

ORDINANCE NUMBER 50 - 04

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

AN ORDINANCE amending Title 15 Development Code regarding public notice requirements, Hearing Examiner duties, Comprehensive Plan amendment application review, and time for action on permits or approvals; amending the Mason County Resource Ordinance regarding several portions of the development review process and review authority, and the definition of appurtenant structures; and amending the Mason County Development Regulations, regarding several portions of the development review process and review authority, minimum front yard setback, size of accessory dwelling unit, and the definition of appurtenant structures; 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. 32-04 on April 13, 2004, and amended by Ordinance No. 40-04 on May 11, 2004. The Mason County Code Title 8 Mason County Resource Ordinance was last amended by Ordinance No. 32-04 on April 13, 2004. The Mason County Code Title 15 Mason County Development Code was last amended by Ordinance No. 32-04 on April 13, 2004;

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 April 5 and 26, 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 June 8, 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. 50 - 04 (continued)

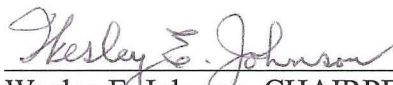
NOW, THEREFORE, BE IT HEREBY ORDAINED, that the Mason County Board of Commissioners hereby approves and ADOPTS the revisions that amend Title 15 Development Code regarding public notice requirements, Hearing Examiner duties, Comprehensive Plan amendment application review, and time for action on permits or approvals; that amend the Mason County Resource Ordinance regarding several portions of the development review process and review authority, and the definition of appurtenant structures; and that amend the Mason County Development Regulations, regarding several portions of the development review process and review authority, minimum front yard setback, size of accessory dwelling unit, and the definition of appurtenant structures, as described by ATTACHMENT B.

DATED this 8th day of June 2004.


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

ATTEST:


Clerk of the Board


Wesley E. Johnson, CHAIRPERSON

APPROVED AS TO FORM:


Prosecuting Attorney


Herb Baze, COMMISSIONER

Absent 6/8/04
Jayni Kamin, COMMISSIONER

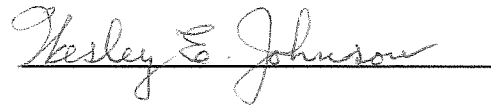
**AN ORDINANCE AMENDING
THE MASON COUNTY DEVELOPMENT REGULATIONS,
MASON COUNTY RESOURCE ORDINANCE, AND
TITLE 15 DEVELOPMENT CODE STANDARDS**

**MASON COUNTY BOARD OF COMMISSIONERS
June 8, 2004**

FINDINGS OF FACT

1. Under consideration is the ordinance to amend Title 15 Development Code regarding public notice requirements, Hearing Examiner duties, Comprehensive Plan amendment application review, and time for action on permits or approvals; amending the Mason County Resource Ordinance regarding several portions of the development review process and review authority, and the definition of appurtenant structures; and amending the Mason County Development Regulations, regarding several portions of the development review process and review authority, minimum front yard setback, size of accessory dwelling unit, and the definition of appurtenant structures.
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 has presented a proposed set of revisions to these ordinances which establish or clarify evaluation standards for proposed development.
4. At the April 5 and 26, 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 June 8, 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 presented revisions that amend Title 15 Development Code regarding public notice requirements, Hearing Examiner duties, Comprehensive Plan amendment application review, and time for action on permits or approvals; that amend the Mason County Resource Ordinance regarding several portions of the development review process and review authority, and the definition of appurtenant structures; and that amend the Mason County Development Regulations, regarding several portions of the development review process and review authority, minimum front yard setback, size of accessory dwelling unit, and the definition of appurtenant structures.

A handwritten signature in cursive script, reading "Wesley E. Johnson", is written over a horizontal line.

Chair, Mason County Board of Commissioners

Date

REVISIONS TO
COMPREHENSIVE PLAN DEVELOPMENT STANDARDS
JUNE 8, 2004

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

s, t) changes in Title 15 Development Code:

staff analysis:

Text additions are made to Title 15 Mason County Development Code to clarify the purpose of the standards of the Development Code, including enforcement procedures, and to include the enforcement portions of Title 13 Utilities (in Sec. 15.03.005). Other text additions are included to assure that all aspects of public participation from the Growth Management Act, especially RCW 36.70A.035 Public Participation are part of the Development Code notification procedures (in Sec. 15.07.030). A process of how requests for rezone and for changes to the Comprehensive Plan or development regulations are to be listed and evaluated is set forth in Sec. 15.09.060 Type IV decision review.

An interim measure was enacted in July 2003 to permit the review of the requested removal of drainage and utility easements in plats by the County Commissioners or Hearing Examiner; a clear process did not exist to review such requests in a time efficient manner. The proposed text of Sec. 15.03.060 Process To Remove Utility And Drainage Easements is presented as the permanent standards for this process. The Hearing Examiner will do much of review of these requests; the Board of County Commissioners has a limited review of such requested easement removals.

