

Ordinance No. 310, 1987

BE IT ORDAINED BY THE BOARD OF CLALLAM COUNTY COMMISSIONERS:

The Board of Clallam County Commissioners proposes to amend the Clallam County Shoreline Permit Ordinance, Chapter 35, as follows:

(Note: New wording is underlined, deleted wording is enclosed in double parentheses and is scored through.)

Amend Section C.C.C. 35.01.010. Purpose. The purpose of this chapter is to implement the Shoreline Management Act of 1971 (Chapter 286, Laws of 1971, 1st. Ex. Sess.), and to regulate development on the shorelines of the county in a manner consistent with the policy declared in section 2 of that Act and consistent with the Clallam County Shoreline Master Program.

Amend Section 35.01.020. Definitions. As used in this chapter, unless the context otherwise requires, the following definitions and concepts apply:

(1) "Administrator" means the Director of the Department of Community Development or his designee, who is responsible for carrying out the administrative duties set forth in this code.

~~((1))~~(2) "Advisory Committee" means the Clallam County Shoreline Advisory Committee.

~~((2))~~(3) "Board" means the Board of County Commissioners of Clallam County.

~~((3))~~(4) "Department" means the Washington State Department of Ecology.

(5) "Department of Community Development" means the Department of Community Development of Clallam County.

~~((4))~~(6) "Development" means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel or minerals including the grading of land; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to this chapter at any state of water level.

(5)~~(7)~~ "Conditional Use" for the purpose of this chapter is that defined pursuant to WAC 173-14-140. ((-means-a use-or-the-expansion-of-a-use-beyond-the-uses-contemplated-in-a-particular-environment-or-environments-subject-to-specific-conditions-to-insure-that-there-is-no-conflict-with-the-intent-of-the-environment-or-environments-))

~~((6))~~(8) "Extreme Low Tide" means the lowest line on the land reached by a receding tide.

~~((7))~~(9) "Hearings Board" means the State Shorelines Hearing Board.

~~((8))~~(10) "Master Program" shall mean the comprehensive shoreline use plan for Clallam County, and the use regulations together with maps, diagrams, charts or other descriptive material and text, a statement of desired goals and standards developed in accordance with the policies enunciated in Section 2 of the Shoreline Management Act of 1971.

~~((9))~~(11) "Ordinary High-water Mark" on all lakes, streams and tidal water is that mark which will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, or as it may naturally change thereafter: PROVIDED, that in any area where the ordinary high-water mark cannot be found, the

ordinary high-water mark adjoining saltwater shall be the line of mean higher high tide and the ordinary high-water mark adjoining freshwater shall be the line of mean high water.

((10))(12) "Person" means an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of the state or any local governmental unit however designated.

((11))(13) "Public Works Department" means the Public Works Department of Clallam county.

((12)-----"Planning-Department"-means-the-Planning-Department-of-Clallam County-)).

((13))(14) "Shorelines" means all of the water areas within the unincorporated portion of Clallam County, including reservoirs, and their associated wetlands, together with the lands underlying them except

(a) shorelines of statewide significance;

(b) shorelines on segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream segments; and

(c) shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes.

((14))(15) "Shorelines of State-wide Significance" means those shorelines described in Section 3 (2) (e) of the Shoreline Management Act of 1971 which are within the unincorporated portion of Clallam County.

((15))(16) "Shorelines of the County" are the total of all "shorelines" and "shorelines of state-wide significance" within the county.

((16))(17) "Substantial Development" shall mean any development of which the total cost or fair market value exceeds ~~((one-thousand-dollars-(\$1,000.00))~~ two thousand, five hundred dollars (\$2,500.00), or any development which materially interferes with the normal public use of the water or shorelines of the County; except that the following shall not be considered substantial developments for the purpose of this chapter:

(a) normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements;

(b) construction of the normal protective bulkhead common to single family residences;

(c) emergency construction necessary to protect property from damage by the elements;

(d) construction of a barn or similar agricultural structure on wetlands;

(e) construction or modification of navigational aids such as channel markers and anchor buoys;

(f) construction on wetlands by an owner, lessee or contract purchaser of a single family residence for his own use or for the use of his family, which residence does not exceed a height of thirty-five feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof other than requirements imposed pursuant to this chapter.

