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Ordinance No. 241, 1984

An ordinance to implement a County policy consistent with the State Environmental Policy Act of 1971 (RCW 43.21C) 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 WAC 197-11-904. (3) Establish decision making criteria for environmental review of County actions. (4) Establish enforcement procedures and penalties for violation, and (5) Repeal the existing environmental policy ordinance.

BE IT ORDAINED BY THE BOARD OF CLALLAM COUNTY COMMISSIONERS:

Chapter 27.01

CLALLAM COUNTY ENVIRONMENTAL POLICY ORDINANCE

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PART ONE  
AUTHORITY

C.C.C. 27.01.010 Authority. The County of Clallam adopts this ordinance under the State Environmental Policy Act (SEPA), RCW 43.21C.120, and the SEPA Rules, WAC 197-11-904.

PART TWO  
GENERAL REQUIREMENTS

C.C.C. 27.01.020 Purpose of this part and adoption by reference. This part contains the basic requirements that apply to the SEPA process. Clallam County adopts the following SEPA RULES by reference:

|            |  |
|------------|--|
| 197-11-040 | Definitions.                               |
| 197-11-050 | Lead agency.                               |
| 197-11-055 | Timing of the SEPA process.                |
| 197-11-060 | Content of environmental review.           |
| 197-11-070 | Limitations on action during SEPA process. |
| 197-11-080 | Incomplete or unavailable information.     |
| 197-11-090 | Supporting documents.                      |
| 197-11-100 | Information required of applicants.        |

C.C.C. 27.01.030 Additional Definitions. In addition to those definitions contained within WAC 197-11-700 through 799, when used in this ordinance, the following terms shall have the following meanings, unless the context indicates otherwise:

(1) "Department" means any division, subdivision or organizational unit of the County established by ordinance, rule, or order.

(2) "Early notice" means the County's response to an applicant stating whether it considers issuance of a determination of significance likely for the applicant's proposal (mitigated DNS procedures).

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

(4) "License" means any form of written permission given by the County to any person, organization, or agency to engage in any activity, as required by law or agency rule. A license includes all or part of an agency permit, certificate, approval, registration, charter, or plat approvals or rezones to facilitate a particular proposal. The term does not include a license required solely for revenue purposes.

(5) "Responsible Official" as defined in WAC 197-11-788 shall refer to the planning director or his designee.

(6) "SEPA rules" means chapter 197-11 WAC adopted by the Department of Ecology implementing the State Environmental Policy Act (SEPA) as they exist or are hereafter amended.

C.C.C. 27.01.040 Designation of responsible official.

(1) For those proposals for which the County is lead agency, the responsible official shall be the County Planning Director or his designee provided that only the Planning Director may grant environmental clearances pursuant to this chapter.

(2) For all proposals for which the County is the lead agency, the responsible official shall make the threshold determination, supervise scoping and preparation of any required EIS, and perform any other functions assigned to the "lead agency" or "responsible official" by those sections of the SEPA rules that are adopted by reference in this chapter.

C.C.C. 27.01.050 Lead Agency Determination and Responsibilities.

(1) The responsible official shall determine the lead agency for proposals under WAC 197-11-050 and WAC 197-11-922 through WAC 197-11-940; unless the lead agency has been previously determined pursuant to RCW 43.21C or the responsible official is informed that another agency is in the process of determining the lead agency.

(2) When the County is the lead agency for a proposal, the responsible official shall supervise compliance with the threshold determination requirements, and if an EIS is necessary, shall supervise preparation of the EIS.

(3) When the County is not the lead agency for a proposal, all departments of the County shall use and consider, as appropriate, either the DNS or the final EIS of the lead agency in making decisions on the proposal. No County department shall prepare or require preparation of a DNS or EIS in addition to that prepared by the lead agency, unless required under WAC 197-11-600. The County may conduct supplemental environmental review under WAC 197-11-600.

(4) If the County or any of its departments receives a lead agency determination made by another agency that appears inconsistent with the criteria of WAC 197-11-922 through 197-11-940, it may object to the determination. Any objection must be made by the responsible official to the agency originally making the determination and resolved within fifteen days of receipt of the determination, or the County must petition the Department of Ecology for a lead agency determination under WAC 197-11-946 within the fifteen day time period. Any such petition on behalf of the County may be initiated by the responsible official. Resolution of the said inconsistent determination shall be by the Department of Ecology pursuant to WAC 197-11-946.

(5) The responsible official of the County is authorized to make agreements as to lead agency status or shared lead agency duties for a proposal under WAC 197-11-942 and 197-11-944:.

