

ORDINANCE NUMBER 111 -97

AMENDMENTS TO THE MASON COUNTY INTERIM RESOURCE ORDINANCE

AN ORDINANCE amending the following sections of the Mason County Interim Resource Ordinance, Ordinance 77-93, as amended: Section 17.01.080 Critical Aquifer Recharge Areas, and Section 17.01.240 Definitions, under the authority of Chapters 36.70 and 36.70A RCW.

WHEREAS, the Board of County Commissioners held a public hearing on August 26, 1997, to consider the recommendations of the Planning Commission, the Mason County Department of Community Development and citizens on the proposed amendments;

WHEREAS, the Mason County Planning Commission formulated its recommendations after a public hearing on July 1, 1997 and approved findings of fact;

WHEREAS, these hearings were duly advertised public hearings;

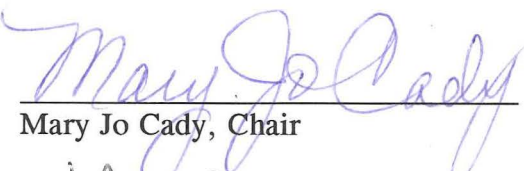
WHEREAS, these amendments are intended to comply with the Order of the Western Washington Growth Management Hearings Board of September 6, 1996;

WHEREAS, the Mason County Board of County Commissioners formulated its decision after the public hearing and has approved findings of fact to support its decision as ATTACHMENT B;

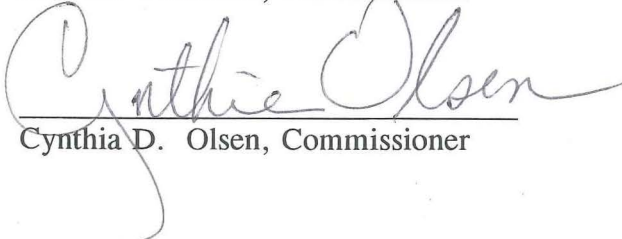
NOW, THEREFORE, BE IT HEREBY ORDAINED, that the Board of County Commissioners of Mason County hereby approves and ADOPTS the amendments to the Mason County Interim Resource Ordinance, #77-93, as amended, as described by ATTACHMENT A.

DATED this 23rd day of September, 1997.

Board of County Commissioners
Mason County, Washington


Mary Jo Cady, Chair


John A. Bolender, Commissioner


Cynthia D. Olsen, Commissioner

ATTEST:


Clerk of the Board

APPROVED AS TO FORM:


Prosecuting Attorney

ATTACHMENT A - ORDINANCE NO. III -97
MASON COUNTY INTERIM RESOURCE ORDINANCE
CRITICAL AQUIFER RECHARGE AREAS

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. Nothing in this section is intended to restrict agricultural, aquacultural or forestry practices.

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. Lands shall only be so classified when they are identified and mapped in the Mason County Comprehensive Plan. These areas are those identified on the Mason County Critical Aquifer Recharge Area Map. Identification and mapping will be performed for these areas as information becomes available. Also identified and classified as moderately critical recharge areas are those well head protection areas, not otherwise designated as a Class I or Class II critical recharge area, and recorded with the Mason County Department of Community Development.

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, shall demonstrate that such facilities will not significantly impact ground water resources. In order to make such determination, the Director or Health Director may shall require the filing of an Environmental Geologic Report.~~
2. When not on public sewer, dry cleaners (not clothing pick-up), electroplaters, metal processors with etchers and chemicals, municipal, county or state garages, tanners, textile dyers, wood preservers, furniture strippers, and other uses and activities that require a Washington State Waste Discharge permit for discharge into groundwater shall demonstrate that such facilities will not significantly impact ground water resources. In order to make such determination, the Director or Health Director shall require the filing of an Environmental Geologic Report. 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. Only one such notice is required to be made on any individual property or lot. 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.

c. Notice shall be provided by the county of applications for conditional uses or long subdivisions within well head protection areas to the manager of that area.

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. The critical aquifer recharge regulations are not intended to impose new regulations on normal agricultural activities over and above the requirements of other regulations and laws.~~

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

2. 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. ~~When residential densities exceed one dwelling unit acre, or an equivalent waste-water volume, an Environmental Geologic Report shall be required. The Director may waive the report or limit its scope, if the nature of the project and its impacts are generally known, or the impacts of the project have been mitigated by source control strategies, such as by connection to a municipal sewage treatment system. Approval shall only be given when the evidence presented on the project, together with any mitigation included in the project or project approval, indicate that the project will not have a significant adverse impact on groundwater quality.~~

