

**AN ORDINANCE REPEALING ORDINANCES 379-2007 AND 410-2008, WHICH IMPOSED AND EXTENDED A MORATORIUM ON THE ACCEPTANCE OF NEW APPLICATIONS FOR LAND USE PERMITS IN THE “UGA EXPANSION AREAS” OF THE FOLLOWING URBAN GROWTH AREAS: SILVERDALE, CENTRAL KITSAP, WEST BREMERTON, GORST, AND PORT ORCHARD; AND DECLARING AN EMERGENCY**

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**WHEREAS**, Kitsap County conducts land use planning for future population growth under the state Growth Management Act (GMA), Chapter 36.70A RCW; and

**WHEREAS**, RCW 36.70A.130 requires that Kitsap County review its designated urban growth areas (“UGAs”), and the densities permitted within the incorporated and unincorporated portions of each urban growth area, at least every ten years; and

**WHEREAS**, on December 11, 2006, Kitsap County adopted, through Ordinance 370-2006, its Ten Year Comprehensive Plan Update, which, *inter alia*, expanded the UGA boundaries of the Silverdale, Central Kitsap, West Bremerton, Gorst, and Port Orchard UGAs (the “UGA expansion areas”); and

**WHEREAS**, Ordinance 370-2006 and Ordinance 367-2006 (and others) were appealed to the Central Puget Sound Growth Management Hearings Board (“Growth Hearings Board”) in *Suquamish II v. Kitsap County*, CPSGMHB Case No. 07-3-0019c; and

**WHEREAS**, on August 15, 2007, the Growth Hearings Board rendered a decision in *Suquamish II* (Final Decision & Order or “FDO”), which found, in part, that the capital facilities element of the comprehensive plan to be noncompliant and invalid; and

**WHEREAS**, by an order on reconsideration (September 13, 2007) issued in the *Suquamish II* case, the Growth Hearings Board declared the expanded areas of the Silverdale, Central Kitsap, West Bremerton, Gorst, and Port Orchard UGAs invalid; and

**WHEREAS**, because the determination of invalidity prohibited vesting of land use permit applications in the invalidated UGA expansion areas, the Kitsap County Board of Commissioners determined a moratorium was necessary to prevent the unnecessary expenditure of resources and therefore enacted Kitsap County Ordinance No. 397-2007 on September 24, 2007. Ordinance 397-2007 imposed a moratorium on the acceptance of land use permit applications in the UGA expansion areas for the maximum time allowed under statute, 180 days; and

**WHEREAS**, on March 10, 2008, the Board enacted Ordinance 410-2008, which extended the moratorium established under Ordinance 397-2007 for an additional 180 days; and

**WHEREAS**, since September 24, 2007, permits for land use applications have not been accepted in the UGA expansion areas, thereby placing a burden on Kitsap County citizens, property owners, developers, businesses and others; and

**WHEREAS**, the Commissioners are aware of several land use permit applications that could not be processed during the pendency of the moratorium; and

**WHEREAS**, because of the Growth Hearings Board's order and the subsequent moratorium, cities have not been able to annex within the UGA expansion areas and the Board is aware of several potential annexations that were not able to proceed due to the invalidity order; and

**WHEREAS**, because land use permitting for the UGA expansion areas has been suspended for over eight months, time is of the essence in lifting the moratorium as soon as the Growth Hearings Board finds the County to be in compliance with the GMA; and

**WHEREAS**, through Ordinance 410-2008, the Board acknowledged it would lift the moratorium as soon as practicable after the Growth Hearings Board rules on compliance in *Suquamish II*; and

**WHEREAS**, on June 6, 2007, Kitsap County received an order from the Growth Hearings Board finding Kitsap County in full compliance with the GMA and rescinding its determination of invalidity for the UGA expansion areas, and

**WHEREAS**, due to the Growth Hearings Board's Order Finding Compliance, the Board finds that the moratorium should no longer be continued, and that it should be lifted at the first opportunity, and therefore the Board finds that an emergency exists to lift it immediately, and that it is in the public health, safety and welfare of Kitsap County so to do.

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

**Section 1. Moratorium.** The moratorium imposed by Ordinance 397-2007 and extended by Ordinance 410-2008 is hereby repealed. The zoning and comprehensive plan land use designations established for the UGA expansion areas, *i.e.*, portions of the Silverdale, Central Kitsap, West Bremerton, Gorst, and Port Orchard UGAs, pursuant to Kitsap County Ordinances 367-2006 and 370-2006 are hereby affirmed.

**Section 2. Declaration of Emergency.** The Kitsap County Board of Commissioners hereby declares, for the public interest, safety and welfare reasons set forth above, that an emergency exists necessitating that this ordinance take effect immediately upon its passage. The recitals set forth above shall serve as the Board's findings for this Ordinance.

**Section 3. No Effect on RWIP.** This Ordinance does not affect the moratorium placed on permit applications proposing to utilize the rural wooded incentive program (RWIP), KCC § 17.301.080, enacted under Kitsap County Ordinance No. 408-2008 on February 13, 2008.

**Section 4. Typographical/Clerical Errors.** Should any provision of this ordinance passed by the Board during its deliberations and/or action on the ordinance be inadvertently omitted from the final printed version of the ordinance, the explicit action of the Board as discussed and enacted shall prevail upon subsequent review and verification of the Board, and shall be corrected administratively.

**Section 5. Severability.** If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause of phrase of this ordinance.

**Section 6. Effective Date.** This ordinance shall be effective immediately.

ENACTED this \_\_\_\_\_ day of June, 2008.

**BOARD OF COUNTY COMMISSIONERS  
KITSAP COUNTY, WASHINGTON**

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**STEVE BAUER, Chair**

ATTEST:

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**JOSH BROWN, Commissioner**

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Opal Robertson  
Clerk of the Board

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**JAN ANGEL, Commissioner**

Approved as to form:

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Shelley E. Kneip  
Deputy Prosecuting Attorney