(g) construction of a dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee or contract purchaser of a single-family residence, the cost of which does not exceed two thousand five hundred dollars (\$2,500.00).

((17))(18) "Substantial Development Permit" means the shoreline management substantial development permit provided for in ~~((Section-14-of))~~ the Shoreline Management Act of 1971 (RCW 90.58.140).

~~((18))--"Timber-Cutting-Permit"--means-the-permit-required-for-the-cutting of-timber-as-defined-in-Section-060-of-this-chapter-situated-within-two-hundred feet-abutting-landward-of-the-ordinary-high-water-mark-within-shorelines-of state-wide-significance.)~~

(19) "Statement of Exemption" - A written statement issued by the administrator that a particular development proposal is exempt from the shoreline substantial development permit requirements (pursuant to WAC 173-14-040) and is generally consistent with the Clallam County Shoreline Master Program, including the policies of the Shoreline Management Act, Chapter 90.58.020 RCW.

~~((19))~~(20) "Variance" ((means-an-alteration-of-the-use-regulations-of-the master-program.)) is that defined pursuant to WAC 173-14-150.

~~((20))~~(21) "Wetlands" or "Wetland Areas" means those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high-water mark; and all marshes, bogs, swamps, floodways, river deltas, and flood plains associated with the streams, lakes and tidal waters which are subject to the provisions of this chapter; the same to be designated as to location by the Washington State Department of Ecology.

Amend Section 35.01.030. Permits Required for Substantial Development.

(1) No development shall be undertaken on the shorelines of the county except those which are consistent with the policy of the Shoreline Management Act of 1971 and ~~((;after-adoption-and-approval-as-appropriate;-the-applicable guidelines;-regulations-of))~~ the Clallam County Shoreline master program.

(2) No substantial development shall be undertaken on the shorelines of the county without first obtaining a substantial development permit from the Board. A permit shall be granted ~~((;a-from-the-effective-date-of-this-chapter until-such-time-as-an-applicable-master-program-has-become-effective;))~~ only when the proposed development is consistent with:

~~((i))~~ (a) ~~((policy-of-Section-2))~~ policies of the Shoreline Management Act ~~((of-1971;))~~ and

~~((ii))~~ (b) the guidelines and regulations of the department; and

~~((iii))~~ (c) the Clallam County Shoreline Master Program ((being developed-for-Clallam-County-so-far-as-can-be-ascertained-)) and

~~((b))~~ (d) ~~((after-adoption-of-approval;-as-appropriate;-by-the department-of-an-applicable-master-program;-only-when-the-proposed-development is-consistent-with-the-applicable-master-program-and-the-policy-of-Section-2-of the-Shoreline-Management-Act-of-1971-))~~ all provisions of this chapter.

C.C.C. 35.01.040. Exemptions from Permit Requirements. A substantial development permit shall not be required for any project with a certification from the governor pursuant to Chapter 80.50 RCW.

Amend Section C.C.C. 35.01.050. Prohibitions.

(1) Surface drilling for oil and gas is prohibited in all waters of Puget Sound north to the Canadian boundary, including Hood Canal, and in the Strait of Juan de Fuca from the ordinary high-water mark seaward to the Canadian National Boundary and on all lands within one thousand feet landward from the ordinary high-water mark within Clallam County.

(2) No permit shall be issued for any new or expanded building or structure of more than thirty-five feet above average grade level on shorelines

of the county that will obstruct the view of a substantial number of residences in adjoining areas unless ((there-exists-a)) the master program ((which)) permits the same and then such permits shall be granted only when over-riding considerations of the public interest will be served.

(3) No development shall be undertaken on the shorelines of the state except those which are consistent with the policies of the Shoreline Management Act of 1971 and, after adoption or approval as appropriate, the applicable guidelines, regulations or master program.

