

JUNE 1983

AMENDED 3/90

**THE  
KITSAP  
COUNTY  
ZONING  
ORDINANCE**

JUNE 1983  
REVISED 3/90

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**ORDINANCE NO. 93-1983**

**AN ORDINANCE CONCERNING LAND USE**

WHEREAS, the public health, safety and welfare require the comprehensive regulation of land use in Kitsap County; and

WHEREAS, RCW 36.70 and RCW 36.32 empower the Kitsap County Board of County Commissioners to adopt an ordinance concerning the comprehensive regulation of land use and to otherwise legislate in the furtherance of the public health, safety and welfare;

NOW, THEREFORE, BE IT ORDAINED by the Kitsap County Board of County Commissioners:

Section 1. Title.

This ordinance shall be know as the "Kitsap County Zoning Ordinance".

Section 2. Purpose and scope.

a. The purposes of this ordinance are as follows:

- (1) To implement the plans and policies embodied in the Kitsap County Comprehensive Plan adopted August 2, 1977, together with subsequent amendments and refinements thereto, through the adoption of official land use controls including zoning maps;
- (2) To enhance and secure the public health, safety and welfare through the regulated, orderly development of land, land uses and structures in this community.
- (3) In fulfilling these purposes this ordinance is intended to benefit the public as a whole and not any specific person or class of persons. Although through the implementation, administration and enforcement of this ordinance, benefits and detriments will be enjoyed or suffered by specific individuals, such is merely a byproduct of the overall benefit to the whole community. Therefore, unintentional breaches of the obligations of administration and enforcement imposed upon the county hereby shall not be enforceable in tort.

Section 2. Purpose and scope, Continued

- b. This ordinance is not comprehensive in the sense that it is the only legislation which governs the use and development of land and structures. Therefore one contemplating the use or development of land or structures must refer to other laws which may impact a given use or development. Such laws may include, but are not necessarily limited to, the following:
- (1) Ordinance No. 131, the Kitsap County Building Code, which includes codes pertaining to building, fire safety, plumbing and mechanical work;
  - (2) Ordinance No. 20 and RCW 58.17 which concern subdivisions;
  - (3) Ordinance No. 108 which concerns short subdivisions;
  - (4) Ordinance No. 96 which concerns fire flows;
  - (5) Ordinance No. 23-A-1971 which concerns mobile home parks;
  - (6) RCW 43.21C, the state environmental policy act;
  - (7) RCW 90.58, the shoreline management act, and the Kitsap County Shoreline Master Plan;
  - (8) Bremerton-Kitsap County Department of Health Resolution No. 7-1978 which concerns sewage disposal and other health matters; and
  - (9) Ordinance No. 3-A-1975 which concerns noise.

Section 3. Definitions.

- a. Words or terms defined by this section are underlined throughout this ordinance to apprise one that the word or term has a defined, special meaning.
- b. Words or terms in the singular include the plural and vice versa.
- c. The following words or terms are defined as follows:
  - (1) Accessory living quarters -- separate living quarters contained within or detached from the primary residence which contains less habitable area than the primary residence and which is used by guests, employees or immediate family members of the occupant of the primary residence; Provided, no mobile home or recreational vehicle shall be an accessory living quarters nor may accessory living quarters be rented or leased;

Section 3. Definitions, Continued

- (2) Accessory rental unit -- separate living quarters, having not more than two bedrooms, contained within an owner-occupied single-family residence which contains no more than forty percent (40%) of the habitable area of the residence; Provided, where any building is modified to create an accessory rental unit, there shall be no expansion of the building beyond the original foundation nor the addition of any exterior doors on the street side;
- (3) Accessory structure or use -- a structure or use incidental and subordinate to a permitted primary use and which is customarily found in connection with the permitted primary use; Provided, and accessory structure, or, use must be located on the same lot as the permitted primary use;
- (4) Administrative interpretation -- a decision, ruling or interpretation of this ordinance by department or hearing examiner upon a question submitted which is in the nature of an advisory opinion;
- (5) Automated public utility facilities -- public utility facilities which are automated or semi-automated and require only intermittent human attention such as telephone exchanges, sewerage or water pumping stations, water reservoirs and tanks under thirty (30) feet in height;
- (6) Board -- the Kitsap County Board of County Commissioners;
- (7) Buffer, buffering -- space, either landscaped or in a natural state, intended to reduce the impact of undesirable sights, sounds, odors or other undesirable things;
- (8) Building -- any structure used or intended for supporting or sheltering any use or occupancy;
- (9) Building Height -- the vertical distance to the highest point of the coping of a structure having a flat roof or to the average height of the highest gable of a structure having a sloped roof, when measured from grade; provided, narrow projections such as chimneys, spires, domes, elevator shaft housings, aerials, antennas and flag poles shall not be considered in determining building height and; provided further, if a structure has no roof then its building height shall be the vertical distance to the highest point of the structure when measured from grade.
- (10) Building line -- the perimeter of that portion of a building or structure nearest a property line but excluding open steps, terraces, cornices and other ornamental features projecting from the walls of the building or structure;

Section 3. Definitions, Continued

- (11) Clinic -- a building used for the chiropractic, psychological, dental or medical diagnosis and treatment of patients but excluding facilities for overnight care of patients;
- (12) Club -- a place where an association of persons organized for some common purpose meet but excluding groups organized primarily for business purposes;
- (13) Combined sideyard setbacks -- The sum of sideyard setbacks from two opposing lot sidelines on one lot.
- (14) Commercial use -- a use providing goods, merchandise or service for compensation;
- (15) Commission -- the Kitsap County Planning Commission;
- (16) Conditional use -- a use which may be permitted in one or more zones but which, because of characteristics peculiar to each such use or because of size, technological processes or equipment or because of the significance of its exact location with reference to surroundings, streets and other public facilities or demands upon public facilities, requires a special degree of control to make it consistent and compatible with surrounding or nearby existing or permitted uses;
- (17) Conditional use permit -- a permit which authorizes the location of a conditional use on a particular parcel of property;
- (18) Day care -- any type of group program for the care of children during part of a twenty-four (24) hour day but excluding public schooling or private schooling in lieu of public schooling;
- (19) Day care center -- a facility other than an occupied dwelling unit which receives children for day care or an occupied dwelling unit which receives eleven (11) or more children for day care;
- (20) Density -- the number of dwelling units which are allowed on an area of land which area of land may include dedicated streets contained within the development;
- (21) Department -- the Kitsap County Department of Community Development;
- (22) Director -- the Director of the Department of Community Development;



Section 3. Definitions, Continued

- (23) Dock -- a floating platform attached to the shore or a pier used as a landing for marine or recreational purposes;
- (24) Dwelling unit -- a unit providing independent living facilities for one or more persons with provisions for sleeping, eating and sanitation; Provided, a recreational vehicle or bus is not a dwelling unit;
- (25) Duplex -- a building containing two, but no more than two, dwelling units, each intended for occupancy by one family;
- (26) Family -- an individual, two or more persons related by blood, marriage or adoption or not more than six unrelated persons living together in a dwelling unit;
- (27) Family day care home -- a dwelling unit in which a full-time resident provides day care for ten or fewer children;
- (28) Flag lot -- a lot of a panhandle configuration where the panhandle connects the main body of the lot to a road or street;
- (29) Foster home -- a dwelling unit in which a full-time resident provides care and supervision on a full-time basis to not more than six foster children or to not more than three expectant mothers;
- (30) Grade -- the average point of elevation of the finished surface of the ground within five feet (5') of a building or structure;
- (31) Group care facility -- a facility, which is required to be licensed by the state, which provides training, care, supervision, treatment and/or rehabilitation to the aged, disabled, those convicted of crimes or those suffering from the effects of drugs or alcohol; Provided, group care facility shall not include day care centers, family day care homes, foster homes, schools, hospitals, jails or prisons;
- (32) Gross floor area -- the sum of horizontal areas of floors of a building when measured from the exterior faces of exterior walls or, if appropriate, from the center line of dividing walls; Provided, gross floor area shall include decks or porches when covered by a roof;
- (33) Hearing examiner -- a person appointed to hear or review certain land use decisions pursuant to RCW 36.70.970;

Section 3. Definitions, Continued

- (34) Heavy equipment -- self-powered, self-propelled or towed mechanical devices, equipment and vehicles of the nature customarily used for commercial purposes such as tandem axle trucks, graders, backhoes, tractor trailers, cranes and lifts but excluding automobiles, recreational vehicles and boats and their trailers;
- (35) Heavy equipment storage area -- a place where two or more items of heavy equipment are stored;
- (36) Home occupation -- the use of a dwelling unit for commercial uses by a resident thereof which is subordinate and incidental to the use of the dwelling for residential purposes;
- (37) Homeowners association -- an incorporated nonprofit organization operating under recorded land agreements which is charged with maintenance of common property such as streets, walkways, recreational facilities, or grounds policing;
- (38) Junk yard -- a place where waste or scrap materials are stored, bought, sold, accumulated, exchanged, bailed, packaged, disassembled or handled including, but not limited to, scrap metals, paper, rags, tires, and bottles and such other worn out or discarded material;
- (39) Kennel -- a place where five or more adult dogs are kept, for compensation or not, but excluding veterinary clinics and hospitals, pet shops and zoos, Provided, however, that a place where more than 5 adult dogs weighing less than 20 pounds each are kept within a dwelling unit shall not be construed as a kennel;
- (40) Landscaping -- shall mean the placement, preservation, and the replacement of trees, shrubs, plants and other vegetative materials in accordance with an approved landscaping plan meeting adopted landscaping plan, design, and installation standards.
- (41) Livestock -- horses, bovine animals, sheep, goats, swine, reindeer, donkeys, mules and any other hoofed animal;
- (42) Lot -- a single parcel of land, legally severed from a larger parcel, which is described and delineated in a long or short plat or which is described in a real estate conveyance;

Section 3. Definitions, Continued

- (43) Lot area -- the horizontal area within the boundary lines of a lot excluding public and private streets, tidelands, shorelands and the panhandle of a flag lot if the panhandle is less than thirty feet in width;
- (44) Lot depth -- the average horizontal distance between the lot front line and lot rear line of a lot;
- (45) Lot front line -- that boundary of a lot which is along a street, or, for a flag lot, that boundary of the main body of the lot which is closest to and approximately parallel to a street;
- (46) Lot rear line -- that boundary of a lot which is most distant from the lot front line; or that boundary which adjoins the ordinary high water line on waterfront property;
- (47) Lot side line -- any boundary of a lot which is not a lot front or rear line;
- (48) Lot width -- the average horizontal distance between the lot side lines;
- (49) Marina -- a facility which, as a commercial use, provides moorage or wet or dry storage for watercraft and which may offer marine-related sales and services;
- (50) Mobile home -- a factory-assembled structure having more than 320 square feet of gross floor area, capable for use as a dwelling unit, with its own chassis and capable of being towed on public highways through the use of its own axles and wheels; Provided, a mobile home shall not lose its character as a mobile home by the removal of its wheels and axles or its placement on a permanent foundation and; Provided further, recreational vehicles are not mobile homes;
- (51) Mobile home park -- a tract of land developed and operated as a unit with individual sites and facilities to accommodate two or more mobile homes;
- (52) Multi-family dwelling -- a building containing three or more dwelling units, each intended for occupancy by one family;
- (53) Non-conforming lot -- a lot which was lawfully created but which does not conform to the lot requirements of the zone in which it is located as established by this ordinance or amendments thereto;
- (54) Non-conforming use or structure -- a use of land or structure which was lawfully established or built and which has been lawfully continued but which

Section 3. Definitions, Continued

does not conform to the regulations of the zone in which it is located as established by this ordinance or amendments thereto;

- (55) Open space -- land used for outdoor recreation, resource protection, amenity, safety or buffer, including structures incidental to these open space uses, but excluding yards required by this ordinance and land occupied by dwellings or impervious surfaces not related to the open space uses;
- (56) Ordinary high water line -- that line left by lake, stream and tidal waters due to the common and usual action of the waters which leaves upon the ground an obvious distinction between banks, beds or shorelands and the uplands; Provided, if the ordinary high water line cannot be found it shall be the line of mean higher high tide for salt water and mean high water for fresh water;
- (57) Park -- public or private areas of land, with or without buildings, intended for outdoor active or passive recreational uses including, but not limited to, arboretums, horticultural gardens and nature preserves;
- (58) Perimeter setback -- in a PUD the horizontal distance between a building line and the exterior boundary of the PUD;
- (59) Pier -- a fixed structure built over tidelands or shorelands used as a landing for marine or recreational purposes;
- (60) Planned unit development -- a zone which overlays the zone in which it is located in which, after a specific development has been approved, a variety of uses may be permitted without the rigidity of traditional development;
- (61) Portable Sign -- a sign which has no permanent attachment to a building or the ground which shall include, but is not limited to, A-frame, pole attachment, and readerboard signs;
- (62) PUD -- planned unit development;
- (63) R-zone -- those zones set forth in Section 4a(4)-(17);
- (64) Recreational vehicle -- a vehicle such as a motor home, travel trailer, truck/camper combination or camper trailer which is designed for human habitation for recreational or emergency purposes and which may be moved on public highways without any special permit for long, wide or heavy loads;
- (65) Recreational vehicle park -- a tract of land developed as a unit with individual sites to accommodate, on a transient basis, two or more recreational vehicles;



Section 3. Definitions, Continued

- (66) Ru-zone -- those zones set forth in Section 4a(1)-(3);
- (67) Setback -- the horizontal distance between a building line or use and a lot line;
- (68) Sign -- a collection of letters, numbers or symbols which calls attention to a business, product, activity, person or service;
- (69) Sign permit -- a permit which authorizes the placement or alteration of a sign on a particular parcel of property or building;
- (70) Single family dwelling -- a building containing one dwelling unit intended for occupancy by one family;
- (71) Single-wide mobile home -- a mobile home which is designed to be transported on a single chassis;
- (72) Site plan review -- a type of administrative review required of certain contemplated commercial or industrial development proposals to allow for site plan analysis and possible imposition of conditions such that the proposal will not be aesthetically or functionally disruptive to the surrounding property;
- (73) Small animal -- any animal other than livestock;
- (74) Street -- a public way-of-travel which affords the principal means of access to abutting properties or a private way-of-travel which affords the principal means of access to five or more lots or to property which is, under existing laws, capable of division into five or more lots;
- (75) Structural alteration -- any change in the supporting components of a building or structure;
- (76) Structure -- that which is built or constructed;
- (77) Temporary sign -- a sign intended for use for a short period of time which shall include, but is not limited to, portable signs, banners, and pennants;
- (78) Temporary structure -- a structure which does not have or is not required by the Uniform Building Code to have a permanent attachment to the ground. Like permanent structures, temporary structures are subject to building permits;

