

Title 14

FOREST PRACTICES

Chapters:

- 14.01 Introductory Provisions
- 14.02 Definitions
- 14.03 Moratorium Rescission Procedures
- 14.04 Appeals
- 14.05 Enforcement and Penalties

Chapter 14.01

INTRODUCTORY PROVISIONS

Sections:

- 14.01.010 Purpose.
- 14.01.020 Administration and applicability.
- 14.01.030 Authority and duties of the forest practices administrator.

14.01.010 Purpose.

This title is intended to carry out the provisions of the Washington State Forest Practices Act, RCW 76.09.060(3) (b) (i) (E), as currently in force, or as hereafter may be amended, to ensure that conversions of forest land are consistent with county development regulations, and to protect public resources. (Ord. 308 § 1 (part), 2003)

14.01.020 Administration and applicability.

The provisions of this title apply to the rescission of development moratoriums associated with forest practices activities within unincorporated Grays Harbor County. (Ord. 308 § 1 (part), 2003)

14.01.030 Authority and duties of the forest practices administrator.

The Grays Harbor County planning department director, or his or her designee, shall administer the provisions of this title as forest practices administrator (“administrator”).

A. The administrator shall have authority to review the applications to rescind moratoriums, conduct inspections, release moratorium on development, impose conditions, and impose fines as provided herein to ensure compliance with the provisions of this title.

B. The administrator shall coordinate with other state and local forestry representatives regarding implementation of this title.

C. The administrator shall perform such other duties as are necessary to carry out the purpose and requirements of this title.

D. The administrator shall establish written administrative procedures to expedite review of applications to rescind moratoriums made under authority of this title. (Ord. 308 § 1 (part), 2003)

Chapter 14.02

Definitions

Sections:

14.02.010 Definitions.

14.02.010 Definitions.

This chapter utilizes existing commonly used definitions contained in the Washington State Forest Practices Act, RCW 76.09.020, as currently in force, or as hereafter may be amended, and the Rules for the Washington State Forest Practices Act, WAC 222-16. For purposes of this title, in addition to those contained in Section 17.08.010, the following definitions will apply:

“Adverse impact” means adverse environmental impact.

“Conversion option harvest plan” means a voluntary plan, pursuant to WAC 222-20-050(2), developed by the landowner and reviewed and approved by Grays Harbor County.

“Development” means any man-made change to improved or unimproved land, including but not limited to: constructing new buildings or structures; altering the exterior of existing buildings or structures; mining, excavating, or removing sand, gravel, or minerals; dredging, drilling, or dumping; filling, grading, or paving; or cutting and/or removing timber from land in order to conduct an active use that is incompatible with timber growing.

“Forest resource lands” are those lands in the unincorporated areas of the county that are designated forest lands of long term commercial significance by the board of county commissioners pursuant to RCW 36.70A.170 on April 6, 1992, and meet the following criteria:

1. The property is enrolled in the open space-timber, designated forest, or classified forest property tax classification program pursuant to Chapter 84.33 or 84.34 RCW, as of January 1, 1991; or the property is owned by a state or local governmental body with long-term forest management as the primary use, but is exclusive of any land identified by the board of county commissioners as not appropriate for long-term commercial timber use.

2. Other lands identified by the board of county commissioners as forest land of long-term commercial significance.

“Merchantable or commercial tree” means any tree species having a diameter of four inches at breast height.

“Moratorium” means that if the forest practices application or notification does not state that any land covered by the forest practices application or notification will be or is intended to be so converted, for six years after the date of the forest practices application or notification Grays Harbor County shall deny any or all development applications to the county, relating to non-forestry uses of land subject to the forest practices application or notification.

“Platted land” means land divided pursuant to Chapter 58.17 RCW and Title 16 of this code into any number of lots, tracts, parcels, sites, or divisions for the purpose of sale, lease, or transfer on or after January 1, 1960.

“Scope and intent” means, in addition to its common dictionary usage, the meanings ascribed under WAC 197-11-792. (Ord. 308 § 1 (part), 2003)

Chapter 14.03

MORATORIUM RESCISSION PROCEDURES

Sections:

- 14.03.010 Development moratorium.
- 14.03.020 Exemptions.
- 14.03.030 Requests for release from development moratorium.
- 14.03.040 Development application review.
- 14.03.050 Decision criteria for evaluation and rescission of the six-year moratorium--Application requirements.
- 14.03.060 Recording development moratorium release.
- 14.03.070 Development or land use permits--Verification required.

14.03.010 Development moratorium.

All forest land converted to an active use in violation of RCW 76.09.060 shall be subject to a six-year development moratorium. This section shall not apply to activities conducted in compliance with an approved and properly executed conversion option harvest plan (COHP). (Ord. 308 § 1 (part), 2003)

14.03.020 Exemptions.

Upon written request of the landowner the administrator may rescind a development moratorium if:

A. A forest practices application or notification approved by the State Department of Natural Resources (“DNR”) has been either withdrawn or expired, and no harvesting of timber has taken place in reliance upon such approval.

