

6a  
11/10/20

Ordinance 969

An ordinance amending chapter 33 title "Zoning", of the Clallam County Code, to reflect additional text regarding Mineral Resource Lands

BE IT ORDAINED BY THE BOARD OF CLALLAM COUNTY COMMISSIONERS:

Section 1:

**Section 33.03.010, Definitions, is amended to read as follows:**

For the purpose of this title, certain terms or words herein shall be interpreted as specifically defined in this chapter. All other words in this title shall carry the meanings as specified in the latest edition of Webster's New Collegiate Dictionary. Words or phrases not listed here have neither been amended nor repealed by this Ordinance and remain as currently enacted.

(10) "Allowed use" means a use or structure which is allowed outright by this chapter in one or more zones without issuance of a conditional use permit but remains subject to all other development regulations applicable to the proposal.

(47) "Industrial use" means any premises devoted primarily to the manufacturing of finished or semi-finished products, and the processing of materials. This definition includes accessory facilities such as but not limited to storage facilities, transfer facilities, warehousing, heavy vehicular storage and repair, log storage milling and sorting.

(48) "Kennel" means an establishment which is designed to accommodate the temporary boarding of six or more household pets owned by persons other than the owner of the premises.

(49) "Land use" means an activity on land serving man in some manner.

(50) "Limited industrial use" means those industrial uses which generate minimal amounts of noise, odor, glare, traffic, and other nuisance characteristics.

(51) "Lodges" means any structure accommodating an organization which is operated not-for-profit where entrance to the premises is contingent upon the payment of a monthly or yearly fee.

(52) "Long-term commercial significance" includes (or signals) the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of 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.

(53) "Lot coverage" means the total ground coverage of all buildings or structures on a site measured from the outside of external or supporting walls, but not to include: at-grade, off-street parking lots; deck areas; terraces; swimming pools; pool deck areas; walkways; and roadways; and driveways.

(54) "Lot depth" means the horizontal length of a straight line drawn from the midpoint of the front property line of the lot to the midpoint of the rear property line.

(55) "Lot line, front" means the boundary of a lot which is common to a public or private road or access easement. Where the lot abuts two or more roads the lot owner may designate one of the lot lines common to one of the roads as the front lot line at the time the lot is developed.

(56) "Lot line, rear" means the property line of a lot that is most opposite or most distant from the designated front lot line and that does not intersect any front lot line. In the case of a triangular

lot, it means a line 10 feet in length within the lot parallel to and at the maximum distance from the front lot line. In the event that the front property is a curved line, then the rear property line shall be assumed to be a line parallel to a line tangent to the front property line at its midpoint. In the case of waterfront property, the rear lot line is that which adjoins the ordinary high water line, unless otherwise designated by the Zoning Administrator.

(57) “Lot line, side” means any lot line that is not a front or rear lot line, or any lot line that intersects a front lot line.

(58) “Lot, parcel, tract” means an ownership of land in which the boundary is defined by a deed recorded in the County Auditor’s Office and assigned a tax parcel number by the County Assessor; or a lot which has been defined by a survey recorded pursuant to Washington State surveying or platting laws and is assigned a tax parcel number by the County Assessor; or parcels recognized by resolution of the Board of County Commissioners adopted prior to the effective date of this title.

(59) “Lot width” means the horizontal distance between side lot lines measured at right angles to the lot depth line at a point midway between the front and rear property line. If the side property lines are not parallel, the width of the lot shall be the length of a line at right angles to the depth line of the lot at a distance midway from the front and rear lines required for the district in which the lot is located.

(60) “Marijuana processor” means a person licensed by the State Liquor and Cannabis Board to process marijuana into marijuana concentrates, usable marijuana and marijuana-infused products, and package them for sale in retail outlets and at wholesale to marijuana retailers.

(61) “Marijuana producer” means a person licensed by the State Liquor and Cannabis Board to produce and sell marijuana at wholesale to processors and other producers.

(62) “Marijuana retail” means a person licensed by the State Liquor and Cannabis Board to sell marijuana concentrates, usable marijuana, and marijuana-infused products in a retail outlet.

(63) “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 recreation facilities.

