

Ordinance No. 709, 2001

An ordinance amending the Clallam County Critical Areas Code, Chapter 27.12 Clallam County Code (C.C.C.).

BE IT ORDAINED BY THE BOARD OF CLALLAM COUNTY COMMISSIONERS:  
Chapter 27.12 Clallam County Code  
Clallam County Critical Areas Code

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**PART ONE**  
**GENERAL PROVISIONS**

**C.C.C. 27.12.010      STATEMENT OF PURPOSE AND AUTHORITY**

The purpose of this chapter is to identify and protect critical areas as required by the Growth Management Act of 1990 (RCW 36.70A) and to implement the goals and policies of the Clallam County Comprehensive Plan, Title 31 Clallam County Code (C.C.C.) by establishing general requirements and regulations. Furthermore, the purpose is to protect public health, safety and welfare, and maintain or enhance the biological and economic resources of the County while respecting legally established private property rights.

This chapter is adopted under the authority of the Growth Management Act, Chapter 36.70A RCW, the Planning Enabling Act, Chapter 36.70 RCW and the Clallam County Charter, as now or hereafter amended. This chapter supplements the development requirements contained in the various chapters of the Clallam County Code by providing for additional controls and measures that are necessary to protect critical areas.

In the administration of this chapter, Clallam County will consult with regulatory agencies and utilize best available science. Provisions of this chapter shall be considered the minimum necessary to protect regulated critical areas; shall be liberally construed to serve the purposes of this Chapter; and shall be deemed neither to limit nor repeal any other powers under State statute or County regulation.

**C.C.C. 27.12.015      STATEMENT OF POLICY**

It is the policy of Clallam County that the beneficial functions of critical areas be protected, and potential dangers or public costs associated with the inappropriate use of such areas be minimized by reasonable regulation of uses within, adjacent to or directly affecting such areas.

**C.C.C. 27.12.020      POLICY GOALS**

To implement the purpose and policy stated above, as well as the Environment and Open Space Goals adopted in the Clallam County Comprehensive Plan, Chapter 31.02.320 C.C.C., as applicable, it is the intent of this chapter to accomplish the following:

1. Conserve and protect the environmental attributes of Clallam County that contribute to the quality of life for residents of both Clallam County and the State of Washington.
2. Guide development proposals to the most environmentally suitable and naturally stable portion of a development site.
3. Avoid potential loss of life and damage of property due to landslide, subsidence, erosion, or flooding.
4. Protect the general public against avoidable losses from maintenance and replacement of public or private facilities, property damage, subsidy cost of public mitigation of avoidable impacts, and costs to the public for emergency rescue and relief operations.
5. Classify, designate and regulate critical areas and identify the environmental functions that these areas perform.

6. Protect critical areas and their functions by regulating use and management within these areas and on adjacent lands.
7. Maintain and protect both acreage and critical ecological functions of regulated wetlands in Clallam County through general protection standards, enhancement, restoration and creation.
8. Preserve, protect, manage, or regulate critical areas that have either a direct or indirect effect on conserving fish, wildlife, other natural resources, and values.
9. Protect water quality by controlling erosion, by providing guidance in the siting of land uses and activities to prevent or reduce the release of chemical or bacterial pollutants into waters of the state, and by maintaining stream flows and habitat quality for fish and marine shellfish.
10. Conserve drainage features that function together or independently to collect, store, purify, discharge and/or convey waters of the state.
11. Maintain ground water recharge and prevent the contamination of ground water resources to ensure water quality and quantity for public and private uses and critical area functions.
12. Protect areas with potential for marine aquaculture activities from degradation by other types of uses.
13. Protect and conserve unique, fragile, irreplaceable and valuable elements of the natural environment for the enjoyment of present and future generations.
14. Reduce cumulative adverse environmental impacts to water availability, water quality, wetlands, Aquatic and Wildlife habitat conservation areas, frequently flooded areas and geologically hazardous areas.
15. Implement the policies of the Environmental Policy Act, Chapter 43.21C RCW; the Growth Management Act, Chapter 36.70A RCW; the Floodplain Management Code, Chapter 86.16 RCW; the Water Pollution Control Act, Chapter 90.47 RCW; the Groundwater Quality Standards, Chapter 173-200 WAC; the Clallam County Shoreline Master Program and state Shoreline Management Act, RCW 90.58, the Clallam County Charter, the Clallam County Code and all adopted county functional and community plans.
16. Provide the regulatory framework to supplement adopted policies in the Clallam County Comprehensive Plan, Title 31.C.C.C., and the Zoning Code, Title 33, C.C.C. which set forth land use designations, open space preservation, natural resource protection, wildlife migration corridor preservation, fish and wildlife habitat protection, wetland protection and, overall, protects the natural features in Clallam County by promoting wise use of lands within Clallam County.
17. Maintain and enhance local control of resources in Clallam County in order to effectively respond to the challenges of federal Endangered Species Act listings, Growth Management Act requirements and other mandates through wise land stewardship, protection of critical areas and increased knowledge of natural systems and the functions that they perform.
18. Promote harmonious co-existence between the ongoing use of pre-existing development sites in critical areas, and the functional protection of those critical areas.
19. Private property shall not be taken for public use without just compensation having been made, The property rights of landowners shall be protected from arbitrary and discriminatory actions.

20. Promote the restoration of degraded critical areas and their buffers in order to re-gain lost ecological functions and values and improve the economic health and stability of Clallam County.

**C.C.C. 27.12.025      APPLICABILITY**

1. This chapter classifies and designates critical areas in Clallam County and establishes controls for the protection of critical areas. The jurisdiction and applicability of this chapter includes the critical area and adjacent areas, as set forth in Table 1 below. Unless otherwise exempt by this ordinance or by state statute, all alterations of the natural environment and all development activity within the jurisdictional areas of this chapter shall be conducted in compliance with the provisions of this chapter.
2. The Growth Management Act, RCW 36.70A requires the protection of the following critical areas which are classified and designated for protection under this Chapter: (a) wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) Aquatic and Wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas. Table 1 below lists the categories of critical areas regulated under this chapter.

**Table 1. Categories of Critical Areas and Jurisdiction of This Chapter**

<b>CRITICAL AREA</b>	<b>JURISDICTION</b>
Wetlands	Within 200-feet of regulated wetlands
Aquatic Habitat Conservation Areas (Type 1-5 waters, Shorelines of the State)	Type 1/Shorelines of the State: Equivalent to the Clallam County Shoreline Master Program Type 2-5: Within 200-feet
Wildlife Habitat Conservation Areas	Class 1: Within 200-feet or equivalent to critical habitat designations for threatened or endangered species under the federal Endangered Species Act, or Washington State law Class 2: Within 200-feet
Geologically-hazardous areas	Within 200-feet of a landslide, erosion or seismic hazard area
Frequently-flooded areas	Designated special flood hazard areas (floodway and floodplain)
Critical Aquifer Recharge	Designated critical aquifer recharge areas

3. Buffers are required between those development activities specified under C.C.C. 27.12.030 and designated wetland, aquatic habitat conservation areas, wildlife habitat conservation areas and landslide hazard areas which are further outlined in this chapter.
4. The provisions of this chapter are in addition to the land use controls set forth by Title 33, Zoning Code. While additional permits are not generally required, those activities regulated by the Zoning Code are also subject to critical area requirements such as buffers and other performance standards. The development standards and other requirements of this chapter shall be incorporated into the review or approval process for other development permits

administered by Clallam County.

5. Non-project actions, such as rezones, code and plan adoption, and annexations shall be reviewed for consistency with this Chapter.
6. When any provision of other chapters of the Clallam County Code conflicts with this chapter, that provision which provides the most protection to the critical area shall apply.
7. This chapter recognizes legally established, pre-existing land uses and developments. Maintenance, expansion or change to pre-existing land uses and developments shall be consistent with C.C.C. 27.12.040.
8. Vesting. Nothing contained in this chapter shall require any change in plans, construction, alteration, or permitted use of a structure specified in a complete application for a Clallam County development permit submitted prior to the effective date of this chapter. Improvements and uses authorized by resolution of the Board of County Commissioners, or any valid permit issued by the County or the State of Washington prior to the effective date of this chapter may be developed as set forth in said permit unless the Review Authority determines, based on review of changed physical or environmental conditions or catastrophes, that the prior conditions will result in a detrimental impact to the critical area and/or public interest.

Land uses that have been discontinued for 18 or more consecutive months are considered abandoned and no longer vested under this Chapter; EXCEPT that agriculture, which has been discontinued for five (5) consecutive years, is considered abandoned and will no longer be vested under this chapter. Subsequent uses of the property must be in conformance with this Chapter and the County Code, as they apply.

**C.C.C. 27.12.030      REGULATED USES AND DEVELOPMENT ACTIVITIES**

1. Permitted Uses. Those land uses and development activities described in Title 33, Zoning Code and the Clallam County Shoreline Master Program as permitted or conditional uses are also recognized under this chapter, and are subject to the performance standards and other requirements of this chapter. Compliance with this chapter is demonstrated by the issuance of a Certificate of Compliance, Variance or Reasonable Use Exception, as specified in this Chapter.
2. The following types of permit and/or actions are required by the County Code. In review of these land uses and activities, Clallam County shall assure compliance with this chapter. Approval by Clallam County of the following permit or actions shall also be considered a Certificate of Compliance, as required by this Chapter. Proposed land use or development activities not requiring one of the permit types that are listed below, and not listed as exempt in C.C.C. 27.12.035 shall also comply with this chapter.
  - Building permit
  - Public water system permit
  - Zoning conditional use or variance
  - Shoreline Permit (variance, conditional use, substantial development, exemption)
  - Comprehensive plan and zoning map amendment
  - On-site sewage disposal permit
  - Land Divisions and related actions under Title 29 C.C.C.
  - Road approach permit
  - Stormwater and/or clearing and grading, if applicable

3. Clallam County shall not grant any permit, license or other development approval that is inconsistent with the provisions of this chapter.

The following developments are exempt from the requirements of this chapter and do not require a Certificate of Compliance; PROVIDED that best management practices are incorporated where practicable and necessary in order to avoid impacts to critical areas:

1. Outdoor recreation such as bird watching, boating, bicycling, canoeing, fishing, hiking, horseback riding, hunting, jogging, photography, swimming, and similar activities not requiring clearing or grading.
2. Emergency work when done to protect life or property and authorized by the County Board of Commissioners. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with this chapter.
3. Construction of wildlife nesting structures not involving clearing or grading.
4. Education and scientific research projects which will have no damaging effect upon the environment.
5. Site investigation work (e.g., soil surveys, soil logs) or other related activities necessary for designating critical areas.
6. The placement of temporary or permanent field stakes or monuments for survey purposes, delineating critical areas and buffers, or marking of property lines or corners pursuant to Title 29 Clallam County Code.
7. Existing and ongoing agriculture that was conducted prior to the effective date of this chapter on lands designated as critical areas or their associated buffers, PROVIDED that such lands are classified as Farm and Agricultural Land pursuant to RCW 84.34, PROVIDED further that all activities occurring on such lands employ Best Management Practices (BMP's). For the purposes of this exemption, acceptable BMP's shall include: a) activities carried out consistent with Farm Plans issued and authorized by the Natural Resources Conservation Service (NRCS), b) activities that demonstrate consistency with Total Maximum Daily Loads (TMDL) established by the Department of Ecology for specific operations, and/or c) activities that demonstrate consistency with standard BMP's published by the NRCS, as now or hereafter amended. Written confirmation by the administrating agency that applicable BMP's are being met will constitute evidence of eligibility for this exemption.<sup>1</sup> [See also C.C.C. 27.12.025(7)].
8. Normal repair and routine maintenance and operation of residences, landscaping, utilities, roads, trails, irrigation and drainage ditches, and fish ponds which were lawfully constructed, approved, or established prior to the effective date of this chapter; PROVIDED that no expansion results<sup>2</sup>.
9. <sup>3</sup> Operation and maintenance of all electric facilities, lines, equipment or appurtenances, water and sewer lines; natural gas, cable communications and telephone facilities, lines, pipes, mains, equipment or appurtenances, except for power, water, and sewer substations and pump sites or new utilities within designated frequently-flooded areas, PROVIDED that the standards specified in Part Five are met. For the purposes of this Chapter, operation and maintenance shall include those usual acts necessary for the continued use of existing services in their establish locations. Replacement, expansion, relocation or placement of new utility service lines shall be subject to the standards of this Chapter, as applicable<sup>4</sup>.

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<sup>1</sup> Response to WGMHB, No. 00-2-0008, Pages 10 and 11; Order of Noncompliance # 5; Order of Invalidity # 2.

<sup>2</sup> Response to WGMHB, No. 00-2-0008, Page 11; Order of Noncompliance # 5; Order of Invalidity # 2.

<sup>3</sup> Response to WGMHB, No. 00-2-0008, Page 2; Order of Noncompliance # 2.

<sup>4</sup> Response to WGMHB, No. 00-2-0008, Page 11; Order of Noncompliance # 5; Order of Invalidity # 2.

10. State forest practices conducted pursuant to RCW 76.09. This exemption does not apply to Class IV - general (conversions), or forest practices occurring within designated urban growth areas, or forest practices designated as Areas Likely to Convert through a memorandum of understanding between Clallam County and the Washington Department of Natural Resources, as applicable.
11. Normal and non-destructive pruning and trimming of vegetation for maintenance purposes, or thinning of limbs of individual trees to provide for a view corridor or removal of non-native vegetation and replacement with native vegetation; PROVIDED that increased erosion or landslide potential or negative impacts to the critical area do not result.

All uses or structures that were lawfully established prior to the effective date of this ordinance may be continued. However, any development regulated by this chapter to alter, expand, replace, or reconstruct, or otherwise increase the nonconformity of a pre-existing use or structure that is located within a critical area or its buffer and does not meet the standards set forth by this ordinance, shall be subject to the standards of this ordinance, as provided for in this section, and in addition to other standards set forth by the County Code. Clallam County shall review such development proposals and determine if the proposed development conforms with the standards of this chapter, or if the proposal increases the nonconformity of the existing development.

1. Expansions or Minor changes. Expansions or minor changes to a pre-existing use or structure which does not conform to the standards of this chapter, may be allowed subject to the standards set forth by this subsection. Those proposals that can not meet the provisions of this subsection shall not be permitted unless a variance or reasonable use exception approval is granted by the applicable review authority pursuant to this chapter.
  - a. If a pre-existing use or structure is located within a buffer set forth by this chapter, the pre-existing use may be continued, maintained, remodeled, or reconstructed provided there is no material expansion of the use or structure within the buffer or increase of the nonconformity with this chapter. For the purposes of this subsection, a material expansion that results in an increase in nonconformity shall be determined to exist when:
    - i) there is an increase in the footprint of the non-conforming use or structure, as defined by this chapter; or
    - ii) for residential development, there is an increase in the number of bedrooms, bathrooms or kitchens, such that would have the effect of increasing the quantity of effluent generated by the use of the non-conforming structure.
  - b. For Wetland or Aquatic Habitat Conservation Area buffers, a habitat management plan pursuant to Part Eight will be required if such activity results in material disturbance to the critical area buffer outside the original footprint.
  - c. For Landslide Hazard buffers (includes channel meander hazards), a geotechnical report and habitat management plan in accordance with Part Eight of this chapter are required.
  - d. Activities associated with pre-existing uses undertaken on previously disturbed areas (non-native soils or slopes which are the result of previous excavation, filling or grading) are permitted, PROVIDED: the activities do not decrease slope stability, do not significantly alter surface or groundwater flow, do not increase the size of the disturbed areas, and do not result in a permanent decrease in vegetated area.
  - e. Any expansion or minor change to a preexisting use or structure which does not conform to the standards of this chapter and is allowed or conditionally allowed pursuant to this subsection shall require the issuance of a certificate of compliance prior to any such activity.
2. Repair, reconstruction or minor improvements within Landslide hazards or floodways. Repair, replacement or minor improvements of a pre-existing use or structure within a landslide hazard (includes channel meander hazards) or floodway shall comply with the following:
  - a. Consistent with RCW 86.16.041(2)(a), Floodplain Management, which states: "restriction of land uses within designated floodways including the prohibition of construction or reconstruction of residential structures except for: 1) repairs, reconstruction or improvements to a structure which do not increase the ground floor area; and 2) repairs, reconstruction or improvements to a structure the cost of which

does not exceed fifty percent of the market value of the structure either: a) before the repair, reconstruction, or repair is started, or b) if the structure has been damaged and is being restored before the damage occurred. Work done on structures to comply with existing health, sanitary, or safety codes or to structures identified as historic places shall not be included in the fifty-percent determination.”

- b. Pre-existing structures for human occupation located within a landslide hazard (includes meander hazards) may not be reconstructed or replaced without meeting the provisions of this chapter unless a variance or reasonable use exception approval is granted by the applicable review authority pursuant to this chapter<sup>5</sup>.

#### **C.C.C. 27.12.045      REVIEW AUTHORITY REQUIREMENTS**

In the administration of this chapter and evaluation of a development proposal regulated by this chapter, Clallam County, as the Review Authority, shall:

1. Assist the public in the interpretation and applicability of this chapter.
2. Make available to the public information on the critical area designations including, but not limited to: maps showing the general location and extent of critical area designations; the most current Flood Insurance Study for Clallam County; and any public data related to critical area classifications, functions, and characteristics.
3. Confirm and make interpretations, where needed, of the regulatory boundary of regulated critical areas and the applicability of protection standards contained within this chapter.
4. Determine whether development proposals are consistent with this chapter, and grant, deny or condition projects as appropriate. This includes Administrative Authority to allow buffer width averaging and variances to buffer widths as set forth by this chapter. In all cases, the process to modify or reduce standards shall be based on site specific criteria determined through a review of individual project circumstances and based on the same criteria required for the granting of a variance.
5. Determine whether proposed alterations to critical areas are appropriate under the standards contained in this chapter or are necessary to allow reasonable use of the property.
6. Determine if the protection mechanisms and mitigation measures proposed by the applicant are sufficient to protect the public health, safety and welfare consistent with the goals, purposes and objectives of this chapter, and if so, condition the permit or approval accordingly.
7. As appropriate, inspect regulated uses and activities for conformance with this chapter.
8. Maintain and make available for public inspection all records pertaining to certificates of compliance or other permits granted, denied or conditioned under this chapter (e.g., flood elevation certifications).
9. Where possible, maintain and make available, a list of qualified consultants to delineate and classify critical areas and prepare special reports.
10. Coordinate review of proposals with other agencies of jurisdiction and relay information to the applicant about other required permits for any development proposal within designated frequently-flooded areas.

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<sup>5</sup> All changes to Section 27.12.040, are in response to WGMHB, No. 00-2-0008, Pages 9 and 10; Order of Noncompliance # 4; Order of Invalidity # 2.

11. Coordinate review of critical area permit approvals with other known agencies of jurisdiction as required under Chapter 26.10 C.C.C., Consolidated Development Permit Process Code and Chapter 27.01 C.C.C., Clallam County Environmental Policy Code.
12. Notify adjacent communities and the Washington Department of Ecology of any alteration or relocation of a watercourse within a designated frequently-flooded area, submit evidence of such notification to the Federal Insurance Administration and require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
13. Develop and maintain administrative guidelines for conducting wetland classifications pursuant to this chapter, including, but not limited to: supplemental procedures for classifying wetland watershed and landscape functions; required data forms for reporting classification criteria; and procedures for updating and/or supplementing existing information.
14. Process any appeal of an interpretation, designation, determination, and/or decision by the Review Authority in accordance with C.C.C. 26.10, Consolidated Development Permit Process Code.

#### **C.C.C. 27.12.050      OFFICIAL DESIGNATION OF CRITICAL AREAS**

The location and extent of critical areas shall be designated by Clallam County based upon best available information from qualified professional sources. Clallam County shall develop and make available to the public, maps or other data bases, as appropriate, which show the location, extent, and classification of regulated critical areas as accurately as feasible. This information shall be advisory and used by the Administrator in determining the applicability of the standards of this chapter to a particular location or development proposal site. When additional information is required as to the location or extent of a critical area that may be affected by a proposed development activity, the Administrator may require additional information or may hire a qualified professional at the applicant's expense. Any land, water, or vegetation that meets the criteria of critical area designation under this chapter which is not identified on maps or other publicly-available documents shall be subject to the provision of this chapter.

Critical areas shall not include those lands where a qualified professional or qualified professional sources demonstrate to the satisfaction of the Administrator that maps or other information used to identify the location and extent of critical areas are in error. Qualified professional sources shall mean the following for each of the designated critical areas listed below:

1. Wetlands. Written recommendations or published reports from state or federal agencies charged with wetland identification, or a biologist with wetlands ecology expertise and who is knowledgeable of wetland conditions within the North Olympic Peninsula Region, and who has professional experience in this occupation demonstrated by a minimum of 2 years practical experience of delineating wetlands and wetland plant identification; or those individuals or firms which have been certified by the Society of Wetlands Scientists.
2. Aquatic and Wildlife Habitat Conservation Areas. Written recommendations or published reports from state or federal agencies charged with management of fish and wildlife resources, or a person with a Bachelor's degree in biological sciences or related field from an accredited college or university and four years experience as a practicing biologist.
3. Geologic Hazard Areas. Written recommendations or published reports from state or federal agencies charged with identification of geologic hazards, or by a geotechnical or civil engineer or geologist licensed in the State of Washington who is knowledgeable of regional geologic conditions and who has professional expertise in geologic hazard evaluation.
4. Frequently-Flooded Areas. Written recommendations or published reports from state or federal agencies charged with the identification of flood control, or a civil engineer licensed in the State of Washington. The Administrator may allow a land surveyor licensed by the State of

Washington to recommend designation of frequently-flooded areas where base flood elevation data is available.

5. Critical Aquifer Recharge Areas. Written recommendations or published reports from state and federal agencies charged with designation of geologic or water resources features, or a person(s) with a four year degree in hydrology, hydrogeology, or related field from an accredited college or university and also having demonstrated experience in hydrogeologic assessment.

**C.C.C. 27.12.055      ENFORCEMENT**

1. Any person found to have willfully engaged in activities within critical areas or critical area buffers of the county in violation of this chapter shall be subject to civil penalties of not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000) for the first or second offense; PROVIDED, that the fine for the third and all subsequent violations in any five-year period shall not be less than five hundred dollars (\$500) nor more than twenty-five thousand dollars (\$25,000). The severity of any penalty shall be based on the nature of the violation, the damage or risk to the public or to public resources, and/or the existence or degree of repeat violations of the person(s) subject to the enforcement action.
2. Any person who fails to conform to the terms of a permit or approval issued pursuant to this chapter, or who unknowingly engaged in activities within critical areas or critical area buffers without compliance with this chapter, or who fails to comply with a cease and desist order, may be subject to civil penalties not to exceed one thousand dollars (\$1,000). The severity of any penalty shall be based on the nature of the violation, the damage or risk to the public or to public resources, and/or the existence or degree of repeat violations of the person(s) subject to the enforcement action.
3. The Administrator shall serve in writing by personal service or registered mail, including notification to the owner of record, if different, upon a person a cease and desist order if an activity being undertaken is in violation of this chapter. The order shall set forth a description of the specific nature, extent, and time of violation and the damage or potential damage; and a notice that the violation or the potential violation cease and desist. The order shall also include provisions for immediate stabilization of the site in such circumstances where the critical area is being impacted from continued violation of this chapter. The cease and desist order shall become effective immediately upon delivery. Failure to comply with the terms of a cease and desist order shall be considered further violation of this chapter.
4. Any civil penalty imposed shall be provided to the person who violated the provisions of this chapter. Such penalty shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service. The notice shall describe the violation, approximate the date(s) of violation, and shall order the acts constituting the violation to cease and desist, and in appropriate cases, require necessary corrective action within a specific time including, but not limited to, a mitigation plan required under Part Eight of this Chapter. Any person incurring a penalty may apply in writing within thirty days of receipt of penalty to the Board of Commissioners for remission or mitigation of such penalty. The Board of Commissioners may remit or mitigate the penalty only upon a demonstration of extraordinary circumstances, such as the presence of information or factors not considered in setting the original penalty. Any penalties imposed under this section shall become due and payable thirty days after receipt of notice imposing the same unless application for remission or mitigation is made. Whenever an application for remission or mitigation is made, penalties shall become due and payable thirty days after the Board of Commissioners decision regarding the remission or mitigation.
5. All penalties assessed by this chapter shall be payable to Clallam County and shall be placed in a special account for the enhancement of shorelines and critical areas.
6. If the person subject to the civil penalty fails to remit payment when due, the Board of Clallam County Commissioners may order that such penalty be assessed against the property and cause the same to be recorded on the assessment roll. Thereafter, said assessment shall constitute a special assessment against and a lien upon the property. All such assessments remaining unpaid after 30 days from the date of recording on the assessment roll shall become delinquent and shall bear interest at the rate of 7 percent per annum from and after said date. Certified

copies of the assessment shall be given to the assessor, who shall add the amount of the assessment to the next regular tax bill levied against the parcel.

