

Ordinance No. 632, 1998

An Ordinance implementing the requirements of the Washington State Integration of Growth Management Planning and Environmental Review, also known as the Regulatory Reform Act, Chapter 347, Laws of 1995, as amended, establishing a consolidated and streamlined development permit process which includes the criteria for a complete application, for new and uniform public notice, for open or closed record hearings and appeals procedures, for determination of consistency with development regulations and SEPA, and for setting a time frame for permit processing.

BE IT ORDAINED BY THE BOARD OF CLALLAM COUNTY COMMISSIONERS
Chapter 26.10 Clallam County Code
Consolidated Development Permit Process

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C.C.C. 26.10.010 AUTHORITY The County of Clallam (hereinafter referred to as "the County") adopts this Chapter under the State Growth Management Act, Chapter 36.70A RCW, as amended, and the Regulatory Reform Act, Chapter 36.70B RCW, as amended.

C.C.C. 26.10.020 PURPOSE AND OBJECTIVES The purpose of this Chapter is to implement the requirements of the Washington State Regulatory Reform Act, Chapter 347, Laws of 1995, as amended, by consolidating development application and review with the environmental review process in order to avoid duplicative regulation and environmental analysis, and also to provide an overlay permit processing procedure ordinance for Clallam County development regulations. The purpose of this Chapter is also to meet other requirements of the Act, including the requirement that development applications be reviewed for consistency with the Comprehensive Plan and development regulations adopted pursuant to the Growth Management Act, Chapter 36.70A RCW.

The objectives of this Chapter are to encourage the preparation of appropriate information early in the permit process, to provide the general public with an adequate opportunity for review and comment, and to provide the development community with a standardized permit process and predictability. In order to achieve this, Clallam County finds the following:

1. Given the extensive investment that public agencies and a broad spectrum of the public are making and will continue to make in the Clallam County Comprehensive Plan and development regulations, it is essential that review of development permit applications start from the fundamental land use planning choices made in the comprehensive plan and regulations. If the applicable regulations or plan identify the type of land use, specify residential density, and identify and provide for funding of public facilities needed to serve the proposed development and site, these decisions at a minimum provide the foundation for further review. The review process, including the environmental review process under Chapter 43.21C RCW and the consideration of consistency, should start from this point and should not re-analyze these land use planning decisions in making a permit decision, unless the County finds that the plan and development regulations do not fully foresee site-specific issues and impacts identified through the application review process.

2. Comprehensive plans and development regulations adopted by the County under Chapter 36.70A RCW (the Growth Management Act), subarea plans, and environmental policies, laws and rules adopted by the County, the state, and the federal government, address a wide range of environmental subjects and impacts. These provisions typically require environmental studies and contain specific standards to address various impacts associated with a proposed development, such as building size and location, drainage, transportation requirements, and protection of environmentally sensitive areas. When the County applies these existing requirements to a proposed project, some or all of a project's potential environmental impacts may be avoided or otherwise mitigated. Through the integrated project review process described in this Chapter, the Administrator will determine whether existing requirements, including the applicable regulations or plans, adequately analyze and address a project's environmental impacts. Project review generally should not require additional studies and mitigation under Chapter 43.21C RCW where existing regulations adequately address a proposed project's probable significant adverse environmental impacts. Development regulations generally enable project review through the application of established scientific standards, required studies and standard mitigation measures.

C.C.C. 26.10.030 ADMINISTRATION The Administrator of this Chapter shall be the Director of the Department of Community Development and/or his/her designee.

C.C.C. 26.10.040 DEFINITIONS

1. Appellant. A person, organization, association or other similar group who files a complete and timely appeal of a decision in accordance with Clallam County Code.

2. Applicant. A person (or persons) who is the legal owner of the subject property or the representative authorized in writing of the owner of the subject property and who has applied for a land use permit.

3. Application. Any land use or environmental permit or license required from the County for a proposed development or action subject to this Chapter, including but not limited to, building permits subject to SEPA, zoning conditional use or variances, land divisions, shoreline substantial development permits or conditional uses or variances or exemptions, and critical areas permits. For those applications subject to this chapter, three categories or classifications of the different permit types and processes are established, titled **Types I, II, and III**.

4. Closed record appeal. A closed record appeal is held by the appropriate decision making body to act on such appeal on the record or decision following the conclusion of an open record hearing held on an application whereby the appeal involves a review of the record or decision with no new evidence or information allowed to be submitted unless it could not with reasonable diligence have been discovered and produced at the open record hearing. Only written appeal argument will be allowed by the person(s) filing such appeal, the applicant if different than the appellant, and any parties of record. Argument shall be based on the record. The closed record appeal is held at either a regularly or specially scheduled meeting by the appropriate authority to act on such appeal. An example of a closed record appeal would be an appeal to the Board of Commissioners of the Hearing Examiner's decision on a **Type III** permit.

5. Days. All days shall mean calendar days unless otherwise specified.

6. Decision. A final determination on a land use permit application by the designated Decision making body.

7. Decision Making Body. That officer or body prescribed by applicable County regulations as having the authority to approve, approve with conditions, or deny a project permit in accordance with adopted County regulations; this may include the Administrator of the applicable regulation, the Hearing Examiner or the Board of Clallam County Commissioners, as prescribed

8. Open record appeal hearing. An open record appeal hearing conducted by a single hearing body or officer as the appropriate decision making body which is authorized by the Board of County Commissioners to conduct such hearing in accordance with the applicable regulation that creates the record through testimony and submission of evidence and information under procedures prescribed by the adopted regulation(s). An example of an open record appeal hearing would result from an appeal of the Administrator's decision on a **Type I** permit.

9. Open record hearing. A hearing conducted by a single hearing body or officer as the appropriate decision making body as authorized by the Board of County Commissioners to conduct such hearing in accordance with the applicable regulation that creates the record through testimony and submission of evidence and information under procedures prescribed by the adopted regulation(s). An example of an open record hearing would be a Hearing Examiner hearing on a **Type III** permit.