Section 3. Definitions, Continued

- (79) Temporary use -- a use which may occur on a lot on a seasonal basis or for a prescribed period of time which usually would not exceed one year's duration;
- (80) Unclassified use -- a use possessing unique and special characteristics as to make undesirable its being automatically permitted in one or more zones;
- (81) Unclassified use permit -- a permit which authorizes the location of an unclassified use on a particular parcel of property and which may contain the conditions upon which such use is permitted;
- (82) Use -- the nature of occupancy, type of activity or character and form of improvements to which land is devoted;
- (83) Variance -- the means by which an adjustment is made in the application of the specific regulations of this ordinance to a particular piece of property, which property, because of special circumstances applicable to it, is deprived of privileges commonly enjoyed by other properties in the same vicinity and zone and which adjustment remedies the disparity in privileges;
- (84) Veterinary clinic -- a building used for the medical treatment of animals which may include the incidental boarding of animals undergoing treatment;
- (85) Waterfront property -- a lot which is contiguous with a shoreline as that term is used in the Kitsap County Shoreline Master Program; Provided, waterfront property shall include only those lots having access to the shoreline and shall only include those lots not legally capable of or intended for further division;
- (86) Wrecking yard -- a place where damaged, inoperable or obsolete machinery such as cars, trucks and trailers, or parts thereof, is stored, bought, sold, accumulated, exchanged, disassembled or handled;
- (87) Yard -- the area in a lot not occupied by a building, structure or use, Provided, yard shall include those areas occupied by eaves of roofs, ornamental building features, driveways, sidewalks, lamp posts, open patios, retaining walls, entrance steps, fences and landscaping;
- (a) Yard, front -- a yard from the lot front line to a building or structure;
- (b) Yard, rear -- a yard from the lot rear line to a building or structure;
- (c) Yard, side -- a yard from a lot side line to a building or structure.

Section 4. Establishment of zones, Continued

Section 4. Establishment of zones.

- a. Zones designated. All unincorporated land in Kitsap County is divided into one of the following zones:

<u>Zone</u>	<u>Abbreviation</u>
(1) Rural 2.5 acre	Ru-2.5 ac
(2) Rural 1 acre	Ru-1 ac
(3) Rural 1 acre waterfront	Ru-1 ac WF
(4) Residential R-2	R-2
(5) Residential R-2 waterfront	R-2 WF
(6) Residential R-2 mobile home	R-2 MH
(7) Residential R-3	R-3
(8) Residential R-3 mobile home	R-3 MH
(9) Residential R-4	R-4
(10) Residential R-5	R-5
(11) Residential R-5 mobile home	R-5 MH
(12) Residential R-6	R-6
(13) Residential R-9	R-9
(14) Residential R-12	R-12
(15) Residential R-18	R-18
(16) Residential R-24	R-24
(17) Residential R-30	R-30
(18) Agricultural	A
(19) Forestry	F
(20) Resource Protection 2.5 acre	RP-2.5
(21) Resource Protection 10 acre	RP-10
(22) Resource Protection 20 acre	RP-20
(23) Undeveloped Land	UL
(24) Business Neighborhood	BN
(25) Business Convenience	BC
(26) Business General	BG
(27) Business Trade	BT
(28) Light Manufacturing	LM
(29) Manufacturing	M

- b. Adoption of maps. All unincorporated land in Kitsap County is hereby declared to be zoned as indicated in the official zoning maps which are identified as follows (Ordinance 93-L-1989 amended official zoning map for Bainbridge Island):

- (1) Those official zoning maps adopted by Board on June 6, 1983; and

Section 4. Establishment of zones, Continued

- (2) Those official zoning maps approved by Commission on October 25, 1983 and subsequently adopted by Board through the enactment of this ordinance amendment.
- (3) Subsequent amendments to those zoning maps referenced in (1) and (2) above.

In the event of conflicts the official map bearing the most recent date shall govern.

c. Fixing uncertain boundaries of official zoning maps. The following rules of interpretation shall apply to determine the location of zone boundary lines which cannot be determined with certainty through the use of scale which appears on the official zoning maps:

- (1) If distances are indicated on the map such distances shall govern over distances indicated by the use of the map's scale;
- (2) The zone boundaries are generally intended to follow municipal boundary lines, streets, highways, natural geographic features, section, township or range lines or lot lines; therefore, unless the map clearly indicates otherwise, the zone boundary shall be construed, to be aligned with one of the foregoing features;
- (3) When a street or alley is vacated it shall acquire the classification of the property to which it reverts;
- (4) If a zone or portion thereof came into existence through proceedings in which it was accompanied by a legal description, such legal description shall govern its location; Provided, this rule shall prevail notwithstanding that the ordinance by which the zone or portion thereof came into existence is repealed;
- (5) Land within the Ru-1 ac WF and R-2 WF zones is comprised solely of waterfront property.

Section 5. General zone use regulation.

For each zone which follows in sections 6-8 only those uses, together with accessory uses, specifically permitted are allowed. All permitted uses are further subject to the bulk regulations of section 10, the performance regulations of section 19 and the other requirements of this ordinance.

Section 6. Rural, residential, agricultural, forestry and undeveloped land zones.

The following are permitted uses in the resource protection, rural 2.5 acre, rural 1 acre, rural 1 acre waterfront, agricultural, forestry, undeveloped land, R-2, R-2 WF, R-2 MH, R-3, R-3 MH, R-4, R-5, R-5 MH, R-6, R-9, R-12, R-18, R-24 and R-30 zones:

- a. Single family dwellings, duplexes, multi-family dwellings and mobile homes; Provided, for each zone the density requirements of section 10 must be met and; Provided further, single-wide mobile homes are permitted only in RP-20, RP-10, RP-2.5, Ru 2.5 acre, Ru 1 acre, agricultural, forestry, undeveloped land, R-2 MH, R-3 MH and R-5 MH zones;
- b. Agricultural uses including raising of livestock, poultry and small animals subject to the following limitations:
  - (1) On parcels of land less than five acres, the number of animals shall not exceed one adult livestock, six small animals, and twelve poultry per 20,000 square feet of area provided that when no dwelling unit or occupied structure exists within 300 feet of the lot on which the animals are maintained the above specifications may be exceeded by a factor of two.
  - (2) On parcels of land platted into lots one acre or less in size or five acres or less located within 200 feet of a lake or year-round stream, the number of animals shall not exceed one adult livestock, six small animals, and twelve poultry per 35,000 square feet of area, provided that when no dwelling unit or occupied structure exists within 300 feet of the lot on which the animals are maintained the above specifications may be exceeded by a factor of two.
  - (3) No feeding area or structure or building used to house, confine or feed livestock, small animals or poultry shall be located closer than 100 feet to any residence on adjacent property located within Rural or Resource Protection zones, or within 200 feet of any residence on adjacent property within any other zone; Provided, a pasture shall not be considered a feed area.
- c. A temporary stand for the sale of products grown on the premises; Provided, advertising for sales of products shall be limited to two signs each not exceeding six square feet;
- d. Growing and harvesting forest products;
- e. Foster homes;
- f. Family day care homes;

- g. Home occupations;
- h. Accessory living quarters subject to the following limitations:
  - (1) One per lot;
  - (2) Compliance with health department water and sewage regulations;
  - (3) Minimal adverse impact on surrounding properties from view blockage, traffic, parking or drainage;
- i. Accessory rental units subject to the limitations for accessory living quarters set forth in Section 6h;
- j. Recreation areas including amenities within open space required pursuant to a PUD, CUP, or other permitted use;
- k. The storage within an accessory structure of one item of heavy equipment; Provided, storage or parking is within an accessory structure or area visually screened from streets and adjacent residences, provided further this shall not restrict the amount of heavy equipment which may be used, stored or parked in agricultural, forestry or rural zones in connection with agricultural or forestry use conducted on the premises;
- l. Automated public utility facilities; Provided, nothing herein shall be construed to limit or interfere with the installation, maintenance or operation of public utilities when properly located on public rights-of-way and; Provided further, the location of automated public utility facilities is subject to the following limitations:
  - (1) Where an automated public utility facility abuts an R zone, it shall be set back therefrom at least one foot for each foot of its height;
  - (2) Automated public utility facilities not enclosed in a building shall be screened from view by a sight-obscuring fence, hedge or other means not less than six feet in height.

Section 7. Business zones.

- a. Business neighborhood zone.
  - (1) Intent. The intent of the business neighborhood (BN) zone is to provide commercial and professional services in neighborhood settings for the convenience commercial needs found in Rural areas, compact neighborhoods and community centers where more permissive zoning is not appropriate.

Section 7. Business zones, Continued

Commercial uses locating in BN zones are intended to disperse retail commodities or provide limited personal services for the benefit of nearby residents. BN zones are intended to be small in scale with one or two uses housed in one structure but in no more than three separate structures. BN zoned sites, although small in area, must be large enough to accommodate safe ingress and egress as well as required parking. The establishment of this zoning by itself is not intended to set a precedent for more intensive commercial zoning or uses.

- (2) Permitted uses. The following are permitted uses in the business neighborhood zone:
- (a) Small-scale retail and personal service establishments intended to serve the day-to-day needs of residents of rural areas and relatively isolated neighborhoods which will not attract substantial customers from large areas of the county.
  - (b) Examples of permitted retail uses are:
    - (1) Garden supply stores;
    - (2) Grocery stores;
    - (3) Feed stores;
    - (4) Service stations; and
    - (5) Shops for minor auto repairs;
  - (c) Examples of permitted personal services uses are:
    - (1) Laundromats; and
    - (2) Beauty and barber shops;
  - (d) Single family dwellings, which may be attached to a retail or personal service use; Provided, single family dwellings must meet the bulk regulations of section 10 of the closest, most intense residential zone;
  - (e) Accessory living quarters, subject to the requirements of section 6h;
  - (f) Accessory rental units, subject to the requirements of section 6i;
  - (g) Family day care homes.

b. Business convenience zone.

Section 7. Business zones, Continued

- (1) Intent. The intent of the business convenience (BC) zone is to provide commercial and professional services in neighborhood settings for the convenience needs of the nearby residents rather than the larger community. Commercial uses occurring in BC zones are intended to be those that are designed to dispense retail commodities or provide professional or personal services. BC zoned areas are intended to be of a scale which is consistent with the character of the neighborhood accommodating either a single use or a cluster of several single uses. It is not intended that the zone will be spread out along a road, street or highway in a linear fashion which would promote "strip" commercial development.
- (2) Permitted uses. The following are permitted uses in the business convenience zone:
  - (a) Retail, personal and professional establishments intended to serve the needs of surrounding communities and the traveling public;
  - (b) Examples of permitted retail uses are:
    - (1) Restaurants;
    - (2) Nurseries and greenhouses;
    - (3) Boat and marine equipment sales; and
    - (4) Pharmacies;
    - (5) Community hardware and lumber stores.
  - (c) Examples of permitted personal service uses are:
    - (1) Physical fitness centers;
    - (2) Real estate offices; and
    - (3) Banks;
  - (d) Examples of permitted professional uses are:
    - (1) Clinics and veterinary clinics; and
    - (2) Business and other professional offices;
  - (e) Single family dwellings, duplexes, multi-family dwellings and mobile homes; Provided, such dwelling units must meet the bulk regulations of section 10 of the closest, most intense residential zone and; Provided further, single-wide mobile homes are not permitted;
  - (f) Day care centers;



Section 7. Business zones, Continued

- (g) Community and fraternal clubs;
- (h) Churches;
- (i) Libraries;
- (j) Automated public utility facilities as defined by and subject to the requirements of Section 6k; and
- (k) Any use permitted in the BN zone.

c. Business general zone.

- (1) Intent. The intent of the business general (BG) zone is to provide for the retail, personal, professional and recreational needs and desires of its surrounding communities and the region.
- (2) Permitted uses. The following are permitted uses in the business general zone:
  - (a) Retail, personal, professional and recreational uses, any of which may be large-scale, intended to serve the needs and desires of the surrounding communities and the region but excluding warehousing and manufacturing establishments;
  - (b) The following are examples of permitted retail uses:
    - (1) Cocktail lounges and taverns;
    - (2) Supermarkets;
    - (3) Department, variety and gift stores;
    - (4) Wholesale outlets;
    - (5) Lumber and building sales;
    - (6) Automobile sales;
    - (7) Pet stores;
    - (8) Electrical and electronic repair shops;
    - (9) Shoe repair shops;
    - (10) Printing plants;
  - (c) The following are examples of permitted personal service uses:
    - (1) Finance companies;
    - (2) Hotels and motels;

Section 7. Business zones, Continued

- (3) Self-service storage facilities;
  - (d) The following are examples of permitted recreational uses:
    - (1) Theaters
    - (2) Bowling alleys
    - (3) Ice or roller rinks
    - (4) Dancing, music and art centers;
    - (5) Museums;
  - (e) Hospitals; and
  - (f) Any use permitted in the BC zone.
- d. Business trade zone:
- (1) Intent. The intent of the business trade (BT) zone is to permit the most intense sort of retail, commercial and wholesale uses together with limited amounts of light, clean manufacturing and assembly of products;
  - (2) The following are permitted uses in the business trade zone:
    - (a) Large-scale retail, commercial and wholesale uses any of which may entail significant warehousing, storage and shipment facilities;
    - (b) Small-scale assembly, processing and manufacture of wood, metal, electrical and electronic products;
    - (c) The following are examples of permitted retail uses:
      - (1) Lumber, building supply, coal and sand and gravel yards;
      - (2) Automobile, boat and machinery sales;
    - (d) The following are examples of permitted wholesale, storage and warehousing uses:
      - (1) Bakeries;
      - (2) Wholesale distributors;
      - (3) Storage yards and buildings;
      - (4) Beer and soft drink distributors;

Section 7. Business zones, Continued

- (e) The following are examples of permitted assembly, processing and manufacturing uses:
    - (1) Wood and fiberglass shops;
    - (2) Major auto repair shops;
    - (3) Welding and metal fabrication shops;
    - (4) Machine shops;
    - (5) Assembly of electrical and electronic components;
  - (f) Any use permitted in the BG zone.
- e. Regulations applicable to all business zones. The following regulations apply to commercial uses in all business zones;
- (1) No building, development or use shall have more than two points of vehicular access from a public street; Provided, more points of vehicular access may be permitted if the proponent thereof demonstrates that additional points of access will not materially impede the flow of traffic.
  - (2) Developments containing two or more commercial uses shall provide pedestrian access from nearby residential areas, if any there be.
  - (3) Landscaping requirements. Commercial uses shall meet the following requirements:
    - (a) Where a commercial use abuts an R zone a minimum of a ten (10) foot wide buffer of shrubs and trees shall be maintained in the yard along the common boundary. The shrubs and trees shall be required to reach a height of six (6) feet within two years;
    - (b) At least ten percent (10%) of the area devoted to off-street parking shall be landscaped; and
    - (c) Trees naturally existing in buffer, open space and landscaped areas on the site shall be preserved.
  - (4) Outside storage. Outside storage areas shall be enclosed in a sight-obscuring fence, hedge or screen.
  - (5) No activity or use shall be permitted or conducted in a manner which produces smoke, dust, odors, vibration, noise, heat, light or electromagnetic energy to an unreasonable degree adjacent to the zone;

Section 8. Manufacturing zones.

a. Light manufacturing zone.