(64) “Medical hardship” means a physical or mental incapacitation requiring daily care by an on-site caregiver and is attested to, in writing, by a licensed practicing physician in the State of Washington.

(65) “Medical hardship dwelling” means a mobile home or manufactured home, as defined by WAC [296-150M-0020](#), allowed to provide temporary housing in cases of documented medical hardship.

(66) “Medical service facility” means a licensed medical physician’s clinic or outpatient care clinic where overnight accommodations are not provided.

(67) “Mineral extraction” means activities involved in the extraction and processing of minerals from the earth for industrial, commercial, or construction uses, excluding water. For the purpose of this chapter, removal of solid materials from the earth is not deemed mineral extraction until the activity collectively results in more than three acres of land being disturbed or that results in pit walls more than 30 feet high and steeper than one horizontal to one vertical. This definition does not include disturbances greater than three acres of land during any time period if the cumulative area that has not been rehabilitated according to the State’s reclamation requirements outlined in Chapter [78.44](#) RCW is less than three acres. Farming, road construction, mineral exploration testing and site preparation for construction shall not be deemed mineral extraction activities.

(68) “Mineral Resource Land Overlay District,” or MRLOD means an overlay designation given to the location of a surface mine or proposed surface mine. A surface mine located upon land

having the MRLOD designation may operate there without first obtaining a conditional use permit, if one would otherwise be required in the absence of MRLOD designation. Such a surface mine is and remains subject to the regulations listed in Ch. 33.62 of the County Code and all other applicable development regulations.

(69) "Minimum lot size" means the smallest parcel size upon which a dwelling may be placed or constructed; provided, that roads and open spaces which are dedicated to the public and tidelands shall be excluded when calculating lot size; provided, that lots in the Rural (R1) zoning district may include roads dedicated to the public as part of a land division in the minimum lot size calculation.

(70) "Mini-storage/self-storage" means any real property designed and used for the purpose of renting or leasing individual storage space to occupants for the purpose of storing and removing personal property. A self-service storage facility is not a public warehouse.

(71) "Mixed-use" means development that combines two or more different land uses on the same lot or contiguous lots in the same zone, such as retail uses and residential uses.

(72) "Mobile home park" means a lot or parcel of land occupied by two or more mobile homes on a rent or lease basis, and approved by Clallam County pursuant to County regulations.

(73) "Motel/hotel" means a structure which provides overnight, short-term boarding to transient guests and not defined as a bed and breakfast inn facility.

(74) "Multiple-family dwelling" means a building containing three or more dwelling units.

(75) "Nonconforming use or structure" means a lawful structure or use existing at the time this title or any amendment thereto becomes effective, which does not conform to the requirements of the zone in which it is located.

(76) "Off-street parking" means any space specifically allocated to the parking of motor vehicles that is not located within a public right-of-way, travel lane, service drive, or any easement for public use.

(77) "Outdoor-oriented recreation facilities" means buildings, land alterations, or other facilities which are intended to provide for recreational activity including, but not limited to, campgrounds, boat launching facilities, golf courses and ball fields.

(78) "Outdoor shooting range" means a facility, commercial, public or private, and use, part of which occurs outdoors, which is established for the purpose of recreational shooting and hunter education/training. An "outdoor shooting range" includes the discharge of firearms for any lawful purposes. Accessory uses which directly relate to the use of the site as an outdoor shooting range such as campgrounds and indoor retailing of shooting supplies are included.

(79) "Parking space" means an area set aside for the parking of one motor vehicle.

(80) "Performance standards" means criteria that are established and must be met before a particular use will be permitted. These measures are designed to guide development of property and include, but are not limited to, open space requirements, water and wastewater requirements, buffer zones, screening, size and height limits for buildings, noise, vibration, glare, heat, air or water contaminants, and traffic.

(81) "Permitted use" means an activity or structure which is either allowed in a zone pursuant to this chapter without conditions or formal action by the County, or is identified as a conditional use.

(82) "Person" means a man, woman, firm, association, partnership, political subdivision, government agency, corporation or any other human entity whatsoever.

(83) "Preferred use" means the use that is the most appropriate lawful use for a particular parcel because that use best furthers the public policy behind the zoning or overlay designation applicable to that particular parcel.