- a. In urban growth areas, land divisions may be allowed which create lots less than one acre in size which rely on on-site septic systems. Such approvals shall be conditioned so that the total development allowed within the area to be divided shall not exceed an average density of one dwelling unit per acre, or an equivalent waste-water volume, until such development is served by public sewer.
 - b. Outside of urban growth areas, subdivisions which provide for clusters of residential development where the cluster of residential lots exceed one lot per acre, shall be evaluated to assure that they do not have localized affects that might have a significant adverse impact on wells or surface water bodies.
5. ~~To protect aquifer recharge areas from nutrient loading in residential (gardens, lawn, etc.) or recreational (parks, golf courses, landscaped open spaces, etc.) areas, care must be used when applying herbicides, fertilizers and pesticides. The Federal Insecticide, Fungicide, and Rodentia Act as adopted by RCW 17.21, RCW 15.58 and WAC 16.228 or hereafter amended must be complied with:~~
 3. In urban growth areas, new construction which relies on on-site septic systems shall not be allowed to exceed a density of one dwelling unit per acre, or an equivalent waste-water volume, except for the development of one dwelling on lots existing or vested by December 5, 1996.
 4. 6. An Environmental Geological Report or Assessment shall be required for industrial and commercial activities, except for agriculture and forest practices, in the Class I critical aquifer recharge areas. Industrial and commercial activities ~~Other uses and activities~~ determined by the Director and the Health Director likely to pose a threat to a Class II or III aquifer ~~shall~~may require an environmental geologic report.
 5. Industrial and commercial activities, except for agriculture and forest practices, may be subject to on-going monitoring requirements as part of the required mitigation.
 6. 7. Activities in the critical aquifer recharge area which use liquid or soluble hazardous substances shall provide for secondary containment of materials on-site to prevent the materials from entering the ground water or leaving the site, or equivalent mitigation. Provided that:
 - a. Such provisions shall not be in conflict with the Uniform Fire Code or the Uniform Building Code, and
 - b. Such provisions shall not be required when the amounts of hazardous materials used are below the thresholds established in the Uniform Fire Code.
 7. Chemical manufacturing, chemical mixing and remanufacturing, and chemical waste reprocessing are not permitted in the rural lands and the resource lands. In urban growth areas, these activities shall not be permitted in critical aquifer recharge areas unless they are connected with a State Waste Discharge permitted system and any additional risk that they pose is suitably mitigated. Activities which pose an especially high threat to the aquifer and are not served by a NPDES (National Pollution Discharge Elimination System) permitted sewage system or are of a large industrial scale of operation shall not be permitted in the rural lands and resource lands. Such uses include, but are not limited to, chemical manufacturing, chemical mixing and remanufacturing, and chemical waste reprocessing. In urban growth areas, these

~~activities shall not be permitted in critical aquifer recharge areas unless they are connected with a NPDES (National Pollution Discharge Elimination System) permitted sewage system and any additional risk that they pose is suitably mitigated.~~

- ~~8. 7:~~ Small scale industrial or commercial uses which use hazardous materials, not otherwise prohibited in this Section, and in either area, small-scale uses where the quantity, nature of materials possessed and mitigation methods are determined to pose no significant risk to groundwater may be permitted consistent with the provisions of this chapter and other applicable regulations.
- ~~9. 8:~~ Stormwater shall be managed according to the standards of the Mason County Stormwater Management Ordinance, when adopted, or, prior to that, by the Department of Ecology's "Stormwater Management Manual for the Puget Sound Basin." Review of the project shall also take into consideration spill and contamination prevention of stormwater, surface waters, or groundwater by liquid and soluble hazardous substances used on the site.
- ~~10. 9:~~ The proper operation and maintenance of community or on-site septic systems is required in the critical aquifer recharge areas. The standards and procedures to be met to assure this are as set forth in the "Mason County On-Site Sewage Operation and Maintenance Program" and any subsequent implementing regulations. Participation in this program is mandatory for existing and new septic systems in the critical aquifer recharge areas.
- ~~11 10.~~ Landfills and hazardous waste transfer, treatment, and storage facilities are prohibited in critical aquifer recharge areas.
- ~~12.~~ Activities shall not cause degradation of the groundwater quality below the standards described in Chapter 173-200 WAC.
- ~~13.~~ Activities shall comply with any applicable provisions of a wellhead protection program that affects the project area.
- ~~14.~~ All new development within the designated urban growth areas, except for single-family residences built prior to the opportunity to connect to a public sewer system, shall be required to connect to existing public sewer systems, or to proposed public sewer systems as soon as connection is available.