- (1) Intent. The intent of the light manufacturing (LM) zone is to permit research, testing and warehousing of products and the fabrication, assembly and processing of products in a manner and means characterized as light industry. Inasmuch as light manufacturing zones may be located in rural areas surrounded by residential uses, strict scrutiny and conditions are likely to be necessary to protect the surrounding areas from adverse impacts. While not an absolute prerequisite to the establishment or development of this zone, it is desirable that the land within the zone be developed as a unit in order to maintain the control necessary to prevent adverse impacts which may arise from piece-meal development. It is anticipated that the style of development in this zone will be akin to an industrial park.
- (2) Permitted uses. The following are permitted uses in the light manufacturing zone:
  - (a) Fabrication, manufacture, assembly, processing and packaging of products but excluding such operations for uses and products permitted only in the manufacturing zone;
  - (b) Research, development and testing laboratories;
  - (c) Business and professional offices;
  - (d) Wholesale sales and product distribution centers;
  - (e) Warehouses, commercial moving and storage facilities and freight terminals;
  - (f) Single family dwellings, duplexes and multi-family dwellings; Provided, such dwelling units must meet the bulk regulations of section 10 of the nearest residential zone and if there are two or more residential zones equally near, the requirements of the most intense residential zone and; Provided further, single wide mobile homes are not permitted;
- (3) Regulations applicable to light manufacturing zone. The following regulations apply to commercial uses in the light manufacturing zone:

Section 8. Manufacturing zones, Continued

- (a) No activity or use shall be permitted or conducted in a manner which produces smoke, dust, odors, vibration, noise, heat, light or electromagnetic energy to an unreasonable degree adjacent to the zone;
- (b) No on-street parking is permitted;
- (c) The primary means of vehicular access shall not be via a street which primarily serves or goes through a residential area;
- (d) No off-street parking or outside storage of materials within the setbacks required by section 13a and b is permitted;
- (e) Off-street parking and outside storage areas shall be enclosed in a sight-obscuring fence, hedge or screen at least six feet in height; and
- (f) Landscaping, buffering and open space;
  - (1) Where an LM zone abuts any other zone a functional and visual buffer of landscaping or natural trees and shrubs is required and, if needed to reduce loud or annoying noises, berms are required.
  - (2) Where an LM zone abuts an R zone a twenty foot wide buffer of shrubs and trees shall be maintained along the common boundary. The trees shall be required to reach a height of six feet in two years;
  - (3) Sufficient open space shall be maintained to create an open, uncluttered appearance;
  - (4) At least ten percent of the area devoted to off-street parking shall be landscaped;
  - (5) Trees naturally existing in buffer, open space and landscaped areas on the site shall be preserved.

b. Manufacturing zone.

- (1) Intent. The intent of the manufacturing (M) zone is to permit the widest range of industrial and manufacturing activity.
- (2) Permitted uses. The following are permitted uses in the manufacturing zone:

## Section 8. Manufacturing zones, Continued

- (a) Fabrication, manufacture, assembly, processing, extraction and packaging of heavy-industrial products;
  - (b) Automobile and airplane manufacturing plants;
  - (c) Production of cement, lime, acids or caustic solutions;
  - (d) Rendering plants;
  - (e) Petroleum or coal refining;
  - (f) Pulp and paper processing;
  - (g) Mills for forest products;
  - (h) Steel mills, foundries and smelting plants;
  - (i) Bulk storage of petroleum products;
  - (j) Asphalt and concrete batch plants and rock crushing;
  - (k) Electric generating plants;
  - (l) Dwelling units occupied by the owner or caretaker of a use located on the same property;
  - (m) Any use specified in Section 8a(2)(a)-(e) for the LM zone;
  - (n) Any use specified in Section 7e(2)(a)-(e) for the BT zone.
- (3) Regulations applicable to manufacturing zone. The following regulations apply to commercial uses in the manufacturing zone:
- (a) The primary means of vehicular access shall not be via a street which primarily serves or goes through a residential area;
  - (b) Landscaping and buffering.
    - (1) Where a M zone abuts any other zone, a functional and visual buffer of landscaping or natural trees and shrubs is required and, if needed to mitigate the impacts of noise, glare, odors or dust, berms are required;
    - (2) Where a M zone abuts an R zone a minimum of a twenty-five foot wide buffer of shrubs and trees shall be maintained along the common boundary. The trees shall be required to reach a height of six feet in two years.

## Section 9. Unclassified uses.

- a. Introduction. Unclassified uses are those hereinafter designated which possess such unique and special characteristics as to make undesirable their designation as permitted uses in one or more zones. It is recognized, however, that a few of the following unclassified uses are permitted uses in some zones and, if that be the case, an unclassified use permit is not needed.

Section 9. Unclassified uses, Continued

b. Unclassified uses designated. The following are hereby designated unclassified uses:

- (1) Cemeteries, columbariums, crematoriums and mausoleums;
- (2) Jails and prisons including honor camps, half-way houses or farms; Provided, such shall not be permitted in a rural 1 acre or R zone;
- (3) Churches, synagogues and other places of religious worship;
- (4) Hospitals;
- (5) Nursing, rest and convalescent homes;
- (6) Government buildings such as offices and police and fire stations;
- (7) Libraries;
- (8) Garbage dumps, sanitary land fills, hazardous waste treatment and solid waste transfer stations; Provided, such shall not be permitted in a rural 1 acre or R zone;
- (9) Day care centers subject to the following conditions:
  - (a) Adequate noise buffering of outdoor play areas to protect adjoining uses;
  - (b) One hundred square feet of outdoor play area per child;
- (10) Group care facilities;
- (11) Educational and training facilities including, but not limited to, colleges, universities, training institutes and elementary, middle, junior high, senior high, vocational and technical schools;
- (12) Utility facilities such as electricity generating plants, water towers, reservoirs, dams, radio and television towers (but excluding towers for non-commercial purposes) and sewage treatment plants;
- (13) Airports, landing fields and heliports;
- (14) Ferry terminals;

Section 9. Unclassified uses, Continued

- (15) Terminals for common carriers;
- (16) Art galleries and museums;
- (17) Recreational and amusement facilities involving large assemblages of people including, but not limited to, bowling alleys, dance halls, skating rinks, sports arenas and stadiums, fairgrounds, ball parks, golf courses and driving ranges, open air theatres, race tracks, community, saddle, tennis, racquet and camping clubs, riding academies, commercial stables, fitness centers, clubs and meeting facilities for fraternal societies.
- (18) Parks;
- (19) Mining and quarrying activities; Provided the granting of an unclassified use permit, in addition to any other conditions, may be conditioned upon the posting of a performance bond which will secure reclamation of the site once the mining or quarrying activities are completed, in whole or in part;
- (20) Concrete and asphalt batch plants and rock crushers (when associated with mining and quarrying activities); Provided further, such shall be removed promptly when the resource is depleted.
- (21) Wrecking yards; Provided, such shall not be located in an R zone;
- (22) Junk yard; Provided, such shall not be located in an R zone;
- (23) Impound yards;
- (24) Veterinary clinics;
- (25) Heavy equipment storage yards;
- (26) Boat rental facilities;
- (27) Open-air sales areas for trees, plants and garden supplies;
- (28) Kennels; Provided, no animal run shall be closer than thirty feet to any lot line;
- (29) Automobile parking lots and buildings when not an accessory use;
- (30) Saw mills; Provided, such shall not be located in an R zone;



Section 9. Unclassified uses, Continued

- (31) Mobile home parks; Provided, the density of a mobile home park shall not exceed the maximum density allowed in the zone for residential uses;
  - (32) Recreational vehicle parks;
  - (33) Marinas;
  - (34) Race track facilities and practice race track facilities for motorized vehicles;
  - (35) Other uses similar to any of those designated above which are not listed as permitted in any zone.
- c. Permit required. No person shall locate or expand an unclassified use without first obtaining an unclassified use permit.
- d. Application for permit. An application for an unclassified use permit shall, at a minimum, contain:
- (1) A plot plan to scale showing the property for which the permit is sought, the location of proposed structures, the properties surrounding the property for which the permit is sought together with the structures located on surrounding properties;
  - (2) A detailed description of the proposed use;
  - (3) An explanation of the probable impact of the proposed use on surrounding properties;
- e. Standard for granting permit. An unclassified use permit may be granted when the applicant demonstrates that the proposed use will be compatible with existing and probable uses of surrounding properties. Each proposed use shall be examined with respect to traffic likely to be generated, impact on public utilities and any other impacts on surrounding properties.
- f. Imposition of conditions. Conditions may be imposed in conjunction with the granting of an unclassified use permit which are designed to insure that the use is not and will not become incompatible with existing and probable surrounding uses and that public facilities are adequate to serve to use. An application shall be denied unless the applicant demonstrates a willingness and ability to comply with such conditions.

Section 9. Unclassified uses, Continued

- g. Revocation of permit. An unclassified use permit may be revoked if the permittee fails to comply with the conditions imposed.
- h. Regulations applicable to unclassified uses. The following regulations apply to unclassified uses:
  - (1) Bulk regulations. The bulk regulations as set forth in section 10a and b of the zone in which the unclassified use is located shall apply;
  - (2) Outside storage and off-street parking. Outside storage and off-street parking areas shall be enclosed in a sight-obscuring fence, hedge or screen at least six feet in height when abutting or in view of Rural 1 acre or R-zoned property.
  - (3) Landscaping and buffering.
    - (a) An unclassified use shall be screened by a functional and visual buffer of landscaping or natural trees and shrubs and, if needed to mitigate the impacts of noise, glare, odors or dust, berms. The magnitude of the screening required shall be sufficient to make the unclassified use compatible with surrounding uses.
    - (b) At least ten percent of the area devoted to off-street parking shall be landscaped.
    - (c) Trees naturally existing on the site shall be preserved in buffer, open space, and landscaped areas.

Section 10. Bulk regulations.

- a. Non-PUD bulk regulations established. The maximum density, minimum lot area, minimum lot dimensions, minimum setbacks and maximum building height for each zone for uses for which a PUD is not required are hereby established in the following table (Amended in Ordinance 93-L-1989):

# NON-PUD BULK REGULATIONS

ZONE	Maximum Density	Min. Lot Area/DU in Sq. Feet	LOT DIMENSIONS		SETBACK REQUIREMENTS				Maximum Building Height (in ft.)
			Min. Lot Width in Feet	Min. Lot Depth in Feet	Minimum Front Yd in Feet	Minimum Side Yard in Feet	Minimum Combined Side Yard in Feet	Minimum Rear Yard	
RP-20	1 DU/20 ACRES	20 ACRES	125	125	15	15	30	25	30
RP-10	1 DU/10 ACRES	10 ACRES	110	110	15	15	30	25	30
RP-2.5 ACRE	1 DU/2.5 ACRE	100,000	110	110	15	15	30	25	30
RU 2.5 ACRE	1 DU/2.5 ACRE	100,000	110	110	15	15	30	25	30
AG, UL AND F	1 DU/2.5 Acre	100,000	110	110	15	15	30	25	30
RU 1 ACRE	1 DU/ACRE	35,000	80	80	15	10	25	15	30
RU 1 AC WF	1 DU/ACRE	35,000	70	80	15	5	15	25	30
R-2 R-2 MH	2 DU/ACRE	20,000	80	80	15	5	15	15	30
R-2 WF	2 DU/ACRE	20,000	70	80	15	5	15	25	30
R-3 R-3 MH	3 DU/ACRE	12,500	70	70	15	5	15	15	30
R-4	4 DU/ACRE	8,400	70	70	15	5	15	15	30
R-5 R-5 MH	5 DU/ACRE	7,000	60	60	15	5	10	15	30
R-6	6 DU/ACRE	5,800	60	60	15	5	10	15	30
R-9	6 DU/ACRE	5,800	60	60	15	5	10	15	50
R-12	6 DU/ACRE	5,800	60	60	15	5	10	15	50
R-18	6 DU/ACRE	5,800	60	60	15	5	10	15	50
R-24	6 DU/ACRE	5,800	60	60	15	5	10	15	50
R-30	6 DU/ACRE	5,800	60	60	15	5	10	15	50
BN	SEC 7a(2)(d)	NONE	NONE	NONE	20	10	20	15	30
BC	SEC 7b(2)(e)	NONE	NONE	NONE	20	10	20	15	30
BG	SEC 7b(2)(e)	NONE	NONE	NONE	20	10	20	15	65
BT	SEC 7b(2)(e)	NONE	NONE	NONE	20	10	20	15	65
LM	SEC 8a(2)(f)	20,000	NONE	NONE	50	10	20	15	30
M	NOT APPLICABLE	20,000	NONE	NONE	30	10	20	15	30

Section 10. Bulk regulations, Continued

- b. PUD bulk regulations. The maximum density, minimum lot area, minimum perimeter setback and maximum building height for each zone for uses for which a PUD is required are hereby established in the following table (Amended in Ordinance 93-L-1989):

Perimeter setbacks noted by an \* are intended as a guide and may be modified pursuant to the PUD approval process.