(84) "Primary dwelling unit" means a structure consistent with the definition of "single-family dwelling," as set forth in this section; provided, that this definition applies to those single-family

residential structures on parcels where an accessory dwelling unit, consistent with the standards of Chapter [33.50](#) CCC, is also present.

(85) “Primitive campground” means a campground for day use and overnight accommodations by tents only (no recreational vehicles or tent-trailers). A primitive campground is also an outdoor-oriented recreation use, unless specified in each zoning district.

(86) “Professional office” means a structure accommodating the following professional offices: medical, dental, chiropractic, accounting, consulting, cosmetologist, real estate offices or such other offices of persons required to be licensed by the State of Washington following completion of required training.

(87) “Public building” means a building or improvement which is used or owned by a governmental agency.

(88) “Public improvement” means a facility which is used or owned by a governmental agency.

(89) “Race track” means an area devoted to the racing of motor and non-motorized vehicles or animals, and all improvements normally associated with racing such as off-street parking, patron seating, concessions, and a fixed race track.

(90) “Restaurant” means a business in which food is prepared and sold for consumption.

(91) “Research facility” means an improvement devoted to or supporting research activities and having minimal nuisance characteristics related to odor, noise, glare and radiation. “Research” is an activity devoted to the obtaining of knowledge and does not include any product retailing or wholesaling activity. Testing for surface and subsurface minerals is not a research activity.

(92) “Retail use” means a land use devoted primarily to the wholesale and retail sale of a product or service to the general public.

(93) “RV park” means a campground for day use and overnight accommodations by motor homes, travel trailers, truck campers and camping trailers.

(94) “Satellite dish antenna” means a round, parabolic antenna intended to receive signals from orbiting satellites and other sources. Noncommercial dish antennas are defined as being less than four meters in diameter. Commercial dish antennas are typically those larger than four meters and typically used by broadcasting stations.

(95) “School” means a building where instruction is given to persons to enhance their knowledge or skills. Buildings where instruction is given primarily on religious matters are not deemed to be schools.

(96) “Setback” means the minimum distance allowed by this chapter between a lot line or the centerline of a street right-of-way and the foundation of any building on the lot; provided, however, that eaves, decks, porches, bay windows, chimneys or other architectural elements may project no more than two feet in any required yard except in instances where such projection would be over or on an easement, which is not allowed; and provided further, that structures and improvements associated with utilities or roads dependent on location on or near road right-of-way shall be allowed without meeting the setback standards of the Zoning Code.

(97) “Shooting range” means a facility established for the purpose of recreational shooting, including, but not limited to, target and skeet shooting.

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

(99) “Single-family dwelling” means a dwelling unit detached from any other dwelling unit and intended for occupation by one family and including accessory improvements and uses. This definition includes manufactured homes such as mobile homes, modular homes and other homes manufactured in components or as one complete dwelling unit.

(100) “Storage facility” means a building or fenced open yard used solely for the storage of goods and materials; provided, that automobile wrecking or salvage facilities are excluded from this definition.

(101) “Street” means any vehicular right-of-way which:

(a) Is an existing State, County or municipal roadway; or

(b) Is a publicly owned easement; or

(c) Is shown upon a plat or short plat or survey approved pursuant to County regulations; or

(d) Is approved by other governmental action. The street shall include all land within the boundaries of the street right-of-way which is improved.

(102) “Street classifications” means those functional classifications given to streets by the Clallam County Board of Commissioners under the provisions of RCW [36.86.070](#).

(103) “Street right-of-way” means a strip of land acquired by reservation, dedication, forced dedication, prescription or condemnation, and intended to be occupied by a street, as specified by recorded easements, recorded ownership instruments, or dedications accepted by the Board of County Commissioners for public transportation purposes.

(104) “Tavern” means any establishment with special space and accommodation for sale by the glass and for consumption on the premises of beer and/or wine.

