

ORDINANCE NO. 559-2018

ORDINANCE AMENDING TITLE 17 (ZONING) OF KITSAP COUNTY CODE  
REGARDING MAXIMUM LOT SIZE REGULATIONS IN URBAN GROWTH AREAS.

**BE IT ORDAINED:**

**Section 1.** **General Findings.** The Kitsap County Board of Commissioners makes the following findings:

1. Kitsap County is subject to the requirements of the Washington State Growth Management Act (GMA), Chapter 36.70A RCW.
2. The GMA, RCW 36.70A.130(5), mandates that Kitsap County's Comprehensive Plan and development regulations be reviewed and, if needed, revised at least every 8-years. The most recent Kitsap County 8-year update concluded with the adoption of the 2016 Kitsap County Comprehensive Plan on June 27, 2016 by Ordinance 534-2016.
3. The GMA, RCW 36.70A.130(1), also mandates that Kitsap County's Comprehensive Plan and development regulations be subject to continuing review and evaluation.
4. RCW 36.32.120(7) provides that the county legislative authorities shall make and enforce, by appropriate resolutions or ordinances, all such police and sanitary regulations as are not in conflict with state law.
5. After review of the Kitsap County Code, the Department of Community Development identified one code amendment that aligns with Kitsap County Comprehensive Plan policies and county-wide planning policies including: natural systems protection, livable urban communities and neighborhoods, and responsive government.

**Section 2.** **General Procedural Findings.** The Kitsap County Board of Commissioners makes the following findings regarding the public participation process:

1. On October 4, 2017, a briefing between the Board of County Commissioners and the Department of Community Development was held to discuss the proposed code amendment.
2. On October 17, 2017, at a regularly scheduled and properly noticed meeting, the Planning Commission held a work study session to review and discuss the proposed code amendment.
3. Public outreach regarding the proposed code amendment was conducted through a dedicated and up-to-date web page, direct notification to over 22,000 subscribers, and meetings with various interested parties prior to a Planning Commission public hearing.
4. An initial public comment period on the proposed code amendment was held online from October 19, 2017 through November 14, 2017.

5. On October 31, 2017, Kitsap County issued a Notice of Planning Commission Public Hearing in the legal publication of record regarding the content of the proposed code amendment.
6. On November 14, 2017, following timely and effective legal notice, the Planning Commission held a public hearing to consider written and verbal testimony on the proposed code amendment. The public comment period was extended to November 30, 2017 to receive additional written public testimony. Five comments were received through verbal testimony and written comment.
7. Public outreach included a second direct notification to over 22,000 subscribers prior to a Planning Commission deliberation.
8. On December 19, 2017, the Planning Commission considered the proposed code amendment during a regularly scheduled and properly noticed meeting, and recommended approval.
9. On January 16, 2018, the Planning Commission approved Findings of Fact on the proposed code amendment during a regularly scheduled and properly noticed meeting and forwarded them to the Board of Commissioners for consideration.
10. On January 22, Kitsap County, as lead agency for the State Environmental Policy Act (SEPA), issued a Determination of Non-Significance on the proposed code amendment.
11. On January 24, 2018, a work study between the Board of County Commissioners and the Department of Community Development was held to discuss the proposed code amendment.
12. A second public comment period on the proposed code amendment was held January 29, 2018 through February 9, 2018.
13. On February 12, 2018, following effective and timely legal notice, the Kitsap County Board of County Commissioners held a public hearing to accept testimony on the proposed code amendment and extended the public comment period to February 26, 2018.
14. On June 11, 2018, the Board of County Commissioners deliberated on the proposed code amendment and, after consideration of public comment and the entire record related to this ordinance, made a final decision to adopt this ordinance.

**Section 3. Substantive Findings.** The Board of County Commissioners makes the following findings with respect to the amendments Title 17 (Zoning) of the Kitsap County Code:

1. The proposed code amendment was developed according to, and are found to comply with, the requirements of the GMA, Chapter 36.70A RCW, the County-wide Planning Polices, the Kitsap County Comprehensive Plan, and other applicable laws and policies.

