

Ordinance \_\_\_\_\_

An ordinance amending Clallam County Code Chapter 26.10, Consolidated Development Permit Process, in conjunction with the adoption of a new Clallam County Code Compliance Title

BE IT ORDAINED BY THE BOARD OF CLALLAM COUNTY COMMISSIONERS:

**Section 1. Section .700 Performance monitoring is amended to read as follows:**

Any permit or other approval issued under authority of this chapter as a Type I, II or III permit, and containing conditions for such approval such as an approved mitigation plan, habitat management plan, certificate of compliance, or other special report is subject to the following permit condition monitoring procedures, unless otherwise specified in the relevant permit, plan, certificate, or report:

(1) For conditions of approval requiring physical improvements (i.e., roads, landscaping, etc.), the applicant shall provide an affidavit of improvements upon compliance with such conditions. The affidavit shall be filed with the Department of Community Development (Department) prior to expiration of the permit, as applicable, or as otherwise consistent with specific timing restrictions imposed as a condition of final approval.

(2) For conditions of approval affecting operational characteristics and/or performance standards (i.e., maximum traffic generation, survival rate of landscape plants, etc.), the applicant shall provide a report to the Department, detailing the progress of the approved use and the effectiveness of the conditions of approval. The report shall be prepared by the applicant, or a designated agent, and shall be submitted once a year, for the first three (3) years of operation of the approved use. The Department shall respond in writing within twenty-eight (28) days of receiving such reports and indicate whether the report is adequate or whether modifications or corrections to the proposal are necessary.

(3) The Department shall evaluate reports, affidavits of improvements, and public comments regarding the approved use based on the conditions of approval. The Department may request to inspect the site. If the Department determines that all conditions of approval have been adequately satisfied, a certificate of compliance in the form of a letter will be issued. Refusal to allow inspection of the site during regular business hours is adequate reason to deny issuance of a certificate of compliance.

(4) If at any time prior to the expiration of the permit or the expiration of performance monitoring, the Department determines that conditions of approval are not being adequately achieved, the Department ~~shall~~ may notify the applicant in writing of the inadequacy, ~~and~~ warn that corrective action is required to ensure compliance with the conditions of approval, and notify the applicant that failure to fully comply with all of the conditions of approval, including the provisions of any mitigation plan, habitat management plan, certificate of compliance, or special report, is subject to enforcement under CCC Title <>, Code Compliance Title, including rescission of the permit and denial of any further permits.

(5) Failure to demonstrate full compliance with conditions requiring physical improvements prior to permit expiration or conditions affecting operational characteristics prior to completion of all monitoring reports shall constitute grounds for rescission of the permit pursuant to the provisions of CCC Title <>, Code Compliance. ~~The Department shall notify the applicant of the deficiency and advise him/her that if the problem is not corrected within twenty eight (28) days of sending the notification, the permit will be rescinded. A longer time frame may be allowed if mutually agreed to by the applicant and the Zoning Administrator upon a clear showing that such time is necessary to achieve compliance.~~ Failure to comply with all the terms and conditions of a permit decision ~~may~~ is also ~~be~~ subject to enforcement pursuant to the provisions of CCC Title <>, Code Compliance.

~~Code Compliance. procedures specified under the applicable development regulation, or other applicable county enforcement procedures.~~

(6) Any determination issued pursuant to subsection (2) or (3) of this section is final unless appealed in accordance with CCC 26.10.620 within fourteen (14) days of the date of mailing the determination. The filing fee must accompany the appeal and shall be the same as the fee for Type I appeals as specified in the "Planning Division Fee Schedule 300-A" at CCC 5.100.300.

(7) Any party may make a request in writing to receive any determinations issued pursuant to this section. Copies of written decisions, determinations or other materials contained within the public record shall be provided upon request and payment of reasonable fees.

**Section 2. Section .705 Performance guarantees is amended to read as follows:**

The purpose of this section is to provide assurance for the completion of all improvements and compliance with all performance standards required by any applicable license, permit, or approval issued subsequent to county regulations subject to this chapter. Project approvals subject to performance guarantees shall be established in the applicable section of the governing regulation. This section shall not apply to development projects by a local or State agency pursuant to the requirements of RCW 36.32.590. Performance guarantees shall be in the form of a surety bond or retainage account, filed with the Clallam County Treasurer.

(1) In the event of failure to comply with any terms or conditions of a permit, license or approval subject to a performance guarantee, the Administrator shall notify the applicant and guarantor in writing of the default. If satisfactory assurance that the problem is or will be corrected is not received by the Department within thirty (30) days, or a time period mutually agreed to by the Department and the proponent, the Department is hereby authorized to utilize the funds established under the guarantee, necessary to contract for the completion of the required improvements, reclamation or repair. The Administrator shall notify the proponent in writing of action taken.

(2) In the event that property is sold, the proponent shall be responsible for transferring the financial guarantee liability by having the new owner(s) replace any existing financial guarantees filed with the County.

(3) Nothing in this section shall limit the ability of Clallam County to enforce or otherwise compel compliance with conditions of any county permit, license or approval in accordance with any enforcement provision set forth in this chapter, CCC Title <>, Code Compliance, or other county ordinances.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_ 2007

BOARD OF CLALLAM COUNTY COMMISSIONERS

\_\_\_\_\_  
Stephen P. Tharinger, Chair

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Michael C. Chapman

ATTEST:

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Trish Holden, CMC, Clerk of the Board

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Howard V. Doherty, Jr.