

**ORDINANCE NUMBER 81-96
MASON COUNTY ORDINANCE**

AN ORDINANCE amending the following sections of Mason County Title 17, Interim Resource Ordinance: 17.01.060 Long-Term Commercial Forest Lands, 17.01.062 Inholding Lands; 17.01.080 Critical Aquifer Recharge Areas, and 17.01.090 Frequently Flooded Areas; under the authority of Chapters 36.70 and 36.70A RCW.

WHEREAS, the Board of County Commissioners held a public hearing on June 11, 1996, to consider the recommendations of the Mason County Planning Commission, citizens, and Department of Community Development on amendments to the Interim Resource Ordinance to bring it into compliance with the Growth Management Act and consistency with the Comprehensive Plan.

WHEREAS, the Mason County Planning Commission formulated its recommendations after a public hearings on May 22, continued May 29, 1996.

WHEREAS, these hearings were duly advertised public hearings.

NOW, THEREFORE, BE IT HEREBY ORDAINED, that the Board of County Commissioners of Mason County hereby amends Ordinance 77-93 to read as follows:

17.01.060 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 Chapter 84.33 or 84.34 RCW, 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 5000 acres (2015 hectares) which shall consists of a minimum parcel size of 80 acres within said block, and which can be in multiple ownerships; and
3. In any one block, no more than 5% is used for non-resource use; and

4. The property is greater than 2 miles (3220 meters) from the city limits of Shelton or outside any designated urban growth boundaries in Mason County, when so established by the County; and
5. 50% or more of an ownership parcel shall have a Douglas Fir Site Index of 118 (Land Grade 2) or better pursuant to WAC 458-40-530. In addition, those property owners who have more than 4000 acres of property within Mason County that meet that criterion, shall also include all properties with a Douglas Fir Site Index of 99 (Land Grade 3) or better pursuant to WAC 458-40-530; and
6. Greater than 50% of the linear frontage of the perimeter of any parcel meeting classification criteria 1 - 6 above shall abut parcels that are greater than five (5) acres (2.15 hectares).
7. In addition, the property that is equal to or greater than 40 acres in size, or is a Government Lot; and is contiguous with property under the same ownership that meet classification criteria 1 - 7 above.
8. In addition, property that is composed of one or more parcels 40 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 1 - 8 above.

B. DESIGNATION

Lands of Mason County meeting the classification criteria for Long-Term Commercial Forest Land, and so specified on the official Mason County Map, available at the Mason County Planning Department, titled, "Mason County Long-Term Commercial Forest Lands and In-holding Lands, 1991" or as thereafter amended, are hereby 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 described in 17.01.062 Inholding Lands, in 17.01.062 A and B.

C. LAND USES

Uses and activities determined by the Director to have the potential to cause an impact on the purpose of the 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 235 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.
- e. Sludge application.
- f. 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.

D. DEVELOPMENT STANDARDS

1. Lot Size/Density

The minimum lot size for any new subdivision, short subdivision or large lot segregation of property shall be 80 acres. Exceptions to this minimum lot size may occur for non-residential 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.

E. 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 17.01.040.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 17.01.130 of this Chapter:

Within two (2) 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:

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

(2) The sixteenth (1/16) section or sections in which lie:

(a) the designated property; and

(b) any other property within 300 feet of the boundary of the designated property.

(3) The following statement:

"NOTIFICATION

This notification is to inform property owners that the property described herein is adjacent to or within 300 feet of land managed 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 300 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 17.01.060.B of this Chapter:

Within two (2) 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 "a" above.

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 300 feet of designated Long-Term Commercial Forest Land:

All new plats, short subdivisions, large lot subdivisions, and building permits issued by Mason County for development activities on any property designated as Long-Term Commercial Forest Land, or within 300 feet thereof, shall contain a notice as specified in "a.(3)" above.

- d. It shall be the responsibility of any property owner who contemplates placement of any structure requiring a building permit within 50 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 15 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.