(105) “Timber harvesting” means improvements and activities associated with the growing and harvesting of trees. Such activity includes land preparation for tree planting, road construction, tree thinning, brush control, log storage and sorting yards, tree nursery facilities, research activity related to timber growing, improvements required for environmental impact mitigation, temporary chipping and barking activity utilizing portable equipment, storage of materials, vehicles and equipment supporting timber growing, harvesting and transportation activities, staging areas and facilities, timber trans-shipment facilities, log scaling facilities, the extraction of gravel and rock necessary to support timber management activity and all other silviculture and associated practices which are recognized by and consistent with the regulations of the Washington State Forest Practices Act of 1974.

(106) “Timber labor camp” means facilities which are designed to accommodate persons who are employed in timber management activities. Such facilities provide overnight sleeping, waste disposal and one cooking facility to serve the entire facility.

(107) “Tourist shop” means a facility devoted primarily to the sale of a product or service to the traveling public, including antique or curio shops, crafts, and memorabilia.

(108) “Transfer of development rights” or “TDR” means an innovative voluntary program in which unused transferable development rights (TDRs) credited by the County to one parcel can be sold and transferred without buying and selling the land. These transferable development rights may be utilized in an urban growth area to increase allowable densities.

(109) “Unclassified use” means an activity or land use not defined by this title and not listed as an allowed use, a conditional use, or a prohibited use in this title.

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

(111) “Urban level of facilities and services” means those services defined as “urban governmental services” with levels of service as defined within the capital facilities element of the Clallam County Comprehensive Plan.

(112) “Utility” means a fixed, conveyance type improvement serving two or more ownerships. Said improvement conveys power, gas, water, sewage, surface drainage, or communication signals. This definition does not include intercounty or interstate transmission facilities.

(113) “Vacation rental” means a legally constructed dwelling intended for occupancy of the entire dwelling (not rental of individual rooms) by any person/group other than the primary owner for periods of 30 days or less and is an allowed use in all zoning districts that allow single-family residences. Uninhabitable structures like garages, barns, or sheds shall not be used as vacation rentals. “Vacation rental” does not include a bed and breakfast permitted and operated in accordance with this code.

(114) “Variance” means an exception from the minimum standards of this chapter allowed by the provisions of Chapter 33.30 CCC.

(115) “Vehicular repair” means a structure or land use devoted to the repair of motor vehicles and not otherwise defined as a home-based industry.

(116) “Veterinary clinic” means any building or portion thereof designed or used for the medical care or treatment of cats, dogs, or other animals.

(117) “Wholesale commercial use” means establishments or places of business primarily engaged in selling merchandise or services to retailers, industrial customers, institutional agencies, professional business users or to other wholesalers.

(118) “Wood manufacturing” means any wood manufacturing premises devoted primarily to the manufacturing of semi-finished products, finished products and the processing of materials. This definition includes accessory facilities such as but not limited to storage facilities, transfer facilities, warehousing, heavy vehicular storage and repair, log storage, milling and sorting.

(119) “Wood manufacturing (small-scale)” means any wood manufacturing activity meeting the following criteria: cabinet shops and other wood finishing facilities; all activity takes place indoors; and the structure is less than 5,000 square feet.

(120) “Wrecking yard” or “junk yard” means an open area where scrap materials or motor vehicles are bought, sold, exchanged, recycled, stored, disassembled or handled, but which cannot be used again for the purpose for which it was originally intended.

(121) “Zone” means a mapped area to which a uniform set of regulations applies. The Clallam County Official Zoning Map describes the extent and boundaries for the zones described within this title.

(122) “Zoning” means the process by which a county or municipality legally controls the use of property and physical configuration of development upon tracts of land within its jurisdiction.

## Section 2

With respect to all current Sections of Ch. 33.07 there have been no amendments and no section has been repealed.

## Section 3

There shall be created a new section of Title 33 to be codified at §33.07.045 and entitled “Mineral Resource Lands and Mineral Resource Land Overlay Districts,” which shall read in its entirety as follows:

(1)The purpose of this section shall be to protect, enhance and maintain those locations where there are mineral resources of long term commercial significance in such quantities as are commercially sustainable for the planning period or a portion of the planning period.

