

526124

Amended by:
Ordinance #163
Repealed by #241

Ordinance No. 154, 1981

An ordinance to implement a County policy consistent with the State Environmental Policy Act of 1971 (RCW 43.21C) and the National Environmental Policy Act of 1969 that will: (1) Adopt policies of RCW 43.21C (The State Environmental Policy Act). (2) Establish administrative procedures for implementation of RCW 43.21C (The State Environmental Policy Act), and rules adopted pursuant to RCW 43.21C.110. (3) Establish decision making criteria for environmental review of County actions. (4) Establish enforcement procedures and penalties for violation, and (5) Repeal existing environmental policy ordinance.

BE IT ORDAINED BY THE BOARD OF CLALLAM COUNTY COMMISSIONERS:

Chapter 27.01

CLALLAM COUNTY ENVIRONMENTAL POLICY ORDINANCE

CLALLAM COUNTY ENVIRONMENTAL POLICY ORDINANCE

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* C.C.C. - Clallam County Code

** SEPA Guidelines (redbook) The Common name for the Washington Administrative Code 197-10

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C.C.C. 27.01.010 Policy

(1) Clallam County hereby adopts by reference the policies of the State Environmental Policy Act, as set forth in RCW 43.21C.010 and RCW 43.21C.020.

(2) Clallam County hereby ratifies and adopts by reference the authority of RCW 43.21C.060 to condition or deny governmental actions, including both public and private proposals requiring Clallam County action; such conditions or denials being based on specific adverse environmental impacts which are identified in the environmental documents prepared pursuant to this chapter and County policy referenced in this ordinance.

(3) Clallam County hereby exercises powers granted it by the Washington State Constitution, statutes of the State of Washington and the Clallam County Home Rule Charter and enacts this ordinance for the health, welfare and safety of the people of Clallam County. These powers also grant Clallam County the authority to condition or deny County actions.

C.C.C. 27.01.020 Definitions

(1) Clallam County hereby adopts WAC 197-10-040 (Definitions).

(2) "County Official". Any department head or elected official.

(3) "Environmental Clearance". The status given an activity when all requirements of the State Environmental Policy Act and this chapter have been satisfied.

(4) "Person" means an individual, corporation, governmental agency, business trust, partnership, association, two or more persons having a joint or common interest, or any other legal entity.

(5) "Responsible Official". The Clallam County Planning Director (or his designee;) or the Board of County Commissioners, through the review procedures of sections 27.01.050, 27.01.080 and 27.01.150 of this chapter.

C.C.C. 27.01.030 Criteria for Determination of When an Action is Categorically Exempt

(1) Clallam County hereby adopts:

WAC 197-10-060	Scope of a proposal and its impacts
WAC 197-10-160	No presumption of significance for non exempt actions
WAC 197-10-170	Categorical exemptions
WAC 197-10-175	Exemptions and non exemptions applicable to specific state agencies
WAC 197-10-180	Exemptions for emergency actions
WAC 197-10-190	Use and effect of categorical exemptions.

(2) The responsible official in applying the categorical exemptions in WAC 197-10-170 shall consider the likely environmental effects of a proposal to determine whether it is the type of routine activity to which the legislature intended these exemptions to apply.

C.C.C. 27.01.040 Categorical Exemptions - Procedure

(1) A determination of whether an action is categorically exempt shall be made by the responsible official.

(2) If the responsible official determines that the action is not categorically exempt due to the operation of C.C.C. 27.01.030, he shall so designate in writing, specifically stating what factors are found by him to constitute the reason by which the action is not categorically exempt.

(3) The determination of categorical exemption shall be made by the responsible official within seven (7) days of the filing of a complete application. The written determination shall be mailed to the applicant, the date of such mailing being the date of notice to the applicant of the determination on categorical exemption. Such notice shall also be given to interested County departments for processing.

(4) No permit shall be issued for an application which is determined by the Planning Director or his designee to be categorically exempt for a period of fourteen (14) days after the determination of the Planning Director, in order to allow review of the decision; provided, that such delay shall not apply to building and septic tank permits for single family residences and related accessory buildings.

