

ORDINANCE NUMBER 32-99

AMENDMENT TO AGRICULTURAL RESOURCE LANDS PROVISIONS

AN ORDINANCE amending various Mason County development regulations as follows:

Amending the Mason County Interim Resource Ordinance, Ordinance 77-93, as amended, amending Section 17.01.061 Agricultural Resource Lands and Sections 17.01.010, 17.01.020, 17.01.0120, and 17.01.130 to retitle the ordinance as the "Resource Ordinance" and delete 17.01.220 Interim Regulations; amending the Mason County Development Regulations, Ordinance 82-96, to amend Section 1.03.037 Density Transfer and Agricultural Resource Lands, Section 1.02.060 Development Areas Map, Figure 1.03.032 Development Densities, Section 1.03.036 Buffer and Landscape Requirements, and Section 1.03.035 retitled and amended; and amending Chapter 16.23 of Title 16, of the Mason County Code, under the authority of Chapters 36.70 and 36.70A RCW.

WHEREAS, the Mason County Board of Commissioners held a public hearing on April 6, 1999, to consider the recommendations of the Planning Commission and the Mason County Department of Community Development and the comments of citizens on the proposed amendments;


WHEREAS, these amendments are intended to comply with the Order of the Western Washington Growth Management Hearings Board of December 18, 1998;

WHEREAS, the Mason County Board of 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 Commissioners of Mason County hereby ADOPTS an amendment to the Agricultural Resource Land provisions of the Interim Resource Ordinance 77-93, the Development Regulations Ord. 82-96, and the Subdivision Ordinance Title 16, Mason County Code, as described in ATTACHMENT B. These amendments shall also replace interim resolution 30-99.

DATED this 6th day of April, 1999.

Board of Commissioners
Mason County, Washington


Mary Jo Cady, Commissioner

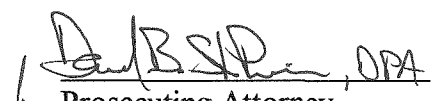

John A. Bolender, Commissioner

Abstain
Cynthia D. Olsen, Commissioner

ATTEST:


Rebecca Rogers
Clerk of the Board

APPROVED AS TO FORM :


Prosecuting Attorney
DAVID B. ST. PIERRE, WSD#278887

MASON COUNTY ORDINANCE 32-99, ATTACHMENT A

Page 1

Mason County Board of County Commissioners Public Hearing - April 6, 1999 FINDINGS OF FACT

1.

Under consideration is a proposal to amend the Agricultural Resource Lands provisions first adopted as ordinance 152-97. The proposal was prepared in response to an order of the Western Washington Growth Management Hearings Board (Hearings Board) dated December 18, 1998. Specifically, the proposed action is to amend Section 17.01.061 Agricultural Resource Lands; to amend the Mason County Development Regulations, Ordinance 82-96, Section 1.03.037 Density Transfer and Agricultural Resource Lands, Section 1.02.060 Development Areas Map, Figure 1.03.032 Development Densities, Section 1.03.036 Buffer and Landscape Requirements, and Section 1.03.035 retitled and amended; and to amend Chapter 16.23 of Title 16, of the Mason County Code. The proposal includes the removal of the sunset provision in Ordinance 77-93, so that no lapse in the designation could unintentionally occur.

2.

Agricultural Resource Lands were designated and protected by Mason County on December 30, 1997, after a lengthy public review. It was also amended by Ordinance 89-98, to remove a sunset provision that applied to the Skokomish Valley.

3.

A State Environmental Policy Act Determination of Nonsignificance was issued on the proposed changes and no comment was received on the determination.

4.

The Planning Commission held a public hearing on March 15, 1999, and considered the testimony given along with the record before it. The Planning Commission adopted findings of fact and recommended that the Board of Commissioners act affirmatively on the proposal.

5.

