



Meeting Date:
Agenda Item No:

| <u>Kitsap County Board of Commissioners</u> | | | |
|---|---|--|---|
| Office/Department: Community Development | | | |
| Staff Contact & Phone Number: Jim Bolger, Dave Ward, and Liz Williams, 360-337-4836 | | | |
| Agenda Item Title: Public hearing for proposed amendments to replace temporary regulations for high-risk secured facilities (Interim Zoning Ordinance 566 (2019)). | | | |
| Recommended Action: 1) Open the public hearing to receive oral testimony from interested parties regarding proposed amendments to replace temporary regulations for high-risk secured facilities. 2) Close the public hearing. | | | |
| Summary: | The Board of County Commissioners (Board) adopted temporary regulations on February 6, 2019 to regulate high-risk secured facilities (Interim Zoning Ordinance 566 (2019)). These facilities provide enhanced services and security for sexually violent predators (SVPs) that are civilly committed and conditionally released from a total confinement facility to a community-based secure facility (Chapter 71.09 RCW). On March 25, 2019, the Board directed the Department of Community Development (Department) to draft proposed amendments that will replace the temporary regulations. On May 21, 2019, the Kitsap County Planning Commission recommended approval of proposed amendments and findings of fact. The Department prepared a staff report (Attachment A) to analyze the proposed amendment and summarize the process that has led to the public hearing. | | |
| Attachments: | 1. Staff report with attachments | | |
| Fiscal Impact for this Specific Action | | | |
| Expenditure required for this specific action: | \$ 0 | | |
| Related Revenue for this specific action: | N/A | | |
| Cost Savings for this specific action: | N/A | | |
| Net Fiscal Impact: | N/A | | |
| Source of Funds: | N/A | | |
| Fiscal Impact for Total Project | | | |
| Project Costs: | \$ 0 | | |
| Project Costs Savings: | \$ 0 | | |
| Project Related Revenue: | \$ 0 | | |
| Project Net Total: | \$ 0 | | |
| <u>Fiscal Impact (DAS) Review</u> | | | |
| Departmental/Office Review & Coordination | | | |
| Department/Office | Elected Official/Department Director | | |
| | | | |
| | | | |
| Contract Information | | | |
| Contract Number | Date Original Contract or Amendment Approved | Amount of Original Contract Amendment | Total Amount of Amended Contract |
| N/A | | | |



Kitsap County Department of Community Development

Staff Report and Recommendation Update to Kitsap County Code to Amend Regulations for High-Risk Secured Facilities

| | |
|---|--|
| Report Date | 4/9/2019, updated 5/6/2019 & 6/4/2019 |
| Hearing Date | 6/24/2019 |
| Description | <p>This Kitsap County Code update replaces Interim Zoning Ordinance 566 (2019) adopted on February 6, 2019, which regulates Group Residential Facilities – Secured High-Risk, hereafter referred to as High-Risk Secured Facilities. A High-Risk Secured Facility provides court-ordered housing, supervision, 24-hour security, and coordinates treatment services for a person who is found by the court to be a “Sexually Violent Predator” or pose a likelihood of serious harm to others as defined in RCW 71.05.020. These individuals have completed their criminal sentence but are civilly-committed to a less restrictive alternative as defined in state law. Such facilities accommodate two or more persons placed by the court plus treatment and support staff. A High-Risk Secured Facility does not include:</p> <ul style="list-style-type: none"> A. Secure Community Transition Facilities proposed under the authority of, and consistent with the provisions of Chapter 71.09 RCW; or B. Nursing homes, assisted living facilities, or adult family homes that become licensed as enhanced services facilities as described in RCW 70.97.060(4). |
| Geographic Area Affected | Commercial, Regional Center, Business Center, Business Park, and Industrial zones located in unincorporated Kitsap County |
| SEPA | Determination of Non-Significance |
| Department Recommendation | Adopt with two clarifying edits |
| Planning Commission Recommendation | Adopt as proposed by the Department |
| Department Recommendation to Board of County Commissioners | Adopt as proposed by the Department & Planning Commission |

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This report and recommendation are based on information available at the time of publication. If new relevant and material facts are discovered, this staff report will be revised and the department recommendation may change.

Revision History

| <u>No.</u> | <u>Date</u> | <u>Description</u> |
|------------|-------------|---|
| 1 | 5/6/2019 | Incorporates the State Environmental Policy Act (SEPA) review checklist and threshold Determination of Non-Significance, three other alternatives considered by the Department, and an update regarding coordination with local cities. |
| 2 | 6/4/2019 | Incorporates the Planning Commission record and recommendation. |

1. Background

The Department of Community Development conducted a review of Chapter 17, Zoning, of the Kitsap County Code and determined that the County did not define or regulate the placement of High-Risk Secured Facilities. A High-Risk Secured Facility provides court-ordered housing, supervision, 24-hour security, and coordinates treatment services for a person that is civilly-committed to a less restrictive alternative (LRA) as defined in state law. Such facilities accommodate two or more persons placed by the court plus treatment and support staff. A High-Risk Secured Facility does not include:

- A. Secure Community Transition Facilities proposed under the authority of, and consistent with the provisions of Chapter 71.09 RCW; or
- B. Nursing homes, assisted living facilities, or adult family homes that become licensed as enhanced services facilities as described in RCW 70.97.060(4).

On February 6, 2019 the Board of County Commissioners adopted interim zoning regulations to ensure public awareness and participation in the permit review process, neighborhood compatibility, and safety of both the residents of a facility, as well as the neighbors, when considering the placement of a High-Risk Secured Facility. This code amendment proposes to replace the interim zoning regulations.

Civil Commitment and the Use of Less Restrictive Alternatives (LRAs) in Washington State

In 1990, Washington State became the first state to pass a law authorizing indefinite civil commitment of individuals found by the court to be a Sexually Violent Predator (SVPs) or pose a likelihood of serious harm to others. These individuals have fulfilled their sentence but have been found to suffer from a mental abnormality or personality disorder which makes the individual likely to reoffend if not confined in a secure facility. Initially, persons committed under the law were housed in a wing of the Twin Rivers Correctional Center in Monroe, Washington or detained at the Special Commitment Center (SCC) on McNeil Island in Pierce County. A civil rights lawsuit was filed in the Federal District Court for Western Washington in 1991 alleging violations of the constitutional rights of individuals civilly committed under the law. In 1994, the court entered an order and injunction requiring the

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SCC to provide residents with constitutionally adequate mental health treatment and that the lack of less restrictive alternative (LRA) housing options limited individuals' opportunity to demonstrate their reduced risk and ordered the state to explore alternatives to total confinement.

In 2002, the Washington State Legislature adopted regulations that preempt and supersede local laws and regulations and grant authority to the State to site Secure Community Transition Facilities (SCTF) (RCW 71.09.342). A SCTF is a State-operated facility that provides mental health treatment for SVPs as an alternative to total confinement (RCW 71.09.020(15)). SCTFs are considered an Essential Public Facility and cities and counties subject to the requirements of the Growth Management Act must plan for these facilities (RCW 36.70A.200). The State established a SCTF on McNeil Island and the Washington State Department of Social and Health Services (DSHS) entered a long-term lease for a Seattle-area building to establish a second SCTF. In addition to the creation of two SCTFs, the civil commitment laws were changed to require an annual examination of civilly committed individuals to determine,

- whether they still meet the definition of a SVP; and
- whether conditional release to a community-based LRA is in the best interest of the person and conditions can be imposed that would adequately protect the community (RCW 71.09.070).

A community-based LRA is a facility that provides court-ordered supervision, security, and treatment to individuals that have been civilly committed and conditionally released from a SCTF or total confinement facility. According to DSHS, a community-based LRA is not the same as a SCTF, and therefore not considered an Essential Public Facility as defined in state law. The use of a facility as a community-based LRA is first reviewed by DSHS and the Washington State Department of Corrections (DOC). Final approval and placement within a community-based LRA is approved by Superior Court. The proposed amendment would establish local regulations that must be reviewed by DSHS and DOC prior to Superior Court approving a placement in a community-based LRA. For the purpose of this amendment a High-Risk Secured Facility is considered a community-based LRA.

A. Authority

The Kitsap County Board of County Commissioners adopted Interim Zoning Ordinance 566-2019 to regulate High-Risk Secured Facilities. The Growth Management Act (GMA), Chapter 36.70A RCW, provides that each jurisdiction's comprehensive land use plan and development regulations shall be subject to continuing review and evaluation. The Board has the authority to adopt interim zoning regulations to protect public health and safety pursuant to RCW 36.70A.390 and RCW 36.70.795. On February 6, 2019 the Board adopted interim zoning regulations. On March 25, 2019, the Board held a public hearing to receive feedback on the interim zoning regulations (Attachment E). Public comment received has helped shape the final draft code for the Board, Planning Commission, and public to consider over the next few months. Under state law, a final

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ordinance must be adopted by August 6, 2019, unless the Board adopts a work plan to extend the deadline (RCW 36.70A.390 and RCW 36.70.795).

In addition to the requirements in state law, Kitsap County Code amendments must also consider:

- Whether the proposed amendments are consistent with and supports other plan elements and or development regulations, and if not, what additional amendments to the plan and/or development regulations will be required to maintain consistency;
- Whether the proposed amendment to the plan and/or regulation will more closely reflect the goals and policies of the Comprehensive Plan;
- Whether the proposed amendment is consistent with the Kitsap Countywide Planning Policies; and
- Whether the proposed amendment complies with the requirements of the GMA.

B. Proposed Amendment

The proposed amendment (Attachment A) will replace Interim Zoning Ordinance 566-2019 (Attachment B) adopted by the Board on February 6, 2019. The proposed amendment includes the following:

- Section 2, on Page 1 in Attachment A, adds a new definition for High-Risk Secured Facilities to Section 17.110.335 KCC.
- Section 3, on Page 2 in Attachment A:
 - lists the facility as categorical use 127 in the allowed use table found in Section 17.410.044 KCC;
 - allows the use to be proposed within urban growth areas in the Commercial, Regional Center, Business Center, Business Park, and Industrial zones (see the location of the proposed zones in Attachment C); and
 - requires a Conditional Use Permit (CUP) and a public hearing before the County's Hearing Examiner.
- Section 4, on Page 19 in Attachment A, adds special provisions to Section 17.410.060 KCC that require:
 - the County shall mail community notification to the school district and all landowners within a half mile radius of a proposed facility and hold a neighborhood meeting prior to the public hearing before the County's Hearing Examiner. The cost of community notification and a neighborhood meeting shall be at the cost of the applicant.
 - a facility shall not be located adjacent to, immediately across the street or parking lot from, or within the line of sight of a risk potential activity or facility in existence at the time a facility is established.
 - Risk potential activities and facilities include: Public and private schools, school bus stops, licensed day care and licensed

preschool facilities, domestic violence shelters, public parks, publicly dedicated trails, sports fields, playgrounds, recreational and community centers, churches, synagogues, temples, mosques, public libraries, public and private youth camps, and other specific uses identified during a public hearing. For the purpose of this section, "school bus stops" does not include bus stops established primarily for public transit.

