

ORDINANCE No. 77-93

MASON COUNTY
INTERIM RESOURCE ORDINANCE

An ordinance creating a new chapter, Chapter 17.01, in the Mason County Code; amending Ordinance 99-84, the County Environmental Policy Ordinance; and amending Mason County Title 16, the County Subdivision regulations.

WHEREAS; Twenty (20) meetings were held by the Growth Management Ad-Hoc Committee to develop this ordinance; and

WHEREAS; Eight (8) meetings were held by the Growth Management Ad-Hoc Committee on Wetlands and Critical Aquifer Recharge Areas to develop this ordinance; and

WHEREAS; Six (6) meetings were held by the Growth Management Ad-Hoc Committee on Geologic Hazard Areas to develop Sections this ordinance; and

WHEREAS; Six (6) meetings were held by the Growth Management Ad-Hoc Committee on Aquatic Management Areas and Terrestrial Habitat Management Areas to develop this ordinance; and

WHEREAS; Eleven (11) meetings were held by the Growth Management Ad-Hoc Committee on Resource Lands to develop this ordinance; and

WHEREAS; Three (3) public workshop meetings were held by the Board of Mason County Commissioners and the Ad-Hoc Committee to take public input and has recommended adoption of this ordinance; and

WHEREAS; The Board of Mason County Commissioners held a public hearing on July 6, 1993 for the purpose of considering recommendations to the ordinance; and

WHEREAS; The County reviewed RCW 36.70A and the State Department of Community Development Guidelines carefully in its deliberations; and

WHEREAS; The County reviewed the "US Army Corp of Engineers Wetlands Delineation Manual, 1987" in its deliberations on appropriate wetland protection regulations and chose to make changes from said manual because of local conditions and needs;

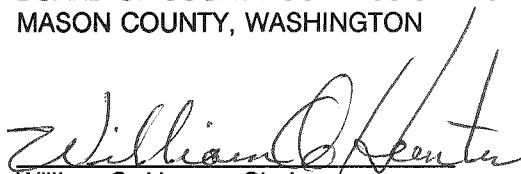
WHEREAS; The County desires to protect its resource lands and critical areas by classifying, designating and regulating these lands under the Growth Management Act of 1990;

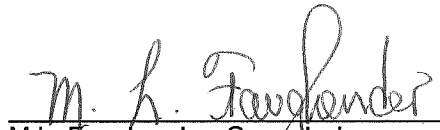
NOW THEREFORE, BE IT ORDAINED, that the Board of Mason County Commissioners hereby adopt the attached document entitled "Mason County Interim Resource Ordinance."

This Ordinance is adopted and shall be in full force, and effective this date, October 1, 1993.

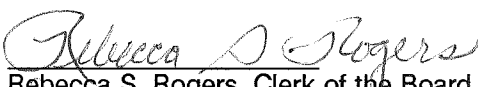
DATED this 3rd day of August, 1993.

BOARD OF COUNTY COMMISSIONERS
MASON COUNTY, WASHINGTON



William O. Hunter, Chairperson


M.L. Faughender, Commissioner

ATTEST:


Rebecca S. Rogers, Clerk of the Board

APPROVED AS TO FORM:


Chief Prosecuting Attorney
Michael Clift


Laura E. Porter, Commissioner

MASON COUNTY INTERIM RESOURCE ORDINANCE

<u>SECTION</u>	<u>TITLE</u>	<u>PAGE</u>
17.01.010	AUTHORITY	1
17.01.020	PURPOSE	1
17.01.040	ESTABLISHMENT OF DESIGNATED LANDS	2
17.01.050	RELATIONSHIP TO OTHER REGULATIONS	4
17.01.060	LONG-TERM COMMERCIAL FOREST LANDS	6
17.01.062	INHOLDING LANDS	10
17.01.064	AGRICULTURE & FOREST MANAGEMENT NON-DESIGNATED LANDS	12
17.01.066	MINERAL RESOURCE LANDS	13
17.01.068	ADDITIONAL RESOURCE LAND PROVISIONS	17
17.01.070	WETLANDS	18
17.01.080	CRITICAL AQUIFER RECHARGE AREAS	23
17.01.090	FREQUENTLY FLOODED AREAS	26
17.01.100	LANDSLIDE HAZARD AREAS	27
17.01.102	SEISMIC HAZARD AREAS	32
17.01.104	EROSION HAZARD AREAS	33
17.01.110	AQUATIC MANAGEMENT AREAS	34
17.01.112	TERRESTRIAL MANAGEMENT AREAS	37
17.01.120	DEVELOPMENT REVIEW PROCESS	37
17.01.130	APPLICATION FOR RESOURCE REDESIGNATION	46
17.01.140	NONCONFORMING USES	49
17.01.150	VARIANCES FROM STANDARDS	50
17.01.160	TEMPORARY USES	52
17.01.170	EMERGENCY ACTIONS	53
17.01.180	APPEALS	54
17.01.190	JUDICIAL REVIEW	54
17.01.200	ENFORCEMENT	55
17.01.210	SEVERABILITY	60
17.01.220	INTERIM REGULATIONS	60
17.01.230	EVALUATION	60
17.01.240	DEFINITIONS	61
	CHANGES TO OTHER MASON COUNTY LAWS	69
	County Environmental Policy Ordinance	69

August 2, 1993

ORDINANCE NO. _____

**MASON COUNTY
INTERIM RESOURCE ORDINANCE**

An ordinance creating a new chapter, Chapter 17.01, in the Mason County Code; amending Ordinance 99-84, the County Environmental Policy Ordinance; and amending Mason County Title 16, the County Subdivision regulations.

CHAPTER 17.01 MASON COUNTY CODE

17.01.010 AUTHORITY

This Chapter shall be known as the Mason County Interim Resource Ordinance and is hereby adopted under the authority of Chapters 36.32, 36.70, 36.70A, 39.34, 58.17, 76.09, 84.33, 84.34, and 90.58 RCW. It shall become effective as provided by law.

17.01.020 PURPOSE

The purpose of the Interim Resource Ordinance is to protect Mason County's natural resource lands and critical areas while the County develops its comprehensive plan and associated regulations. The regulations established in this Chapter, adopted by Ordinance No. _____, seek to:

Establish uniform processes to be used by Mason County for the review of land use and development proposals within critical areas and resource lands.

Conserve resource lands for productive economic use by identifying and designating resource lands where the principal and preferred land use is commercial resource management, and by protecting the same from incompatible land uses.

Protect the identified critical areas in their natural functions, along with air and water quality, to sustain the County's quality of life.

Encourage creative development techniques and land use practices which will help to accomplish these goals.

This ordinance fulfills the goals of the State Growth Management Act (RCW 36.70A et al) and the State Environment Policy Act (RCW 43.21).

17.01.040 ESTABLISHMENT OF DESIGNATED LANDS

A. DESIGNATION AUTHORITY

Under authority of 36.70 and 36.70A RCW, portions of Mason County are hereby designated as critical areas and/or resource lands as are necessary to protect the natural environment, protect public and private property, maintain and enhance natural resource based industries, and enhance the health, safety and welfare of the public.

B. SCOPE OF AUTHORITY

1. Within the designated resource lands and critical areas established by this Chapter, all buildings or structures which shall be erected, reconstructed, altered, enlarged or relocated; all lots or parcels which shall be created, used or developed; all grading or land clearing which shall be engaged in, and all other land uses, shall be in compliance with this Chapter. All development and uses which are not "Permit Required", or "Conditional Uses" must meet the terms of this Chapter, and any applicable regulations listed in Section 17.01.050. This Chapter establishes standards and review processes for all proposed uses which shall be followed prior to commencement of those uses.
2. Areas in Mason County in one or more critical areas or resource lands, may be subject to regulations pursuant to this Chapter. When an area is designated under more than one critical area or resource land, all applicable sections of this Chapter shall be met; provided any and all permit processing shall occur concurrently. In case of conflict, the more protective provision shall prevail.

C. BOUNDARIES OF DESIGNATED LANDS

1. Designated resource lands and critical areas are bounded and defined, in part, as shown on the following official maps of Mason County, which together with all explanatory materials contained thereon, are hereby made a part of this Chapter. These maps will automatically be updated as new data becomes available.
 - a. "Mason County Long-Term Commercial Forest and Inholdings Map"
 - b. "Water Type Reference Maps of Mason County", Department of Natural Resources, Types II, III, and IV Waters Only.
 - c. "Mason County Soil Survey Map", United States Department of Agriculture; Series 1951, No. 9.
 - d. "Mason County Critical Aquifer Recharge Areas Map"
 - e. "The Flood Insurance Study for Mason County", U.S. Federal Emergency Management Agency
 - f. "National Wetlands Inventory", U.S. Fish and Wildlife Service, and all Mason County Maps referencing wetlands.

Each map shall state the source or sources of scientific and other methodologies used in the determination of boundaries, and all maps shall be individually stored and available for review at the Mason County Department of Community Development.

2. The actual presence or absence of lands which meet the designation criteria for a specific critical area or resource land shall govern the treatment of a specific development proposal. When classification criteria contain both map references and non-map criteria to be reviewed

on-site, the non-map criteria shall take precedence. When, through project review, lands or waters are discovered which are required by the text of this Chapter to be designated in another classification than that shown on the map, the text designation shall take precedence over mapping, and any development therein or thereon shall comply with this Chapter. The property owner or the County may initiate a reclassification procedure pursuant to Section 17.01.130 of this Chapter, wherein any official map shall also be amended to conform to the redesignation.

3. Interpretation of Boundaries

The following rules shall be used to determine the precise location of any designation boundary shown on any official critical area or resource land map of Mason County:

- a. Boundaries shown as following or approximately following the limits of any city shall be construed as following such limits.
- b. Boundaries shown as following or approximately following roads or streets shall be construed to follow the centerline of such roads or streets.
- c. Boundaries which follow or approximately follow platted lot lines or assessor's parcel boundary lines shall be construed as following such lines.
- d. Boundaries shown as following or approximately following section lines, half-section lines, or quarter-section lines shall be construed as following such lines.
- e. Boundaries shown as following or approximately following shorelines of any lakes or Puget Sound shall be construed to follow the ordinary high water lines of such bodies of water, and, in the event of change in the ordinary high water line, shall be construed as moving with the actual ordinary high water line.
- f. Boundaries shown as following or approximately following the centerline of streams, rivers, or other continuously flowing water courses shall be construed as following the channel centerline of such water courses taken midway between the ordinary high water marks of such channel, and, in the event of a natural change in the location of such streams, rivers, or other water courses, the designation boundary shall be construed as moving with the channel centerline.
- g. Boundaries shown as separated from, and parallel or approximately parallel with, any of the features listed in paragraphs a through f above shall be construed to be parallel with such features and at such distances therefrom as are shown on the map.

4. Interpretation of Parcel Sizes

The following rules shall be used to interpret parcel or property sizes for determinations in classifications, designations, and regulations of this Chapter:

- a. Parcels legally described as 1/256th of a section shall be equivalent to 2.5 acres (1.08 hectares).
- b. Parcels legally described as 1/128th of a section shall be equivalent to 5 acres (2.15 hectares).
- c. Parcels legally described as 1/64th of a section shall be equivalent to 10 acres (4.03 hectares).
- d. Parcels legally described as 1/32nd of a section shall be equivalent to 20 acres (8.06

hectares).

e. Parcels legally described as 1/16th of a section shall be equivalent to 40 acres (16.12 hectares).

f. Parcels legally described as 1/8th of a section shall be equivalent to 80 acres (32.24 hectares).

g. Property legally described as 1 section shall be equivalent to 640 acres (257.92 hectares).

5. Preferential Right To Manage Resources - "Right to Forestry", "Right to Farm", "Right to Mine"

Description of Preferential Rights

a. No resource use or any of its component activities shall be or become a nuisance, private or public, by any changed conditions in or about the locality thereof after the same has been in operation for more than five years, when such operation was not a nuisance at the time the operation began; provided that the provisions of this subsection shall not apply whenever a nuisance results from the negligent or improper operation of any such operation or its component activities, and the property owner follows the standards of this Chapter.

b. A resource operation shall not be found to be a public or private nuisance if the operation conforms to local, state, and federal law and best management practices.

c. A farm or forest operation shall not be restricted to time of day or days of the week, but shall be conducted according to best management practices pursuant to State law.

d. A farm or forest operation shall be free from excessive or arbitrary regulation.

17.01.050 RELATIONSHIP TO OTHER REGULATIONS

A. GENERAL PROVISION

No permit granted pursuant to this Chapter shall remove an applicant's obligation to comply in all respects with the applicable provisions of any other Federal, State, or local law or regulation, including, but not limited to, the acquisition of any other required permit or approval.

B. STATE ENVIRONMENTAL POLICY ACT

This Chapter is an officially adopted land use policy of Mason County and shall be a basis for analyzing development proposals pursuant to 43.21c RCW. The areas described on adopted critical area maps, pursuant to Section 17.01.040.C.1, are declared sensitive areas under provisions of WAC 197-11-908.

C. MASON COUNTY POLICIES AND REGULATIONS

1. The following adopted County policies and regulations shall be enforced consistent with the terms of this Chapter:

a. Uniform Building Code

b. Uniform Fire Code

c. Mason County Health Code

d. Mason County Environmental Policy Ordinance

- e. Mason County Mobile Home and Recreational Vehicle Ordinance
- f. Mason County 6-year Transportation Improvement Program
- g. Title 16, Mason County Subdivision Ordinance including Large Lot Requirements
- h. Parking Standards Ordinance
- i. Other adopted ordinances by Mason County

Where this Chapter is found inconsistent with any of the above documents, the more applicable terms shall prevail. All county application forms, review procedures, or standards that are inconsistent with this Chapter shall be amended within three months of adoption of this Chapter; except where to do so would require approval by State authorities, or extended local public review, in which case, no time limit is established.

2. Responsibilities of Mason County Departments of Building, Health and Public Works.

For all development applications under the purview of the Mason County Building Official, Health Director, and/or Public Works Director, and in the course of their respective standard site inspection programs, a site inspection shall be performed to determine whether the site has lands, waters or shorelands that are likely to meet the designation criteria for one or more County Resource Lands or Critical Areas. If a site is found likely to contain such lands, the Building Official, Health Director and/or Public Works Director shall notify the Director of Community Development of that interpretation and any permit under their authority shall not be approved until:

- a. The Director of Community Development finds that the site does not contain any lands, shorelands, or waters subject to regulations under this Chapter; or
- b. The Director of Community Development finds that the site does contain lands, shorelands, or waters subject to regulations under this Chapter and the proposed development is in compliance with all regulatory and procedural requirements of this Chapter.

D. SHORELINE MASTER PROGRAM AND FLOOD DAMAGE PREVENTION REGULATIONS

All policies and regulations of this Chapter are compatible and consistent with the following adopted County policies and regulations:

- 1. Mason County Flood Damage Prevention Ordinance (MCFDPO)
- 2. Mason County Shoreline Master Program (MCSMP)

While there are no inherent conflicts between this Chapter and the MCFDPO, and the MCSMP, there may be sections that overlap as in the case of Section 17.01.100 Landslide Hazard Areas. Where such Sections overlap, the more applicable policy or regulation between either of the above documents and this Chapter shall prevail.

All activities and developments that are subject to approval under provisions of this Chapter that also require approval of the MCFDPO, shall be processed under provisions of the MCFDPO and shall meet all the standards of this Chapter. Granting of approval of the MCFDPO shall constitute compliance with this Chapter.

All activities and developments that are subject to approval under provisions of this Chapter that also require approval of the MCSMP, shall be processed concurrently with provisions of the MCSMP and shall meet all the requirements of this Chapter.

1 **17.01.060 LONG-TERM COMMERCIAL FOREST LANDS**

2
3 The purpose of this Section is to maintain and enhance natural resource based industries, to encourage the
4 conservation of commercial forest lands, to have no net loss of forest lands, and to discourage incompatible
5 land use.

6
7 **A. CLASSIFICATION**

8
9 The following criteria, as they existed on January 31, 1992, shall be used in classifying Long-Term
10 Commercial Forest Lands:

- 11
12 1. Property tax classification: Property is enrolled, as of January 31, 1992 in the Open Space -
13 Timber or Designated Forest or Classified Forest property tax classification program pursuant
14 to Chapter 84.33 or 84.34 RCW, or is owned by a state or local governmental body with long-
15 term forest management as its primary use; and
16
17 2. Minimum block size is 5000 acres (2015 hectares) which shall consists of a minimum parcel
18 size of 80 acres within said block, and which can be in multiple ownerships; and
19
20 3. In any one block, no more than 5% is used for non-resource use; and
21
22 4. The property is greater than two (2) miles (3220 meters) from a sanitary sewer line; and
23
24 5. The property is greater than 2 miles (3220 meters) from the city limits of Shelton or outside any
25 designated urban growth boundaries in Mason County, when so established by the County; and
26
27 6. 50% or more of an ownership parcel shall have a Douglas Fir Site Index of 118 (Land Grade
28 2) or better pursuant to WAC 458-40-530. In addition, those property owners who have more
29 than 4000 acres of property within Mason County that meet that criterion, shall also include
30 all properties with a Douglas Fir Site Index of 99 (Land Grade 3) or better pursuant to WAC
31 458-40-530; and
32
33 7. Greater than 50% of the linear frontage of the perimeter of any parcel meeting classification
34 criteria 1 - 6 above shall abut parcels that are greater than five (5) acres (2.15 hectares).
35
36 8. In addition, the property that is equal to or greater than 40 acres in size, or is a Government
37 Lot; and is contiguous with property under the same ownership that meet classification criteria
38 1 - 7 above.
39
40 9. In addition, property that is composed of one or more parcels 40 acres (16.12 hectares) or
41 greater in size that borders United States Forest Service property on more than one side,
42 irrespective of its consistency with classification criteria 1 - 8 above.

43
44 **B. DESIGNATION**

45
46 Lands of Mason County meeting the classification criteria for Long-Term Commercial Forest Land, and
47 so specified on the official Mason County Map, available at the Mason County Planning Department,
48 titled, "Mason County Long-Term Commercial Forest Lands and In-holding Lands, 1991" or as
49 thereafter amended, are hereby designated, under RCW 36.70A.060 and RCW 36.70A.170, as
50 conservation areas for forest resource lands of long-term commercial significance.

51
52 Exempted from this designation are the lands described in 17.01.062 Inholding Lands, in
53 17.01.062 A and B.
54

1 C. LAND USES

2
3
4 Uses and activities determined by the Director to have the potential to cause an impact on the purpose
5 of the Long-term Commercial Forest designated area, shall be considered an Unspecified Conditional
6 Use, and is appealable to the Board of Commissioners. Unspecified uses and activities may not be
7 incompatible with long-term resource uses of surrounding properties.

8 1. Mason Environmental Permit Required Uses

- 9
10 a. "Class IV - General Forest Practices" under the authority of the "1992 Washington
11 State Forest Practices Act Rules and Regulations", WAC 222-12-030, or as thereafter
12 amended; which involve conversion to a Permit Required Use.
13
14 b. Saw mills, shake and shingle mills, plywood mills and the production of green veneer,
15 particle board plants and other products from wood residues, chippers, pole yards, log
16 sorting and storage, buildings for debarking, drying kilns and equipment, accessory
17 uses including but not limited to scaling and weighing stations, temporary crew
18 quarters, storage and maintenance facilities, residue storage and disposal areas and
19 other uses involved in the harvesting and commercial production of forest products.
20
21 c. Forestry, environmental and natural resource facilities.
22
23 d. Public and semi-public structures including but not limited to fire stations, utility
24 substations, and energy transmission facilities equal to or greater than 235 KV.
25
26 e. All other accessory structures and uses that are customarily associated with and
27 secondary to the primary permitted uses.
28
29 f. Publicly developed low intensity recreational facilities including but not limited to parks,
30 campgrounds, and boat launches.
31
32 g. Other uses and activities determined by the Director to be potentially incompatible
33 uses, and requiring a similar level of County review as other Permit required uses.
34

35 2. Mason Conditional Environmental Permit Required Uses

- 36
37 a. "Class IV - General Forest Practices" under authority of the "1992 Washington State
38 Forest Practices Act Rules and Regulations", WAC 222-12-030, or as thereafter
39 amended; which involve conversion to a Conditional Use.
40
41 b. State correction work camps to supply labor for forest management related work
42 projects and for forest fire control.
43
44 c. Aircraft landing fields.
45
46 e. Sludge application.
47
48 f. Unspecified Conditional Uses: Uses and activities not specifically Exempt, Permit
49 Required, or Conditional, but are determined by the Director to have the potential to
50 cause an impact on the intent of the Long-term Commercial Forest designated area,
51 shall be considered an Unspecified Conditional Use, and is appealable to the Board of
52 Commissioners. Unspecified Conditional Uses may not be incompatible with the long-
53 term resource use on surrounding properties.
54
55

D. DEVELOPMENT STANDARDS

1. Lot Size/Density

The minimum lot size for any new subdivision, short subdivision or large lot segregation of property shall be 80 acres. Exceptions to this minimum lot size may occur for non-residential Permit Required and Conditional Uses and facilities; provided that the County finds that there will be no impact on surrounding resource uses and further provided that a restrictive covenant be placed on said property by the property owner, to be held by the County, prohibiting future residential use. Limitations on density and uses are designed to provide timber resource protection and to ensure compatible uses.

