

**ORDINANCE NUMBER 89-00**  
**AMENDMENTS TO THE MASON COUNTY RESOURCE ORDINANCE**

AN ORDINANCE amending the the Mason County Resource Ordinance regulations which apply to designating and protecting fish and wildlife habitat conservation areas as last amended in Ordinance 118-99. These are Section 17.01.110 Fish and Wildlife Habitat Conservation Areas and Section 17.01.240 Definitions, under the authority of Chapters 36.70 and 36.70A RCW.

WHEREAS, the Board of County Commissioners held a public hearing on August 21, 2000, continued to August 29, 2000, to consider the recommendations of the Mason County Department of Planning and citizens on the proposed amendments;

WHEREAS, the Mason County Planning Commission considered the amendments in hearings held August 7 and August 21, 2000, but was unable to make a recommendation;

WHEREAS, these hearings were duly advertised public hearings;

WHEREAS, these amendments are intended to comply with the March 22, 2000, Order of the Western Washington Growth Management Hearings Board, Case No. 95-02-0073;

WHEREAS, the Mason County Board of County Commissioners formulated its decision after the public hearing and has approved findings of fact to support its decision as ATTACHMENT B;

NOW, THEREFORE, BE IT HEREBY ORDAINED, that the Board of County Commissioners of Mason County hereby approves and ADOPTS the amended sections of the Mason County Resource Ordinance, as amended, as described by ATTACHMENT A.

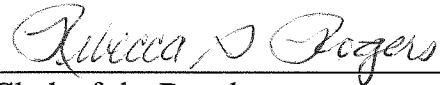
DATED this 29th day of August, 2000.

Board of County Commissioners  
Mason County, Washington



John A. Bolender, Chair

ATTEST:



Clerk of the Board



Mary Jo Cady, Commissioner



Cynthia D. Olsen, Commissioner

APPROVED AS TO FORM:



Prosecuting Attorney

**17.01.110 FISH AND WILDLIFE HABITAT CONSERVATION AREAS**

**A. PURPOSE.**

Fish and wildlife habitat conservation means land management for maintaining species in suitable habitats within their natural geographic distribution so that isolated populations are not created. This does not mean maintaining all individuals of all species at all times, but it does mean intergovernmental cooperation and coordination is critically important in a region. In some cases, it is sufficient to assure that a species will usually be found in certain regions across the state. The provisions for the protection of habitat contained in this section can not succeed in their purpose of supporting viable populations of fish and wildlife species unless other agencies and the public also act to protect the species. In the case of anadromous fish, the Statewide Salmon Recovery Strategy identifies that it will take a balanced approach to addressing the factors of decline that are within human control, including harvest, hatchery, habitat, and hydropower. The underlying assumption within this section is that impacts to anadromous fish or their habitat or to fish and wildlife conservation areas shall be avoided or mitigated as detailed in an approved Habitat Management Plan as described in Section 17.01.110.J The intent of this Section is to:

1. Protect critical habitat features to support genetically viable populations of fish and wildlife species and allow for commercial and non-commercial uses;
2. Protect the biological, physical, and chemical components of water quality for the benefit of aquatic and terrestrial resources, as well as human consumptive uses;
3. Ensure that natural stream and marine shoreline functions such as flow patterns, production of sediment and large woody debris are maintained with minimal interference or impact to private property;
4. Protect habitat for federal or state listed endangered, threatened or sensitive fish and wildlife.
5. Encourage non-regulatory methods of habitat retention whenever practical, through education, and the Open Space Tax Program.
6. To supplement the Shorelines Master Plan for Mason County to preserve and protect critical fish and wildlife habitat pursuant to (WAC 365-190-080(5)). It is the intent that this ordinance will compliment and supplement the Shorelines Master Plan.
7. To implement the Mason County Comprehensive Plan and to achieve these purposes consistent with the Comprehensive Plan.

**B. FISH AND WILDLIFE HABITAT CONSERVATION AREA CATEGORIES.**

Fish and wildlife habitat conservation areas include both aquatic and terrestrial areas within Mason County. The approximate location and extent of critical fish and wildlife habitat areas are displayed in the Washington Department of Fish & Wildlife's (WDFW) Priority Habitat and Species (PHS) Program database. The following categories shall be used in classifying critical areas to be regulated under this ordinance:

1. Commercial and recreational shellfish areas.
  2. Kelp and eelgrass beds; herring and smelt spawning areas.
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3. Naturally occurring lakes and ponds under twenty acres and their submerged aquatic beds that provide fish or wildlife habitat.
4. Streams.
5. Saltwater Shorelines, and Lakes 20 Acres and Greater in Surface Area.
6. Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity.
7. State Department of Natural Resources natural area preserves and natural resource conservation areas.
8. Areas with which Federal or State endangered, threatened and sensitive species of fish and wildlife have a primary association. Those species known to be found in Mason County are listed in Table 1. Protection of species habitats is determined by the State or Federal listing, and their actual presence near the site subject to review. Other listed and protected species may be found in Mason County, which are not in Table 1.
9. Areas that contain habitats and species of local importance as listed in Table 1 below. Species of local importance may include, but are not limited to, State Candidate and Monitor species.

Table 1. Species of Importance that may occur in Mason County

Species	Scientific Name	State Status	Federal Status
<b><i>Fish</i></b>			
Bull Trout	<i>Salvelinus confluentis</i>	Candidate	Threatened
Puget Sound Chinook	<i>Onchorynchus tshawytscha</i>	Candidate	Threatened
Hood Canal Summer Chum	<i>Onchorynchus keta</i>	Candidate	Threatened
Dolly Varden	<i>Salvelinus Malma</i>	none	none
<b><i>Amphibians</i></b>			
Western Pond Turtle	<i>Clemmys marmorata</i>	Endangered	Species of Concern
Cascade Frog	<i>Rana cascadae</i>	none	Species of Concern
Van Dyke's salamander	<i>Plethodon vandykei</i>	Species of Concern	Species of Concern
Tailed Frog	<i>Ascaphus truei</i>	Monitor	Species of Concern
Olympic Torrent salamander	<i>Ryacotriton olympicus</i>	Monitor	none
<b><i>Mollusks</i></b>			
Newcomb's littorine snail	<i>Algamorda newcombiana</i>	Species of Concern	Species of Concern
<b><i>Birds</i></b>			
Marbled Murrelet	<i>Brachyramphus marmoratus</i>	Threatened	Threatened
Bald Eagle	<i>Haliaetus leucocephalus</i>	Threatened	Threatened
Northern Spotted Owl	<i>Stridex occidentalis</i>	Endangered	Threatened
Northern Goshawk	<i>Accipiter gentilis</i>	Candidate	Species of Concern
Peregrine Falcon	<i>Falco peregrinus</i>	Endangered	Species of Concern
Pileated Woodpecker	<i>Drycopus pileatus</i>	Candidate	none
Common Loon	<i>Gavia immer</i>	Sensitive	none
Harlequin Duck	<i>Histrionicus histrionicus</i>	none	Species of Concern
Brandt's Cormorant	<i>Phalacrocorax penicillatus</i>	Candidate	none
Olive-sided Flycatcher	<i>Contopus boreaus</i>	none	Species of Concern
Golden Eagle	<i>Aquilla chrysaetos</i>	Candidate	none
Great Blue Heron	<i>Ardea herodias</i>	Monitor	none

