat, glare, traffic and other environmental [impacts](#) beyond that which is common to a residential area;
- (vi) Does not create a level of parking demand beyond that which is normal to a residential area;
- (vii) May have clients come to the site;
- (viii) If established after June 1, 1997, shall not be used as justification for future [Comprehensive Plan amendment](#) and/or [rezone](#) requests.

(b) The intent of this category of special [uses](#) is to allow home-based businesses to operate with the above-noted limitations. When the [business](#) grows beyond the criteria established above and the conditions included in any approval, the [business](#) shall relocate to a zoning classification which would permit the activity.

(4) [Home-Based Business](#) 3.

- (a) Special [use](#) permits are subject to the following criteria:
  - (i) Is carried out by a member or members of a [family](#) residing in the dwelling and may include up to three additional employees;
  - (ii) Is clearly incidental and secondary to the [use](#) of the property for dwelling purposes;

(iii) The [business](#) activity may be conducted in [buildings](#) other than the dwelling; provided, that the size of such [building](#) shall be consistent with the residential area and such [building](#) is properly permitted for the [use](#);

(iv) Has no outside storage nor other exterior indication of the home occupation or variation from the residential character of the property with the exception of one [sign](#) not to exceed four square feet, provided such [sign](#) shall not be illuminated;

(v) Does not create a level of electrical interference, line voltage fluctuation, noise, vibration, smoke, dust, odors, heat, glare, traffic and other environmental [impacts](#) beyond that which is common to a residential area;

(vi) Does not create a level of parking demand beyond that which is normal to a residential area;

(vii) May have clients come to the site;

(viii) If established after June 1, 1997, shall not be used as justification for future [Comprehensive Plan amendment](#) and/or [rezone](#) requests.

(b) The intent of this category of special [uses](#) is to allow home-based businesses to operate with the above-noted limitations. When the [business](#) grows beyond the criteria established above and the conditions included in any approval, the [business](#) shall relocate to a zoning classification which would permit the activity. (Ord. O20180010 § 1; Ord. O20160004 § 6 (Att. 6); Ord. O20080012 (part): Ord. 17938 Attch. F (part), 2000)