

ORDINANCE NUMBER 36A-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 17.01.070 Wetlands, Section 17.01.130 Application for Resource Redesignation, Section 17.01.120 Development Review Process, Section 17.01.200 Enforcement, 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 April 1 and April 14, 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 hearings on March 3, and March 17, 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, and that the order contained a Finding of Invalidity which affects the effectiveness of subsequent actions by the county;

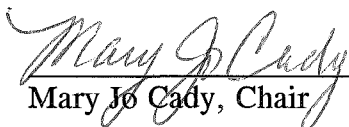
WHEREAS, the Mason County Board of County Commissioners formulated its decision after the public hearing and has approved findings of fact to support its decision as ATTACHMENT A, with regard to wetlands, and ATTACHMENT C, with regard to resource redesignation;

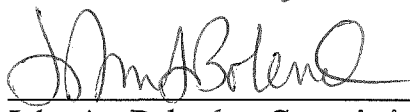
WHEREAS, the Mason County Board of County Commissioners have committed to a county review of habitats and species of local importance and other priority species over the next year in order to identify an updated list of such habitats and species, in order to identify management strategies for such habitats and species, and in order to consider further revision to the county's critical area protection;

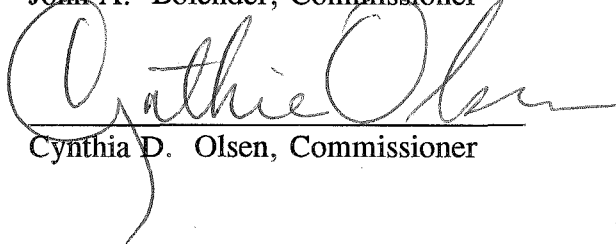
NOW, THEREFORE, BE IT HEREBY ORDAINED, that the Board of County Commissioners of Mason County hereby approves and ADOPTS the amendments to the Mason County Interim Resource Ordinance, #77-93, as amended, as described by ATTACHMENT B.

DATED this 14th day of April, 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

c: Community Development
General Services
Health Services
Public Works

ATTACHMENT A - ORDINANCE No. 36A-97

**Mason County Board of County Commissioners
Wetland Critical Areas - Interim Resource Ordinance - 1997
April 14, 1997**

FINDINGS OF FACT

1.

Under consideration is a proposal to amend the wetland critical areas protection section of the Interim Resource Ordinance (IRO) as adopted in 1993 by Mason County. Wetlands are protected because they serve a number of important beneficial functions and because their destruction can harm the public health, safety, and welfare, including public resources. Wetlands assist in reducing erosion, siltation, flooding, and ground and surface water contamination. Wetlands provide habitat for wildlife, plants, and fisheries. Many wetlands are important in recharging groundwater supplies. In addition, wetlands provide open space and opportunities for recreation and education. Approximately 38,000 acres in the County have been mapped as wetlands and are documented in the National Wetland Inventory.

2.

Substantial background information on the proposed changes to the wetland critical area protection is contained in the memorandums prepared by the Department of Community Development, dated March 3, 1997, and March 30, 1997, with their attachments and referenced materials. The memorandums are only a small part of the long process and substantial record which is before the Board of Commissioners and includes meetings of the Mason County Planning Commission and the GMAC Ad Hoc Committee.

3.

Mason County hired a professional wetland consultant, Applied Environmental Services, Inc., to assist the county in the preparation of revisions to the wetland regulations. The consultant worked with the GMAC Ad Hoc Committee to develop the draft amendments considered by the Planning Commission on March 3, 1997. The consultants developed several alternative approaches to protecting wetlands and presented them to the Ad Hoc Committee. The consultants assisted the county in identifying and interpreting the "best available science" with regard to wetland protection. Ultimately, the committee decided to retain the existing form of the IRO, but to use a four tier system to categorize wetlands and determine which should have greater protection. There were also a number of other changes made to strengthen and update the regulations. (Draft dated February 10, 1997) Attached is a letter from the consultants, dated January 29, 1996, describing their role and the process. The consultants continued to be involved with the process through action by the Board.

4.

Special consideration was given to anadromous fish in the materials researched, the data considered in setting the buffer widths, and in the wetland typing system used in the proposal.

5.

The proposal was developed with consideration of the minimum guidelines for critical areas, Chapter 365-190 WAC. The proposal uses the Washington State Wetlands Rating System for Western Washington to rate the wetlands as suggested. The county uses the US Department of Interior wetland inventory maps for informational purposes, but relies on on-site determinations of wetlands consistent with the Washington State Wetlands Identification and Delineation Manual as required by recent changes to the Growth Management Act, RCW 36.70A.175. The wetlands definition was amended to incorporate other recent statutory changes in RCW 36.70A.030. These statutory changes lead to the county proposal differing from recommendations of the minimum guidelines.

6.

While wetlands provide certain types of habitat and are vital for some species of plants and animals, and while the upland buffers intended to provided for wetland protection also provide benefits to upland species which may or may not be associated with the wetlands, there is a distinction between the provisions for wetland critical areas and the provisions for fish and wildlife habitat conservation areas.

7.

The Planning Commission held a public hearing on March 3, 1997, and considered the testimony given along with the record before it.

8.

The concerns of the Department of Ecology (Ecology) with the wetlands section of IRO and with previous draft revisions of the wetland regulations were addressed in the February 10, 1997 draft version, as revised by the alternative language dated 2/28/97.

9.

The proposal did not have any language to address the problem of danger trees, which pose a hazard to the public health and safety; and it did not have any restrictions on trails, which might interfere with the purpose and effectiveness of the wetland protections.

10.

The Planning Commission adopted Findings of Fact and concluded that the proposal be amended to include the alternative language, dated 2/28/97, and to include additional language to address the issues of trails and danger trees. It concluded that with these changes, the proposal uses the best available science and balances the goals and policies of the Comprehensive Plan, and that it should be sent forward to the Mason County Board of Commissioners with a recommendation for adoption.

11.