Delete Section C.C.C. 35.01.060. ((Permits-Required-for-Timber-Cutting-on Shorelines-of-Statewide-Significance.))

((1)----A-timber-cutting-permit-shall-be-required-to-cut-timber-situated within-two-hundred-feet-abutting-landward-of-the-ordinary-high-water-mark-within shorelines-of-state-wide-significance-within-the-county;
----(2)--Timber-cutting-permits-shall-be-granted-only-for-selective-commercial timber-cutting;-so-that-no-more-than-thirty-percent-of-the-merchantable-trees may-be-harvested-in-any-ten-year-period-of-time;-PROVIDED;-that-other-timber harvesting-methods-may-be-permitted-in-these-limited-instances-where-the topography;-soil-conditions-or-silviculture-practice-necessary-for-regeneration render-selective-logging-ecologically-detrimental;-PROVIDED-FURTHER;-that clear-cutting-of-timber-which-is-solely-incidental-to-the-preparation-of-land for-other-uses-authorized-by-this-chapter-may-be-permitted.))

Add new Section C.C.C. 35.01.060 Statement of Exemption.

(1) Any person undertaking a development within the shorelines of the state which involves dredging, land fill and shoreline protection structures, including bulkheads, must either apply to the Department of Community Development for a statement of exemption from the Shoreline Management Act substantial development permit requirements or apply for a substantial development permit.

(2) The administrator is hereby authorized to grant or deny requests for statements of exemption from the Shoreline Management Act permit requirements for substantial developments. Such statements shall be in writing and shall identify the reason(s) for the granting or denial of the exemption. The Administrator shall require a written description of a project, including a site plan, before issuing a determination. The administrator's action on such matters are subject to appeal before the Board of Clallam County Commissioners pursuant to C.C.C. 35.01.155.

Add Section C.C.C. 35.01.065 Non-Conforming Development Standards.

This ordinance incorporates by reference the non-conforming development standards, pursuant to Washington Administrative Code. (W.A.C.) 173-14-055.

Amend Section C.C.C. 35.01.070. ((Scope-of-Permit)) Time Requirements of a Permit.

The following time requirements shall apply to all substantial development permits:

(1) Construction or substantial progress toward construction of a project, as defined pursuant to WAC 173-14-060(1), for which a permit has been granted

pursuant to this chapter must be undertaken within two years after the approval of the permit by local government or the permit shall terminate. If such progress has not been made, a new permit will be necessary.

(2) No permit authorizing construction shall extend for a term of more than five (5) years. If a project for which a permit has been granted has not been completed within five years after the approval of the permit by the Board, the Board shall, at the expiration of the five-year period, review the permit, and upon a showing of good cause, extend the permit for one (1) year; otherwise, the permit terminates, PROVIDED that no permit shall be extended unless the applicant has requested such review and extension prior to the permit expiration date.

Amend Section C.C.C. 35.01.080. Notice.

Upon submittal of a proper application for a substantial development, conditional use, or variance (~~((timber-cutting))~~) permit to the shoreline permit administrator, the county shall publish a notice of public hearing on the proposal at least once a week on the same day of the week for two (2) consecutive weeks in a newspaper of general circulation within the county. Additional notification shall consist of posting of the notice in a conspicuous manner upon which the property is to be constructed. An affidavit of publication shall be affixed to the application. Within thirty (30) days of the last publication of such notice, any interested person may submit his views on the application in writing to the Advisory Committee or may notify the Board of his desire to be notified of the Board's decision on the permit.

Amend Section C.C.C. 35.01.090. Permit Applications.

(1) Application for substantial development, conditional use, and variance permits (~~((and-timber-cutting-permits))~~) shall be made with the (~~((Planning))~~) Department of Community Development by the property owner, lessee, contract purchaser, other person entitled to possession of the property, or by an authorized agent.

(2) A filing fee in an (~~((the))~~) amount as established under C.C.C. 3.30 (~~((of-twenty-five-dollars-(\$25.00))~~) shall be paid to the (~~((Planning))~~) Department of Community Development at the time an application is filed.

