

**ORDINANCE NUMBER 32 - 04**

**AMENDMENTS TO THE MASON COUNTY DEVELOPMENT REGULATIONS,  
MASON COUNTY RESOURCE ORDINANCE, AND  
TITLE 15 DEVELOPMENT CODE STANDARDS**

AN ORDINANCE amending the Mason County Development Regulations, regarding Inholding Lands development standards, and enforcement and variance procedures; amending the Mason County Resource Ordinance regarding exemption for maintenance activities, and enforcement and variance procedures; and amending Title 15 Development Code regarding standard enforcement and variance procedures, under the authority of Chapters 36.70 and 36.70A RCW.

WHEREAS, Mason County Development Regulations (adopted as Ordinance No. 82-96) was amended by Ordinance No. 65-03 on July 1, 2003, and amended by Ordinance No. 24-04 on April 6, 2004. The Mason County Code Title 8 Mason County Resource Ordinance was amended by Ordinance No. 59-03 on June 10, 2003, and amended by Ordinance No. 24-04 on April 6, 2004. The Mason County Code Title 15 Mason County Development Code was last amended by Ordinance No. 80-03 on July 22, 2003.

WHEREAS, the Department of Community Development has prepared revisions to these three implementing ordinances by which the Department of Community Development can evaluate and approve a proposed development that is conforming with clear development standards and is not in conflict with existing land uses and property rights;

WHEREAS, at the February 9 and February 23, 2004 Mason County Planning Advisory Commission meetings, the proposed ordinance revisions in the Development Regulations, Resource Ordinance, and Development Code were presented, and the Planning Advisory Commission members evaluated and passed motions to recommend approval of these proposed revisions;

WHEREAS, the Board of County Commissioners held a public hearing about the proposed revisions on April 13, 2004, to consider the recommendations of the Planning Advisory Commission, and the testimony of the Mason County Department of Community Development and citizens on the proposed revisions to the Mason County Development Regulations, Resource Ordinance, and Development Code; and

WHEREAS, based upon the staff report, text of the proposed revisions, and public testimony, the Mason County Board of Commissioners has approved findings of fact to support its decision as ATTACHMENT A.

Ordinance No. 32 - 04 (continued)

NOW, THEREFORE, BE IT HEREBY ORDAINED, that the Mason County Board of Commissioners hereby approves and ADOPTS the revisions that amend the Mason County Development Regulations, regarding Inholding Lands development standards, and enforcement and variance procedures; amend the Mason County Resource Ordinance regarding exemption for maintenance activities, and enforcement and variance procedures; and amend Title 15 Development Code regarding standard enforcement and variance procedures., as described by ATTACHMENT B.

DATED this 20th day of April 2004.

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

ATTEST:

Rebecca Rogers  
Clerk of the Board

Wesley E. Johnson  
Wesley E. Johnson, CHAIRPERSON

APPROVED AS TO FORM:

Don Meredith DPA  
Prosecuting Attorney

Herb Baze  
Herb Baze, COMMISSIONER

Jayni Kamin  
Jayni Kamin, COMMISSIONER

**AN ORDINANCE AMENDING  
THE MASON COUNTY DEVELOPMENT REGULATIONS,  
MASON COUNTY RESOURCE ORDINANCE, AND  
TITLE 15 DEVELOPMENT CODE STANDARDS**

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**MASON COUNTY BOARD OF COMMISSIONERS  
April 13, 2004**

