

ORDINANCE No. \_\_\_\_\_-2008

**AMENDMENTS TO THE KITSAP COUNTY COMPREHENSIVE PLAN AND THE  
TITLE 17 ZONING ORDINANCE AS IT RELATES TO AN ORDER OF NON-  
COMPLIANCE AND PARTIAL INVAILDITY FOR THE TRANSFER OF  
DEVELOPMENT RIGHTS AND RURAL WOODED INCENTIVE PROGRAMS**

**BE IT ORDAINED:**

**Section 1. General Findings.** The Kitsap County Board of Commissioners (Board) makes the following findings:

1. The Growth Management Act (GMA), pursuant to RCW 36.70A.130(3), requires Kitsap County to “review, at least every ten years, its designated urban growth area or areas, and the densities permitted within both the incorporated and unincorporated portions of each urban growth area.” Additionally, “[t]he county comprehensive plan designating urban growth areas, and the densities permitted in the urban growth areas by the comprehensive plans of the county and each city located within the urban growth areas, shall be revised to accommodate the urban growth projected to occur in the county for the succeeding twenty-year period.” (Referred to herein as the “10-Year Update”).
2. On December 11, 2006, Kitsap County completed its 10-Year Update to the Comprehensive Plan pursuant to RCW 36.70A.130(3) and enacted Ordinance 367-2006, Ordinance 368-2006, Ordinance 369-2006 and Ordinance 370-2006 adopting the 2006 10-Year Comprehensive Plan Update, the Draft and Final Environmental Impact Statements, and amendments to Kitsap County Code Titles 17, 18, and 21.
3. On February 17, 2006, an appeal was filed with the Central Puget Sound Growth Management Hearings Board (Hearings Board) regarding the 10-Year Update to the Comprehensive Plan.
4. On August 15, 2007, the Hearings Board issued a Final Decision and Order in which it found partial non-compliance with the GMA on certain components of the 2006 Comprehensive Plan Update. The Hearings Board found the following items invalid and remanded those issues back to Kitsap County for resolution:
  - a. Capital facilities planning as it relates to future wastewater conveyance systems for the expansion areas of the Silverdale, Central Kitsap, West Bremerton, Gorst and Port Orchard/South Kitsap UGAs;
  - b. Rural Wooded Incentive Program as it relates to the Wooded Reserve 40-Year time period for use, as well as maintenance of natural resource industries and the need for a discrete planning document harmonizing GMA goals;
  - c. Transfer of Development Rights Program as it relates to the 40-Year period of development right reuse.

The Hearings Board also ordered that Kitsap County must take legislative action to resolve this non-compliance and partial invalidity order no later than February 11, 2008.

5. On January 18, 2008, notice of intent to adopt was submitted to the Department of Community, Trade, and Economic Development.
6. On January 19, 2008, Kitsap County published, with the newspaper of record, a State Environmental Policy Act (SEPA) Determination of Non-Significance, and a notice of intent to adopt and public hearing. The SEPA Responsible Official found that the impacts of the RWIP and TDR program were previously analyzed in the Kitsap County Comprehensive Plan Draft and Final Environmental Impact Statement, dated August and December 2006, which was adopted by reference. A Determination of Non-Significance was issued for the changes in this Ordinance as they are relatively minor and have less potential impact on the environment than those previously adopted. The SEPA notices were also mailed to interested parties of record, agencies, and affected tribes.
7. On February 4, 2008 the SEPA comment and appeal period closed.
8. On February 11, 2008, the Board, following a timely and effective notice, held a public hearing to consider testimony on the proposed amendments.
9. The Board and County staff have evaluated the goals of the GMA pursuant to RCW 36.70A.020 and have prepared a discrete planning document regarding that evaluation. This discrete planning document evaluates the Transfer Development Rights Program and the Rural Wooded Incentive Program, as well as their proposed amendments explaining how the program elements are harmonized with the GMA goals, as required by RCW 36.70A.070(5)(a). This discrete document, incorporated herein as Attachment A, validates that the programs and proposed amendments are consistent with the goals governing the GMA and Kitsap County.

**Section 2. BE IT FURTHER ORDAINED, that the Kitsap County Board of Commissioners, based on the foregoing findings, hereby provides amendments to the Kitsap County Comprehensive Plan and as it relates to the Transfer of Development Rights Program as follows:**

Kitsap County Comprehensive Plan, Chapter Three, related to the Rural & Resource Chapter is amended as follows:

Section 3.2.8 Transfer of Development Rights

Transfer of Development Rights (TDR) is a market-based tool for conserving rural and resource land or structures determined to have a public benefit, as well as the rural character as defined in the GMA. It complements other incentive-based tools, land or easement acquisition programs, and other regulatory techniques intended to achieve

selected growth management objectives. The use of TDR is authorized by GMA in RCW 36.70A.090, as follows:

A comprehensive plan should provide for innovative land use management techniques, including, but not limited to, density bonuses, cluster housing, planned unit development, and the transfer of development rights.

See Chapter 2, *Land Use*, for policies relating to urban areas of the county, where TDR-receiving sites would be located.

Goal 15. Promote the TDR from land valuable to the public, especially rural and resource areas, to urban areas, in order to preserve the rural environment, rural character, encourage retention of rural resource-based uses, and avoid urban service demands in the rural area.

Policy RL-66 Continue efforts to implement an effective and focused TDR program, as an innovative means to preserve private lands with countywide public benefit, to encourage higher densities in urban appropriate areas, and to reduce residential development capacity in natural resource and rural areas.

Policy RL-68 Support and work actively to facilitate the transfer of rural development rights to:

- a. Preserve the rural environment, rural character, encourage retention of resource-based uses, and reduce service demands in the rural area.
- b. Provide protection to significant natural resources.
- c. Increase the regional open space system.

Policy RL-70 Require private properties qualified as sending sites to provide a protected area of sufficient size to provide public benefit. Priority candidates for sending sites are:

- a. All Rural and Resource Lands.
- b. Lands contributing to the protection of significant landscape or habitat features.
- c. Lands contributing to the protection of environmentally sensitive features including but not limited to aquifer recharge areas.
- d. Lands that contribute to the preservation of scenic views or maintaining the rural character or that are suitable for inclusion in and provide important links to the regional open space system.