- a facility shall not be located within 880-feet of the facilities and grounds of a public or private school.
- a facility shall meet the applicable health district standards for water and sewage disposal to account for staff and residents;
- principle access to the site shall be from a county-maintained right-of-way;
- a facility shall be equipped with:
 - an automatic fire sprinkler system, installed in accordance with applicable building and fire codes;
 - a mechanism that is interlocked with the fire protection system to automatically release any facility security locks and allow safe egress from the structure in the event of fire or other emergency; and
 - a backup power system and an automatic transfer switch sufficient to energize and maintain the function of safety, security, and surveillance systems in the event of a power outage.
- Section 5, on Page 20 in Attachment A, clarifies in Section 21.04.130 KCC that certain proposed uses, such as High-Risk Secured Facilities, require a neighborhood meeting.

C. Geographic Description

The proposed amendment allows a High-Risk Secured Facility to be proposed in Urban Growth Areas in the Commercial, Regional Center, Business Center, Business Park, and Industrial zones (see the location of the proposed zones in Attachment C).

2. Department Recommendation

Having analyzed the proposed amendment and other alternatives, if applicable, the Department recommends:

- Adoption of the amendment:
 - as proposed above
 - as described in Alternative ___ below
 - with revisions described below
 - with conditions described below

- Deferral of the amendment to a future docket
- Denial of the amendment

A. Rational

The interim zoning ordinance adopted on February 6, 2019 included temporary provisions that regulate High-Risk Secured Facilities. The County has six months to adopt the proposed amendment to replace the temporary provisions. The proposed amendment will ensure public awareness and participation in the permit review process, neighborhood compatibility, and safety of both the residents of a facility, as well as the neighbors, when considering the placement of a High-Risk Secured Facility in unincorporated Kitsap County.

The 2016 Kitsap County Comprehensive Plan (Land Use and Housing and Human Services Chapters) includes three goals and four policies applicable to High-Risk Secured Facilities. The proposal implements and is consistent with the following Comprehensive Plan goals and policies:

Land Use Goal 4. Coordinate with other jurisdictions, tribal governments, agencies, special districts, and property owners to ensure coordinated and compatible land use planning and utilize Urban Growth Area Management Agreements with cities, as feasible.

Land Use Policy 21. Coordinate with service providers, agencies, local jurisdictions, County departments and the public, to ensure appropriate zoning.

Land Use Goal 13: Protect Kitsap County's unique rural character.

Land Use Policy 50. Limit the designated rural area to low residential densities that can be sustained by minimal infrastructure improvements, cause minimal environmental degradation, and that will not cumulatively create the future necessity or expectation of urban levels of service.

Land Use Policy 53. Outside of the Type III Limited Area of More Intensive Rural Development (LAMIRD), limit development only to that which serves rural residential or resource needs and does not draw population from Urban Growth Areas. This policy is implemented through Comprehensive Plan Land Use designations, zoning designations, and zoning code provisions.

Housing and Human Services Goal 4. Ensure that all people have fair and equal access to housing and services.

Housing, Human Services Policy 11. Promote fair housing to ensure that all residents of Kitsap County have an equal and fair opportunity to obtain safe and sanitary housing suitable to their needs and financial resources, regardless of race, religion, gender, sexual orientation, age, national origin, family status, income, disability, or other protected class.

The proposal ensures coordinated and compatible land use planning with other jurisdictions, tribal governments, agencies, special districts, and property owners by:

- requiring community notification to be sent when a facility is proposed to all landowners within one half mile to allow for public awareness and comment during the permit review process;
- requiring a neighborhood meeting prior to the County processing a permit application for a proposed facility;
- requiring a conditional use permit and public hearing before the County's Hearing Examiner to ensure neighborhood compatibility and safety when considering the placement of a High-Risk Secured Facility; and
- allowing High-Risk Secured Facilities to be proposed in urban commercial and industrial zones which is consistent with other surrounding jurisdictions.

The proposal protects Kitsap County's rural character by:

- requiring a High-Risk Secured Facility to be located in urban growth areas that can provide the necessary urban level of service.
- requiring a High-Risk Secured Facility to be accessed by a County-maintained road, reducing impacts on private easement roads and ensuring appropriate emergency vehicle access.
- directing High-Risk Secured Facilities away from rural areas, thereby reducing the potential risk of intensifying rural areas.

The proposal ensures that all people have fair and equal access to housing and services by:

- incorporating a definition, siting and safety requirements, and standards for permit review that allow High-Risk Secured Facilities to be proposed in unincorporated Kitsap County.
- ensuring the safety of residents of a facility by requiring an automatic fire sprinkler system, installed in accordance with applicable building and fire codes, a mechanism that is interlocked with the fire protection system to automatically release any facility security locks to allow safe egress from the structure in the event of fire or other emergency, and a backup power system and an automatic transfer switch sufficient to energize and maintain the function of safety, security, and surveillance systems in the event of a power outage.

For the previously mentioned reasons, the proposed amendment satisfy the criteria of KCC 21.08.100 and is consistent with and implements the identified Comprehensive Plan goals and policies.

3. Other Alternatives Considered

The Department considered three alternatives during the development of the proposed amendments. The Department does not recommend the other alternatives considered because they may not be fully compliant with state law.

1. Restrict siting of a facility within 880 feet of an existing residential property

The City of Bremerton is proposing to amend their municipal code to prohibit the siting of a high-risk secured facility within 880-feet of an existing residential property. The Department reviewed this alternative and found no basis for the 880-foot distance. It also precludes the siting of a high-risk secured facility in most zones across unincorporated Kitsap County. For these reasons, the Department is not recommending this alternative.

2. Restrict siting of a facility that abuts an existing residential property

The County received several public comments about allowing a high-risk secured facility in the proposed zones within areas that have a high concentration of residential properties. For example, there are areas within the Commercial and Industrial zones that have established residential neighborhoods that public comments state may not be compatible with the siting of a high-risk secured facility. The Department explored adding the following siting requirement to Section 17.410.060, Provisions applying to special uses, to restrict siting of a facility that abuts an existing residential property:

- A high-risk secured facility shall not be permitted if more than 60% of the land base abutting the site contains an existing residential use.
 - For this section, land base is calculated by taking the total acreage of the proposed site and abutting parcels and dividing it by the total acreage that contains an existing residential use.

The Department reviewed this alternative and found it would likely not fully address the concerns raised by interested parties. While, this proposed alternative does not fully preclude the siting of a high-risk secured facility in the allowed zones, it does greatly restrict the locations available. The Department believes that the draft code presented by the Department (Attachment A) would better address concerns with incompatibility while still providing adequate space for the location of these facilities. The Department is not recommending this proposed alternative but included it for the Boards consideration to be responsive to public comment.

3. Establish a threshold to determine neighborhood compatibility and safety

According to the court records establishing conditions for placement in a high-risk secured facility, the GPS devices used to monitor the location of occupants can be programed with what is referred to as an "inclusion zone". An inclusion zone is set to a fixed location, such as a physical address, and it is typically set at a 600-foot radius around that location. If an occupant stays within the inclusion zone, the Department of Corrections cannot say with any reasonable amount of certainty that

the occupant is at the facility or a nearby house. To ensure neighborhood compatibility and safety the Department explored adding the following siting requirement to Section 17.410.060, Provisions applying to special uses:

- A high-risk secured facility shall not be permitted if 60% of the land base within 600-feet of a proposed site contains an existing residential use.
 - For this section, land base is calculated by taking the total acreage of the proposed site and abutting parcels and dividing it by the total acreage that contains an existing residential use.

The Department reviewed this alternative and found it will likely address the concerns raised by interested parties but may not be fully consistent with state law. This proposed alternative does not fully preclude the siting of a high-risk secured facility in the allowed zones but does further restrict the potential locations. The Department believes that the draft code presented by the Department (Attachment A) would better address concerns with incompatibility while still providing adequate locations for the siting of these facilities. The Department is not recommending this proposed alternative but included it for the Boards consideration to be responsive to public comment.

4. Analysis

A. Definition, Allowed Zones, and Permit Review Process

The proposed definition for High-Risk Secured Facilities is based on a review of state law and a comparison of similar land uses allowed in surrounding jurisdictions (Attachment D). The Department found the City of Bremerton, City of Port Orchard, and City of Bainbridge Island define similar uses, but at the time of review the City of Poulsbo did not regulate High-Risk Secured Facilities within their municipal code. All three counties reviewed (Snohomish, King, and Pierce) currently have land use definitions that regulate High-Risk Secured Facilities.

The zones that allow High-Risk Secured Facilities vary across the surrounding jurisdictions. The proposed amendment would allow High-Risk Secured Facilities in the urban Commercial, Regional Center, Business Center, Business Park, and Industrial zones in unincorporated Kitsap County. This is consistent with to the zones that permit similar uses in the City of Bremerton and City of Port Orchard.

Prior to processing a permit application for a High-Risk Secured Facility, the proposed amendment requires the County to send notification to the school district and all landowners within one half mile of a proposed facility. The notification distance was selected because it is consistent with the Sheriff's Office community notification distance. The proposed amendment also requires the County to host a neighborhood meeting prior to processing a permit application. The neighborhood meeting provides

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the opportunity for public awareness and comment during the permit review process. Both of these permit review requirements go beyond what is required by surrounding jurisdictions.

Most jurisdictions reviewed require a Conditional Use Permit for this type of facility. A conditional use permit review process allows a proposed facility to be evaluated on an individual basis. During the permit review process, conditions beyond what is required in the Kitsap County Code can be required to minimize identified community impacts. If it is determined during the permit review process that a proposed facility will have a detrimental impact on the surrounding area and the impacts cannot be mitigated through reasonable conditions, a permit application may be denied. The proposed amendment requires a Conditional Use Permit process because it helps to ensure neighborhood compatibility and safety requirements are fully considered when siting a High-Risk Secured Facility.

Coordination with the surrounding cities within Kitsap County occurred to ensure to the greatest extent possible that consistent and compatible zoning requirements are considered or adopted. A meeting with city officials was held on Thursday, April 11, 2019 to review the County's proposed amendment (Attachment A). On April 9, 2019, the City of Port Orchard adopted interim zoning regulations to regulate secured high risk social service facilities. On April 17, 2019, the City of Poulsbo adopted interim zoning regulations to regulated High Risk Secured Facilities. The City of Bainbridge Island did not attend the meeting but requested a copy of the County's proposed amendment. The City of Bremerton did not attend the coordination meeting, but the Department meet with Bremerton officials on April 29, 2019 to discuss the County's interim regulations. The City of Bremerton is proposing an amendment to their municipal code that would restrict the siting of a high-risk secured facility within 880-feet of an existing residential property. A comparison of interim regulations adopted by Kitsap County, the City of Poulsbo, and the City of Port Orchard is in Attachment F. A copy of the City of Bremerton's proposed amendment is available upon request.

