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Ordinance 968

An ordinance amending chapters 31.01 titled “Comprehensive Plan Overview” and 31.02 titled “County-Wide Comprehensive Plan”, to reflect adopting additional text regarding Mineral Resource Lands

BE IT ORDAINED BY THE BOARD OF CLALLAM COUNTY COMMISSIONERS:

Section 1

Section 31.01.100, entitled “Authority for planning,” is amended to read as follows:

This Comprehensive Plan and any ordinances intended to implement this Plan are adopted under the authority of the Clallam County Charter, the Growth Management Act of 1990 (Chapter 36.70A RCW), and the Planning Enabling Act (Chapter 36.70 RCW), as now or hereafter amended.

It is the purpose and intent of this Comprehensive Plan to provide a guide for coordinated and orderly growth and development of the land and physical improvements in the unincorporated areas of Clallam County, including State lands. This Plan does not guide physical improvements on tribal trust lands. The County and various tribes are encouraged to work together to coordinate development plans and provide for orderly growth. Together with common goals expressing the public’s interest in the conservation and wise use of our lands, this Plan provides for the orderly growth of all the various uses of land; these common goals promote the public health, safety and welfare, and encourages economic development and efficient provision of public services and facilities.

Section 2

Section 31.01.200, entitled “Growth management goals,” is amended to read as follows:

All subsections not listed here have neither been amended nor repealed and, instead, remain as currently enacted.

The Growth Management Act identified the following goals to guide the development and adoption of comprehensive plans and development regulations. The goals are not listed in order of priority and shall be used exclusively for the purpose of guiding the development of comprehensive plans and development regulations.

(8) Natural Resource Industries. Maintain and enhance natural resource-based industries, including productive timber, agricultural, mineral extraction and fisheries industries. Encourage the conservation of productive forest lands and productive agricultural lands, and discourage incompatible uses.

Section 3

Section 31.01.300, entitled “Overview of Plan objective,” is amended to read as follows:

Clallam County adopted its first comprehensive land use plan in 1967. With the significant growth that the County experienced in the late 1960’s and early 1970’s, the County updated the Comprehensive Plan, and for the first time, adopted zoning and land division controls.

Regulation of private property, however, did not receive immediate wide-spread support. Community opposition and court challenges resulted in limited land use controls until a new comprehensive plan and zoning ordinance were adopted in 1982.

The 1982 Comprehensive Plan provided planning objectives similar to this new Comprehensive Plan. Urban areas were designated around the three (3) cities and around the principal rural community centers. Forestry zoning worked towards protecting forest lands from conversion to residential development. Rural policies identified appropriate densities and services to be expected within those areas.

The 1982 Comprehensive Plan, however, did not achieve many of the objectives that the Growth Management Act of 1990 intended to address. Some of the issues that the current plan tries to address include:

- Setting larger parcel sizes for commercial forest areas to provide even greater protection to this resource base (eighty (80) acre lots vs. twenty (20) acre lots);
- Limiting the size of urban areas to reasonable growth projections and planning for urban services to be provided to those areas in an efficient manner;
- Encouraging growth within urban growth areas as a priority over growth into rural areas;
- Conserving agricultural lands;
- Adopting a transportation plan that ties land use densities to transportation needs;
- Ensuring that capital facilities are planned to be provided at the time of development, or a financial commitment is in place to ensure they are provided in a timely manner;
- Adopting affordable housing goals and strategies;
- Adopting economic development goals and objectives;
- Reducing sprawling low-density development in rural areas and conserving the rural character of our rural areas;
- Recognizing and acknowledging the presence of tribal governments and their influence;
- Setting specific criteria for land use designations and specific criteria for amendment of the plan; and
- Setting specific land use policies based on regional comprehensive plans, developed from the regional setting, rather than from a centralized planning function.

This Comprehensive Plan, based on the requirements of the Growth Management Act (GMA), establishes a framework for coordinated and comprehensive planning which will help Clallam County and its cities to manage growth in a manner which best fits Clallam County.

The GMA calls for urban growth areas where urban development will be encouraged and can be supported with adequate public facilities and services. At the same time, the GMA discourages the inappropriate conversion of undeveloped land into sprawling, low-density development and encourages conservation of rural character and resource lands. These four (4) general land uses (urban, rural, industrial and natural resource) form the framework for more specific land use designations, which are found in one of four (4) regional subarea plans.

The objective of the County-wide Comprehensive Plan is to identify the goals and policies for those issues that are of a County-wide nature, and provide the framework for adoption of regional comprehensive plans. Those issues that are of a County-wide nature are: forest and mineral lands, urban growth and sprawl, transportation, economic development, affordable housing, natural, historical and cultural resources, utilities and capital facilities.

The objective of regional comprehensive plans is to provide specific means to implement the general plan objectives of the County. Rural and urban land use policies should provide specific maps

and strategies to implement the plan. Specific ways to implement transportation, housing, economic development, or public facility and service objectives should be sought in the regional plans.

The Comprehensive Plan should be a dynamic tool to address ongoing concerns, new information or new issues. Although this Plan seeks to achieve stability in land use regulations, it is expected that the Plan will need to be reviewed periodically to ensure it is meeting growth management objectives. Also, as new information might become available, such as water and sewage disposal studies, it might be necessary to amend this Plan.

The County will support business and industrial development which strengthens and diversifies the economic base, creates family wage jobs, develops and operates in a manner that promotes and protects the environment and efficiently uses our natural resources. Efforts should be focused on small to medium sized industries. The County should continue to be marketed for tourism and retirement. Infrastructure should be in place in order to attract industrial and commercial operations. Regulations should be consistent, fair, and timely.

Section 4:

Section 31.01.400, entitled “Plan consistency,” is amended to read as follows:

In order to have a comprehensive plan that provides clear direction, it is necessary that the Plan be both internally and externally consistent. Although the 1982 Comprehensive Plan generally achieved this objective, the Growth Management Act of 1990 now requires this consistency.

