

ORDINANCE NUMBER 36-12

**AMENDMENTS TO TITLE 8, SECTION 8.52,
RESOURCE MANAGEMENT AND TITLE 17, §17.05, ZONING**

ORDINANCE amending the Mason County Code, Title 8 (Environmental Policy), Section 8.52 (Resource Management) and Title 17 (Zoning) Section 17.05 (Administrative Procedures) under the authority of RCW 36.70A.

WHEREAS, the Washington State Growth Management Act (RCW 37.70A.130) requires each county, including Mason County, to take legislative action to review and revise its comprehensive plan and development regulations to ensure that the plan and regulations continue to comply with the requirements of the Act; and

WHEREAS, the Board of County Commissioners adopted policy amendments to Chapter III of the Comprehensive Plan in Ordinance 92-11; and

WHEREAS, RCW 36.70A.040 states that the County shall adopt development regulations that are consistent with and implement the comprehensive plan; and

WHEREAS, the amendments as described in Attachment A provide development regulations consistent with the adopted policy amendments of the Comprehensive Plan; and

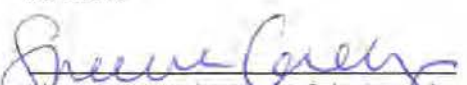
WHEREAS, the on March 19, 2012 the Mason County Planning Advisory Commission held a public hearing about the proposed changes to the Mason County Code, and passed a motion to recommend approval of said changes.

NOW THEREFORE, BE IT HEREBY ORDAINED, the Mason County Board of Commissioners hereby approves and ADOPTS revisions to Title 8 (Environmental Policy), Section 8.52 (Resource Management) and Title 17 (Zoning) Section 17.05 (Administrative Procedures) of the Mason County Code as described by ATTACHMENT A.


DATED this 17th day of April 2012.

Board of Commissioners
Mason County, Washington

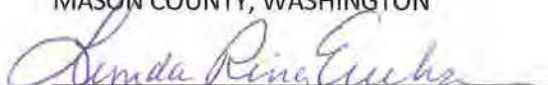
ATTEST:


Shannon Goudy, Clerk of the Board

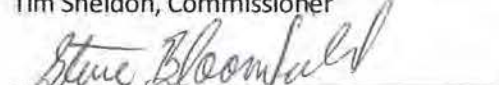
APPROVED AS TO FORM:

 #37071
Deputy Prosecuting Attorney

BOARD OF COUNTY COMMISSIONERS
MASON COUNTY, WASHINGTON


Lynda Ring Erickson, Chair


Tim Sheldon, Commissioner


Steve Bloomfield, Commissioner

ATTACHMENT A
[Revisions Underlined]

8.52.060 - Long-term commercial forest lands.

The purpose of this section is to maintain and enhance natural resource based industries, to encourage the conservation of commercial forest lands, to have no net loss of forest lands, and to discourage incompatible land use.

(a) Classification. The following criteria, as they existed on January 31, 1992, shall be used in classifying long-term commercial forest lands:

(1) Property tax classification: Property is enrolled, as of January 31, 1992 in the open space—timber or designated forest or classified forest property tax classification program pursuant to RCW Chapter 84.33 or 84.34, or is owned by a state or local governmental body with long-term forest management as its primary use; and

(2) Minimum block size is five thousand acres (2015 hectares) which shall consist of a minimum parcel size of eighty acres within the block, and which can be in multiple ownerships; and

(3) In any one block, no more than five percent is used for nonresource use; and

(4) The property is greater than two miles (three thousand two hundred twenty meters) from a sanitary sewer line; and

(5) The property is greater than two miles (three thousand two hundred twenty meters) from the city limits of Shelton or outside any designated urban growth boundaries in the county, when so established by the county; and

(6) Fifty percent or more of an ownership parcel shall have a Douglas Fir site index of one hundred eighteen (land grade two) or better pursuant to WAC 458-40.530. In addition, those property owners who have more than four thousand acres of property within the county that meet that criterion, shall also include all properties with a Douglas Fir site index of ninety-nine (land grade three) or better pursuant to WAC 458-40-530; and

(7) Greater than fifty percent of the linear frontage of the perimeter of any parcel meeting classification criteria of subsections (a)(1) through (6) of this section shall abut parcels that are greater than five acres (2.15 hectares).