**FINDINGS OF FACT**

1. Under consideration is the proposed ordinance to amend the Mason County Development Regulations, regarding Inholding Lands development standards, and enforcement and variance procedures; to amend the Mason County Resource Ordinance regarding exemption for maintenance activities, and enforcement and variance procedures; and to amend Title 15 Development Code regarding standard enforcement and variance procedures.
2. The Mason County Development Regulations set forth land use designations and development standards for proposed projects in Mason County; these standards include zoning districts, permitted uses, and dimensional requirements for land divisions. The Mason County Resource Ordinance designates resource lands and critical areas and describes the standards and review procedures for proposed development in Mason County. The Mason County Development Code sets forth procedures for the permitting of proposed development and enforcement of implementing standards.
3. The Mason County Department of Community Development staff have presented proposed set of revisions to these ordinances which establish or clarify evaluation standards for proposed development.
4. At the February 9 and 23, 2004 Mason County Planning Advisory Commission meetings, the proposed ordinance revisions in the Development Regulations, Resource Ordinance, and Development Code were presented, and the Planning Advisory Commission members evaluated through discussions with staff and the public and, then passed motions to recommend approval of these proposed ordinance changes.
5. At the April 13, 2004 public hearing, the Board of County Commissioners considered the recommendations of the Planning Advisory Commission, and the testimony of the Mason County Department of Community Development and citizens regarding the proposed revisions to the Mason County Development Regulations, Resource Ordinance, and Development Code.

FROM THE PRECEDING FINDINGS, and based upon the staff report, text of the proposed revisions, and public testimony, the Mason County Board of Commissioners adopts a motion to

approve the proposed revisions that amend the Mason County Development Regulations, regarding Inholding Lands development standards, and enforcement and variance procedures; amend the Mason County Resource Ordinance regarding exemption for maintenance activities, and enforcement and variance procedures; and amend Title 15 Development Code regarding standard enforcement and variance procedures.

Wesley E. Johnson

4/20/04

Chair, Mason County Board of Commissioners

Date

REVISIONS TO  
COMPREHENSIVE PLAN DEVELOPMENT STANDARDS  
APRIL 13, 2004

Note that the proposed text is *italics*, new text is underlined and that deleted text is ~~struck out~~.

MASON COUNTY RESOURCE ORDINANCE

17.01.062     INHOLDING LANDS

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D.     DEVELOPMENT STANDARDS

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

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4.     *a) Other Development Standards.*

1.     *Front yard setback: 25 feet*
2.     *Side and rear yard setbacks: Side and rear yard setbacks for the residential dwelling is 20 feet, for accessory buildings shall be 20 feet, for accessory structures used for agricultural purposes or home occupations shall be 50 feet, and for buildings of non-residential land uses shall be 50 feet.*
3.     *Floor Area Ratio: 1:20, except for fire stations.*
4.     *Size: 3,000 sq. feet maximum for non-agricultural and accessory buildings except for dwellings and agricultural buildings.*
5.     *Height: 35 feet except for agricultural buildings, cell towers, antennas, or water tanks.*

*b) Water supply.* In-holding properties shall meet all Water Supply standards as required under Section 17.01.068.

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MASON COUNTY RESOURCE ORDINANCE

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17.01.110     FISH AND WILDLIFE HABITAT CONSERVATION AREAS

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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. *For those projects requiring the preparation of a Biological Assessment (BA) or Biological Evaluation (BE) as part of the application for a Corps of Engineers permit, the approved BA or BE meets the requirements of a HMP, and the contents of the BA or BE meet the standards listed in J2.*

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#### **17.01.130 GENERAL EXEMPTIONS**

The following activities shall be exempt from the provisions of this ordinance:

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- F. Maintenance, operation, reconstruction of, or addition to, existing roads, streets, and driveways, provided that reconstruction of, or addition to, any such facilities does not extend outside the previously disturbed area.

*For activities outside of the right of way or previously disturbed areas and following the discussion of the proposed work with the Director or designee, maintenance of public roads conducted using the best management practices contained in the "Regional Road Maintenance ESA Program Guidelines" or similar programmatic guidelines endorsed by the U.S. Fish and Wildlife Service and NOAA Fisheries.*

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#### **MASON COUNTY RESOURCE ORDINANCE**

##### **17.01.150 VARIANCE FROM STANDARDS**

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##### **E. REVIEW STANDARDS**

No variance shall be granted unless the County makes findings of fact showing that the following circumstances exist:

1. The granting of the variance shall be consistent with the purpose and intent of this Chapter and conditions shall be imposed to ensure compatibility with surrounding conforming uses.