Discussion:

The order of the Hearings Board stated: "County Findings of Fact designating agricultural lands state that "acreage smaller than 10 acres could not be reasonably expected to have long-term significance for agricultural use" yet the ordinances allow subdivision of agricultural lands into parcels smaller than 10 acres and allow subdivision of lands qualifying for designation to acreages below the designation threshold." The draft proposal addresses this issue by amendments intended to prevent the creation of lots less than 10 acres, except for the creation of residential lots as part of a cluster subdivision, which are discussed in a subsequent finding. Amendments for this issue include:

1.03.032, page 4, refers residential density provisions to 1.03.037.

1.03.035, page 5, establishes a minimum lot size of 10 acres for land divisions

MASON COUNTY ORDINANCE 32-99, ATTACHMENT A

Page 2

which do not involve residential clusters.

1.03.037, page 5, which limits standard residential density to one dwelling to 10 acres, unless a cluster subdivision is approved which allows 1 dwelling to 5 acres, and continues the provision for vesting of one dwelling per contiguous ownership for existing dwellings.

16.23.035, page 7, which requires the open space/agricultural lots preserved in clustered land divisions be at least 10 acres as directed by the Hearings Board and consistent with the earlier findings on agricultural lands by Mason County.

16.23.046, page 8, which adds to the criteria for setting up the open space lot to direct development to lands with poorer soils or otherwise less suitable for agricultural use as provided in RCW 36.70A.177.

16.23.050, page 8, assures that such open space lots set aside for agricultural use remain available for such use.

Finding:

The proposed revisions protect agricultural resource lands by preventing the division of land into lots of less than 10 acres, except for especially designed clustered land divisions.

6.

Discussion:

An examination of the pattern of land division of agricultural lands in Mason County does not show that there has been any significant division of lands into lots less than 10 acres. Of the approximately 5,900 acres of potential resource land identified, less than 6 percent are in the small lots, and very few of the small lots are adjacent to other small lots. Small lots surrounded by other agricultural resource lands will be designated under the amendments proposed. It may be advantageous at times to aggregate lots. When such occasions occur, existing county regulations allow lots to be aggregated through boundary line adjustments or as part of a single land division review.

Finding:

A review of the conditions in Mason County show no significant justification for special incentives to be provided to re-aggregate agricultural resource lands.

7.

Discussion:

The order of the Hearings Board states that: "Densities of 1 unit per 5 acres in resource lands do not comply with the Act". In particular, it states that: "The allowance of non-clustered average densities of 1 unit per 5 acres in resource land also irrevocably removes LTCS value." Mason County recognizes the difficulty in preserving viable agricultural activities when development is allowed in agricultural areas and has struggled to find a way to effectively balance the goals of supporting agricultural industry and other GMA goals identified in the public process.

MASON COUNTY ORDINANCE 32-99, ATTACHMENT A

Page 3

The amendments proposed to address this issue will prevent the division of land or the allowance of density of 1 unit per 5 acres, except for cluster subdivisions. Cluster subdivisions are allowed by RCW 36.70A.177. Subsection (2) provides for the consideration of innovative zoning techniques including: "(c) Cluster zoning, which allows new development on one portion of the land, leaving the remainder in agricultural or open space uses."

The Clallam County ordinance, which was both adopted by Clallam County and approved by the Western Washington Growth Management prior to the Mason County adopting Ordinance 152-97, provides for clustering provisions that should protect 75% of the designated land be divided as available for agricultural use. The adopted Mason County ordinance also provides that a minimum of 75% of the land be kept usable for agriculture.

The significance of the Clallam County case is not that the conditions in Mason County are the same. In Clallam County, large tracts of agriculturally designated land had been divided into five acre lots. There is no similar pattern in Mason County. Rather, the importance of the Clallam County decision is that clustered development in an agricultural area with the preservation of 75% of the best land in lots of adequate size has been accepted by the Hearings Board as not removing the LTCS value of agricultural land and not substantially interfering with RCW 36.70A.020 (8).