E. CRITICAL RECHARGE AREAS

1. Environmental Geologic Report or Assessment

~~An Environmental Geologic Report or Assessment shall be required for any activity in CLASS I - EXTREMELY CRITICAL AQUIFER RECHARGE AREAS:~~

- a. The report or assessment shall identify the proposed development plans and the risk associated with on-site sewage disposal systems and other on-site activities which may potentially degrade the ground water aquifer or confined reservoirs.
- b. The report or assessment shall be prepared by an engineering geologist,

hydrologist or licensed professional engineer (licensed in the State of Washington), qualified to analyze geological and hydrological information and ground water systems at the direction of the Director.

c. A report shall contain:

- (1) A description of the general geological and hydrological characteristics of the area under permit application consideration.
- (2) A description of the local characteristics associated with site drainage and water movement.
- (3) A geologic map with a cross section of the site and adjoining properties up to 1000 feet away at a scale of 1 inch equals ~~100~~ 200 feet.
- (4) A water well report which describes in detail the lithology of the penetrated geologic units and the geologic units penetrated in wells in adjoining properties up to 1000 feet away.
- (5) A topographic map of the property and adjoining properties up to 1000 feet away at a scale of 1 inch equals ~~100~~ 200 feet and a 5-foot contour interval.
- (6) Provide a discussion on the proposed activities and the effects of sewage disposal, lawn and yard uses, agricultural and animal husbandry, storm water impacts and any other impact reasonably associated with the project type.

Add a new definition to Section 17.01.240 DEFINITIONS as follows:

Well head protection area: The area delineated by the well head protection plan for a Class A public water system and approved by the Washington State Department of Health after June 1994, in accordance to Chapter 246-290 WAC.

ATTACHMENT B - ORDINANCE NO. 111 - 97
MASON COUNTY INTERIM RESOURCE ORDINANCE
CRITICAL AQUIFER RECHARGE AREAS

FINDINGS OF FACT

1. Under consideration is a proposal to amend the critical aquifer recharge area protections of the Mason County Interim Resource Ordinance (IRO).
2. The proposal is based on the analysis of the Mason County Department of Community as contained in the *Issue Paper - Mason County Interim Resource Ordinance Review - Critical Aquifer Recharge Areas*. The analysis made use of the best available science.
3. The proposal is based on the recommendation on May 9, 1997 by the GMAC Ad Hoc committee to the Planning Commission.
4. Mason County issued a Determination of Nonsignificance on the proposed changes under the State Environmental Policy Act on May 16, 1997. The comment period ended May 31, 1997. No comment was received on the proposal. No SEPA comment from any state agency or tribal organization was received expressing concern with the proposed changes or requesting additional action by the county. The Department of Community Development has determined that the minor changes to the proposal do not have significant adverse environmental impacts; and, therefore, the Determination of Nonsignificance is not withdrawn.
5. Substantial background information on the proposed changes were reviewed by the Planning Commission, including the Issue Paper and the memorandum prepared by the Department of Community Development, dated June 16, 1997, with its attachments and referenced materials and meetings.
6. The Planning Commission held a public hearing on July 1, 1997, and considered the testimony given along with the record before it. On July 21st, the Planning Commission approved findings of fact and recommended that the draft proposal be sent to the Board for approval.
7. The Planning Commission proposal, dated July 21, 1997, made minor changes based on public comment received at the hearing. These changes adopted protections for well head protection areas, which are established in a new state program that began in 1994. The changes also clarified the effect of the critical aquifer recharge areas map. The proposal, Department of Community Development memorandum dated August 8, 1997, and attached record were transmitted to the Board.
8. The Board held a public hearing on August 26, 1997. Based on public comment received at the public hearing and on a review of the record, minor revisions to the proposal have been prepared for the Board's consideration and action. The first set of revisions do not change the

authority of the administrator of the ordinance to require environmental geologic reports, but do reduce the administrator's discretion by making such reports mandatory in some cases. The revision also makes it clear that mitigation for possible impacts to the aquifer may include on-going monitoring requirements by the applicant. Another revision deletes the proposal that existing single-family residences be required to connect to public sewer systems, if the systems become available. This issue was first commented on in the Ad Hoc committee meeting, and the provision is not required to implement the comprehensive plan, as discussed in the Issue Paper. In addition, redundant language was deleted, grammatical errors were corrected, and various subsections were re-numbered as needed.

9. The proposal is consistent with and balances the goals of the Growth Management Act. The Board finds that the proposal uses best available science to reasonably and effectively protect the values and functions of the critical aquifer recharge critical areas. That the proposed ordinance balances the relevant goals of the Mason County comprehensive plan and the Growth Management Act. With flexible, predictable, reasonable, and effective minimum requirements; the proposal promotes the goals of economic development, property rights; affordability of housing, and timely and fair permitting. With the public process and SEPA coordination, the proposal promotes the citizen participation and coordination goals. With scientifically based protection, requirements that state water quality standards not be violated, protections for well head protection areas, provisions to deal with project and site specific concerns, requirements that development connect with sewers when available, and other protections for water quality; the proposal promotes the goals of protecting the environment, encouraging urban growth, and reducing sprawl. With special provisions for timber and agricultural resources, the proposal promotes the goals of encouraging economic development and maintaining or enhancing natural resources.

10. The proposal is consistent with and implements the Mason County Comprehensive Plan, as discussed on the Issue Paper, and elsewhere on the record.

From the preceding findings, it is concluded that the proposal should be approved.



Chair, Mason County Board of County Commissioners

9-23-97
Date