~~2. The granting of the variance shall not permit the establishment of any use which is prohibited by this Chapter.~~

~~3. The granting of the variance must be necessary for the reasonable use of the land or building and the variance as granted by the County is the minimum variance that shall accomplish this purpose. The findings shall fully set forth the circumstances by which this Chapter would deprive the applicant of a reasonable use of his land. Mere loss in value shall not justify a variation.~~

~~4. The granting of the variance shall not impair or substantially diminish property values of surrounding neighborhood properties.~~

~~5. The granting of the variance shall not confer on the applicant any special privilege that is denied by this Chapter to other lands or buildings in the same designation.~~

*See Mason County Code 15.09.057.*

## MASON COUNTY RESOURCE ORDINANCE

### 17.01.200 ENFORCEMENT

The Director is charged with enforcement of the provisions of this Chapter. *Enforcement procedures are set forth in Title 15 Development Code Chapter 15.13 Enforcement.*

~~When enforcement requires referral to a Court of competent jurisdiction, the Director shall refer the matter to the County Prosecutor to adjudicate the case on behalf of the County.~~

~~It shall be unlawful for any person to construct, enlarge, alter, repair, move, demolish, use, occupy or cause the same to be done in violation of any of the provisions of this Chapter. Any such violation is declared to be a public nuisance under RCW 9.66.010, and shall be corrected by any reasonable and lawful means as provided in this Section.~~

#### ~~A. INSPECTIONS~~

~~The purpose of these inspection procedures are to ensure that a property owner's rights are not violated.~~

- ~~1. When it is necessary to make an inspection to enforce the provisions of this Chapter, or when the Director has reasonable cause to believe that a violation has been or is being committed, the Director or his duly authorized inspector may enter the premises, or building at reasonable times to inspect or to perform any duties imposed by this Chapter, provided that if such premises or building be occupied that credentials be presented to the occupant and entry requested. If such premises or building be unoccupied, the Director shall first make reasonable effort to locate the owner or other person having charge or control of the premises or building and request entry. If entry is refused, the Director shall have recourse to remedies provided by law to secure entry.~~

~~B. CIVIL PROCEDURES FOR DEALING WITH VIOLATIONS~~

- ~~1. The Director may institute appropriate action or proceeding in the form of a warning notice to require compliance with this Chapter.~~
- ~~2. If the property owner does not respond to the warning notice a \$100 ticket will be issued to the property owner.~~
- ~~3. If the property owner does not respond to the ticket or if the property owner responds to the ticket but does not make appropriate efforts to correct the infraction the Director may issue a temporary enforcement order pursuant to subsection D;~~
- ~~4. The Director may abate the violation if corrective work is not commenced or completed within the time specified in a permanent enforcement order;~~
- ~~5. The Director may suspend or revoke any approvals or permits issued pursuant to this Chapter or other Chapters of the Mason County Code under the Director's Authority; and/or~~
- ~~6. The Director may file a lien against the property for costs of abatement and/or civil fines.~~

~~C. NOTIFICATION~~

- ~~1. Warning Notice  
The first step in corrective action for the Director to take will be the issuing of a warning notice. This notification is to inform property owners of practices which constitute or will constitute a violation of this Chapter. This warning notice will require a response from the property owner within 20 days and will be sent by certified/registered mail.~~
- ~~2. Ticket  
The Director will issue a ticket upon a no response action taken by the property owner. The property owner has 15 days to pay the ticket and respond to the notice.~~

~~D. ADMINISTRATIVE NOTICE AND ORDER~~

~~Within twenty calendar days of notice of a potential violation the Director shall make a determination of whether a violation has occurred, and, if the Director determines that a violation has occurred, issue a temporary or permanent enforcement order. The Director shall notify the complainant of this determination in writing.~~

~~Additionally, whenever the Director has reason to believe that a use or condition exists in violation of this Chapter and that violation will be most promptly and equitably terminated by an administrative proceeding, the Director may commence an administrative notice and order proceeding to cause assessment of a civil penalty, abatement or suspension of work or revocation of any approvals or permits issued pursuant to this Chapter or other Chapters of the Mason County Code under the Director's Authority.~~