(6) The responsible official when making a lead agency determination for a private project shall require sufficient information from the applicant to identify which other agencies have jurisdiction over the proposal (that is: which agencies require nonexempt licenses).

(7) The responsible official upon review of a DNS may transmit to the initial lead agency a completed "Notice of Assumption of Lead Agency Status". This notice shall be substantially similar to the form in WAC 197-11-985. Assumption of lead agency status shall occur only within fifteen days of issuance of a DNS.

(8) Upon transmitting the DS and notice of assumption of lead agency status, the County shall become the "new" lead agency and shall expeditiously prepare an EIS. Provided, however, that the responsible official may issue a mitigated DNS, after assuming lead agency responsibility, pursuant to C.C.C. 27.01.090. In addition, all other responsibilities and authority of a lead agency under this chapter shall be transferred to the County as the new lead agency.

C.C.C. 27.01.060 Additional Considerations in Time Limits Applicable to the SEPA Process.

The following time limits (expressed in calendar days) shall apply when the County processes licenses for all private projects and those governmental proposals submitted to the County by other agencies:

(1) Categorical exemptions. The County shall identify whether an action is categorically exempt within four working days of receiving a completed application.

(2) Threshold determinations.

(a) The County should complete threshold determinations that can be based solely upon review of the environmental checklist for the proposal within fifteen days of the date an applicant's adequate application and completed checklist are submitted.

(b) When the responsible official requires further information from the applicant or consultation with other agencies with jurisdiction:

(i) The County should request such further information within fifteen days of receiving an adequate application and completed environmental checklist;

(ii) The responsible official should complete the threshold determination within fifteen days of receiving the requested information from the applicant or the consulted agency.

C.C.C. 27.01.070 Additional Timing Considerations.

(1) For nonexempt proposals, the DNS or Final EIS for the proposal shall accompany the County's staff recommendation to any appropriate advisory body, such as the Planning Commission.

(2) If the County's only action on a proposal is a decision on a building permit or other license that requires detailed project plans and specifications, the applicant may request in writing that the County conduct environmental review prior to submission of the detailed plans and specifications. However, the applicant must still apply for the required licenses(s) and submit plans detailed enough to accomplish adequate environmental review pursuant to this chapter.

PART THREE  
CATEGORICAL EXEMPTIONS AND  
THRESHOLD DETERMINATIONS

C.C.C. 27.01.080 Purpose of this part and adoption by reference. This part contains the rules for deciding whether a proposal has a "probable significant, adverse environmental impact" requiring an environmental impact statement (EIS) to be prepared. This part also contains rules for evaluating the impacts of proposals not requiring an EIS. Clallam County adopts the following SEPA RULES by reference, as supplemented in this part:

|            |   |
|------------|---|
| 197-11-300 | Purpose of this part.                                     |
| 197-11-305 | Categorical exemptions.                                   |
| 197-11-310 | Threshold determination required.                         |
| 197-11-315 | Environmental checklist.                                  |
| 197-11-330 | Threshold determination process.                          |
| 197-11-335 | Additional information.                                   |
| 197-11-340 | Determination of nonsignificance (DNS).                   |
| 197-11-350 | Mitigated DNS.  |
| 197-11-360 | Determination of significance (DS/initiation of scoping). |
| 197-11-390 | Effect of threshold determination.                        |

C.C.C. 27.01.090 Use of Exemptions.

(1) The responsible official shall determine whether the license and/or the proposal is exempt. The responsible official's determination that a license and/or proposal is exempt shall be final and not subject to administrative review. If a proposal is exempt, none of the procedural requirements of this ordinance apply to the proposal. The County shall not require completion of an environmental checklist for an exempt proposal.

(2) In determining whether or not a proposal is exempt, the responsible official shall make certain the proposal is properly defined and shall identify the governmental licenses required (WAC 197-11-060). If a proposal includes exempt and nonexempt actions, the responsible official shall determine the lead agency, even if the license application that triggers the responsible official's consideration is exempt.

(3) If a proposal includes both exempt and nonexempt actions, the responsible official may authorize exempt actions prior to compliance with the procedural requirements of this ordinance, except that:

(a) The responsible official shall not give authorization for:

(i) Any nonexempt action;

(ii) Any action that would have an adverse environmental impact;  
or

(iii) Any action that would limit the choice of alternatives.

