

ORDINANCE NO. 149

AN ORDINANCE OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, AMENDING THE UNIVERSITY PLACE CRITICAL AREA AND NATURAL RESOURCE LANDS ORDINANCE NO. 59 TO ENSURE CONSISTENCY WITH THE NEW PUBLIC WORK STANDARDS INCLUDING AMENDMENTS TO SECTIONS .01.020, .14.010, .14.020 AND .01.030 RELATING TO MINE AND VOLCANIC HAZARD AREAS; SECTIONS .01.100, AND .22.175 RELATING TO FINANCIAL GUARANTEES; SECTION .14.030 RELATING TO GEOLOGICAL HAZARDOUS AREAS; SECTIONS .18.025, .18.050 AND 18.060 RELATING TO FISH AND WILDLIFE AREAS; SECTION .20.030 RELATING TO FLOOD HAZARD AREAS; AND DELETING CHAPTERS 34 AND 36 RELATING TO MINERAL RESOURCE LANDS, AND PROPERTY ADJACENT TO DESIGNATED RESOURCE LANDS RESPECTIVELY.

WHEREAS, the City Council of the City of University Place adopted new public works standards on May 12, 1997 to establish uniform standards for engineering and construction practices within the City; and

WHEREAS, adoption of the public work standards results in the need to amend of various sections of the Critical Area Ordinance, adopted by Ordinance 59, as amended, to insure consistency with the new public work standards; and

WHEREAS, Ordinance No. 59, the Critical Areas Ordinance which was based on Pierce County's Critical Areas Ordinance, includes references to mine hazard areas, volcanic hazard areas, mineral resource areas, and some fish and wildlife critical areas that do not exist within the City limits; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Critical Areas and Natural Resource Lands Authority and Purpose
Section .01.030, Intent is amended to delete references to volcanic and mine hazard areas as follows:

 .01.030 Intent.

Erosion, landslide, seismic, ~~volcanic, mine~~ and flood hazard areas, streams, wetlands, fish and wildlife habitat, and aquifer recharge areas constitute critical areas; and mineral resource lands constitute natural resource lands. All of these areas are of special concern to the people of University Place, Pierce County and the State of Washington. The intent of this Title is to protect critical areas and conserve the natural resource lands of the City

by establishing minimum standards for development of sites which contain or are adjacent to critical areas or natural resource lands and thus promote the public health, safety, and welfare by:

Section 2. Critical Areas and Natural Resource Lands General Requirements
Section __.01.020 Definitions is amended to delete the definition of Mine Hazard as follows:

~~Y. "Mine hazard areas" means areas directly underlain by, adjacent or abutting to, or affected by mine workings such as adits, tunnels, drifts, or air shafts.~~

Section 3. Critical Areas and Natural Resource Lands General Requirements
Section __.01.100 Compliance Provisions is amended to modify Subsections A(1) and A(2) as follows:

A. Financial Guarantees required under this Title shall:

1. be in addition to the site development construction guarantee required by the City's Site Development Regulations, Public Work Standards.
2. be submitted on financial guarantee forms found in the approved by the City Attorney City's Site Development Regulations

Section 4. Geologically Hazardous Areas Section __.14.010, Purpose is amended as follows.

__.14.010 **Purpose.**

The intent behind the classification and designation of geologically hazardous areas is to classify and designate areas on which development should be prohibited, restricted, or otherwise controlled because of danger from geological hazards. For purposes of this Title, geologically hazardous areas include the following: erosion and landslide hazard areas; and seismic hazard areas; mine hazard areas; and volcanic hazard areas.

Section 5. Geologically Hazardous Areas Section __.14.020, Definitions is amended to delete Subsections A Adit, F Debris Flow, G, Drift, O, Lahar, S, Mine hazard areas T, Mud Flow, and AA Volcanic hazard areas as follows:

~~A. "Adit" means a nearly horizontal passage from the surface in a mine.~~

~~F. "Debris flow" means the rapid downslope movement of a viscous mass of water saturated regolith.~~

~~G. "Drift" means a nearly horizontal mine passageway driven on or parallel to the course of a vein or rock stratum.~~

~~O. "Lahar" means a mudflow or debris flow mobilized by water which originates on the slopes of a volcano.~~

~~S. "Mine hazard areas" means areas directly underlain by, adjacent to or abutting, or affected by mine workings such as adits, tunnels, drifts, or air shafts.~~

~~T. "Mudflow" means a debris flow containing an abundance of fine particles.~~

~~AA. "Volcanic hazard areas" means those areas subject to pyroclastic flows, lava flows, and inundation by debris flows, mudflows, or related flooding resulting from geologic or volcanic events on Mount Rainier.~~