(2) The following uses are ALLOWED USES at parcels designated as either Mineral Resource Land or Mineral Resource Land Overlay Districts:

- Asphalt and concrete recycling performed in a manner meeting the requirements of the Clallam County Environmental Health section and the State of Washington Department of Ecology
- Communication relay facilities (wireless communication facilities)
- Home based industries, including storage and outbuildings, having a focus on outdoor recreation that utilize less than five acres of the subject parcel
- Importation of clean fill and sale of same
- Mineral extraction as defined in CCC §33.03.010 OR removal of solid materials at any area which results in less than three (3) acres of “disturbed areas” as that term is defined in state law, collectively “mining” solely for purposes of this Section.
- Non-residential allowed uses and conditionally permitted uses listed in the County’s development regulations for the CF, CF 20 and CF 5 zones
- Primitive campgrounds
- RV Parks in the western half of the Straits Regional Comprehensive Planning Area
- Single family dwellings, but only as a use subsequent to “mineral extraction” (or creation of a “disturbed area” as defined in state law of under 3 acres) and completion of a reclamation plan approved by State DNR and only upon parcels or lots which were not part of a unified ownership of 320 acres or more located in the Commercial Forest zoning district as of the *EFFECTIVE DATE* of this section.
- Temporary asphalt or concrete plants which operate for less than 120 days in any calendar year

(3) The following uses are authorized at parcels having Mineral Resource Land Overlay District status upon issuance of a CONDITIONAL USE PERMIT

- Asphalt batch plant operating more than 120 days in any calendar year
- Concrete plant operating more than 120 days in any calendar year
- Unclassified uses that would not hinder or prevent the extraction for commercial purposes of the mineral resource found at the parcel

(4)The following uses are PROHIBITED

- Any use not listed above
- Indoor and outdoor shooting ranges

(5) Certain approvals required.

(a) New “mining” (as that term is defined above in subsection 2) operations proposed to occur at a site without any Title 27.12 “critical areas” must obtain a “Special Use Permit.”

(b) New “mining” (as that term is defined above in subsection 2) operations proposed to occur at a site containing any Title 27.12 “critical areas” must obtain a Certificate of Compliance to assure the proposal has complied with Title 27.12

(c) If Clallam County enacts a “stormwater” or “clearing and grading” ordinance in the future, then any application made for a new “mining” (as that term is defined in subsection 2)

operation submitted after the effective date of such a stormwater or clearing and grading ordinance shall be required to comply with the terms and conditions of that later-adopted ordinance(s) BUT will not be required to obtain either a “Special Use Permit” or a “Certificate of Compliance.”

(6) Density, lot size and buffer rules:

Rule	For land having “Mineral Resource Land” co-designation only- score $\geq$ 100	For land having “Mineral Resource Land Overlay District” overlay in place. Only applies if Score $\geq$ 150
Maximum Residential Density	Apply rule from the pre-existing zone.	One unit per twenty (20) acres
Minimum Residential Lot Size	Apply rule from the pre-existing zone.	Ten (10) acres.
Maximum Lot Width Ratio	1:4	1:4
Minimum Residential Setbacks	Apply rule from the pre-existing zone.	Front, Side and Rear Yard = 130 feet, unless the lot < 10 acres AND was legally created prior to the EFFECTIVE DATE of this section, in which case the setbacks = 50 feet.

(7) Other Performance Standards for non-residential uses upon land co-designated as Mineral Resource Land OR having the designation of a Mineral Resource Land Overlay District:

(a) Land use activities allowed through a conditional permit should not be permitted unless the proposed activity is compatible with long-term mineral extraction.

(b) Verification that the property owner has legal access to the property shall be provided to Clallam County prior to issuance of any permits for single-family dwellings within this overlay district.

(c) Allowed industrial uses are those which cannot be sited in urban areas or rural industrial zones due to noise, odor, or operational characteristics. When locating in this overlay district, these uses must meet the following standards:

(i) Be self-contained in that extension of infrastructure is the minimum necessary to serve the facility and that no municipal sewer or water will be provided.

(ii) Require no upgrade to existing roads.

(iii) If located upon land designated CF, the use should be located at least one-half mile, but not less than one-quarter mile from the edge of the Commercial Forest boundary.



(iv) Occupy no more than five (5) acres out of the parcel.