(b) A County department or the responsible official may withhold approval of an exempt action that would lead to modification of the physical environment, when such modification would serve no purpose, if the nonexempt action(s) associated thereto were not approved; and

(c) A department or the responsible official may withhold approval of exempt actions that would lead to substantial financial expenditures by a private applicant when the expenditures would serve no purpose if the associated nonexempt action(s) were not approved.

C.C.C. 27.01.100 Environmental Checklist.

(1) A completed environmental checklist shall be filed at the same time as an application for a license or other non-exempt proposal; except, a checklist is not needed if the County and applicant agree an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency. The checklist shall be in the form of WAC 197-11-960.

(2) For private proposals, the County will require the applicant to complete the environmental checklist, providing assistance as necessary. For County proposals, the department initiating the proposal shall complete the environmental checklist for that proposal.

(3) The County may require that it, and not the private applicant, will complete all or part of the environmental checklist for a private proposal, if either of the following occurs:

(a) The County has technical information on a question or questions that is unavailable to the private applicant; or

(b) The applicant has provided inaccurate information on previous proposals or on proposals currently under consideration.

C.C.C. 27.01.110 Mitigated Determination of Non-Significance (MDNS)

(1) As provided in this section and in WAC 197-11-350, the responsible official may issue a determination of nonsignificance (DNS) based on conditions attached to the proposal by the responsible official or on changes to, or clarifications of, the proposal made by the applicant. This type of



determination shall herein after be referred to as a mitigated determination of non-significance (MDNS).

(2) As much as possible, the County should assist the applicant with identification of impacts to the extent necessary to formulate mitigation measures.

(3) When an applicant submits a changed or clarified proposal, along with a revised environmental checklist, the County shall base its threshold determination on the changed or clarified proposal and should make the threshold determination pursuant to requirements of this chapter.

(a) The applicant's proposed mitigation measures must be in writing and must be specific. For example, proposals to "control noise" or "prevent stormwater runoff" are inadequate, whereas proposals to "muffle machinery to X decibel" or "construct 200 foot stormwater retention pond at Y location" are adequate.

(b) The County shall review the amended application and make a threshold determination, issuing a DNS or DS as appropriate.

(4) Staff reports and other County approved studies analyzing the proposal shall be considered environmental documents as amendments to and part of the environmental checklist. Mitigation measures which justify issuance of a MDNS may be incorporated in the DNS by reference to agency staff reports, studies or other documents.

(5) When issuing a MDNS, the responsible official shall review the environmental checklist, staff reports, and other County approved studies concerning the proposal and issue an environmental clearance resolution stating conditions to be attached to the license to mitigate identified environmental impacts.

(6) Mitigation measures incorporated in the mitigated DNS shall be deemed conditions of approval of the permit decision and may be enforced in the same manner as any term or condition of the permit, or enforced in any manner specifically prescribed by the County.

(7) A mitigated DNS is issued under WAC 197-11-340(2), and requires a fifteen day comment period and public notice. No license may be issued until the appeal period required in C.C.C. 27.01.140(a) has elapsed or until an appeal made under that section has been completed by the Board of County Commissioners.

PART FOUR  
ENVIRONMENTAL IMPACT STATEMENT  
EIS

C.C.C. 27.01.120 Purpose of this part and Adoption by Reference. This part contains the rules for preparing environmental impact statements. Clallam County adopts the following SEPA RULES by reference, as supplemented by this part:

|            |  |
|------------|--|
| 197-11-400 | Purpose of EIS.                              |
| 197-11-402 | General requirements.                        |
| 197-11-405 | EIS types.                                   |
| 197-11-406 | EIS timing.                                  |
| 197-11-408 | Scoping.                                     |
| 197-11-410 | Expanded scoping.                            |
| 197-11-420 | EIS preparation.                             |
| 197-11-425 | Style and size.                              |
| 197-11-430 | Format.                                      |
| 197-11-435 | Cover letter or memo.                        |
| 197-11-440 | EIS contents.                                |
| 197-11-442 | Contents of EIS on nonproject proposals.     |
| 197-11-443 | EIS contents when prior nonproject EIS.      |
| 197-11-444 | Elements of the environment.                 |
| 197-11-448 | Relationship of EIS to other considerations. |
| 197-11-450 | Cost-benefit analysis.                       |
| 197-11-455 | Issuance of DEIS.                            |
| 197-11-460 | Issuance of FEIS.                            |

C.C.C. 27.01.130 Preparation of EIS - Additional Considerations.

(1) Preparation of draft and final EISs and SEISs is the responsibility of the responsible official. Before the County issues an EIS, the responsible official shall be satisfied that it complies with this ordinance and Chapter 197-11 WAC.