**Section 3. Kitsap County Code Chapter 17.430.010, last amended by Ordinance 367-2006, is amended as follows:**

17.430.010 Purpose.

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Amending the Transfer of Development Rights and Rural Wooded Incentive Programs  
January 18, 2008*

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The purpose of this chapter is to establish procedures for the transfer of development rights from one property (sending site) to another (receiving site). Where the applicable Comprehensive Plan policies, designated overlay zone or zoning map designation provide the option for transfer of development rights ("TDRs"), the rights shall be transferred consistent with the requirements of this chapter, the Kitsap County Zoning Map and other requirements of Title 17. The transfer of development rights from one property to another is allowed in order to ~~provide the following: provide flexibility and better use of land and building techniques; to help preserve critical areas, watersheds, and open space; to provide increased equalization of property values between various zones; and to work toward achieving county-wide land use planning goals as determined by the Kitsap County Comprehensive Plan, the objectives of approved sub-area plans and the purpose of County implementing regulations.~~

- Flexibility and efficient use of land and building techniques;
- Preservation of rural character, resource-based industries, critical areas, watersheds, and open space;
- Increased equalization of property values between various zones;
- A mechanism to work toward achieving polices outlined in the Kitsap County Countywide Planning Policies, Kitsap County Comprehensive Plan, applicable sub-area plans and development regulations.

**Section 4. Kitsap County Code Chapter 17.430.090, last amended by Ordinance 367-2006, is amended as follows:**

17.430.090 Procedures and requirements for certification and approval of transfer of development rights.

- A. Certification for Future Sale or Transfer. A TDR that is not associated with a pending development application and that is not proposed for transfer to another parcel at the time of application may be certified administratively by the Department as a Type I decision. Upon satisfactory application for certification of TDRs for future sale or transfer, the number of TDRs on a sending area parcel is certified through the issuance of serially numbered individual certificates for each TDR verified for that parcel. The issuance of TDR certificates is recorded as a notice of title for the subject property(s). All certified TDRs and the value of such rights are deemed to be appurtenant to the sending area parcel until such rights are transferred by a recorded deed of transfer.
- B. Intermediate Transfer. Certified TDRs may be approved administratively for transfer to another individual, intermediate buyer, or entity that may hold them for a period of time before the TDRs are transferred to a receiving area parcel. Under this provision, no certified TDR may be transferred to a receiving parcel or used in association with a development project without prior approval under the procedures established in this title and the appropriate Title 16 subdivision regulations, as applicable.

- C. Initiation. An application for transfer of development rights (TDR) is initiated as follows:
1. The process is initiated by submittal of an application for a transfer of development rights permit by the owner of the receiving parcel to the Department.
  2. An application for a TDR permit is accepted only for filing concurrently with an application for the associated development project, site-specific Comprehensive Plan amendment or rezone application pursuant to the requirements of the Kitsap County Code.
  3. Except as allowed by ~~Section 17.505.080(A)~~ Chapter 17.510, the TDR permit application is reviewed concurrently with the proposed development project according to the procedures prescribed in the Kitsap County Code.
- D. Submittal Requirements. All requirements for a TDR permit or certification must include the following:
1. A map showing the location and boundaries of the receiving parcel and sending parcel as applicable;
  2. The acreage of the receiving parcel and sending parcel as applicable;
  3. The zoning and current allowable gross density of the receiving or sending parcels as applicable;
  4. A lot of record confirmation application;
  5. Written and notarized consent to the transfer from all registered owners and lien holders of record of all property subject to the transfer of development rights;
  6. A calculation of the number of units available to be transferred from the sending parcel and the total number of dwelling units requested to be transferred to the receiving parcel as applicable. Any fraction of a unit of 0.50 or greater shall be considered as a whole unit;
  7. Except for purposes of certification or transfer under Section 17.430.090. A, all other submittal requirements for an application for the associated development project pursuant to the requirements of the Kitsap County Code; and
  8. The department may require the submission of other data, information, or drawings as deemed necessary to accomplish the purposes of this chapter.
- E. Approval Process and Criteria.
1. The procedures for approval of a TDR permit shall be those required for the development project, Comprehensive Plan amendment or rezone pursuant to the requirements of this code.
  2. The review authority may approve or approve with conditions the TDR permit upon making the finding that the purposes and requirements of this chapter have been met. If the purposes and requirements have not been met, the permit shall be denied.
- F. Requirements for Final Approval. Approval of a TDR permit is finalized after the following actions:
1. Final approval of the concurrent development project according to the provisions of this code, except as allowed by ~~Chapter 17.510~~ Section 17.505.080(A).
  2. Execution and recording of an instrument legally sufficient in both form and content (using a form provided by the county) to effect the

development right transfer. The instrument must include at minimum a legal description of both the sending parcel(s) and receiving parcel(s) and the serial numbers of the certified TDRs being transferred.

3. Recording of a deed restriction, as specified by the county, on all of the sending parcels from which development rights are obtained. A copy of the recorded deed restriction must be submitted to the Department, which certifies the transfer of all development rights on each sending parcel. The deed restriction must be approved as to form by the Department. The document notifies all owners and successors that the transfer and its concomitant restrictions run with the land and are binding on all future owners.
4. For all sending parcels, the deed restriction is sufficient to retire all transferred development rights on the sending parcel ~~for a period of in~~ perpetuity 40 years.

**Section 5. BE IT FURTHER ORDAINED, that the Kitsap County Board of Commissioners, based on the foregoing findings, hereby provides amendments to the Kitsap County Comprehensive Plan as it relates to the Rural Wooded Incentive Program as follows:**

Policy RL-1 Consider the following issues when implementing the Rural Wooded Incentive Program:

~~Providing ongoing opportunities for large and small scale timber management;~~

1. Preserving rural character through a mix of rural densities, innovative rural planning, and clustered development;
2. Protecting the natural environment and promoting an interconnected system of open space in the rural areas;
3. Providing appropriate buffer widths from property boundaries, existing and potential resource uses, other residential development, rights-of-way and other appropriate factors;
4. Encouraging design that preserves environmentally sensitive areas and harmonizes with topography and landscape features;
5. Encouraging design that maintains or enhances the predominant rural character, scenic views, and open space corridors; and
6. Limiting the use of clustering through limited phases and bi-annual monitoring, such that clustering does not become the predominant pattern of development throughout the rural area.

