

Ordinance _____

An ordinance amending Clallam County Code,
Chapter 27.12 Critical Areas

BE IT ORDAINED BY THE BOARD OF CLALLAM COUNTY COMMISSIONERS:

Section 27.12.010, Statement of purpose and authority, is amended to read as follows:

The purpose of this chapter is to identify and protect critical areas required by the Growth Management Act of 1990 (Chapter [36.70A](#) RCW) and to implement the goals and policies of the Clallam County Comprehensive Plan, Title [31](#) of the Clallam County Code (CCC), 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 additional controls and measures that are necessary to protect critical areas.

In the administration of this chapter Clallam County shall 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 power under State statute or County regulation.

Section 27.12.015, Statement of policy, is amended to read as follows:

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.

Section 27.12.020, Policy goals, is amended to read as follows:

To implement the purpose and policy stated above, as well as the environment and open space goals adopted in the Clallam County Comprehensive Plan, CCC [31.02.320](#), 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) Provide standards to 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 no net loss of 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 allowing the natural movements of streams and rivers within a floodplain, 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) Preserve natural flood control, stormwater storage, and drainage or stream flow patterns and prevent turbidity and pollution of wetlands and fish- or shellfish-bearing waters, and maintain wildlife habitat.

(12) Control siltation, protect nutrient reserves and maintain stream flows and stream quality for wildlife.

(13) 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 through the regulation of land use activities that pose a potential contaminant threat or could increase the vulnerability of the aquifer.

(14) Identify, preserve, protect aquifer recharge areas and prevent degradation of the quality of potable ground water and recognize the relations between surface and ground water resources.

(15) Protect areas with potential for marine aquaculture activities from degradation by other types of uses.

(16) Protect and conserve unique, rare, irreplaceable and valuable elements of the natural environment for the enjoyment of present and future generations and to support viable populations of native wildlife in Clallam County.

(17) Reduce cumulative adverse environmental impacts to water availability, water quality, wetlands, aquatics and marine resources, conservation areas, frequently flooded areas and geologically hazardous areas.

(18) 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.

(19) 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 90.4890.47 RCW; the Groundwater Quality Standards, Chapter 173-200 WAC; the Clallam County Shoreline Master Program and State Shoreline Management Act, Chapter 90.55 RCW; the Clallam County Charter; the Clallam County Code and all adopted County functions and community plans.

(20) Provide the regulatory framework to supplement adopted policies in the Clallam County Comprehensive Plan, CCC Title 31, and the Zoning Code, CCC Title 33, 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.

(21) 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.~~

(2219) 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.

(230) Promote the restoration of degraded critical areas and their buffers in order to regain lost ecological functions and values and improve the economic health and viability of Clallam County.

Section 27.12.025, Applicability, is amended to read as follows:

(1) This chapter classifies and designates critical areas in Clallam County and establishes controls for the protection of each 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 chapter 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.

~~(21) Permitted Uses. Those land uses and development activities described in CCC 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.~~

(32) The Growth Management Act, Chapter 36.70A, RCW, requires the protection of the following critical areas which are classified and designated for protection under this chapter: (a) wetlands; (b) areas with 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

Critical Area	Jurisdiction
Wetlands	Within 200 feet of regulated wetlands
AquaticFish and Wildlife habitat conservation areas (Type 1-5 waters, Shorelines of the State)	Type 1/Shorelines of the State: ~~Equivalent to Regulated solely by~~ the Clallam County Shoreline Master Program Type F, Np, Ns 2-5: Within 200 feet

Critical Area	Jurisdiction
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 <u>outside of Shoreline jurisdiction</u>
Frequently flooded areas	Designated special flood hazard areas (floodway and floodplain) <u>outside of Shoreline jurisdiction</u>
Critical aquifer recharge	Designated critical aquifer recharge areas <u>outside of Shoreline jurisdiction</u>

(43) Buffers are required between development activities specified under CCC 27.12.030 and designated wetland, aquatic habitat conservation areas, wildlife habitat conservation areas and landslide hazardous areas which are further defined in this chapter.

(54) The provisions of this chapter are in addition to the land use controls set forth by CCC Title 33, Zoning Code. Where additional provisions 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.

(65) Nonproject actions, such as rezones, code and plan adoption, and annexations shall be reviewed for consistency with this chapter.

(76) 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.

(87) 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 CCC 27.12.040.

(98) *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 eighteen (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.

