

Ordinance No. 471, 1992

An Ordinance of the Clallam County Board of Commissioners adding a new chapter to the Clallam County Code, Chapter 27.12, Interim Critical Areas Ordinance.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF CLALLAM COUNTY:

**CLALLAM COUNTY**  
**INTERIM**  
**CRITICAL AREAS ORDINANCE**

**C.C.C 27.12**

**June 16, 1992**

**INTERIM CRITICAL  
AREAS ORDINANCE****TABLE OF CONTENTS**

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## SECTION 100 DEFINITIONS

- 100.1 **Adjacent:** Any development proposal which includes a critical area or its buffer or any development proposal within 200 feet of a critical area.
- 100.2 **Administrator:** The Director of the Clallam County Department of Community Development or his/her designee.
- 100.3 **Affected Party:** Standing to bring action on appeals is limited to the following parties: a) The applicant or owner of property on which a development is proposed; b) Any person entitled to special notice of development proposals under this Ordinance; c) Any person who deems themselves aggrieved by a decision and who will suffer direct and substantial impacts from a proposed development.
- 100.4 **Agriculture:** Land primarily devoted to the production of horticultural, viticultural, floricultural, dairy, vegetable or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, or livestock, Agriculture shall also include the raising, harvesting and processing of fish and shellfish, which is also known as aquaculture.
- 100.5 **Agriculture - Conversion:** Involves the introduction of new agricultural activity into critical areas or their buffers where such activities did not previously occur. For example, land which is currently not devoted to agricultural use is cleared and prepared for pasture, growing of cranberries, or a wetland nursery.
- 100.6 **Alteration:** A human-induced action which changes the existing condition of a critical area. Alterations include but are not limited to grading; dredging; channelizing; cutting, clearing, relocating or removing vegetation, except noxious weeds identified by the Clallam County Conservation District or Soil Conservation Service; applying herbicides or pesticides or any hazardous or toxic substance; discharging pollutants; grazing domestic animals; modifying for surface water management purposes; or any other human activity that changes the existing vegetation, hydrology, wildlife or wildlife habitat.

100.7 **Applicant:** Any person, public agency or business entity such as a corporation or a partnership which applies for a development proposal, permit or approval subject to review under this Ordinance. Applicant shall also mean any predecessor or any successor in interest involving the same or fundamentally the same individuals or entities.

100.8 **Aquifer:** A saturated body of rock, sand, gravel or other geologic material that is capable of storing, transmitting, and yielding potable water to a well.

100.9 **Aquifer recharge or aquifer recharge area:** The process by which water is added to an aquifer. It may occur naturally by the percolation (infiltration) of surface water, precipitation, or snowmelt from the ground surface to a depth where the earth materials are saturated with water. Aquifer recharge can be augmented by "artificial" means through the addition of surface water (e.g. land application of wastewater or stormwater) or by the injection of water into the underground environment (e.g. drainfields and drywells). Aquifer recharge areas are those areas overlying the aquifer(s) where natural or artificial sources of water can move downward to an aquifer(s). Most areas are aquifer recharge areas.

100.10 **Aquifer Susceptibility:** The ability of the natural system to transmit contaminants to and through the groundwater system.

100.11 **Bank Stabilization:** Is a shoreline modification used for the purpose of retarding erosion, protecting channels or shorelines, and retaining uplands.

100.12 **Best management practices:** Are conservation practices or systems of practices and management measures that:

- a. Control soil loss and reduce water quality degradation caused by nutrients, bacteria, toxic substances, pesticides, oil and grease, and sediment; and
- b. Minimize adverse impacts to surface water and groundwater flow, circulation patterns, and to the chemical, physical, and biological characteristics of critical areas; and
- c. The Department of Community Development shall keep a list of best management practices for regulated uses acceptable to Clallam County.

100.13 **Biologist:** A person who has a minimum of a Bachelor of Science degree in biological sciences or related field from an accredited college or university and/or has four or more years experience as a practicing biologist.

- 100.14 **Buffer:** An area of protection around a critical area.
- 100.15 **Certificate of Compliance:** Is a written determination by the Review Authority that a development proposal is in compliance with this ordinance. A certificate of compliance may include project conditions or denials specifically to implement this ordinance.
- 100.16 **Clearing:** The destruction, disturbance or removal of vegetation by physical, mechanical, chemical or any other means.
- 100.17 **Compensation:** Replacement of project-induced critical area (e.g. wetland) losses of acreage or functions and includes, but is not limited to, restoration, creation, or enhancement.
- 100.18 **Creation:** Actions performed to intentionally establish a critical area at a site where it did not formerly exist.
- 100.19 **Critical aquifer recharge areas:** Those land areas which contain hydrogeologic conditions which facilitate aquifer recharge and/or transmitting contaminants to an underlying aquifer.
- 100.20 **Critical areas:** Include the following areas and ecosystems: (a) wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas.
- 100.21 **Critical facilities:** A facility for which even a slight chance of flooding or destruction caused by a geologic hazard would be too great. They include but are not limited to schools, hospitals, police, fire, emergency response installation, nursing homes, installations which produce, use or store hazardous materials or hazardous waste, pipelines which transmit oil and gas, municipal water and sewer facilities, and regional transportation facilities, such as airports, ports, railroads and major highways.



- 100.22 **Development or Development proposal:** Any of the activities relating to the use and/or development of land, including but not limited to: building permit, industrial, commercial or residential; binding site plan; franchise right-of-way construction permit; master plan development; planned unit development; right-of-way access permit; shoreline permit; conditional use permit; special use permit; subdivision; short subdivision; utility or on-site sewage permit; the removal, excavation, grading, clearing, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind; the dumping, discharging, or filling with any material; the draining, flooding, or disturbing of the water table; the driving of pilings or the placing of obstructions; planting of vegetation (e.g. introduction of non-native species) that would alter the character of the critical area; activities that result in adverse changes in water temperature or physical or chemical characteristics of critical area water sources; or any subsequently adopted permit or required approval not expressly exempted by this Ordinance.
- 100.23 **Development proposal site:** For purposes of this Ordinance, the legal boundaries of the parcel or parcels of land on which an applicant has applied for authority from Clallam County to carry out a development proposal.
- 100.24 **Draining:** Any human activity that diverts or reduces wetland groundwater and/or surface water sources so that functions and values are lost or the area no longer meets the definition of wetland.
- 100.25 **Easement or Critical Area protection easement:** A limited protective easement granted to Clallam County or other organizations devoted to protection and management of the protected critical area, to enable the county to protect a critical area from use and development that is inconsistent with the purposes of this ordinance. An easement is an interest in land owned or granted to another that entitles its holder to a specific limited use, restriction or enjoyment. The easement must be duly recorded on appropriate documents and filed with the Clallam County Auditor.
- 100.26 **Education and Scientific Research:** Any education or scientific research activity unassociated with a development proposal regulated under this Ordinance; provided that, the removal of plant and soil samples through non-mechanical means is allowed for education or scientific study unrelated to any future development proposal of the affected area; provided further that such removal is not prohibited by any federal, state or local regulations.

- 100.27 **Enhancement:** Actions performed to improve the condition of existing degraded critical area (e.g. wetlands or streams) so that the functions they provide are of a higher quality, provided that this activity does not significantly degrade another existing function or value.
- 100.28 **Erosion:** The process whereby the land surface is worn away by the action of water, wind, ice or other geologic agents and by processes such as gravitational creep or events such as landslides. Natural or geologic erosion occurs as an on-going process that acts on all land surfaces to some degree. Human activities such as removing vegetation, increasing stormwater runoff or decreasing slope stability often accelerate or aggravate natural erosion processes.
- 100.29 **Excavation:** Is the removal of earth material.
- 100.30 **Existing and ongoing agriculture:** Includes those activities conducted on lands defined in RCW 84.34.020(2) or defined as agriculture in this ordinance (See definition 100.4), for example, the operation and maintenance of existing farm and stock ponds or drainage ditches, operation and maintenance of ditches, irrigation systems including irrigation laterals, canals, or irrigation drainage ditches, changes between agricultural activities, such as rotating crops or grasses used for grazing, and normal maintenance, repair, or operation of existing serviceable structures, facilities, or improved areas; Provided, That alteration of the contour of wetlands or streams by leveling or filling other than that which results from normal cultivation, or draining of wetlands shall not be considered normal or necessary farming or ranching activities
- Activities which bring an area into agricultural use are not part of an ongoing operation. An operation ceases to be ongoing when the area on which it is conducted is proposed for conversion to a nonagricultural use or has lain idle for more than five years, unless the idle land is registered in a federal or state soil conservation program, or unless the activity is maintenance of irrigation ditches, laterals, canals, or drainage ditches related to an existing and ongoing agricultural activity.
- 100.31 **Extraordinary hardship:** Means that strict application of this Ordinance and/or programs adopted to implement this Ordinance by the regulatory authority would prevent all reasonable economic use of the parcel.
- 100.32 **Filling or Fill:** A deposit of earth or other natural or man-made material placed by artificial means.

- 100.33 **Flooding:** Any human activity that increases water flow into a wetland or obstructs water flow causing ponding. Approved releases from stormwater facilities or presettlement ponds or wetlands approved as stormwater facilities shall not be considered flooding for the purposes of this definition. (The purpose of this definition is for Section 400 - Wetlands.)
- 100.34 **Floodplain:** The floodway and the special flood hazard area.
- 100.35 **Floodway:** Is the channel of a stream, plus any adjacent floodplain areas, that must be kept free of encroachment in order that the base flood be carried without substantial increases in flood heights.
- 100.36 **Forest or Forest land:** Land primarily used for growing trees, including Christmas trees subject to the excise tax imposed by RCW 84.33.100 through 84.33.140,
- 100.37 **Forest practices:** As defined in WAC 222-16-010 (21), as amended, means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:
- a. Road and trail construction,
  - b. Harvesting, final and intermediate,
  - c. Pre-commercial thinning,
  - d. Reforestation,
  - e. Fertilization,
  - f. Prevention and suppression of diseases and insects,
  - g. Salvage of trees, and
  - h. Brush control.
  - i. Forest practices shall not include preparatory work such as tree marking, surveying and road flagging; or removal or harvest or incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber or public resources.
- 100.38 **Frequently-Flooded Areas:** All Clallam County lands, shorelands and waters which are identified as within the 100-year floodplain (Floodway and Special Flood Hazard Area) in the Federal Management Agency report titled "The Flood Insurance Study for Clallam County" dated December 5, 1989, with accompanying Flood Insurance Rate and Boundary Maps. (See Section 700 for explanation of terms.)

- 100.39 **Functions, beneficial functions, or functions and values:** Are the beneficial roles served by critical areas including, but not limited to the following which are normally associated with wetlands: water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, conveyance and attenuation, groundwater recharge and discharge, erosion control, wave attenuation, historical and archaeological value protection, aesthetic value, and recreation. These beneficial functions are not listed in order of priority.
- 100.40 **Geologic Hazardous Areas:** Areas susceptible to erosion, sliding, earthquake, or other geological events.
- 100.41 **Geologist:** A person who has a Bachelor of Science degree in geologic sciences or related field from an accredited college or university and/or has a minimum of five years experience under the direction of a professional geologist.
- 100.42 **Geotechnical engineer:** A practicing, geotechnical/civil engineer licensed and bonded as a professional Civil Engineer with the State of Washington.
- 100.43 **Grading:** Any excavating, filling or removing of the surface layer or any combination thereof.
- 100.44 **Grazed wet meadows:** Grazed wet meadows are wetlands whose vegetative cover has been greatly modified as a result of grazing, seeding or cutting for hay. They are typically dominated by pasture species (such as blue grass, orchard grass, fescue, clovers, reed canary grass, etc.) as well as non-native wetland species such as soft rush and buttercup. They are saturated or have standing water during the wet season and part of the growing season but are dry during the summer months. Grazed wet meadows have been (within the last 5 years) or are being used for livestock grazing, seeding, or cutting for hay.
- 100.45 **Groundwater:** Water below the ground surface.
- 100.46 **High intensity land use:** Are those land uses which are associated with moderate or high levels of human disturbance or substantial habitat impacts including, but not limited to residential densities greater than 1 unit per acre (gross density), active recreation, and commercial and industrial land uses.

- 100.47 **High quality wetlands:** Are those regulated wetlands which meets all of the following criteria:
- a. No, or isolated, human alteration of the wetland topography;
  - b. No human-caused alteration of the hydrology of the wetland, or else the wetland appears to have recovered from the alteration;
  - c. Low cover and frequency of exotic plant species;
  - d. Relatively little human-related disturbance of the native vegetation, or recovery from past disturbance;
  - e. If the wetland system is degraded, it still contains a viable and high quality example of a native wetland community; and
  - f. No known major water quality problems.
- 100.48 **Hydric Soil:** Soil that is presently or at some time in the past saturated, flooded or ponded long enough during the growing season to develop anaerobic conditions in the upper part of the soil profile.
- 100.49 **Hydrogeology:** The science dealing with the properties, distribution, and circulation of water.
- 100.50 **Hydrophytic vegetation:** Macrophytic plant life growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.
- 100.51 **Hydroperiod:** The seasonal period and duration of water saturation or inundation.
- 100.52 **Hydrologically Isolated Wetlands:** Are those regulated wetlands which:
- a. are outside of and not contiguous to any 100-year floodplain of a lake, river, or stream;
  - b. have no contiguous hydric soil between the wetland and any surface water; and
  - c. have no surface water connection to a lake, river or stream.

- 100.53 **Impervious Surface:** A hard surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development, and/or a hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater. Open, uncovered retention/detention facilities shall not be considered as impervious surfaces.
- 100.54 **Lake:** A naturally existing or artificially created body of standing water greater than or equal to 20 acres in size. Lakes include reservoirs which exist on a year round basis and occur in a depression of land or expanded part of a stream. A lake is bounded by the ordinary high water mark or the extension of the elevation of the lake's ordinary high water mark within the stream, where the stream enters the lake. All lakes meet the criteria of RCW Chapter 90.58 (Shoreline Management Act) and have been inventoried as "Shorelines of the State" under the Shoreline Master Program for Clallam County.
- 100.55 **Land Divisions:** Any division of land, including short plats, subdivisions, mobile home and RV Parks, and binding site plans regulated under the Clallam County Land Division Ordinance, C.C.C. 29.01, as now or hereafter amended.
- 100.56 **Landslide:** The general term used to describe the downslope movement of a mass of slope materials including rock, soils, artificial fills, and vegetation. The speed and distance of movement, as well as the amount and type of slope material, vary greatly.
- 100.57 **Low Income Housing:** The selling price or rental price of a dwelling unit at an amount affordable to families earning no greater than one hundred percent (100%) of the current median family income of Clallam County at time of sale or rental. The current median family income means the standard set by the U.S. Department of Housing and Urban Development (HUD).
- 100.58 **Low intensity land use:** Those land uses which are associated with low levels of human disturbance or low habitat impacts, including, but not limited to, passive recreation, open space, or agricultural or forest management land uses. For residential use, low intensity land use means densities equal to or less than one unit per acre.

**100.59 Major New Development:**

- a. Any new development, as defined below, within a designated critical area or within 200 feet of a designated wetland, Class I or II aquatic areas, Class I wildlife areas, or landslide and erosion hazard area:
  - i. Clearing, grading or filling one acre or greater in area;
  - ii. Zoning conditional use permits required under Title 33, Clallam County Zoning Code;
  - iii. Any new Commercial or Industrial development in excess of 750 square feet in area authorized under Chapter 33.34 or 33.35 of Title 33, Clallam County Zoning Code;
  - iv. Planned Unit Developments or Planned Recreational Communities authorized under Chapter 33.38 or 33.39 of Title 33, Clallam County Zoning Code;
  - v. Any structure in excess of 4,000 square feet in area;
  - vi. Any residential development except as exempted below.
- b. The following shall not be considered major new development for the purpose of this Ordinance:
  - i. Normal maintenance or repair of existing structures or developments, including damage by accident, fire, or elements;
  - ii. Emergency construction necessary to protect property from damage by the elements;
  - iii. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities, construction of an agricultural building less than 3,000 square feet in size used exclusively for agricultural activities and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities and irrigation channels: *Provided, That a feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of wetlands or streams by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities;*
  - iv. Construction of one single family residence and normal appurtenances necessarily connected to the use and enjoyment of a single-family residence and may include a garage; deck; driveway; utilities; fences, grading not exceeding 20,000 square feet in area; and home occupations pursuant to the Clallam County Zoning Code, as now or hereafter amended;
  - v. 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;
  - vi. The marking of property lines or corners; and
  - vii. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing prior to the date of adoption of this ordinance, which were created, developed, or utilized primarily as a part of an agricultural drainage or diking system.
  - viii. Development authorized by Section 330 (General Exemptions) and/or by Section 340 (Nonconforming Development Standards).

100.60 **Marine Bluff:** The cliff-like landform which has been created by wave and tidal erosion along marine shorelines. For the purposes of this Ordinance, marine bluffs include those areas where:

- a. The slope is identified as "unstable", "unstable old slide" and "unstable recent slide" on the maps of the Coastal Zone Atlas of Washington, Clallam County (1978); or
- b. Other slopes where the slope is equal to or in excess of 40% slope, or where the ground surface rises ten feet or more vertically within a horizontal distance of twenty-five feet.

100.61 **Mineral Extraction:** Includes activities involved in the extraction of minerals from the earth for industrial, commercial, or construction uses, excluding water. For the purposes of this Ordinance, removal of solid materials from the earth is not deemed mineral extraction until the activity meets one of the following criteria:

- a. The extraction of peat shall be considered mineral extraction when extracted from regulated wetlands, regardless of size of the activity or wetland;
- b. Other mineral extraction activities shall collectively result in more than 3 acres of land being disturbed or that result in pit walls more than 30 feet high and steeper than one horizontal to one vertical. Farming, road construction, mineral exploration testing and site preparation for construction shall not be deemed mineral extraction activities.

