

Ordinance No. 586, 1996

An ordinance adopting procedures for intergovernmental coordination between Clallam County and State and Federal agencies managing natural resources in the County.

BE IT ORDAINED BY THE BOARD OF CLALLAM COUNTY COMMISSIONERS:

((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 inside margin.))

Chapter 27.01
Clallam County Environmental Policy

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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 and to intergovernmental coordination of natural resource issues. 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.

(1) By June 1 of each year, the Board shall notify state and federal agencies managing land, water, wildlife, or other natural resources within the Clallam County of its interest in early and full participation in decision-making for major plans, regulations, policies, or other actions affecting lands of the County. Such notification shall be directed to those offices having direct local responsibilities as well as other administrative offices at the district, regional or headquarters level, as appropriate. These notices shall specifically:

- (a) Reference specific projects or issues of interest whenever appropriate.
- (b) Outline the basis for County interest.
- (c) Request that each agency respond by listing any pending or anticipated projects, policies, plans, regulations, or other actions affecting natural resources in the County.

(2) From responses to the above notices and from any other sources of information, the Board shall establish priorities for County involvement, and direct the Department of Community Development to notify agencies of County interest and desire to:

- (a) Review draft documents.
- (b) Participate in formal and informal discussions prior to decision-making.
- (c) Be notified of and invited to participate in public hearings.
- (d) Hold any public meetings and/or hearings in Clallam County.
- (e) Participate fully in any NEPA determinations pertaining to the management of natural resources of the County.

(3) The County shall pro-actively utilize available information sources such as the Federal Register, or computer networks, as fully as time and resources allow, to identify and track issues and opportunities for local involvement in federal land management issues.

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) "Aggrieved Party" means those parties with standing to bring action on appeals and is limited to the following parties: a) The applicant or owner of property on which a development is proposed; b) Any person entitled to special notice of development proposals on the underlying governmental action; c) Any person who deems themselves aggrieved by a decision and who will suffer direct and substantial impacts from the underlying governmental action.
- (2) "Department" means any division, subdivision or organizational unit of the County established by ordinance, rule, or order.
- (3) "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).
- (4) "Environmental Clearance". The status given an activity when all requirements of the State Environmental Policy Act and this chapter have been satisfied.
- (5) "Final DNS" means the final date upon which action concerning the proposal may be taken by Clallam County. For DNSs issued under WAC 197-11-340(2), a DNS shall not be considered final until the 15 day comment period closes.
- (6) "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.
- (7) "Procedural determination" as used in C.C.C. 27.01.210 shall mean the adequacy of a determination of significance/nonsignificance or of a final environmental impact statement.
- (8) "Responsible official" as defined in WAC 197-11-788 shall refer to the (0)director of community development or his designee.
- (9) "Substantive determination" as used in C.C.C. 27.01.210 shall mean any decision to require particular mitigation measures or to deny a proposal based on this Chapter.
- (10) "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 Director of Community Development or his designee.
- (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 ten days of receiving a completed application as defined in the codes or ordinances of the underlying governmental action.
- (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 (i) complete 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 complete 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 the decision making body or appropriate advisory body, such as the Planning Commission, Shorelines and Sensitive Areas Committee, Board of Adjustment, or Board of Commissioners.
- (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 - 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 employed by contract to the County. Preparation of an EIS by the applicant or the applicant's consultant can occur only in those circumstances where the scope of the EIS has been narrowed to no more than two technical issues, such as storm water and transportation. In all cases the responsible official shall determine who prepares the EIS and shall have approval authority over its contents. 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 within ten (10) days after completion of the threshold determination. In such cases, the county will contract directly with a qualified consultant for preparation of the EIS.

(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.)

(4) If the responsible official determines that a consultant will be required to prepare an EIS, the Department of Community Development shall call for proposals and qualifications of firms to prepare the EIS within ten days of completion of the EIS scoping process. A call for proposals may be made prior to completion of the scoping process, provided that a draft scoping notice has been completed to the satisfaction of the responsible official.

(5) The responsible official shall determine which consultants are qualified to complete an EIS as described in a call for proposal. The county shall place the names of consultants eligible to prepare the EIS on a list to be submitted to the applicant. The applicant shall select the consultant from the list and shall submit a letter to the responsible official providing the applicant's consent to the consultant. Clallam County shall then enter into a contract for professional services with the consultant setting forth duties, responsibilities and costs for preparation of the EIS. Fees for preparation of the EIS shall be required of the applicant as set forth in C.C.C. 27.01.300 and C.C.C. 3.30.

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:

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|------------|-----------------------|
| 197-11-500 | Purpose of this Part. |
| 197-11-502 | Inviting comment. |

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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.

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) The County shall give notice of comment and appeal periods of a DNS or DS by publishing notice in a newspaper of general circulation in the County.
- (b) 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 a public notice required for a nonexempt license; and
- (b) 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.