Policy RL-2 Provide development regulations specifying the base residential density of lands zoned Rural Wooded at one dwelling unit per 20 acres, and allow

limited clustered residential development to be developed at greater density, subject to the following criteria:

1. The portion of the property site identified for clustered residential development may be developed for residential uses provided that clustered residential development shall comprise less than one quarter of the portion of the total site utilized to establish residential base density (or a maximum of 25% of the property(s) gross acreage total-site-area).
2. The portions of the property not within a clustered residential development but utilized to establish base residential density would be placed in Permanent Open Space. ~~a combination of:~~
  - a. ~~“Wooded Reserve” where forestry would be permitted and encouraged pursuant to the State Forest Practices Act. Properties in Wooded Reserve may not be developed or subdivided earlier than 40 years.~~
  - b. ~~“Permanent Open Space” where an area, not included within a Wooded Reserve, This area is to be~~ permanently reserved as open space through conservation easements or other sufficient mechanisms, although it may be used for the limited forestry, recreational, and community utility uses. Such area is to be dedicated to a public entity or conservation group for future stewardship.
3. The maximum residential density incentive in any development using this program may not exceed one dwelling unit per five acres with 75% of the gross acreage reserved as Permanent Open Space described above. ~~is to be directly related to the ratio of “Permanent Open Space” to “Forest Reserve.” The greater incentives are proposed for the developments with the greater proportion of “Permanent Open Space.”~~

**Section 6. Kitsap County Code Chapter 17.110.535, last amended by Ordinance 367-2006, is amended as follows:**

17.110.535 Open space.

"Open space" shall mean land used for outdoor active and passive recreational purposes or for critical area or resource land protection, including structures incidental to these open space uses, including associated buffers, but excluding land occupied by dwellings or impervious surfaces not related to the open space uses and yards required by this title for such dwellings or impervious surfaces. "Open space" is further divided into the following categories:

- A. "Common open space" shall mean space that may be used by all occupants of a development complex or, if publicly dedicated, by the general public;
- B. "Active recreational open space" shall mean space that is intended to create opportunities for recreational activity. Active recreational open space may be

occupied by recreational facilities such as ball fields, playground equipment, trails (pedestrian, bicycle, equestrian or multi-modal), swimming pools, and game courts or sculptures, fountains, pools, benches or other outdoor furnishings.

- C. "Passive open space" shall mean all common open space not meeting the definition of active recreational open space, including but not limited to, critical areas and their associated buffers.
- D. "Permanent open space" means an area that is permanently reserved as open space and remains in native vegetation unless approved for forestry, passive recreational or access uses; ~~In the Rural Wooded zone, areas within a wooded reserve shall not be considered permanent open space;~~ and
- E. "Recreational open space" means an area that shall be improved and maintained for its intended use. Exterior as well as interior areas can constitute recreational open space. Examples of usable recreational space include swimming pools, community buildings, interior gyms, picnic areas, tennis courts, community gardens, improved playgrounds, paths and passive seating areas.

**Section 7. Kitsap County Code Chapter 17.110.782, last amended by Ordinance 367-2006, is deleted as follows.**

~~17.110.782—Wooded reserve.~~

~~"Wooded reserve" means the area of a Rural Wooded Incentive Program Development restricted to forestry uses for 40 years after the development approval.~~

**Section 8. Kitsap County Code Chapter 17.301.080, last amended by Ordinance 367-2006, is amended as follows:**

17.301.080 Rural Wooded Incentive Program.

- A. Purpose. The purpose of this section is to provide a clustering program for land designated Rural Wooded, which provides incentives to landowners, promotes coordinated open space, and preserves rural character. and encourages the continuation of forestry. This chapter encourages development to occur on the most buildable and least environmentally sensitive portions of sites while retaining a substantial portion of each site in restricted open space tracts or easements. Specifically, this chapter is designed:
  - 1. To produce a development pattern in rural areas that is consistent with rural character and to produce a rural development pattern which encourages variety in design, placement of buildings, more efficient use of the most buildable portion of sites, and retention of the environmentally sensitive and scenic portions of sites as permanent open space;
  - 2. To encourage the development of cluster housing, which provides greater compatibility with surrounding development and land uses in rural areas by providing larger buffer areas;
  - 3. To encourage the retention of permanent open space with its natural vegetative cover, which protects continued groundwater recharge and reduces potential

water pollution, flooding, erosion and other drainage-related problems often associated with rural development;

4. ~~To minimize adverse development impacts on the county's productive forestry, mineral and other important resource lands;~~

5. To minimize adverse impacts on the county's environmentally sensitive streams, shorelines, wetlands, fish and wildlife habitat areas and corridors, areas of unique vegetation or wildlife species, steep slopes, and other critical areas;

6. To minimize impervious surfaces and the cost of installing essential public and private capital facilities necessary for a rural infrastructure; and

7. To protect rural natural features and landscape by minimizing tree, vegetation, and soil removal.

B. Applicability. This program applies to all properties within the Rural Wooded zone 20 acres or greater in size. Individual projects using this program may not exceed more than 500 contiguous acres.

1. Phase Description. Land available to use this program will be designated in the Comprehensive Plan in an incremental phased approach consisting of 10 phases. The phased process of this program is described below:

a. Initial phase shall be limited to a total of five-thousand (5,000) acres of Rural Wooded (RW) land.

b. All parcel acreage utilized in Rural Wooded Incentive Program developments, including any Permanent Open Space, ~~Wooded Reserve~~, fresh water bodies, critical areas, and residential acreage, shall be included for calculations toward the remaining available Phase acreage.

c. Subsequent phases may be released based upon the provisions identified in subsection 17.301.080.B with each limited to a total of five-thousand (5,000) additional acres of Rural Wooded (RW) land.

2. Monitoring.

a. Monitoring shall be conducted every two years to evaluate the effectiveness of the Rural Wooded Incentive Program. The monitoring shall include:

(1) Evaluation of the county-wide split between rural and urban dwelling unit development and lot creation. The methodology shall be consistent with that approved in the most recent Buildable Lands

~~Analysis Report~~;

(2) Evaluation of the total acreage within the Rural Wooded Incentive Program that has submitted a complete application, that has received preliminary approval, and that has received final approval as well as the total acreage of Permanent Open Space ~~and Wooded Reserve~~ in these approved developments;

(3) A transportation analysis of the roadways adjacent to and serving Rural Wooded Incentive Program developments;

(4) Evaluation of the Rural Wooded (RW) designated lands for the maintenance of qualities of "Rural Character" as defined in this section; and

(5) Evaluation of development in the Rural Wooded zone in regards to critical area buffers, on-site and adjacent parcel well levels, on-site stream flow levels and increases in project-based impervious surfaces.