MASON COUNTY DEVELOPMENT CODE

Sec. 15.03.005 PURPOSE AND APPLICABILITY

This ~~Chapter~~ Title describes enforcement actions and how the County will process how the County will process enforcement actions and applications for development subject to review under the following ~~Chapters~~ Titles of the Mason County Code and other ordinances and regulations of the County as listed below:

1. Title 6 (Sanitary Code, enforcement only), including the following Mason County Board of Health regulations, which may not be codified in Title 6: On-Site Sewage Regulation, Group B Water System Regulation, Solid Waste Regulation, and Water Adequacy Regulation
2. Title 7 (Shoreline Master Program)
3. Title 8 (Environmental Policy)
4. Title 14 (Construction)
5. Title 16 (Subdivision)
6. Title 8 (Resource Ordinance)
7. Development Regulations (Ordinance 82-96, as amended)
8. Mason County Flood Damage Prevention Ordinance (as amended)
9. Title 13 (Utilities, enforcement only)

.....

REVISIONS TO
COMPREHENSIVE PLAN DEVELOPMENT STANDARDS
JUNE 8, 2004

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

s, t) changes in Title 15 Development Code:

staff analysis:

Text additions are made to Title 15 Mason County Development Code to clarify the purpose of the standards of the Development Code, including enforcement procedures, and to include the enforcement portions of Title 13 Utilities (in Sec. 15.03.005). Other text additions are included to assure that all aspects of public participation from the Growth Management Act, especially RCW 36.70A.035 Public Participation are part of the Development Code notification procedures (in Sec. 15.07.030). A process of how requests for rezone and for changes to the Comprehensive Plan or development regulations are to be listed and evaluated is set forth in Sec. 15.09.060 Type IV decision review.

An interim measure was enacted in July 2003 to permit the review of the requested removal of drainage and utility easements in plats by the County Commissioners or Hearing Examiner; a clear process did not exist to review such requests in a time efficient manner. The proposed text of Sec. 15.03.060 Process To Remove Utility And Drainage Easements is presented as the permanent standards for this process. The Hearing Examiner will do much of review of these requests; the Board of County Commissioners has a limited review of such requested easement removals.

MASON COUNTY DEVELOPMENT CODE

Sec. 15.03.005 PURPOSE AND APPLICABILITY

This ~~Chapter~~ Title describes enforcement actions and how the County will process how the County will process enforcement actions and applications for development subject to review under the following Chapters-Titles of the Mason County Code and other ordinances and regulations of the County as listed below:

1. Title 6 (Sanitary Code, enforcement only), including the following Mason County Board of Health regulations, which may not be codified in Title 6: On-Site Sewage Regulation, Group B Water System Regulation, Solid Waste Regulation, and Water Adequacy Regulation
2. Title 7 (Shoreline Master Program)
3. Title 8 (Environmental Policy)
4. Title 14 (Construction)
5. Title 16 (Subdivision)
6. Title 8 (Resource Ordinance)
7. Development Regulations (Ordinance 82-96, as amended)
8. Mason County Flood Damage Prevention Ordinance (as amended)
9. Title 13 (Utilities, enforcement only)

.....

15.03.030 BOARD OF COUNTY COMMISSIONERS

The Board of County Commissioners shall review and act on:

- A. Type IV applications including changes to the Mason County Comprehensive Plan and land use regulations;
- B. Applications for removal of utility and drainage easements set forth in Sec. 15.03.060.

.....

15.03.050 HEARING EXAMINER

The Hearing Examiner shall review and act on the following subjects:

- A. Appeals of decisions of the Building Official on the interpretation or application of the Building Code.
- B. Revoking or modifying a permit or approval per Section 15.13.070.
- C. Appeals of enforcement actions under the codes, ordinances and regulations listed under 15.03.005. Enforcement actions include interpretations and decisions made as part of the enforcement actions under the authority of provisions in 15.03.005.
- D. Appeals of decisions of the Fire Marshal on interpretation or application of the Fire Code.
- E. Enforcement actions as provided in Chapter 15.13.
- F. Applications for Preliminary and Final Plats.
- G. Appeal of administrative decisions by the Department of Community Development as set forth in Section 15.09.020, 15.09.030, and 15.09.040.
- H. Appeal of threshold determination under Title 8 (Environmental Policy).
- I. Granting of variances, except for administrative variances.
- J. Other Type III permit reviews, including: Large Lot subdivisions involving a public hearing, Mason Conditional Environmental Permits, Mobile Home and Recreational Park permits, Special Use Permits, Reasonable Use Exceptions, and Shoreline Substantial Development Permits and Conditional Use Permits.
- K. Plat vacation or amendments, pursuant to Chapter 58.17 RCW, and for the purpose of removing utility and drainage easements set forth in Sec. 15.03.060.

