

Ordinance No. 156
Pacific County Forest Practices Ordinance

AN ORDINANCE ESTABLISHING A PROCESS FOR PACIFIC COUNTY TO
REGULATE FOREST LAND CONVERSIONS, REMOVE DEVELOPMENT
MORATORIUMS AND REVIEW CONVERSION OPTION HARVEST PLANS.

WHEREAS, the Washington State Legislature adopted changes to the Washington State Forest Practices Act in Substitute bill 5714, which became effective on July 27, 1997, and which allows local governments to regulate conversions of forest lands to nonforestry uses;

WHEREAS, local governments were required to adopt ordinances that equal or exceed the state forest practice's resource protection rules and regulations by December 31, 2001;

WHEREAS, Chapter 76.09 RCW and Chapter 222-040 provides the authority and the requirements for local government involvement in state forest activities;

WHEREAS, Pacific County Ordinance No. 156 provides a process to remove moratoriums under the provisions of the Washington State Forest Practices Act codified in Chapter 76.09.060(3)(b), (d) and (e);

WHEREAS, Pacific County Ordinance No. 156 provides a process to review Conversion Option Harvest Plans which provide flexibility to landowners as they manage their lands pursuant to Chapter 222-20-050 WAC;

WHEREAS, Pacific County Ordinance No. 156 promotes the health, safety and welfare of the general public by establishing minimum standards and review criteria for certain forestry practices such as the review of forestry conversions, conversion option harvest plans and the lifting of permit moratoriums;

IN ACCORDANCE WITH CHAPTERS 76.09 RCW, IT IS HEREBY
ORDAINED BY THE BOARD OF COMMISSIONERS, PACIFIC COUNTY,
WASHINGTON, AS FOLLOWS:

SECTION 1 - PURPOSE

A. STATEMENT OF AUTHORITY AND TITLE

This Title is intended to carry out the provisions of the Washington State Forest Practices Act, RCW 76.09 and WAC 222-20.

B. STATEMENT OF PURPOSE

This Chapter is intended to carry out the Legislature's mandate to develop a process to remove moratoriums under the provisions of the Washington State Forest Practices Act codified as Chapter 76.09.060(3)(b), (d) and (e) RCW, and to develop a process whereby alternative conversion option harvest plans can be reviewed by Pacific County as established in Chapter 76.090.060 RCW and the Pacific County Comprehensive Plan through the proper regulation of forest lands and other nonforestry uses.

SECTION 2 – DEFINITIONS

A. GENERAL

Except as provided for in this section, this chapter will use existing definitions that are already in common use regarding the subject of forest practices. This shall include all the definitions contained in the Washington State Forest Practices Act (RCW 76.09.020), Rules for the Washington State Forest Practices Act (WAC 222-16), and applicable Pacific County Ordinances.

1. Administrator. "Administrator" means the Director of the Pacific County Department of Community Development or his or her designee(s). This person is responsible for administering the provisions and requirements of this Ordinance.
2. Conversion, Forest Lands. "Conversion, forest lands" or "forest land conversion" includes any Class IV General Forest Practices as defined by Chapter 76.09.050 RCW. Generally, "forest lands conversion" refers to the cutting and removal of trees for the purpose of converting forest lands to a nonforestry use.
3. Conversion Option Harvest Plan. "Conversion option harvest plan (COHP)" means a voluntary plan developed by or on behalf of the landowner and approved by Pacific County indicating the limits and types of harvest areas, road locations and open space. This approved plan, when submitted to the Department of Natural Resources as part of the forest practices application and followed by the landowner, maintains the landowner's option to convert the land to a use other than commercial forest production (releases the landowner from the six-year moratorium on future development) under Chapter 222-16 WAC.
4. Developed Property. "Developed property" means property which is used for purposes other than commercial forest production. Developed property includes land which has been graded, landscaped or built upon. Any portion of property which has been altered as described herein shall be considered to be "developed property" for purposes of this chapter.

5. Development Moratorium. "Development moratorium" means Pacific County shall deny any and all applications for permits or approvals for a period of time established in Chapter 76.09 RCW. This shall include, but is not limited to, building permits, septic system permits, non-forestry related right-of-way permits, subdivision approvals, or change of zoning to a more intensive land use/zoning district relating to the legal description described on the forest practices permit. The moratorium does not apply to expansions, alterations, or maintenance of existing structures or their accessory structures, nor does the moratorium apply to boundary line adjustments done for purposes of conservation of open space or natural areas.
6. Development Proposal. "Development proposal" means any activity relating to use and/or development of land requiring a permit or approval from the Pacific County Department of Community Development.
7. Forest Land. "Forest land" means all land which is currently supporting a merchantable stand of timber and is not being actively used for a use which is incompatible with timber growing.
8. Hearing Examiner. "Hearing Examiner" means the Pacific County Hearing Examiner, appointed by the Pacific County Board of County Commissioners pursuant to Pacific County Ordinance 150, or any amendments thereto.
9. Moratorium. "Moratorium" means that if the forest practices application or notification does not state that any land covered by the forest practices application will be, or is intended to be, converted to a non-forestry use, Pacific County shall deny all development applications made to the county relating to non-forestry uses of land for a period of time six years after the date of the forest practices application, unless removed in accordance with this Ordinance.
10. Non-conversion. "Non-conversion" means the cutting and removal of trees after which the property is retained in commercial forest product production.
11. Qualified Professional Forester. A "qualified professional forester" means an individual with academic and field experience in forestry or urban forestry. This may include an arborist certified by the International Society of Arboriculture or a forester with a degree in forestry.
12. SEPA. "SEPA" means the State Environmental Policy Act, Chapter 43.21C RCW.

