

**TITLE 3
LAND USE AND DEVELOPMENT
DIVISION 1, PLANNING ZONING REGULATIONS
CHAPTER 6 - GENERAL PROVISIONS AND EXCEPTIONS
SECTION 314-61.1**

STREAMSIDE MANAGEMENT AREA ORDINANCE

(a) Short Title

This section shall be known and cited as the “Streamside Management Area Ordinance of the County of Humboldt” (SMAO). In any administrative action taken by any public official under the authority of this code, the use of the term “Streamside Management Area Ordinance” or “SMAO”, unless further modified, shall also refer to and mean this section.

(b) Purpose

The purpose of this section is to provide minimum standards pertaining to the use and development of land located within Streamside Management Areas (SMAs) and other wet areas such as: natural ponds, springs, vernal pools, marshes, and wet meadows (exhibiting standing water year-long or riparian vegetation).

The purpose of establishing the standards are to:

- Create an Streamside Management Area ordinance within the zoning regulations of the County of Humboldt pursuant to the mandates of state law.
- Implement portions of the County’s General Plan policies and standards pertaining to open space, conservation, housing, water resources, biological resources, and public facilities.

(c) Relationship to Other Regulations

These regulations shall be in addition to regulations imposed by the principal zone, combining zone, development regulations, and other open space or resource protection regulations. Wherever the provisions of these regulations conflict with or are inconsistent in application with any other regulation, the most protective of natural resources shall apply.

(d) Scope of Application

This section shall be applicable to all development within or affecting SMAs or other wet areas within the unincorporated areas of the County and outside the Coastal Zone.

The provisions of this section shall be applicable to all development permits issued by the County pursuant to:

- (1) Title III, Land Use and Development, Division 1, Planning.

- (2) Title III, Land Use and Development, Division 2, Subdivision Regulations.
- (3) Title III, Land Use and Development, Division 3, Building Regulations.
- (4) Title IV, Streets and Highways, Division 1, Protection and Control of County Roads and Permits.

These regulations shall not apply to:

- (1) Routine maintenance activities associated with existing public or private facilities, defined as “activities to support, keep and continue in an existing state or condition without decline.” Routine activities include the replacement of culverts and related structures when conducted pursuant to a Department of Fish and Game Streambed Alteration Agreement.

For the purpose of these regulations, routine maintenance activities do not include:

- removal of trees with a diameter of 12 inches or greater (38-inch circumference), or
- removal of trees from within a contiguous or non-contiguous area of more than 6,000 square feet as measured under the tree canopy, or
- activities that could result in significant environmental impacts where the removal will:
 - be located within a streamside management or other wet area as defined in County regulations, or
 - occur on slopes greater than 15%, or
 - will expose more than 2,000 square feet of soil to erosion.

A site evaluation shall be made where necessary to determine if a project meets the exemption standards of these regulations or if the proposed development requires a special permit.

- (2) Grading and construction activities associated with onsite wells and sewage disposal systems for single-family dwellings which have received all required County and State permits; or
- (3) Any project where a complete application for grading or construction was accepted by the Community Development Services Department prior to April 25, 1995; or
- (4) To any construction or grading on property which was subdivided and subject to discretionary and environmental review by the County after the

effective date of the 1984 General Plan, January 2, 1985, and any subsequent and applicable Community Plans, if the Responsible Department has determined that all conditions of approval and specific mitigation requirements have been fully met; or

- (5) Development activities proposed and carried out under the provisions of the County Code Title III, Land Use and Development, Division 9, Mining Operations.
- (6) Timber harvest and management activities when approved and carried out consistent with the California Forest Practices Act. Activities which are not exempt from the local regulation pursuant to Public Resources Code Section 4516.4 are subject to these regulations. Permits are required for private roads within timber harvest areas where the proposed improvements are in excess of the minimum road standards required by the California Department of Forestry for timber harvesting activities.
- (7) The exemptions contained in Section 331-12.D.2., Grading, Excavation, Erosion and Sedimentation Control do not apply in SMAs or other wet areas.
- (e) Permit Required and Processing

All development as defined in the Framework Plan within or affecting SMAs or other wet areas not exempted under subsection (d) above shall require a permit pursuant to an application for development within SMAs or other wet areas and processed as a Special Permit pursuant to the Humboldt County Zoning Regulations (Section 312-3.1.1 et seq).

For those activities subject to these regulations and conducted by the County Department of Public Works, the Director of the Department (of Public Works) shall be responsible for the environmental review and public notice requirement, be empowered to approve and issue a special permit following the making of findings, be empowered to meet with and work out solutions with impacted parties, and be required to provide notice and staff support to the Planning Commission when a hearing is requested. The impacted parties shall have a mandatory meeting with the Department of Public Works in an attempt to work out any issues before a hearing is requested or an appeal to the Planning Commission is filed.