E. PREFERENTIAL RIGHT TO MANAGE RESOURCES AND RESOURCE USE NOTICES

1. For land owners who have land designated as Long-Term Commercial Forest, provisions of "Right to Forestry" provided under Section 17.01.040.C.5 shall fully apply.

2. Resource Use Notices

a. For properties Designated Long-Term Commercial Forest Land upon application of the property owner or owners pursuant to Section 17.01.130 of this Chapter:

Within two (2) weeks of redesignation to Long-Term Commercial Forest Land, the property owner(s) of said land shall submit to the County, for recording with the County Auditor, a written notice of the designation. This notice shall be in a form authorized by the Director and shall include:

- (1) The legal description of the property subject to the designation.
- (2) The sixteenth (1/16) section or sections in which lie:
 - (a) the designated property; and
 - (b) any other property within 300 feet of the boundary of the designated property.
- (3) The following statement:

"NOTIFICATION

This notification is to inform property owners that the property described herein is adjacent to or within 300 feet of land managed for commercial forestry, mining, or agriculture. Mason County has established designated Long-Term Commercial Forest Land that sets as a priority the use of these lands for commercial forest management, mining, and agriculture. Residents of this property may be subject to inconvenience or discomfort associated with the uses, including, but not limited to, occasional dust, noise, and odor from commercial thinning, clear cutting, slash burning, blowdowns, surface mining, and/or chemical applications. Residents of adjacent property within 300 feet of said lands, should be prepared to accept such inconvenience or discomfort from normal and necessary operations."

The forest owner shall execute and acknowledge the notice, and pay the fee for recording the notice to the County.

b. For properties Designated Long-Term Commercial Forest Land pursuant to Section

17.01.060.B of this Chapter:

Within two (2) months of the effective date of this Chapter, the Director shall submit to the County Auditor for recording, a written notice of all County initiated and Designated Long-Term Commercial Forest Lands. This notice shall be in a form similar to "a" above.

The Director shall execute and acknowledge the notice, and no affected property owner shall be charged a fee for recording the notice.

- c. For all properties within 300 feet of designated Long-Term Commercial Forest Land: All new plats, short subdivisions, large lot subdivisions, and building permits issued by Mason County for development activities on any property designated as Long-Term Commercial Forest Land, or within 300 feet thereof, shall contain a notice as specified in "a.(3)" above.
- d. It shall be the responsibility of any property owner who contemplates placement of any structure requiring a building permit within 50 feet of any designated Long-Term Commercial Forest Land property to notify the Forest Land owner of their intent to do so.

Notice shall be made by written letter, sent by certified U.S. mail, with return receipt, to notify the owner of the adjacent Long-Term Commercial Forest Land. Enclosed with the letter shall be a copy of the proposed plot plan showing approximate placement of said structure.. Notice must be mailed before any construction begins.

A copy of the Certified notice shall be attached to the building permit application by the applicant and the County Building Director shall not issue the permit until at least 15 days, after the date of the mailing of the Certified notice, or upon affirmative response from the Long-Term Commercial Forest owner.

The requirement to notify shall in no way be a requirement upon the property owner to place any specific setback upon the proposed structure, but shall be a period of time to allow time for the Long-Term Forest land owner to explain the possible benefits to the property owner as to a larger buffer between the proposed structure and the Long-Term Commercial Forest Lands.

17.01.062 INHOLDING LANDS

The purpose of this Section is to mitigate potential incompatible land uses between the Long-Term Commercial Forest Lands and the neighboring Inholding Lands.

A. CLASSIFICATION

The following criteria, as they exist at the time of adoption of this Chapter, shall be used in determining In-holding Lands:

1. Lands that as a block are surrounded on all sides by designated Long-Term Commercial Forest Lands; or in the case of properties abutting another County on at least one side, lands that are surrounded in Mason County by properties designated Long-Term Commercial Forest Lands; and maximum block size is less than 640 acres (257.92 hectares) in size; and lands that do not meet the classification criteria for Long-Term Commercial Forest Lands.
2. Lands which meet the criteria for long-term commercial forest lands pursuant to Section 17.01.060.A of this Chapter and are within 400 feet of the Cloquallum/Lake Communities border as of the effective date of this Chapter. Said border to be that defined on the official Map of "Mason County Long-Term Commercial Forest Lands and Inholding Lands."

The intent of this classification is to mitigate potential incompatible land uses between the Long-Term Commercial Forest Land and the neighboring Inholding Lands.

B. DESIGNATION

Lands of Mason County meeting the classification criteria for In-holding Lands, and so specified on the official Mason County Map, available at the Mason County Planning Department, titled, "Mason County Long-Term Commercial Forest Lands and Inholding Lands, 1991" or as thereafter amended, are hereby designated, under RCW 36.70A.060 and RCW 36.70A.170, as crucial areas for the conservation of forest resource lands of long-term commercial significance.

The 400 foot strip described in 17.01.062.A.2, shall not be designated as Long-Term Commercial Forest Land.

C. LAND USES

Permit Required and Conditional Uses within Inholding Lands are the same as for designated Long-Term Commercial Forest Lands, with the exception that mining and related activities are Conditional Uses if the County has authority to make such determination pursuant to the State Surface Mining Act, RCW 78.44 or as thereafter amended.

Land uses in the 400 foot strip designated in 17.01.062.B shall be the same as Inholding Lands.

D. DEVELOPMENT STANDARDS

The following development standards for Inholding Lands shall apply to the 400 foot strip designated in 17.01.062.B.

1. Lot Size/Density

The minimum lot area for any new subdivision, short subdivision or large lot segregation of property shall be five (5) acres (2.15 hectares). Exceptions to this minimum lot size may occur for non-residential Permit Required and Conditional Uses and facilities; provided that the County Approval Authority finds that there will be no impact on surrounding resource uses and further

provided that a restrictive covenant be placed on said property, to be held by the County, prohibiting future residential use.

Average residential densities for any new subdivision or short subdivision of property may be increased up to one (1) unit per two and one half (2.5) acres (1.08 hectares); provided all of the following conditions can be met:

- a. The property to be divided is at least twenty (20) acres (8.06 hectares) in size; and
- b. Each residential lot created is no more than one (1) acre (0.40 hectares) in size; and
- c. All identified residential building sites are located outside any one hundred-year (100-year) floodplains, geologically hazardous areas, or other critical areas; and
- d. The County Approval Authority finds that the design of said subdivision or short subdivision minimizes impact on surrounding resource uses; and
- e. A natural resource management and/or conservation easement; to be held by the County, recognized non-profit Land Trust or similar institution; be placed on the non-residential portion of the subdivision or short subdivision restricting the use of said property to uses consistent with natural resource management and/or conservation, and prohibiting future residential use; or

A natural resource management and/or conservation restriction is placed on the face of the plat accomplishing the same purpose as an easement.

No less than 50% of the subdivided property shall be maintained in this manner.

2. Each parcel currently below 5 acres in size may be developed for an individual single-family residence.
3. For lots 5 acres to 9.99 acres in size, the original owner at the time this plan is adopted may divide their property into two parcels, the smallest of which is not less than 2.5 acres in size.

4. Water supply

In-holding properties shall meet all Water Supply standards as required under Section 17.01.068.

5. Preferential Right to Manage Resources

For land owners who have designated In-holding Lands, provisions of "Right to Forestry" and "Right to Farm" under Section 17.01.040.C.5, and Resources Use Notices provided under Section 17.01.060.D, shall fully apply.

1 **17.01.064 AGRICULTURE AND FOREST MANAGEMENT NON-DESIGNATED LANDS**

2
3
4 A. **PURPOSE**

5 This Section provides for nuisance protections for certain agricultural and forest management uses.

6
7 1. **Agricultural Objective**

8
9 This Section does not include any designation for agricultural lands of long-term commercial
10 significance. However the County recognizes that many valuable agricultural operations do
11 exist and should be provided protection from the impacts of incompatible land use. This
12 Section's objective is to preserve agricultural land, not through designation and regulation, but
13 through protection from nuisance suits.

14
15 2. **Forest Management Objective**

16
17 This Section recognizes that commercial forest management is an integral part to the rural
18 economy and lifestyle and provides nuisance protections for forest management uses in all but
19 the existing and planned urban areas.

20
21 B. **CLASSIFICATION**

22
23 1. The following criterion shall be used in determining those Agricultural Lands in Mason County
24 qualifying for protection under provisions of this Section:

25
26 a. The property is enrolled in the Open Space Agriculture property tax classification
27 program pursuant to Chapter 84.33 RCW.

28
29 2. The following criterion shall be used in determining those Forest Management Lands in Mason
30 County qualifying for protection under provisions of this Section:

31
32 a. The property is enrolled in the Open Space Timber or Designated Forest or Classified
33 Forest property tax classification programs, pursuant to Chapters 84.33 RCW or 84.34
34 RCW.

35
36 3. Agriculture Lands and/or Forest Lands meeting the classification criteria of 17.01.064.B.1 or
37 B.2 shall be given the protections of Subsection C below. However, no separate Agricultural
38 Land or other Forest Land designation shall be used due to a need for flexibility to meet
39 changing land uses, agricultural practices, forest practices and markets.

40
41 C. **PROTECTION - "Right to Farm", "Right to Forestry"**

42
43 Right to Farm and Forest protections, as specified in Section 17.01.040.C.5, are provided to all
44 properties meeting the classification criteria of this Section.
45

17.01.066 MINERAL RESOURCE LANDS

The purpose of this Section is to identify and designate commercial mineral lands, to establish guidelines for their development and to discourage incompatible land use.

A. CLASSIFICATION

The following criteria shall be used in determining Mineral Resource Lands of long-term commercial significance within Mason County:

1. Class 1a - Mineral deposits which could meet the immediate and future needs of the regional community. These deposits shall be of significant size (greater than 25 acres) and readily accessible to water traffic on the Puget Sound.
- Class 1b - Mineral deposits which could meet the long-term future and immediate needs of the regional community. These deposits shall be of significant size (greater than 25 acres) and accessible to rail or truck haul routes.
2. Class 2 - Mineral deposits within existing permitted surface mining operations operating under authority of Chapter 78.44 RCW.

B. DESIGNATION

1. Mineral Lands of Mason County meeting the classification criteria for Class 1a & 1b Mineral Resource of long-term commercial significance, and so specified on the official Mason County map, available at the Mason County Planning Department titled "Mason County Long-Term Commercial Mineral Lands, 1992" or as thereafter amended, are hereby designated, under RCW 36.70A.060 and RCW 36.70A.170, as conservation areas for mineral lands of long-term commercial significance.
2. Lands of Mason County meeting the classification criteria for Class 2 are eligible for designation as Mineral Lands of long-term commercial significance. Those property owners who wish to "opt in" to this designation may do so pursuant to Section 17.01.130.C within 60 days of the effective date of this Chapter. This designation shall continue for as long as a state operating permit exists.

Designation of Mineral Lands of Long-Term Commercial Significance does not mean that such lands are exempt from the normal environmental review process of the County or State agencies. Areas not now identified as Class 1a or Class 1b but where a qualified geologist or mining engineer can now or in the future, demonstrate the probability for occurrence of a mineral deposit, may be so designated upon approval of Mason County.

C. LAND USES

Prior to full utilization of a Class 1a or 1b designated Mineral Resource Land's mineral resource potential, subdivisions, short subdivisions or large lot segregation shall be prohibited. Exceptions may be made through a resource redesignation or through the variance procedure.

1. Conditional Uses
 - a. Mineral processing facilities including rock crushing, asphalt and concrete batch plants.
 - b. Public and semi-public structures including but not limited to fire stations, utility substations, pump stations, and waste water treatment facilities.
 - c. "Class IV - General Forest Practices" under authority of the "1992 Washington State Forest Practices Act Rules and Regulations", WAC 222-12-030, or as thereafter

amender, which involve conversion to a Conditional Use in designated Mineral Resource Lands.

d. Any industrial or commercial development.

D. DEVELOPMENT STANDARDS

All Mining operations shall conform to the following standards. Variances for these standards and non-conforming uses may be appropriate when an operation is located in isolated areas or contains unusual topographical conditions.

1. Setbacks/Screening

a. Within Mineral Resource Lands

- (1) A fifty (50) foot (15.25 meter) setback from all property lines, other than for access purposes onto public rights-of-way, shall be maintained for areas of direct cut or fill connected with resource extraction operations. For mining operations, setbacks may be increased when necessary to protect lateral support of abutting properties or public rights of way.
- (2) A twenty five (25) foot (7.63 meter) screen on all property lines, consisting of site obscuring vegetation, or other methods to conceal the mine as approved by Mason County shall be maintained.
- (3) A fifty (50) foot (15.25 meter) setback of all direct extraction operation areas shall be maintained from public utility lines.

2. Fencing

Prior to the commencement of surface mining, a fence shall be constructed and maintained enclosing the area authorized by the surface mining permit if public safety is in question. Fences shall be at least six (6) feet in height and constructed of woven wire. Gates, the same height as the fence, shall be installed at all points of vehicular or pedestrian ingress and egress, and shall be kept locked when not in regular use.

3. Road Access

For surface mining operations, access on any public right of way shall be surfaced in accordance with County Engineering Division or State Department of Highways development standards as appropriate.

4. Road Use

In order to assure maintenance and development of adequate County roadways, owners of surface mining operations may be required to enter into a haul route agreement with the County Engineer upon adoption and implementation of a Haul Route Agreement Program.

5. Traffic Safety

The County Engineer may require the installation of traffic control and warning signs at intersections of private access roads with publicly maintained roads.

6. Noise/Bright Lights

- a. No development or activity shall exceed the maximum Environmental Noise Levels established by WAC 173-60, and Mason County Title 9, Chapter 9.36.

- b. Bright lights are allowed outside of normal operating hours only for short-term mining operations necessary to facilitate emergency repairs.

7. Surface Mining Operation within Critical Aquifer Recharge Areas

The purpose of this Section is to protect Critical Aquifer Recharge Areas as required by RCW 36.70A.060(2).

Any surface mining operation within a Critical Aquifer Recharge Area (as designated in Section 17.01.080) shall meet the following standards:

- a. Fuel tanks and oil drums shall be double containment construction and protected by bermed areas having adequate capacity to accommodate, contain, and allow the removal of chemical spills. Fuel nozzles shall not contain locking devices. Fuel storage shall be above ground. Fueling of mobile equipment shall be located at least twenty feet above the seasonal high ground water level or within lined and bermed areas with adequate capacity to accommodate, contain,, and allow the removal of chemical spills.
- b. All operations shall maintain a fuels/hazardous waste management plan maintained by the operator and available on the site at all times.
- c. Fencing, or some comparable deterrent, shall be installed to prevent unauthorized dumping of any materials within surface mining operations.
- d. Surface mines shall not use any noxious, toxic, flammable, compactable, or combustible materials not specifically authorized by Mason County Department of Health for backfill or reclamation. Non-contaminated process water used for gravel washing shall be routed to settling ponds to minimize off-site discharges. A general permit from the Department of Ecology for process and storm water discharge may substitute for these requirements.
- e. On-site truck and equipment wash run-off shall be routed to a retention facilities equipped with an oil-water separator prior to its release to settling ponds.
- f. Use of chemicals, petroleum or hazardous products, and disposal of such products, in concrete or asphalt plant operations within Critical Aquifer Recharge Areas shall meet all the standards set forth in WAC 90.48 and WAC 173.303.

8. Public Safety

Owners of surface mines shall ensure that their operation(s) will not be hazardous to neighboring uses. Blasting activities shall be conducted so that ground vibrations and fly-rock to off mine site uses are monitored and minimized.

9. Waiver Clause

Mason County may waive some or all of the restrictions outlined above following a written Finding of Fact and favorable findings under SEPA.

E. PREFERENTIAL RIGHT TO MANAGE RESOURCES AND RESOURCE USE NOTICE

1. For those land owners of Mineral Resource Lands who choose to use their property for resource management, the provision of "Right to Mine" provided under Section 17.01.040.C.5 shall fully apply.

2. Mining Use Notice

- a. For properties designated Mineral Resource Land upon application of the property owner or owners pursuant to Section 17.01.130.B of this Chapter

Within two (2) weeks of redesignation to Mineral Resource Land, pursuant to Section 17.01.130.B, the property owner(s) of said land shall submit to the County, for recording with the County Auditor, a written notice of the designation. This notice shall be in a form authorized by the Director and shall include:

- (1) The legal description of the property subject to the designation.
- (2) The sixteenth (1/16) section or sections in which lie:
 - (a) the designated property, and
 - (b) any other property within 300 feet of the boundary of the designated property.
- (3) The following statement:

"NOTIFICATION

This notification is to inform property owners that the property described herein is adjacent to or within 300 feet of land managed for mining. Mining operations may be carried out now or in the future. Mason County has established designated Mineral Resource Land that sets as a priority the use of these lands for mining. The normal and usual practices associated with said operations when performed in accordance with County, State and Federal law, shall not be subject to legal action as a public nuisance."

The mineral right owner/operator shall execute and acknowledge the notice, and pay the fee to the County for recording the notice.

- b. For properties designated Mineral Resource Land pursuant to Section 17.01.066.B.1 of this Chapter

Within four (4) months of the effective date of this Chapter, the Director shall submit to the County Auditor for recording, a written notice of all Designated Mineral Resource Lands. This notice shall be in a form similar to " E.2.a" above.

The Director shall execute and acknowledge the notice, and no affected property owner shall be charged a fee for recording the notice.

- c. For all properties within 300 feet of designated Mineral Resource Lands.

All plats, short subdivisions, large lot subdivisions, development permits and building permits issued by Mason County after the effective date of this Chapter for development activities within 300 feet of property designated as Mineral Resource Land, or within 300 feet thereof, shall contain a notice as specified in " E.2.a.(3)" above.

17.01.068 ADDITIONAL RESOURCE LAND PROVISIONS

The following provisions apply to non-resource uses within designated Long-Term Commercial Forest, Inholding and Mineral Resource Lands:

A. ROADWAY STANDARDS

1. Permanent vehicular access for non-resource uses shall meet the following standards:
 - a. Permanent legal access which has been granted by resource property owner(s) or public rights-of-way can be accessed directly; and
 - b. Strict adherence to the standards of the Uniform Fire Code as determined by the County Fire Marshal; and
 - c. Maximum roadway grade serving two or more non-resource properties shall not exceed twelve percent (12%); and
 - d. For rights-of-way serving two or more non-resource properties, a maintenance agreement is recorded with the County Auditor identifying owners responsible for maintaining said rights-of-way to the above standards.
2. The County Engineer may impose additional roadway development standards if he/she determines they are necessary for public health and safety.

B. WATER SUPPLY STANDARDS

1. When residential or other structural uses are intended to be supplied with potable water from off-site sources, written permission shall be obtained from the property owners supplying the water prior to plat approval or building permit issuance, as applicable.
2. New residential or recreational domestic water supplies shall be certified by the County or State of Washington as appropriate, and shall not be located within one hundred (100) feet (30.5 meters) of adjacent property without written consent or easement of the adjacent property owner.
3. Domestic water supplies shall be in compliance with State and County health codes.

17.01.070 WETLANDS

The purpose of this section is to avoid, or in appropriate circumstances, minimize, rectify, reduce or compensate for impacts arising from land development and other activities affecting wetlands; to maintain and enhance the biological and physical functions and values of wetlands with respect to water quality maintenance; stormwater and floodwater storage and conveyance; fish and wildlife habitat; primary productivity, recreation, education and historic and cultural preservation. When avoiding impacts is not reasonable, mitigation shall be implemented to achieve a no net loss of wetlands in terms of acreage, function and value.

A. CLASSIFICATION

The following shall be classified as wetland areas:

Areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

B. DESIGNATIONS

The following lands, shorelands and waters of Mason County are hereby designated under RCW 36.70A.060 and RCW 36.70A.170, as critical areas requiring immediate protection from incompatible land uses:

Wetlands, and their vegetation area as specified by Section 17.01.070.E; except all wetlands under the jurisdiction of the Mason County Shoreline Master Program, which shall be exempt from provisions of this Section.

In making a determination regarding a wetland, the "US Army Corp of Engineers Wetlands Delineation Manual, 1987" shall serve as the technical resource guide on determining if an area possesses hydrophytic vegetation, hydric soils, and/or wetland hydrology.

1. The following are designated as regulated wetlands under this Chapter:

- a. All areas described in Section 17.01.070.A.;
- b. Wetland ponds less than twenty acres;
- c. Wetlands created as mitigation, and those modified for approved land use activities, including their submerged aquatic beds.

2. The following are designated as non-regulated wetlands:

Artificial man made wetlands created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities.