Merlin	<i>Falco columbarius</i>	Candidate	none
Purple Martin	<i>Progne subis</i>	Candidate	none
Western Bluebird	<i>Sialia mexicana</i>	Monitor	none
Vaux's Swift	<i>Chateura vauxi</i>	Candidate	none
<b>Mammals</b>			
Gray Wolf	<i>Canis lupis</i>	Endangered	Endangered
Pacific Fisher	<i>Martes pennanti</i>	Endangered	Species of Concern
Townsend's big-eared bat	<i>Plecotus townsendii</i>	Candidate	Species of Concern
Shelton pocket gopher	<i>Thomomys</i>	Candidate	none
Merriam's Shrew	<i>Sorex merriami</i>	Candidate	none
Roosevelt elk	<i>Cervus elaphus roosevelti</i>	none	none
Pygmy Shrew	<i>Sorex hoyi</i>	Monitor	none

Table 2. Priority Species not Federally or State listed and not governed by this ordinance.

Species	Scientific Name	State Status	Federal Status
Blue Grouse	<i>Dendragapus obscurus</i>	none	none
Band-tailed Pigeon	<i>Colmba fasciata</i>	none	none
Wood Duck	<i>Aix sponsa</i>	none	none
Hooded Merganser	<i>Lophodytes cucullatus</i>	none	none
Mountain Quail	<i>Oreortyx pictus</i>	none	none

C. DESIGNATION

The areas classified in Section B above as Fish and Wildlife Habitat Conservation Areas (FWHCA) are hereby designated under RCW 36.70A.060 and RCW 36.70A.170, as critical areas requiring proper land management to protect their value and functions.

D. ESTABLISHMENT OF BUFFERS ON FISH & WILDLIFE HABITAT CONSERVATION AREAS

1. Fish and Wildlife Habitat Conservation Areas shall have Buffers and Building Setbacks established. The standard buffer and setback requirements are shown in Table 3 and Table 4.
  - a. Buffers or setbacks shall be maintained along the perimeter of Fish and Wildlife Habitat Conservation Areas Buffer distances associated with streams shall be measured horizontally from the ordinary high water mark (OHWM) or channel migration zone (CMZ), whichever is greater. All other buffer distances shall be measured horizontally from the established FWHCA perimeter.
  - b. Buffers shall be retained in their natural condition, except as provided elsewhere in this ordinance.
  - c. Building Setback Lines: A building setback line of fifteen (15) feet is required from the edge of any buffer area.

2. *Provision for Decreasing Buffer:*
    - a. For major new development Mason County may decrease the buffer after consultation with the Washington State Department of Fish and Wildlife and the Skokomish Tribe, the Quinault Tribe and/or the Squaxin Island Tribe, and after review and approval of a Habitat Management Plan. The applicant shall prepare a Habitat Management Plan, which shall be required to support any FWHCA buffer decreases.
      - i. Without a public hearing, but with public notice as provided in section 15.01.010 of the Mason County Development Code, a particular FWHCA buffer width may be reduced by up to 25% of the horizontal distance in any portion of the buffer by using buffer averaging to maintain 100% of the buffer area under the standard buffer requirement with no reduction in overall habitat quality of the buffer.
      - ii. Any additional buffer reduction beyond the 25% or not using buffer averaging must go through the public review process provided in this Chapter (Section 17.01.120.L).
    - b. In order to allow a decrease in the buffer according to this subsection, the standards provided in subsection 17.01.110.I5 shall be applied.
  3. *Provision for Increasing Buffer:* Mason County may increase the buffer width on a case-by-case basis when a larger buffer is necessary to protect the structure, function and value of Fish & Wildlife Habitat Conservation Areas. The buffer shall be increased or other protections shall be provided in order to prevent a significant adverse environmental impact by a proposed project on those functions and values. This determination shall be supported by appropriate documentation to be obtained in consultation with the state of Washington and the Skokomish Tribe, Quinault Tribe and/or the Squaxin Island Tribe. Such determination shall be attached as a permit condition and shall demonstrate that:
    - a. A larger buffer is necessary to maintain viable populations or critical habitat of endangered, threatened, or sensitive species; or
    - b. The adjacent land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse impacts to the FWHCA; or
    - c. If the FWHCA contains variations in sensitivity, increasing the vegetation area widths will only be done as necessary to preserve the structure, function and value of the FWHCA.
    - d. If streams are located in ravines (side slopes of 33% or greater for 10 feet or greater in height as measured from OHWM to slope break), the minimum buffer width shall be the minimum buffer required for the stream type, or a buffer width which extends 25 feet beyond the top of the slope, whichever is greater.
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<b>Habitat Type</b>	<b>Buffer</b>	<b>Building Setback from Buffer</b>
Type 1 Stream	150 feet	15 feet
Type 2 Stream	150 feet	15 feet
Type 3 Stream	150 feet	15 feet
Type 4 Stream	100 feet	15 feet
Type 5 Stream	75 feet	15 feet
Commercial Shellfish Areas	See Section 17.01.110.G.1 a,b,c, 2g and J	15 feet
Kelp and Eelgrass Beds	See Section 17.01.110.G.1 a,b,c, 2g and J	15 feet
Baitfish Spawning Areas	See Section 17.01.110.G.1 a,b,c, 2g and J	15 feet
Terrestrial Animal Species	See Section 17.01.110.G.1 a,b,c, 2g and J	15 feet

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**Table 4. Development Standards for Salt Water Shorelines and Lakes 20 acres and greater which are defined as Type 1 Waters of the State.(See Note below)**

Type of Use	Mason County Shoreline Master Program Designation							
	Urban		Rural		Conservancy		Natural	
	Buffer	Building Setback from Buffer	Buffer	Building Setback from Buffer	Buffer	Building Setback from Buffer	Buffer	Building Setback from Buffer
Recreational Development:								
A. Campsites, picnic facilities and related structures	10 feet	15 feet	35 feet	15 feet	85 feet	15 feet	85 feet	15 feet
B. Access roads, restrooms	35 feet	15 feet	85 feet	15 feet	85 feet	15 feet	200 feet	x
C. Accessory Uses, structures, parking, commercial services	60 feet	15 feet	85 feet	15 feet	135 feet	15 feet	200 feet	X
Water Dependent Commercial Development <sup>1</sup>	0 feet	15 feet	35 feet	15 feet	35 feet	15 feet	200 feet	x
Non-Water Dependent Commercial Development	35 feet	15 feet	60 feet	15 feet	85 feet	15 feet	200 feet	x
Single Family Residential <sup>2</sup>	0 feet	15 feet	10 feet	15 feet	35 feet	15 feet	200 feet	x
Multi-Family Residential, 35 feet or less	15 feet	15 feet	35 feet	15 feet	200 feet	x	200 feet	x
Multi-Family Residential, over 35 feet	35 feet	15 feet	85 feet	15 feet	200 feet	x	200 feet	x

