

ORDINANCE NO. _____

AN ORDINANCE ADOPTING INTERIM ZONING REGULATIONS TO AMEND KITSAP COUNTY CODE SECTION 17.382.110(A) TO SPECIFY THAT COMMERCIAL OR MIXED-USE STRUCTURES WITHIN THE MANCHESTER VILLAGE COMMERCIAL ZONE MAY NOT EXCEED TWO STORIES; TO BE IN EFFECT NO MORE THAN SIX MONTHS FROM THE DATE OF ADOPTION; DECLARING AN EMERGENCY AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, the Growth Management Act (GMA) required Kitsap County to adopt a comprehensive plan and allowed for “limited areas of more intense rural development” (LAMIRD); and

WHEREAS, the Board of County Commissioners adopted a LAMIRD for the Manchester Village area, and then adopted the Manchester Community Plan on March 18, 2002 (referred herein as MP02). The MP02 was developed entirely by volunteer activity under the leadership and expert advise of the Kitsap County Department of Community Development; and

WHEREAS, the Manchester Plan (MP02) set forth goals and requirements for heights of buildings in the Manchester Village Commercial (MVC) zone in the following topic areas:

Height of the buildings and allowable stories to those buildings

In the purpose statement of the Manchester Village Commercial Zone, it stated, “To encourage two-story mixed use development, the height restriction on commercial or mixed-use properties within this zone will be set at 35 feet, measured from the average grade at the foundation to the structure’s highest point.” (MP02-Page 12)

Compatibility of the buildings and harmony of construction type

In the vision for the Manchester Village, it stated, “It would strive to maintain the small-town charm and quaintness that Manchester currently offers. Of parallel importance is the preservation of the spectacular views....”(MP02-Page 4)

Rural Village Designation of the Commercial Area

In describing the definition and characteristics of the Manchester Village, it stated, “Residential densities in the heart of the Rural Village will vary in size, recognizing existing densities, but not necessarily allowing continued development at those same densities.” (MP02-Page 7)

In applying GMA’s goals to the Manchester Village, it stated, “The public facilities and services that currently exist are not sized for urban development, though a modest amount of infill can be accommodated. Manchester is, at its core, a village area.” (MP02-Page 36)

In the County Zoning Code, the purpose section of the Manchester Village stated, “In the event of a conflict between the requirements of these regulations for the Manchester Rural Village and any other statute, rule, ordinance or regulation, the more restrictive

requirement shall govern.” (MP02-Page 42); and

WHEREAS, the Director of the Department of Community Development issued a Director’s Interpretation on April 5, 2007, stating that structures in the MVC zone should be limited to two-stories, based on the above-referenced language in the Manchester Community Plan. The Interpretation has been appealed to the Hearings Examiner; and

WHEREAS, the residents of Manchester, with assistance from Department of Community Development staff, are currently working on the update to the Manchester Community Plan and detailed design standards to implement the goals and policies of the updated Plan; and

WHEREAS, development at three stories in the MVC zone could irrevocably alter the “small town charm and quaintness” and “spectacular views” of the Manchester Village; and

WHEREAS, some development is currently occurring with three story buildings and is creating an emergency situation that requires immediate action; and

WHEREAS, Kitsap County is authorized to adopt interim zoning regulations for not longer than six months under RCW 36.70.795.

NOW THEREFORE THE KITSAP COUNTY BOARD OF COMMISSIONERS DO ORDAIN AS FOLLOWS:

Section 1. Kitsap County Code Section 17.382.110(A), adopted by Ordinance 367-2006, is amended as follows:

- 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 10 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 Stormwater 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. Reserved.
 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 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” under one of the allowed alternatives in Chapter 17.301.
36. For standards applicable to Master Planned Industrial Developments and approved Industrial Parks, see 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 2. The recitals set forth above are hereby adopted as the Kitsap County Board of Commissioner's findings in support of adopting the interim zoning regulations imposed by this ordinance. The Board of Commissioners may adopt additional findings at the conclusion of the public hearing required by RCW 36.70.795, which will be held May 14, 2007.

Section 3. The Kitsap County Board of Commissioners finds and declares that an emergency exists necessitating that this ordinance adopting interim zoning regulations becomes effective immediately to preserve public welfare and to prevent the potential for incompatible development in the rural village of Manchester. This ordinance shall automatically expire on November 1, 2007.

Section 4. 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: May 14, 2007

**KITSAP COUNTY BOARD OF
COMMISSIONERS**

Chris Endresen, Chair

Jan Angel, Commissioner

ATTEST:

Opal Robertson
Clerk of the Board

Josh Brown, Commissioner

Approved as to Form:

Lisa J. Nickel
Deputy Prosecuting Attorney