3. Owners and applicants with non-regulated wetlands or engaging in projects under an activity exemption, are strongly urged to cooperate voluntarily in this plan of wetland protection, using the guidelines in this ordinance and in materials provided by the Department of Community Development.

C. PROCEDURES

1. Responsibilities for the determination of wetland boundaries:

- a. Formal determination of wetland boundaries is the responsibility of the County. The

responsibility to provide all necessary and accurate data to the County for its determination rests with the applicant. This information will include a field delineation by a qualified wetland professional applying the federal wetland delineation method (1987). When, in the opinion of the Director, sufficient information exists from the County's wetland inventory, or other sources, the requirement for a full or partial delineation may be waived. For instance, in some cases, the applicant may only be required to determine the wetland boundary, or portion thereof, of the wetland system. The Director shall determine when a permit application is required and what additional information may be necessary. Wetland delineations shall be performed in accordance with the procedures as specified in the "US Army Corp of Engineer Wetlands Delineation Manual, 1987". Evidence documenting the results of any boundary survey, or other submitted data, may be required by the Director.

- b. Mason County, at a fee when requested by the applicant, or the affected party, may perform the delineation in lieu of direct action by the applicant. Mason County may use hydrology, soils, plant species, and other data, and consult with biologists, hydrologists, soil scientists, or other experts, as needed, to perform the delineation. The County shall make a good faith effort to provide this service, consistent with budgetary constraints and available in-house expertise, for smaller projects and especially for those property owners with lesser financial capabilities. When the County does not provide this service, the applicant, or the affected party, may select either from a County approved list of qualified wetland professionals, or request the State Department of Ecology or the US Army Corp of Engineers to perform the delineation.
- c. Where Mason County performs a wetland boundary determination at the request of the applicant, it shall be considered a final determination unless contested.
- d. Where the applicant has provided a determination of the wetland boundary, the Director shall verify the accuracy of, and may render adjustments to, the boundary delineation.
- e. In the event the boundary delineation is contested by the applicant or affected party, the US Army Corp of Engineers, or a mutually agreed upon party, shall settle the dispute.

D. LAND USES

1. Mason Environmental Permit Required Uses and Activities

A Mason Environmental Permit shall be obtained from the County, using the administrative review process in this Chapter, prior to undertaking, in a regulated wetland or its vegetation area, for the following activities.

- a. The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind;
- b. The dumping of, discharging of, or filling with any material;
- c. The draining or flooding of the site;
- d. The driving of pilings;
- e. The placing of obstructions;
- f. The construction, reconstruction, demolition, or expansion of any structure;
- g. The destruction or alteration of wetlands and wetland vegetation area through clearing, harvesting, shading, intentional burning, or planting of vegetation that would alter the character of a designated wetland or

- h. Activities that result in a significant change of water temperature, a significant change of physical or chemical characteristics of wetlands water sources, including quantity, or the introduction of pollutants.

2. Exempt Activities

- a. In isolated wetlands under one acre:

- (1) No Mason Environmental permit required
- (2) No mitigation required
- (3) No management area, setback or vegetation area is required.
- (4) Activities described in 17.01.070.D.1.a. and b., are limited to a one time cumulative total of 50 cubic yards.
- (5) An activity exceeding the 50 cubic yard limit for 17.01.070.D.1.a. and b.; or for activities described in 17.01.070.D.1.c through h., will require an activity exemption.

- b. In wetlands within agricultural lands as specified in Section 17.01.064.B.1.a:

- (1) All agricultural activities are exempt except where such activities result in the conversion of a regulated wetland to a non-agricultural use.

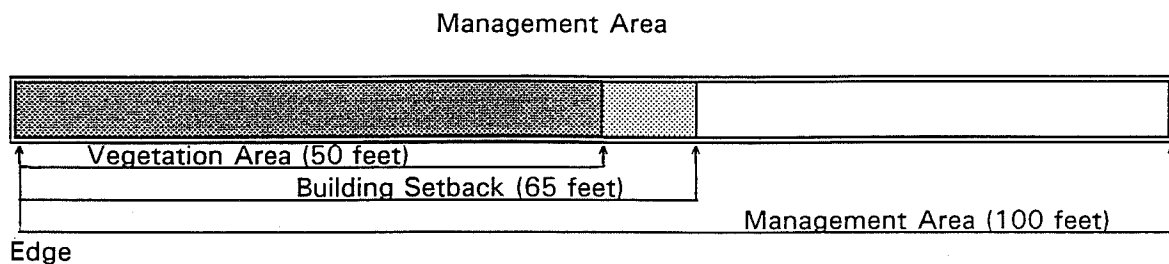
E. DEVELOPMENT STANDARDS

1. Management Areas

Management Areas shall have a setback and vegetation area requirement, both of which are measured from the delineated wetland edge, perpendicular and landward:

<u>Vegetation Area</u>	<u>Building Setback*</u>	<u>Management Area**</u>
50 ft (15.25 m)	65 ft (19.83 m)	100 ft (30.50 m)

Example:



*Setback includes Vegetation Area.

**Management Area includes Setback and Vegetation Area.

2. Management Area Guidelines

Owner/users/developer should pay close attention to land use activities in the Management Area outside the prescribed natural vegetation area. Care should be taken not to introduce exotic species of plant life; to maintain wildlife habitat; to use tillage patterns which will not cause erosion and siltation; to use care in the harvesting of wild crops; provide for catchments

to reduce rapid runoff; and to use best management practices in agricultural operations, including the grazing of livestock. Particular care must be exercised in high intensity land use areas.

3. Vegetation Area Standards

For the purposes of this Section, Vegetation Areas, are upland land areas that are adjacent to a wetland, and surround or protect wetland functions and values from adverse impacts.

- a. All vegetation area shall be measured perpendicularly from the wetland edge where appropriate.
- b. Except as otherwise specified, vegetation areas shall be maintained in a natural condition or replanted with vegetation of equal value to the wetland. Vegetation shall be managed, activities involving root disturbance avoided, and cultivation of the soil limited, to protect the character and functions of the wetland. Management activities may include the maintenance of existing right-of-way; the harvesting of wild crops; the pruning of foliage; tree removal for health and safety reasons; and minimal tree limbing for view purposes. Where vegetation disturbance has occurred during construction, revegetation with native vegetation may be required.

4. Standard Structure Setback

The setback shall be 65 feet (19.83 m) from the delineated edge of the wetland.

5. Special Setbacks - Measured from the wetland edge .

- a. On-site sewage disposal drainfield - 100 feet (30.5 m)
- b. Livestock feedlot - 200 feet (70 m)

F. MITIGATION FOR WETLAND IMPACTS

As a condition of any permit allowing alteration of wetlands and/or wetland vegetation areas, the County shall require that the applicant engage in the restoration, creation or enhancement of wetlands and their vegetation areas in order to offset the impacts resulting from the applicant's actions. The County may suspend or revoke a permit if it finds that the applicant has not complied with the conditions or limitations set forth in the permit or has exceeded the scope of work set for in the permit. The overall goal of any compensatory project shall be no net loss of wetlands function and acreage.

1. Compensatory mitigation is not required for regulated activities for which a permit has been obtained that occur only in the vegetation area and have no adverse impacts to regulated wetlands.
2. Wetland Restoration, Creation and Enhancement
The Applicant shall develop a plan that provides for:
 - a. Land acquisition, construction, maintenance and monitoring of replacement wetlands; and
 - b. Describes the location of the proposed project site; ownership; size and complete ecological assessment (flora, fauna, hydrology, function, etc.) of the wetland being restored or enhanced; and

- 1 c. Recreate as nearly as possible the original wetlands in terms of acreage, function,
2 geographic location and setting.
3

5 3. Monitoring

6 A monitoring report shall be submitted annually, at a minimum, documenting milestones,
7 successes, problems, and contingency actions of the compensation project. The compensation
8 project shall be monitored for a period necessary to establish that performance standards have
9 been met, but not for a period less than five years.

10
11 G. PERMIT REVIEW

12
13 The basic concern in the permitting process is to avoid and minimize wetland impacts. Permits are
14 issued when the applicant can demonstrate that the activity is both unavoidable and necessary. The
15 applicant must state the purpose of the proposed project, and demonstrate the requirement for a
16 wetland location or access across wetlands, and the reason it cannot be located at other sites, or at
17 another location on-site.

18
19 H. ACTIVITY EXEMPTION REVIEW

20
21 Activity exemptions are issued when the applicant can demonstrate that the impacts of the wetland
22 degradation are isolated in the subject wetland; that the activity does not constitute a threat to public
23 health or safety; and that there are no adverse impacts on adjoining property under different
24 ownership.

to reduce rapid runoff; and to use best management practices in agricultural operations, including the grazing of livestock. Particular care must be exercised in high intensity land use areas.

3. Vegetation Area Standards

For the purposes of this Section, Vegetation Areas, are upland land areas that are adjacent to a wetland, and surround or protect wetland functions and values from adverse impacts.

- a. All vegetation area shall be measured perpendicularly from the wetland edge where appropriate.
- b. Except as otherwise specified, vegetation areas shall be maintained in a natural condition or replanted with vegetation of equal value to the wetland. Vegetation shall be managed, activities involving root disturbance avoided, and cultivation of the soil limited, to protect the character and functions of the wetland. Management activities may include the maintenance of existing right-of-way; the harvesting of wild crops; the pruning of foliage; tree removal for health and safety reasons; and minimal tree limbing for view purposes. Where vegetation disturbance has occurred during construction, revegetation with native vegetation may be required.

4. Standard Structure Setback

The setback shall be 65 feet (19.83 m) from the delineated edge of the wetland.

5. Special Setbacks - Measured from the wetland edge .

- a. On-site sewage disposal drainfield - 100 feet (30.5 m)
- b. Livestock feedlot - 200 feet (70 m)

F. MITIGATION FOR WETLAND IMPACTS

As a condition of any permit allowing alteration of wetlands and/or wetland vegetation areas, the County shall require that the applicant engage in the restoration, creation or enhancement of wetlands and their vegetation areas in order to offset the impacts resulting from the applicant's actions. The County may suspend or revoke a permit if it finds that the applicant has not complied with the conditions or limitations set forth in the permit or has exceeded the scope of work set for in the permit. The overall goal of any compensatory project shall be no net loss of wetlands function and acreage.

1. Compensatory mitigation is not required for regulated activities for which a permit has been obtained that occur only in the vegetation area and have no adverse impacts to regulated wetlands.

2. Wetland Restoration, Creation and Enhancement

The Applicant shall develop a plan that provides for:

- a. Land acquisition, construction, maintenance and monitoring of replacement wetlands; and
- b. Describes the location of the proposed project site; ownership; size and complete ecological assessment (flora, fauna, hydrology, function, etc.) of the wetland being restored or enhanced; and

17.01.080 CRITICAL AQUIFER RECHARGE AREAS

In order to protect the public health and safety, prevent the degradation of ground water aquifers used for potable water, and to provide for regulations that prevent and control risks to the degradation of ground water aquifers, the following standards for Mason County are described in Section 17.01.080. Aquifer Recharge Areas are areas of special concern and are subject to the Mason County Health Codes.

A. CLASSIFICATION

All Critical Aquifer Recharge Areas in Mason County are classified as having either and Extreme, High, or Moderate Recharge potential:

CLASS I - EXTREMELY CRITICAL RECHARGE AREAS

Land and fresh water areas with the highest susceptibility to contamination of the water table aquifer or confined aquifers that have a high probability of yielding potable water. These are areas which provide very rapid recharge with minimal protection to the aquifer.

1. These areas are identified on the Mason County Critical Aquifer Recharge Area Map.
2. Those fresh water features in the County such as rivers, streams, lakes, ponds, swamps, bogs, marshes and wetlands.

CLASS II - HIGHLY CRITICAL RECHARGE AREAS

Land areas with high susceptibility to contamination of the water table aquifer or confined aquifers that have a high probability of yielding potable water. These are areas which provide rapid recharge with little protection to the aquifers. These aquifers are identified in the Mason County Critical Aquifer Recharge Area Map.

CLASS III - MODERATELY CRITICAL RECHARGE AREAS

Land areas with a moderate susceptibility to contamination of the underlying ground water aquifer or confined aquifers that have a high probability of yielding potable water. These are areas which provide moderate recharge with some protection to the aquifer. These areas are identified on the Mason County Critical Aquifer Recharge Area Map.

B. DESIGNATION

The lands and fresh waters of Mason County meeting the Critical Aquifer Recharge Areas Classification are hereby designated under RCW 36.70A.060 and RCW 36.70.170, as Critical Areas requiring protection for public health.

C. LAND USE

The following uses within Critical Aquifer Recharge Areas are subject to Conditional Uses Permits.

1. Landfills, junk yards, salvage yards, auto wrecking yards, any business that uses hazardous waste in their operation, and other solid waste disposal facilities, except for inert construction debris, shall demonstrate that such facilities will not significantly impact ground water resources. In order to make such determination, the Director or Health Director may require the filing of a Environmental Geologic Report.
2. Other uses and activities determined by the Director and the Health Director that are likely to pose a threat to the aquifer.

D. DEVELOPMENT STANDARDS

All uses and activities within Critical Aquifer Recharge Areas are subject to the following Development Standards. Development within Critical Aquifer Recharge Areas shall be in compliance with the Mason County Hazardous Waste Treatment and Storage Facilities Siting Ordinance, the State of Washington Dangerous and Hazardous Waste Regulations (including RCA 70.105 and WAC 173-303), SEPA, Mason County Health Codes and any other applicable County, State and Federal regulations.

1. Notification

a. Title Notification

The owner of any site within a designated Critical Aquifer Recharge Area as identified in the Mason County Critical Aquifer Recharge Areas Map, on which a development proposal is submitted, shall record a notice with the Mason County Auditor. The notice shall indicate in the public record the presence of an aquifer recharge area, the application of this Chapter to the site, and that limitations on regulated activities may exist. The notice shall be as set forth below.

"Notice: This site lies within an aquifer recharge area as defined by Chapter 17.01, Mason County Code. The site was the subject of a development proposal for _____

_____ application number _____ filed on _____
_____ (date). Restrictions on use or alteration of the site may exist due to natural conditions of the site and resulting regulation. Review of such application has provided information on the location of an aquifer recharge area and the restriction on their use. A copy of the plan showing the aquifer recharge area is attached hereto.

b. Plat Notification

For all proposed short subdivision and subdivision proposals within Critical Aquifer Recharge Areas, the applicant shall include a note on the face of the plat. The note shall be as set forth below:

"Notice: This site lies within an aquifer recharge area as defined by Chapter 17.01, Mason County Code. The site was the subject of a development proposal for _____

_____ application number _____ Filed on _____
_____ (date). Restrictions on use or alteration of the site may exist due to natural conditions of the site and resulting regulation.

The note shall be recorded as part of final plat approval of any short subdivision or subdivision.

2. Agricultural Activities

Agricultural activities, including commercial and hobby farms, are encouraged to incorporate best management practices concerning animal keeping, animal waste disposal, fertilizer use, pesticide uses, and stream corridor management and seek the technical assistance of the Mason County Conservation District and Cooperative Extension Agent.

3. Residential and accessory uses may require an enhanced on-site sewage disposal system subject to the Mason County Health Codes.

4. Subdivision, short subdivisions and other divisions of land in areas of special concern shall be evaluated for their impact on groundwater quality, subject to the Mason County Health Codes.

- 1 5. To protect aquifer recharge areas from nutrient loading in residential (gardens, lawn, etc.) or
2 recreational (parks, golf courses, landscaped open spaces, etc.) areas, care must be used when
3 applying herbicides, fertilizers and pesticides. The Federal Insecticide, Fungicide, and Rodentia
4 Act as adopted by RCW 17.21, RCW 15.58 and WAC 16.228 or hereafter amended must be
5 complied with.
6
7 6. Other uses and activities determined by the Director and the Health Director likely to pose a
8 threat to a Class II or III aquifer may require an environmental geologic report.
9

10 E. CRITICAL RECHARGE AREAS REPORT
11

12 1. Environmental Geologic Report
13

14 An Environmental Geologic Report shall be required for any activity in CLASS I - EXTREMELY
15 CRITICAL AQUIFER RECHARGE AREAS.
16

- 17 a. The report shall identify the proposed development plans and the risk associated with
18 on-site sewage disposal systems and other on-site activities which may potentially
19 degrade the ground water aquifer or confined reservoirs.
20
21 b. The report shall be prepared by an engineering geologist, hydrologist or licensed
22 professional engineer (licensed in the State of Washington), qualified to analyze
23 geological and hydrological information and ground water systems.
24
25 c. A report shall contain:
26
27 (1) A description of the general geological and hydrological characteristics of the
28 area under permit application consideration.
29
30 (2) A description of the local characteristics associated with site drainage and
31 water movement.
32
33 (3) A geologic map with a cross section of the site and adjoining properties up to
34 1000 feet away at a scale of 1 inch equals 200 feet.
35
36 (4) A water well report which describes in detail the lithology of the penetrated
37 geologic units and the geologic units penetrated in wells in adjoining properties
38 up to 1000 feet away.
39
40 (5) A topographic map of the property and adjoining properties up to 1000 feet
41 away at a scale of 1 inch equals 200 feet and a 5-foot contour interval.
42
43 (6) Provide a discussion on the proposed activities and the effects of sewage
44 disposal, lawn and yard uses, agricultural and animal husbandry, storm water
45 impacts and any other impact reasonably associated with the project type.
46
47
48
49

1 **17.01.090 FREQUENTLY FLOODED AREAS**

2
3 The purpose of this Section is to prevent the potential for further aggravation of flooding problems and to guide
4 development in areas vulnerable to flooding.

5
6 A. CLASSIFICATION

7
8 The following shall be classified Frequently Flooded Areas:

9
10 Frequently Flooded Areas are identified by the Federal Emergency Management Agency as those areas
11 within the 100 year floodplain in a report entitled "The Flood Insurance Study for Mason County" dated
12 May 17, 1988, with accompanying Flood Insurance Rate Maps and should be utilized as a guide to
13 development.
14

15 B. DESIGNATION

16
17 Lands of Mason County meeting the classification criterion for Frequently Flooded Areas are hereby
18 designated, under RCW 36.70A.060 and RCW 36.70A.170, as Frequently Flooded Areas requiring
19 immediate protection from incompatible land uses.
20

21 C. LAND USES

22
23 All uses and activities within Frequently Flooded Areas are subject to the following Development
24 Standards.
25

26 D. DEVELOPMENT STANDARDS

27
28 Development in Frequently Flooded Areas must be in compliance with existing ordinances as referenced
to in Section 17.01.050.
29
30
31
32
33

1 **17.01.100 LANDSLIDE HAZARD AREAS**

2
3 The purpose of the Landslide Hazard Section is to identify areas that present potential dangers to public health
4 and safety, to prevent the acceleration of natural geological hazards, and to neutralize the risk to the property
5 owner or adjacent property owners from development activities.

6
7 **A. CLASSIFICATION**

8
9 The following shall be classified as potential Landslide Hazard Areas:

- 10
11 1. Areas with any indications of earth movement such as debris slides, earthflows, slumps and
12 rock falls (see figure F.100); or
13
14 2. Areas with artificial oversteepened or unengineered slopes, i.e. cuts or fills.
15
16 3. Areas with slopes containing soft or potentially liquefiable soils.
17
18 4. Areas unstable as a result of stream incision, stream bank erosion, and undercutting by wave
19 action.
20
21 5. Slopes greater than 15% (8.5 degrees) except areas composed of consolidated rock and having
22 either of the following:
23
24 a. Steep hillsides intersecting geologic contacts with a relatively permeable sediment
25 overlying a relatively impermeable sediment or bedrock; and
26
27 b. Springs or groundwater seepage; or
28

29
30 The following criteria may be used as a guide by the County to indicate areas that have a higher
31 likelihood of meeting the classification criteria above:

- 32 1. The areas identified on the Mason County Soil Survey Map as having slopes greater than 15%.
33
34 2. The areas identified on the Coastal Zone Atlas, Volume 9, of Mason County, Washington as:
35
36 a. Unstable - "U"
37
38 b. Unstable Old Slides - "UOS"
39
40 c. Unstable Recent Slides - "URS"; or
41
42 3. The areas identified as Class 2, 3, 4, or 5 of the map of "Relative Slope Stability of the
43 Southern Hood Canal Area, Washington", Washington State Department of Natural Resources,
44 Division of Earth Resources, 1977.
45

46 **B. DESIGNATION**

- 47
48 1. Lands of Mason County meeting the classification criteria for Landslide Hazard Areas are
49 hereby designated, under RCW 36.70A.060 and RCW 36.70A.170, as critical areas requiring
50 immediate protection from incompatible land uses.
51
52 2. Upon an application for development on either mapped or unmapped lands, the Director shall
53 determine if a hazard exists on a particular site based on:
54
55 a. Information supplied by the applicant in the form of a geotechnical report,

- b. Actual physical observation of the site,
- c. Existing County Hazard Area maps, or
- d. Other means determined to be appropriate.