(5) If it is finally determined that a proposal is exempt, no further procedural requirements of this chapter shall apply to the proposal.

C.C.C. 27.01.050 Categorical Exemptions - Review Procedures

(1) The determination of whether an action is categorically exempt may be reviewed by the Board of County Commissioners upon the filing of a request for review by any aggrieved person within fourteen (14) days of the date of determination by the Planning Director or his designee. The request for review shall be in writing and shall be made to the Clerk of The Board of County Commissioners.

(2) The Board of County Commissioners shall consider the request for review of the Planning Director's determination at their next regularly scheduled public meeting, after receipt of the request for review, and shall either affirm or reverse the decision of the Planning Director. The Board shall enter written findings of fact setting forth the reason for its decision.

C.C.C. 27.01.060 Lead Agency: Responsibilities and Designations

(1) Clallam County hereby adopts:

- WAC 197-10-200 Lead agency responsibilities
- WAC 197-10-203 Determination of lead agency procedures
- WAC 197-10-205 Lead agency designation governmental proposals
- WAC 197-10-210 Lead agency designation - proposals involving both private and public construction
- WAC 197-10-215 Lead agency designation - private projects for which there is only one agency
- WAC 197-10-220 Lead agency designation - private projects, licenses from more than one agency when one is City/County
- WAC 197-10-225 Lead agency designation - private projects, license from more than one state agency
- WAC 197-10-230 Lead agency designation - specific proposals
- WAC 197-10-235 Local agency transfer of lead agency status to a state agency
- WAC 197-10-240 Agreements as to lead agency status
- WAC 197-10-245 Agreements between agencies as to division of lead agency duties
- WAC 197-10-260 Dispute as to agency determination - resolution by C.E.P.
- WAC 197-10-270 Assumption of lead agency by another agency with jurisdiction
- WAC 197-10-345 Assumption of lead agency status by another agency with jurisdiction - prerequisite effect and form of notice

(2) The lead agency responsibilities of the County shall be carried out by the responsible official with the cooperation and assistance of all County departments.

(3) The responsible official shall make the threshold determination required pursuant to section 27.01.060 of this chapter, according to the procedures of that section; supervise the preparation of any required draft and final environmental impact statement; and perform any other functions assigned to the lead agency by the SEPA Guidelines or by this chapter.

C.C.C. 27.01.070 Threshold Determination; Environmental Checklists; Information Required from Applicant; Decisions Based on Threshold Determination

(1) Clallam County hereby adopts:

- WAC 197-10-300 Threshold determination requirement
- WAC 197-10-305 Recommended timing for threshold determination
- WAC 197-10-310 Threshold determination procedures - environmental checklist
- WAC 197-10-320 Threshold determination procedures - initial review of environmental checklist
- WAC 197-10-330 Threshold determination procedures - information in addition to checklist
- WAC 197-10-340 Threshold determination procedures - negative declarations
- WAC 197-10-350 Affirmative threshold determinations
- WAC 197-10-355 Form of declaration of significance/non significance
- WAC 197-10-360 Threshold determination criteria - application of environmental checklist
- WAC 197-10-365 Environmental checklist

WAC 197-10-370 Withdrawal of affirmative threshold determinaion
WAC 197-10-375 Withdrawal of negative threshold determination
WAC 197-10-390 Effect of threshold determination by lead agency

(2) Written notice specifying additional information required by WAC 197-10-330 will be provided by the responsible official within fifteen (15) working days of the receipt of the environmental checklist. Threshold determinations requiring further information from the applicant or, consultation with other agencies with jurisdiction shall be completed within fifteen (15) days of receiving the requested information from the applicant or the consulted agency; requests by the County for such further information shall be made within fifteen (15) days of the submission of an adequate application and completed checklist; when a request for further information is submitted to a consulted agency, the County shall wait a maximum of thirty (30) days for the consulted agency to respond.

(3) Nothing in the SEPA Guidelines shall be construed to preclude the County from denying or conditioning an application for a proposal in accordance with the procedures of RCW 43.21C.060.