Sec. 15.07.030 NOTICE OF PUBLIC MEETINGS AND PUBLIC HEARINGS

All notices for public meetings and hearings shall follow the provisions of R.C.W 36.70A.035 Public Participation – notice provisions. Notice of a public meeting or public hearing for all development applications and appeals shall be given as follows:

- A. Time of Notices: Except as otherwise required, public notification of meetings, and hearings, and on pending actions shall be made by:
 - 1. Publication at least ten (10) days before the date of a public meeting, hearing, or pending action in the official newspaper if one has been designated or a newspaper of general circulation in the County; and
 - 2. Mailing at least ten (10) days before the date of a public meeting, or public hearing to all adjacent property owners of the boundaries of the property that is the subject of the meeting or pending action. Addressed, pre-stamped envelopes shall be provided by the applicant; and

3. Posting at least ten (10) days before the meeting, hearing, or pending action in one public place (for example, a post office) and at least two notices on the subject property.
 4. Provided that, if the notice is for the purpose of an open record pre-decision hearing, the notice of application shall be provided at least fifteen (15) days prior to the open record hearing.
 5. Provided that, if a SEPA threshold determination has been made, that determination shall be issued at least 15 days prior to the hearing date.
 6. Written notice of application shall also be provided to any organization or individual who has requested, in writing, to receive notice of all land use applications encompassed by this Chapter. Provided that, the County may charge a reasonable fee for such notice, as approved by resolution of the Board.
- B. Content of Notice: The public notice shall include a) a general description of the proposed project, b) action to be taken, c) a non-legal description of the property or a vicinity map or sketch, d) the time, date and place of the public hearing and e) the place where further information may be obtained.
- C. Continuations: If for any reason, a meeting or hearing on a pending action cannot be completed on the date set in the public notice, the meeting or hearing may be continued to a date certain and no further notice under this section is required.

.....

Sec. 15.09.060 TYPE IV DECISION REVIEW

- A. The process for amending the Mason County Comprehensive Plan and implementing development regulations (hereinafter annual amendment process) shall follow the steps below. Generally, the county will consider both the plan and regulation amendments together, and it will consider them only one time each year.
1. Publish notice of the deadline for proposed plan or development regulation amendment which will be placed on the docket for consideration. Amendments must be considered at least annually. Comprehensive plan amendments can not be adopted more than once a year.
 - a) Requests for rezone will be accepted on proper forms and include fees; such requests will be listed on a docket for further processing of the requests.
 - b) Requested changes to the Comprehensive Plan or development regulations will be accepted in written form by Department of Community Development (DCD). The request will be evaluated for merit by DCD staff and the Board of County Commissioners. Those requests found of merit will be included in the docket of Comprehensive Plan or development regulations changes.
 2. ~~The Department of Community Development (DCD)~~ prepares a Comprehensive Plan Amendment Report for presentation to the Planning Advisory Commission. The report will include all proposals received, the initial analysis and cumulative impact review, and the initial SEPA determination.
 3. The County transmits the proposals to the State Office of Community Development and other state agencies.

4. After presentation of the report to the Planning Advisory Commission, the Commission schedules a public hearing and may schedule workshops. (In the case of amendments of special interest to one part of the county, a workshop or hearing should be scheduled in that area.) The public hearing should be not less than 60 days after the official transmittal is provided to the state.
5. The DCD, acting for the Commission, releases public notice of workshops and hearings.
6. Planning Advisory Commission holds public hearing and optional workshops, and formulate and transmit its findings and recommendations to the Board of Commissioners.
7. The Board schedules and releases notice of public hearings and workshops as desired.
8. Workshops and public hearings held by the Board of Commissioners.
9. The Board meets to consider and take appropriate action on the amendments.
10. Any resulting amendments are transmitted to the State Office of Community Development and other state agencies, and public notice of adoption is published.

.....

q6) new text in Title 15 Development Code on extension or expiration of approved permits.

The Department of Community Development proposes a needed text addition to Title 15 Development Code Section 15.09.100 Final Decision, that provides a timeline for action when decisions are rendered and permits are issued by Mason County departments. The process for extending the effective date of an approved permit or determining that a permit has terminated is noted in the text. This process is set forth in order for Mason County to be consistent in making these determinations for permits that have been issued by Mason County departments.