100.62 **Minimum Lot Size:** Is the smallest parcel size upon which a structure may be placed as required by C.C.C. 33, the Clallam County Zoning Ordinance.

100.63 **Minor New Development:** Any new development not defined as "Major New Development".

100.64 **Mitigation:** Includes avoiding, minimizing or compensating for adverse critical area (e.g. wetland) impacts. Mitigation, in the following order of preference is:

- a. Avoiding the impact altogether by not taking a certain action or parts of an action;
- b. Minimizing 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. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
- d. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments.



- 100.65 **Monitoring:** The collection and analysis of data for the purposes of documenting changes in natural ecosystems and features. This includes gathering baseline data and follow-up data for evaluating the impacts of development on biological, hydrologic and geologic elements of such systems and assessing the performance of required mitigation measures.
- 100.66 **Native vegetation:** Vegetation indigenous to the North Olympic Peninsula.
- 100.67 **Nonconforming development:** A use or structure which was lawfully constructed or established prior to the effective date of this ordinance but which does not conform to present regulations or standards of this ordinance.
- 100.68 **Normal maintenance:** Includes those usual acts to prevent a decline, lapse or cessation from a lawfully established condition.
- 100.69 **Normal repair:** Means to restore a development to a state comparable to its original conditions within a reasonable period after decay or partial destruction except where repair involves total replacement which is not common practice or causes substantial adverse effects to the critical area.
- 100.70 **Open space:** Lands which are in a natural or undeveloped character because they have not been developed with structures, paving or other appurtenances. Open space lands can refer to parks; recreation areas; conservation easements; critical area buffers, tracts or commons.
- 100.71 **Ordinary high water mark:** The mark on all lakes, streams and tidal waters which will be found by examining the beds 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 conditions exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the department; provided, that in any area where the ordinary high-water mark cannot be found the ordinary high-water mark adjoining salt water shall be the line of mean higher high tide and the ordinary high water mark adjoining fresh water shall be the line of mean high water.
- 100.72 **Out-of-kind compensation:** Means to replace a critical area (e.g. wetland) with a substitute critical area (e.g. wetland) whose characteristics do not closely approximate those destroyed or

degraded by a regulated activity. It does not refer to replacement "out-of-category," such as replacement of wetland loss with new stream segments.

- 100.73 **Over water:** Means the location of a structure or development above the surface of the water, including placement of buildings on piling or floats.
- 100.74 **Parcel:** A lot, parcel or tract shall be an ownership of land legally created in which the boundary is defined by a deed recorded in the County Auditor's Office; or a lot legally created which has been defined by a survey recorded pursuant to Washington State surveying or platting laws.
- 100.75 **Performance Standard or Protection Standard:** Is a measure, control, procedure, or process to ensure that critical areas are protected. For the purposes of this ordinance, these terms have the same meaning as regulation.
- 100.76 **Person:** Is any individual or public or private entity (e.g. corporations),
- 100.77 **Pond:** Is a naturally existing or artificially created body of standing water less than 20 acres in size and not defined as "Shorelines of the State" by RCW 90.58 (Shoreline Management Act). Ponds can include reservoirs which exist on a year round basis and occur in a depression of land or expanded part of a stream. A pond is bounded by the ordinary high water mark or the extension of the elevation of the pond's ordinary high water mark within the stream, where the stream enters the pond.
- 100.78 **Practicable alternative:** An alternative that is available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes, and having less impacts to critical areas. It may include an area not owned by the applicant which could reasonably have been or be obtained, utilized, expanded, or managed in order to fulfill the basic purpose of the proposed activity.
- 100.79 **Presettlement Pond:** Any artificially constructed facility with the primary purpose to treat stormwater runoff for the purpose of removing sediments and/or other potential pollutants including, but not limited to, sediment ponds, wetponds, and detention/retention facilities.
- 100.80 **Priority habitat:** A seasonal range or habitat element with which a given species has a primary association, and which, if altered may reduce the likelihood that the species will maintain and reproduce over the long term. These might include areas of high relative density or species

richness; breeding, nesting, feeding, foraging, and migratory habitat; winter range, movement corridors; and/or habitats that are of limited availability or high vulnerability to alteration. Priority habitats are established by the Washington Department of Wildlife within their Priority Habitats and Species Data Base .

- 100.81 **Priority species:** Priority species include those which are state-listed endangered, threatened, sensitive, candidate and monitor species as well as priority game and non-game species.
- 100.82 **Public agency:** Any agency, political subdivision, or unit of local government of this state including but not limited to municipal corporations, special purpose districts, and local service districts; any agency of the State of Washington, the United States; or any Indian tribe recognized as such by the Federal government.
- 100.83 **Public facilities :** Are buildings or uses of land whether owned or leased, operated by a public agency for such purposes as providing places for public assembly and recreation, operating services of benefit to the public, or for the administration of public affairs.
- 100.84 **Public project of significant importance:** A a project funded by a public agency, department or jurisdiction which is found to be in the best interests of the citizens of Clallam County and is so declared by the Clallam County Board of County Commissioners in a resolution.
- 100.85 **Public utility:** A business or service, either governmental or having appropriate approval from the State, which is engaged in regularly supplying the public with some commodity or service which is of public consequence and need such as electricity, gas, sewer and/or wastewater, water, transportation or communications.
- 100.86 **Ravine:** A V-shaped landform generally having little to no floodplain and normally containing steep slopes and is deeper than 10 vertical feet as measured from the centerline of the ravine to the top of the slope. Ravines are created by the wearing action of streams.
- 100.87 **Reasonable alternative:** An activity that could feasibly attain or approximate a proposal's objectives, but at a lower environmental cost or decreased level of environmental degradation. Reasonable alternatives may be those over which the regulatory authority has authority to control impacts.

- 100.88 **Regulated use or activity:** Any development proposal which includes or directly affects a critical area or it's buffer or is adjacent to a critical area. (See definition of adjacent and development.)
- 100.89 **Regulated wetlands:** Regulated wetlands are those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Regulated wetlands generally include, but are not limited to swamps, marshes, bogs, ponds, including their submerged aquatic beds and similar areas. Regulated wetlands do not include wetlands less than 10,000 square feet in area. Regulated wetlands do not include those artificial wetlands created from nonwetland sites, including but not limited to irrigation or drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities. Wetlands created as mitigation and wetlands modified for approved land use activities shall be considered as regulated wetlands.
- 100.90 **Restoration:** Is the return of a critical area (e.g stream or wetland) to a state in which its functions and values approach its unaltered state as closely as possible.
- 100.91 **Review authority:** The Director of the Clallam County Department of Community Development or his/her designee for any development proposal not requiring a public hearing; the Planning Commission, Board of Adjustment, Hearing Examiner or Shorelines and Sensitive Areas Committee for development proposals requiring a public hearing; and the Board of Commissioners for decisions which are appealed pursuant to Section 300 of this Ordinance.
- 100.92 **Road or Street:** Any vehicular right-of-way which (a) is an existing state, county or municipal roadway or (b) is a publicly owned easement or, (c) is shown upon a plat or short plat approved pursuant to Clallam County Land Division Code (C.C.C. 29.01), or (d) is a private access greater than 50 feet in length serving more than one property through right of use or easement. The road or street shall include all land within the boundaries of the road right-of-way which is improved.
- 100.93 **Salmonid:** Is a a member of the fish family salmonidae. In Clallam County these include chinook, coho, chum, sockeye and pink salmon; rainbow, steelhead, cutthroat trout; brown trout; Brook and Dolly Varden char, kokanee, and whitefish.

- 100.94 **Single family dwelling:** A a building or structure which is intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes by one family and including accessory structures and improvements.
- 100.95 **Site Investigation:** Work necessary for land use application submittals such as surveys, soil logs, percolation tests or other related activities.
- 100.96 **Special flood hazard areas:** The area adjoining the floodway which is subject to a one percent or greater chance of flooding in any year, as determined by engineering studies acceptable to Clallam County. The Coastal High Hazard Areas are included within special flood hazard areas.
- 100.97 **Special reports:** Those reports required as a part of regulated use or development review required by this Ordinance. Special reports shall include but not be limited to the following:
- a. Administrative Wetland Boundary and Ranking Evaluation
  - b. Building Site Application;
  - c. Drainage and Erosion Control Plan;
  - d. Geotechnical Report;
  - e. Grading Plan;
  - f. Habitat Management Plan;
  - g. Mitigation Plan;
  - h. Wetland Boundary Survey;
  - i. Wetland Mitigation Plan; and
  - j. Wetland Ranking Evaluation.
- 100.98 **Species of Concern:** Are species classified as endangered, threatened, sensitive, candidate, or monitor by the Washington Department of Wildlife.
- 100.99 **State Environmental Policy Act or SEPA:** The state law (the State Environmental Policy Act of 1971, Chapter 43.21 C RCW) and the state rules (Chapter 197-11 WAC) to implement this legislation.
- 100.100 **Steep slope:** Is an area which is equal to or in excess of 40% slope, or where the ground surface rises ten feet or more vertically within a horizontal distance of twenty-five feet.

- 100.101 **Stormwater, private retention/detention facility:** A type of drainage facility designed either to hold water for a considerable length of time and then release it by evaporation, plant transpiration and/or infiltration into the ground; or to hold runoff for a short period of time and then release it to the surface and storm water management system.
- 100.102 **Stormwater regional retention/detention facility:** A surface water control structure constructed by a public agency to correct the existing excess surface water runoff problems of a basin or subbasin.
- 100.103 **Streams:** Are those areas in Clallam County where the surface water flow is sufficient to produce a defined channel or bed. A defined channel or bed is an area which demonstrates clear evidence of the passage of water and includes but is not limited to bedrock channels, gravel beds, sand and silt beds and defined-channel swales. The channel or bed need not contain water year-round. This definition is not meant to include irrigation ditches, canals, storm or surface water runoff devices or other artificial watercourses unless they are used by salmon or used to convey streams naturally occurring prior to construction.
- 100.104 **Structure:** Is a permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed, on, above, or below the surface of the ground or water.
- 100.105 **Toe of slope:** A distinct topographic break in slope. Where no distinct break exists, this point shall be the lower most limit of the landslide hazard area as defined and classified in Section 600 of this Ordinance.
- 100.106 **Top of slope:** A distinct topographic break in slope. Where no distinct break in slope exists this point shall be the uppermost limit of the landslide hazard area as defined and classified in Section 600 of this Ordinance.
- 100.107 **Unavoidable and necessary impacts:** Are those impacts to critical areas that remain after a person proposing to alter such an area has demonstrated that no practicable alternative exists for the proposed project.
- 100.108 **Unclassified Use:** Is any regulated use or activity (see definition) that is not specifically listed in Tables 400-1 and 400-2 of Section 400.

**100.109 Unranked regulatory wetland or Unranked wetland:** Is a regulatory wetland which has yet to be classified by Clallam County as a Class I, II, III or IV wetland.

**100.110 Utility:** A fixed improvement which conveys power, gas, oil, water, sewage, surface drainage, or communication signals.

**100.111 Vegetation:** Any and all living plant species growing at, below, or above the soil surface.

**100.112 Water-dependent uses:** Is a use or portion of a use that cannot logically exist in any other location and is dependent on the water by reason of the intrinsic nature of its operation. Water-dependent uses include, but are not limited to:

- a. Aquaculture
- b. Boat launch facilities
- c. Ferry terminals
- d. Hydroelectric power plants
- e. Marinas
- f. Marine construction, dismantling and repair
- g. Marine and limnological research and education
- h. Private and public docks
- i. Terminal and transfer facilities for marine commerce and industry
- j. Water intakes and outfalls.
- k. Log booming.
- l. Tug and barge facilities.
- m. Residential appurtenances such as beach access ramps and walkways, observation decks and platforms, picnic sites, and gazebos/shelters less than 250 square feet in size.

**100.113 Water-related uses:** Is a use or portion of a use which is not intrinsically dependent on a waterfront location, but whose operations cannot occur economically without a shoreline location or without close proximity to water-dependent uses. Water-related uses include, but are not limited to:

- a. Warehousing or storage facilities
- b. Support services for fish hatcheries
- c. Seafood processing plants
- d. Wood products manufacturing

- e. Log storage
- f. Watercraft sales
- g. Boating supplies

100.114 **Wetlands:** Wetlands are those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include, but are not limited to swamps, marshes, bogs, ponds, including their submerged aquatic beds and similar areas.

100.115 **Wetland edge:** The line delineating the outer edge of a wetland established by using the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, dated January 10, 1989.

100.116 **Wetlands of regional significance:** Are those regulated wetlands determined by the Clallam County Shorelines and Sensitive Areas Committee to have characteristics of exceptional resource value which should be afforded the highest levels of protection.

100.117 **Wetlands of statewide significance:** Are those regulated wetlands recommended by the Washington Department of Ecology and determined by the Clallam County Shorelines and Sensitive Areas Committee to have characteristics of exceptional resource value which should be afforded the highest levels of protection.

100.118 **Wetpond:** An artificial water body dug as a part of a surface water management system.

100.119 **Wildlife Nesting Structure:** Is a structure erected for the sole purpose of providing a wildlife nesting site.



## SECTION 200 PURPOSE

### Section 210 STATEMENT OF PURPOSE/AUTHORITY

The purpose of this ordinance is to identify and protect critical areas as required by the Growth Management Act of 1990 (Chapter 17, Laws of 1990) by supplementing the development requirements contained in the various chapters of the Clallam County Code by providing for additional controls and measures to protect critical areas. This ordinance is adopted under the authority of Chapter 36.70A RCW, Chapter 36.70 RCW and the Clallam County Charter, as now or hereafter amended.

### Section 220 STATEMENT OF POLICY

It is the policy of Clallam County that the beneficial functions of critical areas be preserved, and potential dangers or public costs associated with the inappropriate use of such areas be minimized by reasonable regulation of uses within, adjacent or directly affecting such areas.

### Section 230 POLICY GOALS

To implement the purpose and policy stated above, it is the intent of this ordinance to accomplish the following:

1. To conserve and protect the environmental attributes of Clallam County that characterize the quality of life for residents of both Clallam County and the State of Washington.
2. To identify and portray critical areas and the environmental functions these areas perform.
3. To protect critical areas and their functions by regulating use and management within these areas and on adjacent lands.
4. To maintain both acreage and ecological functions of regulated wetlands in Clallam County.

5. To encourage and protect biological and ecological functions of wetlands through enhancement, restoration, and creation.
6. To preserve, protect, manage, or regulate wetlands, wetland buffers, and adjacent areas that have either a direct or indirect effect on conserving fish, wildlife, other natural resources, and values.
7. To guide development proposals to the most environmentally suitable and naturally stable portion of a development site.
8. To avoid potential damage due to landslide, subsidence, erosion, or flooding.
9. To protect water quality by controlling erosion and carefully siting uses and activities which can release chemical or bacterial pollutants and maintaining stream flows and habitat quality for fish and marine shellfish.
10. To preserve natural flood control and stormwater storage from alterations to drainage or stream flow patterns.
11. To maintain ground water recharge and prevent the contamination of ground water resources to ensure water quality and quantity for domestic and commercial/industrial uses.
12. To protect areas with potential for marine aquaculture activities from degradation by other types of uses.
13. To protect the general public against avoidable losses from maintenance and replacement of public facilities, property damage, subsidy cost of public mitigation of avoidable impacts, and costs for public emergency rescue and relief operations.
14. To protect unique, fragile and valuable elements of the natural environment for the enjoyment of present and future generations.
15. To prevent cumulative adverse environmental impacts to water availability, water quality, wetlands, fish and wildlife habitat conservation areas, frequently flooded areas and geologically hazardous areas.
16. To implement the policies of the State Environmental Policy Act, Chapter 43.21C RCW; the Growth Management Act, Chapter 36.70A RCW; the Clallam County Charter and Clallam County Code and all county functional and community plans.

Section 240 INTERIM ORDINANCE

This Ordinance shall be considered interim in nature and shall expire within one year after completion of a Comprehensive Plan, pursuant to Chapter 36.70A RCW. Prior to that time, it is anticipated that amendments to this ordinance shall occur only to correct clear errors or omissions in the document or respond to unforeseen complications in implementation.

Section 250 AMENDMENTS TO ORDINANCE

Initiation of amendments to this Ordinance may be made upon motion of the Clallam County Shorelines and Sensitive Areas Committee or the Clallam County Board of Commissioners. A public hearing before the Board of Commissioners shall be required as specified in the Clallam County Code and Clallam County Charter.

Section 260 SEVERABILITY

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

Section 270 EFFECTIVE DATE

This Ordinance shall become effective 15 days after adoption by the Clallam County Board of Commissioners.

## SECTION 300 GENERAL PROVISIONS

### Section 305 APPLICABILITY

This Ordinance classifies and designates critical areas in Clallam County and establishes regulations for the protection of critical areas. Clallam County shall not grant any permit, license or other development approval to alter the condition of any land, water or vegetation, or to construct or alter any structure or improvement, nor shall any person alter the condition of any land, water or vegetation, or construct or alter any structure or improvement, for any development proposal regulated by this Ordinance, except in compliance with the provisions of this Ordinance. Failure to comply with the provisions of this ordinance shall be considered a violation and subject to enforcement procedures as provided for in this Ordinance.

### Section 310 CERTIFICATE OF COMPLIANCE REQUIRED

No development activity regulated by this Ordinance shall proceed without first obtaining a written certificate of compliance or critical area permit (special or conditional use) by the Review Authority (see definition). For development proposals requiring a permit or approval from Clallam County under other provisions of the Clallam County Code, a finding of fact or conclusion of law demonstrating consistency with this Ordinance may satisfy this provision. A Certificate of Compliance may include conditions to ensure consistency with this Ordinance or denial of some or all parts of a development proposal to ensure consistency. Authorization to undertake regulated activities pursuant to this Ordinance shall normally be valid for a period of three years from the date of issue unless a longer or shorter period is specified by the Review Authority upon issuance of a permit. A Certificate of Compliance may be issued for a portion or portions of a proposal when the project is approved to be phased over time. A one time extension of the authorization may be granted by the Administrator for a period not exceeding one year.