(4) Except when the Shoreline Advisory Committee or Planning Commission is required to review a County action, the threshold decision of the responsible official shall be made within fifteen (15) working days of the receipt of the environmental checklist, the final date of a determination of nonexemption, or the receipt of additional information requested under subsection (2) above, whichever is later. For County projects, the determination shall be made within fifteen (15) working days of the submission of the final plans and specifications to the responsible official by the sponsoring County department.

(5) When the Shoreline Advisory Committee or Planning Commission is required to review and make recommendations on a County action, the Board of Commissioners shall be responsible for making the threshold determination. Both the Planning Director and the Planning Commission shall make recommendations to the Board regarding threshold determinations and actions to be taken. In cases where the Shoreline Advisory Committee or Planning Commission determines that the action will have a non significant impact, the threshold recommendations from the Shoreline Advisory Committee or Planning Commission and the Planning Director shall be transferred to the Board of Commissioners at the same time that all other recommendations regarding the action are transferred to the Board. In cases where the Shoreline Advisory Committee or Planning Commission recommends that the action will have significant environmental impact, the threshold recommendations of the Shoreline Advisory Committee or Planning Commission and the Planning Director shall be transferred to the Board of Commissioners within two (2) weeks of the advisory body's action. Where the Board determines that a declaration of significance is appropriate, the development of the environmental impact statement shall take place in accordance with the further provisions of this chapter.

(6) The decision of the responsible official shall be made in writing, specifically stating what factors are found to be determinative.

C.C.C. 27.01.080 Threshold Determinations: Review Procedures

(1) When making threshold determinations, the responsible official shall evaluate the environmental significance of a proposal, recognizing that all applicable, mandatory standards and mandatory mitigating conditions would be imposed as part of any approval for a proposed action.

(2) Any decision relating to a threshold determination made by the Planning Director or designee shall be reviewed by the Board of County Commissioners upon the filing of a request for review by an aggrieved person within thirty (30) days of the written decision of the Planning Director or designee. A request for review shall be in writing and shall be made to the Clerk of the Board of County Commissioners.

(3) The Board of County Commissioners at their next public meeting following receipt of the request for review, shall call for a public hearing and shall either affirm or reverse the decision of the Planning Director at the public hearing. The Board shall enter written findings of fact setting forth the reasons for its decisions.

(4) When a threshold determination is made by the Planning Director or designee, no permit may be issued until the 10 day review period shall have elapsed. If a proposed declaration of non significance is issued, no permit shall be issued for a 15 day period to allow for comment from other agencies with jurisdiction.

C.C.C. 27.01.090 Draft Environmental Impact Statements: Timing and Purpose, Contents and Procedure; Fees for County Preparation of Draft and Final

(1) Clallam County hereby adopts:

WAC 197-10-400	Duty to begin preparation of a draft EIS
WAC 197-10-405	Purpose and function of a draft EIS
WAC 197-10-410	Pre draft consultation procedures
WAC 197-10-425	Organization and style of a draft EIS
WAC 197-10-440	Contents of a draft EIS
WAC 197-10-442	Special considerations regarding contents of an EIS
WAC 197-10-444	List of elements of the environment
WAC 197-10-450	Public awareness of availability of draft EIS
WAC 197-10-455	Circulation of the draft EIS -- Review period
WAC 197-10-460	Specific agencies to which draft EIS shall be sent
WAC 197-10-465	Agencies possessing environmental expertise
WAC 197-10-470	Costs to the public for reproduction of environmental documents
WAC 197-10-495	Preparation of amended or new draft EIS

(2) The following additional information may be required by the Planning Director or designee to be a portion of the contents of the environmental impact statement if he finds that the additional information is necessary to determine social and economic consequences of the proposed action that are not remote or speculative. The information does not add to the criteria for threshold determinations:

- (a) Employment,
- (b) Economy,

- (c) Cultural factors,
- (d) Quality of life,
- (e) Neighborhood cohesion,
- (f) Sociological factors.

