

CITY OF GRANITE FALLS

ORDINANCE NO. 573

AN ORDINANCE OF THE CITY OF GRANITE FALLS  
ADOPTING CRITICAL AREA REGULATIONS AND  
REPLACING RESOLUTION NO. 91-12

WHEREAS, the Growth Management Act (RCW 36.70A) requires the City to classify and designate critical areas;

WHEREAS, the Growth Management Act (RCW 36.70A) requires the City to adopt development regulations to protect designated critical areas;

WHEREAS, the City encourages development that avoids, minimizes, or rectifies adverse impacts to critical areas;

THE CITY OF GRANITE FALLS, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Purposes

The purposes of this ordinance are to:

- A. Ensure public health, safety and welfare by protecting critical areas, meet the intent of the Growth Management Act, and allow to define, identify and protect critical areas when development or a change in land use is proposed.
- B. Direct physical growth away from environmentally sensitive areas, and from fish and wildlife habitats by providing standards and development regulations that respond to incompatible uses of land.
- C. Regulate critical areas on a case-by-case basis with the use of special studies which may include but are not limited to geotechnical, biological resources, wetlands delineation, and flood control studies. The need for such studies shall be determined on the basis of the location of the property whether or not mapping of the area is available.
- D. Require applicants and their consultants to use stormwater and ground water Best Management Practices (BMP) in the study and implementation of critical area protection, restoration, maintenance and mitigation plans.

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Section 2. Definitions

Aquifer Recharge Areas: Aquifer Recharge Areas are having a critical recharging effect on aquifers used for potable water that are vulnerable to contamination that would affect the certifiable potability of water. (WAC 365.190.030)

Buffers: Buffers include (1) an area adjacent to hillsides which provides a margin of safety for slope stability; (2) an area adjacent to a stream or wetland that surrounds and protects the functions and values of the stream or wetland from adverse impacts and is an integral part of the stream or wetland ecosystem; and (3) an area of naturally occurring or re-established vegetation with a width that adequately protects a critical area.

Best Management Practice: Best Management Practices (BMP) are measures that are reasonable and available to mitigate adverse impacts to surface and ground water and to the functions and values of critical areas.

Bond: Bond or performance security is a surety bond, an assignment of funds, an escrow agreement, an irrevocable letter of credit, or other financial security device acceptable to the City and required to assure that work is completed in accordance with all applicable requirements of this ordinance.

Critical Areas: Critical Areas include (1) areas with a critical recharging effect on aquifers used for potable waters; (2) fish and wildlife habitats; (3) frequently flooded areas; (4) geological hazardous areas; and (5) wetlands.

Critical Area Study: A Critical Area Study is an investigation, report, map, or evaluation which may be required to demonstrate that a development proposal complies with this ordinance. Examples would be a habitat management plan or a geotechnical report.

Critical Species: Critical Species are all species listed by the federal and/or state governments as sensitive, endangered, or threatened.

Development Activity: Development Activity is any construction, development, earth movement, clearing, or other site disturbance which requires a permit or approval by the City or is proposed by a public agency.

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Erosion Hazard Areas: Erosion Hazard Areas are areas with naturally occurring slopes containing soils which are at high risk from water erosion according to the mapped description units of the United States Department of Agriculture's Natural Resources Conservation Service Soil Classification System.

Existing Legal Lot: Existing Legal Lot is a parcel or lot created by a subdivision or short plat approved by that City; one that was created separate from subdivision requirements; or one that existed in its present configuration prior to November 1995 and complies with lot area provisions of the Granite Falls Zoning Ordinance.

Fish and Wildlife Habitat Conservation Areas:  
Fish and Wildlife Habitat Conservation Areas are:

- (A) Streams and wetlands regulated under Section 7 of this ordinance;
- (B) Areas with Priority Species (as determined by the Washington Department of Wildlife) which have a primary association due to their population status and their sensitivity to habitat alteration;
- (C) Habitats and species of local importance which if altered may reduce the likelihood that the species will maintain itself and reproduce over the long term;
- (D) Lakes, ponds, streams, and rivers planted by a governmental or tribal entity with game fish (as defined by RCW 77.09.020);
- (E) State natural area preserves and natural resource conservation areas; and
- (F) Waters of the State of Washington.