**NOTE:** "x" means that the use is not permitted in that designation. Designations and uses are as defined or applied in the Shoreline Master Program. In addition to the identified shoreline development standard buffers and setbacks, these projects and activities should not adversely impact water quality of receiving waters designated within the SMP. In addition, project design should meet or exceed any storm water design requirements pursuant to the Stormwater Management Ordinance # 141-97 to avoid an risk of decertification of shellfish beds or impacts to baitfish (herring, smelt, sand lance, candlefish ,etc.) spawning areas.

<sup>1</sup>The buffer may be reduced or eliminated to the extent necessary for the water dependent use. When the buffer is reduced or eliminated, the minimum building setbacks shall be 15 feet in Urban, 50 feet in Rural, and 50 feet in the Conservancy designations

<sup>2</sup> The building setback required may be adjusted as provided in the Shoreline Master Program, Chapter 7.16.080

E. STEWARDSHIP OPTIONS AND INCENTIVES

The purpose of this subsection is to encourage property owners to protect critical areas and their buffers and to reduce the burden on property owners from the application of the Resource Ordinance regulations. Options given below may be used individually, or they may be combined for greatest effect and benefit.

1. *Open Space Bonus:* Any property owner, except on land designated as Long-Term Commercial Forest Lands, Agricultural Resource Lands or Mineral Resource Lands, may apply for a performance subdivision as provided in Chapter 16.22, Mason County Code. Approval of such a subdivision provides for a development density bonus - that is, it allows more lots for development - in exchange for the protection of critical areas and meeting other design requirements. priority
  2. *Open Space Tax Assessment:* Any property owner may apply for current use property tax assessment for lands which are fish and wildlife habitat conservation areas or their buffers pursuant to RCW 84.34.
    - a. The land proposed for current use tax assessment shall be in a separate tract or a conservation easement.
    - b. Any person who owns an identified critical area or its associated buffer may place a conservation easement over that portion of the property. A conservation easement is a legal agreement a property owner makes to restrict the type and amount of development that may occur on a parcel. Each easement is tailored to the particular property and to the interest of the individual owner. The property owner grants an easement to an appropriate governmental agency or non-profit land trust. It provides significant property and federal income tax benefits to the property owner. The purpose of the easement shall be to preserve, protect, maintain, restore and limit future use of the property affected. The terms of the conservation easement may include prohibitions or restrictions on access and shall be approved by the property owner and the county.
  3. *Density Credit:* On lands containing FWHCAs or their buffers, the county shall allow a transfer of density for residential uses from the portion of the property containing the critical areas or buffers to that portion of the property that does not contain critical areas or buffers - that is, the property could be developed with the same number of lots it would have if critical areas were not present - provided that such transfer does not create any adverse impacts to the critical area that can not be adequately mitigated and provided that all other development regulations can be met.
  4. *Tax Re-assessment:* The owner of any property that has been affected by a permit decision by the county may request an immediate re-assessment by the Mason County Assessors Office, as provided by RCW Chapter 84.
  5. *Conservation Futures:* If approved by a vote of the people of Mason County, Mason County shall use conservation futures revenue to compensate affected property owners for the impact of protecting fish and wildlife through the purchase of conservation easements on impacted land or the impacted land.
  6. *Education:* The county encourages proper stewardship on land to provide benefits to fish and wildlife. The county shall provide educational information to the public through its sponsorship of the Washington State Cooperative Extension Service, the Mason Conservation District, or through the provision of informational materials in its offices.
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F. ACTIVITIES WHICH DO NOT REQUIRE A MASON ENVIRONMENTAL PERMIT

The following uses shall be allowed, within a FWHCA or its buffer to the extent that they are not prohibited by any other applicable law or ordinance, provided they are conducted so as to minimize any impact on the values and functions of the FWHMA, and provided they are consistent with any county approved Resource Ordinance Special Study (such as a Habitat Management Plan or Geotechnical Report) or any state or Federally approved management plan for an endangered, threatened, or sensitive species.

1. The remodel, repair, or change of use of an existing building within its existing footprint, plus or minus ten percent and provided that such expansion does not increase any intrusion into the aquatic management area or buffer. Reconstruction of structures destroyed by fire or other means, provided that completed application for reconstruction occurs within the previous structural footprint and within two years of the destruction. This provision is intended to apply only to that portion of a building which lies within a FWHCA or its buffer.
  2. The removal from buffer areas of noxious weeds designated in Chapter 17.10 RCW.
  3. Ongoing and existing activities (such a lawn and garden maintenance) including existing and ongoing agriculture.
  4. Buffer alterations for view corridors are allowed with emphasis placed on limbing and selective timber removal minimized to the extent possible. View corridor improvement actions which include the removal of trees larger than six inches in diameter at breast height will require Mason County approval.
  5. The removal of danger trees from buffers provided they are documented to pose a direct threat to property and life. Removal of danger trees shall be mitigated by planting a total of six (6) new trees seedlings each a minimum three years old and each of the same species as the removed tree or native species trees. If the replacement is judged to be unnecessary, Mason County may require the applicant place the downed danger tree within the buffer as habitat.
  6. The enhancement of a buffer by planting indigenous vegetation.
  7. The construction of trails which shall be unpaved when located in the buffer areas and elevated when located in wetlands, which are not intended for motorized use, and which are no wider than three (3) feet, unless additional width is necessary for safety along a precipice, steep hillside, or other hazardous area.
  8. Harvesting of Wild Crops: Harvesting wild crops which do not significantly affect the viability of the wild crop, the function of the Fish and Wildlife Habitat or regulated buffer (does not include tilling of soil or alteration of the Fish and Wildlife Habitat Conservation Area).
  9. Any of the General Exemptions authorized by Section 17.01.130.
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G. DEVELOPMENT AND ACTIVITIES REQUIRING A MASON ENVIRONMENTAL PERMIT  
IN FISH & WILDLIFE HABITAT CONSERVATION AREAS OR THEIR BUFFERS

A Mason Environmental Permit shall be obtained from the County, using the administrative review process in this Chapter, before undertaking the following activities in FWHCAs or their buffers. When a major new development is proposed within 1/4 mile of a listed species point location (den or nest site), as identified through the WDFW PHS data base; a preliminary review by a qualified fish and wildlife professional shall be provided to the county which shall determine if a FWHCA or its buffer is within the area of the development.