10. Parties of Record. Parties of record include the applicant and those persons who have provided oral testimony at an open record hearing or who have provided written comments that form part of the public record and those persons who have requested notification of the permit decision.

11. Permit Type. A categorization of different permits and actions into types due to similarity of procedures.

12. Project permit or project permit application. See application.

13. Reconsideration. A request for reconsideration of the Decision making body's decision may be made by any party of record in accordance with Section 26.10.600 for the purposes of providing additional information or evidence on the application which was not available at the time of the public hearing or the date of decision, or for the purposes of clerical or factual corrections.

14. Record. The oral testimony and written documents presented and accepted at an open record hearing or mailed to the County as part of the public comment.

C.C.C. 26.10.200 APPLICABILITY AND EXEMPTIONS

1. This chapter shall apply to permit applications as listed in CCC 26.10.210 for land developments pursuant to the following Titles and Chapters of the Clallam County Code. Any other land use permit application is exempt from the provisions of this Chapter.

Chapter 9.26	Sign Code
Chapter 26.01	Planning Agency
Chapter 26.04	Hearing Examiner Code
Chapter 27.01	Environmental Policy Code
Chapter 27.12	Critical Areas Code
Title 29	Land Division Code
Chapter 32.01	Floodplain Code
Title 33	Zoning Code
Chapter 35.01	Shoreline Management Code

C.C.C. 26.10.210 CATEGORIES OF APPLICATION TYPES

1. The Decision making body authorized for a certain type of permit or action is specified by the applicable regulation..

2. Types of Permits or Actions and Decision making body. Land use applications which are subject to this Chapter are classified into three major categories based on the permit review process: (1) Type I - Administrative with no public notice, (2) Type II - Administrative with limited public notice, and (3) Type III - quasi-judicial.

a. Type I - Administrative without public notice. **Type I** permit decisions are made by the Administrator or his/her designee. Administrative review shall include the application of clear, objective and nondiscretionary standards that require the exercise of professional judgment about technical issues. **Type I** permits are exempt from all permit processing requirements as set forth in this Chapter, EXCEPT for appeal procedures set forth in CCC 26.10, Part Six and limitations to permit processing timelines set forth in CCC 26.10.540. Appeal of **Type I** permits shall be heard by the Hearing Examiner in an open record appeal hearing. Decisions on appeals of **Type I** permit made by the Hearing Examiner may be appealed through a closed record appeal procedure to the Board of Commissioners. **Type I** permits includes the following types of land use applications:

- (1) Boundary line adjustments pursuant to Title 29 CCC;
- (2) Lot combinations pursuant to Title 29 CCC;
- (3) Interpretations of the Zoning Code or other development regulations, which are not associated with the processing of a specific land use permit regulated under this Chapter;
- (4) Review of Special Reports pursuant to Chapter 27.12 CCC;
- (5) Short plat alterations or vacations pursuant to Title 29 CCC;
- (6) Large lot division alterations or vacations pursuant to Title 29 CCC;
- (7) Processing of final subdivision approval requests to the Board of Commissioners pursuant to Title 29 CCC;
- (8) SEPA threshold decisions not associated with other land use permits regulated under this Chapter;
- (9) Shoreline Exemptions pursuant to CCC 35.01;
- (10) Approval of bonds or savings account assignments for land divisions pursuant to Title 29 CCC.

b. **Type II - Administrative with public notice.** **Type II** permit decisions are made by the Administrator or his/her designee. Administrative review shall include the application of clear, objective and nondiscretionary standards that require the exercise of professional judgment about technical issues. **Type II** permits shall be reviewed for all permit processing requirements as set forth in this Chapter. Appeal of **Type II** permits shall be heard by the Hearing Examiner in an open record appeal hearing. Decisions on appeals of **Type I** permit made by the Hearing Examiner may be appealed through a closed record appeal procedure to the Board of Commissioners. **Type II** permits includes the following types of land use applications:

- (1) Short plats pursuant to Title 29 CCC;
- (2) Large lot divisions pursuant to Title 29 CCC;

c. **Type III - Quasi judicial.** **Type III** permit decisions are made by the Hearing Examiner with appeals of **Type III** permit decisions to be heard by the Board of Commissioners. Authority and procedures for open and closed record hearings before the Hearing Examiner are guided by this Chapter, Chapter 26.04 CCC, Clallam County Hearing Examiner Code, the Rules of Proceedings of the Clallam County Hearing Examiner, and any other applicable development regulation. **Type III** permits includes the following types of land use applications:

- (1) Preliminary approval of a subdivision or binding site plan pursuant to Title 29 CCC;
- (2) Variances pursuant to Title 29 CCC;
- (3) Zoning conditional use and variances pursuant to Title 33, CCC;
- (4) Critical area permits pursuant to Title 27.12 CCC, including variance, special use and conditional use permits;
- (5) Shoreline substantial development, conditional use and variances pursuant to CCC 35.01 and the Shoreline Master Program;
- (6) PUDs, Cluster, Master Planned Resorts pursuant to Title 29 and 33 CCC
- (7) Variances pursuant to CCC 9.26;
- (8) Variances pursuant to CCC 32.01

C.C.C. 26.10.220 SUMMARY TABLES OF PERMIT TYPE CATEGORIES AND PROCESSES

1. Overview of permit process for each permit Type.

PERMIT ACTION TYPE AND PERMIT PROCEDURE (Administrative and Quasi-judicial)			
	TYPE I	TYPE II	TYPE III
Notice of Application and Public notice Required	No	Yes	Yes
Public Hearing Required	No	No	Yes
Final Decision by: (Decision making body)	Administrator	Administrator	Hearing Examiner
Type of Appeal Process and Appeal Authority	Two appeals: Open Record appeal hearing before Hearing Examiner followed by a closed record appeal before the Board of Commissioners	Two appeals: Open Record appeal hearing before Hearing Examiner followed by a closed record appeal before the Board of Commissioners	One appeal. Closed record appeal before the BCCC