(3) Application for a substantial development permit shall be made on forms supplied by the (~~((Public-Works-Department))~~) Clallam County (~~((Planning))~~) Department of Community Development.

Amend C.C.C. 35.01.100. Shoreline Advisory Committee Established Responsibilities.

(1) The Board shall appoint a Shoreline Advisory Committee and it shall consider applications and make recommendations regarding permits or amendments to the Master Program based on the polices contained in C.C.C. 35.01.030.

(2) The Advisory Committee shall review an application for a permit based on the following: the application; the environmental impact (~~((statement;-if-one has-been-prepared))~~) document required by County Code 27.01, if any; written comments from interested persons, if any; information and comment from other county departments affected (~~((and-from-the-Prosecuting-Attorney))~~) if any; independent study of the Advisory Committee, independent study of the (~~((Planning))~~) Department of Community Development; and evidence presented at the

public hearing, if any, held pursuant to C.C.C. 35.01.110. ((The Advisory Committee may require that an applicant furnish information in addition to the information required in the application forms prescribed. -- Unless an adequate environmental impact statement has previously been prepared for the proposed development by another agency, the Advisory Committee shall cause to be prepared such a statement, prior to ruling on an application for a permit, when the project being applied for constitutes a major action significantly affecting the quality of the environment under the State Environmental Policy Act of 1971.))

(3) The Advisory Committee shall transmit its recommendations in writing to the Board within a reasonable time after the public ((hearing)) meeting upon which action is taken.

(4) The burden shall be on the applicant to prove that the proposed development is consistent with the criteria set forth in ((this section of)) this chapter. The Advisory Committee may condition a shoreline permit to assure a project's consistency with the Shoreline Master Program and the Shoreline Management Act.

(5) The Committee shall consist of seven (7) members appointed by the Board of County Commissioners.

(6) Four (4) members of the Committee shall constitute a quorum to conduct business and make recommendations. A majority of those present shall be required to make a recommendation, PROVIDED: that approval of amendments to the Master Program shall require a minimum of four (4) votes in the affirmative.

(7) The Committee shall conduct a regular meeting at least once each month; however, when there is no business to be conducted, such regular meeting may be cancelled. Further, regular meetings may be continued when deemed appropriate and special meetings may be called at the discretion of the Committee. Meetings shall be conducted in accordance with Robert's Rules of Order and the Clallam County Ethics Ordinance, C.C.C. 3.01.

(8) The ((Planning)) Department of Community Development shall prepare an agenda of matters to be considered by the Committee. A copy of the agenda shall be mailed to persons who have expressed an interest in presenting their views on an application. The agenda shall state the time and place where the Committee will conduct its public meeting and the notice to interested parties shall be sent not less than six (6) days prior to the date of the public meeting.

(9) The Committee shall consider and act on matters referred by the Board of County Commissioners.

(10) The Committee may initiate amendments to the Master Program. Notification to the Board is required prior to proceeding with any amendment to the Shoreline Master Program.

Amend Section C.C.C. 35.01.110. Public Hearing; Notice; Advisory Committee.

(1) Public hearings on substantial development, conditional use, and variance permit applications ((and timber-cutting permit)) shall be conducted by the Advisory Committee.

(2) If, for any reason, testimony on any matter set for public hearing, or being heard, cannot be completed on the date set for such hearing, the Advisory Committee may, before adjournment or recess of such matters under consideration, publicly announce the time and place of the continued hearing and no further notice is required.

(3) The Advisory Committee shall have the power to prescribe rules and regulations for the conduct of hearings before it; to administer oaths and to

preserve order. ~~((The privilege of cross-examination of witnesses shall be accorded all interested persons or their counsel in accordance with the rules of the Advisory Committee.))~~

(4) ~~((The Advisory Committee))~~ Following completion of a public hearing, the Committee shall vote on a recommendation to the Board and shall make and enter written findings from the record and conclusions thereof which support its recommendations and the findings and conclusions shall set forth the manner in which the decision is consistent with:

(a) the policies as set forth in ~~((Section 2 of))~~ Chapter 90.58 RCW;

(b) the guidelines and regulations of the Department; and

(c) the Clallam County Shoreline Master Program and all provisions of this chapter. ((Said decision shall recommend approval, denial, or conditional approval of a permit.))