- b. Releases of the subsequent phases of acreage available for the Rural Wooded Incentive Program shall be determined based upon all the following decision criteria.
    - (1) Satisfactory progress toward achieving the Rural/Urban split identified in the County-Wide Planning Policies.
    - (2) Final approval for Rural Wooded Incentive Program developments comprising more than 30 percent or 1,500 acres, whichever is greater, of the total Phase acreage.
    - (3) Determination of no level of service failures on roadways serving existing Rural Wooded Incentive Program developments.
    - (4) Satisfactory maintenance of rural character as defined in subsection 17.301.080.C for Rural Wooded Incentive Program developments.
  - c. Prior to the release of each subsequent phase, the Department of Community Development shall prepare a "Rural Wooded Incentive Program: Phase Assessment Report." This report shall assess the program's consistency with the purposes outlined in subsection 17.301.080.A and the monitoring requirements of 17.301.080.B. The report shall be submitted to the Board of County Commissioners.
3. Authority.
- a. The Board of County Commissioners shall have the authority to recommend, recommend with conditions, or disapprove release of each subsequent phase of acreage available to Rural Wooded Incentive Program developments, subject to the provisions of this section.
  - b. The Board of County Commissioner's decision on a subsequent Rural Wooded Incentive Program phase may be appealed as set forth in Title 21 of this code.
4. Phase Process.
- a. Should an application for a Rural Wooded Incentive Program development be submitted that would exceed the 5,000 acres available for that phase, that application will be rejected, however that applicant will be permitted to amend the application to reduce the number of proposed acres for which development is sought to remain under the 5,000-acre phase limit.
  - b. Once 5,000 acres of Rural Wooded Incentive Program developments have received preliminary approval, no future applications will be accepted that exceed the 5,000 acres available for that phase until the subsequent phase is recommended for release subject to the provisions of this Section.
  - c. An application may include a request for a subsequent phase to be released concurrent with the Rural Wooded Incentive Program development application; however, that application will not be deemed complete until the subsequent phase is recommended for release subject to the provisions of this section.
- C. Approval procedure. Rural Wooded Incentive Program developments shall be approved through a Type III subdivision approval process.
- D. Submittal requirements. In addition to the subdivision submittal requirements, each application for a Rural Wooded Incentive Program development shall include the following information to be considered a complete application:

1. The approximate location and general dimensions for all lots, tracts, easements, roadways, and other improvements;
  2. The proposed location and acreage of the ~~Wooded Reserve and~~ Permanent Open Space, ~~as applicable~~;
  3. The approximate location of all existing or proposed pedestrian walkways, landscaped areas and areas to permanently remain in a natural condition;
  4. The location of existing and proposed on-site water sources and generalized designation of sewage disposal drainfields and reserve areas;
  5. The location and width of proposed roadways and driveway areas for turning and maneuvering of vehicles, and the relationship of circulation to adjacent properties;
  6. A general description of any major physiographic or other natural features, such as drainage ways, wetlands, fish and wildlife habitats, geologic hazard areas, steep slopes, shorelines and all other critical areas, as well as a topographic map with contour lines as 5-foot contours;
  7. The location and approximate acreage, either on or adjacent to the property(s), designated as natural resource lands and the approximate size (in square feet or acres);
  8. The approximate area proposed to be included in paved or other impervious surfaces, ~~Wooded Reserve~~, Permanent Open Space, and the total area of the site;
  9. A description of, and proposed schedule for, any proposed phasing of the project;
  10. A general landscape, clearing and buffering plan, drawn to scale and showing: community areas, pathways or other recreation areas, significant landscape features and vegetation on the site, natural vegetation and mature trees to be retained, and the location and conceptual design of landscaped areas and buffers. Detailed site analysis and design information shall not be required for those portions of the site proposed for retention in ~~Wooded Reserves or~~ Permanent Open Space tracts, except for portions of Permanent Open Space tracts which contain proposed recreation facilities;
  11. A vicinity sketch to identify the effect of proposed development on surrounding properties and uses;
  12. A conceptual storm drainage plan, prepared by a qualified engineer, showing that the project will comply with the Kitsap County storm water standards in effect at the time of the application; and
  13. A report from a certified septic system installer, showing that there is a drainfield and a replacement drainfield available for each dwelling unit within each proposed cluster, or if a community or group drainfield is to be used, that there is a site and a replacement site for such community or group drainfield, that will meet the standards of the Washington Department of Health or the Kitsap County Health Department, whichever is more stringent.
- E. Development Standards. A Rural Wooded Incentive Program development shall meet the following development standards:
1. ~~The base density permitted within a Rural Wooded Incentive Program development shall be one (1) dwelling unit per twenty (20) acres.~~

2. ~~Additional density may be allowed based upon the designation of a portion of the development as "Wooded Reserve" and a portion of the development acreage as "Permanent Open Space". Through the use of the Program, the number of dwelling units permitted in the Rural Wooded zone may be increased to 1 dwelling unit per 5 acres with the dedication of 75% of the property(s) gross acreage in Permanent Open Space, under one of the following ratio alternatives.~~
  - a. ~~Alternative One.~~
    - (1) ~~The maximum number of dwelling units permitted within a Rural Wooded Incentive Program development shall be one (1) dwelling unit per ten (10) acres; and~~
    - (2) ~~A minimum of seventy-five percent (75%) of the Rural Wooded Incentive Program development site must be designated Wooded Reserve for a period of 40 years or greater.~~
  - b. ~~Alternative Two.~~
    - (1) ~~The maximum number of dwelling units permitted within a Rural Wooded Incentive Program development shall be three (3) dwelling units per twenty (20) acres;~~
    - (2) ~~A minimum of fifty percent (50%) of the Rural Wooded Incentive Program development site must be designated Wooded Reserve for a period of 40 years or greater; and~~
    - (3) ~~A minimum of twenty-five percent (25%) of the Rural Wooded Incentive Program development site shall be designated as Permanent Open Space tract(s).~~
  - c. ~~Alternative Three.~~
    - (1) ~~The maximum number of dwelling units permitted within a Rural Wooded Incentive Program development utilizing Alternative Three shall be one (1) dwelling unit per five (5) acres.~~
    - (2) ~~A minimum of twenty-five percent (25%) of the Rural Wooded Incentive Program development site must be designated Wooded Reserve for a period of 40 years or greater.~~
    - (3) ~~A minimum of fifty percent (50%) of the Rural Wooded Incentive Program development site shall be designated as Permanent Open Space tract(s).~~
  - d. ~~Alternative Four.~~
    - (1) ~~The maximum number of dwelling units permitted within a Rural Wooded Incentive Program development utilizing Alternative Four shall be one (1) dwelling units per five (5) acres.~~
    - (2) ~~A minimum of seventy-five percent (75%) of the Rural Wooded Incentive Program development site shall be placed in a Permanent Open Space tract(s) where no development or forestry uses will be allowed.~~
3. The maximum number of acres for any single Rural Wooded Incentive Program development application shall be limited to a total of 500 gross acres, including all ~~Wooded Reserve~~, Permanent Open Space and development acreage.
4. The minimum number of acres for any Rural Wooded Incentive Program development application shall be limited to a minimum of twenty (20) acres,

including all ~~Wooded Reserve~~, Permanent Open Space and development acreage.