If the presence of a hazard is determined, the boundaries of the hazard and associated buffers shall then be delineated (top, both sides, and toe) on a geologic map of the site.

C. LAND USES

1. Exempt Uses

- a. The growing and harvesting of timber, forest products and associated management activities in accordance with the Washington Forest Practices Act of 1974, as amended, and regulations adopted pursuant thereto; including, but not limited to, road construction and maintenance; aerial operations; applications of fertilizers and pesticides; helispots; and other uses specific to growing and harvesting timber forest products and management activities, except those Forest Practices designated as "Class IV -General Forest Practices" under the authority of the "1992 Washington State Forest Practices Act Rules and Regulations", WAC 222-12-030;
- b. Those activities and uses conducted pursuant to the Washington State Surface Mining Act, RCW 78.44 and its Rules and Regulations, where State law specifically exempts local authority;
- c. Existing and ongoing agriculture, aquaculture, floriculture, horticulture, general farming, dairy operating under best management practices.

2. Permit Required Uses

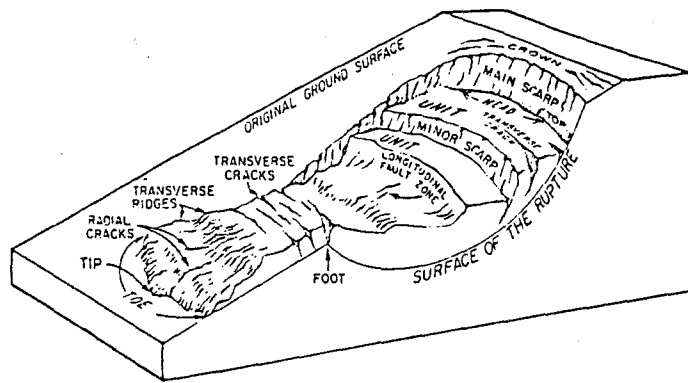
Permits are required for all new construction, grading and other uses subject to Section 17.01.050, and any Class IV Conversion Permit pursuant to the State Forest Practices Act which involves conversion to a Permit Required Use, and are within a Landslide Hazard Area or its buffer. Permit Required Use may require a Geotechnical Report, see Section 17.01.100.E.

D. DEVELOPMENT STANDARDS

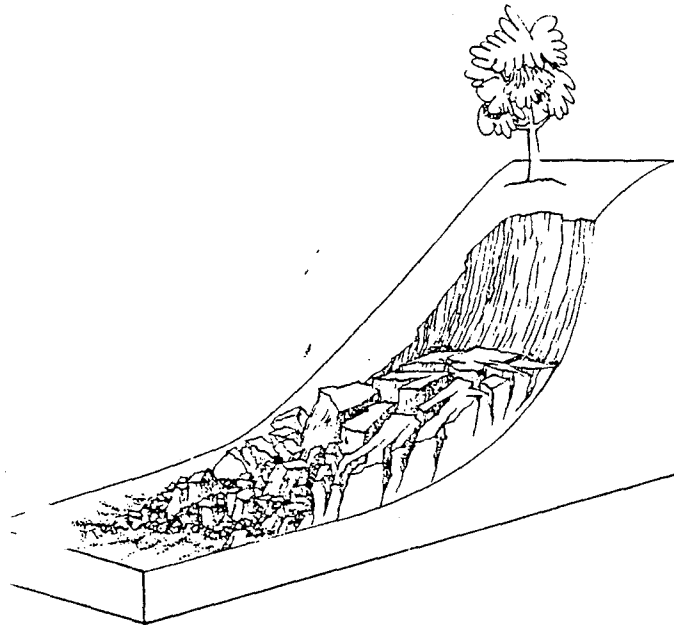
Any land use on Landslide Hazard Areas or their buffers shall conform to the following standards:

1. Grading

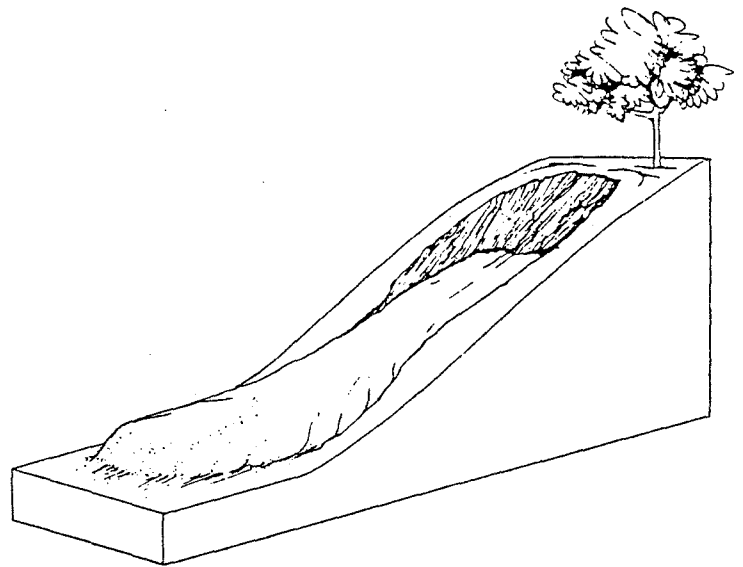
- a. No grading shall be performed in landslide or slide prone areas prior to obtaining a grading permit subject to approval, by the Director, based on recommendations contained in the geotechnical report with slope stability analysis and grading recommendations.
- b. Clearing, grading and other construction activities shall not aggravate or result in slope instability or surface sloughing.
- c. Undergrowth shall be retained to the extent feasible.
- d. Clearing methods which minimize soil disturbance shall be used.



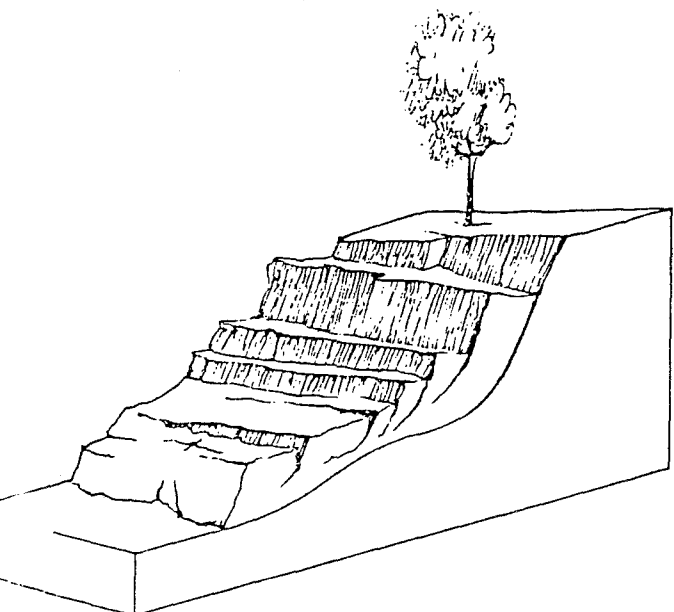
Homoclature of parts of a landslide (from Eckel, 1958):



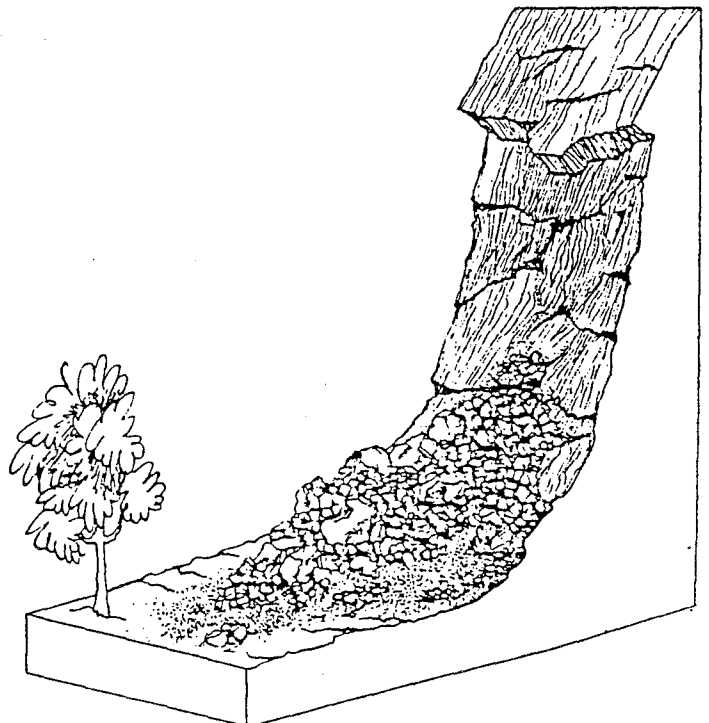
Debris slide: incoherent or broken masses of rock and other debris that move downslope by sliding on a surface that underlies the deposit.



Earthflow: colluvial materials that move downslope in a manner similar to a viscous fluid.



Slump: coherent or intact masses that move downslope by rotational slip on surfaces that underlie as well as penetrate the landslide deposit.



Rockfall: rock that has moved primarily by falling through the air.

- c. The applicant may request a reduction in the buffer. A determination shall be made by the Director based on the results of the Geotechnical Report pursuant to Section 17.01.100.E.

E. GEOTECHNICAL REPORT

1. Applicability

Every application for development within a Landslide Hazard Area or its buffer or within 660 feet (198 meters) of the buffer shall meet the standards of Section 17.01.100.D and may require a Geotechnical Report:

- a. Areas with slopes greater than 33 percent (18.4 degrees) and are designated as a potential Landslide Hazard Area will require an Geotechnical Report.
- b. Areas with any visible signs of earth movement such as debris slides, earthflows, slumps and rockfalls will require a Geotechnical Report.
- c. Areas unstable as a result of stream incision, stream bank erosion, and undercutting by wave action and are designated as a potential Landslide Hazard Area will require an Geotechnical Report.
- d. Slopes between 15 percent (8.5 degrees) and 33 percent (18.4 degrees); and are designated as a potential Landslide Hazard Area may require an Geotechnical Report upon analysis of the following factors by the Director:
 - (1) Lot size and use;
 - (2) Maximum cut slope (requires a grading plan);
 - (3) Soil types and properties (requires a geotechnical report);
 - (4) Groundwater depth and volume (requires a geotechnical investigation);
 - (5) Depth to glacial till (hardpan) or other competent soils (requires geotechnical information);
 - (6) Impervious surfaces and drainage schemes (requires development/grading plan);
 - (7) Wastewater treatment (requires on-site sewage disposal system approval from Mason County Department of Health);
 - (8) Potential off-site impacts (requires environmental statement dependant on scope of project); or

2. Waiver of Report

The Director may waive some or all of the requirements for the report upon a written finding, by a person qualified to assess landslide hazards, that the proposed development would not cause significant adverse impacts, or there is adequate geological information available on the area proposed for development to determine the impacts of the proposed development and appropriate mitigating measures.

1 3. Qualifications of preparer

2
3 The Geotechnical Report shall be prepared at the discretion of the Director, by either a licensed
4 civil engineer with specialized knowledge of geological engineering or a practicing engineering
5 geologist with special knowledge to the geology of Mason County.

6
7 4. Content of Report

8
9 a. A Geotechnical Report shall include but not be limited to the following:

- 10
11 (1) A description of the soil and geologic conditions of the proposed development,
12 including a geologic map with a cross section showing site geologic conditions
13 at a scale of 1 inch equals 200 feet, and opinions and recommendations of the
14 adequacy of the site to be developed.
15
16 (2) A detailed temporary erosion control plan which identifies the specific
17 mitigating measures to be implemented during construction to protect the slope
18 from erosion, landslides and harmful construction methods.
19
20 (3) A detailed clearing and grading plan which specifically identifies vegetation to
21 be removed, a schedule for vegetation removal and replanting, and the method
22 of vegetation removal.
23
24 (4) An analysis of both on-site and off-site impacts of the proposed development.
25
26 (5) Specifications of development conditions such as, vegetative management,
27 drainage, and buffer widths.
28

29 5. Administrative Determination

30
31 Any area in which the report indicates the presence of landslide hazards shall not be subjected
32 to development unless the report demonstrates conclusively that the hazards can be overcome,
33 and that the development meets all standards in Section 17.01.100.D. Hazards must be
34 overcome in such a manner as to prevent harm to public health, safety, and property.

17.01.102 SEISMIC HAZARD AREAS

The purpose of the Seismic Hazard Section is to identify areas that present potential dangers to public health and safety, and to prevent the acceleration of manmade and natural geological hazards, and to neutralize the risk to the property owner or adjacent properties from development activities. Types of Seismic Hazards include: Surface Faulting; Ground Shaking; Earthquakes including ground failure and landslides; Lateral Spreading; Liquefaction; Lurch Cracks; Rockfalls; Differential Settlement; Regional Uplift; Seiches; and/or Tsunamis. These are defined under Seismic Hazard Areas in Section 17.01.240.

A. CLASSIFICATION

The following shall be classified as Seismic Hazard Areas:

1. Areas susceptible to ground failure including the following:
 - a. Mapped geologic faults until proven inactive;
 - b. Areas of poorly compacted artificial fill;
 - c. Areas with artificially steepened slopes (i.e. old gravel pits);
 - d. Postglacial stream, lake or beach sediments;
 - e. River deltas;
 - f. Areas designated as potential Landslide Hazard Areas;
 - g. bluff areas; and
 - h. Deep road fills and unsupported fills.

The following criteria may be used as a guide by the County to indicate areas that have a higher likelihood of meeting the classification criteria above:

1. Areas identified on the Coastal Zone Atlas of Washington, Volume 9, Mason County as Af, Qa1, Qa2, Qvc, Qls, Qos and Qp.
2. Areas identified on the Mason County Soil Survey Map as having slopes greater than 15 percent.

B. DESIGNATION

Lands of Mason County meeting the criteria for Seismic Hazard Areas are hereby designated, under RCW 36.70A.060 and RCW 36.70A.170, as critical areas requiring immediate protection from incompatible land uses.

C. LAND USES

All uses and activities within Seismic Hazard Areas are subject to the development standards of this Section.

D. DEVELOPMENT STANDARDS

1. Development in Seismic Hazard Areas must be in compliance Section 17.01.050.

2. Location of Critical Facilities

Upon application for a Building Permit for critical facilities, if the Director finds that the proposed development is within a Seismic Hazard Area, the County shall notify the applicant and indicate that the potential effects of seismic activity shall be considered and that specific information in the form of a site geologic hazards assessment report shall be required.

The County shall take the potential seismic effects into consideration when reviewing the proposal under SEPA and may include an alternative site analysis and recommendations.

17.01.104 EROSION HAZARD AREAS

The purpose of the Erosion Hazard Section is to identify areas that present potential dangers to public health and safety, and to prevent the acceleration of natural geological hazards, and to neutralize the risk to the property owner from development activities.

A. CLASSIFICATION

The following shall be classified as Erosion Hazard Areas:

Areas that have an Erosion Index of 8 or greater as determined by methodologies found in the United States Department of Agriculture, Soil Conservation Service "Food Security Act Manual, Title 180, Second Edition, August, 1988".

B. DESIGNATION

The lands of Mason County meeting the criteria for Erosion Hazard Areas are hereby designated, under RCW 36.70A.060 and RCW 36.70A.170, as critical areas requiring immediate protection from incompatible land uses.

C. LAND USES

All uses and activities within Erosion Hazard Areas are subject to the development standards of this Section.

D. DEVELOPMENT STANDARDS

Development in Erosion Hazard Areas must be in compliance with Section 17.01.050, and Section 17.01.100.D of this Chapter.

17.01.110 AQUATIC MANAGEMENT AREAS

The waters and shorelines of Mason County are an important resource. In addition to their natural beauty, and cultural value, they provide the base for a sizeable shellfish industry, aquaculture, fish and wildlife habitat. Attention to water quality and the conditions necessary for healthy marine life become the responsibility of those who own and use streamside properties. Since water flows downhill, and impacts on water quality are cumulative, and since a consistent habitat is necessary for aquatic species, the following guidelines and minimum requirements are established to protect the resources. Streamside property owners and users are encouraged to seek education from Mason County and other sources in planning for development and improving land uses.

A. CLASSIFICATION

The following shall be classified as aquatic Management Areas:

1. Class I Management Areas

All areas under the jurisdiction of the Mason County Shoreline Master Program; except State designated Harbor Areas pursuant to RCW 79.90.020 and Article XV of the Washington State Constitution.

2. Class II Management Areas

Management Areas (see Section 17.01.110.D.2, Table) defined as Types II, III, and IV waters as established in WAC 222-16-030, including all naturally occurring lakes and ponds not considered wetlands and not under the jurisdiction of the Mason County Shoreline Master Program and all lands within:

- a. 200 feet (61.00 meters) of the ordinary high water mark of Type II waters;
- b. 100 feet (30.50 meters) of the ordinary high water mark of Type III waters; or
- c. 50 feet (15.25 meters) of the ordinary high water mark of Type IV waters;

B. DESIGNATION

The lands, shorelands and waters of Mason County meeting the criteria for Class I and Class II Aquatic Management Areas are hereby designated, as critical areas pursuant to RCW 36.70A.060 and RCW 36.70A.170.

C. CLASS I MANAGEMENT AREA GUIDELINES

1. These areas shall comply with all Provisions of the Mason County Shoreline Master Program (SMP), as well as the provisions of this Section (17.01.110.C). Granting of a permit under the SMP shall also constitute granting of a Mason Environmental Permit (MEP).
2. An on-site sewage disposal system inspection, if applicable, certified by the County Health Department or State of Washington, shall be required prior to any transfer of ownership.
3. A septic system inspection program may be established, pursuant to state and local laws, in areas where the County Health Director finds it necessary to protect water quality.

D. CLASS II MANAGEMENT AREA GUIDELINES

Owners/users/developers of Class II Areas need to be aware of the following concerns: the siting of structures; drainage; soil disturbance; tillage patterns; erosion control; use of herbicides, pesticides and fertilizers; creation of impermeable areas and runoff; the pasturing of animals; approved on-site

sewage disposal system installation; landscaping; maintaining the natural setting; stream shading and water temperature control; and maintenance of stream-side habitat.

1. Class II Land Use Guidelines

- a. Tree removal for building site preparation or for health and safety reasons, shrub removal, creation of access trails; and tree limbing should be done carefully and kept to a minimum to provide maximum aquatic habitat protection. Vegetative shading, including landscaping, are recognized as being essential to habitat protection.
- b. To protect water quality, the use of residential and commercial herbicides, fertilizers or pesticides is discouraged and if administered shall comply with the Federal Insecticide, Fungicide, and Rodenticide Act as adopted by RCW 17.21, RCW 15.58 and WAC 16.228 or hereafter amended.
- c. The commercial and non-commercial yarding of animals and use of fertilizer must be done in a manner to provide aquatic habitat protection. (For information on Best Management Practices, see USDA Soil Conservation Service)

2. Class II Development Standards (by Water Type, Official Water Type Reference Map -DNR)

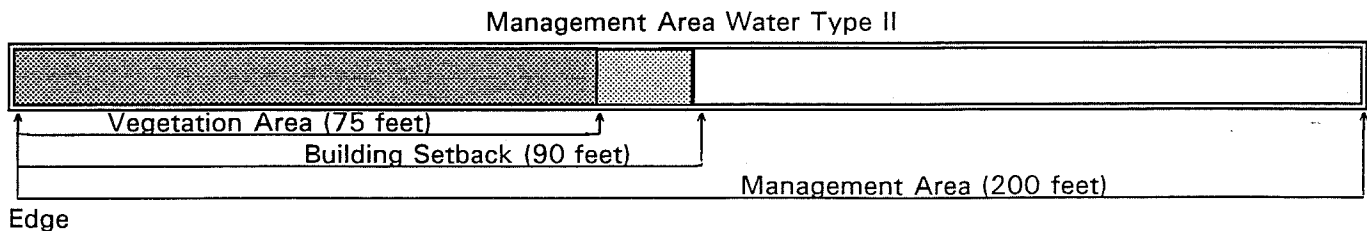
<u>Water Type</u>	<u>Vegetation Area in ft.</u> <u>(meters (m))</u>	<u>Building Setback</u> <u>in ft. ** (meters (m))</u>	<u>Management Area* +</u> <u>in ft. (meters (m))</u>
II	75 ft. (22.88 m)	90 ft. (27.45 m)	200 ft. (61.00 m)
III	50 ft. (15.25 m)	65 ft. (19.83 m)	100 ft. (30.50 m)
IV	25 ft. (7.63 m)	40 ft. (12.20 m)	50 ft. (15.25 m)

* Management Area includes setback and vegetation area.

** Setback includes vegetation area.

+ See Section 17.01.110.A.2.

Example:



- a. Water Types II, III, and IV shall have a setback and a vegetation area requirement, both of which are measured from the ordinary high water mark, perpendicular and landward from the shoreline in the amount shown in the table above:
- b. When necessary to protect Class II Management Areas, as determined by the Director, a temporary erosion control plan which identifies the specific measures to be implemented during construction and site preparation to protect the water from erosion, siltation, landslides, and deleterious construction materials shall be required.
- c. Developments shall meet State and County regulations for storm drainage and water disposal facilities to prevent any adverse water quality impacts from such facilities.