# PUD BULK REGULATIONS

ZONE	Maximum Density	Minimum Lot Area (in square feet)	PERIMETER SETBACK REQUIREMENTS			Maximum Building Height (in ft.)
			Minimum Front Yard in Feet	Minimum Side Yard in Feet	Minimum Rear Yard in Feet	
RP 20	1 DU/ 20 ACRE	NONE	15*	15*	25*	30
RP 10	1 DU/ 10 ACRE	NONE	15*	15*	25*	30
RP 2.5 AC	1 DU/ 2.0 ACRE	NONE	15*	15*	25*	30
RU 2.5 AC	1 DU/ ACRE	NONE	15*	15*	25*	30
AG, UL AND F	1 DU/2.5 ACRE	NONE	15*	15*	25*	30
RU 1 AC	1 DU/ ACRE	NONE	15*	10*	15*	30
RU 1 AC WF	1 DU/ ACRE	NONE	15*	10*	25*	30
R-2 R-2 MH	2 DU/ ACRE	NONE	15*	5*	15*	30
R-2 WF	2 DU/ ACRE	NONE	15*	5*	25*	30
R-3 R-3 MH	3 DU/ ACRE	NONE	15*	5*	15*	30
R-4	4 DU/ ACRE	NONE	15*	5*	15*	30
R-5 R-5 MH	5 DU/ ACRE	NONE	15*	5*	15*	30
R-6	6 DU/ ACRE	NONE	15*	5*	15*	30
R-9	9 DU/ ACRE	NONE	15*	5*	15*	50
R-12	12 DU/ ACRE	NONE	15*	5*	15*	50
R-18	18 DU/ ACRE	NONE	15*	5*	15*	50
R-24	24 DU/ ACRE	NONE	15*	5*	15*	50
R-30	30 DU/ ACRE	NONE	15*	5*	15*	50
BN	SEC 7a(2)(d)	NONE	20*	10*	15*	30
BC	SEC 7b(2)(e)	NONE	20*	10*	15*	30
BG	SEC 7b(2)(e)	NONE	20*	10*	15*	65
BT	SEC 7b(2)(e)	NONE	20*	10*	15*	65
LM	SEC 8a(2)(f)	20,000	50*	10*	15*	30
M	NOT APPLICABLE	20,000	20*	10*	15*	65

c. Clarifications to data in tables.

- (1) Minimum front yard. Notwithstanding the minimums for front yards contained in Section 10a and b, the minimum front yard shall be the minimum as set forth in Section 10a and b or forty feet from the centerline of the street abutting the property, whichever is greater.
- (2) Minimum lot area. The minimums for lot areas for zoning purposes are set forth in Section 10a and b. Health department regulations concerning on-site sewer systems may require larger lot areas.
- (3) Maximum building height in excess of 30 feet is allowed in all zone Provided it can be demonstrated that the fire fighting facilities in the affected fire district are sufficient to serve such structure and shall further be subject to approval by the County Fire Marshal and a determination by the Department that no substantial view blockage occurs, but in no case can the maximum building height exceed 50 feet in the R-9, R-12, R-18, R-24 & R-30 zones, and 65 feet in the BG & BT zones.
- (4) The R-2 waterfront zone shall apply to Waterfront Property in areas where such density is allowed by the comprehensive plan of Kitsap County not designated with a more intensive residential zone.

d. Exceptions to bulk regulations. Notwithstanding the requirements of section 10a and b, the following regulations shall apply in the following circumstances:

- (1) There shall be no minimum lot area for automated public utility facilities;
- (2) Except in the Ru 1 ac WF and R-2 WF zones, accessory structures not used for living quarters may be located in rear yard or sideyard provided such are no closer than five feet (5') to the lot line.
- (3) Projections from structures such as cornices, eaves, canopies, open steps, gutters, signs, chimneys and flues may intrude into required yards but no more than two feet;
- (4) When at least fifty percent of the lots fronting a street are improved with structures and when not all such lots have the minimum front yards required by this ordinance, then any new structure shall have a front yard not less than the average front yard of all such lots; Provided, to calculate the average front yard vacant lots shall be considered as having the minimum front yard required by this ordinance;

Section 10. Bulk regulations, Continued

- (5) The minimum front yard for lots fronting on the arc of a cul-de-sac shall be ten feet;
- (6) For waterfront properties, accessory structures such as docks, piers and boathouses are permitted in the rear yards, shorelands or tidelands subject to the following limitations:
  - (a) Such structures or facilities may be used only by the occupants of the lot;
  - (b) Only one commercial watercraft is permitted;
  - (c) All requirements of the Kitsap County Shoreline Master Program must be met;
  - (d) The deck of any dock shall not be higher than five feet above the ordinary high water line;
  - (e) The building height of any boathouse shall not be greater than fourteen feet above the ordinary high water line;
  - (f) Covered structures must abut or be upland of the ordinary high water line; and
  - (g) No covered structure shall have a width greater than twenty-five feet or twenty-five percent the lot width, whichever is less;
- (7) For dwelling units in BC, BN, BG, BT and LM zones, the maximum density, minimum lot area, minimum lot width, minimum lot depth of the closest, most intense residential zone shall apply.
- (8) Side yard setbacks are not required for lots in BC, BN, BG, BT, LM or M zones except where such lots abut property R-zoned or property zoned RP-10, RP-20, Ru-2.5 ac, Ru 1 ac or Ru 1 ac WF.
- (9) A duplex may be located on a corner lot that is at least twenty-five percent (25%) greater than the minimum lot size for a single family dwelling for the zone in residential zoned plats only where the main pedestrian access to each unit of the duplex fronts on different streets.

Section 11. Non-conforming lots, Continued

Section 11. Non-conforming lots.

- a. Substandard single lots. Any unimproved lot, in single and separate ownership, which was lawfully created and made of record prior to the adoption of this ordinance may be used for any purposes permitted by this ordinance notwithstanding the minimum lot area, lot width, and lot depth of section 10a and b.
- b. Substandard contiguous lots in common ownership. Notwithstanding the authorization granted for single lots in separate ownership in section 11a, contiguous lots in common ownership, or the legal or equitable equivalent thereof, on the date of passage of this ordinance may not be used unless combined or unless capable of meeting the minimum lot area, lot width, and lot depth of section 10a and b; Provided, this proscription shall not apply to lots in final plats filed since January 1, 1977.

Section 12. Non-conforming uses and structures.

- a. Continuation. Any non-conforming use or structure which was lawfully established and which has been lawfully, actively and continually maintained, may be continued subject to the limitations of this section. In all proceedings other than criminal, the owner, occupant or user shall have the burden to show that the use or structure was lawfully established.
- b. Change of non-conforming use. A non-conforming use may be changed to another non-conforming use so long as no structural alterations are needed to the structure in which the use is located; Provided, any such change of use shall be to a use of equal or greater conformity to those permitted in the zone.
- c. No expansion of non-conforming use. No non-conforming use shall be enlarged or expanded; Provided, the structure containing a non-conforming use may be structurally altered to adapt to new technologies or equipment.
- d. Expansion of non-conforming structure. A structure which is non-conforming by reason of substandard lot dimensions, setback requirements or lot area or too great building height but which does not contain a non-conforming use, may be enlarged or expanded so long as the enlargement or expansion conforms to the requirements of this ordinance; Provided, a structure which does not meet setback requirements may be expanded to the building line but it may never be expanded to encroach upon a street or be within five feet (5') of a property line other than a street property line.



Section 12. Non-conforming uses and structures, Continued

- e. Destruction of non-conforming use or structure. If any non-conforming use or structure is, by any cause, destroyed to the extent of seventy-five percent of its market value, it shall not thereafter be reconstructed as a non-conforming use or structure.
- f. Discontinuance of non-conforming use or structure. Any non-conforming use or structure for which the use or occupancy is discontinued for a period of one year shall not thereafter be allowed as a non-conforming use or structure.

Section 13. Temporary uses. The following temporary uses are permitted in any zone:

- a. Real estate field sales office. An office for the purpose of marketing lots or dwelling units which are offered for sale for the first time subject to the following limitations:
  - (1) The office must be situated upon the property being marketed and must only be used for sale of property upon which it is situated;
  - (2) The office must meet the setback requirements of the zone in which it is located as provided in section 10a and b; and
  - (3) The office must be removed when sales of lots or dwelling units are completed.
- b. Construction living quarters. A mobile home or recreational vehicle for use by an owner or builder during construction of the principal structure upon a lot may be situated upon the same lot subject to the following limitations:
  - (1) The building permit for the principal structure must have been issued;
  - (2) The mobile home or recreational vehicle must not be permanently affixed to the lot;
  - (3) A permit must be obtained from department authorizing such construction living quarters. Such permit shall remain in effect for one year and may, upon application, be extended for a six month period provided substantial progress is being made on the construction of the principal structure; and
  - (4) The mobile home or recreational vehicle must meet the setback requirements of the zone in which it is situated as provided in section 10a and b.

Section 13. Temporary uses, Continued

- c. Special care mobile home. Where a family member is in need of special, frequent and routine care and assistance by reason of advanced age or ill-health, a mobile home may be placed upon the same lot as a single family dwelling for occupancy by the individual requiring or providing such special care subject to the following limitations:
- (1) Not more than two individuals shall be the recipients of special care;
  - (2) Not more than two individuals may reside in the mobile home;
  - (3) No rent, fee, payment or charge in lieu thereof may be made for use of the single family dwelling or mobile home as between the recipients or providers of special care;
  - (4) The mobile home must meet the setback requirements of the zone in which it is situated as provided in section 10a and b;
  - (5) A permit must be obtained from department authorizing such special care mobile home. Such permit shall remain in effect for one year and may, upon application, be extended for one year periods provided there has been compliance with the requirements of this section; and
  - (6) The mobile home must be removed when the need for special care ceases.
- d. Portable concrete or asphalt batching equipment. Portable concrete or asphalt batching equipment may be located in a public road right-of-way in connection with work upon such right-of-way subject to the following limitations:
- (1) Such equipment shall not be located closer than 300 feet to any occupied structure;
  - (2) The equipment shall be removed promptly upon completion of the work; and
  - (3) A permit authorizing the location of such equipment is first obtained pursuant to Uniform Building Code (1979 Ed.) Section 104(e) or its successor.

Section 14. Planned unit development.

- a. Purpose. A PUD is a parcel of land planned as a single unit rather than as an aggregate of individual lots, with design flexibility beyond traditional siting regulations. The following are among the ends sought through a PUD:
- (1) A creative approach to development;

Section 14. Planned unit development, Continued

- (2) Integrating a variety of uses which might otherwise be incompatible;
  - (3) Allowing clustering of structures through the elimination of lot area and setback requirements for individual lots and structures and;
  - (4) Allowing latitude in building design and placement, open spaces, circulation facilities and off-street parking to best utilize the physical features of land within the development.
- b. Preapplication conference. Any person contemplating seeking a PUD is encouraged to confer with department concerning the PUD requirements and procedure.
- c. Permitted uses. Any use which is permitted within the zone in which a PUD is sought to be located is permitted in a PUD.
- d. Bulk regulations. The bulk regulations within a PUD are as set forth in section 10b.
- e. Off-street parking. Off-street parking within a PUD shall be as required by section 17.
- f. Street design. The minimum street design requirements of Ordinance No. 20 shall not apply to streets within a PUD.
- g. Open space. Every PUD containing dwelling units shall have at least fifteen percent of its gross land area in common open space, suitable for active or passive recreational purposes, for which adequate provision is made for its perpetual upkeep and maintenance; Provided, not more than one-third of the required open space shall have a grade exceeding twenty percent, consist of bodies of water, or perimeter buffers or otherwise be unsuited to active recreational purposes.
- h. Improvements and amenities. Without imposing any specific performance requirements in order to enhance flexibility, a PUD shall made adequate provision for utilities, drainage, lighting, pedestrian and vehicular circulation and access, public safety, landscaping, accommodation of environmentally sensitive features and other similar items.
- i. Application for preliminary PUD. An application for preliminary PUD, which must be signed by the owner or contract vendee of the land for which the PUD is sought, shall contain:
- (1) A vicinity map showing the location of the proposed PUD and surrounding properties;
  - (2) Maps and drawings, drawn at a scale designated by Department, showing:

Section 14. Planned unit development, Continued

- (a) Adjacent unplatted property and the names and addresses of the owners thereof;
  - (b) Adjacent platted property;
  - (c) Structures on adjacent property located within forty feet of the property line of the property for which the PUD is sought;
  - (d) Streets adjacent to, surrounding or intended to serve the PUD;
  - (e) Existing and proposed topography at contour intervals of no more than five feet certified by a licensed land surveyor or civil engineer;
  - (f) Existing and proposed topography at contour intervals or no more than five feet certified by a licensed land surveyor or civil engineer;
  - (g) Existing and proposed structures and buildings showing the intended use of each and, if appropriate, the number of dwelling units;
  - (h) Schematic drawings and dimensions of proposed buildings and structures;
  - (i) Areas to be landscaped;
  - (j) Off-street parking facilities;
  - (k) Open space;
  - (l) location of utility and drainage facilities; and
  - (m) Other information, data or features necessary to understand the nature and scope of the proposal.
- (3) A textual explanation of the proposal which shall include:
- (a) A timetable for development including, if applicable, staging sequences;
  - (b) The intended, ultimate ownership of the development or portions thereof;
  - (c) The means by which permanent maintenance and upkeep of common open space, if required, is to be secured;

Section 14. Planned unit development, Continued

- (d) Source of domestic water supply and method of sewage disposal; and
- (4) Notwithstanding the application requirements set forth in (2) and (3) above, department may waive one or more requirements when it is obvious from the scope or nature of the proposed development that the information obtained through the required item would not be significant, relevant or helpful to an informed decision.
- j. Procedure. An application for preliminary PUD shall be processed as provided in section 23c. The hearing examiner and board may attach conditions to the approval of the preliminary PUD to secure the purposes and ends set forth in section 14a.
  - (1) Time for final PUD application. Within thirty six months of approval of a preliminary PUD, a developer shall make application for a final PUD. Upon a showing of good cause, department may grant an extension of twelve months. If application for final PUD is not made in a timely fashion, county shall, after due notice, commence proceedings to consider revocation of the preliminary PUD.
  - (2) Application for final PUD. An application for final PUD shall in all respects meet the requirements of section 14i and j. Board shall approve the PUD if, in all respects, it is consistent with the intent and use set forth in the approved preliminary PUD, complies with all conditions attached pursuant to section 14k and otherwise meets all the requirements of section 14.
- k. Attachment of conditions. In conjunction with the approval of a PUD, conditions may be attached which will assure that the property will be developed and maintained as specified in the PUD. Such conditions may include, but are not limited to, performance bonds, covenants running with the land, equitable servitudes and sequencing of building permits or certificates of occupancy.
- l. Effect of PUD. If a PUD is approved, no building or development of any sort shall occur contrary to or in degradation of that specified in the PUD. Forthwith upon the approval of a PUD, the owner thereof shall file for record in the office of the Kitsap County Auditor an acknowledged declaration that the land is impressed and bound by a PUD. Such declaration shall reference the official files of the board through which the PUD was granted. Such declaration shall be a covenant running with the land. No building permits shall issue unless such declaration is filed nor shall building permits issue for structures other than for those specified in the PUD.