MASON COUNTY DEVELOPMENT CODE

15.09.100 FINAL DECISION

- A. **Time.**
- B. **Effective Date.**
- C. **Time Limit for Action.** Where not otherwise provided by law, no permit or exemption authorizing construction shall extend for a term of more than five years. If actual construction of a development for which a permit has been granted has not begun within two years after the approval, the Hearing Examiner (or Review Authority, in the case of an exemption or Mason Environmental Permit) shall, review the permit and upon a showing of good cause, may extend the initial two-year period by permit for one year. Otherwise the permit terminates; PROVIDED, that no permit shall be extended unless the applicant has requested such review and extension prior to the expiration date.

u) Revise permit review procedures for the development Regulations and Resource Ordinance to meet Title 15 code standards.

staff analysis:

In the Resource Ordinance, Development Regulations, and Development Code, there are permit review procedures that are repeated in each ordinance text. When a change in procedure is anticipated, more than one ordinance must be revised. What is currently proposed is to adopt a standard procedure from the Title 15 Development Code by making the proposed revisions set forth below, thus bringing the needed consistency of the Resource Ordinance and Development Regulations with Title 15. Much of the repetition of the Resource Ordinance and Development Regulations is struck out; but when certain standards of review are noted in the ordinance, those standards of permit evaluation will remain in that ordinance.

MASON COUNTY DEVELOPMENT REGULATIONS

1.05.040 Special Uses

1.05.041 Purpose

A Special Use is one which possesses unique characteristics due to size, nature, intensity of use, technological processes involved, demands upon public services, relationship to surrounding lands, or other factors. The purpose of this Section is to provide for adequate oversight and review of such development proposals, in order to assure that such uses are developed in harmony with surrounding land uses, and in a manner consistent with the intent of this Ordinance and the Comprehensive Plan.

1.05.042 Authority

Review authority is granted under Title 15 Development Code Section 15.03.050 Hearing Examiner.

1.05.044 Decision Criteria

The ~~Board shall~~ review of Special Use permit applications shall be in accordance with the following criteria. ~~The Board shall not approve~~ Any application for a Special Use permit shall not be approved unless it ~~makes~~ an affirmative finding with regard to each of these criteria is made.

- A. That the proposed use will not be detrimental to the public health, safety and welfare;
- B. That the proposed use is consistent and compatible with the intent of the Comprehensive Plan;

- C. That the proposed use will not introduce hazardous conditions at the site that cannot be mitigated through appropriate measures to protect adjacent properties and the community at large;
- D. That the proposed use is served by adequate public facilities which are in place, or planned as a condition of approval or as an identified item in the County's Capital Facilities Plan;
- E. That the proposed use will not have a significant impact upon existing uses on adjacent lands; and
- F. If located outside an Urban Growth Area, that the proposed use will not result in the need to extend urban services.

1.05.046 Procedural Requirements for a Special Use Permit

Review procedures shall follow the standards of Title 15 Development Code Section 15.09 Review and Approval Process.

- A. ~~Application for a Special Use Permit shall be made to the Department of Community Development, on forms furnished by the County.~~
- B. ~~Any application for a Special Use Permit shall include an application fee as established by the Board.~~
- C. ~~Special Use Permit applications shall require a Public Hearing, as set forth in Section 1.05.050 of this Ordinance.~~

1.05.050 ~~Hearings and Notices~~

~~Upon receipt of any application which requires a public hearing, the Administrator shall set the date for such hearing. The hearing date shall be established in such a manner as to allow for adequate public notice as set forth in Section 1.05.052, and shall also allow for sufficient time to allow for the Department of Community Development to review the proposal and provide a report to the Board.~~

1.05.052 ~~Public Notice Requirements~~

~~The following are the minimum requirements for public notice for any hearing. Any costs associated with mailings or publication required under this Section shall either be paid by the applicant directly, or reimbursed by the applicant to the County prior to the date of the public hearing.~~

- A. ~~Notice shall be published not less than ten (10) days prior to the hearing in a newspaper of general circulation within the County, and in a newspaper of general circulation in the area where the property which is proposed to be developed is located.~~

~~B.——Special notice of the hearing shall be given to adjacent landowners by any other method that the Administrator deems necessary.~~

~~C.——If the subject property is located within the Shelton Urban Growth Area, or within one thousand (1,000) feet of said Urban Growth Area, notice of the hearing shall be provided to the Shelton City Clerk.~~

~~1.05.054 Rules of Conduct: Hearings~~

~~The Board shall have the authority to establish such rules as it may deem appropriate for the conduct of the public hearing. At a minimum, the following rules shall apply:~~

~~A.——All testimony taken shall be sworn testimony.~~

~~B.——The Board shall keep and maintain a written record of all proceedings.~~

~~C.——Any interested party shall have the opportunity to present oral or written testimony, which shall become a part of the written record. This opportunity may be subject to such time limitations as may be imposed by the Board.~~