First, the Comprehensive Plan is adopted based on the State goals and guidelines of the Growth Management Act. One of the requirements of the Act was for the County and cities to adopt a County-wide Planning Policy that formed the framework for adoption of County and city comprehensive plans. The County-wide Planning Policies ensure that the County and city comprehensive plans achieve consistency between jurisdictions. It is imperative that the County-wide Planning Policies be reviewed prior to adoption or amendment of the Comprehensive Plan, and that the Plan is determined to be consistent with the County-wide Planning Policies.

The County Comprehensive Plan also includes four (4) regional subarea comprehensive plans: Sequim-Dungeness, Port Angeles, Straits and Forks-West End. Similar to the relationship of the County-wide Planning Policy to the County-wide Comprehensive Plan, regional comprehensive plans must be determined to be consistent with the County-wide Plan. For example, the County-wide Plan identifies forest lands of long-term commercial significance to be a County-wide issue; policies and criteria within that section of the Plan ensure that these lands are conserved. Therefore, for example, it would be inconsistent to have regional plans adopt conflicting strategies for conservation of forest lands.

An issue that needs careful consideration in the adoption of the four (4) regional subarea comprehensive plans is consistency between regions. It is possible that the four (4) regional plans could have widely varying land use classifications and development standards. This could result in the County adopting four (4) different sets of development regulations. This approach could be an administrative nightmare, but does reflect the different visions and values of the very different regions. Where possible, the regional subarea plans should strive to find consistency between the plans.

A Comprehensive Plan must also be internally consistent. The transportation element must be consistent with the land use element. Rural land use densities must be consistent with the need to protect environmental quality and encourage growth into urban areas. Making this internal consistency test requires that the framework of the Plan and any amendments to it are adopted with a comprehensive analysis of one section’s impact on other sections.

Finally, any ordinance which regulates development of property requires consistency with the Comprehensive Plan. Prior to passage of the Growth Management Act, the Comprehensive Plan was only a “guide” to the physical development of the County. Land use ordinances, such as zoning, took precedence over the Comprehensive Plan where conflicts existed. Any ordinances now adopted to implement this Comprehensive Plan must be consistent with the Plan. The following figure identifies the relationship of development regulations and capital budget decisions which must be consistent with the Plan.

Section 5

Section 31.01.500, entitled “Public participation,” is amended to read as follows:

The County established procedures for early and continuous public participation soon after passage of the Growth Management Act. Consistent with the phasing of plans required by the Act, the County first concentrated on measures to conserve resource lands and protect critical areas, then focused on County-wide Planning Policies, urban growth areas, and finally comprehensive plans. The development of proposals and opportunity for comment followed this sequence.

Many of the County’s plan elements have been developed through citizen advisory committees, either special task forces or standing committee like the County Planning Commission and Shorelines and Sensitive Areas Committee. In the western parts of the County, a new regional planning commission was appointed jointly with the City of Forks and community councils in Joyce and Clallam Bay-Sekiu were established.

The County has reached out to citizens and landowners through various means to ensure that proposals and alternatives reach the affected parties. Prior to any work getting accomplished, the County held public workshops in all three (3) cities to outline the requirements of the Growth Management Act and the ways in which the County proposed to solicit feedback. Workshops and early neighborhood meetings have been regularly scheduled on plan proposals and development regulations prior to public hearings and adoption.

The County has used the various news media to also reach audiences. Television, newspaper and radio spots have been continuous throughout the process. One regional plan used live television for getting the information out. The County has prepared brochures for handing out to the public, published a regular newsletter identifying issues and opportunities for input, and delivered direct mailings on proposed growth management elements.

The Comprehensive Plan has also been developed on two (2) tiers: County-wide and regionally. This approach was chosen not only because the land use issues varied so greatly between the regions, but also because the plans and opportunities for open discussion of the issues would be more detailed. This approach has been very successful, as the regional comprehensive plans have received considerable attention from the citizens within that region.

The citizens of Clallam County recognize mining as an important part of the local and regional economy. In recognition of its importance, and in order to modernize those sections of the Comprehensive Plan and the related development regulations relating to the extraction of mineral resources as well as comply with a Growth Board remand, Community Development (“DCD”) proposed and the County Commissioners approved a seven-step Public Participation Plan or “PPP” in mid-2019. To implement the PPP staff created a Mineral Resource Lands website containing a survey for citizens to complete. Notice of four regional meetings was mailed to more than 1,000 landowners, primarily anyone who owns land within 1,000 feet of an

existing surface mine. Those meetings were advertised some 10-14 days before their scheduled date in local newspapers such as the Forks Forum. DCD then conducted those regional meetings, each lasting two hours, in Forks, Port Angeles, Sequim and Clallam Bay. These workshops were attended by approximately 80 individuals. The County received some 30 comments during time when the proposal was before the Planning Commission. In addition, from June 2019 to July 2020 the Planning Commission has held approximately 15 public meetings where MRL was discussed and public comments were received. Some of the edits and additions suggested by the public were included in the proposed text sent to the County Commission. A list of "interested parties," some 25 in all, received notice of every Planning Commission meeting and the related proposals. This public outreach process included having Rian Skov, a geologist with the WA State Department of Natural Resource Geology and Earth Resources Section, attend the Planning Commission meeting on February 5, 2020. The County learned its existing text regarding mineral resource lands needed augmentation and intends to adopt more thorough text on this topic into its Comprehensive Plan and development regulations by the end of 2020. The Planning Commission discussed and reviewed proposed changes to the development regulations and the Comprehensive Plan in its April and May 2020 meetings. A public hearing, properly noticed, was held before the Planning Commission on July 1, 2020 and on July 20, 2020 the Planning Commission sent the proposed text to the County Commission recommending approval. The County Commission held two work sessions on the proposed text in August 2020 and held a properly-noticed public hearing on September 29, 2020, which was extended to October 13, 2020. Adoption of the changes by the County Commission occurred on November 10, 2020.