The record in Mason County indicates that this pattern of clustered development will:

- 1) Protect more than 75% of the important agricultural areas and soils because the typical character of agricultural land in Mason County. The terrain of Mason County, where the farmlands are found typically shows a pattern of ridges and valleys with the quality agricultural soils generally appearing in small pockets or narrow valleys. Most designated properties have areas on which the better soils are absent to which development should be directed. Additional open space land should be protected because primary conservation areas such as floodways and wetlands are set aside before the 75% calculation is applied to the remaining land. While a greater percentage of the land could be preserved at lower densities, analysis also shows that there are only small and diminishing additional benefits derived from major reductions in allowed density for densities lower than one unit per five acres. The only exception to this pattern is the lower Skokomish River valley. However, there the development of buildings or any fill within the flood plain is limited to 3% of the area, which should leave most of the rest available for farm use. While this requirement is under review by the Hearings Board, it is unlikely to become less restrictive.
- 2) Support the nature and future of the agricultural activity in Mason County. Because of the pattern just described, the future of agriculture in the county appears to be in small farms, specialty farms, truck gardens and the like.
- 3) Maintain the value of the land which will enable the farmers to raise capital and remain farming;
- 4) Preserve a level of fairness or equity for the farmers, as compared to other landowners in the County, and not punish the farmers for attempting to farm;
- 5) Meet the needs of the farmers to provide affordable homes for family members and farm

MASON COUNTY ORDINANCE 32-99, ATTACHMENT A

Page 4

workers.

- 6) Provide a greater variety of large agricultural parcels rather than a standard 10-acre lot.
- 7) Provide retired farmers and others strongly desiring to live in such areas (but not to farm) the opportunity to buy a small lot rather than a 10-acre lot.
- 8) Respond to the public comments that indicate that the clustering provision can be accepted and supported by the local farming community.
- 9) Provide an incentive for clustering because of the advantages resulting from it. It was felt that incentives for such action is appropriate. The record shows that in many ways clustering of development is a preferable pattern of development, but that without incentives to use the technique, it tends to be seldom used because of its greater complexity and the public's unfamiliarity with the technique.

The amendments proposed will also assure that the open space lots have at least 10 useable acres for agricultural land. Although the Clallam County ordinance provides for larger open space lots, the findings for Mason County support 10 acres as a minimum and project that most open space lots are likely to be larger.

In order to create the clustered residential lots, agricultural open space would have to be created and preserved in a tract of land at least 10 acres in size. By the criteria for such a division, the open space would include the prime farmland soils and other lands which are most productive or important for agricultural use. Such open space/agricultural lots would also be located next to any adjoining open space/agricultural land and buffered by a 50 or 100 foot setback from incompatible uses or any residential clusters on any adjoining lands which were not also agricultural resource land.

Because this issue is interconnected with the preservation of agricultural lands in 10 acre or larger lots, the proposed amendments for this issue were identified under Finding 5.

Finding A:

As proposed, the regulations protect agricultural lands by encouraging, when residential development is sought, that such development is clustered with agricultural/open space lots of at least 10 acres.

Finding B:

As proposed, the regulations for clustered residential subdivisions are consistent with RCW 36.70A.177 in that the proposal allows new development on one portion of the land, leaves the remainder in agricultural/open space use, and directs the residential development away from the lands with the best soils or otherwise needed for agricultural use.

Finding C:

As proposed, the residential density in agricultural resource lands of one unit per 10 acres, or one unit per five acres for clustered subdivisions, does not remove the LTCS value of the agricultural resource land and does not substantially interfering with RCW 36.70A.020 (8).

MASON COUNTY ORDINANCE 32-99, ATTACHMENT A

Page 5

8.

Discussion:

In its designation of agricultural resource lands, Mason County did not designate lands which consisted of unique farmland soils. The Hearings Board order noted: "No report or rationale for a decision not to use unique farm land soils as a criterion for designation is part of the record."

In revisiting the designation following the December 18, 1998 order of the Hearings Board, Mason County considered including lands which have unique farmland soils and contacted the USDA Natural Resource Conservation Service (NRCS) to determine the status of unique farmland soils in Mason County.