13. Undeveloped Property. “Undeveloped property” means property which does not meet the definition of “developed property.”

SECTION 3 – GENERAL REQUIREMENTS

A. APPLICABILITY

This Ordinance applies to any forestland application within unincorporated Pacific County that does not have an approved Conversion Option Harvest Plan (COHP) through Washington State Department of Natural Resources and which is required to file the Development Moratorium pursuant to Chapter 76.09 RCW.

B. DESIGNATION OF ADMINISTRATOR

The Director of the Pacific County Department of Community Development shall be the Administrator of this Ordinance and shall be responsible for administering the provisions and requirements of this Ordinance. The Administrator may delegate this responsibility to a designee(s).

C. DELEGATION OF AUTHORITY

The Administrator may develop and implement written administrative rules, which are consistent with and effectuate the purpose of this Ordinance. The Board of Pacific County Commissioners must approve any administrative rule before it becomes effective.

D. REVIEW PROCEDURES AND APPEAL PROCESS

1. The provisions of this Ordinance shall be administered according to a Type 1 procedure under Ordinance No. 145, or any amendments thereto, unless a different review process is mandated by Ordinance No. 145, or any amendments thereto.
2. Any decision of the Administrator or his or her designee(s) in the administration of this Ordinance may be appealed according to the provisions of Ordinance No. 145, or any amendments thereto.

E. EXEMPTIONS

The following forest practices are exempt from the provisions of this chapter:

1. Class I, II, III or IV Forest Practices, which do not involve a conversion to a land use other than commercial forest production;

2. Commercial nurseries and Christmas tree farms. The removal of trees which have been grown to be sold as Christmas trees or as landscaping specimens;
3. Emergencies. The removal of trees necessary to protect public safety or private or public property from clear and imminent danger; and,
4. Landscape maintenance. Landscape maintenance or pruning which does not impair the health or survival of trees required to be retained or planted under the authority of this chapter.

F. PERMIT REQUIREMENT

Except as specified in Subsection 3.E, Exemptions, all activities regulated under this Ordinance shall secure permit approval from Pacific County prior to initiating any activity.

I. PENALTIES AND ENFORCEMENT

1. A person who violates the provisions of this Ordinance or who fails to comply with any of its requirements shall be subject to the procedures and sanctions set forth in Ordinance No. 141, or any amendments thereto.
2. In addition to the civil penalty provisions provided in Ordinance No. 141, or any amendments thereto, any person who violates any of the provisions of this Ordinance is guilty of a misdemeanor, and each day or portion thereof during which a violation is committed, continued, or not permitted shall constitute a separate offense. The penalty for each violation is a fine of not more than one thousand dollars (\$1,000.00) or imprisonment for not more than ninety (90) days, or both. The principles of liability contained in Chapter 9A.08 RCW, including, but not limited to, liability for conduct of another shall apply to the enforcement of this Ordinance, as shall all judicial interpretations thereof.
3. When a court determines that a person has committed a civil infraction under this Ordinance and Ordinance No. 141, or any amendments thereto, Pacific County may collect penalties, assessments, costs, and/or fines by any procedure established for the collection of debts that are owed to the County.
4. Any disposition of a violation pursuant to this Ordinance and Ordinance No. 141, or any amendments thereto, shall not absolve a person from correcting or abating a violation and shall not prevent the prosecuting authority from pursuing criminal prosecution, other civil action including, but not limited to, injunctive relief, license revocation, and abatement, or

all of the above. If Pacific County prevails in a separate civil action, the Court may award the County reasonable costs including, but not limited to, the costs of the responsible officials' time, witness fees, attorney fees, court costs, and the costs to the County of abatement or of enforcement of an injunction, or both.

5. Any or all of the remedies articulated in Subsection 4.F., PENALTIES AND ENFORCEMENT, may be used by the County to enforce this Ordinance. Nothing contained in this Ordinance shall prevent the County, by and through the prosecuting authority, from taking such other lawful action as is necessary to prevent or remedy any violation.

J. STATEMENT OF SEVERABILITY

If any provision, or portion thereof, contained in this Ordinance is held to be unconstitutional, invalid, or unenforceable, said provisions, or portion(s) thereof, shall be deemed severed and the remainder of this Ordinance shall not be affected and shall remain in full force and effect.

