



Meeting Date:  
Agenda Item No:

<b>Kitsap County Board of Commissioners</b>	
<p><b>Office/Department:</b> Community Development  <b>Staff Contact &amp; Phone Number:</b> Jim Bolger &amp; Dave Ward, &amp; Liz Williams (360) 337-4836  <b>Agenda Item Title:</b> Interim Zoning Ordinance Adopting Regulations for Group Residential Facilities – Secured High Risk</p>	
<p><b>Recommended Action:</b> Adopt the interim zoning ordinance and schedule a public hearing on March 25, 2019.</p>	
<p><b>Summary:</b></p>	<p>The Department of Community Development (DCD) conducted a review of the County’s development regulations for a proposed facility that would house multiple sexually violent predators (SVPs). These individuals have been found by Superior court to be eligible for placement in a less restrictive alternative (LRA) to total confinement. LRAs are facilities that provide court-ordered supervision, security, and access to mental health treatment for SVPs. The review found that existing County development regulations do not define LRA facilities or mitigate their land use and life safety impacts.</p> <p>To mitigate land use and life-safety impacts associated with LRAs, DCD has developed interim regulations that:</p> <ul style="list-style-type: none"> <li>• define a new land use (Group Residential Facilities – Secured High Risk);</li> <li>• establish a permit application and review process (Type III – Conditional Use Permit &amp; required neighborhood meeting);</li> <li>• address building code and life safety requirements; and</li> <li>• outline facility siting requirements that are consistent with state and local law.</li> </ul> <p>The Kitsap County Board of County Commissioners is authorized by state law (RCW 36.70A.390 and RCW 36.70.795) to adopt interim regulations to protect public health and safety without first holding a public hearing. However, the Board is required to hold a public hearing within sixty days of adopting interim regulations to receive oral and written comment from interested parties. Interim regulations may be in effect for up to six months and can be extended for up to one year if a work plan is developed for related studies.</p> <p>DCD recommends the Board adopt interim regulations, as proposed in Attachment 1 and hold a public hearing during their regularly scheduled meeting on March 25, 2019.</p>
<p><b>Attachments:</b></p>	<p>1. Emergency Ordinance</p>
<b>Fiscal Impact for this Specific Action</b>	
<p><b>Expenditure required for this specific action:</b></p>	<p>\$ 0</p>
<p><b>Related Revenue for this specific action:</b></p>	<p>N/A</p>
<p><b>Cost Savings for this specific action:</b></p>	<p>N/A</p>

<b>Net Fiscal Impact:</b>		N/A	
<b>Source of Funds:</b>		N/A	
<b>Fiscal Impact for Total Project</b>			
<b>Project Costs:</b>		\$ 0	
<b>Project Costs Savings:</b>		\$ 0	
<b>Project Related Revenue:</b>		\$ 0	
<b>Project Net Total:</b>		\$ 0	
<b><u>Fiscal Impact (DAS) Review</u></b>			
<b>Departmental/Office Review &amp; Coordination</b>			
<b>Department/Office</b>		<b>Elected Official/Department Director</b>	
<b>Contract Information</b>			
<b>Contract Number</b>	<b>Date Original Contract or Amendment Approved</b>	<b>Amount of Original Contract Amendment</b>	<b>Total Amount of Amended Contract</b>
N/A			

**INTERIM ZONING ORDINANCE \_\_\_\_\_****ADOPTING INTERIM REGULATIONS FOR GROUP RESIDENTIAL FACILITIES  
– SECURED HIGH RISK**

**WHEREAS** in 1990, Washington State became the first state to pass a law, chapter 71.09 RCW, authorizing indefinite civil commitment of individuals found by Superior court to be a Sexually Violent Predator (SVP);

**WHEREAS** individuals that are civilly committed as SVPs 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;

**WHEREAS** 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;

**WHEREAS** 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;

**WHEREAS** 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;

**WHEREAS** 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;

**WHEREAS** Washington State does not regulate the location or land use and life safety impacts of community based LRAs;

**WHEREAS** the Kitsap County Board of County Commissioners (Board) has determined that current county regulations do not define LRA facilities or mitigate their land use and life safety impacts to protect both the residents of potential LRA facilities within Kitsap County as well as the neighbors;

**WHEREAS** 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;

**WHEREAS** the Board has authority to adopt interim zoning regulations to protect public health and safety pursuant to RCW 36.70A.390 and RCW 36.70.795; and

**WHEREAS** the Board desires to enact interim regulations to protect public health and safety in a way that mitigates land use and life safety impacts without precluding the state-mandated placement of housing for persons that are civilly committed and conditionally released to a LRA to total confinement.