7. The Administrator shall determine whether violations exist and issue such civil penalty as deemed necessary to ensure compliance with the provisions of this chapter. The Clallam County Prosecuting Attorney shall bring such injunctive, declaratory, or other actions as are necessary to insure that no uses are made within critical areas or adjacent to critical areas in conflict with the provisions of this chapter.
8. Any person subject to this chapter who violates any provision of this chapter or the provisions of a permit or approval issued pursuant to this chapter shall be liable for all damage to public or private property arising from such violation, including the cost of restoring the affected area to its condition prior to such violation.
9. Clallam County shall not issue any permit, license or other development approval on a development proposal site subject to an enforcement order under this section; PROVIDED, that Clallam County may issue such permits to rectify or correct enforcement orders.

**C.C.C. 27.12.060      WARNING AND DISCLAIMER**

The degree of protection required by this chapter is considered reasonable for regulatory purposes. This chapter does not imply that lands outside of critical areas designated under this chapter do not provide beneficial functions nor does it imply that land outside of designated critical areas will be free from flood and geologic hazards. For example, larger floods can and will occur on occasions and flood heights may be increased by human induced or natural causes. This chapter shall not create liability on the part of Clallam County, any officer or employee thereof, for any damages that result from reliance on this chapter or any administrative decision lawfully made pursuant to the spirit and purpose of this chapter.

Maps and other data prepared and made publicly-available by the County or other agency to assist in the implementation of this chapter are based on best available information. This information shall be advisory and used by the Review Authority to provide guidance in determining applicability of the standards of this chapter to a property. Any land, water, or vegetation that meets the critical area designations of this chapter which are not mapped or otherwise designated within publicly-available documents shall be subject to the provisions of this chapter.

**C.C.C. 27.12.065      SEVERABILITY**

If any provision of this Ordinance or its application to any person or circumstances is held invalid, the remainder of this Ordinance and the application of such provision to other persons or circumstances shall not be affected.

**C.C.C. 27.12.070      CONFLICT**

Where other county regulations are in conflict with this chapter, that which provides the most protection to the critical area shall apply.

**PART TWO**  
**WETLANDS**

**C.C.C. 27.12.200      APPLICABILITY AND PURPOSE**

This section applies to all development activities proposed within the jurisdiction for a regulated wetland. The intent of this section is to:

1. Maintain and protect regulated wetland acreage and increase the quality, function and values of regulated wetlands within Clallam County;
2. Identify hydrologic functions of wetlands and their role within a watershed and provide needed protection of the role of wetlands from a landscape ecology perspective;
3. Preserve natural flood control, stormwater storage and drainage or stream flow patterns; and
4. Prevent turbidity and pollution of wetlands and fish or shellfish bearing waters, and maintain wildlife habitat.

**C.C.C. 27.12.205      REGULATED USES AND ACTIVITIES**

Applicability of this chapter is set forth in Part One. Unless otherwise specified in this chapter, proposals located within the jurisdiction of this chapter as it applies to regulated wetlands shall require:

- A Certificate of Compliance if proposed within 200-feet of a regulated wetland consistent with Part Seven, or
- A variance consistent with Part Seven if proposed within a regulated wetland or buffer, or
- A variance consistent with Part Seven if the standards and requirements cannot be met.

**C.C.C. 27.12.210      CLASSIFICATION AND DESIGNATION**

Regulated wetlands are those areas that are inundated or saturated by surface 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 generally include, but are not limited to: swamps, marshes, bogs, ponds, including their submerged aquatic beds and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to: irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990 (adoption date of RCW 36.70A, Growth Management Act), that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands created as mitigation and wetland modified for approved land use activities shall be considered as regulated wetlands.

The wetland edge shall be established pursuant to the most current version of the Washington State Wetland Delineation Manual adopted under Chapter 90.58 RCW. Wetlands shall be further designated based on classifying the biological, chemical, and physical functions that wetlands perform in the context of both the watershed and landscape as follows:

1. Watershed Functions. Wetlands shall be classified based on one or more of the hydrology types specified in Table 2. Watershed functions shall be determined based on the wetlands hydrology type and wetland hydrologic functions as specified in Table 3.

2. Landscape Functions. Wetland landscape functions shall be characterized and assessed based on existing wetland and adjacent upland conditions, landscape position, documented species use, and existing management/modifications pursuant to the criteria in (a-i) below as they relate to the subject property or within the jurisdiction of this chapter as it applies to regulated wetlands. Based on these criteria, landscape functions shall be further classified into one of four wetland classes, as specified in Table 4, with Class I being the most functional and Class IV being the least functional.
- a. Habitat Type. Classify and delineate wetland habitat types based on the U.S. Fish and Wildlife Service Classification of Wetlands and Deepwater Habitats, dated 1979, as now or hereafter amended. Identify the dominant vegetation communities associated with each classified wetland habitat type.
  - b. Habitat Diversity. Calculate both the total number of wetland habitat types and the different wetland habitat types identified in Subsection (a) above for each wetland.
  - c. Habitat Size. Calculate the total wetland acreage and acreage of each individual habitat type identified in Subsection (a) above for each wetland.
  - d. Upland Habitat Type. Classify and delineate all lands into one or more of the following land cover categories: developed lands; agriculture; non-native plant species; water; native upland grasses; native forests less than 20 feet in height; native forest greater than 20 feet in height; and mature conifers.
  - e. Significant Habitat Features. Identify and delineate the presence of significant habitat features including, but not limited to: estuaries, snags, islands, rare or unique plant communities, mature conifers, Class I Wildlife Habitat Conservation Areas, and/or wetlands classified as exhibiting a high functional value (see Table 3) of water availability for migratory waterfowl or other wildlife species.
  - f. Species Use. Identify and delineate all known priority habitats for species listed as species of concern or priority species.
  - g. Anadromous fish use. Identify wetlands contiguous to Type 1-3 Aquatic Habitat Conservation Areas, or other waters containing anadromous fisheries recognized by local or state public agencies.
  - h. Significant Wildlife Movement Corridor. Identify whether one or more of the following areas is located within:
    - i. Land and water areas designated as shorelines in the Shoreline Management Act of 1971 and the Clallam County Shoreline Master Program;
    - ii. Lands within the Sequim and Port Angeles Regional Comprehensive Plans, Title 33, Clallam County Code, designated as significant wildlife movement corridors, open space and greenbelt corridors;
    - iii. Federal, state, and local parks, wildlife refuges, and other protected natural areas;
    - iv. Lands within the Clallam County Comprehensive Plan, Title 33, Clallam County Code designated as public or commercial forest lands;
    - v. Type 1-4 Aquatic Habitat Conservation Areas;
    - vi. Wetlands totaling 20 or more acres;
    - vii. Easements or other dedicated lands granted to Clallam County or other organizations devoted to protection and management critical areas, open spaces, or wildlife habitat.
  - i. Management and Modification. Identify existing management and alterations of wetlands, and the impact of such actions on the above classifications. Wetland management activities include, but are not limited to: forestry, livestock grazing, agriculture, commercial recreation (e.g., golf courses), residential (e.g., lawns), public lands (e.g., parks, natural

areas), and/or land not managed for any other use. Wetland alterations include, but are not limited to: flooding, impounding of water, excavation, filling, grading, draining, or discharge from irrigation or drainage facilities.

**Table 2. Classification of Wetland Hydrology Types**

<b>Hydrology Type*</b>	<b>Landscape Position</b>	<b>Water Source**</b>	<b>Water Output*</b>
Type 1	Shallow soils formed on glacial till on hillsides	Perched	Discharges to stream
Type 2	Moderately deep soils found in basins and drainageways formed in depressions in glacial drift on hills.	Perched	Initiates streams
Type 3	Very deep soils occurring in basins on low terraces formed in alluvium (i.e., stream deposited materials).	Perched	Enclosed Basin
Type 4	Wetlands found in depressions associated with coarse material over glacial till.	Unconfined Aquifer	Unconfined Aquifer
Type 5	Very deep soils on level terraces and in valleys, formed in organic material	Unconfined Aquifer	Initiates or supplements streamflow
Type 6	Very deep soils on low level terraces and floodplains formed in alluvium near marine shorelines	Unconfined Aquifer, tidally influenced.	Lower reaches of streams and marine waters
Type 7	Wetlands formed along the margin of surficial geological units that have a restrictive layer (i.e., glacial till), where they come into contact with unrestricted coarse units.	Perched or Unconfined Aquifer	Unconfined Aquifer
Type 8	Wetlands formed within the floodplain of streams.	Stream discharges to wetland	Wetland discharges to stream
Type 9	Wetlands (e.g., bogs) located in depressions where water tables are at or near the surface normally year-round.	Precipitation	Evapotranspiration
Type 10	Floodplains underlain by glacial till	Perched	Discharges to stream.
Type 11	Wetlands associated with lakes.	Lake	Lake
Type 12	Wetlands located along marine shorelines behind coastal dunes.	Marine, tidally influenced	Marine and Evapotranspiration.
Other	Define associated landform.	Define primary source of water.	Define primary receiving body of water output.

\*Refers to the factors that control the source(s) of water to a wetland and where the water goes after leaving the wetland.

\*\*Refers to natural wetland hydrology (i.e., does not include hydrologic modifications).

3. Wetland Hydrologic Functions: The effect that classified wetland hydrology types have on the overall flow and quality of water in the watershed in comparison to non-wetland areas. For the purposes of this Chapter, wetland hydrologic functions are defined as follows:
- a. Drinking water. Ability of a wetland to recharge, maintain, and/or enhance surface or ground water resources that yield potable water in sufficient quantities to be economically useful.
  - b. Floodflow desynchronization. Ability of a wetland to retain/detain floodwaters in the upper watershed, reducing the severity of flooding and increasing the time of concentration above that which occurs in adjacent upslope areas.
  - c. Ground water recharge. This wetland function is significant but not in the context that wetlands act as the major locations of groundwater recharge to aquifers. Although some wetlands do provide a significant amount of groundwater recharge, the large areas of river alluvium and unconsolidated glacial deposits and, in the Sequim-Dungeness Valley, the irrigation network are much more regionally significant. Rather, groundwater recharge is significant due to the fact that wetlands in contact with the aquifer are most susceptible to carrying pollutants to the aquifer. Conversely, if managed properly, such wetlands could assist in the treatment of pollutants already carried in the drinking water aquifer.
    - i. Nutrient removal/transformation opportunity. Ability of a wetland to retain or transform inorganic phosphorus and/or nitrogen into their organic forms, or transform nitrogen into its gaseous form, on either a net annual basis, or during the growing season.
    - ii. Sediment/toxicant/bacterial retention. Ability of a wetland to retain suspended solids and chemical contaminants such as pesticides, pathogens, and heavy metals absorbed to them, on a net annual basis.
    - iii. Seawater intrusion prevention. These wetlands are the boundary between the unconfined aquifer and the marine environment. Loss of water supply or drainage of wetlands will likely increase seawater intrusion to unconfined aquifers supplying drinking water to coastal inhabitants.
    - iv. Streamflow/Channel maintenance. Wetlands that due to detention or groundwater discharge supply a significant proportion of streamflow during summer and fall. These areas regulate the amount and timing of stream energy and therefore are crucial to defining the shape of stream channels since they largely determine the shape of the hydrograph.
    - v. Temperature maintenance. Those wetlands that provide thermal refuges during winter and summer months due to influence from springs or contact with the unconfined aquifer. During summer months, wetlands with this function are important as fish habitat for salmonids; during winter months, these wetlands provide waterfowl habitat by maintaining ice-free conditions.
    - vi. Water availability. The ability of a wetland to provide surface water for migratory and resident species based on the timing, duration, and depth of surface water availability.

**Table 3. Assessment of Wetland Hydrologic Functions**

Hydrologic Function	Wetland Hydrology Types											
	1	2	3	4	5	6	7	8	9	10	11	12
Flood Storage	L	L	L	L	L	L	L	H	L	L	H	L
Floodflow desynchronization	L	H	L	L	H	L	L	H	L	H	H	L
Streamflow & Channel Maintenance	L	H	N	L***	H	H	N	H	N	L	H	N
Groundwater recharge	N	N	L	H	N	L	H	H	H	H	H	L
Temperature Maintenance	L	H	L	H	H	H	N	L	H	L	L	N
Sediment/bacterial removal	L	H	H	L	H	L	L	H	H	H	H	N
Nutrient removal opportunity -	L	H	L	H*	H	H*	H	H	H	H	H	H
Toxicant removal opportunity	L	H	L	H	H	H	H	H	H	H	H	H
Seawater intrusion prevention	N	N	N	N	N**	H	N	N	L	N	N	N
Drinking Water	L	H	L	H	H	H	H	H	H	L	H	N
Water Availability for Migratory Waterfowl	L	H	H	H	H	H	L	H	H	H	H	H
Water Availability for Other Wildlife	L	H	H	H	H	H	L	H	H	H	H	L

H - High Functional Value; L - Performs this function to a limited degree; N - Does not perform function; \* - Highest functional value in Sequim Bay Watershed; \*\* - High value if associated with wetland hydrology.

**Table 4. Landscape Classification**

<p><b>Class I Wetlands are those wetlands classified as:</b></p> <ul style="list-style-type: none"><li>• Estuarine wetland habitat types;</li><li>• Greater than or equal to 20 acres, connected to a significant wildlife habitat movement corridor, and contain at least one significant habitat feature;</li><li>• Greater than or equal to 3 acres, dominated by 90% native vegetation (excluding contiguous stands of cattails, soft rush, hard hack, and horse tail), containing a forested or scrub-shrub habitat type, containing at least one significant habitat feature, and connected to a significant wildlife habitat movement corridor ; and/or</li><li>• Wetlands of local significance.</li></ul>
<p><b>Class II Wetlands are those wetlands classified as:</b></p> <ul style="list-style-type: none"><li>• Greater than or equal to 20 acres and not meeting Class I criteria; or</li><li>• Less than 20 acres, dominated by 50% native vegetation (excluding contiguous stands of cattails, soft rush, hard hack, and horse tail), containing a forested or scrub-shrub habitat type; containing at least one significant habitat feature, and connected to a significant wildlife habitat movement corridor.</li></ul>
<p><b>Class III Wetlands are those wetlands classified as:</b></p> <ul style="list-style-type: none"><li>• Wetlands less than 20 acres which do not satisfy Class I, II, or IV criteria.</li></ul>
<p><b>Class IV Wetlands are those wetlands classified as:</b></p> <ul style="list-style-type: none"><li>• Hydrologically isolated, less than 1 acre but greater than 10,000 square feet, and dominated by plant cover composed of one of the following native plant species: soft rush, hard hack, horse tail, or cattail, or less than two acres, and dominated by plant cover composed of non-native plant species.</li></ul>

The following standards for the protection of regulated wetlands and buffers shall be required for any development within 200-feet of a regulated wetland.

1. Buffers.

- a. a. The standard width of the buffer zone shall be determined according to the regulated wetland rating and the type of development as outlined in Table 5 below. The buffer shall not be altered except by a General Exemption, Certificate of Compliance, Variance, or Reasonable Use Exception approval, as authorized by this chapter; PROVIDED that such alterations meet all other standards for the protection of regulated wetlands. All buffers are measured from the regulated wetland edge as marked in the field.

**Table 5. Wetland Buffers**

	<b>Major New Development</b>	<b>Minor New Development</b>
Class I	200 feet	100 feet
Class II	150 feet	75 feet
Class III	75 feet	50 feet
Class IV	50 feet	25 feet

- b. Buffers that are in their natural state should not be altered and should remain in their natural condition, and enhanced whenever possible.
- c. Buffers and associated wetlands that have been altered and have lost ecological functions and values are encouraged to be restored in order to replace these lost functions. Clallam County shall provide information or technical expertise, where possible, in facilitating restoration activities, including referring interested property owners to various restoration information, efforts and funds. Prior to issuance of a development permit that is proposed adjacent to degraded critical areas or buffers, the property owner shall agree to undertake restoration activities or authorize such activities to occur, through an appropriate, approved legal device such as a conservation easement that is granted to a conservation program or restoration effort, or by legal, written agreement with restoration agencies or groups.
- d. Buffer Averaging or reduction. Buffer widths may be modified or reduced by the Review Authority through buffer averaging or a variance approval. Such requests shall be processed in accordance with Part Seven; PROVIDED that buffers cannot be reduced to less than 50-feet at any point except through buffer averaging or a reasonable use exception pursuant to Part Seven. Mitigation for buffer averaging, variance, or reasonable use exception shall include restoration of degraded wetlands and/or associated buffers in order to increase the ecological function of the wetland.
- e. The Review Authority may increase buffer zone widths, not to exceed 300 feet, for a development project on a case-by-case basis when a larger buffer is necessary to protect wetland functions and values. Such determination shall be based on site-specific and project related conditions which include, but are not limited to: (i) wetland sites with known locations of endangered or threatened species for which a habitat management plan indicates a larger buffer is necessary to protect habitat values for such species; (ii) the adjacent land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse wetland impacts; (iii) the adjacent land on the development

proposal site has minimal vegetative cover or slopes greater than 15 percent, or (iv) the proposed development adjacent to the regulated wetland would be a high intensity land use. High intensity land uses include those land uses associated with moderate or high levels of human disturbance or substantial habitat impacts including, but not limited to residential densities greater than one dwelling unit per five acres (gross density), active recreation, and commercial and industrial land uses.

- f. Any wetland that is created, restored, or enhanced as compensation for approved regulated wetland alterations shall have the standard buffer required for the category of the created, restored, or enhanced wetland.
  - g. Hazard tree removal. Where a threat to human life or property is demonstrated, the Administrator may allow the falling of a danger or hazard tree subject to the following criteria: 1) tree removal is the minimum necessary to balance the protection of the critical area and its buffer with protection of life and property; and 2) planting of a tree may be required to assure habitat protection.
2. Critical Area Delineation. Clallam County shall include a condition of all approved development permits that propose alteration of land abutting or adjacent to regulated wetlands which states that the critical area buffer shall be delineated, or field identified in order to maintain the effectiveness of the buffer. Field identification of boundaries shall consist of survey flags or equivalent markers composed of 1/2 inch galvanized iron pipe or equivalent monument, at least 18 inches long, and daylight above the surface at least 1 inch. Field markers shall be spaced at a minimum of every 50 feet, unless alternative placement or spacing is authorized by the Administrator. The location of field stakes must be shown on all site plans and final plats associated with the development proposal.
3. Docks. Construction of a dock, pier, moorage, float or launch facility may be permitted subject to criteria in the Clallam County Shoreline Master Program, and the following criteria:
- a. Only minimal buffer or wetland vegetation would be altered; and
  - b. Open water is a significant component of wetland subclasses; and
  - c. The materials used in or near surface waters shall not contain petroleum-based treatments or preservatives, including creosote, arsenic or copper.
4. Fencing. Clallam County shall require that all buffer areas for wetlands shall be temporarily fenced between the construction activity and the buffer with a highly visible and durable protective barrier during construction to prevent access and protect the critical area and buffer. This requirement may be waived by the Review Authority if an alternative to fencing which achieves the same objective is proposed and approved.
5. Forest Practice, Class IV General (Conversion and Urban Growth Area). All timber harvesting and associated development activity, such as construction of roads, shall comply with the provisions of this chapter, including the maintenance of buffers around regulated wetlands. All forest practices, regardless of class, within designated Urban Growth Areas pursuant to the Growth Management Act, shall comply with the provisions of this section. Those lands harvested and not reforested under a Class I, II, or III permit and which do not meet the standards of this chapter and are later converted to non-forest uses shall have all local permits withheld for a period of six years, as authorized by the Washington State Forest Practices Act (RCW 76.09). This moratorium shall run with the land and be duly noted in the public record. For the purpose of implementing this policy, the conversion of land to non-forest uses shall mean the division of land or the preparation of land for land division or construction. Should a

landowner wish to remove the moratorium or convert the land to non-forest uses, the owner shall:

- a. Reforest the land as prescribed by the Department of Natural Resources and/or provide stabilization and protection of the critical area in a manner approved by Clallam County in accordance with this Chapter. Said reforestation shall be by planting and not by natural regeneration, unless the Department verifies that natural regeneration has already occurred to such an extent that planting is not necessary. Provide stabilization and protection of the affected critical area through drainage and erosion control measures; and
  - b. Submit and have approved by the Administrator a Conversion Harvest Plan. The approval of said plan may include conditions and improvement requirements to control erosion, protect or enhance the critical area or buffer, or other conditions which are intended to reduce impacts to the critical area.
6. Land Disturbing Activities. Land disturbing activities located within the jurisdiction of critical areas shall obtain a Certificate of Compliance and provide for stormwater quality and quantity control, including preparation of a temporary erosion and sediment control plan and permanent drainage plan, consistent with the Stormwater Management Manual for the Puget Sound Basin, prepared by the state Department of Ecology, February, 1992, as amended. This requirement may be waived by the Administrator upon determination that the proposal will not affect the critical area.
7. Land Divisions. All proposed divisions of land which contain regulated wetlands shall comply with the following procedures and development standards:
- a. Only fifty percent of regulated wetlands with permanent open water shall be permitted for use in calculating minimum lot area as required by Title 33, Zoning Code, for the proposed lots. This provision shall not apply to the calculation of maximum residential density
  - b. Regulated wetlands and wetland buffers may be included in the calculation of minimum lot area for proposed lots provided that other standards, including (c) below, are met.
  - c. All lots within the proposed land division shall contain at least one building site, including access and utility locations, that is suitable for development, is not within the regulated wetland or its associated buffer and the lot is consistent with the minimum lot area requirements specified by Title 33, Zoning Code.
  - d. The critical area and associated buffer shall be surveyed and shown on the final plat. A note shall be provided on the final plat that states that all subsequent development shall comply with critical area protection standards which were required as a part of the plat approval. The critical area and buffer shall be dedicated as open space tract, easement or covenant encumbering the critical area and buffer, for either the use and enjoyment by the general public, use and enjoyment by lot or parcel containing a portion or all of the critical or buffer area, or the use of a homeowners' association. Such dedication or easement shall be recorded together with the land division and shown on the final mylar.
8. Livestock Restrictions. Proposals to allow livestock access to regulated wetlands and associated buffers, or alteration of such areas for livestock use, shall be prohibited unless the Administrator finds that such access and alteration is limited and impacts controlled through approval and implementation of a mitigation plan. The Administrator may waive the need for a mitigation plan where the applicant implements a plan and/or project sponsored by the County, Clallam

Conservation District, U.S.D.A. Natural Resources Conservation Service, Washington State Department of Fish and Wildlife, U.S. Fish and Wildlife Service, or other agency/organization approved by the Administrator, which controls impacts caused by introduction of livestock. This prohibition shall not apply to Class IV wetlands or those wetlands, or portions thereof, that the Administrator determines meet the definition of grazed wet meadow.

9. Notice to Title. Any property on which a development proposal is submitted shall have filed with the Clallam County Auditor: 1) a notice to title of the presence of the critical area or buffer, 2) a statement as to the applicability of this chapter to the property, and 3) a statement describing possible limitations on actions in or affecting such areas or buffers as approved by the Administrator. Clallam County shall record such documents and will provide a copy of the recorded notice to the property owner of record. Development proposals which are also defined as normal repair and maintenance of existing structures or developments, including but not limited to: roof repair, interior remodeling, wood stove permits, etc., and on-site sewage disposal systems repairs or replacement, are exempt from this requirement.
  