(8) In addition, the property that is equal to or greater than forty acres in size, or is a government lot; and is contiguous with property under the same ownership that meet classification criteria of subsection (a)(1) through (7) of this section.

(9) In addition, property that is composed of one or more parcels forty acres (16.12 hectares) or greater in size that borders United States Forest Service property on more than one side, irrespective of its consistency with classification criteria of subsection (a)(1) through (8) of this section.

(b) Designation. Lands of the county meeting classification criteria for long-term commercial forest land, and so specified on the official Mason County map, available at the county planning department, titled, "Mason County Long-Term Commercial Forest Lands and In-holding Lands, 1991" or as thereafter amended, are designated, under RCW 36.70A.060 and RCW 36.70A.170, as conservation areas for forest resource lands of long-term commercial significance. Exempted from this designation are the lands describe in Section 8.52.070(a) and (b).

(c) Redesignation. Lands designated long term commercial forest may be redesignated to non-resource land pursuant to policy RE-105 of the Comprehensive Plan, and non-resource lands may be designated long term commercial forest pursuant to policy RE-105 of the Comprehensive Plan even if they do not meet the criteria in subsection (a) of this section , provided that they do meet the criteria of policy RE-105.

(d) Land Uses. Uses and activities determined by the director to have the potential to cause an impact on the purposes of long-term commercial forest designated area, shall be considered an unspecified conditional use, and is appealable to the board of commissioners. Unspecified uses and activities may not be incompatible with long-term resource uses of surrounding properties.

(1) Mason Environmental Permit Required Uses.

(A) "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) Saw mills, shake and shingle mills, plywood mills and the production of green veneer, particle board plants and other products from wood residues, chippers, pole yards, log sorting and storage, buildings for debarking, drying kilns and equipment, accessory uses including but not limited to scaling and weighing stations, temporary crew quarters, storage and maintenance facilities, residue storage and disposal areas and other uses involved in the harvesting and commercial production of forest products;

(C) Forestry, environmental and natural resource facilities;

(D) Public and semi-public structures including but not limited to fire stations, utility substations, and energy transmission facilities equal to or greater than two hundred thirty-five KV;

(E) All other accessory structures and uses that are customarily associated with and secondary to the primary permitted uses;

(F) Publicly developed low intensity recreational facilities including but not limited to parks, campgrounds, and boat launches;

(G) Other uses and activities determined by the director to be potentially incompatible uses, and requiring a similar level of county review as other permit required uses;

(2) Mason Conditional Environmental Permit Required Uses.

(A) "Class IV—General Forest Practices" under 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 conditional use;

(B) State correction work camps to supply labor for forest management related work projects and for forest fire control;

(C) Aircraft landing fields;

(D) Sludge application;

(E) Unspecified Conditional Uses. Uses and activities not specifically exempt, permit required, or conditional, but are determined by the director to have the potential to cause an impact on the intent of the long-term commercial forest designated area, shall be considered an unspecified conditional use, and is appealable to the board of commissioners. Unspecified conditional uses may not be incompatible with the long-term resource use on surrounding properties.

(e) Development Standards.

(1) Lot Size/Density. The minimum lot size for any new subdivision, short subdivision or large lot segregation of property shall be eighty acres. Exceptions to this minimum lot size may occur for nonresidential permit required and conditional uses and facilities; provided that the county finds that there will be no impact on surrounding resource uses and further provided that a restrictive covenant be placed on said property by the property owner, to be held by the county, prohibiting future residential use. Limitations on density and uses are designed to provide timber resource protection and to ensure compatible uses.

(f) Preferential Right to Manage Resources and Resource Use Notices.