### Section 320 RELATIONSHIP TO OTHER COUNTY REGULATIONS

When any provision of any other chapter of the Clallam County Code conflicts with this Ordinance, that which provides the most protection to the critical area shall apply.

Section 330 GENERAL EXEMPTIONS

The following developments are exempt from the filing of Special Reports or permits required by this Ordinance. Exempted developments authorized by Clallam County shall otherwise be consistent with the policies and provisions of this Ordinance and shall require prior written approval from Clallam County.

1. Emergencies that threaten the public health, safety and welfare. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with this Ordinance.
2. Existing and ongoing agricultural activities on lands designated as critical areas on the date this Ordinance becomes effective.
3. Normal and routine maintenance and operation of existing irrigation and drainage ditches, farm ponds, fish ponds, manure lagoons, and livestock water ponds, provided that such activities shall not involve conversion of any wetland not currently being used for such activity.
4. Normal and routine maintenance or repair of existing utility structures or right-of-way.
5. Installation or construction in improved public road right-of-way, and replacement, operation or alteration of all electric facilities, lines, equipment or appurtenances, not including substations; water and sewer lines; and all natural gas, cable communications and telephone facilities, lines, pipes, mains, equipment or appurtenances.
6. Public agency development proposals only to the extent of any construction contract awarded before the effective date of this Ordinance, provided that any regulation in effect at the time of such award shall apply to such proposal.
7. State forest practices conducted pursuant to RCW 76.09, except Class IV - general (conversions) or occur within designated urban growth boundaries.

Section 335 REASONABLE USE EXCEPTION

If the application of this Ordinance would deny reasonable use of the property, or would otherwise constitute a taking under either the state or federal constitution, development may be allowed which is consistent with the general purposes of this Ordinance and the public interest.

1. An application for a critical area reasonable use exception shall be filed with the Administrator and shall be considered by the Clallam County Shorelines and Sensitive Areas Committee who shall seek legal advice from and consult with the Prosecuting Attorney and shall issue a decision.
2. The Shorelines and Sensitive Areas Committee, in approval of a reasonable use exception, must determine that:
  - a. Application of this Ordinance would deny all reasonable use of the property or result in an extraordinary hardship to the landowner;
  - b. There is no other reasonable use with less impact on the critical area;
  - c. The proposed development does not pose an unreasonable threat to the public health, safety or welfare on or off the development proposal site; and
  - d. Any alterations permitted to these critical areas shall be the minimum necessary to allow for reasonable use of the property.
3. Any authorized alteration of a critical area under this section may be subject to conditions established by Clallam County and shall require mitigation under an approved mitigation plan.
4. Except when application of this Ordinance would deny all reasonable use of the property, an applicant who seeks an exception from the standards and requirements of this Ordinance shall pursue relief by means of a variance as provided for in this Ordinance.

## Section 340 NONCONFORMING DEVELOPMENT STANDARDS

"Nonconforming development" means a development which was lawfully constructed, approved or established prior to the effective date of this Ordinance but which does not conform to present regulations or standards of this Ordinance.

1. This Ordinance incorporates by reference the nonconforming development standards applicable to development on shorelines of the state (WAC 173-14-055), as now or hereafter amended; and/or
2. Structures in existence on the date this Ordinance becomes effective and that do not meet the setback or buffer requirements of this Ordinance for wetlands, streams, or landslide hazard areas may be remodelled or reconstructed provided that the new construction or related activity does not further intrude into a stream, wetland, landslide, or associated buffers and is subject to the restrictions of the frequently flooded areas for reconstruction; PROVIDED further that structures in existence on the date this Ordinance becomes effective and that do not meet the setback or buffer requirements of this Ordinance for wetlands, streams, or landslide hazard areas may be replaced provided that no reasonable alternative location for the structure on the development proposal site exists and the new construction or related activity does not further intrude into a stream, wetland, landslide hazard, or associated buffers and is subject to the restrictions of the frequently flooded areas for reconstruction; PROVIDED further, that new construction or related activity connected with an existing single family dwelling shall not be considered further intruding into an associated buffer so long as the footprint of the structure lying within the critical area is not increased by more than 1000 square feet and no portion of the structure is located closer to the stream, wetland or landslide hazard than the existing structure.

## Section 345 REVIEW AUTHORITY REQUIREMENTS

In evaluating a request for a development proposal regulated by this Ordinance, the Review Authority shall provide the following:

1. Confirm the nature and type of the critical area and evaluate any Special Reports;
2. Determine whether the development proposal is consistent with this Ordinance, by granting, denying or conditioning projects;

3. Determine whether proposed alterations to critical areas are appropriate under the standards contained in this Ordinance or are necessary to allow reasonable use of the property; and
4. Determine if the protection mechanisms and the mitigation and monitoring plans and bonding measures proposed by the applicant are sufficient to protect the public health, safety and welfare consistent with the goals, purposes and objectives of this ordinance, and if so, condition the permit or approval accordingly.

### Section 350 NOTICE TO TITLE

The owner of any property on which a development proposal is submitted shall file for record with the Clallam County Auditor a notice in the public record of the presence of a critical area or buffer, the application of this Ordinance to the property, and that limitations on actions in or affecting such areas or buffers may exist. The applicant shall submit proof that the notice has been filed for record before Clallam County shall approve any development proposal for such site. (See Exhibit 2.)

### Section 355 APPLICATION REQUIREMENTS, GENERAL

1. Application for development proposals, reasonable use exception or variances regulated by this Ordinance or for review of Special Reports shall be made with the Administrator 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 amount as established under C.C.C. 3.30 shall be paid to the Department of Community Development at the time an application for a critical area permit or Special Report review is filed.
3. Applications for any development proposal subject to this ordinance shall be reviewed by the Administrator for completeness, consistency or inconsistency with this Ordinance.
4. No application shall be considered substantially complete until all Special Reports required by this Ordinance are submitted to Clallam County as part of the development proposal application.



5. At every stage of the application process, the burden of demonstrating that any proposed development is consistent with this Ordinance is upon the applicant.
6. All applications for development proposals subject to this ordinance shall include a site plan drawn to scale identifying known locations of critical areas, location of proposed structures and activities, including clearing and grading and general topographic information. If the Review Authority determines that additional critical areas are found on the development proposal site, the applicant shall be required to amend the application site plan to identify the location of the critical area.

### Section 360 VARIANCES

1. A variance in the application of the regulations or standards of this Ordinance to a particular piece of property or a variance to the use prohibitions of this Ordinance may be granted by the Clallam County Shorelines and Sensitive Areas Committee when it can be shown that the application meets all of the following criteria:
  - a. Because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of this Ordinance is found to deprive subject property of rights and privileges enjoyed by other properties in the vicinity; PROVIDED, however, the fact that surrounding properties have been developed under regulations in force prior to the adoption of this ordinance shall not be the sole basis for the granting of a variance.
  - b. The granting of the variance will not be materially detrimental to the critical area, public welfare or injurious to the property or improvements in the vicinity and area in which the property is situated or contrary to the goals, policies and purpose of this Ordinance.
  - c. The granting of the variance is the minimum necessary to accommodate the permitted use.
  - d. No other practicable or reasonable alternative exists. (See definitions.)
  - e. A mitigation plan has been submitted and is approved for the proposed use of the critical area.
2. The Shorelines and Sensitive Areas Committee shall conduct a public hearing on all variance applications pursuant to the review process established in C.C.C. 35.01.110, as now or hereafter amended.

3. The Administrator shall provide notice of the public hearing by publishing in a newspaper of general circulation in the County at least once, not less than ten (10) days prior to the date set for the hearing. Notice shall also be sent by mail not less than ten (10) days prior to the date of the hearing on the variance application to the owners of property proposing the variance request and to all owners of property within 600 feet of the boundary of said property. Failure to send notice by mail to any such property owner where the address of said owner is not a matter of public record or because the ownership is not of public record shall not invalidate any proceedings required in this Ordinance.
4. Except when application of this Ordinance would deny all reasonable use of the property, an applicant who seeks an exception from the standards and requirements of this Ordinance shall pursue relief by means of a variance as provided for in this Ordinance.

### Section 370 APPEALS

1. Appealable Actions. The following decisions or actions required by this Ordinance may be appealed:
  - a. Any decision to require, or not require a Special Report pursuant to this Ordinance may be appealed by the applicant or affected party to the Clallam County Board of Commissioners.
  - b. Any decision to approve, condition or deny a development proposal, or any disagreement on conclusions, methodology, rating systems, etc. between the Review Authority and such person or firm which prepares Special Reports pursuant to Section 900 of this Ordinance may be appealed by the applicant or affected party to the Clallam County Board of Commissioners.
  - c. Any decision to approve, condition or deny a variance application or reasonable use exception by the Review Authority may be appealed by the applicant or affected party to the Clallam County Board of Commissioners.
2. Appeal Process. The following process shall be followed in submitting an appeal and taking action.
  - a. Any appeal regarding a decision to require, or not require a Special Report shall be made within fifteen days of the decision. The appeal shall be in writing stating the basis that such

- reports should or should not be required for the proposed development. The appeal shall be considered by the Clallam County Board of Commissioners within thirty (30) days of receiving such appeal. The Board of Commissioners may: (i) remand the decision back to the Review Authority requesting that specific issues be reconsidered; (ii) modify the decision of the Review Authority; or (iii) uphold the decision of the Review Authority.
- b. Clallam County shall not issue any permit, license or other development approval on the development proposal site pending the outcome of the appeal decision by Clallam County; PROVIDED, however, that Clallam County may issue such permits if not within or adjacent to critical areas or their buffers and issuance of such permits will not limit the choice of reasonable alternatives for the development proposal regulated by this Ordinance.
- c. Any appeal regarding a decision to approve, condition or deny a development proposal based on this Ordinance, or any decision to approve, condition or deny a variance or reasonable use exception, shall be made within fifteen days of the decision. A fee in an amount as established under C.C.C. 3.30 shall be paid to the Department of Community Development at the time an appeal is filed. The appeal shall be in writing and shall state specifically the issues that are the subject of the appeal focusing in on the specific inadequacies of the particular decision under dispute. The appeal shall be considered by the Clallam County Board of Commissioners within thirty (30) days of receiving the appeal. The Board of Commissioners may: (i) remand the decision back to the Review Authority requesting that specific issues be reconsidered; (ii) modify the decision of the Review Authority; or (iii) uphold the decision of the Review Authority.

### Section 380 ENFORCEMENT

1. Any person found to have willfully engaged in activities within critical areas or critical area buffers of the county in violation of this Ordinance shall be punished by a fine of not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000), 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) nor more than twenty-five thousand dollars (\$25,000). The severity of any penalty shall be based on the nature of the violation, the damage or risk to the public or to public resources, and/or the existence or degree of repeat violations of the person(s) subject to the enforcement action.

2. Any person who fails to conform to the terms of a permit or approval issued pursuant to this Ordinance, or who unknowingly engaged in activities within critical areas or critical area buffers without compliance with this Ordinance, or who fails to comply with a cease and desist order, may be subject to civil penalties not to exceed one thousand dollars (\$1,000). The severity of any penalty shall be based on the nature of the violation, the damage or risk to the public or to public resources, and/or the existence or degree of repeat violations of the person(s) subject to the enforcement action.
3. The Administrator shall serve in writing by personal service upon a person a cease and desist order if an activity being undertaken is in violation of this Ordinance. The order shall set forth a description of the specific nature, extent, and time of violation and the damage or potential damage; and a notice that the violation or the potential violation cease and desist. The order shall also include provisions for immediate stabilization of the site in such circumstances where the critical area is being impacted from continued violation of this ordinance. The cease and desist order shall become effective immediately upon delivery. Failure to comply with the terms of a cease and desist order shall be considered further violation of this Ordinance.
4. Any civil penalty imposed shall be provided to the person who violated the provisions of this Ordinance. Such penalty shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service. The notice shall describe the violation, approximate the date(s) of violation, and shall order the acts constituting the violation to cease and desist, and in appropriate cases, require necessary corrective action within a specific time. Any person incurring a penalty may apply in writing within thirty days of receipt of penalty to the Board of Commissioners for remission or mitigation of such penalty. The Board of Commissioners may remit or mitigate the penalty only upon a demonstration of extraordinary circumstances, such as the presence of information or factors not considered in setting the original penalty. Any penalties imposed under this section shall become due and payable thirty days after receipt of notice imposing the same unless application for remission or mitigation is made. Whenever an application for remission or mitigation is made, penalties shall become due and payable thirty days after the Board of Commissioners decision regarding the remission or mitigation.
5. All penalties assessed by this ordinance shall be payable to Clallam County and shall be placed in a special account for the enhancement of shorelines and critical areas.

6. If the person subject to the civil penalty fails to remit payment when due, the Board of Clallam County Commissioners may order that such penalty be assessed against the property and cause the same to be recorded on the assessment roll. Thereafter, said assessment shall constitute a special assessment against and a lien upon the property. All such assessments remaining unpaid after 30 days from the date of recording on the assessment roll shall become delinquent and shall bear interest at the rate of 7 percent per annum from and after said date. Certified copies of the assessment shall be given to the assessor, who shall add the amount of the assessment to the next regular tax bill levied against the parcel.
7. The Administrator shall determine whether violations exist and issue such civil penalty as deemed necessary to ensure compliance with the provisions of this Ordinance. The Clallam County Prosecuting Attorney shall bring such injunctive, declaratory, or other actions as are necessary to insure that no uses are made within critical areas or adjacent to critical areas in conflict with the provisions of this Ordinance.
8. Any person subject to this Ordinance who violates any provision of this Ordinance or the provisions of a permit or approval issued pursuant to this Ordinance 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.
9. Clallam County shall not issue any permit, license or other development approval on a development proposal site subject to an enforcement order under this section; PROVIDED, however, that Clallam County may issue such permits to rectify or correct enforcement orders.

## SECTION 400 WETLANDS

### Section 410 APPLICABILITY

This section applies to all regulated uses within areas or adjacent to areas designated as a regulated wetland. Clallam County shall not grant any permit, license or other development approval to alter the condition of any land, water or vegetation, or to construct or alter any structure or improvement, nor shall any person alter the condition of any land, water or vegetation or construct or alter any structure or improvement, for any development proposal regulated by this Ordinance, except in compliance with the provisions of this Ordinance.

### Section 420 REGULATED USES AND ACTIVITIES

Development on properties designated as regulated wetlands or buffers permitted in the underlying zoning designation are limited to those developments identified in Table 400-1 and Table 400-2. Exceptions to these uses and activities may be granted by the Clallam County Shorelines and Sensitive Areas Committee pursuant to the procedures outlined in Section 300 of this Ordinance. Any authorized use or activity in a regulated wetland or buffer under this section shall be subject to conditions established by the Review Authority and shall require mitigation under an approved wetland mitigation plan as specified in Section 900 and approved by the Review Authority.

Development shall be classified as allowed, permitted, special use, conditional use or prohibited subject to the standards of this section and the procedures for approval of such uses and activities. Those regulated uses not specifically listed in Table 400-1 and 400-2 shall be considered unclassified uses and may be allowed if granted a conditional use permit under the standards and procedures of this Ordinance.