The Department of Community Development (DCD) revised the proposal to incorporate the concerns of the Planning Commission, as explained in the Department memorandum dated March 28, 1997. The proposal sent forward to the Board was a draft dated March 3, 1997, the date of the Planning Commission recommendation.

12.

After reviewing the comments received and listening to public testimony at the April 1, 1997 public hearing, which was continued on April 14, 1997, the Board considered additional changes to the proposal.

13.

Comments received since the Planning Commission meeting have been reviewed. Among these are comments from the Washington Department of Fish and Wildlife (Fish and Wildlife), Ecology and the Washington Department of Trade and Economic Development (CTED). These comments support the action by the county to incorporate the work that has been done and progress made by adopting the amendments to the wetlands ordinance. Ecology, CTED and the county's wetland consultants agree that the best available science was used in preparing the draft and is incorporated into the proposal.

14.

Fish and Wildlife recommended amendments which would have specifically included additional protections for the Fish and Wildlife priority habitats and species. However, the state minimum guidelines classifying and protecting critical areas, Chapter 365-190 WAC, provide only that the county may consider the Fish and Wildlife priority habitats and species. Other concerns with the Fish and Wildlife proposal are in the March 30, 1997 memorandum from the Department of Community Development. Also CTED found in decisions of state Growth Management Hearings Boards that, while provisions for the Fish and Wildlife priority habitat and species might be allowed, such provisions did not address the Growth Management Act concerns. CTED recommended that in the future the county address habitats and species of local importance. However, the long public process which produced the Interim Resource Ordinance in 1993 did not find any habitats or species of local importance beyond the state listed endangered and threatened species. At the time of preparing the original ordinance, there were no state listed sensitive species in Mason County. As Fish and Wildlife affirmed, there still are no state listed sensitive species associated with wetlands.

15.

Public testimony supported the proposal as it was approved by the Planning Commission; with adjustments or strengthening by the Board; with the amendments proposed by Fish and Wildlife; with additional flexibility for the land owners; or with provisions for special situations to allow reasonable development. With respect to the amendments to address trails and danger trees, it was found that the proposal is apparently consistent with the intention of

the Planning Commission, but that mitigation for danger trees might also be met by enhancing the vegetation area habitat by leaving the downed tree or by replacing the danger tree with a different variety of tree.

16.

The ordinance provides for flexibility in a number of ways, but the specific provision which would allow the buffer width to be reduced on a site by site basis was eliminated by the GMAC Ad Hoc committee to address concerns of Ecology and Fish and Wildlife that the standard vegetative area width was in the low to middle of the ranges found in review of the scientific evidence. The provision for widening buffer requirements also off-sets this concern.

17.

A State Environmental Policy Act determination of nonsignificance was issued on these amendments on February 14, 1997. The comment period ended March 3, 1997. All comments were presented to the Planning Commission and the Board. The draft which was attached to the SEPA checklist was changed in response to comments received to produce the draft as recommended by the Planning Commission. The changes were intended and should be effective in providing additional protection to the wetland critical areas. The proposed changes are not likely to have significant adverse environmental impacts. The additional changes proposed by the Board also are not likely to have significant adverse environmental impacts. Because of this, the original DNS was not withdrawn and stands, pursuant to the Mason County Environmental Policy Ordinance, Section 4.1.

18.

The Board finds that there are habitats and species of local importance and other priority species, that these habitats and species have not been extensively reviewed since 1993, and that it is desirable to manage land use in a way that considers these habitats and species. The county has established an amendment process to update or amend its development regulations and comprehensive plan. The county intends, in the course of the next year, to develop and review candidates for habitats and species of local importance, in addition to the threatened and endangered species already provided for, their location and the appropriate management techniques for them.

19.

The Board finds that, with the amendments used to address issues that were raised after the Planning Commission recommendation, the proposal uses best available science to reasonably and effectively protect the values, functions and structure of wetland critical areas. The proposed ordinance balances the relevant goals of the Mason County comprehensive plan and the Growth Management Act. The proposal promotes the goals of economic development; property rights; the affordability of housing, and for a timely, fair and predictable permitting process with flexible, predictable, reasonable and effective minimum requirements. The proposal promotes the citizen participation and coordination goal with the public process,

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. However, wetlands may include those artificial wetlands intentionally created from non-wetland areas created to mitigate conversion of wetlands, if permitted by the county or city.

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, ~~"US Army Corp of Engineers Wetlands Delineation Manual, 1987"~~ Washington State Wetland Identification and Delineation Manual (Ecology #96-94), 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:

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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 or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street or highway. Wetlands regulated under this chapter do not include Category II and III wetlands of less than 2,500 square feet or Category IV wetlands of less than 10,000 square feet.

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)~~. Washington State Wetland Identification and Delineation Manual (Ecology #96-94). 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"~~ Washington State Wetland Identification and Delineation Manual (Ecology #96-94). 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

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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~~ Department of Ecology, 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. In all regulated wetlands, the removal, excavation, grading, dredging, dumping, discharging, or filling of any material; or the draining or flooding of the site, except where undertaken for maintenance (but not construction) of drainage ditches or for emergency repair;
- ~~b. The dumping of, discharging of, or filling with any material;~~
- ~~b. The construction of stormwater management facilities; or~~
- ~~c. The draining or flooding of the site~~
- c. The driving of pilings;
- d. The placing of obstructions;
- e. The construction, reconstruction, demolition, or expansion of any structure;
- f. 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 vegetation area, provided that this subsection shall not apply to the following activities undertaken in a manner which minimizes impacts:
 - (1) The harvesting or normal maintenance of vegetation in a manner that is not injurious to the natural reproduction of such vegetation;