- 1 d. Site preparation shall not result in off-site erosion, siltation, or other reductions in water
2 quality.
3
4 e. Industrial and commercial uses which handle or store hazardous substances or wastes
5 as defined in WAC 173-303 or hereafter amended, or other substances in quantities
6 identified by the County to be a potential threat to water quality, shall provide evidence
7 that the hazardous substances or wastes shall not enter and adversely impact any
8 water, groundwater or shoreline area.
9
10 f. No dredging or removal of vegetation shall occur below the ordinary high water mark
11 in Management Areas except as provided for in a State Hydraulics Permit.
12
13 g. Lot Size
14
15 For the purpose of determining lot sizes under Title 16 of the Mason County Code, the
16 Director shall review any available information and apply any or all standards of Section
17 17.01.110.D, and make a decision on a case-by-case basis based on this information.
18
19 h. Variances for unusual topographical characteristics which have site-specific problems
20 may be available under Section 17.01.150.
21
22 3. Class II Permit Required Uses
23
24 a. Mason Environmental Permit (MEP)
25
26 "Class IV - General Forest Practices" under the authority of the "1992 Washington
27 State Forest Practices Act Rules and Regulations", WAC 222-12-030, or as thereafter
28 amended; which involve conversion to a Permit Required Use.
29
30 b. Mason Conditional Environmental Permit (MCEP)
31
32 (1) Industrial and Commercial uses.
33
34 (2) Housing other than single family residences.
35
36 (3) Roads and other impervious surfaces.
37

1 **17.01.112 TERRESTRIAL MANAGEMENT AREAS**

2
3 A. CLASSIFICATION

4 The following shall be classified as Terrestrial Management Areas:

5
6
7 Areas that are identified by the presence of any terrestrial state endangered, or state threatened
8 species. At this time, the State of Washington does not identify any state sensitive species. Mason
9 County will review this ordinance for sensitive species protection after the State has identified those
10 species.

11
12 B. DESIGNATION

13
14 The lands and shorelands of Mason County meeting the classification criteria for Terrestrial
15 Management Areas are hereby designated, under RCW 36.70A.060 and RCW 36.70A.170.

16
17 C. DEVELOPMENT STANDARDS

18
19 All development within Terrestrial Management Areas shall be consistent with State and Federal law.
20 The County shall use its authority under SEPA to help achieve such consistency.
21
22
23
24

25 **17.01.120 DEVELOPMENT REVIEW PROCESS**

26
27 A. ADMINISTRATION

28
29 There is hereby established an administrative system designed to assign responsibilities for
30 implementation of the Interim Resource Ordinance, and to prescribe an orderly process by which to
31 review proposals and permit applications, and to ensure that all persons affected by this Chapter are
32 treated in a fair and equitable manner.
33

34 B. ADMINISTRATOR

35
36 1. The Director of the Mason County Department of Community Development is hereby vested
37 with:

- 38
39 a. Overall administrative responsibility for this Interim Resource Ordinance;
40
41 b. Authority to grant statements of exemption from the Interim Resource Ordinance; and
42
43 c. Authority to determine compliance with RCW 43.21C, State Environmental Policy Act.
44

45 2. The duties and responsibilities of the Director shall include:

- 46
47 a. Establishing the procedures and preparing forms deemed essential for the
48 administration of the Chapter.
49
50 b. Advising interested citizens and applicants of the policies, regulations, and procedures
51 of the Chapter.
52
53 c. Making administrative decisions and interpretations of the principles and policies of this
54 Chapter and the Growth Management Act.
55
56 d. Collecting fees.

- e. Determining that all applications and necessary data completed.
- f. Grant or deny permits after considering all relevant information.
- g. Making field inspections, as necessary.
- h. Reviewing, insofar as possible, all provided and related data deemed necessary for appropriate application needs.
- i. Determining if a Permit, Conditional Use or Variance is required.
- j. Submitting Variance Applications and making written recommendations and findings on such permits to the Planning Commission. Submitting Conditional Use Permit Applications and making written findings on such permits to the Board of County Commissioners for their consideration and local official action. The Director shall assure that all relevant information and testimony regarding the application is made available to the Board during their review.
- k. Assuring that proper notice is given to the appropriate persons and the public of all hearings.
- l. Informing the citizens of Mason County of the purposes, goals, policies, and regulations of this Chapter and any changes or amendments thereto.
- m. Investigate, develop, and propose amendments to this Chapter as deemed necessary to more effectively and equitably achieve its goals and policies.

C. PLANNING COMMISSION

The Mason County Planning Commission, hereinafter known as the Planning Commission, is hereby vested with:

1. The authority to hear, review, and make recommendations to the Board of County Commissioners on Variances, and any conditions, terms or standards attached thereto before public meetings and/or hearings.
2. The responsibility for reviewing this program from time to time for a period of not less than one year for the purpose of assessing the Chapter's effectiveness as a major element of the County's planning and regulatory responsibilities.
3. The responsibility for proposing and/or reviewing and making recommendations to the Board on amendments deemed necessary to more effectively and equitably achieve this Chapter's goals and purposes.
4. To consider and make recommendations on applications referred to it by the Board.

D. MASON COUNTY BOARD OF COMMISSIONERS

The Mason County Board of Commissioners, hereinafter known as the Board, is hereby vested with authority to:

1. Grant or deny Variances after considering the findings and recommendations of the Planning Commission.
2. Grant or deny Conditional Use Permits after considering, on regular meeting days or at public hearings, the findings and recommendations of the Director.

- 1 3. Decide, on regular meeting days or at public hearings, appeals of the Director's actions,
2 interpretations, and/or conditions.
3
4 4. Base all decisions on critical area permits or administrative appeals on the criteria established
5 in this Chapter.
6

7 E. ENVIRONMENTAL PERMIT

8
9 1. Applicability

10 All developments and uses that are permit required or conditionally permitted under the terms
11 of this Chapter within designated Resource Lands and Critical Areas shall be subject to review
12 and approval by the County through the permit process described by this Section.
13
14

15 2. Approval Authority

16 a. Administrative Review

17 All development listed as "Permit Required" in this Chapter shall be processed through
18 Administrative Review procedures. Decisions of the Director shall be appealable to the
19 Board of County Commissioners pursuant to terms of Section 17.01.180, Appeals.
20
21

22 b. Public Review

23 All development listed as "Conditional" in this Chapter shall be processed through
24 Administrative Review procedures; provided that Public Review procedures shall be
25 followed under the following conditions:
26
27

28 (1) Any person, who would qualify as an aggrieved person if an appeal was being
29 requested, requests to the Director in writing within ten (10) calendar days
30 following posting of the public notice, pursuant to Section 17.01.120.J, that
31 a Public Review procedure be conducted; or
32

33 (2) The Director determines, based on the nature and complexity of the project,
34 that the Public Review procedure should be conducted.
35
36

37 When Public Review procedures are followed, the final approval authority shall be the
38 Board of County Commissioners.
39

40 c. Shoreline Master Program Review

41 When a use, development or other activity that is subject to review under this Chapter
42 is also subject to review under the Mason County Shoreline Master Program, the
43 proposed use, development or activity shall be processed concurrently with provisions
44 of the Shoreline Master Program. Administrative decisions under terms of this Chapter
45 should generally, but are not required to, precede a public hearing before the Mason
46 County Shoreline Advisory Committee. Permits issued under authority of the Shoreline
47 Master Program may, but are not required to, include any or all conditions stipulated
48 in the Mason Environmental Permit.
49

50
51 3. Permit Name

52 a. A permit required under one or more of the Permit Required Use categories of this
53 Chapter shall be known as a "Mason Environmental Permit" (MEP).
54

55 b. A permit required under one or more of the Conditional Use categories of this Chapter
56 shall be known as a "Mason Conditional Environmental Permit" (MCEP).
57

c. If a use is designated as a "Permit Required Use" for one or more critical areas or resource lands, and a "Conditional Use" for one or more of the critical areas or resource lands, it shall be considered a Conditional Use and require a Mason Conditional Environmental Permit (MCEP) for County approval. If a site is subject to permitting authority under more than one designated critical area or resource land, all such permits shall be processed concurrently.

4. Pre-Application Consultations

Any person intending to apply for a permit under terms of this Chapter is strongly encouraged, but not required, to meet with the County at the earliest possible stage of project planning in order to discuss potential impacts of this Chapter on the development proposal. Applicant will be encouraged to fill out a checklist to determine the need for particular permits in critical areas. Efforts put into pre-application consultations and planning will help applicants create projects which will be more quickly and easily processed. The County shall not charge a fee for pre-application consultations.

5. Permit Application Form

The Director shall establish, upon consultation with the County Engineer, Health Official, Fire Marshal, and Building Official, a single Mason Environmental Permit (MEP) and Mason Conditional Environmental Permit (MCEP) form, to be used for all development proposals subject to review under authority of this Chapter. Such form shall include requests for applicants to provide such information as to facilitate compliance with the terms of this Chapter.

In addition, all application forms for Building Permits, Sanitary Waste Permits, Shoreline Permits, Flood Plain Permits, and Subdivision Approvals including Boundary Line Adjustments, Short Subdivisions and Large Lot Segregations shall include adequate references to identify those properties subject to Resource Land and Critical Area regulations that enables the County to determine whether a Mason Environmental Permit (MEP) or Mason Conditional Environmental Permit (MCEP) is also necessary.

6. Administrative Determination of Applicability

Any person seeking to determine whether a proposed activity or an area is subject to this chapter may request in writing, and without fee, a formal "Determination of Applicability" from the Director. Such a request for determination shall contain plans, data, and other information as may be specified by the Director.

7. Permit Fees

Fees for a Mason Environmental Permit (MEP) and Mason Conditional Environmental Permit (MCEP) shall be set by Resolution of the Board.

F. SEPA COMPLIANCE

An application for a shall not be considered complete until it has complied with all procedural requirements of Chapter 43.21c RCW, the State Environmental Policy Act (SEPA), administrative regulations adopted to implement SEPA and the Mason County Environmental Policy Ordinance, 99-84, or as hereafter amended.

G. OLYMPIC AIR POLLUTION CONTROL AUTHORITY COMPLIANCE

All Mason Environmental Permit (MEP) and Mason Conditional Environmental Permit (MCEP) applications shall be forwarded for review to the Olympic Air Pollution Control Authority (OAPCA) unless the Director makes written findings that the proposed development is unlikely to result in any

1 direct or indirect impacts on water quality. Development shall be consistent with all applicable OAPCA
2 standards.

3 4 H. SPECIAL STUDIES AND PLANS

5
6 1. Developments lying within one or more designated critical areas may be required by the
7 Director to submit a Special Study or Plan that assures the proposed development does not
8 degrade the functions and values of those critical areas. Those studies include:

9
10 a. Wetland Mitigation Plan under Section 17.01.070

11
12 b. Aquifer Recharge Area Report under Section 17.01.080

13
14 c. Geological Report under Section 17.01.100

15
16 2. Requirements for Special Plans can be found in each critical area section.

17
18 3. An application for a Mason Environmental Permit (MEP) or Mason Conditional Environmental
19 Permit (MCEP) shall not be considered complete until it includes all special studies or plans
20 required by this Chapter.

21 22 I. ACTIVITY EXEMPTION APPLICATION

23
24 The purpose of this application is to gather information on the basis of which the Director can approve
25 or deny an activity exemption.

26 27 Application Requirements

28
29 1. A vicinity map (scale of 1:4,800 (1"=400 feet)) showing the wetland and surrounding
30 properties under other ownerships including other wetlands; and

31
32 2. Site Plan (scale 1" = 20 feet up to 1' = 100 feet) showing

33
34 a. Description of projected activity including all water courses, drainage ways, waste
35 water facilities, before and after the projected activity; and

36
37 b. Wetland size and boundary; and

38
39 c. Relationship to surrounding wetlands; and

40
41 d. Existing and proposed structures.

42 43 J. ACCEPTANCE OF APPLICATIONS

44
45 1. The original and nine (9) copies of a complete Mason Environmental Permit (MEP) or Mason
46 Conditional Environmental Permit (MCEP) application shall be submitted to the Department of
47 Community Development. Copies of the accepted application shall be forwarded to the
48 appropriate agencies for review.

49
50 2. Upon acceptance of an application, notice of application shall be posted by the applicant on
51 the property or principal entry point to the property from the nearest public right-of-way upon
52 which the proposed development is located using a stencil form provided by the County, on
53 a waterproof sign. Said sign shall be maintained by the applicant until action is taken on the
54 application, when it shall be promptly removed by the applicant. Said sign shall be located so
55 that it is visible from the abutting road. When more than one road abuts the property, then
56 the sign shall be visible from the road having the greatest traffic volume. Signs shall be at
57 least 3 feet by 4 feet(0.91 meters by 1.22 meters) in size for public actions and 1-1/2 feet by 2
feet(0.46 meters by 0.61 meters) in size for administrative actions.

1 K. REVIEW BY AGENCIES

2
3 For all applications, within 21 calendar days of acceptance of a complete application:

- 4
5 1. The Department of Community Development shall notify the Director that the proposal does
6 or does not conform to the goals and policies of RCW 36.70A, the standards of this Chapter,
7 and report on such other matters as may properly be their responsibility.
8
9 2. The Public Works Director shall notify the Director of Community Development that the
10 proposed roads, utilities, drainage facilities and other improvements can or cannot conform to
11 County development standards and state law under the Public Works Director's authority.
12
13 3. The Public Works Director shall also, in such manner deemed appropriate, establish the
14 adequacy of legal descriptions of the subject property.
15
16 4. The Health Director shall notify the Director of Community Development that the proposed
17 method of waste disposal and proposed system of water supply can or cannot conform to
18 adopted development standards, including the County Health Code and state law under the
19 Health Director's authority.
20
21 5. The County Fire Marshal shall notify the Director of Community Development that the
22 development can or cannot conform to adopted fire safety standards, including the Uniform
23 Fire Code and state law under the Fire Marshal's authority.
24
25 6. The County Building Official shall notify the Director of Community Development that the
26 development can or cannot conform to adopted building safety standards, including the
27 Uniform Building Code and state law under the Building Official's authority.
28

29 In addition to the above agencies, the Director of Community Development shall provide, on a timely
30 basis, a copy of the development proposal to all agencies of jurisdiction and affected tribes, as required
31 by Chapter 43.21c RCW, the State Environmental Policy Act (SEPA); and incorporate any comments
32 received into the County decision making process.

33
34 L. ADMINISTRATIVE REVIEW

- 35
36 1. Within thirty (30) calendar days following the date of acceptance of a complete application
37 subject to administrative review or such additional period as the applicant may authorize, the
38 Director of Community Development shall act on said application as follows:
39
40 a. Approval; or
41
42 b. Disapproval; or
43
44 c. Grant preliminary approval subject to conditions and completion of specified
45 improvements; or
46
47 d. Return the application to the applicant, specifying reasons for return.
48

49 Said decision of the Director of Community Development shall be based upon reports of
50 reviewing agencies, comments received during the review period, the requirements of this
51 Chapter and all other relevant facts and information needed to determine that the public
52 interest shall be served by the application. Where appropriate, a decision shall also state the
53 specific precedent, reasons, conditions and analysis upon which the decision is based..
54
55
56

2. Director's Findings

- a. The Director shall make findings based upon the review and recommendations of County departments, other agencies, affected tribes, and any public comments received. Such findings and conclusions shall also set forth the manner by which the decision would carry out and conform to the goals of RCW 36.70A, other adopted County policies, objectives and regulations and this Chapter.
- b. A decision on the application may be to grant, deny, or grant with such conditions, modifications and restrictions as the Director finds necessary to ensure that the proposed development is compatible with the natural environment, and is in compliance with the goals of RCW 36.70A, the Shoreline Master Program, State Environmental Policy Act, the standards of this Chapter, and other County codes and ordinances found applicable. Examples of the kinds of conditions, modifications and restrictions which may be imposed include, but are not limited to, additional setbacks, screenings in the form of fencing or landscaping, storm drainage facilities, restrictive covenants, easements, dedications of additional rights-of-way, performance bonds and measures to mitigate identified adverse environmental and socio-economic impacts associated with the proposed action.

M. PUBLIC REVIEW

If a determination is made that a Public Review is necessary, pursuant to Section 17.01.120.E.2.b of this Chapter, then the following procedures shall be followed.

1. Within seven (7) working days following the last action required to comply with the requirements of SEPA, the Department of Community Development shall schedule a date for a public hearing before the Planning Commission on those applications, requiring public review as follows:
 - a. The date of hearing shall be no more than sixty (60) calendar days after the date a complete application, including a special studies and plans required, was accepted for projects exempt from SEPA or, for non-exempt projects, the last action required to comply with SEPA.
 - b. A notice of hearing providing the location and a general description of the proposed project shall be published at least ten (10) calendar days prior to the hearing date in a newspaper of general circulation in the County.
 - c. Written notice of the hearing date shall be mailed to all owners of assessor's parcels within three hundred (300) feet (91.44 meters) of the boundaries of the property upon which the proposed development is located or within three hundred (300) feet (91.44 meters) of the contiguous property, if any, owned by the applicant, whichever distance is greater. It shall be the responsibility of the applicant to provide the County with said list of names and pay the cost of the newspaper notice.
 - d. Written notice of application shall also be provided to any organization or individual who has requested, in writing, to receive notice of all land use applications encompassed by this Chapter. Provided that, the County may charge a reasonable fee for such notice, as approved by resolution of the Board.

These notice provisions are intended as minimum requirements. The Director of Community Development shall ensure that all reasonable means are used to provide notice of application and hearing.

1 2. REPORT OF PLANNING DEPARTMENT

2
3 The Department of Community Development shall coordinate and assemble the reviews of
4 other county departments having an interest in the subject application and shall prepare a
5 report summarizing the factors involved and the department's findings and recommendations.
6 At least seven (7) calendar days prior to the scheduled hearing the report shall be mailed to the
7 Planning Commission and copies thereof shall be mailed to the applicant, other interested
8 parties and made available for public inspection.
9

10 3. PUBLIC HEARING

11
12 Prior to making a recommendation on any application, the Planning Commission shall hold at
13 least one public hearing thereon. It may continue said public hearing to another date certain,
14 if:

- 15
16 a. The complexity of the issue and/or intense public interest warrants further public
17 testimony, and
18
19 b. The first public hearing is not officially closed, and the date for the continued public
20 hearing is established during the same session as the first public hearing.
21

22 The Planning Commission should make every effort to expeditiously arrive at its recommendation.
23

24 4. PLANNING COMMISSION RECOMMENDATION

25
26 Within thirty (30) calendar days of the conclusion of a final public hearing, unless a longer
27 period is agreed to in writing by the applicant, the Planning Commission shall render a written
28 recommendation which shall include at least the following:
29

- 30 a. Written findings based upon the record and conclusions therefrom which support the
31 recommendations. Such findings and conclusions shall also set forth the manner by
32 which the recommendation would carry out and conform to the goals and policies of
33 RCW 36.70A, and existing County adopted policies, regulations, and this Chapter.
34
35 b. A recommendation on the application which may be to grant, deny, or grant with such
36 conditions, modifications and restrictions as the Commission finds necessary to ensure
37 that the proposed development is compatible with surrounding land use patterns, and
38 is in compliance with the goals of RCW 36.70A, State Environmental Policy Act and
39 other County codes and ordinances found applicable. Examples of the kinds of
40 conditions, modifications and restrictions which may be imposed include, but are not
41 limited to, additional setbacks, screenings in the form of fencing or landscaping, storm
42 drainage facilities, restrictive covenants, easements, dedications of additional right-of-
43 way, performance bonds and measures to mitigate identified adverse environmental
44 and socio-economic impacts associated with the proposed action.
45

46 N. BOARD ACTION - ADOPT, REJECT, REMAND

47
48 A Planning Commission recommendation shall be scheduled for Board consideration in open public
49 meeting no sooner than ten (10) nor longer than thirty (30) calendar days from the date the
50 recommendation was rendered. The Board shall consider the matter based upon the written record,
51 exhibits, Department of Community Development reports, and the Planning Commission's
52 recommendation and may adopt, reject or remand the recommendation for further consideration.
53

54 O. BOARD ACTION - MODIFY

55
56 If, at the public meeting, the Board finds it may be necessary to consider modifications to the
57 recommendation, it shall schedule and conduct its own public hearing at which time it may receive

1 additional evidence and testimony. Notice of said hearing shall be given pursuant to the Planning
2 Commission public notice provisions of this Chapter.