Function and Values: Function and values are characteristics of a critical area or buffer which are highly beneficial to the maintenance of the aquatic system and the surrounding environment. As used in this ordinance, function and values apply as follows:

- (A) Streams: Fish and wildlife habitat, water quality maintenance, water supply and water conveyance.

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- (B) Wetlands: Fish and wildlife habitat, water quality maintenance, pollution assimilation, shore stabilization, sediment retention, runoff and floodwater storage and conveyance, runoff control, stream base-flow maintenance, and ground water discharge/recharge.
- (C) Buffers: Fish and wildlife habitat, runoff absorption, pollution assimilation, stream bank stabilization, sediment entrapment, water quality maintenance, noise and visual screening, upland flood protection, recreation, and provision of nutrients and woody debris for streams.

Geological Hazardous Areas: Geological hazardous areas may not be suited to the siting of commercial, residential, or industrial development due to their susceptibility to erosion, sliding, earthquake, or other geological events. Geological hazardous areas include erosion hazard areas, landslide hazard areas, seismic hazard areas and mine hazard areas as defined in ordinance.

Geologist: A geologist has a degree in geology from an accredited college or university or has an equivalent educational training and substantial experience as a practicing geologist.

Geotechnical Engineer: A geotechnical engineer is a registered civil engineer experienced and knowledgeable in the theory of soil mechanics, geology and geotechnical engineering.

Habitat Enhancement: Habitat enhancement is the improvement of habitat areas by adding, replacing, or restoring important habitat components or by removing detrimental elements.

Landslide Hazardous Areas: Landslide hazardous areas are areas potentially subject to mass earth movement based on a combination of geologic, topographic, and hydrologic factors with vertical height of 10 feet or more. These include the following:

- (A) Areas of historic landslides as evidenced by landslide deposits, avalanche tracks, and areas susceptible to basal undercutting by streams, rivers or waves;

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- (B) Areas with slopes steeper than 15 percent which intersect geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock, and which contain springs or ground water seeps;
- (C) Areas located in a canyon or an active alluvial fan, susceptible to inundation by debris flows or catastrophic flooding.

Mature Forested Wetland: Mature forested wetlands are areas dominated by woody vegetation (such as alder, cedar, hemlock, cottonwood, and some willow species, etc.) that are over 20 feet tall, and are at least 50 years old for deciduous trees and 80 years old for evergreens.

Mine Hazard Areas: Mine hazard areas are underlain by, or affected by, underground mine workings such as tunnels, air shafts, and those areas adjacent to steep slopes produced by open pit mining or quarrying, but excluding areas where the mine workings have been stabilized and closed and made safe consistent with all applicable federal, state and local laws.

Mitigation: Mitigation means to:

- (A) Avoid adverse impacts altogether by not taking action;
- (B) Minimize impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;
- (C) Rectify an impact by repairing, rehabilitating or restoring the affected critical area;
- (D) Reduce or eliminate the impact over time by preservation or maintenance operations during the life of the action;
- (E) Compensate for the impact by replacing, enhancing, or providing substitute resources or environments; or

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- (F) Monitor the impact and take appropriate corrective actions.

Native Growth Protection Areas (NGPA): Native Growth Protection Areas are to be left primarily undisturbed in a substantially natural state in which no clearing, grading, filling, building construction or placement, nor road construction of any kind is allowed except the following:

- (A) Crossings for underground utility lines and drainage discharge swales which use the shortest alignment possible and for which no alignment which would avoid such a crossing is feasible;
- (B) Removal of hazardous trees by the property owner;
- (C) Other uses and activity as allowed by this ordinance.

Riparian Wetlands: Riparian wetlands are fully or partially contained within 100 feet of Type 1, 2 or 3 streams; within 25 feet of Type 4 streams; or within 10 feet of Type 5 streams according to the stream classification system as defined by Section 6 of this ordinance.