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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; Sequim Bay Watershed Management Plan; Dungeness River Flood Control Management Plan; Interim Critical Areas Ordinance, C.C.C. 27.12; Growth Management Act of 1990, RCW 36.70A.

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, including transportation systems, schools, parks and recreation facilities, utilities and drainage systems; 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.

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

- (1) An aggrieved party may appeal the adequacy of a Final EIS (FEIS) pursuant to the following procedures:
 - (a) Appeals relating to the adequacy of a FEIS shall be consolidated in all cases with the public hearing, if any, of the underlying governmental action. Appeals of the adequacy of a FEIS shall be made within fifteen (15) days of the issuance of the FEIS. Such appeal shall be made in writing to the Responsible Official and shall state specifically the procedural determination which is subject of the appeal; such appeals shall include payment of fees as required in C.C.C. 3.30.
 - (b) At the public hearing on the underlying governmental action, the decision-making body shall either affirm or reverse the decision of the responsible official. The powers of the decision-making body (e.g. planning commission) on FEIS appeals shall be consistent with the powers on the underlying governmental action. For example, the planning commission provides a recommendation on rezones to the Board of Commissioners; in such a situation, the Board of Commissioners would have final authority on the adequacy of the FEIS. On the other hand, the Shorelines and Sensitive Areas Committee issues final decisions on shoreline permits, subject to appeal; in this situation, the Board of Commissioners would rule on the adequacy of the FEIS only when the decision of the Committee is appealed. If the decision-making body determines that the FEIS is not adequate, it may remand the FEIS back to the responsible official requiring that specific impacts be reconsidered.
 - (c) If no public hearing process is required for the underlying governmental action, or if the underlying governmental action is appealed or advisory, review of the FEIS adequacy shall be heard by the Board of Clallam County Commissioners. 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 FEIS is considered.
- (2) An aggrieved party may appeal a final DNS pursuant to the following procedures:
 - (a) Appeals relating to the adequacy of a final DNS shall be consolidated in all cases with the public hearing, if any, of the underlying governmental action. Appeals of the adequacy of a DNS shall be made within ten (10) days of the final DNS. Such appeal shall be made in writing to the Responsible Official and shall state specifically the procedural determination which is subject of the appeal; such appeals shall include payment of fees as required in C.C.C. 3.30.
 - (b) At the public hearing on the underlying governmental action, the decision-making body shall either affirm or reverse the decision of the responsible official. The powers of the decision-making or advisory body (e.g. planning commission) on final DNS appeals shall be consistent with the powers on the underlying governmental action. For example, the planning commission provides a recommendation on rezones to the Board of Commissioners; in such a situation, the Board of Commissioners would have final authority on the adequacy of the final DNS. On the other hand, the Shorelines and Sensitive Areas Committee issues final decisions on shoreline permits, subject to appeal; in this situation, the Board of Commissioners would rule on the adequacy of the final DNS only when the decision of the Committee is appealed. If the decision-making body determines that the DNS is not adequate, it may:
 - (i) remand the decision back to the responsible official requiring that specific impacts be reconsidered; or
 - (ii) modify the decision of the responsible official.

- (c) If no public hearing process is required for the underlying governmental action, or if the underlying governmental action is appealed or advisory, review of the final DNS shall be heard by the Board of Clallam County Commissioners. 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.
- (3) An aggrieved party may appeal a decision to condition or deny a proposal decision (for example, an MDNS) based on this Chapter to the Board of Clallam County Commissioners. Appeals of a decision to condition or deny a proposal shall be made within ten (10) days of the final decision to condition or deny. Such appeal shall be made in writing to the Responsible Official and shall state specifically the substantive determination which is subject of the appeal; Such appeals shall include payment of fees as required in C.C.C. 3.30. 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.
- (4) An applicant may appeal a Determination of Significance to the Board of County Commissioners within 30 days of the date the DS is issued.
- (5) For any appeal under this section, the County shall provide for a record that shall consist of the following:
- (a) Findings and conclusions and
 - (b) A taped or written transcript.
 - (c) The County may require the appellant to provide an electronic transcript.
- (6) The procedural determination by the County's responsible official shall carry substantial weight in any appeal proceeding.
- (7) 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. 27.01.220. 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 ()Prosecutor's Office by the Building ()Official.
- (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:

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- (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((,))

(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.

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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.

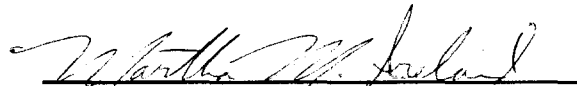
C.C.C. 27.01.340. Repealer. The Clallam County Environmental Policy Ordinances No. 55 and 56 of 1974 and 154 of 1981, relating to environmental policy and categorical exemptions are repealed effective as of the effective date of this ordinance.

DATED THIS 9th DAY OF April, 1996.

Board of Clallam County Commissioners


Phillip Kitchel, Chair

voted "no"
Dorothy Duncan


Martha Ireland

ATTEST:


Karen Flores
Clerk of the Board

c. Community Development
minutes
file