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- (2) The removal or eradication of noxious weeds so designated in Chapter 17.10 RCW or other exotic, nuisance plants;
 - (3) Site investigative work necessary for land use application submittals such as surveys, soil logs and percolation tests;
 - (4) The construction or trails which shall be unpaved when located in the vegetation areas and elevated when located in wetlands, which are not intended for motorized use, and which are no wider than three (3) feet, unless additional width is necessary for safety along a precipice, steep hillside, or other hazardous area.
 - (5) Emergency services or repairs for health and welfare; or
 - (6) Activities of a mosquito control district.
 - (7) The removal of a danger tree, provided that such removal is mitigated by planting in the vicinity of the removed tree a total of six (6) new trees, each of a minimum three (3) feet in height and each of the same species or native species as the removed tree. If the replacement tree planting is judged to be unnecessary to replace the canopy structure of a vegetation area, the Director may request the applicant leave or place the danger tree within the vegetation area as habitat.
- g. 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. Activities Permitted without a Mason Environmental Permit

The following uses shall be allowed, in addition to those defined in General Exemptions (see Section 17.01.130), within a wetland or wetland vegetation area to the extent that they are not prohibited by the Shorelines Management ACT of 1971 (Chapter 90.58 RCW), Federal Water Pollution Control Act (Clean Water ACT), State Water Pollution Control Act (Chapter 90.48 RCW), State Hydraulic Code (RCW 75.20.100-.140), Forest Practices Act (Chapter 76.09 RCW and Chapter 222-16 WAC) or any other applicable ordinance or law and provided they are conducted using best management practices, except where such activities result in the conversion of a regulated wetland or wetland vegetation area to a use to which it was not previously subjected and provided further that forest practices and conversions from forest land shall be governed by Chapter 76.09 RCW and its rules:

- a. Conservation or preservation of soil, water, vegetation, fish, shellfish, and other wildlife;
- b. Outdoor recreational activities that do not have a significant adverse impact on the wetland and its related vegetation area;
- c. The harvesting of wild crops in a manner that is not injurious to natural

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- reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, or alteration of the wetland by changing existing topography, water conditions or water resources;
- d. Existing and ongoing agricultural activities, including farming, horticulture, aquaculture, irrigation, ranching or grazing of animals. Activities on areas lying fallow as part of a conventional rotational cycle are part of an ongoing operation. Activities which bring an area into agricultural use are not part of an ongoing operation. An operation ceases to be ongoing when the area in which it was conducted has been converted to another use or has lain idle so long that modifications to the hydrological regime are necessary to resume operations.
 - e. The maintenance (but not construction) of drainage ditches;
 - f. Education, scientific research, and use of nature trails;
 - g. Site investigative work necessary for land use application submittals such as surveys, soil logs, percolation tests and other related activities. In every case, wetland impacts shall be minimized and disturbed areas shall be immediately restored; and
 - h. The following uses are allowed within wetlands and/or wetland vegetation area, provided that any required permits or approvals are obtained and further provided that wetland impacts are minimized and that disturbed areas are immediately restored:
 - (1) Normal maintenance, repair, or operation of existing serviceable structures, facilities, or improved areas. Maintenance and repair does not include any modification that changes the character, scope, or size of the original structure, facility, or improved area and does not include the construction of a maintenance road; and
 - (2) Minor modification of existing serviceable structures within a vegetation area zone where modification does not adversely impact wetland functions.
 - (3) Repair or reconstruction of damaged or destroyed structures within two years of the damage or destruction.

~~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.~~

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- ~~(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.~~

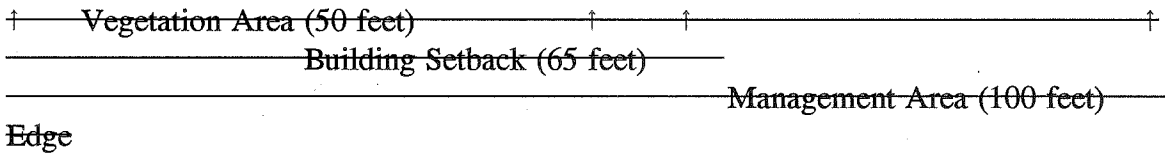
E. DEVELOPMENT STANDARDS

~~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:~~

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

~~Example:
Management Area~~



~~*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~~

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~~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.~~

1. Wetlands Rating System

A four-tier wetlands rating system is hereby adopted as the rating system for Mason County. Wetlands vegetation area widths and replacement ratios shall be based on this rating system.

Procedures for applying the wetland rating system are set forth in the Washington State Wetlands Rating System -Western Washington Second Edition Washington State Department of Ecology (Publication #93-74), as modified herein;

a. Wetlands shall be categorized as follows:

CATEGORY I WETLANDS

(A wetland is considered a Category I if it meets any one of the following criteria.)

1. The wetland contains documented Federal or State listed Threatened or Endangered plant and/or wildlife species.
2. The wetland is on record with the Washington Natural Heritage Program as a high quality native wetland or it has great potential to become listed*.
3. Wetlands documented to contain regionally significant waterfowl or shorebird concentrations.
4. Wetlands that contain irreplaceable ecological functions*.
 - Bogs and fens
 - Mature forested wetland
 - Estuarine wetlands over one acre
 - Eelgrass and kelp beds
 - Documented wetlands of local category I significance.

CATEGORY II WETLANDS

(A wetland is considered a Category II if it meets none of the Category I criteria and it meets any one of the following:)

1. Confirmed presence of sensitive plant, animal or fish recognized by federal or state

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- agencies.
2. Documented priority habitats and/or species recognized by state agencies.
 3. Wetlands with significant functions which may not be adequately replicated through creation or restoration (specifically estuaries, bogs and fens).
 4. Wetlands with significant habitat value (Greater than or equal to 22 points on the Washington State Wetlands Rating Form).
 5. Wetlands identified as a Category II wetland of local significance.

CATEGORY III WETLANDS

(A wetland is considered a Category III if it meets none of the Category I or II criteria and it meets any one of the following.)

1. Wetlands where the significant habitat value score is equal to or less than 21 points on the Washington State Wetlands Rating Form.
2. Wetlands identified as a Category III wetland of local significance.
3. Estuarine wetlands less than one acre*.

CATEGORY IV WETLANDS

(A wetland is considered a Category IV if it meets any one of the following.)