10. Roads and Bridges - Repair. Any private or public road or street repair, maintenance, or expansion within existing right-of-way within a regulated wetland or associated buffer shall obtain a certificate of compliance and mitigation plan approval in accordance with this Chapter shall comply with the following minimum development standards, as applicable.
  - a. Public road or maintained road or street crossings should provide for other purposes, such as utility crossings, pedestrian or bicycle easements, viewing points, etc.;
  - b. The road or street repair is the minimum necessary to provide safe roads and streets;
  - c. Stormwater and drainage impacts have been evaluated and have been determined to be consistent with this chapter; and
  - d. Deckings, abutments and piers shall not contain petroleum-based treatments or preservatives, including creosote, arsenic or copper.
  
11. Roads and Bridges – New Construction. Any new construction of private or public roads or bridges proposed within the jurisdiction of this chapter but outside of regulated critical areas or their buffers shall comply with the standards below and obtain a Certificate of Compliance. Any new road or bridge construction proposed within a critical area or associated buffer requires a variance approval pursuant to Part Seven and shall also comply with the following minimum development standards, as applicable.
  - a. It shall also be shown that no other reasonable or practicable alternative exists and the road or street crossing serves multiple properties whenever possible;
  - b. Public road or maintained road or street crossings should provide for other purposes, such as utility crossings, pedestrian or bicycle easements, viewing points, etc.;
  - c. The road or street construction is the minimum necessary to provide safe roads and streets;
  - d. Stormwater and drainage impacts have been evaluated and have been determined to be consistent with this chapter; and
  - e. Deckings, abutments and piers shall not contain petroleum-based treatments or preservatives, including creosote, arsenic or copper.
  
12. Signs. Prior to issuance of permits for major new development subject to this chapter, Clallam County shall require that the common boundary between a regulated wetland and associated buffer be identified using permanent signs as approved by the Administrator. In lieu of signs, alternative methods of identification may be approved when such methods are determined by

the Review Authority to provide adequate protection to the critical area and buffer.

13. Storm water management. The following stormwater management standards are required, as they apply:
  - a. New development shall utilize best management practices to minimize stormwater quantity and quality impacts to critical areas, both during and following construction.
  - b. Stormwater runoff from new development shall not significantly change the rate of flow, hydroperiod which is the seasonal period and duration of water saturation or inundation, nor decrease the water quality of wetlands.
  - c. Authorized modifications of wetlands or wetland buffers for construction of or discharge from drainage facilities shall protect wetland hydrologic functions classified pursuant to this section.
  - d. Provide on-site retention or infiltration of summer and spring stormwater runoff prior to discharging to wetlands that receive water primarily from a perched water table, which is a saturated zone above a low permeability layer such as glacial till.
  - e. Stormwater runoff shall not be diverted from the watershed of wetlands whose primary source of water is from a perched water table.
  - f. Developments which handle, store, dispose, transport, or generate hazardous substances/wastes defined as “dangerous” or “extremely dangerous” wastes under WAC 173-303 (regardless of quantity) shall not allow direct precipitation or stormwater runoff to contact such substances where stored on-site.
  - g. Compliance with the Clallam County Stormwater regulations is required, as applicable.
  
14. Temporary or Permanent Field Identification. Clallam County shall require temporary or permanent field markers delineating the critical area boundary and associated buffer prior to issuance of required permits for any development located within the jurisdiction of a regulated wetland, aquatic habitat conservation area, and landslide hazard area. Field markers shall be composed of 1/2 inch galvanized iron pipe or equivalent monument, at least 18 inches long, and daylight above the surface at least 1 inch. Field markers shall be spaced at a minimum of every 50 feet, unless alternative placement or spacing is authorized by the Administrator. The location of field stakes must be shown on all site plans and final plats associated with the development proposal. Field stakes shall remain in place until any required, final inspections are completed and approved. Field markers may be waived by the Review Authority if an alternative to field staking achieves the same objective and is proposed and approved, or if the development activity is located at a sufficient distance so that impacts to the critical area are unlikely to occur.
  
15. Trails and Trail-Related Facilities. Construction of publicly-owned trails on public lands, or privately-owned trails for private or public use, and trail-related facilities, such as picnic tables, benches, interpretive centers and signs, pedestrian bridges and viewing platforms, may be allowed in regulated wetlands and associated buffers through the issuance of a Certificate of Compliance pursuant this chapter, subject to the following standards:
  - a. Trails and related facilities shall, to the extent feasible, be placed on existing road grades, utility corridors, or any other previously disturbed areas;
  - b. Trails, pedestrian bridges and related facilities within a critical area or buffer shall be planned and aligned to minimize removal of trees, shrubs, snags and important wildlife habitat and critical area functions such that the disturbed area, including that private trail surfaces for private use are a maximum of 3-foot in width and other trails, either privately or publicly owned that allow public use (with or without fees), the trail surfaces shall be a maximum of 10-feet in width; EXCEPT for regional public trails which shall be

- a maximum of 14-feet whereby design considerations are made to minimize impacts to critical areas and buffers;
  - c. Viewing platforms, interpretive centers, picnic areas, benches and their associated access shall be designed and located to minimize disturbance of wildlife habitat and/or critical characteristics of the affected critical area;
  - d. Trails shall be limited to non-motorized use;
  - e. Trail surfacing shall be comprised of natural materials (e.g., gravel, rock, bark) and that permanent surfacing materials (e.g. bituminous asphalt or concrete) require a variance approval pursuant to Part Seven; EXCEPT for regional public trails may have up to 10-feet of permanent surfacing materials. Any construction materials shall not significantly alter the existing drainage or negatively affect the critical area;
  - f. All proposals shall also submit a mitigation plan pursuant to Part Eight.
16. Utilities. Placement of utilities within regulated wetlands and associated buffers may be allowed through a variance approval in accordance with Part Seven, subject to the following standards:
- a. New utility transmission facilities which carry oil, gas or any other hazardous substances are prohibited within a regulated wetland and associated buffer.
  - b. The following performance standards shall apply to any allowed private or public utility expansion or construction authorized under this chapter within a wetland or buffer:
    - i. New utilities shall use existing utility corridors whenever possible.
    - ii. New utility corridors shall be aligned when possible to avoid cutting trees greater than 12 inches in diameter at four and one-half feet measured on the uphill side.
    - iii. New utility corridors shall be revegetated with appropriate native vegetation at pre-construction densities or greater immediately upon completion of construction or as soon thereafter as possible if due to seasonal growing constraints, and appropriate steps shall be taken to ensure that such vegetation survives.
17. Zoning or Comprehensive Plan Amendment. Prior to taking action on a zoning or comprehensive plan map amendment, the applicant shall complete an environmental assessment that shall be approved by Clallam County, to confirm the nature, extent and rating of critical areas on the property; determine if the subsequent development proposal would be consistent with this chapter; and determine whether mitigation or other measures would be necessary if the proposal were approved. Such review shall occur prior to any SEPA threshold determination pursuant to the Clallam County Environmental Policy Chapter, C.C.C. 27.01. Findings of such review may be used to condition or mitigate the impact through the SEPA threshold determination or to deny the proposed zoning or comprehensive plan map amendment if the impacts are significant and cannot be mitigated.

## **PART THREE**

### **AQUATIC AND WILDLIFE HABITAT CONSERVATION AREAS**

#### **C.C.C. 27.12.300      APPLICABILITY AND PURPOSE**

This section applies to all development activities proposed within the jurisdiction for Aquatic and Wildlife habitat conservation areas herein classified as Aquatic Habitat Conservation Areas and Wildlife Habitat Conservation Areas. The intent of this section is to:

1. Preserve natural flood control, stormwater storage and drainage or stream flow patterns;
2. Control siltation, protect nutrient reserves and maintain stream flows and stream quality for fish and marine shellfish;
3. Prevent turbidity and pollution of streams and fish or shellfish bearing waters;
4. Preserve and protect habitat adequate to support viable populations of native wildlife in Clallam County.

#### **C.C.C. 27.12.305      REGULATED USES AND ACTIVITIES**

Applicability of this chapter is set forth in Part One. Unless otherwise specified in this chapter, proposals located within the jurisdiction of this chapter as it applies to Aquatic Habitat Conservation Area or Class I or II Wildlife Conservation Areas shall require:

- A Certificate of Compliance if proposed within the jurisdiction of this chapter to a regulated Aquatic or Class I or II Wildlife Habitat Conservation Areas consistent with Part Seven, or
- A variance consistent with Part Seven if proposed within a Aquatic or Class I or II Wildlife Habitat Conservation Areas or associated buffer, or
- A variance consistent with Part Seven if the standards and requirements cannot be met.

#### **C.C.C. 27.12.310      CLASSIFICATION AND DESIGNATION**

1. Classification. The following classifications shall be used in designating Aquatic and Wildlife habitat conservation areas:
  - a. Aquatic Habitat Conservation Areas: Includes those streams, lakes, marine waters and their associated wetlands and floodplains defined as Shorelines of the State in the Shoreline Management Act of 1971 and the Clallam County Shoreline Master Program, which are also categorized as 'shorelands' under RCW 90.58 Shoreline Management Act, as now or hereafter amended, and those streams, lakes and wetlands which meet the criteria for Type 1- 5 Waters as defined herein.

Streams include those areas where the surface water flow is sufficient to produce a defined channel or bed. A defined channel or bed is an area which demonstrates clear evidence of the passage of water and includes but is not limited to bedrock channels, gravel beds, sand and silt beds and defined-channel swales. The channel or bed need not contain water year-round. This does not include irrigation ditches, canals, storm or

surface water runoff devices or other artificial watercourses unless they are used by salmon or used to convey streams naturally occurring prior to construction.

- b. Class I Wildlife Habitat Conservation Area. Those lands including the following:
  - i. Habitats recognized by federal or state agencies for federal and/or state listed endangered, threatened and sensitive species documented in maps or data bases available to Clallam County and its citizens and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term. This includes known locations of nests, rookeries, or other breeding areas for species of concern recognized by local, state and federal public agencies having jurisdiction over such species.
  - ii. Habitats targeted for preservation by federal, state and/or local government which provide fish and wildlife habitat benefits, such as important waterfowl areas identified by the U.S. Fish and Wildlife Service.
  
- c. Class II Wildlife Habitat Conservation Area. Those lands including the following:
  - i. Priority habitats not classified as Class I for state listed candidate and monitor species documented in maps or data bases available to Clallam County and its citizens, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.
  - ii. Priority habitats not classified as Class I These habitats may include wetlands, aquatic conservation areas, marine bluffs, stream ravines, caves, cliffs, islands, meadows, old-growth/mature forest, snag-rich areas, talus slopes, urban natural open space, and those land and water areas identified as significant habitat corridors under the Clallam County Comprehensive Plan, Title 31, C.C.C.

2. Designation.

All lands and shorelands classified as Aquatic and Wildlife Habitat Conservation Areas are hereby designated as aquatic and wildlife habitat conservation areas. These areas shall be mapped whenever possible. These maps shall be advisory and used by the Administrator and/or Review Authority to provide guidance in determining applicability of the standards to a property. Sites which include aquatic and wildlife habitat conservation areas which are not mapped shall be subject to the provisions of this section and chapter. The Administrator shall provide maps in a Critical Areas Resource Map Portfolio as guidance in identifying the presence of Aquatic and Wildlife Habitat Conservation Areas. These maps may be based on the following information sources:

- a. Department of Wildlife Non-Game and Priority Habitat and Species Data Bases;
- b. Department of Wildlife Washington Rivers Information System Data Base;
- c. Washington State Department of Health Commercial and Recreational Shellfish Area Inventory;
- d. Clallam County Shoreline Master Program;
- e. National Wetlands Inventory;
- f. Department of Natural Resources Waters of the State;
- g. Coastal Zone Atlas of Clallam County;
- h. Limiting Factors Analyses for anadromous fish and Habitat Restoration Plans;
- i. Watershed plans and analyses.

**PROTECTION STANDARDS FOR AQUATIC HABITAT CONSERVATION AREAS**

Those regulated uses identified in this subsection within the jurisdiction of designated aquatic habitat conservation areas shall comply with the performance standards outlined in this section:

1. Buffers

- a. Buffer width. Except as otherwise allowed, buffers shall be maintained along all Aquatic Habitat Conservation Areas as noted in Table 6 below. The buffer shall not be altered except by a General Exemption, Certificate of Compliance, Variance, or Reasonable Use Exception approval, as authorized by this chapter; PROVIDED that such alterations meet all other standards for the protection of Aquatic Habitat Conservation Areas.

Buffer distances shall be measured from the ordinary high water mark (OHWM) or from the top of the bank where the OHWM cannot be identified unless otherwise specified by this Chapter. The distance of the buffer shall be increased to include streamside wetlands which provide overflow storage for stormwaters, feed water back to the stream during low flows or provide shelter and food for fish. In braided channels, the OHWM or Top of Bank shall be defined to include the entire stream feature.

**Table 6. Aquatic Habitat Conservation Area Buffers**

Designation	Buffer Width for Major New Development and Land Divisions*	Buffer Width for Minor New Development**
<b>Aquatic Habitat Conservation Area</b>		
Type 1 Waters – Marine, Streams and Lakes	150 feet	Equivalent to the setback set forth by the Shoreline Master Program, as it applies and as hereafter amended***
		<sup>6</sup> 65 feet
		60 feet
Type 2 Waters	150 feet	50 feet ****
Type 3 Waters	100 feet	50 feet <sup>7</sup> ****
Type 4 Waters	50 feet	
Type 5 Waters (500 feet in length or greater)	50 feet	

\* Buffers shall be measured from OHWM as specified above, and shall also extend to the outer edge of any associated, frequently-flooded area;

\*\* Buffers shall be measured from the required measurement from the OHWM as specified above

\*\*\* Except for the Dungeness River which shall be a minimum of 75-feet.

\*\*\*\* Buffers may be reduced down to a minimum 25-feet through the buffer averaging process set forth under CCC 27.12.730.

<sup>6</sup> Response to WGMHB, No. 00-2-0008, Page 7; Order of Noncompliance # 3; Order of Invalidity # 1.

<sup>7</sup> Response to WGMHB, No. 00-2-0008, Pages 2, 9 and 11; Order of Noncompliance # 1; Order of Invalidity # 1.

- b. Buffers that are in their natural state should not be altered and should remain in their natural condition, and enhanced whenever possible. .
  - c. Aquatic Habitat Conservation Areas and associated buffers that have been altered and have lost ecological functions and values are encouraged to be restored in order to replace these lost functions. Clallam County shall provide information or technical expertise, where possible, in facilitating restoration activities, including referring interested property owners to various restoration information, efforts and funds. Prior to issuance of a development permit that is proposed adjacent to degraded critical areas or buffers, the property owner shall agree to undertake restoration activities or authorize such activities to occur, through an appropriate, approved legal device such as a conservation easement that is granted to a conservation program or restoration effort, or by legal, written agreement with restoration agencies or groups.
  - d. Buffer Averaging or reduction. Buffer widths may be modified or reduced by the Review Authority through buffer averaging or a variance approval. Such requests shall be processed in accordance with Part Seven; PROVIDED that buffers cannot be reduced to less than 50-feet at any point except through buffer averaging or a reasonable use exception pursuant to Part Seven. Mitigation for buffer averaging, variance, or reasonable use exception shall include restoration of degraded Aquatic Habitat Conservation Areas and/or associated buffers in order to increase the ecological function of the critical area.
  - e. The depth of the buffer may be increased by the Review Authority, not to exceed 300 feet, whenever a development proposal has known locations of endangered or threatened species for which a habitat management plan indicates a larger buffer is necessary to protect habitat values for such species; or is located within landslide or erosion hazard area.
  - f. Shorelines of the State. All development subject to the Shoreline Management Act, RCW 90.58 and the Clallam County Shoreline Master Program shall be consistent with said regulations, as now or hereafter amended.
  - g. Hazard tree removal. Where a threat to human life or property is demonstrated, the Administrator may allow the falling of a danger or hazard tree subject to the following criteria: 1) tree removal is the minimum necessary to balance the protection of the critical area and its buffer with protection of life and property; and 2) planting of a tree may be required to assure habitat protection.
2. Critical Area Delineation. Clallam County shall include a condition of all approved development permits that propose alteration of land abutting or adjacent to aquatic habitat conservation areas which states that the critical area buffer shall be delineated, or field identified in order to maintain the effectiveness of the buffer. Field identification of boundaries shall consist of survey flags or equivalent markers composed of 1/2 inch galvanized iron pipe or equivalent monument, at least 18 inches long, and daylight above the surface at least 1 inch. Field markers shall be spaced at a minimum of every 50 feet, unless alternative placement or spacing is authorized by the Administrator. The location of field stakes must be shown on all site plans and final plats associated with the development proposal.
3. Docks. Construction of a dock, pier, moorage, float or launch facility may be permitted subject to criteria in the Clallam County Shoreline Master Program, if applicable, and the following additional criteria:

- a. The minimal amount of vegetation is altered within the buffer; and
  - b. the materials used in or near surface waters shall not contain petroleum-based treatments or preservatives, including creosote, arsenic or copper.
4. Enhancement. Critical area enhancement projects, not considered fish habitat or passage improvement projects pursuant to this section, shall require a Certificate of Compliance. Clallam County shall waive review fees for enhancement projects that meet either of the below criteria:
- a. Sponsored Projects. Enhancement projects sponsored by Clallam County, Washington Department of Fish and Wildlife, Clallam Conservation District, U.S. Natural Resources Conservation Service, U.S. Fish and Wildlife Service, Washington Department of Natural Resources, or other public agency approved by the Administrator which are consistent with the County Comprehensive Plan, Sequim Bay Watershed Management Plan, Dungeness Watershed Area Management Plan, Port Angeles Watershed Management Plan, Sequim-Dungeness Groundwater Protection Strategy, County floodplain management plans, and other plans adopted by the County Board of Commissioners.
  - b. Vegetation Planting/Removal. Planting of native vegetation or removal of non-native species for the enhancement of the critical area; provided that such activities are performed using hand tools and are limited to the area being enhanced; provided further that watering of newly planted vegetation is limited to the first three years. Watering of newly planted vegetation on landslide hazard areas shall require approval of a mitigation plan in accordance with this Chapter. Allowable hand tools include gas and electric-powered equipment which is typically moved by hand, including equipment such as chain saws, hedge trimmers, and lawn mowers.
5. Fencing. Clallam County shall require that all buffer areas for Type 1-3 aquatic habitat conservation areas shall be temporarily fenced between the construction activity and the buffer with a highly visible and durable protective barrier during construction to prevent access and protect the critical area and buffer; PROVIDED that this requirement does not apply to Type 4 and 5 waters. This requirement may be waived by the Review Authority if an alternative to fencing which achieves the same objective is proposed and approved.
6. Fish Habitat or Passage Improvement Projects. The expedited permit process set forth by Second Substitute House Bill 2879 (Chapter 249, Laws of 1998) for fish habitat or passage improvement projects is hereby adopted by Clallam County. This process sets forth a requirement that the applicant notify Clallam County of the request for a permit waiver of a Certificate of Compliance or other permit approval and any associated permit fees for those projects which qualify for this waiver. The request shall be in the form of a Joint Aquatic Resources Permit Application (JARPA). Qualified projects must meet the criteria set forth by the legislation which shall include any county-sponsored projects.
- a. Clallam County hereby adopts the Joint Aquatic Resource Permit Application form as an alternative shoreline exemption permit application form.
  - b. Upon receipt of an application deemed to be qualified by Washington State Department of Fish and Wildlife, Clallam County shall provide comments within fifteen (15) days to the Department of Fish and Wildlife and also the applicant. These comments shall include whether or not the proposal is consistent with this chapter, the Clallam County Shoreline Master Program, and adopted watershed plans, flood management or reduction plans, and other applicable plans, as they apply.
  - c. Any fish enhancement or passage improvement project that is constructed or completed without obtaining comments by Clallam County in accordance with Chapter 249, Laws of 1998, shall be deemed a violation of the following regulations, as amended: this chapter, Chapter 35.01 Shoreline Management Code, the Clallam County Shoreline Master Program, and Chapter 90.58.147 RCW. Such projects are subject to violation and enforcement procedures set forth by said regulations.

7. Forest Practice, Class IV General (Conversion and Urban Growth Area). All timber harvesting and associated development activity, such as construction of roads, shall comply with the provisions of this chapter, including the maintenance of buffers around regulated wetlands. All forest practices, regardless of class, within designated Urban Growth Areas pursuant to the Growth Management Act, shall comply with the provisions of this section. Those lands harvested and not reforested under a Class I, II, or III permit and which do not meet the standards of this chapter and are later converted to non-forest uses shall have all local permits withheld for a period of six years, as authorized by the Washington State Forest Practices Act (RCW 76.09). This moratorium shall run with the land and be duly noted in the public record. For the purpose of implementing this policy, the conversion of land to non-forest uses shall mean the division of land or the preparation of land for land division or construction. Should a landowner wish to remove the moratorium or convert the land to non-forest uses, the owner shall:
- a. Reforest the land as prescribed by the Department of Natural Resources and/or provide stabilization and protection of the critical area in a manner approved by Clallam County in accordance with this Chapter. Said reforestation shall be by planting and not by natural regeneration, unless the Department verifies that natural regeneration has already occurred to such an extent that planting is not necessary. Provide stabilization and protection of the affected critical area through drainage and erosion control measures; and
  - b. Submit and have approved by the Administrator a Conversion Harvest Plan. The approval of said plan may include conditions and improvement requirements to control erosion, protect or enhance the critical area or buffer, or other conditions which are intended to reduce impacts to the critical area.
8. Land Disturbing Activities. Land disturbing activities located within the jurisdiction of critical areas shall obtain a Certificate of Compliance and provide for stormwater quality and quantity control, including preparation of a temporary erosion and sediment control plan and permanent drainage plan, consistent with the Stormwater Management Manual for the Puget Sound Basin, prepared by the state Department of Ecology, February, 1992, as amended. This requirement may be waived by the Administrator upon determination that the proposal will not affect the critical area.
9. Land Divisions. All proposed divisions of land which include aquatic and wildlife habitat conservation areas shall comply with the following procedures and development standards:
- a. Land below the ordinary high water mark of lakes, streams, and tidal lands shall not be permitted for use in calculating minimum lot area for the proposed lots.
  - b. All lots within the proposed land divisions shall contain at least one site, including access and utility locations, that is suitable for development, is not within the regulated aquatic habitat or buffer, and the lot is consistent with the minimum lot area requirements specified by Title 33, Zoning Code.
  - c. Land Divisions within Type 1 Waters, including shorelines of the state shall have a minimum lot frontage along the shoreline of 150-feet, measured in a straight line, and shall be consistent with lot configuration requirements that are established by Title 33, Zoning Code and Clallam County Shoreline Master Program, as applicable.
  - d. The critical area and associated buffer shall be surveyed and shown on the final plat. A note shall be provided on the final plat that states that all subsequent development shall comply with critical area protection standards which were required as a part of the plat approval. The critical area and buffer shall be dedicated as open space tract, easement or covenant encumbering the critical area and buffer, for either the use and enjoyment by the general public, use and enjoyment by lot or parcel containing a portion or all of

the critical or buffer, or the use of a homeowners' association. Such dedication or easement shall be recorded together with the land division and shown on the final mylar.

10. Livestock Restrictions. Proposals to allow livestock access to Aquatic Habitat Conservation Areas or associated buffers, or alteration of such areas for livestock use, shall be prohibited unless the Administrator finds that such access and alteration is limited and impacts controlled through approval and implementation of a mitigation plan. The Administrator may waive the need for a mitigation plan where the applicant implements a plan and/or project sponsored by the County, Clallam Conservation District, U.S.D.A. Natural Resources Conservation Service, Washington State Department of Fish and Wildlife, U.S. Fish and Wildlife Service, or other agency/organization approved by the Administrator, which controls impacts caused by introduction of livestock. This prohibition shall not apply to Class IV wetlands or those wetlands, or portions thereof, that the Administrator determines meet the definition of grazed wet meadow.
11. Notice to Title. Any property on which a development proposal is submitted shall have filed with the Clallam County Auditor: 1) a notice to title of the presence of the critical area or buffer, 2) a statement as to the applicability of this chapter to the property, and 3) a statement describing possible limitations on actions in or affecting such areas or buffers as approved by the Administrator. Clallam County shall record such documents and will provide a copy of the recorded notice to the property owner of record. Development proposals which are also defined as normal repair and maintenance of existing structures or developments, including but not limited to: roof repair, interior remodeling, wood stove permits, etc., and on-site sewage disposal systems repairs or replacement, are exempt from this requirement.
12. Stabilization and Relocations. Stabilization and relocation proposals that qualify as fish habitat or passage improvement projects under Second Substitute House Bill 2879 (Chapter 249, Laws of 1998) shall be processed as a Certificate of Compliance pursuant to this chapter.