Section 6

Section 31.02.050, entitled "Definitions," is amended to read as follows:

Words or phrases within this Section not listed here have been neither amended nor replaced and remain as currently enacted.

(24) "Long-term commercial significance" includes (or signals) the growing capacity, productivity, and soil composition of the land for sustained commercial production, in consideration of the land's proximity to population areas, and the possibility of more intense uses of the land. Long-term commercial significance means the land is capable of producing the specified natural resources at commercially sustainable levels for at least the twenty-year planning period, if adequately conserved. Designated mineral resource lands of long-term commercial significance may have alternative post-mining land uses, as provided by the Surface Mining Reclamation Act, comprehensive plan and development regulations, or other laws.

(25) "Master planned resort" refers to a development which may be permitted and which constitutes urban growth outside of urban growth areas. A master planned resort means a self-contained and fully integrated planned unit development, in a setting of significant natural amenities, with primary focus on destination resort facilities consisting of short-term visitor accommodations associated with a range of developed on-site indoor or outdoor recreational facilities.

(26) "Mineral resource lands" means lands primarily devoted to the extraction of minerals or that have known or potential long-term commercial significance for the extraction of minerals.

(27) "Mitigation" means:

(a) Avoiding the impact altogether by not taking a certain action or parts of an action;

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation;

(c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;

(e) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and/or

(f) Monitoring the impact and taking appropriate corrective measures.

(28) “Public facilities” include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools.

(29) “Public services” include fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services.

(30) “Regional comprehensive plans” or “subarea plans” refers to one of four geographic areas addressed in a comprehensive plan which provides specific guidelines for land uses, public facilities and services, transportation, environmental protection, and other elements of the comprehensive plan, not addressed in the County-wide Comprehensive Plan. Regional comprehensive plans provide opportunities for making local decisions consistent with County-wide plan objectives.

(31) “Rural areas” or “rural land” means land located outside of designated urban growth areas and outside of designated agricultural, forest, and mineral resource lands of long-term significance under this Comprehensive Plan.

(32) “Rural character” means the existing and preferred patterns of land use and development established for lands designated as rural areas or lands under this comprehensive plan. Rural characteristics include, but are not limited to:

(a) Open fields and woodlots interspersed with homesteads and serviced by small rural commercial clusters; and

(b) Low residential densities, small-scale agriculture, woodlot forestry, wildlife habitat, clean water, clean air, outdoor recreation, and low traffic volumes; and

(c) Areas in which open space, the natural landscape, and vegetation predominate over the built environment; and

(d) Lifestyles and economies common to areas designated as rural areas and lands under this Plan; and

(e) Visual landscapes that are traditionally found in areas designated rural areas and lands under this Plan; and

(f) Areas that are compatible with the use of the land by wildlife and for fish and wildlife habitat; and

(g) Areas that reduce the inappropriate conversion of undeveloped land into sprawling, low-density development; and

(h) Areas that generally do not require the extension of urban governmental services; and

(i) Areas that are consistent with the protection of natural surface water flows and ground water and surface water recharge and discharge areas.

(33) “Rural development” means development outside the urban growth area and outside agricultural, forest, and mineral resource lands designated pursuant to RCW [36.70A.170](#). Rural development can consist of a variety of uses and residential densities, including clustered residential development, at levels that are consistent with the preservation of rural character and the requirements of

the rural element. Rural development does not refer to agriculture or forestry activities that may be conducted in rural areas.

(34) “Rural governmental services” or “rural services” means those public services and public facilities historically and typically delivered at an intensity usually found in rural areas and may include domestic water systems, fire and police protection services, transportation and public transit services, and other public utilities associated with rural development and normally not associated with urban areas. Rural services do not include storm or sanitary sewers except as otherwise authorized by RCW [36.70A.110\(4\)](#).

(35) “Shall” means the statement is mandatory, and the action so stated is required to be done without discretion by decision-makers. The use of “shall” in a statement indicates that the action is imperative and ministerial.

(36) “Should,” when used in a statement, indicates a preference, recommendation or exhortation rather than a mandate or requirement and is a synonym for “may.”

(37) “Thirty year supply of construction aggregates” means the quantity (as estimated by County personnel) of construction aggregates estimated to be needed by governmental and private consumers of that product during a particular 30-year planning period. Such an estimate of supply and demand for construction aggregate shall be prepared periodically, but not more frequently than once every seven years and will be based, in part, on existing surface mine operations possessing a valid DNR reclamation permit.

(38) “Transportation facilities” includes capital facilities related to air, water or land transportation.

(39) “Urban growth areas” means those areas designated by Clallam County pursuant to the policies in the County-wide Planning Policy and the Comprehensive Plan.

(40) “Urban growth” means growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of such land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources, rural uses, rural development, and natural resource lands designated pursuant to RCW [36.70A.170](#). A pattern of more intensive rural development as provided in RCW [36.70A.070\(5\)\(d\)](#) is not urban growth. When allowed to spread over wide areas, urban growth typically requires urban governmental services.

(41) “Urban services” include those services historically and typically delivered by cities or other identified service provider, such as a utility district, and which at a minimum include the provision for sanitary waste, solid waste disposal systems, water systems, urban roads and pedestrian facilities, public transportation systems, stormwater systems, police and fire and emergency service systems, electrical and communication systems, school and health care facilities, and neighborhood and/or community parks.

(42) “Wetlands” includes those areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Regulated wetlands do not include those artificial wetlands created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities. Wetlands created as mitigation and wetlands modified for approved land use activities shall be considered as regulated wetlands.

Section 7

The following sections are not amended by this Ordinance:

Section 31.02.110, Resource land issues

Section 31.02.115, Agricultural resource land inventory and issues

Section 31.02.120, Agricultural resource land goals

Section 31.02.130, Forest land issues

Section 8

Section 31.02.140, Forest land goals, is amended to read as follows:

Subsections currently in this Section that are not listed here have neither been amended nor repealed.