1. A Habitat Management Plan (HMP) shall be prepared for these activities:
  - a. The removal, excavation, grading, dumping, discharging or filling of any material unless part of a project which has been permitted pursuant to this section or for which no permit is required.
  - b. The destruction or alteration of FWHCA's or their buffers through clearing, harvesting, shading, intentional burning, vegetation removal (terrestrial, freshwater, or marine), or planting of vegetation that would alter the character of the FWHCA or buffer, unless part of a project which has been permitted pursuant to this section or for which no permit is required.
  - c. *New Residential Construction and Major New Development:* New residential construction and major new development is not permitted within FWHCA or its buffer, except for the activities listed in this subsection G, or as approved through a variance or reasonable use exception as provided in subsection K. The design and siting of these projects should not adversely impact water quality of receiving waters such as wetlands, streams, rivers, Hood Canal or Puget Sound. In addition, project design should meet or exceed any storm water design requirements to avoid any risk of decertification of shellfish beds or impacts to baitfish (herring, smelt, sand lance, candlefish ,etc.) spawning areas.
  - d. *Stream Relocation:* Stream relocations are discouraged except for the purpose of fisheries restoration and require a Habitat Management Plan. Stream relocation shall only be permitted when adhering to the following minimum performance standards and when consistent with Washington State Department of Fish and Wildlife Hydraulic Project Approval.
    - i. The channel, bank and buffer areas shall be replanted with native vegetation that replicates a natural, undisturbed riparian condition; and,
    - ii. For those shorelands and waters designated as Frequently Flooded Areas pursuant to Section 17.01.090, a professional engineer licensed in the State of Washington shall provide information demonstrating that the equivalent base flood storage volume and function will be maintained.
    - iii. Relocated stream channels shall be designed to meet or exceed the functions and values of the stream to be relocated as determined by the monitoring in the Habitat Management Plan.
  - e. *Bank Stabilization:* A stream channel and bank, bluff, and shoreline may be stabilized when naturally occurring earth movement threatens existing legal structures (structure is defined for this purpose as those requiring a Building Permit pursuant to the Uniform

Building Code), public improvements, unique natural resources, public health, safety or welfare, or the only feasible access to property, and, in the case of streams, when such stabilization results in maintenance of fish habitat, flood control and improved water quality. Bluff, bank and shoreline stabilization shall follow the standards of the Mason County Shoreline Master Program, Landslide Hazard Areas, and any floodplain management plan adopted by the Board of Commissioners.

Mason County may require that bank stabilization be designed by a professional engineer licensed in the State of Washington with demonstrated expertise in hydraulic actions of shorelines. For bank stabilization projects within FWHCAs, emphasis shall be placed on bioengineering solutions (vegetation versus hard surfaces) unless proved by the applicant to be infeasible. Bank stabilization projects may also require a Hydraulic Project Approval from the Washington Department of Fish and Wildlife and will be determined after consultation with WDFW.

- f. *Gravel Mining:* Gravel mining is discouraged within FWHCAs or their buffers, and it shall not be permitted if it causes significant adverse environmental impact, but it may be allowed following the review and approval of a Habitat Management Plan, including a detailed mining and reclamation plan (required by the Washington Department of Natural Resources).
  - g. *Conservation:* Any conservation, preservation, or enhancement projects to protect functions and values of the critical area system, including activities and mitigation allowed pursuant to the mitigation priorities identified in Section I.
  - h. *Outdoor Recreation, Education and Trails:* Activities and improvements which do not significantly affect the function of the Fish and Wildlife habitat or regulated buffer (including viewing structures, outdoor scientific or interpretive facilities, trails, hunting blinds, etc.) may be permitted in FWHCA or their buffers.
    - i. Trails and other facilities shall, to the extent feasible, be placed on existing road grades, utility corridors, or other such previously disturbed areas;
    - ii. Trails and other facilities shall be planned to minimize removal of trees, shrubs, snags and important wildlife habitat;
    - iii. Viewing platforms, interpretive centers, benches and access to them, shall be designed and located to minimize of impacts to wildlife, fish, or their habitat and/or critical characteristics of the affected conservation area.
    - iv. Trails, in general, shall be set back from streams so that there will be minimal impact to the stream from trail use or maintenance. Trails shall be constructed with pervious surfaces when feasible and trails within FWHCAs are not intended to be used by motorized vehicles.
  - i. *Road/Street Expansion & Construction:* Any private or public road or street expansion or construction which is allowed in a Fish and Wildlife Habitat Conservation Area or its buffer shall comply with the following minimum development standards:
    - i. No other reasonable or practicable alternative exists and the proposed road or street serves multiple properties whenever possible;
    - ii. Public and private roads should provide for other purposes, such as utility crossings, pedestrian or bicycle easements, viewing points, etc.; and,
    - iii. The road or street construction is the minimum necessary, as required by the Department of Public Works and Fire Marshall, and shall comply with the
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Department of Public Works' guidelines and Fire Code to provide public safety and mitigated storm water impacts. Minimum necessary provisions may include projected level of service requirements.

- iv. Construction time limits shall be determined in consultation with the Washington Department of Fish and Wildlife in order to ensure species and habitat protection.

2. A Habitat Management Plan (HMP) will not be required the following activities which comply with the development standards below, except as specified:

a. *Stream Crossings:* All stream crossings should be discouraged and alternatives should be explored. Any private or public road expansion or construction which is proposed and must cross streams classified within this Ordinance, shall comply with the following minimum development standards:

- i. Bridges or arch/bottomless culverts shall be required for all Type 1, 2 and 3 streams (which have anadromous fish habitat). Fish passage shall be provided, if necessary to address man-made obstructions on site. Other alternatives may be allowed upon a showing that, for the site under review, the alternatives would be less disruptive to the habitat or that the necessary building foundations were not feasible. Submittal of a Habitat Management Plan which demonstrates that the alternatives would not result in significant impacts to the Fish and Wildlife Habitat Conservation Area (FWHCA) may be required if the information necessary to determine if the permit requirements contained in subsection I. 5. have been met. The plan must demonstrate that salmon habitat will be replaced at a minimum 1:1 ratio.
- ii. Crossings shall not occur in salmonid spawning areas unless no other reasonable crossing site exists. For new development proposals, if existing crossings are determined to adversely impact salmon spawning or passage areas, new or upgraded crossings shall be located as determined necessary through coordination with the Washington State Department of Fish and Wildlife and the Skokomish Tribe, the Quinault Tribe and/or the Squaxin Island Tribe;
- iii. Bridge piers or abutments shall not be placed either within the floodway or between the ordinary, high water marks unless no other reasonable alternative placement exists;
- iv. All stream crossings shall be required to pass 100 year projected flood flows, even in non-fish bearing Type 4 and 5 streams. In addition, crossings for Type 1, 2, or 3 should allow for downstream transport of large woody debris;
- v. Crossings shall serve multiple properties whenever possible.
- vi. Where there is no reasonable alternative to providing a culvert, the culvert shall be the minimum length necessary to accommodate the permitted activity.