Section 6. Geologically Hazardous Areas Section 14.030, Erosion and landslide Hazard Areas is amended to modify Subsections D(6) Building Setbacks and Construction near Buffer and Subsection 8, Erosion Control Plans as follows:

6. Building Setback and Construction near Buffer.

Eight foot minimum setback lines shall be required from the buffer area required in Subsection 4., for construction of any impervious surface(s) greater than 120 square feet of base coverage. Clearing, grading, and filling within eight feet of the buffer shall only be allowed when the applicant can demonstrate that vegetation within the buffer will not be damaged. The setback is required in addition to the buffer regardless of buffer width.

8. Erosion Control Plan.

Erosion control plans shall be required for all regulated activities in erosion hazard areas. The erosion control plans shall be consistent with the City's Site Development Regulations, Section 3.04, Public Work Standards.

Section 7. Fish and Wildlife Habitat Areas Section __.18.025, Applicability and Scope is amended to delete Subsection B(1)(b)(2)(h) as follows:

B. Identification of Critical Fish and Wildlife Species and Habitats.

1. Critical Fish and Wildlife Habitat Areas.

b) habitats and species of local importance, including the following:

2). Documented habitat areas or outstanding potential habitat areas for endangered, threatened, sensitive, candidate, or monitor species. These areas include specific habitat types which are infrequent in occurrence in Pierce County and may provide specific habitats with which endangered, threatened, sensitive, candidate, or monitor species have a primary association, such as breeding habitat, winter range, and movement corridors. These areas include the following:

~~(h) White River Elk Herd Winter Range;~~

Section 8. Fish and Wildlife Habitat Areas Section __.18.050, Habitat Protection Areas Scope is amended to modify Subsection A as follows:

__.18.050 Habitat Protection Procedures.

A. Education and Information.

A voluntary education program to explain the need for and methods of habitat management will provide for long-term protection and enhancement of critical fish and wildlife habitat areas. By informing citizens of the declining populations of several fish and wildlife species in ~~Pierce County~~ the City, the diminishing animal habitat available, and the management techniques that individuals can use to preserve and restore fish and wildlife habitat areas, the City can foster good stewardship of the land by property owners.

Section 9. Fish and Wildlife Habitat Areas Section __.18.050, Habitat Protection for Rivers and Streams is amended to modify Subsections A and C as follows:

Regulated activities proposed along rivers and streams shall provide for habitat protection.

A. Habitat Protection for Rivers and Streams Shall be Provided Through Buffers.

1. The buffer, shall be a separate tract consisting of undisturbed natural vegetation, (except for public trails) shall be required along all streams, as classified by the DNR water typing classification system (WAC 222-16-030). The buffer shall extend landward from the ordinary high water mark of the water body. The buffers specified in this section are the minimum buffers required. Larger buffers may be required to provide adequate protection for fish and wildlife habitat.

C. Other Rivers and Streams Requiring Buffers. For rivers and streams not governed by __.18.060 B above, the buffer width shall be as follows:

DNR Water Type	Buffer Width in Feet
1 through 5	35 <u>500</u>
<u>Major Streams</u>	
<u>Leach Creek</u>	<u>50</u>

Section 10. Flood Hazard Areas Section __.20.030, Applicability is amended to modify Subsection C Regulation as follows:

C. Regulation.

All development in flood hazard areas shall be according to the ~~“Site Development Regulations Ordinance.”~~ City Public Work Standards and Ordinance No. _____

Section 11. Wetland Areas, Section 22.175, Financial Guarantees is amended to modify Subsection A(1) and A(2) as follows:

22.175 **Financial Guarantees**

The City shall require an applicant to submit a financial guarantee to the City to guarantee any performance, mitigation or monitoring required as a condition of permit approval. The permit would not be granted until the financial guarantee is received by the Department.

- A. Financial Guarantees required under this Chapter shall:
1. be in addition to the site development construction guarantee required by the City's ~~Site Development Regulations, Section 5.00(A);~~ Public Work Standards;
 2. be submitted on financial guarantee forms ~~found in the City's Site Development Regulations approved by the City Attorney.~~

Section 12. Natural Resource Lands. All references to Natural Resource Lands in the Chapter Title, the Table of Contents and in the text of the Ordinance deleted as follows:

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~~CRITICAL AREAS AND NATURAL RESOURCE LANDS~~

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Chapter __.01

**CRITICAL AREAS AND NATURAL RESOURCE LANDS
AUTHORITY AND PURPOSE**

Sections:

- ~~__~~.01.010 Authority and Title.
- ~~__~~.01.020 Purpose and Goals.
- ~~__~~.01.030 Intent.
- ~~__~~.01.040 Interpretation.
- ~~__~~.01.050 Severability.