2. There has been public participation in the review of the proposed code amendment, as required by the GMA, and consistent with the State Environmental Policy Act and Kitsap County Code.
3. The proposed code amendment promotes the public interest and welfare of the citizens of Kitsap County.

**Section 4.** Kitsap County Code Section 17.420.060 'Footnotes for Density, Dimensions, and Design Tables', last amended by Ordinance 540 (2016), is amended as follows:

**17.420.060 Footnotes for tables.**

A. Where noted on the preceding tables, the following additional provisions apply:

1. Except for those buildings directly associated with timber production and harvest.
2. Except for silos and other uninhabited agricultural buildings.
3. Properties within the urban restricted (UR) zone and greenbelt (GB) may subdivide at densities below the minimum required for the zone under the following circumstances:
  - a. The reduced density provides a greater protection for critical areas or environmentally sensitive areas; and
  - b. The intent of the short subdivision or subdivision is to keep the property in the ownership of the immediate family members.
4. If a single lot of record, legally created as of April 19, 1999, is smaller in total square footage than that required under this chapter, or if the dimensions of the lot are less than required, said lot may be occupied by any reasonable use allowed within the zone subject to all other requirements of this chapter. If there are contiguous lots of record held in common ownership, each of the lots legally created as of April 19, 1999, and one or more of the lots is smaller in total square footage than required by this chapter, or the dimensions of one or more of them are less than required, said lots shall be combined to meet the minimum lot requirements for size and dimensions.
5. The Design Standards for the Community of Kingston sets forth policies and regulations for properties within the downtown area of Kingston. All development within this area must be consistent with these standards. A copy of the Design Standards for the Community of Kingston may be referred to on the Kitsap County web page or at the department of community development front counter.
6. Building replacements and remodels shall not create in excess of a total of forty percent hard surface for lot area or more than the total existing hard surface area, whichever is greater.
7. Excess area from acreage used to support proposed densities but not devoted to residential lots and public improvements such as streets and alleys shall be permanently

dedicated and reserved for community open space, park land, and similar uses. For developments proposing densities no greater than one dwelling unit per five acres, the minimum and maximum lot sizes shall not apply, except that existing dwelling units shall be allocated lot area between three thousand five hundred and seven thousand five hundred square feet. New proposals may then proceed using the five-acre lot requirements for the rural residential (RR) zone.

8. Hotels may be developed with four above-ground floors and up to a height not exceeding fifty feet with approval of the fire marshal and relevant fire district.

9. May be reduced to ten feet for residential uses through the administrative conditional use or PBD process.

10. Uses allowed through the conditional use process shall provide minimum side setbacks of ten feet and minimum rear setbacks of twenty feet.

11. Any newly created lot within the Suquamish rural village shall be subject to Chapter 16.48, Short Subdivisions, and must meet the lot requirements below:

a. Lot Requirements.

i. Minimum lot size: twenty-one thousand seven hundred eighty square feet.

ii. Minimum lot width: one hundred feet.

iii. Minimum lot depth: one hundred feet.

b. Setbacks.

i. Front: twenty feet.

ii. Side: five feet.

iii. Rear: five feet.

12. Nonconforming Lots.

a. Nonconforming Lots in Single Ownership. If a single lot of record, legally created before the adoption of the Manchester Community Plan, is less than eight thousand seven hundred twelve square feet in size or does not meet the dimensional requirements of its zone, the lot may be occupied by any use allowed within the zone subject to all other requirements of this chapter.

b. Nonconforming Lots in Common Ownership. Contiguous lots of record held in common ownership, each lot legally created before adoption of the Manchester Community Plan, must be combined to meet the minimum lot requirements of its zone if one or more of the lots are less than eight thousand seven hundred twelve square feet in size or do not meet the dimensional requirements of its zone and, at the time of adoption of the Manchester Community Plan (March 18, 2002), either (i) a residential structure encumbered more than one of the contiguous lots or (ii) two or more of the contiguous lots were vacant. If one or more of the lots is sold or otherwise removed from common

ownership after the adoption of the Manchester Community Plan, it will not be considered to meet the minimum lot requirements for nonconforming lots in single ownership. Property with two contiguous lots legally created before adoption of the Manchester Community Plan with a residential structure entirely on one lot may develop the second lot consistent with applicable zoning.