(d) Any combination of clubhouse and/or outbuildings must have a total footprint of less than 10,000 square feet and be located upon a parcel not less than ten (10) acres in size. (Larger multi-use facilities are provided for as a master planned resort.)

(8) Any surface mine operation undertaken on real property co-designated as “mineral resource land” or possessing MRLOD status shall have the benefit of Chapter 27.10 CCC, the “Right to Forestry, Mining or Agriculture” ordinance.

(9) Any surface mine proposed for a parcel or site having a designation of MRLOD or MRL that would otherwise be required to obtain a conditional use permit before beginning mineral extraction at that parcel or site will not be required to obtain a conditional use permit but will be subject to any other applicable development regulations, including performance standards.

(10) The rules applicable to the underlying (existing) zoning designation for land co-designated as mineral resource land but also lacking the MRLOD designation shall control all activity on the co-designated real property, except as amended by this section. In case of conflict between the rules applicable in the underlying (existing) zone and this section, then this section shall be controlling.

(11) Performance Standards. All surface mines located upon land co-designated as Mineral Resource Land or within a Mineral Resource Land Overlay District shall conform to the following performance standards. Any of these performance standards may be waived by the County for a particular surface mine application based on an operations plan pursuant to §33.62.060(4) submitted to the County and approved by the County

(a) A fifty-foot (50’) setback from all property lines, other than for access purposes onto public rights-of-way, shall be maintained for areas of direct cut or fill connected with resource extraction operations.

i. These setbacks may be increased when necessary to protect lateral support of abutting properties or public rights-of-way.

ii. These setbacks may be decreased by up to 50% when the surface mine operation is occurring on a parcel of five (5) acres or less.

iii. These setback requirements do not apply to a parcel or site having MRLOD designation if the site abuts another MRLOD-designated parcel or another operating and authorized surface mine along at least twenty-five percent (25%) of its outer boundary.

(b) A twenty-five-foot (25’) screen on all property lines, consisting of site-obscuring vegetation, or other methods to conceal the mine as approved by the county shall be maintained.

(c) A fifty-foot (50’) setback of all direct extraction operation areas shall be maintained from public utility lines.

(d) The setbacks listed in this subsection shall not be additive in nature with respect to any setbacks required by the State DNR Reclamation permit for this same mine, meaning that in no event shall the setbacks simultaneously required of a particular mine by State DNR and the County exceed the setback amount required by the County.

- (e) Prior to the commencement of surface mining, a fence shall be constructed and maintained enclosing the area authorized by the surface mining permit if public safety is in question. Fences shall be at least six feet in height.
- (f) Gates the same height as the fence shall be installed at all points of vehicular or pedestrian ingress and egress, and shall be kept locked when not in regular use.
- (g) For surface mining operations, access onto any public right-of-way may be required to be surfaced in accordance with the county engineering division or State Department of Highways development standards as appropriate.
- (h) In order to assure maintenance and development of adequate county roadways, owners of surface mining operations may be required to enter into a haul route agreement with the county engineer upon adoption and implementation of a haul route agreement program.

#### Section 4:

There shall be added to the County Code a new Chapter entitled “Mineral Resource Lands (“MRL”) and Mineral Resource Overlay Districts or ‘MRLOD’” to be codified as Chapter 33.62, which shall read in its entirety as follows:

(1) Purpose. The primary purpose of such districts is to implement the mineral resource lands designation of the Comprehensive Plan, established pursuant to RCW [36.70A.170](#), by allowing the type of activity that encourages and supports the opportunity for the extraction of minerals in areas of Clallam County designated as containing resources viable for long-term commercial extraction. Such a district is also designed to discourage incompatible uses from locating upon those lands where “mineral extraction” as defined in County Code (or creation of a “disturbed area” as defined in state law of under 3 acres) occurs or can be anticipated.

(2) Mineral Resource Land. Land having pursuant to CCC §31.02.170(3) a written classification score of at least 100 but no more than 149 (and having at least 15 or more points from the category of “underlying geology”), shall be designated as “Mineral Resource Land” through an annual County-initiated Comprehensive Plan amendment process. This designation as “Mineral Resource Land” shall be a co-designation with the existing zoning designation applicable to that real property before the co-designation.

