

ORDINANCE NUMBER 108-98

AN ORDINANCE TO ESTABLISH A NEW CHAPTER OF THE  
MASON COUNTY CODE TO APPLY AND REMOVE  
DEVELOPMENT MORATORIA FOR CERTAIN FOREST PRACTICES.

WHEREAS, as of July 27, 1997, all property on which a Class II, III or IV Special Forest Practice approval has been issued (per RCW 76.09), or where the timber harvesting takes place without an application, are subject to a six (6) year moratorium on development approvals; and

WHEREAS, the moratorium is required by state law, RCW 76.09.060; and

WHEREAS, the state law also provides for the County to adopt a process by which the moratorium can be waived or removed; and

WHEREAS, the proposal was sent with a recommendation for adoption by the Mason County Planning Commission after a public hearing on August 17, 1998; and

WHEREAS, the Board has held a public hearing on September 15, 1998, and made findings of fact, ATTACHMENT "A", based on the record before it;

NOW, THEREFORE, BE IT HEREBY ORDAINED, that the Board of County Commissioners of Mason County hereby approves and adopts the development regulations described by ATTACHMENT "C", and the fee schedule described by ATTACHMENT "B".

DATED this 6th day of October, 1998.

BOARD OF COUNTY COMMISSIONERS  
Mason County, Washington

ATTEST:

John A. Bolender  
John A. Bolender, Chair

Rebecca Rogers  
Clerk of the Board

Mary Jo Cady  
Mary Jo Cady, Commissioner

APPROVED AS TO FORM:

Cynthia D. Olsen  
Cynthia D. Olsen, Commissioner

Paul H. Punt  
CHIEF DPA  
Prosecuting Attorney

MASON COUNTY ORDINANCE  
ATTACHMENT "A"

108-98

Mason County Board of Commissioners  
Public Hearing - September 15, 1998

Findings of Fact

1. Under consideration is a proposed Ordinance to meet the requirements of SSB 5714. This legislation amended RCW 76.09. There were several major changes to this RCW. This Ordinance provides a process to remove a six (6) year moratorium from subject property.
2. The creation of this ordinance was guided by the amendments to RCW 76.09. This Ordinance has been sent to DNR for their review and was found to be in compliance.
3. A State Environmental Policy Act Determination of Nonsignificance was issued on this proposed ordinance on July 31, 1998.
4. The Planning Commission held a public hearing on August 17, 1998, and considered the testimony given along with the record before it.
5. The Board of Commissioners held a public hearing on September 17, 1998, and considered the testimony given along with the record before it.
6. The proposal is consistent with and balances the goals of the Growth Management Act.
7. The proposal is consistent with and implements the Mason County Comprehensive Plan.

From the preceding findings, it concluded that the proposal should be approved as moved by the Mason County Board of Commissioners.

  
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Chair, Mason County Board of Commissioners

10-6-98  
\_\_\_\_\_  
Date

**ATTACHMENT "B"**

**FEES ASSOCIATED WITH THE FOREST PRACTICES MORATORIUM  
ORDINANCE NUMBER 108-018 ARE AS FOLLOWS:**

1.	MORATORIUM WAIVER		
	WAIVER AND SEPA		
	WAIVER		\$390.00
	SEPA		\$110.00
	TOTAL		\$500.00
2.	MORATORIUM REMOVAL		
	REMOVAL AND SEPA		
	REMOVAL		\$790.00
	SEPA		\$110.00
	ADVERTISEMENT		\$100.00
	TOTAL		\$1000.00

All After-The-Fact Permit Applications, when allowed, shall be charged TRIPLE the original amount. Requiring an After-The-Fact Permit shall be determined by the Director of Community Development based on all applicable County rules and regulations.

Where the Mason County Department of Public Works has a single project that covers multiple parcels of property and those parcels have had multiple forest practice permits issued, they would be required to apply for a single release of the moratorium. If there are one or more violations, then the Public Works Department, for the above mentioned project, would only be required to pay for one violation for the release of the moratorium on all of the tracts involved in the project. Properties that are not owned at the time of application but which come into county ownership in the process of completing the project will be considered as part of the original application.

MASON COUNTY ORDINANCE  
ATTACHMENT "C"

108-93

**MASON COUNTY  
FOREST PRACTICES MORATORIUM ORDINANCE**

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**SECTION 1.** A new Chapter xx.xx of the Mason County Code is hereby adopted to read as follows:

xx.xx.100 PURPOSE

As of July 27, 1997, all property on which a Class II, III or IV Special Forest Practice approval has been issued (per RCW 76.09), or where the timber harvesting takes place without an application, are subject to a six (6) year moratorium on development approvals. Mason County is required to deny all development permits, including building permits and subdivision applications, on these properties. This is required by state law, RCW 76.09.060. However, the state law also provides for the County to adopt a process by which the moratorium can be waived or removed. This chapter provides a waiver process by which the applicant may obtain the necessary permits to build a single family home and/or outbuildings on an existing lot during the 6 year moratorium. The chapter also provides a moratorium removal process by which an applicant may have the 6 year moratorium on development removed, although conditions may be placed on that removal. This chapter also provides for the review of the forest practices prior to the July 27, 1997 consistent with the statute which was in place at that time.

xx.xx.110 SHORT TITLE

This chapter may be referred to as the Forest Practices Moratorium Ordinance.

xx.xx.120 DEFINITIONS

**Applicant:** The person, party, firm, corporation or legal entity, or agent thereof, that requests a waiver or removal of the moratorium.