~~D.——At the conclusion of the hearing, the Board may elect to hold the record open for the purpose of soliciting additional testimony.~~

~~1.05.056 Decision and Findings~~

~~Within thirty (30) days of the conclusion of the public hearing, the Board shall issue its decision. The decision shall be made in writing, and shall include findings of fact which support the decision. The Board may attach such conditions as it deems necessary to assure that the proposed development is constructed in a manner consistent with the intent of this Ordinance. Notice of the decision of the Board shall be sent to the County Assessor, the Administrator, the applicant, and to any other party who has requested receipt of such decision.~~

~~1.05.060 Appeals~~

~~A.——Any decision of the Administrator made pursuant to this Ordinance may be appealed to the Board, subject to the following provisions:~~

~~1.——Any appeal must be filed within thirty (30) days of the decision being appealed.~~

~~2.——An appeal shall be accompanied by a filing fee as established by the Board.~~

~~B.——Any appeal of a decision of the Board shall be made in Superior Court.~~

1.05.062 Rules of Conduct: Appeals

With regard to an appeal made to the Board, the following rules of conduct shall apply:

- A. ~~Within thirty (30) days of receiving a notice of appeal, the Board shall meet to consider the matter.~~
- B. ~~Issues before the Board shall be limited to the information contained in the notice of appeal, and the written record of the decision making body. The Board may hear oral arguments recapitulating the written record, but it shall not consider any new testimony from any source. A public hearing shall not be held.~~
- C. ~~The Board may continue its deliberations through more than one meeting in order to provide adequate time to consider the issues involved in the appeal.~~
- D. ~~The Board shall render its decision in writing within forty five (45) days of its meeting to consider the matter.~~

MASON COUNTY RESOURCE ORDINANCE

17.01.120 DEVELOPMENT REVIEW PROCESS

A. ADMINISTRATION

There is hereby established an administrative system designed to assign responsibilities for implementation of the Resource Ordinance, and to prescribe an orderly process by which to review proposals and permit applications, and to ensure that all persons affected by this Chapter are treated in a fair and equitable manner.

B. ADMINISTRATOR

2. The duties and responsibilities of the Director shall include:

.....

- j. Submitting Variance Applications and Conditional Use Permit Applications and making written recommendations and findings on such permits to the Hearing Examiner Planning Commission. ~~Submitting Conditional Use Permit Applications and making written findings on such permits to the Board of County Commissioners for their consideration and local official action.~~ The Director shall assure that all relevant information and testimony regarding the application is made available to the Hearing Examiner Board during their review.

.....

C. ~~PLANNING COMMISSION~~

~~The Mason County Planning Commission, hereinafter known as the Planning Commission, is hereby vested with:~~

- ~~1. The authority to hear, review, and make recommendations to the Board of County Commissioners on Variances, and any conditions, terms or standards attached thereto before public meetings and/or hearings.~~
- ~~2. The responsibility for reviewing this program from time to time for a period of not less than one year for the purpose of assessing the Chapter's effectiveness as a major element of the County's planning and regulatory responsibilities.~~
- ~~3. The responsibility for proposing and/or reviewing and making recommendations to the Board on amendments deemed necessary to more effectively and equitably achieve this Chapter's goals and purposes.~~
- ~~4. To consider and make recommendations on applications referred to it by the Board.~~

D. ~~MASON COUNTY BOARD OF COMMISSIONERS~~

~~The Mason County Board of Commissioners, hereinafter known as the Board, is hereby vested with authority to:~~

1. ~~Grant or deny Variances after considering the findings and recommendations of the Planning Commission.~~
2. ~~Grant or deny Conditional Use Permits after considering, on regular meeting days or at public hearings, the findings and recommendations of the Director.~~
3. ~~Decide, on regular meeting days or at public hearings, appeals of the Director's actions, interpretations, and/or conditions.~~
4. ~~Base all decisions on critical area permits or administrative appeals on the criteria established in this Chapter.~~

C.E. ENVIRONMENTAL PERMIT

1. Applicability

All developments and uses that are permit required or conditionally permitted under the terms of this Chapter within designated Resource Lands and Critical Areas shall be subject to review and approval by the County through the permit process described by this Section.

2. Approval Authority

a. Administrative Review

All development listed as "Permit Required" in this Chapter shall be processed through Administrative Review procedures. Decisions of the Director shall be appealable to the Hearing Examiner Board of County Commissioners pursuant to terms of Title 15 Development Code Section 15.11.010 Appeals of Administrative Decisions.

b. Public Review

All development listed as "Conditional" in this Chapter shall be processed through Administrative Review procedures; provided that Public Review procedures shall be followed under the following conditions:

- (1) Any person, who would qualify as an aggrieved person if an appeal was being requested, requests to the Director in writing within ten (10) calendar days following posting of the public notice, pursuant to Section 17.01.120.J, that a Public Review procedure be conducted; or
- (2) The Director determines, based on the nature and complexity of the project, that the Public Review procedure should be conducted.

