

ORDINANCE NUMBER 56-97

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 17.01.110 Aquatic Management Areas, Section 17.01.040 Establishment of Designated Lands, Section 17.01.240 Definitions, and amending the Mason County Comprehensive Plan, page IV-4.11, under the authority of Chapters 36.70 and 36.70A RCW.

WHEREAS, the Board of County Commissioners held a public hearing on May 13, 1997, to consider the recommendations of the Planning Commission, the Mason County Department of Community Development and citizens on the proposed amendments;

WHEREAS, the Mason County Planning Commission formulated its recommendations after a public hearing on April 21, 1997 and approved findings of fact;

WHEREAS, these hearings were duly advertised public hearings;

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

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

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, and the amendment to the Mason County Comprehensive Plan, page IV-4.11, as described by ATTACHMENT B.

DATED this 13th day of May, 1997.

Board of County Commissioners
Mason County, Washington

(Absent)
Mary Jo Cady, Chair

John A. Bolender
John A. Bolender, Commissioner

Cynthia D. Olsen
Cynthia D. Olsen, Commissioner

ATTEST:

Rebecca S. Rogers
Clerk of the Board

APPROVED AS TO FORM:

[Signature]
Prosecuting Attorney

ATTACHMENT A - ORDINANCE NO. 56-97
Mason County Board of County Commissioners
Aquatic Management Areas - May 13, 1997
FINDINGS OF FACT

1.

Under consideration is a proposal to amend the aquatic management critical areas protections of the Interim Resource Ordinance (IRO) as adopted in 1993 by Mason County by designating Type 5 waters as Class II Aquatic Management Areas, and establishing a 25 foot vegetative area as a buffer to protect those streams.

2.

The proposed amendment is based on the recommendations of Mason County's consultants as contained in a letter dated March 26, 1997. Those recommendations were based on a review of the Interim Resource Ordinance and the best available science, and it included special consideration for anadromous fisheries.

3.

The proposed amendment is based on the recommendation of the Mason County Planning Commission. The Planning Commission held a public hearing on April 21, 1997, and considered the testimony given along with the record before it. Substantial background information on the proposed changes were reviewed by the Planning Commission, including the memorandum prepared by the Department of Community Development, dated April 21, 1997, with its attachments and referenced materials and meetings.

4.

The Planning Commission recommendation was based on the recommendation by the GMAC Ad Hoc committee on April 2, 1997. The draft revision, prepared by the Department of Community Development was dated April 2, 1997.

5.

The amendment recommended by the Planning Commission is consistent with and implements the Mason County Comprehensive Plan, although the plan does not identify Type 5 waters as designated aquatic management areas. In order to address this concern, the proposal includes minor changes in the comprehensive plan. The proposal is consistent with and balances the goals of the Growth Management Act.

6.

The Board of County Commissioners held a public hearing on May 13, 1997 to take public testimony and to review the record before it.

From the preceding findings, it is concluded that the proposal should be adopted as proposed by the Planning Commission, with the changes recommended by the Department.



Chair, Board of County Commissioners

5/15/97
Date

ATTACHMENT B - ORDINANCE NO. 56-97

17.01.110 AQUATIC MANAGEMENT AREAS

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

A. CLASSIFICATION

The following shall be classified as aquatic Management Areas:

1. Class I Management Areas

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

2. Class II Management Areas

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

- a. 200 feet (61.00 meters) of the ordinary high water mark of Type II waters;
- b. 100 feet (30.50 meters) of the ordinary high water mark of Type III waters; or
- c. 50 feet (15.25 meters) of the ordinary high water mark of Type IV waters;
- d. 25 feet (15.25 meters) of the ordinary high water mark of Type V waters.

B. DESIGNATION

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

C. CLASS I MANAGEMENT AREA GUIDELINES

- 1. These areas shall comply with all Provisions of the Mason County Shoreline Master Program (SMP), as well as the provisions of this Section (17.01.110.C). Granting of a permit under the SMP shall also constitute granting of a Mason Environmental Permit (MEP).

New text is underlined, deleted text is ~~struck through~~

2. An on-site sewage disposal system inspection, if applicable, certified by the County Health Department or State of Washington, shall be required prior to any transfer of ownership.
3. A septic system inspection program may be established, pursuant to state and local laws, in areas where the County Health Director finds it necessary to protect water quality.

D. CLASS II MANAGEMENT AREA GUIDELINES

Owners/users/developers of Class II Areas need to be aware of the following concerns: the siting of structures; drainage; soil disturbance; tillage patterns; erosion control; use of herbicides, pesticides and fertilizers; creation of impermeable areas and runoff; the pasturing of animals; approved on-site sewage disposal system installation; landscaping; maintaining the natural setting; stream shading and water temperature control; and maintenance of stream-side habitat.