(2) The draft and final EIS or SEIS shall be prepared by County staff, or by a consultant selected by the County and the applicant. In all cases the responsible official shall determine who prepares the EIS and shall have approval authority over its contents. The applicant may prepare the statement if in the opinion of the responsible official he/she is qualified. If the responsible official requires an EIS for a proposal and determines that someone other than the County will prepare the EIS, the responsible official shall notify the applicant immediately after completion of the threshold determination. The responsible official shall also notify the applicant of the County's procedure for EIS preparation, including approval of the draft and final EIS prior to distribution.

(3) The responsible official may require an applicant to provide additional environmental or project description information, including specific investigations necessary to reasonably understand the proposal and its impacts and to enable the responsible official to make a well-reasoned environmental determination. However, the applicant is not required to supply information that is not required under this ordinance or that is being requested from another agency. (This does not apply to information the County may request under another ordinance or statute.)

C.C.C. 27.01.140 Additional Topics to be Covered in an EIS.

The following additional topics may be considered as part of the environment if deemed appropriate by the responsible official for the purposes of EIS content, but do not add to the criteria for threshold determinations or perform any other function or purpose under this ordinance:

- (1) Economic impact.
- (2) Cultural factors.
- (3) Social policy analysis.
- (4) Employment.
- (5) Quality of life.
- (6) Neighborhood Stability

PART FIVE  
COMMENTING

C.C.C. 27.01.150 Adoption by Reference. This part contains rules for consulting, commenting, and responding on all environmental documents under SEPA including rules for public notice and hearings. Clallam County adopts the following SEPA RULES by reference, as supplemented in this part:

|            |   |
|------------|---|
| 197-11-500 | Purpose of this Part.                             |
| 197-11-502 | Inviting comment.                                 |
| 197-11-504 | Availability and cost of environmental documents. |
| 197-11-508 | SEPA Register.                                    |
| 197-11-535 | Public hearings and meetings.                     |
| 197-11-545 | Effect of no comment.                             |
| 197-11-550 | Specificity of comments.                          |
| 197-11-560 | FEIS response to comments.                        |
| 197-11-570 | Consulted agency costs to assist lead agency.     |

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C.C.C. 27.01.160 Public Notice.

(1) Whenever Clallam County issues a DNS under WAC 197-11-340(2) or a DS under WAC 197-11-360(3) the county shall give public notice as follows:

(a) If public notice is required for a nonexempt license, the notice shall state whether a DS or DNS has been issued and when comments are due.

(b) If no public notice is required for the permit or approval, the County shall give notice of the DNS or DS by:

(i) Posting the property for site specific proposals and

(ii) Publishing notice in a newspaper of general circulation in the County, where the proposal is located;

(c) Whenever the County issues a DS under WAC 197-11-360(3), the County shall state the scoping procedure for the proposal in the DS as required in WAC 197-11-408.

(2) Whenever the County issues a draft EIS under WAC 197-11-455(5) or a supplemental EIS under WAC 197-11-620, notice of the availability of those documents shall be given by:

(a) indicating the availability of the DEIS in an public notice required for a nonexempt license; and

(b) Posting property for site specific proposals and

(c) Publishing notice in a newspaper of general circulation in the County where the proposal is located;

(3) Whenever possible, the County shall integrate the public notice required under this section with existing notice procedures for the County's nonexempt permit(s) or approval(s) required for the proposal.

(4) The County may require an applicant to complete the public notice requirements for the applicant's proposal at his or her expense.

C.C.C. 27.01.170 Designation of Official to Perform Consulted Agency Responsibilities for the County.

(1) The responsible official shall be responsible for responding to a consultation request on a threshold determination, scoping, or a draft EIS. Additionally, the responsible official shall be responsible for the County's compliance with WAC 197-11-550 and is authorized to develop operating procedures that will ensure that responses to consultation requests are prepared in a timely fashion and include data from all appropriate departments of the county.