5. Development shall be clustered.
  - a. Lot Requirements.
    - (1) Front Yard. Minimum front yard setback shall be twenty (20) feet.
    - (2) Side and Rear Yard. Minimum side and rear yard setbacks shall be five (5) feet and fifty (50) feet for accessory structures used for agricultural purposes.
    - (3) Minimum Lot Size: None
6. Each cluster shall be limited to 25 units or fewer. Clusters within a development should be sited to achieve the following objectives and criteria. The Director may allow exceptions based upon site-specific conditions or when conflicts occur between the criteria.
  - a. Optimize protection of critical areas, including wetlands and stream corridors, by keeping clusters and other development away from critical areas to the extent possible;
  - b. Optimize preservation and interconnectivity of open space, ~~either for continuation of forestry practices or~~ as a permanent preservation of open space;
  - c. Avoid development on ridgelines, in the center of open field, or located on other prominent topographical features or scenic elements, visible to adjacent and vicinity properties when other locations are available; and
  - d. Minimize topographic alteration.
7. Clusters developed under this program shall provide a 100-foot vegetated buffer from existing public roadways and adjoining properties and a 150-foot buffer between clusters in order to preserve rural character and the aesthetic values of Rural Wooded lands.
  - a. Where two Rural Wooded Incentive Program developments abut each other, they are encouraged, where practical, to coordinate ~~required Wooded Reserves and~~ Permanent Open Space to provide interconnectivity;
  - b. Buffers are encouraged to incorporate natural features to maximize retention of views and rural character;
  - c. Where native vegetation is available to create a sight-obscuring buffer, that vegetation should be preserved to the extent consistent with public safety. Hazard trees may be removed with approval of the Director;
  - d. Preservation of trees greater than 10 inches diameter breast height (dbh) is encouraged;
  - e. Except where an exception is needed to preserve or create scenic views from county or state roads, internal roads and building locations within a Rural Wooded development should be designed to maximize the extent to which the external buffer obscures the planned development from existing county or state roads; and
  - f. Where native vegetation is not available to create a sight-obscuring buffer between the planned development and existing county or state roads, fast-growing native vegetation that will grow to obscure the planned development should be planted within the buffer area.

8. Water provision from new wells drilled within the Rural Wooded designated lands are encouraged to minimize impacts to surface and groundwater resources. For projects proposing new wells, submission of well log records and a report by a Washington State certified hydrogeologist demonstrating utilization of deep aquifers and the lack of continuity with surface water features is encouraged during project review and may be included as a condition of approval.
9. Development shall fully comply with Kitsap County Code Title 19 (Critical Areas). All environmentally sensitive areas such as streams, shorelines, wetlands, fish and wildlife habitat areas and corridors, steep slopes, and other critical areas regulated by Title 19 and/or other applicable county ordinances or policies are encouraged to be located within the ~~Wooded Reserve or~~ Permanent Open Space areas of the development, except to the extent development in those areas is permitted by Title 19.
10. Roads should be designed to comply with adopted Kitsap County Road Standards for rural roads.
  - a. Rural Wooded Incentive Program developments shall meet applicable rural concurrency standards;
  - b. Roads should have shoulders and grass-lined ditches, rather than curbs, gutters and adjacent sidewalks;
  - c. Pedestrian and/or bike paths through a development are encouraged but may be separate from roads and should be narrow and designed to adapt to the natural contours and features of the land; and
  - d. To the extent consistent with adopted Kitsap County Road Standards, roads should follow topography, and other natural features, such as major trees or other elements that contribute to rural character.
11. In designating the areas for Permanent Open Space tracts, the following is encouraged:
  - a. Preserve areas along saltwater shoreline;
  - b. Include open water bodies, creeks, rivers and other natural water features;
  - c. Protect scenic views and significant natural features;
  - d. Conserve areas of significant terrestrial wildlife, salmonid habitat, and groundwater supply; and
  - e. Coordinate with Washington State Department of Fish & Wildlife, Washington State Department of Natural Resources, non-profit agencies, and local Tribes to identify priority conservation areas.
- ~~12. A disclosure statement shall be placed on the final plat for all Rural Wooded Incentive Program developments stating that:  
"The Wooded Reserve designated parcels or tracts within the (insert name of plat) plat is reserved for forestry operations. A variety of forestry activities may occur on the Wooded Reserve that are not compatible with residential development for limited periods. Residents may be subject to inconvenience or discomforts arising from forestry activities, including but not limited to noise, odors, fumes, dust, smoke, the operations of machinery of any kind, timber harvest, brush control, the application by spraying or otherwise of chemical or organic fertilizers, soil amendments, herbicides and pesticides, hours of operation, and other forestry activities."~~

~~So long as such forestry operations are in compliance with the Washington Forest Practices Act, RCW Ch. 76.09, they shall not constitute a nuisance. No perimeter buffers are required within the Wooded Reserve area. Urban levels of service will not be provided by Kitsap County or the developer of this property."~~

- F. ~~Uses permitted within the Wooded Reserve and Permanent Open Space.~~
- ~~1. Wooded Reserve. This area shall be designated Wooded Reserve for a minimum of forty (40) years. Uses allowed with the Wooded Reserve during this period include:
    - ~~a. Forestry, existing agricultural and other resource activities; and~~
    - ~~b. Community wells, well houses, water lines, community drainfields, retention and detention ponds, logging and access roads, water recharge and infiltration facilities, water system appurtenances and biofiltration swales. After this period has expired, the owner may seek additional development on the Wooded Reserve. The density and lot requirements for the Wooded Reserve area shall be consistent with the County Code in effect at the time of future application.~~~~
  - ~~2. Forestry activities within the Wooded Reserve area must be consistent with an approved Timber Harvest permit. The Wooded Reserve will require an updated Forest Management Plan pursuant to Washington State Department of Revenue "Guidelines for Forest Land Management Plans." Such plan shall be prepared by a certified forester.~~
  3. Permanent Open Space tract. A Permanent Open Space tract created under this section may be used for the following resource and passive recreational and roadway uses:
    - a. Forestry, existing agricultural or other resource uses;
    - b. Trails/pedestrian walkways, beaches, docks, swimming areas or any non-motorized passive recreational facilities;
    - c. Logging and access roads; and
    - d. Open space uses along a shoreline shall allow for visual and physical access to the shoreline and may include view corridors, community beaches, docks, swimming areas, picnic areas, trails/pedestrian walkways, or any non-motorized passive recreational facilities.
  4. Vegetation removal in a Permanent Open Space tract shall be in accordance with an approved open space management plan. Permanent vegetation removal within the Permanent Open Space tract shall not be permitted, except that the following activities shall be allowed where vegetation removal is the minimum necessary to conduct the activity:
    - a. Construction of pedestrian or equestrian trails;
    - b. Maintenance of existing pastures;
    - c. Forestry, existing agricultural or other resource activities;
    - d. Removal of dead, diseased or hazardous vegetation, consistent with best management practices;
    - e. Fire breaks provided in accordance with fire district requirements; and
    - f. A management plan which details the required maintenance and management tasks and responsibilities may be required by the department

for all ~~Wooded Reserve and Permanent~~ Open Space areas. These plans shall include monitoring to assess compliance with the approved plan(s).

