

Ordinance No. 493, 1992

An Ordinance of the Clallam County Board of Commissioners amending the Clallam County Interim Critical Areas Ordinance, C.C.C. 27.12.

(All new material is underlined; material deleted shall be struck through and within double parentheses.)

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

Section 350 NOTICE TO TITLE

~~((The owner of a))~~Any property on which a development proposal is submitted within 200 feet of a critical area identified below shall file for record with the Clallam County Auditor a notice in the public record of the presence of the ((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. Clallam County will provide written notice to the property owner of record fifteen days prior to filing the notice in the public record, except in those circumstances where the owner signs the notice themselves. Development proposals which are also defined as normal repair and maintenance of existing structures or developments, including but not limited to roof repair, interior remodeling, wood stove permits, etc., and on-site sewage disposal systems, are exempt from this requirement. ~~((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.)))~~

Critical Areas Requiring Notice to Title:

Wetlands

Class I Aquatic Areas

Class II Aquatic Areas

Class I Wildlife (known nesting and breeding locations only)

Landslide Hazard

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.

5. Requests for Variances shall include application requirements of Section 355 (General Application Requirements) and Section 440 (Wetland Application Requirements), if applicable and Section 960 (Mitigation Plan) or Section 970 (Wetland Mitigation Plan), whichever is applicable.

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 | <u>S((X))</u> | <u>S((G))</u> | S | <u>P((S))</u> |
| 6. Boat Ramp | X | C | <u>C((S))</u> | S |
| 7. Dock/Float | C | C | S | <u>P((S))</u> |
| 8. Draining (Associated with No Other Use) | X | X | X | X |
| 9. Duck/Wildlife Blind | <u>P((S))</u> | P | P | P |
| 10. Education & Scientific Research (no permanent structures) | P | P | P | P |
| 11. Enhancement | <u>S((G))</u> | <u>P((S))</u> | <u>P((S))</u> | 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) | P((G)) | P((G)) | P((S)) | P |
| 17. | Golf Course | C((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 | 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 | C((S)) | S |
| 28. | Radio/TV Towers | X | X | X | C |
| 29. | Restoration/Revegetation of Site | S((G)) | P((S)) | P((S)) | P |
| 30. | Road/Street--Short Private Access (< 100') | C((X)) | S((X)) | S((G)) | P((S)) |
| 31. | Road/Street--Expand Within Existing ROW | C | S((G)) | S((G)) | P((S)) |
| 32. | Road/Street--New Facilities | C((X)) | S((G)) | S((G)) | P((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 | S((G)) | S | P |
| 36. | Stormwater, Regional R/D Facility | X | S((G)) | S | P |
| 37. | Structure (Not Otherwise Defined in this Table) | X | X | X | X |
| 38. | Trails & Trail Related Facilities | S((G)) | P((S)) | P | P |
| 39. | Unclassified Use | C | C | C | C |
| 40. | Utility Facility | X | C((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 | P((S)) | P((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 | <u>S((X))</u> | <u>S((G))</u> | S | <u>P((S))</u> |
| 6. Boat Ramp | X | C | <u>C((S))</u> | S |
| 7. Dock/Float | C | <u>S((G))</u> | S | <u>P((S))</u> |
| 8. Draining (Associated with No Other Use) | X | C | C | C |
| 9. Duck/Wildlife Blind | <u>P((S))</u> | P | P | P |
| 10. Education & Scientific Research (no permanent structures) | P | P | P | P |
| 11. Enhancement- | S | <u>P((S))</u> | 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) | <u>P((G))</u> | <u>P((S))</u> | P | P |
| 17. Golf Course | <u>C((X))</u> | 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 | <u>S((P))</u> | P |
| 25. Ponds--Stock Watering | X | S | S | P |
| 26. Public Facility | X | C | S | S |
| 27. Public Project of Significant Importance | C | C | <u>C((S))</u> | S |
| 28. Radio/TV Towers | X | C | C | S |
| 29. Restoration/Revegetation of Site | S | <u>P((S))</u> | P | P |
| 30. Road/Street--Short Private Access (< 100') | <u>C((X))</u> | <u>S((G))</u> | S | <u>P((S))</u> |
| 31. Road/Street--Expand Within Existing ROW | C | <u>S((G))</u> | S | <u>P((S))</u> |
| 32. Road/Street--New Facilities | <u>C((X))</u> | <u>S((G))</u> | S | <u>P((S))</u> |
| 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 | <u>S((G))</u> | S | P |
| 36. Stormwater, Regional R/D Facility | X | <u>S((G))</u> | S | P |

| | | | | |
|---|--------|--------|---|---|
| 37. Structure (Not Otherwise ((Otherwise)) Defined in this Table) | X | X | X | S |
| 38. Trails & Trail Related Facilities | S((G)) | P((S)) | P | P |
| 39. Unclassified Use | C | C | C | C |
| 40. Utility Facility | X | S((G)) | S | S |
| 41. Utility-On-Site Sewage Facility | X | ((X))C | C | C |
| 42. Utility Line-Overhead | C | C | S | P |
| 43. Utility Line-Underground | C | C | S | S |
| 44. Wildlife Nesting Structure | P((S)) | P((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 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
- d. Wetland Mitigation Plan ** (see below)

- 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

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

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 whenever possible;
- 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.

PASSED AND ADOPTED THIS 1st DAY OF December, 1992.

Board of County Commissioners

Lawrence Gaydeski
Lawrence Gaydeski, Chair

Dorothy Duncan
Dorothy Duncan

Dave Cameron
Dave Cameron

ATTEST:

Karen Flores
Karen Flores
Clerk of the Board

cc: Community Development
Minutes
File