PART SIX  
USING EXISTING ENVIRONMENTAL  
DOCUMENTS

C.C.C. 27.01.180 Purpose of this Part and Adoption by Reference. This part contains rules for using and supplementing existing environmental documents prepared under SEPA or National Environmental Policy Act (NEPA) for Clallam

County's own environmental compliance. Clallam County adopts the following SEPA RULES by reference:

|            |   |
|------------|---|
| 197-11-600 | When to use existing environmental documents.             |
| 197-11-610 | Use of NEPA documents.                                    |
| 197-11-620 | Supplemental environmental impact statement -- Procedures |
| 197-11-625 | Addenda -- Procedures.                                    |
| 197-11-630 | Adoption -- Procedures.                                   |
| 197-11-635 | Incorporation by reference -- Procedures.                 |
| 197-11-640 | Combining documents.                                      |

PART SEVEN  
SEPA AND AGENCY DECISIONS

C.C.C. 27.10.190 Purpose of this Part and Adoption by Reference. This part contains rules (and policies) for SEPA's substantive authority, such as decisions to mitigate or reject proposals as a result of SEPA. This part also contains procedures for appealing SEPA determinations to agencies or the courts. Clallam County adopts the following SEPA RULES by reference:

|            |                                       |
|------------|---------------------------------------|
| 197-11-650 | Purpose of this Part.                 |
| 197-11-655 | Implementation.                       |
| 197-11-660 | Substantive authority and mitigation. |
| 197-11-680 | Appeals.                              |

C.C.C. 27.01.200 Substantive Authority.

(1) The policies and goals set forth in this ordinance are supplementary to other County codes.

(2) The County may attach conditions to a license or for a proposal so long as:

(a) Such conditions are necessary to mitigate specific probable adverse environmental impacts identified in environmental documents prepared pursuant to the ordinance; and

(b) Such conditions are in writing; and

(c) The mitigation measures included in such conditions are reasonable and capable of being accomplished; and

(d) The County has considered whether other local, state, or federal mitigation measures applied to the proposal are sufficient or insufficient to mitigate the identified impacts; and

(e) Such conditions are based on one or more County SEPA policies specified in subsection (4) below and cited in the license or other decision document.

(3) The County may deny a license or approval for a proposal on the basis of SEPA so long as:

(a) A finding is made that approving the proposal would result in probable significant adverse environmental impacts that are identified in a final EIS or final supplemental EIS prepared pursuant to this ordinance; and

(b) A finding is made that there are no reasonable mitigation measures capable of being accomplished that are sufficient to mitigate the identified impact; and

(c) The denial is based on one or more SEPA policies identified in subsection (4) below and identified in writing in the decision document.

(4) The County designates and adopts by reference the following SEPA policies as the basis for the County's exercise of authority pursuant to subsections 2 and 3 of this section.

(a) The County shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and its citizens may:

(i) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(ii) Assure for all people of Washington safe, healthful, productive, and aesthetically and culturally pleasing surroundings;

(iii) Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(iv) Preserve important historic, cultural, and natural aspects of our national heritage;

(v) Maintain, wherever possible, an environment which supports diversity and variety of individual choice;

(vi) Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

(vii) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(b) Clallam County recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

(c) The County adopts by reference, as SEPA policies, the policies in the following County codes and state and federal laws: C.C.C. 31, County

Comprehensive Land Use Plan; C.C.C. 33, Zoning Ordinance; C.C.C. 29, Subdivision Ordinance; C.C.C. 27.08, Open Space Ordinance; C.C.C. 32, Floodplain Management Ordinance; C.C.C. 35, Shoreline Master Program; CCHR 2 Solid Waste; CCHR 4, Sewage Disposal; C.C.C. 15.02, Assembly Ordinance; Clallam County six year road program; Clallam County Park plan; RCW 19.27 State Uniform Building and Fire Codes; RCW 90.48, Water Pollution Control Act; RCW 90.52, Pollution Disclosure Act of 1971; RCW 90.54, Water Resources Act 1971; RCW 90.58, Shoreline Management Act of 1971; RCW 70.93, Model Litter Control and Recycling Act; RCW 70.94, Washington Clean Air Act; RCW 70.95, Solid Waste Management - Recovery and Recycling; RCW 70.105, Hazardous Waste Disposal; RCW 70.105A, Hazardous Waste Regulations; RCW 70.107, Noise Control;

Each condition based on state law shall reference said law and shall be accomplished pursuant to the state administration mechanisms established to implement such law.

(d) The County establishes the following additional policies:

Clallam County shall apply any mitigation conditions necessary to mitigate identified adverse environmental impacts associated with license applications. Further, if impacts cannot be adequately mitigated as specified in an EIS, Clallam County may deny the license application based upon these impacts. In implementation of this policy for each individual license application Clallam County shall review all of the elements of the environment listed in WAC 197-11-444 and shall attempt to apply conditions as appropriate to mitigate identified adverse environmental impacts under all elements of the environment. Mitigation conditions may include but shall not be limited to:

Timing and scheduling of construction and operation, modification of site design, project design or location, modification of the physical environment, installation of physical and vegetation improvements, installation of pollution abatement equipment or safety equipment or improvements, providing of or upgrading of on and off-site infrastructure improvements, conditions for the preservation or protection of specified habitat and species of flora and fauna, mitigation of pollution sources, provision for buffers and open spaces, site restoration, provision for lot owners or homeowners maintenance associations.