2. Categories of Permit Types

LIST OF PERMITS OR ACTIONS BY CATEGORY		
TYPE I Administrative	TYPE II Administrative	TYPE III Quasi-judicial (Hearing Examiner)
Boundary line adjustments and Lot combinations pursuant to Title 29 CCC	Short plats pursuant to Title 29 CCC (new applications)	Preliminary decision on subdivisions (new, alterations, vacations) and binding site plans; All variances to Title 29
Administrative actions or interpretations involving the Zoning Code or other land use regulations which are not associated with the processing of a specific land use permit regulated under this Chapter	Large lot divisions pursuant to Title 29 CCC (new applications)	Zoning conditional uses and variances pursuant to Title 33
Review of special reports pursuant to CCC 27.12		Variance, special use and conditional use permits pursuant to CCC 27.12
Alteration or vacation of a short plat or large lot division pursuant to CCC 29		Shoreline Substantial Development, Conditional use and Variance Permits pursuant to CCC 35.01 and CCSMP
Processing of final subdivision approval requests to the Board of Commissioners		PUD, Cluster Developments, MPRs pursuant to Title 33
SEPA threshold decisions not associated with other land use permits listed in this table		Variances pursuant to CCC 9.26 and 32.01
Shoreline exemptions pursuant to CCC 35.01		
Approval of bonds or savings account assignments for land divisions pursuant to Title 29 CCC.		

C.C.C. 26.10.230 OPTIONAL PRE-APPLICATION MEETINGS

1. All prospective applicants for **Type I-III** permits may apply for a pre-application meeting on the pre-application form provided by the Administrator. Any applicant who applies for a pre-application meeting may have the required pre-application meeting fees paid to the Department of Community Development applied to the subsequent land use permit application, if applicable. The pre-application meeting shall take place at the County courthouse unless otherwise agreed.

2. The purpose of the pre-application meeting is to provide the applicant with the best available information regarding the development proposal as presented by the applicant and application processing requirements, and to assure the availability of complete and accurate development information necessary for review prior to the applicant's expenditure of the application fees and the scheduling of the application review process. The pre-application meeting provides an opportunity for the applicant, staff and other agencies to informally discuss and review the proposed development, the application and permit requirements, fees, the review process and schedule, and applicable standards, plans, policies, and laws.

3. Scheduling of the pre-application meeting should be made within fifteen (15) calendar days of the date of the request submitted on forms provided by the Administrator unless otherwise authorized by the applicant, along with the appropriate fee in accordance with CCC 3.30.

4. The Administrator shall provide a brief, written summary of the meeting to the applicant within ten (10) calendar days unless otherwise authorized by the applicant or if additional research or legal opinions are needed. The summary shall refer to applicable code sections that apply to such proposal. The summary shall also state that the findings of the report shall be in accordance with adopted regulations as they apply and shall not bind or prohibit the County's future application or enforcement of all applicable regulations.

5. The discussion at the pre-application meeting or content of the summary of the pre-application shall not bind or prohibit the county's future enforcement of applicable regulations.

C.C.C. 26.10.310 CONTENT OF APPLICATION An application shall contain all materials required by the applicable provisions of the Clallam County Code and includes the following information:

1. A completed application form , including a SEPA checklist when applicable.
2. Applications shall be filed with the Department of Community Development, Planning Division by the property owner or by an authorized agent who is granted said authorization in writing.
3. A legal description, including a copy of the most recent deed, tax parcel number, and site plan which identifies all easements, natural features, legal access and restrictions or encumbrances restricting the use of the property, if applicable.
4. A filing fee in the amount established under C.C.C. 3.30 shall be paid to the Department of Community Development, Planning Division, at the time an application is made.
5. All permit applications shall include the information specified in the chapter of the County Code pertaining to the specific type of development permit being applied for. The County may require such additional information as reasonably necessary to fulfill and properly evaluate the proposal.
6. At every stage of the permit application process, the burden of demonstrating that any proposed development is consistent with this Chapter and other applicable, adopted regulations, is upon the applicant.
7. When multiple owners or applicants are involved, the application shall require the designation of a single person or entity to receive determinations and notices and to be the primary contact.

C.C.C. 26.10.320 DETERMINATION OF COMPLETENESS

1. Within 28 days of receiving an application for a **Type II-III** permit, the County shall review the application and provide the applicant with a written determination that the application is complete or incomplete. A **Type II-III** permit application shall be declared complete only when it contains all of the following materials or information:

- a. A fully completed, signed and acknowledged development permit application on the form provided by the Administrator.
- b. A fully completed, signed and acknowledged environmental checklist for projects subject to review under the State Environmental Policy Act.
- c. All applicable review fees pursuant to CCC 3.30.
- d. The information specified for the desired permit in the appropriate chapter of the County Code.
- e. The names of other permit agencies that may have jurisdiction over the application to the extent known by either the applicant or Clallam County.

2. For applications determined to be incomplete, the County shall identify in writing the specific requirements or information necessary to constitute a complete application. Upon submittal of the additional information, the County shall, within 14 days, either issue a Determination of Completeness or identify what additional information is required. The process shall be repeated until the application is deemed complete or if a time period of 120-days has elapsed. If no response or request to withdraw the application is received after 120 days of receipt of the application the Administrator shall make a written determination that the application has been abandoned and is therefore withdrawn whereby the application fee is forfeited.

3. A Determination of Completeness shall not preclude Clallam County from requesting additional information or studies if new information is required or a change in the proposed development occurs.

4. Exceptions to these time limits are further outlined in CCC 26.10.540.

C.C.C. 26.10.330 VESTING OF APPLICATION A Type I-III permit application shall become vested on the date deemed complete by the Administrator for Type I permits and the date the Determination of Completeness is made under this Chapter for Type II and III permits. Thereafter, the application shall be reviewed pursuant to the adopted regulations, codes, or other laws in effect on the date of vesting; PROVIDED, in the event an applicant substantially changes his/her proposed development after a Determination of Completeness is issued, the application shall not be considered vested until a new Determination of Completeness is made under this Chapter. This may necessitate the submittal of a new application which initiates a new process.