- ~~1. Temporary Enforcement Order~~



~~The Director may cause a temporary enforcement order to be posted on the subject property or served on persons engaged in any work or activity in violation of this Chapter. The order shall require immediate cessation of such work or activity and may temporarily suspend any approval or permit issued under this Chapter or other Chapters of the Mason County Code under the Director's Authority. The order may be issued without written or oral notice and shall expire by its own terms in (10) calendar days unless the Director issues and transmits a permanent enforcement order to the Board of Mason County Commissioners pursuant to Section 17.01.200.D.3. The notice and order shall contain:~~

- ~~a. The street address, when available, and a legal description of the real property;~~
- ~~b. A statement that the Director has found the person to be in violation of this Chapter and a brief and concise description of the conditions found to be in violation;~~
- ~~c. A statement that the violator may be subject to a fine of \$500 for each day that the violation continues and, if applicable, the conditions on which assessment of such civil penalty is contingent.~~

~~2. Withdrawal or Issuance of additional temporary order.~~

~~The Director may withdraw a temporary order if compliance is achieved within 10 calendar days of posting or service thereof. If the violation is continued or repeated, the Director may cause a second temporary order to be posted on the subject property or served on persons engaged in any work or activity in violation of this Chapter. Any subsequent order involving the same violation shall be permanent.~~

~~3. Permanent Enforcement Order~~

~~A permanent order shall be issued by the Director and reviewed by the Board of County Commissioners, as follows:~~

- ~~a. Within ten (10) calendar days following issuance of the temporary order, the Director shall prepare and transmit to the Board a permanent enforcement order which shall become final unless modified by the Board.~~
- ~~b. The permanent enforcement order shall contain:
  - ~~(1) The street address, when available, and a legal description of real property;~~
  - ~~(2) A statement that the Director has found the person to be in violation of this Chapter and a brief and concise description of the conditions found to be in violation;~~
  - ~~(3) A statement of the corrective action required to be taken. If the Director has determined that corrective work is required, the order shall require that all required permits be secured and the work be physically commenced and completed within such time as the Director determines is reasonable under the circumstances, but in no event shall such time exceed 90 days;~~~~

- (4) — A statement that the violator may be subject to a fine of \$500 for each day that the violation continues and, if applicable, the conditions on which assessment of such civil penalty is contingent;
- (5) — Statements advising that:
  - (a) — If any required work is not commenced or completed within the time specified, the Director shall proceed to abate the violation and cause the work to be done and charge the costs thereof as a lien against the property and any other property owned by the person in violation and as a personal obligation of any person in violation; and
  - (b) — If any assessed civil penalty is not paid, the Director shall charge the amount of the penalty as a lien against the property and as a personal obligation of any person in violation.
- e. — Prior to rendering a decision on the permanent enforcement order, the Board shall hold at least one public hearing thereon. The property owner will be notified by certified/registered mail the time and place of the public hearing.
- d. — The permanent enforcement order shall become final within five (5) working days of the conclusion of a hearing, unless the Board renders a written decision modifying or rejecting the enforcement order.
- 4. — Supplemental Order. The Director may at any time add to, rescind in part, or otherwise modify a permanent enforcement order by transmitting to the Board a supplemental enforcement order pursuant to Section 17.01.200.D.3.
- 5. — Service. Service of the permanent enforcement order shall be made upon all persons identified in the order either personally or by mailing a copy of such order by certified mail, postage prepaid, return receipt requested. If the address of any such person cannot reasonably be ascertained, a copy of the order shall be mailed to such person at the address of the location of the violation. The failure of any such person to receive such notice shall not affect the validity of the proceedings taken under this Chapter. Service by certified mail in the manner provided in this section shall be effective on the date of the postmark. The order may be, but is not required to be posted on the subject property.