1. Wetlands less than one acre, hydrologically isolated and comprised of one plant layer dominated (> 80%) by one invasive plant species*.
2. Wetlands less than two acres, hydrologically isolated and comprised of one plant layer dominated (> 90%) by a combination of invasive plant species*.
3. Wetlands that are ponds smaller than one acre and excavated from uplands, without a surface water connection to streams, lakes, rivers or other wetlands.

* See Ecology, 1993 publication titled *Washington State Wetlands Rating System, Western Washington* for additional information.

~~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~~

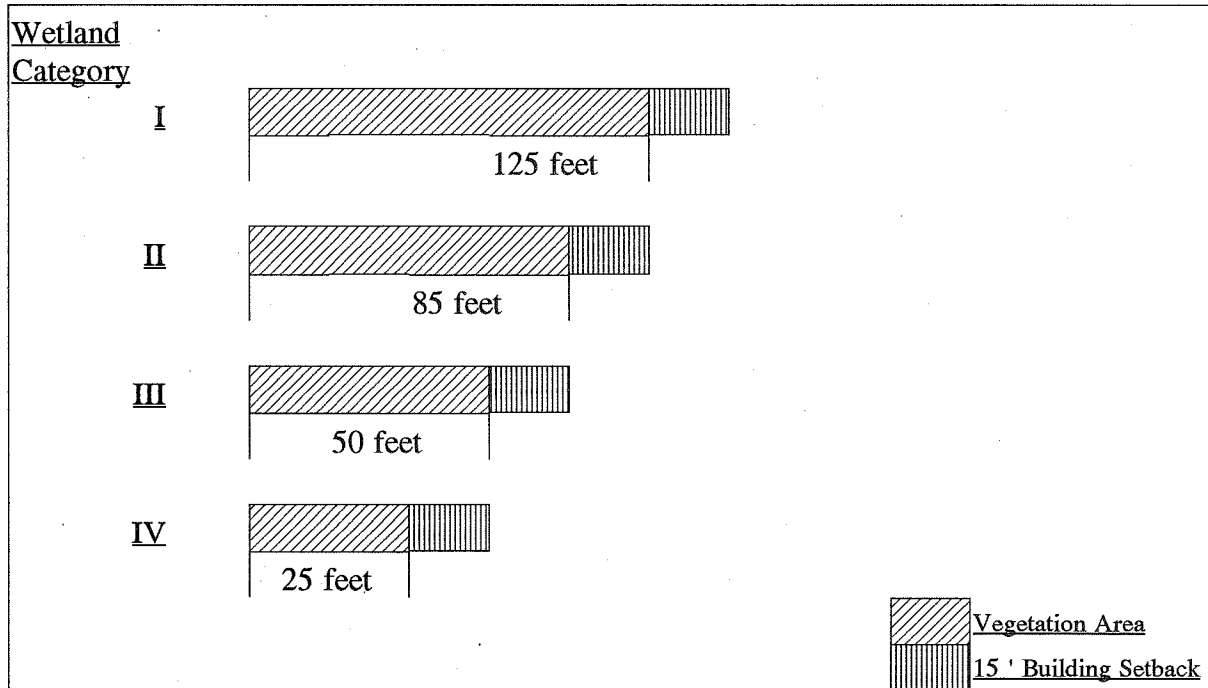
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~~natural condition or replanted with vegetation of equal value to the wetland. Vegetation shall be managed, activities involving root disturbance avoided, and cultivation of the soil limited, to protect the character and functions of the wetland. 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.~~

2. Wetland Vegetation Areas
a. Standard Vegetation Area Widths.

Wetland vegetation areas shall be required for all regulated wetlands. Any wetland created, restored, or enhanced as compensation for approved wetland alterations shall also include the standard vegetation area required for the category of the created, restored, or enhanced wetland. All vegetation areas shall be measured horizontally from the wetland boundary as surveyed in the field. The width of the wetland vegetation area shall be determined according to wetland category.



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- 5.b. Special Setbacks - Measured from the wetland edge .
 - a.(1) On-site sewage disposal drainfield - 100 feet (30.5m) (125 feet for Category I)
 - b.(2) Livestock feedlot - 200 feet (70 m)

3. Increased Wetland Vegetation Area Width

The Administrator shall require increased standard vegetation area widths on a case-by-case basis when a larger vegetation area is necessary to protect wetland functions and values based on local conditions. This determination shall be supported by appropriate documentation showing that it is reasonably related to protection of the functions and values of the regulated wetland. Such determination shall be attached as a permit condition and shall demonstrate that:

- a. A larger vegetation area is necessary to maintain viable populations or critical habitat of threatened or endangered species living within the subject wetland(s) boundaries; or
- b. The adjacent land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse wetland impacts; or
- c. If the wetland contains variations in sensitivity, increasing the vegetation area widths will only be done when necessary to preserve the structure, function and value of the wetland.

4. Wetland Vegetation Area Width Averaging

The boundary of the vegetation area may be modified by averaging vegetation area widths. If vegetation area averaging is used, the following conditions must be met:

- a. The total area contained in the vegetation area after averaging shall be no less than that contained within the vegetation area prior to averaging; and
- b. Vegetation area averaging will incorporate site conditions to minimize (to the maximum extent possible) impacts on the functions of the wetland; and
- c. In no instance shall the vegetation area width be reduced to less than 100 feet for Category I, 75 feet for Category II, or 25 feet for Categories III or IV.

5. Wetland Vegetation Area Conditions

Except as otherwise specified, wetland vegetation areas shall be retained in their natural condition. Where vegetation area disturbance has occurred during construction, revegetation with native vegetation may be required.