(f) Findings of Exception - Written Report

Where there is disputed evidence, or controversy, regarding a finding of exception, the Administrative Official shall issue a written report containing the evidence, or referencing the evidence, upon which a finding of exemption is made. Copies of the report shall be sent to CDFG or any person or group requesting such report in writing. Any person dissatisfied with the finding of exemption may request a formal review pursuant to Section 314-61.1(h).

(g) Definitions

Whenever the words listed below are used in the Zoning Regulations or other regulations related to the Streamside Management Area Ordinance, they shall have the following meaning:

- (1) “Grading” means all grading, filling, land contouring, clearing and grubbing, drainage activities, site preparation, and road building.
- (2) “CDFG” means the California Department of Fish and Game.
- (3) “Construction” means the erection or construction of, or addition to, any building or structure but shall not include the structural alteration, repair, remodeling, or demolition and reconstruction of and additions to any building or structure where the work would not increase the “footprint” of the building or structure. “Construction” does not include “minor additions” as defined in this section.
- (4) “Minor Additions” means an exception to these standards for additions to buildings or structures existing on April 25, 1995, of up to 500 square feet of floor area. From this date forward, any number of individual additions to an existing building or structure may be permitted provided the aggregated total increase in square footage for all changes does not exceed 500 square feet of floor area. A “minor addition” is not “construction” as defined in these standards. Note: Physical additions to a building or structure where a condition or a prior discretionary permit or subdivision approval indicated that any future additions would be prohibited are not minor additions as defined in these Implementation Standards.
- (5) “Project” means any “grading” or “construction” activities subject to the provisions of these standards.
- (6) “Streamside Management Areas” (SMAs) [section 3432(5) of the Humboldt County 1984 General Plan] shall be as defined in the Humboldt County General Plan (Page G-8) and includes, a natural resource area along both sides of streams containing the channel and adjacent land.
 - (a) In areas outside of Urban Development and Expansion Areas (as defined in the Humboldt County General Plan Page G-9), the outer boundaries for streams (which do not consist entirely of drainage ditch or other manmade drainage device, construction or system) shall be defined as:
 - (1) 100 feet, measured as the horizontal distance from the stream transition line (as defined in the Humboldt County General Plan Page G-8), on either side of perennial streams.

(2) 50 feet, measured as the horizontal distance from the stream transition line on either side of intermittent streams.

(b) In areas inside of Urban Development and Expansion Areas, the outer boundaries for streams (which do not consist entirely of a drainage ditch or other manmade drainage device, construction or system) shall be defined as:

(1) 50 feet, measured as the horizontal distance from the stream transition line on either side of perennial streams.

(2) 25 feet, measured as the horizontal distance from the stream transition line on either side of intermittent streams.

(c) Where necessary, as determined by the responsible department, the width of SMAs shall be expanded to include significant areas of riparian vegetation adjacent to the buffer area, slides and areas with visible evidence of slope instability, not to exceed 200 feet measured as a horizontal distance, as measured pursuant to subsection (a) or (b) above, as applicable.

(d) The Streamside Management Area may be reduced or eliminated where the County determines, based on specific factual findings, that:

(1) The USGS mapping of the stream as perennial or intermittent is not accurate, and typical stream flow can be shown to be less than that required to be classified as either perennial or intermittent, or,

(2) It will not result in a significant adverse impact to fish, wildlife, riparian habitat, or soil stability.

Such a determination will require a permit to be processed as a Special Permit pursuant to Section 312-3.1.1 et seq of the Zoning Regulations.

(7) Other Wet Areas [section 3432(10) of the 1984 General Plan], i.e., natural ponds, springs, vernal pools, marshes and wet meadows which exhibit standing water year-long or riparian vegetation. The existence of possible Other Wet Areas shall be identified by the responsible department using normal soils investigation criteria. These criteria indicate the presence of any of the following: standing water, evidencing a natural pond or poor drainage conditions, marshy soils, or hydrophilic vegetation (e.g., swamp grass).

(8) Wetlands - as defined in the California Department of Fish and Game Code Section 2785, Subdivision (g).

(h) Administration and Enforcement

The regulations of this section are to be administered and enforced by the respective Administrative or Enforcement Official designated by the Code for each section cited in subsection (d) above and hereinafter referred to as “Responsible Department.” In case of disagreement in the application of the regulations, the Director of the Community Development Services Department shall decide, subject to appeal to the Board of Supervisors pursuant to Section 312-13.