(5) Said decision on permits or amendments to the Master Program shall be a recommendation of approval, denial, or conditional approval.

(6) If appropriate, the Committee may defer action on an application for the purpose of obtaining additional information or revisions on applications to achieve consistency with the Master Program. An application shall not be deferred for any period exceeding thirty (30) days or until the next regular meeting, whichever is the greater period.

Amend Section C.C.C. 35.01.120. Board Action.

(1) Upon receipt of the recommendation from the Advisory Committee, if the Board is in agreement with the findings and conclusions of the Advisory Committee, it shall prepare a final order based on said findings and conclusions. If the Board is in disagreement with any or all of the findings and conclusions of the Advisory Committee, it shall conduct a public hearing and after completion of said hearing shall enter its own findings and conclusions and order which shall be based upon any of the following: the application; the environmental impact ~~((statement))~~ document, if one has been prepared; written comments from interested persons; testimony from the public hearing ~~((if one was held;))~~ information and comment from other interested county departments ~~((affected))~~ and from the Prosecuting Attorney; independent study of the Advisory Committee; independent study of the ~~((Planning))~~ Department of Community Development. Said findings and conclusions shall set forth the manner in which the decision is consistent with the criteria set forth in C.C.C.

35.01.100. If a public hearing is required, notice shall be given in accordance with the applicable provisions of Clallam County Home Rule Charter, C.C.C. 3.10..

(2) The decision of the Board shall be the final decision of the county on all applications and the Board shall render a written decision including findings, conclusions and a final order, and transmit copies of its decision to the persons who are required to receive copies of the decision pursuant to Section .080 of this chapter.

Amend Section C.C.C. 35.01.130. Granting or Denial of Permits; Conditions Attached ~~((ing))~~ to Permit; Other Permits.

(1) The Board shall deliver to the following persons copies of the application and the approval, conditional approval or disapproval of a substantial development, ~~((permit or timber cutting permit))~~ conditional use, or variance permit application within ~~((five))~~ eight ~~((5))~~ (8) days of its final decision:

- (a) the applicant;
- (b) the Department;
- (c) the Washington State Attorney General;
- ~~((d)-the-Advisory-Committee))~~
- ~~((e)--any-person-who-has-submitted-to-the-Advisory-Committee-written~~
~~comments-on-the-application-))~~
- ((f)) (d) any person who has written the Advisory Committee or the Board requesting notification. ((;-and))
- ~~((g))-----any-person-who-has-written-the-Advisory-Committee-requesting~~
~~a-public-hearing.))~~

(2) Development pursuant to a substantial development permit shall not begin and shall not be authorized until ~~((forty-five))~~thirty ~~((45))~~ 30 days from the date the Board files the approved substantial development permit with the Department and Attorney General, or until all review proceedings initiated within ~~((forty-five))~~ thirty ~~((45))~~ 30 days of the date of such filing have been terminated.

(3) In granting or extending a permit, the Board may attach thereto such conditions, modifications and restrictions regarding the location, character and other features of the proposed developments it finds necessary to make the permit compatible with the criteria set forth in C.C.C. 35.01.100. Such conditions may include the requirement to post a performance bond assuring compliance with other permit requirements, terms and conditions.

(4) Issuance of a substantial development, ~~((permit-or-timber-cutting))~~ conditional use, or variance permit does not obviate requirements for other federal, state and county permits, procedures and regulations.

Amend Section C.C.C. 35.01.140. Review by Shorelines Hearings Board.