(9) Forestry shall be encouraged both within and outside of designated commercial forest lands. Reforestation shall be encouraged as the subsequent preferred reclamation method upon depleted surface mines.

(19) Lands that have not been designated as commercial forest lands of long-term commercial significance under this Comprehensive Plan and lands that have not been classified as forest land under Chapter [84.33](#) RCW and timber land under Chapter [84.34](#) RCW shall be considered as lands likely to convert to nonforest uses. Timber harvesting on such lands shall be considered a conversion under the Forest Practices Act and comply with County regulations for clearing, grading, drainage, and protection of critical areas.

Section 9

Section 31.02.145, entitled “Mineral Resource land issues,” is hereby renumbered as Section 31.02.150.

Section 10:

Section 31.02.150, entitled “Mineral resource land issues,” is amended to read as follows:

(1) Mineral resource lands in the County provide vitally needed construction materials to the residential, commercial and industrial sectors of the economy, as well as government agencies charged with road construction and maintenance. Therefore, the citizens of Clallam County recognize mineral resource extraction as an important piece of the local and regional economy. Our mineral resources are finite; a stable, low cost source of material can only be assured if measures are taken to protect the resource and allow it to be extracted.

(2) Mineral resources found in Clallam County include sand and gravel, rock, industrial minerals and metallic minerals. The Department of Natural Resources has identified likely locations of these mineral resources. Where these resources exist in rural areas, measures to ensure the continued extraction of these finite resources should be considered. Planning and land use regulations could achieve mineral resource land conservation in the following ways:

- (a) Overlay zoning on mineral resource lands giving priority for extraction over subdivision;
- (b) Exclusive zoning on mineral resource lands requiring extraction of resources before subdivision;
- (c) Forest land zoning with allowance for mineral extraction.

(3) Environmental impacts of mineral extraction can be substantial. Aggregate production temporarily obliterates entire mine-site ecosystems, but this loss can be mitigated with carefully sequenced reclamation. The effects of truck traffic can be a primary concern in designating construction aggregate mines. Damage to river beds can be another major impact of mining. Channel bar scalping can reduce the probability of flooding but can also change the river-bed morphology. Possible reduction of the quantity of groundwater is a concern in new mineral sites. Excavation breaching the lateral or seat-seals of perched aquifers can cause loss of water supplies and other damage. Washington State has several regulations which govern mineral extraction and associated impacts, including but not limited to: Surface Mining Act, Growth Management Act, Water Quality Standards, Shoreline Management Act, and the State Environmental Policy Act.

(4) Comprehensive Plan 31.02.160(5)(e) states that any lawful surface mine is a preferred land use and shall receive protection from incompatible uses.

(5) In Clallam County mineral resource extraction usually requires a Zoning Conditional Use Permit. However, in the Commercial Forest Zone or Mineral Resource Land Overlay District mineral extraction and processing is a permitted use, typically occurring after timber harvesting has been completed at that site.

(6) In recognition of the geology present under much of the land zoned as Commercial Forest, or “CF,” the mineral resource located under much of the land zoned CF is best suited for the repair and maintenance of forest service roads or internal roads used for timber harvesting and does not meet the quality standards that aggregate (product) must meet in order to be used for the construction of publicly owned roadways. Typically, if a mineral resource extraction is occurring on CF land and the resource being extracted is used solely used for timber road maintenance the County and the State DNR do not regulate such operations.

(7) Unless specifically so designated by the County through the Mineral Resource Land Overlay District process, CF land shall not be considered mineral resource land of long-term commercial significance. Mineral extraction is and remains an authorized or “yes” use on CF land. Mineral resource extraction is and remains authorized in most rural residential zones upon the applicant obtaining a conditional use permit.

(8) In accordance with the County’s critical areas code mineral resource extraction (as defined in Title 33 of the Code) may be subject to the County’s critical areas ordinance since critical areas may be present on a site where a surface mine is proposed. Only if any critical area (or its buffer) is present at the location of a proposed (new) mineral extraction, then the County must review that application against the applicable critical areas regulations. Upon satisfaction of the regulations found in the critical areas ordinance the County will issue a Certificate of Compliance.

(9) If a county permit be required for a proposed new mineral resource extraction and/or processing activity, then the County shall be the lead for the State Environmental Policy Act (SEPA) (see Title 27.01 CCC, [WAC 197-11](#), and/or [RCW 43.21c](#)) and will issue a Threshold Determination pursuant to SEPA. When performing a SEPA review DCD typically addresses the size of the operation and general depth of the operation as well as operational measures (see RCW 78.44.031(8)) such as noise generation, air quality, surface and ground water quality, quantity, and flow, glare, pollution, traffic safety, ground vibrations, visual impacts, and other issues. These impacts can be mitigated through such measures as: restrictions on what activities are permitted, where mineral extraction and processing may

occur, hours of operation, visual buffers, road improvements, hydro geologic analysis, noise studies, site improvements (like paving or graveling haul road) and other issues through the required permit and/or SEPA.

(10) Once DCD has completed the review described above the county signs off on a SM-6 for that parcel(s). The SM-6, if signed by the County, affirms that the mineral resource extraction and processing activity complies with Clallam County Codes and that the post-reclamation use (the subsequent use) is consistent with the Zoning Code.

(11) DNR reviews pursuant to Ch. 78.44 the mineral resource extraction and processing activity to ensure that it is occurring in a safe manner and that the reclamation occurs as originally proposed. DNR requires a bond to ensure that they have adequate funds to reclaim a site if landowner does not reclaim the site. DNR also usually takes the lead for changes to existing surface mine(depth or how the site is mined) within the existing footprint. If the surface mine seeks a horizontal expansion it is usually reviewed by the County again.