All other stabilization and relocation requests shall comply with the provisions of this section, and shall require a certificate of compliance.

- a. Stabilization. A stream channel or bank, bluff, and shore may be stabilized for the purpose of retarding erosion, protecting channels or shorelines, and retaining uplands when its naturally occurring movement threatens legally-placed, existing structures utilized as a primary residence, or public improvements which cannot be moved and are considered essential to the public welfare, unique natural resources, or the only feasible access to property, and, in the case of streams, when such stabilization results in maintenance of fish and wildlife habitat, hazard reduction and improved water quality. Bluff, bank and shoreline stabilization shall follow the standards of the Clallam County Shoreline Master Program and any floodplain management plan adopted by the Board of Commissioners, as they apply. The Review Authority may require that bank stabilization be designed by a licensed, civil engineer with sufficient expertise in hydraulic actions of shorelines, along with a biologist to address habitat issues.
  - i. Stabilization methods include, but are not limited to: bulkheads, riprap revetments, jetties, groins, bioengineering measures, vegetation management measures, and beach enhancement. Not included are fish enhancement projects such as woody debris placement. "Hard" structural stabilization measures refer to those with solid, hard surfaces, such as concrete bulkheads, or rip rap. "Soft" methods rely on softer materials, such as vegetation or beach enhancement. Generally, the harder the structure, the greater the impact on wave action, geohydrology and biological functions.
    - (a) The following criteria shall be met for all stabilization structures:

- (1) avoidance or re-location of the structure or improvement that needs protection has been reviewed and is not feasible or practical;
  - (2) the action is the minimum necessary to meet the desired goals;
  - (3) any adverse impacts have been mitigated in accordance with Part Eight of this chapter;
  - (4) the public need, if any, for a stabilization structure has been identified;
  - (5) the state's interest in adjacent resources is protected and maintained;
  - (6) preferred methods recommended in any County-adopted flood hazard management plan specific to a stream are proposed, or the proposal reflects improved methods after plan adoption;
  - (7) The proposal is not located within a channel meander hazard.
- ii. All stabilization activities shall minimize any potential negative impacts to the natural functions of the shoreline and shall meet the following minimum standards:
- (a) the replacement of an existing structure is allowed if the need is demonstrated and the natural function or character of the shoreline is improved, unless impractical.
  - (b) consideration shall be given to those properties adjacent to and affected by an existing shoreline stabilization structure which may be causing erosion or an unstable situation as determined by a qualified professional; PROVIDED that compliance with this Subsection can be made.
  - (c) the least-intrusive method is chosen which shall incorporate bio-engineering where feasible and practicable. 'Soft' structural methods are preferred over 'hard' methods.
  - (d) the effects of the stabilization to upstream and downstream properties, or net shore and littoral drift are clearly disclosed by a qualified professional and taken into consideration by the Review Authority.
  - (e) the materials used in or near surface waters shall not contain petroleum-based treatments or preservatives, including creosote, copper and arsenic.
  - (f) A geotechnical report may be required on Type II-V streams and is required on Type 1 streams. Said report shall describe the site geology, and shall provide conclusions, alternatives and recommendations regarding the effect of the proposed activity.
  - (g) Should current biological data for the specific site not be known or available, a mitigation plan by a qualified professional may be required to identify biota and habitat present, and to address the potential effects of any intrusion or covering of any critical saltwater or freshwater habitats.
- b. Relocations. Stream relocations shall only be allowed for the purpose of enhancing and/or restoring the functions of aquatic habitat conservation areas and when adhering to the following minimum standards:
- i. The channel, bank and buffer areas are replanted with native vegetation that replicates a natural, undisturbed riparian condition; and
  - ii. For those lands and waters designated as frequently flooded areas, a civil engineer provides information which demonstrates that the equivalent base flood storage volume and function of all discharges will be maintained and the base flood discharge shall not be increased.

13. Roads and Bridges - Repair. Any private or public road or street repair, maintenance, or expansion within existing right-of-way within an Aquatic Habitat Conservation Areas, Landslide Hazards or buffer shall obtain a certificate of compliance and mitigation plan approval in accordance with this Chapter shall comply with the following minimum development standards, as applicable.
- a. Expansion or new construction of any private or public road within a Aquatic and Wildlife habitat conservation area or buffer, shall only be allowed when there are no significant adverse impacts to the habitat that cannot be mitigated;
  - b. Public road or maintained road or street crossings should provide for other purposes, such as utility crossings, pedestrian or bicycle easements, viewing points, etc.;
  - c. The road or street repair is the minimum necessary to provide safe roads and streets;
  - d. Stormwater and drainage impacts have been evaluated and have been determined to be consistent with this chapter;
  - e. Deckings, abutments and piers shall not contain petroleum-based treatments or preservatives, including creosote, arsenic or copper; and
  - f. Bridges shall be required for Type I streams which support salmonids unless a Habitat Management Plan and Mitigation Plan is approved which demonstrates that other alternatives would not result in significant impacts to the aquatic habitat conservation areas;
14. Roads and Bridges – New Construction. Any new construction of private or public roads or bridges proposed within the jurisdiction of this chapter but outside of regulated critical areas or their buffers shall comply with the standards below and obtain a Certificate of Compliance. Any new road or bridge construction proposed within a critical area or associated buffer requires a variance approval pursuant to Part Seven and shall also comply with the following minimum development standards, as applicable.
- a. It shall also be shown that no other reasonable or practicable alternative exists and the road or street crossing serves multiple properties whenever possible;
  - b. New construction of any private or public road within a Aquatic and Wildlife habitat conservation area or buffer, shall only be allowed when there are no significant adverse impacts to the habitat that cannot be mitigated;
  - c. Public road or maintained road or street crossings should provide for other purposes, such as utility crossings, pedestrian or bicycle easements, viewing points, etc.;
  - d. The road or street construction is the minimum necessary to provide safe roads and streets;
  - e. Stormwater and drainage impacts have been evaluated and have been determined to be consistent with this chapter;
  - f. Crossings in streams with salmonid spawning areas shall be located to minimize impact on the spawning areas;
  - g. Deckings, abutments and piers shall not contain petroleum-based treatments or preservatives, including creosote, arsenic or copper; and
  - h. Bridges shall be required for Type I streams which support salmonids unless a Habitat Management Plan and Mitigation Plan is approved which demonstrates that other alternatives would not result in significant impacts to the aquatic habitat conservation areas;
15. Signs. Prior to issuance of permits for major new development subject to this chapter, Clallam County shall require that the common boundary between a regulated wetland and/or aquatic habitat conservation area and associated buffer be identified using permanent signs as approved by the Administrator. In lieu of signs, alternative methods of identification may be approved when such methods are determined by the Review Authority to provide adequate protection to

the critical area and buffer.

16. Temporary or Permanent Field Identification. Clallam County shall require temporary or permanent field markers delineating the critical area boundary and associated buffer prior to issuance of required permits for any development located within the jurisdiction of a regulated wetland, aquatic habitat conservation area, and landslide hazard area. Field markers shall be composed of 1/2 inch galvanized iron pipe or equivalent monument, at least 18 inches long, and daylight above the surface at least 1 inch. Field markers shall be spaced at a minimum of every 50 feet, unless alternative placement or spacing is authorized by the Administrator. The location of field stakes must be shown on all site plans and final plats associated with the development proposal. Field stakes shall remain in place until any required, final inspections are completed and approved. Field markers may be waived by the Review Authority if an alternative to field staking achieves the same objective and is proposed and approved, or if the development activity is located at a sufficient distance so that impacts to the critical area are unlikely to occur.
  
17. Trails and Trail-Related Facilities. Construction of publicly-owned trails on public lands, or privately-owned trails for private or public use, and trail-related facilities, such as picnic tables, benches, interpretive centers and signs, pedestrian bridges and viewing platforms, may be allowed in the critical area and associated buffers through the issuance of a Certificate of Compliance pursuant this chapter, subject to the following standards:
  - a. Trails and related facilities shall, to the extent feasible, be placed on existing road grades, utility corridors, or any other previously disturbed areas;
  - b. Trails, pedestrian bridges and related facilities within a critical area or buffer shall be planned and aligned to minimize removal of trees, shrubs, snags and important wildlife habitat and critical area functions such that the disturbed area, including that private trail surfaces for private use are a maximum of 3-feet in width and other trails, either privately or publicly owned that allow public use (with or without fees), the trail surfaces shall be a maximum of 10-feet in width; EXCEPT for regional public trails which shall be a maximum of 14-feet whereby design considerations are made to minimize impacts to critical areas and buffers;
  - c. Viewing platforms, interpretive centers, picnic areas, benches and their associated access shall be designed and located to minimize disturbance of wildlife habitat and/or critical characteristics of the affected critical area;
  - d. Trails shall be limited to non-motorized use;
  - e. Trail surfacing shall be comprised of natural materials (e.g., gravel, rock, bark) and that permanent surfacing materials (e. g. bituminous asphalt or concrete) require a variance approval pursuant to Part Seven; EXCEPT for regional public trails may have up to 10-foot permanent surfacing materials. Any construction materials shall not significantly alter the existing drainage or negatively affect the critical area;
  - f. All proposals shall also submit a mitigation plan pursuant to Part Eight.
  
18. Utilities – Replacement and Alteration. Any replacement or alteration of existing utilities within aquatic habitat conservation areas or buffers shall require the proponent to obtain a certificate of compliance and mitigation plan approval in accordance with this Chapter and shall demonstrate compliance with the following minimum development standards, as applicable:
  - a. The replacement or alteration of the existing utility shall only be allowed when there are no significant adverse impacts to the critical area that cannot be mitigated;
  - b. Replacement or alteration of existing utility lines should utilize to the degree practicable existing street crossings, pedestrian and other improved transportation or utility corridors;
  - c. The utility replacement or repair is the minimum necessary to provide adequate utility service.

- d. Replacement or alteration of an existing utility involving the relocation of the utility to a new, previously unimproved location, shall not be considered as replacement or alteration and shall be subject to the requirements for Utilities – New Construction, as set forth below;
  - e. Bridges shall be required for Type I streams which support salmonids unless a Habitat Management Plan and Mitigation Plan is approved which demonstrates that other alternatives would not result in significant impacts to the aquatic habitat conservation areas<sup>8</sup>;
19. Utilities – New Construction. New placement of utilities within aquatic habitat conservation areas and associated buffers may be allowed through a variance approval in accordance with Part Seven, subject to the following standards:
- a. New utility transmission facilities which carry oil, gas or any other hazardous substances are prohibited within a regulated wetland and associated buffer.
  - b. The following performance standards shall apply to any allowed private or public utility expansion or construction authorized under this chapter within a aquatic habitat conservation area or buffer:
    - i. New utilities shall use existing utility corridors whenever possible.
    - ii. New utility corridors shall be aligned when possible to avoid cutting trees greater than 12 inches in diameter at four and one-half feet measured on the uphill side.
    - iii. New utility corridors shall be revegetated with appropriate native vegetation at pre-construction densities or greater immediately upon completion of construction or as soon thereafter as possible if due to seasonal growing constraints, and appropriate steps shall be taken to ensure that such vegetation survives.
19. Zoning or Comprehensive Plan Amendment. Prior to taking action on a zoning or comprehensive plan map amendment, the applicant shall complete an environmental assessment that shall be approved by Clallam County, to confirm the nature, extent and rating of critical areas on the property; determine if the subsequent development proposal would be consistent with this chapter; and determine whether mitigation or other measures would be necessary if the proposal were approved. Such review shall occur prior to any SEPA threshold determination pursuant to the Clallam County Environmental Policy Chapter, C.C.C. 27.01. Findings of such review may be used to condition or mitigate the impact through the SEPA threshold determination or to deny the proposed zoning or comprehensive plan map amendment if the impacts are significant and cannot be mitigated.
20. Stormwater Management. The following stormwater management standards are required, as they apply:
- a. New development shall utilize best management practices to minimize stormwater quantity and quality impacts to critical areas, both during and following construction.
  - b. Stormwater runoff from new development shall not significantly change the rate of flow, hydroperiod which is the seasonal period and duration of water saturation or inundation, nor decrease the water quality of aquatic habitat conservation areas.
  - c. Developments which handle, store, dispose, transport, or generate hazardous substances/wastes defined as “dangerous” or “extremely dangerous” wastes under WAC 173-303 (regardless of quantity) shall not allow direct precipitation or stormwater runoff to contact such substances where stored on-site.
  - d. Compliance with the Clallam County Stormwater regulations is required, as applicable.

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<sup>8</sup> Response to WGMHB, No. 00-2-0008, Page 2; Order of Noncompliance # 2.

21. Water Dependent Structures and Utilities. The required buffer may be altered for the placement of water dependent structures and utilities when no other reasonable or practicable alternative exists and the development is consistent with the Clallam County Shoreline Master Program Type 1 Waters and has received approval of a variance in accordance with this Chapter. Any alteration of a buffer shall be the least necessary and shall require, except for approved water dependent uses for minor new development, an approved Habitat Management Plan which adequately protects habitat values.

**PROTECTION STANDARDS FOR CLASS I WILDLIFE HABITAT  
CONSERVATION AREAS**

1. Class I Wildlife Habitat Conservation Areas.  
All development within the jurisdiction of designated Class I Wildlife Habitat Conservation Areas shall adhere to the following standards:
  - a. Buffers set forth by other critical area standards in this chapter have incorporated wildlife habitat and corridor protection measures and shall be considered the minimum to protect Class I Wildlife species; EXCEPT when a Habitat Management Plan required below sets forth additional measures; PROVIDED that requirements or standards set forth by federal or state laws or regulations shall prevail over the requirements in this chapter.
  - b. All sites with known locations of Class I Wildlife Species or sites adjacent to known locations of Class I Wildlife Species shall require the withholding of all development permits without the filing and approval of a Habitat Management Plan as specified in Part Eight. In the case of bald eagles, an approved Bald Eagle Management Plan by the Washington Department of Wildlife meeting the requirements and guidelines of the bald eagle protection rules (WAC 232-12-292), as now or hereafter amended shall satisfy the requirements for a Habitat Management Plan. A HMP shall consider measures to retain and protect the wildlife habitat and shall consider effects of land use intensity, buffers, setbacks, impervious surfaces, erosion control and retention of natural vegetation.
  - c. All new major development within ranges and habitat elements with which Class I Wildlife have a primary association upon the conclusion of any required SEPA review and threshold determination shall require the filing of a Habitat Management Plan (HMP) as specified in Part Eight. A HMP shall consider measures to retain and protect the wildlife habitat and shall consider effects of land use intensity, buffers, setbacks, impervious surfaces, erosion control and retention of natural vegetation.
  
2. Forest Practice, Class IV General (Conversion and Urban Growth Area). All timber harvesting and associated development activity, such as construction of roads, shall comply with the provisions of this chapter, including the maintenance of buffers around regulated wetlands. All forest practices, regardless of class, within designated Urban Growth Areas pursuant to the Growth Management Act, shall comply with the provisions of this section. Those lands harvested and not reforested under a Class I, II, or III permit and which do not meet the standards of this chapter and are later converted to non-forest uses shall have all local permits withheld for a period of six years, as authorized by the Washington State Forest Practices Act (RCW 76.09). This moratorium shall run with the land and be duly noted in the public record. For the purpose of implementing this policy, the conversion of land to non-forest uses shall mean the division of land or the preparation of land for land division or construction. Should a landowner wish to remove the moratorium or convert the land to non-forest uses, the owner shall:
  - a. Reforest the land as prescribed by the Department of Natural Resources and/or provide stabilization and protection of the critical area in a manner approved by Clallam County in accordance with this Chapter. Said reforestation shall be by planting and not by natural regeneration, unless the Department verifies that natural regeneration has already occurred to such an extent that planting is not necessary. Provide stabilization and protection of the affected critical area through drainage and erosion control measures; and
  - b. Submit and have approved by the Administrator a Conversion Harvest Plan. The approval of said plan may include conditions and improvement requirements to control erosion,

protect or enhance the critical area or buffer, or other conditions which are intended to reduce impacts to the critical area.

3. Land Disturbing Activities. Land disturbing activities located within the jurisdiction of critical areas shall obtain a Certificate of Compliance and provide for stormwater quality and quantity control, including preparation of a temporary erosion and sediment control plan and permanent drainage plan, consistent with the Stormwater Management Manual for the Puget Sound Basin, prepared by the state Department of Ecology, February, 1992, as amended. This requirement may be waived by the Administrator upon determination that the proposal will not affect the critical area.
4. Notice to Title. Any property on which a development proposal is submitted shall have filed with the Clallam County Auditor: 1) a notice to title of the presence of the critical area or buffer, 2) a statement as to the applicability of this chapter to the property, and 3) a statement describing possible limitations on actions in or affecting such areas or buffers as approved by the Administrator. Clallam County shall record such documents and will provide a copy of the recorded notice to the property owner of record. Development proposals which are also defined as normal repair and maintenance of existing structures or developments, including but not limited to: roof repair, interior remodeling, wood stove permits, etc., and on-site sewage disposal systems repairs or replacement, are exempt from this requirement. Applies to: Wetlands, Aquatic Habitat Conservation Areas, Class I Wildlife Conservation Areas, Landslide Hazards, and Frequently-flooded areas.
5. Zoning or Comprehensive Plan Amendment. Prior to taking action on a zoning or comprehensive plan map amendment, the applicant shall complete an environmental assessment that shall be approved by Clallam County, to confirm the nature, extent and rating of critical areas on the property; determine if the subsequent development proposal would be consistent with this chapter; and determine whether mitigation or other measures would be necessary if the proposal were approved. Such review shall occur prior to any SEPA threshold determination pursuant to the Clallam County Environmental Policy Chapter, C.C.C. 27.01. Findings of such review may be used to condition or mitigate the impact through the SEPA threshold determination or to deny the proposed zoning or comprehensive plan map amendment if the impacts are significant and cannot be mitigated.

**PROTECTION STANDARDS FOR CLASS II WILDLIFE HABITAT  
CONSERVATION AREAS**

1. Class II Wildlife Habitat Conservation Areas. All development within the jurisdiction of designated Class II Wildlife habitat conservation Areas shall adhere to the following standards:
  - a. All new major development within Class II Wildlife Habitat Conservation Areas may require the filing of a Habitat Management Plan (HMP). A HMP shall consider measures to retain and protect the wildlife habitat and shall consider effects of land use intensity, buffers, setbacks, impervious surfaces, erosion control and retention of natural vegetation. The requirement for an HMP shall be determined during the SEPA threshold determination on the project and/or by the Review Authority.
  - b. Land Disturbing Activities. Land disturbing activities located within the jurisdiction of critical areas shall obtain a Certificate of Compliance and provide for stormwater quality and quantity control, including preparation of a temporary erosion and sediment control plan and permanent drainage plan, consistent with the Stormwater Management Manual for the Puget Sound Basin, prepared by the state Department of Ecology, February, 1992, as amended. This requirement may be waived by the Administrator upon determination that the proposal will not affect the critical area.
  - c. Zoning or Comprehensive Plan Amendment. Prior to taking action on a zoning or comprehensive plan map amendment, the applicant shall complete an environmental assessment that shall be approved by Clallam County, to confirm the nature, extent and rating of critical areas on the property; determine if the subsequent development proposal would be consistent with this chapter; and determine whether mitigation or other measures would be necessary if the proposal were approved. Such review shall occur prior to any SEPA threshold determination pursuant to the Clallam County Environmental Policy Chapter, C.C.C. 27.01. Findings of such review may be used to condition or mitigate the impact through the SEPA threshold determination or to deny the proposed zoning or comprehensive plan map amendment if the impacts are significant and cannot be mitigated.

**PART FOUR**  
**GEOLOGICALLY HAZARDOUS AREAS**

**C.C.C. 27.12.400      APPLICABILITY AND PURPOSE**

This section applies to all regulated uses within or adjacent to areas designated as geologically hazardous. The intent of this section is to:

1. Provide standards to protect human life and property from potential risks;
2. Control erosion and siltation, and protect water quality in order to protect habitat for fish and marine shellfish, and allow for natural movements of streams and rivers within a floodplain;
3. Provide controls to minimize shoreline erosion caused by human activity.

**C.C.C. 27.12.405      REGULATED USES AND ACTIVITIES**

Applicability of this chapter is set forth in Part One. Unless otherwise specified in this chapter, proposals located within the jurisdiction of this chapter as it applies to geologically hazardous areas shall require:

- A Certificate of Compliance if proposed within the jurisdiction of landslide, seismic or erosion hazard consistent with Part Seven, or
- A variance consistent with Part Seven if proposed within a landslide hazard or its associated buffer, or
- A variance consistent with Part Seven if the standards and requirements cannot be met.

**C.C.C. 27.12.410      CLASSIFICATION AND DESIGNATION**

1. Classification. The following definitions and terms shall be used in classifying geologically hazardous areas:
  - a. Landslide Hazard Areas: Lands potentially subject to mass movement due to a combination of geologic, topographic, and hydrologic factors. The following classifications shall be designated as landslide hazards and are subject to the requirements of this chapter:
    - i. Areas of historic, existing or ongoing landslide activity as evidenced by downslope movement of a mass of materials including rock, soils, fills, and vegetation.
    - ii. Glaciolacustrine silt and clays on terraces.
    - iii. Slopes fifteen percent (15%) or steeper with a combination of: slowly permeable silt and clay interbedded sand and gravel, and sidehill springs or seeps from perched water tables.
    - iv. Soils mapped and described by the Soil Survey of Clallam County, Washington, issued February 1987, as amended, classified as having a severe or very severe erosion hazard potential.
    - v. Planar slope forms sixty-five (65) percent or steeper with vertical relief of ten or more feet, except areas composed of consolidated rock.

- vi. Concave slope forms twenty-five (25) percent or steeper with vertical relief of ten or more feet, except areas composed of consolidated rock.
  - vii. Any slopes greater than eighty (80) percent subject to rockfall during seismic shaking.
  - viii. Marine coastlines including marine bluffs potentially unstable due to wave action or mass wasting and littoral dune systems which border the ordinary high water mark.
  - ix. Ravines with a vertical relief of 10 or more feet in depth except areas composed of consolidated rock.
  - x. Channel meander hazard. Areas subject to the natural movement of stream channel meanders associated with alluvial plains where long-term processes of erosion and accretion of the channel can be expected to occur. Such meander hazards are characterized by abandoned channels, ongoing sediment deposition and erosion, topographic position, and changes in the plant community, age, structure and composition. These areas do not include areas protected from channel movement due to the existence of permanent levees or infrastructure improvements such as roads and bridges constructed and maintained by public agencies. These areas also do not include areas outside the meander hazard which may be subject to rapid movement of the entire stream channel or avulsion.
  - xi. Any area located on or adjacent to an active alluvial fan or debris flow, presently or potentially subject to inundation by debris or deposition of stream-transported sediments.
  - xii. Slopes that are parallel or sub-parallel to planes of weakness, such as bedding planes, joint systems and fault planes in subsurface materials.
- b. Erosion Hazard Areas: Lands meeting the following classifications shall be designated as erosion hazard and are subject to the requirements of this chapter:
- i. Landslide hazard areas.
  - ii. Areas of existing erosion activity which causes accelerated erosion, sedimentation of critical areas, and/or threatens public health, safety, and welfare.
  - iii. Any slope forty (40) percent or steeper with a vertical relief of ten or more feet, except areas composed of consolidated rock.
  - iv. Concave slope forms equal to or greater than fifteen (15) percent with a vertical relief of 10 or more feet, except areas composed of consolidated rock.
  - v. Soils classified by the Soil Survey of Clallam County as having a moderate, severe, or very severe erosion hazard potential.
- c. Seismic Hazard Areas: Lands meeting the following classifications shall be designated as seismic hazard and are subject to the requirements of this chapter.
- i. Landslide hazard areas and materials.
  - ii. Artificial fills especially on soils listed in (iii) below and areas with perched water tables.
  - iii. The following soil types described within the Clallam County Soil Survey as beaches, Mukilteo muck, Lummi silt loam, Sequim-McKenna-Mukilteo complex, and Tealwhit silt loam.
  - iv. Other areas as determined by the Clallam County Building Official pursuant to 1997 Washington State Uniform Building Code, Chapter 18, as amended.
2. Designation. Lands classified as landslide, erosion or seismic hazards are hereby designated as geologically hazardous areas and are subject to the procedures and standards of this chapter and section. Geologically hazardous areas shall be mapped whenever possible. These maps shall be advisory and used by the Administrator to provide guidance in determining applicability

of the standards to a property. Sites which include geologically hazardous areas which are not mapped shall be subject to the provisions of this section and chapter. These maps may be based on the following information sources:

- a. Sweet Edwards/EMCOM Hazard Rating Maps;
- b. Coastal Zone Management Atlas;
- c. Soil Survey of Clallam County;
- d. U.S.G.S. Topographic Maps; and
- e. Aerial photos
- f. Recent geologic events.