b. *Land Divisions:* In order to implement the purpose of this section and the County Comprehensive Plan, to accommodate design innovation, creativity, and flexibility, and to achieve a level of environmental protection that would not be possible by typical lot-by-lot development, the use of the Performance Subdivision process (Title 16 Mason County Subdivision Ordinance) is strongly encouraged. Divisions of land (Subdivisions, Short Subdivisions, Large Lot Subdivisions) shall comply with the following development standards:

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- i. In order to avoid the creation of non-conforming lots, each new lot shall contain at least one building site that meets the requirements of this Ordinance, including buffer requirements for habitat conservation areas. This site must also have access and a sewage disposal system location that are suitable for development and do not adversely impact the FWHCA.
  - ii. After preliminary approval and prior to final land division approval, the common boundary between a required buffer and the adjacent property shall be identified using appropriate signs. In lieu of signs, alternative methods of buffer identification may be approved when such methods (fences or enhanced native planting) are determined by Mason County to provide adequate identification to the buffer and the FWHCA.
  - iii. Buffer areas shall be dedicated as permanent open space tracts, functioning as FWHCA buffers.
  - iv. If development is proposed within a FWHCA or its buffer, a HMP is required.
- c. *Agricultural Restrictions:* In all development proposals which would permit introduction of agriculture adjacent to FWHCA, damage to the area shall be minimized by the following methods:
- i. Implementation of the farm conservation plan agreed upon by the Mason Conservation District and the applicant, to protect the water quality of the FWHCA. The conversion of wood lots to other agricultural uses will require such a farm plan. (The farm conservation plan is not in lieu of a HMP.); and/or,
  - ii. Fencing located not closer than the outer buffer edge.
  - iii. If development is proposed within a FWHCA or its buffer, a HMP is required.

A Mason Environmental Permit is not required for those agricultural activities defined in 17.01.070 (Wetlands) which could also occur in a FWHCA.

- d. *Utilities:* Placement of utilities within designated Fish and Wildlife Habitat Conservation Areas may be allowed pursuant to the following standards:
- i. Construction of utilities may be permitted in FWHCA's or their buffers, only when no practicable or reasonable alternative location is available and the utility corridor meets the requirements for installation, replacement of vegetation and maintenance outlined below. Utilities are encouraged to follow existing or permitted roads where possible.
  - ii. Construction of wells, sewer lines, water lines, or on-site sewage systems are not permitted in FWHCA's but may be permitted in a buffer area when the applicant demonstrates it is necessary to meet State and/or local health code requirements; there are no other practicable alternatives available; and construction meets the requirement of this section. Joint use of the sewer or water utility corridor by other utilities may be allowed. Encroachment of more than 50 feet into the buffer will require a HMP.
  - iii. New Utility Corridors shall not be allowed in FWHCA's with known locations of federal or state listed endangered, threatened or sensitive species, heron rookeries or nesting sites of raptors which are listed as state candidate or state monitor, except in those circumstances where an approved Habitat Management Plan is in place.
  - iv. Utility corridor construction and maintenance shall protect the environment of Fish and Wildlife Habitat Conservation Areas and their buffers.
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- (1) New utility corridors shall be aligned when possible to avoid cutting trees greater than 12 inches in diameter at breast height (four and one-half feet) measured on the uphill side.
    - (2) New utility corridors shall be revegetated with appropriate native vegetation at not less than pre-construction vegetation densities or greater, immediately upon completion of construction or as soon thereafter as possible due to seasonal growing constraints. The utility shall ensure that such vegetation survives for a three-year period;
  - v. Utility towers should be painted with brush, pad or roller and should not be sandblasted or spray painted, nor shall lead base paints be used.
  - e. *Forest Practices, Class IV General* : Timber harvesting with associated development activity involving land conversions from Forest Use, or otherwise meeting the DNR definition as a Class IV General application, shall comply with the provisions of this Ordinance including the maintenance of buffers, where required. If harvest or development is proposed within a FWHCA or its buffer, a HMP is required.
  - f. *Mobile Home or RV Parks*: new or expanded mobile home or RV parks shall comply with the following development standards:
    - i. Lots or spaces and other improved areas shall be outside of FWHCA and its buffer. Roads, utilities, and trails may encroach on the buffer or FWHCA as provided elsewhere in this section. The project as a whole shall not adversely impact the FWHCA.
    - ii. The common boundary between a required buffer and the adjacent property shall be identified using signs or alternative methods determined Mason County to provide adequate identification to the buffer and the FWHCA.
    - iii. Buffer areas shall be designated as open space and preserved to the extent possible.
    - iv. If development is proposed within a FWHCA or its buffer, a HMP is required.
  - g. *Marine Activities*: All activities in tidal/saltwater submerged lands shall avoid impacts to eelgrass and kelp beds to the maximum extent. If eel grass or kelp is known or suspected in the vicinity, then an aquatic vegetation survey is required to identify the location of eelgrass or kelp. Unavoidable impacts to these sensitive marine areas shall be addressed in a Habitat Management Plan that presents an acceptable mitigation program.
  - h. *Chemical Application or Storage*: Chemical applications are not permitted within FWHCAs unless expressly approved as part of a farm plan, forest practices application or for the control of invasive or noxious plant species. In cases where approved chemical applications occur as part of a forest practices application or farm plan, proper reporting procedures shall be followed. Chemical application consistent with state and Federal regulation does not require a Mason Environmental Permit, but it does need to comply with the standards included herein. Chemical storage shall not be permitted within a FWHCA or its buffer.
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H. HABITATS AND SPECIES OF LOCAL IMPORTANCE -- LISTING & DELISTING  
IMPORTANT HABITATS & SPECIES