(1) For land owners who have land designated as long-term commercial forest, provisions of "right to forestry" provided under Section 8.52.040(c)(5) shall fully apply.

(2) Resource Use Notices.

(A) For properties designated long-term commercial forest land upon application of the property owner or owners pursuant to Section 8.52.200 of this chapter:

Within two weeks of redesignation to long-term commercial forest land, the property owner(s) of said land shall submit to the county, for recording with the county auditor, a written notice of the designation. This notice shall be in a form authorized by the director and shall include:

(i) The legal description of the property subject to the designation.

(ii) The one-sixteenth section or sections in which lie:

a. The designated property; and

b. Any other property within five hundred feet of the boundary of

the designated property.

(iii) The following statement: **Notification**

This notification is to inform property owners that the property described herein is designated as or within 500 feet of land designated for commercial forestry, mining, or agriculture. Mason County has established designated Long-Term Commercial Forest Land that sets as a priority the use of these lands for commercial forest management, mining, and agriculture. Residents of this property may be subject to inconvenience or discomfort associated with the uses, including, but not limited to, occasional dust, noise, and odor from commercial thinning, clear cutting, slash burning, blowdowns, surface mining, and/or chemical applications. Residents of adjacent property within 500 feet of said lands, should be prepared to accept such inconvenience or discomfort from normal and necessary operations.

The forest owner shall execute and acknowledge the notice, and pay the fee for recording the notice to the county.

(B) For properties designated long-term commercial forest land pursuant to Section 8.52.060(b) of this chapter:

Within two months of the effective date of this chapter, the director shall submit to the county auditor for recording, a written notice of all county initiated and designated long-term commercial forest lands. This notice shall be in a form similar to that in subsection (e)(2)(A)(iii) of this section.

The director shall execute and acknowledge the notice, and no affected property owner shall be charged a fee for recording the notice.

(C) For all properties within five hundred feet of designated long-term commercial forest land:

All new plats, short subdivisions, large lot subdivisions, and building permits issued by the county for development activities on any property designated as long-term commercial forest land, or within five hundred feet thereof, shall contain a notice as specified in subsection (e)(2)(A)(iii) of this section.

(D) It shall be the responsibility of any property owner who contemplates placement of any structure requiring a building permit within fifty feet of any designated long-term commercial forest land property to notify the forest land owner of their intent to do so.

Notice shall be made by written letter, sent by certified U.S. mail, with return receipt, to notify the owner of the adjacent long-term commercial forest land. Enclosed with the letter shall be a copy of the proposed plot plan showing approximate placement of said structure. Notice must be mailed before any construction begins.

A copy of the certified notice shall be attached to the building permit application by the applicant and the county building director shall not issue the permit until at least fifteen days, after the date of the mailing of the certified notice, or upon affirmative response from the long-term commercial forest owner.

The requirement to notify shall in no way be a requirement upon the property owner to place any specific setback upon the proposed structure, but shall be a period of time to allow time for the long-

term forest land owner to explain the possible benefits to the property owner as to a larger buffer between the proposed structure and the long-term commercial forest lands.

8.52.070 - Inholding lands.

The purpose of this section is to mitigate potential incompatible land uses between the long-term commercial forest lands and the neighboring inholding lands.

(a) Classification. The following criteria, as they exist at the time of adoption of this chapter, shall be used in determining inholding lands:

(1) Lands that as a block are surrounded on all sides by designated long-term commercial forest lands; or in the case of properties abutting another county on at least one side, lands that are surrounded in the county by properties designated long-term commercial forest lands; and maximum block size is less than six hundred forty acres (257.92 hectares) in size; and lands that do not meet the classification criteria for long-term commercial forest lands.

(2) Lands which meet the criteria for long-term commercial forest lands pursuant to Section 8.52.060(a) of this chapter and are within four hundred feet of the Cloquallum/Lake Communities border as of the effective date of this chapter. The border to be that defined on the official map of "Mason County Long-Term Commercial Forest Lands and Inholding Lands."

