

ORDINANCE NUMBER 129 -05

**MASON COUNTY FOREST PRACTICE CONVERSION ORDINANCE**

AN ORDINANCE establishes the minimum standards and requirements associated with local government review and jurisdiction over Class IV general forest practices in accordance with RCW 76.09 (Washington State Forest Practices Act.).

WHEREAS, under RCW 76.09.240 each county, including Mason County, is to assume jurisdiction over Class IV Forest Practices by December 31, 2005; and

WHEREAS, Mason County prepared a Forest Practice Conversion Ordinance, officially cited in the Mason County Code as Title 17.50 - Forest Practices; and

WHEREAS, on December 12<sup>th</sup> and December 19<sup>th</sup> 2005, the Mason County Planning Advisory Commission held public hearings on the proposed Forest Practice Conversion Ordinance, and the Planning Advisory Commission members evaluated and passed motions to recommend approval of this Ordinance; and

WHEREAS, the Mason County Board of Commissioners held a public hearing about the proposed Ordinance on December 20, 2005, to consider the recommendation of the Planning Advisory Commission, and the testimony of the Mason County Department of Community Development and Mason County citizens; and

NOW, THEREFORE, BE IT HEREBY ORDAINED, the Mason County Board of Commissioners hereby approves and ADOPTS the Forest Practice Conversion Ordinance, officially cited as Mason County Code Title 17.50 - Forest Practices, as described by ATTACHMENT A.

This Ordinance shall be effective as of February 1, 2006.

DATED this 20th day of December 2005.

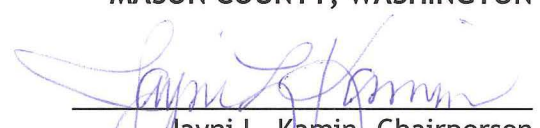
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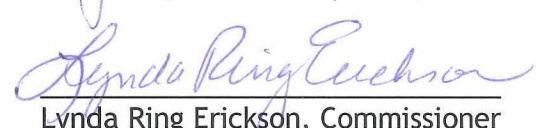
  
Clerk of the Board

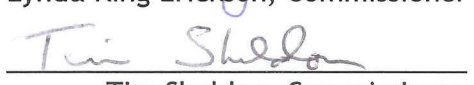
APPROVED AS TO FORM:

  
Prosecuting Attorney

**BOARD OF COUNTY COMMISSIONERS  
MASON COUNTY, WASHINGTON**

  
Jayni L. Kamin, Chairperson

  
Lynda Ring Erickson, Commissioner

  
Tim Sheldon, Commissioner

## **Chapter 11.05**

### **FOREST PRACTICE APPROVALS**

#### **Sections:**

- 11.05.010 Title.**
- 11.05.020 Purpose.**
- 11.05.030 Applicability.**
- 11.05.040 Relationship to RCW 76.09.**
- 11.05.060 Reconsideration and Appeals.**
- 11.05.070 Notification**
- 11.05.080 Fees.**
- 11.05.090 Exemptions.**
- 11.05.100 Forest Chemicals**
- 11.05.110 Class IV-General Forest Practices.**
- 11.05.120 Additional Requirements Applicable to all Applications.**
- 11.05.130 Modifications.**
- 11.05.140 Time Limitations.**
- 11.05.150 Compliance.**
- 11.05.160 Liability of the County.**
- 11.05.170 Severability.**

#### **11.05.010 Title.**

These regulations codified under Chapter 11.05 shall be known as the Mason County Forest Practices Conversion Ordinance

#### **11.05.020 Purpose.**

This Chapter establishes the minimum standards and requirements associated with local government review and jurisdiction over Class IV general forest practices in accordance with RCW 76.09 (Washington State Forest Practices Act.)

#### **11.05.030 Applicability.**

This Chapter applies to all lands within unincorporated Mason County. Requirements of this Chapter must be met before Mason County shall grant any approval or permission to alter the condition of any land or vegetation or to construct any structure or improvement regulated through the following: building permit, commercial or residential; binding site plan; site development permit; use permit; planned development district approval; subdivision; large lot division; short subdivision; forest practice approval pursuant to RCW 76.09; or any subsequently adopted permit or required approval not expressly exempted by this Chapter.

#### **11.05.040 Relationship to RCW 76.09.**

- A. This Chapter is directly related to specific subsections in RCW 76.09 and its rules that refer to some Class I and all Class IV forest practices. The application of this Chapter to forest practice activities regulated by RCW 76.09 shall be limited to:
  - 1. Class IV-General forest practices;
  - 2. Class IV-Special conversion forest practices;
- B. This Chapter establishes the minimum standards necessary for local review and approval of Class IV-General forest practices and Class IV-Special conversion forest practices.

### **11.05.050 Reconsideration and Appeals.**

Procedures for appeal of any administrative decision and procedures for reconsideration or appeal of an administrative decision issued pursuant to this Chapter are set forth in Title 15, Section 15.11.010.