Mason County had consulted with the NRCS and the state Department of Natural Resources on the designation of agricultural resource lands in 1996, prior to setting up the Agricultural Lands Subcommittee. Using the guidance provided by the state Department of Trade and Economic Development (CTED), Mason County worked with the Department of Natural Resources (DNR) and the NRCS to identify areas of the county with appropriate soils for agricultural resource lands. At that time it was identified that there were no unique farmland soils in Mason County. The result of those consultations was a map prepared by DNR and checked by the NRCS: the Mason County Potential Prime Farmland Soils map, dated 12/12/96. The purpose of the map was to supply the soils information needed by the county to apply the guidance provided by CTED. This process was discussed in the background information provided to the Agricultural Lands Subcommittee.

For the purpose of this current review, the county contacted NRCS to determine if there had been any change in the status of unique farmland soils in the county. The NRCS responded with the letter dated March 12, 1999 that "there are currently no unique farmland soil map units in Mason County."

Finding:

There are no unique farmland soils in Mason County, and this is an adequate basis for not using such soils as a criteria for designating agricultural resource lands with the county.

9.

Discussion:

WAC 365-190-050 (3) provides that "If a county or city choose to not use these (prime farmland and unique farmland soils) categories, the rationale for that decision must be included in the next annual report to the department of community development." The county has not yet made a report to CTED on this issue because the report required by RCW 36.70A.180 (2) is required annually only for the first five years, beginning in January 1991. After that, the

MASON COUNTY ORDINANCE 32-99, ATTACHMENT A

Page 6

reports are due every five years. The first report to CTED due after the county action to designate agricultural resource land in December of 1997 is due January 1, 2000.

Finding:

Mason County is in compliance with the GMA even though it has not transmitted the rationale for its decision on unique farmland soils to CTED; however, such a report is due from Mason County on January 1, 2000.

10.

Discussion:

The Hearings Board in its order determined that: "The County has not considered qualified lands not in current use."

In the present review, Mason County considered what lands were appropriate to consider for designation, which were not currently in use as agricultural lands. One class of such lands are those identified as having been used for agriculture at about the time the GMA was adopted. Unlike many counties, Mason County did not have any land designated or zoned as agricultural lands prior the adoption of the GMA. Site specific information on the use of land was primarily limited to the Assessor's records, which identified land where the primary use of the land was agricultural or where the land participated in the agricultural open space tax program. Inclusion of such lands would address the concerns that the designation or non-designation of the land is left to the whim of the property owner or that the owner removed his land from agricultural use to avoid being classified as agricultural.

Another class of lands to consider for designation are those areas surrounded by agricultural use, even if those properties might not have prime agricultural soils or be used for agriculture. Designation of these areas as resource lands would avoid potential conflicts and supports the viability of the agricultural area as a whole. The Hearings Board in previous decisions has supported the designation of resource land as an area of predominate resource use, even if not every parcel was used for or suitable for agricultural production.

Amendments to subsection 17.01.061 A. provide for the inclusion of lands used for farming at about the time of GMA adoption, and lands surrounded by agricultural resource land. The change in these two criteria, based on the information available, would result in the designation of an additional 1,099 acres of agricultural resource lands.

Finding:

Criteria were considered to identify lands which are not currently used for agricultural use but were appropriate for designation as agricultural resource lands, and the results of this consideration are the proposed amendments to the criteria for designation of resource lands and the identification of additional agricultural resource lands.

11.

Discussion:

The Hearings Board in its order determined that: "Buffer widths do not comply with the requirements of RCW 36.70A.060."

There was discussion during the 1997 meetings of the Agricultural Lands Subcommittee on the use of additional buffers to protect farmland from incompatible uses. Background information was also provided to them and to the record which showed that there was no reliable analysis to determine the best size of such buffers, but also noted that the typical requirements reviewed and adopted elsewhere ranged from a 50 to 100 foot separation. The consensus of the group was that no special buffers should be needed because adjoining lands were typically rural or resource lands and, if cluster development was pursued on an adjoining lot, the criteria for such development required that the open space preserved next to resource lands, thereby providing a substantial buffer. As proposed in this review, a minimum width of 50 or 100 feet for that open space area would be established. This means that an adequate open space buffer would be maintained even though other design considerations must be balanced in these subdivisions. Setbacks can be used to separate other incompatible uses, with a larger setback providing more buffering. More buffering is generally needed around more intensive uses or when more people are potentially affected. The proposal has a provision to require such a separation of 50 or 100 feet. A 50 foot buffer should be adequate where the adjoining land is in the rural area and the development potential is limited and less intensive than elsewhere. For urban areas, rural activity centers and rural community centers, a larger 100 foot buffer should be provided for protection of the agricultural lands. The draft proposal was adapted from the Clallam County ordinance and should establish a reasonable degree of protection to the agricultural lands.