TABLE 400-1  
REGULATED USES IN  
REGULATED WETLANDS

REGULATED USES AND ACTIVITIES IN REGULATED WETLANDS	Wetland - Class I	Wetland - Class II	Wetland Class III	Wetland Class IV
1. Agriculture—Existing & Ongoing	A	A	A	A
2. Agriculture—Building (Grazed Wet Meadow)	X	X	C	S
3. Agriculture—Conversion (Wetland dependent—e.g. cranberries)	X	C	S	S
4. Agriculture—Conversion (Non-wetland dependent—e.g., new pasture)	X	X	C	S
5. Bank Stabilization	X	C	S	S
6. Boat Ramp	X	C	S	S
7. Dock/Float	C	C	S	S
8. Draining (Associated with No Other Use)	X	X	X	X
9. Duck/Wildlife Blind	S	P	P	P
10. Education & Scientific Research (no permanent structures)	P	P	P	P
11. Enhancement	C	S	S	P
12. Excavation (Not Associated With Enhancement)	X	C	C	C
13. Fill (Associated with No Other Use)	X	X	X	X
14. Fish Hatchery	X	C	C	S
15. Flooding (Associated with No Other Use)	X	C	C	C
16. Forest Practice—Class IV General (Conversion)	C	C	S	P
17. Golf Course	X	C	C	S
18. Land Division	P	P	P	P
19. Mineral Extraction	X	C	C	S
20. Mooring Buoy	P	P	P	P
21. Navigational Aid	P	P	P	P
22. Non-Commercial Outdoor Recreation Activities—(bird watching, boating, bicycling, canoeing, fishing, hiking, horseback riding, hunting, jogging, photography, swimming, and similar activities)	A	A	A	A
23. Open Space Area	A	A	A	A
24. Parks—Public & Private	C	S	P	P
25. Ponds—Stock Watering	X	X	X	C
26. Public Facility	X	X	X	X
27. Public Project of Significant Importance	C	C	S	S
28. Radio/TV Towers	X	X	X	C
29. Restoration/Revegetation of Site	C	S	S	P
30. Road/Street—Short Private Access (<100')	X	X	C	S
31. Road/Street—Expand Within Existing ROW	C	C	C	S
32. Road/Street—New Facilities	X	C	C	S
33. Signs—(Interpretation, Hazard, Critical Area Boundary, Survey Markers)	P	P	P	P
34. Site Investigation	P	P	P	P
35. Stormwater, Private R/D Facility	X	C	S	P
36. Stormwater, Regional R/D Facility	X	C	S	P
37. Structure (Not Otherwise Defined in this Table)	X	X	X	X
38. Trails & Trail Related Facilities	C	S	P	P
39. Unclassified Use	C	C	C	C
40. Utility Facility	X	X	C	S
41. Utility—On-Site Sewage Facility	X	X	X	X
42. Utility Line—Overhead	C	C	S	P
43. Utility Line—Underground	X	X	C	C
44. Wildlife Nesting Structure	S	S	P	P

NOTES:      A      =      Allowed Outright  
                  P      =      Permitted Subject to Protection and Performance Standards and Certificate of Compliance  
                  S      =      Special Use Review (Permit) Required  
                  C      =      Conditional Use Permit or Substantial Development Permit Required  
                  X      =      Prohibited

TABLE 400-2  
REGULATED USES IN  
REGULATED WETLAND BUFFERS

REGULATED USES AND ACTIVITIES IN REGULATED WETLAND BUFFER	Wetland - Class I	Wetland - Class II	Wetland Class III	Wetland Class IV
1. Agriculture—Existing & Ongoing	A	A	A	A
2. Agriculture—Building (Grazed Wet Meadow)	S	P	P	P
3. Agriculture—Conversion (Wetland dependent—e.g. cranberries)	X	C	S	S
4. Agriculture—Conversion (Non-wetland dependent—e.g. new pasture)	X	C	S	S
5. Bank Stabilization	X	C	S	S
6. Boat Ramp	X	C	S	S
7. Dock/Float	C	C	S	S
8. Draining (Associated with No Other Use)	X	C	C	C
9. Duck/Wildlife Blind	S	P	P	P
10. Education & Scientific Research (no permanent structures)	P	P	P	P
11. Enhancement	S	S	P	P
12. Excavation (Not Associated With Enhancement)	C	C	S	S
13. Fill (Associated with No Other Use)	X	X	X	X
14. Fish Hatchery	X	C	C	S
15. Flooding (Associated with No Other Use)	X	C	C	C
16. Forest Practice—Class IV General (Conversion)	C	S	P	P
17. Golf Course	X	C	C	S
18. Land Division	P	P	P	P
19. Mineral Extraction	X	C	C	S
20. Mooring Buoy	P	P	P	P
21. Navigational Aid	P	P	P	P
22. Non-Commercial Outdoor Recreation Activities—(bird watching, boating, bicycling, canoeing, fishing, hiking, horseback riding, hunting, jogging, photography, swimming, and similar activities)	A	A	A	A
23. Open Space Area	A	A	A	A
24. Parks—Public & Private	C	S	P	P
25. Ponds—Stock Watering	X	S	S	P
26. Public Facility	X	C	S	S
27. Public Project of Significant Importance	C	C	S	S
28. Radio/TV Towers	X	C	C	S
29. Restoration/Revegetation of Site	S	S	P	P
30. Road/Street—Short Private Access (<100')	X	C	S	S
31. Road/Street—Expand Within Existing ROW	C	C	S	S
32. Road/Street—New Facilities	X	C	S	S
33. Signs—(Interpretation, Hazard, Critical Area Boundary, Survey Markers)	P	P	P	P
34. Site Investigation	P	P	P	P
35. Stormwater, Private R/D Facility	X	C	S	P
36. Stormwater, Regional R/D Facility	X	C	S	P
37. Structure (Not Otherwise Defined in this Table)	X	X	X	S
38. Trails & Trail Related Facilities	C	S	P	P
39. Unclassified Use	C	C	C	C
40. Utility Facility	X	C	S	S
41. Utility—On-Site Sewage Facility	X	X	C	C
42. Utility Line—Overhead	C	C	S	P
43. Utility Line—Underground	C	C	S	S
44. Wildlife Nesting Structure	S	S	P	P

NOTES:

- A. = Allowed Outright
- P. = Permitted Subject to Protection and Performance Standards and Certificate of Compliance
- S. = Special Use Review (Permit) Required
- C. = Conditional Use Permit or Substantial Development Permit Required
- X. = Prohibited



## Section 430 SPECIAL USE AND CONDITIONAL USE PERMITS

Development identified as a special or conditional use in Tables 400-1 and 400-2 may be approved, denied or approved with conditions according to the procedures and criteria outlined in this section.

1. Special Use Permits. The Administrator is authorized to take action on Special Use Permits required by this Ordinance.
  - a. The Administrator may approve a special use permit after review of the application and a wetland mitigation plan submitted in accordance with Section 900 of this Ordinance. The Administrator shall determine whether the use or activity cannot be avoided because no reasonable or practicable alternative exists and the proposed use is consistent with the spirit and intent of this Ordinance and will not cause adverse impacts to the wetland, or the wetland buffer which cannot be mitigated. In taking action to approve a special use permit, the Administrator may attach reasonable conditions as necessary to minimize impacts, rectify impacts or compensate for impacts to the wetland or wetland buffer.
  - b. The Administrator shall deny special use permits when the Administrator finds that the proposed use or activity is inconsistent with this Ordinance and/or will cause adverse impacts to the wetland or wetland buffer which cannot be adequately mitigated and/or avoided.
  - c. Notice of application for a special use pursuant to this section shall be given consistent with the provisions outlined in the Clallam County Zoning Code, Chapter 33.40. Public notices may be combined with other legal notices.
  - d. The decision of the Administrator is appealable to the Board of Clallam County Commissioners pursuant to Section 300 of this Ordinance.
  
2. Conditional Use Permits. The Shorelines and Sensitive Areas Committee is authorized to take action on Conditional Use Permits required by this Ordinance.
  - a. The Committee may approve a conditional use permit after review of the application and a wetland mitigation plan submitted in accordance with Section 900 of this Ordinance. The Committee shall determine whether the use or activity cannot be avoided because no reasonable or practicable alternative exists and the proposed use is consistent with the spirit and intent of this Ordinance and will not cause adverse impacts to the wetland, or the wetland buffer which cannot be mitigated. In taking action to approve a conditional use

- permit, the Committee may attach reasonable conditions as necessary to minimize impacts, rectify impacts or compensate for impacts to the wetland or wetland buffer.
- b. The Committee shall deny conditional use permits when the Committee finds that the proposed use or activity is inconsistent with this Ordinance and/or will cause adverse impacts to the wetland or wetland buffer which cannot be adequately mitigated and/or avoided.
  - c. Notice of application for a conditional use pursuant to this section shall be given consistent with the provisions outlined in the Clallam County Zoning Code, Chapter 33.46. Public notices may be combined with other legal notices.
  - d. The decision of the Committee is appealable to the Board of Clallam County Commissioners pursuant to Section 300 of this Ordinance.

#### Section 440 APPLICATION REQUIREMENTS

For those development proposals which are adjacent to a regulated wetland, but the regulated wetland is not fully or at all within the ownership of the proposed development, the requirements for Wetlands Boundary Survey may be waived by the Review Authority. In such circumstances where the Wetlands Boundary Survey is waived, the Review Authority shall determine through the best information sources available (e.g., aerial photographs, site observation, etc.), the approximate location of the wetland boundary. Such determinations may be appealed pursuant to the procedures outlined in Section 300 of this Ordinance.

1. Major New Development and Land Divisions Greater than 14 lots. Any proposed major new development or land divisions creating greater than 14 lots, except for Low-income Housing, within a regulated wetland or its buffer, or adjacent to a regulated wetland, shall provide the following Special Reports (Section 900) prior to any development authorization by Clallam County. The Review Authority may require additional reports or information to identify potential impacts to wildlife habitat, hydrology, rare plants and/or water quality.
  - a. Wetlands Boundary Survey
  - b. Wetland Mitigation Plan \* (see below)
  - c. Wetland Ranking Evaluation
  - d. Drainage and Erosion Control Plan \*\* (see below)
  - e. Building Site Application (if applicable)

\* A Wetland Mitigation Plan is only required for developments proposed within a regulated wetland or wetland buffer.

\*\* The requirement for an engineered drainage and erosion control plan may be waived by the Review Authority, provided that minimum drainage and erosion control standards are followed as required in county guidelines

2. Minor New Development, Land Divisions 14 lots or less, and Low-Income Housing. Any proposed minor new development, land divisions 14 lots or less, and Low Income Housing within a regulated wetland or wetland buffer or adjacent (see definition of adjacent) to a regulated wetland shall provide the following Special Reports (Section 900) prior to granting of any development authorization by Clallam County:

- a. Building Site Application
- b. Drainage and Erosion Control Plan \* (see below)
- c. Administrative Wetland Boundary Survey and Ranking Evaluation

\* The requirement for an engineered drainage and erosion control plan may be waived by the Review Authority, provided that minimum drainage and erosion control standards are followed as required in county guidelines

Section 450 CLASSIFICATION AND DESIGNATION

1. Classification. All regulated wetlands shall be rated to reflect the relative function, value and uniqueness of the wetland. Regulated wetlands shall be rated based on the following four-tier wetland rating system. Methodology for rating regulated wetlands is described in Section 900 of this Ordinance (Wetland Ranking Evaluation). Where definitions, terms, methodology or criteria used in this Ordinance conflict with the Washington State Wetlands Rating System for Western Washington, dated October 1991, the definitions, terms, methodology or criteria used in this Ordinance shall take precedence.

a. "Class I wetlands" are those regulated wetlands of exceptional resource value based on the presence of species or wetland communities, sensitivity to disturbance, and irreplaceable ecological functions. Class I wetlands shall meet one of the following criteria and shall not meet the criteria for Class IV wetlands:

- i. Nesting, roosting and breeding habitat recognized by federal or state agencies for threatened or endangered species of plant (or potentially extirpated plant), animal or fish species documented in maps or data bases available to Clallam County and its citizens where the Wetlands Ranking Evaluation identifies a significant habitat value score greater than or equal to 22 points; or
  - ii. High quality native wetland communities; or
  - iii. Wetlands with irreplaceable ecological functions including sphagnum bogs and fens, estuarine wetlands, or mature forested swamps; or
  - iv. Wetlands determined to be of regional or statewide significance.
- b. **"Class II wetlands"** are those regulated wetlands of significant resource value based on significant functional value and diversity, wetland communities of infrequent occurrence, and other attributes which may not be adequately replicated through creation or restoration. Class II wetlands shall meet one of the following criteria and shall not meet the criteria for Class IV wetlands:
- i. Nesting, roosting and breeding habitat recognized by federal or state agencies for threatened or endangered species of plant (or potentially extirpated plant), animal, or fish species documented in maps or data bases available to Clallam County and its citizens where the Wetlands Ranking Evaluation identifies a significant habitat value score less than 22 points; or
  - ii. Habitat recognized by federal or state agencies for sensitive species of plant, animal, or fish documented in maps or data bases available to Clallam County and its citizens; or
  - iii. Habitats not meeting criteria i, ii, or iii above but which the Wetlands Ranking Evaluation identifies a significant habitat value score greater than or equal to 22 points; or
  - iv. Wetlands with significant functions which may not be adequately replicated through creation or restoration.
- c. **"Class III wetlands"** are those regulated wetlands which have important resource value based on vegetative diversity. The following criteria shall be used in defining a Class III wetland:

- i. Priority habitats and species documented in maps or data bases available to Clallam County and its citizens which do not meet the criteria for Class I and II wetlands; or
    - ii. Estuarine wetlands not satisfying the criteria for Class I and II wetlands; or
    - iii. Wetlands which satisfy no Class I, II or IV criteria.
  - d. **"Class IV wetlands"** are those regulated wetlands of ordinary resource value based on lack of plant diversity or a predominance of non-native species, lack of special habitat features, and isolation from other aquatic systems. The following criteria shall be used in defining a Class IV wetland:
    - i. Hydrologically isolated, less than 1 acre but greater than 10,000 square feet, and dominated by plant cover composed of one of the following native plant species: soft rush, hard hack, or cattail; or
    - ii. Hydrologically isolated, less than two acres, and dominated by plant cover composed of non-native plant species identified in Table 7 of the Washington State Wetlands Rating System for Western Washington, dated October 1991.
2. **Designation.** All wetlands in Clallam County meeting the definition of regulated wetlands are designated Regulated Wetlands. Regulated wetlands shall be mapped whenever possible. These maps shall be advisory and used by the Review Authority to provide guidance in determining applicability of the standards to a property. Sites which include regulated wetlands which are not mapped shall be subject to the provisions of this Section and Ordinance. The Review Authority shall provide maps in a Critical Areas Resource Map Portfolio as guidance in identifying the presence of regulated wetlands. These maps may be based on the following information sources:
  - a) U.S. Fish and Wildlife Services National Wetlands Inventory;
  - b) Wetlands identified within the land use/land cover inventories of the Department of Ecology Coastal Zone Atlas and the shoreline mapping project prepared by Northwest Cartography for Clallam County;
  - c) Department of Ecology Washington Coastal (Floating) Kelp Resources;
  - d) Puget Sound River Basin Team Wetland Inventory for the Dungeness and Sequim Bay Watersheds;
  - e) Hydric soils, soils with significant hydric soil inclusions, and marshes, swamps and wet spots identified (mapped) within the Clallam County Soil Survey.

**Section 460 GENERAL PROTECTION STANDARDS**

The following general standards for the protection of regulated wetlands and buffers shall be required for any development within or adjacent to a regulated wetland. Performance standards for specific regulated uses and activities are outlined in Section 470.

1. **Wetland Buffers.**

- a. Except as otherwise allowed, the following buffer areas shall be maintained between all regulated uses and activities and regulated wetlands. Buffers shall be retained in their natural condition. Alterations of buffer areas may be allowed for those permitted, special or conditional uses outlined in Section 420, as a Reasonable Use Exception authorized in Section 335, as a General Exemption authorized in Section 330, as a Nonconforming Development authorized in Section 340, or as a Variance authorized in Section 360, provided that such alterations meet all other standards for the protection of regulated wetlands. Any wetland created, restored, or enhanced as compensation for approved regulated wetland alterations shall have the standard buffer required for the category of the created, restored, or enhanced wetland. Any wetland restored or enhanced, may have the buffers required for the category of the restored or enhanced wetland waived by the Review Authority. The standard width of the buffer zone shall be determined according to the regulated wetland rating and the type of development as outlined in the table below:

	<b>Major New Development and Land Divisions</b>	<b>Minor New Development (Existing Parcels)</b>
Class I	200 feet	100 feet
Class II	100 feet	75 feet
Class III	50 feet	50 feet
Class IV	25 feet	25 feet

- b. All buffers are measured from the regulated wetland edge as marked in the field.

- c. Standard buffer widths may be modified by the Review Authority for a development proposal by averaging buffer widths. Averaging of buffer widths may be allowed where the applicant demonstrates all of the following:
- i. That averaging is necessary to avoid an extraordinary hardship to the applicant caused by circumstances peculiar to the property;
  - ii. That the wetland contains variations in sensitivity due to existing physical characteristics;
  - iii. That low intensity land uses would be located adjacent to areas where buffer width is reduced, and that such low intensity land uses are guaranteed in perpetuity by covenant, deed restriction, easement, or other legally binding mechanism;
  - iv. That the width averaging will not adversely impact the wetland functional values; and
  - v. That the total area contained within the buffer after averaging is no less than that contained within the standard buffer prior to averaging. In no instance shall the buffer width be reduced by more than 50% of the standard buffer width, but not less than 25 feet.
- d. The Review Authority may decrease buffer widths upon a granting of a variance according to the procedures of this Ordinance or through buffer averaging as outlined above. In addition to meeting the criteria for granting of a variance, reductions of buffer widths shall also include a buffer enhancement plan using native vegetation which substantiates that an enhanced buffer will improve the functional attributes of the buffer to provide additional protection of wetland functions and values.
- e. The Review Authority may increase buffer zone widths, not to exceed 300 feet, for a development project on a case-by-case basis when a larger buffer is necessary to protect wetland functions and values. Such determination shall be based on site-specific and project related conditions which include, but are not limited to: (i) wetland sites with known locations of endangered or threatened species for which a habitat management plan indicates a larger buffer is necessary to protect habitat values for such species; (ii) the adjacent land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse wetland impacts; (iii) the adjacent land on the development proposal site has minimal vegetative cover or slopes greater than 15 percent or (iv) the proposed development adjacent to the regulated wetland would be a high intensity land use.

2. Drainage/Erosion Control.

- a. The following developments shall submit and have approved a drainage and erosion control plan as specified in Section 900 of this Ordinance:
  - i. Any clearing, grading or excavation one acre or greater in area; or
  - ii. All new development that includes the creation or addition of 5,000 square feet of new impervious surface area, or any development which collects or concentrates stormwater from greater than 5,000 square feet of drainage area and discharges to the wetland or wetland buffer; or
  - iii. Any man-made drainage or stormwater conveyance which is connected and/or discharges to a wetland or wetland buffer.
- b. Development not identified in (a i - iii) above shall follow minimum guidelines established in the Drainage Design Manual for Clallam County and may not require an engineered plan unless required by other county requirements.
- c. All disturbed areas on the development site, including development coverage and development activity areas, shall be controlled in a manner sufficient to control drainage and prevent erosion during construction, and revegetated to promote drainage control and prevent erosion after construction. In cases where erosion potential is severe and would cause adverse impacts to the wetland or wetland buffer, the Review Authority shall require a vegetation and revegetation report to be prepared by a qualified professional. All revegetation shall consist of cover that is suitable for the location and does not require permanent irrigation systems for long-term survival.

3. Fencing. All buffer areas shall be temporarily fenced between the construction activity and the buffer with a highly visible and durable protective barrier during construction to prevent access and protect the wetland and wetland buffer. This requirement may be waived by the Review Authority if an alternative to fencing which achieves the same objective is proposed and approved.