17.01.062 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 In-holding 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 Mason County by properties designated Long-Term

Commercial Forest Lands; and maximum block size is less than 640 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 17.01.060.A of this Chapter and are within 400 feet of the Cloquallum/Lake Communities border as of the effective date of this Chapter. Said 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

Lands of Mason County meeting the classification criteria for In-holding Lands, and so specified on the official Mason County Map, available at the Mason County Planning Department, titled, "Mason County Long-Term Commercial Forest Lands and In-holding Lands, 1991" or as thereafter amended, are hereby designated, under RCW 36.70A.060 and RCW 36.70A.170, as crucial areas for the conservation of forest resource lands of long-term commercial significance.

The 400 foot strip described in 17.01.062.A.2, shall not be designated as Long-Term Commercial Forest 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 Surface Mining Act, RCW 78.44 or as thereafter amended.

Land uses in the 400 foot strip designated in 17.01.062.B shall be the same as Inholding Lands.

D. DEVELOPMENT STANDARDS

The following development standards for Inholding Lands shall apply to the 400 foot strip designated in 17.01.062.B.

1. Lot Size/Density

The minimum lot area for any new subdivision, short subdivision or large lot segregation of property shall be five (5) acres (2.15 hectares). Exceptions to this minimum lot size may occur for non-residential 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 said 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 (1) unit per two and one half (2.5) acres (1.08 hectares); provided all of the following conditions can be met:

- a. The property to be divided is at least twenty (20) acres (8.06 hectares) in size; and
- b. Each residential lot created is no more than one (1) acre (0.40 hectares) in size; and
- c. All identified residential building sites are located outside any one hundred-year (100-year) floodplains, geologically hazardous areas, or other critical areas; and
- d. The County Approval Authority finds that the design of said 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 non-profit Land Trust or similar institution; be placed on the non-residential portion of the subdivision or short subdivision restricting the use of said 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 50% of the subdivided property shall be maintained in this manner.

- 2. Each parcel currently below 5 acres in size may be developed for an individual single-family residence.
- 3. For lots 5 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. Water supply
In-holding 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 In-holding Lands , provisions of "Right to Forestry" and "Right to Farm" under Section 17.01.040.C.5, and Resources Use Notices provided under Section 17.01.060.D, shall fully apply.
- 6. New clustered development in the inholding lands shall cluster residential lots consistent with the comprehensive plan, which requires that the open space created by the cluster be placed adjacent to the LTCF land.

17.01.080 CRITICAL AQUIFER RECHARGE AREAS

In order to protect the public health and safety, prevent the degradation of ground water aquifers used for potable water, and to provide for regulations that prevent and control risks to the degradation of ground water aquifers, the following standards for Mason County are described in Section 17.01.080. Aquifer Recharge Areas are areas of special concern and are subject to the Mason County Health Codes.

A. CLASSIFICATION

All Critical Aquifer Recharge Areas in Mason County are classified as having either and Extreme, High, or Moderate Recharge potential:

CLASS I - EXTREMELY CRITICAL RECHARGE AREAS

Land and fresh water areas with the highest susceptibility to contamination of the water table aquifer or confined aquifers that have a high probability of yielding potable water. These are areas which provide very rapid recharge with minimal protection to the aquifer.

1. These areas are identified on the Mason County Critical Aquifer Recharge Area Map.
2. Those fresh water features in the County such as rivers, streams, lakes, ponds, swamps, bogs, marshes and wetlands.

CLASS II - HIGHLY CRITICAL RECHARGE AREAS

Land areas with high susceptibility to contamination of the water table aquifer or confined aquifers that have a high probability of yielding potable water. These are areas which provide rapid recharge with little protection to the aquifers. These aquifers are identified in the Mason County Critical Aquifer Recharge Area Map.

CLASS III - MODERATELY CRITICAL RECHARGE AREAS

Land areas with a moderate susceptibility to contamination of the underlying ground water aquifer or confined aquifers that have a high probability of yielding potable water. These are areas which provide moderate recharge with some protection to the aquifer. These areas are identified on the Mason County Critical Aquifer Recharge Area Map.

B. DESIGNATION

The lands and fresh waters of Mason County meeting the Critical Aquifer Recharge Areas Classification are hereby designated under RCW 36.70A.060 and RCW 36.70.170, as Critical Areas requiring protection for public health.

C. LAND USE

The following uses within Critical Aquifer Recharge Areas are subject to Conditional Uses Permits.