G. Ownership of the ~~Wooded Reserve and~~ Permanent Open Space.

1. Upon recording of a final plat for a Rural Wooded Incentive Program development, Permanent Open Space tracts ~~may be held by the original owner, conveyed to a homeowners association or to the owner or owners of a lot or lots within the subdivision as tenants in common or to a~~ shall be dedicated to a public entity, land trust or other non-profit steward, subject to the restrictions on the future use of the Permanent Open Space described in 17.301.080.F.
2. ~~Ownership of the Wooded Reserve may, at the discretion of the proponent of the development, remain with the original owner, or may be conveyed to a third party or parties, or may be conveyed to a homeowners association or to the owners of lots within the subdivision, as tenants in common, provided, however, that upon recording of a final plat of a Rural Wooded Incentive Program a restrictive covenant will be recorded in favor of the lot owners and in favor of Kitsap County, restricting future use of the Wooded Reserve as provided in 17.301.080.F.~~

H. Decision Criteria. An application for a Rural Wooded Incentive Program development may be approved or approved with modification if the Examiner finds that all of the following requirements, as established by this section, are met:

1. The site plan complies with the Development Standards of 17.301.080.E and the other requirements of this chapter.
2. The proposed development will not require the extension or provision of sanitary sewer service or other urban services to the development.
3. The proposed development complies with all applicable County Codes.
4. The development demonstrates preservation of rural character by incorporating the following:
  - a. Clustering of development, as applicable;
  - b. Preservation of critical areas, resource areas, groundwater recharge, and natural features;
  - c. Provision for a coordinated, comprehensive, interconnected, and integrated system of ~~Wooded Reserve and~~ Permanent Open Space areas; and
  - d. Placement of structures, circulation systems and utilities that minimize impervious surfaces and the alteration of the land and also responds to physical characteristics of the property.
5. The development is consistent with the goals and policies of the Kitsap County comprehensive plan.
6. The development complies with all other applicable codes and policies of the county.
7. If Rural Wooded Incentive Program development will be phased, each phase of a proposed development must contain adequate infrastructure, open space dedication, ~~forest reserve dedication~~, and all other conditions of the development to stand-alone if no other subsequent phases are developed.
8. If no reasonable conditions or modifications can be imposed to ensure the application meets the criteria set forth above, then the application shall be denied.

I. Vesting.

1. Approval of a Rural Wooded Incentive Program development shall be effective for five years from the date of final approval.
  2. Property owners with an approved Rural Wooded Incentive Program development may receive one five-year extension from the hearing examiner in accordance with the criteria below:
    - a. An extension request must be filed in writing with the director at least sixty days prior to the expiration of the approval period;
    - b. The applicant must demonstrate to the hearing examiner tangible progress toward completion of the approved Rural Wooded Incentive Program development; and
    - c. The applicant must demonstrate to the hearing examiner that there are no significant changes in conditions that would render approval of the extension contrary to the public health, safety or general welfare.
  3. The hearing examiner may take any of the following actions upon receipt of a timely extension request:
    - a. Approve the extension if no significant issues are presented under the criteria set forth in this section.
    - b. Conditionally approve the extension if any significant issues presented are substantially mitigated by minor revisions to the original Rural Wooded Incentive Program development.
    - c. Deny the extension if any significant issues presented cannot be substantially mitigated by minor revisions to the Rural Wooded Incentive Program development.
- J. Forest Practice Permits. All forest practices in the Permanent Open Space Wooded Reserve shall be conducted pursuant to a Timber Harvest Permit issued by the Department of Natural Resources. The Permanent Open Space Wooded Reserve shall not be deemed to have been converted to another use or likely to convert to urban development under WAC 222-16-050(2). Except to the extent that jurisdiction has been transferred to Kitsap County pursuant to RCW 76.09.240(3), the Department of Natural Resources shall remain the agency responsible for permitting of forest practices in the Rural Wooded area.
- K. Taxation Status. Under the Current Use Assessment Program, all property located within the Permanent Open Space or developed portion of the project shall be removed from the Program and all compensating tax paid prior to final approval of the subdivision.
- L. Third Party Review. The county may require third party review in cases where additional professional or technical expertise is required.

**Section 9. Kitsap County Code Chapter 17.382.110, last amended by Ordinance 405-2007, is amended as follows:**

17.382.110 Footnotes for tables. (Density/Dimensions)

- A. Where noted on the preceding tables, the following additional provisions apply:
1. Except for those buildings directly associated with timber production and harvest.
  2. Except for silos and other uninhabited agricultural buildings.