When Public Review procedures are followed, the final approval authority shall be the Hearing Examiner ~~Board of County Commissioners.~~

c. Shoreline Master Program Review

When a use, development or other activity that is subject to review under this Chapter is also subject to review under the Mason County Shoreline Master Program, the proposed use, development or activity shall be processed concurrently with provisions of the Shoreline Master Program. Administrative decisions under terms of this Chapter should generally, but are not required to, precede a public hearing before the Hearing Examiner ~~Mason County Shoreline Advisory Committee~~. Permits issued under authority of the Shoreline Master Program may, but are not required to, include any or all conditions stipulated in the Mason Environmental Permit.

.....

3. Administrative Determination of Applicability

Any person seeking to determine whether a proposed activity or an area is subject to this chapter may request in writing, ~~and without~~ at a fee set by the Board, a formal "Determination of Applicability" from the Director. Such a request for determination shall contain plans, data, and other information as may be specified by the Director.

4. Permit Fees

Fees for a Mason Environmental Permit (MEP), ~~and~~ Mason Conditional Environmental Permit (MCEP), and other special studies review shall be set by Resolution of the Board.

.....

~~D.F.~~ SEPA COMPLIANCE

.....

~~E.G.~~ OLYMPIC REGION CLEAN AIR AGENCY POLLUTION CONTROL
AUTHORITY COMPLIANCE

All Mason Environmental Permit (MEP) and Mason Conditional Environmental Permit (MCEP) applications shall be forwarded for review to the Olympic Region Clean Air Agency Pollution Control Authority (ORCAA ~~OAPCA~~) unless the Director makes written findings that the proposed development is unlikely to result in any direct or indirect impacts on air quality. Development shall be consistent with all applicable ORCAA ~~OAPCA~~ standards.

.....

F.H. SPECIAL STUDIES AND PLANS

.....

G.I. ACCEPTANCE OF APPLICATIONS

.....

2. Upon acceptance of an application, notice of application shall be posted by the applicant on the property or principal entry point to the property from the nearest public right-of-way upon which the proposed development is located using a ~~stone~~ form provided by the County, on a waterproof sign. Said sign shall be maintained ~~by the applicant~~ until action is taken on the application, when it shall be promptly removed ~~by the applicant~~. Said sign shall be located so that it is visible from the abutting road. When more than one road abuts the property, then the sign shall be visible from the road having the greatest traffic volume. Signs shall be of a size determined by the Department of Community Development, at least 3 feet by 4 feet(0.91 meters by 1.22 meters) in size for public actions and 1 1/2 feet by 2 feet(0.46 meters by 0.61 meters) in size for administrative actions.

.....

H.J. REVIEW BY AGENCIES

.....

I.K. ADMINISTRATIVE REVIEW

1. Review of permits shall follow the provisions of Title 15 Development Code Section 15.09 for type II decision review. ~~Within thirty (30) calendar days following the date of acceptance of a complete application subject to administrative review or such additional period as the applicant may authorize, the Director of Community Development shall act on said application as follows:~~

- a. ~~Approval; or~~
- b. ~~Disapproval; or~~
- c. ~~Grant preliminary approval subject to conditions and completion of specified improvements; or~~
- d. ~~Return the application to the applicant, specifying reasons for return.~~

~~Said decision of the Director of Community Development shall be based upon reports of reviewing agencies, comments received during the review period, the requirements of this Chapter and all other relevant facts and information needed to determine that the public interest shall be served by the application. Where appropriate, a decision shall also state the specific precedent, reasons, conditions and analysis upon which the decision is based.~~

2. Director's Findings

- a. The Director shall make findings based upon the review and recommendations of County departments, other agencies, affected tribes, and any public comments received. Such findings and conclusions shall also set forth the manner by which the decision would carry out and conform to the goals of RCW 36.70A, other adopted County policies, objectives and regulations and this Chapter.
- b. A decision on the application may be to grant, deny, or grant with such conditions, modifications and restrictions as the Director finds necessary to ensure that the proposed development is compatible with the natural environment, and is in compliance with the goals of RCW 36.70A, the Shoreline Master Program, State Environmental Policy Act, the standards of this Chapter, and other County codes and ordinances found applicable. Examples of the kinds of conditions, modifications and restrictions which may be imposed include, but are not limited to, additional setbacks, screenings in the form of fencing or landscaping, storm drainage facilities, restrictive covenants, easements, dedications of additional rights-of-way, performance bonds and measures to mitigate identified adverse environmental and socio-economic impacts associated with the proposed action.