Subsection 1.03.036 F. was added to address this issue. This subsection provides an additional buffer on land adjoining agricultural land of 50 to 100 feet for both residential clusters and for uses or structures that are not permitted uses in the agricultural resource land.

Finding:

As proposed, the regulations establish appropriate and reasonable setbacks of incompatible uses from agricultural resource lands.

12.

Discussion:

The proposal provides for balanced protection of agricultural resource land and addresses many of the concerns of the farmers. It uses the clustering of development to preserve farmland, one of the innovative techniques specifically suggested in the Growth Management Act. The analysis shows that at least 75 % of the land will be reserved for agricultural/open space use. The agricultural land provisions also uses other land management tools, such as

MASON COUNTY ORDINANCE 32-99, ATTACHMENT A

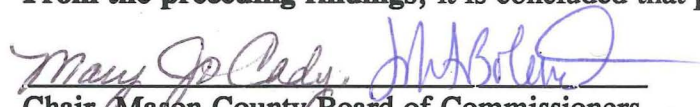
Page 8

transferable development rights, to direct growth into the urban growth areas and to implement the vision and goals of the county comprehensive plan. The proposal protects the most productive agricultural land in tracts of land large enough to farm. The proposal allows a level of development that maintains the value of the land, which provides the capital needed for farming operations to continue. The proposal requires that incompatible uses be set back from the resource lands. The proposal provides for farm workers and family to live by the farm, providing needed labor for farm operations that may need 24 hour attention and otherwise supports the farming lifestyle. The proposal responds to the comments and concerns of the farming community. Therefore the proposal promotes the goals of maintaining or enhancing natural resource industries, encouraging economic development, citizen participation, and retaining open space. The proposal also promotes the goals of economic development; property rights; the affordability of housing, and for a timely, fair and predictable permitting process. The proposal encourages development in urban areas by allowing and encouraging the transfer of development rights, thereby advancing the urban growth goal and the goal of reducing sprawl.

Finding:

The proposal is consistent with and balances the goals of the Growth Management Act. The proposal is consistent with and implements the Mason County Comprehensive Plan.

From the preceding findings, it is concluded that proposed amendment should be adopted.


Chair, Mason County Board of Commissioners

4-27-99
Date

MASON COUNTY ORDINANCE 32-99, ATTACHMENT B

Page 1

AMEND section 17.01.061 of the Interim Resource Ordinance, Ordinance #77-93, to read as follows:

17.01.061 AGRICULTURAL RESOURCE LANDS

The purpose of this Section is to maintain and enhance natural resource based industries, to encourage the conservation of commercial agricultural lands, and to discourage incompatible land use.

A. CLASSIFICATION

The following criteria shall be used in identifying lands appropriate for Agricultural Resource Lands:

1. The property has an existing commercial agricultural use (as of the date of designation) or where the property was used for agricultural purposes as of January 1991, where identified by property tax classification in the Open Space - Agriculture property tax classification program pursuant to Chapter 84.34 RCW or where agricultural use has been identified as the principal use of the property, are presumed to meet this criteria; and
2. The property has a minimum parcel size of ten (10) acres; and
3. The parcel has Prime Farmland Soils; or
4. The property is surrounded by lands qualifying under classification criteria 1 to 3 above; or
5. The property is an upland fin-fish hatchery.

Provided that, property owners may apply to have their land designated as Agricultural Resource Lands upon a showing that the property is eligible for and participates in the Open Space - Agricultural property tax classification program pursuant to Chapter 84.34 and upon a showing that either that the property has Prime Farmland Soils or that, in some other fashion, the agricultural use has long-term commercial significance. Such applications shall be reviewed by the county as provided for in the annual amendment process for the county comprehensive plan and development regulations.