B. Siting Requirements

State law requires local cities and counties to allow these facilities but provides limited guidance for their placement in local communities. In addition to limiting facilities to certain zones, the proposed amendment requires a facility to be located outside of a community protection zone (RCW 9.94A.030(6)). That is the area located within 880-feet of the facilities and grounds of a public and private schools. The proposed amendment also restricts a facility from being located adjacent to, across the street from, or within the line of sight of risk potential activities and facilities in existence at the time a facility is established. Risk potential activities and facilities include:

- Public and private schools, school bus stops, licensed day care and licensed preschool facilities, domestic violence shelters, public parks, publicly dedicated trails, sports fields, playgrounds, recreational and community centers, churches,

synagogues, temples, mosques, public libraries, public and private youth camps, and other specific uses identified during a public hearing. For the purpose of this section, "school bus stops" does not include bus stops established primarily for public transit.

The Department has received several public comments that recommend the distance requirements be increased from schools and other risk potential facilities. However, local cities or counties are not allowed to put in place additional residency restrictions beyond what is allowed in state law (RCW 9.94A.8445).

The proposed amendment also requires a proposed facility to access a county-maintained right-of-way. This limits any potential impact on private easement roads that can be caused by increased traffic from a High-Risk Secured Facility. It also ensures a facility is in an area that is accessible in case of an emergency (for example, areas that will be plowed and accessible to emergency management services in the event of a snow storm or other emergency).

C. Safety Requirements

The proposed amendment considers safety impacts to protect both the residents of potential High-Risk Secured Facilities within Kitsap County as well as the neighbors. For example, a facility must be equipped with:

- an automatic fire sprinkler system, installed in accordance with applicable building and fire codes;
- a mechanism that is interlocked with the fire protection system to automatically release security locks and allow safe egress from the structure in the event of fire or other emergency; and
- a backup power system and an automatic transfer switch sufficient to energize and maintain the function of safety, security, and surveillance systems in the event of a power outage.

D. State Environmental Policy Act (SEPA)

The Kitsap County SEPA official reviewed the SEPA checklist prepared for this amendment (Attachment G2) and issued a SEPA threshold Determination of Non-Significance (DNS; Attachment G1). The notice of the SEPA threshold determination was:

- Filed with the Washington State Department of Ecology [SEPA Register](#);
- Published in the Kitsap Sun newspaper; and
- Emailed to interested parties.

In accordance with Kitsap County Code (KCC 18.04.210; KCC 21.04.290.E.2) and the SEPA chapter in the Revised Code of Washington (RCW 43.21C.075; RCW 43.21C.080), appeals of this SEPA threshold determination must be filed within fourteen days of the published notice of determination in Kitsap County Superior Court.

E. Planning Commission Recommendation

The Department presented two clarifying edits to the proposed amendment for Planning Commission consideration on May 21, 2019. The clarifying edits included:

| Change | Clarifying Edits | Reference in Attachment A |
|--------|---|---------------------------------|
| 1 | ii. "Risk potential activities and facilities" means an activity or facility that provides a higher incidence of risk to the public from persons conditionally released from the special commitment center. Risk potential activities and facilities include: Public and private schools, school bus stops, licensed day care and licensed preschool facilities, domestic violence shelters, public parks, publicly dedicated trails, sports fields, playgrounds, recreational and community centers, churches, synagogues, temples, mosques, public libraries, public and private youth camps, and others <u>other specific uses</u> identified during a <u>neighborhood meeting or public hearing</u> . For the purpose of this section, "school bus stops" does not include bus stops established primarily for public transit. | Section 4 on Page 19 & 20 of 21 |
| 2 | h. A High-Risk Secured Facility shall be equipped with a mechanism that is interlocked with the fire protection system to automatically release <u>any facility security locks</u> and allow safe egress from the structure in the event of fire or other emergency. | Section 4 on Page 20 of 21 |

The Planning Commission concurred with the staff recommended amendments and unanimously recommended approval to the Department. The Planning Commission findings related to the proposed amendment are attached for the Boards consideration (Attachment H).

5. Public Involvement and Outreach

Kitsap County's public involvement and outreach in support of this amendment will exceed the requirements of the Growth Management Act (RCW 36.70A) and Kitsap County Code (KCC 21.08).

Public involvement and outreach in support of this amendment has included the following:

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- An Online Open House (<https://tinyurl.com/KitsapCodeProjects>) with information about previous, current, and upcoming meetings related to the code amendment process.
- Two meetings with local cities to coordinate on the development of the proposed amendment (4/11/2019 & 4/29/2019).
- Two public comment periods (2/25/2019 to 4/05/2019 & 4/06/2019 to 5/14/2019) and a public hearing was held by the Kitsap County Board of Commissioners (03/25/2019) and Planning Commission (5/14/2019). A summary of the public comment received to date and staff responses is in Attachment E. Notifications and announcements regarding the comment periods and public hearings included the following:
 - Legal notice published in the Kitsap Sun newspaper (3/15/2019 & 4/29/2019);
 - Broadcast announcements via email, text message, Facebook.com, Twitter.com, and Nextdoor.com; and
 - Presentations and meetings with Kitsap County advisory groups and community groups.

A new comment period regarding the proposed amendment (Attachment A) began on Wednesday, May 15, 2019.

- During this public comment period, the public may learn more about this amendment by:
 - Visiting the Online Open House (<https://tinyurl.com/KitsapCodeProjects>) for information and meeting materials;
 - Attending applicable Board of County Commissioner meetings; or
 - Contacting the staff listed in Section 6 below.
- To be included in the official record, written comments must be submitted to the Department of Community Development before 4:30 PM on Monday, June 24, 2019 using one of the following methods:
 - Entered online via computer or mobile device at <http://tinyurl.com/KCcomment>;
 - Emailed to lawilliams@co.kitsap.wa.us;
 - Mailed to 614 Division Street – MS-36, Port Orchard, WA 98366; or
 - Dropped off at the Community Development Permit Center at 619 Division Street, Port Orchard, WA; or
- Oral and written testimony may also be made to the Kitsap County Board of Commissioners at a public hearing scheduled at 5:30 PM on Monday, June 24, 2019 in the Commissioner's Chambers on the 3rd Floor of the Kitsap County Administration Building (619 Division Street, Port Orchard, WA).
- Notifications and announcements regarding this comment period and public hearing included the following:
 - Legal notice published in the Kitsap Sun newspaper (6/13/2019); and

- Broadcast announcements via email, text message, Facebook.com, Twitter.com, and Nextdoor.com;

6. Staff Contact

Report prepared by:

Report approved by:



Liz Williams, Planner
(360) 337-5777
lwilliam@co.kitsap.wa.us

Dave Ward, Manager
Planning and Environmental Programs
Department of Community Development

Attachments

A – Draft Code Language for Board of County Commissioner Review

(https://www.kitsapgov.com/dcd/PEP%20Documents/Attachment%20A%20-%20DraftCodeLanguageforHigh-RiskSecuredFacilities_2019.05.21-FINALPCRecommendation.pdf)

B – Interim Zoning Ordinance 566-2019

(<https://www.kitsapgov.com/dcd/PEP%20Documents/Attachment%20B%20-%20Interim%20Zoning%20Ordinance%20566-2019.pdf>)

C – Map of Proposed Zones that Allow a High-Risk Secured Facility

(<https://www.kitsapgov.com/dcd/PEP%20Documents/Attachment%20C%20-%20Map%20of%20Zones%20that%20Allow%20High-Risk%20Secured%20Facilities.pdf>)

D – Comparison of Allowed Uses by Surrounding Jurisdictions

(<https://www.kitsapgov.com/dcd/PEP%20Documents/Attachment%20D%20-%20Comparison%20of%20Similar%20Uses%20Allowed%20in%20Local%20Jurisdictions.pdf>)

E1 – Staff Responses to Public Comment by Topic

(<https://www.kitsapgov.com/dcd/PEP%20Documents/Attachment%20E1%20-%20Staff%20Responses%20to%20Public%20Comment%20by%20Topic.pdf>)

E2 – Public Comment Matrix and Exhibits

(<https://www.kitsapgov.com/dcd/PEP%20Documents/Attachment%20E2%20-%20PublicCommentMatrix.pdf>)

F – Comparison of Interim Zoning Regulations by Jurisdiction

(<https://www.kitsapgov.com/dcd/PEP%20Documents/Attachment%20F%20-%20Comparison%20of%20Interim%20Regulations%20by%20Jurisdiction.pdf>)

G1 – State Environmental Policy Act (SEPA) Determination

(<https://www.kitsapgov.com/dcd/PEP%20Documents/Attachment%20G1%20-%202019%20High%20Risk%20Secured%20Facilities%20Code%20DNS.pdf>)

Date: 6/4/2019

G2 – State Environmental Policy Act (SEPA) Checklist

(https://www.kitsapgov.com/dcd/PEP%20Documents/Attachment%20G2%20-%20SEPA%20Checklist_High-Risk%20Secured%20Facilities_4.26.19.pdf)

H – Planning Commission Findings of Fact

(<https://www.kitsapgov.com/dcd/PEP%20Documents/Attachment%20H%20-%20PlanningCommissionFindings.pdf>)

ZONING ORDINANCE _____

ORDINANCE REPLACING INTERIM ZONING ORDINANCE 566 (2019) TO REGULATE HIGH-RISK SECURED FACILITIES

Section 1. General Findings.

The Kitsap County Board of Commissioners finds as follows:

1. In 1990, Washington State became the first state to pass a law, chapter 71.09 RCW, authorizing indefinite civil commitment of individuals found by a superior court to be a Sexually Violent Predator (SVP).
2. Individuals that are civilly committed as SVPs have fulfilled their criminal sentence but have been found to suffer from a mental abnormality or personality disorder which makes the individual likely to reoffend if not confined in a secure facility.
3. In 1991, a civil rights lawsuit was filed in federal district court alleging violations of the constitutional rights of individuals that were civilly committed under the law.
4. In 1994, the Federal District Court for Western Washington entered an order and injunction requiring the state to provide constitutionally adequate mental health treatment for individuals that have been civilly committed. The court also found that the lack of a less restrictive alternative (LRA) to total confinement limited an individuals' opportunity to demonstrate their reduced risk and ordered the state to explore alternatives.
5. In 2007, the federal district court dismissed the injunction and closed the case after the state established two Secure Community Transition Facilities (SCTF) and amended state law, RCW 71.09.070, to require an annual review to determine if a SVP is eligible for placement in a LRA.
6. A LRA is a facility that provides court-ordered supervision, security, and treatment to individuals that have been civilly committed and conditionally released from a total confinement facility.
7. Washington State does not regulate the location or neighborhood compatibility and safety impacts of community based LRAs.