#### E. — VIOLATION OF PERMANENT ORDER

If, after any permanent order duly issued by the Director has become final, the person to whom such order is directed fails, neglects, or refuses to obey such order, including refusal to pay a civil penalty assessed under such order, the Director may:

1. ~~Cause such person to be prosecuted under the provisions of this Section; and/or~~
2. ~~Institute any appropriate action to collect a civil penalty assessed under this Section; and/or~~
3. ~~Abate the violation using the procedures of this Section; and/or~~
4. ~~Pursue any other appropriate remedy at law or equity.~~

#### ~~F. REVOCATION OF APPROVALS OR PERMITS~~

1. ~~The Director may permanently revoke any approval or permit issued under this Chapter or other Chapters of the Mason County Code under the Director's authority for:~~
  - a. ~~Failure of the holder to comply with the requirements of such Chapters; or~~
  - b. ~~Failure of the holder to comply with any order issued pursuant to this Section; or~~
  - c. ~~Discovery by the Director that an approval or a permit was issued in error or on the basis of incorrect information supplied to the County.~~

~~Such approval or permit revocation shall be carried out through the notice and order provisions of this Section and the revocation shall be final within five (5) working days of the conclusion of the hearing unless the Board renders a written decision modifying or denying the revocation.~~

~~A permit may be suspended pending its revocation.~~

2. ~~If a permit is not acted on within 3 years of authorization, it is automatically revoked.~~

#### ~~A. LIEN~~

~~Mason County shall have a lien for any civil penalty imposed or for the cost of any work of abatement done pursuant to this Section, or both, against the real property on which the civil penalty was imposed or any of the work of abatement was performed and against any other real property owned by any person in violation.~~

~~The lien shall be subordinate to all existing special assessment liens previously imposed upon the same property and any recorded encumbrances except for state and county taxes, with which it shall be on a parity.~~

~~The Board shall cause a claim for lien to be filed for record with the Auditor within ninety calendar days from the date the civil penalty is due or within ninety calendar days from the date of completion of the work or abatement performed by~~

~~Mason County pursuant to this Section. The claim of lien shall contain the following:~~

- ~~1. The authority for imposing a civil penalty or proceeding to abate the violation, or both;~~
- ~~2. A brief description of the civil penalty imposed or the abatement work done, or both, including the violations charged and the duration thereof, the time the work is commenced and completed and the name of the persons or organizations performing the work;~~
- ~~3. A legal description of the property to be charged with the lien;~~
- ~~4. The name of the known or reputed owner; and~~
- ~~5. The amount, including lawful and reasonable costs, for which the lien is claimed.~~

~~The lien may be foreclosed by a civil action in Mason County Superior Court.~~

#### ~~B. CRIMINAL PROCEDURES~~

~~After the Director has exhausted civil options or if criminal negligence is apparent the Director may refer to the Prosecuting Attorney for a determination action under RCW 9.66.010.~~

#### **17.01.210 RESTORATION**

For property which contains designated wetlands, aquatic management areas, or terrestrial habitat management areas or their vegetation areas which has been disturbed, or landslide, seismic or erosion hazard areas on which a structure has been built or located in violation of this Chapter, no permit or approval or development of the property shall be authorized or granted for a period of up to three (3) years from completion of restoration as determined by the Director. In the event of intentional or knowing violation of this Chapter, the County may bring an action against the owner of the land or the operator who committed the violation. This restoration section is also applicable to Mitigation for Wetland Impacts (Section 17.01.070 F) as modified below.

1. Restoration Plan.
  - a. Where any designated wetlands, aquatic management areas, or terrestrial management areas or their vegetation area which has been disturbed, or subject to a permitted fill requiring mitigation, or landslide, seismic or erosion hazard areas or their buffers has been disturbed or a structure has been built, the applicant shall cause to be prepared, by a qualified biologist, plant ecologist, geologist or similarly qualified professional, as appropriate, a restoration plan which shall include as a minimum the following:
    - (1) *Site plan 1 depicting site characteristics prior to disturbance; the extent of disturbance, or permitted action requiring mitigation, including an inventory of all vegetation cleared shall be shown; and*