**C.C.C. 27.12.415      LANDSLIDE HAZARD PROTECTION STANDARDS**

All development within the jurisdiction of designated landslide hazard areas shall adhere to the following standards:

1.      Buffers.

- a.      A minimum buffer of 50 feet shall be established from the top, toe and all edges of landslide hazard areas for Major or Minor New Developments, except as otherwise allowed under this subsection. The buffer shall not be altered except by a General Exemption, Certificate of Compliance, Variance, or Reasonable Use Exception approval, as authorized by this chapter; PROVIDED that such alterations meet all other standards for the protection of Aquatic Habitat Conservation Areas.
- b.      Buffers that are in their natural state should not be altered and should remain in their natural condition, and enhanced whenever possible.
- c.      The buffer may be reduced to not less than 20-feet by the Administrator upon the submittal of a geotechnical report as specified in Part Eight; PROVIDED FURTHER that vegetation removal, including mature trees, within the buffer area that is reduced is kept to a minimum.
- d.      Any buffer reduction to less than 20-feet, or developments proposed within the landslide hazard shall require a reasonable use exception approval pursuant to Part Seven, and shall require a geotechnical report as required by Part Eight.
- e.      Hazard tree removal. Where a threat to human life or property is demonstrated, the Administrator may allow the falling of a danger or hazard tree subject to the following criteria: 1) tree removal is the minimum necessary to balance the protection of the critical area and its buffer with protection of life and property; and 2) planting of a tree may be required to assure habitat protection.
- f.      Pre-existing lots or land divisions regulated by Title 29, Clallam County Land Division Code, for which geotechnical plans were previously prepared may be considered to have already complied with this section unless new information such as recent geologic activity warrants a new report to be required; PROVIDED that any new stormwater best management practices that were not previously included as a part of the geotechnical report shall be incorporated
- g.      The buffer may be increased by the Review Authority for development adjacent to a bluff or ravine which is severely unstable based on recent geological events.

2. Critical Facilities. Critical facilities are prohibited within landslide hazard areas.
3. Forest Practice, Class IV General (Conversion and Urban Growth Area). All timber harvesting and associated development activity, such as construction of roads, shall comply with the provisions of this chapter, including the maintenance of buffers around regulated wetlands. All forest practices, regardless of class, within designated Urban Growth Areas pursuant to the Growth Management Act, shall comply with the provisions of this section. Those lands harvested and not reforested under a Class I, II, or III permit and which do not meet the standards of this chapter and are later converted to non-forest uses shall have all local permits withheld for a period of six years, as authorized by the Washington State Forest Practices Act (RCW 76.09). This moratorium shall run with the land and be duly noted in the public record. For the purpose of implementing this policy, the conversion of land to non-forest uses shall mean the division of land or the preparation of land for land division or construction. Should a landowner wish to remove the moratorium or convert the land to non-forest uses, the owner shall:
  - a. Reforest the land as prescribed by the Department of Natural Resources and/or provide stabilization and protection of the critical area in a manner approved by Clallam County in accordance with this Chapter. Said reforestation shall be by planting and not by natural regeneration, unless the Department verifies that natural regeneration has already occurred to such an extent that planting is not necessary. Provide stabilization and protection of the affected critical area through drainage and erosion control measures; and
  - b. Submit and have approved by the Administrator a Conversion Harvest Plan. The approval of said plan may include conditions and improvement requirements to control erosion, protect or enhance the critical area or buffer, or other conditions which are intended to reduce impacts to the critical area.
3. Land Disturbing Activities. Land disturbing activities located within the jurisdiction of critical areas shall obtain a Certificate of Compliance and provide for stormwater quality and quantity control, including preparation of a temporary erosion and sediment control plan and permanent drainage plan, consistent with the Stormwater Management Manual for the Puget Sound Basin, prepared by the state Department of Ecology, February, 1992, as amended. This requirement may be waived by the Administrator upon determination that the proposal will not affect the critical area.
4. Land Divisions. All proposed divisions of land which contain landslide hazards shall comply with the following procedures and development standards:
  - a. No lot or parcel shall be created in a landslide hazard area or its required buffer unless a geotechnical report (Part Eight) of the property certifies that proposed building sites, including access and utilities will be stable under normal geologic or hydrologic conditions;
  - b. Land divisions containing landslide hazard areas are prohibited unless each lot designated for development contains at least one building site (including access and utilities) that is not within a landslide area, and the lot complies with the minimum lot size allowed under Title 33, Clallam County Zoning Code.
  - c. The critical area and associated buffer shall be surveyed and shown on the final plat. A note shall be provided on the final plat that states that all subsequent development shall comply with critical area protection standards which were required as a part of the plat approval. The critical area and buffer shall be dedicated as open space tract, easement or covenant encumbering the critical area and buffer, for either the use and enjoyment by the general public, use and enjoyment by lot or parcel containing a portion or all of

the critical or buffer, or the use of a homeowners' association. Such dedication or easement shall be recorded together with the land division and shown on the final mylar.

5. Notice to Title. Any property on which a development proposal is submitted shall have filed with the Clallam County Auditor: 1) a notice to title of the presence of the critical area or buffer, 2) a statement as to the applicability of this chapter to the property, and 3) a statement describing possible limitations on actions in or affecting such areas or buffers as approved by the Administrator. Clallam County shall record such documents and will provide a copy of the recorded notice to the property owner of record. Development proposals which are also defined as normal repair and maintenance of existing structures or developments, including but not limited to: roof repair, interior remodeling, wood stove permits, etc., and on-site sewage disposal systems repairs or replacement, are exempt from this requirement.
6. Roads and Bridges - Repair. Any private or public road or street repair, maintenance, or expansion within existing right-of-way within a Landslide Hazards or associated buffer shall obtain a certificate of compliance and mitigation plan approval in accordance with this Chapter shall comply with the following minimum development standards, as applicable.
  - a. Expansion or new construction of any private or public road within a landslide hazard area or buffer shall only be allowed when there are no significant adverse impacts to the critical area that cannot be mitigated;
  - b. Public road or maintained road or street crossings should provide for other purposes, such as utility crossings, pedestrian or bicycle easements, viewing points, etc.;
  - c. The road or street repair is the minimum necessary to provide safe roads and streets;
  - d. Stormwater and drainage impacts have been evaluated and have been determined to be consistent with this chapter;
  - e. Deckings, abutments and piers shall not contain petroleum-based treatments or preservatives, including creosote, arsenic or copper; and
  - f. Bridges shall be required for Type I streams which support salmonids unless a Habitat Management Plan and Mitigation Plan is approved which demonstrates that other alternatives would not result in significant impacts to the aquatic habitat conservation areas;
7. Roads and Bridges – New Construction. Any new construction of private or public roads or bridges proposed within the jurisdiction of this chapter but outside of regulated critical areas or their buffers shall comply with the standards below and obtain a Certificate of Compliance. Any new road or bridge construction proposed within a critical area or associated buffer requires a variance approval pursuant to Part Seven and shall also comply with the following minimum development standards, as applicable.
  - a. It shall also be shown that no other reasonable or practicable alternative exists and the road or street crossing serves multiple properties whenever possible;
  - b. Public road or maintained road or street crossings should provide for other purposes, such as utility crossings, pedestrian or bicycle easements, viewing points, etc.;
  - c. The road or street construction is the minimum necessary to provide safe roads and streets; and
  - d. Stormwater and drainage impacts have been evaluated and have been determined to be consistent with this chapter; and
8. Temporary or Permanent Field Identification. Clallam County shall require temporary or permanent field markers delineating the critical area boundary and associated buffer prior to issuance of required permits for any development located within the jurisdiction of a regulated wetland, aquatic habitat conservation area, and landslide hazard area. Field markers shall be

composed of 1/2 inch galvanized iron pipe or equivalent monument, at least 18 inches long, and daylight above the surface at least 1 inch. Field markers shall be spaced at a minimum of every 50 feet, unless alternative placement or spacing is authorized by the Administrator. The location of field stakes must be shown on all site plans and final plats associated with the development proposal. Field stakes shall remain in place until any required, final inspections are completed and approved. Field markers may be waived by the Review Authority if an alternative to field staking achieves the same objective and is proposed and approved, or if the development activity is located at a sufficient distance so that impacts to the critical area are unlikely to occur.

9. Trails and Trail-Related Facilities. Construction of publicly-owned trails on public lands, or privately-owned trails for private or public use, and trail-related facilities, such as picnic tables, benches, interpretive centers and signs, pedestrian bridges and viewing platforms, may be allowed in the critical area and associated buffers established for wetlands, aquatic habitat conservation areas, frequently-flooded area, or landslide hazard areas through the issuance of a Certificate of Compliance pursuant this chapter, subject to the following standards:
  - a. Trails and related facilities shall, to the extent feasible, be placed on existing road grades, utility corridors, or any other previously disturbed areas;
  - b. Trails, pedestrian bridges and related facilities within a critical area or buffer shall be planned and aligned to minimize removal of trees, shrubs, snags and important wildlife habitat and critical area functions such that the disturbed area, including that private trail surfaces for private use are a maximum of 3-feet in width and other trails, either privately or publicly owned that allow public use (with or without fees), the trail surfaces shall be a maximum of 10-feet in width; EXCEPT for regional public trails which shall be a maximum of 14-feet whereby design considerations are made to minimize impacts to critical areas and buffers;
  - c. Viewing platforms, interpretive centers, picnic areas, benches and their associated access shall be designed and located to minimize disturbance of wildlife habitat and/or critical characteristics of the affected critical area;
  - d. Trails shall be limited to non-motorized use;
  - e. Trail surfacing shall be comprised of natural materials (e.g., gravel, rock, bark) and that permanent surfacing materials (e. g. bituminous asphalt or concrete) require a variance approval pursuant to Part Seven; EXCEPT for regional public trails may have up to 10-foot permanent surfacing materials. Any construction materials shall not significantly alter the existing drainage or negatively affect the critical area;
  - f. Any proposals within a landslide hazard area may be required to submit a geotechnical report pursuant to Part Eight;
  - g. All proposals shall also submit a mitigation plan pursuant to Part Eight.
  
10. Utilities. Placement of utilities within landslide hazards and associated buffers may be allowed through a variance approval in accordance with Part Seven, subject to the following standards:
  - a. New utility transmission facilities which carry oil, gas or any other hazardous substances are prohibited within a regulated wetland and associated buffer.
  - b. The following performance standards shall apply to any allowed private or public utility expansion or construction authorized under this chapter within a wetland or buffer:
    - i. New utilities shall use existing utility corridors whenever possible.
    - ii. New utility corridors shall be aligned when possible to avoid cutting trees greater than 12 inches in diameter at four and one-half feet measured on the uphill side.
    - iii. New utility corridors shall be revegetated with appropriate native vegetation at pre-construction densities or greater immediately upon completion of construction or as soon thereafter as possible if due to seasonal growing constraints, and appropriate steps shall be taken to ensure that such vegetation survives.

11. Zoning or Comprehensive Plan Amendment. Prior to taking action on a zoning or comprehensive plan map amendment, the applicant shall complete an environmental assessment that shall be approved by Clallam County, to confirm the nature, extent and rating of critical areas on the property; determine if the subsequent development proposal would be consistent with this chapter; and determine whether mitigation or other measures would be necessary if the proposal were approved. Such review shall occur prior to any SEPA threshold determination pursuant to the Clallam County Environmental Policy Chapter, C.C.C. 27.01. Findings of such review may be used to condition or mitigate the impact through the SEPA threshold determination or to deny the proposed zoning or comprehensive plan map amendment if the impacts are significant and cannot be mitigated.
  
12. Stormwater Management. The following stormwater management standards are required, as they apply:
  - a. New development shall utilize best management practices to minimize stormwater quantity and quality impacts to critical areas, both during and following construction.
  - b. Surface drainage shall not be directed across the face of a landslide hazard area. If there is no alternative to discharge across a landslide hazard area, stormwater runoff shall be collected above the face of the landslide hazard area and directed across the face of the hazard within a tight line drain and provided with an energy dissipating device at the outlet.
  - c. Developments which handle, store, dispose, transport, or generate hazardous substances/wastes defined as “dangerous” or “extremely dangerous” wastes under WAC 173-303 (regardless of quantity) shall not allow direct precipitation or stormwater runoff to contact such substances where stored on-site.
  - d. Compliance with the Clallam County Stormwater regulations is required, as applicable.

**C.C.C. 27.12.420      EROSION HAZARD PROTECTION STANDARDS**

All development within the jurisdiction of designated erosion hazard areas shall adhere to the following:

1. Forest Practice, Class IV General (Conversion and Urban Growth Area) –. All timber harvesting and associated development activity, such as construction of roads, shall comply with the provisions of this chapter, including the maintenance of buffers around regulated wetlands. All forest practices, regardless of class, within designated Urban Growth Areas pursuant to the Growth Management Act, shall comply with the provisions of this section. Those lands harvested and not reforested under a Class I, II, or III permit and which do not meet the standards of this chapter and are later converted to non-forest uses shall have all local permits withheld for a period of six years, as authorized by the Washington State Forest Practices Act (RCW 76.09). This moratorium shall run with the land and be duly noted in the public record. For the purpose of implementing this policy, the conversion of land to non-forest uses shall mean the division of land or the preparation of land for land division or construction. Should a landowner wish to remove the moratorium or convert the land to non-forest uses, the owner shall:
  - e. Reforest the land as prescribed by the Department of Natural Resources and/or provide stabilization and protection of the critical area in a manner approved by Clallam County in accordance with this Chapter. Said reforestation shall be by planting and not by natural regeneration, unless the Department verifies that natural regeneration has already occurred to such an extent that planting is not necessary. Provide stabilization and protection of the affected critical area through drainage and erosion control

measures; and

- f. Submit and have approved by the Administrator a Conversion Harvest Plan. The approval of said plan may include conditions and improvement requirements to control erosion, protect or enhance the critical area or buffer, or other conditions which are intended to reduce impacts to the critical area.
2. Land Disturbing Activities – All Critical Areas. Land disturbing activities located within the jurisdiction of critical areas shall obtain a Certificate of Compliance and provide for stormwater quality and quantity control, including preparation of a temporary erosion and sediment control plan and permanent drainage plan, consistent with the Stormwater Management Manual for the Puget Sound Basin, prepared by the state Department of Ecology, February, 1992, as amended. This requirement may be waived by the Administrator upon determination that the proposal will not affect the critical area.
3. Zoning or Comprehensive Plan Amendment. Prior to taking action on a zoning or comprehensive plan map amendment, the applicant shall complete an environmental assessment that shall be approved by Clallam County, to confirm the nature, extent and rating of critical areas on the property; determine if the subsequent development proposal would be consistent with this chapter; and determine whether mitigation or other measures would be necessary if the proposal were approved. Such review shall occur prior to any SEPA threshold determination pursuant to the Clallam County Environmental Policy Chapter, C.C.C. 27.01. Findings of such review may be used to condition or mitigate the impact through the SEPA threshold determination or to deny the proposed zoning or comprehensive plan map amendment if the impacts are significant and cannot be mitigated.

#### **C.C.C. 27.12.425 SEISMIC HAZARD PROTECTION STANDARDS**

All development within designated seismic hazard areas shall adhere to the following standards in addition to the general standards specified in C.C.C. 27.12.705:

1. Critical Facilities. Critical facilities are prohibited within seismic hazard areas.
2. Construction on Artificial Fills. Construction of major new development on artificial fills shall be certified by a geotechnical report (Part Eight) that a significant risk from earthquake damage has been minimized. This provision shall not apply to normal maintenance or repair of existing legal structures not exceeding 50% of the fair market value of the existing structure.
3. Land Divisions. No new lot or parcel shall be created in a seismic hazard area without placing a note on the face of the plat which indicates the presence of a potential hazard and encourages the builder to have any structure designed by a civil engineer to withstand potential seismic activity.
4. Public Buildings (Commercial, Industrial, Publicly Owned). Construction of commercial, industrial or any publicly owned buildings, shall submit a geotechnical report in accordance with Part Eight . The results or conclusions of the evaluation shall be considered a condition of development approval.
5. Zoning or Comprehensive Plan Amendment. Prior to taking action on a zoning or comprehensive plan map amendment, the applicant shall complete an environmental assessment that shall be approved by Clallam County, to confirm the nature, extent and rating of critical areas on the property; determine if the subsequent development proposal would be consistent with this chapter; and determine whether mitigation or other measures would be necessary if the proposal were approved. Such review shall occur prior to any SEPA threshold determination pursuant to

the Clallam County Environmental Policy Chapter, C.C.C. 27.01. Findings of such review may be used to condition or mitigate the impact through the SEPA threshold determination or to deny the proposed zoning or comprehensive plan map amendment if the impacts are significant and cannot be mitigated.

**PART FIVE**  
**FREQUENTLY FLOODED AREAS**

**C.C.C. 27.12.500      APPLICABILITY AND PURPOSE**

This section applies to all regulated uses within designated frequently flooded areas of Clallam County. The intent of this section is to:

1.      Protect the public health, safety and welfare from harm caused by flooding on both private and public properties by reducing the risk of flood damage in areas prone to flooding.
2.      In addition to the requirements of this section, Clallam County uses the Clallam County Construction Code, C.C.C. 21.01 which includes the adoption of Division I, Appendix 31, Uniform Building Code, which sets forth minimum structural standards required in frequently-flooded areas.

**C.C.C. 27.12.505      REGULATED USES AND ACTIVITIES**

Applicability of this chapter is set forth in Part One. Unless otherwise specified in this chapter, proposals located within the jurisdiction of this chapter as it applies to frequently-flooded areas shall require:

- A Certificate of Compliance if within frequently flooded areas
- A variance consistent with Part Seven if the standards and requirements cannot be met.

**C.C.C. 27.12.510      CLASSIFICATION AND DESIGNATION**

1.      Classification. Frequently flooded areas shall be classified as floodways, floodplains and special flood hazard areas. "Floodway" refers to the channel of a stream, plus any adjacent areas, that must be kept free of encroachment in order to discharge the base flood without cumulatively increasing water surface elevation more than one foot. "Floodplain" refers to the area of land that would be covered with water during a flood, and includes the floodway and the special flood hazard area. "Special flood hazard area" means the floodway and adjoining land which is subject to a one percent or greater chance of flooding in any given year, as determined by engineering studies accepted by Clallam County. Coastal high hazard areas are located within special flood hazard areas.
2.      Designation. All lands classified as floodway, or special flood hazard areas in the Federal Emergency Management Agency report titled "The Flood Insurance Study for Clallam County" dated December 5, 1989, as now or hereafter amended, with accompanying Flood Insurance Rate and Boundary Maps, are designated as frequently flooded areas. The study and maps are on file at Clallam County. When base flood elevation data has not been provided in the Flood Insurance Study, the Administrator, or his/her designee, shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from the U.S. Federal Emergency Management Agency, state Department of Ecology, or other qualified source. Where base flood elevation data and floodway delineation is not available either through the Flood Insurance Study or from a qualified source, historical data, high water marks, photographs of past flooding, etc., shall be used to determine base flood elevations. Frequently-flooded areas shall not include those lands where a qualified professional pursuant to C.C.C. 27.12.050 determines that Flood Insurance Study maps are in error.

All development within designated frequently flooded areas shall be in compliance with the Clallam County Construction Code, C.C.C. 21.01, as amended, in addition to the following:

1. **Critical Facilities.** Critical facilities are prohibited within areas designated as frequently-flooded.
2. **Land Divisions.**
  - a. New land divisions within a designated frequently-flooded area are prohibited, unless each lot designated for development contains at least one building site, including access and utilities, that is not within such areas and is one (1) acre or larger in size, and the lot also complies with the minimum lot size allowed under Title 33 C.C.C., Zoning Code. The buildable area shall be shown on the face of the final plat and/or site plan. Measurements of the buffer shall be from the OHWM, or the outer edge of the special flood hazard area, whichever is greater.
  - b. New land divisions containing frequently-flooded areas shall be consistent with the requirement to minimize flood damage; shall have utilities and common facilities located and constructed to minimize flood damage; shall have adequate drainage provided to reduce exposure to flood damage; and where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for development proposals which contain at least 50 lots or 5 acres (whichever is less).
  - c. For new land divisions, any designated frequently-flooded area and/or critical area buffer located on the development site shall be surveyed by a professional land surveyor. The location of the critical area shall be shown on all required county site plans.
3. **Land Disturbing Activities.** Land disturbing activities located within the jurisdiction of critical areas shall obtain a Certificate of Compliance and provide for stormwater quality and quantity control, including preparation of a temporary erosion and sediment control plan and permanent drainage plan, consistent with the Stormwater Management Manual for the Puget Sound Basin, prepared by the state Department of Ecology, February, 1992, as amended. This requirement may be waived by the Administrator upon determination that the proposal will not affect the critical area, EXCEPT as follows:
  - a. Frequently-flooded areas. Land disturbing activities are prohibited within floodways unless certification by a civil engineer licensed in the State of Washington is provided demonstrating that such activities shall not result in more than a one-foot increase in flood levels during the occurrence of the base flood discharge. In the designated frequently-flooded area, the cumulative effect of any land disturbing activity, where combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point. Certification by a civil engineer licensed in the State of Washington who is qualified for flood assessment is required unless the Administrator determines that sufficient information is available to determine compliance.
4. **Recreational Vehicles.** Recreational vehicles placed within the special flood hazard area shall comply with all of the following conditions:
  - a. The recreational vehicle shall be located on the site for fewer than 180 consecutive days, be fully licensed and ready for highway use, be on its wheels or jacking system, be not obstructed (i.e., no blocking or skirting), be attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions.
  - b. Any structures temporarily attached to recreational vehicles must comply with applicable provisions of this chapter.