**Board:** The legislative authority of Mason County, the Board of County Commissioners.

**Comprehensive Plan:** The current Comprehensive plan of Mason County approved by the Board pursuant to State Law.

**Conversion:** Removal of trees with the intent or effect of conversion to an actual use or condition that is incompatible with the growing of timber. Land which has been cleared is considered to be converted.

**County:** Mason County, Washington.

**Critical Areas:** The critical area designated by the Mason County Interim Resource Ordinance, #77-93, as amended. Specifically, this includes: wetlands, aquifer recharge areas, aquatic management areas, terrestrial management areas, frequently flooded areas, landslide hazard areas,

seismic hazard areas, and erosion hazard areas.

**Development Code:** The Mason County Development Code, Resolution No. 136-96, as amended.

**Development Permit or Development Permit Application:** Any land use or environmental permit or license required from a local government for a project action, including but not limited to building permits, subdivisions, septic system permits, well permits, binding site plans, conditional uses, short plat or large lot subdivisions, special use permits, shoreline substantial development permits, site plan review, and site-specific rezones.

**Director:** When not otherwise identified, the Director shall be the Director of the Mason County Department of Community Development.

**DNR:** The Washington State Department of Natural Resources.

**Forest Practice Application:** The application required to be submitted to the Washington State Department of Natural Resources (DNR) for the harvest of forest products.

**Moratorium notice:** The form prepared by the Department of Natural Resources and required to be submitted with a forest practice application/notification for a non-conversion forest practice and required to be filed with the county Assessor's Office as provided in RCW 76.09.060.

**Non-Forestry Use:** Is an active use of land which is incompatible with timber growing.

**Review authority:** The Director of Community Development, Director of Health Services, the Fire Marshal, and the Building Official, depending on the responsibility as determined by the respective codes, ordinances, and regulations.

**Shorelines:** The shorelines of statewide significance per the Mason County Shoreline Master Program and aquatic management areas per the IRO.

**Timber Harvest or Harvest:** The activity pertaining to the cutting and/or removal of forest product which is subject to the moratorium provisions of chapter 76.09, RCW.

**Vegetation Area:** As defined in the Mason County Interim Resource Ordinance.

#### XX.XX.200 ESTABLISHMENT OF THE MORATORIUM

Mason County shall deny any applications to the county for development permits, including building permits, septic permits, and subdivision approvals, relating to the non-forestry uses of the land subject to a moratorium established by chapter 76.09 RCW, unless the moratorium has been removed or waived by the County as provided in this chapter. Where timber harvest is pursuant

to a forest practice permit approval, the land subject to the moratorium shall be that area which is the site of the timber harvest as shown on the forest practice application. Where the timber harvest has been done without an approved application, then the land subject to the moratorium shall be the area harvested including small unharvested islands which would normally be mapped as part of the harvest unit on a submitted permit. The applicant shall be responsible for determining that area by a survey submitted with any application.

#### xx.xx.210 PREPARATION OF MORATORIUM NOTICES

Prior to submitting the moratorium notice required by the DNR for non-conversion forest practices to that agency, the landowner may consult with the County and the County shall review the information on the moratorium notice with respect to the ownership, Assessor's property tax parcel number for the property involved, and the legal description for the portion of the site to be cut.

#### xx.xx.220 RECORDING OF MORATORIUM NOTICES

The Director of the Department of Community Development or his designee shall file with the Mason County Auditor the moratorium notice after the receipt of said notice from the DNR.

#### xx.xx.220 ADMINISTRATION OF THE MORATORIUM

The Director of the Department of Community Development shall have the authority to determine that an application is subject to the moratorium, and the application shall be denied by the review authority at that time. Such an administrative determination may be appealed to the Mason County Board of Commissioners pursuant to the procedures and requirements contained in the Mason County Development Code.

#### xx.xx.300 MORATORIUM WAIVER

The county may waive the moratorium for some types of development permits and approvals, as provided in this chapter. The moratorium may only be waived for the purposes of constructing a single-family residence or outbuildings, or both, on a legal lot and building site.

#### xx.xx.310 WAIVER- AUTHORITY

The Director of the Department of Community Development shall have the authority to approve, approve with conditions, or deny a request for a waiver of the moratorium, pursuant to the procedures and requirements of this chapter.