Any person aggrieved by the granting, denying or rescission of a substantial development, ~~((permit))~~ conditional use or ~~((-timber-cutting))~~ variance permit may seek review from the Hearings Board in accordance with those procedures provided for under Chapter 90.58.180 and those regulations adopted by the Shorelines Hearings Board. ~~((by-filing-an-original-and-one-copy-of-a-request-for-the-same-with-the-Hearings-Board-within-thirty-(30)-days-of-receipt-of-the-Board-of-County-Commissioners'-final-order--Said-request-shall-be-in-the-form-required-by-the-rules-for-practice-and-procedure-before-the-Hearings-Board-Concurrently-with-the-filing-of-any-request-for-review-with-the-Hearings-Board; the-person-seeking-review-shall-file-a-copy-of-his-request-with-the-Washington-State-Department-of-Ecology,-the-Attorney-General,-and-the-Board-of-County-Commissioners-))~~

Amend Section C.C.C. 35.01.150. Rescission: Service of Notice; Hearing.

(1) Any permit granted pursuant to this chapter may be rescinded or modified upon a finding by the Board that the permittee has not complied with the conditions of ~~((his))~~ the permit.

(2) The Board may initiate rescission and modification proceedings by serving written notice of noncompliance on the permittee.

(3) Before a permit can be rescinded or modified, a public hearing shall be held by the Board no sooner than ten (10) days following the service of notice upon the permittee. The Board shall have the power to prescribe rules and regulations for the conduct of such hearings.

(4) Following rescission of a shoreline permit, the Prosecutor shall initiate legal proceedings to abate the action or development which is not in compliance with the approved permit application or which is inconsistent with the Master Program.

Add Section C.C.C. 35.01.155. Appeal of Administrator's Decision on Exemptions to the Board.

(1) Any person aggrieved by the granting or denying of a statement of exemption by the administrator may appeal the administrator's decision to the Board of Clallam County Commissioners. The appeal shall be in writing on a form supplied by the Planning Division, stating reasons for the appeal in specific terms and shall be filed with the Division within 10 days of the administrator's decision.

(2) The Department of Community Development shall transmit to the Board, for its consideration at a regular public meeting, the aggrieved party's appeal, along with documents on file with the Planning Division which are specific and relevant to the administrator's decision.

(3) The Board's decision on an appeal of a statement of exemption shall be the final decision of the County. In its decision, the Board shall consider the facts of the situation and shall reverse the Administrator's decision if it is determined that the Administrator erred in granting or denying the exemption request.

Amend Section C.C.C. 35.01.160. County Master Program.

(1) All guidelines and the master program adopted or approved and this ordinance shall be available for public inspection at the office of the Board, the ((Planning)) Department of Community Development and the County Auditor.

(2) The Advisory Committee shall periodically review the master program for Clallam County and ((make)) recommend such ((adjustments)) amendments as are necessary. Such ((adjustments)) amendments shall be submitted to the Board of Clallam County Commissioners for their action prior to submittal to the Department ((as-soon-as-they-are-completed)) in accordance with W.A.C. 173.19. No such ((adjustment)) amendment shall become effective until ((approved)) adopted by the Department.

~~((3) If local revenue is insufficient to support the cost of preparing the master program for the county, the ((Planning)) Department of Community Development may make application to the Department for such funds as are deemed necessary in accordance with regulations developed by the Department.~~

((4)) (3) When necessary to achieve implementation of the master program, the Board may either alone or in concert with other governmental entities acquire lands and easements which improve access to the shorelines of the county said acquisition may be accomplished by purchase, lease, or gift.

((5)) (4) The ((Planning)) Department of Community Development and the Clallam County Planning Commission shall review all administrative and management policies, regulations, plans and ordinances relative to lands in Clallam County adjacent to the shorelines of the county and recommend appropriate action to the Board so as to achieve a land use policy on said land consistent with the policy of this chapter, the Shoreline Management Act of 1971, the guidelines and the master programs for shorelines of the county. The ((Planning)) Department of Community Development, Planning Commission, and Board, in ((developing)) reviewing land use regulations for such areas, shall take into consideration any recommendations developed by the Department as well as any other state agencies or units of local government.