**NOW THEREFORE BE IT ORDAINED:**

**Section 1. Recitals Incorporated.** The recitals set forth above are hereby adopted as the Kitsap County Board of Commissioner’s findings in support of the regulations imposed by this ordinance.

**NEW SECTION. Section 2.** A new section is added to Chapter 17.110 Kitsap County Code, ‘Definitions’, as follows:

**17.11.316 Group Residential Facility – Secured High Risk**

“Group Residential Facility – Secured High Risk” means a facility on a single lot serving one to four persons civilly committed and conditionally released to a less restrictive alternative in accordance with Chapter 71.09 RCW. A group residential facility – secured high risk has supervision, security, and ensures the provision of sex offender treatment services. This does not include a single person placed in a non-facility residence with a family member(s) as defined in Section 17.110.270.

**Section 3.** 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	
	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)
Zoning Classification												
Categorical Use												
<b>RESIDENTIAL USES</b>												

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)
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 -- (79)	--	--	--	--	--	--	
124	Dwelling, single-family detached (includes manufactured homes)	--	--	--	P	--	--	--	--	--	--	--	
126	Guest house (1)	--	--	--	--	--	--	--	--	--	--	--	
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)	--	--	--	--	--	--	

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136		Group Residential Facility – Secured High Risk (1)	C	C					C	C	C		
<b>COMMERCIAL/BUSINESS USES</b>													
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	--	--	--	--	--	
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)	--	--	--	

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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 – 4,000 to 9,999 s.f.	P	P (84)	ACUP	ACUP	P	C	--	--	--	--	--	
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	--	--	--	--	--	--	--	

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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	--	--	
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	--	--	
<b>RECREATIONAL/CULTURAL USES</b>													
300	Accessory use or structure (1)(51)	P	P	P	P	P	P	P	P	P	P	P	



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Categorical Use													
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)	
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	--	--	--	--	--	--	
<b>INSTITUTIONAL USES</b>													
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	--	--	

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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	
<b>INDUSTRIAL USES</b>													
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	--	
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	--	

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Categorical Use													
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)	--	
550	Warehousing and distribution (68)	--	--	--	--	--	--	P (61)	P	P	ACUP	--	
552	Wrecking yards and junk yards (1)	--	--	--	--	--	--	--	--	C	C	--	
<b>RESOURCE LAND USES</b>													
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 4.** 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. Community Residential Facility – Secured High Risk. A community residential facility – secured high risk shall comply with the following conditions:

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

b. The County shall provide community notification to all landowners within a half mile radius of a proposed community residential facility – secured high risk at least two weeks prior to a neighborhood meeting. The project applicant shall cover all community notification costs.

c. A community residential facility – secured high risk shall not be located adjacent to, immediately across a 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 others identified during a public hearing. For the purpose of this section, "school bus stops" does not include bus stops established primarily for public transit.

d. A community residential facility – secured high risk 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 community residential facility – secured high risk and from all property lines of the facilities and grounds of a public or private school.

e. A community residential facility – secured high risk 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. If a person's liberty is restricted or a person is not capable of self-preservation without physical assistance, a community residential facility – secured high risk shall be equipped with an automated fire sprinkler system as required by building code.

h. If windows/doors are required to be secured, the community residential facility – secured high risk shall have a system to automatically release locks which shall be interlocked with the fire protection system.

i. A community residential facility – secured high risk shall have backup power sufficient to energize the safety and security systems in the event of a power outage.



**Section 5.** 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 17.410.050(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 6.**     **Public Hearing.** This ordinance is being adopted as an interim measure to mitigate land use impacts of housing for persons that have been civilly committed and conditionally released to a less restrictive alternative. The Department of Community Development is directed to continue developing a permanent Ordinance which will be considered at a public hearing on March 25, 2019 as authorized by RCW 36.70.795.

**Section 7.**     **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 8.**     **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 9.**     **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