- c. Recreational vehicles shall not be located within critical area buffers required pursuant to this chapter.
5. Notice to Title. Any property on which a development proposal is submitted shall have filed with the Clallam County Auditor: 1) a notice to title of the presence of the critical area or buffer, 2) a statement as to the applicability of this chapter to the property, and 3) a statement describing possible limitations on actions in or affecting such areas or buffers as approved by the Administrator. Clallam County shall record such documents and will provide a copy of the recorded notice to the property owner of record. Development proposals which are also defined as normal repair and maintenance of existing structures or developments, including but not limited to: roof repair, interior remodeling, wood stove permits, etc., and on-site sewage disposal systems repairs or replacement, are exempt from this requirement.
6. Protection Standards For Structures In Frequently-Flooded Areas. In addition to the critical area buffer requirements and other applicable protection standards of this chapter and the standards set forth in C.C.C. 21.01, Clallam County Construction Code, as amended, the following conditions shall apply to structures constructed within designated frequently-flooded areas.
- a. Floodways. Consistent with RCW 86.16.061(2)(a), as it applies, construction or reconstruction of residential structures is prohibited within designated floodways, except for: a) repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and b) repairs, reconstruction, or improvements to a structure, the cost of which does not exceed 50 percent of the market value of the structure either, a) before the repair, or reconstruction is started, or b) if the structure has been damaged, and is being restored before the damage occurred. Work done on structures to comply with existing health, sanitary, or safety codes or to structures identified as historic places shall not be included in the 50 percent.
- b. Residential, commercial and/or industrial buildings. Buildings are prohibited within special flood hazard areas unless constructed or placed on lots or parcels of land platted by a final plat approved and recorded prior to December 10, 1980 for the Dungeness and Elwha Rivers and the effective date of this chapter for all other special flood hazard areas. If a portion of the pre-existing lot lies outside the flood hazard area, building shall be directed to the non-hazard portion to the maximum extent feasible.
7. Roads and Bridges – New Construction. Any new construction of private or public roads or bridges proposed within the jurisdiction of this chapter but outside of regulated critical areas or their buffers shall comply with the standards below and obtain a Certificate of Compliance. Any new road or bridge construction proposed within a critical area or associated buffer requires a variance approval pursuant to Part Seven and shall also comply with the following minimum development standards, as applicable.
- a. It shall also be shown that no other reasonable or practicable alternative exists and the road or street crossing serves multiple properties whenever possible;
- b. Public road or maintained road or street crossings should provide for other purposes, such as utility crossings, pedestrian or bicycle easements, viewing points, etc.;
- c. The road or street construction is the minimum necessary to provide safe roads and streets;
- d. Stormwater and drainage impacts have been evaluated and have been determined to be consistent with this chapter;
- e. Deckings, abutments and piers shall not contain petroleum-based treatments or preservatives, including creosote, arsenic or copper; and
- f. Encroachments, including fill, shall not increase flood levels during the occurrence of the base flood discharge.
8. Trails and Trail-Related Facilities. Construction of publicly-owned trails on public lands, or privately-owned trails for private or public use, and trail-related facilities, such as picnic tables,

benches, interpretive centers and signs, pedestrian bridges and viewing platforms, may be allowed in the critical area and associated buffers through the issuance of a Certificate of Compliance pursuant this chapter, subject to the following standards:

- a. Encroachments, including fill, shall not increase flood levels during the occurrence of the base flood discharge.
9. Zoning or Comprehensive Plan Amendment. Prior to taking action on a zoning or comprehensive plan map amendment, the applicant shall complete an environmental assessment that shall be approved by Clallam County, to confirm the nature, extent and rating of critical areas on the property; determine if the subsequent development proposal would be consistent with this chapter; and determine whether mitigation or other measures would be necessary if the proposal were approved. Such review shall occur prior to any SEPA threshold determination pursuant to the Clallam County Environmental Policy Chapter, C.C.C. 27.01. Findings of such review may be used to condition or mitigate the impact through the SEPA threshold determination or to deny the proposed zoning or comprehensive plan map amendment if the impacts are significant and cannot be mitigated.

**PART SIX**  
**CRITICAL AQUIFER RECHARGE AREAS**

**C.C.C. 27.12.600      APPLICABILITY AND PURPOSE**

This section applies to all development proposals within designated Critical Aquifer Recharge Areas which are land and shorelands that have a critical recharging effect on aquifers used for potable water, as further classified in Subsection 610, below. The intent of this section is to:

1. To provide water quality protection associated with aquifer recharge areas through the regulation of land use activities that pose a potential contaminant threat or could increase the vulnerability of the aquifer.
2. Identify, preserve and protect aquifer recharge areas and prevent degradation of the quality of potable groundwater.
3. Recognize the relationship between surface and groundwater resources.

**C.C.C. 27.12.605      REGULATED USES AND ACTIVITIES**

Applicability of this chapter is set forth in Part One. Unless otherwise specified in this chapter, development activities regulated by this Chapter that are located within a Critical Aquifer Recharge Areas shall comply with the standards set forth in Subsection 615, as they apply, and shall also require the one of the following:

- A Certificate of Compliance for those activities listed in Subsections C.C.C. 27.12.030 and C.C.C. 27.12.615 when proposed within a Critical Aquifer Recharge Area, or
- A variance consistent with Part Seven of this chapter if the standards for set forth in this Subsection cannot be met.

**C.C.C. 27.12.610      CLASSIFICATION AND DESIGNATION**

A Critical Aquifer Recharge Area is defined as a geographical area which contains hydrogeologic conditions that provide the recharge to an aquifer(s) which is a current or potential potable water source and, due to its geological properties, is highly susceptible to the introduction of pollutants, or because of special circumstances, has been designated as a Critical Aquifer Recharge Area in accordance with WAC 365-190-080 by Clallam County.

1. Classification. All Clallam County lands and shorelands shall be classified as having either a high, moderate or low aquifer recharge potential. At a minimum, classification shall be based on soil permeability and recharge potential as described within the Soil Survey of Clallam County. Where adequate information is available, aquifer recharge potential shall be further classified based on the recharge potential of surficial geologic materials, presence or absence of restrictive layers, surface and groundwater monitoring data, well head protection areas, depth to groundwater, topography (i.e. slopes), and locally adopted groundwater protection plans and studies

Lands classified as having a high, moderate or low aquifer recharge potential shall also be

classified as having a high, moderate or low susceptibility to contamination of an underlying aquifer, respectively. Based on these criteria, the potential for recharging aquifers or transmitting contaminants to the underlying aquifer is greatest where the aquifer is close to the ground surface, where ground surface slopes are minimal, and where the recharge potential of the soils and/or surficial geologic material is greatest.

2. Designation. All lands and shorelands classified as high aquifer recharge potential and aquifer susceptibility are hereby designated as areas with a critical recharging effect on aquifers used for potable water. These areas shall be delineated on maps available at the Clallam County Department of Community Development. Critical Aquifer Recharge Areas may be designated due to special circumstances, including areas with a high level of susceptibility or vulnerability to contamination, or known Wellhead Protection Areas for Class A water systems. A wellhead protection area is the surface and subsurface area surrounding a well or well field that supplies a public water system through which contaminants are likely to pass and eventually reach the water well(s) as designated under the federal Safe Drinking Water Act.

**C.C.C. 27.12.615      PERFORMANCE STANDARDS FOR CERTAIN DEVELOPMENT ACTIVITIES**

The following protection standards shall apply to the regulated uses outlined below in areas designated as Critical Aquifer Recharge Area. An approved Certificate of Compliance is required for the following activities:

1. Aboveground/Underground Storage Tanks or Vaults. Aboveground/underground Storage Tanks or Vaults for the storage of hazardous substances, animal wastes, sewage sludge, fertilizers, or other chemical or biological hazards or dangerous wastes as defined in WAC 173-303, or any other substances, solids or liquids in quantities identified by the Clallam County Environmental Health Division, consistent with WAC 173-303, as a risk to groundwater quality, shall be designed and constructed so as to:
  - a. Prevent the release of such substances to the ground, groundwaters or surface waters; and
  - b. Have constructed around and under it, an impervious containment area enclosing or underlying the tank or part thereof. Impervious containment shall be greater than the volume of the storage area to avoid an overflow of the containment area.
  - c. Provide for release detection.
  - d. Provide written spill response and spill notification procedures to the local fire district.
  - e. Use material in the construction or lining of the storage containment area which is compatible with the substance to be stored to protect against corrosion or leakage or otherwise designed in a manner to prevent the release or threatened release of any stored substance;
  - f. Comply with Chapters 173-303 and 173-360 WAC.

The Administrator may grant a waiver from one or more of the above requirements upon a finding that the above ground storage activity would not create a significant risk to groundwater quality. Aboveground or underground storage facilities designed and maintained according to an approved plan from the U.S.D.A. Natural Resources Conservation Service or Clallam Conservation District are exempt from these requirements but remain under the jurisdiction of the county to ensure compliance with the protective features of the chapter and for enforcement purposes.

2. Agriculture. New agriculture or hobby farms, shall use best management practices concerning animal keeping, animal waste disposal, fertilizer use, pesticide use, waste water applications,

and stream corridor management and seek the technical assistance of the Clallam County Conservation District and Cooperative Extension Agent.

3. Land Divisions. Divisions of land regulated by Title 29 Clallam County Land Division Code shall be evaluated for their impact on groundwater quality for those areas designated as Critical Aquifer Recharge Area. The following measures may be required by the Administrator as a part of the review of the proposed land division based on site conditions after consideration of available data:
  - a. An analysis of the potential nitrate loading to the groundwater shall be required to assess the impact on groundwater quality.
  - b. Alternative site designs, alternative sewage disposal system design (e.g. denitrification), phased development and/or groundwater quality monitoring shall be required to reduce contaminant loading where site conditions indicate that the proposed action will measurably degrade groundwater quality.
  - c. Open spaces shall be required on development proposals overlying areas highly susceptible for contaminating groundwater resources.
  - d. Community/public water systems and community drainfields shall be required where site conditions indicate a high degree of potential contamination to individual wells from on-site or off-site sources.
4. Land Disturbing Activities. Land disturbing activities located within the jurisdiction of critical areas shall obtain a Certificate of Compliance and provide for stormwater quality and quantity control, including preparation of a temporary erosion and sediment control plan and permanent drainage plan, consistent with the Stormwater Management Manual for the Puget Sound Basin, prepared by the state Department of Ecology, February, 1992, as amended. This requirement may be waived by the Administrator upon determination that the proposal will not affect the critical area.
5. Solid or Hazardous waste disposal facilities. Solid or hazardous waste disposal, discharge, storage, or recycling facilities, including but not limited to: moderate risk facilities, underground injection wells, solid waste and recycling transfer sites, landfills, junk yards, salvage yards, auto wrecking yards, shall demonstrate that such facilities will not significantly impact groundwater resources.
6. Parks, Schools and Recreation Facilities. Fertilizer, herbicide and pesticide management practices of schools, parks, and golf courses that maintain large landscaped areas which includes the application of fertilizers, herbicides, pesticides or other chemicals onto an area equal to or larger than five (5) acres shall be evaluated in relation to Best Management Practices to address water quality and supply and shall submit a mitigation plan in accordance with Part Eight.
7. Stormwater Standards for Commercial and Industrial Uses. All new commercial and industrial land uses which either: (1) have greater than 5,000 square feet of impervious area; or (2) handle, store, dispose, transport, or generate hazardous substances/wastes defined as dangerous or extremely dangerous wastes under WAC 173-303 (regardless of quantity), which may come in contact with stormwater runoff including, but not limited to, gas stations and distributors, car washes, trucking companies, and paint shops, shall remove contaminants prior to their point of entry into surface or groundwater resources using available and reasonable best management practices as outlined in the Stormwater Management Manual for Puget Sound Basin (Dept. Of Ecology, 1992), as amended, or any Drainage Design Manual for Clallam County or stormwater regulations, if applicable. Standard drywells are prohibited except where pretreated using all appropriate and reasonable best management practices. Maintenance of stormwater infiltration systems must be assured as a permit condition of the Review Authority.

8. Utility Transmission Facilities. Utility facilities which carry oil, gas or any other hazardous substance as defined in WAC 173-303 shall provide hydrologic information in addition to spill prevention measures and an emergency spill management plan.
9. Sewage Effluent and Sludge Disposal. Sewage and sludge disposal, EXCEPT on-site sewage disposal systems releasing less than 14,000 gallons per day and approved consistent with Chapter 246-272 WAC and local health codes must meet Class A Reclaimed Water and Class B Biosolid requirements, shall be prohibited on lands designated as High or Moderate Susceptibility.
10. Zoning or Comprehensive Plan Amendment. Prior to taking action on a zoning or comprehensive plan map amendment, the applicant shall complete an environmental assessment that shall be approved by Clallam County, to confirm the nature, extent and rating of critical areas on the property; determine if the subsequent development proposal would be consistent with this chapter; and determine whether mitigation or other measures would be necessary if the proposal were approved. Such review shall occur prior to any SEPA threshold determination pursuant to the Clallam County Environmental Policy Chapter, C.C.C. 27.01. Findings of such review may be used to condition or mitigate the impact through the SEPA threshold determination or to deny the proposed zoning or comprehensive plan map amendment if the impacts are significant and cannot be mitigated.

**PART SEVEN**  
**PERMIT APPLICATION REQUIREMENTS**

**C.C.C. 27.12.700      APPLICATION REQUIREMENTS**

1. Applications required by this chapter shall be submitted to the Administrator by the property owner, lessee, contract purchaser, other person entitled to possession of the property, or by an authorized agent, along with the appropriate fee established under C.C.C. 3.30.
2. Applications shall be reviewed by the Administrator for completeness, consistent with this chapter and C.C.C. 26.10, Consolidated Development Permit Process Code.
3. No application shall be considered complete until all Special Reports required by this chapter are submitted to Clallam County.
4. At every stage of the application process, the responsibility of demonstrating consistency with this chapter is upon the applicant.
5. All applications for development proposals subject to this chapter shall also include:
  - a. A site plan drawn to scale containing descriptive information and a scaled map about the development proposal site including, but not limited to: the location and dimensions of property boundaries; legal access, including the width of all road rights-of-way and easements; existing structures, drainfields, driveways, wells, and other improvements; proposed regulated uses and activities; slope of land; location and classification of critical area, and location of buffers. If the Review Authority determines that additional critical areas are found on the development proposal site, the applicant shall be required to amend the application site plan to identify the location of the critical area.
  - b. A vicinity map which clearly relates the development proposal location to nearby rivers, creeks, and public roads to enable interested persons and agencies to determine the location of the site and obtain a geographical orientation to assist them in their review of the application. Said map shall be accompanied by a separate document giving instructions for reaching the site by automobile from a commonly known geographical reference point such as a public road intersection.
  - c. Additional information necessary to evaluate the proposed development as to its consistency with the requirements of this chapter.
  - d. Other information necessary to designate the boundary and classification of critical areas pursuant to this chapter, where it is confirmed by the Administrator that development will occur within the jurisdiction of this chapter.

**C.C.C. 27.12.705      CERTIFICATE OF COMPLIANCE**

Compliance with this chapter is demonstrated through the issuance of a Certificate of Compliance. Those activities that are listed as exempt activities under C.C.C. 27.12.035 do not require a Certificate of Compliance. For those development proposals requiring a permit or approval from Clallam County under other provisions of the Clallam County Code, a finding of fact or conclusion of law, or other documentation illustrating consistency with this chapter will satisfy the requirement for a Certificate of Compliance.

1. Application for Certificate of Compliance. A request for a Certificate of Compliance shall be made on forms provided by the Administrator and shall contain the minimum information specified in this section and C.C.C. 26.10 Consolidated Development Permit Process Code. For those regulated uses and activities, which require a permit or approval under other provisions of the Clallam County Code, the application for such permit may be used provided that it contains all of the information specified in this chapter.
2. Requirements for a Certificate of Compliance.
  - a. A Certificate of Compliance not associated with another development permit that is administered by Clallam County shall be processed as a Type I permit pursuant to Chapter 26.10 C.C.C., Consolidated Development Permit Process Code. For those regulated uses and activities which require a permit or approval under other provisions of the Clallam County Code, a written determination of consistency with this chapter by the Administrator shall satisfy the provision for a Certificate of Compliance.
  - b. Issuance of a Certificate of Compliance by Clallam County certifies that a proposed development activity meets the requirements of this chapter, as conditioned (if applicable). Any significant change to a development proposal shall be disclosed by the applicant whereby a new Certificate of Compliance may be required to be submitted for review and approval.
  - c. Mitigation Plan. The Administrator may require that a mitigation plan be prepared consistent with the provisions of Part Eight of this chapter in order to ensure compliance with the policies and standards of this chapter.
  - d. Reconsideration And Appeal Of Decision. The decision of the Administrator on a Certificate of Compliance application may be reconsidered or appealed pursuant to Chapter 26.10 C.C.C., Consolidated Development Permit Process Code.
3. Before a Certificate of Compliance is granted, it shall be shown that:
  - a. The proposed development is consistent with this chapter; and
  - b. The proposed development is consistent with the Clallam County Comprehensive Plan, Title 31 C.C.C.; the Clallam County Zoning Code, Title 33 C.C.C.; the Clallam County Shoreline Master Program; the Clallam County Shoreline Management Code, Chapter 35.01 C.C.C.; the Clallam County Environmental Code, Chapter 27.01 C.C.C.; and the other applicable provisions of the Clallam County Code; and
  - c. The proposed development is consistent with watershed, flood management, groundwater, and other plans adopted by ordinance or resolution by the Board of Clallam County, as they apply.
4. Effectiveness and Expiration of a Certificate of Compliance. A Certificate of Compliance shall be valid for a period of three years, or the expiration date of the associated land use permit, whichever is longer, subject to any conditions of approval related to the timing of regulated activities on all or a portion of the development proposal site. The Certificate of Compliance shall be limited to those regulated uses and activities proposed and reviewed by the Administrator as part of the Certificate of Compliance application. Regulated uses and activities that were not proposed or reviewed for consistency with this chapter shall comply with the full provisions of this chapter. A Certificate of Compliance shall cease to be effective if the applicant fails to comply with any condition of approval. A Certificate of Compliance may be renewed for an additional three years upon request and subsequent determination by the Administrator that any related reports and/or mitigation plans do not need to be updated, and that the critical area is protected from negative impacts from the proposed development activity.

**C.C.C. 27.12.710      VARIANCES TO THE PERFORMANCE STANDARDS - APPLICABILITY**

A request for a variance, or exception from the performance standards prescribed by this chapter may be authorized by the Hearing Examiner and/or Administrator as specified in Section 720 below; PROVIDED that a mitigation plan consistent with Part Eight of this chapter is also provided. Should relief of the standards allowed under this section still not provide reasonable use of a property, a Reasonable Use Exception may be pursued under C.C.C. 27.12.740.

Variations shall not be granted for the following proposed development activities:

1. Any construction of the habitable portion of a structure that would be below the base flood elevation.
2. Any development within a designated floodway if any increase in flood levels during a base flood would result.
3. Any reduction of a buffer width for Wetlands and Aquatic Habitat Conservation Areas to less than 50-feet at any point; EXCEPT as allowed by buffer averaging.
4. Any reduction of a buffer width for landslide hazard areas to less than 20-feet at any point; EXCEPT for channel meander hazards.
5. Any reduction of the buffer width for channel meander hazards to less than 50-feet at any point.

**C.C.C. 27.12.715      TYPES OF VARIANCEAPPLICATIONS; BUFFER REDUCTION**

Applications for a variance to the performance standards specified by this chapter that are consistent with C.C.C. 27.12.715 above, may be pursued by the following three types of variance procedures that are listed in the following order of preference; PROVIDED that any approval is consistent with this subsection and chapter:

1. Buffer Averaging. Averaging of buffer widths required for Major and Minor New Developments as specified by this chapter may be allowed for Wetlands and Aquatic Habitat Conservation Areas. Applications for buffer averaging shall be processed by the Administrator in accordance with C.C.C. 26.10 Consolidated Development Permit Process Code; PROVIDED that the buffer width is not reduced more than 25% at any point; EXCEPT that buffers for minor new development adjacent to Type 4 and Type 5 aquatic habitats may be reduced down to a minimum of 25-feet through the buffer averaging process.<sup>9</sup> The intent of buffer averaging is no net loss of the total buffer area. Specific requirements for buffer averaging requests are specified in subsection C.C.C. 27.12.730 and 735, below.
2. Administrative Variance. If buffer averaging is not feasible, an administrative variance to the buffer widths for Major or Minor New Development may be allowed for wetland and aquatic habitat conservation areas as set forth by this chapter; PROVIDED that a buffer reduction of not more than fifteen percent (15%) is requested; PROVIDED further that applications shall be processed in accordance with C.C.C. 26.10, as it applies or is subsequently amended to incorporate administrative variance procedures. Criteria for approval of an administrative variance are specified in subsection C.C.C. 27.12.725 below.
3. Variance. If buffer averaging or an administrative variance is not practicable, a request for a variance to buffer widths or other standards specified by this chapter shall be processed by the

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<sup>9</sup> Response to WGMHB, No. 00-2-0008, Pages 2, 9 and 11; Order of Noncompliance # 3; Order of Invalidation # 1.

Clallam County Hearing Examiner in accordance with C.C.C. 26.10. Criteria for approval of a variance are specified in subsection C.C.C. 27.12.725 below<sup>10</sup>.

**C.C.C. 27.12.720      VARIANCE APPLICATION AND PROCESSING REQUIREMENTS**

1. Requests for a variance or buffer averaging shall be made on forms provided by the Administrator and shall contain the information found in C.C.C. 27.12.700 and C.C.C. 26.10, Consolidated Development Permit Process Code. All applications shall also include a mitigation plan consistent with the provisions of Part Eight of this chapter. The application shall be processed pursuant to Chapter 26.10 C.C.C., Consolidated Development Permit Process Code,
2. Reconsideration or Appeal of Decision. The decision on a variance or buffer averaging may be reconsidered or appealed pursuant to Chapter 26.10 C.C.C., Consolidated Development Permit Process Code.

**C.C.C. 27.12.725      CRITERIA OF APPROVAL FOR A VARIANCE**

Before any variance is granted, it shall be shown by the applicant that the following criteria have been met:

1. Failure to grant the variance would result in an extraordinary hardship to the applicant.
2. The extraordinary hardship to the applicant is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of this chapter, and is not, for example, from deed restrictions or the applicant's own actions.
3. The variance is justified to cure a special circumstance and not simply for the economic convenience of the applicant and no other practicable or reasonable alternative exists [see Definitions].
4. The granting of the variance will not be materially detrimental to the critical area, public health, safety, welfare, use or interest; or injurious to the property or improvements in the vicinity.
5. The granting of the variance is the minimum necessary to afford relief to accommodate a use allowed under the Comprehensive Plan, Title 31 C.C.C., Zoning Code, Title 33 C.C.C., Shoreline Management Code, Chapter 35.01 C.C.C., the Shoreline Master Program or other applicable provisions of the Clallam County Code.
6. The granting of the variance will not materially compromise the goals and policies of the Comprehensive Plan, Title 31 C.C.C., or be inconsistent with County land use codes or inconsistent with the spirit and intent of this chapter.
7. A mitigation plan pursuant to this chapter has been submitted and is approved by the Review Authority for the proposed variance request.

**C.C.C. 27.12.730      REQUIREMENTS FOR BUFFER AVERAGING**

Buffer averaging requests shall demonstrate consistency with C.C.C. 27.12.725, and the following provisions of this section to the satisfaction of the Administrator:

- a. Determine whether the reduced buffer:
  - ❑ Acts as a biofilter that protects water quality of the wetland, aquatic habitat conservation area, and/or any interconnected surface and ground water resources.
  - ❑ Moderates wetland and aquatic habitat conservation area water level fluctuations.
  - ❑ Contributes woody-debris and other nutrient inputs to wetlands, aquatic habitat conservation area, and/or interconnected surface water features.
  - ❑ Limits visual, auditory, and direct intrusion between critical areas and developed environments.

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<sup>10</sup> Response to WGMHB, No. 00-2-0008, Page 12; Order of Noncompliance # 6.

- ❑ Provides important wildlife habitat components for species dependent or associated with wetland, marine, and riverine environments.
  - ❑ Allows for the natural movement of a stream within its floodplain or channel migration zone.
  - ❑ Separates development from potential flooding impacts.
- b. Alterations are, to the extent practicable, placed on existing road grades, utility corridors, or other developed lands.
- c. The modified buffer maintains, increases, and/or enhances the protection of native plant communities.
- d. The modified buffer maintains, increases, and/or enhances the protection of significant habitat features classified pursuant to Parts Two and Three of this chapter.
- e. The modified buffer retains, increases, and/or enhances the protection of significant wildlife movement corridors classified pursuant to Part Three of this chapter.
- f. Low intensity land uses are located adjacent to the buffer within the jurisdiction. Low intensity land uses are associated with low levels of human disturbance or low habitat impacts, including, but not limited to, passive recreation, open space, or agriculture or forest management land uses. For residential uses, low intensity land use means densities equal to or less than one unit per five acres.
- g. Reduction of the modified buffer does not increase the amount of impervious surfaces within the watershed of wetlands classified as wetland hydrology type(s) 1, 2, 3, 7, and 9 pursuant to Part Two of this chapter.
- h. The modified buffer maintains, increases, and/or enhances the protection of erosion and landslide hazard areas adjacent to the critical area.
- i. The development is designed to separate and screen impacts such as noise, glare, vegetation trampling, etc. of adjacent land uses from the critical area. The site design shall consider the varying degrees of impacts of different land uses. For example, parking lots, store entrances, and roads generally have higher noise and glare impacts than the rear of the store. Site screening should take advantage of natural topography or existing vegetation, wherever possible. Where natural screening is not available, berms, landscaping, and structural screens should be implemented (e.g., orient buildings to screen parking lots and store entrances from critical area). Landscaping shall be consistent with Chapter 33.53, C.C.C.
- j. The buffer dimension is not reduced more than 25% at any point.