(((((6)---After the approval or adoption by the Department of the master program or segments thereof, conditional uses and variances may be granted based upon satisfaction of the following criteria:

(a)---conditional use:

----- (i)---the use will meet such performance standards that make the use compatible with other permitted uses within that area;

----- (ii)---the use will cause no unreasonably adverse effects on the environment or other uses;

----- (iii)---the use will not interfere with public use of public shorelines;

----- (iv)---the design of the site will be compatible with the surroundings and the master program;

----- (v)---the proposed use will not be contrary to the general intent of the master program;

----- (b)---variances:

----- (i)---the applicant must show that he cannot make any reasonable use of the property if he complies with the provision of the master program;

----- (ii)---the fact that applicant might make a greater profit by using the property in a manner contrary to the intent of the program is not a sufficient reason for a variance;

----- (iii)---the hardship which serves as a basis for granting of a variance is specifically related to the property of the applicant;

----- (iv)---the hardship results from the application of the requirements of the act and master program and not from, for example, deed restrictions on the applicant's own actions;

----- (v)---the variance granted will be in harmony with the general purpose and intent of the master program;

----- (vi)---public welfare and interest will be preserved; if more harm will be done to the area by granting the variance than would be done to the applicant by denying it, the variance will be denied.))

Delete Section C.C.C. 35.01.180. ((Environmental Impact Statements:

----- ((Following the public hearing on any permit and before making a decision to recommend approval, denial or conditional approval of a permit, the Shoreline Advisory Committee shall determine the environmental significance of the proposed development. --A determination shall be made that the proposed development will:

----- (1)---not have a significant adverse effect on the quality of the environment; or

----- (2)---have a significant adverse effect on the quality of the environment.

----- (3)---major action with significant environmental effects.))

Add New Section C.C.C. 35.01.180 Criteria for Conditional Use and Variance Permits.

Conditional uses and variances may be granted based upon satisfaction of the criteria in WAC 173-14-140 for conditional uses and WAC 173-14-150 for variances. W.A.C. 173-14-140 and 150 are incorporated herein, and as later amended, by reference.

Delete Section C.C.C. 35.01.190. ((Negative Threshold Determination:

~~-----In-the-event-the-Shoreline-Advisory-Committee-determines-a-proposal-will not-have-a-significant-adverse-effect-on-the-quality-of-the-environment;-it shall-prepare-a-proposed-declaration-of-non-significance-in-accordance-with-the requirements-of-the-Council-on-Environmental-Policy-and-the-Clallam-County Environmental-Policy-Ordinance:))~~

Add New Section C.C.C. 35.01.~~((170))~~190. Inspection. The ~~((building inspector-or-the-shorelines-permit))~~ administrator may inspect properties as necessary to determine whether permittees have complied with conditions of their respective permits and, whenever there is reasonable cause to believe that development has occurred upon any premises in violation of the Shoreline Management Act of 1971 and this chapter, may enter upon such premises at all reasonable times to inspect the same. The building inspector or ~~((shoreline permit))~~ administrator shall present proper credentials before demanding entry. If such premises are unoccupied, a reasonable effort shall be made to locate the owner or tenant and demand entry. ~~((The-Shoreline-Advisory-Committee-shall review-and-comment-on-the-violations-discovered-and))~~ The ~~((Shoreline-Permit))~~ Administrator shall then issue a notice and order to the owner or tenant of the premises advising such person(s) of any violations and requiring him to take whatever action is necessary to comply with the Act and this chapter. Subsequently, ~~((he))~~ the administrator shall also, where appropriate, seek legal sanctions by the Board as provided in C.C.C. 35.01 and by the Clallam County Prosecuting Attorney as provided in C.C.C. 35.01.210.

Delete Section C.C.C. 35.01.200. ~~Environmental-Information-Required-from Applicant In-the-case-of-any-application-for-a-substantial-development-permit by-a-private-person-or-other-governmental-body;-the-shoreline-permit administrator-shall-require-that-the-applicant-provide-as-part-of-his application-an-environmental-checklist-together-with-any-supporting documentation:--The-shoreline-permit-administrator-may-refuse-to-process-and consider-the-application-if-the-applicant-fails-to-provide-the-required information:~~

Add New Section C.C.C. 35.01.200. Environmental Impact Determination. Prior to the consideration of a shoreline permit application by the Shoreline Advisory Committee, an environmental impact determination of the proposal shall be undertaken in accordance with the requirements and procedures of the Clallam County Environmental Policy Ordinance C.C.C. 27.01.