C.C.C. 26.10.340 APPLICATION REVIEW CRITERIA AND AGENCY COMMENT

1. Application review criteria for Type I-III permits shall be governed by and be consistent with the fundamental land use planning policies which have been established in the comprehensive plans and development regulations. The review process shall consider the type of land use permitted at the proposed site, the density and intensity of the proposed development, the infrastructure available and needed to serve the development, the characteristics of the development and its consistency with development regulations. In the absence of applicable development regulations, the applicable development criteria in the comprehensive or sub-area plan adopted under Title 31, Clallam County Code and Chapter 36.70A RCW shall be determinative.

2. Application Review and Agency Comment.

a. The purpose of reviewing an application is to ensure that adequate information is contained in the application materials to demonstrate consistency with applicable comprehensive plans, development regulations and other applicable County codes. The project planner will coordinate the involvement of agencies responsible for the review of the proposals under their authority.

b. The project planner assigned to the permit application shall circulate the application to the appropriate review agencies, including other County Departments or Divisions of the Department of Community Development. Comments shall be returned to the project planner within ten (10) days.

3. Optional Consolidated Review.

a. When requested by the applicant, the County shall provide a single application review and approval process covering all development permits required by an applicant for all or part of a project action and shall designate a single permit coordinator for such review. Review fees are established by Chapter 3.30 C.C.C. All notices required shall then include explanation of each permit application type being applied for, including the Determination of Completeness, Notice of Application and Notice of Decision as specified in this Chapter.

b. If an applicant elects the consolidated permit review process, the Determination of Completeness, Notice of Application, and Notice of Decision must include all project permits being reviewed through the consolidated permit review process.

c. In the case of consolidated permit review of Type I or II permits, the Administrator shall make the final decision unless appealed.

d. In the case of consolidated project permit review which includes a Type III permit, the Hearing Examiner shall conduct the consolidated open-record public hearing and shall make the final decision unless appealed final decision.

C.C.C. 26.10.350 INTEGRATED PROJECT AND SEPA REVIEW

1. The Administrator may determine that requirements for environmental analysis and mitigation measures in development regulations and other applicable laws provide adequate mitigation for some or all of the project's specific probable significant adverse impacts to which the requirements apply

2. Nothing in this section limits the County's authority to approve, condition, or deny a project as provided in its development regulations adopted under Chapter 36.70A RCW and in its policies and criteria adopted under RCW 43.21C, including project review under Chapters 27.01 CCC and 27.12 CCC.

C.C.C. 26.10.400 NOTICE OF DEVELOPMENT APPLICATIONS For all **Type II** and **III** permits, a Notice of Development Application is required which shall comply with this section.

1. Within fourteen (14) days of issuing a Determination of Completeness under this Chapter and no less than fifteen (15) days prior to a public hearing, if any, the County shall issue a Notice of Development Application for those project permits specified as **Type II** or **III**-permits pursuant to this Chapter. This notice does not substitute for any other required notice but may be combined with other notices where feasible. The notice shall include, but not be limited to, the following:

- a. Name of the applicant.
- b. Date of application.
- c. Dates of the Determination of Completeness and the Notice of Application.
- d. Location and description of the development, including an address or road name and legal description.
- e. Requested permits, actions, and/or studies.
- f. Statement of the public comment period, including SEPA comments, which shall be not less than 14 days nor more than 30 days following the date of the notice of all development applications. The notice of application may include the notice of public hearing where feasible.
- g. Statement providing information about the right of any person who is a party of record to comment on the application, to receive notice of and participate in any hearings and to request a copy of the decision once made.
- h. Identification of existing environmental documents that evaluate the proposed project and location where the application and any studies can be reviewed.
- i. The County staff contact person and phone number.
- j. Date, time and place of the public hearing or public meeting, whichever is applicable.
- k. Statement of the SEPA threshold determination, if applicable, if one has been made at the time of notice or the date the permit is to be issued.
- l. Statement that the decision on the application will be made within 120 days of the date of the determination completeness, EXCEPT as provided in CCC 26.10.540.
- m. Statement of preliminary determination of consistency with applicable development regulations and the Comprehensive plan and of those development regulations that will be used for project mitigation and the determination of consistency.
- n. The names of other permit agencies that may have jurisdiction over the application to the extent known by either the applicant or Clallam County

C.C.C. 26.10.410 METHODS OF PUBLIC NOTICE

1. **Type II Permits**. Limited Public Notice. A notice of development application for a Type II permit shall be sent by mail by the Administrator. The applicant is responsible for mailing costs of said notice and shall obtain the official list of names and addresses from the County Assessor's office. If the applicant/owner of the proposed project permit owns contiguous property to the project, notice shall apply to the boundaries of such contiguous parcels. Public notice shall be mailed to the property owner(s), applicant(s), authorized agents, and also to all owners of adjacent properties which abut the subject property or properties under contiguous ownership of the owner/applicant of the subject permit. For the purposes of this section, properties separated by public right-of-way are considered to be adjacent properties.

2. **Type III Permits**. Full Public Notice. A notice of development applications for a Type III permit shall be sent by mail by the Administrator not less than fifteen (15) days prior to the open record public hearing. The applicant is responsible for mailing costs of said notice and shall obtain the official list of names and addresses from the County Assessor's office. If the applicant/owner of the proposed project

permit owns contiguous property to the project, notice shall apply to the boundaries of such contiguous parcels. Public notice is mailed to the property owner(s), applicant(s), authorized agent(s), and also to all owners of adjacent properties as follows:

a. The owners of property within three hundred (300) feet of the boundary of the subject property (or from the boundary of properties also owned by the owner/applicant which are contiguous to the development) if it is identified as being within an Urban Growth Area by the Comprehensive Plan, Title 31 C.C.C.

b. The owners of property within six hundred (600) feet of the boundary of the subject property (or from the boundary of properties also owned by the owner/applicant which are contiguous to the development) if it is identified as being a rural designation by the Comprehensive Plan, Title 31, C.C.C.

c. The owners of property within one thousand (1,000) feet of the boundary of the subject property (or from the boundary of properties also owned by the owner/applicant which are contiguous to the development) if it is identified as Commercial Forest, Commercial Forest/Mixed Use, or Agricultural Overlay by the Comprehensive Plan, Title 31, C.C.C.