**C.C.C. 27.12.735      EFFECTIVENESS AND EXPIRATION OF A VARIANCE APPROVAL**

1. A variance or buffer averaging approval shall not be effective until the reconsideration and appeal period set forth under Chapter 26.10 C.C.C. has concluded.
2. A variance or buffer averaging approval shall be limited to those regulated uses and activities proposed and reviewed by the Administrator as part of the application. Regulated uses and activities that were not proposed or reviewed for consistency with this chapter shall comply with the full provisions of this chapter.
3. A variance or buffer averaging approval shall cease to be effective where the applicant fails to comply with any condition of approval required by the Review Authority upon appeal.
4. A variance approval or buffer averaging shall be valid for a period of five years, or the expiration date of the associated land use permit, whichever is longer, subject to any conditions of approval related to the timing of regulated activities on all or a portion of the development proposal site.

Except when application of this chapter would deny all reasonable use of the property, an applicant who seeks an exception from the standards and requirements of this chapter shall pursue relief by means of a variance as provided for in this chapter. Any reasonable use authorized under this section shall also be an allowed or conditional land use as specified by Title 33, Clallam County Zoning Code. If the application of this chapter would deny reasonable use of the property, or would otherwise constitute a taking under either the state or federal constitution, the applicant may apply for a Reasonable Use Exception pursuant to this subsection:

1. An application for a critical area reasonable use exception shall be filed with the Administrator and shall be considered by the Hearing Examiner as a Type III permit pursuant to C.C.C. 26.10. The applicant may apply for a Reasonable Use Exception without first applying for a variance if the requested exception would provide relief from standards for which a variance cannot be granted under this chapter. The property owner and/or applicant for a Reasonable Use Exception have the burden of proving that the property is deprived of all reasonable uses. Clallam County shall provide access to available data or other information that pertains to the subject property which may be used by the applicant.
2. Approval of a Reasonable Use Exception requires consistency with all of the following criteria listed in subsections (a) through (e) below. Demonstration of consistency is burdened upon the applicant.
  - a. Application of this chapter would deny all reasonable use of the property; and
  - b. There is no other reasonable use with less impact on the critical area; and
  - c. The proposed development does not pose an unreasonable threat to the public health, safety or welfare on or off the development proposal site; and
  - d. The proposed development is consistent with the general purposes of this chapter and the public interest, and does not conflict with applicable state and federal laws; and
  - e. The proposed alterations to regulated critical areas are the minimum necessary to allow for reasonable use of the property.
3. Any authorized alteration of a critical area under this section may be subject to conditions established by Clallam County and may require mitigation under an approved mitigation plan pursuant to Part Eight of this chapter.

**PART EIGHT**  
**SPECIAL REPORTS**

**C.C.C. 27.12.800**      **PURPOSE AND APPLICABILITY**

In order to maintain and protect critical areas, environmental information will be required to evaluate a development proposal. Special Reports required under this Chapter shall be submitted to, accepted and approved by Clallam County for regulated uses when required by this chapter for the protection of a critical area.

The applicant shall pay for or reimburse the County for the costs incurred in the preparation of special reports or tests and for the costs incurred by the County to engage technical consultants or staff for review and interpretation of data and findings submitted by or on behalf of the developer or applicant. Technical assistance fees are required under C.C.C. 3.30, as now or hereafter amended. In such circumstances where a conflict in the findings of a Special Report and the findings of the County in review of the Special Report exists, the applicant or affected party may appeal such decisions of the County pursuant to the procedures in this chapter and C.C.C. 26.10, Consolidated Development Permit Process Code.

**C.C.C. 27.12.810**      **WETLAND BOUNDARY SURVEY AND RANKING**

1.      When feasible, a survey of the regulated wetland boundary and an evaluation of any unranked regulated wetland may be completed by the Department of Community Development for any Minor New Development project, unless the applicant wishes to employ a qualified wetland biologist at the applicant's expense. Fees shall be collected for this survey and evaluation as specified in C.C.C. 3.30.
  
2.      The Washington State Delineation Manual, (RCW 90.58) shall be used to identify and delineate regulated wetland boundaries. The wetland boundary shall be identified and delineated, or evaluation of special reports for regulated wetlands shall be conducted by a biologist with wetlands ecology expertise who is knowledgeable of wetland conditions within the North Olympic Peninsula Region and has professional experience in this occupation; or those individuals or firms which have been certified by the Association of Wetland Scientists. This person shall field stake the wetland boundary and this line shall be surveyed by a professional land surveyor if the delineation is required for a land division pursuant to Title 29 C.C.C.
  
3.      An evaluation of any unranked regulated wetland is necessary when there is a proposed development or activity to be located within a regulated wetland or regulated wetland buffer. The site methodology for evaluating any unranked wetland shall follow Part Two of this chapter.

**C.C.C. 27.12.815**      **DRAINAGE AND EROSION CONTROL PLAN**

1.      This plan shall utilize best management practices and shall address methods to minimize stormwater quantity and quality impacts (e.g. erosion and sedimentation), both during and following construction.

2. For proposed land divisions, a drainage and erosion control plan shall be submitted together with the preliminary plat application and finalized prior to final plat approval; PROVIDED if no on-the-ground alterations are proposed or intended, a drainage and erosion control plan may be waived.
3. Compliance with design standards shall be made as set forth by stormwater regulations adopted by the Clallam County Board of Commissioners, as applicable.
4. This report shall be prepared by a civil engineer licensed in the State of Washington.
5. Drainage and Erosion Control plans shall be reviewed and approved by the Clallam County Department of Community Development and/or Road Dept.

**C.C.C. 27.12.820      GEOTECHNICAL REPORT**

1. A geotechnical report shall contain: a description of the geology of the site; conclusions and recommendations regarding the effect of geologic conditions on the proposed development and how construction will adequately protect the proposed development; opinions and recommendations of the adequacy of the site to be developed, and a determination of the impacts of the proposed development and appropriate mitigating measures.

The geotechnical report shall also certify that:

- a. There is minimal hazard as proven by evidence of no landslide activity in the past in the vicinity of the proposed development and a quantitative analysis of slope stability indicates no significant risk to the development proposal and adjacent properties;
- b. The development will not significantly increase surface water discharge or sedimentation to adjacent properties beyond pre-development conditions; and
- c. The development will not decrease slope stability on adjacent properties.

2. Geotechnical Report Preparation.

Geotechnical report shall be prepared by either (a) a geologist and a geotechnical engineer, (b) a geotechnical engineer, or (c) a civil engineer licensed in the State of Washington, who is knowledgeable of regional geologic conditions and who has professional experience in landslide and/or seismic hazard evaluation, mitigation plan design, implementation, and monitoring.

3. The Review Authority may waive the requirement for the report if it is determined that the proposed development would not cause significantly adverse geological impacts, or there is adequate geological information available on the area proposed for development to determine the impacts of the proposed development and appropriate mitigating measures. Pre-existing lots or land divisions regulated by Title 29, Clallam County Land Division Code, for which geotechnical plans were previously prepared may be considered to have already complied with this section unless new information such as recent geologic activity warrants a new report to be required; PROVIDED that any new stormwater best management practices that were not previously included as a part of the geotechnical report shall be incorporated.

**C.C.C. 27.12.825      GRADING PLAN**

1. This plan shall identify the proposed development project including the movement of material on-site along with the proposed and existing contours of the site, and cross sections thereof.

2. For proposed land divisions, a preliminary grading plan shall be submitted together with the preliminary plat application. A final grading plan for the site shall be prepared following preliminary plat approval and prior to final plat approval.
3. This plan shall be reviewed and approved by the Clallam County Department of Community Development or Road Dept.

**C.C.C. 27.12.830      HABITAT MANAGEMENT PLAN**

1. This report shall identify how the development impacts Class I or II Wildlife Habitat Conservation Areas. The Washington Department of Wildlife Priority Habitat and Species Management Recommendations (1991) may serve as guidance for this report or bald eagle protection rules outlined in WAC 232-12-292, as now or hereafter amended.
2. The Habitat Management Plan shall contain a map prepared at an easily readable scale, showing: the location of the proposed development site; the relationship of the site to surrounding topographic, water features, and existing and/or proposed building locations and arrangements; a legend which includes a complete legal description, acreage of the parcel, scale, north arrows, and date of map revision.
3. The Habitat Management Plan shall also contain a report which describes the nature and intensity of the proposed development; an analysis of the effect of the proposed development, activity or land use change upon the wildlife species and habitat identified for protection; and a plan which identifies how the applicant proposed to mitigate any adverse impacts to wildlife habitats created by the proposed development.
4. This plan shall be prepared by a person who has been educated in this field and has professional experience as a wildlife biologist. For minor new development proposals, the Department of Community Development may complete the plan unless the applicant wishes to employ a qualified professional at the applicant's expense. Where this plan is required for the protection of eagle habitat, the eagle habitat management plan shall normally be prepared by the Department of Fish and Wildlife as required under the Bald Eagle Management Rules.

**C.C.C. 27.12.835      MITIGATION PLAN - APPLICABILITY**

1. Applicability. Submittal and approval of a mitigation plan shall be required for the following permits or activities:
  - a. Variances, reasonable use exceptions and enforcement orders;
  - b. Any alteration within two hundred (200) feet of a Class I Wildlife Habitat Conservation area, or within a designated critical habitat associated with an threatened or endangered species under ESA;
  - c. Development within a landslide hazard area or within 200-feet of a landslide hazard area where the Administrator or Clallam County Building Official determines through a site inspection that required buffers and/or building setbacks, respectively, may not be sufficient to protect public health, safety, and welfare;
  - d. Mitigation plans required by the Administrator as part of the certificate of compliance application pursuant to this chapter;
  - e. Environmental impacts identified by the Administrator from development proposals located within Class II Wildlife Habitat Conservation Areas. This requirement shall not apply to development which is categorically exempt under WAC 197-11-305.

- f. Certain activities located within a critical aquifer recharge area as specified in Part Six of this chapter.
2. Permit Conditions. Any mitigation plan prepared pursuant to this section and approved by the Review Authority shall become part of the Certificate of Compliance, Variance, or Reasonable Use Exception approval.
3. Waiver. The Review Authority may waive all or portions of the mitigation plan if, in his/her opinion, there is adequate information available on the site to determine its impacts and appropriate mitigating measures.

**C.C.C. 27.12.840      MITIGATION PLAN - GENERAL REQUIREMENTS**

1. The applicant shall identify and describe why those regulated uses and activities are not and cannot be consistent with the provisions of this chapter and shall describe how impacts shall be mitigated.
2. The applicant shall mitigate impacts to critical areas by doing one or more of the actions listed below in order of preference:
  - a. Avoiding the impact altogether by not taking a certain action or parts of actions. This may be accomplished by selecting a reasonable alternative that does not involve impacts to critical areas or buffer impacts; applying reasonable mitigation measures, such as drainage and erosion control, alternative site planning, and/or using best available technology.
  - b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts. This may be accomplished in one of the following methods, or through other methods as deemed appropriate: selecting a reasonable alternative that avoids most critical area impacts; applying reasonable mitigation measures, such as drainage and erosion control, preservation of critically important plants and trees, limitation of access to critical areas, seasonal restrictions on construction activities, phased development, and/or establishment of buffers.
  - c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment for unavoidable impacts. This may be done by reestablishing critical area functions and buffers on-site which have been lost by alterations or activities.
  - d. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments for unavoidable impacts. This may be done by intentionally creating critical area functions and buffer at another location where none currently exist, improving existing wetlands and wetland buffers at another location, or otherwise providing a substitute wetland resource at another location as compensation for any unavoidable adverse wetland impacts.
3. The Review Authority shall determine whether identified impacts can be first avoided and secondly minimized. For any impacts to critical areas that are determined to be unavoidable and necessary, the Review Authority shall determine whether such impact should be rectified or compensated. The Review Authority shall affirm that no net loss of wetland or critical habitat results.
4. Critical area impacts can be mitigated if mitigation measures would not result in an extraordinary hardship and denial of reasonable use of the property.

**C.C.C. 27.12.845      WETLANDS - SPECIAL REQUIREMENTS.**

1. Wetland mitigation plans shall be prepared by a person who meets the qualifications pursuant to this chapter, and has demonstrated experience in mitigation plan design, implementation, and monitoring.
2. The overall goal of any mitigation plan shall be no net loss of wetland functions, acreage and values as determined by the assessment methodology in Part Two.
3. Authorized losses of wetland hydrologic functions classified pursuant to Part Two of this chapter shall be mitigated on the development proposal site, regardless of whether wetland acreage and fish and wildlife habitat functions are replaced off-site.
4. Mitigation of unavoidable and necessary impacts shall occur based on enhancement and restoration priorities adopted by County Board of Commissioners and/or based on the following order of preference: contiguous to the wetland impacted; contiguous to aquatic habitat conservation areas and wetlands within the same watershed a wetland is part of, and contiguous to other aquatic habitat conservation areas and wetlands.
5. Those persons proposing or required to compensate for wetland impacts shall show that the compensation project is associated with an activity or development otherwise permitted and that the restored, created, or enhanced wetland will be as persistent as the wetland it replaces, by accomplishing the following:
  - a. Demonstrate sufficient scientific expertise, supervisory capability, and financial resources to carry out the project;
  - b. Demonstrate the capability for monitoring the site and to make corrections during this period if the project fails to meet projected goals;
  - c. Protect and manage or provide for the protection and management of the compensation area to avoid further development or degradation.
6. Wetland mitigation plans required by this chapter shall be implemented by the project applicant, be commensurate with the scope of the development proposal and include the following components:
  - a. Baseline Information. A written assessment and accompanying maps of the:
    - i. Impacted wetland including, at a minimum, existing wetland acreage; vegetative, fauna and hydrologic characteristics; soil and substrate conditions; and topographic elevations.
    - ii. Mitigation site, if different from the impacted wetland site, including at a minimum: existing acreage; vegetative, faunal and hydrologic conditions; relationship within watershed and to existing water bodies; soil and substrate conditions, topographic elevations; existing and proposed adjacent site conditions; buffers; and ownership.
  - b. Environmental Goals and Objectives. The report shall identify goals and objectives and include:
    - i. The purposes of the compensation measures including a description of site selection criteria, identification of compensation goals, identification of target evaluation species and resource functions, dates for beginning and completion, and a complete description of the structure and functional relationships sought in the new wetland. The goals and objectives shall be related to the functions and values of the original wetland or, if out-of-kind, the type of wetland to be emulated;
    - ii. A review of the available literature and/or experience to date in restoring or creating the type of wetland proposed shall be provided. An analysis of the likelihood of success of the compensation project at duplicating the original wetland shall be provided based on the experiences of comparable projects, if any. An analysis of the likelihood of persistence of the created or restored wetland shall be provided based on such factors as surface and ground water supply and flow patterns, dynamics of the

wetland ecosystem; sediment or pollutant influx and/or erosion, periodic flooding and drought, etc., presence of invasive flora or fauna, potential human or animal disturbance, and previous comparable projects, if any.

7. Performance Standards. Specific criteria shall be provided for evaluating whether or not the goals and objectives of the mitigation plan are being achieved at various stages in the project and for beginning remedial action or contingency measures. Such criteria may include water quality standards, survival rates of planted vegetation, species abundance and diversity targets, habitat diversity indices, or other ecological, geological or hydrological criteria.
8. Detailed Construction Plans. Written specifications and descriptions of compensation techniques shall be provided including the proposed construction sequence, grading and excavation details, erosion and sediment control features needed for wetland construction and long-term survival, a planting plan specifying plant species, quantities, locations, size, spacing, and density; source of plant materials, propagules, or seeds; water and nutrient requirements for planting; where appropriate, measures to protect plants from predation; specification of substrate stockpiling techniques and planting instructions; descriptions of water control structures and water-level maintenance practices needed to achieve the necessary hydrocycle/hydroperiod characteristics; etc. These written specifications shall be accompanied by detailed site diagrams, scaled cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome. The plan shall provide for elevations which are appropriate for the desired habitat type(s) and which provide sufficient tidal prism and circulation data.
9. Monitoring Program. A program outlining the approach for monitoring construction of the compensation project and for assessing a completed project shall be provided. Monitoring may include, but is not limited to:
  - a. Establishing vegetation plots to track changes in plant species composition and density over time;
  - b. Using photo stations to evaluate vegetation community response;
  - c. Sampling surface and subsurface waters to determine pollutant loading and changes from the natural variability of background conditions (pH, nutrients, heavy metals);
  - d. Measuring base flow rates and storm water runoff to model and evaluate water quality predictions, if appropriate;
  - e. Measuring sedimentation rates, if applicable; and
  - f. Sampling fish and wildlife populations to determine habitat utilization, species abundance and diversity. A protocol shall be included outlining how the monitoring data will be evaluated by agencies that are tracking the progress of the compensation project. A monitoring report shall be submitted annually, at a minimum, documenting milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than two years.
10. Contingency Plan. Identification of potential courses of action, and any corrective measures to be taken when monitoring or evaluation indicates project performance standards are not being met.
11. Performance Bonds and Demonstration of Competence. A demonstration of financial resources, administrative, supervisory, and technical competence and scientific expertise of sufficient standing to successfully execute the compensation project shall be provided. A compensation project manager shall be named, and the qualifications of each team member involved in preparing the mitigation plan and implementing and supervising the project shall be provided, including educational background and areas of expertise, training and experience with comparable projects. In addition, bonds ensuring fulfillment of the compensation project, monitoring program, and any contingency measure shall be posted in the amount of one hundred

fifty (150) percent of the expected cost of compensation and shall be effective for a period of no less than two years nor greater than five years after completion of the mitigation plan. Administration costs incurred by Clallam County that are associated with bond administration and/or enforcement shall be paid for by the applicant.

**C.C.C. 27.12.850      AQUATIC AND WILDLIFE HABITAT CONSERVATION AREAS - SPECIAL REQUIREMENTS**

1. Mitigation plans for impacts to wildlife habitat conservation areas shall be prepared by a biologist with professional experience in mitigation plan design, implementation, and monitoring. Where this plan is required for the protection of eagle habitat, the eagle habitat management plan shall normally be prepared by the Washington State Department of Fish and Wildlife, as required under the Bald Eagle Management Rules. The Washington Department of Wildlife Priority Habitat and Species Management Recommendations, dated May 1991, may serve as guidance for preparing mitigation plans to protect Wildlife Habitat Conservation Areas.
2. Possible mitigation measures to be included in the report, or required by the Review Authority, could include, but are not limited to:
  - a. Establishment of buffer zones;
  - b. Preservation or restoration of critically important plants and trees, or other affected areas;
  - c. Limitation of access to habitat areas;
  - d. Seasonal restriction of construction activities; and
  - e. Establishing phased development requirements and/or a timetable for periodic review of the plan.

**C.C.C. 27.12.855      GEOLOGIC HAZARDOUS AREAS - SPECIAL REQUIREMENTS.**

1. Mitigation plans for any variance request proposing alteration of a landslide hazard area or siting of a critical or public facility within a seismic hazard area shall also include a geotechnical report in accordance with this C.C.C. 27.12.820. The mitigation plan shall address the effects of those instances when it has been determined by the geotechnical analysis that the proposed development or activity would result in probable damage to public resources.
2. Mitigation Plan Preparation. Mitigation plans shall be prepared by either (a) a geologist and a geotechnical engineer, (b) a geotechnical engineer, or (c) a civil engineer licensed in the State of Washington, who is knowledgeable of regional geologic conditions and who has professional experience in landslide and/or seismic hazard evaluation, mitigation plan design, implementation, and monitoring.

**C.C.C. 27.12.860      FREQUENTLY-FLOODED AREAS - SPECIAL REQUIREMENTS.**

Mitigation plans for development within frequently-flooded areas shall be prepared by a civil engineer licensed in the State of Washington and shall address all of the following criteria:

1. Potential that materials may be swept during flooding onto other lands to the detriment of others;
2. Actual danger to life and property if flooding or erosion occurs;
3. Susceptibility of the proposed development and its contents to flood damage;
4. Availability of alternative locations for the proposed use which are not subject to flood or erosion damage;
5. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
6. Safety of access to the property in times of flood for ordinary and emergency vehicles;

7. Expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action at the site;
8. Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities;
9. Location and extent of storage area for flood water which will be displaced by the proposed development; and
10. The risk to public and private property and public health, safety and welfare due to rising of water levels, shifting of stream channels (including related erosion) as well as costs to individuals and the general public for items which are not insured such as loss of productivity due to closed roads, risk to emergency response workers, loss of uninsured property (cars, landscaping, etc.) and habitat damage as a result of loss of riparian zones and floodplain function.

**C.C.C. 27.12.865      CRITICAL AQUIFER RECHARGE AREAS - SPECIAL REQUIREMENTS.**

Mitigation plans for impacts to critical aquifer recharge areas shall be prepared by a person(s) meeting the qualifications under this chapter with professional experience in mitigation plan design, implementation, and monitoring, hydrogeologic assessment and professional experience in hydrogeology or a related field. The person(s) shall also be knowledgeable in the effect of the proposed development on groundwater quality and quantity. The hydrologic assessment shall consider, but is not limited to:

1. Geologic setting and soils information of site and surrounding area;
2. Water quality data, including pH, temperature, conductivity, nitrates, and bacteria;
3. Location and depth of perched water tables;
4. Recharge potential of facility site (permeability/transmissivity);
5. Hydrologic budget;
6. Local groundwater flow, direction and gradient;
7. Location, depth and other water quality data on the three shallowest wells or springs located within 1,000 feet of site;
8. Impacts on well head protection areas located within the development proposal;
9. Surface water locations within 1,000 feet of the site;
10. Discussion of the effects of the proposed project on groundwater quality and quantity;
11. Recommendations on appropriate mitigation, if any, to assure that there shall be no measurable exceedence of minimum state groundwater quality standards or measurable reduction in available quantity of groundwater;
12. Emergency management plan; and
13. Provide for contaminant release detection.

**PART NINE**  
**DEFINITIONS**

**C.C.C. 27.12.900**      **DEFINITIONS**

Whenever the following words and phrases appear in this chapter, they shall be given the meaning attributed to them by this section. "Shall" is always mandatory, and the word "may" or "should" indicates a use of discretion in making a decision. All other words in this chapter shall carry the meanings as specified in the latest edition of Webster's New Collegiate Dictionary.

1.     **Administrator:** The Director of the Clallam County Department of Community Development or his/her designee.
2.     **Agriculture:** Activities primarily devoted to the production of horticultural, viticultural, floricultural, dairy, apiary, vegetable or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, livestock, or aquaculture, each having a long-term commercial significance for agriculture; PROVIDED that forest practices regulated under RCW 76.09 and WAC Title 222 are not included [C.C.C. 31.02.050(3)], County-wide Comprehensive Plan].
3.     **Alteration:** A human action that may change the existing condition of a critical area. Alterations include but are not limited to: grading; dredging; channelizing; cutting, clearing, relocating or removing vegetation(except noxious weeds identified by the Washington Department of Agriculture or Clallam County Cooperative Extension); applying herbicides or pesticides or any hazardous or toxic substance; discharging stormwater runoff or pollutants; grazing domestic animals; modifying for surface water management purposes; or any other human activity that changes existing vegetation, hydrology, wildlife or wildlife habitat.
4.     **Applicant:** Any person, public agency or business entity such as a corporation or a partnership which applies for a development proposal, permit or approval subject to review under this chapter. Applicant shall also mean any predecessor or any successor in interest involving the proposal.
5.     **Aquaculture:** The farming or culturing of game or food fish, shellfish, and/or other aquatic animals or plants in fresh or salt water areas, and may include such developments as fish hatcheries, rearing pens, shorebased structures and shellfish rafts. Aquaculture practices pertain to any activity related to growing, handling, or harvesting of aquaculture produce, including, but not limited to, propagation, enhancement and rehabilitation of said fisheries resources. Excluded from this definition is the private husbanding or harvesting of anadromous fish, as prohibited by Washington State Law, and related commercial uses such as wholesale and retail sales, processing, packaging or freezing facilities.
6.     **Aquifer:** A saturated body of rock, sand, gravel or other geologic material that is capable of storing, transmitting, and yielding water to a well in sufficient quantities to be economically useful.
7.     **Aquifer recharge:** The process by which water is added to an aquifer. It may occur naturally by the percolation (infiltration) of surface water, precipitation, or snowmelt from the ground surface to a depth where the earth materials are saturated with water. Aquifer recharge can be augmented by "artificial" means through the addition of surface water (e.g. land application of reuse water, wastewater or stormwater) or by the injection of water into the underground environment (e.g. drainfields and drywells).
8.     **Base Flood.** The flood level having a one percent chance of being equaled or exceeded in any given year. Also referred to as the 100-year flood.