1. Locally significant species are those which are not state listed as threatened, endangered or sensitive, but which live in Mason County, and the species is special importance to the citizens of Mason County for cultural or historical reasons, or the county is a critically significant portion of their range. Mason County is a critically significant portion of the range of a species when any of the following conditions apply:
    - a. The species would be extirpated from the state of Washington if it is extirpated from Mason County; or
    - b. The species' population would be divided into non-viable populations if it is extirpated from Mason County, where the isolated populations are critical to the survival of the species; or
    - c. The species is listed as a state monitor or candidate species and Mason County is a significant portion of the range of the species and significant reduction or extirpation of the species from Mason County would result in changing the status of the species to that of state endangered, threatened, or sensitive.
  2. Locally significant habitats are those habitats in which significant species live, or which is of special importance to the citizens of Mason County because they have been determined to contribute to the variety of habitats or diversity of species.
  3. Regulations prepared to protect locally important habitat and species shall consider and, where possible, support the economic development of Mason County and the use of resource lands and resources industry, enhance the affordability of housing, and otherwise promote the achievement of other goals in the Mason County Comprehensive Plan.
  4. The process for listing or delisting an important habitat or species in Mason County shall be an amendment to this section of the Interim Resource Ordinance. This action may be initiated by request of the State Department of Fish & Wildlife, the Skokomish Tribe, the Quinault Tribe and/or the Squaxin Island Tribe, County staff, or interested citizens. Any such request shall be in writing and shall include:
    - a. The common and scientific names of for species under consideration;
    - b. Habitat location on a map (scale 1:24,000);
    - c. The reasons for the request, including:
      - (1) declining or increasing population,
      - (2) sensitivity to habitat manipulation.
    - d. Habitat management recommendations, including potential uses and restrictions of the habitat areas, seasonally sensitive areas, and other guidelines necessary for the protection of the nominated species.
    - e. Other supporting documentation, including an analysis which weighs the non-environmental impacts of the proposal, addressing economics and land use, against the benefits of the proposed listing.
  5. The written request and supporting data may be evaluated by a qualified wildlife biologist or equivalent professional selected by the County.
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6. In addition to the above, the County shall consider the following factors when evaluating the request:
  - a. The specificity and scientific validity of the information about the nominated species needs and behaviors;
  - b. The sufficiency of habitat areas currently available to sustain the species over time; and
  - c. The versatility of the proposed habitat area to sustain species other than the one being nominated for local species of importance designation.

II. APPLICATION REVIEW PROCESS

1. Upon the receipt of an application for development, the Director shall determine whether the requirements of this section apply. The Director may consult with affected Tribes or state agencies in determining that the subject property is shown to be documented habitat for federal or state listed endangered, threatened or sensitive species.
  2. Boundaries: The procedures for formal determination of regulated Fish and Wildlife Habitat Conservation Area boundaries are as follows:
    - a. The FWHCA boundary for streams shall be the Ordinary High Water Mark (OHWM) or channel migration zone (CMZ).
    - b. The FWHCA boundary for marine shorelines and lakes greater than 20 acres shall be the OHWM.
    - c. The boundary of all other FWHCA's may be determined using published databases, resource agency personnel, consultation with the Skokomish Tribe, Quinault and/or the Squaxin Island Tribe, and/or by a qualified environmental professional based upon site specific assessment and species presence.
  3. Permit information: When a Mason Environmental Permit is required under this section, it is the applicant's responsibility to provide all necessary and accurate data to the County for its review. This information will include a field delineation by a qualified professional (biologist, hydrologist, soil scientist, and/or other expert as circumstances warrant). Formal boundary determination is the responsibility of the County.
    - a. When sufficient information exists from the County's natural resource inventory or other sources, Mason County may waive the requirement of a field delineation, provided a qualified professional has reviewed and approved such information as reliable.
    - b. When requested by the applicant, or an affected party, the County may perform the data collection, at a fee, in lieu of direct action by the applicant.
    - c. Where Mason County performs a formal determination at the request of the applicant pursuant to subsection b above, it shall be considered a final determination unless contested by the applicant or other affected party.
    - d. Where the applicant has provided the information in support of a permit for a formal determination by the County of the Fish and Wildlife Habitat Conservation Area boundary, Mason County shall verify the accuracy of, and may render adjustments to, the boundary determination in compliance with the provisions of this ordinance.
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4. When a Mason Environmental Permit is required, the permit shall be obtained from the County using the administrative review process in this chapter prior to undertaking regulated activities in a FWHCA or its buffer.
5. In addition to any other requirements, permits shall only be granted if:
  - a. The proposed activity avoids adverse impacts to regulated FWHCA, or takes affirmative and appropriate measures to compensate for impacts. Mitigation sequencing should follow the avoidance, reduction, and compensation analysis, in that order of preference, and
  - b. The proposed activity is consistent with an approved Habitat Management Plan, if such a plan is prepared; or
  - c. The proposed activity is approved as a variance or reasonable use exception under this chapter, if applicable.
6. FWHCA permits shall not be effective and no activity thereunder shall be allowed during the time provided to file and process a permit appeal.

J. HABITAT MANAGEMENT PLAN (HMP) REQUIREMENTS

The following describes the requirements of a Habitat Management Plan as discussed in this ordinance.

A HMP shall consider measures to preserve and protect the wildlife habitat and shall consider effects of land use intensity, buffers, setbacks, impervious surfaces, erosion control and retention of natural vegetation on the functions and values of the FWHCA.

This report shall identify how the impacts from the proposed use or activity will be avoided or mitigated through habitat mitigation which meets the purposes of this ordinance. The most recent publication of the *Management Recommendations for Washington's Priority Habitats and Species*, as now or hereafter amended, and consultation with a habitat biologist from the Washington State Department of Fish and Wildlife and with the Skokomish Tribe, the Quinault Tribe and/or the Squaxin Island Tribe and shall be the basis for the report. In the case of bald eagles, an approved Bald Eagle Management Plan by the Washington State Department of Fish and Wildlife meets the requirements for a HMP.

Prior to submittal to the County, the Habitat Management Plan shall be reviewed and approved for adequacy by a qualified fish and wildlife professional. It shall contain but not be limited to the following information:

1. A map(s) prepared at an easily readable scale, showing:
  - a. The location of the proposed site;
  - b. The relationship of the site to surrounding topographic and built features;
  - c. The nature and density of the proposed use or activity;
  - d. Proposed building locations and sizes;
  - e. A legend which includes:
    - (1) A complete and accurate legal description and total acreage of the parcel;
    - (2) Title, scale, date, and north arrow;
    - (3) Certification by a qualified biologist.

- f. Existing structures and landscape features including the name and location of all water bodies.
  - g. Location of listed species and their critical habitat areas.
2. A report which contains:
- a. A description of the nature, density and intensity of the proposed use or activity in sufficient detail to allow analysis of such land use change upon identified wildlife habitat;
  - b. An analysis of the effect of the proposed use or activity upon fish and wildlife species and their habitats listed in this ordinance;
  - c. A plan which explains how the applicant will avoid, minimize or mitigate adverse impacts to fish and/or wildlife habitats created by the proposed use or activity. This explanation must address the management goals, policies and recommendations presented in this ordinance. Monitoring of mitigation shall be required when appropriate or necessary to ensure effectiveness. Mitigation measures within the plan may include, but are not limited to:
    - (1) Establishment of buffer areas;
    - (2) Preservation of critically important plants and trees;
    - (3) Limitation of access to habitat area;
    - (4) Seasonal restriction of construction activities;
    - (5) Clustering of development and preservation of open space;
    - (6) Sign marking habitats or habitat buffer areas;
    - (7) Title notice or plat dedication warning statements;
    - (8) Conservation easements.
3. Review comments by a habitat biologist from the Washington State Department of Fish and Wildlife (WDFW) and the Skokomish Tribe, the Quinault Tribe and/or the Squaxin Island Tribe shall be included in the HMP when available. If the HMP recommends mitigation involving federally listed threatened or endangered species, migratory waterfowl or wetlands, the U.S. Fish and Wildlife Service shall receive a copy of the draft HMP and their review comments shall be included in the final report.