3. Posting Property. A notice of development application for Type II and III permits, in the form of a sign and written notice provided by the County, shall be posted on the subject property not more than ten (10) days after notification that the application is deemed complete nor less than fifteen (15) days prior to the date of a hearing, if applicable. An affidavit of posting shall be submitted by the applicant for the record. The notice shall remain on the property throughout the duration of the application review period and shall be replaced immediately upon knowledge of its removal. Failure to provide public notice due to unauthorized removal of duly posted signs beyond the control of the applicant shall not invalidate any proceedings required in this Chapter. The sign shall be placed in the most visible area possible along a public right-of-way; if no public right-of-way is adjacent to the subject property, the sign be placed along an ingress/egress easement or another area as determined by the Administrator.

4. Failure to send notice by mail to any such property owner where the address of said owner is not a matter of public record or because the ownership is not of public record shall not invalidate any proceedings required in this Chapter. Documents of record with the County Assessor's office shall be controlling as to the status of legal ownership.

5. When public hearings are required for those project permits subject to this Chapter for Type III permits, notice of public hearing shall be combined with notice of application where feasible. Should a conflict on public notice proceedings occur, the procedures adopted in CCC 26.10 shall apply.

6. Publishing a public notice. When required, a notice of public hearing shall be published in a newspaper of general circulation at least once, not less than fifteen (15) days prior to the date set for the hearing.

C.C.C. 26.10.420 PUBLIC HEARING LIMITATION

1. There shall be no more than one open record hearing and one closed record appeal conducted by the County on any application regulated by this Chapter, EXCEPT for those applications which are associated with a Determination of Significance under RCW 43.21C and CCC 27.01.

2. If requested by an applicant, a hearing on any project permit must be combined with any hearing held by another local, state, regional, federal, or other agency, PROVIDED that the hearing is held within the geographic boundary of the County, and PROVIDED as long as the joint hearing can be held within the time period specified in this Chapter or the applicant agrees to an alternate schedule in the event that additional time is needed in order to combine the hearings.

C.C.C. 26.10.430 SPECIAL PROCEDURES FOR SHORELINE MASTER PROGRAM PERMITS

In accordance with Chapter 90.58 RCW and WAC 173-27, public notice for a shoreline substantial development, shoreline conditional use and shoreline variance shall comply with CCC 26.10, EXCEPT that the mailing and legal advertisement for the public hearing shall be made not less than thirty (30) days prior to the open record public hearing. Posting of the property shall comply with CCC 26.10.410(3).

Part Five Application Review and Approval Process

C.C.C. 26.10.500 ADMINISTRATOR AUTHORITY FOR TYPE I and II PERMITS

1. The Administrator may approve, approve with conditions, or deny all **Type I and II** permit applications. The Administrator's decisions for **Type I or II** permits section shall be final on the date issued unless appealed.
2. As provided in CCC 26.10.400 and 400(1), a Notice of Application is required for all **Type II** permits whereby the Administrator shall not take action on said permit prior to the expiration of the comment period, which shall not be less than fourteen (14) days.
3. Any interested person may inquire and provide written comments on any **Type I or II** permits which shall be considered by the Administrator.
4. A Notice of Decision is required for **Type I and II** permits which may be in the form of a permit and shall be consistent with CCC 26.10.560. In addition to the approval criteria listed in applicable adopted regulations, the Administrator shall not approve a permit application unless it is consistent with CCC 26.10.550. Written findings of fact and conclusions of law for **Type I-II** permits are required by this Chapter.

C.C.C. 26.10.510 HEARING EXAMINER FOR TYPE III PERMITS

1. The Hearing Examiner may approve, approve with conditions, or deny all **Type III** permits or Type I-II appeals. The Hearing Examiner's decisions under this section shall be final on the date issued unless appealed. The required Notice of Decision for this action may be in the form of a permit issued by the Administrator and shall be consistent with CCC 26.10.560.
2. Required Findings. In addition to the approval criteria listed in applicable adopted regulations, the Hearing Examiner shall not approve a permit application unless it is consistent with CCC 26.10.550. Written findings of fact and conclusions of law for Hearing Examiner decisions are required by this Chapter.

C.C.C. 26.10.520 SPECIAL PROCEDURES FOR BOARD ACTION ON FINAL SUBDIVISIONS. As the legislative authority for Clallam County, the Board shall grant final approval for all subdivisions under Title 29 CCC. The Administrator shall forward the final subdivision to the Board along with a written recommendation on whether or not it meets the requirements set forth for preliminary approval and, if recommending approval, shall transmit the final subdivision for the Board signature whereby the Board shall take final action by majority vote at a regular public meeting; a public hearing is not required. No public notice is required for final approval of subdivisions but the action shall be included as an agenda item for the regular meeting. The Board's final action may be appealed to the Superior Court in accordance with state law and RCW 36.70C.