J.I. PUBLIC REVIEW

If a determination is made that a Public Review is necessary, pursuant to Section 17.01.120.E.2.b of this Chapter, then the provisions of Title 15 Development Code Section 15.09 for type III decision review shall be followed.

1. ~~Within seven (7) working days following the last action required to comply with the requirements of SEPA, the Department of Community Development shall schedule a date for a public hearing before the Planning Commission on those applications, requiring public review as follows:~~
 - a. ~~The date of hearing shall be no more than sixty (60) calendar days after the date a complete application, including a special studies and plans required, was accepted for projects exempt from SEPA or, for non-exempt projects, the last action required to comply with SEPA.~~
 - b. ~~A notice of hearing providing the location and a general description of the proposed project shall be published at least ten (10) calendar days prior to the hearing date in a newspaper of general circulation in the County.~~
 - c. ~~Written notice of the hearing date shall be mailed to all owners of assessor's parcels within three hundred (300) feet (91.44 meters) of the boundaries of the property upon which the proposed development is located or within three hundred (300) feet (91.44 meters) of the contiguous property, if any, owned by the applicant, whichever~~

~~distance is greater. It shall be the responsibility of the applicant to provide the County with said list of names and pay the cost of the newspaper notice.~~

- ~~d. Written notice of application shall also be provided to any organization or individual who has requested, in writing, to receive notice of all land use applications encompassed by this Chapter. Provided that, the County may charge a reasonable fee for such notice, as approved by resolution of the Board.~~

~~These notice provisions are intended as minimum requirements. The Director of Community Development shall ensure that all reasonable means are used to provide notice of application and hearing.~~

~~2. REPORT OF PLANNING DEPARTMENT~~

~~The Department of Community Development shall coordinate and assemble the reviews of other county departments having an interest in the subject application and shall prepare a report summarizing the factors involved and the department's findings and recommendations. At least seven (7) calendar days prior to the scheduled hearing the report shall be mailed to the Planning Commission and copies thereof shall be mailed to the applicant, other interested parties and made available for public inspection.~~

~~3. PUBLIC HEARING~~

~~Prior to making a recommendation on any application, the Planning Commission shall hold at least one public hearing thereon. It may continue said public hearing to another date certain, if:~~

- ~~a. The complexity of the issue and/or intense public interest warrants further public testimony, and~~

- ~~b. The first public hearing is not officially closed, and the date for the continued public hearing is established during the same session as the first public hearing.~~

~~The Planning Commission should make every effort to expeditiously arrive at its recommendation.~~

~~4. PLANNING COMMISSION RECOMMENDATION~~

~~Within thirty (30) calendar days of the conclusion of a final public hearing, unless a longer period is agreed to in writing by the applicant, the Planning Commission shall render a written recommendation which shall include at least the following:~~

- ~~a. Written findings based upon the record and conclusions therefrom which support the recommendations. Such findings and conclusions shall also set forth the manner by which the recommendation would carry out and conform to the goals and policies of RCW 36.70A, and existing County adopted policies, regulations, and this Chapter.~~
- ~~b. A recommendation on the application which may be to grant, deny, or grant with such conditions, modifications and restrictions as the Commission finds necessary to ensure that the proposed development is compatible with #surrounding land use patterns, and is in compliance with the goals of RCW 36.70A, State Environmental Policy Act and other County codes and ordinances found applicable. Examples of the kinds of conditions, modifications and restrictions which may be imposed include, but are not limited to, additional setbacks, screenings in the form of fencing or landscaping, storm drainage facilities, restrictive covenants, easements, dedications of additional right of way, performance bonds and measures to mitigate identified adverse environmental and socio-economic impacts associated with the proposed action.~~

~~M. BOARD ACTION ADOPT, REJECT, REMAND~~

~~A Planning Commission recommendation shall be scheduled for Board consideration in open public meeting no sooner than ten (10) nor longer than thirty (30) calendar days from the date the recommendation was rendered. The Board shall consider the matter based upon the written record, exhibits, Department of Community Development reports, and the Planning Commission's recommendation and may adopt, reject or remand the recommendation for further consideration.~~

~~N. BOARD ACTION MODIFY~~

~~If, at the public meeting, the Board finds it may be necessary to consider modifications to the recommendation, it shall schedule and conduct its own public hearing at which time it may receive additional evidence and testimony. Notice of said hearing shall be given pursuant to the Planning Commission public notice provisions of this Chapter.~~

K.O. REASONABLE USE EXCEPTION

1. If the application of this Chapter would deny all reasonable use of a site, development may be allowed which is consistent with the general purposes of this Chapter and the public interest.