- (2a) *Site plan 2 depicting the specific location of all proposed restoration measures. Those measures shall include:*
      - a. Measures necessary to restore the critical areas or their buffers/vegetation area, including removal of fill, regrading to original contours, if necessary, replacement of excavated material, revegetation of all cleared areas with native trees and/or plants and removal of structures; or
      - b. Location of the proposed mitigation action, ownership, and methods to recreate, as nearly as possible, the original wetlands or vegetation area in terms of acreage function, geographic location and setting.
    - (3) A schedule for restoration; and
    - (4) A monitoring plan to evaluate periodically the success of the restoration and provide for amendments to the plan which may become necessary to achieve its purpose.
  - b. In preparing and approving the restoration plan, the applicant and the County, respectively, should consult with the Department of Wildlife, Department of Natural Resources, Department of Fisheries, and the Department of Ecology as appropriate.
  - c. The restoration plan shall be prepared at the applicant's cost and shall be approved by the Director. The Director may approve, reject or approve the plan with conditions. All restoration shall be consistent with the approved restoration plan.
2. Monitoring. In any designated critical area where restoration has been required, the applicant, at its own cost, shall provide for seasonal monitoring of the site by a qualified biologist or other qualified professional, for a period of three years after completion. The applicant shall submit an annual report to the Director which discusses i) the condition of introduced or reintroduced plant species; ii) the condition of open water areas or other water features; iii) use of the site by fish and wildlife species; iv) any disturbances or alterations and their affects on the restoration; v) additional or corrective measures which should be taken to ensure the success of the restoration; and vi) other information which the Director considers necessary to assess the status of the restoration.
3. Restoration bond. Prior to commencing restoration of a wetland, deep water habitat, tributary stream or protected species habitat, or their vegetation area or a steep or unstable slope, the applicant shall post with the Director a bond or other security in an amount sufficient to cover the cost of conformance with the conditions of the restoration plan, including corrective work necessary to provide adequate drainage, stabilize and restore disturbed areas, and remove sources of hazard associated with work which is not completed. After the Director determines that restoration has been completed in compliance with approved plans and the monitoring period has expired, the bond or other security shall be released. The County may collect against the bond when work which is not completed is found to be in violation of the conditions set forth in the

restoration plan and/or the Director determines that the site is in violation of the purposes of this Chapter.

**J. ~~CLEARING AND GRADING~~**

~~Where property has been subjected to clearing or grading activity in violation of this Chapter, the County may bring an action against the owner of such land or the operator who performed the clearing and grading. In addition, in the event of intentional or knowing violation of this Chapter, the Court may, upon the County's request, deny authorization of any permit or development approval on said property for a period up to ten (10) years from the date of unauthorized clearing or grading. While a case is pending in Court, the County shall not authorize or grant any permit or approval of development on said property.~~

**17.01.210 220 SEVERABILITY**

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

## MASON COUNTY DEVELOPMENT REGULATIONS

### 1.05.035 Findings Required for Approval of a Variance

~~Before any variance is granted, the granting authority shall make a positive determination regarding each of the following factors:~~

~~A. That there are special circumstances applicable to the subject property such as shape, topography, location or surroundings, which circumstances do not apply generally to other~~

~~properties in the same Development Area;~~

~~B. That the variance is necessary for the preservation and enjoyment of a substantial property~~

~~right possessed by other property in the same vicinity, but because of special circumstances is denied to the property in question;~~

~~C. That the granting of the variance will not be materially detrimental to the public welfare,~~

~~or injurious to the property or improvements in the vicinity in which the subject property is located; and~~

~~D. That the granting of the variance is in substantial harmony with the Comprehensive Plan.~~

*See Mason County Code 15.09.057.*

## MASON COUNTY DEVELOPMENT REGULATIONS

### 1.05.070 Administration and Enforcement

### 1.05.071 Validity and Severability

A. This Ordinance shall be governed by the laws of the State of Washington. In the event that any portion or section of this Ordinance be declared invalid or unconstitutional by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected and shall remain in full force and effect.

B. This Ordinance is intended to conform to and promote the provisions of the Mason County Comprehensive Plan. In the event of conflict between the two documents, the more specific interpretation shall apply.

### 1.05.072 Enforcement

*Enforcement procedures are set forth in Title 15 Development Code Chapter 15.13 Enforcement.* No permit for the construction, alteration or expansion of any building, structure or part thereof shall be issued unless the plans, specifications and intended uses of the subject property conform in all respects to the provisions of this Ordinance.