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6. Permitted Uses In A Wetland Vegetation Area

Regulated activities shall not be allowed within a vegetation area except as follows:

- a. Activities that are permissible within a wetland shall be permissible within a wetland vegetation area; and
- b. Stormwater management facilities (bioswales and dispersal trenches) only when required to allow a reasonable use of the property. Encroachment into the vegetation area shall be the minimum necessary and will be permitted only within the outer twenty-five (25) feet or outer twenty-five percent (25 %) of the vegetation area, whichever is more restrictive.
- c. Other passive activities such as recreational trails and tot lots are also permitted within the outer twenty-five percent (25 %) of the vegetation area.
- d. Selective commercial timber cutting will be limited to the outer twenty-five percent (25 %) of Category I and II wetland vegetation areas and fifty percent (50 %) of Category III and IV wetland vegetation areas. No more than thirty percent (30 %) of the merchantable trees may be harvested in this area on a one-time-only basis as associated with a land use conversion application. The thirty percent (30 %) harvest must be representative and maintain an intact forest community character. The percentage and species distribution of all trees must be consistent before and after the selective timber harvest.

7. Building Setback Lines

A building setback line of fifteen (15) feet is required from the edge of any wetland vegetation area. Minor structural intrusions into the area of the building setback may be allowed if the Administrator determined that such intrusions will not negatively impact the wetland.

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. Mitigation sequencing should follow the avoidance, reduction and compensation analysis, (in that order of preference). 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. Wetland mitigation ratios are illustrated in the following table:

<u>Wetland Type</u>	<u>Wetlands Acres Filled</u>	<u>Wetland Acres Created</u>
<u>Forested</u>	<u>1</u>	<u>3</u>
<u>Shrub-Scrub and Emergent</u>	<u>1</u>	<u>2</u>
<u>Category IV</u>	<u>1</u>	<u>1.25</u>

2. Wetland Restoration, Creation and Enhancement (see details in 17.01.200 I)

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

- ~~3. Monitoring~~

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

G. PERMIT REVIEW

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

H. ~~ACTIVITY EXEMPTION REVIEW~~

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

17.01.120 DEVELOPMENT REVIEW PROCESS

H. SPECIAL STUDIES AND PLANS

1. Developments lying within one or more designated critical areas may be required by the Director to submit a Special Study or Plan that assures the proposed development does not degrade the functions and values of those critical areas. Those studies include:
 - a. Wetland Delineation Report under Section 17.01.070
 - a.b. Wetland Mitigation Plan under Section 17.01.070 and 17.01.200 I.
 - b.c. Aquifer Recharge Area Report under Section 17.01.080
 - c.d. Geological Report under Section 17.01.100
2. Requirements for Special Plans can be found in each critical area section.
3. An application for a Mason Environmental Permit (MEP) or Mason Conditional Environmental Permit (MCEP) shall not be considered complete until it includes all special studies or plans required by this Chapter.

~~I. ACTIVITY EXEMPTION APPLICATION~~

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

~~Application Requirements~~

- ~~1. A vicinity map (scale of 1:4,800 (1"=400 feet)) showing the wetland and surrounding properties under other ownerships including other wetlands; and~~
- ~~2. Site Plan (scale 1"=20 feet up to 1'=100 feet) showing~~
 - ~~a. Description of projected activity including all water courses, drainage ways, waste water facilities, before and after the projected activity; and~~
 - ~~b. Wetland size and boundary; and~~
 - ~~c. Relationship to surrounding wetlands; and~~
 - ~~d. Existing and proposed structures.~~

**17.01.130 APPLICATION FOR RESOURCE REDESIGNATION
GENERAL EXEMPTIONS**

A. PURPOSE

~~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.~~

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

~~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:~~

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

- ~~a. The property meets the classification criteria for Inholding Land; and~~
- ~~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~~
- ~~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.~~

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

- ~~(1) The availability of public service and facilities conducive to the conversion of forest land; and~~
- ~~(2) The proximity of designated land to urban and suburban areas and rural settlements; and~~

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- ~~(3) The compatibility and intensity of adjacent and nearby land use and settlement patterns; and~~
 - ~~(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~~
 - ~~(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~~
 - ~~(6) The history of land development permits issued nearby; and~~

 - ~~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~~
 - ~~e. Removal of subject property shall not impair the ability to manage the remainder of the block for long-term commercial forestry; and~~
 - ~~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.~~
2. ~~Redesignation from Long-Term Commercial Forest Land to Non-Resource Land shall be permitted upon finding that:~~
- ~~a. All redesignation criteria for Long-Term Commercial Forest Land to Inholding Land are met, except 17.01.130.B.1.a. or~~
 - ~~b. A trade of properties can be established wherein the owner of designated forest lands edging the outer boundary of this designation can exchange a parcel(s) of forest land for abutting non-resource land. The abutting non-resource land must be equal to or greater in size than the parcel removed from designated forest land, connected to the forest block, and committed to the Long-Term Commercial Forest Land designation. A no net loss of designated forest land must be achieved. Redesignation criteria 17.01.130.B.1.b., c., f. must also be met.~~
3. ~~Redesignation from Inholding Land to Long-Term Commercial Forest Land shall be~~

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~~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.~~

~~4. 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 and designation process for Mineral Resource Lands, pursuant to Section 17.01.066.A.2 and B.2.~~

~~5. 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; and.~~

~~6. Redesignation from Mineral Resource Land to Long-Term Commercial Forest Land shall be permitted upon a finding that:~~

~~The property meets the redesignation criteria of Non-Resource Land to Long-Term Commercial Forest Land, Section 17.01.130.B.5.~~

~~7. Redesignation from Mineral Resource Land to Inholding Land shall be permitted upon a finding that:~~

~~a. The property meets the classification criteria for Inholding Land, 17.01.062.A; and~~

~~b. The mineral resource potential of the site as been depleted by extraction to the extent that the site is no longer capable of economically viable production and~~

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~~all terms of a reclamation plan as specified by State law have been completed;
or~~

~~c. The applicant has demonstrated reasonable use of the property as Designated Mineral Resource Land is not possible and the inability to make reasonable use of the property is not due to 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~~

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- ~~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.~~

The following activities shall be exempt from the provisions of this ordinance:

- A. All policies, regulations, and procedures of this ordinance are null and void and have no effect on those activities and uses conducted pursuant to the Washington State Forest Practices Act and its rules and regulations, WAC 222-12-030, where state law specifically exempts local authority, except those developments requiring local approval for Class 4 -General Forest Practice Permits (conversions) as defined in RCW 76.09 and WAC 222-12.
- B. Existing and on-going agricultural activities on lands designated as Resource on the effective date of this ordinance.