(3) Overlay District. The MRL Overlay District or “MRLOD” shall be an overlay district that overlays the prior existing underlying zoning designation. All parcels in the Rural Areas proposed for a MRLOD are required to submit an application for a Comprehensive Plan amendment, which will be reviewed by the Planning Commission and County Commissioners as outlined in Section 31.08.320 CCC. Only the rules of this Chapter and 33.07.045 apply to land designated as MRLOD. This section does not alter, revise or repeal any federal or state law or regulation applicable to either the operation of a surface mine or an application seeking to operate a surface mine.

(4) Eligibility for MRLOD status. MRLOD status is available to those lands from which “mineral extraction” as defined in County Code (or creation of a “disturbed area” as defined in state law of under 3 acres) of mineral resources such as sand, gravel, rock, and other valuable aggregate or metallic substances can be anticipated to occur within 20 years (or for up to 20 years) of the application date and which satisfy one or more of the following criteria:

- a. MRLOD status is available to existing surface mines as described in County Code §31.02.190(3).

- b. Have a known or potential extractable resource that meets county road standards or construction specifications in commercial quantities as verified by the submittal to the County of a geologic and economic report prepared by a qualified professional;
- c. Meet the designation criteria listed in §31.02.180 of the County Code; or
- d. Have a written classification score of not less than 150 (and having at least 15 or more points from the category of “underlying geology”) pursuant to the classification scoring system found in §31.02.170(3) of the County Code.

(5) MRLOD Ineligibility. MRLOD status is not available to land:

a) within one-half mile (0.5 mile) of a public preserve (e.g., state or county park), urban growth area, school, day care or elder care facility or place of religious worship); or

b) within ¼ mile of rural residential areas having an existing density greater than (more intense than) one dwelling unit per 5.1 acres except as stated herein. Such land is eligible for MRLOD status if there are no existing residences within 600 feet of the boundary of the parcel in question OR any existing residence within 600 feet of the boundary of the parcel proposed for mining is also owned by the mining applicant. Land exceeding the density of one dwelling unit per 5.1 acres 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.

6) MRLOD ineligibility does not preclude MRL designation or surface mine operation:

(a) However, with respect to a site ineligible for MRLOD status because of its location, gaining co-designation as Mineral Resource Land is not foreclosed, nor is the lawful operation of a surface mine if the applicant for such co-designation or use is able to comply with other development regulations found elsewhere in this Title and Title 31, the County’s Comprehensive Plan.

(b) Sites that are ineligible for a MRLOD because of their location but obtain a classification score of at least 100 but less than 150 per Section CCC §31.02.170 shall be designated as MRL.

(c) Sites that are ineligible for MRLOD status because of their location but score not less than 75 points pursuant to §31.02.170 are shown to have qualities that should encourage mineral extraction and mining should be allowed at that site through issuance of a Zoning CUP. The application for a Zoning CUP by an applicant having a classification score between 75 and 99 shall not be denied unless the Hearing Examiner concludes there is “substantial evidence” in the record before the Examiner that the proposal does not meet the Zoning CUP Criteria found in Section 33.27.040(a),(b),(c), & (d) of the County Code.

(7) Application requirements for MRLOD or MRL:

- a. All parcels in the Rural Areas are required to submit an application for a Comprehensive Plan amendment, which will be reviewed by the Planning Commission and County Commissioners as outlined in Section 31.08.320 CCC. For the first two years after the adoption of this provision, DCD will allow a Comprehensive Plan Amendment at no cost to

the applicant. All Commercial Forest Areas with the following geology (Ev(cf), EV(cp), Qgo, & Qgo(i) per the Mineral Land Maps would be designated MRLOD through the adoption of this ordinance. All Rural Areas with the following geology (Ev(cf), EV(cp), Qgo, & Qgo(i) per the Mineral Lands Map, or through a study submitted by the applicant and approved by DCD, would be eligible for a Comprehensive Plan Amendment at no cost to the applicant in perpetuity.