C.C.C. 26.10.530 PROCEDURES FOR OPEN RECORD PUBLIC HEARINGS OR OPEN RECORD APPEAL HEARINGS

1. Procedures for Open Record Public Hearings. Open record public hearings and open record appeal hearings shall be conducted in accordance with the hearing body's rules of procedure and shall create or supplement an evidentiary record upon which the body will base its decision in addition to the procedures set forth by this Chapter. Questions directed to the staff or the applicant shall be posed by the chair at its discretion. In cases where scientific standards and criteria affecting project approval are at issue, the chair shall allow orderly cross-examination of expert witnesses presenting reports and/or scientific data and opinions. The decision-making body may address questions to any party who testifies at a public hearing. The chair shall open the public hearing and, in general, observe the following sequence of events:
 - a. Staff presentation, including submittal of any administrative reports prepared for the permit decision or as response to an appeal, if applicable.
 - b. Applicant presentation, including submittal of any materials

- c. Testimony or comments by the public germane to the matter.
- d. Rebuttal, response or clarifying statements by the staff, the applicant, the appellant and the parties of record at the chair's discretion.
- e. The evidentiary portion of the public hearing shall be closed and the decision-making body shall deliberate on the matter before it.

2. Hearings shall be electronically recorded and such recordings shall be a part of the official record. Copies of the recordings shall be made available to the public for reasonable costs. Transcripts of the hearings are not provided unless requested and paid for by the requester.

3. Rights and Responsibilities of Parties.

- a. Clallam County has the right to present evidence and testimony, object, make motions, arguments, recommendations and all other rights essential to a fair hearing.
- b. Clallam County has the responsibility to provide public notice in compliance with this Chapter; provide a staff report at least seven (7) days prior to a hearing; provide a recommendation; present materials at hearings; provide the decision making body with documentation relevant to the case; provide revised plans if received within seven (7) days of the hearing.
- c. Every applicant or appellant shall provide the decision making body with material that supports his/her case; be prepared for questions at the public hearing; and be courteous to all who participate in the proceedings.
- d. Every party of record, including the applicant or appellant, if applicable, shall have the right to present evidence and testimony at hearings. The right of parties of record to cross-examine, object, submit motions and arguments shall be at the discretion of the decision making body. The Decision making body may impose reasonable limitations on the number of witnesses and length of testimony, as well as the amount and style of cross-examination.
- e. Every party of record shall conduct themselves with civility and deal courteously with all involved in the proceedings.

C.C.C. 26.10.540 TIME LIMIT FOR FINAL DECISION; EXCEPTIONS

- 1. 120-Day Time Limit. The final decision on project permit applications categorized as **Type II-III** shall be made within 120 days from the date of the Determination of Completeness, EXCEPT for land divisions which shall follow time limit requirements specified in Title 29 CCC. The time limit for the processing of **Type I** permits shall also not exceed 120 days.
- 2. Excluded Time Periods. In determining the number of days that have elapsed after the County has notified the applicant that the application is complete, the following periods shall be excluded:
 - a. Any period during which the applicant has been requested by the County to correct plans, perform required studies, or provide additional required information. The period shall be calculated from the date the County notifies the applicant of the need for additional information until the earlier of the date the County determines whether the initial information satisfies the request for information or fourteen (14) days after the date the information has been provided to the County;
 - b. If the County determines that the information submitted by the applicant under Subsection 2A of this section is insufficient, it shall notify the applicant of the deficiencies and the procedures under Subsection 2A of this section shall apply as if a new request for studies had been made;
 - c. Any period during which an *environmental impact statement* is being prepared following a determination of significance pursuant to Chapter 43.21C RCW, Chapter 197-11 WAC and Chapter 27.01 CCC;
 - d. Any period for administrative appeals of project permits or SEPA appeals not to exceed 90 days for open record appeal hearings or 60-days for closed record appeal hearings;
 - e. Any extension of time mutually agreed upon by the applicant and the County;
 - f. Any reconsideration action to the Administrator or Hearing Examiner.

3. Time Limits Exceptions for Certain Applications. The 120-day time limit shall not apply if a project permit application:

a. Requires an amendment to the Comprehensive Plan text or map, or a development regulation;

b. Requires approval of a new fully contained community as provided in RCW 36.70A.350, a master planned resort as provided in RCW 36.70A.360, or the siting of an essential public facility as provided in RCW 36.07A.200; or

c. Is substantially revised by the applicant, in which case the time period shall start from the date on which the revised project application is determined to be complete.

4. Time Limit Extensions. If the County is unable to issue its final decision within the 120-day time limit, it shall provide written notice of this fact to the project applicant. The notice shall include a statement of reasons why the time limit has not been met and an estimate date for issuance of the notice of final decision.

5. Liability Limitation. The County shall not be liable for damage due to a failure to make a final decision within the time limits established in this Chapter.

C.C.C. 26.10.550 PROJECT CONSISTENCY

1. During review of **Type I-III** permits, the County shall determine a proposed project's consistency, including conformity and compliance with the County's regulations adopted under Chapter 36.70A RCW. In the absence of applicable development regulations, the appropriate elements of the Comprehensive Plan under Chapter 36.07A RCW, which includes the following:

a. The type of land use;

b. The level of development, such as units per acre or other measures of density;

c. Infrastructure, including public facilities and services needed to serve the development; and

d. ~~e.~~ The character of the development, such as development standards.

2. During review of **Type I-III** permits, the County shall not reexamine alternatives or hear appeals on the items identified in Subsection 1 above, except for issues of code interpretation.

3. ~~3.1~~ In making the County's determination of consistency, the determinations shall be controlling, but shall not limit the County from asking more specific or related questions.

C.C.C. 26.10.560 PROJECT DECISION; NOTICE OF DECISION Upon issuance of the decision on a **Type I-III** permit, the Administrator shall mail the final decision to the applicant within the time limits provided by CCC 26.10.540, and also to any parties of record or persons who have filed a written request for a copy of the decision and also to the County Assessor. The Notice of Decision may be in the form of a permit and must include the following:

1. A statement of the applicable review criteria and standards in the development codes and other applicable laws;

2. A statement of the findings and conclusions of the Decision making body, as applicable;

3. A statement of the threshold decision made under Chapter 27.01 CCC, including any mitigation required under SEPA or applicable development regulations;

4. A statement of all permit decisions made on the application to date;

5. A statement that the decision is final unless, where applicable, it is appealed, along with guidance for appeal procedures;

6. A statement that the complete project file is available for review or copying during normal business hours, and the Department contact.