This is provided that the Washington State Department of Fish and Wildlife, the Skokomish Tribe, the Quinault Tribe and/or the Squaxin Island Tribe and, if required, the U.S. Fish and Wildlife Service respond in writing to Mason County with review comments or a request for additional information within 28 days from the date of issuance of a draft habitat management plan. If review comments or a request for additional information is not received in the prescribed time frame, the tribal, state and/or federal review comments on the habitat management plan shall not be required for completion of the HMP. Mason County shall have the authority to approve Habitat Management Plans or require additional information.

**K. RELIEF FROM THE REQUIREMENTS IN THIS SECTION**

Specific relief from the requirements of this section may be obtained on a case-by-case basis by applying for a variance (Section 17.01.150) or a reasonable use exception (Section 17.01.120).

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**AMENDMENTS TO SECTION 17.01.240 DEFINITIONS**

**REVISED DEFINITION TO REPLACE THE EXISTING DEFINITION:**

**Repair or Maintenance:** An activity that restores the character, scope, size, and design of a serviceable area, structure, or land use to its previously authorized and undamaged condition. Activities that change the character, size, or scope of a project beyond the original design and drain, dredge, fill, flood, or otherwise alter additional designated critical areas or have a significant adverse impact on the critical areas are not included in this definition.

**NEW DEFINITIONS TO BE ADDED:**

**Qualified Fish and Wildlife Professional:** A person with experience and training in fish and wildlife issues; who has experience analyzing fish and wildlife habitats and their functions and values, impacts to the habitats, and mitigation; and who derives his/her livelihood from employment as a wildlife biologist, habitat management consultant, or fisheries biologist, as appropriate to the type of critical area under review. Qualifications include:

- A. Bachelor of Science or Bachelor of Arts or equivalent degree in biology, environmental studies, fisheries, wildlife or related field, and two years of related work experience; or
- B. Five years of related work experience.

**Channel Migration Zone (CMZ):** A Channel Migration Zone is defined by the lateral extent of active channel movement along a stream reach over the past 100 years. Evidence of active movement over the 100 year time frame can be inferred from aerial photos or from specific channel and valley bottom characteristics. Also, the time span typically represents the time it takes to grow mature trees that can provide functional large woody debris to streams. A CMZ is not typically present if the valley width is generally less than two bankfull widths, is confined by terraces, no current or historical aerial photographic evidence exists of significant channel movement, and there is no field evidence of secondary channels with recent scour from stream flow or progressive bank erosion at meander bends.

**Mason County Board of County Commissioners**  
**August 29, 2000**

**FINDINGS OF FACT**

**1.**

Under consideration is a proposal to amend the Mason County Resource Ordinance regulations intended to designate and protect critical fish and wildlife habitat areas. The changes are proposed to update the county regulations and to address the concerns of the Western Washington Growth Management Hearings Board (Hearings Board) in case #95-2-0073.

**2.**

Public participation included: Planning Commission public hearings on August 7th and 21st, 2000, and Board of County Commissioners public hearings August 22nd and 29th, 2000. In addition, public participation was provided through the SEPA review process and other written public comment.

**3.**

**DISCUSSION**

During Mason County's public review process that lead to the adoption of Ordinance #118-99, the county received a substantial amount of scientific information as well as expressions of opinion and preference on the issue of stream buffers and other fish and wildlife critical area issues. Much of this dealt with anadromous fish and the needs of the fish for upland habitat protection near streams and waterways. After the March 22, 2000, order of the Hearings Board remanded that ordinance, the county requested Applied Environmental Services, Inc (AES) to review the existing county regulations, the order, and the best available science (BAS) and to prepare for consideration amendments to the county regulations to address the issues in the order.

The findings of AES and their recommendations are contained in a letter dated August 7, 2000, and in their comments at the four public hearings they attended in August. It is important to reiterate the point AES makes in their letter, that the science considered by the county is cumulative, and that previously cited information was considered in making the new recommendations and decisions.

Additional comment was received by the county as follows:

**WDFW**

The Washington Department of Fish and Wildlife (WDFW) commented in a letter dated August 17, 2000, based on the August 3, 2000 draft. The county endeavored to coordinate with WDFW and appreciates their comments and their willingness to assist the county even though the time

lines were so short. Discussions were held between staff of the WDFW, the Skokomish Tribe, and the Mason County Planning Department August 25th in an attempt to resolve concerns contained in the WDFW letter and other concerns held by the Skokomish Tribe. Many of the concerns were resolved by earlier changes to the draft or through the opportunity to explain in detail how concerns were addressed elsewhere in the Resource Ordinance or other regulations. Other concerns were resolved in changes made to the August 23, 2000, draft as discussed in the Planning Department's August 29, 2000 memo.

#### CTED

The Department of Community, Trade and Economic Development (DCTED, now apparently the Office of Community Development, OCD) commented in a letter dated August 22, 2000. The county appreciates the OCD acknowledgment that the proper time to amend the county's Shoreline Master Program (SMP) is after the Washington Department of Ecology (DOE) finalizes its model ordinance. The county met with the DOE earlier to explore the possibility of amending its SMP and was assured that the SMP was in compliance with DOE requirements. DOE recommended that the county not attempt to amend its SMP until after the new rules were in place. On this basis, the county sought other means to meet the concerns of the Hearings Board as stated in the order. The August 7, 2000 letter from AES explains their recommended response.

The county was able to respond to two other of the suggestions for future action made by OCD. It proposed language to define the qualifications of a qualified professional, and it added a purpose statement that includes consistency with and implementation of the Comprehensive Plan.

In response to the OCD concerns with the proposal: the county notes that the record of the action does include the sources of best available science considered by the county; that appropriate definitions were added after the draft reviewed by OCD; and that the stream buffers OCD proposes are the 1997 recommendation of Knutson and Naef, which were heavily criticized by AES. The record established by the county includes much additional scientific information and the expert testimony on that total record by AES.

#### Skokomish Tribe

The county appreciates the tribe's acknowledgment that the SMP issues should be addressed in the future and their willingness to assist with such an effort. However, we note that the buffers that are established in the proposal are not those included in the SMP. The SMP has no buffer requirements such as those established in Table 4. The requirements in Table 4, and elsewhere in the proposal, supplement the SMP as noted by AES.

The county final draft includes the Roosevelt elk for protection.

#### Squaxin Island Tribe

The county appreciates the effort of the tribe to review the draft. As with the WDFW letter, we feel that many of the concerns were either addressed in later drafts or were addressed in the draft

as could be explained to the satisfaction of the tribe, had there been an opportunity to do so.