13. Residential structures within the MVC zone may not exceed twenty-eight feet.

14. Within the view protection overlay, the maximum height for buildings and new vegetation shall be twenty-eight feet. Height shall be measured from the average elevation of the property's buildable area to the structure's highest point. Kitsap County will not enforce vegetation height standards. Buildable area is considered all portions of the property except wetlands and/or geologically hazardous areas. Properties within the view protection overlay zone may build or have new vegetation as high as thirty-five feet under the following circumstances:

- a. There is no existing view of downtown Seattle, the Cascade Mountains, Mt. Rainier or the Puget Sound from the subject property or any adjacent property; or
- b. The owners of all adjacent properties approve the building height prior to building permit issuance; or
- c. It can be explicitly shown that the structure will not cause the blockage of existing views from any of the adjacent properties.

15. Clustering residential development is encouraged in all development. When clustering development, if a property owner designates forty percent of the gross acreage as naturally vegetated open space, he or she may create one additional lot for every five lots clustered. The additional lot may not reduce the naturally vegetated open space to an amount less than forty percent of the gross acreage of the development.

16. All properties within the Manchester village must also meet the requirements of the storm water management ordinance, Chapters 12.04 through 12.32.

17. A greater height may be allowed as set forth below and in accordance with the procedures in Title 21. Such approval must be consistent with the recommendations of the fire marshal/fire district and compatible with surrounding uses and zones. Such approval shall result in a decrease in building coverage, an increase in public amenities, and/or a more creative or efficient use of land. The maximum building height approved by the director shall not exceed:

- a. In the NC and P zones: forty-five feet.
- b. In the UH and C zones: sixty-five feet.
- c. In the UM, BP, BC, and IND zones: fifty-five feet.
- d. Height and density requirements for urban high and regional center reflected in Table 17.420.050(D), Silverdale Regional Center and Design District Density and Dimension Table.

18. The minimum and maximum densities within the range are based upon the net acreage of the property(ies) after the removal of critical areas. In determining a development proposal's actual density within the range, the features of the subject parcel including on-site or adjacent wetlands, streams or steep slopes shall be considered first.

19. Reserved.

20. Reserved.

21. Twenty feet when abutting a residential zone.

22. Maximum height shall be thirty feet when located within the two-hundred-foot shoreline area.

23. The minimum site setback shall be seventy-five feet for any yard abutting a residential zone, unless, based upon a site-specific determination, berming and landscaping approved by the director is provided that will effectively screen and buffer the business park activities from the residential zone that it abuts; in which case, the minimum site setback may be reduced to less than seventy-five feet but no less than twenty-five feet. In all other cases, minimum site setbacks shall be twenty feet.

24. An individual structure intended for future mixed commercial and residential uses may initially be used exclusively for residential use if designed and constructed for eventual conversion to mixed commercial and residential use once the urban village center matures.

25. For new building permit applications on vacant lots over eighteen thousand square feet located in urban low residential (ULR) and urban cluster residential (UCR) zones, the maximum lot size shall not exceed nine thousand square feet; ~~provided, however, that this restriction shall not apply if it conflicts with a condition imposed through subdivision approval.~~ This restriction shall not apply if:

a. The net developable area of the existing parcel is less than eighteen thousand square feet;  
or

b. The project application will meet minimum density requirements as established by chapter 17.420 'Density, Dimensions, and Design'.

26. No service road, spur track, or hard stand shall be permitted within required yard areas that abut a residential zone.