7. As provided in RCW 36.70B.130, affected property owners may request a change in valuation for property tax purposes which shall be determined by the County Assessor.

Part Six - Reconsideration and Appeal of Decisions

C.C.C. 26.10.600 PROCEDURES FOR RECONSIDERATION The applicant or a party of record for a **Type I-III** permit may seek reconsideration of a final decision only by filing a written request on a form provided by the Administrator for reconsideration with the Administrator within five (5) calendar days of the mailing of the written decision. The Decision making body shall consider the request at its next regularly scheduled meeting or within ten (10) calendar days, whichever is sooner. If the request is denied, the previous action shall become final unless appealed. If the request is granted, the Decision making body may immediately revise and reissue its decision or may call for argument in accordance with the procedures for closed record appeals in accordance with CCC 26.10.630. Reconsideration should be granted only when an obvious legal error has occurred or a material factual issue has been overlooked that would change the previous decision. This section also allows a reconsideration request to be filed by the Administrator on **Type III** permits or **Type I** or **II** permit appeals. If the reconsideration request is based on the submission of additional evidence that could not with reasonable diligence have been discovered and produced at the previous proceeding, the decision-maker may re-open the proceeding, such as an open record hearing, without creating any conflict with this chapter or violation of RCW 36.70B.

C.C.C. 26.10.610 ADMINISTRATIVE APPEALS ON PROJECT DECISIONS

1. Appeals of Type I-II Decisions. The decision or action by the Administrator on Type I or II permits shall be final on the date issued unless an appeal is filed in accordance with CCC 26.10.610(4). Said appeal shall be heard by the Hearing Examiner in an open record hearing whereby the Hearing Examiner's decision may be appealed to the Board of Commissioners as a closed record appeal.

2. Appeals of Type III Decisions. The decision by the Hearing Examiner pursuant to this subsection shall be final on the date issued unless an appeal is filed in accordance with CCC 26.10.610(4). Said appeal shall be heard by the Board of Commissioners in a closed record appeal hearing.

3. Appeals of Board of Commissioner's Decisions. Appeals of the Board of Commissioners decision shall be made in accordance with state law, including RCW 36.70C.

4. Appeal Process.

a. Filing of Appeals. Every appeal shall be filed with the Administrator within fourteen (14) calendar days after the date of the decision of the matter being appealed; provided, however, appeals for **Type I-III** permits shall be filed within fourteen (14) days of the date of mailing the decision. An appeal on the form provided by the Administrator shall be filed with the Administrator by mail or personal delivery, and must be received by 5 PM on the last day of the appeal period, with the required appeal fee as specified in CCC 3.30. If the last day of an appeal period falls on a weekend or legal holiday, the appeal period shall be extended until 5 PM the next working day.

b. Form and Content of Appeal. The notice of appeal shall be in the form by provided by the Administrator and shall include the following:

- (1) The decision being appealed;
- (2) The name and address of the appellant and his/her interest(s) in the matter;
- (3) The specific reasons why the appellant believes the decision to be wrong. The appellant shall bear the burden of proving the decision was wrong;
- (4) The desired outcome or changes to the decision;
- (5) The appeal fee as required by CCC 3.30;
- (6) Any additional requirements set forth in the underlying code.

5. Public Notice. Public notice for an open record appeal hearing or a closed record appeal hearing shall consist of the following:

a. **Type I-II** permit appeals. A written notice shall be mailed at least fifteen (15) days prior to the date of the open record appeal hearing or closed record appeal consistent with CCC 26.10.410(1).

b. **Type III** permit appeals. A written notice shall be mailed at least fifteen (15) days prior to the date of the open record appeal hearing consistent with CCC 26.10.410(2).

c. Advertising in the legal section of the county-designated newspaper of general circulation is not required.

C.C.C. 26.10.620 PROCEDURES FOR OPEN RECORD APPEAL HEARINGS

1. Procedures for Open Record Appeal Hearings shall follow CCC 26.10.530.

2. Decisions on Appeals. Upon receiving an appeal of the Administrator's decision, the Hearing Examiner shall perform the following actions as appropriate:

a. A Hearing Examiner decision following an open record appeal hearing shall include one of the following actions:

- (1) Affirm the decision in whole or in part;
- (2) Reverse the decision in whole or in part;
- (3) Remand for further proceedings and/or evidentiary hearing and include a statement of the issues to be reviewed.

b. Criteria. In making its decision on the appeal, the Hearing Examiner shall find that one of the standards has been met:

- (1) The land use decision is an erroneous interpretation of the law;
- (2) The land use decision is not supported by evidence that is substantial when viewed in light of the whole record;
- (3) The land use decision is a clearly erroneous application of the law to the facts;
- (4) The land use decision is outside the authority or jurisdiction of the Hearing Examiner.

3. Findings and Written Decision. The Hearing Examiner shall make its decision with written findings and conclusions consistent with CCC 26.10.550 (either those recommended by staff or findings and conclusions prepared by the Hearing Examiner). Said written decision shall be forwarded to the applicant, appellant and parties of record no later than sixty (60) days from the date of filing of the appeal unless otherwise agreed by the applicant.

4. The County shall electronically record the proceedings. Copies of tapes of the proceedings and written transcripts are provided upon request and payment of reasonable fees.

5. Record of Appeal. For any open record appeal hearing, the record shall consist of the following:

- a. Written findings and conclusions;
- b. Documents admitted to the record

C.C.C. 26.10.630 PROCEDURES FOR CLOSED RECORD APPEALS Procedures for a closed record appeals shall comply with this subsection.