3. Properties within the urban restricted (UR) zone may subdivide at densities below the minimum required for the zone under the following circumstances:
  - a. The reduced density provides a greater protection for critical areas or environmentally sensitive areas; and
  - b. The intent of the short subdivision or subdivision is to keep the property in the ownership of the immediate family members.
4. If a single lot of record, legally created as of April 19, 1999, is smaller in total square footage than that required under this chapter, or if the dimensions of the lot are less than required, said lot may be occupied by any reasonable use allowed within the zone subject to all other requirements of this chapter. If there are contiguous lots of record held in common ownership, each of the lots legally created as of April 19, 1999, and one or more of the lots is smaller in total square footage than required by this chapter, or the dimensions of one or more of them are less than required, said lots shall be combined to meet the minimum lot requirements for size and dimensions.
5. The Design Standards for the Community of Kingston sets forth policies and regulations for properties within the downtown area of Kingston. All development within this area must be consistent with these standards. A copy of the Design Standards for the Community of Kingston may be referred to on the Kitsap County web page or at the Department of Community Development front counter.
6. Building replacements and remodels shall not create in excess of a total of forty percent impervious surface for lot area or more than the total existing impervious surface area, whichever is greater.
7. Excess area from acreage used to support proposed densities but not devoted to residential lots and public improvements such as streets and alleys shall be permanently dedicated and reserved for community open space, park land, and similar uses. For developments proposing densities no greater than one dwelling unit per five acres, the minimum and maximum lot sizes shall not apply, except that existing dwelling units shall be allocated lot area between 3,500 and 7,500 square feet. New proposals may then proceed using the five-acre lot requirements of Section 17.310.030 for the rural residential (RR) zone.
8. Hotels may be developed with four above-ground floors and up to a height not exceeding fifty feet with approval of the fire marshal and relevant fire district.
9. May be reduced to ten feet for residential uses through the administrative conditional use or PBD process.
10. Uses allowed through the conditional use process shall provide minimum side setbacks of 10 feet and minimum rear setbacks of 20 feet.
11. Any newly created lot within the Suquamish Rural Village shall be subject to Chapter 16.48 of this code, Short Subdivisions, and must meet the lot requirements below:
  - a. Lot Requirements.
    - Minimum Lot Size: 21,780 square feet
    - Minimum Lot Width: 100 feet
    - Minimum Lot Depth: 100 feet
  - b. Setbacks.

Front: 20 feet  
Side: 5 feet  
Rear: 5 feet

12. Nonconforming Lots in Single Ownership. If a single lot of record, legally created before the adoption of the Manchester Community Plan, is less than 8,712 square feet in size or does not meet the dimensional requirements of its zone, the lot may be occupied by any use allowed within the zone subject to all other requirements of this chapter.

Nonconforming Lots in Common Ownership. Contiguous lots of record held in common ownership, each lot legally created before adoption of the Manchester Community Plan, must be combined to meet the minimum lot requirements of its zone if one or more of the lots is less than 8,712 square feet in size or does not meet the dimensional requirements of its zone and, at the time of adoption of the Manchester Community Plan (March 18, 2002), either 1) a residential structure encumbered more than one of the contiguous lots or 2) two or more of the contiguous lots were vacant. If one or more of the lots is sold or otherwise removed from common ownership after the adoption of the Manchester Community Plan, it will not be considered to meet the minimum lot requirements for non-conforming lots in single ownership. Property with two contiguous lots legally created before adoption of the Manchester Community Plan with a residential structure entirely on one lot may develop the second lot consistent with applicable zoning.

13. Residential structures within the MVC zone may not exceed 28 feet. Commercial or mixed-use structures within the MVC zone may not exceed two stories, excluding completely underground structures used solely for parking.
14. Within the view protection overlay, the maximum height shall be 28 feet. Height shall be measured from the average elevation of the property's buildable area to the structure's highest point. Buildable area is considered all portions of the property except wetlands and/or geologically hazardous areas. Properties within the view protection overlay zone may build as high as 35 feet under the following circumstances:
- a. There is no existing view of downtown Seattle, the Cascade Mountains, Mt. Rainier or the Puget Sound from the subject property or any adjacent property; or
  - b. The owners of all adjacent properties approve the building height prior to building permit issuance; or
  - c. It can be explicitly shown that the structure will not cause the blockage of existing views from any of the adjacent properties.
15. Clustering residential development is encouraged in all development. When clustering development, if a property owner designates 40% of the gross acreage as naturally vegetated open space, he or she may create one additional lot for every five lots clustered. The additional lot may not reduce the naturally vegetated open space to an amount less than 40% of the gross acreage of the development.

16. All properties within the Manchester Village must also meet the requirements of the Storm Water Management Ordinance, Chapters 12.04 through 12.32 of this

code. The use of pervious materials and other new technologies may be used in the construction of these areas and structures to reduce the impervious surface calculation.

17. A greater height may be allowed as set forth below and in accordance with the procedures in Title 21 of this code. Such approval must be consistent with the recommendations of the fire marshal/fire district and compatible with surrounding uses and zones. Such approval shall result in a decrease in building coverage, an increase in public amenities, and/or a more creative or efficient use of land. The maximum building height approved by the director shall not exceed:
  - a. In the UM, NC, and P zones: 45 feet.
  - b. In the UH, HTC, and RC zones: 65 feet.
  - c. In the BP, BC, and IND zones: 50 feet.
  - d. In the Mixed Use zone:
    - i. Within Silverdale, the maximum height shall be consistent with the design guidelines;
    - ii. Along the Highway 303 corridor, the maximum height shall be 65 feet;
    - iii. Along Perry and National Avenues, the maximum height shall be 45 feet.
18. Density based on net acreage of the property(s) after the removal of critical areas.
19. The maximum number of residential units permitted in the South Kitsap UGA/ULID #6 Sub-Area Plan is 4,172 until such time as a further population allocation is made to the sub-area. All residential development within the sub-area is subject to this density limitation. To ensure that the density limit for the sub-area is not exceeded, the director shall use the county's land information system (LIS) to monitor the number of dwelling units remaining and available for development within the sub-area.
20. The minimum lot width within the ULID #6 Sub-Area shall be 40 feet.
21. 20 feet when abutting a residential zone.
22. Maximum height shall be 30 feet when located within the 200 foot shoreline area..
23. The minimum site setback shall be 75 feet for any yard abutting a residential zone, unless, based upon a site-specific determination, berming and landscaping approved by the director is provided that will effectively screen and buffer the business park activities from the residential zone that it abuts; in which case, the minimum site setback may be reduced to less than 75 feet but no less than 25 feet. In all other cases, minimum site setbacks shall be 20 feet.
24. An individual structure intended for future mixed commercial and residential uses may initially be used exclusively for residential use if designed and constructed for eventual conversion to mixed commercial and residential use once the Urban Village Center or Urban Town Center matures.
25. The Bethel Road Corridor Development Plan sets forth policies and regulations for development within the Highway Tourist Commercial Zone located along the Bethel Corridor in South Kitsap from SE Ives Mill Road to the Port Orchard City limits. Development within the Bethel Road Corridor Highway Tourist Commercial Zone shall be conducted in a manner consistent with the policies and regulations of the Land Use Element of the Bethel Road Corridor Development Plan.