8. In February 2019, the Kitsap County Board of County Commissioners (Board) determined that current county regulations did not define LRA facilities or mitigate their land use impacts and potential building safety to protect both the residents of potential LRA facilities within Kitsap County as well as the general public.
9. The Growth Management Act (GMA), chapter 36.70A RCW, provides that each jurisdiction's comprehensive land use plan and development regulations shall be subject to continuing review and evaluation.
10. The Board has authority to adopt zoning regulations to protect public health and safety pursuant to RCW 36.32.120(7).

Section 2. General Procedural Findings.

The Kitsap County Board of Commissioners makes the following findings regarding the public participation process:

1. On February 6, 2019, the Board held a regularly scheduled and properly noticed meeting to adopt interim zoning regulations (Interim Zoning Ordinance 566-2019) to protect public health and safety in a way that mitigates land use and safety impacts without precluding the state-mandated placement of housing for persons that are civilly committed and conditionally released to a LRA.
2. On February 25, 2019, the Board held a regularly scheduled and properly noticed meeting to affirm the adoption of Interim Zoning Ordinance 566-2019.
3. On March 25, 2019, following effective and timely legal notice, the Board held a public hearing, as required by state law (RCW 36.70A.390 and RCW 36.70.795) to obtain public feedback regarding Interim Zoning Ordinance 566-2019.
4. Kitsap County conducted public outreach through a dedicated and up-to-date web page and direct notification to various Kitsap County notification lists (GovDelivery & NextDoor).
5. A public comment period regarding Interim Zoning Ordinance 566-2019 was open February 25, 2019 through April 2, 2019. Seventy public comments were received through emails, letters, online submittal forms, and verbal testimony.
6. Following the March 25, 2019 public hearing, the Board directed the Department of Community Development to draft proposed amendments based on public comment

received and on-going coordination with local jurisdictions to replace the temporary regulations adopted by Interim Zoning Ordinance 566-2019.

7. On April 11, 2019 and April 29, 2019, the Department of Community Development met with city officials from the City of Bremerton, City of Port Orchard, and City of Poulsbo to review the proposed amendments and ensure to the greatest extent possible that consistent and compatible zoning requirements are considered or adopted.
8. On April 16, 2019, the Kitsap County Planning Commission held a regularly scheduled and properly noticed work study session to review the proposed amendments.
9. A second public comment period on the proposed amendments was open April 2, 2019 through May 14, 2019. Twelve public comments were received through emails, letters, online submittal forms, and verbal testimony.
10. On May 14, 2019, following effective and timely legal notice, the Kitsap County Planning Commission held a public hearing to accept public testimony on the proposed amendments.
11. On May 21, 2019, the Kitsap County Planning Commission at a regularly scheduled and properly noticed meeting considered the proposed amendments and public comment received and recommended approval of the proposed amendments, as amended through a unanimous vote.
12. On May 21, 2019, the Kitsap County Planning Commission approved findings of fact on the proposed code amendment during a regularly scheduled and properly noticed meeting and forwarded them to the Kitsap County Board of Commissioners for consideration.
13. On June 13, 2019, the Kitsap County Board of Commissioners held a work study with the Department of Community Development to discuss the proposed amendments.
14. A third public comment period on the proposed amendment to Kitsap County Code was open from May 15, 2019 to **June 24, 2019**.
15. On **June 24, 2019**, following effective and timely legal notice, the Kitsap County Board of Commissioners held a public hearing to accept testimony on the proposed code amendments.

16. On July 10, 2019, the Board of County Commissioners held a work study with the Department of Community Development to discuss the proposed amendments and public comment received.
17. On July 22, 2019, the Board of County Commissioners deliberated on the proposed code amendments and, after consideration of public comment and the entire record related to this ordinance, made a final decision to adopt/defer this ordinance as presented/amended.

Section 3. Substantive Findings.

The Board of County Commissioners makes the following findings regarding the amendments:

1. The proposed amendments replace temporary zoning regulations adopted by Interim Zoning Ordinance 566-2019.
2. The proposed amendments were developed according to, and are found to comply with, the requirements of the GMA, Chapter 36.70A RCW, the Kitsap Countywide Planning Polices, the Kitsap County Comprehensive Plan, and other applicable state and federal requirements.
3. Public participation occurred in the review of the proposed code amendment, as required by the GMA, and consistent with the State Environmental Policy Act and Kitsap County Code.
4. The proposed amendments promote the public interest and welfare of the citizens of Kitsap County.

Section 5. Section 1 through 9 of Interim Ordinance 566 (2019), adopted on February 6, 2019, are repealed.

NEW SECTION. Section 6. A new section is added to Chapter 17.110 Kitsap County Code, 'Definitions', as follows:

17.110.335 High-Risk Secured Facility

"High-Risk Secured Facility" means a facility that provides court-ordered housing, supervision, 24-hour security, and coordinates treatment services for persons who are found

by the court to be a “Sexually Violent Predator” or pose a likelihood of serious harm to others as defined in 71.05.020 and are civilly-committed to a less restrictive alternative as defined in state law. Such facilities accommodate two or more persons placed by the court plus treatment and support staff. A High-Risk Secured Facility does not include:

- A. Secure community transition facilities proposed under the authority of, and consistent with the provisions of Chapter 71.09 RCW; or
- B. Nursing homes, assisted living facilities, or adult family homes that become licensed as enhanced services facilities as defined in RCW 70.97.060(4).

Section 7. Kitsap County Code Section 17.410.044 ‘Commercial, industrial, parks, and public facility zones use table’, adopted by Ordinance 550 (2018), is amended as follows:

17.410.044 Commercial, Industrial, Parks, and Public Facility Zones Use Table

| Comprehensive Plan Land Use Designation | | Urban High Intensity Commercial | | Urban Low Intensity Commercial | | | Rural Commercial | Urban Industrial | | | Rural Industrial | Public Facilities | |
|---|--|---------------------------------|--------------------------|--------------------------------|--------------------------|-------------------|-------------------|------------------|-------------|-------------------|------------------|-------------------|------------|
| Zoning Classification | | C (19)(30)(48)(57)(101) | RC (19)(48)(57)(88)(101) | UVC (30)(48)(57)(101) | NC (19)(30)(48)(57)(101) | LIC (48)(57)(101) | RCO (12)(64)(101) | BC (31)(42)(101) | BP (101) | IND (32)(42)(101) | RI (12)(42)(101) | P (101) | (Reserved) |
| Categorical Use | | | | | | | | | | | | | |
| RESIDENTIAL USES | | | | | | | | | | | | | |
| 100 | Accessory dwelling units (1) | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | |
| 102 | Accessory living quarters (1) | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | |
| 104 | Accessory use or structure (1)(51) | P | P(84) | P | P | P | P | P | P | P | P | -- | |
| 106 | Adult family home | ACUP P (41) | ACUP P (41)(84) | ACUP P (41) | - | ACUP P (41)(79) | ACUP P (41) | ACUP P (41) | ACUP P (41) | ACUP P (41) | ACUP P (41) | -- | |
| 108 | Bed and breakfast house or vacation rental | -- | -- | ACUP C (34) | ACUP C (34) | ACUP (79) | ACUP C (34) | -- | -- | -- | -- | -- | |
| 109 | Boarding house (102) | P (99) | P (99) | P (99) | P (99) | P (99) | P (99) | -- | -- | -- | -- | ACUP (99) | |
| 110 | Caretaker’s dwelling | ACUP | ACUP (84) | ACUP | ACUP | ACUP | P | P | P | P | P | P | |
| 112 | Convalescent home or congregate care facility (97) | ACUP | ACUP (84) | ACUP | C | ACUP -- (79) | -- | -- | -- | -- | -- | -- | |
| 114 | Cottage housing developments | -- | -- | ACUP | -- | -- | -- | -- | -- | -- | -- | -- | |
| 116 | Dwelling, duplex | -- | -- | ACUP | P | -- | -- | -- | -- | -- | -- | -- | |
| 118 | Dwelling, existing | P | P | P | P | P | P | P | P | P | P | -- | |
| 120 | Dwelling, multifamily | ACUP | ACUP C (85) | ACUP | P | P -- (79) | -- | -- | -- | -- | -- | -- | |
| 122 | Dwelling, single-family attached | ACUP | ACUP (84) | P | P | P -- | -- | -- | -- | -- | -- | -- | |

| Comprehensive Plan Land Use Designation | | Urban High Intensity Commercial | | Urban Low Intensity Commercial | | | Rural Commercial | Urban Industrial | | | Rural Industrial | Public Facilities | |
|---|--|-------------------------------------|----------------------------------|--------------------------------|----------------------------------|-----------------------|-----------------------|----------------------|----------|-----------------------|----------------------|-------------------|------------|
| Zoning Classification | Categorical Use | C (19)(30) (48) (57) (101) | RC (19)(48) (57)(88) (101) | UVC (30) (48)(57) (101) | NC (19)(30) (48)(57) (101) | LIC (48)(57) (101) | RCO (12)(64) (101) | BC (31)(42) (101) | BP (101) | IND (32)(42) (101) | RI (12)(42) (101) | P (101) | (Reserved) |
| | | | | | | | (79) | | | | | | |
| 124 | Dwelling, single-family detached (includes manufactured homes) | -- | -- | -- | P | -- | -- | -- | -- | -- | -- | -- | |
| 126 | Guest house (1) | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | |
| 127 | High-Risk Secured Facility (1) | <u>C</u> | <u>C</u> | | | | | <u>C</u> | <u>C</u> | <u>C</u> | | | |
| 128 | Home business (1)(53) | -- | -- | P | ACUP | -- | ACUP | -- | -- | -- | -- | -- | |
| 130 | Hotel/motel | P | P (84) | ACUP | C | ACUP -- (79) | -- | -- | -- | -- | -- | -- | |
| 132 | Mobile homes | -- | -- | --(43) | -- | -- | -- | -- | -- | -- | -- | -- | |
| 134 | Residential care facility | ACUP | ACUP (84) | ACUP | -- | ACUP -- (79) | -- | -- | -- | -- | -- | -- | |
| COMMERCIAL/BUSINESS USES | | | | | | | | | | | | | |
| 200 | Accessory use or structure (1)(51) | P | P | P | P | P | P | P | P | P | P | P | |
| 202 | Adult entertainment (1) | C | C (84) | -- | -- | -- | -- | C | -- | C | -- | -- | |
| 204 | Ambulance service | P | P (84) | C | C | P | -- | P | ACUP | ACUP | -- | -- | |
| 206 | Auction house (55) | P | P (84) | ACUP | -- | P | C | ACUP | ACUP | P | C | -- | |
| 208 | Auto parts and accessory stores (65) | P | P (84) | -- | P | P (83) | C | -- | -- | -- | -- | -- | |
| 210 | Automobile rentals | P | P (61)(84) | P (56) | P (56) | P (83) | -- | -- | -- | -- | -- | -- | |
| 212 | Automobile repair and car washes (65) | P | P (84) | -- | ACUP (54) | P (83) | C | P (61) | ACUP | P (33) | C | -- | |
| 214 | Automobile service station (6) | P | P (61)(84) | -- | ACUP | P (79)(83) | C | C (33) | C (33) | P (33) | C | -- | |
| 216 | Automobile, recreational vehicle or boat sales | ACUP | ACUP (84) | -- | -- | P (83) | -- | ACUP (35) | -- | ACUP (35) | -- | -- | |
| 218 | Nonmotorized recreation rentals (95) | P | P | P | P | P | P | -- | -- | -- | -- | P | |
| 220 | Boat/marine supply stores | P | P (84) | -- | -- | P (83) | C | -- | -- | -- | -- | -- | |