B. The landowner shall submit a copy of the Notice of Decision by DNR canceling the non-expired forest practices application or notification. (Ord. 308 § 1 (part), 2003)

14.03.030 Requests for release from development moratorium.

The landowner subject to a development moratorium where a harvest has occurred, may request a release from the six-year moratorium by filing a written “Request for Release from Moratorium.” Such requests shall be filed with the administrator concurrent with a permit application for a development proposal, a completed environmental checklist, if required, and payment of all application

fees as applicable. The Request for Release from Moratorium should, to the extent possible, be processed concurrently with the applicable development permit application.

The administrator shall circulate the Request for Release from Moratorium for comment at least fifteen (15) days prior to taking action. The administrator shall solicit comments from the following:

- A. Owners of record of real property situated within three hundred (300) feet of the subject property.
- B. Appropriate state agencies such as the State Ecology, Natural Resources, and Fish and Wildlife Departments.
- C. Appropriate tribal governments and federal agencies.
- D. Other interested parties requesting such application information. (Ord. 308 § 1 (part), 2003)

14.03.040 Development application review.

The administrator shall review all applications to release the six-year moratorium in the following manner:

A. The administrator shall schedule and conduct an inspection of the site within ten (10) working days after receiving a complete application. A complete application shall include a development application form, vicinity map, and plan view. The applicant may include additional supporting materials necessary to explain the proposal.

B. The administrator shall review the application, site drawings, supporting materials, and site characteristics to determine whether the proposed moratorium release, and subsequent development are consistent with the conversion of forest land. (Ord. 308 § 1 (part), 2003)

14.03.050 Decision criteria for evaluation and rescission of the six-year moratorium--Application requirements.

A "complete" application requesting rescission of the six-year development moratorium shall contain the following information:

- A. A completed development application form provided by the planning department.
- B. A completed State Environmental Policy Act ("SEPA") checklist.
- C. An updated site plan, drawn to scale, showing critical areas and buffers, existing site conditions including topography and hydrology, areas proposed for development where timber has been cut and/or removed, and areas proposed for future development where timber has been cut and/or removed.
- D. Additional information as required by the administrator. (Ord. 308 § 1 (part), 2003)

14.03.060 Recording development moratorium release.

The administrator shall record the release of a six-year development moratorium in the office of the county auditor upon completion of the process provided in this chapter. (Ord. 308 § 1 (part), 2003)

14.03.070 Development or land use permits--Verification required.

Notwithstanding any other provision of this code, every development permit issued for forest land associated with the conversion to a use other than commercial timber operation as defined in

RCW 76.09.020, shall contain a statement by the issuing official verifying that the land in question is not or has not been subject to a notice of conversion to nonforestry uses under RCW 76.09.060 during the six-year period prior to the submission of a permit application. (Ord. 365 § 1, 2007)

Chapter 14.04

APPEALS

Sections:

14.04.010 Appeals.

14.04.020 Authority of board of adjustment to release moratorium.

14.04.010 Appeals.

Any person aggrieved by an administrative decision issued under this title may appeal the decision to the board of adjustment. All such appeals shall be filed in writing within twenty-one (21) days from the date of the decision. The administrator, upon timely receipt of a written appeal, will schedule a hearing before the board of adjustment. The decision of the board constitutes a final administrative decision. Any appeal of the board's decision shall be filed in superior court in accordance with the provisions of the Land Use Petition Act, Chapter 36.70C RCW, or other applicable law. (Ord. 308 § 1 (part), 2003)

14.04.020 Authority of board of adjustment to release moratorium.

The board of adjustment may grant, conditionally grant, or deny an appeal of the administrator's decision regarding a request for release from development moratorium. All decisions by the board of adjustment pursuant to Section 14.04.010 granting, or conditionally granting a release of moratorium shall be based upon finding each of the following facts:

A. That the person requesting the release did not attempt to avoid county review, or restrictions of a conversion forest practices application or notification.

B. That critical areas, riparian buffers, and/or shoreline areas as defined in RCW 76.09 and RCW 90.58 were not damaged by the forest practice operation.

C. In the event that critical areas, riparian buffers, and/or shoreline areas as defined in RCW 76.09 and RCW 90.58 are found to be damaged, a restoration plan has been developed by the applicant and accepted by the administrator.

D. A performance bond in such an amount as the board of adjustment finds adequate to ensure implementation of the restoration plan that has been filed with the county.

E. All development undertaken pursuant to a release from a development moratorium shall follow all permitting requirements as provided by this code, and other applicable laws, or regulations. (Ord. 308 § 1 (part), 2003)

Chapter 14.05

ENFORCEMENT AND PENALTIES

Sections:

- 14.05.010 Enforcement.
- 14.05.020 Cease and desist orders.
- 14.05.030 Restoration orders.
- 14.05.040 Compliance.
- 14.05.050 Civil penalties.
- 14.05.060 Judicial enforcement.
- 14.05.070 Criminal penalties.
- 14.05.080 Limitations on issuing development permits.
- 14.05.090 Responsible parties.