Site: Site is the portion of the subject property within 200 feet of the development activity except that for subdivisions, short plats, planned residential developments and projects with binding site plans, the "site" shall include the entire subject property.

Slope: Slope is an inclined ground surface which is expressed as a ratio of vertical distance to horizontal distance.

Stream: Streams are those areas where naturally occurring surface waters flow sufficiently to produce a defined channel or bed which demonstrates clear evidence of the passage of water including, but not limited to, bedrock channels, gravel beds, sand and silt beds, and defined-channel swales.

The channel or bed need not to contain water during the entire year. This does not include water courses created artificially such as irrigation ditches, canals, roadside ditches or storage, or surface water runoff features unless

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the artificial water course conveys a stream that occurred naturally before the construction of the artificial water course. (WAC 222-16-030)

Structure: Structure is anything that is built or constructed, an edifice or building of any kind, or any piece of work artificially built-up or composed of parts joined together in some definite manner.

Subject Property: Subject property is the entire lot or parcel or contiguous combination thereof on which a development activity is proposed.

Utility: Utility is any public electrical, water, sewer, storm drainage, gas, radio, television, or telephone facility and/or other forms of communication facilities.

Utility Corridor: Utility corridor is an area designed for utility facility development. public right-of-way, and other dedicated utility right-of-way.

Wetland Rating System: The Washington State Department of Ecology wetland rating system categorizes wetlands among the four classes on the basis of ecological character, size, and species or communities they support.

Wetlands: Wetlands are areas inundated or saturated by surface or ground water at a frequency or duration sufficient to support (and, under normal conditions, do support) a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include but are not limited to swamps, marshes, bogs and similar areas, as well as artificial wetlands intentionally created from non-wetland areas to mitigate for conversion of wetlands, as permitted by the City.

Wetlands do not include those artificial wetlands intentionally created from non-wetland sites including, but not limited to, irrigation and drainage ditches, grass lined or bio-filtering swales, canals, detention facilities, wastewater treatment facilities, farm ponds and landscaping amenities. (33-CFR-328.3(b)).

Section 3 Administration

A. Designation of Critical Areas: In the absence of data maps, the City designates critical areas by defining their characteristics. The applicant shall determine in the

development proposal, and the City shall verify on a case-by-case basis in accordance with the definitions in Section 2 of this ordinance, whether a critical area exists and whether the proposal is subject to regulation under this ordinance.

B. Pre-Application Conference: The applicant for a development proposal is encouraged to schedule a pre-application conference with the City staff prior to submitting a completed application and applying for developmental permits. The application is subject to the Procedural Administration for Land Use Application Ordinance No. 562, codified as Title 17 in the Granite Falls Municipal Code.

C. Submittal Requirements:

1. With the exception of construction of a single family residence or duplex, or for residential improvements for which the proposed site improvements are 100 feet or further from any critical area, an applicant for a developmental proposal subject to this ordinance shall submit:

a.) As part of the site plan for developmental permits:

1. The boundary lines;
2. The topography at contour intervals of five feet unless fewer are required by the underlying permit;
3. The location and dimensions of all structures;
4. The location and extent of all proposed developmental activity;
5. The location and description of all critical areas located on the site and adjacent properties within 100 feet from the site boundaries;
6. The location of all proposed buffers and setbacks;

b.) A critical area study to demonstrate mitigating measures;

c.) Any additional information known to the applicant pertaining to the critical areas on the subject property and adjacent properties;

d.) Applicant is responsible for identifying, obtaining, and completing all other governmental agency or jurisdictional requirements and permits that may be necessary under state, federal or local law.



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2. The City may assist applicants in identifying fish and wildlife habitat conservation areas and the presence of critical species on the subject property.

3. The City may assist applicants for single family unit permits in providing information in (A) above.

Section 4      Bond or Performance Security

The City shall require that a performance bond or maintenance bond be maintained for a period of five (5) years to assure compliance with this ordinance and with adequate protection and maintenance of critical areas. Such a requirement is standard procedure and allows time for restoration of habitats and wildlife.