| Comprehensive Plan Land Use Designation | | Urban High Intensity Commercial | | Urban Low Intensity Commercial | | | Rural Commercial | Urban Industrial | | | Rural Industrial | Public Facilities | |
|---|---|---------------------------------|--------------------------|--------------------------------|--------------------------|-------------------|-------------------|------------------|--------------|-------------------|------------------|--------------------|------------|
| Zoning Classification | Categorical Use | C (19)(30)(48)(57)(101) | RC (19)(48)(57)(88)(101) | UVC (30)(48)(57)(101) | NC (19)(30)(48)(57)(101) | LIC (48)(57)(101) | RCO (12)(64)(101) | BC (31)(42)(101) | BP (101) | IND (32)(42)(101) | RI (12)(42)(101) | P (101) | (Reserved) |
| 222 | | Brew pubs | P | P C (85)(87) | ACUP | ACUP | P | -- | ACUP (33) | ACUP (33) | ACUP | -- | -- |
| 224 | Clinic, medical | P | P (87) | ACUP | ACUP | P | -- | P | ACUP | C | -- | -- | |
| 226 | Conference center | P | P C (85) | P | -- | P | -- | -- | -- | -- | -- | ACUP | |
| 228 | Custom art and craft stores | P | P C (85)(87) | P (54) | P (54) | P | C | -- | -- | -- | -- | -- | |
| 230 | Day-care center (14) | P | P C (85) | P (54) | P (54) | P -- (79) | ACUP | P (33) | P (33) | P (33) | -- | ACUP -- (79) | |
| 232 | Day-care center, family (14) | P | P (61)(84) | ACUP (54) | ACUP (54) | P -- (79) | -- | P (33)(61) | P (33) | -- | -- | -- | |
| 234 | Drinking establishments | C | C (87) | ACUP | C | P | C | P (33) | C (33) | -- | -- | -- | |
| 236 | Engineering and construction offices | P | P (84) | P (54) | P (54) | P | ACUP | P | P (33) | P (33) | ACUP (72) | -- | |
| 238 | Espresso stands (58)(72) | P | P (61)(84) | -- | P | P | ACUP | P (33)(61) | P (33) | P (33) | ACUP | -- | |
| 240 | Equipment rentals | P | P (61)(84) | ACUP | -- | -- | ACUP | P | P | P | ACUP (73) | -- | |
| 242 | Farm and garden equipment and sales | P | P (61)(84) | -- | -- | P | ACUP | -- | -- | -- | C | -- | |
| 244 | Financial, banking, mortgage and title institutions | P | P C (85)(87) | P (54) | P (54) | P | -- | P | P (33) | ACUP (33) | -- | -- | |
| 245 | Fitness center | P | P | C | -- | -- | P (100) | P (100) | -- | P (100) | P (100) | -- | |
| 246 | General office and management services – less than 4,000 s.f. | P | P | P | P | P | ACUP | P | P | P (33) | -- | -- | |
| 248 | General office and management services – 4,000 to 9,999 s.f. | P | P (84) | ACUP | ACUP | P | C | P | P | -- | -- | -- | |
| 250 | General office and management services – 10,000 s.f. or greater | P | P (84) | ACUP | -- | P | -- | P | P | -- | -- | -- | |
| 252 | General retail merchandise stores – less than 4,000 s.f. | P | P | P | P | P | ACUP | P (33) | P (33) | ACUP (33) | -- | -- | |
| 254 | General retail merchandise stores | P | P (84) | ACUP | ACUP | P | C | -- | -- | -- | -- | -- | |

| Comprehensive Plan Land Use Designation | | Urban High Intensity Commercial | | Urban Low Intensity Commercial | | | Rural Commercial | Urban Industrial | | | Rural Industrial | Public Facilities | |
|---|--|---------------------------------|--------------------------|--------------------------------|--------------------------|-------------------|-------------------|------------------|----------|-------------------|------------------|-------------------|------------|
| Zoning Classification | Categorical Use | C (19)(30)(48)(57)(101) | RC (19)(48)(57)(88)(101) | UVC (30)(48)(57)(101) | NC (19)(30)(48)(57)(101) | LIC (48)(57)(101) | RCO (12)(64)(101) | BC (31)(42)(101) | BP (101) | IND (32)(42)(101) | RI (12)(42)(101) | P (101) | (Reserved) |
| | - 4,000 to 9,999 s.f. | | | | | | | | | | | | |
| 256 | General retail merchandise stores - 10,000 to 15,000 s.f. | P | P (84) | C | -- | -- | -- | -- | -- | -- | -- | -- | |
| 258 | General retail merchandise stores - 15,001 to 24,999 s.f. | P | P (84) | C | -- | -- | -- | -- | -- | -- | -- | -- | |
| 260 | General retail merchandise stores - 25,000 s.f. or greater | ACUP (62) | ACUP (62)(84) | -- | -- | ACUP | -- | -- | -- | -- | -- | -- | |
| 262 | Kennels or pet day cares (1) | C | C (61)(84) | -- | C | C | C | P | ACUP | ACUP | C | -- | |
| 264 | Kennels, hobby | -- | -- | P | P | -- | -- | -- | -- | -- | -- | -- | |
| 266 | Laundromats and laundry services | P | P (84) | P (54) | P (54) | P | -- | P (33) | P | ACUP | -- | -- | |
| 268 | Lumber and bulky building material sales | ACUP (42) | ACUP (42)(61)(84) | -- | -- | ACUP (42) | C | P (61) | -- | P | ACUP | -- | |
| 270 | Mobile home sales | ACUP | ACUP (61)(84) | -- | -- | -- | -- | -- | -- | -- | -- | -- | |
| 272 | Nursery, retail | P | P (84) | ACUP | ACUP | P | ACUP | -- | -- | -- | -- | -- | |
| 274 | Nursery, wholesale | P | P (61)(84) | ACUP | ACUP | P | P | -- | -- | -- | P | -- | |
| 276 | Off-street private parking facilities | P | P C (85) | ACUP | ACUP | -- | -- | -- | -- | -- | -- | -- | |
| 278 | Personal services - skin care, massage, manicures, hairdresser/barber (66) | P | P (87) | P (54) | P (54) | P | ACUP (54) | -- | -- | -- | -- | -- | |
| 280 | Pet shop - retail and grooming | P | P (84) | ACUP | ACUP | P | ACUP (54) | -- | -- | -- | -- | -- | |
| 282 | Research laboratory | -- | -- | -- | -- | -- | -- | P | P | P | C | -- | |
| 284 | Restaurants | P | P ACUP (85) | P (54) | P (54) | P | C | P (33) | C (33) | ACUP (33) | -- | -- | |
| 286 | Restaurants, high-turnover (33) | P | P (63)(84) | ACUP | C | P | -- | P | P | P | -- | -- | |
| 288 | Recreational vehicle rental | ACUP | ACUP (61)(84) | -- | -- | -- | -- | ACUP (61) | ACUP | ACUP | -- | -- | |

| Comprehensive Plan Land Use Designation | | Urban High Intensity Commercial | | Urban Low Intensity Commercial | | | Rural Commercial | Urban Industrial | | | Rural Industrial | Public Facilities | |
|---|---|--|--------------------------|--------------------------------|--------------------------|-------------------|-------------------|------------------|----------|-------------------|------------------|-------------------|------------|
| Zoning Classification | Categorical Use | C (19)(30)(48)(57)(101) | RC (19)(48)(57)(88)(101) | UVC (30)(48)(57)(101) | NC (19)(30)(48)(57)(101) | LIC (48)(57)(101) | RCO (12)(64)(101) | BC (31)(42)(101) | BP (101) | IND (32)(42)(101) | RI (12)(42)(101) | P (101) | (Reserved) |
| 290 | | Temporary offices and model homes (27) | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- |
| 292 | Tourism facilities, including outfitter and guide facilities | P | P | P | P | P | ACUP | P | P | ACUP | -- | -- | |
| 294 | Tourism facilities, including seaplane and tour boat terminals | ACUP | ACUP (84) | -- | -- | -- | C | -- | -- | -- | -- | -- | |
| 296 | Transportation terminals | ACUP | ACUP C (85) | C | C | C | -- | P | -- | ACUP | -- | -- | |
| 298 | Veterinary clinics/animal hospitals | P | P (84) | ACUP | ACUP | P | ACUP | P | ACUP | ACUP | -- | -- | |
| RECREATIONAL/CULTURAL USES | | | | | | | | | | | | | |
| 300 | Accessory use or structure (1)(51) | P | P | P | P | P | P | P | P | P | P | P | |
| 302 | Amusement centers | ACUP (11) | ACUP (11) | C (11) | C | ACUP (11) -- (79) | -- | -- | -- | C (11) | -- | ACUP | |
| 304 | Carnival or circus | ACUP (11) | ACUP (11)(61)(84) | ACUP (11) | C | ACUP (11) -- (79) | -- | -- | -- | ACUP (11) | -- | ACUP | |
| 306 | Club, civic or social (12) | P | P ACUP (85) | ACUP | ACUP | P | C | ACUP | -- | ACUP | -- | ACUP | |
| 308 | Golf courses | ACUP | ACUP (61)(84) | ACUP | ACUP | -- | -- | -- | -- | -- | -- | ACUP | |
| 310 | Marinas | ACUP | ACUP (61)(84) | C | ACUP | -- | C | -- | -- | C | C | ACUP | |
| 312 | Movie/performance theaters, indoor | P | P ACUP (85) | P | ACUP | P | -- | -- | -- | -- | -- | -- | |
| 314 | Movie/performance theaters, outdoor | C | ACUP | ACUP | -- | C | C | C | ACUP | -- | -- | C | |
| 316 | Museum, galleries, aquarium, historic or cultural exhibits (67) | P | P C (85) | P | ACUP | P | C | P | ACUP | -- | -- | ACUP | |
| 318 | Parks and open space | P | P | P | P | P | P | P | P | P | P | P | |
| 392 | Race track, major | C | C (61)(84) | -- | -- | -- | -- | C (61) | C | C | -- | C (12) | |
| 322 | Race track, minor | -- | -- | -- | -- | -- | -- | -- | -- | C | -- | C (12) | |