~~__~~.01.010 Authority and Title.

This Title is established pursuant to the requirements of the Growth Management Act (RCW 36.70A.060) and the State Environmental Protection Act (RCW 43.21C).

This Title shall be known as "Critical Areas and Natural Resource Lands."

~~__~~.01.020 Purpose and Goals.

This Title establishes interim regulations pertaining to the development of critical areas and natural resource lands.

The regulations established in this Title are intended to protect critical areas and conserve natural resource land features in the City of University Place . By regulating

development within and adjacent to or abutting critical areas and natural resource lands this Title seeks to implement the following goals.

- A. Encourage the retention of open space and development of recreational opportunities, conserve fish and wildlife habitat, increase access to natural resource lands and water, and develop parks.

___.01.030

Intent.

Erosion, landslide, seismic, volcanic, mine and flood hazard areas, streams, wetlands, fish and wildlife habitat, and aquifer recharge areas constitute critical areas; and mineral resource lands constitute natural resource lands. All of these areas are of special concern to the people of University Place, Pierce County and the State of Washington. The intent of this Title is to protect critical areas and conserve the natural resource lands of the City by establishing minimum standards for development of sites which contain or are adjacent to critical areas or natural resource lands and thus promote the public health, safety, and welfare by:

Chapter __.10

**CRITICAL AREAS AND NATURAL RESOURCE LANDS
GENERAL REQUIREMENTS**

___.10.010

Purpose

This Chapter establishes general requirements and regulations for the protection of critical areas and the conservation of natural resource lands which shall apply throughout this Title.

~~BB. "Natural resource lands" means mineral resource lands which have long term commercial significance.~~

___.10.030

Applicability and Mapping.

A. Applicability.

This Title shall apply to all properties which are designated as Critical Areas or Natural Resource Lands by the City, including wetlands. Properties containing critical areas or natural resource lands are subject to this Title. When the requirements of this Title are more stringent than those of other City codes and regulations, the requirements of this Title shall apply.

__10.040

Permitted Uses.

Uses permitted on properties designated as critical areas ~~or natural resource lands~~ shall be the same as those permitted in the zone classification shown in the City Zoning Atlas unless specifically prohibited by this Title.

__10.070

Reasonable Use Exception.

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

B. Nothing in this Title 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 City Hearing Examiner at a public hearing, following notice, as required by the City Zoning Code. The request shall include the following information:

1. A description of the areas of the site which are critical areas ~~and/or natural resource lands~~ or within setbacks required under this Title;
2. An analysis of the impact that the amount of development described in subsection (3) would have on the ~~natural resource land(s) or~~ critical areas(s);
3. An analysis of whether any other reasonable use with less impact on the ~~natural resource land(s) or~~ critical area(s) and associated buffer(s) is possible;
4. A design of the proposal so that the amount of development proposed as reasonable use will have the least impact practicable on the ~~natural resource land(s) and/or~~ critical area(s);
5. A description of any modifications needed to the required front, side and rear setbacks; building height; and buffer widths to provide for a reasonable use while providing greater protection to the critical area(s) ~~and/or natural resource land(s)~~; and

C. The Hearing Examiner may approve the reasonable use exception, if the Examiner 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 ~~natural resource land(s) and/or critical area(s)~~; and
2. Any alteration of the ~~natural resource land(s) and/or critical area(s)~~ shall be the minimum necessary to allow for reasonable use of the property; and
3. The proposal mitigates the impacts on the ~~natural resource land(s) and/or critical area(s)~~ to the maximum extent possible, while still allowing reasonable use of the site.

 .10.080

Process.

A. The Department shall perform a critical areas and natural resource lands review of any City permit or approval requested for any regulated activity including, but not limited to, those set forth in Section .10.050, on a site which includes or is adjacent to or abutting one or more ~~natural resource lands or critical areas~~ unless otherwise provided in this Title.

B. As part of all development applications:

1. The Department shall review the information submitted by the applicant to:
 - a. Confirm the nature and type of the ~~natural resource land and/or critical area~~ and evaluate any required studies;
 - c. Determine whether any proposed alterations to the site containing ~~natural resource lands or critical areas~~ are necessary;

 .10.115

Title and Plat Notification.

If more than one critical areas/~~resource lands~~ exist on the site subject to the provisions of this Title, then one notice which addresses all of the critical areas/~~resource lands~~ shall be sufficient.