(5) When any license is conditioned or denied on the basis of SEPA by the responsible official, the decision shall be appealable to the County Commissioners as provided in C.C.C. 27.01.210.

C.C.C. 27.01.210 Appeals. (1) Clallam County establishes the following administrative appeal procedures under RCW 43.21C.075 and WAC 197-11-680:

(a) Any agency or person may appeal the County's procedural compliance with Chapter 197-11 WAC for issuance of the following:

(i) A final DNS: Appeal of the DNS, or the MDNS must be made to the Board of Clallam County Commissioners within 15 days of the date the responsible official issues environmental clearance on a license or proposal.

(ii) A DS: The appeal must be made to the Board of County Commissioners within 30 days of the date the DS is issued.

(iii) A Final EIS: Appeal of the final EIS, substantive determination on the action or both must be made to the Board of County Commissioners within 15 days of the date the responsible official issues environmental clearance on a license or proposal.

(b) All appeals under this section shall be in writing and shall be made to the Clerk of the Board of County Commissioners. The appeal shall state specifically the environmental issues that are the subject of the appeal focusing in on the specific inadequacies of the particular decision under dispute. The appeal shall be limited to environmental issues only.

(c) The Board of Clallam County Commissioners shall call for a public hearing at their next regularly scheduled meeting following receipt of the appeal and shall either affirm or reverse the decision of the responsible official within thirty (30) days of the first hearing at which the determination is considered. Testimony at the public hearing shall be limited to environmental impacts.

(d) If the Board of Commissioners reverses the responsible official determination, it may:

(i) remand the decision back to the responsible official requiring that specific impacts be reconsidered.

(ii) modify the decision of the responsible official.

Whichever courses of action the Board of Commissioners takes, the Board shall enter written findings of fact setting forth reasons for its decision showing substantial consideration of material presented in available environmental documents (checklist, EIS and staff reports) including identified impacts and mitigating conditions and in the environmental analysis presented by staff at the public hearing. The Board's action shall be subject to the same decision making criteria set forth in this chapter for the responsible official.

(e) For any appeal under this subsection, the County shall provide for a record that shall consist of the following:

- (i) Findings and conclusions:
- (ii) Testimony under oath; and
- (iii) A taped or written transcript.

(f) The County may require the appellant to provide an electronic transcript.

(g) The procedural determination by the County's responsible official shall carry substantial weight in any appeal proceeding.



(2) The County shall give official notice pursuant to WAC 197-11-680(4) and (5) whenever it issues a license or project approval for which a statute or ordinance exists which establishes a time limit for commencing judicial appeal.

C.C.C. 27.10.220 Notice/Statute of Limitations.

(1) The County, applicant for, or proponent of an action may publish a notice of action pursuant to RCW 43.21C.080 for any action.

PART EIGHT  
DEFINITIONS

C.C.C. 27.01.230 Purpose of this Part and Adoption by Reference. This part contains uniform usage and definitions of terms under SEPA. Clallam County adopts the following SEPA RULES by reference, as supplemented by WAC 173-806-040:

|            |   |
|------------|---|
| 197-11-700 | Definitions.                            |
| 197-11-702 | Act.                                    |
| 197-11-704 | Action.                                 |
| 197-11-706 | Addendum.                               |
| 197-11-708 | Adoption.                               |
| 197-11-710 | Affected tribe.                         |
| 197-11-712 | Affecting.                              |
| 197-11-714 | Agency.                                 |
| 197-11-716 | Applicant.                              |
| 197-11-718 | Built environment.                      |
| 197-11-720 | Categorical exemption.                  |
| 197-11-722 | Consolidated appeal.                    |
| 197-11-724 | Consulted agency.                       |
| 197-11-726 | Cost-benefit analysis.                  |
| 197-11-728 | County/city.                            |
| 197-11-730 | Decisionmaker.                          |
| 197-11-732 | Department.                             |
| 197-11-734 | Determination of nonsignificance (DNS). |
| 197-11-736 | Determination of significance (DS).     |
| 197-11-738 | EIS.                                    |
| 197-11-740 | Environment.                            |
| 197-11-744 | Environmental document.                 |
| 197-11-748 | Environmentally sensitive area.         |
| 197-11-752 | Impacts.                                |
| 197-11-756 | Lands covered by water.                 |
| 197-11-758 | Lead agency.                            |
| 197-11-760 | License.                                |
| 197-11-762 | Local agency.                           |
| 197-11-766 | Mitigated DNS.                          |
| 197-11-768 | Mitigation.                             |
| 197-11-770 | Natural environment.                    |
| 197-11-772 | NEPA.                                   |
| 197-11-774 | Nonproject.                             |