Section 5      Fees

The applicant shall reimburse the City for the actual costs to administer and implement this ordinance.

Section 6      Streams, Wetlands and Buffers

A.      Streams

Streams in the City of Granite Falls are classified according to the State of Washington Department of Natural Resources Water Typing System (WAC 222-16-030). Wetlands are classified according to the State of Washington Department of Ecology "Four Tier Wetlands Rating System" (33-CFR-328.3 (b)). Buffers are determined by local standards established by the City of Granite Falls.

All stream, wetland, and riparian habitat is protected pursuant to Section 6 of this ordinance. In addition, if these habitat areas contain species listed as endangered or threatened by the State or Federal governments, they shall be identified in the Critical Area Study and protected accordingly.

B.      Stream Rating System

1. Type I Stream. All waters within their normal high-water mark inventoried as "Shorelines of the State" (Chapter 90.58 RCW).

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2. Type II Stream. Segments of natural waters which are not classified as Type I waters and have a high use, and, from a water quality standpoint, are important for:
  - a. Domestic Water Supplies,
  - b. Public Recreation,
  - c. Fish spawning, rearing, or migration or wildlife uses, or
  - d. Are highly significant to protect water quality.
3. Type III Stream. Segments of natural waters which are not classified as Type I or II waters and which have a moderate to slight use and which are moderately important from a water quality standpoint for:
  - a. Domestic Use,
  - b. Public recreation,
  - c. Fish spawning, rearing, or migration; or wildlife uses, or
  - d. Have moderate value to protect water quality.
4. Type IV Stream. Segments of natural waters which are not classified as Type I, II or III waters but which influence the downstream water quality of Type I, II or III waters and are perennial or intermittent.
5. Type V Stream. All other waters in natural courses including streams with or without a well-defined channel, areas of perennial or intermittent seepage, ponds and natural sinks. Drainage ways with short periods of spring runoff are Type V waters.

C. Wetland Classification System

1. Category I Wetlands meet the following conditions:
  - a. The presence of endangered, threatened or sensitive species or the presence of essential or potential habitat for those species; or
  - b. Wetlands equal to or greater than 10 acres in size and having three or more wetland classes, each of which covers 10% or more of the wetland, or
  - c. The presence of plant associations on infrequent occurrence, including, but not limited to, those found in bogs and wetlands with a coniferous forested wetland class occurring on organic soils; or
  - d. Wetlands closely associated with salmonid fish bearing waters meaning those immediately adjacent to or in the floodplain of the stream, river or water body.
2. Category II Wetlands are those other than Category I Wetlands meeting the following conditions:
  - a. Wetlands having a surface hydrologic connection to salmonid fish bearing waters; or
  - b. Wetlands greater than two (2) acres in size; or
  - c. Wetlands greater than, or equal to, one (1) acre in size and having three or more wetland classes; or
  - d. Wetlands greater than, or equal to, one (1) acre having a forested wetland class.
3. Category III Wetlands are those not rated as Category I, II or IV Wetlands

4. Category IV Wetlands meet the following conditions:
  - a. Are non-riparian wetlands of less than (1) one acre; and
  - b. Have one wetland class that is non-forested.

D. Stream and Wetland Buffers

1. Stream buffers shall be measured from the ordinary high water mark. Minimum requirements are:

Type I	75 feet
Type II	50 feet
Type III	25 feet
Type IV	25 feet
Type V	25 feet

2. Wetland buffers shall be measured from the wetland edge as marked in the field. The buffers width is determined by the wetland category. Minimum requirements are:

Category I	75 feet
Category II	50 feet
Category III	25 feet
Category IV	25 feet

E. Averaging Buffer Widths

If all of the following requirements are met, the width of a buffer may be averaged to accommodate a development proposal:

1. Averaging will not impair or reduce habitat, water quality, storm water detention, ground water recharge, shoreline protection, erosion protection, and other functions of the stream, wetland, and buffer.
2. The total area of the averaged buffer is no less than it would be without averaging.
3. No part of the averaged buffer is less than 25 feet wide or 50% of the required width, whichever is greater.