### **11.05.060 Notification**

- A. Notice to parks. Mason County shall send to the affected agency a copy of any notification or application for forest practices within 500 feet of the boundary of any park entity registered according to subsection (B) of this section at least fourteen (14) days prior to approval by the Mason County Department of Community Development.
- B. Parks register. Mason County shall establish and update every 5 years a parks register listing all publicly owned parks where the affected owner has filed a written request with the department for inclusion on such register. Mason County shall notify owners of all public parks inventoried on the State Comprehensive Outdoor Recreation Plan (SCORP) of the opportunity to register.
- C. Information to DAHP. Mason County shall provide the Washington Department of Archaeology and Historic Preservation (DAHP) with copies of all applications and notifications for forest practices to be conducted on lands known to contain historic sites or archaeological resources as identified by DAHP.
- D. Indian Tribes.
  - 1. Mason County shall notify affected Indian tribes of all applications of concern to such tribes, including those involving cultural resources, identified by the tribes.
  - 2. Where an application involves cultural resources the landowner shall meet with the affected tribe(s) with the objective of agreeing on a plan for protecting the archaeological or cultural value. Mason County may condition the application in accordance with the plan.
  - 3. Affected Indian tribes shall determine whether plans for protection of cultural resources will be forwarded to the Washington Department of Archaeological and Historic Preservation (DAHP).

### **11.05.070 Fees.**

Fees for applications filed pursuant to this Chapter are set forth as follows. Additional fees associated with special studies and reports as outlined in Mason County Code, Chapter 1.10.020 may be required.

Application Fee without SEPA Review	\$300.00
Application Fee requiring SEPA Review	\$200.00*

\*Fees for SEPA review are in addition to this application fee.

### **11.05.080 Exemptions.**

The following activities are exempted from the provisions of this Chapter:

- A. Class IV-Special forest practices in a UGA where the landowner submits a 10-year statement of non-conversion to the Department of Natural Resources (reforestation agreement) together with either an acceptable 10-Year Forest Management Plan or proof that the land is currently enrolled in Current Use Assessment-Timber Lands, under the provisions of RCW 84.33.
- B. Class IV-Special forest practices located outside UGAs, are permitted or approved by the Department of Natural Resources.

**11.05.090 Forest Chemicals.**

- A. Chemicals perform important functions in forest management. The purpose of this section is to regulate the handling, storage and application of chemicals in such a way that the public health, lands, fish, wildlife, aquatic habitat, wetland and riparian management zone vegetation will not be significantly damaged, and water quality will not be endangered by contamination. This section in no way modifies the state department of agriculture regulations governing chemicals.
- B. Mason County intends to implement best management practices designed to eliminate the direct entry of pesticides to water. Best management also includes minimizing the entry of forest chemicals into channel migration zones, wetland management zones, sensitive sites, or the core or inner zones of riparian management zones and buffers on Types 1 through 5 Waters. Significant damage for purposes of this section includes any damage that would inhibit or preclude the existing vegetation from protecting public resources.
- C. All applications for use of chemicals are subject to the provisions of the State Environmental Policy Act (SEPA) and shall be reviewed in accordance with the policies and procedures contained in Mason County Code, Title 8, Environmental Policy.

**11.05.100 Class IV-General Forest Practices.**

- A. State and Local Approval. Until such time as transfer of jurisdiction for Class IV General forest practices occurs pursuant to RCW 76.09.240, the Department of Natural Resources is the permitting agency for Class IV-General forest practice permits. Pursuant to this RCW, Mason County is designated lead agency for compliance with the State Environmental Policy Act. Mason County is also permitted to exercise any:
  - 1. Land use planning or zoning provided that exercise of such authority may regulate forest practices only:
    - a) Where the application submitted under RCW 76.09.060 as now or hereafter amended indicates that the lands have been or will be converted to a use other than commercial forest product production;
    - b) on lands which have been platted after January 1, 1960, as provided in chapter 58.17 RCW;
  - 2. Taxing powers;
  - 3. Regulatory authority with respect to public health; and
  - 4. Authority granted by chapter 90.58 RCW, the "Shoreline Management Act of 1971".

provided that the land use planning or zoning authority regulations shall not be inconsistent with the forest practice regulations enacted under RCW 76.09. Prior to conducting any forest

practices defined as Class IV-General (including Class IV-General forest practices that are reclassified to Class IV-Special), an approved forest practices permit, that includes Mason County's approval conditions and threshold determination, shall be obtained from the Mason County Department of Community Development.

B. Class IV-Special. A Class IV general application for conversion determined to have potential for a substantial impact on the environment shall be reclassified as a Class IV-Special application. Except as provided in WAC 222-16-051, applications to conduct forest practices involving those listed in WAC 222-16-050 require an environmental checklist in compliance with the State Environmental Policy Act (SEPA), and SEPA guidelines, as they have been determined to have potential for a substantial impact on the environment. These Class IV-Special applications are listed in WAC 222-16-050 and may include:

1. Lands designated as critical habitat (state) of threatened or endangered species
2. Potentially unstable slopes or landforms
3. Filling or draining of more than 0.5 acre of a wetland
4. On all lands within the boundaries of any national park, state park, or any park of a local governmental entity

It may be determined that additional information or a detailed environmental statement is required before these forest practices may be conducted.