197-11-776 Phased review.  
 197-11-778 Preparation.  
 197-11-780 Private project.  
 197-11-782 Probable.  
 197-11-784 Proposal.  
 197-11-786 Reasonable alternative.  
 197-11-788 Responsible official.  
 197-11-790 SEPA.  
 197-11-792 Scope.  
 197-11-793 Scoping.  
 197-11-794 Significant.  
 197-11-796 State agency.  
 197-11-797 Threshold determination.  
 197-11-799 Underlying governmental action.

PART NINE  
 CATEGORICAL EXEMPTIONS

C.C.C. 27.01.240 Adoption by Reference. Clallam County adopts by reference the following rules for categorical exemptions, as supplemented in this ordinance, C.C.C. 27.01.090 (Use of exemptions), and C.C.C. 27.01.290 (Environmentally sensitive areas):

197-11-800 Categorical exemptions.  
 197-11-880 Emergencies.  
 197-11-890 Petitioning DOE to change exemptions.

PART TEN  
 FORMS

C.C.C. 27.01.250 Adoption by Reference. Clallam County adopts the following forms and sections by reference:

197-11-960 Environmental checklist.  
 197-11-965 Adoption notice.  
 197-11-970 Determination of nonsignificance (DNS).  
 197-11-980 Determination of significance and scoping notice (DS).  
 197-11-985 Notice of assumption of lead agency status.  
 197-11-990 Notice of action.

PART ELEVEN  
 ENFORCEMENT

C.C.C. 27.01.260 Enforcement Procedures

(1) Notice of all environmental clearance or actions shall be sent to the Building Official, along with any conditions that were part of such clearance or

action. The Building Official shall then assume responsibility for performing inspections in conjunction with regular building permit related 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) If the violation involves a structure or building, a Regulatory Order shall be posted thereon. If a Regulatory Order is posted, copies of the Regulatory Order, shall be sent to the Planning Department and the Prosecutor's Office by the Building Department.

(4) 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.

(5) The County Building Official shall be responsible for administration of all provisions of C.C.C. 27.01.260(2) through (4).

(6) 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. 27.01.270 Penalty for Violation

Any person violating or failing to comply with this chapter or actions approved pursuant to this chapter, shall be guilty of a misdemeanor. Conviction

of a violation and payment of fine hereunder does not relieve a violator from compliance with this code.

PART TWELVE  
AGENCY COMPLIANCE

C.C.C. 27.01.280 Purpose of This Part and Adoption by Reference. This part contains rules for agency compliance with SEPA, including rules for charging fees under the SEPA process, designating environmentally sensitive areas, listing agencies with environmental expertise, selecting the lead agency, and applying these rules to current agency activities. Clallam County adopts the following SEPA RULES by reference:

- 197-11-900 Purpose of this Part.
- 197-11-902 Agency SEPA policies.
- 197-11-916 Application to ongoing actions.
- 197-11-920 Agencies with environmental expertise.
- 197-11-922 Lead agency rules.
- 197-11-924 Determining the lead agency.
- 197-11-926 Lead agency for governmental proposals.
- 197-11-928 Lead agency for public and private proposals.
- 197-11-930 Lead agency for private projects with one agency with jurisdiction.
- 197-11-932 Lead agency for private projects requiring licenses from more than one agency, when one of the agencies is county.
- 197-11-934 Lead agency for private projects requiring licenses from a local agency, not a county/city, and one or more state agencies.
- 197-11-936 Lead agency for private projects requiring licenses from more than one state agency.
- 197-11-938
- 197-11-940 Transfer of lead agency status to a state agency.
- 197-11-942 Agreements on lead agency status.
- 197-11-944 Agreements on division of lead agency duties.
- 197-11-946 DOE resolution of lead agency disputes.
- 197-11-948 Assumption of lead agency status.

C.C.C. 27.01.290 Environmentally Sensitive Areas.