- b. Submit a SEPA Checklist
- c. Pay the applicable fees for review of the relevant development regulations and the SEPA Checklist
- d. Supply an operations plan, which shall include, at a minimum, the following
  - (i) A site plan including, if applicable, but also not limited to, the location of all “critical areas” and their buffers on the site and the operator’s plan to manage them in a manner consistent with Ch. 27.10, the County’s Critical Areas Ordinance.
  - (ii) Planned hours of operation
  - (iii) Number of employees
  - (iv) Any associated activities (crushing, sorting, screening) the applicant intends to undertake at this site
  - (v) Noise mitigation plans
  - (vi) A noxious weed control plan
  - (vii) A buffer plan, if needed, in conformance with subsection (h) below
  - (viii) Contact information (email or phone) for a representative of the surface mine who can be contacted outside of normal business hours if needed or in case of an emergency
  - (ix) A draft DNR reclamation plan showing existing and proposed contours in a front, side and plan view; and
  - (x) To the extent needed, all mitigation plans intended to reduce the adverse environmental impacts of the surface mine to below the level of “probable” and “significant.”
- e. If processing (crushing, sorting or screening) is to occur within ¼ mile of a residence, then a noise study will be required such that after any mitigation actions are implemented the noise generated by the applying surface mine at the residence that is most distant from the processing area but within ¼ mile of the processing area shall not exceed the maximum environmental levels authorized by Ch. 173-60 WAC.
- f. If there is to be mineral extraction within five (5) feet of a water table (aquifer) then the applicant must supply a hydrogeological report to ensure the mineral extraction will occur without any adverse environmental impacts to groundwater.
- g. Submit a separate application for a Zoning Conditional Use Permit if the applicant for MRLOD status chooses to install or construct and then operate an asphalt or concrete plant for more than 120 days in any one calendar year.
- h. If “critical areas” are present on the applying parcels, then the applicant must comply with the Ch. 27.10 (“critical areas”) and SEPA.
- i. The Comprehensive Amendment designation of all MRLOD in Rural Areas shall provide notice within 1,000 feet of the boundary of the MRLOD as outlined in Section 26.10.410(2)(c) CCC.

(8) Benefits of MRLOD Status:

(a) The County will place the location of all MRLOD on the Critical Area Maps to inform future landowners of their existence and to be aware of the provisions of Chapter 27.12. Any land division, building permit, or development within 600 feet of the boundary of land designated as an MRLOD must comply with the terms and conditions of Ch. 27.10, entitled "Right to Practice Forestry, Mining, Agriculture," including, but not limited to, placement of the disclosure text required by CCC §27.10.020 on any development, building permit or division of land occurring within 600 feet of the MRLOD designated land.

(b) Mineral extraction, as that term is defined in the County's development regulations, is an allowed use at any parcel or parcels designated as a MRLOD regardless of whether undertaking mineral extraction requires a Conditional Use Permit in the underlying Zoning District.

(c) Operation of the surface mine in a manner consistent with the operations plan on file with the County and in compliance with all state and local regulations applicable to mineral extraction and processing operations shall not be deemed a public nuisance.

(d) Home based industries, including, outbuilding or storage areas, with a focus on rural or recreational activities would be permitted as long as this home based industry did not utilize more than five acres of the parcel or parcels designated as MRLOD.

(e) A parcel or parcels designated as MRLOD may be assessed for tax purposes as resource land.

(f) After the mineral resource extraction is no longer occurring and the reclamation has been completed to the satisfaction of the State DNR the landowner may request a county-initiated Comprehensive Plan amendment which would remove the MRLOD designation. The amendment, if approved by the County Commission, would change the underlying zoning to either 1) the underlying (prior) zoning for the site or parcels mined or 2) the zoning designation applicable to an abutting parcel or 3) the landowner(s) for large contiguous areas (over 160 acres) may propose a specific zoning designation, provided it is not considered a spot zone. The subsequent use of all parcels over 16 acres in size Agricultural Retention District shall be retained in Agricultural, and are not eligible to a Comprehensive Plan amendment through this process.

## Section 5

If any section, subsection, sentence, clause or phrase of the amendments and revisions to Title 33 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 6

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

Mark Oxias  
Mark Oxias, Chair

Randy Johnson  
Randy Johnson

Bill Peach  
Bill Peach