(12) The Washington State Department of Ecology issues a National Pollutant Discharge Elimination Permit (NPDES) General Sand and Gravel Permits for mineral extraction and processing activities (see [Ecology NPDES Sand-Gravel General-Permit](#)). This is a permit that covers all typical stormwater discharge water quality and quality issues with a mineral resource extraction and/or processing activity. All mineral resource extraction permit applicants will be required to contain their stormwater and treat it before it is discharged to the ground or surface water.

(13) Clallam County typically requires surface mines and processing areas to have a supply of water to control dust and to gravel or pave roads to reduce dust. The Olympic Region Clean Air Authority (ORCAA) requires annual registration if a crusher or a large generator are being used, but do not usually require a permit for sorters or the use of a loader/excavator and trucks. If dust leaves the site ORCAA can take enforcement actions as may the County. More information about ORCAA is available at <https://www.orcaa.org/> or at the following link: [ORCAA](#)

(14) If timber (over 5,000 board feet or 2 log trucks) is removed from a site and the area is not reforested within 3 years then the activity, will require a Class IV General Forest Practice Permit. Clallam County usually will be lead if the activity requires a county permit otherwise the first state agency with a permit would issue the SEPA Threshold Determination. See Ch. 76.09 RCW and [WAC 222](#).

(15) Surface mines deliver material throughout the county. In addition, many surface mines accept clean fill to obtain material to reclaim their surface mine and also as a source of revenue. The movement of material in and out of the site and also the site disturbance and often periods of inactivity can make surface mines a source of noxious weeds. The Olympic National Park does not accept material from surface mines that are not certified as noxious weed free. The county also places this requirement on surface mines and projects that import and export large amounts (in excess of five truckloads per month) of material. In addition, such large projects are required to coordinate with the County's Noxious Weed Department to develop a plan for controlling noxious weeds. Additional information is available at the <http://www.clallam.net/weed/>

(16) Clallam County has not adopted any noise standards that would apply to mineral resource extraction and/or processing activities. Instead, the County relies upon the Washington State Department of Ecology Maximum Environmental Noise Levels codified at [WAC 173-60](#). Noise is measure in decibels (dBA) at the location where the noise is being received. The WAC provisions include daylight and nighttime standards. Typically surface mines are considered industrial use (Class C) from a noise perspective and a residence is considered a residential use (Class A). Thus, in accordance with WAC [173-60-040](#) the maximum permissible noise levels from mineral resource

extraction as measured at a receiving residence is 60 dBA from 7 a.m. to 10 p.m. and 50 dBA from 10 p.m. to 7 a.m. Typically different equipment (loader, sorter, and crusher) generate different noise based on the specifics of the equipment and if there are any noise reducing measures employed. There are some allowances for certain infrequent activities (alarms, blasting, etc). Noise levels can vary based such factors as wind, temperature, barometric pressure, topography and other factors. Clallam County would require a noise study (acoustic analysis) if a mineral extraction and processing activity were being proposed within 600 feet of an existing residence not owned by the mining applicant. With respect to a site-specific proposal for a surface mine, if mineral extraction and/or processing activities at that site are likely to exceed Maximum Permission Noise Levels in WAC 173-60 as measured to the closest potential receptor, then a noise report shall be required. Such a noise study would determine the dBA based on the proposed equipment and would include proposed measures to reduce (muffler, berms, distance, etc) the noise level to the closest receiving land use.

(17) The issue of aesthetics with respect to surface mines is addressed typically by the county through SEPA. Mining activities and other land use activities in highly visible locations (e.g., adjacent to or visible from a highway or other areas where large number of people can see) are typically required to reduce visual impacts. For surface mines this may entail leaving visual buffers or measure to minimize the visibility of the operation.

This may include requiring visual simulations from key viewing areas, which typically are photos with the existing and proposed conditions shown. DNR usually requires the reclamation of the site to blend in with the surrounding area. Basalt quarries are required to have finished mining faces that blend in with the surrounding natural conditions. This may entail allowing higher and steeper finished faces than normally allowed through by DNR Reclamation Plans.

(18) Blasting of basalt and other “hard rock” must be done in a controlled way intended to loosen material for removal and reclamation. Blasting should be done on an infrequent basis and each blast should provide a large supply of material to be processed through traditional means. The size of and number of charges must be done in a prudent and orchestrated method to remove consolidated material and also to provide the size of material needed for rip rap or for material that can be processed through a crusher. The safety of people surrounding the proposal and the workers at mineral extraction sites from blasting are regulated by U.S. Department of Labor Mining Safety and Health Administration (MSHA) and the WA State Department of Labor and Industries. These federal and state agencies address safety issues from noise, flying debris, etc. This may also include impacts from blasting on foundations and wells, which may entail the use of monitoring equipment for the areas around the blasting. The county may place additional restriction on the operation (such as timing restrictions) through SEPA.

(19) Asphalt or concrete plants do not constitute “mineral extraction” as that term is defined in the County’s development regulations. Such plants may require an additional zoning permit where authorized as an “allowed use” or a conditionally permitted use.

Section 11

Section 31.02.150, Mineral land goals, is renumbered to be Section 31.02.160.

Section 12

Section 31.02.160, entitled “Mineral Land Goals,” is amended to read as follows:

(1) Based on best known available information, the Comprehensive Plan land use map should designate potential locations of all sand and gravel, hard and durable bedrock, industrial minerals, and metallic mineral deposits.

(2) Development regulations to conserve mineral resource lands shall be as follows:

(a) Mineral extraction and processing should be considered as one land use, subject to appropriate permits.

(b) Mineral extraction and process in commercial forest lands should be permitted outright, and a conditional use in rural and urban land use designations.

(c) The locations of fifty (50) year supplies of construction aggregates should be shown on land use (e.g., zoning) maps made available to the public. Development regulations shall ensure that adjacent land uses do not interfere with the continued use, in the accustomed manner, of these designated lands for the extraction of minerals. Development regulations should include increased setbacks for adjacent residential development, and notice to future purchasers for new residential subdivisions adjacent to an approved mineral resource zone.