Section 27.12.030, Regulated uses and development activities, is amended to read as follows:

~~(1) *Permitted Uses.* Those land uses and development activities described in CCC 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 CCC 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 CCC Title 29~~
- ~~• Road approach permit~~
- ~~• Storm water 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.~~

Section 27.12.035, Activities not regulated by this chapter - Exemptions, is amended to read as follows:

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. One year from the date the emergency is declared over the work completed shall be reviewed and an after-the-fact permit be sought, if required, and any adverse impacts on the critical area be minimized and mitigated. If intended to be permanent the work must meet the standards within this code.

(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 CCC Title 29.

(7) Existing, ongoing agriculture as defined in CCC 27.12.900 including related development and activities which do not result in expansion into a critical area or its buffer and which also do not result in significant adverse impacts to a critical area or its buffer; provided, that such activities comply with the provisions of CCC 27.12.037. New agricultural activities, expansion of existing agricultural activities, or development not meeting the definition of existing, ongoing agriculture (CCC 27.12.900) shall comply with both the substantive and procedural provisions of this chapter.

(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. Changes to culverts will require a certificate of compliance in accordance with CCC 27.12.315.

(9) 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 of this chapter 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 established locations. Replacement, expansion, relocation or placement of new utility service lines shall be subject to the standards of this chapter, as applicable.

(10) State forest practices conducted pursuant to Chapter 76.09 RCW. This exemption does not apply to Class IV – general conversion forest practices occurring within designated urban growth areas. Forest practices designated as Class IV are likely to convert through a memorandum of understanding between Clallam County and the Washington Department of Natural Resources, as applicable.

(11) Normal and nondestructive pruning and trimming of vegetation for maintenance purposes; 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.

Section 27.12.037, Statewide standards for existing, ongoing agriculture in and adjacent to aquatic fish and wildlife habitat conservation areas (AFWHCA) and wetlands, is amended to read as follows:

(1) *Purpose and Intent.* The purpose of this section is to address two mandates under the Growth Management Act (GMA), Chapter 36.70A RCW.

(a) To protect the existing functions and values in and adjacent to aquatic habitat conservation areas (AHCA) and wetlands; and

(b) To conserve and protect agricultural lands, specifically those lands with existing, ongoing agricultural activities that are located on or within 200 feet of AHCA and wetlands regulated under this chapter.

(2) *Applicability.* Agriculture activities that do not meet the definition of existing, ongoing agriculture (as defined in CCC [27.12.900](#)) are required to comply with the applicable wetland protection standards found in CCC [27.12.215](#) and AHCA protection standards found in CCC [27.12.315](#). Existing, ongoing agriculture activities occurring on or within 200 feet of AHCA and wetlands may deviate from the protection and buffer standards made applicable to them elsewhere in this chapter by instead complying with the alternate standards presented in this section and enrolling in this program. The alternate standards from the AHCA and wetland standards of this chapter may only be applied to existing, ongoing agriculture activities related to cultivating of crops, grazing of livestock, and the land preparation associated with those agricultural activities.

(3) *Enrollment in the Alternate Standards Program for Existing, Ongoing Agriculture.*

(a) Existing, ongoing agriculture operations, as defined by CCC [27.12.900](#), are required to submit an alternate agriculture worksheet to the Administrator for review and approval to be enrolled into this section. This worksheet will include a risk assessment to address the criteria shown in Table 27.12.037(A) below.

(b) A new alternate agriculture worksheet is required every time an agricultural operation under the provisions of this section changes ownership or changes the agricultural operation in a manner that results in a higher risk assessment found in Table 27.12.037(A) below. The Administrator will conduct an audit of everyone in this program every five years.

(4) *No Harm or Degradation Standard.*

(a) All existing, ongoing agriculture activities must be conducted so as not to cause harm or degrade the existing functions and values of AHCA wetlands or their associated buffers (the “no harm or degradation” standard). For the purposes of this section, the phrase “no harm or degradation” means the following:

(i) Compliance with documented water quality standards consistent with the Washington State Department of Ecology water pollution control laws (Chapter [90.48](#) RCW).

(ii) Compliance with applicable Washington State Department of Fish and Wildlife requirements, hydraulics rules (Chapter [77.52](#) RCW) and the Hydraulic Code Rules (Chapter [220-660220-410](#) WAC).

(iii) Conducting agricultural activities to avoid high risk activities outlined in subsection (5) of this section.

(iv) No evidence of significant degradation to AHCA or wetlands regulated under this chapter that can be directly attributed to adjacent existing, ongoing agriculture activities.

(b) An owner or operator is responsible only for those conditions caused by agricultural activities conducted by them and is not responsible for the off-site actions of others, natural conditions not related to the agricultural activities, or emergency actions described in CCC [27.12.035\(2\)](#).