2. Nothing in this Chapter is intended to preclude all reasonable use of property. An applicant for a development proposal may file a request for a reasonable use exception which shall be considered by the Hearing Examiner Board of County Commissioners at a public hearing.
 - a. A description of the areas of the site which are critical areas and/or resource lands or within setbacks required under this Chapter;
 - b. A description of the amount of the site which is within setbacks required by other County standards;
 - c. A description of the proposed development, including a site plan;
 - d. An analysis of the impact that the amount of development would have on the resource lands or critical areas;
 - e. An analysis of whether any other reasonable use with less impact on the resource lands or critical areas is possible;
 - f. A design of the proposal so that the amount of development proposed as reasonable use will have the least impact practicable on the resource lands and/or critical areas;
 - g. Other information as the Department determines is reasonably necessary to evaluate the issue of reasonable use as it relates to the proposed development.

L. P. The Hearing Examiner Board of County Commissioners may approve the reasonable use exception, if the Hearing Examiner Board determines the following criteria are met:

1. There is no other reasonable use or feasible alternative to the proposed development with less impact on the resource lands or critical areas; and
2. The proposed development does not pose a threat to the public health, safety or welfare on or off the site; and
3. Any alteration of the resource lands and/or critical areas shall be the minimum necessary to allow for reasonable use of the property; and
4. The inability of the applicant to derive reasonable use of the property is not the result of actions by the applicant in subdividing the property or adjusting a boundary line thereby creating the undevelopable condition after the effective date of the Chapter; and
5. The proposal mitigates the impact on the resource lands and/or critical areas to the maximum extent possible, while still allowing reasonable use of the site.

M. Q. Except when application from this Chapter would deny all reasonable use of a site, an applicant who seeks an exception from the regulations of the Chapter shall pursue a variance as provided in Title 15 Development Code Section 15.09.057.

hh) minimum front yard setback in all areas of the County.

staff analysis:

The Department of Community Development proposes changes to the Development Regulations to state that a minimum front yard setback shall exist in all areas of the County. The proposed minimum front yard setback provides for adequate distance along roads and road easements for possible future improvements (safety or resurfacing) when needed. A variance can still be submitted for review in order to grant reasonable relief for a site specific request.

MASON COUNTY DEVELOPMENT REGULATIONS

Sec. 1.03.036 Buffer and Landscape Requirements

.....

K. Uses allowed in a buffer yard.

1. Where a wetland or open space set aside for any other purpose is used as a buffer yard, any use normally allowed in such wetland or open space may be allowed also within the buffer yard, except that mining, logging, or other forestry activities shall not be permitted in a buffer yard.
2. Required stormwater facilities may be located within buffer yards, provided that the landscaping of such facility complies with the requirements of this Section.

L. In the determination of applicable buffer yards, either through this subsection or in Chapter 1.04, the front yard setback shall not be less than 10 feet, except by the granting of a variance (Section 1.05.030).

.....

ii) change in accessory dwelling unit requirements:

staff analysis:

The Department of Community Development proposes a change in accessory dwelling unit (ADU) standards in the Development Regulations (from 900 sq ft to 1,000 sq ft) to allow the same size accessory dwelling unit as now permitted in the Mason County Shoreline Master Program. Staff finds that this is a reasonable change since some flexibility in this standard was commonly stated by applicants requesting ADUs on properties well away from shoreline areas of the County.

MASON COUNTY DEVELOPMENT REGULATIONS

Sec. 1.03. 029 Accessory Dwelling Unit Requirement

.....

D. The ADU shall not exceed 50% of the square footage of the habitable area of the primary residence or ~~900~~ 1,000 feet, whichever is smaller.

.....

- q3) new text in the Resource Ordinance and Development Regulations to include the term appurtenant structures in the definition of residential development.

MASON COUNTY DEVELOPMENT REGULATIONS

1.06 Definitions

Insert in order:

Appurtenant Structure: A structure that is ordinarily connected to the use and enjoyment of a single-family residence; normal appurtenant structures include, but are not limited to, a garage, deck, storage shed, woodshed, pump house, upland retaining wall, and fence.

Residential Development. *The development of land, or the construction or placement of dwelling units for residential occupancy or appurtenant structures and for accessory uses. This definition shall not be construed to authorize any use under the variance criteria.*

MASON COUNTY RESOURCE ORDINANCE

17.01.240 Definitions

Insert in order:

Appurtenant Structure: A structure that is ordinarily connected to the use and enjoyment of a single-family residence; normal appurtenant structures include, but are not limited to, a garage, deck, storage shed, woodshed, pump house, upland retaining wall, and fence.

Residential Development. *The development of land, or the construction or placement of dwelling units for residential occupancy or appurtenant structures and for accessory uses. This definition shall not be construed to authorize any use under the variance criteria.*