(3) The Planning Director or designee shall be responsible for the preparation of the draft environmental impact statement. The Planning Director or designee shall determine upon the basis of County resources available whether the draft and final EIS shall be prepared by the County or by a consultant. The Planning Director or designee may require the hiring of a consultant who must be acceptable to both the applicant and the County to complete the draft and final EIS. The applicant, if qualified, may act as a consultant.

(4) The Planning Director or designee shall manage the development and preparation of the draft of the Environmental Impact Statement as indicated by the SEPA Guidelines.

(5) The Planning Director may refuse to process and consider an application further if the applicant refuses or fails to provide information to the County which is required for the preparation of an adequate EIS within three (3) months of written notification of such requirements to the applicant. If the information involves special studies or is unusually complex where three months may not be sufficient time to collect the required information, the time limits may be extended in 90 day increments at the responsible official's discretion. If an applicant refuses to make the deposit required under subsection (6) of this section, or refuses to reimburse the County for expenses incurred on his behalf, the County shall refuse to continue with preparation or circulation of the draft or final environmental impact statement and all action on the development proposal action shall cease.

(6) When an EIS is to be prepared by the County, the applicant shall be required to reimburse the County for all actual expenses of preparation of the draft and final environmental impact statements. The applicant shall be required to make a deposit in an amount not less than Five Hundred Dollars (\$500) prior to the beginning of preparation of the EIS by the County, and the County shall take no action until that amount is deposited. Charges shall be billed to the applicant, and if the applicant fails to pay an amount billed within 30 days of billing, the amount of the bill shall be charged against the deposit and the County shall take no further action until the bill is paid.

C.C.C. 27.01.100 Public Hearings on Proposed Actions

Clallam County hereby adopts:

- WAC 197-10-480 Public hearing on the proposal - when required
- WAC 197-10-485 Notice of public hearing on environmental impact of the proposal
- WAC 197-10-490 Public hearing on the proposal - use of environmental document

C.C.C. 27.01.110 Responsibilities of Consulted Agencies

(1) Clallam County hereby adopts:

- WAC 197-10-500 Responsibilities of consulted agencies -- local agencies
- WAC 197-10-510 Responsibilities of consulted agencies -- state agencies with jurisdiction
- WAC 197-10-520 Responsibilities of consulted agencies -- state agencies with environmental expertise
- WAC 197-10-530 Responsibilities of consulted agencies -- when predraft consultation has occurred
- WAC 197-10-535 Cost of performance of consulted agency responsibilities
- WAC 197-10-540 Limitations on responses to consultation
- WAC 197-10-545 Effect of no written comment.

(2) The Planning Director or his designee shall carry out the County's responsibility as a consulted agency.

C.C.C. 27.01.120 Final EIS

(1) Clallam County hereby adopts:

- WAC 197-10-550 Preparation of the final EIS -- time period allowed
- WAC 197-10-570 Preparation of final EIS -- when no critical comments received on the draft EIS
- WAC 197-10-580 Preparation of the final EIS -- contents -- When critical comments received on draft EIS
- WAC 197-10-600 Circulation of the final EIS
- WAC 197-10-650 Effect of an adequate final EIS prepared pursuant to NEPA
- WAC 197-10-652 Supplementation by a lead agency of an inadequate final NEPA EIS
- WAC 197-10-660 Use of previously prepared EIS for a different proposed action
- WAC 197-10-690 Use of a lead agency's EIS by other acting agencies for the same proposal
- WAC 197-10-695 Draft and final supplements to a revised EIS
- WAC 197-10-700 No action for seven days after publication of the final EIS
- WAC 197-10-710 EIS combined with existing planning and review processes

(2) Written notice specifying the nature of additional information required by the responsible official to complete the Environmental Impact Statement shall be provided to the applicant within thirty (30) days of the close of the draft EIS circulation or the close of a public hearing on the draft EIS, whichever is later. If additional information is required from an applicant, the responsible official may refuse to process and consider further an application if the applicant fails or refuses to provide the information required within three months of written notification by the Planning Director. If the information involves special studies or is unusually complex where three months may not be sufficient time to collect the required information, the time limits may be extended in 90 day increments at the responsible official's discretion.

(3) When a final NEPA EIS has been prepared which deals with the proposed action and an action is required by the County, the responsible official in the County shall make a determination whether the NEPA EIS is adequate.