B. DESIGNATION

Lands of Mason County which have been identified as meeting the classification criteria for Agricultural Resource Lands, and are so specified on the official Mason County Map, available at the Mason County Planning Department, titled, "Mason County Agricultural Resource Lands" or as thereafter amended, are hereby designated as Agricultural Resource Lands.

C. LAND USES

Development and land uses and activities allowed in the agricultural resource lands or on adjacent lands are as specified in the Mason County Development Regulations and other applicable ordinances, codes and regulations.

MASON COUNTY ORDINANCE 32-99, ATTACHMENT B

Page 2

D. PREFERENTIAL RIGHT TO MANAGE RESOURCES AND RESOURCE USE NOTICES

1. For land owners who have land designated as agricultural resource lands, provisions of "Right to Farm" provided under Section 17.01.040.C.5 shall fully apply.
 2. All plats, short plats, large lot subdivision, development permits, and building permits issued for activities on, or within 300 feet of lands designated as agricultural resource lands shall contain the following notification: "This property is within or near designated agricultural resource lands on which a variety of commercial activities may occur at times and that are not compatible with residential development. Residents of this property may be subject to inconvenience or discomfort associated with these activities including, but not limited to: dust, odor, noise, and chemical applications."
-

DELETE section 17.01.220 of the Interim Resource Ordinance, Ordinance #77-93

AMEND sections 17.01.010, 17.01.020, 17.01.120, and 17.01.130 of the Interim Resource Ordinance, Ordinance #77-93, to change the title of the ordinance from "Interim Resource Ordinance" to "Resource Ordinance".

MASON COUNTY ORDINANCE 32-99, ATTACHMENT B
Page 3

AMEND section 1.02.060 of the Development Regulations, Ordinance #82-96, to read as follows:

1.02.060 Development Areas Map

The Development Areas Map attached hereto is adopted as the Official Map of Mason County. The boundaries and locations of all Development Areas within the County shall be as shown on this map; however, where land use designations shown do not reflect the latest use designations, then the latest use designations shall control pending revision of the Development Areas Map. Wherever possible, boundaries shown on the map are drawn along property lines, or along generally-recognized physical features. The Administrator shall have sole authority to settle any dispute as to the actual location of a Development Area boundary shown on the map, using the best information available. The Agricultural Resource Lands are designated on the official Mason County map titled, "Mason County Agricultural Resource Lands" and replace the rural area designations and overlay the urban growth area designations on the Development Areas Map.

AMEND Figure 1.03.032 Development Densities; Dimensional Requirements, of the Development Regulations, Ordinance #82-96, to read as follows:

MASON COUNTY ORDINANCE 32-99, ATTACHMENT B

Page 4

**Figure 1.03.032
Development Densities;
Dimensional Requirements**

Description of Use	Standard Residential Density	Maximum Residential Density	Standard Non-Residential Density*** (Floor Area Ratio)	Maximum Building Size	Maximum Building Height	Setback Requirements
Shelton Urban Growth Area	4 du/ac	8 du/ac	1:1.5	n/a	35'	**
Belfair Urban Growth Area	4 du/ac	6 du/ac	1:1.5	n/a	35'	**
Mineral Resource Areas (x)	1 du/40 ac	1 du/40 ac	n/a	n/a	35''	**
In-Holding Lands	1 du/5 ac	1 du/2.5 ac	1:20	10,000 sf	35''	**
Agricultural Resource Lands (x)	(a)	(a)	1:20	n/a	35''	**
Rural Area	1 du/5 ac	1 du/2.5 ac	1:20	n/a	35''	**
Rural Activity Center	2 du/ac	4 du/ac	1:1.5	10,000 sf	35'	**
Rural Community Center	1 du/5ac	1 du/2.5 ac	1.5	10,000 sf	35'	**

* resource-based activities are exempt from this requirement

** see buffer yard standards

*** fire stations exempt from this requirement

(x) clustering of residential development is required

(a) see the density provisions of section 1.03.037

MASON COUNTY ORDINANCE 32-99, ATTACHMENT B
Page 5

AMEND section 1.03.035 of the Development Regulations, Ordinance #82-96, as follows:

1.03.035 Land Divisions in Resource Lands

- A. Cluster development, as provided in Chapter 16.23, Mason County Code, is required for all residential subdivisions or short plats located in the following development areas: Agricultural Resource Lands, Long-term Commercial Forests, and Mineral Resource Areas.
1. No lot for which the construction of a residential dwelling is proposed under this Section and Chapter 16.23, Mason County Code, shall exceed two acres in gross land area.
 2. In Agricultural Resource Lands, no open space lot shall be less than ten (10) acres, as defined in Section 16.23.035, Mason County Code.
- B. Land Divisions for purposes other than residential development shall have a minimum lot size of 10 acres for Agricultural Resource Land; provided, however, that lots created for and restricted to the use of fire stations or for utilities are not required to meet the minimum lot sizes defined in this section.

AMEND section 1.03.037 of the Development Regulations, Ordinance #82-96, to read as follows:

1.03.037 Density Transfer and Agricultural Resource Lands

The following provisions apply only to Agricultural Resource Lands or to land in the Urban Growth Area which has received a transfer of density as herein described:

- A. The standard residential density allowed for development on Agricultural Resource Lands is one dwelling unit per 10 acres, except as otherwise provided in this section.
1. Residential subdivisions or short plats in Agricultural Resource Land are subject to the cluster subdivision provisions of Chapter 16.23 of the Mason County Code. The maximum allowed density for such cluster subdivisions is one dwelling unit per five acres. The maximum number of residential lots that may be created, not including any lots restricted to agricultural/open space use, is equal to the number of dwelling units allowed. However, where there was a single family dwelling on the property as of December 30, 1997, then an additional residential lot may be created, subject to the following:
 - a. Only one such additional lot may be created for all land which was contiguous and in the same ownership as of December 31, 1997.
 - b. Each residence existing or vested at the time of application for the land division shall be each placed on their own residential lot.
 2. Each residential lot created as provided in subsection 1. above, is allowed one dwelling unit.
- B. Agricultural Resource Lands are hereby granted an additional density of one dwelling unit per five acres, except that those Agricultural Resource Lands which lie within an Urban Growth Area are granted an additional density of four dwelling units per acre, provided that, in both cases, this additional density shall only be used if transferred to land which is not Agricultural Resource Land but which is within the Urban Growth

MASON COUNTY ORDINANCE 32-99, ATTACHMENT B

Page 6

Area.

- C. Part or all of the Agricultural Resource Lands maximum allowed residential density may be transferred for use on land which is not Agricultural Resource Land but which is within the Urban Growth Area rather than used on the originating property.
- D. In the Urban Growth Areas, density transfer under the provisions of this Section may be used on the receiving property in order to allow residential development up to the "Maximum Residential Density", shown in FIGURE 1.03.032, without a performance based subdivision and without compliance with the performance standards or criteria for such subdivisions as established in Chapter 16.22 of the Mason County Code.

AMEND section 1.03.036 of the Development Regulations, Ordinance #82-96, to add a new subsection to read as follows:

1.03.036 Buffer and Landscape Requirements.

.....

F. Additional requirements for Agricultural Resource Lands

For lands adjacent to Agricultural Resource Lands, in addition to the bufferyard requirements otherwise required, all structures or uses shall maintain a minimum setback of one hundred (100) feet from designated agricultural tracts for lands designated as Urban Growth Areas, Rural Activity Centers or Rural Community Centers, or fifty (50) feet for lands designated as Rural Areas, except for any structures or uses which have been identified as permitted uses in Agricultural Resource Lands. Residential clusters created on lands adjacent to Agricultural Resource Lands through a performance subdivision as provided in Chapter 16.22, MCC, shall be separated from the Agricultural Resource Land by the designated open space areas to a minimum width of one hundred (100) feet on lands designated as Urban Growth Areas, Rural Activity Centers or Rural Community Centers, or fifty (50) feet for lands designated as Rural Areas.