4. Grading. All authorized grading within regulated wetland or regulated wetland buffers shall be limited to the period between June 1 and stabilized by October 15 unless demonstrated to the satisfaction of the Review Authority based on a qualified professional's report (e.g. biologist) that no harm to the regulated wetland or buffer would result from grading between October 15 and



June 1. All authorized grading adjacent to regulated wetland buffers shall be limited to the period between April 1 and stabilized by October 15 unless demonstrated to the satisfaction of the Review Authority based on a qualified professional's report that no harm to the regulated wetland or buffer would result from grading between October 15 and April 1.

5. Signs. Prior to approval or issuance of permits for land divisions and major new development subject to this Ordinance, the Review Authority may require that the common boundary between a regulated wetland buffer and the adjacent land be identified using permanent signs as suggested in Exhibit 1. In lieu of signs, alternative methods of wetland and buffer identification may be approved when such methods are determined by the Review Authority to provide adequate protection to the wetland and buffer.

#### Section 470 PERFORMANCE STANDARDS FOR REGULATED USES

In addition to meeting the General Protection Standards of Section 460 and the criteria for regulated uses outlined in Section 430, those regulated uses identified below shall also comply with the performance standards of this Section and other applicable state, federal and local ordinances.

1. Agricultural Building. The construction of one additional agricultural building may be allowed within a grazed wet meadow provided that all hydrologic storage be replaced on site; any fill consists of clean rock or earth; and quality of surface and/or ground waters is protected through adherence to best management practices.
2. Docks. Construction of a dock, pier, moorage, float or launch facility may be permitted subject to criteria in the Clallam County Shoreline Master Program and the following:
  - a. No significant buffer or wetland vegetation which exists would be altered; and
  - b. Open water is a significant component of wetland subclasses.
3. Forest Practice, Class IV General (Conversion and Urban Growth Area). All timber harvesting and associated development activity, such as construction of roads, shall comply with the provisions of this Ordinance, including the maintenance of buffers around regulated wetlands. All forest practices, regardless of class, within designated Urban Growth Areas pursuant to the Growth Management Act, shall comply with the provisions of this Section. Those lands harvested and not reforested under a Class I, II, or III permit and which do not meet the standards of this Ordinance

and are later converted to non-forest uses shall have all local permits withheld for a period of six years, as authorized by the Washington State Forest Practices Act. This moratorium shall run with the land and be duly noted in the public record. For the purpose of implementing this policy, the conversion of land to non-forest uses shall mean the division of land or the preparation of land for land division or construction. Should a landowner wish to remove the moratorium or convert the land to non-forest uses, the owner shall:

- a. Provide stabilization and protection of the affected critical area through drainage and erosion control measures; and
- b. Submit and have approved by the Administrator a Conversion Harvest Plan as is provided for in Class IV Conversions. The approval of said plan may include conditions and improvement requirements to control erosion, protect or enhance the regulated wetland or buffer, or other conditions which are intended to reduce impacts to the regulated wetland or wetland buffer.

4. Livestock Restrictions.

- a. In all development proposals which would permit introduction of livestock, damage to Class 1, 2 and 3 regulated wetlands shall be avoided by one of the following methods:
  - i. Implementation to the satisfaction of the Clallam County Conservation District of a conservation plan to protect and enhance the water quality of the wetland; and/or
  - ii. Fencing located not closer than the outer buffer edge.
- b. These restrictions shall not apply to those regulated wetlands defined as grazed wet meadows regardless of their classification.

5. Road/Street Repair and Construction. Any private or public road or street repair, maintenance, expansion or construction which is allowed shall comply with the following minimum development standards:

- a. No other reasonable or practicable alternative exists and the road or street crossing serves multiple properties;
- b. Publicly owned or maintained road or street crossings should provide for other purposes, such as utility crossings, pedestrian or bicycle easements, viewing points, etc.; and

- c. The road or street repair and construction is the minimum necessary to provide safe roads and streets.

6. Land Divisions (Subdivisions, Short Subdivisions, Mobile Home and RV Parks, Binding Site Plans).

All proposed divisions of land which include regulated wetlands shall comply with the following procedures and development standards:

- a. Only fifty percent of regulated wetlands with permanent open water shall be permitted for use in calculating minimum lot area for the proposed lots.
- b. Regulated wetlands, except with permanent open water, and wetland buffers may be included in the calculation of minimum lot area for proposed lots provided that other standards, including (c) below, are met.
- c. New lots shall contain at least one building site, including access and sewage disposal system location, that is suitable for development and is not within the regulated wetland or its associated buffer.
- d. Land division approvals shall be conditioned to require that regulated wetlands and regulated wetland buffers be dedicated as open space tracts, or an easement or covenant encumbering the wetland and wetland buffer. Such dedication, easement or covenant shall be recorded together with the land division and represented on the final plat, short plat or binding site plan.
- e. In order to implement the goals and policies of this Ordinance, to accommodate innovation, creativity, and design flexibility, and to achieve a level of environmental protection that would not be possible by typical lot-by-lot development, the use of the Planned Unit Development process (C.C.C. 33.38) is strongly encouraged for projects with regulated wetlands on site.
- f. After preliminary approval and prior to final land division approval, the Review Authority may require the common boundary between a regulated wetland or associated buffer and the adjacent land be identified using permanent signs as suggested in Exhibit 1. In lieu of signs, alternative methods of wetland and buffer identification may be approved when such methods are determined by the Review Authority to provide adequate protection to the wetland and buffer.

7. **Surface water management.** The following surface water management activities may be allowed only if they meet the following requirements, in addition to the General Protection Standards of Section 460:
- a. New surface water discharges to regulated wetlands from retention/detention facilities, pre-settlement ponds, or other surface water management structures may be allowed provided that the discharge does not significantly increase the rate of flow, hydroperiod, nor decrease the water quality of the wetland. Pre-treatment of surface water discharge through biofiltration or other means shall be required. All development proposing to discharge stormwater into a regulated wetland shall submit a drainage and erosion control plan as specified in Section 900 of this Ordinance.
  - b. Class 2 regulated wetlands may be used for regional or private retention/detention facilities only when the rating or the factors used in rating the regulated wetland will not be altered, the facility meets criteria (a) above, and there are no significant adverse impacts to wetland resources which cannot be mitigated.
  - c. Class 3 regulated wetlands and buffers which have as their major function the storage of water may be altered for use as regional and private retention/detention facilities when meeting criteria (a) above.
  - d. Use of regulated wetland buffers for surface water management activities other than retention/detention facilities, such as energy dissipators and associated pipes, may be allowed only if the applicant demonstrates:
    - i. No practicable alternative exists; and
    - ii. The functions of the buffer or the wetland are not adversely impacted.
8. **Trails and Trail-Related Facilities.** Construction of public and private trails and trail-related facilities, such as picnic tables, benches, interpretive centers and signs, viewing platforms, and campsites, may be allowed in wetlands or wetland buffers pursuant to the following guidelines:
- a. Trails and related facilities shall, to the extent feasible, be placed on existing road grades, utility corridors, or any other previously disturbed areas;
  - b. Trails and related facilities shall be planned to minimize removal of trees, shrubs, snags and important wildlife habitat;
  - c. Viewing platforms, interpretive centers, campsites, picnic areas, benches and access to them shall be designed and located to minimize disturbance of wildlife habitat and/or critical characteristics of the affected wetland;

9. Utilities in Wetland or Wetland Buffer.

a. Construction of utilities may be permitted in wetlands or wetland buffers only when no practicable alternative location is available and the utility corridor meets the requirements for installation, replacement of vegetation and maintenance outlined below and as required in the filing and approval of applicable permits and Special Reports (Section 900) required by this Ordinance.

b. Sewer or On-site Sewage Utility. Construction of sewer lines or on-site sewage systems may be permitted in regulated wetland buffers when the applicant demonstrates it is necessary to meet state and/or local health code requirements, there are no other practicable or reasonable alternatives available and construction meets the requirements of this section. Joint use of the sewer utility corridor by other utilities may be allowed.

i. Corridors shall not be allowed when the regulated wetland or buffer has known locations of federal or state listed endangered, threatened or sensitive species, or heron rookeries or nesting sites of raptors which are listed as state candidate or state monitor, except in those circumstances where an approved Habitat Management Plan indicates that the utility corridor will not significantly impact the wetland or wetland buffer;

ii. Corridor construction and maintenance shall protect the regulated wetland and buffer environment, shall be aligned when possible to avoid cutting trees greater than 12 inches in diameter at breast height (four and one-half feet) measured on the uphill side;

iii. Corridors shall be revegetated with appropriate native vegetation at pre-construction densities or greater immediately upon completion of construction or as soon thereafter as possible if due to seasonal growing constraints, and the sewer utility shall ensure that such vegetation survives;

iv. Any additional corridor access for maintenance shall be provided as much as possible at specific points rather than by parallel roads. If parallel roads are necessary they shall be of a minimum width but no greater than 15 feet; and shall be contiguous to the location of the utility corridor on the side away from the wetland.

10. Zoning or Comprehensive Plan Map Reclassification. Prior to taking action on a zoning or comprehensive plan map reclassification, the applicant shall complete an environmental assessment to confirm the nature, extent and rating of wetlands on the property; determine if the subsequent development proposal would be consistent with this Ordinance; and determine whether mitigation or other measures would be necessary if the proposal were approved. Such review shall occur prior to any SEPA threshold determination pursuant to the Clallam County Environmental Policy Ordinance, C.C.C. 27.01. Findings of such review may be used to condition or mitigate the impact through the SEPA threshold determination or to deny the proposed zoning or comprehensive plan map reclassification if the impacts are significant and cannot be mitigated.
  
11. Parks. Development of public park and recreation facilities may be permitted provided that the following standards are followed:
  - a. No alteration of wetlands or wetland buffers is allowed except for such uses which are allowed in Tables 400-1 and 400-2. For example, enhancement of wetlands and development of trails may be allowed in wetlands and wetland buffers subject to conditional or special use permit requirements and approvals and approval of a wetland mitigation plan.

## SECTION 500 FISH AND WILDLIFE HABITAT CONSERVATION AREAS

### Section 510 APPLICABILITY

This section applies to all regulated uses within or adjacent to areas designated as fish and wildlife habitat conservation areas.

### Section 520 PERMITTED USES

Development permitted on lands or shorelands designated as fish and wildlife habitat conservation areas shall be the same as those permitted in the underlying zoning classification or Clallam County shoreline master program, if applicable, subject to the standards of this Ordinance and Section.

### Section 530 CLASSIFICATION AND DESIGNATION

1. Classification. The following classifications shall be used in designating fish and wildlife conservation areas:
  - a. Class I Aquatic Habitat Conservation Areas. Those streams, lakes and associated wetlands defined as Shorelines of the State in the Shoreline Management Act of 1971 and the Clallam County Shoreline Master Program, as now or hereafter amended.
  - b. Class II Aquatic Habitat Conservation Areas. Those streams, lakes and associated wetlands which meet the criteria for Type 2, 3, and 4 waters as set forth in WAC 222-16-020 and WAC 222-16-030 as now or hereafter amended.
  - c. Class I Wildlife Conservation Area. Those lands including the following:
    - i. Habitats recognized by federal or state agencies for federal and/or state listed endangered, threatened and sensitive species documented in maps or data bases

- available to Clallam County and its citizens and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.
- ii. Areas targeted for preservation by federal, state and/or local government which provide fish and wildlife habitat benefits, such as important waterfowl areas identified by the U.S. Fish and Wildlife Service.
- d. Class II Wildlife Conservation Area. Habitats for state listed candidate and monitor species documented in maps or data bases available to Clallam County and its citizens, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.
  - e. Class III Wildlife Conservation Area. Habitats which include attributes such as comparatively high wildlife density; high wildlife species richness; significant wildlife breeding habitat, seasonal ranges or movement corridors of limited availability and/or high vulnerability. These habitats may include caves, cliffs, islands, meadows, old-growth/mature forest, snag-rich areas, talus slopes, and urban natural open space.
2. Designation. All lands and shorelands classified as Fish and Wildlife Habitat Conservation Areas are hereby designated as fish and wildlife habitat conservation areas. These areas shall be mapped whenever possible. These maps shall be advisory and used by the Administrator and/or Review Authority to provide guidance in determining applicability of the standards to a property. Sites which include fish and wildlife habitat conservation areas which are not mapped shall be subject to the provisions of this Section and Ordinance. The Administrator shall provide maps in a Critical Areas Resource Map Portfolio as guidance in identifying the presence of Fish and Wildlife Habitat Conservation Areas. These maps may be based on the following information sources:
- a. Department of Wildlife Non-Game and Priority Habitat and Species Data Bases
  - b. Department of Wildlife Washington Rivers Information System Data Base
  - c. Washington State Department of Health Commercial and Recreational Shellfish Area Inventory
  - d. Clallam County Shoreline Master Program
  - e. National Wetlands Inventory
  - f. Department of Natural Resources Waters of the State
  - g. Coastal Zone Atlas of Clallam County



**Section 540 PERFORMANCE STANDARDS FOR REGULATED USES**

Those regulated uses identified below within designated fish and wildlife habitat conservation areas shall comply with the performance standards outlined in this section, in addition to specific Habitat Protection Standards outlined in Section 550.

1. Forest Practice, Class IV--General (Conversion or Within Urban Growth Areas). All timber harvesting and associated development activity, such as construction of roads, shall comply with the provisions of this Ordinance, including the maintenance of buffers, where required. All forest practices, regardless of class, within areas designated as Urban Growth Areas pursuant to the Growth Management Act, shall comply with the provisions of this section. Those lands harvested and not reforested under a Class I, II, or III permit and which do not meet the standards of this Ordinance and are later converted to non-forest uses shall have all local permits withheld for a period of six years, as authorized by the Washington State Forest Practices Act. This moratorium shall run with the land and be duly noted in the public record. For the purpose of implementing this policy, the conversion of land to non-forest uses shall mean the division of land or the preparation of land for land division or construction. Should a landowner wish to remove the moratorium or convert the land to non-forest uses, the owner shall:
  - a. Reforest the land as prescribed by the Department of Natural Resources and/or provide stabilization and protection of the critical area. Said reforestation shall be by planting and not by natural regeneration, unless the Department verifies that natural regeneration has already occurred to such an extent that planting is not necessary; and
  - b. Submit and have approved by the Administrator a Conversion Harvest Plan as is provided for in Class IV Conversions. The approval of said plan may include conditions and improvement requirements to control erosion, protect or enhance the fish and wildlife habitat conservation area, or other conditions which are intended to reduce impacts to fish and wildlife habitat conservation area.
  
2. Road/Street Repair & Construction. Any private or public road or street expansion or construction which is allowed shall comply with the following minimum development standards
  - a. No other reasonable or practicable alternative exists and the road or street crossing serves multiple properties whenever possible;

- b. Expansion or construction of any private or public road within a fish and wildlife habitat conservation area or buffer, shall only be allowed when there are no significant adverse impacts to the habitat which cannot be mitigated;
  - c. Public road or street crossings should provide for other purposes, such as utility crossings, pedestrian or bicycle easements, viewing points, etc.; and
  - d. The road or street construction is the minimum necessary to provide safe roads and streets.
3. Stream Crossings. Any private or public road expansion or construction which is allowed and must cross streams classified as Class I or Class II Aquatic Areas within this Ordinance, shall comply with the following minimum development standards:
- a. Bridges shall be required for Type I and Type 2 streams which support salmonids unless a Habitat Management Plan is submitted pursuant to Section 900 of this Ordinance which demonstrates that other alternatives would not result in significant impacts to the fish and wildlife conservation area;
  - b. Crossings shall not occur in salmonid spawning areas unless no other feasible crossing site exists;
  - c. Bridge piers or abutments shall not be placed in either the floodway or between the ordinary high water marks unless no other feasible alternative placement exists;
  - d. Crossings shall not diminish flood carrying capacity; and
  - e. Crossings shall serve multiple properties whenever possible.
4. Land Divisions (Subdivisions, Short Subdivisions, Mobile Home and RV Parks, Binding Site Plans.) All proposed divisions of land which include fish and wildlife habitat conservation areas shall comply with the following procedures and development standards:
- a. Lakes, streams, and tidal lands shall not be permitted for use in calculating minimum lot area for the proposed lots.
  - b. Land division approvals shall be conditioned so that any required buffers are dedicated as open space tracts, or an easement or covenant encumbering the buffer. Such dedication, easement or covenant shall be recorded together with the land division and represented on the final plat, short plat or binding site plan.
  - c. New lots shall contain at least one site, including access and sewage disposal system location, that is suitable for development and does not adversely impact the fish and wildlife conservation area.