(5) *Existing, Ongoing Agriculture Risk Assessment Criteria.*

(a) The success of farms and ranches in Clallam County depends in part on good quality soil, water, air and other natural resources. Agricultural activities that incorporate protection of the environment, including critical areas as defined by this chapter, are essential to achieving this goal. Agricultural activities are expected to be conducted in a manner that protects against harm or degradation to the existing functions and values of AHCA, wetlands, and their associated buffers.

(b) The Administrator shall utilize the low, moderate and high risk assessment criteria in Table 27.12.037(A) to evaluate existing, ongoing agriculture within and adjacent to AHCA and

wetlands. Existing, ongoing agricultural activities may have different risk assessment ratings based on the six performance standards and four risk assessment categories – river and streams, water features (wetlands, ponds, and irrigation/drainage ditches); livestock heavy use areas; and manure storage – in Table 27.12.037(A).

(c) The risk assessment criteria in Table 27.12.037(A) address agricultural activities located within AHCAs, wetlands, and their associated minimum standard buffers regulated under this chapter, and more intensive agricultural activities, i.e., manure storage, livestock heavy use, confinement areas, located within the 200-foot jurisdictional boundary of these critical areas. The risk assessment criteria in Table 27.12.037(A) also address nonregulated ponds and open irrigation/drainage ditches that are hydrologically connected to AHCAs and wetlands, which may provide a means for pollution to cause harm and degradation to AHCAs and wetlands.

(i) *Low and Moderate Risk Agricultural Activities.* Agricultural activities shall be deemed compliant with this section if they meet the low or moderate risk assessment criteria, unless it is determined by the Administrator that they are causing harm or degradation to the existing functions and values of AHCAs or wetlands located on land property owned, leased, or occupied by the person or entity completing the worksheet. If this occurs for one of the six performance standards, then the agricultural operation is required to develop a farm conservation plan to address activities causing harm or degradation. The intent of the farm conservation plan is, at a minimum, to lower the risk assessment for the specific performance standards on which. The farm conservation plan shall be submitted to the Administrator for review and approval.

(ii) *High Risk Agricultural Activities.* Agricultural activities that receive a high risk assessment rating on any of the six performance standards are required to submit a farm conservation plan to address the high risk activities. The intent of a farm conservation plan is, at a minimum, to lower the risk assessment from high to moderate. The farm conservation plan shall be submitted to the Administrator for review and approval.

(iii) *Farm Conservation Plans.* Farm conservation plans under this section shall consider the USDA Natural Resources Conservation Service (NRCS) “Field Office Technical Guide” (FOTG) that contains an exclusive list of conservation practices (best management practices) to lower the risk from existing ongoing agriculture to existing functions and values of AHCA and wetlands. The Clallam Conservation District may be available to provide assistance in the development of a farm conservation plan.

(iv) *Existing Plans.* Those portions of land upon which farm owners or operators have implemented a dairy nutrient management plan, a resource management system plan, or a conservation reserve enhancement program plan consistent with conservation practices and management standards that meet the FOTG quality criteria for each natural resource (soil, water, animals, plants, and air) and approved by the Clallam Conservation District or USDA Natural Resources Conservation Service are entitled to a presumption of compliance with the “no harm or degradation” standards described in subsection (4) of this section. This would be contingent on these plans not resulting in any high risk agricultural activities on any of the six risk assessment performance standards.

Table 27.12.037(A). Risk Assessment Criteria
(Ratings are based on lowest conditions)

LOW RISK	MODERATE RISK	HIGH RISK ¹
RIVERS, STREAMS, LAKES, & MARINE WATERS (AHCA) Buffers are measured from ordinary high water mark (OHWM)		
1(a). A year-round 50-foot or greater fully vegetated buffer² is maintained with no livestock access. 2(a). Manure application at rates not exceeding the crop nutrient needs occurs only outside the minimum 50-foot buffer and only during the growing season⁴.	1(b). A year-round 35-foot minimum well vegetated buffer³ is maintained with no livestock access. 2(b). Manure application at rates not exceeding the crop nutrient needs occurs only outside the minimum 35-foot buffer and only during the growing season⁴.	1(c). Less than 35-foot wide well vegetated buffer³ is maintained or livestock have access to the buffer. 2(c). Manure is not applied at rates based on crop nutrient needs, occurs within 35-feet of the OHWM, or is applied outside growing season⁴.
WETLANDS & OTHER WATER FEATURES⁵ Buffers are measured from edge of wetland or water feature		
3(a). A year-round 50-foot or greater fully vegetated buffer² is maintained between wetlands/water features and livestock or cultivation. 4(a). Manure application at rates not exceeding the crop nutrient needs occurs only outside the minimum 50-foot	3(b). A 35-foot minimum well vegetated buffer³ is maintained between wetlands/water features and livestock or cultivation except as outlined in footnote 8. 4(b). Manure application at rates not exceeding the crop nutrient needs occurs only outside the minimum 35-foot	3(c). Conditions specified in criterion 3(b) are not met. 4(c). Manure application occurs within 35-foot buffer, manure is not applied at rates based on crop nutrient needs, or is applied outside the growing season⁴.