Section 14. Planned unit development, Continued

- m. Commencement of construction. Construction within the PUD shall commence within three (3) years of approval; Provided, the owner of a PUD may, upon a showing of good cause, obtain from the department an extension not exceeding one (1) year and; Provided further, if construction is not commenced in a timely fashion, county shall, after due notice, commence proceedings to consider revocation of the PUD.
  
- n. Adjustments to PUDs.
  - (1) Minor adjustments. Minor adjustments to an approved PUD may be made by department after review and approval. Minor adjustments are those which entail minor changes in dimensions or siting of structures, landscaping and the like but which do not entail changes to the character of the PUD, rearrangement or redesign of structures, open spaces or increase density.
  
  - (2) Major adjustments. Major adjustments to an approved PUD require an amended application therefor in conformity with section 14i and are processed pursuant to section 14j. Major adjustments are those which change the basic design, density, use, open space and the like.
  
- o. Perpetual maintenance. The improvements and amenities referred to in Section 14g and h which are part of the PUD shall be perpetually maintained in a good, safe and serviceable condition.
  
- p. Applicability in Rural 2.5 acre and Resource Protection 2.5 acre zones. In the Rural 2.5 acre zone and the Resource Protection 2.5 acre zone density may be increased to an overall density of 1 unit per acre in the Rural 2.5 acre zone, and one unit per two acres in the Resource Protection 2.5 acre zone, provided the proposal is not unreasonably incompatible with surrounding properties and does not require any capital construction costs to the public; and shall be subject to the following conditions:
  - (1) All of the conditions of Section 14 of this Ordinance are complied with except Section 14g. Which is modified as follows:
    - (a) Every Rural PUD containing dwelling units shall have either:
      - (i) Thirty-five percent (35%) of the site devoted to common open space and the minimum lot size shall be 17,500 square feet or;
  
      - (ii) Fifty percent (50%) of the site shall be devoted to common open space and the minimum lot size shall be those established by the Bremerton-Kitsap County Health Department for dwelling units with on-site sewage disposal systems.

Section 14. Planned unit development, Continued

- (b) The common open space shall include the buffer, but shall not include streets and roads, open parking areas and individual lots. The common open space should be in part, suitable for active or passive recreational purposes, for which adequate provision is made for its perpetual upkeep and maintenance, and further, and development containing over 20 units may be required to provide active recreational facilities. Any area that has been clearcut or extensively logged within five years of submittal may not be acceptable as buffer or open space.
  
- (2) A buffer area of natural vegetation shall be provided on 75% of the perimeter of the site. The remaining 25% of the perimeter of the site will be reviewed on a case-by-case basis and the project proponent shall make an explanation as to reason for exempting it from a natural vegetation buffer. A minimum buffer width of 40 ft. shall be required on all sides abutting existing platted streets and a 25 ft. minimum shall be required for the balance of the buffer.
  
- (3) Direct accesses to the site, whether public or private, shall be limited to the maximum listed below:

<u>UNITS</u>	<u>MAX. ACCESSES ALLOWED</u>
0-5	2
6-9	3
10-20	4
21-40	5
More than 40	One additional access for each 20 units

- q. Rescission of PUD. A PUD may be rescinded if the owners or occupants of the property encompassed by the PUD fail to comply with the conditions imposed. If there was a rezone which accompanied the PUD and which was contingent upon receipt of the PUD, the rezone shall be similarly rescinded.
  
- r. Binding Site Plan. The owners of property zoned BN, BC, BG, BT, LM or M may seek a binding site plan for all or a portion of the property but only that portion where a final PUD or site plan review has been approved for the property.
  - (1) Application requirements. In addition to the materials required pursuant to subsection i., an application for a binding site plan shall include:
    - (a) A plat certificate from a title company showing all record owners of and encumbrances upon the property;

Section 14. Planned unit development, Continued

- (b) A legal description of the property and of each subparcel; and
  - (c) Three diagrams of the proposed binding site plan which meet the requirements of subsection r(2).
- (2) Contents of binding site plan diagram. The diagram for a proposed binding site plan shall be as follows and shall contain the following:
- (a) Drawn on tracing cloth, stable-base mylar, polyester film or similar durable material; a line shall border each sheet having a three-inch (3") margin on the left side (which shall be an eighteen-inch (18") side) and a one-inch (1") margin on the remaining three (3) sides;
  - (b) Drawn on scale on less than one inch (1") to one hundred feet (100') which scale shall be shown on the diagram;
  - (c) The perimeter (which shall be shown by heavier lines) of the proposal, together with all subparcels;
  - (d) The dimensions of the perimeter and all subparcels;
  - (e) North point and origin of meridian;
  - (f) Subparcels labeled alphabetically;
  - (g) The name and locations of adjacent subdivisions, short subdivisions, short subdivisions, and binding site plans;
  - (h) The location of all existing and proposed structures and related improvements consistent with the approved final PUD or site plan review;
  - (i) The location of all existing and proposed streets, rights-of-way, and easements within and adjacent to the proposal and, where possible, labeling each of the foregoing by width and name;
  - (j) The location of all property to be dedicated and a textual declaration of the dedication;
  - (k) Signature and date lines for certification by a registered land surveyor that the binding site plan diagram and the legal descriptions required by subsection r.1.b. were prepared by such surveyor or under his or her direction;



Section 14. Planned unit development, Continued

- (l) Signature and date lines subscribed by all owners;
  - (m) Signature and date lines for approval by Board;
  - (n) A declaration that all development of the property shall conform to that shown on the binding site plan diagram; and
  - (o) A declaration that all development of the property shall conform to that depicted in the final PUD or site plan review and a place in which to insert the approval date and file number of the final PUD or site plan review.
- (3) Dedications. In order to meet the public interest, approval of a binding site plan may be conditioned upon dedications for open spaces, drainage ways, streets, alleys, other public ways, water supplies, sanitary wastes, parks, playgrounds, sites for schools, school grounds and other needs of the public.
- (4) Approval of binding site plan. The Board may approve a binding site plan if the public use and interest will be served by its approval and it is consistent with the final PUD or site plan review that applies to the property. Approval shall be indicated by the members of the Board affixing their signatures to the binding site plan diagram.
- (5) Filing binding site plan. An approved binding site plan shall be filed for record with the County Auditor. No unapproved plan shall be accepted for filing.
- (6) Sale or transfer of subparcel. Once a binding site plan is approved and filed, the subparcels of property thereby created may be sold or transferred without the necessity of obtaining short subdivision or subdivision approval.
- (7) Limitation upon development. No property within an approved binding site plan shall be used, improved or developed in a fashion contrary to that indicated by the binding site plan or contrary to that indicated by the final PUD or site plan review that applies to the property.

Section 15. Home occupations.

- a. Permitted use. Home occupations are permitted in all zones subject to the following limitations:

Section 15. Home occupations, Continued

- (1) The home occupation shall be clearly and obviously subordinate to the use of the dwelling unit for residential purposes;
  - (2) The home occupation shall be wholly situated indoors;
  - (3) Other than those related by blood, marriage or adoption, no more than one person may be employed in the home occupation;
  - (4) No exterior display, storage or other exterior indication of the existence of the home occupation; Provided, one unlighted sign of not more than four square feet is permitted;
  - (5) In addition to off-street parking required for the dwelling unit by section 17, additional off-street parking is required for an employee, if there be an employee, and for one patron. Such parking shall not occur in the setbacks required by section 10; Provided, one such parking space may be located in the driveway of the dwelling unit;
  - (6) Sales are limited to products produced on the premises; Provided, one brand of small, consumer products not available in retail stores may be sold;
  - (7) Sales and services to patrons shall be arranged through appointment to the end that not more than one patron vehicle is on the premises at the same time;
  - (8) Not more than fifty percent of the gross floor area of the dwelling unit may be devoted to the home occupation; and
  - (9) Home occupations involving motor vehicle or engine repair, maintenance or servicing, beauty parlors or barber shops shall require a conditional use permit.
- b. Permit required. No home occupation is permitted until a permit therefor is obtained from department. Department shall issue a home occupation permit if it is satisfied that the limitations specified in section 15a will be met. Denial of a permit may be appealed to hearing examiner.
- c. Intense home occupation. In the event a home occupation cannot meet the limitations imposed by section 15a, an applicant for a home occupation permit may apply to the hearing examiner for a conditional use permit to allow the home occupation. The hearing examiner may issue the conditional use permit if such will not adversely affect the neighborhood, adjacent properties or zone for which the home occupation permit is sought. The hearing examiner shall impose whatever

Section 15. Home occupations, Continued

conditions are necessary to lessen the impact of or to compensate for the failure to meet the limitations of section 15a.

Section 16. Access to structures.

All structures and developments approved pursuant to this ordinance shall have provisions for access sufficient to accommodate emergency vehicles and pedestrian traffic.

Section 17. Off-street parking.

- a. General requirements. Every structure hereafter erected or moved shall have off-street parking for motor vehicles as hereafter provided:
- (1) Off-street parking shall be situated within a zone which permits the use for which the parking is required;
  - (2) Off-street parking shall not be located in any required yards; Provided, off-street parking in required yards may be permitted in a site plan review or PUD or pursuant to a conditional use permit if screened pursuant to Section 17i(6);
  - (3) Off-street parking for dwelling units and for uses permitted in the BN and BC zones shall be located upon the same lot for which the parking is required;
  - (4) Off-street parking shall be located no more than a walking distance of 600 feet from the structure for which such parking is required; Provided, this requirement does not apply to PUDs; and
  - (5) No building permit shall issue until plans showing the required off-street parking have been submitted to and approved by department. Such plans shall show location, dimensions, size, shape, type of surfacing, curbs, access to streets and, if required, lighting and landscaping.
- b. Number of spaces required. The following number of off-street parking spaces are required:
- (1) Single family dwellings -- two;
  - (2) Single family dwellings when accompanied by accessory living quarters and/or accessory rental units -- three;
  - (3) Duplexes -- four;

Section 17. Off-street parking, Continued

- (4) Multi-family dwellings -- one and one-half per dwelling unit;
- (5) Elderly, low income and publicly-owned housing -- one per dwelling unit;
- (6) Rooming houses -- one per sleeping unit;
- (7) Motels -- one per sleeping unit and one for every employee on duty simultaneously;
- (8) Hotels -- one per sleeping unit, one for every anticipated employee on duty simultaneously and as determined by this subsection for restaurants, convention and conference facilities and other related facilities;
- (9) Hospitals and institutions -- one per bed, 2 employees, 2 guests;
- (10) Theaters -- one per four seats;
- (11) Places of assembly such as churches; auditoriums, swimming pool, stadiums, sports arenas -- one per four seats or per eighty inches of benches or pews or, if there is no fixed seating, one per fifty square feet of assembly area;
- (12) Libraries -- one per 250 square feet of gross floor area;
- (13) Dance halls -- one per twenty square feet gross floor area;
- (14) Bowling alleys -- six per alley;
- (15) Business and professional offices -- one per 300 square feet of gross floor area;
- (16) Mortuaries, funeral homes -- one per seventy five square feet of assembly area;
- (17) Warehouse, storage and wholesale facilities -- one per two anticipated employees on duty simultaneously, one per each anticipated company vehicle parked on the site at night on a regular basis and one per 300 square feet of office space;
- (18) Restaurants, cocktail lounges and taverns;
  - (a) If under 4,000 square feet of gross floor area -- one per 200 square feet of gross floor area;

Section 17. Off-street parking, Continued

- (b) If over 4,000 square feet of gross floor area -- twenty plus one per 100 square feet of gross floor area in excess of 4,000;
- (19) Drive in and fast food restaurants -- one per seventy-five square feet of gross floor area with a minimum of five (5); Provided drive-in window holding and stacking area shall not be considered parking spaces.
- (20) Retail stores generating relatively little automobile traffic such as appliance, furniture, hardware and repair stores -- one per 300 square feet of gross floor area;
- (21) Retail and personal service establishments generating heavy automobile traffic such as department, drug and auto parts stores, supermarkets, ice cream parlors, bakeries and beauty and barber shops -- one per 150 square feet of gross floor area;
- (22) Shops and stores for sales, service or repair of automobile, machinery and plumbing, heating, electrical and building supplies -- one per 600 square feet of gross floor area;
- (23) Manufacturing, research, testing, processing and assembly facilities -- one per 400 square feet of gross floor area and one per two anticipated employees on duty simultaneously;
- (24) Public and private elementary, intermediate and junior high school -- one per employee and two per classroom;
- (25) Public and private high schools -- one per employee and teacher and one per ten students;
- (26) Marinas and moorage facilities -- one per two moorage slips;
- (27) Day care centers -- one per three children.
- c. Fractional spaces. When one of the formulas in section 17b results in a fractional parking space, that number shall be rounded to the nearest integer.
- d. Relaxation of required spaces. Notwithstanding the amount of off-street parking required by section 17b, department may approve less off-street parking when the proponent of a use demonstrates that, due to the unusual nature of the use, it is obvious that the off-street parking required by section 17b exceeds any reasonable likely need.