| Comprehensive Plan Land Use Designation | | Urban High Intensity Commercial | | Urban Low Intensity Commercial | | | Rural Commercial | Urban Industrial | | | Rural Industrial | Public Facilities | |
|---|---|----------------------------------|--------------------------|--------------------------------|--------------------------|-------------------|-------------------|------------------|----------|-------------------|------------------|-------------------|------------|
| Zoning Classification | Categorical Use | C (19)(30)(48)(57)(101) | RC (19)(48)(57)(88)(101) | UVC (30)(48)(57)(101) | NC (19)(30)(48)(57)(101) | LIC (48)(57)(101) | RCO (12)(64)(101) | BC (31)(42)(101) | BP (101) | IND (32)(42)(101) | RI (12)(42)(101) | P (101) | (Reserved) |
| 324 | | Recreational facilities, private | ACUP | ACUP | ACUP | ACUP | ACUP | C | P | C | C | -- | ACUP |
| 326 | Recreational facilities, public | ACUP | ACUP | ACUP | ACUP | P | ACUP | P | C | C | -- | ACUP | |
| 328 | Recreational vehicle camping parks | C | -- | -- | C | -- | -- | -- | -- | -- | -- | ACUP | |
| 330 | Zoo | C | C (61)(84) | -- | -- | C | -- | -- | -- | -- | -- | -- | |
| INSTITUTIONAL USES | | | | | | | | | | | | | |
| 400 | Accessory use or structure (1)(51) | P | P | P | P | P | P | P | P | P | P | P | |
| 402 | Government/public structures | ACUP | ACUP | ACUP | ACUP | ACUP | ACUP | P | P | P | C | P | |
| 404 | Hospital | ACUP | ACUP (84) | C | -- | ACUP | -- | C | C | C | -- | -- | |
| 406 | Places of worship (12) | ACUP | ACUP (84) | C | C | ACUP | C | C | -- | C | -- | -- | |
| 408 | Private or public schools (20) | ACUP | ACUP | C | C | ACUP | C | P | ACUP | ACUP | C | -- | |
| 410 | Public facilities and electric power and natural gas utility facilities, substations, ferry terminals, and commuter park-and-ride lots (16) | ACUP | ACUP | ACUP | ACUP | ACUP | C | ACUP | ACUP | ACUP | C | P | |
| INDUSTRIAL USES | | | | | | | | | | | | | |
| 500 | Accessory use or structure (1)(51) | P | P (84) | P | P | P | P | P | P | P | P | -- | |
| 502 | Air pilot training schools | P | P (84) | P | -- | -- | -- | P | P | P | -- | -- | |
| 504 | Assembly and packaging operations | C | C (61)(84) | C | -- | -- | -- | P | -- | ACUP | C | -- | |
| 506 | Boat yard | ACUP | ACUP (61)(84) | -- | -- | -- | -- | P (61) | ACUP | ACUP | C | -- | |
| 508 | Cemeteries, mortuaries, and crematoriums (10) | ACUP | ACUP (61)(84) | C | C | -- | C | ACUP (61) | -- | ACUP | C | -- | |
| 510 | Cold storage facilities (69) | -- | -- | -- | -- | -- | C | -- | ACUP | P | C | -- | |
| 512 | Contractor's storage yard (21) | -- | -- | -- | -- | -- | -- | P (61) | -- | P | ACUP | -- | |

| Comprehensive Plan Land Use Designation | | Urban High Intensity Commercial | | Urban Low Intensity Commercial | | | Rural Commercial | Urban Industrial | | | Rural Industrial | Public Facilities | |
|---|---|--|--------------------------|--------------------------------|--------------------------|-------------------|-------------------|------------------|----------|-------------------|------------------|-------------------|------------|
| Zoning Classification | Categorical Use | C (19)(30)(48)(57)(101) | RC (19)(48)(57)(88)(101) | UVC (30)(48)(57)(101) | NC (19)(30)(48)(57)(101) | LIC (48)(57)(101) | RCO (12)(64)(101) | BC (31)(42)(101) | BP (101) | IND (32)(42)(101) | RI (12)(42)(101) | P (101) | (Reserved) |
| 514 | | Food production, brewery or distillery | C | C (61)(84) | -- | -- | -- | C | ACUP | ACUP | C | C | -- |
| 516 | Fuel distributors | C | C (61)(84) | -- | -- | -- | -- | C (61) | -- | C | C | -- | |
| 518 | Helicopter pads (13) | C | C (84) | C | -- | C | -- | ACUP | -- | ACUP | ACUP | -- | |
| 520 | Manufacturing and fabrication, light | C | C (61)(84) | C | -- | -- | -- | P | P | P | C | -- | |
| 522 | Manufacturing and fabrication, medium | -- | -- | -- | -- | -- | -- | C (52)(61) | ACUP | P | C | -- | |
| 524 | Manufacturing and fabrication, heavy | -- | -- | -- | -- | -- | -- | -- | -- | ACUP | -- | -- | |
| 526 | Manufacturing and fabrication, hazardous | -- | -- | -- | -- | -- | -- | -- | -- | C | -- | -- | |
| 528 | Recycling centers | -- | -- | -- | -- | -- | C | -- | -- | ACUP | C | -- | |
| 530 | Rock crushing | -- | -- | -- | -- | -- | -- | -- | -- | C | C | -- | |
| 532 | Slaughterhouse or animal processing | -- | -- | -- | -- | -- | C (70) | -- | -- | C | C (70) | -- | |
| 534 | Storage, hazardous materials | -- | -- | -- | -- | -- | C (75) | -- | -- | C | C (75) | -- | |
| 536 | Storage, indoor | C | C (61)(84) | -- | -- | -- | C (75) | P (61) | P | P | ACUP | -- | |
| 538 | Storage, outdoor | -- | -- | -- | -- | -- | C (75) | ACUP (61) | -- | P | P (75) | -- | |
| 540 | Storage, self-service | ACUP | ACUP (61)(84) | C | C | ACUP -- (79) | C (75) | ACUP (61) | -- | P | P (75) | -- | |
| 542 | Storage, vehicle and equipment (1) | ACUP | -- | -- | -- | -- | C | ACUP (61) | -- | P | C (75) | -- | |
| 544 | Top soil production, stump grinding | -- | -- | -- | -- | -- | C | -- | -- | ACUP | ACUP | -- | |
| 546 | Transshipment facilities, including docks, wharves, marine rails, cranes, and barge facilities | -- | -- | -- | -- | -- | -- | P (61) | C | C | C | -- | |
| 548 | Uses necessary for airport operation such as runways, hangars, fuel storage facilities, control towers, etc. (13) | -- | -- | -- | -- | -- | -- | -- | -- | C | C (74) | -- | |

| Comprehensive Plan Land Use Designation | | Urban High Intensity Commercial | | Urban Low Intensity Commercial | | | Rural Commercial | Urban Industrial | | | Rural Industrial | Public Facilities | |
|---|---|-----------------------------------|--------------------------|--------------------------------|--------------------------|-------------------|-------------------|------------------|----------|-------------------|------------------|-------------------|------------|
| Zoning Classification | Categorical Use | C (19)(30)(48)(57)(101) | RC (19)(48)(57)(88)(101) | UVC (30)(48)(57)(101) | NC (19)(30)(48)(57)(101) | LIC (48)(57)(101) | RCO (12)(64)(101) | BC (31)(42)(101) | BP (101) | IND (32)(42)(101) | RI (12)(42)(101) | P (101) | (Reserved) |
| 550 | | Warehousing and distribution (68) | -- | -- | -- | -- | -- | -- | P (61) | P | P | ACUP | -- |
| 552 | Wrecking yards and junk yards (1) | -- | -- | -- | -- | -- | -- | -- | -- | C | C | -- | |
| RESOURCE LAND USES | | | | | | | | | | | | | |
| 600 | Accessory use or structure (1)(51) | P | P (84) | P | P | P | P | P | P | P | P | P | |
| 602 | Aggregate extractions sites | -- | -- | -- | -- | -- | C | P | -- | C | C | -- | |
| 606 | Aquaculture practices | C | C (84) | C | C | C | C | P | -- | C | C | P | |
| 608 | Forestry | P | P (84) | -- | P | P -- (79) | P | P | P | P | P | P -- (79) | |
| 610 | Shellfish/fish hatcheries and processing facilities | -- | -- | -- | -- | -- | -- | -- | -- | C | C | -- | |

Section 8. Kitsap County Code Section 17.410.060 ‘Provisions Applying to Special Uses’, adopted by Ordinance 534 (2016), is amended as follows:

17.410.060 Provisions applying to special uses.

A. In addition to other standards and requirements imposed by this title, all uses included in this section shall comply with the provisions stated herein. Should a conflict arise between the requirements of this section and other requirements of this title, the most restrictive shall apply.

B. Uses with Additional Restrictions. Businesses associated with a mineral resource overlay (MRO) designation shall not be subject to these restrictions.

1. Home Business. Home businesses may be allowed for commercial or industrial uses within residential zones subject to the following conditions:

a. Incidental home business, as defined below, shall be permitted in all residential zones and have no permit required.

i. Business uses shall be incidental and secondary to the dominant residential use;

ii. The residential character of the building shall be maintained and the business shall be conducted in such a manner as not to give an outside appearance of a business;

- iii. The business shall be conducted entirely within the residence;
 - iv. The residence shall be occupied by the owner of the business;
 - v. The business shall not infringe upon the right of the neighboring residents to enjoy the peaceful occupancy of their homes;
 - vi. No clients or customers shall visit or meet for an appointment at the residence;
 - vii. No employees or independent contractors are allowed to work in the residence other than family members who reside in the residential dwelling;
 - viii. No activities that create noise, increase risk of fire, or in any way threaten the safety and tranquility of neighboring residents are permitted;
 - ix. No more than two pick-ups and/or deliveries per day are allowed, not including normal U.S. mail;
 - x. The business shall not occupy more than twenty-five percent of the gross floor area of the residence; and
 - xi. No signs to advertise the business/occupation shall be allowed on the premises (except attached to mailbox not to exceed one square foot).
- b. Minor home business, as defined below, shall be permitted in all residential zones subject to approval by the director. Said approval is not transferable to any individual, future property owner or location.
- i. Business uses shall be incidental and secondary to the dominant residential use;
 - ii. The residential character of the building shall be maintained and the business shall be conducted in such a manner as not to give an outside appearance of a business;
 - iii. The residence shall be occupied by the owner of the business;
 - iv. The business shall occupy no more than thirty percent of the gross floor area of the residence;
 - v. The business shall not infringe upon the right of the neighboring residents to enjoy the peaceful occupancy of their homes;
 - vi. No more than two employees, including proprietors (or independent contractors), are allowed;
 - vii. Nonilluminated signs not exceeding four square feet are permitted, subject to a sign permit approved by the director;
 - viii. No outside storage shall be allowed; and

ix. In order to assure compatibility with the dominant residential purpose, the director may require:

- (a) Patronage by appointment.
- (b) Additional off-street parking.
- (c) Other reasonable conditions.

c. Moderate home business, as defined below, shall be permitted in RW, RP, and RR zones subject to approval by the director. Said approval is not transferable to any individual, future property owner or location.