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- C. Normal and routine maintenance and operation of existing irrigation and drainage actions, farm ponds, fish ponds, manure lagoons, and livestock water ponds, provided that such activities do not involve conversion of any wetland not being used for such activity to another land use.
- D. Normal and routine maintenance or repair of existing utility structures or rights-of-way.
- E. Passive recreational uses, sport fishing or hunting, scientific or educational review, or similar minimal impact, non-development activities.
- F. Site investigative work required by a county, state, or federal agency, or any other applicant preparing a land use application submittal such as surveys, soil logs, percolation tests, and other related activities, provided that impacts on environmentally critical areas are minimized, and disbursed areas are restored to the preexisting level of function and value within one (1) year after tests are concluded.
- G. Maintenance, operation, reconstruction of, or addition to, existing roads, streets, and driveways, provided that reconstruction of, or addition to, any such facilities does not extend outside the previously disturbed area.
- H. Any project currently under review by local, state or federal agencies prior to the official effective date of the Mason County Interim Resource Ordinance (as amended or adopted) are exempt from this ordinance and will be grandfathered under previous Resource protection measures; except for projects which are affected by the invalidity finding of the Western Washington Growth Management Hearings Board dated September 6, 1996.
- I. Installation, construction, replacement, operation or alteration of all electric facilities, lines, equipment or appurtenances; water and sewer lines; and all natural gas, cable communications and telephone facilities, lines, pipes, mains, equipment or appurtenances within the previously improved area of public road right-of-way or authorized private road; but not including the construction of substations.

17.01.200 ENFORCEMENT

I. RESTORATION

For property which contains designated wetlands, aquatic management areas, or terrestrial habitat management areas or their vegetation areas which has been disturbed, or landslide, seismic or erosion hazard areas on which a structure has been built or located in violation of this Chapter, no permit or approval or development of the property shall be authorized or granted for a period of up to three (3) years from completion of restoration as determined by the Director. In the event of intentional or knowing violation of this Chapter, the County may bring an action against the owner of the land or the operator who committed the violation. This restoration section is also applicable to Mitigation for Wetland Impacts (Section 17.01.070 F) as modified below.

1. Restoration Plan.

- a. Where any designated wetlands, aquatic management areas, or terrestrial management areas or their vegetation area which has been disturbed, or subject to a permitted fill requiring mitigation, or landslide, seismic or erosion hazard areas or their buffers has been disturbed or a structure has been built, the applicant shall cause to be prepared, by a qualified biologist, plant ecologist, geologist or similarly qualified professional, as appropriate, a restoration plan which shall include as a minimum the following:
 - (1) The extent of disturbance, or permitted action requiring mitigation, including an inventory of all vegetation cleared; and
 - (2a) Measures necessary to restore the critical areas or their buffers/vegetation area, including removal of fill, regrading to original contours, if necessary, replacement of excavated material, revegetation of all cleared areas with native trees and/or plants and removal of structures; or
 - (2b) Location of the proposed mitigation action, ownership, and methods to recreate, as nearly as possible, the original wetlands or vegetation area in terms of acreage function, geographic location and setting.
 - (3) A schedule for restoration; and
 - (4) A monitoring plan to evaluate periodically the success of the restoration and provide for amendments to the plan which may become necessary to achieve its purpose.
- b. In preparing and approving the restoration plan, the applicant and the County, respectively, should consult with the Department of Wildlife, Department of Natural Resources, Department of Fisheries, and the Department of Ecology as appropriate.

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- c. The restoration plan shall be prepared at the applicant's cost and shall be approved by the Director. The Director may approve, reject or approve the plan with conditions. All restoration shall be consistent with the approved restoration plan.
2. **Monitoring.** In any designated critical area where restoration has been required, the applicant, at its own cost, shall provide for seasonal monitoring of the site by a qualified biologist or other qualified professional, for a period of three years after completion. The applicant shall submit an annual report to the Director which discusses i) the condition of introduced or reintroduced plant species; ii) the condition of open water areas or other water features; iii) use of the site by fish and wildlife species; iv) any disturbances or alterations and their affects on the restoration; v) additional or corrective measures which should be taken to ensure the success of the restoration; and vi) other information which the Director considers necessary to assess the status of the restoration.
3. **Restoration bond.** Prior to commencing restoration of a wetland, deep water habitat, tributary stream or protected species habitat, or their vegetation area or a steep or unstable slope, the applicant shall post with the Director a bond or other security in an amount sufficient to cover the cost of conformance with the conditions of the restoration plan, including corrective work necessary to provide adequate drainage, stabilize and restore disturbed areas, and remove sources of hazard associated with work which is not completed. After the Director determines that restoration has been completed in compliance with approved plans and the monitoring period has expired, the bond or other security shall be released. The County may collect 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.

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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 Activities & Existing and Ongoing Agriculture: Those activities conducted on lands defined in RCW 84.34.020(2), and those activities involved in the production of crops and/or raising or keeping livestock, including the operation and maintenance of farm and stock ponds, drainage ditches, operation and maintenance of ditches, irrigation systems including irrigation laterals, canals, or irrigation drainage ditches, and normal operation, maintenance, and repair of existing serviceable agricultural structures, facilities or improved areas, and the practice of aquaculture. Activities which bring an area into agricultural use are not part of an ongoing operation. An operation ceases to be ongoing when the area on which it is being conducted is converted to a nonagricultural use or has lain idle for more than five (5) years, unless the idle land is registered in a federal or state soils conservation program, or unless the activity is maintenance of irrigation ditches, laterals, canals, or drainage ditches related to an existing and ongoing agricultural activity.

Forest practices regulated under Chapter 76.09 RCW, Title 222 WAC are not included in this definition.

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.

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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.

Building Official: The Building Official of Mason County.