- d. After preliminary approval and prior to final land division approval, the Review Authority may require the common boundary between a required buffer and the adjacent land be identified using permanent signs as shown in Exhibit 1. In lieu of signs, alternative methods of aquatic buffer identification may be approved when such methods are determined by the Review Authority to provide adequate protection to the aquatic buffer.
  - e. In order to implement the goals and policies of this Ordinance, to accommodate innovation, creativity, and design flexibility, and to achieve a level of environmental protection that would not be possible by typical lot-by-lot development, the use of the Planned Unit Development process (C.C.C. 33.38) is strongly encouraged for projects within designated fish and wildlife habitat conservation areas.
5. Livestock Restrictions. In all development proposals which would permit introduction of livestock to Class I and Class II Aquatic Habitat Conservation Areas, damage to the aquatic area shall be avoided by one of the following methods:
- a. Implementation to the satisfaction of the Clallam County Conservation District of a conservation plan to protect and enhance the water quality of the wetland; and/or
  - b. Fencing located not closer than the outer buffer edge.
6. Trails and Trail-Related Facilities. Construction of public and private trails and trail-related facilities, such as picnic tables, benches, interpretive centers and signs, viewing platforms, and campsites, may be allowed in fish and wildlife habitat conservation areas pursuant to the following standards:
- a. Trails and related facilities shall, to the extent feasible, be placed on existing road grades, utility corridors, or any other previously disturbed areas;
  - b. Trails and related facilities shall be planned to minimize removal of trees, shrubs, snags and important wildlife habitat;
  - c. Viewing platforms, interpretive centers, campsites, picnic areas, benches and access to them shall be designed and located to minimize disturbance of wildlife habitat and/or critical characteristics of the affected conservation area;

7. Utilities. Placement of utilities within designated fish and wildlife habitat conservation areas may be allowed pursuant to the following standards:
- a. Construction of utilities may be permitted in fish and wildlife habitat conservation areas only when no practicable or reasonable alternative location is available and the utility corridor meets the requirements for installation, replacement of vegetation and maintenance outlined below and as required in the filing and approval of applicable permits and Special Reports (Section 900) required by this Ordinance.
  - b. Sewer or On-site Sewage Utility. Construction of sewer lines or on-site sewage systems may be permitted in fish and wildlife habitat conservation areas when the applicant demonstrates it is necessary to meet state and/or local health code requirements, there are no other practicable alternatives available and construction meets the requirement of this section. Joint use of the sewer utility corridor by other utilities may be allowed.
    - i. Corridors shall not be allowed in habitat conservation areas with known locations of federal or state listed endangered, threatened or sensitive species, heron rookeries or nesting sites of raptors which are listed as state candidate or state monitor, except in those circumstances where an approved Habitat Management Plan indicates that the utility corridor will not significantly impact the conservation area;
    - ii. Corridor construction and maintenance shall protect the fish and wildlife habitat area, shall be aligned when possible to avoid cutting trees greater than 12 inches in diameter at breast height (four and one-half feet) measured on the uphill side;
    - iii. Corridors shall be revegetated with appropriate native vegetation at pre-construction densities or greater immediately upon completion of construction or as soon thereafter as possible due to seasonal growing constraints and the sewer utility shall ensure that such vegetation survives;
    - iv. Any additional corridor access for maintenance shall be provided as much as possible at specific points rather than by parallel roads. If parallel roads are necessary they shall be of a minimum width but no greater than 15 feet; and shall be contiguous to the location of the utility corridor on the side away from the conservation area.

8. Zoning or Comprehensive Plan Map Reclassification. Prior to taking action on a zoning or comprehensive plan map reclassification, the applicant shall complete an environmental assessment to confirm the nature and extent of fish and wildlife habitat on the property; determine if the subsequent development proposal would be consistent with this Ordinance; and determine whether mitigation or other measures would be necessary if the proposal were approved. Such review shall occur prior to any SEPA threshold determination pursuant to the Clallam County Environmental Policy Ordinance, C.C.C. 27.01. Findings of such review may be used to condition or mitigate the impact through the SEPA threshold determination or to deny the proposed zoning or comprehensive plan map reclassification if the impacts are significant and cannot be mitigated.

## Section 550 SPECIFIC HABITAT PROTECTION STANDARDS

Regulated uses within Fish and Wildlife Habitat Conservation Areas shall adhere to the performance standards for regulated uses outlined in Section 540 above and the specific habitat protection standards outlined below.

1. Class I Aquatic Habitat Conservation Areas. All development within and adjacent to designated Class I Aquatic Habitat Conservation Areas shall adhere to the following standards:
  - a. All development shall be consistent with the Clallam County Shoreline Master Program, as now or hereafter amended.
  - b. Drainage and Erosion Control.
    - i. The following developments shall submit and have approved a drainage and erosion control plan as specified in Section 900 of this Ordinance:
      - (a) Any clearing, grading or excavation one acre or greater in area; or
      - (b) All new development that includes the creation or addition of 5,000 square feet of new impervious surface area, or any development which collects or concentrates stormwater from greater than 5,000 square feet of drainage area and discharges to the Class I aquatic area; or
      - (c) Any man-made drainage or stormwater conveyance which is connected and/or discharges to a Class I aquatic area.

ii. Development not identified in section (i a-c) above shall follow minimum guidelines established in the Drainage Design Manual for Clallam County and may not require an engineered plan unless otherwise required by other county requirements.

c. **Buffers** Buffers shall be maintained along all Class I Aquatic Areas. Distances shall be measured from the ordinary high water mark (OHWM) or from the top of the bank where the OHWM cannot be identified. Buffers shall be retained in their natural condition. Alteration of buffer areas may be allowed for water dependent and water related activities subject to (d) below, and for development authorized by Section 335 (Reasonable Use Exception), Section 330 (General Exemptions), Section 340 (Nonconforming Development Standards) or Section 360 (Variances). Minor pruning of vegetation and tree limbs may also be allowed for enhancement of views, provided that such activity is approved by the Review Authority. The distance of the buffer shall be increased to include streamside wetlands which provide overflow storage for stormwaters, feed water back to the stream during low flows or provide shelter and food for fish. In braided channels, the OHWM or Top of Bank shall be defined so as to include the entire stream feature.

i. The depth of the buffer for minor new development shall be based on the Clallam County Shoreline Master Program Environment designation, as now or hereafter amended, and the following standards:

Urban Shoreline:	25 feet
Suburban Shoreline:	35 feet
Rural Shoreline:	35 feet
Conservancy Shoreline:	50 feet
Natural Shoreline:	100 feet

ii. The depth of the buffer for all new major development and all land divisions shall be 150 feet or the 100 year floodplain, whichever is greater. The Review Authority may decrease the buffer to no less than the minimum buffer for minor new development if a Habitat Management Plan (Section 900) approved by the Review Authority provides sufficient mitigation measures to protect the affected habitat.

iii. The depth of the buffer may be increased by the Review Authority, not to exceed 300 feet, whenever a development proposal has known locations of endangered

- or threatened species for which a habitat management plan indicates a larger buffer is necessary to protect habitat values for such species; or located within landslide or erosion hazard area.
- d. Water dependent structures and utilities may alter the required buffer when no other reasonable or practicable alternative exists and the development is consistent with the Clallam County Shoreline Master Program. Any alteration of a buffer shall be the least necessary and shall require, except for approved water dependent uses for minor new development, an approved Habitat Management Plan which adequately protects habitat values.
  - e. Land divisions within Class I Aquatic Habitat Conservation Areas shall require a minimum lot frontage along the shoreline of 150 feet, measured in a straight line, and required buffer areas shall be dedicated as open space tracts, or an easement or covenant encumbering the buffer.
  - f. A stream channel or bank, bluff, and shore may be stabilized when their naturally occurring movement threatens existing structures, public improvements, unique natural resources, or the only feasible access to property, and, in the case of streams, when such stabilization results in maintenance of fish and wildlife habitat, flood control and improved water quality. Bluff, bank and shoreline stabilization shall follow the standards of the Clallam County Shoreline Master Program, the Clallam County Floodplain Management Ordinance, and any floodplain management plan adopted by the Board of Commissioners. The Review Authority may require that bank stabilization be designed by an engineer with sufficient expertise in hydraulic actions of shorelines.
  - g. Stream relocations for the purpose of flood protection and/or fisheries restoration shall only be allowed when adhering to the following minimum performance standards:
    - i. The channel, bank and buffer areas should be replanted with native vegetation which replicates the original in species, size and densities; and
    - ii. A civil engineer provides information which demonstrates that the equivalent base flood storage volume and function will be maintained.
  - h. Prior to approval or issuance of permits for land divisions and major new development, the Review Authority may require the common boundary between a required buffer and the

adjacent land be identified using permanent signs as suggested in Exhibit 1. In lieu of signs, alternative methods of aquatic buffer identification may be approved when such methods are determined by the Review Authority to provide adequate protection to the aquatic buffer.

2. Class II Aquatic Habitat Conservation Areas. All development within or adjacent to designated Class II Aquatic Habitat Conservation Areas shall adhere to the following standards:

a. Drainage and Erosion Control.

i. The following developments shall submit and have approved a drainage and erosion control plan as specified in Section 900 of this Ordinance:

- (a) Any clearing, grading or excavation one acre or greater in area; or
- (b) All new development that includes the creation or addition of 5,000 square feet of new impervious surface area, or any development which collects or concentrates stormwater from greater than 5,000 square feet of drainage area and discharges to the Class II aquatic area; or
- (c) Any man-made drainage or stormwater conveyance which is connected and/or discharges to a Class II aquatic area.

ii. Development not identified in section (i a-c) above shall follow minimum guidelines established in the Drainage Design Manual for Clallam County and may not require an engineered plan unless otherwise required by other county requirements.

b. Buffers Buffers shall be maintained along all Class II Aquatic Areas. Distances shall be measured from the ordinary high water mark (OHWM) or from the top of the bank where the OHWM cannot be identified. Buffers shall be retained in their natural condition. Alteration of buffer areas may be allowed for water dependent and water related activities subject to (c) below, and for development authorized by Section 335 (Reasonable Use Exception), Section 330 (General Exemptions), Section 340 (Nonconforming Development Standards) or Section 360 (Variances). Minor pruning of vegetation and tree limbs may be allowed for enhancement of views, provided that such activity is approved by the Review Authority. The distance of the buffer shall be increased to include streamside wetlands which provide overflow storage for stormwaters, feed water back to the stream during low



flows or provide shelter and food for fish. In braided channels, the OHWM or Top of Bank shall be defined so as to include the entire stream feature.

i. The depth of the buffer for minor new development shall be based on the Clallam County Zoning classification, as now or hereafter amended, and the following standards:

Urban Residential, Commercial & Industrial Zones:	25 feet
Rural Residential Zones:	35 feet
Agricultural-Residential Zones:	35 feet
Forestry Zones:	50 feet

ii. The depth of the buffer for all new major development and all land divisions shall meet the standards for the type of stream as specified below. The Review Authority may decrease the buffer to no less than the minimum buffer for minor new development if a Habitat Management Plan (Section 900) approved by the Review Authority provides sufficient mitigation measures to protect the affected habitat.

Type 2 Waters:	150 feet or the 100 year floodplain, whichever is greater
Type 3 Waters:	100 feet or the 100 year floodplain, whichever is greater
Type 4 Waters:	50 feet or the 100 year floodplain, whichever is greater

iii. The depth of the buffer may be increased by the Review Authority, not to exceed 300 feet, whenever a development proposal has known locations of endangered or threatened species for which a habitat management plan indicates a larger buffer is necessary to protect habitat values for such species; or is located within landslide or erosion hazard area.

c. Water dependent structures and utilities may intrude into the required buffer when no other practicable alternative exists. Any alteration of a buffer shall be the least necessary and shall require an approved Habitat Management Plan.

- d. A stream channel or bank, bluff, and shore may be stabilized when their naturally occurring movement threatens existing structures, public improvements, ongoing agricultural activities, unique natural resources, or the only feasible access to property, and, in the case of streams, when such stabilization results in improved fish and wildlife habitat, flood control and improved water quality. Bluff, bank and shoreline stabilization shall follow the standards of the Clallam County Shoreline Master Program, the Clallam County Floodplain Management Ordinance, and any floodplain management plan adopted by the Board of Commissioners.
  - e. Stream relocations for the purpose of flood protection and/or fisheries restoration shall only be allowed when adhering to the following minimum performance standards:
    - i. The channel, bank and buffer areas should be replanted with native vegetation which replicates the original in species, size and densities; and
    - ii. A civil engineer provides information which demonstrates that the equivalent base flood storage volume and function will be maintained.
  - f. Prior to approval or issuance of permits for land divisions and major new development, the Review Authority may require the common boundary between a required buffer and the adjacent land be identified using permanent signs as suggested in Exhibit 1. In lieu of signs, alternative methods of aquatic buffer identification may be approved when such methods are determined by the Review Authority to provide adequate protection to the aquatic buffer.
3. Class I Wildlife Conservation Areas. All development within or adjacent to designated Class I Wildlife Conservation Areas shall adhere to the following standards:
- a. All sites with known locations of Class I Wildlife Species or sites adjacent to known locations of Class I Wildlife Species shall require the withholding of all development permits without the filing and approval of a Habitat Management Plan as specified in Section 900 by the Review Authority. In the case of bald eagles, an approved Bald Eagle Management Plan by the Washington Department of Wildlife meeting the requirements and guidelines of the bald eagle protection rules (WAC 232-12-292), as now or hereafter amended shall satisfy the requirements for a Habitat Management Plan. A HMP shall consider measures to retain and protect the wildlife habitat and shall consider effects of

land use intensity, buffers, setbacks, impervious surfaces, erosion control and retention of natural vegetation.

- b. All new major development within ranges and habitat elements with which Class I Wildlife have a primary association may require the filing of a Habitat Management Plan (HMP) as specified in Section 900. A HMP shall consider measures to retain and protect the wildlife habitat and shall consider effects of land use intensity, buffers, setbacks, impervious surfaces, erosion control and retention of natural vegetation. The requirement for a HMP shall be determined during the SEPA threshold determination on the project and/or by the Review Authority.
4. Class II and III Wildlife Conservation Areas. All development within designated Class II and III Wildlife Conservation Areas shall adhere to the following standards:
- a. All new major development within Class II and III Wildlife Conservation Areas may require the filing of a Habitat Management Plan (HMP). A HMP shall consider measures to retain and protect the wildlife habitat and shall consider effects of land use intensity, buffers, setbacks, impervious surfaces, erosion control and retention of natural vegetation. The requirement for an HMP shall be determined during the SEPA threshold determination on the project and/or by the Review Authority.

## SECTION 600 GEOLOGICALLY HAZARDOUS AREAS

### Section 610 APPLICABILITY

This section applies to all regulated uses within or adjacent to areas designated as geologically hazardous.

### Section 615 EXEMPTIONS

The exemptions for grading outlined in Chapter 70 of the Uniform Building Code, as now or hereafter amended, are incorporated by reference for the purpose of this Section.

### Section 620 PERMITTED USES

Developments permitted on properties designated as geologically hazardous shall be the same as those permitted in the underlying zoning classification subject to the standards of this Ordinance and Section.

### Section 630 CLASSIFICATION/DESIGNATION

1. Classification. The following definitions and terms shall be used in classifying geologically hazardous areas:
  - a. Erosion Hazard Area: Any area containing soils which meet one of the following criteria:
    - i. The following group of soils described and mapped within the Soil Survey of Clallam County when they occur on slopes 15% or greater: (a) soils or soil complexes classified as having a moderate, severe or very severe erosion hazard potential, and (b) soils of the Elwha, Clallam, Ozette and Yeary series.
    - ii. Any soil sloping greater than or equal to 40%.

- b. **Landslide Hazard Area:** Any area potentially subject to mass movement due to a combination of geologic, topographic, and hydrologic factors. The following areas are considered to be subject to landslide hazards:
- i. Areas of historic failures or potentially unstable slopes, such as areas mapped: within the Soils Conservation Service Slide Hazard Area Studies; marine bluffs; and areas designated as quaternary slumps, earthflows, mudflows, or landslides on maps published by the United States Geological Survey or Department of Natural Resources Division of Geology and Earth Resources.
  - ii. Any area with a combination of:
    - a. Slopes fifteen percent (15%) or steeper, and
    - b. Slowly permeable soils (typically silt and clay) frequently interbedded with granular soils (predominantly sand and gravel); and,
    - c. Springs or seepage from perched water tables.
  - iii. Any slope forty percent or steeper and with a vertical relief of ten or more feet except areas composed of consolidated rock.
  - iv. Slopes greater than 80 percent subject to rockfall during seismic shaking.
  - v. Any area potentially unstable as a result of rapid stream incision (e.g. ravine side walls), stream bank erosion or undercutting by wave action (e.g. marine bluffs).
  - vi. Any area located on an active alluvial fan, presently or potentially subject to inundation by debris flows or deposition of stream-transported sediments.
  - vii. Slopes that are parallel or sub-parallel to planes of weakness, such as bedding planes, joint systems and fault planes in subsurface materials
- c. **Seismic Hazard Areas:** Any area subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, soil liquefaction, or surface faulting. The following areas are considered to be subject to risk of damage and are classified as seismic hazard areas: Landslide materials, artificial fills and the following soils mapped and described within the Clallam County Soil Survey: Beaches, Mukilteo muck, Lummi silt loam, Sequim-McKenna-Mukilteo complex, and Tealwhit silt loam.

2. Designation. Lands classified as erosion, landslide or seismic hazards are hereby designated as geologically hazardous areas and are subject to the procedures and standards of this Ordinance and section. Geologically hazardous areas shall be mapped whenever possible. These maps shall be advisory and used by the Administrator to provide guidance in determining applicability of the standards to a property. Sites which include geologically hazardous areas which are not mapped shall be subject to the provisions of this Section and Ordinance. The Administrator shall provide maps in a Critical Areas Resource Portfolio as guidance in identifying the presence of Geologically Hazardous Areas. These maps may be based on the following information sources:

- a. Sweet Edwards/EMCOM Hazard Rating Maps;
- b. Coastal Zone Management Atlas;
- c. Soil Survey of Clallam County;
- d. U.S.G.S. Topographic Maps; and
- e. Aerial photos.

#### Section 640 EROSION HAZARD PROTECTION STANDARDS

All development within or adjacent to designated erosion hazard areas shall adhere to the following standards.

1. Drainage and Erosion Control.

- a. The following developments within or adjacent to erosion hazard areas shall submit and have approved a drainage and erosion control plan as specified in Section 900 of this Ordinance:
  - i. Any clearing, grading or excavation one acre or greater in area; or
  - ii. All new development that includes the creation or addition of 5,000 square feet of new impervious surface area, or any development which collects or concentrates stormwater from greater than 5,000 square feet of drainage area and discharges to an erosion hazard area; or
  - iii. Any man-made drainage or stormwater conveyance which is connected and/or discharges to an erosion hazard area.

- b. Development within or adjacent to erosion hazard areas not identified in section (a) above shall follow minimum guidelines established in the Drainage Design Manual for Clallam County and may not require an engineered plan unless otherwise required by other county requirements.

