

Ordinance No. 461, 1992

An Ordinance of the Board of County Commissioners of Clallam County adding a new chapter covering issues relating to the "Right to Practice Forestry, Mining and Agriculture" to Title 27 of the Clallam County Environment Code.

((All new material shall be underlined, material deleted shall be placed in double parentheses and scored through; all changed material is shown with a revision bar in the outside margin.))

CHAPTER 27.10

RIGHT TO PRACTICE FORESTRY, MINING AND AGRICULTURE

Section 27.10.010 Forest, Mining and Agricultural Operations are Favored Land Uses Within Clallam County Forestry, mining and agricultural activities, operations, facilities or appurtenances thereof, operating in a forestry zone or an agricultural cluster zone or a designated mining site within a Mining Overlay Zone are favored land uses in Clallam County. As long as these uses are allowed under Clallam County Code Title 33 and are conducted or maintained in a manner consistent with current best management practices and do not violate local, State or Federal regulations they shall not be considered a nuisance or be declared a nuisance as defined in Clallam County Code. This protection will be effective regardless of past or future changes in the surrounding area's land use or zoning designation.

Section 27.10.020 Disclosure.(1) The statement set forth in subsection (2) ("Disclosure") shall be used under the following circumstances and in the following manners:

- (a) Clallam County shall mail a copy of the Disclosure, with an explanatory informational attachment to all owners of real property in Clallam County with the annual tax bill; provided that no liability shall attach to Clallam County for any actions or omissions under this subsection.
- (b) Prior to recording the transfer of real property by sale, exchange, gift, real estate contract, lease with an option to purchase, any other option to purchase, or any other means of transfer, a statement containing the language set forth in subsection (2) shall be recorded in the County Auditor's office in conjunction with the deed conveying the real property; provided, however, that the real property includes or is within six hundred feet of real property zoned as a Commercial Forest Zone, Commercial Forest/Residential Mixed Use Zone, Agricultural Cluster Zone, any other Forestry zone or as a designated mineral resource site as set forth in Clallam County Code Title 33.

(c) Upon the issuance of a development permit, including but not limited to subdivision permits and use permits, for use on or within 600 feet of lands zoned for forestry, agricultural operations or designated mining sites within a Mineral Overlay District or lands used for forestry, mining or agricultural operations, the discretionary development permit shall include a condition that the owners of the property shall be required to sign a statement of acknowledgement containing the Disclosure (2) on forms provided by the Clallam County Department of Community Development, which form shall then be recorded in the County Auditor's Office.

(2) The following shall constitute the disclosure required by this section:

If your real property is within 600 feet of property used for forestry, mining or agricultural operations or included within an area zoned for forestry or agricultural purposes or as a designated mining site, you may be subject to inconveniences or discomforts arising from such operations, INCLUDING BUT NOT LIMITED TO NOISE, TREE REMOVAL, ODORS, INSECTS, FUMES, DUST, SMOKE, THE OPERATION OF MACHINERY OF ANY KIND DURING ANY 24 HOUR PERIOD (INCLUDING AIRCRAFT), THE STORAGE AND DISPOSAL OF MANURE, AND THE APPLICATION BY SPRAYING OR OTHERWISE OF CHEMICAL FERTILIZERS, SOIL AMENDMENTS, HERBICIDES AND PESTICIDES. Clallam County has determined that the use of real property for forestry, mining or agricultural operations is a high priority and favored use to the County and will not consider to be a nuisance those inconveniences or discomforts arising from forestry, mining or agricultural operations, if such operations are consistent with commonly accepted best management practices and comply with local, State and Federal laws. HOWEVER, THOSE ACTIVITIES WHICH ARE NOT RELATED TO NORMAL FORESTRY, MINING OR AGRICULTURAL OPERATIONS OR WHICH DO NOT FOLLOW BEST MANAGEMENT PRACTICES, AS DEFINED IN THE FOREST PRACTICES ACT, THE SURFACE MINING ACT OR THE CLALLAM COUNTY CONSERVATION DISTRICT FOR AGRICULTURAL PRACTICES, ARE NOT PROTECTED UNDER THE PROVISIONS OF THIS ORDINANCE.

Section 27.10.030 **Local Improvement Districts.** No forestry or agricultural activity, operation, facility or appurtenances thereof, regardless of past or future changes in the surrounding area's land use or zoning designation, shall be included in or taxed for improvements which do not directly benefit the use of the property for forestry or agricultural purposes.

Section 27.10.040 **Enforcement.** It shall be the duty of the Director of the Department of Community Development or his designee to enforce this chapter through the proper legal channels. Enforcement of Section 27.10.020(b) will become effective when the Clallam County Department of Community Development records a list of properties affected by this provision with the county auditor and delivers a copy of this list to every title company in Clallam County.

Section 27.10.050 **Penalty.** Any person, firm, or corporation who violates this chapter or does not comply with an administrative order to abate the violation shall be punished by a fine of not less than \$25.00 or more than \$500.00. Each day that a violation is permitted to exist may constitute a separate offense.

Section 27.10.060 **Severability.** If any section, subsection, sentence, clause or phrase of this Chapter is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, it shall not affect the remaining portions of the ordinance.

Section 27.10.070 **Precedence.** This ordinance shall take precedence over all ordinances or parts of ordinances or resolutions or parts of resolutions in conflict herewith and to the extent they do conflict with this ordinance they are hereby repealed with the respect to the conflict and no more.

PASSED AND ADOPTED THIS 21 DAY OF April, 1992.

BOARD OF COUNTY COMMISSIONERS:

Lawrence Gaydeski
Lawrence Gaydeski, Chair

Dorothy Duncan
Dorothy Duncan

Dave Cameron
Dave Cameron

ATTEST:

Karen Flores
Karen Flores
Clerk of the Board
04/21/92

cc: Community Development
Prosecutor (3)
Minutes
File