1. Landfills, junk yards, salvage yards, auto wrecking yards, any business that uses hazardous waste in their operation, and other solid waste disposal facilities, except for inert construction debris, shall demonstrate that such facilities will not significantly impact ground water resources. In order to make such determination, the Director or Health Director may require the filing of a Environmental Geologic Report.
2. Other uses and activities determined by the Director and the Health Director that are likely to pose a threat to the aquifer.

D. DEVELOPMENT STANDARDS

All uses and activities within Critical Aquifer Recharge Areas are subject to the following Development Standards. Development within Critical Aquifer Recharge Areas shall be in compliance with the Mason County Hazardous Waste Treatment and Storage Facilities Siting Ordinance, the State of Washington Dangerous and Hazardous Waste Regulations (including RCA 70.105 and WAC 173-303), SEPA, Mason County Health Codes and any other applicable County, State and Federal regulations.

1. Notification

a. Title Notification

The owner of any site within a designated Critical Aquifer Recharge Area as identified in the Mason County Critical Aquifer Recharge Areas Map, on which a development proposal is submitted, shall record a notice with the Mason County Auditor. The notice shall indicate in the public record the presence of an aquifer recharge area, the application of this Chapter to the site, and that limitations on regulated activities may exist. The notice shall be as set forth below.

"Notice: This site lies within an aquifer recharge area as defined by Chapter 17.01, Mason County Code. The site was the subject of a development proposal for _____

_____ application number _____
_ filed on _____ (date). Restrictions on use or alteration of the site may exist due to natural conditions of the site and resulting regulation. Review of such application has provided information on the location of an aquifer recharge area and the restriction on their use. A copy of the plan showing the aquifer recharge area is attached hereto.

b. Plat Notification

For all proposed short subdivision and subdivision proposals within Critical Aquifer Recharge Areas, the applicant shall include a note on the face of the plat. The note shall be as set forth below:

"Notice: This site lies within an aquifer recharge area as defined by Chapter 17.01, Mason County Code. The site was the subject of a development proposal for _____

_____ application number _____
_ Filed on _____ (date). Restrictions on use or alteration of the site may exist due to natural conditions of the site and resulting regulation.

The note shall be recorded as part of final plat approval of any short subdivision or subdivision.

2. Agricultural Activities

Agricultural activities, including commercial and hobby farms, are encouraged to incorporate best management practices concerning animal keeping, animal waste disposal, fertilizer use, pesticide uses, and stream corridor management and seek the technical assistance of the Mason County Conservation District and Cooperative Extension Agent.

The critical aquifer recharge regulations are not intended to impose new regulations on normal agricultural activities over and above the requirements of other regulations and laws.

3. Residential and accessory uses may require an enhanced on-site sewage disposal system subject to the Mason County Health Codes.
4. Subdivision, short subdivisions and other divisions of land in areas of special concern shall be evaluated for their impact on groundwater quality, subject to the Mason County Health Codes. When residential densities exceed one dwelling unit acre, or an equivalent wastewater volume, an Environmental Geologic Report shall be required. The Director may waive the report or limit its scope, if the nature of the project and its impacts are generally known, or the impacts of the project have been mitigated by source control strategies, such as by connection to a municipal sewage treatment system. Approval shall only be given when the evidence presented on the project, together with any mitigation included in the project or project approval, indicate that the project will not have a significant adverse impact on groundwater quality.
5. To protect aquifer recharge areas from nutrient loading in residential (gardens, lawn, etc.) or recreational (parks, golf courses, landscaped open spaces, etc.) areas, care must be used when applying herbicides, fertilizers and pesticides. The Federal Insecticide, Fungicide, and Rodenticide Act as adopted by RCW 17.21, RCW 15.58 and WAC 16.228 or hereafter amended must be complied with.
6. Other uses and activities determined by the Director and the Health Director likely to pose a threat to a Class II or III aquifer may require an environmental geologic report.
7. Activities in the critical aquifer recharge area which use hazardous substances shall provide for secondary containment of materials on-site to prevent the materials from entering the ground water or leaving the site, or equivalent mitigation. Activities which pose an especially high threat to the aquifer and are not served by a NPDES (National Pollution Discharge Elimination System) permitted sewage system or are of a large industrial scale of operation shall not be permitted in the rural lands and resource lands. Such uses include, but are not limited to, chemical manufacturing, chemical mixing and remanufacturing, and chemical waste reprocessing. In urban growth areas, these activities shall not be permitted in critical aquifer recharge areas unless they are connected with a NPDES (National Pollution Discharge Elimination System) permitted sewage system and any additional risk that they pose is suitably mitigated. In either area, small scale uses where the quantity, nature of materials possessed and mitigation methods are determined to pose no significant risk to groundwater may be permitted consistent with the provisions of this chapter and other applicable regulations.
8. Stormwater shall be managed according to the standards of the Mason County Mason County Stormwater Management Ordinance, when adopted, or, prior to that, by the Department of Ecology's "Stormwater Management Manual for the Puget Sound Basin." Review of the project shall also take into consideration spill and contamination prevention of stormwater, surface waters, or groundwater by liquid and soluble hazardous substances used on the site.
9. The proper operation and maintenance of community or on-site septic systems is required in the critical aquifer recharge areas. The standards and procedures to be met to assure this are as set forth in the "Mason County On-Site Sewage Operation and Maintenance