14.05.010 Enforcement.

The administrator shall enforce the provisions of this title by issuing orders to cease and desist, orders to restore land, issuing civil penalties, and/or referral of violations to the prosecuting attorney for judicial enforcement action. Recourse to any particular enforcement remedy shall not preclude recourse to any other remedies provided in this chapter. No person shall knowingly make any false statement, representation, or certification in any application, record, or other document filed, or required to be maintained under this title. (Ord. 308 § 1 (part), 2003)

14.05.020 Cease and desist orders.

The administrator shall serve a cease and desist order when any person engages in any use of land, development, or any activity in violation of this title. The cease and desist order shall include the following:

- A. A description of the specific nature, extent, approximate date and time of the violation.
- B. A description of the significant adverse environmental impact, or probable significant adverse environmental impact, resulting from the violation.
- C. An order that the person(s) cease and desist the violation(s), or potential violation(s).
- D. A description of specific corrective actions to be taken to mitigate environmental damage and/or restore the site.
- E. A description of the time frame in which all corrective actions must be completed.

Cease and desist orders issued pursuant to this chapter shall become effective immediately upon personal, or certified mail service on the person(s) to whom the order is directed, or upon posting of the order in a conspicuous manner on the property. (Ord. 308 § 1 (part), 2003)

14.05.030 Restoration orders.

The administrator shall order the person(s) responsible for any violation of this title to partially or completely restore the site. All restoration orders shall include the following:

- A. A description of the specific nature, extent, approximate date and time of the violation(s).
- B. A description of the damage, or potential damage resulting from the violation(s).

- C. The cease and desist order.
 - D. A description of specific corrective actions required to mitigate environmental damage and restore the site.
 - E. A description of the time frame in which required corrective actions shall be completed.
 - F. A requirement to file with the planning department a performance bond in an amount to be determined by the administrator to ensure satisfactory implementation of the restoration plan.
 - G. A requirement to comply with all applicable state and federal laws and regulations.
- Restoration orders issued pursuant to this chapter shall become effective immediately upon service upon the person to whom the order is directed. (Ord. 308 § 1 (part), 2003)

14.05.040 Compliance.

It is unlawful for any person to fail to comply with the terms of an order to cease and desist, or an order to restore a site. Every such violation shall constitute a separate violation of this title, which may result in further enforcement actions including, but not limited to, assessment of civil penalties. All appeals of any order to cease and desist or to restore a site shall be heard and decided by the board of adjustment, and shall be filed as provided in Section 14.04.010 within twenty-one (21) days of service of the order. The administrator will thereupon schedule a hearing before the board of adjustment.

Upon filing an appeal of a restoration order to undertake measures, such order shall be stayed, except in the case where such order expressly states therein that an emergency requiring immediate action to protect public health, safety, or the environment exists. The filing of an appeal shall not stay any order to cease and desist. (Ord. 308 § 1 (part), 2003)

14.05.050 Civil penalties.

Each violation of a development permit or permit condition issued pursuant to this title, or of any order issued pursuant to this title shall constitute a separate offense. In addition to any other remedy provided herein, the administrator may issue civil penalties in an amount not to exceed one thousand dollars (\$1,000.00) for:

- A. Each day, or part thereof, an activity conducted in violation of this title continues.
- B. For each merchantable tree cut in violation of this title.

Any person violating a development permit, a permit condition, or order issued pursuant to this title, or any other provision of this title shall be liable for all administrative costs, fees, and expenses incurred in connection with enforcement activities. (Ord. 308 § 1 (part), 2003)

14.05.060 Judicial enforcement.

The prosecuting attorney is authorized to commence an action at law, or in equity, including but not limited to an action for injunctive relief filed in superior court to enforce any provision of this title. (Ord. 308 § 1 (part), 2003)

14.05.070 Criminal penalties.

Any person convicted of a violation of this title shall be guilty of a misdemeanor and shall be punished by a fine not to exceed one thousand dollars (\$1,000.00), or by imprisonment in jail for a

period not to exceed ninety (90) days, or by both such fine and imprisonment. (Ord. 308 § 1 (part), 2003)

14.05.080 Limitations on issuing development permits.

The county shall not issue any development permits pursuant to this code for property for which there is any outstanding violation of this title unless such permit is necessary to perform required restoration activity, or to otherwise comply with the terms of a restoration order. (Ord. 308 § 1 (part), 2003)

14.05.090 Responsible parties.

The landowner(s) on which a violation of this title has occurred, any person(s) engaging in activity in violation of this title, or any person(s) who, through any act of commission or omission, procures, aids, or abets violation(s) of this title, are jointly and separately liable for such violation(s).