C.C.C. 27.01.130 Use of EIS for Official Action When no Advisory Committee is Involved in County Action

Subsequent to preparation and distribution of a final EIS, the Planning Director or his designee shall decide what conditions, if any, are necessary to mitigate and/or avoid adverse impacts of the proposal; or where unacceptable impacts cannot be adequately mitigated or avoided, the Planning Director or designee may deny the permit pursuant to RCW 43.21C.060. The Planning Director or designee must justify his decision in writing, based upon adverse impacts specifically identified in the environmental documents prepared pursuant to this chapter and the SEPA Guidelines. The decision for denial must be based upon expressed written findings and conclusions demonstrating:

Unavoidable adverse environmental impacts.

C.C.C. 27.01.140 Use of EIS for Official Action When the Shoreline Advisory Committee or Planning Commission is Involved

(1) Subsequent to preparation and distribution of a final EIS by the Planning Director or designee, the Shoreline Advisory Committee or Planning Commission shall recommend the imposition of reasonable conditions necessary to mitigate and/or avoid the identified adverse impacts of the proposal; or where the impacts cannot be mitigated or avoided, the Shoreline Advisory Committee or Planning Commission may recommend denial of the action pursuant to RCW 43.21C.060. The Shoreline Advisory Committee or Planning Commission must justify its recommendations in writing, based on adverse impacts specifically identified in the environmental documents prepared pursuant to this chapter and the SEPA Guidelines. The recommendation for denial must be based upon express written findings and conclusions, demonstrating:

Unavoidable adverse environmental impacts.

(2) The recommendations of the Shoreline Advisory Committee or Planning Commission shall be transferred to the Board of Clallam County Commissioners for final action at a public hearing. The Board shall consider the recommendations of the Advisory Committee and shall decide the County's most appropriate action. The Board may decide to do, but is not limited to, any of the following:

(a) Deny the application because of unavoidable adverse impacts described in the final environmental impact statement.

(b) Approve the application with conditions designed to mitigate or avoid identified adverse impacts of the proposal described in the final environmental impact statement.

(c) Approve without conditions.

(3) Whatever course of action the Board takes, it must base its decision on specific written findings of fact showing substantial consideration of material presented in the environmental impact statement including identified impacts and mitigating conditions.

C.C.C. 27.01.150 Use of EIS for Official Action: Review Procedures

(1) Any decision made by the Planning Director or his designee pursuant to section 27.01.090, 120 or 130, may be reviewed by the Board of Clallam County Commissioners upon filing of a request for review by an aggrieved person within thirty (30) days of the written decision of the Planning Director or his designee. A request for review shall be in writing and shall be made to the Clerk of the Board of County Commissioners.

(2) The Board of Clallam County Commissioners shall call for a public hearing at their next regularly scheduled meeting following receipt of the request for review, and shall either affirm or reverse the decision of the Planning Director within thirty (30) days of the first hearing at which the determination is considered. The Board of Clallam County Commissioners shall enter written findings of fact setting forth reasons for its decisions showing substantial consideration of material presented in the environmental impact statement including identified impacts and mitigating conditions.

C.C.C. 27.01.160 SEPA Public Information Center

(1) Clallam County hereby adopts:

WAC 197-10-831 Responsibilities of agencies -- SEPA public information

(2) The SEPA Public Information Center shall be the Clallam County Planning Department; and, the Planning Director shall be responsible for insuring that all environmental documents are transmitted and filed with the SEPA Public Information Center in proper order with the time limits established by this chapter and by the SEPA Guidelines.

C.C.C. 27.01.170 Public Notice and Statute of Limitations

(1) The Planning Director shall cause informal notice of any final action involving environmental clearance made by Clallam County to be published.

(2) Formal notice of action as provided for in 43.21C.080 may be published at the applicant's expense.

(3) Actions to set aside, enjoin, review or otherwise challenge any action by the County shall be brought within the time limits provided under RCW 43.21C.080.