(i) Development Allowed

(1) Development within stream channels is limited to the following projects:

- (a) Fishery, wildlife, and aquaculture enhancement and restoration projects.
- (b) Road crossings consistent with subsection (j) below.
- (c) Flood control and drainage channels, levees, dikes and floodgates.
- (d) Mineral extraction consistent with other County regulations.
- (e) Small-scale hydroelectric power plants in compliance with applicable County regulations and those of other agencies.
- (f) Agricultural diversions and wells.
- (g) New fencing, so long as it would not impede the natural drainage or would not adversely effect the stream environment or wildlife.
- (h) Bank protection, provided it is the least environmentally damaging alternative.
- (i) Other essential public projects, including municipal groundwater pumping stations, provided they are the least environmentally damaging alternative, or necessary for the protection of the public’s health and safety.
- (j) Improvements to non-conforming uses and structures when consistent with Section 314-131 - 314-132 of the County Code and these regulations.

(2) Development within Streamside Management Areas shall be limited to the following:

- (a) Development permitted within stream channels.

- (b) Timber management and harvests not otherwise excluded by the Applicability Section as well as noncommercial cutting of firewood and clearing for pasturage, provided:
 - (1) Cottonwoods are retained.
 - (2) Remaining willows and alders, as well as other unmerchantable hardwoods or shrubs, are to be protected from unreasonable damage.
- (c) Road and bridge replacement or construction, where the length of the road within the SMA shall be minimized, and when it can be demonstrated that it would not degrade fish and wildlife resources or water quality, and that vegetative clearing is kept to a minimum.
- (d) Removal of vegetation for disease control or public safety purposes.
- (3) Bank Protection
 - (a) Protection measures for County river and stream banks may be permitted for the following purposes:
 - (1) Maintenance, replacement, or construction of necessary public or private roads;
 - (2) Maintenance, replacement, or construction of levees and dikes;
 - (3) Protection of principal structures in danger due to erosion;
 - (4) Protection of lands zoned AE, Agricultural Exclusive, from erosion.
 - (b) The bank protection measures which may be permitted are listed below in order of preference. The measures chosen for any bank protection project shall employ the highest ranking protection measure wherever feasible. The preference ranking for permitted protection measures shall be as follows:
 - (1) Piling fence;
 - (2) Rock hard points;
 - (3) Continuous revetment.

(j) Mitigation Measures

Mitigation measures for development within Streamside Management Areas shall, at a minimum, include:

- (1) Retaining snags unless felling is required by CAL-OSHA, or by California Department of Forestry forest and fire protection regulations, or for public health and safety reasons, approved by the appropriate County department. Felled snags shall be left on the ground if consistent with fire protection regulations as they have no economic value.
- (2) Retain live trees with visible evidence of use as nesting sites by hawks, owls, eagles, osprey, herons, or egrets.
- (3) Replanting of disturbed areas with riparian vegetation (including such species as alders, cottonwoods, willows, sitka spruce, etc.) shall be required unless natural regeneration does not occur within two years of the completion of the development project. The mitigation and monitoring report adopted as a part of project approval shall include an alternative regeneration plan in case natural regeneration is not successful.
- (4) Revegetation along channelized streams and other wet areas shall be required where the habitat has been converted to other uses. For development allowed within a Streamside Management or Other Wet Areas where the riparian habitat has been converted to other uses, the project shall be conditioned to require the development of new riparian or wetland habitat of an area equal to the area in which the development is to occur or, the area of an existing or proposed easement or right-of-way, whichever is larger.
- (5) Erosion control measures: As found within the Building Regulations, Section 331-12, Grading, Excavating, Erosion, and Sedimentation Control.

(k) Prohibited Activities

The following prohibitions pertain to all development and related activities within Streamside Management or Other Wet Areas within the County:

- (1) The discharge of soil, vegetation, or other organic or inorganic material from any development activity, except those authorized pursuant to the County's Streamside Management Area Ordinance, onsite or offsite, into any Streamside Management or Other Wet Area in quantities deleterious to fish, wildlife, or other beneficial uses is prohibited.
- (2) The placement of soil, vegetation, or other organic or inorganic material from any development activity, except those authorized pursuant to the County's Streamside Management Area Ordinance, onsite or offsite, where such material

could pass into any Streamside Management or Other Wet Area in quantities which could be deleterious to fish, wildlife, or other beneficial uses.

(l) Confirmation of Development Within SMAs and Other Wet Areas

As a part of a development application review, the Responsible Department shall check USGS maps, or other information available to the department, to determine if grading, construction, or other activity is proposed to be located within a SMA or other wet area.

A preliminary onsite inspection shall be performed prior to any grading, construction, or other development permit issuance to determine if the project area contains SMAs or other wet areas.