Section 13. Mineral Resource Lands Chapter 34 is deleted as follows:

Chapter .34

MINERAL RESOURCE LANDS

Sections:

- ~~__~~.34.010 Purpose.
- ~~__~~.34.020 Definitions.
- ~~__~~.34.030 Applicability.
- ~~__~~.34.040 Title Notification.
- ~~__~~.34.050 Plat Notification.
- ~~__~~.34.060 Regulated Activities Notification.
- ~~__~~.34.070 Severability.

~~__~~.34.010 Purpose.

The purpose of this Chapter is to promote the conservation of mineral resource lands through inclusion of known deposits of minerals and materials; to assure that undeveloped mineral and material resources will not be forever lost by prior development of the land for other purposes; and to allow for the necessary processing to convert such minerals and materials to marketable products.

~~__~~.34.020 Definitions.

- A. ~~"Minerals" include gravel, sand, and valuable metallic substances.~~
- B. ~~"Mineral resource lands" means lands primarily devoted to the extraction of minerals or that have known or potential long term commercial significance for the extraction of minerals.~~

~~__~~.34.030 Applicability.

- A. ~~General. Mineral resource lands are lands that have long term significance for the extraction of minerals.~~
- B. ~~Classification.~~
 - 1. ~~Any area under this Chapter presently operating under a valid Washington State Department of Natural Resources (DNR) surface mining permit.~~
 - 2. ~~Any other area shall be classified Mineral Resource Lands when:~~
 - a. ~~a surface mining permit is granted by the DNR; and~~
 - b. ~~an Unclassified Use Permit is granted by the City of University Place, pursuant to the City Zoning Code, provided;~~

1. ~~The site does not contain prime agricultural soils, and~~
2. ~~the site is not a registered or designated historic or archeological site, and~~
3. ~~the site is not within a Shoreline of the State or State-wide Significance designated Natural.~~

~~34.040 Title Notification.~~

~~The owner of any site within this designation, for which an application for a regulated activity is submitted, shall record a title notice with the Pierce County Auditor. The notice shall be notarized and shall be recorded prior to approval of any development proposal for the site. Such notification shall be in the form as set forth below.~~

~~MINERAL RESOURCE LANDS AREA TITLE NOTIFICATION~~

~~Parcel Number: _____~~

~~Parcel Address: _____~~

~~Notice: This parcel lies within an area of land designated mineral resource lands by the City. A variety of commercial mineral extraction activities occur in the area that may be inconvenient or cause discomfort to area residents. This may arise from the use of heavy equipment, chemicals, and spraying which may generate dust, smoke, and noise associated with the extraction of mineral resources. The City has established mineral resource extraction as a priority use on productive mineral resource lands, and residents of adjacent property should be prepared to accept such inconveniences or discomfort from normal, necessary mineral resource extraction operations.~~

~~Signature of Owner~~

~~Signature of Owner _____ (NOTARY ACKNOWLEDGEMENT)~~

~~34.050 Plat Notification.~~

~~The owner of any site within this overlay district, on which a Large Lot, Short Subdivision, or Formal Subdivision is submitted, shall record a notice on the face of the plat. Such notification shall be in the form as set forth below.~~

~~MINERAL RESOURCE LANDS AREA PLAT NOTIFICATION~~

~~This property lies within an area of land designated mineral resource lands by the City. A variety of mineral resource extraction activities occur in the area that may be inconvenient or cause discomfort to area residents. This may arise from the use of heavy equipment, chemicals, and spraying which may generate dust, smoke, and noise associated with the extraction of mineral resources. The City has established mineral resource extraction as a priority use on productive mineral resource lands, and residents of adjacent property should be prepared to accept such inconveniences or discomfort from normal, necessary mineral resource extraction lands.~~

~~___34.060 Regulated Activities Notification.~~

~~The Department shall require that all permits issued for regulated activities, as defined in Section ___10.020, within this designation contain a notice as set forth below:~~

~~REGULATED ACTIVITIES NOTIFICATION~~

~~This property lies within an area of land designated mineral resource lands by the City. A variety of mineral resource extraction activities occur in the area that may be inconvenient or cause discomfort to area residents. This may arise from the use of chemicals and extraction of minerals which occasionally generates dust, smoke, noise, and odor. The City has established mineral resource extraction as a priority use on productive mineral resource lands, and residents of adjacent property should be prepared to accept such inconveniences or discomfort from normal, necessary mineral resource extraction lands.~~

~~___34.070 Severability.~~

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

Section 14. Property Adjacent to Designated Resource Lands Chapter 36 is deleted as follows:

~~Chapter 36~~

~~PROPERTY ADJACENT TO DESIGNATED RESOURCE LANDS~~

Sections:

- ~~36.010 Purpose.~~
- ~~36.020 Definitions.~~
- ~~36.030 Applicability.~~
- ~~36.040 Title Notification.~~
- ~~36.050 Plat Notification.~~
- ~~36.060 Regulated Activities Notification.~~
- ~~36.070 Severability.~~

~~36.010 Purpose.~~

~~The purpose of this Chapter is to conserve resource lands by limiting the encroachment of incompatible development from designated resource lands.~~

~~36.020 Definitions.~~

~~A. "Adjacent" means within a radius of 300 feet from the exterior boundaries of designated resource land.~~

~~B. "Resource lands" means lands designated pursuant to Title of the City Code as mineral resource lands.~~

~~36.030 Applicability.~~

~~A. General.~~

~~36.040 Title Notification.~~

~~The owner of any site within 300 feet of lands designated resource lands, for which an application for a regulated activity is submitted, shall record a title notice with the Pierce County Auditor. The notice shall be notarized and shall be recorded prior to approval of any development proposal for the site. Such notification shall be in the form as set forth below.~~

~~PROPERTY ADJACENT TO RESOURCE LANDS AREA TITLE NOTIFICATION~~

~~Parcel Number: _____~~

Parcel Address: _____

~~NOTICE: This parcel lies within 300 feet of land designated resource lands by the City. A variety of commercial and industrial activities occur in the area that may be inconvenient or cause discomfort to area residents. This may arise from the use of chemicals; or from spraying or extraction, which occasionally generates dust, smoke, noise, and odor. The City has established resource uses as priority uses on productive resource lands, and residents of adjacent property should be prepared to accept such inconveniences or discomfort from normal, necessary commercial resource lands operations.~~

~~Signature of Owner~~

~~Signature of Owner~~

.36.050 Plat Notification.

The owner of any site within 300 feet of land designated as resource lands, on which a Large Lot, Short Subdivision, or Formal Subdivision is submitted, shall record a notice on the face of the plat. Such notification shall be in the form as set forth below.

~~PROPERTY ADJACENT TO RESOURCE LANDS AREA PLAT NOTIFICATION~~

~~This property lies within 300 feet of land designated resource lands by the City. A variety of commercial and industrial activities occur in the area that may be inconvenient or cause discomfort to area residents. This may arise from the use of chemicals; or from spraying or extraction, which occasionally generates dust, smoke, noise, and odor. The City has established resource uses as priority uses on productive resource lands, and residents of adjacent property should be prepared to accept such inconveniences or discomfort from normal, necessary commercial resource lands operations.~~

~~36.060 Regulated Activities Notification.~~

The Department shall require that permits issued for regulated activities, as defined in ~~10.020~~, within 300 feet of lands designated as resource lands contain a notice as set forth below.

REGULATED ACTIVITIES NOTIFICATION

~~This property lies within 300 feet of land designated resource lands by the City. A variety of commercial and industrial activities occur in the area that may be inconvenient or cause discomfort to area residents. This may arise from the use of chemicals; or from spraying or extraction, which occasionally generates dust, smoke, noise, and odor. The City has established resource uses as priority uses on productive resource lands, and residents of adjacent property should be prepared to accept such inconveniences or discomfort from normal, necessary commercial resource lands operations.~~

~~36.070 Severability.~~

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

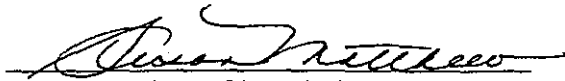
Section 15. Severability. If any section, sentence, clause or phrase of this ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not effect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 16. Publication and Effective Date. A summary of this Ordinance consisting of its title shall be published in the official newspaper of the City. This Ordinance shall be in full force and effect five (5) days after publication.

PASSED BY THE CITY COUNCIL ON JUNE 4, 1997

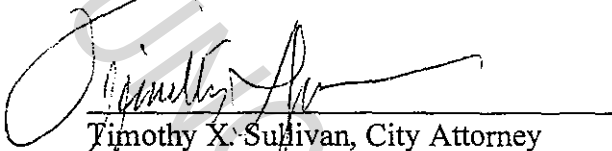
Linda P. Bird
Linda P. Bird, Mayor

ATTEST:



Susan Matthew, City Clerk

APPROVED AS TO FORM:



Timothy X. Sullivan, City Attorney

Published: June 5, 1997

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UNOFFICIAL DOCUMENT