3
4 P. REASONABLE USE EXCEPTION
5

- 6
7 1. If the application of this Chapter would deny all reasonable use of a site, development may be
8 allowed which is consistent with the general purposes of this Chapter and the public interest.
9
10 2. Nothing in this Chapter is intended to preclude all reasonable use of property. An applicant for
11 a development proposal may file a request for a reasonable use exception which shall be
12 considered by the Board of County Commissioners at a public hearing.
13
14 a. A description of the areas of the site which are critical areas and/or resource lands or
15 within setbacks required under this Chapter;
16
17 b. A description of the amount of the site which is within setbacks required by other
18 County standards;
19
20 c. A description of the proposed development, including a site plan;
21
22 d. An analysis of the impact that the amount of development would have on the resource
23 lands or critical areas;
24
25 e. An analysis of whether any other reasonable use with less impact on the resource
26 lands or critical areas is possible;
27
28 f. A design of the proposal so that the amount of development proposed as reasonable
29 use will have the least impact practicable on the resource lands and/or critical areas;
30
31 g. Other information as the Department determines is reasonably necessary to evaluate
the issue of reasonable use as it relates to the proposed development.

32
33 Q. The Board of Commissioners may approve the reasonable use exception, if the Board determines the
34 following criteria are met:
35

- 36 1. There is no other reasonable use or feasible alternative to the proposed development with less
37 impact on the resource lands or critical areas; and
38
39 2. The proposed development does not pose a threat to the public health, safety or welfare on
40 or off the site; and
41
42 3. Any alteration of the resource lands and/or critical areas shall be the minimum necessary to
43 allow for reasonable use of the property; and
44
45 4. The inability of the applicant to derive reasonable use of the property is not the result of
46 actions by the applicant in subdividing the property or adjusting a boundary line thereby
47 creating the undevelopable condition after the effective date of the Chapter; and
48
49 5. The proposal mitigates the impact on the resource lands and/or critical areas to the maximum
50 extent possible, while still allowing reasonable use of the site.
51

52 R. Except when application from this Chapter would deny all reasonable use of a site, an applicant who
53 seeks an exception from the regulations of the Chapter shall pursue a variance as provided in Section
54 .150.

1 **17.01.130 APPLICATION FOR RESOURCE REDESIGNATION**

2
3 **A. PURPOSE**

4
5 This Section sets out the standards and processes for changing the designation of resource lands to non-resource lands, and non-resource lands to resource lands, after the effective date of this Chapter.

6
7
8 **B. APPLICATION PROCESS AND COUNTY REVIEW CRITERIA FOR REDESIGNATION GREATER THAN 60**
9 **CALENDAR DAYS FROM THE EFFECTIVE DATE OF THIS CHAPTER**

10
11 The Redesignation process, for applications pursuant to this Subsection, shall be the same as the public review process set forth in 17.01.120, unless otherwise stated. Applications pursuant to this Section may only be initiated by owners of lands proposed to be redesignated, or the County. The County shall approve Redesignation applications if they meet the following criteria as appropriate:

12
13
14
15
16 1. Redesignation from Long-Term Commercial Forest Land to Inholding Land shall be permitted upon a finding that:

- 17
18 a. The property meets the classification criteria for Inholding Land; and
- 19
20 b. Within three (3) years of the effective date of redesignation, the property shall be removed from the open space or forest land tax classifications pursuant to Chapters 84.33 or 84.34 RCW, and any taxes, interest and penalties shall be paid in full upon removal; and
- 21
22
23
24
25 c. The applicant has demonstrated that reasonable use of the property as Designated Long-Term Commercial Forest Land is not possible and the inability to make reasonable use of the property is not due to action or inaction of the applicant.

26
27 In reviewing the applicant's proposal the County shall consider the following factors:

- 28
29
30
31
32 (1) The availability of public service and facilities conducive to the conversion of forest land; and
- 33 (2) The proximity of designated land to urban and suburban areas and rural settlements; and
- 34 (3) The compatibility and intensity of adjacent and nearby land use and settlement patterns; and
- 35 (4) Local economic conditions which affect the ability to manage forest lands for long-term commercial production, including the proximity to markets and land values under alternative uses; and
- 36 (5) Quality of growing conditions on sites, including the Private Forest Land Grade of a site or portion of a site and the topographic and other constraints limiting the ability to economically manage a site or portion of a site within the block of which it is a part; and
- 37 (6) The history of land development permits issued nearby; and

- 38
39 d. The amount of property removed from Long-Term Commercial Forest Land is the minimal amount necessary that meets the conditions of "c" above; and
- 40
41 e. Removal of subject property shall not impair the ability to manage the remainder of the block for long-term commercial forestry; and
- 42
43 f. Subdivision or other project approval is granted within three (3) years of approval of redesignation for a use which shall be compatible with surrounding conforming uses. If such project approval is not granted within three (3) years, the property reverts back to designated Long-Term Commercial Forest Land.
- 44
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- 1 2. Redesignation from Long-Term Commercial Forest Land to Non-Resource Land shall be
2 permitted upon finding that:
3
- 4 a. All redesignation criteria for Long-Term Commercial Forest Land to Inholding Land are met,
5 except 17.01.130.B.1.a; or
- 7 b. A trade of properties can be established wherein the owner of designated forest lands edging
8 the outer boundary of this designation can exchange a parcel(s) of forest land for abutting non-
9 resource land. The abutting non-resource land must be equal to or greater in size than the
10 parcel removed from designated forest land, connected to the forest block, and committed to
11 the Long-Term Commercial Forest Land designation. A no net loss of designated forest land
12 must be achieved. Redesignation criteria 17.01.130.B.1.b.,e.,f. must also be met.
13
- 14 3. Redesignation from Inholding Land to Long-Term Commercial Forest Land shall be permitted upon a
15 finding that:
16
- 17 a. The property abuts designated Long-Term Commercial Forest Land; and
18
- 19 b. Prior to the effective date of redesignation, the property shall be registered in the open space
20 or forest land tax classifications pursuant to Chapters 84.33 or 84.34 RCW.
21
- 22 4. Redesignation from Long-Term Commercial Forest Land or Inholding Land or Non-Resource Land to
23 Mineral Resource Land shall be permitted upon a finding that:
24
- 25 The Property meets the classification criteria and designation process for Mineral Resource
26 Lands, pursuant to Section 17.01.066.A.2 and B.2.
27
- 28 5. Redesignation from Non-Resource Land to Long-Term Commercial Forest Land shall be permitted upon
29 a finding that:
30
- 31 a. Prior to the effective date of redesignation, the property shall be registered in the open space
or forest land tax classifications pursuant to Chapters 84.33 or 84.34 RCW; and
33
- 34 b. The property is at least 640 acres (257.92 hectares) in size; or
35
- 36 c. The property is at least 40 acres (16.12 hectares) in size and abutting Designated Long-Term
37 Commercial Forest Land on one side or at least 5 acres (2.15 hectares) in size and abutting
38 Designated Long-Term Commercial Forest Land on at least two sides; and.
39
- 40 6. Redesignation from Mineral Resource Land to Long-Term Commercial Forest Land shall be permitted
41 upon a finding that:
42
- 43 The property meets the redesignation criteria of Non-Resource Land to Long-Term Commercial
44 Forest Land, Section 17.01.130.B.5.
45
- 46 7. Redesignation from Mineral Resource Land to Inholding Land shall be permitted upon a finding that:
47
- 48 a. The property meets the classification criteria for Inholding Land, 17.01.062.A; and
49
- 50 b. The mineral resource potential of the site as been depleted by extraction to the extent that the
51 site is no longer capable of economically viable production and all terms of a reclamation plan
52 as specified by State law have been completed; or
53
- 54 c. The applicant has demonstrated reasonable use of the property as Designated Mineral Resource
55 Land is not possible and the inability to make reasonable use of the property is not due to
56 action or inaction of the applicant.

8. Redesignation from Mineral Resource Land to Non-Resource Land shall be permitted upon a finding that:

- a. The property meets redesignation criteria "b" and "c" of 17.01.130.B.7 above; and
- b. The property does not meet redesignation criterion "a" of 17.01.130.B.7 above.

C. APPLICATION PROCESS AND COUNTY REVIEW CRITERIA FOR REDESIGNATION WITHIN 60 CALENDAR DAYS OF THE EFFECTIVE DATE OF THIS CHAPTER

An "Opt in" and "Opt out" provision is provided for Redesignations pursuant to this Subsection. Under this provision property owners are required to provide a written notification to the Director if they wish their property to be either included in a designated resource land or excluded.

Provided that all criteria required under the applicable Subsection of 17.01.130.C are met and the request is received by the County within 60 calendar days of the effective date of this Chapter, the Director shall make a written finding of compliance with said criteria and then said lands shall be automatically, and without fee, redesignated to either:

For "Opt out" requests: that designation for which it meets all classification criteria; or

For "Opt in" requests: that designation for which the property owner has requested.

The County shall approve Redesignation applications if they meet the following criteria as appropriate:

1. Redesignation from Inholding Land to Long-Term Commercial Forest Land shall be permitted upon a finding that:

- a. The property abuts designated Long-Term Commercial Forest Land; and
- b. Prior to the effective date of redesignation, the property shall be registered in the open space or forest land tax classifications pursuant to Chapters 84.33 or 84.34 RCW.

2. Redesignation from Non-Resource Land to Long-Term Commercial Forest Land shall be permitted upon a finding that:

- a. Prior to the effective date of redesignation, the property shall be registered in the open space or forest land tax classifications pursuant to Chapters 84.33 or 84.34 RCW; and
- b. The property is at least 640 acres (257.92 hectares) in size; or
- c. The property is at least 40 acres (16.12 hectares) in size and abutting Designated Long-Term Commercial Forest Land on one side or at least 5 acres (2.15 hectares) in size and abutting Designated Long-Term Commercial Forest Land on at least two sides.

3. Redesignation from Long-Term Commercial Forest Land or Inholding Land or Non-Resource Land to Mineral Resource Land shall be permitted upon a finding that:

The property meets the classification criteria for Mineral Resource Lands pursuant to Sections 17.01.066.A.1.

D. TIME LIMIT

After County action on a redesignation application, no new redesignation application for the same property may be considered for one (1) year from the date of action.

17.01.140 NONCONFORMING USES

A. PURPOSE

This section establishes the terms and conditions for continuing nonconforming uses, structures and lots which were lawfully established prior to the effective date of this Chapter.

B. STANDARDS

1. A legally established nonconforming lot, use or structure shall be deemed a legal nonconforming lot, use or structure and may be continued, transferred or conveyed and/or used as if conforming.
 2. A reduction in the setback and/or buffer requirements may be considered for a nonconforming lot. A reduction of setback shall be approved only if:
 - a. The reduction of setback and/or buffer is necessary in order to achieve reasonable use of the land, and that it is the minimum reduction of setback and/or buffer which accomplishes this purpose; and
 - b. The proposed reduction of setback and/or buffer is compatible with the character of surrounding permitted uses, and shall not adversely affect efficient and safe traffic circulation; and
- The burden of establishing the above-listed criteria for setback and/or buffer reductions is upon the applicant.
3. The burden of establishing that any nonconforming lot, use or structure lawfully existed as of the effective date of this Chapter shall, in all cases, rest with the owner and not with the County.

C. USE OF NONCONFORMING LOT

Any permitted use authorized by this Chapter in one or more designated areas shall be permitted on a legal nonconforming lot provided that it complies with all sections of this Chapter other than tract or parcel size or conditions imposed pursuant to Subsection "D" and other pertinent chapters of the Mason County Code and state law.

1. Adjustment of boundary lines to make legally established nonconforming lots more nearly conforming is encouraged and may be made pursuant to Title 16 of the Mason County Code.
2. A conforming use or structure located on a legally established nonconforming lot may be expanded, enlarged or extended as if it were on a conforming lot.

D. MAINTENANCE AND REPAIR OF NONCONFORMING STRUCTURE

Normal maintenance and incidental repair of legal nonconforming structures shall be permitted, provided that it complies with all sections of this Chapter and other pertinent chapters of the Mason County Code.

E. RECONSTRUCTION

Reconstruction, restoration or repair of a legal nonconforming structure damaged by fire, flood, earthquake or other disaster shall be permitted; Provided that such reconstruction shall not result in an expansion of the non-conforming structure.

F. EXPANSION OF NONCONFORMING USE OR STRUCTURE

No legal nonconforming use or structure may be expanded, enlarged, or extended in any way (including extension of hours of operation), unless such modification is in full compliance with this Chapter or the terms and conditions of approved permits pursuant to this Chapter.

G. DISCONTINUANCE OF NONCONFORMING USE

All legal nonconforming uses shall be encouraged to convert to a conforming use whenever possible and conformance shall be required when:

1. The use is changed;
2. The structure(s) within which the use is conducted is moved; or
3. The use is terminated or discontinued for more than three (3) years.

17.01.150 VARIANCES FROM STANDARDS

A. PURPOSE

The purpose of this section is to allow the County to consider requests to vary or adapt certain numerical standards of this Chapter where the strict application of said standards would deprive property owners of reasonable use of their property.

B. APPLICABILITY

The provisions of this Section shall apply to:

1. Setback requirements within designated critical areas and resource lands; except wetland related setbacks.
2. Buffer/vegetation area requirements within designated critical areas; except wetland related vegetation areas.
3. Tract or parcel size requirements of Section 17.01.060, .062 and .066; except that when the following conditions are met, creation of non-conforming lots under the terms of this Chapter are allowed outright; provided that all Mason County Code Title 16 (Subdivisions) requirements are followed:
 - a. The parcel to be divided was legally established prior to the effective date of this Chapter; and
 - b. The parcel contains two (2) dwelling units which were constructed prior to the effective date of this Chapter; and
 - c. No more than two lots are proposed to be created; and
 - d. No lot proposed to be created shall be less than 1 acre (0.405 hectares) in size; and
 - e. Use of the lots to be created shall comply with all terms and conditions of this Chapter, other than lot size, and shall comply with other pertinent requirements of the Mason County Code.

1 A variance from standards may be appropriate where a lot is excessively narrow or shallow or
2 contains unusual topographic conditions, but only when strict application would result in hardship on
3 the owner of such property.
4

5 C. APPLICATION REQUIREMENTS

7 Application requirements shall be the same as for a Mason Environmental Permit in Section 17.01.120,
8 as well as the following:
9

- 10 1. A description of the specific modification from the terms of the Chapter required; and
- 11 12 2. A description of the reasons for the variance.
- 13

14 D. REVIEW PROCESS

15 The review process for variances from standards shall be the public review process set forth in Section
16 17.01.120.
17
18

19 E. REVIEW STANDARDS

20 No variance shall be granted unless the County makes findings of fact showing that the following
21 circumstances exist:
22
23

- 24 1. The granting of the variance shall be consistent with the purpose and intent of this Chapter and
25 conditions shall be imposed to ensure compatibility with surrounding conforming uses.
26
- 27 2. The granting of the variance shall not permit the establishment of any use which is prohibited
28 by this Chapter.
29
- 30 3. The granting of the variance must be necessary for the reasonable use of the land or building
31 and the variance as granted by the County is the minimum variance that shall accomplish this
32 purpose. The findings shall fully set forth the circumstances by which this Chapter would
33 deprive the applicant of a reasonable use of his land. Mere loss in value shall not justify a
34 variation.
35
- 36 4. The granting of the variance shall not impair or substantially diminish property values of
37 surrounding neighborhood properties.
38
- 39 5. The granting of the variance shall not confer on the applicant any special privilege that is
40 denied by this Chapter to other lands or buildings in the same designation.
41
42

1 17.01.160 TEMPORAP SES

2

3 The Director shall authorize by administrative decision temporary uses pursuant to the terms and conditions
4 of this section.

5

6 A. PURPOSE

7

8 This section provides a process for authorizing certain uses or activities of a non-permanent nature for
9 a limited duration.

10

11 B. APPLICATION REQUIREMENTS

12

13 The application shall contain those requirements the Director deems appropriate based on the duration
14 of the use and its potential for environmental impact.

15

16 C. REVIEW PROCESS

17

18 The review process for a "Certificate of Temporary Use" shall be subject to administrative review
19 consistent with Section 17.01.120; provided that the Director may waive any or all of this review
20 process for uses that do not pose a potential for environmental impact.

21

22 D. DEVELOPMENT STANDARDS

23

24 Temporary uses shall be consistent with all standards set forth in this Chapter. For any temporary use
25 the County shall impose such other reasonable conditions as may be found necessary to ensure that
26 the activity or use is not incompatible with surrounding conforming uses and will not result in a
27 potential environmental impact.

28

29 E. TIME LIMIT

30

31 Certificates of Temporary Use shall expire according to the terms set forth in the approval.

32

33

1 **17.01.170 EMERGENCY ACTIONS**

2
3 **A. EMERGENCY PERMIT**

4
5 Notwithstanding other provisions of this Chapter or any other laws to the contrary, the Director may issue a Emergency Permit if:

- 6
7
8 1. The Director determines that an unacceptable threat to life or severe loss of property will occur if an emergency permit is not granted; and
- 9
10
11 2. The anticipated threat or loss may occur before a permit can be issued or modified under the procedures otherwise required by this Chapter and other applicable laws.

12
13
14 Any such permit granted shall incorporate, to the greatest extent practicable and feasible but not inconsistent with the emergency situation, the standards and criteria required for non-emergency activities under this Chapter and shall:

- 15
16
17
18 1. Be limited in duration to the time required to complete the authorized emergency activity, not to exceed calendar 90 days; and
- 19
20
21 2. Require, within this 90 day period, the restoration of any critical area altered as a result of the emergency activity, except that if more than the 90 days from the issuance of the emergency permit is required to complete restoration, the emergency permit may be extended to complete this restoration.

22
23
24
25
26 Issuance of an emergency permit by the Director does not preclude the necessity to obtain necessary approvals from appropriate federal and state authorities.

27
28
29 Notice of the issuance of the emergency permit and request for public comments shall be published at least once a week on the same day of the week for two consecutive weeks in the Official Mason County Newspaper of Record no later than 10 calendar days after issuance of the emergency permit.

30
31
32
33 The emergency permit may be terminated at any time without process upon a determination by the Director that the action was not or is no longer necessary to protect human health or the environment.

34
35
36 **B. ENFORCEMENT**

37
38 The County shall have authority to enforce this Section consistent with all provisions of Section 17.01.200.

39
40
41

17.01.180 APPEALS

A. ADMINISTRATIVE INTERPRETATIONS

1. Administrative decisions of the Director of Community Development shall be final and conclusive unless within ten (10) calendar days following issuance of the Director's decision or determination, written statement of appeal is filed with the Board of County Commissioners by the applicant, a department of the County, an affected tribe, or any aggrieved person. Said statement shall set forth any alleged errors and/or the basis for appeal and shall be accompanied by a fee in an amount as set by resolution of the Board; provided, that such appeal fee shall not be charged to a department of the County or to other than the first appellant.
2. The timely filing of an appeal shall stay the effective date of the decision until such time as the appeal is heard and decided or is withdrawn. The burden of proof regarding modification or reversal shall rest with the appellant.
3. Within ten (10) working days following the timely filing of an appeal, notice thereof and of the date, time and place for the appeal hearing shall be mailed to the applicant and to all other parties of record. Such notice shall additionally indicate the deadline for submittal of written comments.

B. DESIGNATIONS

1. Within 15 calendar days following application for a land development permit pursuant to this Chapter, the Director of Community Development shall make a determination as to whether a designated resource land or critical area is effected by said proposed development. Such designation shall be final and conclusive unless within ten (10) calendar days following issuance of the Director's decision or determination, written statement of appeal is filed with the Board of County Commissioners by the applicant, a department of the County or any aggrieved person. Said statement shall set forth any alleged errors and/or the basis for appeal and shall be accompanied by a fee as approved by resolution of the Board; provided, that such appeal fee shall not be charged to a department of the County or to other than the first appellant.
2. Appeals of designations shall be processed the same as all other administrative determinations.

17.01.190 JUDICIAL REVIEW

The action of the Board in adopting, rejecting, remanding or modifying a recommendation of the Planning Commission shall be final and conclusive unless within ten (10) calendar days from the date of such action the applicant or an aggrieved party files a petition with the Mason County Superior Court for a writ or certiorari or review. For purposes of this Chapter, a petition shall not be deemed filed until it is also served upon the Board and the applicant or owner of record.

1 **17.01.200 ENFORCEMENT**

2
3 The Director is charged with enforcement of the provisions of this Chapter. When enforcement requires
4 referral to a Court of competent jurisdiction, the Director shall refer the matter to the County Prosecutor to
5 adjudicate the case on behalf of the County.

6
7 It shall be unlawful for any person to construct, enlarge, alter, repair, move, demolish, use, occupy or cause
8 the same to be done in violation of any of the provisions of this Chapter. Any such violation is declared to be
9 a public nuisance under RCW 9.66.010, and shall be corrected by any reasonable and lawful means as
10 provided in this Section.

11
12 **A. INSPECTIONS**

13
14 The purpose of these inspection procedures are to ensure that a property owner's rights are not
15 violated.

- 16
17 1. When it is necessary to make an inspection to enforce the provisions of this Chapter, or when
18 the Director has reasonable cause to believe that a violation has been or is being committed,
19 the Director or his duly authorized inspector may enter the premises, or building at reasonable
20 times to inspect or to perform any duties imposed by this Chapter, provided that if such
21 premises or building be occupied that credentials be presented to the occupant and entry
22 requested. If such premises or building be unoccupied, the Director shall first make reasonable
23 effort to locate the owner or other person having charge or control of the premises or building
24 and request entry. If entry is refused, the Director shall have recourse to remedies provided
25 by law to secure entry.