27. As approved by the director, wherever an industrial zone abuts a residential zone, a fifty-foot screening buffer area shall be provided. This screening buffer is intended to reduce impacts to abutting residential uses such as noise, light, odors, dust and structure bulk. No structures, open storage, or parking shall be allowed within this area. The director shall only approve screening buffers that improve the compatibility between the proposed use and the residential zone. The director may reduce this buffer to a minimum of twenty-five-foot width only when based upon a site-specific determination that topography, berming or other screening features will effectively screen industrial activities from the residential zone.

Conversely, based upon a similar site-specific determination, the director may increase the buffer width from fifty feet to ensure adequate buffering and compatibility between uses.

28. Unless part of an approved zero-lot-line development.
29. One-hundred-foot setback required for single-family buildings abutting FRL or RW zones.
30. No minimum lot size if property is used only for extraction.
31. Three hundred thirty feet if activity includes any uses in Section 17.170.020.
32. Existing lots developed with existing single-family residences are permitted to be maintained, renovated and structurally altered. Additions to existing residential structures in order to provide commercial uses are also permitted regardless of density.
33. Except for the height and density requirements reflected in Table 17.420.050(D), Silverdale Regional Center and Design District Density and Dimension Table, all development within the Silverdale design district boundaries must be consistent with the Silverdale Design Standards.
34. Development abutting a street for which a standard has been established by the Kitsap County arterial plan shall provide a special setback from the centerline of said street or a distance adequate to accommodate one-half of the right-of-way standard established by the arterial plans for the street. The building setback required by the underlying zone shall be in addition to the special setback and shall be measured from the edge of the special setback line. The special setback area shall be treated as additional required yard area and reserved for future street widening purposes.
35. Reserved.
36. For standards applicable to master planned industrial developments and approved industrial parks, see Sections 17.320.030 and 17.330.030.
37. Adjacent to airports, the director may impose height restrictions and/or other land use controls, as deemed essential to prevent the establishment of air space obstructions in air approaches to protect the public health, safety and welfare consistent with Federal Aviation Regulations (FAR) Part 77.
38. Cornices, canopies, eaves, belt courses, sills or other similar architectural features, or fireplaces may extend up to twenty-four inches into any required yard area.
39. Reserved.
40. Height limitations set forth elsewhere in this title shall not apply to the following: barns, silos, or other farm buildings and structures, provided they are not less than fifty feet from every lot line; chimneys, spires on places of worship, belfries, cupolas, domes, smokestacks, flagpoles, grain elevators, cooling towers, solar energy systems, monuments, fire house towers, masts, aerials, elevator shafts, and other similar projections; and outdoor theater screens, provided said screens contain no advertising matter other than the name of

the theater. The proponent seeking exception to the height limitation shall certify that the object being considered under this provision will not shade an existing solar energy system which, by the determination of the director, contributes substantially to the space or water-heating requirements of a building.

41. The following exceptions apply to front yard requirements for dwellings:

- a. If there are dwellings on both abutting lots with front yards less than the required depth for the zone, the front yard for the lot need not exceed the average front yard of the abutting dwellings.
- b. If there is a dwelling on one abutting lot with a front yard less than the required depth for the zone, the front yard need not exceed a depth of halfway between the depth of the front yard on the abutting lot and the required front yard depth.
- c. If a modification to the front yard requirement is necessary in order to site dwellings in a manner that maximizes solar access, the director may modify the requirement.
- d. On lots with multiple front yards, the front yard setback(s) in which the lot does not receive access may be modified by the director. Based upon topography, critical areas or other site constraints, the director may reduce these front yard setbacks to a minimum of twenty feet for properties requiring fifty feet and ten feet for properties requiring twenty feet. The director may not modify front yard setbacks from county arterials or collectors. Such reductions shall not have an adverse impact to surrounding properties.