Where there is disputed evidence or controversy regarding the confirmation of development within SMAs or other wet areas, the Administrative Official shall issue a written report containing the evidence, or referencing the evidence, upon which the confirmation is made.

Copies of the report shall be sent to CDFG and to any person or group requesting such report in writing.

(m) Biological Report Required

An application proposing development activities within a SMA or Other Wet Area shall include a site-specific biological report prepared consistent with these regulations.

The written report prepared by a qualified biologist shall be referred to CDFG for review and comment. If no reply is received from CDFG within ten (10) working days of the date of the referral, it shall be assumed that the report satisfies CDFG requirements.

(n) Incorporation of Recommendations as Conditions

The recommendations contained within the written report shall be incorporated into any development permit as conditions of approval by the Responsible Department.

(o) Project Monitoring, Security, and Certificate of Completion

The monitoring of mitigation measures and reporting of monitoring activities made as conditions to any permit issued pursuant to this section shall be performed as specified in the project's adopted mitigation and monitoring plan.

No development permit final acceptance, certificate of compliance or certificate of occupancy, nor any further development permits shall be issued unless and until all initial mitigation measures are completed and accepted by the County.

Where a project is phased or where mitigation measures are to be monitored beyond an initial building, grading, or construction period, or where mitigation measures are required beyond this initial period, as described within the development permit, the permittee shall post a bond or equal security with the Responsible Department prior to commencing any grading or

construction activities. The amount of the bond or security is to be based upon the cost of performing the required mitigation measures, the related monitoring and report activities, and the County's administrative and processing costs.

Following a written notice to the permittee of a failure to complete or fully implement mitigation or monitoring measures within the time period specified within the permit conditions, the bond or other security may be forfeited and applied to the incomplete mitigation or monitoring measures at the discretion of the Responsible Department.

(p) Waiver of Procedures for Emergencies

The provisions of Section 312-15, Subsections 1-5, of the County Zoning regulations shall be followed in cases of emergencies. Following the issuance of an emergency development permit or variance, application shall be made and processed for the required development permit or variance in accordance with the applicable provisions of the County Code.

(q) Biological Report

Where a Biological Report is required by these regulations, the report shall be prepared by a qualified professional educated, trained, and experienced in the subject matter, and the report shall contain the following:

- Section I Summary of Findings and Conclusions
- Section II Introduction, Background, and Project Understanding
- Section III Methods
 - A. Field Observation and Studies
 - B. Trustee and Other Agency Consultation
 - C. Document and Report Review
 - D. Cumulative Biological and Watershed Effects
- Section IV Results and Discussion
 - A. Existing Site Conditions
 - 1. Terrestrial
 - 2. Hydrologic and Aquatic
 - 3. Sensitive Species or Habitats
 - B. Offsite Conditions
 - 1. Terrestrial
 - 2. Hydrologic and Aquatic
 - 3. Sensitive Species or Habitats
 - C. Development Effects
 - 1. Direct
 - 2. Indirect
 - 3. Cumulative

D. Recommended Mitigation and Monitoring Measures

Section V References

A. Plant Species Observed

B. Other Species Observed directly or indirectly (e.g. nests, scats, tracks, etc.)

C. Sensitive Species or Habitats in the Project Vicinity (listing)

(f) Mitigation and Monitoring Plan

When a mitigation or monitoring plan is required, information sufficient to answer all of the following is required:

- (1) Statement of project/mitigation goals – what do you want to create?
 - (a) Map and/or description of existing site conditions.
- (2) Schedule for implementation, inspection, and maintenance.
- (3) Description of site preparation; i.e., excavation, grading, stockpile of topsoil, etc.
- (4) Identify the planting material; i.e., cuttings, seedlings, seed, plugs, container size (source if not obtained from commercial nursery).
 - (a) Use of mulch and/or fertilizers.
 - (b) Description of plant preparation, if necessary; i.e., how cuttings were obtained, size, treatment with rooting hormone.
 - (c) Necessity for irrigation and/or fencing.
- (5) Performance Standards – how to measure success through defined criteria; i.e., number of viable species, cover values, height, growth, etc. For example:
 - (a) Year one – 80% tree species viable and achieving at least 4 inches of growth from initiation of planting.
 - (b) Year three – plugs of silverweed shall cover at least 30% of project site.
- (6) Monitoring Requirements – (standard is five years of monitoring).
 - (a) Conduct during June each year; however, may be modified if specific species are involved (i.e., annual that blooms in April).
 - (b) Photos.

- (7) Reporting – listing of appropriate agencies to receive copies of monitoring report.
- (8) Remedial Measures – plan shall include measures for mitigation not achieving specified performance criteria; i.e., replanting, irrigation, fencing, etc.