~~A. — It shall be the responsibility of the Administrator to enforce any section of this Ordinance which addresses land use, including buffer yard requirements.~~

~~B. — It shall be the responsibility of the Building Official to enforce any section of this Ordinance which addresses requirements for any structure, including signs.~~

~~C. — It shall be the responsibility of the County Engineer to enforce any section of this Ordinance which addresses street design and construction (whether public or private), parking lot design and construction, or the design and construction of stormwater facilities.~~

#### **1.05.074 — Violations**

~~It shall be unlawful and a violation of this Ordinance for any person to use or occupy any portion of any premises, and part of which has been constructed, equipped or is used in violation of the provisions of this Ordinance, until such unlawful use has ceased and such unlawful construction and equipment has been removed from the premises. Each day that a violation continues to exist shall be considered as a separate offense.~~

#### **1.05.076 — Penalties: Criminal**

~~A. — Any person who violates the provisions of this Ordinance shall be guilty of a misdemeanor, and shall be punished by a fine of not more than one thousand (\$1,000.00) dollars, or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment.~~

~~B. — In addition to any other penalties set forth in this Ordinance, any violation of the provisions of this Ordinance may be declared to be a public nuisance and may be abated through proceedings for injunctive or similar relief in superior court or other court of competent jurisdiction.~~

~~C. — Upon determination that a violation of this Ordinance has occurred, the Building Official shall have the authority and discretion to withhold building permits for the subject property until corrective action is taken by the responsible party.~~

#### **1.05.078 — Penalties: Civil**

~~A. — As a supplement or alternative to the remedies set forth in Section 1.05.076, the County shall have the authority to seek civil penalties for any violation of the provisions of this Ordinance. Any person who violates the provisions of this Ordinance shall, upon a proper showing, be deemed to~~



~~have committed a civil infraction. Mason County Superior Court is hereby vested with jurisdiction to hear civil infraction cases under this Ordinance. Said cases shall be heard by the Court without jury and, upon a finding that the infraction has occurred by a preponderance of the evidence, the defendant shall be subject to civil penalties at the discretion of the Court not to exceed five thousand (\$5,000.00) dollars for each separately charged violation.~~

~~B.——Presumption. For the purposes of administration and prosecution of alleged violations of this chapter, there is hereby created a rebuttable presumption that the person whose name appears on the tax records of the Mason County Assessor, with respect to the real property in question, has the responsibility for insuring that violations of the provisions of this Ordinance do not occur on the property in question.~~

~~C.——In addition to any other penalties set forth in this Ordinance, any violation of the provisions of this Ordinance may be declared to be a public nuisance and may be abated through proceedings for injunctive or similar relief in superior court or other court of competent jurisdiction.~~

~~D.——Upon determination that a violation of this Ordinance has occurred, the Building Official shall have the authority and discretion to withhold building permits for the subject property until corrective action is taken by the responsible party.~~

## MASON COUNTY DEVELOPMENT CODE [add new section]

### **15.09.057. VARIANCE CRITERIA.**

*Variances from the bulk and dimension requirements of the Resource Ordinance or the Development Regulations (zoning regulations) may be allowed as follows. The County must document with written findings compliance or noncompliance with the variance criteria. The burden is on the applicant to prove that each of the following criteria are met:*

- 1. That the strict application of the bulk, dimensional or performance standards precludes or significantly interferes with a reasonable use of the property not otherwise prohibited by County regulations;*
- 2. That the hardship which serves as a basis for the granting of the variance is specifically related to the property of the applicant, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the County regulations, and not, for example from deed restrictions or the applicant's own actions;*
- 3. That the design of the project will be compatible with other permitted activities in the area and will not cause adverse effects to adjacent properties or the environment;*
- 4. That the variance authorized does not constitute a grant of special privilege not enjoyed by the other properties in the area, and will be the minimum necessary to afford relief;*
- 5. That the public interest will suffer no substantial detrimental effect;*
- 6. No variance shall be granted unless the owner otherwise lacks a reasonable use of the land. Such variance shall be consistent with the Mason County Comprehensive Plan, Development Regulations, Resource Ordinance and other county ordinances, and with the Growth Management Act. Mere loss in value only shall not justify a variance.*

## MASON COUNTY DEVELOPMENT CODE

### **15.13.010 ENFORCING OFFICIAL; AUTHORITY**

A. The review authority shall be responsible for enforcing those codes and ordinances to which this title applies, and may adopt administrative rules to meet that responsibility. The review authority may delegate enforcement responsibility, as appropriate. An employee of one review authority department may commence an enforcement action of violations of codes and regulations of other departments.