#### xx.xx.330 WAIVER - PROCESS

- A. The request will be made to the Department of Community Development on the application form provided by that department and accompanied by a completed county environmental checklist and any established fees.
- B. The application shall be reviewed as a Type II, administrative decision with notice, as provided for in the Mason County Development Code.
- C. Standards for waiving the moratorium:

1. The development area shall be no larger than two (2) acres in size.
2. The harvest and reforestation of the property shall be completed as specified in the approved forest practices application/notice.
3. There shall be no damage to a critical area or its associated vegetation area nor to the shoreline area or that any damage to those areas is repairable with restoration.
4. The proposed development shall be consistent with the county plan and development regulations.
5. Mitigation shall be required for impacts to critical areas, stormwater, and shorelines. Other mitigation shall be required to prevent significant adverse environmental impacts, pursuant to county Ordinance #55-97, the Environmental Policy Ordinance.

xx.xx.340 WAIVER - PERMITS WHICH MAY BE ISSUED

- A. Permits which may be allowed under the moratorium waiver:
  1. Building permits for the single-family residence and for residential outbuildings
  2. Single-family on-site septic system permit
  3. Road access permits
  4. Earth modification permits
  5. Shoreline Master Program approvals
  6. Well or potable water permits.
  7. Other approvals necessary the development of a single-family residence and outbuildings.
- B. Any permits issued under the waiver shall be conditioned, as necessary, to limit the approval to only that development consistent with the intent of this section and necessary for the establishment of a single-family dwelling or outbuildings, or both.

xx.xx.400 MORATORIUM REMOVAL

The county may remove the moratorium on the property as provided in this chapter.

xx.xx.410 MORATORIUM REMOVAL- AUTHORITY

The Director of the Department of Community Development shall have the authority to remove the moratorium upon the request of the property owner only when an approved forest practices application has been either withdrawn or expired, and no harvest in reliance upon such approval has taken place. In other requests by the property owner for removal of the moratorium, the Board of County Commissioners shall have the authority to approve, approve with conditions, or deny a request for a removal of the moratorium, pursuant to the procedures and requirements of this chapter.

xx.xx.420 MORATORIUM REMOVAL - PROCESS

- A. The request will be made to the Department of Community Development on the application form provided by that department and accompanied with any established fees.

- B. The application shall be reviewed as a Type III, quasi-judicial decision, as provided for in the county Development Code.
- C. Standards and findings required for removing the moratorium:
1. The person requesting the removal did not attempt to avoid the county review or restrictions of a conversion forest practices applications.
  2. The harvest and reforestation of the property shall be completed as specified in the approved forest practices application/notice.
  3. There shall be no damage to a critical area or its associated vegetation area nor to the shoreline area or that any damage to those areas is repairable with restoration.
  4. The proposed development shall be consistent with the county plan and development regulations.
  5. Mitigation shall be required for impacts to critical areas, stormwater, and shorelines. Other mitigation shall be required to prevent significant adverse environmental impacts, pursuant to county Ordinance #55-97, the Environmental Policy Ordinance.
- D. Where the timber harvesting takes place without an approved forest practice application (per RCW 76.09), removal of the moratorium shall meet the standards and findings required in xx.xx.420 C, and shall have the additional condition that no permits will be issued for a period of one (1) year to assure that the mitigation measures have been implemented and are successful, unless the applicant posts a bond one and one-half (1.5) times the estimated amount adequate to cover the costs for the county to do the entire mitigation. If a bond is posted with the county to assure that the mitigation will be done and at the end of one (1) year the mitigation has not been fully completed, the money from the bond shall be used by the county to complete the mitigation.

#### xx.xx.430 MORATORIUM REMOVAL - PERMITS WHICH MAY BE ISSUED

Once a moratorium has been removed, any development permit or approval may be issued by the county according to the relevant Mason County Code, ordinances or regulations, provided that such approvals may be conditioned based on any conditions established in the moratorium removal.

#### xx.xx.500 OTHER FOREST PRACTICE APPLICATIONS - MORATORIUM

Except for lands subject to Class IV General Forest Practices, all lands subject to Forest practice approvals issued by DNR which are not subject to the automatic six-year moratorium on development established in chapter 76.09 RCW, effective July 27, 1997, shall be subject to a moratorium as provided in this chapter for six years from the date of the approval of the application, provided that, for these lands, the Director shall have the authority to remove the moratorium upon the application and payment of fees by the property owner. The Director shall remove the moratorium as provided in this section only if it is shown that adverse impacts to the environment have been restored or adequate mitigation has been provided for those impacts.



xx.xx.520 OTHER FOREST LANDS - MORATORIUM

Lands on which the owner or operator failed to obtain an approved forest practice application from DNR, the DNR has determined that such an application was required, and the discovery of said action by the DNR or the county occurred prior to July 27, 1997, shall be subject to a moratorium as provided in this chapter for six years from the date of the discovery by the DNR or by the county, provided that, for these lands, the Director shall have the authority to remove the moratorium upon the application and payment of fees by the property owner. The Director shall remove the moratorium as provided in this section only if it is shown that adverse impacts to the environment have been restored or adequate mitigation has been provided for those impacts.