(1) Clallam County shall designate environmentally sensitive areas under the standards of WAC 197-11-908 and shall file maps designating such areas, together with the exemptions from the list in WAC 197-11--908 that are inapplicable in such areas, with the County Auditor and the Department of Ecology, headquarters office, Olympia, Washington. The environmentally sensitive area designations shall have full force and effect of law as of the date of filing.

(2) The County shall treat nonexempt proposals located wholly or partially within an environmentally sensitive area no differently than other proposals under this ordinance, making a threshold determination for all such proposals. The County shall not automatically require an EIS for a proposal merely because it is proposed for location in an environmentally sensitive area.

(3) Certain exemptions do not apply on lands covered by water, and this remains true regardless of whether or not lands covered by water are mapped.

C.C.C. 27.01.300 Fees.

The County shall require fees for its environmental evaluation activities in accordance with the provisions of C.C.C. 3.30

(1) Threshold determination. For every environmental checklist the County will review when it is lead agency, the County shall collect a fee pursuant to C.C.C. 3.30 from the proponent of the proposal prior to undertaking the threshold determination. The time periods provided by this ordinance for making a threshold determination shall not begin to run until payment of the fee. When the County completes the environmental checklist at the applicant's request or under Section 27.01.090(3) of this ordinance, an additional fee as provided in C.C.C. 3.30 shall be collected.

(2) In the majority of cases most of the County's cost in making a threshold determination will be covered by the normal checklist fee. However, in some cases where impacts are more significant and varied, the research and analysis required may become more costly and regular costs do not adequately cover the County's expenses in consideration of the applications. This is particularly true when expanded environmental checklists or extensive addendums to the checklist are developed and submitted for an application for a license. In cases where such applications are submitted, Planning Department time involved in review of the application may become extensive. When expanded checklists or applications with extensive addendums are submitted or when a checklist application and related project takes more than 8 work hours to review and analyze, an additional fee shall be collected as provided by C.C.C. 3.30.20.

(3) Environmental impact statement.

(a) When the County is the lead agency for a proposal requiring an EIS and the responsible official determines that the EIS shall be prepared by employees of the County, the County may charge and collect a reasonable fee from the project proponent to cover costs incurred by the County in preparing the EIS. The responsible official shall advise the applicant(s) of the projected costs for the EIS prior to actual preparation; the applicant shall post bond or remit payment of such costs pursuant to C.C.C. 3.30.

(b) The responsible official may determine that the County will contract directly with a consultant for preparation of an EIS, or a portion of the EIS, for activities initiated by a person or agency other than the County and may bill such costs and expenses directly to the applicant. Such consultants shall be selected by mutual agreement of the County and applicant after a call for proposals. The County may require the applicant to post bond

or remit payment of such costs prior to the consultant beginning work on the preparation of the EIS.

(c) If a proposal is modified so that an EIS is no longer required, the responsible official shall refund any fees collected under (a) or (b) of this subsection which remain after incurred costs are paid pursuant to C.C.C. 3.30 and C.C.C. 27.01.170(2).

(4) The County may collect a reasonable fee from an applicant to cover the cost of meeting the public notice requirements of this ordinance relating to the applicant's proposal.

(5) The County shall not collect a fee for performing its duties as a consulted agency.

(6) The County may charge any person for copies of any document prepared under this ordinance, and for mailing the document, in a manner provided by Chapter 42.17 RCW.

C.C.C. 27.01.310 Adoption of Washington Administrative Codes

This ordinance refers to specific sections of the Washington Administrative Code. These references are intended to adopt the regulation in its current form and any future amendments thereto.

C.C.C. 27.01.320 Effective Date

This chapter shall become effective 10 days after adoption.

C.C.C. 27.01.330 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. 27.01.340 Repealer

The Clallam County Environmental Policy Ordinances #55 and #56 of 1974 and 154 of 1981, relating to environmental policy and categorical exemptions are repealed effective as of the effective date of this ordinance.

PASSED AND ADOPTED THIS 18<sup>th</sup> DAY OF September, 1984.

BOARD OF CLALLAM COUNTY COMMISSIONERS

*Don Feeley*

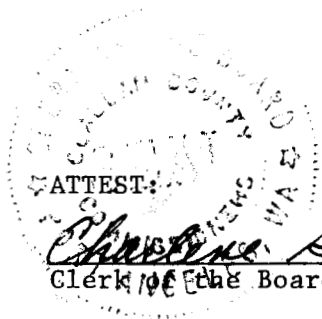
Don Feeley, Chairman

*Lawrence Gaydeski*

Lawrence Gaydeski

*Evan Jones*

Evan Jones



*County Commissioners*

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