

An ordinance amending chapter 27.10 entitled “Right to Practice Forestry, Mining and Agriculture”, to reflect additional mandatory text relating to Mineral Resource extraction

BE IT ORDAINED BY THE BOARD OF CLALLAM COUNTY COMMISSIONERS:

Section 1

Section 27.10.010, Forest, mining and agricultural operations are favored land uses within Clallam County, is amended to read as follows:

Forestry, mining and agricultural activities, operations, facilities or appurtenances thereof, operating in a Agricultural Retention, Commercial Forest, Commercial Forest/Mixed Use (“CFMU”) 20 or CFMU 5 Zone land having an Mineral Resource Land Overlay District (“MRLD”) or land designated as Mineral Resource Land (“MRL”) are considered preferred land uses in Clallam County. As long as these uses are allowed under CCC Title 33 and are conducted or maintained in a manner consistent with current best management practices and do not violate local, State or federal regulations they shall not be considered a nuisance or be declared a nuisance as defined in Clallam County Code. This protection will be effective regardless of past or future changes in the surrounding area’s land use or zoning designation.

Section 2

Section 27.10.020, Disclosure, is amended to read as follows:

(1) The statement set forth in subsection (2) of this section, Disclosure, shall be used under the following circumstances and in the following manners:

(a) Clallam County shall mail a copy of the disclosure, with an explanatory informational attachment to all owners of real property in Clallam County with the annual tax bill; provided, that no liability shall attach to Clallam County for any actions or omissions under this subsection.

(b) Prior to recording the transfer of real property which includes or is within 600 feet of land that i) is zoned as Commercial Forest, CFMU or Agricultural Retention or ii) contains a surface mine possessing a DNR reclamation permit or is used for “agriculture” as that term is defined in County Code Title 33 by sale, exchange, gift, real estate contract, lease with an option to purchase, any other option to purchase, or any other means of transfer, a statement containing the language set forth in subsection (2) shall be recorded in the County Auditor’s office as part of the deed or instrument serving to convey title in that land. .

(c) Upon the issuance of a development permit, including but not limited to subdivision approvals, binding site plans, building permits and other land use permits, for a use to occur on or within 600 feet of land that i) is zoned as Commercial Forest, CFMU or Agricultural Retention or ii) contains a surface mine possessing a DNR reclamation permit or is used for “agriculture” as that term is defined in County Code Title 33 the development permit shall include a condition mandating that the owners of that property in their role as recipient of the issued development permit shall be required to sign a statement of acknowledgment containing the disclosure in subsection (2) of this section on forms provided by the Clallam County Department of Community Development, which form shall then be recorded in the County Auditor’s Office at the property owner’s expense. No recipient of a development permit for use of land within 600 feet of the two categories of land listed above in this subsection shall be authorized to occupy their residence or begin or implement

their approved use without first providing the Department of Community Development written proof such acknowledgment has been signed and recorded with the County Auditor.

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

Any owner of real property within 600 feet of property that is i) currently used for forestry, mining or agricultural operations or ii) zoned for forestry, mineral resource extraction or "agriculture" as that term is defined in County Code Title 33 may be subject to inconveniences or discomforts arising from such operations, INCLUDING BUT NOT LIMITED TO NOISE, TREE REMOVAL, ODORS, INSECTS, FUMES, DUST, SMOKE, THE OPERATION OF MACHINERY OF ANY KIND DURING ANY 24 HOUR PERIOD (INCLUDING AIRCRAFT), THE STORAGE AND DISPOSAL OF MANURE, AND THE APPLICATION BY SPRAYING OR OTHERWISE OF CHEMICAL FERTILIZERS, SOIL AMENDMENTS, HERBICIDES AND PESTICIDES. The notice for any development that is within 600 feet of land used for mineral extraction, co-designated as MRL or possessing an MRL0D designation shall also inform the adjacent property owner that an application may be made on the land triggering the need for this notice for mining-related activities including mining, extraction, washing, crushing, stockpiling, blasting, transporting and recycling of minerals. Clallam County has determined that the use of real property for forestry, mining or agricultural operations is a preferred use in this County. This means the County will not consider those inconveniences or discomforts arising from forestry, mining or agricultural operations, if such operations are consistent with commonly accepted best management practices and comply with local, State and Federal laws, to be a nuisance. HOWEVER, THOSE ACTIVITIES WHICH ARE NOT RELATED TO NORMAL FORESTRY, MINING OR AGRICULTURAL OPERATIONS OR WHICH DO NOT FOLLOW BEST MANAGEMENT PRACTICES, AS DEFINED IN THE FOREST PRACTICES ACT, THE SURFACE MINING ACT OR THE CLALLAM COUNTY CONSERVATION DISTRICT FOR AGRICULTURAL PRACTICES, ARE NOT PROTECTED UNDER THE PROVISIONS OF THIS ORDINANCE.

Section 3

Section 27.10.030, Local improvement districts, is re-adopted without any change to its text and shall read as follows:

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

Section 4

Section 27.10.040, Enforcement, is amended to read as follows:

It shall be the duty of the Director of the Department of Community Development or his designee to enforce this chapter through the proper legal channels.

Section 5

The following two sections are re-adopted without any change in their current text to read as follows:

Section 27.10.050, Penalty,

Any person, firm or corporation who violates this chapter or does not comply with an administrative order to abate the violation shall be punished by a fine of not less than \$25 or more than \$500. Each day that a violation is permitted to exist may constitute a separate offense.

Section 27.10.060, Severability,

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

Section 6

Section 27.10.070, Precedence, is amended to read as follows and is renamed "Preferred uses."

The extraction of natural resources (forestry, mining, agriculture) at locations zoned as listed above in Section 27.10.010 is hereby recognized as a "preferred use." The "preferred" uses listed in Section 27.10.010 above remain subject to all other applicable a) Comprehensive Plan provisions and b) development regulations regardless of where they are undertaken and regardless of whether they have "preferred use" status at the location where they are being undertaken.

Section 7

This Ordinance shall take effect 10 days after adoption

ADOPTED this tenth day of November 2020



ATTEST:

L. Gores
Loni Gores, CMC, Clerk of the Board

BOARD OF CLALLAM COUNTY COMMISSIONERS

Mark Ozias
Mark Ozias, Chair

Randy Johnson
Randy Johnson

Bill Peach
Bill Peach