9. **Best management practices:** Conservation practices or systems of practices and management measures that:
  - a. Control soil loss and reduce water quality degradation caused by nutrients, pathogens, bacteria, toxic substances, pesticides, oil and grease, and sediment; and
  - b. Minimize adverse impacts to surface water and groundwater flow, circulation patterns, and to the chemical, physical, and biological characteristics of critical areas;
10. **Buffer:** An area of protection contiguous with a critical area where use is limited to protect the integrity, maintenance, function and structural stability of the critical area.
11. **Clearing:** The destruction, disturbance or removal of vegetation by physical, mechanical, chemical or any other means.
12. **Conservation easement:** A limited protective easement granted to Clallam County or other organizations devoted to protection and management of lands or portions thereof.
13. **Critical facilities:** A facility for which even a slight chance of flooding or destruction caused by a geologic hazard would be too great. They include, but are not limited to: schools, hospitals, police, fire, emergency response installation, nursing homes, installations which produce, use or store hazardous materials or hazardous waste, pipelines which transmit oil and gas, municipal water and sewer facilities, and regional transportation facilities, such as airports, ports, railroads and major highways.
14. **Development or Development proposal:** Any of the activities relating to the use and/or development of land, including but not limited to: any land use permit or approval issued by Clallam County pursuant to the Clallam County Code (e.g. building permit, industrial, commercial or residential; binding site plan; franchise right-of-way construction permit; master plan development; planned unit development; right-of-way access permit; shoreline permits including exemptions; conditional use permit; subdivision; short subdivision; utility or on-site sewage permit; the removal, excavation, grading, clearing, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind; the dumping, discharging, or filling with any material; the draining, flooding, or disturbing of the water table; the driving of pilings or the placing of obstructions; planting of vegetation (e.g. introduction of non-native species) that would alter the character of the critical area; activities that result in adverse changes in water temperature or physical or chemical characteristics of critical area water sources; or any subsequently adopted permit or required approval not expressly exempted by this chapter.
15. **Development proposal site:** For purposes of this chapter, the legal boundaries of the parcel or parcels of land on which an applicant has applied for authority from Clallam County to carry out a development proposal.
16. **Enhancement:** Actions performed to improve the condition of existing degraded critical areas (e.g. wetlands or streams) so that the functions they provide are of a higher quality (provided that this activity does not significantly degrade another existing function or value), and are designed to improve or restore native fish and wildlife habitat, or watershed functions.
17. **Erosion:** The process whereby the land surface is worn away by the action of water, wind, ice or other geologic agents and by processes such as gravitational creep or events such as landslides. Geologic erosion occurs as an on-going process that acts on all land surfaces to some degree. Human activities such as removing vegetation, increasing stormwater runoff or decreasing slope stability often accelerate or aggravate natural erosion processes.
18. **Flood Insurance Study:** The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

19. **Flood or Flooding:** A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters and/or the unusual and rapid accumulation of runoff of surface waters from any source.
20. **Floodplain:** An area of land that would be covered with water during a flood. Also known as the frequently flooded area.
21. **Floodway:** The channel of a stream or other watercourse and any adjacent land areas, that must be kept free of encroachment in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, which is the federal standard.
22. **Footprint:** All area covered up to the exterior dimensions of structural improvements, including; buildings, out-buildings, decks, patios, over-hangs, driveways, and other man-made structures that preclude or have the effect of precluding establishment and/or continued growth of natural vegetation<sup>11</sup>.
23. **Forest practices:** As defined in WAC 222-16-010 (21), as amended, any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to: road and trail construction, harvesting, final and intermediate, pre-commercial thinning, reforestation, fertilization, prevention and suppression of diseases and insects, salvage of trees, and brush control. Forest practices shall not include preparatory work such as tree marking, surveying and road flagging; or removal or harvest of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber or public resources.
24. **Frequently-Flooded Areas:** The floodway and special flood hazard area, combined. Also known as floodplain.
25. **Functions, beneficial functions, or functions and values.** The beneficial roles served by critical areas including, but not limited to: water quality/quantity protection and enhancement, fish and wildlife habitat, food chain support, flood storage, conveyance and attenuation, groundwater recharge and discharge, erosion control, wave attenuation, historical and archaeological value protection, aesthetic value, and recreation. These beneficial functions are not listed in order of priority.
26. **Grading:** Any excavating, filling or removing of the surface layer or any combination thereof.
27. **Grazed wet meadows:** Grazed wet meadows are wetlands whose vegetative cover has been greatly modified as a result of grazing, seeding or cutting for hay. They are typically dominated by pasture species (such as blue grass, orchard grass, fescue, clovers, reed canary grass, etc.) as well as non-native wetland species such as soft rush and buttercup. They are saturated or have standing water during the wet season and part of the growing season but are dry during the summer months. Grazed wet meadows have been used (within the last 5 years) or are being used for livestock grazing, seeding, or cutting for hay.
28. **Hazardous substances:** Those substances defined as hazardous or dangerous wastes in WAC 173-303 and/or the Model Toxic Control Act (WAC 173-40).
29. **Hydrogeology:** The science dealing with the properties, distribution, and circulation of groundwater and related aspects of water.
30. **Impervious Surface:** A hard surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development; and/or a hard surface area that causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces

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<sup>11</sup> In support of changes made to CCC 27.12.040, and in response to WGMHB, No. 00-2-0008, Page 9 and 10; Order of Noncompliance # 4; Order of Invalidity # 2.

include, but are not limited to: roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater. Open, uncovered retention/detention facilities are not considered impervious surfaces.

31. **Lake:** A naturally existing or artificially created body of standing water greater than or equal to 20 acres in size. Lakes include reservoirs which exist on a year round basis and occur in a depression of land or expanded part of a stream. A lake is bounded by the ordinary high water mark or the extension of the elevation of the lake's ordinary high water mark within the stream, where the stream enters the lake. All lakes meet the criteria of RCW Chapter 90.58 (Shoreline Management Act) and have been inventoried as "Shorelines of the State" under the Shoreline Master Program for Clallam County.
32. **Land Disturbing Activity:** Any activity that results in a change in the existing soil cover (both vegetative and nonvegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to: demolition, construction, paving, clearing, grading, grubbing, surface mining or mineral extraction and other site development activities. This definition does not include those normal activities associated with construction and/or occupancy of a single family dwelling and appurtenances.
33. **Land Divisions:** Any division of land regulated under the Clallam County Land Division Ordinance, C.C.C. 29, as now or hereafter amended.
34. **Landslide:** The general term used to describe the downslope movement of a mass of slope materials including rock, soils, artificial fills, and vegetation. The speed and distance of movement, as well as the amount and type of slope material, vary greatly.
35. **Major New Development:** Any new development that is not considered Minor New Development, including but not limited to:
  - a. Clearing, grading or filling one acre or greater in area;
  - b. Zoning conditional use permits required under Title 33, Clallam County Zoning Code;
  - c. Any new commercial or industrial development authorized under Chapter 33.34 or 33.35 of Title 33, Clallam County Zoning Code, except when authorized as a home enterprise activity consistent with Title 31, Clallam County Zoning Code;
  - d. Any structure, regardless of use with a footprint in excess of 4,000 square feet;
  - e. Any land division pursuant to Title 29 Clallam County Land Division Code.
36. **Marine Bluff:** The cliff-like landform which has been created by wave and tidal erosion along marine shorelines. For the purposes of this chapter, marine bluffs include those areas along marine shorelines where:
  - a. The slope is identified as "unstable", "unstable old slide" and "unstable recent slide" on the maps of the Coastal Zone Atlas of Washington, Clallam County (1978); or
  - b. Other slopes where the slope is equal to or in excess of 40% slope, or where the ground surface rises ten feet or more vertically within a horizontal distance of twenty-five feet.
37. **Mineral Extraction:** Includes activities involved in the extraction of minerals (excluding water) from the earth for industrial, commercial or construction uses.
38. **Minor Improvement:** Any repair, reconstruction, or improvement of a structure, the cost of which is less than 50 percent of the market value of the structure either before the improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "minor improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. However, this term does not include: any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to

assure safe living conditions, or any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places<sup>12</sup>.

39. **Minor New Development:** The following activities are considered minor new development:
- a. Construction or placement of a single family dwelling and associated appurtenances, including a garage, deck, driveway, utilities, fence, grading not exceeding 250 cubic yards, and clearing not exceeding 20,000 square feet in area; PROVIDED that all structures combined on a given parcel have a total footprint of less than 4,000 square feet; PROVIDED further that an associated home enterprise as defined and approved under Title 31, Clallam County Zoning Code is also considered to be minor new development.
  - b. Construction and practices normal or necessary for agriculture, including agriculture service roads and utilities, construction of an agriculture building less than 4,000 square feet in size used exclusively for agriculture: Provided, that a feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of wetlands or streams by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary agriculture;
  - c. Clearing, grading or filling less than one acre not associated with residential development or agriculture; PROVIDED that mineral extraction is not involved; PROVIDED further that no such activity shall occur within critical areas or their associated buffers inconsistent with this chapter<sup>13</sup>.
40. **Monitoring:** The collection and analysis of data for the purposes of documenting changes in natural ecosystems and features. This includes gathering baseline data and follow-up data for evaluating the impacts of development on biological, hydrologic and geologic elements of such systems and assessing the performance of required mitigation measures.
41. **Native vegetation:** Vegetation indigenous to the North Olympic Peninsula as found in Flora of the Pacific Northwest by Hitchcock and Cronquist, Univ. of Washington Press, 1972, as amended, or Flora of the Olympic Peninsula by N. Buckingham and E. Shreiner, 1995.
42. **Normal maintenance:** Those acts that are usually necessary in order to prevent a decline, lapse or cessation of a lawfully established condition. It does not include additional placement of fill on, or excavation of, previously undisturbed soils or slopes; clearing, removal, or cutting of trees greater than 12 inches in diameter at 4.5 feet, or total replacement of a structure.
43. **Normal repair:** To restore a development to a state comparable to its original condition within a reasonable period after decay or partial destruction except where repair involves total replacement which is not common practice or causes substantial adverse effects to the regulated critical area. "Normal repair" does not include placement of fill; further excavation of native soils; or clearing and grading of previously undisturbed soils or slopes.
44. **Open space:** Lands which are in a natural or undeveloped character because they have not been developed with structures, paving or other appurtenances. Open space lands can include: parks, recreation areas, conservation easements, critical area buffers, or tracts or commons designated as open space through a land division.
45. **Ordinary high water mark:** The mark on all lakes, streams and tidal waters which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that conditions

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<sup>12</sup> In support of changes made to CCC 27.12.040, and in response to WGMHB, No. 00-2-0008, Page 9 and 10; Order of Noncompliance # 4; Order of Invalidity # 2.

<sup>13</sup> Response to WGMHB, No. 00-2-0008, Pages 7, 8, 9 and 12; Order of Noncompliance # 3; Order of Invalidity # 1.

existed on the effective date of this Chapter, as it may naturally change thereafter, or as it may have changed thereafter in accordance with permits issued by a local government or the department; provided, that in any area where the ordinary high-water mark cannot be found, the ordinary high-water mark adjoining salt water shall be the line of mean higher high tide and the ordinary high water mark adjoining fresh water shall be the line of mean high water.

46. **Performance Standard or Protection Standard:** A measure, control, procedure, or process to ensure that critical areas are protected. For the purposes of this chapter, these terms have the same meaning as regulation.
47. **Person:** Any individual or public or private entity (i.e. corporations),
48. **Pond:** A naturally existing or artificially created body of standing water less than 20 acres in size and not defined as "Shorelines of the State" by RCW 90.58 (Shoreline Management Act). Ponds can include reservoirs which exist on a year round basis and occur in a depression of land or expanded part of a stream. A pond is bounded by the ordinary high water mark or the extension of the elevation of the pond's ordinary high water mark within the stream, where the stream enters the pond.
49. **Practicable alternative:** An alternative that is available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes, and having less impact to critical areas. It may include an area not owned by the applicant which could reasonably have been or be obtained, utilized, expanded, or managed in order to fulfill the basic purpose of the proposed activity.
50. **Priority habitat:** A seasonal range or habitat element with which a given species has a primary association, and if altered, may reduce the likelihood that the species will maintain and reproduce over the long term. These might include areas of high relative density or species richness, breeding, nesting, feeding, foraging, and migratory habitat, winter range, movement corridors, and/or habitats that are of limited availability or high vulnerability to alteration. Priority habitats are established by the Washington Department of Wildlife within their Priority Habitats and Species Data Base.
51. **Priority species:** Priority species include those which are state-listed endangered, threatened, sensitive, candidate and monitor species as well as priority game and non-game species under WAC 232-12.
52. **Public facilities:** Buildings or uses of land whether owned or leased, operated by a public agency for such purposes as providing places for public assembly and recreation, operating services of benefit to the public, or for the administration of public affairs.
53. **Public utility:** A business or service, either governmental or having appropriate approval from the state, which is engaged in regularly supplying the public with some commodity or service which is of public consequence and need such as electricity, gas, sewer and/or wastewater, water, transportation or communications.
54. **Ravine:** A landform usually having little or no floodplain that develops adjacent to a stream, and has relatively steep side walls composed of unconsolidated materials or surficial deposits.
55. **Reasonable alternative:** An activity that could feasibly attain or approximate a proposal's objectives, but at a lower environmental cost or decreased level of environmental degradation. Reasonable alternatives may be those over which the regulatory authority has authority to control impacts.
56. **Recreational Vehicle.** A vehicle which is: built on a single chassis; 400 square feet or less when measured at the largest horizontal projection; designed to be self-propelled or permanently towable by a light duty truck; and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use; PROVIDED that the RV is not attached to any structure, including but not limited to decks, structures, additions, and

storage buildings, regardless of size.

57. **Regional Trail.** A public trail system that crosses between regional planning areas or jurisdictions, such as other counties, cities, or tribal reservations.
58. **Regulated use or activity:** Any development proposal located within the jurisdiction of a regulated critical area which includes or directly affects a critical area or its buffer or is adjacent to a critical area. (See definition of adjacent and development.)
59. **Restoration:** The return of a critical area (e.g., stream or wetland) to a state in which its functions and values approach its unaltered state as closely as possible.
60. **Review Authority.** The Review Authority for this chapter is the applicable decision-maker for the specific task or permit decision, which may be the Board of Commissioners, the Clallam County Hearing Examiner, or the Administrator of the Dept. of Community Development, as prescribed by this Chapter and/or C.C.C. 26.10, Consolidated Development Permit Process Code.
61. **Road or Street:** Any vehicular right-of-way which: (a) is an existing state, county or municipal roadway, (b) is a publicly owned easement, (c) is shown upon a land division pursuant to Clallam County Land Division Code (C.C.C. 29), or (d) is a private access greater than 50 feet in length serving more than one property through right of use or easement. The road or street shall include all land within the boundaries of the road right-of-way.
62. **Salmonid:** A member of the fish family salmonidae. In Clallam County these include chinook, coho, chum, sockeye and pink salmon; rainbow, steelhead, cutthroat trout; brown trout; Brook and Dolly Varden char, kokanee, and whitefish.
63. **Site Investigation:** Work necessary for land use application submittals such as surveys, soil logs, percolation tests or other related activities.
64. **Special flood hazard areas:** The floodway and adjoining land area. In a riverine system, this area is subject to a one percent or greater chance of flooding in any year, as determined by engineering studies acceptable to Clallam County. The Coastal High Hazard Areas are included within special flood hazard areas. Special flood hazard areas are designated on the Flood Insurance Rate Maps as A and V zones.
65. **Species of Concern:** Species classified as endangered, threatened, sensitive, candidate, or monitored by the Washington Department of Fish and Wildlife under WAC 232-12. Monitored species shall include those species that are of special interest because they were at one time classified as endangered, threatened, or sensitive species that require habitat of limited availability during some portion of their life cycle.
66. **Substantial Improvements:** Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either before the improvement or repair is started, or if the structure has been damaged and is being restored, or before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. However, this term does not include: any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.
67. **Stream types:** For the purposes of this chapter, artificially created water conveyances, such as irrigation ditches, constructed in areas not already containing naturally flowing waters, are not

classified as streams<sup>14</sup>.

A. "Type 1 Water" means all waters, within their ordinary high-water mark, as inventoried as "shorelines of the state" under chapter 90.58 RCW and the rules promulgated pursuant to chapter 90.58 RCW, but not including those waters' associated wetlands as defined in chapter 90.58 RCW;

B. "Type 2 Water" shall mean segments of natural waters which are not classified as Type 1 Water and have a high fish, wildlife, or human use. These are segments of natural waters and periodically inundated areas of their associated wetlands, which: (a) Are diverted for domestic use by more than 100 residential or camping units or by a public accommodation facility licensed to serve more than 100 persons, where such diversion is determined by the department to be a valid appropriation of water and the only practical water source for such users. Such waters shall be considered to be Type 2 Water upstream from the point of such diversion for 1,500 feet or until the drainage area is reduced by 50 percent, whichever is less; (b) Are within a federal, state, local, or private campground having more than 30 camping units: Provided, That the water shall not be considered to enter a campground until it reaches the boundary of the park lands available for public use and comes within 100 feet of a camping unit, trail or other park improvement; (c) Are used by substantial numbers of anadromous or resident game fish for spawning, rearing or migration. Waters having the following characteristics are presumed to have highly significant fish populations: (i) Stream segments having a defined channel 20 feet or greater in width between the ordinary high-water marks and having a gradient of less than 4 percent. (ii) Lakes, ponds, or impoundments having a surface area of 1 acre or greater at seasonal low water; or (d) Are used by salmonids for off-channel habitat. These areas are critical to the maintenance of optimum survival of juvenile salmonids. This habitat shall be identified based on the following criteria: (i) The site must be connected to a stream bearing salmonids and accessible during some period of the year; and (ii) The off-channel water must be accessible to juvenile salmonids through a drainage with less than a 5% gradient.

C. "Type 3 Water" shall mean segments of natural waters which are not classified as Type 1 or 2 Water and have a moderate to slight fish, wildlife, and human use. These are segments of natural waters and periodically inundated areas of their associated wetlands which: (a) Are diverted for domestic use by more than 10 residential or camping units or by a public accommodation facility licensed to serve more than 10 persons, where such diversion is determined by the department to be a valid appropriation of water and the only practical water source for such users. Such waters shall be considered to be Type 3 Water upstream from the point of such diversion for 1,500 feet or until the drainage area is reduced by 50 percent, whichever is less; (b) Are used by significant numbers of anadromous fish for spawning, rearing or migration. Waters having the following characteristics are presumed to have significant anadromous fish use: (i) Stream segments having a defined channel of 5 feet or greater in width between the ordinary high-water marks; and having a gradient of less than 12 percent and not upstream of a falls of more than 10 vertical feet. (ii) Ponds or impoundments having a surface area of less than 1 acre at seasonal low water and having an outlet to an anadromous fish stream. (c) Are used by significant numbers of resident game fish. Waters with the following characteristics are presumed to have significant resident game fish use: (i) Stream segments having a defined channel of 10 feet or greater in width between the ordinary high-water marks; and a summer low flow greater than 0.3 cubic feet per second; and a gradient of less than 12 percent. (ii) Ponds or impoundments having a surface area greater than 0.5 acre at seasonal low water; or (d) Are highly significant for protection of downstream water quality. Tributaries which contribute greater than 20 percent of the flow to a Type 1 or 2 Water are presumed to be

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<sup>14</sup> In support of changes made to Table 6, CCC 27.12.315, and in response to WGMHB, No. 00-2-0008, Pages 2, 9 and 11; Order of Noncompliance # 1; Order of Invalidity # 1.

significant for 1,500 feet from their confluence with the Type 1 or 2 Water or until their drainage area is less than 50 percent of their drainage area at the point of confluence, whichever is less.

D. "Type 4 Water" classification shall be applied to segments of natural waters which are not classified as Type 1, 2 or 3, and for the purpose of protecting water quality downstream are classified as Type 4 Water upstream until the channel width becomes less than 2 feet in width between the ordinary high-water marks. Their significance lies in their influence on water quality downstream in Type 1, 2, and 3 Waters. These may be perennial or intermittent.

E. "Type 5 Water" classification, for the purposes of this regulation, shall be applied to all segments of natural waters within the bankfull widths of defined channels that are not classified as Type 1, 2, 3 or 4 waters and which are physically connected by an above-ground channel system, including but not limited to irrigation ditches, to downstream waters such that water or sediment initially delivered to such waters will eventually be delivered to a Type 1, 2, 3 or 4 water. While irrigation ditches or other man-made water conveyances may be physically connected to a Type 5 water, all man-made irrigation ditches or other artificial water conveyances are not regulated by this chapter. Designation of Type 5 streams shall require review and confirmation by the Clallam County Habitat Specialist on a case-by-case basis, and shall be based on a consideration of stream segment length, sediment delivery potential to Type 1, 2, 3, or 4 waters, and desynchronization of flood water flows.<sup>15</sup>

68. **Structure:** A permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed, on, above, or below the surface of the ground or water.
69. **Toe of slope:** The lowermost topographic break in slope. Where no distinct break exists, this point shall be the lower-most limit of the landslide hazard area as defined and classified by this chapter.
70. **Top of slope:** The highest topographic break in slope. Where no distinct break in slope exists this point shall be the uppermost limit of the landslide hazard area as defined and classified by this chapter.
71. **Unavoidable and necessary impacts:** Those impacts to critical areas that remain after a person proposing to alter such an area has demonstrated that no practicable alternative exists for the proposed project.
72. **Utility:** A fixed improvement which contains or conveys power, gas, oil, water, sewage, surface drainage, or communication signals.
73. **Water-dependent uses:** A use or portion of a use that cannot logically exist in any other location and is dependent on the water by reason of the intrinsic nature of its operation. Water-dependent uses include, but are not limited to: aquaculture, boat launch facilities, ferry terminals, hydroelectric power plants, marinas, marine construction, dismantling and repair, marine and limnological research and education, private and public docks, terminal and transfer facilities for marine commerce and industry, water intakes and outfalls, log booming, tug and barge facilities, residential appurtenances such as beach access ramps and walkways, observation decks and platforms, picnic sites, and gazebos/shelters less than 250 square feet in size.
74. **Water-related uses:** A use or portion of a use that is not intrinsically dependent on a waterfront location, but which includes operations that cannot occur economically without a shoreline location or without close proximity to water-dependent uses. Water-related uses include, but are

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<sup>15</sup> In support of changes made to Table 6, CCC 27.12.315, and in response to WGMHB, No. 00-2-0008, Pages 2, 9 and 11; Order of Noncompliance # 1; Order of Invalidity # 1. Source of Information: Forests and Fish Report April 29, 1999 – Appendix B(II)(B.1)(3)(iii).

not limited to: warehousing or storage facilities; support services for fish hatcheries; seafood processing plants; wood products manufacturing; log storage; watercraft sales; boating supplies.

75. **Watershed.** Interconnected system of surface and near-surface water bodies that drain to a common outlet.

**Section 4** The signed ordinance shall be recorded in the Office of the Clallam County Auditor.

**Section 5** Section 27.12.035(8), (9), and (10), and Section 27.12.040, CCC, of this amended ordinance shall become effective ten (10) days after adoption. All other amendments shall become effective upon a finding of the WGMHB, pursuant to RCW 36.7A.302, that the amended ordinance complies with the Growth Management Act.

ADOPTED this 26<sup>th</sup> day of June, 2001

BOARD OF CLALLAM COUNTY COMMISSIONERS

Howard V. Doherty, Jr., Chair  
Stephen P. Tharinger  
Michael C. Chapman

ATTEST:

Trish Perrott, Clerk of the Board