26. No service road, spur track, or hard stand shall be permitted within required yard areas that abuts a residential zone.
27. Wherever an industrial zone abuts a residential zone, a fifty-foot landscaped setback area shall be provided with plantings, as approved by the director. No structures, open storage, or parking shall be allowed. The plan for landscaping may be approved only if the landscaping is designed to preserve the quality of the residential zone. The minimum lot setback shall be 50 feet for any yard abutting a residential zone unless, based upon a site-specific determination, berming and landscaping or other screening approved by the director is provided, which will effectively screen and buffer the industrial activities from the residential zone which it abuts, in which case the minimum setback may be 25 feet. These setbacks are the minimum setbacks required and may be increased by the director to ensure adequate buffering and compatibility between uses.
28. Unless part of an approved zero-lot line development.
29. 100-foot setback required for single-family buildings abutting FRL or RW zones.
30. No minimum lot size if property is used only for extraction.
31. 330 feet if activity includes any uses in 17.380.020.
32. Existing lots developed with existing single-family residences are permitted to be maintained, renovated and structurally altered. Additions to existing residential structures in order to provide commercial uses are also permitted regardless of density.
33. All development within the Silverdale Downtown Design District boundary must be consistent with the Silverdale Downtown Design Guidelines.
34. Development abutting a street for which a standard has been established by the Kitsap County Arterial Plan shall provide a special setback from the centerline of said street or a distance adequate to accommodate one-half of the right-of-way standard established by the arterial plans for the street. The building setback required by the underlying zone shall be in addition to the special setback and shall be measured from the edge of the special setback line. The special setback area shall be treated as additional required yard area and reserved for future street widening purposes.
35. Maximum density, ~~and~~ smaller lot sizes ~~and reduced setbacks~~ may be allowed based upon the designation of ~~a portion of the development as "wooded reserve"~~ ~~and~~ a portion of the development acreage as "permanent open space" through the Rural Wooded Incentive Program, under one of the allowed alternatives in Chapter Section 17.301.080.
36. For standards applicable to master planned industrial developments and approved industrial parks, see Section 17.370.090.
37. When an airport zone abuts a residential zone, there shall be a minimum of five hundred feet from the end of any runway and the residential zone. Adjacent to airports, the director may impose height restrictions and/or other land use controls, as deemed essential to prevent the establishment of air space obstructions in air approaches to protect the public health, safety and welfare consistent with Federal Aviation Regulations (FAR) Part 77.

38. Cornices, canopies, eaves, belt courses, sills or other similar architectural features, or fireplaces may extend up to twenty-four inches into any required yard area. For setbacks along shorelines, see Chapter 17.450.
39. Unless otherwise stated in this title, if a lot of record, which was legally created as of May 10, 1999, is smaller in total square footage than that required within the zone, or if the dimensions of the lot are less than that required within the zone, said lot may be occupied by any use allowed within that zone subject to all other requirements of the zone. Unless specifically stated within this title, where two or more contiguous lots which are nonconforming to the lot size or dimensions of the zone and are held in common ownership, said lots shall be considered separate legal nonconforming lots and each may be occupied by any use permitted within the zone subject to all other requirements of the zone. If a lot of record was lawfully occupied by two or more single-family residences (excluding accessory dwellings) as of May 10, 1999, the owner of such a lot may apply for a short plat approval in order to permit the segregated sale of such residences, even though some or all of the resulting new lots will have lot areas or dimensions less than required for the zone in which they are located. All other provisions of the Short Subdivision Ordinance (Chapter 16.48 of this code) shall apply to the application.
40. Height limitations set forth elsewhere in this title shall not apply to the following: barns, silos, or other farm buildings and structures, provided they are not less than fifty feet from every lot line; chimneys, spires on places of worship, belfries, cupolas, domes, smokestacks, flagpoles, grain elevators, cooling towers, solar energy systems, monuments, fire house towers, masts, aerials, elevator shafts, and other similar projections, and outdoor theater screens, provided said screens contain no advertising matter other than the name of the theater. The proponent seeking exception to the height limitation shall certify that the object being considered under this provision will not shade an existing solar energy system which, by the determination of the director, contributes substantially to the space or water-heating requirements of a building.
41. The following exceptions apply to front yard requirements:
  - a. If there are dwellings on both abutting lots with front yards less than the required depth for the zone, the front yard for the lot need not exceed the average front yard of the abutting dwellings.
  - b. If there is a dwelling on one abutting lot with a front yard less than the required depth for the zone, the front yard need not exceed a depth of half-way between the depth of the front yard on the abutting lot and the required front yard depth.
  - c. If a modification to the front-yard requirement is necessary in order to site dwellings in a manner that maximizes solar access, the director may modify the requirement.
  - d. On lots with multiple front yards, the front yard setback(s) in which the lot does not receive access may be modified by the director. Based upon topography, critical areas or other site constraints, the director may reduce these front yard setbacks to a minimum of twenty feet for properties requiring fifty feet and five feet for properties requiring twenty feet. The director may not

modify front yard setbacks from county arterials or collectors. Such reductions shall not have an adverse impact to surrounding properties.

42. The following exceptions apply to historic lots:
  - a. Building setback lines that do not meet the requirements of this title but were legally established prior to the adoption of this title shall be considered the building line for alterations, remodels, and accessory structures on the lot or parcel, providing that no structure or portion of such addition may further project beyond the established building line.
  - b. Any single-family residential lot of record as defined in Chapter 17.110 that has a smaller width or lot depth than that required by this title, or is less than one acre, may use that residential zoning classification that most closely corresponds to the dimension or dimensions of the lot of record, for the purpose of establishing setbacks from the property lines.
43. Any structure otherwise permitted under this section may be placed on a lot or parcel within a required yard area, if the director finds that such a location is necessary because existing sewer systems or roadways make compliance with the yard-area requirements of this title impossible without substantial changes to the site.
44. Outside of the Silverdale Sub-Area, densities required only with mixed use development.

**Section 10.** This ordinance is in response to an order filed with the Central Puget Sound Growth Management Hearings Board and is enacted as an exception to the schedule set forth in RCW 36.70A.130 and Kitsap County Code Chapter 21.08.

**Section 11.** Should any amendment to Comprehensive Plan and Zoning Code that was passed by the Board during its deliberations on February 11, 2008 be inadvertently left out upon publication or codification, the explicit action of the Board as discussed and passed shall prevail upon subsequent review and verification by the Board.

**Effective Date:** This Ordinance shall take effect immediately.

**Severability:** If any sentence, section, provision, or clause of this ordinance or its application to any person, entity or circumstance is for any reason held invalid or unconstitutional, the remainder of the ordinance, or the application of the provision to other persons, entities, or circumstances is not affected.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

**KITSAP COUNTY BOARD OF  
COMMISSIONERS**

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**Steve Bauer, Chair**

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**Jan Angel, Commissioner**

ATTEST:

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Opal Robertson  
Clerk of the Board

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**Josh Brown, Commissioner**

Approved as to Form:

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Lisa J. Nickel  
Deputy Prosecuting Attorney