K. FEES

All permit fees for the review of forestry conversions, conversion option harvest plans and the lifting of permit moratoriums shall be set by resolution of the Board of Pacific County Commissioners.

SECTION 4 – DEVELOPMENT MORATORIUM

A. RECORDING OF DEVELOPMENT MORATORIUM

The Administrator shall ensure that the applicant has recorded a six-year development moratorium with the Pacific County Auditor for all non-conversions where the Washington State Department of Natural Resources has approved a Class II, III or IV Special Forest Practices application.

B. RESCISSION OF DEVELOPMENT MORATORIUM

Upon request of the property owner, the Administrator may rescind the development moratorium if an approved forest practices application has been either withdrawn or expired, and no harvest in reliance upon such approval has taken place under Chapter 76.09 RCW.

C. WAIVER OF DEVELOPMENT MORATORIUM

The six-year moratorium imposed pursuant to Chapter 76.09 RCW may be waived by the Administrator, subject to the conditions imposed by the

Administrator and the applicant's compliance with all local regulations and ordinances.

D. DEVELOPMENT MORATORIUM WAIVER APPLICATION.

An applicant who seeks a waiver of the six-year development moratorium shall submit a completed application form accompanied by the following information:

1. A completed Development Permit Application packet, including development plans, for both the moratorium waiver and for the proposed development project;
2. Assessor's map with property boundaries clearly delineated;
3. A completed State Environmental Policy Act (SEPA) checklist, if required;
4. A completed site plan indicating property boundaries, areas of harvest, areas of future development, existing and proposed road locations, and any known critical areas including wetland and riparian (streams, creeks, etc.) areas;
5. A vicinity map;
6. A written description of the proposed development project;
7. Applicable fees.

E. DEVELOPMENT MORATORIUM WAIVER STANDARDS

1. The harvest and reforestation of the property shall have been deemed to be in compliance with the approved forest practices application and with the State Forest Practices Act.
2. All forest conversions shall comply with the State Environmental Policy Act.
3. It must be clear that the harvest operation complied with the County's critical areas regulations or that the application can be conditioned to ensure compliance with the County's critical areas regulations.
4. Critical areas and their buffers as set forth in Pacific County Ordinance 147, or any amendments thereof, were not damaged in the forest practice operation, or any such damage is repairable with restoration.

5. The Administrator may authorize, conditionally authorize, or deny an application to waive the six-year moratorium upon review of the application and subject to the provisions of this chapter. The waiver shall include any applicable conditions of approval. Failure to comply with any conditions of approval will result in rescission of the waiver and reinstatement of the moratorium for a total of six years from the time of the original forest practice application.

SECTION 5 - CONVERSION OPTION HARVEST PLANS

An applicant may submit a conversion option harvest plan for review and approval by Pacific County subject to the following standards and in accordance with Chapter 222-20-050 WAC.

A. CONVERSION OPTION HARVEST PLAN PURPOSE

The purpose of the conversion option harvest plan is to allow limited selective logging prior to final development approval as identified in Chapter 222-16 WAC.

B. CONVERSION OPTION HARVEST PLAN REVIEW

1. A conversion option harvest plan shall be submitted to the Pacific County Department of Community Development pursuant to Chapter 222-20-050 WAC prior to the initiation of any development or timber harvest activities on the project site.
2. The conversion option harvest plan permit shall expire upon expiration of the forest practices application/notification.
3. An application for the conversion option harvest plan shall follow the application process enumerated in Subsection 4.D of this Ordinance.
4. The Administrator may authorize, conditionally authorize, or deny an application for a conversion option harvest plan upon review of the application and subject to the provisions of this chapter. The permit for the conversion option harvest plan shall include any applicable conditions of approval.

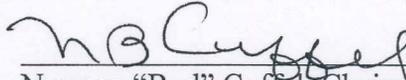
SECTION 6 – EFFECTIVE DATE

This Ordinance is effective immediately upon approval.

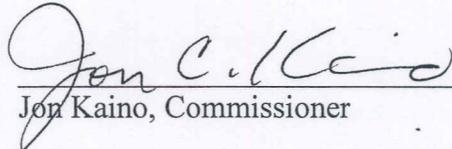
PASSED by the Board of Pacific County Commissioners meeting in regular session at South Bend, Washington, by the following vote, then signed by its membership and attested to by its Clerk in authorization of such passage the 20th day of February, 2005.

3 AYE; 0 NAY; 0 ABSTAIN; 0 ABSENT

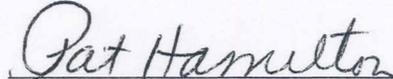
BOARD OF COUNTY COMMISSIONERS
PACIFIC COUNTY, WASHINGTON



Norman "Bud" Cuffel, Chairman

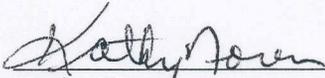


Jon Kaino, Commissioner



Pat Hamilton, Commissioner

ATTEST:



Kathy Noren
Clerk of the Board