26
27 **B. CIVIL PROCEDURES FOR DEALING WITH VIOLATIONS**

- 28
29 1. The Director may institute appropriate action or proceeding in the form of a warning notice to
30 require compliance with this Chapter.
31
32 2. If the property owner does not respond to the warning notice a \$100 ticket will be issued to
33 the property owner.
34
35 3. If the property owner does not respond to the ticket or if the property owner responds to the
36 ticket but does not make appropriate efforts to correct the infraction the Director may issue
37 a temporary enforcement order pursuant to subsection D;
38
39 4. The Director may abate the violation if corrective work is not commenced or completed within
40 the time specified in a permanent enforcement order;
41
42 5. The Director may suspend or revoke any approvals or permits issued pursuant to this Chapter
43 or other Chapters of the Mason County Code under the Director's Authority; and/or
44
45 6. The Director may file a lien against the property for costs of abatement and/or civil fines.

46
47 **C. NOTIFICATION**

- 48
49 1. **Warning Notice**

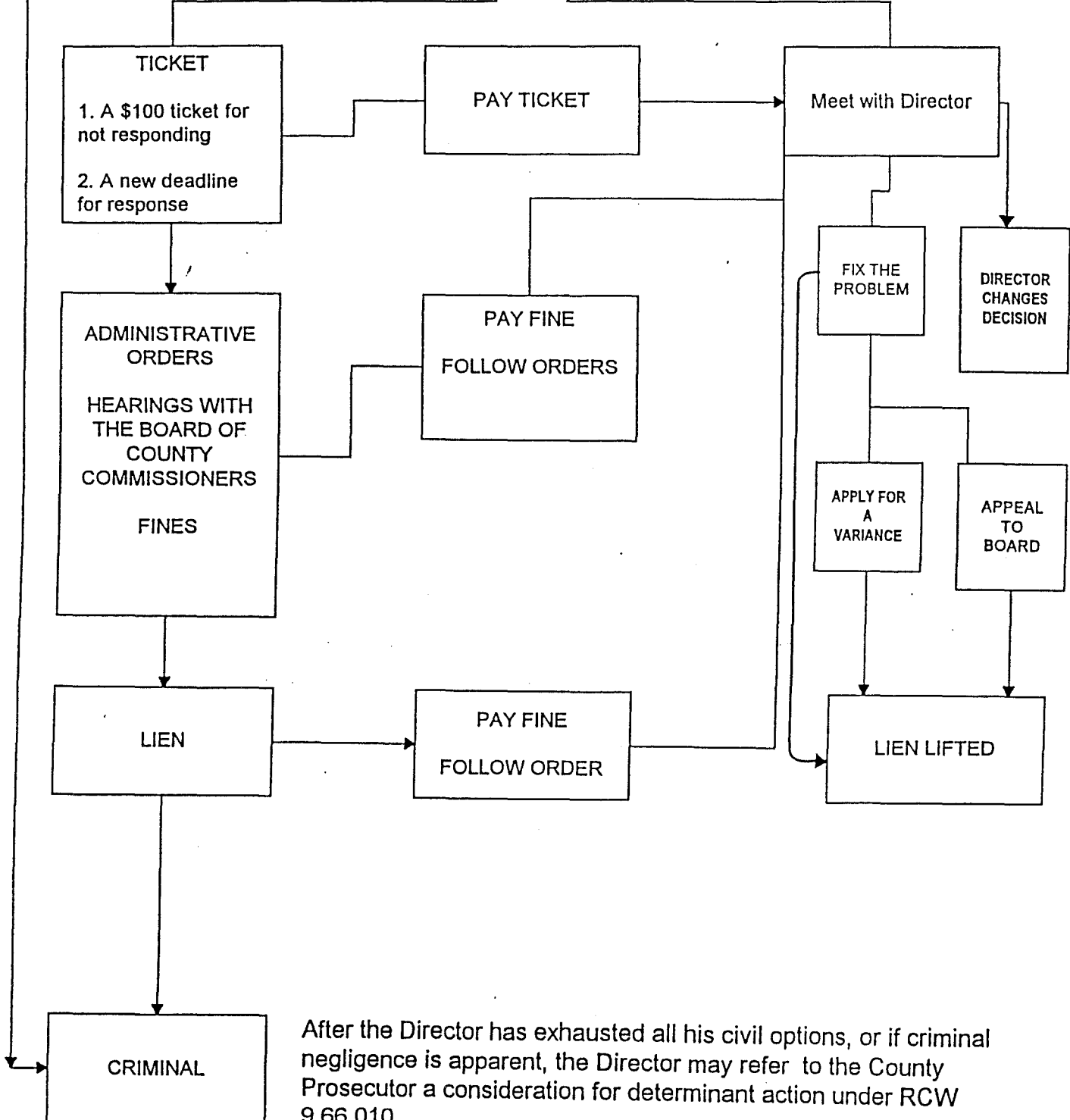
50
51 The first step in corrective action for the Director to take will be the issuing of a warning
52 notice. This notification is to inform property owners of practices which constitute or will
53 constitute a violation of this Chapter. This warning notice will require a response from the
54 property owner within 20 days and will be sent by certified/registered mail.
55
56
57

NOTIFICATION
(EDUCATION & RESPONSE)

1. You will be notified about the problem. The notice will explain the nature of the problem, the laws associated, and why you need to correct the situation.
2. The notice will list what your choices are in responding.
3. The notice will identify deadlines for your response.
4. Stop work until you respond to the notification

No Response

If you respond to the notification



After the Director has exhausted all his civil options, or if criminal negligence is apparent, the Director may refer to the County Prosecutor a consideration for determinant action under RCW 9.66.010

1 2. Ticket

2
3 The Director will issue a ticket upon a no response action taken by the property owner. The
4 property owner has 15 days to pay the ticket and respond to the notice.
5

6 D. ADMINISTRATIVE NOTICE AND ORDER

7
8 Within twenty calendar days of notice of a potential violation the Director shall make a determination
9 of whether a violation has occurred, and, if the Director determines that a violation has occurred, issue
10 a temporary or permanent enforcement order. The Director shall notify the complainant of this
11 determination in writing.
12

13 Additionally, whenever the Director has reason to believe that a use or condition exists in violation of
14 this Chapter and that violation will be most promptly and equitably terminated by an administrative
15 proceeding, the Director may commence an administrative notice and order proceeding to cause
16 assessment of a civil penalty, abatement or suspension of work or revocation of any approvals or
17 permits issued pursuant to this Chapter or other Chapters of the Mason County Code under the
18 Director's Authority.
19

20 1. Temporary Enforcement Order.

21
22 The Director may cause a temporary enforcement order to be posted on the subject property
23 or served on persons engaged in any work or activity in violation of this Chapter. The order
24 shall require immediate cessation of such work or activity and may temporarily suspend any
25 approval or permit issued under this Chapter or other Chapters of the Mason County Code
26 under the Director's Authority. The order may be issued without written or oral notice and
27 shall expire by its own terms in (10) calendar days unless the Director issues and transmits a
28 permanent enforcement order to the Board of Mason County Commissioners pursuant to
29 Section 17.01.200.D.3. The notice and order shall contain:
30

- 31 a. The street address, when available, and a legal description of the real property;
32
33 b. A statement that the Director has found the person to be in violation of this Chapter
34 and a brief and concise description of the conditions found to be in violation;
35
36 c. A statement that the violator may be subject to a fine of \$500 for each day that the
37 violation continues and, if applicable, the conditions on which assessment of such civil
38 penalty is contingent.
39

40 2. Withdrawal or Issuance of additional temporary order.

41
42 The Director may withdraw a temporary order if compliance is achieved within 10 calendar
43 days of posting or service thereof. If the violation is continued or repeated, the Director may
44 cause a second temporary order to be posted on the subject property or served on persons
45 engaged in any work or activity in violation of this Chapter. Any subsequent order involving
46 the same violation shall be permanent.
47

48 3. Permanent Enforcement Order.

49
50 A permanent order shall be issued by the Director and reviewed by the Board of County
51 Commissioners, as follows:
52

- 53 a. Within ten (10) calendar days following issuance of the temporary order, the Director
54 shall prepare and transmit to the Board a permanent enforcement order which shall
55 become final unless modified by the Board.
56
57

b. The permanent enforcement order shall contain.

- (1) The street address, when available, and a legal description of real property;
- (2) A statement that the Director has found the person to be in violation of this Chapter and a brief and concise description of the conditions found to be in violation;
- (3) A statement of the corrective action required to be taken. If the Director has determined that corrective work is required, the order shall require that all required permits be secured and the work be physically commenced and completed within such time as the Director determines is reasonable under the circumstances, but in no event shall such time exceed 90 days;
- (4) A statement that the violator may be subject to a fine of \$500 for each day that the violation continues and, if applicable, the conditions on which assessment of such civil penalty is contingent;
- (5) Statements advising that:
 - (a) If any required work is not commenced or completed within the time specified, the Director shall proceed to abate the violation and cause the work to be done and charge the costs thereof as a lien against the property and any other property owned by the person in violation and as a personal obligation of any person in violation; and
 - (b) If any assessed civil penalty is not paid, the Director shall charge the amount of the penalty as a lien against the property and as a personal obligation of any person in violation.

c. Prior to rendering a decision on the permanent enforcement order, the Board shall hold at least one public hearing thereon. The property owner will be notified by certified/registered mail the time and place of the public hearing.

d. The permanent enforcement order shall become final within five (5) working days of the conclusion of a hearing, unless the Board renders a written decision modifying or rejecting the enforcement order.

4. Supplemental Order. The Director may at any time add to, rescind in part, or otherwise modify a permanent enforcement order by transmitting to the Board a supplemental enforcement order pursuant to Section 17.01.200.D.3.

5. Service. Service of the permanent enforcement order shall be made upon all persons identified in the order either personally or by mailing a copy of such order by certified mail, postage prepaid, return receipt requested. If the address of any such person cannot reasonably be ascertained, a copy of the order shall be mailed to such person at the address of the location of the violation. The failure of any such person to receive such notice shall not affect the validity of the proceedings taken under this Chapter. Service by certified mail in the manner provided in this section shall be effective on the date of the postmark. The order may be, but is not required to be posted on the subject property.

E. VIOLATION OF PERMANENT ORDER

If, after any permanent order duly issued by the Director has become final, the person to whom such order is directed fails, neglects, or refuses to obey such order, including refusal to pay a civil penalty assessed under such order, the Director may:

1. Cause such person to be prosecuted under the provisions of this Section; and/or
2. Institute any appropriate action to collect a civil penalty assessed under this Section; and/or
3. Abate the violation using the procedures of this Section; and/or

1 4. Pursue any other appropriate remedy at law or equity.

2
3 F. REVOCATION OF APPROVALS OR PERMITS

4
5 1. The Director may permanently revoke any approval or permit issued under this Chapter or other
6 Chapters of the Mason County Code under the Director's authority for:

- 7
8 a. Failure of the holder to comply with the requirements of such Chapters; or
9
10 b. Failure of the holder to comply with any order issued pursuant to this Section; or
11
12 c. Discovery by the Director that an approval or a permit was issued in error or on the
13 basis of incorrect information supplied to the County.
14

15 Such approval or permit revocation shall be carried out through the notice and order provisions
16 of this Section and the revocation shall be final within five (5) working days of the conclusion
17 of the hearing unless the Board renders a written decision modifying or denying the revocation.
18

19 A permit may be suspended pending its revocation.
20

21 2. If a permit is not acted on within 3 years of authorization, it is automatically revoked.
22

23 G. LIEN

24
25 Mason County shall have a lien for any civil penalty imposed or for the cost of any work of abatement
26 done pursuant to this Section, or both, against the real property on which the civil penalty was
27 imposed or any of the work of abatement was performed and against any other real property owned
28 by any person in violation.
29

30 The lien shall be subordinate to all existing special assessment liens previously imposed upon the same
31 property and any recorded encumbrances except for state and county taxes, with which it shall be on
32 a parity.
33

34 The Board shall cause a claim for lien to be filed for record with the Auditor within ninety calendar days
35 from the date the civil penalty is due or within ninety calendar days from the date of completion of the
36 work or abatement performed by Mason County pursuant to this Section. The claim of lien shall
37 contain the following:
38

- 39 1. The authority for imposing a civil penalty or proceeding to abate the violation, or both;
40
41 2. A brief description of the civil penalty imposed or the abatement work done, or both, including
42 the violations charged and the duration thereof, the time the work is commenced and
43 completed and the name of the persons or organizations performing the work;
44
45 3. A legal description of the property to be charged with the lien;
46
47 4. The name of the known or reputed owner; and
48
49 5. The amount, including lawful and reasonable costs, for which the lien is claimed.
50

51 The lien may be foreclosed by a civil action in Mason County Superior Court.
52

53 H. CRIMINAL PROCEDURES

54
55 After the Director has exhausted civil options or if criminal negligence is apparent the Director may
56 refer to the Prosecuting Attorney for a determination action under RCW 9.66.010.
57

1 I. RESTORATION

2
3 For property which contains designated wetlands, aquatic management areas, or terrestrial habitat
4 management areas or their vegetation areas which has been disturbed, or landslide, seismic or erosion
5 hazard areas on which a structure has been built or located in violation of this Chapter, no permit or
6 approval or development of the property shall be authorized or granted for a period of up to three (3)
7 years from completion of restoration as determined by the Director. In the event of intentional or
8 knowing violation of this Chapter, the County may bring an action against the owner of the land or the
9 operator who committed the violation.

10
11 1. Restoration Plan.

12
13 a. Where any designated wetlands, aquatic management areas, or terrestrial management
14 areas or their vegetation area which has been disturbed, or landslide, seismic or erosion
15 hazard areas or their buffers has been disturbed or a structure has been built, the
16 applicant shall cause to be prepared, by a qualified biologist, plant ecologist, geologist
17 or similarly qualified professional, as appropriate, a restoration plan which shall include
18 as a minimum the following:

- 19
20 (1) The extent of disturbance including an inventory of all vegetation cleared; and
21 (2) Measures necessary to restore the critical areas or their buffers/vegetation
22 area, including removal of fill, regrading to original contours, if necessary,
23 replacement of excavated material, revegetation of all cleared areas with native
24 trees and/or plants and removal of structures; and
25 (3) A schedule for restoration; and
26 (4) A monitoring plan to evaluate periodically the success of the restoration and
27 provide for amendments to the plan which may become necessary to achieve
28 its purpose.

29
30 b. In preparing and approving the restoration plan, the applicant and the County,
31 respectively, should consult with the Department of Wildlife, Department of Natural
32 Resources, Department of Fisheries, and the Department of Ecology as appropriate.

33
34 c. The restoration plan shall be prepared at the applicant's cost and shall be approved by
35 the Director. The Director may approve, reject or approve the plan with conditions.
36 All restoration shall be consistent with the approved restoration plan.

37
38 2. Monitoring. In any designated critical area where restoration has been required, the applicant,
39 at its own cost, shall provide for seasonal monitoring of the site by a qualified biologist or other
40 qualified professional, for a period of three years after completion. The applicant shall submit
41 an annual report to the Director which discusses i) the condition of introduced or reintroduced
42 plant species; ii) the condition of open water areas or other water features; iii) use of the site
43 by fish and wildlife species; iv) any disturbances or alterations and their affects on the
44 restoration; v) additional or corrective measures which should be taken to ensure the success
45 of the restoration; and vi) other information which the Director considers necessary to assess
46 the status of the restoration.

47
48 3. Restoration bond. Prior to commencing restoration of a wetland, deep water habitat, tributary
49 stream or protected species habitat, or their vegetation area or a steep or unstable slope, the
50 applicant shall post with the Director a bond or other security in an amount sufficient to cover
51 the cost of conformance with the conditions of the restoration plan, including corrective work
52 necessary to provide adequate drainage, stabilize and restore disturbed areas, and remove
53 sources of hazard associated with work which is not completed. After the Director determines
54 that restoration has been completed in compliance with approved plans and the monitoring
55 period has expired, the bond or other security shall be released. The County may collect
56 against the bond when work which is not completed is found to be in violation of the

conditions set forth in the restoration plan and/or the Director determines that the site is in violation of the purposes of this Chapter.

J. CLEARING AND GRADING

Where property has been subjected to clearing or grading activity in violation of this Chapter, the County may bring an action against the owner of such land or the operator who performed the clearing and grading. In addition, in the event of intentional or knowing violation of this Chapter, the Court may, upon the County's request, deny authorization of any permit or development approval on said property for a period up to ten (10) years from the date of unauthorized clearing or grading. While a case is pending in Court, the County shall not authorize or grant any permit or approval of development on said property.

17.01.210 SEVERABILITY

If any provision of this Chapter or its application to any person or circumstances is held invalid, the remainder of this Chapter and the application of such provision to other persons or circumstances shall not be affected.

17.01.220 INTERIM REGULATIONS

This Chapter shall be considered interim in nature and shall expire within one year after adoption of a Comprehensive Plan, pursuant to RCW 36.70A. Prior to that time, it is anticipated that amendments to this Chapter shall occur only to correct clear errors or omissions in the document or respond to unforeseen complications in implementation.

17.01.230 EVALUATION

This Chapter shall be formally evaluated on an annual basis by the County for its effectiveness and administrative efficiency. By September 1, 1994 and annually thereafter the Director shall report to the Board in writing an evaluation of this Chapter which shall include:

1. A summary of all Mason Environmental and Conditional Environmental Permits issued in the preceding year by type of critical area/resource land and geographic location in the County.
2. A list of written administrative interpretations of the Chapter, including determinations of applicability pursuant to Section 17.01.120.D.6.
3. A list of all applications for variation from standards pursuant to Section 17.01.140
4. A list of all applications for variation from standards pursuant to Section 17.01.150
5. A list of all administrative appeals pursuant to Section 17.01.180.
6. Recommendations on any changes to this Chapter to accomplish, in the Director's opinion, any of the following:
 - a. Clarification of ambiguities,
 - b. Correction of errors,
 - c. Reduction in regulations placed on property owners that are not necessary and effective in conservation of resource lands and protection of critical areas,
 - d. Streamlining development review procedures to reduce the administrative burden on the County and/or the applicant.

17.01.240 DEFINITIONS

Accessory Use or Structure: A subordinate or ancillary use, structure, building or portion of a building located on the same parcel of land as the principal legally permitted use, structure or building.

Aggrieved Person: The person appealing a decision of the County, who shows that he/she may suffer specific injury and that the interests claimed are those intended to be protected by this Chapter.

Agricultural Lands: Lands primarily devoted to the production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, or livestock.

Anaerobic: Living or functioning in the absence of oxygen.

Applicant: A person who files an application for permit under this Chapter and who is either the owner of the land on which that proposed activity would be located, a contract vendee, a lessee of the land, the person who would actually control and direct the proposed activity, or the authorized agent of such a person.

Approval Authority: The approval authority for all administrative decisions under this Chapter is the Director of Community Development. The approval authority for all decisions subject to public review is the Board of County Commissioners.

Aquaculture: Aquaculture involves the culture and farming of food fish, shellfish and other aquatic animals and plants in lakes, streams, inlets, bays and estuaries. Methods of aquaculture include, but are not limited to, fish pens, shellfish rafts, racks and longlines, seaweed floats; and the culture of clams and oysters on tidelands and subtidal areas. Excluded from this definition are related commercial or industrial uses such as wholesale and retail sales, or final processing and freezing.

Aquatic Management Areas: Aquatic areas and their associated uplands that are designated by this Chapter for protection.

Aquifer: A freshwater saturated pervious geologic formation which will yield a sufficient quantity of water to serve as a private or public water supply.

Aquifer Recharge Areas: Areas where water infiltrates the soil, and percolates through it and surface rocks, to the groundwater table.

Best Management Practices: Conservation practices or systems of practices, and management measures, pursuant to state law, that:

- A. Control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxins and sediment; and
- B. Minimize adverse impacts to surface water and groundwater flow, to circulation patterns, and to the chemical, physical, and biological characteristics of critical areas.

Block: A parcel or set of contiguous parcels that collectively meet all classification criteria for any officially designated resource land pursuant to this Chapter.

Board (or Board of County Commissioners): The Mason County Board of Commissioners.

1 **Building Official:** The Building Official of Mason County.

2
3 **Buffer:** An area of land used or designated for the purpose of insulating or separating a structure or land use
4 from a critical area or resource land in such a manner as to reduce or mitigate any adverse impacts of the
5 developed area. Permitted development and activities within buffers depend on the type of critical area or
6 resource land the buffer is protecting.

7
8 **Chapter:** Unless otherwise stated, the terms "Chapter" or "this Chapter" refer to Chapter 17.01 of the Mason
9 County Code.