AMENDMENTS TO THE MASON COUNTY SUBDIVISION ORDINANCE, TITLE 16

AMEND Chapter 16.23 of Title 16, Mason County Code, to read as follows:

Chapter 16.23 Cluster Subdivisions

16.23.010 Application of Regulations. The following regulations shall apply to any applicant for subdivision or short plat approval, where the property proposed for subdivision or short plat is located within areas designated in the Mason County Development Regulations as Long-Term Commercial Forests, Mineral Resource Lands, and Agricultural Resource Lands.

16.23.020 Preliminary Sketch Required. Any applicant submitting a proposal for a Cluster Subdivision shall submit a preliminary sketch for review. In addition to the information required in Section 16.12.010, the preliminary sketch shall show Primary Conservation Areas, Secondary Conservation Areas, and proposed development areas. A public hearing shall not be required at this time. However, abutters to the property and members of the general public shall be encouraged to attend the Planning Commission review of the sketch plan. Public comment at this stage is intended to minimize the need for significant plan changes during review of subsequent submittals.

16.23.030 Maximum Lot Sizes Established. No lot for which the construction of a residential dwelling is proposed under this Chapter shall exceed two acres in gross land area.

16.23.035 Minimum Agricultural Resource Land Open Space Lot Size. Any cluster subdivision on Agricultural Resource Land shall provide the required open space in a lot or lots, each such open space lot being 10 or more acres.

16.23.040 Design Criteria. Land proposed for development under this Chapter shall meet the design criteria set forth herein.

16.23.042 Primary Conservation Areas. Primary Conservation Areas shall be clearly identified, and shall be set aside as permanent open space. Primary Conservation areas shall be included in the calculation of both standard and maximum density allowed, but they shall not be used in calculating the percentage of permanent open space required.

16.23.044 Secondary Conservation Areas. Secondary Conservation Areas shall be identified and shall, to the greatest extent possible, be avoided as development areas. For Agricultural Resource Lands, at least 75% of the land being divided, not including the area of the Primary Conservation areas, shall be included in the property set aside as permanent open space.

16.23.046 Additional Open Space Criteria. The design of an open space area shall require the following:

- A. Interconnection with designated open space on abutting properties;
- B. The preservation of important site features, such as rare or unusual stands of trees, unique geological features, or important wildlife habitat;
- C. Direct access to the open space from as many lots as possible within the development, except for Agricultural Resource Lands; and
- D. Minimizing the fragmentation of the open space areas. To the greatest extent possible, the

MASON COUNTY ORDINANCE 32-99, ATTACHMENT B

Page 8

- designated open space should be located in large, undivided areas.
- E. A curvilinear roadway design which minimizes the visual impact of houses as may be seen from the exterior of the site.
- F. In Agricultural Resource Lands, include the most productive land and any other features of the property identified as important to agricultural productivity of the open space.

16.23.048 Additional Site Design Considerations. The siting of house lots shall avoid the following:

- A. Interruption of scenic views and vistas;
- B. Construction on hill tops or ridge lines;
- C. Direct access or frontage on existing public ways;
- D. A "linear" configuration of open space (except when following a linear site feature, such as a river, creek or stream); and

16.23.050 Ownership, Maintenance and Use of Open Space. The applicant shall provide a mechanism to assure that any required open space is permanently protected and maintained, in conformance with the provisions set forth in Section 16.22.040. In Agricultural Resource Lands, no covenant or other restriction on the open space land may prohibit the use of the land for agricultural purposes.

16.23.060 Procedures for Approval. Preliminary approval for subdivision shall follow the procedures set forth in Chapter 16.16, except that the submittal of a preliminary sketch plan is required.

16.23.070 Transfer of Density. Upon analysis of all of the opportunities and constraints identified on a specific parcel of land, if it is determined that the use of the provisions set forth in this Chapter will not result in the use of the maximum density allowed, then the applicant shall have the right to transfer any unused development density to any parcel of land located in an Urban Growth Area. By use of this transfer right, maximum density allowed in the Urban Growth Area may be exceeded by up to fifty (50%) percent.