Section 17. Off-street parking, Continued

- e. Required parking for unspecified uses. For uses not mentioned in section 17b, the amount of off-street parking shall be determined by department based upon the size and nature of the use and in a fashion consistent with the tenor of the amount of parking for those uses specified in section 17b.
- f. Mixed occupancies. In the case of two or more uses in the same structure, the required off-street parking shall be the sum of the requirements for the several uses computed separately; Provided, except as is specifically provided otherwise, no off-street parking is required for a use which is clearly accessory to a principal use.
- g. Expansion of existing structure. When an existing structure is enlarged or expanded, off-street parking shall be provided for the expansion or enlargement as provided herein but shall not be required for the existing structure.
- h. Joint use. Upon application therefore department may approve the sharing of off-street parking by several uses when it is clear that demands for parking from the joint uses will not occur at the same time. Joint use of off-street parking is subject to the following limitations:
  - (1) Not more than fifty percent of the off-street parking required by the "nighttime uses" specified in (3) may be supplied by the "daytime uses" specified in (4) and vice versa;
  - (2) All of the off-street parking required by a church or auditorium may be supplied by the "daytime uses" specified in (4);
  - (3) The following are "nighttime uses": auditoriums, churches, dance halls, theaters, restaurants, cocktail lounges, taverns, motels and hotels;
  - (4) The following are "daytime uses": banks, offices, personal service establishments, retail and wholesale stores and manufacturing plants;
  - (5) The structure for which joint use of parking is sought shall not be further than 600 feet from the off-street parking;
  - (6) One seeking the joint use of parking facilities must obtain from the owner of such facilities an enforceable right to use such facilities. Such right shall be embodied in a legal instrument having the formalities of a deed and shall be filed and recorded with the Kitsap County Auditor. When and if the right to use the parking facilities terminates, one must develop alternative parking facilities which meet the requirements of this ordinance or terminate the use.

Section 17. Off-street parking, Continued

- i. Design requirements. Off-street parking facilities shall meet the following requirements:
- (1) Parking spaces shall be a minimum of nine feet in width and twenty feet in length; Provided, there shall be six feet between parallel parking spaces for maneuvering and; Provided further, where four or more spaces are required twenty-five percent may be eight feet in width and eighteen feet in length if designated for compact cars;
  - (2) Parking spaces shall be all-weather surfaced;
  - (3) Four or more contiguous parking spaces shall be delineated by striping;
  - (4) Where four or more parking spaces are required they shall be designed to discourage backing out onto a public road;
  - (5) Parking facilities shall have curbs or like features to protect structures, pedestrians, walkways and landscaping;
  - (6) Where five or more parking spaces are within a required yard, the parking area shall be screened by a slight-obscuring buffer consisting of a fence and/or shrubbery at least three feet in height;
  - (7) Where there are twenty or more parking spaces, landscaped islands at least three feet by twenty feet shall be placed at the ends of parking rows to define driving lanes and turning patterns;

Section 18. Off-Street loading space.

- a. When required. Off-street loading and unloading spaces are required for all uses having a gross floor area of over 4,000 square feet to which or from which deliveries or pickups are made by trucks or truck-trailer combinations over thirty-five feet in length more frequently than monthly.
- b. Design requirements. Loading and unloading spaces shall be a minimum forty-five feet in length, ten feet in width and provide for clearance of fifteen feet. Adequate access shall be provided to each space. No area required for off-street parking may be used as a loading or unloading space.
- c. Number of spaces required. The following number of off-street loading and unloading spaces is required:

Section 18. Off-Street loading space, Continued

- (1) For uses having more than 4,000 but less than 10,000 square feet of gross floor area -- one space;
- (2) For uses having more than 10,000 but less than 50,000 square feet of gross floor area -- two spaces;
- (3) For uses having more than 50,000 but less than 100,000 square feet of gross floor area -- three spaces;
- (4) For uses having over 100,000 square feet of gross floor area -- three spaces plus one additional space for each additional 100,000 square feet of gross floor area or fraction thereof in excess of 50,000 square feet.

Section 19. Performance regulations.

- a. Lighting. In all zones, PUDs and unclassified uses, artificial outdoor lighting shall be arranged so that the light is directed away from adjoining properties and so that no more than one foot candle of illumination leaves the property boundaries.
- b. Signs.
  - (1) Permit required. No sign shall be placed, erected or displayed without first obtaining a sign permit from department except as provided in subsections (9) and (10).
  - (2) Permit application. An application for a sign permit. Which must be signed by the owner, contract vendee, lessee or tenant of the property or building for which the permit is sought, shall contain:
    - (a) A site plan, drawn at a scale designated by department, showing the property or building for which the sign is proposed which shall depict existing and proposed signs;
    - (b) Textual material or drawings showing structural details, material specifications, means of attachment (if applicable), and means of illumination (if applicable);
    - (c) Photographs showing the subject property or building marked to indicate the location of the proposed sign.
  - (3) Waiver of application requirements. Notwithstanding the application requirements set forth in (2) above, department may waive one (1) or more



Section 19. Performance regulations, Continued

requirements when it is obvious from the size, nature or location of the proposed sign that the information sought through the required item would not be significant, relevant or helpful to an informed decision.

- (4) Review by department. Upon receipt of a sign permit application department shall review the application and shall issue the sign permit if it finds one of the following:
- (a) If the proposed sign is in an R-zone or Ru-zone it is not illuminated, is not more than four (4) square feet and is in connection with a home occupation, unclassified use or conditional use which has already been approved;
  - (b) If the proposed sign is in the BN, BC, BG, BT, M or LM zone, it is not illuminated and is not more than twelve (12) square feet; or
  - (c) That the proposed sign will meet the criteria which follow in subsection (5) and will be compatible or can be made compatible with surrounding properties and uses through the imposition of conditions such as those mentioned in subsection (6); Provided, if no amount of reasonable conditions can be imposed which will make the proposed sign compatible, the department shall deny the sign permit.
- (5) Sign criteria. For the purpose of determining if a proposed sign permit should be issued pursuant to subsection (4)(c), the following criteria shall apply:
- (a) Sign scale is appropriate for size of use it serves, viewer distance and typical observation time;
  - (b) Sign size, shape, and placement serves to define or enhance, and not interrupt or detract from, such architectural elements of buildings such as columns, sill lines, cornices and roof edges;
  - (c) Sign design provides continuity with signage on the same or adjacent properties with respect to mounting location and height, proportions, materials and other significant qualities;
  - (d) Sign directs attention to products or services to which the majority of the floor or lot area on the premises is devoted;
  - (e) Sign does not exceed ninety (90) square feet per face;

Section 19. Performance regulations, Continued

- (f) Total signage for the use or building does not exceed two-hundred (200) square feet;
  - (g) Sign is placed below proposed or existing roof of building; and
  - (h) The various components of the sign shall be integrated into a single design and shall not have auxiliary projections or attachments.
- (6) Conditions to enhance compatibility. In order to enhance compatibility, department may impose conditions when it issues a sign permit pursuant to subsection (4)(c). Such conditions may include, but are not limited to, screening, buffering, setbacks and limitations upon the size or hours and methods of operation. The sign permit shall be revoked if the permittee fails to comply with the conditions imposed.
- (7) Prohibitions.
- (a) No use or building shall have more than two (2) freestanding or projecting signs nor more than one (1) sign for any street frontage;
  - (b) Signs shall not be animated, audible or illuminated by any intermittent, flashing or scintillating light; Provided, this shall not apply to time and temperature display;
  - (c) Billboards and signs not directing attention to products or services available on the premises where the sign is situated are prohibited;
  - (d) Signs attached to vehicles or trailers are prohibited unless the vehicle or trailer is routinely used to transport or provide goods or services; Provided, signs advertising that a vehicle or trailer is for sale are not prohibited;
  - (e) No sign shall be placed within a public road right-of-way except for official signs placed by a governmental entity; and
  - (f) Portable signs are prohibited unless exempt pursuant to section 19b(9) or conditionally exempt pursuant to section 19b(10).
- (8) Processing permit applications. Sign permit applications shall be processed as departmental rulings pursuant to Ordinance No. 100, Section 4.
- (9) Exempt signs. The following signs are not regulated by this ordinance:

Section 19. Performance regulations, Continued

- (a) Traffic signs;
  - (b) Street signs;
  - (c) Political campaign signs;
  - (d) Legal notices;
  - (e) Signs advertising subdivisions placed by real estate companies;
  - (f) "For sale" or "for rent" signs located on the premises for sale or for rent; and
  - (g) Signs advertising officially-sanctioned community festivals.
- (10) Conditionally exempt signs. The following signs are not regulated by this ordinance provided the following conditions are met:
- (a) Signs indicating the location of restrooms, addresses, signs indicating hours of operation, building entrance and exit signs, signs indicating locations of public telephones, building directories and "help wanted", "no hunting" and "no trespassing" signs; Provided, no such shall exceed four (4) square feet;
  - (b) Signs advertising sales of farm products grown or raised on the premises to which the sign pertains; Provided, such signs shall not exceed four (4) in number for each farm and; Provided further, such signs shall be dated and shall contain the name and telephone number of the seller and; Provided further, such signs shall be removed within ten (10) days after the sale of products ceases;
  - (c) Signs advertising garage or yard sales; Provided, such signs shall not exceed four (4) square feet, shall bear the date when first displayed and shall be removed within five (5) days after the sale is completed;
  - (d) Temporary signs advertising a special event, a sale, the opening of a new business or opening of a business under new management; Provided, such signs shall not be unreasonably incompatible with surrounding uses or properties and shall not disrupt vehicular or pedestrian traffic and; Provided further, prior to display of any such sign the owner or person responsible for the sign shall register it with department and; Provided further, no such sign shall be displayed for more than fourteen (14) consecutive days nor may any business use a sign conditionally permitted by this subsection more than twice in a calendar year.
- (11) Landscaping. Freestanding signs shall be landscaped.

Section 19. Performance regulations, Continued

- c. Obnoxious things. In all zones, PUDs and unclassified uses no use shall produce noise, smoke, dirt, dust, odor, vibration, heat, glare, toxic gas or radiation which is materially deleterious to surrounding people, properties or uses.
- d. Storm drainage. The following regulations apply to storm drainage for commercial uses in the BC, BN, BG, BT, LM and M zones and to unclassified uses;
  - (1) Storm drainage control facilities shall be provided on-site to the end that the volume and velocity of storm waters leaving the site are not significantly different than if the land were left in its natural state; and
  - (2) Sites cleared for development but upon which no construction activities are underway shall be protected from erosion.

e. Landscaping

- (1) Landscaping required in commercial planned unit developments, multifamily planned unit developments, light manufacturing planned unit developments, unclassified use permits, conditional uses and site plan review.

Land disturbed during the development process but not built upon shall be landscaped. Each area where landscaping is required, shall meet one of the following landscaping design standards:

- (a) sight barrier buffers,
  - (b) visual separation buffers,
  - (c) visual relief buffers,
  - (d) parking lot canopy,
  - (e) building facade buffer,
  - (f) riparian vegetative buffer, or
  - (g) natural vegetative buffer.
- (2) Landscaping Plan Standard Requirements:
    - (a) Plan: Location of plant material to scale, coverage, description and species shall be identified by common and botanical name of all existing and proposed trees, shrubs, and vegetative ground cover.

Proposed treatment of all ground surfaces shall meet landscaping design standards, and identify the appropriate standard in each area landscaped.

Section 19. Performance regulations, Continued

- (b) Elevations: One elevational cross-section shall be drawn to equal horizontal and vertical scale of structures and landscape to illustrate plant growth at installation from all street sides.
- (c) Existing Tree Survey: A tree survey indicating the name, caliper and location of each existing tree six inches in caliper or greater at a height four feet above grade or indicating the boundaries and composition of a stand of trees. The survey shall note which trees will be retained. The trees to be retained shall be flagged at the drip line.
- (d) Planting Schedule: Shall indicate for all plants the scientific and common names, quantities, sizes, and spacing. Quantities are not required on a preliminary landscape plan. A preliminary plan may also indicate shrubs as masses rather than showing the individual plants. The final plan must show individual shrubs and quantities.
- (e) Grading Details: Grading (contours) shall be drawn to scale and be shown on the preliminary and final site landscape plans including the location and cross section of all landscape berms or mounds.
- (f) Irrigation Details: Indicate the method of irrigation for all landscaped areas (automatic or manual) and if by hose bibbs or quick couplers, etc., in a preliminary plan. The location of each must be showing on final plans.

(3) Landscaping Design Standards

- (a) Sight Barrier Buffers to create a noise and view obscuring barrier of the use to be screened and to totally separate uses shall consist of each of the following:
  - A minimum 10 feet wide strip planted with two offset rows of evergreen trees at an average spacing of 10 feet triangulated on-center or a 3-foot hedge within two years of planting; and
  - Either earth berming at a minimum height of 3.0 feet or a 6-foot high sight-screening fence above adjacent highest grade; and
  - Shrubs and ground cover to provide 75% surface coverage within two years from planting.
- (b) Visual Separation Buffers to create a visual separation between uses shall consist of the following:

Section 19. Performance regulations, Continued

- A minimum 10-foot wide strip planted with one row of trees, of which a maximum of 30% may be deciduous, at an average spacing of 20 feet on-center; and
  - Shrubs and ground cover to provide 75% coverage of designated surface within two years from planting.
- (c) Visual Relief Buffers to provide visual relief between uses and to soften the appearance of parking areas shall consist of the following:
- Minimum 10-foot wide strip planted with coniferous or no more than 35% deciduous trees at an average spacing of 30 feet on-center; and
  - Shrubs and ground cover to provide 75% coverage of designated area surface within two years from planting.
- (d) Parking Lot Canopy Buffers to provide visual relief and shade in parking areas shall consist of the following:
- A minimum of one evergreen or deciduous tree (but no more than 35% overall) for each 150 square feet of landscaped area; and
  - Shrubs and ground cover to provide 75% coverage of designated area surface within two years from planting.
- (e) Building Facade Buffers to provide visual relief to building facades, and walls larger than 250 sq. ft., and to soften the effect of a new building upon the landscape shall consist of the following:
- At least one evergreen or deciduous tree (but no more than 35%) for each 500 square feet of landscaped area; and
  - Shrubs and ground cover to provide 75% coverage of designated area surface within two years from planting.