10
11 **Clearing or Land Clearing:** The removal or disturbance of trees, shrubs and other vegetation, from a designated
12 critical area or its buffer/vegetation area by physical, mechanical, chemical, or any other means, to the extent
13 that the Director determines such removal or disturbance may constitute a safety hazard or otherwise pose
14 a probable adverse impact on the functions or values of that critical area or buffer/vegetation area; Provided
15 that removal or disturbance of vegetation from artificially landscaped areas existing at the time of adoption of
16 this Chapter shall not constitute clearing.

17
18 **Conditional Uses:** Those uses requiring a Mason Conditional Environmental Permit (MCEP) and that may, due
19 to their complexity or greater potential for impact, go through a public review process subject to the terms of
20 this Chapter.

21
22 **Contaminant(s):** Hazardous substance(s) which, if released in sufficient quantity, would impair a component
23 of the environment as a useful resource.

24
25 **Critical Aquifer Recharge Areas:** Aquifer recharge areas that are designated by this Chapter for protection.

26
27 **Critical Areas:** Critical Areas shall include Designated Wetlands, Aquifer Recharge Areas, Frequently Flooded
28 Areas, Landslide Hazard Areas, Seismic Hazard Areas, Erosion Hazard Areas, and Aquatic and Terrestrial
29 Management Areas, as defined by this Chapter.

30
31 **Critical Facility:** A facility to which the existence of a geologic hazard or the chance of flooding would present
32 even a slight threat. Critical facilities include, but are not limited to, public buildings; schools; hospitals; jails;
33 police, fire, and emergency response installations; nursing homes; and installations which produce, use, or
34 store hazardous materials and/or hazardous waste.

35
36 **Development:** A planning or construction project involving substantial property improvement and, usually, a
37 change of land-use character within the site; the act of using land for building or extractive purposes.

38
39 **Director or Director of Community Development:** The Director of the Mason County Department of Community
40 Development.

41
42 **Engineer:** A person who is licensed in the State of Washington in a particular field in question.

43
44 **Erosion Hazard Areas:** Areas susceptible to erosion that are designated by this Chapter for protection.

45
46 **Facility:** All structures, appurtenances, and other improvements on or in the land.

47
48 **Feedlot:** An enclosure or facility used or capable of being used to confine livestock for the purpose of fattening
49 for market with hay, grain, silage, or other livestock feed.

50
51 **Forest Lands:** Lands primarily useful for growing trees, including Christmas trees subject to the excise tax
52 imposed under RCW 84.33.100 through 84.33.140, for commercial purposes, and that has long-term
53 commercial significance for growing trees commercially.

1 **Frequently Flooded Areas:** Lands in the floodplain subject to a one percent or greater chance of flooding in
2 any given year. These areas include, but are not limited to, streams, rivers, lakes, coastal areas, wetlands and
3 the like.

4
5 **Geologist:** A person who has earned his/her livelihood primarily from the field of geology for at least five years,
6 and has received a degree in geology from an accredited 4 year institution of higher education.

7
8 **Government Lots:** Those irregular tracts of land designated on the plats of the United States Public Lands
9 surveys.

10
11 **Hazardous Substances:** Substances that pose a present or potential hazard to human health or to the quality
12 of the drinking water supply (now or in the future) in the aquifer system underlying Mason County, when
13 improperly used, stored, transported, or disposed of or otherwise mismanaged, including those materials
14 identified as a hazardous waste in 40 CFR 261, or defined as a hazardous substance in 40 CFR 302, WAC
15 173-360-120. Hazardous substances shall include petroleum products and by-products, including crude oil
16 or any faction thereof such as gasoline, diesel, and waste oil which is liquid at standard conditions of
17 temperature and pressure ((60° Fahrenheit(15.6° Centigrade), 14.7 pounds per square inch (1.03 Kilograms per
18 square centimeter)).

19
20 **Health Director:** The Director of the Mason County Health Department.

21
22 **Hydric Soil:** Soil that is saturated, flooded or ponded long enough during the growing season to develop
23 anaerobic conditions in the upper part. The presence of hydric soil shall be determined following the methods
24 described in the "US Corp of Engineers Wetlands Delineation Manual, 1987".

25
26 **Hydrogeology:** The science that deals with the hydrology of geologic formations.

27
28 **Hydrophytic Vegetation:** Macrophytic plant life growing in water or on a substrate that is at least periodically
29 deficient in oxygen as a result of excessive water content. The presence of hydrophytic vegetation shall be
30 determined following the methods described in the "US Corp of Engineers Wetlands Delineation Manual,
31 1987".

32
33 **Impervious Surface:** That hard surface area which either prevents or retards the entry of water into the soil
34 mantle, whereas it entered under natural conditions prior to development; and/or that hard surface area which
35 causes water to run off the surface in greater quantities or at an increased rate of flow, from that present
36 under natural conditions prior to development.

37
38 **Inholding Lands:** Blocks of land that are surrounded on all sides by designated Long-Term Commercial Forest
39 Lands and are crucial areas for conservation of those lands but are not directly of long-term commercial
40 significance for forestry.

41
42 **Isolated Wetlands:** Those wetlands which:

- 43
44 A. Are outside of and not contiguous to any 100-year floodplain of a lake, river, or stream; and
45
46 B. Have no contiguous hydric soil or hydrophytic vegetation between the wetland and any surface water.

47
48 **Landfill:** A disposal facility, or part of a facility, at which solid waste is permanently placed in or on land, and
49 which is not a landspreading disposal facility.

50
51 **Landslide Hazard Areas:** Areas susceptible to landslides that are designated by this Chapter for protection.

Long-Term: A period of time that exceeds 100 years for forest management uses and exceeds 20 years for all other land uses.

Long-Term Commercial Forest Lands: See Forest Lands definition.

Long-Term Commercial Significance: The growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of land.

Lot: A designated parcel, tract or area established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit. A lot shall not include a segregation of land established by the County Assessor and assigned numbers for assessment purposes only.

Mason Conditional Environmental Permit (MCEP): A County permit required for any proposed development or use in an area designated by this Chapter as a critical area or resource land, where the proposed development or use is listed as a Conditional Use in one or more designated critical areas or resource lands.

Mason Environmental Permit (MEP): A County permit required for any proposed development or use in an area designated by this Chapter as a critical area or resource land, where the proposed development or use is listed as a Permit Required Use in one or more designated critical areas or resource lands. Such permits shall, when possible, be processed concurrently with other County permits, and are designed to minimize any additional steps or staff time.

Mineral Resource Lands: Lands devoted primarily to the extraction of minerals, or that have known or potential long-term commercial significance for extraction of minerals.

Mining: All or any part of the process involved in extraction of minerals from the earth by removing mineral deposits for commercial use, including surface mining and sub-surface mining. Mining shall not include extraction, excavation or grading conducted on site exclusively for construction, road maintenance, forestry, or farming.

Mitigation: Actions necessary to replace project-induced wetland and wetland vegetation area losses, including land acquisition, planning, construction plans, monitoring and contingency actions. Replacing project-induced wetland losses or impacts, which includes, but is not limited to, the following:

- A. Restoration: Actions performed to reestablish wetland functional characteristics and processes which have been lost by alterations, activities, or catastrophic events within an area which no longer meets the definition of a wetland.
- B. Creation: Actions performed to intentionally establish a wetland at a site where one did not formerly exist.
- C. Enhancement: Actions performed to improve the condition of existing degraded wetlands so that the functions they provide are of a higher quality.
- D. Avoiding the impact altogether by not taking a certain action or parts of an action;
- E. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology; or by taking affirmative steps to avoid or reduce impacts;
- F. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;

1 G. Monitoring the impact and the compensation project and taking appropriate corrective measures.

2 Mitigation for individual actions may include a combination of the above measures.

4
5 **Native Vegetation:** Plant species which are indigenous to the area in question.

6
7 **Naturally Occurring Lakes and Ponds:** Naturally occurring ponds, not including ponds deliberately designed and
8 created from dry sites, such as canals, stormwater detention facilities, waste water treatment facilities, farm
9 ponds, and landscape amenities. However, naturally occurring ponds may include those artificial ponds
10 intentionally created from dry areas in order to mitigate conversion of ponds, if permitted by a regulatory
11 authority.

12
13 **On-Site Sewage System Site Evaluation and Disposal Permit Application:** An application to place an on site
14 sewage system on a property approved under the authority of the Mason County Health Department. Also
15 known as a County On-site System Permit.

16
17 **Ordinary High Water Mark:** On all lakes, streams, and tidal water is that mark that will be found by examining
18 the bed and banks and ascertaining where the presence and action of waters are so common and usual, and
19 so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting
20 upland, in respect to vegetation as that condition exists on January 31, 1992, or as it may naturally change
21 thereafter or as it may change thereafter in accordance with permits issued by local government or the State
22 PROVIDED THAT in any areas where the ordinary high water mark cannot be found, the ordinary high water
23 mark adjoining fresh water shall be the line of mean high water.

24
25 **Parcel:** See definition for "lot".

26
27 **Permit Required Uses:** Those uses requiring a Mason Environmental Permit (MEP) under the terms of this
Chapter, unless otherwise stated.

28
29
30 **Practicable Alternative:** An alternative that is available and capable of being carried out after taking into
31 consideration cost, existing technology, and logistics in light of overall project purposes, and having less
32 impacts to designated wetlands. It may include an area not owned by the applicant which could reasonably
33 have been or be obtained, utilized, expanded, or managed in order to fulfill the basic purpose of the proposed
34 activity.

35
36 **Public Building:** Any structure owned by a governmental entity that is designed for human occupancy pursuant
37 to the Uniform Building Code.

38
39 **Public Works Director:** The Director of the Mason County Department of Public Works.

40
41 **Qualified Wetland Professional:** A person with experience and training in wetlands issues, and with experience
42 in performing wetland delineation, analyzing wetland functions and values, analyzing wetland impacts, and
43 recommending wetland mitigation and restoration. Qualifications include:

- 44
45 A. Bachelor of Science or Bachelor of Arts or equivalent degree in biology, botany, environmental studies,
46 fisheries, soil science, wildlife or related field, and two years of related work experience, including a
47 minimum of one year experience delineating wetlands using any Federal Manual for Identifying and
48 Delineating Jurisdictional Wetlands and preparing wetland reports. Additional education may substitute
49 for one year of related work experience; or
50
51 B. Four years of related work experience and training, with a minimum of two years experience
52 delineating wetlands using any Federal Manual for Identifying and Delineating Jurisdictional Wetlands
53 and preparing wetland reports.

Recreation: Activities such as hiking, canoeing, viewing, nature study, photography and fishing that do not require extensive preparation of facilities. Activities that include, but are not limited to, parks, playgrounds, athletic fields, campgrounds, and boat ramps, and may require land clearing, earth modification, construction of permanent structures and other facilities.

RCW: Revised Code of Washington

Release: Any spilling, leaking, emitting, discharging, escaping, leaching or disposing of a hazardous substance(s) from a facility or activity into or onto soil, air, water, groundwater, or other materials.

Release Detection: A method or methods of determining whether a release or discharge of a hazardous substance from a regulated facility into the environment has occurred.

Repair or Maintenance: An activity that restores the character, scope, size, and design of a serviceable area, structure, or land use to its previously authorized and undamaged condition. Activities that change the character, size, or scope of a project beyond the original design and drain, dredge, fill, flood, or otherwise alter additional designated critical areas are not included in this definition.

Residential Density: The permissible number of dwelling units that may be developed on a specific amount of land area measured in number of dwelling units per acre.

Resource Lands: Resource lands shall include agricultural lands, forest lands, and mineral resource lands as defined by this Chapter.

Seismic Hazard Areas: Areas particularly susceptible to damage from seismic activity that are designated by this Chapter for protection. Types of Seismic Hazards include:

1. Differential Settlement: The downward movement of soil caused by a shift in underlying sediments which result in a depression in the soil surface.
2. Earthquake: Ground failures that could affect an area and include landslides, lateral spreading, liquefaction, lurch cracking, stream and canal bank failures, rockfalls, and differential settlement of the ground surface not directly attributable to one of the foregoing.

Earthquakes can cause landslides due to the shaking of unstable rock and soil resulting in a sliding of the surface even on gentle slopes.
3. Ground Shaking: A complex surface wave motion produced by its passage of seismic waves through the earth's outer crust.
4. Lateral Spreading: The lateral movement of soil on top of liquefied granular or sandy soils induced by strong seismic shaking.
5. Liquefaction: This can change certain granular soils into a kind of quicksand when caused by strong seismic shaking.
6. Lurch Cracks: Random cracks and fissures in the soil induced by strong seismic shaking.
7. Regional Uplift/Settlement: A result of tectonic movements of the earth's crust during large scale earthquake activity. Regional uplift on the order of 8 to 12 feet occurred along the lower arm of Hood Canal, North Bay of Case Inlet some 800 to 1,000 years ago during a great earthquake in the Puget Sound south of Seattle. Evidence is seen in old elevated beach terraces in this area.

- 1 8. Rockfalls: This can occur when nearly vertical rock slopes fail during strong seismic shaking.
2
3
4 9. Seiches: Earthquake induced water waves in a confined body of water caused by periodic
5 oscillations of the water in response to ground shaking.
6 10. Surface Faulting: The fracturing of soil or rock on the earths surface. Surface faulting could
7 occur on mapped faults shown on geologic maps of the Mason County area.
8
9 11. Tsunami: Catastrophic sea waves generated in large bodies of water by strong earthquakes,
10 underwater landslides or volcanic explosion. Tsunami waves travel at speeds of up to 400
11 mph across the open ocean and can form waves reported up to 200 feet in height when
12 encountering land with a long shallow ocean fronting shelf. Tsunamis, averaging at least 20
13 feet in height, have been generated in Puget Sound as evidenced in recent geologic studies.
14

15 **Serviceable:** Presently useable.
16

17 **SEPA:** The State Environmental Policy Act, 43.21c RCW, and implementing State and County administrative
18 rules.
19

20 **Setback:** The distance from a lot, parcel, tract, critical area or resource land boundary, beyond which the
21 footprint or foundation of a structure shall not extend.
22

23 **Site:** Any lot, tract, parcel, large lot holding, either owned or leased, intended for development.
24

25 **Slope:** An inclined ground surface, the inclination of which is expressed as a ratio of vertical distance to
26 horizontal distance.
27

28 **Streams:** Those areas where surface waters flow sufficiently to produce a defined channel or bed. A defined
29 channel or bed is an area which demonstrates clear evidence of the passage of water and includes, but is not
30 limited to, bedrock channels, gravel beds, sand and silt beds and defined channel swales. The channel or bed
31 need not contain water year round. This definition is not meant to include irrigation ditches, canals, storm or
32 surface water runoff devices or other entirely artificial watercourses, unless they are used by salmon or used
33 to convey streams naturally occurring prior to construction. For regulatory purposes under this Chapter, this
34 includes DNR Water Types I-IV (WAC 222-16-030).
35

36 **Surface Mining:** Includes, and is limited to, all activities defined as "surface mining" under Section 78.44.030
37 RCW or as hereafter amended, except that operations meeting the definition of surface mining and are less
38 than 3 acres(1.21 hectares) in size may also be designated by the Mason County Engineer as surface mining
39 operations, if these operations are deemed critical for maintenance of local government infrastructure.
40

41 **Structure:** In accordance with the Uniform Building Code, that which is built or constructed, an edifice or a
42 building of any kind, or any piece of work artificially built up or composed of parts joined together in some
43 definite manner.
44

45 **Terrestrial Management Areas:** Areas where the presence of animal species exists that have been designated
46 by this Chapter for protection.
47

48 **Threatened or Endangered Species:** All species of wildlife listed as "threatened" or "endangered" by the
49 Washington State Department of Wildlife.
50

51 **Vegetation Area:** An area of land used or designated for the purpose of insulating or separating a structure
52 or land use from a critical area or resource land in such a manner as to reduce or mitigate any adverse impacts

1 of the developed area. Permitted development and activities within vegetation areas depend on the type of
2 critical area or resource land the vegetation area is protecting.

4 **WAC:** Washington Administrative Code
5

6 **Water-dependent:** Requiring the use of surface water that would be essential to fulfill the purpose of the
7 proposed project.
8

9 **Waters of the State:** A classification system established in WAC 222-16-030, or as hereafter amended.
10

11 **Wetland Management Area:** Wetland areas and their associated uplands that are designated by the Chapter
12 for protection.
13

14 **Wetland Edge:** The boundary of a wetland as delineated based on the regulations contained in this Chapter.
15

16 **Wetland Hydrology:** Permanent or periodic inundation, or soil saturation to the surface during the growing
17 season which typically creates anaerobic conditions in the soil that affects the types of plants that can grow
18 and the types of soils that can develop. The presence of wetland hydrology shall be determined following the
19 methods described in the "US Army Corp of Engineers Wetlands Delineation Manual, 1987".

20 **Wetlands:** Areas that are inundated or saturated by surface water or ground water at a frequency and duration
21 sufficient to support, and that under normal circumstances do support a prevalence of vegetation typically
22 adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar
23 areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including,
24 but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, waste water
25 treatment facilities, farm ponds, and landscape amenities. However, wetlands may include those artificial
26 wetlands intentionally created from non-wetland areas created to mitigate conversion of wetlands, if permitted
27 by the county or city.

CHANGES TO OTHER MASON COUNTY LAWS

A. Mason County SEPA Ordinance 99-84: County Environmental Policy Ordinance

Section 10.2 Environmentally Sensitive Areas, is amended as follows:

- (1) The following map(s) available at the Mason County Department of Community Development, designate the location of environmentally sensitive areas within the county and are adopted by reference.
 - a. "Mason County Geologic Hazards Map" and associated buffers as established in Section 17.01.100. of the Mason County Interim Resource Ordinance, Chapter 17.01 Mason County Code.
 - b. "The Flood Insurance Study, Mason County " with accompanying Flood Insurance Rate Maps. Federal Emergency Management Agency. 1988.
 - c. National Wetlands Inventory Maps. U.S. Department of The Interior, and all Mason County maps referencing wetlands and associated vegetation areas as established in Section 17.01.070 of the Mason County Interim Resource Ordinance.
 - d. Type II, III, and IV waters identified on the Water Type Reference Maps, Washington Department of Natural Resources, for all of Mason County, and associated vegetation areas as identified in Section 17.01.110 of the Mason County Interim Resource Ordinance.

For each environmentally sensitive area, the exemptions within WAC 197-11-800 that are inapplicable for that area are: (1), (2)(a) through (h), (3), (5), (6)(a), (14)(c), (24)(a) through (g), and (25)(d), (f), (h), (i). Unidentified exemptions shall continue to apply within environmentally sensitive areas of the county.

- (2) The county shall treat proposals located wholly partially within an environmentally sensitive area no differently than other proposals under the ordinance, making a threshold determination for all such proposals. The county shall not automatically require an EIS for a proposal merely because it is proposed for location in an environmentally sensitive area.
- (3) Certain exemptions do not apply on lands covered by water, and this remains true regardless of whether or not lands covered by water are mapped. [Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-190, filed 6/15/84. Formerly WAC 173-805-050.]

B. Title 16, Mason County Subdivision Ordinance, including Large Lot Requirements

Section 16.04.030 is amended as follows:

16.04.030 Application of Regulations. Every Short Subdivision shall comply with Chapter 16.36 of this Title. Every subdivision shall comply with the provisions of this Title, except Chapter 16.36 and 16.38. Every large lot subdivision shall comply with Chapter 16.38 of this Title. Every subdivision, short subdivision and large lot subdivision shall also be in compliance with all provisions of Chapter 17.01; and conditions of approval may be stipulated to assure compliance with such standards and further the purposes of that Chapter.

1 The provisions of this title shall not apply to:
2

- 3 (a) Cemeteries and other burial plots while used for that purpose;
- 4 (b) Division of land into lots or tracts each of which is one sixteenth of a section of land
5 or forty acres or larger (or one eighth of a section of land or eighty acres or larger if
6 within designated Long-Term Commercial Forest Land pursuant to Chapter 17.01
7 MCC), if the land is not capable of description as a fraction of a section of land:
8 Provided, that for purposes of computing the size of any lot under this item which
9 borders on a street or road, the lot size shall be expanded to include that area which
10 would be bounded by the centerline of the road or street and the side lot lines of the
11 lot running perpendicular to such centerline:
- 12 (c) A division for the purpose of lease when no residential structure other than mobile
13 homes or travel trailers are permitted to be placed upon the land.
- 14 (d) Divisions made by testamentary provision, or by the laws of descent.
- 15

16 Section 16.08.085 is amended as follows:
17

18 16.08.085 Large Lot Subdivisions: "Large lot subdivision" means every division or redivision of land
19 into two (2) or more lots, each of which is larger than one-one hundred and twenty eighth of a section
20 of land, or five acres, and any one of which is smaller than one sixteenth of a section of land, or forty
21 (40) acres, for the purpose of sale, lease, or transfer of ownership; Provided that within Long-Term
22 Commercial Forest Land, as designated pursuant to Chapter 17.01 MCC, the thresholds shall be
23 increased to an eighth of a section of land, or eighty (80) acres.
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