B. **Inspections:** The purpose of these inspection procedures are to ensure that a property owner's rights are not violated.

When it is necessary to make an inspection to enforce the provisions of this Chapter, or when the Director has reasonable cause to believe that a violation has been or is being committed, the Director or his duly authorized inspector may enter the premises, or building at reasonable times to inspect or to perform any duties imposed by this Chapter, provided that if such premises or building be occupied that credentials be presented to the occupant and entry requested. If such premises or building be unoccupied, the Director shall first make reasonable effort to locate the owner or other person having charge or control of the premises or building and request entry. If entry is refused, the Director shall have recourse to remedies provided by law to secure entry.

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#### **15.13.030 APPLICATION**

C. Where property has been subjected to an activity in violation of this Chapter, the County may bring an action against the owner of such land or the operator who performed the violation. In addition, in the event of intentional or knowing violation of this Chapter, the *Hearing Examiner Court* may, upon the County's request, deny authorization of any permit or development approval on said property for a period up to ten (10) years from the date of unauthorized clearing or grading. While a case is pending ~~in~~ before the Hearing Examiner Court, the County shall not authorize or grant any permit or approval of development on said property.

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#### **15.13.060 ABATEMENT**

- A. *The Review Authority may abate the violation if corrective work is not commenced or completed within the time specified in a notice of civil violation.*
- B. *If any required work is not commenced or completed within the time specified, the Review Authority may ~~shall~~ proceed to abate the violation and cause the work to be done and charge the costs thereof as a lien against the property and any other property owned by the person in violation and as a personal obligation of any person in violation.*

#### **15.13.070 REVIEW OF APPROVED PERMITS**

- A. **Review:** Any approval or permit issued under the authority of the Development Code may be reviewed for compliance with the requirements of the Development Code, or to determine if the action is creating a nuisance or hazard, has been abandoned, or the approval or permit was obtained by fraud or deception.
- B. **Review Authority Investigation:** Upon receipt of information indicating the need for, or upon receiving a request for review of permit or approval, the review authority shall investigate the matter and take one or more of the following actions:
1. Notify the property owner or permit holder of the investigation; and/or
  2. Issue a notice of civil violation and/or civil fine and/or recommend revocation or modification of the permit or approval; and/or
  3. Refer the matter to the County Prosecutor; and/or

4. Revoke or modify the permit or approval, if so authorized in the applicable code or ordinance; and/or
5. Refer the matter to the Hearing Examiner with a recommendation for action.

#### **15.13.075 REVOCATION OR MODIFICATION OF PERMITS AND APPROVALS**

[[ HANDLED BY APPROPRIATE DEPARTMENTS ]]

- A. Upon receiving a review authority's recommendation for revocation or modification of a permit or approval, the Hearing Examiner shall review the matter at a public hearing, subject to the notice of public hearing requirements (Sec. 15.07.030). Upon a finding that the activity does not comply with the conditions of approval or the provisions of the Development Code, or creates a nuisance or hazard, the Hearing Examiner may delete, modify or impose such conditions on the permit or approval it deems sufficient to remedy the deficiencies. If the Hearing Examiner find no reasonable conditions which would remedy the deficiencies, the permit or approval shall be revoked and the activity allowed by the permit or approval shall cease.
- B. **Building Permits.** The Building Official, not the Hearing Examiner has the authority to revoke or modify building permits.
- C. *If a permit is not acted on within 3 years of authorization, the permit is automatically revoked.*
- D. **Reapplication.** If a permit or approval is revoked for fraud or deception, no similar application shall be accepted for a period of one year from the date of final action and appeal, if any. If a permit or approval is revoked for any other reason, another application may be submitted subject to all of the requirements of the Development Code.