(d) Development regulations or review of mineral process and extraction permits should be direct and proportional to the impacts that need to be mitigated. For example, the ordinance or conditions of approval should limit impacts (noise and dust), but not activities (crushing and sorting). Approvals should be valid through completion of the activity with compliance sought through enforcement penalties or performance bonds.

(e) Once a mineral resource site has been established, such site shall be considered a preferred land use and receive protection under a “right to practice mining” ordinance and development proposals within 600 feet of such sites will be reviewed for compatibility with mineral extraction activities.

(f) Mineral extraction operations shall use “best management practices” as required by the Surface Mining Act and County plans, policies and ordinances. Such operations shall reclaim sites for productive forestry, agriculture, residential or other use after mineral extraction operations permanently cease. Newly established mineral extraction operations are required to meet buffering and setback provisions contained in the mineral overlay district in order to reduce impacts on nearby residences.

(g) Overlay zoning on mineral resource lands giving extraction priority over other possible uses such as residences or residential subdivision.

(h) Zoning for mineral resource lands requiring extraction of resources prior to any subdivision of that site.

(i) Forest land zoning with allowance for mineral extraction, including full depletion of the resource and successful completion of the approved reclamation plan, as a subsequent use after timber harvesting has been completed.

(j) Land other than that zoned for commercial forestry shall be designated as locations suitable for mineral extraction.

Section 13

A new section, to be codified as Section 31.02.170, and to be entitled “Classification of Mineral Resource Lands,” is created to read as follows:

1. In accordance with WAC 365-190-040(4) and WAC 365-190-070(3), the classification of lands suitable for mineral extraction may be performed by the applicant, landowner or County staff and said classification shall be done pursuant to the scoring system listed in subsection (3) below.

2. For purposes of this section and any related development regulations there is hereby defined a category of “LANDMARKS,” which for the purposes of measuring shall be the closest boundary of the incorporated cities of Forks, Port Angeles and Sequim as presently constituted or as may be amended or revised by an official action of those cities, for example, annexation.

3. The scoring system begins with any site to be scored starting with a score of zero (0) with points then attributed to the site as follows:

- a. Underlying geology shall be scored and shall have a maximum score of 45 points
 - i. A sealed report from a geological engineer, geologist or similar expert stating a particular site contains a mineral resource of the type that has long-term commercial significance shall provide the site with 45 points
 - ii. A site that is mapped on the DNR 1:500K map made part of this Comprehensive Plan that has as its underlying geology either “Qgd” (Glaciomarine Drift-Pleistocene) or “θv(c) [theta-v-c]” (Crescent Formation) shall provide the site with 30 points.
 - iii. In the case of a proposed surface mine site where the site cannot or does not score points in this category based on subsections i and ii above, said site may obtain 15 points in reliance upon the applicant submitting to the County written documents indicating the site in question contains mineral resources having long-term commercial significance, for example, soil logs.
- b. Also scored will be the quality of the resource present, if known, which shall have a maximum score of 30 points
 - i. Double the score in this category if the site is east of Morse Creek
 - ii. If quality of resource present is not known but the underlying geology is shown on the DNR 1:500K map to be either “Qgd” or “θv(c) [theta-v-c]”, then the site obtains 20 points.
 - iii. If the resource present at the site meets
 - 1) Specifications for construction sand and gravel, then the site obtains 30 points
 - 2) Specifications for WA State Dept. of Transportation then, the site obtains 30 points
 - 3) Specifications for County Roads Department work, then the site obtain 18 points
 - 4) Other specifications not listed here the site, then the site obtains 18 points.
- c. This classification scoring system shall, in part, score for distance (measured by road mileage from any abutting public or private right-of-way or street to a LANDMARK) as follows:
 - i. Double any positive score in this category if the site is east of Morse Creek

- ii. Less than 10 miles shall be worth 25 points
 - iii. More than 10 but less than 25 miles shall be worth 15 points
 - iv. More than 25 miles but less than 50 miles shall add zero points.
 - v. Greater than 50 miles shall cause a subtraction of 15 points
- d. This classification scoring system shall, in part, score based on the size of the parcel(s) proposed to be the site of a surface mine as follows:
 - i. If more than one parcel having distinct Assessor's Parcel Numbers ("APN") is proposed for mining, then score the proposal based upon the size of the largest parcel involved, said parcel to be known as the "measuring parcel."
 - ii. If there is not more than one parcel use the size of the parcel proposed for the mine for this scoring process.
 - iii. If the "measuring parcel" is
 - 1) 80 acres or more the site obtains 25 points
 - 2) Not less than 40 acres but less than 80 acres the site gains 20 points
 - 3) Not less than 20 but acres but less than 40 acres the site gains 10 points
 - 4) Not less than 5 acres but less than 20 acres the site scores zero points.
 - 5) Less than 5 acres some 10 points are subtracted from the score.
- e. This classification scoring system shall, in part, score based on the size of the adjacent parcel(s) as follows:
 - i. Included in counting the number of adjacent parcels shall be all parcels which are in whole or in part located within 1,000 feet of the boundary of the parcel(s) proposed for mining.
 - ii. If fifty percent (50%) of the parcels that are counted are
 - 1) Larger than 80 acres, then the site obtains 20 points
 - 2) Not less than 40 acres in size but less than 80 acres in size, then the site obtains 12 points
 - 3) Not less than 20 acres in size but less than 40 acres in size, then the site obtains 6 points.
 - 4) Not less than 5 acres in size but less than 20 acres in size, then the site scores zero points
 - 5) Less than 5 acres in size, then 9 points are subtracted from the site score.
 - 6) If no one category listed immediately above includes fifty percent or more ($\leq 50\%$) of the adjacent parcels, then the proposed site obtains 12 points.
- f. This classification scoring system shall score, in part, based on the depth of the overburden present at the site as follows:
 - i. The average depth of the overburden at a particular site can be estimated for scoring by a geological engineer or geologist and if that expert provides an estimated range, then the lowest number shall be used for scoring.
 - ii. The depth of the overburden at a particular site can be determined by using the lowest overburden depth recorded among 3 excavation locations at the site.
 - iii. If the depth of the overburden (as calculated pursuant to sections i and ii above) is unknown or not less than 40 feet, then the site score in this category is 5.
 - iv. For each foot the overburden (as calculated pursuant to sections i and ii above) is less than 40 feet, the site scores 1 point, up to a maximum of 30 points.