F. Reducing Buffer Widths

If the buffer is enhanced in accordance with the following requirements, the width may be reduced when:

1. Due to existing physical characteristics, buffers will have minimal function or value.
2. The applicant demonstrates by a comparative analysis in the required Critical Area Study that the proposed buffer enhancement along with the allowable buffer reduction will result in an increase of function and value compared to the standard buffer.
3. The reduced buffer width is (a.) not less than 25 feet or 50% of the required buffer width, whichever is greater; and, (b.) the total area of the reduced buffer is not less than 75% of the total required area prior to reduction.

Section 7 Uses Allowed Outright in Streams, Wetlands, and Buffers

A. Based on the information provided in the Critical Areas Study as required by Section 3 (1) A 7 of this ordinance, allowable uses in buffers include:

1. Passive outdoor recreational activities,
2. Existing and on-going agricultural activities,
3. Maintenance of, or improvement to, existing facilities, structures, ditches, roads, utility systems, wildlife management or viewing structures, and interpretive facilities,
4. Buffer enhancement projects where no loss of function or value results,
5. Stormwater detention/retention facilities in the outer 50% of the buffer only if the development proposal demonstrates that detention or retention cannot be accommodated away from the buffer.

B. Non Conforming Uses in Buffers. A use or structure established prior to the effective date of this ordinance which does not conform to the standards set forth

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herein is allowed to continue and be reasonably maintained provided that such activity or structure shall not be expanded or enlarged in any manner that increases the extent of its nonconformity.

Section 8 Uses Allowed By Permit in Streams, Wetlands and Buffers

A. Alterations to streams and wetlands are allowed by permit subject to the following criteria:

1. To the greatest extent possible, all developmental activities shall be designed to minimize stream or wetland alteration;
2. To ensure minimal encroachment, prior to approving the development proposal application, the City shall require Best Management Practices (BMP) and field marking of the areas to be disturbed,
3. The City shall require a mitigation plan which may include stream, wetland, and/or buffer enhancement provisions in accordance with Section 3 of this ordinance,
4. Development proposals which include alterations that would enhance existing wetlands (with no net loss of wetlands) are not subject to 1 above.
5. Compliance with all permits that may be necessary under state, federal, or local law.

Section 9 Mitigation Measures for Altering Streams or Wetlands

A. Mitigation Plan

If a development application proposes to alter a stream or wetland, the City shall require mitigation for the loss of the stream or wetland functions and values. All mitigation measures shall be specified in a Critical Areas Study or mitigation plan prepared by (or on behalf of) the applicant. Such a plan shall:

1. Be prepared by a qualified professional (a wetland or stream biologist) and must use accepted methodologies,

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2. Include a baseline study that: (a) quantifies the existing functions and values of the streams and wetlands; (b) quantifies the functions and values that will be lost as a result of development; and (3) quantifies the anticipated functions and values resulting from mitigation,
3. Specify how lost functions and values will be replaced,
4. Specify when mitigation will occur relative to the project construction and relative to permit requirements of any other agencies with jurisdiction,
5. Include a provision to monitor the mitigated area on a long-term basis to determine the success of the mitigation plan.
6. Include a provision for a bond or performance security to ensure that the mitigation plan is implemented and that alternative mitigation occurs if the plan fails within 5 years of implementation.

When a mitigation plan is required by this ordinance, it shall be approved by the City prior to any site disturbance within a critical area containing a stream or wetland.

B. Wetland Relocation Criteria and Ratio

1. No relocation will be allowed in an area where an adopted watershed management plan prevents relocation.
2. The City may allow relocation of a wetland or a portion thereof if it:
  - a.) Does not create adverse impacts on water quality;
  - b.) Does not decrease stormwater detention capability; and
  - c.) Will not reduce wetland habitat function or value.

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3. When approving relocation of a wetland, the City may require the applicant to develop and area larger than the existing wetland to comply with the above requirements. The relocation range shall vary from 1:1 to 3:1 depending on the determined functions and value of the wetland.
4. The City may require that the wetland relocation be completed prior to the filling or altering of the existing wetland. Mitigation may be accomplished by restoration or creation of wetlands. Up to one-half of the mitigation may be provided through enhancement for Category III and IV wetlands only. On site relocation is required unless the application demonstrates the advantages of off-site relocation.