The intent of this classification is to mitigate potential incompatible land uses between the long-term commercial forest land and the neighboring inholding lands.

(b) Designation.

(1) Lands of the county meeting the classification criteria for inholding lands, and so specified on the official Mason County Map, available at the county planning department, titled, "Mason County Long-Term Commercial Forest Lands and Inholding Lands, 1991" or as thereafter amended, are designated, under RCW 36.70A.060 and RCW 36.70A.170, as crucial areas for the conversation of forest resource lands of long-term commercial significance.

(2) The four hundred-foot strip described in subsection (a)(2) of this section, shall not be designated as long-term commercial forest land.

(3) As stated in policy RE-200 of the Comprehensive Plan, inholding lands shall remain inholding lands even if they no longer meet the classification criteria in subsection (a) of this section due to the redesignation of some portion of the long term commercial forest land which had previously caused the subject property to meet the criteria for classification as inholding land.

(c) Land Uses. Permit required and conditional uses within inholding lands are the same as for designated long-term commercial forest lands, with the exception that mining and related activities are conditional uses if the county has authority to make such determination pursuant to the State Surfacing Mining Act, RCW 78.44 or as thereafter amended.

Land uses in the four hundred-foot strip designated in subsection (b) of this section shall be the same as inholding lands.

(d) Development Standards. The following development standards for inholding lands shall apply to the lands designated in subsection (b) of this section.

(1) Lot Size/Density. The minimum lot area for any new subdivision, short subdivision or large lot segregation of property shall be five acres (2.15 hectares). Exceptions to this minimum lot size may occur for nonresidential permit required and conditional uses and facilities; provided that the county approval authority finds that there will be no impact on surrounding resource uses and further provided that a restrictive covenant be placed on the property, to be held by the county, prohibiting future residential use.

Average residential densities for any new subdivision or short subdivision of property may be increased up to one unit per two and one half acres (1.08 hectares); provided all of the following conditions can be met:

- (A) The property to be divided is at least twenty acres (8.06 hectares) in size; and
- (B) Each residential lot created is no more than one acre (0.40 hectares) in size; and

(C) All identified residential building sites are located outside any one hundred-year floodplains, geologically hazardous areas, or other critical areas; and

(D) The county approval authority finds that the design of the subdivision or short subdivision minimizes impact on surrounding resource uses; and

(E) A natural resource management and/or conservation easement; to be held by the county, recognized nonprofit land trust or similar institution; be placed on the nonresidential portion of the subdivision or short subdivision restricting the use of the property to uses consistent with natural resource management and/or conservation, and prohibiting future residential use; or A natural resource management and/or conservation restriction is placed on the face of the plat accomplishing the same purpose as an easement.

No less than fifty percent of the subdivided property shall be maintained in this manner.

(2) Each parcel currently below five acres in size may be developed for an individual single-family residence.

(3) For lots five acres to 9.99 acres in size, the original owner at the time this plan is adopted may divide their property into two parcels, the smallest of which is not less than 2.5 acres in size.

(4)

(A) Other Development Standards.

(i) Front yard setback: Twenty-five feet;

(ii) Side and rear yard setbacks: Side and rear yard setbacks for the residential dwelling is twenty feet, for accessory buildings shall be twenty feet, for accessory structures used for agricultural purposes or home occupations shall be fifty feet, and for buildings of nonresidential land uses shall be fifty feet;

(iii) Floor area ratio: 1:20, except for fire stations;

(iv) Size: Three thousand square feet maximum for non-agricultural and accessory buildings except for dwellings and agricultural buildings;

(v) Height: Thirty-five feet except for agricultural buildings, cell towers, antennas, or water tanks.

(B) Water Supply. Inholding properties shall meet all water supply standards as required under Section 17.01.068.

(5) Preferential Right to Manage Resources. For land owners who have designated inholding lands, provisions of "right to forestry" and "right to farm" under Section 8.52.040(c)(5), and resources use notices provided under Section 8.52.060(d), shall fully apply.