The county had a substantial record when it acted to adopt Ordinance 118-99. After the order of the Hearings Board, it has had to revisit and supplement that record. Many of the features of that ordinance remain in this proposal for the same reasons they were drafted. This analysis focuses on what is proposed to be changed. It may be useful, however, to repeat some of the important points discussed previously.

The county's overall strategy for the aquatic management area is one of protection and enhancement. Mason County is acting in partnership with volunteers, tribes, conservation districts, the state, other jurisdictions and the Federal government to enhance the environment, particularly for anadromous fish.

Protection includes the regulatory and permitting requirements, educational programs, pursuit of violations, and continuing investigation of the issues related to environmental protection and habitat management. The regulatory requirements are established in this ordinance and other related regulations. The continuing education of the public is beneficial in building support for environmental protection, in reducing unintentional violation of regulations, and in identifying possible violations. The county helps sponsor educational operations of both the Washington State Cooperative Extension Service and the Mason Conservation District, as well as providing information in its offices. Enforcement against violations of the Resource Ordinance, including the fish and wildlife habitat conservation area regulations, are pursued through Section 17.01.200 of the Resource Ordinance. The county Department of Planning has a position dedicated principally to regulation enforcement. The county also continues to work to generate new information and understanding. The county is actively involved with on-going watershed based planning in each of its Watershed Resource Inventory Areas. Mason County is acting as lead agency in the two watersheds that are mostly contained in the county. Mason County has also initiated a refugia study to determine the most critical habitat areas for salmon in the county.

The county recognizes that more will be learned about specific conditions in Mason County and that the related science can change. The effectiveness of the plan and its implementing regulations will be reviewed no later than 2002, and at least every five years thereafter as required by RCW 36.70A.130 (1). In addition, the county has established a policy of considering amendments each year, and any significant new information or change in scientific knowledge can be incorporated in the regulations.

The county also notes that the fish and wildlife regulation does not stand alone in protecting the functions and values of the critical fish and wildlife habitat areas. Many of the functions and values provided by the buffer to the stream, for instance, are also addressed by other regulations. The most directly related of these include: Water quality and water flow protections from the Mason County Storm water Management Ordinance #141-97, which uses the Department of Ecology Storm water Management Manual and requires the use of Best Management Practices, as defined

in the Manual. Water quality, erosion, mass wasting, siltation issues are also addressed in the Landslide Hazard Area and Erosion Hazard Area provisions of the Mason County Resource Ordinance, Section 17.01.100 and 17.01.104, respectively. The Wetlands section of the Resource Ordinance provides additional protection to wetlands that often make up important parts of the riparian systems and affect water quality, water quantity, and provided additional valuable habitat areas in the wetlands and their buffers. Health Department regulations governing sewage and solid waste protect water quality, as do critical aquifer recharge area regulations. Generally, these regulations prevent, minimize, or mitigate impacts from upland development which may not even be near the aquatic areas. While the geologically hazardous area regulations are also under review by the Hearings Board, the public and the county can be assured that the Hearings Board will not find these regulations in compliance with the GMA until they effectively incorporate BAS in adequately protecting the resources.

**Findings**

**A.**

Mason County finds that the proposed regulations protect locally important fish and wildlife species and associated habitats by establish protected fish and wildlife habitat conservation areas and appropriate buffers designed to protect the functions and values of those critical areas.

**B.**

Mason County finds that the proposed buffers together with other requirements provide adequate protection of value and function for fish and wildlife habitat conservation areas. That these protections incorporate BAS both in the development of the regulations and in site specific decisions during the development review process.

**C.**

Mason Count finds that, where standard buffers have been employed in the regulations, these buffers might be either increased or reduced according to a specified process which includes decision criteria, BAS, and consultation with resource agencies and tribes with local information.

**D.**

Mason County finds that the level of protection, exemptions, permitted uses, and provisions for flexibility in the regulations harmonize the goals of the GMA by providing for the advancement of other goals of the GMA together with an appropriate level of protection to the functions and values of the critical area.

**E.**

Mason County finds that these amendments and the provisions of this Section 17.01.110 of the Resource Ordinance are only a part the implementation of GMA and county goals for environmental protection. The attempt to balance the environmental protection goal with other goals is an on-going effort constantly shifted by new information, science, and priorities.

4.

A determination of non-significance (DNS) was issued by Mason County on August 3, 2000. After review of the comments received and consideration of the changes proposed since that issuance, it was determined by the Department of Community Development that no significant adverse impacts are expected from this action.

5.

The Board finds that the amendments are consistent with the county-wide planning policies.

6.

**Growth Management Hearings Board Compliance - Discussion**

The original order of the Growth Management Hearings Board (GMHB), Case #95-2-0073, expressed concern over the lack of protection for type 5 waters, with respect to fish and wildlife habitat protection. Through the course of subsequent procedures, the GMHB issued a stipulated order, February 10, 1999, in which several areas for improvement were identified. Ordinance 118-99 was adopted in an attempt to address those issues, but the March 22, 2000 order of the Hearings Board listed several issue areas which were not compliance with the GMA.

1. Buffers

There are substantial changes to the buffers and provisions for changes to buffers in the new draft. These are discussed elsewhere in the findings and referenced documents.

2. Aquatic and Terrestrial Management Areas

A revision would allow 28 days for comments to be made by agencies with expertise. The Aquatic Management Areas and Terrestrial Management Areas were combined. Habitat management plans are required for significant activities where standard conditions may not be adequate to address impacts.

3. Fish and Wildlife Species Designation

Best available science and the recommendations of agencies with expertise was used in determining species of local importance. In addition to candidate species, monitor species, species of concern, and some species with no state or federal listing but identified as of local importance are listed and protected in the proposal.

4. Internal Consistency - Aquatic and Terrestrial Management Areas

The proposal clarifies that the WDFW Priority Habitats and Species Program database is a guiding tool for wildlife species regulations and that the most current Management Recommendations for Washington's Priority Habitats and Species publication, together with consultation with the WDFW and tribes, will form the basis for a Habitat Management Plan. Analysis and protection, however, will be of those species and their habitats listed in the ordinance.



5. Shellfish Areas Protection

The BAS as set forth by consultant Wright was included and appropriate changes made.

**Compliance - Findings**

The Board finds that the proposal addresses the orders of the Growth Management Hearings Board by using BAS in designating species and habitats of local importance and in establishing clear and enforceable protections, standards, permit review processes for fish and wildlife habitat areas.

10.

The Board finds that the proposed amendments balance the goals of the Mason County comprehensive plan and the goals of the Growth Management Act.

**The preceding findings** summarize the reasons for the adoption of the proposed changes to the Mason County Resource Ordinance.



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Chair, Mason County Board of County Commissioners

9-5-00

Date