C. Wetland Category and Mitigation Ratio

Category	Ratio
I	3:1
II	2:1
III	1.5:1
IV	1:1

Section 10 Geological Hazardous Areas

- A. Geological Hazardous Areas are that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to siting commercial, residential, or industrial development consistent with public health or safety concerns. (RCW 36.70A)
- B. Development Standards. For regulated activities proposed within geological hazard areas, the City:
  1. Shall require the applicant to submit a geological report prepared by a licensed engineer with expertise in geotechnical engineering. The report should confirm or redefine the hazardous area classification and recommend appropriate mitigation measures.
  2. May require an independent review of the geotechnical report by a qualified licensed geotechnical engineer and paid for by the applicant. The City may require special site inspection on construction in hazardous areas.



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3. If a geotechnical assessment of the proposed development demonstrates that no hazardous areas exist on the site, the City may waive the requirement for a geotechnical report with the consent of a geotechnical engineer, the Planning Commission, and the City Council.

Section 11      Critical Aquifer Recharge Areas  
(Applies to stormwater not potable water)

- A. The City shall require a site analysis prepared by a qualified professional which delineates the recharge areas on a scaled development plan and provides detailed information including the following:
  1. A description of the general geological and hydrological characteristics of the proposed area under consideration;
  2. A description of local characteristics associated with site drainage and water movement;
  3. A description of the conditions prior to the proposed development;
  4. A description of conditions as they are likely to exist after project completion and their impact on the groundwater quality and quantity and including:
    - a. The effects of the activities likely to occur as a result of development at final equilibrium, and,
    - b. The effects of sewage disposal, lawn and yard activities, agricultural and animal husbandry, stormwater impacts, and any other impact reasonably associated with the project.
- B. Development Standards.
  1. The site analysis based on 1-4 above will establish a water quality baseline to serve as a minimum standard not to be further degraded by the proposed development.

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2. Additional impervious surface created as a result of development will be limited to an amount recommended in the site analysis that ensures adequate aquifer recharge and water quality protection.
3. Application approval ensures that Best Management Practices (BMP) are used to avoid introducing pollutants into the aquifer. This includes collecting and stormwater outside of the aquifer recharge area caused by proposed additional impervious surface.

Section 12      Frequently Flooded Areas

- A. A site analysis is required to establish a preconstruction site elevation at the site's highest point at the proposed building foundation.
- B. Development Standards. All proposed development must comply with the provisions of the National Flood Insurance Program (NFIA 1968).

Section 13      Enforcement, Violation and Penalties

Compliance with this ordinance may be enforced by mandatory injunction brought by the owner of land in proximity to the land with critical areas. The prosecuting attorney may immediately commence action or actions or proceedings for abatement, removal and enjoinder thereof, in a manner provided by law, and may take such other steps and may apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove the illegal action.

Section 14      Severability

If any section, subsection, sentence, clause, phrase, part or portion of this ordinance is for any reason held to be invalid or unconstitutional by any court or competent jurisdiction, such decision shall not affect the validity of the remaining portions.

Section 15      Injunctive Action

The City of Granite Falls through its authorized agents and to the extent provided by the State law, may commence an

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action to restrain and enjoin violations of this ordinance or of any term or condition of plat approval by the City and may compel compliance with the provisions of this ordinance or with such terms or conditions as provided by RCW 58.17.200 and 58.17.320. The costs of such action including reasonable attorney fees may be taxed against the violator.

Effective Date

This ordinance shall come into full force and effect upon its approval, passage and publication.

Passed by the Council of Granite Falls this 23<sup>rd</sup>  
day of April, 1997.

Bella R. Morris  
Mayor

Attest:

Gerry James  
Clerk

Approved as to Form:

Cheryl L. Buyer  
City Attorney

First Reading:	April 9, 1997
Second Reading:	April 23, 1997
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