2. Clearing and Grading.

- a. Except as otherwise exempted under this Ordinance, all development within erosion hazard areas shall submit and have approved a grading plan as specified in Section 900 of this Ordinance.
- b. Excavation, grading and earthwork construction shall only be allowed from April 1 to October 15 except for the following circumstances:
  - i. Up to 15,000 square feet may be cleared on any lot, subject to approval of a drainage and erosion control and grading plan as required above; or
  - ii. Timber harvest pursuant to a DNR approved forest practice permit or clearing and grading permit may be allowed; or
  - iii. The Review Authority may grant a waiver from this requirement upon a finding that clearing and grading activity would not create a significant erosion hazard.

Section 650 LANDSLIDE HAZARD PROTECTION STANDARDS

All development within or adjacent to designated landslide hazard areas shall adhere to the following standards.

1. Drainage and Erosion Control.

- a. The following developments within or adjacent to landslide hazard areas shall submit and have approved a drainage and erosion control plan as specified in Section 900 of this Ordinance:
  - i. Any clearing, grading or excavation one acre or greater in area; or
  - ii. All new development that includes the creation or addition of 5,000 square feet of new impervious surface area, or any development which collects or concentrates

stormwater from greater than 5,000 square feet of drainage area and discharges to a landslide hazard area; or

iii. Any man-made drainage or stormwater conveyance which is connected and/or discharges to a landslide hazard area.

b. Development within or adjacent to landslide hazard areas not identified in section (a) above shall follow minimum guidelines established in the Drainage Design Manual for Clallam County and may not require an engineered plan unless otherwise required by other county requirements.

c. Surface drainage shall not be directed across the face of a marine bluff, landslide hazard or ravine. If drainage must be discharged from the bluff into adjacent waters, it shall be collected above the face of the bluff and directed to the water by tight line drain and provided with an energy dissipating device at the shoreline.

2. Grading and Clearing.

a. Except as otherwise exempted under this Ordinance, all development within landslide hazard areas shall submit and have approved a grading plan as specified in Section 900 of this Ordinance. There shall be minimum disturbance of trees and vegetation on landslide hazard areas in order to minimize erosion and stabilize bluffs.

b. Excavation, grading and earthwork construction shall only be allowed from April 1 to October 15 except for the following circumstances:

- i. Up to 15,000 square feet may be cleared on any lot, subject to approval of a drainage and erosion control and grading plan as required above; or
- ii. Timber harvest pursuant to a DNR approved forest practice permit or clearing and grading permit may be allowed; or
- iii. The Review Authority may grant a waiver from this requirement upon a finding that clearing and grading activity would not create a significant landslide hazard.



3. **Buffers.** A minimum buffer of 30 feet shall be established from the top, toe and all edges of landslide hazard areas. Existing native vegetation within the buffer area shall be maintained. The buffer may be reduced to a minimum of ten feet when an applicant demonstrates to the satisfaction of the Review Authority that the reduction will adequately protect the proposed development and the landslide hazard area. The buffer may be increased by the Review Authority for development adjacent to a marine bluff or ravine which is unstable. Normal non-destructive pruning and trimming of vegetation for maintenance purposes; or thinning of limbs of individual trees to provide for a view corridor, shall not be subject to these buffer requirements.

Alterations of the buffer for landslide hazard area, or the hazard area itself, may occur for development meeting the following criteria:

- a. No reasonable alternative exists; and
- b. A geotechnical report (Section 900) is submitted and certifies that:
  - i) There is minimal hazard as proven by evidence of no landslide activity in the past in the vicinity of the proposed development and a quantitative analysis of slope stability indicates no significant risk to the development proposal and adjacent properties; or the landslide hazard area can be modified or the development proposal can be designed so that the landslide hazard is eliminated or mitigated so that the site is as safe as a site without a landslide hazard; and
  - ii) The development will not significantly increase surface water discharge or sedimentation to adjacent properties beyond pre-development conditions; and
  - iii) The development will not decrease slope stability on adjacent properties.

4. **Land Divisions.** No new lot or parcel shall be created in a known landslide hazard area without meeting the following requirements:

- a. No lot or parcel shall be created in a landslide hazard area or its required buffer unless a geotechnical report (Section 900) of the property certifies that proposed building sites will be stable under normal geologic conditions; and
- b. Any contiguous landslide hazard areas greater than one acre in area within a proposed land division development proposal site shall require the submission of a geotechnical report (Section 900). All areas which are determined to be unbuildable shall be dedicated as an open space tract, easement or covenant which assures the ownership and protection of the area.

5. Utilities.

- a. Septic system drainfields shall be located outside of landslide hazard areas and their associated buffers, except for the toe of slope, unless otherwise justified by a qualified geotechnical engineer.
- b. Stormwater retention and detention systems, including percolation systems and curtain drains utilizing buried pipe or french drain, are prohibited in landslide hazard areas and their buffers unless a geotechnical report indicates such a system shall not affect slope stability and the systems are designed by a licensed civil engineer. The licensed civil engineer shall also certify that the systems were installed as designed.

6. Critical Facilities. Critical facilities shall not be sited within landslide hazard areas unless such facilities meet the following criteria:

- a. No practicable alternative site is available; and
- b. A preliminary or shallow geotechnical report evaluation demonstrates how the proposed construction will adequately protect the proposed development from landslide.

Section 660 SEISMIC HAZARD PROTECTION STANDARDS

All development within designated seismic hazard areas shall adhere to the following standards.

1. Land Divisions. No new lot or parcel shall be created in a seismic hazard area without placing a note on the face of the plat which indicates the presence of a potential hazard and encourages the builder to have any structure designed by a civil engineer to withstand potential seismic activity.
2. Critical Facilities. Critical facilities shall not be sited within seismic hazard areas unless such facilities meet the following criteria:
  - a. No practicable alternative site is available; and
  - b. A preliminary or shallow geotechnical report (Section 900) evaluation demonstrates how the proposed construction will adequately protect the proposed development from earthquake.

3. Construction on Artificial Fills. Construction of major new development on artificial fills shall be certified by a geotechnical report (Section 900) that a significant risk from earthquake damage has been minimized. This provision shall not apply to normal maintenance or repair of existing legal structures not exceeding 50% of the fair market value of the existing structure.
  
4. Public Buildings (Commercial, Industrial, Publicly Owned). Construction of commercial, industrial or any publicly owned buildings, shall prepare a preliminary or shallow geotechnical report (Section 900) evaluation prior to the granting of development permits. The evaluation shall demonstrate that the proposed design will adequately protect the public which has access to the proposed development. The results or conclusions of the evaluation shall be considered a *condition of development approval.*

## SECTION 700 FREQUENTLY FLOODED AREAS

### Section 710 APPLICABILITY

This section applies to all regulated uses within designated frequently flooded areas of Clallam County. The growing of crops and trees and associated land preparation and harvesting activities and the removal, destruction or alteration of vegetation is not included in the definition of development for the purposes of this section provided that land filling or excavating of floodplain areas are not a part of said activities.

### Section 715 PERMITTED USES

Development proposals permitted on lands or shorelands designated as frequently flooded areas shall be the same as those permitted in the underlying zoning classification or Clallam County Floodplain Management Code (C.C.C. 32.01), subject to the standards of this Ordinance and Section.

### Section 720 CLASSIFICATION/DESIGNATION

1. Classification. Frequently flooded areas shall be classified as floodways, floodplains and special flood hazard areas. "Floodway" means the channel of a stream, plus any adjacent floodplain areas, that must be kept free of encroachment in order that the base flood be carried without substantial increases in flood heights. "Floodplain" means the floodway and the special flood hazard area. "Special flood hazard area" means the area adjoining the floodway which is subject to a one percent or greater chance of flooding in any given year, as determined by engineering studies accepted by Clallam County. Coastal high hazard areas are located within special flood hazard areas.

2. **Designation.** All Clallam County lands, shorelands and waters which are identified as within the 100 year floodplain (Floodway and Floodway Fringe--or Special Flood Hazard Area) in the Federal Emergency Management Agency report titled "The Flood Insurance Study for Clallam County" dated December 5, 1989, with accompanying Flood Insurance Rate and Boundary Maps, are designated as frequently flooded areas. The provisions of Section 730 shall not apply to those lands where a qualified professional engineer demonstrates to the satisfaction of the Review Authority that the lands are not within the 100 year floodplain and the FEMA Maps designated above are in error.

Section 730 **PROTECTION STANDARDS**

All development within designated frequently flooded areas shall be in compliance with the Clallam County Floodplain Management Ordinance, C.C.C. 32.01, as now or hereafter amended, in addition to the standards outlined in this section.

1. New subdivisions, manufactured home park subdivisions, and short subdivisions, as defined in C.C.C. 29.01 are prohibited in special flood hazard areas, unless each buildable lot has an area outside the special flood hazard area equal to or greater than the applicable minimum lot size.
2. Residential, commercial and/or industrial buildings are prohibited within special flood hazard areas unless constructed or placed on lots or parcels of land platted by a final plat approved and recorded prior to December 10, 1980 for the Dungeness and Elwha Rivers and the effective date of this Ordinance for all other special flood hazard areas.

## SECTION 800 CRITICAL AQUIFER RECHARGE AREAS

### Section 810 APPLICABILITY

This section applies to all development proposals within designated areas with a critical recharging effect on aquifers used for potable water.

### Section 820 PERMITTED USES

Development permitted on lands or shorelands designated as having a critical recharging effect on aquifers used for potable water shall be the same as those permitted in the underlying zoning classification subject to the restrictions and standards of this Ordinance and Section.

### Section 830 CLASSIFICATION AND DESIGNATION

1. Classification. All Clallam County lands shall be classified as having either a high, moderate or low aquifer recharge potential. At a minimum, classification shall be based on soil permeability as described within the Soil Survey of Clallam County. Where adequate information is available, aquifer recharge potential shall be further classified based on the recharge potential of surficial geologic materials, depth to groundwater, and topography (i.e. slopes). Lands classified as having a high, moderate or low aquifer recharge potential shall also be classified as having a high, moderate or low susceptibility to contamination of an underlying aquifer, respectively. Based on these criteria, the potential for recharging aquifers or transmitting contaminants to the underlying aquifer is greatest where the aquifer is close to the ground surface, where ground surface slopes are minimal, and where the recharge potential of the soils and/or surficial geologic material is greatest.
2. Designation. All lands and shorelands classified as high aquifer recharge potential and aquifer susceptibility are hereby designated as areas with a critical recharging effect on aquifers used for potable water. These areas shall be delineated on maps available at the Clallam County Department of Community Development.

**Section 840 PERFORMANCE STANDARDS FOR REGULATED USES**

The following protection standards shall apply to the regulated uses outlined below and in areas designated as High Susceptibility.

1. **Aboveground Storage Tanks or Vaults** Aboveground Storage Tanks or Vaults for the storage of hazardous substances or dangerous wastes as defined in WAC 173-303, or any other substances, solids or liquids in quantities identified by the Clallam County Environmental Health Division, consistent with WAC 173-303, as a risk to groundwater quality, shall be designed and constructed so as to:
  - a. Prevent the release of such substances to the ground, groundwaters or surface waters; and
  - b. Have constructed around and under it an impervious containment area enclosing or underlying the tank or part thereof. Impervious containment shall be greater than the volume of the tank to avoid an overflow of the containment area.
  - c. Provide for release detection.
  - d. Provide written spill response and spill notification procedures to the local fire district.
  
2. **Agricultural Activities** Agricultural activities, including commercial and hobby farms, are encouraged to incorporate best management practices concerning animal keeping, animal waste disposal, fertilizer use, pesticide use, and stream corridor management and seek the technical assistance of the Clallam County Conservation District and Cooperative Extension Agent.
  
3. **Land Divisions** Subdivisions, short subdivisions and other divisions of land shall be evaluated for their impact on groundwater quality. The following measures may be required as determined by the Clallam County Environmental Health Division:
  - a. An analysis of the potential nitrate loading to the groundwater may be required to assess the impact on groundwater quality.
  - b. Alternative site designs, phased development and/or groundwater quality monitoring may be required to reduce contaminant loading where site conditions indicate that the proposed action will measurably degrade groundwater quality.
  - c. Open spaces may be required on development proposals overlying areas highly susceptible for contaminating groundwater resources.

- d. Community/public water systems and community drainfields are encouraged and may be required where site conditions indicate a high degree of potential contamination to individual wells from on-site or off-site sources.
  - e. Where wells are required to be abandoned, the applicant shall ensure that they are abandoned according to State guidelines.
  - f. It may be required that contaminants be removed from stormwater runoff prior to their point of entry into surface or groundwater resources using available and reasonable best management practices.
4. Landfills, junk yards, etc Landfills, junk yards, salvage yards, auto wrecking yards, and other solid waste disposal facilities, except those for the disposal of brush and stumps, sawdust, and inert construction debris, shall demonstrate that such facilities will not significantly impact groundwater resources. In order to make such determination, the Review Authority or Administrator shall require the filing of a hydrologic report addressing the following:
- a. Geologic setting and soils information of site and surrounding area;
  - b. Water quality data, including pH, temperature, conductivity, nitrates, and bacteria;
  - c. Location and depth to perched water tables;
  - d. Recharge potential of facility site (permeability/transmissivity);
  - e. Local groundwater flow, direction and gradient;
  - f. Location, depth and other water quality data mentioned in (b) on the three shallowest wells or springs located within 1,000 feet of site;
  - g. Surface water locations within 1,000 feet of the site;
  - h. Discussion of the effects of the proposed project on groundwater quality and quantity; and
  - i. Recommendations on appropriate mitigations, if any, to assure that there shall be no significant degradation of groundwater quality or quantity;
  - j. Provide for contaminant release detection.

All lands on which the report indicates the proposed development would probably negatively impact the quality of the aquifer shall be prohibited unless the report can satisfactorily demonstrate that these negative impacts would be overcome in such a manner as to prevent adverse impacts on the groundwater.

The report shall be prepared by a person or persons with experience in hydrogeologic assessment and shall have professional experience in hydrogeology or a related field. The person shall also be knowledgeable in the effect of the proposed development on water quality.



5. Parks, Schools and Recreation Facilities Fertilizer, herbicide and pesticide management practices of schools, parks, golf courses and other non-residential facilities that maintain large landscaped areas shall be evaluated in relation to Best Management Practices as recommended by the Cooperative Extension Service.
6. Stormwater Standards for Commercial and Industrial Uses All new commercial and industrial land uses which either: (1) have greater than 5,000 square feet of impervious area; or (2) handle, store, dispose, transport, or generate hazardous substances/wastes defined as dangerous or extremely dangerous wastes under WAC 173-303 (regardless of quantity), which may come in contact with stormwater runoff including, but not limited to, gas stations and distributors, car washes, trucking companies, and paint shops, shall remove contaminants prior to their point of entry into surface or groundwater resources using available and reasonable best management practices as outlined in the Drainage Design Manual for Clallam County. Standard drywells are prohibited. Maintenance of stormwater infiltration systems must be assured as a permit condition of the Review Authority.
7. Underground Storage Tanks and Vaults Underground Storage Tanks and Vaults used for the storage of hazardous substances or dangerous wastes as defined in WAC 173-303, or any other substances, solids or liquids in quantities identified by the Clallam County Environmental Health Division, consistent with WAC 173-303, as a risk to groundwater quality, shall conform to WAC 173-360 and be designed and constructed so as to:
  - a. Prevent releases due to corrosion or structural failure for the operational life of the tank or vault;
  - b. Be cathodically protected against corrosion, constructed of non-corrosive material, steel clad with a non-corrosive material, or designed in a manner to prevent the release or threatened release of any stored substance;
  - c. Use material in the construction or lining of the tank which is compatible with the substance to be stored;
  - d. Provide for release detection method(s); and
  - e. Provide written spill response and spill notification procedures to the local fire district.
8. Utility Transmission Facilities. Utility facilities which carry oil, gas or any other hazardous substance as defined in WAC 173-303 shall provide hydrologic information as required in (4) of this Section in addition to spill prevention measures and an emergency spill management plan.
9. Sewage Effluent and Sludge Disposal. Sewage and sludge disposal, except on-site sewage systems, shall be prohibited on lands having a high aquifer recharge potential and aquifer susceptibility.

## SECTION 900 SPECIAL REPORTS

### Section 910 PURPOSE

In order to maintain and protect critical areas, environmental information will be required to evaluate a development proposal.

### Section 915 WHEN REQUIRED

Special Reports shall be submitted and approved for regulated uses when required by this Ordinance for the protection of a critical area. Refer to specific critical area protection standards for when Special Reports will be required.

### Section 920 SPECIAL REPORTS--RESPONSIBILITY FOR COMPLETION

The developer or applicant shall pay for or reimburse the County for the costs incurred in the preparation of special reports or tests and for the costs incurred by the County to engage technical consultants or staff for review and interpretation of data and findings submitted by or on behalf of the developer or applicant. The applicant or developer shall pay permit fees or technical assistance fees as required by C.C.C. 3.30, as now or hereafter amended. In such circumstances where a conflict in the findings of a Special Report and the findings of the County in review of the Special Report exists, the applicant or affected party may appeal such decisions of the County pursuant to the procedures in Section 300 of this Ordinance.

### Section 930 ADMINISTRATIVE WETLAND BOUNDARY AND RANKING EVALUATION

1. A survey of the regulated wetland boundary and an evaluation of any unranked regulated wetland shall be completed by the Department of Community Development for any minor development project listed in Section 440 (2) of this Ordinance, unless the applicant wishes to employ a qualified wetland biologist at the applicant's expense. Fees may be collected for this survey and evaluation as specified in C.C.C. 3.30.

2. Methodology for delineation of the regulated wetland boundary shall be the Plant Community Assessment procedure which is described in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, dated January 10, 1989.
3. The wetland boundary shall be field staked and this line shall be depicted on the Building Site Plan Application.
4. The regulated wetland boundary and regulated wetland buffer shall be identified on all grading, building site, utility or other development plans submitted on the project.
5. The site methodology for evaluating any unranked wetland shall follow Section 975.