1. Class II Land Use Guidelines

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

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

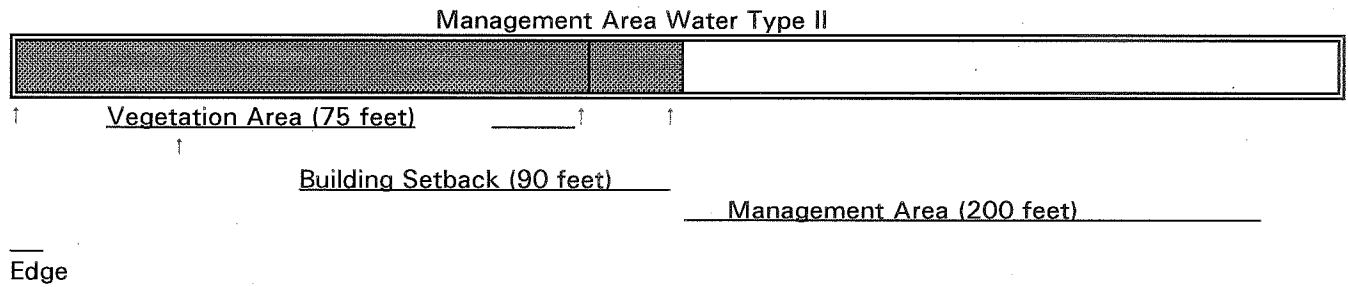
<u>Water Type</u>	<u>Vegetation Area in ft.</u> <u>(meters (m))</u>	<u>Building Setback</u> <u>in ft. ** (meters (m))</u>	<u>Management Area* +</u> <u>in ft. (meters (m))</u>
II	75 ft. (22.88 m)	90 ft. (27.45 m)	200 ft. (61.00 m)
III	50 ft. (15.25 m)	65 ft. (19.83 m)	100 ft. (30.50 m)
IV	25 ft. (7.63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

* Management Area includes setback and vegetation area.

** Setback includes vegetation area.

+ See Section 17.01.110.A.2.

Example:



- Edge
- a. Water Types II, III, and IV, and V shall have a setback and a vegetation area requirement, both of which are measured from the ordinary high water mark, perpendicular and landward from the shoreline in the amount shown in the table above:
 - b. When necessary to protect Class II Management Areas, as determined by the Director, a temporary erosion control plan which identifies the specific measures to be implemented during construction and site preparation to protect the water from erosion, siltation, landslides, and deleterious construction materials shall be required.
 - c. Developments shall meet State and County regulations for storm drainage and water disposal facilities to prevent any adverse water quality impacts from such facilities.
 - d. Site preparation shall not result in off-site erosion, siltation, or other reductions in water quality.
 - e. Industrial and commercial uses which handle or store hazardous substances or wastes as defined in WAC 173-303 or hereafter amended, or other substances in quantities identified by the County to be a potential threat to water quality, shall provide evidence that the hazardous substances or wastes shall not enter and adversely impact any water, groundwater or shoreline area.
 - f. No dredging or removal of vegetation shall occur below the ordinary high water mark in Management Areas except as provided for in a State Hydraulics Permit.
 - g. Lot Size

For the purpose of determining lot sizes under Title 16 of the Mason County Code, the Director shall review any available information and apply any or all standards of Section 17.01.110.D, and make a decision on a case-by-case basis based on this information.
 - h. Variances for unusual topographical characteristics which have site-specific problems may be available under Section 17.01.150.

3. Class II Permit Required Uses

a. Mason Environmental Permit (MEP)

"Class IV - General Forest Practices" under the authority of the "1992 Washington State Forest Practices Act Rules and Regulations", WAC 222-12-030, or as thereafter amended; which involve conversion to a Permit Required Use.

b. Mason Conditional Environmental Permit (MCEP)

- (1) Industrial and Commercial uses.
- (2) Housing other than single family residences.
- (3) Roads and other impervious surfaces.

17.01.040 ESTABLISHMENT OF DESIGNATED LANDS

AMEND subsection C. 1. b.

- b. "Water Type Reference Maps of Mason County", Department of Natural Resources, Types II, III, and IV, and V Waters Only.

17.01.240 DEFINITIONS

AMEND the definition:

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~~ V (WAC 222-16-030).

Aquatic Management Areas as classified and designated include the following:

Class I Management Area

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

Class II Management Area

All areas defined as Type 2, 3, or 4, or 5 waters as established in WAC 222-16-030, including all naturally occurring lakes and ponds not considered wetlands and not under the jurisdiction of the Mason County Shoreline Master Program; and all lands within:

- a. 200 feet of the ordinary high water mark of Type 2 waters;
- b. 100 feet of the ordinary high water mark of Type 3 waters; or
- c. 50 feet of the ordinary high water mark of Type 4 waters; or
- d. 25 feet of the ordinary high water mark of Type 5 waters.

The water typing system has been established by the Department of Natural Resources and is based on the size and character of the water body. Type 1 waters are the larger water bodies and rivers which have been classed as Waters of the State, such as the Hood Canal and the Skokomish River. As the size of the river or lake is reduced, the water type becomes a 2, 3, or 4, until a type 5 water is identified. Type 5 waters may be dry beds most of the year, providing only winter flows.

Marine Habitat Areas include the following:

1. All kelp beds (members of the brown algal family Laminariales including *Alaria marginata*, *Alaria nana*, *Alaria tenuifolia*, *Egregia menziesii*, *Eisenia arborea*, *Pterygophora californica*, *Agarum cribosum*, *Agarum fimbriatum*, *Costaria costata*, *Cymathere triplicata*, *Hedophyllum sessile*, *Laminaria spp.*, *Pleurophycus gardneri*, *Dictyoneuropsis reticulata*, *Dictyoneurum californicum*, *Lessioniopsis littoralis*, *Macrocystis integrifolia*, *Nereocystis luetkeana*, and *Postelsia palmaeformis*) and all eelgrass beds (*Zostera spp.*). These areas are important salt water habitats that support valuable species, providing habitat for plants, fish, shellfish, sea birds and sea mammals.

Recent maps of the location of kelp and eel grass beds in Mason County were not available for inclusion in this Plan. The Washington State Department of Natural Resources reports that floating Bull kelp occurs off of the west shore to the