17.05.080 - Rezone criteria.

(a) Rezone Criteria. The county shall review a rezone proposal and enter written findings for the following criteria:

(1) Development allowed by the proposed rezone designation shall not damage public health, safety and welfare;

(2) The zone designation shall be consistent with the Mason County comprehensive plan, development regulations, and other county ordinances, and with the Growth Management Act; and that designation shall match the characteristics of the area to be rezoned better than any other zone designation;

(3) No rezone shall be approved if, either by itself or together with other rezoning and/or development, whether actual or potential, the cumulative impacts of such zoning would be to materially increase sprawling, low-density rural development, or to significantly increase uses incompatible with resource-based uses in the vicinity;

(4) No rezone to more intensive land use shall be approved if, either by itself or together with other rezoning and/or development, whether actual or potential, the cumulative impacts of such zoning would be to materially increase demand for urban services in rural areas, including, but not limited to, streets, parking, utilities, fire protection, police and schools;

(5) No rezone to more intensive land use shall be approved if, either by itself or together with other rezoning and/or development, whether actual or potential, the cumulative impacts of such zoning would be to materially interfere with the Growth Management Act goal to encourage development in urban areas where adequate public services and facilities exist or can be provided in an efficient manner;

(6) No rezone to more intensive land use shall be approved if, either by itself or together with other rezoning and/or development, whether actual or potential, the cumulative impacts of such zoning would be to materially interfere with the Growth Management Act goal to encourage retention of open space, to conserve fish and wildlife habitat, and generally to protect the environment, including air and water quality;

(7) No rezone to more intensive land use shall be approved if, either by itself or together with other rezoning and/or development, whether actual or potential, the cumulative impacts of such zoning would be to create pressure to change land use designations of other lands or to increase population growth in rural areas as projected in the Mason County comprehensive plan;

(8) These criteria shall not be construed to prevent corrective rezoning of land necessitated by clerical error or similar error of typography or topography committed in the original zoning of such land.

(b) Rezone Characteristics. The burden of proof shall be on the applicant to show through responses to these criteria and information provided that the proposed rezone to more intensive land use is warranted. In rural activity centers and hamlets, any rural land use rezone may be appropriate provided that the criteria above are satisfied. Outside of rural activity centers and hamlets, approval of rezone requests to a more intensive land use in rural areas shall not exceed five per calendar year and the total amount of acreage subject to rezoning shall not exceed fifty acres, except for errors in original zoning, as specified in subsection (a)(8) of this section. For purposes of this section, the numeric limit shall apply to both direct rezones for rural residential to rural commercial, rural tourist, or rural industrial, and also intervening rezones from rural residential to rural tourist, rural tourist campground, or rural natural resources with subsequent rezone requests to rural commercial or rural industrial. For purposes of this section, the total acreage limit shall not include the acres of parcels rezoned to rural tourist campground or rural natural resources.

Such rezones must involve small scale businesses as defined in Mason County Code Ch. 17.06, be isolated as required by RCW 36.70A.070(5)(d), and may not occur within one-half mile by road of any urban growth area, rural activity center; hamlet; or isolated rural commercial, rural tourist, or rural industrial area, or any other LAMIRD under RCW 36.70A.070(5)(d). Rural Commercial 3 zoning shall not be allowed outside of rural activity centers and hamlets. Rural natural resource, rural residential, rural tourist campground, and master planned resorts may occur anywhere in rural areas provided that the criteria above are satisfied. In the siting of new rural natural resource districts, consideration must be given that current and potential future development on site will not, in combination with development on adjacent properties, create a pattern of low-density sprawling development.

(c) Initial Zoning after Redesignation of Resource Land. Subsections (a) and (b) do not apply to a decision to initially zone land when it is redesignated from long-term commercial forest pursuant to policy RE-105 of the Comprehensive Plan. The Board of Commissioners shall determine the initial zoning for such redesignated land by applying the planning policies in Chapter III of the Comprehensive Plan.