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

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

Clearing or Land Clearing: The removal or disturbance of trees, shrubs and other vegetation, from a designated critical area or its buffer/vegetation area by physical, mechanical, chemical,

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or any other means, to the extent that the Director determines such removal or disturbance may constitute a safety hazard or otherwise pose a probable adverse impact on the functions or values of that critical area or buffer/vegetation area; Provided that removal or disturbance of vegetation from artificially landscaped areas existing at the time of adoption of this Chapter shall not constitute clearing.

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

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

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

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

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

Danger Tree: A tree closer than one and one-half (1 and 1/2) times its height to any permanent structure which has frequent human use (such as a house, shop, barn or pump house).

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

Director or Director of Community Development: The Director of the Mason County Department of Community Development.

Emergent Wetland: A regulated wetland with at least thirty percent (30%) of the surface area covered by erect, rooted, herbaceous vegetation as the uppermost vegetative strata.

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

Erosion Control: On-site and off-site control measures that are needed to control conveyance

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and/or deposition of earth, turbidity or pollutants after development, construction, or restoration.

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

Exotic: Any species of plants or animals that are not native to the watershed.

Extraordinary Hardship: The strict application of this ordinance and/or programs adopted to implement this ordinance by the Administrator would cause or create severe financial loss, unreasonable safety risk or health harm to the party seeking exception, waiver or variance under this ordinance.

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

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

Forested Wetland: A regulated wetland with at least thirty percent (30%) of the surface area covered by woody vegetation greater than twenty (20) feet in height.

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

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

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

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

Hazardous Substances: Substances that pose a present or potential hazard to human health or to the quality of the drinking water supply (now or in the future) in the aquifer system underlying Mason County, when improperly used, stored, transported, or disposed of or otherwise mismanaged, including those materials identified as a hazardous waste in 40 CFR 261, or defined as a hazardous substance in 40 CFR 302, WAC 173-360-120. Hazardous substances shall include petroleum products and by-products, including crude oil or any fraction thereof such as gasoline, diesel, and waste oil which is liquid at standard conditions of

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temperature and pressure ((60 Fahrenheit(15.6 Centigrade), 14.7 pounds per square inch (1.03 Kilograms per square centimeter)).

Health Director: The Director of the Mason County Health Department.

Hydric Soil: Soil that is saturated, flooded or ponded long enough during the growing season to develop anaerobic conditions in the upper part. The presence of hydric soil shall be determined following the methods described in the ~~"US Corp of Engineers Wetlands Delineation Manual, 1987"~~. Washington State Wetland Identification and Delineation Manual (Ecology #96-94), or as amended.

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

Hydrophytic Vegetation: Macrophytic plant life growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content. The presence of hydrophytic vegetation shall be determined following the methods described in the ~~"US Corp of Engineers Wetlands Delineation Manual, 1987"~~. Washington State Wetland Identification and Delineation Manual (Ecology #96-94), or as amended.

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

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

Isolated Wetlands: Those wetlands which:

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

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

Landslide Hazard Areas: Areas susceptible to landslides that are designated by this Chapter

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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. Avoiding the impact altogether by not taking a certain action or parts of an action;

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- B. 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;
- C. 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.
- D. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
- E. Creation: Actions performed to intentionally establish a wetland at a site where one did not formerly exist.
- F. Enhancement: Actions performed to improve the condition of existing degraded wetlands so that the functions they provide are of a higher quality.
- G. Monitoring the impact and the compensation project and taking appropriate corrective measures.

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

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

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

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

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

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Parcel: See definition for "lot".

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

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

Priority Habitat: A habitat type with unique or significant value to many species. An area classified and mapped as priority habitat must have one or more of the following attributes:

- Comparatively high fish and wildlife density;
- Comparatively high fish and wildlife species diversity;
- Important fish and wildlife breeding habitat;
- Important fish and wildlife seasonal ranges;
- Important fish and wildlife movement corridors;
- Limited availability;
- High vulnerability to habitat alteration;
- Unique or dependent species.

Priority Habitat and Species Database: The database for the Washington State Department of Fish and Wildlife's (WDFW) Priority Habitat and Species (PHS) Program which provides the following three products:

- Lists of the WDFW's most important habitats and species;
- Management recommendations for each priority habitat and species; and
- Maps showing the geographic location of priority habitats and species.

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

Public Works Director: The Director of the Mason County Department of Public Works.

Qualified Wetland Professional: A person with experience and training in wetland issues, and with experience in performing delineations, analyzing wetland functions and values, analyzing wetland impacts, and recommending wetland mitigation and restoration. Qualifications include:

- A. Bachelor of Science or Bachelor of Arts or equivalent degree in biology, botany,

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environmental studies, fisheries, soil science, wildlife or related field, and two years of related work experience, including a minimum of one year experience delineating wetlands using any Federal Manual for Identifying and Delineating Jurisdictional Wetlands and preparing wetland reports. The Washington State Wetland Identification and Delineation Manual (Ecology #96-94) will become the standard delineation methodology for wetlands beginning in 1997. Experience with this manual will be required when it is adopted. Additional education may substitute for one year of related work experience; or

- B. Four years of related work experience and training, with a minimum or two years experience delineating wetlands using any Federal Manual for Identifying and Delineating Jurisdictional Wetlands and preparing wetland reports; or
- C. A person certified by the Society of Wetland Scientists as a Professional Wetlands Scientist.

Reasonable Use: A legal concept that has been articulated by federal and State of Washington courts in regulatory taking cases.

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.

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

Scrub-Shrub Wetland: A regulated wetland with at least thirty percent (30%) of its surface area covered by woody vegetation less than twenty (20) feet in height as the uppermost strata.

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.
8. **Rockfalls:** This can occur when nearly vertical rock slopes fail during strong seismic shaking.
9. **Seiches:** Earthquake induced water waves in a confined body of water caused by

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periodic oscillations of the water in response to ground shaking.