- g. This classification scoring system shall score, in part, based on the quantity of mineral resource present at the site, as analyzed in writing by a qualified professional, e.g., a geologist or geological engineer. If the site has a quantity of mineral resource present that is likely to last for 20 or more years, then the site shall obtain 25 points. Any site similarly analyzed in writing with resources likely to last 10-19 years shall obtain 20 points. Any site analyzed in writing and having mineral resources likely to last less than 10 years shall gain 10 points. The expert report written to estimate the quantity of mineral resources present at a site shall include an assumed rate of annual consumption based on the economic conditions expected to apply during the life of the surface mine. No points shall be scored in this category in the absence of such a written report.
- h. This classification system shall also include the following miscellaneous scoring rules:
 - i. If the subject parcel is designated as Commercial Forest land or Commercial Forest Land/Mixed Use, then the site shall obtain 10 points
 - ii. If a noise study is submitted which indicates the mineral extraction and processing activity will not exceed the standards established in Chapter 173-60 WAC at the closest potential land use, e.g., residence, then the site shall obtain 10 points
 - iii. If there is proof of source of water at the site, then the site obtains 2 points.
 - iv. If the subject parcel is within one-half mile (2,640 ft.) of a public preserve, including, but not limited to, national wildlife refuges, state conservation areas and other governmental preserves, excluding areas where hunting is authorized, then 2 points will be subtracted from the score of the site.
 - v. If the subject parcel is within one-half mile (2,640 ft.) of an urban growth area, religious facility or school, excluding from the definition of "school" any home schooling sites or pandemic-induced remote or distance learning sites, then 5 points will be subtracted from the score of the site.
 - vi. If there is an existing residence not owned by the mining applicant within 600 feet of the outer boundary of the site proposed for a surface mine located upon land, then 9 points will be subtracted from the score of the site.

4. The maximum classification score (without bonuses) shall be 200 or 255 if all maximum bonuses are obtained.

5. Any landowner or applicant may request to have County staff generate a classification score for their proposed surface mine site as part of the annual Comprehensive Plan amendment cycle at no cost to the landowner or applicant. However, if the County generates the classification score for a site it will use only maps available to it to determine as best as is reasonably feasible the relevant soil type and will not take soil samples or soil cores.

6. Nothing in this section is intended to prohibit a landowner or applicant for a surface mine from obtaining a classification report and submitting same to the County. Such a classification report need not be prepared by a person having a license or seal.

7. If a classification scoring report concludes the score for a particular site or parcel is 100 or more (and having 15 or more points from the scoring category of "underlying geology"), then that site or parcel shall be classified as mineral resource land or "MRL." If lawful surface mining operations are subsequently undertaken at that parcel, said surface mine shall be entitled to all protections offered to any surface mine by the County's "Right to Forestry, Mining and Agriculture" ordinance. Mineral

resource extraction shall be the preferred use at such a site or parcel, while remaining subject to all other applicable development regulations, including any performance standards.

8. Any site or parcel with a classification score of 150 or more (and having at least 15 or more points from the category of “underlying geology”), shall, in addition to classification as MRL, be pre-qualified for [upon application in accordance with CCC §33.62.050(5)] the status of a Mineral Resource Land Overlay District or “MRLOD” status. A surface mine possessing MRLOD status remains subject to all other applicable development regulations, including any performance standards.

9. For existing surface mines having a DNR permit, active or not, a classification scoring report is not a prerequisite to apply for MRLOD status.

Section 14

A new section, to be codified as Section 31.02.180, and to be entitled “Designation of Mineral Resource Lands,” is created to read as follows:

1. When designating mineral resource lands Clallam County shall utilize these minimum guidelines:
 - a. **Geology:** The land in question should contain deposits consisting of sand and gravel, coal, sandstone, basalt, or other igneous rock that is recoverable and marketable, based on U.S. Geological Survey maps or site-specific information prepared by a geologist, or as indicated by State Department of Natural Resources (DNR) mining permit data.
 - b. **Projected life of the resource:** To be designated as mineral resource land there should be at the land in question sufficient mineral resource to be commercially sustainable for not less than five (5) years and up to 20 years under market conditions present when the designation is being considered.
 - c. **Proximity to point of use or market:** The land in question will be judged by the energy cost of transporting the extracted materials to the market or end users.
 - d. **Infrastructure:** The land in question will be judged by the availability of public roads and whether there is a source of water for that land
 - e. The review of an application for a MRL or MRLOD designation will include a site specific SEPA Checklist and Threshold Determination. If during the SEPA process it is determined that archeological or historic resources are identified as being likely present at that site, then the applicant shall submit an Archaeological Monitoring Plan (prepared by a Professional Archaeologist) to DCD and WA State Department of Archaeology and Historic Preservation (DAHP) for review and approval. The purpose of this monitoring plan is to ensure compliance with all applicable Washington State laws pertaining to the protection of archaeological sites and artifacts for this proposal.
 - f. **Land use, current and future, will be considered:**
 - i. The applying parcel(s) is/are not less than 10 acres in size, unless for smaller parcels there are no existing residences within 600 feet of the boundary of the applying parcel(s). If there is a residence within 600 feet of the boundary of the applying parcel(s) not owned by the mining applicant, then the applicant must supply a noise study demonstrating that the mineral extraction and processing activity will not exceed Maximum Permissible Noise Levels found in WAC 173-60 at the nearest residence; or