Add New Section C.C.C. 35.01.210. Revisions to Shoreline Permits.

(1) Clallam County adopts, by reference, WAC 173-14-064 (Revisions to Substantial Development, Conditional Use, and Variance Permits) and any subsequent amendments adopted thereto.

(2) Applications for revisions to shoreline permits shall be on a form prescribed by the administrator and shall be accompanied by a filing fee in the amount established under C.C.C. 3.30.

(3) Upon receipt of a complete application for a revision to a shoreline permit and upon payment of the fees, the administrator shall schedule the request for revision for consideration by the Board at a regular public meeting. The Board's decision on the revision shall be made within twenty days of receipt of the application.

Add New Section C.C.C. 35.01.215 Civil Penalties - Review

(1) This ordinance adopts by reference Chapter 90.58.210. "Court actions to ensure against conflicting uses and to enforce - Civil Penalty - Review."

(2) Where a notice in writing is served to require corrective action, the administrator shall specify that corrective action must be initiated within 30 days of notification and completed within 60 days of notification.

Amend Section C.C.C. 35.01.((210))(220). Criminal Penalties; Civil Liability.

(1) Any person found to have willfully engaged in activities on the shorelines of the county in violation of this chapter or the Shorelines Management Act of 1971 or in violation of the master program, rules or regulations adopted pursuant thereto shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than one thousand dollars (\$1,000.00), or by imprisonment in the county jail for not more than ninety (90) days, or by both such fine and imprisonment; PROVIDED, that the fine for the third and all subsequent violations in any five-year period shall not be less than five hundred dollars (\$500.00) nor more than ten thousand dollars (\$10,000.00).

(2) The Clallam County Prosecuting Attorney shall bring such injunctive, declaratory, or other actions as are necessary to insure that no uses are made of the shorelines of the county in conflict with the provisions and programs of this chapter or the Shoreline Management Act of 1971, and to otherwise enforce the provisions of this chapter and the Shoreline Management Act of 1971.

(3) Any person subject to the regulatory program of this chapter who violates any provision of this chapter or the provisions of a permit issued pursuant thereto shall be liable for all damage to public or private property arising from such violation, including the cost of restoring the affected area to its condition prior to such violation. The Clallam County Prosecuting Attorney shall bring suit for damages under this subsection on behalf of the county. Private persons shall have the right to bring suit for damages under this subsection on their own behalf and on behalf of all persons similarly situated. If liability has been established for the cost of restoring an area affected by a violation, the court shall make provision to assure that restoration will be accomplished within a reasonable time at the expense of the violator. In addition to such relief, including money damages, the court in its discretion may award attorney's fees and costs of the suit to the private person bringing suit, where he prevails.

Amend Section C.C.C. 35.01.((220))230 ((Rules)) Conflicts - Master Program With Other County Land Use Regulations. ((The Board is authorized to adopt such rules as are necessary and appropriate to carry out the provisions of this chapter.)) Where other county land use regulations are in conflict with the Master Program, the more restrictive regulation shall apply and such application shall extend only to those specific provisions which are more restrictive.

Amend Section C.C.C. 35.01.((230))240 Real Property Assessments.

The restrictions imposed by ((this chapter)) the Shoreline Master Program shall be considered by the county assessor in establishing the fair market value of the property.

Amend Section C.C.C. 35.01.((240))250 Severability.

If any provision of this chapter or its application to any person or legal entity or circumstances is held invalid the remainder of the chapter, or the application of the provision to other persons or legal entities or circumstances shall not be affected.

PASSED AND ADOPTED THIS 22 DAY OF September, 1987.

BOARD OF CLALLAM COUNTY COMMISSIONERS

Dorothy Duncan
Dorothy Duncan, Chair

Lawrence Gaydeski
Lawrence Gaydeski

Evan Jones
Evan Jones

ATTEST:

Karen Flores
Karen Flores
Clerk of the Board

ORDINANCE NO. 310, 1987.