The Department may require additional landscaping along a building facade which is more than 30 feet high or 50 feet in width or length, if necessary, to provide a visual break in the facade.

Section 19. Performance regulations, Continued

- (f) Riparian Vegetative Buffer: Vegetation along streams, wetlands, drainage of the water sources should be retained in a natural state or supplemented when required by the Department in order to improve its natural function.
- (g) Natural Vegetative Buffer: Areas of significant trees, shrubs, or ground cover (including grass or sod) which do not constitute a safety hazard (for example, steep slope areas or unutilized land) shall be retained in a natural state or supplemented when required by the Department in order to improve its natural function.
- (h) Street Planting: In addition to on-site percentage requirements where required landscaping is adjacent to street rights-of-way, shrubs and/or ground cover shall be placed between right-of-way and pavement adjacent to the subject property. All planting shall conform to any adopted theme and require the additional approval of Public Works.

In cases where trees might interfere with vehicles or pedestrian traffic, deciduous trees should have a clear trunk area of seven feet above the ground for pedestrian areas and fourteen feet for vehicle areas.

- (i) Corner Set Back: Shrubs which will be taller than three feet should set back from corners to a line established by connecting a center line point 60 feet from the center of an intersection to all adjacent centerline points, 60 ft. from the intersection of driveways or roads.

(4) Landscaping Installation Standards:

(a) Minimum sizes at installation:

- \* 2 1/2 inch caliper street trees and other deciduous trees
- \* 8 feet minimum height multi-stemmed trees (e.g. vine maple)
- \* 8 feet minimum height coniferous trees
- \* 18 - 24 inches minimum height for medium and tall shrubs
- \* 12 - 18 inches minimum height for small shrubs

Small shrub = less than 3 1/2 feet tall at maturity

Medium shrub = 3 1/2 to 6 feet tall at maturity

Large shrub = more than 6 feet tall at maturity

Section 19. Performance regulations, Continued

(b) Maximum Spacing:

Large shrubs = 5 feet o.c.  
Medium shrubs = 4 feet o.c.  
Small shrubs = 3 feet o.c.

(c) Groundcovers required in all planting bed areas shall provide 75% coverage within two years and immediate coverage of 50% spaced as follows:

1 gal. 18 inches o.c.  
4 inch pots 15 inches o.c.  
2 1/4 inch pots 12 inches o.c.  
Grass sod areas to be 100%  
Bark and mulch do not count as ground cover

(d) Quality: Plant materials used shall be equivalent to available nursery grown stock or better.

(e) Grading slopes in landscaped areas should not exceed a 3(H):1(V) slope.

On steeper slopes up to 2(H):1(V), erosion control netting or alternative procedures shall be used to prevent erosion.

Plant all graded areas immediately following any disturbance. Planting can be accomplished by hydro-seeding (special grass seed, fertilizer, and binder blown mechanically over the graded area) or hand planted, or mechanically planted and should be tailored to the special condition.

(f) Irrigation. Water appropriate to the horticultural requirements of different plant species and lawn areas shall be provided. Irrigation systems shall be designed to industry standards and provide complete coverage with the least amount of wasted water.

All plants shall receive sufficient water to assure their survival. Landscaped areas shall be irrigated.

Automatic irrigation is required in all lawn areas, commercial areas and multi-family developments of five dwelling units or greater and is suggested to conserve water in all other planting areas.



Section 19. Performance regulations, Continued

(g) Maintenance

Landscaping required under the provisions of this ordinance shall be maintained in a healthy growing condition.

Dead or dying trees or shrubs shall be replaced immediately, and the planting area shall be maintained reasonably free of weeds and trash. Sodded areas shall be mowed, fertilized and irrigated on a regular basis to maintain a well-kept appearance for the life of the project. Similarly, if necessary, the trees or shrubs shall receive only normal pruning. Extraordinary pruning is permitted only to avoid the creation of a safety hazard or nuisance through excessive shading, overhanging adjacent properties, or similar problem.

Section 20. Conditional use permit.

- a. Introduction. In many instances throughout this ordinance a use is permitted in a given zone but only if a conditional use permit is first obtained. This allows the zoning authorities to examine a specific proposal and, through the attachment of conditions, insure that the specific proposal will be compatible with its surroundings. In some instances, however, it is possible that the imposition of conditions will not make a specific proposal compatible. The result in such an instance is to proscribe that specific proposal.

The conditional use permit is a tool which is particularly important to the zoning scheme embodied in this ordinance inasmuch as this ordinance allows a mix of uses traditionally thought to be incompatible and, therefore, categorically placed in separate zones. The philosophy of this ordinance is that a mix of uses is desirable but that a close examination must be made of many uses to insure compatibility of the mix.

- b. Permit required. No person, firm or corporation shall locate or expand a use for which a conditional use permit is required without first obtaining a conditional use permit.
- c. Application for permit. An application for conditional use permit, which must be signed by the owner or contract vendee of the land for which the permit is sought, shall contain:
- (1) A vicinity map showing the location of the property and surrounding properties;

Section 20. Conditional use permit, Continued

- (2) Maps and drawings, drawn to a scale of not less than fifty nor more than one hundred feet to the inch, showing:
- (a) Streets adjacent to, surrounding or intended to serve the property;
  - (b) Existing and proposed pedestrian and vehicular circulation routes;
  - (c) Existing and proposed topography at contours intervals of no more than five feet prepared by a licensed land surveyor or civil engineer;
  - (d) Existing and proposed structures and buildings showing the intended use of each and, if appropriate, the number of dwelling units;
  - (e) Architectural drawings and dimensions of proposed buildings and structures;
  - (f) Landscaping and off-street parking facilities;
  - (g) Location of utility and drainage facilities;
  - (h) Other information, data or features necessary to understand the nature and scope of the proposal and its impact on surrounding people, property and uses.
- (3) A textual explanation of the proposal which shall include:
- (a) A discussion of why the proposal is compatible with its surroundings;
  - (b) The potential impacts of the proposal upon surrounding people, property, uses and public amenities and proposed measures or conditions which will mitigate the impacts;
  - (c) A timetable for development including, if applicable, staging sequences;
- (4) Notwithstanding the application requirements set forth in (2) and (3) above, department may waive one or more requirements when it is obvious from the scope and nature of the proposal that the information obtained through the required item would not be significant, relevant or helpful to an informed decision.

d. Procedure. An application shall be processed as provided in section 23b.

Section 20. Conditional use permit, Continued

- e. Standard for granting permit. A conditional use permit shall be granted if the applicant demonstrates that the proposed use will be compatible, or can be made compatible through the imposition of conditions, with surrounding properties and uses, that public facilities are available to accommodate the proposed use and that no harmful or unhealthful conditions will result; Provided, if no amount of reasonable conditions can be imposed which will make the proposed use compatible, then the conditional use permit shall be denied.
- f. Imposition of conditions. Conditions may be imposed in conjunction with granting a conditional use permit to enable the proposal to meet the standards set forth in subsection e. Such conditions may include, but are not limited to, requirements for screening, buffering, setbacks, performance bonds, public facility improvements and limitations upon hours and methods of operation, density and intensity. An application shall be denied unless the applicant demonstrates the ability to comply with such conditions.
- g. Revocation of permit. A conditional use permit shall be revoked if the permittee fails to comply with the conditions imposed.
- h. Effect of conditional use permit. If a conditional use permit is approved no building or development of any sort shall occur contrary to or in degradation of that specified in the conditional use permit, the owner thereof shall file for record in the office of the Kitsap County Auditor an acknowledged declaration that the land is bound by a conditional use permit. Such declaration shall reference the official files of the hearing examiner or board through which the permit was granted. Such declaration shall be a covenant running with the land. No building permits shall issue unless such declaration is filed nor shall building permits issue for structures other than for those specified in the permit.
- i. Adjustments to conditional use permits.
  - (1) Minor adjustments. Minor adjustments to an approved conditional use permit may be made after review and approval by department. Minor adjustments are those which entail minor changes in dimensions or siting of structures, location of public amenities and the like but which do not entail changes to the intensity or character of the use.
  - (2) Major adjustments. Major adjustments to an approved conditional use permit require an amended application therefore in conformity with section 20c and are processed pursuant to section 20d. Major adjustments are those which change the basic design, intensity, density, use and the like.

Section 21. Site Plan Review.

- a. Introduction. In all business and manufacturing zones listed in this ordinance a use is permitted only if either a planned unit development or site plan review is first obtained. This allows for examination of a specific proposal and, through review of a site plan and the attachment of conditions, if appropriate, assurance that the specific proposal will be compatible with its surroundings. In some instances, however, it is possible that the imposition of conditions will not make a specific proposal compatible. The result in such an instance is to proscribe that specific proposal.
- b. Applicability of site plan review. The site plan review process is applicable only in BN, BC, BG, BT, LM and M zones when at least fifty percent (50%) of the perimeter of the site of the proposed use is surrounded by the same zone as that which applies to the site. Under such circumstances the site plan review shall be required in lieu of a planned unit development.
- c. Permit required. No person, firm, or corporation shall locate or expand a use for which a site plan review is required without first obtaining a site plan review, unless planned unit development approval has been granted.
- d. Application for site plan review. An application for site plan review, which must be signed by the owner or contract vendee of the land for which the permit is sought, shall contain:
  - (1) A vicinity map showing the location of the property and surrounding properties;
  - (2) Maps and drawings, drawn at a scale designated by Department, showing:
    - (a) Streets adjacent to, surrounding or intended to serve the property;
    - (b) Existing and proposed pedestrian and vehicular circulation routes;
    - (c) Existing and proposed topography at contour intervals of no more than five feet.
    - (d) Existing and proposed structures and buildings showing the intended use of each and, if appropriate, the number of dwelling units;
    - (e) Drawings and dimensions of proposed buildings and structures;
    - (f) Landscaping and off-street parking facilities;

Section 21. Site Plan Review, Continued

- (g) Location of utility and drainage facilities;
    - (h) Other information, data or features necessary to understand the nature and scope of the proposal and its impact on surrounding people, property and uses.
  - (3) A textual explanation of the proposal which shall include:
    - (a) A discussion of why the proposal is compatible with its surroundings;
    - (b) The potential impacts of the proposal upon surrounding people, property, uses and public amenities and proposed measures or conditions which will mitigate the impacts;
    - (c) A timetable for development including, if applicable, staging sequences;
  - (4) Notwithstanding the application requirements set forth in (2) and (3) above, department may waive one or more requirements when it is obvious from the scope and nature of the proposal that the information obtained through the required item would not be significant, relevant or helpful to an informed decision.
- e. Procedure. An application for site plan review shall be processed as a departmental ruling.
- f. Standard for granting site plan review. A site plan review shall be granted if the applicant demonstrates that the proposed use will be compatible, or can be made compatible through the imposition of conditions, with surrounding properties and uses, that public facilities are available to accommodate the proposed use and that no harmful or unhealthful conditions will result; Provided, if no amount of reasonable conditions can be imposed which will make the proposed use compatible, then the site plan review shall be denied.
- g. Imposition of conditions. Conditions may be imposed in conjunction with granting a site plan review to enable the proposal to meet the standards set forth in subsection f. Such conditions may include, but are not limited to, requirements for screening, buffering, setbacks, performance bonds, public facility improvements and limitations upon hours and methods of operation, density and intensity.
- h. Revocation of permit. A site plan review shall be revoked if the permittee fails to comply with the conditions imposed.

## Section 21. Site Plan Review, Continued

- i. Effect of site plan review. If a site plan review is approved no building or development of any sort shall occur contrary to or in degradation of that specified in the site plan review.
- j. Adjustments to site plan review.
  - (1) Minor adjustments. Minor adjustments to an approved site plan review may be made after review and approval by department. Minor adjustments are those which entail minor changes in dimensions or siting of structures, location of public amenities and the like but which do not entail changes to the intensity or character of the use.
  - (2) Major adjustments. Major adjustments to an approved site plan review require an amended application therefore in conformity with section 21d and are processed pursuant to section 20e. Major adjustments are those which change the basic design, intensity, density, use and the like.
- k. Notification requirements. When the proposed site abuts a residential zone the abutting R-zoned property owners will be notified of the application and technical review date, place, time and site plan review process and will be invited to attend or submit written comments to the Department; Provided further failure to receive notice shall not invalidate any actions under site plan review.

## Section 22. Variance.

- a. Application for variance. An application for variance shall, at a minimum, contain:
  - (1) A plot plan to scale showing the property for which the variance is sought, the location of proposed and/or existing structures and the properties surrounding the property for which the variance is sought, together with the structures located on surrounding properties;
  - (2) A precise description of the variance sought, and the use which will be made of the property by granting the variance;
  - (3) An explanation of why the subject property would be denied privileges enjoyed by nearby properties unless the variance were granted; and
  - (4) Proposed conditions which could be imposed to lessen the impact of granting the variance upon nearby properties.

Section 22. Variance, Continued

- b. Standards for granting variance. No variance shall be granted unless the following are found:
- (1) Granting the variance will not constitute a special privilege inconsistent with the limitations upon other properties in the vicinity and zone;
  - (2) Because of special circumstances applicable to the subject property including size, shape, topography, location or surroundings, the strict application of this ordinance deprives the property of rights and privileges enjoyed by other properties in the vicinity and in the same zone;
  - (3) That granting the variance will not be materially detrimental to the public welfare or injurious to properties or improvements in the vicinity.
- c. Imposition of conditions. Conditions shall be imposed in conjunction with a variance to assure that the adjustment thereby authorized does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone and to otherwise insure that other properties in the vicinity will not be adversely affected.

Section 23. Procedure.

a. Fee schedule.