Program" and any subsequent implementing regulations. Participation in this program is mandatory for existing and new septic systems in the critical aquifer recharge areas.

10. Hazardous waste transfer, treatment, and storage facilities are prohibited in critical aquifer recharge areas.

E. CRITICAL RECHARGE AREAS

1. Environmental Geologic Report or Assessment

An Environmental Geologic Report or Assessment shall be required for any activity in CLASS I - EXTREMELY CRITICAL AQUIFER RECHARGE AREAS.

- a. The report or assessment shall identify the proposed development plans and the risk associated with on-site sewage disposal systems and other on-site activities which may potentially degrade the ground water aquifer or confined reservoirs.
- b. The report or assessment shall be prepared by an engineering geologist, hydrologist or licensed professional engineer (licensed in the State of Washington), qualified to analyze geological and hydrological information and ground water systems at the direction of the Director.
- c. A report shall contain:
 - (1) A description of the general geological and hydrological characteristics of the area under permit application consideration.
 - (2) A description of the local characteristics associated with site drainage and water movement.
 - (3) A geologic map with a cross section of the site and adjoining properties up to 1000 feet away at a scale of 1 inch equals 200 feet.
 - (4) A water well report which describes in detail the lithology of the penetrated geologic units and the geologic units penetrated in wells in adjoining properties up to 1000 feet away.
 - (5) A topographic map of the property and adjoining properties up to 1000 feet away at a scale of 1 inch equals 200 feet and a 5-foot contour interval.
 - (6) Provide a discussion on the proposed activities and the effects of sewage disposal, lawn and yard uses, agricultural and animal husbandry, storm water impacts and any other impact reasonably associated with the project type.

17.01.090 FREQUENTLY FLOODED AREAS

The purpose of this Section is to prevent the potential for further aggravation of flooding problems and to guide development in areas vulnerable to flooding.

A. CLASSIFICATION

The following shall be classified Frequently Flooded Areas:

Frequently Flooded Areas are identified by the Federal Emergency Management Agency as those areas within the 100 year floodplain in a report entitled "The Flood Insurance Study for Mason County" dated May 17, 1988, with accompanying Flood Insurance Rate Maps and should be utilized as a guide to development.

B. DESIGNATION

Lands of Mason County meeting the classification criterion for Frequently Flooded Areas are hereby designated, under RCW 36.70A.060 and RCW 36.70A.170, as Frequently Flooded Areas requiring immediate protection from incompatible land uses.

C. LAND USES

All uses and activities within Frequently Flooded Areas are subject to the following Development Standards.

DATED this 25th day of June, 1996.

Board of County Commissioners
Mason County, Washington

Mary Jo Cady
Mary Jo Cady, Chair

M. K. Faughender
Marv Faughender, Commissioner

William O. Hunter
William O. Hunter, Commissioner

ATTEST:

Diane L Zorn for
Clerk of the Board
Rebecca S Rogers

APPROVED AS TO FORM:

D. Alley, Deputy
Prosecuting Attorney