- i. Business uses shall be incidental and secondary to the dominant residential use;
- ii. The residential character of the building shall be maintained and the business shall be conducted in such a manner as to moderate any outside appearance of a business;
- iii. The residence shall be occupied by the owner of the business;
- iv. The business shall not infringe upon the right of the neighboring residents to enjoy the peaceful occupancy of their homes;
- v. No more than five employees (or independent contractors) are allowed;
- vi. Nonilluminated signs not exceeding four square feet are permitted, subject to a sign permit approved by the director; and
- vii. In order to ensure compatibility with the dominant residential purpose, the director may require:
 - (a) Patronage by appointment.
 - (b) Additional off-street parking.
 - (c) Screening of outside storage.
 - (d) A conditional use permit (required for engine or vehicle repair or servicing).
 - (e) Other reasonable conditions.

2. Pets and Exotic Animals. Pets, nontraditional pets and exotic animals are subject to the following conditions:

- a. Pets which are kept inside of a primary structure as household pets in aquariums, terrariums, cages or similar containers shall not be limited in number by this title. Other pets, excluding cats, which are kept indoors shall be limited to five;

b. Pets which are kept outside of the primary structure shall be limited to three per household on lots less than twenty thousand square feet in area, only one of which may be a nontraditional pet; five per household on lots of twenty thousand to thirty-five thousand square feet, only two of which may be nontraditional pets; with an additional two pets per acre of site area over thirty-five thousand square feet up to a limit of twenty; and

c. No feeding area or structure used to house, confine or feed pets shall be located closer than the minimum yard setbacks for the zone in which they are located. No feeding area or structure used to house, confine or feed nontraditional pets or exotic animals shall be located closer than fifty feet from any residence on adjacent property.

3. Accessory Dwelling Unit (ADU). In order to encourage the provision of affordable and independent housing for a variety of households, an accessory dwelling unit may be located in residential zones, subject to the following criteria:

a. An ADU shall be allowed as a permitted use in those areas contained within an urban growth boundary;

b. An ADU shall be subject to a conditional use permit in those areas outside an urban growth boundary;

c. Only one ADU shall be allowed per lot;

d. Owner of the property must reside in either the primary residence or the ADU;

e. The ADU shall not exceed fifty percent of the square footage of the habitable area of primary residence or nine hundred square feet, whichever is smaller. Dimensions are determined by exterior measurements;

f. The ADU shall be located within one hundred fifty feet of the primary residence or shall be the conversion of an existing detached structure (i.e., garage);

g. The ADU shall be designed to maintain the appearance of the primary residence;

h. All setback requirements for the zone in which the ADU is located shall apply;

i. The ADU shall meet the applicable health district standards for water and sewage disposal;

j. No mobile homes or recreational vehicles shall be allowed as an ADU;

k. An ADU shall use the same side street entrance as the primary residence and shall provide additional off-street parking; and

l. An ADU is not permitted on the same lot where an accessory living quarters exists.

m. Existing, Unpermitted Accessory Dwelling Units.

i. Applicability. The provisions of this subsection shall only apply to property and property owners who can establish all of the following criteria:

- (a) The parcel is within the unincorporated area of Kitsap County;
- (b) An accessory dwelling unit (ADU), as defined in Section 17.110.020, or similar dwelling previously defined as an accessory living quarters (ALQ) or an accessory rental unit (ARU) is located on the parcel;
- (c) The accessory dwelling has not received any prior review and/or approval by Kitsap County;
- (d) The property owner did not construct or cause to have the accessory dwelling constructed;
- (e) The property owner did not own the property when the accessory dwelling was constructed;
- (f) The property owner exercised due diligence when purchasing the property with the existing accessory dwelling to discover whether or not the accessory dwelling was approved when purchasing the property. Due diligence is presumed to have occurred if the property owner can document the following conditions:
 - (i) That county tax records or parcel records contain no inquiry or other notice that the ADU was unpermitted; and
 - (ii) That the current owner requested and obtained a title report with no exceptions, restrictions, enforcement actions, permitting or similar issues pertinent to the ADU; and
 - (iii) That the prior owner's property and improvement disclosures at the time of sale did not indicate any permitting, compliance or similar issues pertinent to the ADU; and
 - (iv) That any third party involved in the sale or inspection of the ADU did not disclose any permitting, compliance or other issues pertinent to the ADU;
- (g) The parcel has a history of property tax assessment and a history of continuous tax payments on the principal and the accessory dwelling;
- (h) Acceptable documentation for subsections (B)(3)(m)(i)(a) through (g) of this section may include but is not limited to current or previous county assessment records, real estate disclosure forms, listing agreements, records of sale, title reports and aerial photography establishing compliance with the required conditions.

ii. Application. Persons who meet the criteria of subsection (B)(3)(m)(i) of this section desiring to gain approval of their accessory dwelling shall make application to the director of the department of community development on forms provided by the department, with fees to be paid at the time of application as provided in subsection (B)(3)(m)(v) of this section. Such application shall be a Type II permit under Chapter 21.04.

iii. Approval. The director, or his designee, is authorized to approve submitted applications that satisfy all of the following:

- (a) All the requirements of this section;
- (b) All the applicable zoning, health, fire safety and building construction requirements:
 - (i) The applicable requirements shall be those in effect when the accessory dwelling was constructed. The burden of proof of when the accessory dwelling was constructed shall be upon the applicant and may consist of dated aerial photography, tax assessments, surveys or similar documents.
 - (ii) If the applicant cannot prove a date of construction, the applicable requirements shall be those currently in effect on the date of application.
 - (iii) If the applicant can only show a date range for construction, the applicable requirements shall be the latest requirements of the range;
- (c) Proof of adequate potable water;
- (d) Proof of adequate sewage disposal systems for both the principal and the accessory dwelling. Proof shall be shown by Kitsap County health district approval; and
- (e) Verification by Kitsap County inspection staff that the accessory dwelling is habitable.

Applications approved subject to these provisions shall be considered legal nonconforming uses.

iv. Variances.

(a) When reviewing the application, the director is authorized to grant an administrative variance to the requirements of subsection (B)(3)(m)(iii)(b) of this section only when unusual circumstances relating to the property cause undue hardship in the application of subsection (B)(3)(m)(iii)(b) of this section. The granting of an administrative variance shall be in the public interest. An administrative variance shall be granted at the director's sole discretion only when the applicant has proven all of the following:

- (i) There are practical difficulties in applying the regulations of subsection (B)(3)(m)(iii)(b) of this section;
- (ii) The applicant did not create or participate in creating the practical difficulties;
- (iii) A variance meets the intent and purpose of this section;
- (iv) The variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or zone in which the property is located; and
- (v) The variance is the minimum necessary to grant relief to the applicant.

(b) The director is authorized to require mitigation in connection with the administrative variance to minimize the effect of the variance on surrounding properties.

(c) In reviewing a request for an administrative variance, the director shall notify and solicit comments from surrounding property owners of the application and the intended variance and mitigation. The director shall consider such comments when determining whether or not to approve the variance. The director is further authorized to require mediation to resolve issues arising from the notification process and the costs of such mediation shall be paid by the applicant.

(d) Variance requests submitted as part of this subsection shall be considered as part of the original application and not subject to additional procedural or fee requirements.

v. Fees. Applicants shall pay a fee established by resolution at the time of application. Additionally, applicants shall pay notification costs, reinspection fees, additional review and other applicable fees in accordance with Chapter 21.10. Applicants may initiate a staff consultation in considering or preparing an application under these provisions. The staff consultation fee established in Chapter 21.10 shall not, however, be credited towards any subsequent application submitted under these provisions.

vi. Land Use Binder. Following approval of the accessory dwelling and any administrative variance, the applicant shall record a land use permit binder with the county auditor using forms provided by Kitsap County department of community development.

vii. Expiration. Qualifying property owners shall have one year from the time that the noncompliant ADU is discovered to submit an application for approval of the ADU.

4. Accessory Living Quarters. In order to encourage the provision of affordable housing, accessory living quarters may be located in residential zones, subject to the following criteria:

a. Accessory living quarters shall be located within an owner-occupied primary residence;

b. Accessory living quarters are limited in size to no greater than fifty percent of the habitable area of the primary residence;

c. The accessory living quarters are subject to applicable health district standards for water and sewage disposal;

d. Only one accessory living quarters shall be allowed per lot;

e. Accessory living quarters are to provide additional off-street parking with no additional street side entrance; and

f. Accessory living quarters are not allowed where an accessory dwelling unit exists.

g. Existing Unpermitted Accessory Living Quarters. Existing unpermitted accessory living quarters may be approved under the provisions of subsection (B)(3)(m) of this section.

5. Adult Entertainment.
 - a. The following uses are designated as adult entertainment uses:
 - i. Adult bookstore;
 - ii. Adult mini-motion picture theater;
 - iii. Adult motion picture theater;
 - iv. Adult novelty store; and
 - v. Cabaret.
 - b. Restrictions on Adult Entertainment Uses. In addition to complying with the other sections of this title, adult entertainment uses shall not be permitted:
 - i. Within one thousand feet of any other existing adult entertainment use; and/or
 - ii. Within five hundred feet of any noncommercial zone, or any of the following residentially related uses:
 - (a) Churches, monasteries, chapels, synagogues, convents, rectories, or church-operated camps;
 - (b) Schools, up to and including the twelfth grade, and their adjunct play areas;
 - (c) Public playgrounds, public swimming pools, public parks and public libraries;
 - (d) Licensed day care centers for more than twelve children;
 - (e) Existing residential use within a commercial zone.
 - iii. For the purposes of this section, spacing distances shall be measured as follows:
 - (a) From all property lines of any adult entertainment use;
 - (b) From the outward boundary line of all residential zoning districts;
 - (c) From all property lines of any residentially related use.
 - c. Signage for Adult Entertainment Uses.
 - i. In addition to special provisions relating to signage in this title, it shall be unlawful for the owner or operator of any adult entertainment use establishment or any other person to erect, construct, or maintain any sign for the adult entertainment use establishment other than one primary sign and one secondary sign, as provided herein.

ii. Primary signs shall have no more than two display surfaces. Each such display surface shall:

- (a) Be a flat plane, rectangular in shape;
- (b) Not exceed seventy-five square feet in area; and
- (c) Not exceed ten feet in height or ten feet in length.

iii. Primary and secondary signs shall contain no photographs, silhouettes, drawings or pictorial representations of any manner, and may contain only:

- (a) The name of the regulated establishment; and/or
- (b) One or more of the following phrases:
 - (i) "Adult bookstore,"
 - (ii) "Adult movie theater,"
 - (iii) "Adult cabaret,"
 - (iv) "Adult novelties,"
 - (v) "Adult entertainment."

iv. Primary signs for adult movie theaters may contain the additional phrase, "Movie Titles Posted on Premises."

(a) Each letter forming a word on a primary or secondary sign shall be of a solid color, and each such letter shall be the same print-type, size and color. The background behind such lettering on the display surface of a primary sign shall be of a uniform and solid color.