C. Application Filing. Applications for Class IV-General approvals shall be reviewed for completeness in accordance with Mason County's submittal standards checklist and pursuant to Mason County's development standards.

D. General Requirements.

1. An application for a Class IV-General approval shall be submitted concurrent with an application for a site development permit, if one is required, and prior to conducting forest practices on the project site.
2. A Class IV-General approval will not be issued until any pending development permit applications that are associated with the site have been approved.
3. Class IV-General forest practices shall comply with any conditions of approval established through the associated development permit or approval.

E. Required Findings. A Class IV-General approval may be issued by the Mason County Department of Community Development only if all of the following findings can be made regarding the proposal and are supported by the record:

1. The granting of the proposed Class IV-General approval will not be detrimental to the public health, safety, and general welfare.
2. The granting of the proposed Class IV-General approval will not be injurious to the property or improvements adjacent to and in the vicinity of the proposal.
3. The granting of the proposed Class IV-General approval will not result in significant adverse environmental impacts.
4. The granting of the proposed Class IV-General approval is consistent with the general requirements set forth in 11.05.090. C.

5. The granting of the proposed Class IV-General approval is consistent and compatible with the goals, objectives, and policies of the Comprehensive Plan, appropriate community plan, and the provisions of this Chapter.
- F. Burden of Proof. The applicant has the burden of proving that the forest practices comply with the provisions of this Chapter.
- G. Approval Authority.
1. The Mason County Department of Community Development shall review all requests for approvals, any comments received and applicable County regulations or policies, and may inspect the property prior to rendering a decision.
  2. The Department of Community Development may approve an application, approve the application with conditions, require modification of the proposal to comply with specified requirements or local conditions, or deny the application if it fails to comply with requirements of this Chapter.

#### **11.05.110 Class I Forest Practices.**

- A. Class I forest practices that result in the cutting and/or removal of less than 5,000 board feet of timber for personal use (e.g., firewood, fence posts, etc.) in any 12-month period, the culture and harvest of Christmas trees and seedlings, and/or emergency fire control or suppression shall not be required to obtain any forest practices approval from Mason County. Although a forest practices approval is not required, the following requirements shall be met:
1. Class I forest practices, including the removal of diseased or dangerous trees, proposed within a wetland, stream, landslide hazard area, fish and wildlife area, or other critical area and associated buffer regulated pursuant to Mason County's Critical Areas Ordinance, shall comply with all applicable requirements of that Ordinance.

#### **11.05.120 Additional Requirements Applicable to all Applications.**

- A. Site Plans. All Class IV-General applications submitted pursuant to this Chapter shall include a site plan containing the following information, if applicable:
1. Harvest boundaries and tree retention areas;
  2. The approximate location of any structures;
  3. The location of all existing and proposed streets, rights-of-way, easements, skid roads, haul roads, and landings within the proposal;
  4. The location of future land development including stormwater management facilities, and vegetation to be retained for site landscaping, open space, wildlife habitat, screening, and/or buffers;
  5. Site topography at a contour interval of 40 feet;
  6. Critical areas and critical area buffers regulated pursuant to the Critical Areas Ordinance;
  7. Drainage ways and culverts;
  8. Site area targeted for further harvest including proposed timing; and
  9. North seeking arrow and scale shall be shown on all site plans. The scale shall be no smaller than one inch to 200 hundred feet.

B. Field Marking of Site Features. At the time of submittal of any application required pursuant to this Chapter, the following features shall be clearly marked at the site with flagging or colored paint by the applicant:

1. Critical areas and critical area buffers regulated pursuant to Critical Areas Ordinance;
2. Centerline of all proposed roads;
3. Landing areas;
4. Tree retention areas; and
5. Cutting boundaries.

#### **11.05.130 Modifications.**

A one-time modification to any application submitted pursuant to this Chapter may be permitted administratively provided the proposed modification is minor in nature and does not enlarge the area approved to be harvested or increase the volume of timber approved to be harvested by more than 10 percent or result in forest practices occurring within a critical area, critical area buffer, or tree retention area. Any modification exceeding these thresholds shall require a new application and associated fees.

#### **11.05.140 Time Limitations.**

A. Expiration of Approvals.

1. A Class IV-General approval shall be valid for two consecutive years following the date of issuance unless a longer time period has been established through an associated approval (e.g., preliminary plat approval, conditional use permit, etc.) in which case the time limits applicable to the associated approval shall apply.
2. A time extension of a Type II development permit by the Department of Community Development or a Type III development permit by the Hearing Examiner shall extend any associated Class IV-General approval.

#### **11.05.150 Compliance.**

The regulations for compliance with the provisions of this Chapter are set forth in Chapter 15.13 (Enforcement) of the Mason County Code.

#### **11.05.160 Liability of the County.**

Nothing in this Chapter shall be deemed to impose any liability upon the County or upon any of its officers or employees, or to relieve the owner or occupant of any private property from the duty to keep in safe and healthy condition the trees upon his property.

#### **11.05.170 Severability.**

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