- (1) Application fees. Prior to or concurrent with the filing of any application, an application shall pay the following fee to department:
  - (a) Variance -- \$95.00;
  - (b) Unclassified use permit -- \$250.00;
  - (c) Rezone -- \$250.00;
  - (d) Home occupation permit -- \$95.00;
  - (e) Conditional use permit in conjunction with home occupation permit -- \$150.00;
  - (f) Conditional use permit of a primarily residential character -- \$125.00 plus \$6.25 per dwelling unit;
  - (g) Conditional use permit of a non-residential character -- \$250.00 plus \$12.50 per acre;
  - (h) Preliminary PUD of a primarily residential character -- \$125.00 plus 6.25 per dwelling unit;
  - (i) PUD or preliminary PUD of a primarily non-residential character -- \$250.00 plus \$12.50 per acre;
  - (j) Site plan review -- \$250.00;
  - (k) Sign permit -- \$25.00;

- (2) Appeal fees. Prior to or concurrent with the filing of an appeal, an appellant shall pay the following fee to department:
  - (a) Appeal of administrative interpretation -- \$30.00;
  - (b) Appeal of hearing examiner decision -- \$30.00.
- (3) Non-payment of fee. No application or appeal shall be processed without the appropriate fee having first been paid.

~~b. Ordinance 128 pertains to procedures applicable to this ordinance.~~

~~Section 24. Violations - Penalties.~~

The violation of any other provisions of this ordinance shall constitute an infraction. Each such violation shall constitute a separate infraction for each and every day or portion thereof during which such violation is committed, continued or permitted.

- a. **Violations - Investigations - Evidence.** An authorized representative of the Department may investigate alleged or apparent violations of this ordinance. Upon request of the authorized representative of the Department, the person allegedly or apparently in violation of this ordinance shall provide information identifying themselves.
  - (1) **Violations - Failure to Provide Information Identifying Person.** Willful refusal to provide information identifying a person as required by this section is a misdemeanor.
- b. **Order to Correct Violation.**
  - (1) **Issuance.** Whenever an authorized representative of the department determines that a violation has occurred or is occurring, he/she shall pursue reasonable attempts to secure voluntary correction, failing which he/she may issue an order to correct violation to the property owner or to any person causing, allowing or participating in the violation.
  - (2) **Content.** The order to correct violation shall contain:
    - (a) The name and address of the property owner or other person to whom the order to correct violation is directed; and



Section 24. Violations - Penalties

- (b) The street address or description sufficient for identification of the building, structure, premises, or land upon or within which the violation has occurred or is occurring; and
  - (c) A description of the violation and a reference to that provision of the zoning ordinance which has been violated; and
  - (d) A statement of the action required to be taken to correct the violation and a date or time by which correction is to be completed; and
  - (e) A statement that a monetary penalty in an amount per day for each violation shall be assessed against the person to whom the order to correct violation is directed for each and every day, or portion of a day, on which the violation continues following the date set for correction.
- (3) Service of Order. The order to correct violation shall be served upon the person to whom it is directed, either personally or by mailing a copy of the order to correct violation by certified mail, postage prepaid, return receipt requested, to such person at his/her last known address or by posting a copy of the order to correct violation conspicuously on the affected property or structure. Proof of service shall be made at the time of service by a written declaration under penalty of perjury executed by the person effecting the service, declaring the time and date of service and the manner by which service was made.
- (4) Extension. Upon written request received prior to the correction date or time, the authorized representative may extend the date set of correction for good cause. The authorized representative may consider substantial completion of the necessary correction or unforeseeable circumstances which render completion impossible by the date established as good cause.
- c. Notice of Infraction - Service. An authorized representative of the Department may issue a notice of infraction if the authorized representative reasonably believes that the provision of this ordinance has been violated. A notice of infraction may be served either by:
- (1) The authorized representative serving the notice of infraction on the person names in the notice of infraction at the time of issuance; or
  - (2) The authorized representative filing the notice of infraction with the court, in which case the court shall have the notice served either personally or by mail, postage prepaid, on the person named in the notice of infraction at his or her address.

Section 24. Violations - Penalties

- d. Notice of Infraction - Forum - Contents. The notice of infraction shall include the following:
- (1) A statement that the notice represents a determination that the infraction has been committed by the person named in the notice and that the termination shall be final unless contested as provided in this ordinance.
  - (2) A statement that the infraction is a non-criminal offense for which imprisonment shall not be imposed as a sanction;
  - (3) A statement of the specific infraction for which the notice was issued;
  - (4) A statement that monetary penalties as set forth below have been established for each infraction;
  - (5) A statement of the options provided in this ordinance for responding to the notice and the procedures necessary to exercise these options;
  - (6) A statement that at any hearing to contest the determination that the County has the burden of proving by a preponderance of the evidence, that the infraction was committed; and that the person may subpoena witnesses, including the authorized representative of the Department who issued and served the notice of infraction;
  - (7) A statement, which the person who has been served with the notice of infraction shall sign, that the person promises to respond to the notice of infraction in one of the ways provided in this chapter;
  - (8) A statement that refusal to sign the infraction as directed in Subsection 7 of this Section is a misdemeanor and may be punished by a fine or imprisonment in jail; and
  - (9) A statement that a persons failure to respond to a notice of infraction as promised is a misdemeanor and may be punishable by a fine or imprisonment in jail.
- e. Notice of Infraction - Filing - Hearing In District Court. A notice of infraction shall be filed in District Court within forty - eight hours of issuance, excluding Saturdays, Sundays, and Holidays. Kitsap County District Court shall have jurisdiction to hear and determine these matters.

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- f. Notice of Infraction - Determination Infraction Committed. Unless contested in accordance with this ordinance, the notice of infraction represents a determination that the person to whom the notice was issued committed the infraction.
- g. Notice of Infraction - Response Requesting A Hearing - Failure To Respond Or Appear - Order to Set Aside.
- (1) A person who received a notice of infraction shall respond to the notice as provided in this section within fifteen (15) days of this date the notice was served.
  - (2) If the person named in the notice of infraction does not contest the determination, the person shall respond by completing the appropriate portion of the notice of infraction and submitting it, either by mail or in person, to the court specified on the notice. A check or money order in the amount of the penalty prescribed for the infraction must be submitted with the response. When a response which does not contest the determination is received, an appropriate order shall be entered in the court's records, and a record of the response order shall be furnished to the Department.
  - (3) If the person named in the notice of infraction wishes to contest the determination, the person shall respond by completing the portion of the notice of infraction requesting a hearing and submitting it, either by mail or in person, to the court specified on the notice. The court shall notify the person in writing of the time, place, and date of the hearing. The date of the hearing shall not be earlier than seven (7) days nor more than ninety (90) days from the date of the notice of the hearing, except by agreement.
  - (4) If the person determined to have committed the civil infraction does not contest the determination but wishes to explain mitigating circumstances surrounding the infraction, the person shall respond by completing the portion of the notice of civil infraction requesting a hearing for that purpose and submitting it, either by mail or in person, to the court specified on the notice. The court shall notify the person in writing of the time, place, and date of the hearing, and that date shall not be earlier than seven (7) days nor more than ninety (90) days from the date of the notice of the hearing, except by agreement.
  - (5) The court shall enter a default judgment assessing the monetary penalty prescribed for the civil infraction, and may notify the prosecuting attorney of the failure to respond to the notice of civil infraction or to appear at a requested hearing if any person issued a notice of a civil infraction;
    - (a) Fails to respond to the notice of civil infraction as provided in subsection two (2) of this section; or

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- (b) Fails to appear at a hearing requested pursuant to either subsection three (3) or four (4) of this section. If a default judgment is entered, the court shall notify the Department of the entry of the default judgment, and the reason therefore.

h. Notice, Failure to Sign, Non-Appearance - Failure To Satisfy Penalty.

- (1) A person who fails to sign a notice of civil infraction is guilty of a misdemeanor.
- (2) Any person willfully violating his or her written and signed promise to appear in court or his or her written and signed promise to respond to a notice of civil infraction is guilty of a misdemeanor regardless of the disposition of the notice of civil infraction; provided that a written promise to appear in court or a written promise to respond to a notice of civil infraction may be complied with by appearance of counsel.
- (3) A person who willfully fails to pay a monetary penalty or to perform community service as required by a court under this chapter may be found in civil contempt of a court after notice and hearing.

i. Representation by Attorney.

- (1) A person subject to proceedings under this ordinance may appear or be represented by counsel.
- (2) The Prosecuting Attorney representing the State may, but need not, appear in any proceedings under this ordinance, notwithstanding any statute or court rule to the contrary.

j. Infraction - Hearing - Procedure - Burden of Proof - Order - Appeal.

- (1) A hearing held to contest the determination that an infraction has been committed shall be without a jury.
- (2) The court may consider the notice of infraction and any sworn statements submitted by the Department's authorized representative who issued and served the notice in lieu of his or her personal appearance at the hearing. The person named in the notice may subpoena witnesses, including the authorized representative who has issued and served the notice, and has the right to present evidence and examine witnesses present in court.

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- (3) The burden of proof is on the County to establish the commission of the infraction by a preponderance of evidence.
- (4) After consideration of the evidence and argument, the Court shall determine whether the infraction was committed. If it has not been established that the infraction was committed, an order dismissing the notice shall be entered in the Court's records. If it has been established that a civil infraction has been committed, an appropriate order shall be entered in the court's records.
- (5) An appeal from the Court's determination or order shall be to the Superior Court in the manner provided by the Rules for Appeal of Decisions of Courts of Limited Jurisdiction. The decision of the Superior is subject only to discretionary review pursuant to the Rules of Appellate Procedure.

k. Infraction - Explanation of Mitigating Circumstances.

- (1) A hearing held for the purpose of allowing a person to explain mitigating circumstances surrounding the commission of an infraction shall be an information proceeding. the person may not subpoena witnesses. The determination that a civil infraction has been committed may not be contested at a hearing held for the purpose of explaining mitigating circumstances.
- (2) After the Court has heard the explanation of the circumstances surrounding the commission of the civil infraction, an appropriate order shall be entered in the Court's records.
- (3) There shall be no appeal from the Court's determination or order.

l. Monetary Penalties - Restitution.

- (1) A person found to have committed a civil infraction shall be assessed a monetary penalty. All violations of this ordinance shall be denominated Class I Civil Infractions. The maximum penalty and default amount for a Class I Civil Infraction shall be two hundred and fifty dollars (\$250.00), not including statutory assessments.
- (2) Whenever a monetary penalty is imposed by a Court under this ordinance it is immediately payable. If the person is unable to pay at that time, the Court may grant an extension of the period in which the penalty may be paid. If the penalty is not paid on or before the time established for payment, the Court may proceed to collect the penalty in the same manner as other civil judgments and may notify the prosecuting attorney of the failure to pay. The Court shall also notify the Department of the failure to pay the penalty, and

Section 24. Violations - Penalties

the Department shall not issue the person any future permits for any work until the monetary penalty has been paid.

- (3) The Court may also order a person found to have committed a civil infraction to make restitution.
- m. Order of Court - Civil Nature - Modification of Penalty - Community Service.
- (1) An order entered after the receipt of a response which does not contest the determination, or after it has been established at a hearing that the civil infraction was committed, or after a hearing for the purpose of explaining mitigating circumstances is civil in nature.
  - (2) The Court may waive, reduce, or suspend the monetary penalty prescribed for the civil infraction. If the Court determines that a person has insufficient funds to pay the monetary penalty, the Court may order performance of a number of hours of community service in lieu of a monetary penalty, at the rate of the then State minimum wage per hour.
- n. Costs and Attorney's Fees.
- (1) Each party in a civil infraction case is responsible for costs incurred by that party, but the Court may assess witness fees against a non-prevailing respondent. Attorney's fees may be awarded to either party in a civil infraction case.

Section 25. Public Nuisance - Injunctive Relief.

Any use, building or structure in violation of this ordinance is hereby found to be unlawful and a public nuisance. Should any permit or license have been issued that was not then in conformity with the provisions of this ordinance, such permit or license shall be null and void. Notwithstanding the existence or use of any other remedy or means of enforcement of the provisions hereof, a mandatory injunction may be brought by the owner or owners of land in proximity to the land with the prescribed condition, or the prosecuting attorney may immediately commence actions for abatement, removal and enjoinder thereof, in a matter provided by law, and shall take such other steps and shall apply to such Courts as may have jurisdiction to grant such relief. The costs of such actions shall be taxed against the person violating the provisions of this ordinance.

Section 26. Written Assurance of Discontinuance., Continued

Section 26. Written Assurance of Discontinuance.

The Department may accept a written assurance of discontinuance of any act in violation of this ordinance from any person who has engaged in such act. Failure to comply with the assurance of discontinuance shall be a further violation of this ordinance.

Section 27. Construction.

This ordinance shall be liberally interpreted and construed to secure the public health, safety, morals and welfare and the rules of strict construction shall have no application.

Section 28. Severability.

If any section, subsection, sentence, clause or phrase of this ordinance or amendment thereto, or its application to any person or circumstances, is held invalid, the remainder or application to other persons or circumstances shall not be affected.

Section 29. Repealer.

Ordinance No. 43-1969 and all elements thereto and all other ordinances or resolutions inconsistent herewith to the extent of such inconsistency, are hereby repealed; Provided, such previous ordinances and resolutions shall continue to be used and shall retain vitality for the purpose of determining if uses and lots non-conforming under this ordinance were legally created.

Section 30. Effective date.

This ordinance shall be of full force and effect immediately upon passage.

PASSED this 6th day of June, 1983.

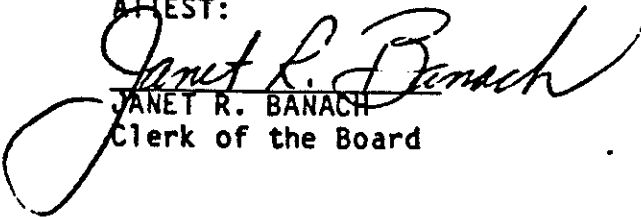
BOARD OF COUNTY COMMISSIONERS  
KITSAP COUNTY, WASHINGTON

  
\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Commissioner

  
\_\_\_\_\_  
Commissioner

ATTEST:

  
\_\_\_\_\_  
JANET R. BANACH  
Clerk of the Board