

Ordinance _____

An ordinance amending Clallam County Code, Chapter 35.01, Shoreline Management, in conjunction with the adoption of a new Clallam County Code Compliance Title

BE IT ORDAINED BY THE BOARD OF CLALLAM COUNTY COMMISSIONERS:

Section 1. Section .090 Rescission – Service of notice, is amended to read as follows:

(1) Any permit granted pursuant to this chapter may be rescinded or modified upon a finding by the Administrator that the permittee has not complied with the conditions of the permit.

~~— (2) The Administrator may initiate rescission using the “Notice and modification proceedings by serving written noticeOrders” provisions of none compliance on the permittee.~~

~~— (3) Public notice is not required but the Administrator shall make notification CCC Title <>, Code Compliance, and mailing copies of the rescission by U.S. Notice and Order by regular mail to the applicant, agencies, and interested parties to include adjacent property owners defined by Chapter 26.10 CCC.~~

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

Section 2. Section .110 Inspection, is amended to read as follows:

The Administrator may inspect properties as necessary to determine whether permittees have complied with conditions of their respective permits and, whenever there is reasonable cause to believe that development has occurred upon any premises in violation of the Shoreline Management Act of 1971 and this chapter, may enter upon such premises pursuant to the provisions of the “Right of entry and warrants” section of CCC Title <>, Code Compliance, at all reasonable times to inspect the same. ~~The Building Inspector or Administrator shall present proper credentials before requesting entry. If such premises are unoccupied, a reasonable effort shall be made to locate the owner or tenant and request entry. If a violation is confirmed, the Administrator shall then issue a notice and order to the owner or tenant of the premises advising such person(s) of any violations and requiring him to take whatever action is necessary to amend or mitigate the violation in order to comply with the Act and this chapter within thirty (30) days of receipt of the notice. Subsequently, the administrator shall also, where appropriate, seek legal sanctions by the Board as provided in this chapter and by the Clallam County Prosecuting Attorney as provided in CCC 35.01.130.~~

Section 3. Section .120 Revisions to shoreline permits, Paragraph (2) is amended to read as follows:

(2) Applications for revisions to shoreline permits shall be on a form prescribed by the ~~administrator~~ Administrator and shall be accompanied by a filing fee in the amount established under Chapter ~~3.305.100~~ CCC.

Section 4. Section .130 Criminal penalties – Civil liability, is amended to read as follows:

130. Enforcement.

~~(1) If a violation is confirmed, the Administrator shall initiate code compliance proceedings according to the provisions of CCC Title <>, Code Compliance, except to the extent the provisions~~

of said Code Compliance Title are preempted by state law as set forth in RCW 90.58.210, 90.58.220, 90.58.230, and WAC 173-27-240 through 173-27-300, as amended.

~~— (1) Any person found to have willfully engaged in activities on the shorelines of the County in violation of the Shorelines Management Act of 1971, the Shoreline Master Program, this chapter, rules or regulations adopted pursuant thereto shall be punished in accordance with RCW 90.58.210, 90.58.210, 90.58.220, 90.58.230, and WAC 173-27-270 through 173-27-300, as amended.~~

~~(2) Clallam County shall have the authority to serve a cease and desist order if any activity is determined to be a violation. The order shall include the following:~~

~~— (a) A description of the specific nature, extent and time of violation, including potential damage;~~

~~— (b) A notice that the violation, or potential violation cease and desist which may include specific corrective action to be taken within a given time. The notice of a possible gross misdemeanor may include a civil penalty of not less than \$25 nor more \$1,000 for each violation or each day of continued construction or development, 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 (5) year period shall not be less than \$500 nor more than \$10,000.~~

~~— (c) The notice and order shall be forwarded either by certified mail or personally delivered by Clallam County. The effective date shall be the date that the notice is received by the subject person. Any person occurring a penalty shall pay the penalty or shall apply in writing within thirty (30) days of receipt of the penalty to Clallam County for remission or mitigation of such penalty.~~

~~— (3) — The Clallam County Prosecuting Attorney shall bring such injunctive, declaratory, or other actions as are necessary to insure that no uses are made of the shorelines of the County in conflict with the provisions and programs of this chapter or the Shoreline Management Act of 1971, and to otherwise enforce the provisions of this chapter and the Shoreline Management Act of 1971.~~

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

(4) 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 that Clallam County may issue such permits to rectify or correct enforcement orders.

ADOPTED this _____ day of _____ 2007

BOARD OF CLALLAM COUNTY COMMISSIONERS

Stephen P. Tharinger, Chair

ATTEST:

Michael C. Chapman

Trish Holden, CMC, Clerk of the Board

Howard V. Doherty, Jr.