- ii. Land within ¼ mile of rural residential areas having an existing density greater than (more intense than) one dwelling unit per 5.1 acres shall not be designated as mineral resource land unless there are no existing residences not owned by the mining applicant within 600 feet of the boundary of the proposed mining site. Land exceeding the density listed immediately above may obtain an MRL designation if a noise study is submitted demonstrating that the mineral extraction and processing activity will not exceed Maximum Permissible Noise Levels found in WAC 173-60 at the nearest residence or place of business;
 - iii. The applying parcel(s) is/are surrounded by parcels no smaller than five (5) acres in size, except parcels qualifying under “b.” immediately above.
 - iv. If applicable, the current or future land use designation of the applying parcel(s) shall not exceed a residential density of one dwelling unit per five acres;
 - v. Designated mineral resource lands shall be separated by a distance of at least one-half mile from public preserves, which include national wildlife refuges, state conservation areas, and other government owned preserves, but excluding hunting areas;
 - vi. The applying parcels is/are not within one-half mile of any established urban growth area, school, day care or elder care facility or place of religious worship
 - vii. Land zoned as commercial forest land or agricultural retention is eligible for MRL designation;
- (2) Any parcel or site obtaining a written classification score of not less than 100 (and scoring not less than 15 points in the category of “underlying geology”) shall automatically be co-designated as Mineral Resource Land, although the parcel(s) shall also retain their underlying (existing) zoning. Accomplishing this co-designation shall require a Comprehensive Plan amendment to be initiated by the County once each year.
- (3) Notwithstanding the absence of a classification scoring report or expert knowledge that a specific site, parcel(s) or lot(s) contains mineral resources of long-term commercial significance, any location on the DNR map (1:500K) shown as having the underlying geology of “Qgd” or “Tv(c)” AND the underlying zoning designation of Commercial Forest, Commercial Forest/Mixed Use 20, or Commercial Forest/Mixed Use 5 shall hereby be designated as MRLOD as part of this Comprehensive Plan amendment process.. It is estimated some 272,000 acres will thereby gain this MRLOD designation. Any proposed surface mine located on MRLOD land shall have all the benefits of §33.07.045, Ch. 33.62 CCC and Ch. 27.10 CCC.
- (4) For the years 2021 and 2022 there shall be no fee charged to applicants or landowners seeking a Comprehensive Plan amendment to have their parcel(s) or site designated as either a Mineral Resource Land or MRLOD.

Section 15:

A new section, to be codified as Section 31.02.190, and to be entitled “Mineral Resource Land Overlay Districts,” is created to read as follows:

- (1) Purpose. The primary purpose of this Mineral Resource Land Overlay District (or “MRLOD”) system is to implement the mineral resource lands designation provisions of the Comprehensive Plan, as established pursuant to RCW 36.70A.170, by allowing the type of activity that encourages and supports the opportunity for long-term commercial mineral extraction. This system is also designed to discourage incompatible uses from locating upon those lands where the extraction of minerals is occurring or can be anticipated.
- (2) The MRLOD shall be an overlay district that shall replace the existing (prior) underlying zoning designation through legislative approval of an amendment to the County’s zoning map.
- (3) Existing surface mines having reclamation permits from State DNR as of the effective date of this section will be granted MRLOD status through a County-initiated Comprehensive Plan amendment process.
- (4) Former mining operations with an additional documented source of material that meets County Roads Department specifications or construction aggregate specifications that previously held State DNR reclamation permits may also be eligible for MRLOD designation as determined through the annual Comprehensive Plan amendment cycle.
- (5) In addition, any site having a written classification score of 150 or more (and obtaining not less than 15 points from the category of “underlying geology”) shall automatically be granted MRLOD status upon their compliance with County Code Section 33.62.050.

Section 16:

Section 31.02910, entitled “Generalized land use maps,” is repealed in its entirety and is amended to read as follows:

- (1) The Future Land Use Map is hereby amended to reflect and include all sites that have obtained MRLOD status through the 2020 Comprehensive Plan amendments and will be amended to reflect any subsequent Comprehensive Plan amendments granting MRLOD status.
- (2) All documents listed in subsections (3) through (6) below are made part of this Comprehensive Plan, are available for review in paper form at the County Court House and are also available at the County’s web site devoted to the County’s Comprehensive Plan.

For text go to: <http://www.clallam.net/LandUse/comprehensiveplan.html>

For maps go to: <http://www.clallam.net/Maps/index.html>

- (3) For each of the three regions listed below there is made part of this Plan a pair of documents, specifically a map showing underlying geology and the surface mines in that region holding as of September 2020 a DNR Reclamation permit and an EXCEL spreadsheet containing statistics relevant to each of those surface mines possessing a DNR Reclamation permit in September 2020.

- a. Sequim Region
 - b. Port Angeles Region
 - c. Western Region
- (4) For each of the regions listed below there is made part of this Plan a DNR 1:500K map that includes and reflects two “layers,” specifically the underlying zoning designations for that site or region and two and only two types of underlying geology: “Qgd” (Glaciomarine Drift-Pleistocene) or “θv(c) [theta-v-c]” (Crescent Formation).
- a. Sequim Region
 - b. Port Angeles Region
 - c. Western Region
- (5) Also made part of this Plan is an EXCEL spreadsheet entitled “Stats for Clallam County Mineral Resource Lands,” the version that states “Added new data 8/14/20.”
- (6) Also made part of this Plan is the August 2020 “Supply and Demand Memo”

Section 17:

If any section, subsection, sentence, clause or phrase of the amendments and revisions to Title 31 of the County Code enacted by adoption of this Ordinance 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 this Ordinance.

Section 18:

This Ordinance shall take effect ten (10) days after its adoption.

ADOPTED this tenth day of November 2020

ATTEST:

L. Gores

Loni Gores, CMC, Clerk of the Board



BOARD OF CLALLAM COUNTY COMMISSIONERS

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Mark Ozias, Chair

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