(4) In the case of any subsequent actions on a project or activity for which notice was properly given and for which an environmental impact statement was previously approved, the County may utilize the same environmental impact statement for the subsequent action as long as there has been no substantial change in the project activity of affected area between the time of the original action and any subsequent actions. In such a case, the subsequent action or actions shall not be set aside, enjoined, reviewed or thereafter challenged on grounds of noncompliance with RCW 43.21C.030(c) or any County ordinance or rules implementing said Act.

C.C.C. 27.01.180 Enforcement Procedures

(1) Notice of all environmental clearance or actions shall be sent to the Building Department, along with any conditions that were part of such clearance or action. The Building Department shall then assume responsibility for performing inspections in conjunction with regular building or site inspections and procedures, to determine whether all requirements have been complied with.

(2) Once a violation of this ordinance is found to have occurred, a Notice of Violation shall be issued, specifically stating what constitutes the violation and advising that the violator may be subject to penalties for failure to comply with the ordinance.

(3) Notice of Violation shall be issued in two ways: posting the property where the violation is occurring, and by certified mail to the owner as shown on the Assessor's records. If the whereabouts of the violator is readily known, the violator shall be issued a Notice of Violation by certified mail.

(4) If the violation involves a structure or building, a Regulatory Order shall be posted thereon immediately upon issuance of the Notice of Violation. Notice of Violation shall be posted with the Regulatory Order. If a Regulatory Order is posted, copies of the Regulatory Order, along with copies of the Notice of Violation, shall also be sent to the Planning Department and the Prosecutor's Office by the Building Department.

(5) The Regulatory Order posted shall depend upon the violation occurring. Two Regulatory Orders can be used, a "Stop Work" Regulatory Order or a "Do Not Occupy" Regulatory Order. A "Stop Work" Regulatory Order shall be in writing and shall state that all persons shall forthwith stop work on the building or structure upon which it is posted. A "Do Not Occupy" Regulatory Order shall be in writing and shall state that all persons shall forthwith cease occupancy of the building or structure upon which it is posted. A "Stop Work" Regulatory Order shall be posted when construction is occurring and when conditions for environmental clearance have not been met or when no environmental clearance has been granted, provided however, that the "Stop Work" Regulatory Order shall not apply to construction efforts to complete improvements that have been required during environmental clearance.

A "Do Not Occupy" Regulatory Order shall be posted when a structure is already built, but conditions of environmental clearance have not been met or when no environmental clearance has been granted. Whenever a Regulatory Order is posted, it shall be complied with immediately after posting of such notice and shall remain in full force and effect until all of the provisions of this chapter have been fully complied with.

(6) The County Building Official shall be responsible for administration of all provisions of C.C.C. 27.01.180(2) through (5).

(7) The Clallam County Prosecuting Attorney may:

- (a) Bring a civil action to prevent any unlawful land use from occurring, to prevent its continuance, or to restrain and enjoin, correct or abate a violation of this ordinance, or permits hereunder.
- (b) Bring a civil action to abate any land use inconsistent with this ordinance or permits hereunder as a public nuisance and obtain such relief as may be appropriate.

C.C.C. 27.01.190 Penalty for Violation

Any person violating or failing to comply with a permit or permit decision hereunder, or any person failing to obtain environmental clearance required by this ordinance, shall be guilty of a misdemeanor. Conviction and fine does not relieve a violator from compliance with this code.

C.C.C. 27.01.200 Severability

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

C.C.C. 27.01.210 Repealer

The Clallam County Environmental Policy Ordinances #53 and #56 of 1974, relating to environmental policy and categorical exemptions are repealed effective as of the effective date of this ordinance.

C.C.C. 27.01.220 Effective Date

This chapter shall become effective 10 day after adoption.

PASSED AND ADOPTED THIS 8th DAY OF December, 1981.

BOARD OF CHALLAM COUNTY COMMISSIONERS

Dick Lotzgesell
Dick Lotzgesell, Chairman

Harry L. Lydiard
Harry L. Lydiard

Don Feeley
Don Feeley

Attest:

Karen Kirby
Clerk of the Board

CHALLAM COUNTY COMMISSIONERS
COUNTY CLERK
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