42. The following exceptions apply to historic lots:

- a. Building setback lines that do not meet the requirements of this title but were legally established prior to the adoption of this title shall be considered the building line for alterations, remodels, and accessory structures on the lot or parcel; providing, that no structure or portion of such addition may further project beyond the established building line.
- b. Any single-family residential lot of record as defined in Chapter 17.110 that has a smaller width or lot depth than that required by this title, or is less than one acre, may use that residential zoning classification that most closely corresponds to the dimension or dimensions of the lot of record, for the purpose of establishing setbacks from the property lines.

43. Any structure otherwise permitted under this section may be placed on a lot or parcel within a required yard area if the director finds that such a location is necessary because existing sewer systems or roadways make compliance with the yard area requirements of this title impossible without substantial changes to the site.

44. Outside of the Silverdale subarea, densities required only with mixed use development.

45. Density in the KVL R zone may be increased to three units per acre through a performance-based development (PBD) process pursuant to the regulations cited in Section 17.360A.030(B).



46. Front porch must meet following requirements to qualify for five-foot front setback:
  - a. Porch shall be forty percent open on each of two sides; no enclosed porches.
  - b. Minimum porch dimensions shall be four feet by six feet, or twenty-four square feet.
  - c. Porches shall not be less than four feet in width.
47. The 2007 Manchester Community Plan, Appendix A – Manchester Design Standards sets forth policies and regulations for properties within the Manchester village commercial district (MVC). All developments within the MVC district must be consistent with these standards.
48. Cornices, canopies, eaves, belt courses, sills, bay windows, fireplaces or other similar cantilevered features may extend up to twenty-four inches into any required yard area. In no case shall a habitable area be considered for encroachment into a required yard through any land use process. Additionally, fire escapes, open/uncovered porches, balconies, landing places or outside stairways may extend up to twenty-four inches into any required side or rear yards, and shall not extend more than six feet into any required front yard. This is not to be construed as prohibiting open porches or stoops not exceeding eighteen inches in height, and not closer than twenty-four inches to any lot line.
49. Minimum project size applies to the initial land use application for the property such as master plan, PBD or other mechanism. Subsequent subdivision through platting or binding site plan consistent with scope and conditions of the land use approval is not required to meet this minimum size.
50. New or remodeled structures within the Illahee view protection overlay zone may not exceed twenty-eight feet. Kitsap County will not enforce vegetation height standards.
51. Reserved.
52. No motor vehicle parking allowed within the front yard setback. See also Section 17.400.060 regarding conditions under which maximum setbacks may increase, as well as parking location standards.
53. Within the Gorst urban growth area, density, impervious surface coverage and height may be increased to the maximum listed in the density and dimensions table through compliance with the incentive program described in Section 17.400.080(B).
54. Standard listed applicable to Gorst UGA only.
55. Parcels located within the Silverdale Regional Center shall refer to the design standards identified in Table 17.420.050(D), Silverdale Regional Center and Design District Density and Dimension Table.
56. Height and density may be increased through Chapter 17.450, Performance Based Development, or if a project qualifies as mixed use development and meets modification or waiver request criteria as identified in Section 17.420.035, Additional mixed use development standards.

57. Mixed use projects are not required to meet the minimum density requirements.

**Section 5. Severability.** If any provision of this ordinance or its application to any person or circumstance is held invalid or unconstitutional, the remainder of the ordinance or its application to other persons or circumstances shall not be affected.

**Section 6. Scrivener's Error.** Should any amendment to Kitsap County Code that was passed by the Board during its deliberations on this Ordinance be inadvertently left out upon publication, the explicit action of the Board as discussed and passed shall prevail upon subsequent review and verification by the Board.

**Section 7. Effective Date.** This Ordinance shall take effect thirty days after the adoption date.

ADOPTED this 11th day of June, 2018.

BOARD OF COUNTY COMMISSIONERS  
KITSAP COUNTY, WASHINGTON



ROBERT GELDER, Chair



EDWARD E. WOLFE, Commissioner




CHARLOTTE GARRIDO, Commissioner



ATTEST:

  
Dana Daniels, Clerk of the Board

APPROVED AS TO FORM:

  
Deputy Prosecuting Attorney