1. Closed Record Appeal Procedures. Closed record appeals shall be conducted in accordance with the adopted rules of procedure, if applicable, and shall serve to provide argument and guidance for the decision-making body. No new evidence or testimony shall be given or received unless it could not with reasonable diligence have been discovered and produced at the open record hearing. The parties to an appeal shall submit written statements or arguments at least five calendar days prior to the date of the deliberation on the appeal. The closed record appeal procedures allows the following to be a part of the proceedings:

a. Staff written and oral presentation of a summary of the application and appeal. The decision-making body may ask questions to clarify the record.

b. The appellant presentation, including submittal of written argument. The decision-making body may ask questions to clarify the record.

c.. Any other party of record may present written argument within the timelines and restrictions against new information being submitted as stated above.

2. Decisions on Appeals. Upon receiving an appeal of the Hearing Examiner's decision, the Board shall perform the following actions as appropriate:

a. A Board's decision following a closed record appeal hearing shall include one of the following actions:

- (1) Affirm the decision in whole or in part.
- (2) Reverse the decision in whole or in part
- (3) Remand for further proceedings and/or evidentiary hearing and include a statement of the issues to be reviewed.

b. Criteria. In making its decision on the appeal, the Board shall find that one of the standards has been met:

- (1) The land use decision is an erroneous interpretation of the law;
- (2) The land use decision is not supported by evidence that is substantial when viewed in light of the whole record;
- (3) The land use decision is a clearly erroneous application of the law to the facts;
- (4) The land use decision is outside the authority or jurisdiction of the Hearing Examiner.

3. Findings and Written Decision. The Board shall make its decision by motion, resolution, or ordinance, as appropriate, and shall adopt written findings and conclusions consistent with CCC 26.10.550 (either those recommended by staff or Hearing Examiner, or findings and conclusions prepared by the Board). Said written decision shall be forwarded to the applicant, appellant and parties of record no later than sixty (60) days from the date of filing of the appeal unless otherwise agreed by the applicant.

4. The County shall electronically record the proceedings. Copies of tapes of the proceedings and written transcripts are provided upon request and payment of reasonable fees.

5. Record of Appeal. For any closed record appeal, the record shall consist of the following:

- a. Written findings and conclusions;
- b. Documents admitted to the record

C.C.C. 26.10.640 State Environmental Policy Act (SEPA) APPEALS The Board of County Commissioners establishes the following administrative SEPA appeal procedures under RCW 43.21C.075 and WAC 197-11-680.

1. A threshold determination for Type I-II permits - Open Record Appeal Hearing and Closed Record Appeal. A threshold determination by the Responsible Official on a **Type I** or **Type II** permit may be appealed to the Hearing Examiner for an open record public hearing. Said appeal shall be filed within fourteen (14) days of the date of the mailing of the Administrative decision on the underlying permit. The decision on the appeal shall be consolidated with the Hearing Examiner decision on the underlying permit application. The decision by the Hearing Examiner may be appealed to the Board of Commissioners in a closed record appeal.

2. A threshold decision for Type III permits - Open Record Hearing with underlying permit. An appeal of threshold determination on a **Type III** permit may be appealed to the Board for a closed record public. Said appeal shall be filed within fourteen (14) days of the date of the mailing of the Hearing Examiner's decision on the underlying permit. The decision on the appeal shall be consolidated with the Board's decision on the underlying permit application.

bf 3. Any appeal of the SEPA threshold determination under this subsection shall include the following:

- a. The decision being appealed;
- b. The name and address of the appellant and his/her interest(s) in the matter;
- c. The specific reasons why the appellant believes the decision to be wrong. The appellant shall bear the burden of proving the decision was wrong;
- d. The desired outcome or changes to the decision;
- e. The appeal fee as required by CCC 3.30;

f. Any additional requirements set forth in the underlying code.

4 ~~8~~. The threshold determination by the Clallam County Responsible Official shall carry substantial weight in any appeal proceeding.

5 ~~8~~. The County shall give official notice under WAC 197-11-680(5) stating the date and place for commencing an appeal.

6 ~~1~~. Timing of SEPA Appeals:

a. There shall be no more than one County appeal proceeding on procedural determination (the adequacy of a determination of significance/nonsignificance or of a final environmental impact statement). The appeal proceeding on a determination of significance may occur before the County's final decision on a proposed action.

b. The County shall consolidate an appeal of procedural issues and of substantive determinations made under this Chapter (such as a decision to require particular mitigation measure or to deny a proposal with a hearing or appeal on the underlying governmental action by providing for a single simultaneous hearing before one hearing body to consider the agency decision on a proposal and any environmental determinations made under this Chapter, with the exception of the appeal, if any, of a determination of significance).

7 ~~8~~. Reconsideration procedures of a SEPA threshold decision or appeal are not provided.

8 ~~8~~. For any appeal of the SEPA threshold determination under this Subsection, the record shall consist of the following:

- a. Findings and conclusions;
- b. Documents admitted to the record

9 ~~10~~. The County shall electronically record the proceedings. Copies of tapes of the proceedings and written transcripts are provided upon request and payment of reasonable fees.

C.C.C. 26.10.650 JUDICIAL APPEALS Appeals of final decisions under this Chapter, for which decisions all administrative appeals specifically authorized have been timely exhausted, shall be made in a manner consistent with state law, including RCW 36.70C

C.C.C. 26.10.700 MONITORING AND ENFORCEMENT The Planning Division is hereby authorized and directed to adopt procedures to monitor permit decisions and conditions.

C.C.C. 26.10.710 SEVERABILITY If any provisions of this Chapter, or its application to any person or circumstances, is held invalid, the remainder of the Chapter, or application of the provisions of the Chapter to other person or circumstances, is not affected.

C.C.C. 26.10.720 EFFECTIVE DATE This Ordinance shall take affect ten (10) days after the date of adoption.

Adopted this 3rd day of February, 1998.

BOARD OF CLALLAM COUNTY COMMISSIONERS

Carole Y. Boardman
Carole Y. Boardman, Chair

excused absence
Martha M. Ireland

Phillip Kitchel
Phillip Kitchel

ATTEST:

Julie Riggs, Deputy
Karen Flores
Clerk of the Board