#### Section 935 BUILDING SITE APPLICATION

1. All building site applications shall identify the proposed development plan which includes the footprint and dimensions of all structures along with the location and dimensions of the primary and reserve drainfield and the source of water supply.
2. All building site applications shall identify the known locations of any critical areas and the required buffer as regulated by this Ordinance.

#### Section 940 DRAINAGE AND EROSION CONTROL PLAN

1. This plan shall address methods to minimize stormwater quantity and quality impacts (e.g. erosion and sedimentation), both during and following construction.
2. For proposed land divisions, a preliminary drainage and erosion control plan shall be submitted together with the preliminary plat application. A final drainage and erosion control plan for the site shall be prepared following preliminary plat approval and prior to final plat approval.
3. The design standards for this Plan are contained in the Drainage Design Manual for Clallam County adopted by Resolution of the Clallam County Board of Commissioners.

4. This report shall be prepared by a civil engineer licensed in the State of Washington when required in the Drainage Design Manual for Clallam County.
5. Drainage and Erosion Control plans shall be reviewed and approved by the Clallam County Department of Community Development and/or Public Works.

#### Section 945 GEOTECHNICAL REPORT

1. This report shall include a description of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions on the proposed development, opinions and recommendations of the adequacy of the site to be developed, and determine the impacts of the proposed development and appropriate mitigating measures.
2. The report shall be prepared by either (a) geologist and a geotechnical engineer, (b) geotechnical engineer, or (c) a civil engineer licensed in the State of Washington and who is knowledgeable of regional geologic conditions and who has professional experience in landslide and/or seismic hazard evaluation.
3. The Review Authority may waive the requirement for the report if, in his/her opinion, the proposed development would not cause significantly adverse geological impacts, or there is adequate geological information available on the area proposed for development to determine the impacts of the proposed development and appropriate mitigating measures.

#### Section 950 GRADING PLAN

1. This plan shall identify the proposed development project including the movement of material on-site along with the proposed and existing contours of the site, and cross sections thereof.
2. For proposed land divisions, a preliminary grading plan shall be submitted together with the preliminary plat application. A final grading plan for the site shall be prepared following preliminary plat approval and prior to final plat approval.
3. The standards and preparation requirements for this report are found in Chapter 70 of the 1989 Uniform Building Code, or as amended.

4. This plan shall be reviewed and approved by the Clallam County Department of Community Development or Public Works and shall require the payment of fees as required by the Clallam County Code.

Section 955 HABITAT MANAGEMENT PLAN

1. This report shall identify how the development impacts from the proposed project will be mitigated (see definition of mitigation and Section 960). The Washington Department of Wildlife Priority Habitat and Species Management Recommendations, dated May 1991, may serve as guidance for this report or bald eagle protection rules outlined in WAC 232-12-292, as now or hereafter amended. The recommendation in the Washington Department of Wildlife Priority Habitat and Species Management Recommendations, dated May 1991, shall not serve as mandatory standards or policy of this Ordinance until such time as the Department of Wildlife holds public hearings on the recommendations and the State Wildlife Commission endorses the recommendations following the public hearings.
2. The Habitat Management Plan shall contain a map prepared at an easily readable scale, showing: the location of the proposed development site; the relationship of the site to surrounding topographic, water features, and cultural features; proposed building locations and arrangements; a legend which includes a complete legal description, acreage of the parcel, scale, north areas, and date of map revision.
3. The Habitat Management Plan shall also contain a report which describes the nature and intensity of the proposed development; an analysis of the effect of the proposed development, activity or land use change upon the wildlife species and habitat identified for protection; and a plan which identifies how the applicant proposed to mitigate (see definition and Section 960 for standards) any adverse impacts to wildlife habitats created by the proposed development.
4. Possible mitigation measures to be included in the report, or required by the Review Authority, could include, but are not limited to:
  - a. Establishment of buffer zones;
  - b. Preservation of critically important plants and trees;
  - c. Limitation of access to habitat areas;
  - d. Seasonal restriction of construction activities; and

- e. Establishing phased development requirements and/or a timetable for periodic review of the plan.
5. This plan shall be prepared by a person who has been educated in this field and has professional experience as a wildlife biologist. For minor new development, land divisions 14 lots or less and low income housing, the Department of Community Development shall complete the plan unless the applicant wishes to employ a qualified professional at the applicant's expense. Fees may be collected for this plan as specified in C.C.C. 3.30. Where this plan is required for the protection of eagle habitat, the eagle habitat management plan shall normally be prepared by the Department of Wildlife as required under the Bald Eagle Management Rules.

Section 960 MITIGATION PLAN

- 1. This report shall identify how the development proposal has considered the following criteria in the order of preference which protects the affected critical area. For mitigation of wetland impacts, a wetland mitigation plan shall be required. For mitigation of fish and wildlife habitat impacts, a habitat management plan may also be required.
  - a. Avoiding the impact altogether by not taking a certain action or parts of an action;
  - b. Minimizing 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. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
  - d. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments;
- 2. The report shall be prepared by the applicant and/or a qualified professional and shall specifically outline how the development proposal will meet the criteria identified above.

**Section 965 WETLAND BOUNDARY SURVEY**

1. A survey of the regulated wetland boundary shall be required when specified in Section 400.
2. The Federal Manual for Identifying and Delineating Jurisdictional Wetlands (1989), shall be used to identify and delineate a regulated wetland boundary.
3. The boundary shall be identified and delineated by a biologist with wetlands ecology expertise who is knowledgeable of wetland conditions within the North Olympic Peninsula Region and has professional experience in this occupation; or those individuals or firms which have been certified by the Association of Wetland Scientists. This person shall field stake the wetland boundary and this line shall be surveyed by a professional land surveyor.
4. The regulated wetland boundary and regulated wetland buffer shall be identified on all grading, landscaping, site, utility or other development plans submitted on the project.

**Section 970 WETLANDS MITIGATION PLAN**

1. Whenever the Review Authority has determined that losses of regulated wetland are necessary and unavoidable, or a special use or conditional use review of a regulated wetland or its buffer is proposed, or an exception to uses is allowed or variance to standards is granted, a mitigation plan shall be prepared which is considered in the following order of preference:
  - a. Avoiding the impact altogether by not taking a certain action or parts of actions. This may be accomplished by selecting a reasonable alternative that does not involve wetlands or wetland impacts; applying reasonable mitigation measures, such as drainage and erosion control, alternative site planning, and/or using best available technology. In reviewing development proposals required to submit a wetlands mitigation plan, the Review Authority shall first determine if the impact can be avoided. Impacts cannot be avoided if denial of the development proposal or parts thereof or mitigation measures would result in an extraordinary hardship and denial of reasonable use of property.
  - b. Minimizing 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. This may be accomplished by selecting a reasonable alternative that avoids most wetland impacts, applying reasonable mitigation measures, such as drainage

and erosion control, alternative site planning, and/or using best available technology. In reviewing development proposals required to submit a wetlands mitigation plan, the Review Authority shall determine if the impact can be first avoided and secondly minimized. Impacts cannot be avoided or minimized if denial of the development proposal or parts thereof or mitigation measures would result in an extraordinary hardship and denial of reasonable use of property.

- c. Rectifying the Impact by repairing, rehabilitating, or restoring the affected environment. This may be done by reestablishing wetland and wetland buffer characteristics on site which have been lost by alterations or activities. Rectifying shall be accomplished in accordance with the requirements in subsection (4) below and has been approved by the Review Authority. In reviewing development proposals required to submit a wetlands mitigation plan, the Review Authority shall determine if the impact should be rectified. Impacts can be rectified if mitigation measures would not result in an extraordinary hardship and denial of reasonable use of property.
  - d. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments. This may be done by intentionally creating wetlands and wetland buffers at another location where none currently exist, improving existing wetlands and wetland buffers at another location, or otherwise providing a substitute wetland resource at another location as compensation for any unavoidable adverse wetland impacts. Compensating shall be accomplished in accordance with a mitigation plan which has been prepared in accordance with the requirements in subsection (4) below and has been approved by the Review Authority. In reviewing development proposals required to submit a wetlands mitigation plan, the Review Authority shall determine if the impact should be compensated. Impacts can be compensated if compensation and mitigation measures would not result in an extraordinary hardship and denial of reasonable use of property. Compensation of wetland impacts may be waived by the Review Authority for development authorized by Section 335 (Reasonable Use Exception) and for impacts to Class IV wetlands.
- 2. The overall goal of any mitigation plan shall be no net loss of regulated wetland functions and acreage.
  - 3. Those persons proposing wetland compensatory projects shall show that the compensation project is associated with an activity or development otherwise permitted and that the restored, created, or enhanced wetland will be as persistent as the wetland it replaces by accomplishing the following:



- a. Demonstrate sufficient scientific expertise, supervisory capability, and financial resources to carry out the project;
  - b. Demonstrate the capability for monitoring the site and to make corrections during this period if the project fails to meet projected goals; and
  - c. Protect and manage or provide for the protection and management of the compensation area to avoid further development or degradation.
4. Wetland mitigation plans required under section (1c) and (1d) above shall be implemented by the project applicant, be commensurate with the scope of the development proposal and include the following components:
- a. Baseline Information. A written assessment and accompanying maps of the:
    - i. Impacted wetland including, at a minimum, existing wetland acreage; vegetative, faunal and hydrologic characteristics; soil and substrate conditions; topographic elevations and
    - ii. Compensation site, if different from the impacted wetland site, including at a minimum: existing acreage; vegetative, faunal and hydrologic conditions; relationship within watershed and to existing water bodies; soil and substrate conditions, topographic elevations; existing and proposed adjacent site conditions; buffers; and ownership.
  - b. Environmental Goals and Objectives. The report shall identify goals and objectives and include:
    - i. The purposes of the compensation measures including a description of site selection criteria, identification of compensation goals, identification of target evaluation species and resource functions, dates for beginning and completion, and a complete description of the structure and functional relationships sought in the new wetland. The goals and objectives shall be related to the functions and values of the original wetland or, if out-of-kind, the type of wetland to be emulated; and
    - ii. A review of the available literature and/or experience to date in restoring or creating the type of wetland proposed shall be provided. An analysis of the likelihood of success of the compensation project at duplicating the original wetland shall be provided based on the experiences of comparable projects, if

any. An analysis of the likelihood of persistence of the created or restored wetland shall be provided based on such factors as surface and ground water supply and flow patterns, dynamics of the wetland ecosystem; sediment or pollutant influx and/or erosion, periodic flooding and drought, etc., presence of invasive flora or fauna, potential human or animal disturbance, and previous comparable projects, if any.

- c. Performance Standards. Specific criteria shall be provided for evaluating whether or not the goals and objectives of the mitigation plan are being achieved at various stages in the project and for beginning remedial action or contingency measures. Such criteria may include water quality standards, survival rates of planted vegetation, species abundance and diversity targets, habitat diversity indices, or other ecological, geological or hydrological criteria.
- d. Detailed Construction Plans. Written specifications and descriptions of compensation techniques shall be provided including the proposed construction sequence, grading and excavation details, erosion and sediment control features needed for wetland construction and long-term survival, a planting plan specifying plant species, quantities, locations, size, spacing, and density; source of plant materials, propagules, or seeds; water and nutrient requirements for planting; where appropriate, measures to protect plants from predation; specification of substrate stockpiling techniques and planting instructions; descriptions of water control structures and water-level maintenance practices needed to achieve the necessary hydrocycle/hydroperiod characteristics; etc. These written specifications shall be accompanied by detailed site diagrams, scaled cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome. The plan shall provide for elevations which are appropriate for the desired habitat type(s) and which provide sufficient tidal prism and circulation data.
- e. Monitoring Program. A program outlining the approach for monitoring construction of the compensation project and for assessing a completed project shall be provided. Monitoring may include, but is not limited to:
  - i. Establishing vegetation plots to track changes in plant species composition and density over time;
  - ii. Using photo stations to evaluate vegetation community response;

- iii. **Sampling surface and subsurface waters to determine pollutant loading and changes from the natural variability of background conditions (pH, nutrients, heavy metals);**
  - iv. **Measuring base flow rates and storm water runoff to model and evaluate water quality predictions, if appropriate;**
  - v. **Measuring sedimentation rates, if applicable; and**
  - vi. **Sampling fish and wildlife populations to determine habitat utilization, species abundance and diversity. A protocol shall be included outlining how the monitoring data will be evaluated by agencies that are tracking the progress of the compensation project. A monitoring report shall be submitted annually, at a minimum, documenting milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than two years.**
- f. **Contingency Plan.** Identification of potential courses of action, and any corrective measures to be taken when monitoring or evaluation indicates project performance standards are not being met.
- g. **Permit Conditions.** Any compensation project prepared pursuant to this section and approved by the Regulatory Authority shall become part of the application for the permit.
- h. **Performance Bonds and Demonstration of Competence.** A demonstration of financial resources, administrative, supervisory, and technical competence and scientific expertise of sufficient standing to successfully execute the compensation project shall be provided. A compensation project manager shall be named, and the qualifications of each team member involved in preparing the mitigation plan and implementing and supervising the project shall be provided, including educational background and areas of expertise, training and experience with comparable projects. In addition, bonds ensuring fulfillment of the compensation project, monitoring program, and any contingency measure shall be posted in the amount of one hundred fifty (150) percent of the expected cost of compensation and shall be effective for a period of no less than two years nor greater than five years after completion of the mitigation plan.

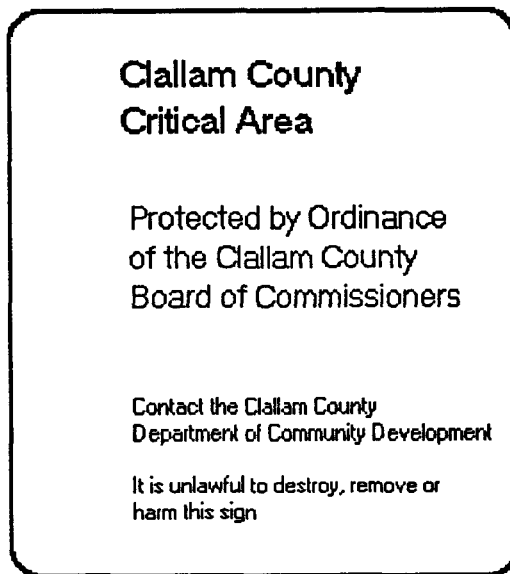
- i. Waiver. The Review Authority may waive portions of this report if, in his/her opinion, there is adequate information available on the site to determine its impacts and appropriate mitigating measures.
- j. The Administrator shall establish a list of qualified consultants to prepare mitigation plans.

#### Section 975 WETLANDS RANKING EVALUATION

1. An evaluation of any unranked regulated wetland is necessary when there is a proposed development or activity to be located within a regulated wetland or regulated wetland buffer.
2. The evaluation shall be used to determine if the regulated wetland is a Class I, II, III, or IV wetland. It shall evaluate those factors which are use to distinguish between these categories and shall take into consideration evaluation of entire wetland complexes, not portions of isolated wetlands on individual parcels or development sites. The methodology for wetland ranking evaluation shall be the Washington State Wetlands Rating System for Western Washington, dated October 1991. Where definitions, terms, methodology or classification criteria used in this Ordinance conflict with the Washington State Wetlands Rating System for Western Washington, dated October 1991, the definitions, terms, methodology or classification criteria used in this Ordinance shall take precedence.
3. The evaluation shall be prepared by a person who is knowledgeable of wetland conditions within the North Olympic Peninsula Region and who has professional experience in this occupation; or those individuals or firms which have been certified by the Society of Wetland Scientists.
4. The Administrator shall establish a list of qualified consultants to prepare Wetland Rating Reports.

**EXHIBIT 1  
SIGNS STANDARDS  
FOR IDENTIFICATION OF CRITICAL AREAS**

When required by the Review Authority, the applicant shall install permanent signs provided by Clallam County along the boundary of a critical area or along the edge of a critical area buffer. The sign shall conform to design standards as approved by the Review Authority, including but not limited to size, height, locations, etc. The sign shall be worded as follows or with alternative language approved by the Review Authority.



**EXHIBIT 2  
CRITICAL AREA AND BUFFER NOTICE**

Legal Description: \_\_\_\_\_  
\_\_\_\_\_

Present Owner: \_\_\_\_\_

**NOTICE:** This property contains (Describe Critical Area) as defined by the Clallam County Interim Critical Areas Ordinance (C.C.C. 27.12). The property was the subject of a development proposal described as follows:

\_\_\_\_\_ filed on \_\_\_\_\_, 199\_\_.  
(type of permit) (application #) (date)

Restrictions on use or alteration of the critical area or its buffers may exist due to natural conditions of the property and resulting regulations. Review of such application has provided information on the location of the critical area or its buffers and restrictions on their use through setback areas. A copy of the plan showing such setback areas is attached hereto.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
\_\_\_\_\_

STATE OF WASHINGTON    )  
  )  
COUNTY OF CLALLAM    )

On this day personally appeared before me \_\_\_\_\_, to me known to be the individual(s) described in and who executed the within and foregoing instrument, and acknowledged that they signed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

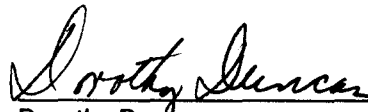
GIVEN under my hand and official seal the \_\_\_\_\_ day of \_\_\_\_\_, 199\_\_.


\_\_\_\_\_  
NOTARY PUBLIC in and for the Sate of Washington,  
residing at \_\_\_\_\_

PASSED AND ADOPTED THIS 16<sup>th</sup> DAY OF June, 1992.


Board of County Commissioners

  
Lawrence Gaydeski, Chair

  
Dorothy Durcan

  
Dave Cameron

ATTEST:

  
Karen Flores  
Clerk of the Board