(b) Secondary signs shall have only one display surface. Such display surface shall:

- (i) Be a flat plane, rectangular in shape;
- (ii) Not exceed twenty square feet in area;
- (iii) Not exceed five feet in height and four feet in width; and
- (iv) Be affixed or attached to any wall or door of the establishment.

6. Storage of Junk Motor Vehicles.

a. Storage of junk motor vehicles on any property outside of a legally constructed building (minimum of three sides and a roof) is prohibited, except where the storage of up to six junk motor vehicles meets one of the following two conditions:

i. Any junk motor vehicle(s) stored outdoors must be completely screened by a sight-obscuring fence or natural vegetation to the satisfaction of the director (a covering such as a tarp over the vehicle(s) will not constitute an acceptable visual barrier). For the purposes of this section, “screened” means not visible from any portion or elevation of any neighboring or adjacent public or private property, easement or right-of-way; or

ii. Any junk motor vehicle(s) stored outdoors must be stored more than two hundred fifty feet away from all property lines.

b. Environmental Mitigation Agreement. The owner of any such junk motor vehicle(s) must successfully enter into an environmental mitigation agreement with the department of community development (the “department”) regarding the property where such vehicle(s) will be located or stored.

i. An environmental mitigation agreement between a property owner and the department is required before the outdoor storage of up to six screened junk motor vehicles will be approved. A property owner may enter into such agreement with the department for a one-time fee of \$10.00 per vehicle, the proceeds of which shall be used to assist with clean-up costs associated with the administration of Chapter 9.56.

ii. In order to mitigate any potential environmental impact from the storage of these junk motor vehicles, the property owner must agree to institute one of the following two preventative measures:

(a) Each junk motor vehicle must be drained of all oil and other fluids including, but not limited to, engine crankcase oil, transmission fluid, brake fluid and radiator coolant or antifreeze prior to placing the vehicle on site; or

(b) Drip pans or pads must be placed and maintained underneath the radiator, engine block, transmission and differentials of each junk motor vehicle to collect residual fluids.

(c) Either preventative measure shall require that the owner of such vehicle(s) clean up and properly dispose of any visible contamination resulting from the storage of junk motor vehicles. The agreement will require the property owner to select one of the two preventative measures and to allow for an initial inspection of the property by the department to assure that the preventative measure has been implemented to the satisfaction of the department. By entering into the agreement, the property owner further agrees to allow the department entry onto the property on an annual basis for reinspection to assure compliance with the approved agreement. If a property is found to be in compliance with the terms of the agreement for two consecutive inspections, the department may waive the annual inspection requirement. A property owner found to be in violation of the agreement may be issued a civil infraction pursuant to this title and could later be deemed a nuisance in accordance with Chapter 9.56.

7. Model Homes. Notwithstanding any other provision of this code, model homes may be constructed within a subdivision prior to final plat approval by the board. The purpose of the model homes shall be to demonstrate a variety of housing designs together with associated on-site improvements, e.g., landscaping, improved driveway, patios. Model homes shall be subject to the following requirements:

- a. The subdivision shall have received preliminary plat approval;
 - b. One model home may be occupied as a temporary real estate office;
 - c. A model home may not be occupied as a dwelling unit or sold until the approved final plat is recorded;
 - d. The number of model home permits that may be issued for any approved preliminary plat or division thereof shall not exceed six;
 - e. If the lots to be used for model home purposes are in a block of two or more contiguous lots, temporary uses may be incorporated onto one or more lots, including temporary offices, parking, parks and playgrounds, subject to the approval of the director, and subject to obtaining a temporary use permit, which shall authorize the temporary uses for a period of one year. The director may extend the temporary use permit for up to two additional periods of six months each;
 - f. Lots used for model homes must be clear of restrictions or easements that may be subject to line changes before recording;
 - g. Storm water management facilities must be in place and/or approved for recording. Temporary erosion control must be completed prior to occupancy of a model home;
 - h. Roads must be constructed to final alignment and grade such that the building inspector can determine if connecting driveways meet county standards prior to occupancy of a model home;
 - i. Permanent or temporary fire flow for the final plat must be approved by the fire marshal, constructed and operational prior to occupancy of a model home; and
 - j. Final plat restoration bonds must be posted prior to occupancy of a model home.
8. Guest Houses. Guest house may be located in those zones specified in Sections 17.410.042 through 17.410.046 subject to the following conditions:
- a. Guest houses shall not exceed nine hundred square feet. Dimensions are determined by exterior measurements;
 - b. Guest houses shall not include any kitchen plumbing, appliances or provisions for cooking;
 - c. Guest houses shall not include more than one bathroom (may be full bathroom);
 - d. Guest houses shall not include more than two habitable rooms and a bathroom;
 - e. Guest houses shall not be rented separately from the primary residence;
 - f. Only one guest house is allowed per parcel;

- g. No guest house is allowed on a parcel with an existing accessory dwelling unit or accessory living quarters;
- h. Newly constructed guest houses must meet the required setbacks for a single-family dwelling consistent with their zone. Legally established, existing structures built before May 7, 1998, may be remodeled into guest houses at their existing setback;
- i. Guest houses must be within one hundred fifty feet of the primary residence;
- j. Guest houses must use the same street entrance as the primary structure;
- k. Guest houses must meet all applicable health district standards for water provision and sewage disposal; and
- l. The property owner must record a notice to title outlining these conditions. This notice must be approved by the department and may not be extinguished without the county's written permission.

9. High-Risk Secured Facility. A High-Risk Secured Facility shall comply with the following conditions:

a. The County shall hold a neighborhood meeting prior to a public hearing for a proposed high-risk secured facility. The project applicant shall cover all meeting costs.

b. The County shall mail community notification to the school district and all landowners within a half mile radius of a proposed high-risk secured facility at least two weeks prior to the required neighborhood meeting. The project applicant shall cover all community notification costs.

c. A High-Risk Secured Facility shall not be located adjacent to, immediately across the street or parking lot from, or within the line of sight of a risk potential activity or facility in existence at the time a facility is established.

i. "Within the line of sight" means that it is possible to reasonably visually distinguish and recognize individuals.

ii. "Risk potential activities and facilities" means an activity or facility that provides a higher incidence of risk to the public from persons conditionally released from the special commitment center. Risk potential activities and facilities include: Public and private schools, school bus stops, licensed day care and licensed preschool facilities, domestic violence shelters, public parks, publicly dedicated trails, sports fields, playgrounds, recreational and community centers, churches, synagogues, temples, mosques, public libraries, public and private youth camps, and other specific uses identified during a neighborhood hearing. For the purpose of this section, "school bus stops" does not include bus stops established primarily for public transit.

d. A High-Risk Secured Facility shall not be located in a community protection zone as defined in RCW 9.94A.030(6).

i. Distance shall be measured from all property lines of a High-Risk Secured Facility from all property lines of the facilities and grounds of a public or private school.

e. A High-Risk Secured Facility shall meet the applicable health district standards for water and sewage disposal to account for staff and residents.

f. Principle access to the site shall be from a county-maintained right-of-way.

g. A High-Risk Secured Facility shall be equipped with an automatic fire sprinkler system, installed in accordance with applicable building and fire codes

h. A High-Risk Secured Facility shall be equipped with a mechanism that is interlocked with the fire protection system to automatically release any facility security locks and allow safe egress from the structure in the event of fire or other emergency.

i. A High-Risk Secured Facility shall be equipped with a backup power system and an automatic transfer switch sufficient to energize and maintain the function of safety, security, and surveillance systems in the event of a power outage.

Section 9. Kitsap County Code Section 21.04.130 ‘Neighborhood meetings’, adopted by Ordinance 490 (2012), is amended as follows:

21.04.130 Neighborhood meetings.

A. General Purpose. Neighborhood meetings are optional, unless required by Section 17.410.060(B)(9) or 17.505.030(A)(4). These meetings are designed to advise create the public awareness of what local development regulations allow, ~~often with including~~ conditions assigned to a project that the public may want to consider. Neighborhood meetings are also used to provide information about a proposed development ~~earlier~~ in the project permit application review process, ~~than the minimum required.~~ They are intended to improve neighborhood awareness of potential or pending projects and, provide earlier neighborhood involvement in the planning process, ~~and~~ to reduce controversy at the public hearing. At neighborhood meetings, issues of concern can be expressed and potentially addressed before an applicant spends time and money on plans and before an application reaches the review authority. ~~Noticing and neighborhood meeting requirements, as discussed below, should be considered for effective participation.~~

B. Meeting Moderation and Assistance. The applicant may enlist the support of land use professionals to moderate and assist the meeting. Land use professionals may provide an interface between the proposed project permit application, Kitsap County Code, and expectations of the public. ~~For these purposes, L~~ Land use professionals may include any persons with knowledge sufficient to assist both applicants and the public, and shall include engineers, surveyors, land use consultants, and attorneys.

C. Schedule of Hearing. The department will work with applicants ~~who wish to conduct neighborhood meetings~~ to ensure application review and any required public hearing dates are not impacted or minimally impacted. Applicants who ~~wish to~~ conduct neighborhood meetings

~~should~~ shall contact the department as soon as possible to minimize impacts to the schedule of project permit application review. ~~Processing times~~ The project permit application review can be suspended during neighborhood meeting efforts.

D. Notification. ~~If an applicant conducts a neighborhood meeting, t~~ The applicant shall send notice of the meeting to those on the ~~notice of application mailing list,~~ unless additional requirements are contained in Section 17.410.050(B)(9) or 17.505.030(A)(4). The notification shall include a brief description of the proposal and the date, time and location of the meeting. The county will provide mailing addresses to the applicant, and may assist, at minimal cost to the applicant, with automated postcard notices.

E. Documentation of Meeting. Reporting results of a meeting is ~~optional, but if chosen~~ shall be provided by the applicant to DCD within fourteen days of the meeting date. A report should outline:

1. Description of neighborhood meeting notification materials, mailing lists, dates, times, locations of meeting(s), and attendance lists;
2. Copies of all plans, references, drawings, details, mailings, handouts, letters, etc., used for the meeting itself;
3. Description of the concerns, issues, and problems raised by ~~the~~ neighbors during the meetings and how they will be addressed; ~~and~~
4. Description of all concerns, issues, and problems that cannot be addressed, including irresolvable conflict; and
5. Description of the project support raised by neighbors during the meeting.

Section 10. 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 or phrase of this ordinance.

Section 11. Clerical/Typographical Error. Should this Ordinance, upon being enacted by the Kitsap County Board of Commissioners during its deliberations on February 6, 2019, have anything inadvertently left out or in error upon publication, the explicit action of the Board as discussed and passed shall prevail upon subsequent review and verification by the Board.

Section 12. Effective Date. This ordinance shall take effect immediately upon adoption.

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

EDWARD E. WOLFE, Chair

CHARLOTTE GARRIDO, Commissioner

ROBERT GELDER, Commissioner

ATTEST:

Dana Daniels, Clerk of the Board

APPROVED AS TO FORM:

Laura Zippel, Deputy Prosecuting Attorney