10. **Surface Faulting:** The fracturing of soil or rock on the earths surface. Surface faulting could occur on mapped faults shown on geologic maps of the Mason County area.
11. **Tsunami:** Catastrophic sea waves generated in large bodies of water by strong earthquakes, underwater landslides or volcanic explosion. Tsunami waves travel at speeds of up to 400 mph across the open ocean and can form waves reported up to 200 feet in height when encountering land with a long shallow ocean fronting shelf. Tsunamis, averaging at least 20 feet in height, have been generated in Puget Sound as evidenced in recent geologic studies.

Sensitive Species: Any wildlife species listed by the federal government or the State of Washington as sensitive because it is vulnerable or declining and is likely to become endangered or threatened in a significant portion of its range within the state without cooperative management or removal of threats.

Serviceable: Presently useable.

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

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

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

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

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

Surface Mining: Includes, and is limited to, all activities defined as "surface mining" under Section 78.44.030 RCW or as hereafter amended, except that operations meeting the definition

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of surface mining and are less than 3 acres (1.21 hectares) in size may also be designated by the Mason County Engineer as surface mining operations, if these operations are deemed critical for maintenance of local government infrastructure.

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

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

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

Trail: A trail is a limited use path or beaten track, with minimum improvements.

Variance: A grant of relief from the specific requirements of this ordinance which permits use of property in a manner that would otherwise be prohibited by this ordinance.

Vegetation Area: An area of land used or designated for the purpose of insulating or separating a structure or land use from a critical area or resource land in such a manner as to reduce or mitigate any adverse impacts of the developed area. Permitted development and activities within vegetation areas depend on the type of critical area or resource land the vegetation area is protecting.

WAC: Washington Administrative Code

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

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

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

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

Wetland Hydrology: Permanent or periodic inundation, or soil saturation to the surface during the growing season which typically creates anaerobic conditions in the soil that affects the types of plants that can grow and the types of soils that can develop. The presence of wetland

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hydrology shall be determined following the methods described in the ~~"US Army Corp of Engineers Wetlands Delineation Manual, 1987"~~ Washington State Wetland Identification and Delineation Manual (Ecology #96-94),.

Wetlands: Areas that are inundated or saturated by surface water 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. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, waste water treatment facilities, farm ponds, and landscape amenities or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street or highway. However, wetlands may include those artificial wetlands intentionally created from non-wetland areas created to mitigate conversion of wetlands, if permitted by the county or city. Wetlands regulated under this chapter do not include category II and III wetlands of less than 2,500 square feet or category IV wetlands of less than 10,000 square feet.

**Mason County Board of County Commissioners
Resource Redesignation - Interim Resource Ordinance - 1997**

FINDINGS OF FACT

1.

The Interim Resource Ordinance (IRO) was adopted in 1993 by Mason County. "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 IRO was intended to comply with the requirements of the Washington State Growth Management Act including Section 36.70A.060, which called for such interim protections. Section 17.01.130 had the following purpose: "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."

2.

The Western Washington Growth Management Hearings Board received a petition to review the IRO, and it subsequently issued two orders, dated January 8, 1996, and September 6, 1996, which remanded the resource redesignation process and criteria to the county so that they might be brought into compliance with the Growth Management Act.

3.

Mason County adopted its Comprehensive Plan on April 2, 1996. Included in the plan were guidelines for future amendments to the plan (page I-2.3), a Future Land Use Map which designated areas for Long-Term Commercial Forest Land (figure IV-1.1), and a Long-Term Commercial Mineral Lands map (figure IV-5.2). Mason County implemented the comprehensive plan, in part, by adoption of the Development Regulations on June 17, 1996. Changes to the resource area designations will require amendment of the plan and development regulations.

4.

Mason County adopted Title 15, Mason County Development Code, on December 10, 1996. The stated intent is as follows: "The purpose of this Title is to combine and consolidate the application, review, and approval processes for land development in Mason County in a manner that is clear, concise, and understandable." Title 15 contains Section 15.09.060 Type IV Decision Review and Recommendation. The section provides that: "The process for amending the Mason County Comprehensive Plan and implementing development regulations (hereinafter "annual amendment process") shall follow the steps below. Generally, the county will consider both the plan and regulation amendments together, and it will consider them only one time each year." Title 15 is also intended to be consistent with the Growth Management Act and State Environmental Policy Act, as they have been amended through 1996.

5.

The Mason County Comprehensive Plan has many goals and policies which are to be used in the review process for a proposed amendment or group of amendments. These many goals and policies are not reflected in the criteria established in the redesignation section of the IRO, and RCW 36.70A.040 requires that development regulations be consistent with the plan.

6.

A State Environmental Policy Act Determination of Nonsignificance was issued on these amendments on February 27, 1997. The determination and public hearing were duly advertised. The comment period ended March 14, 1997. No comments were received. The proposal has not been modified from that which was distributed under the SEPA review.

7.

A comparison of the resource designation amendment provisions in the IRO and the amendment provisions in Title 15 reveals several inconsistencies, including: 1) the parties that may request amendment, 2) the procedure for review, including incompatible time lines, 3) the requirement for notification to the state Department of Community Development, 4) the requirement for a comprehensive review of all proposed amendments only one time each year.

8.

The Mason County Planning Commission held a public hearing on this proposal on March 17, 1997. After said hearing, the Planning Commission adopted findings of fact and forwarded to the Board the recommendation that the proposed amendment be made.

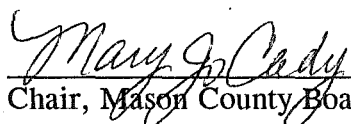
9.

The Board of Commissioners held a public hearing on this proposal April 1, 1997, continued to April 14, 1997.

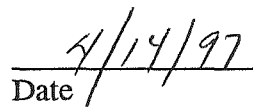
10.

The Board finds that the proposed ordinance balances the relevant goals of the Mason County comprehensive plan and the Growth Management Act. The proposal promotes the goal of a timely, fair and predictable permitting process. With the public process, SEPA coordination, and special requirements of the Growth Management Act, the proposal promotes the citizen participation and coordination goals.

From the preceding findings, it is concluded that resource redesignation provisions in Section 17.01.130 of the Interim Resource Ordinance should be deleted.



Chair, Mason County Board of County Commissioners



Date