LOW RISK	MODERATE RISK	HIGH RISK ¹
buffer and only during growing season ⁴ .	buffer and only during the growing season ⁴ .	

LIVESTOCK HEAVY USE AREAS⁶

5(a). Livestock heavy use area is located at least 200 feet from AHCAs, wetlands or water features. AND There is a year-round, 50-foot or greater fully vegetated buffer².	5(b). Livestock heavy use area is located at least 100 to 200 feet from AHCAs, wetlands or water features. AND There is a year-round, well vegetated 50-foot buffer³ upon any portion of the AHCA, wetland or water feature that is within 200 feet of the heavy use area.	5(c). Livestock heavy use area is located less than 100 feet from AHCAs, wetlands, or water features. OR There is less than a 50-foot year-round well vegetated buffer³ at all locations where 5(b) requires the presence of such a buffer.
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MANURE STORAGE⁷

6(a). Manure storage structure is covered with a roof or tarp and located at least 200 feet from AHCAs, wetlands, or water features. AND There is a year-round, 50-foot or greater fully vegetated buffer².	6(b). Manure storage structure is covered with a roof or tarp and located at least 100 feet from AHCAs, wetlands, or water features. AND There is a year-round, 50-foot well vegetated buffer³ upon any portion of the AHCA, wetland or water feature	6(c). Manure storage is covered but located less than 100 feet from AHCAs, wetlands, or water features. OR Manure storage is uncovered but located less than 200 feet from AHCA, wetland or water feature.
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LOW RISK	MODERATE RISK	HIGH RISK ¹
	within 200 feet of the manure storage structure.	OR There is less than a 50-foot year-round well vegetated buffer ³ at all locations where 6(b) requires the presence of such a buffer.

Footnotes:

1 A farm plan will be required to address any of the six risk assessment criteria that receive a rating of “HIGH RISK.”

2 A fully vegetated buffer is generally comprised of one-third herbaceous (non-woody) outer area, and two-thirds inner area comprised of native trees, shrubs, and/or herbaceous vegetation. The inner area is closest to the AHCA wetland or water feature. The outer area shall achieve a total cover of 100 percent herbaceous vegetation (non-woody) within three years and the inner area shall achieve a cover of 25 percent native trees or shrubs and a total cover of 100 percent for all vegetation types within five years.

3 A well vegetated buffer shall be comprised of herbaceous vegetation (non-woody) in the outer area along with native trees, shrubs, and/or herbaceous vegetation in the inner area. The buffer shall achieve a total cover of approximately 75 percent herbaceous vegetation (non-woody) within three years and should also include native trees or shrubs.

4 Growing season is generally April through October.

5 Water features include ponds, irrigation ditches, and drainage ditches that are hydrologically connected to AHCA or wetlands.

6 Heavy use includes areas where livestock are confined or congregate, such as feeding locations and wet season pasture areas (sacrifice areas) where polluted runoff may pose a risk to water quality. Does not apply to barns and sheds.

7 Manure storage includes collected liquid manure, solid manure, and bedding.

8 Buffer may be utilized for harvesting of forage, including grazing, when the water feature is dry if minimum forage height of three inches is maintained.

(6) *Compliance.* If the Administrator determines through the review of the alternate agriculture worksheet, risk assessment, or the farm conservation plan that an agricultural operation regulated under this section is causing harm or degradation to the functions or values of AHCA or wetlands, then the Administrator will pursue compliance.

(a) It is the policy of the County to emphasize compliance by education and voluntary compliance as a first step. This would entail requiring a farm conservation plan as outlined in subsections (5)(a), (5)(b), and (5)(c) of this section. While voluntary compliance is desirable, failure to implement the required Farm Conservation Plan in compliance with this section is subject to CCC 27.12.055, Enforcement, and CCC Title 20, Code Compliance.

(b) Clallam County has regulatory authority for critical areas code enforcement and the Department of Ecology has regulatory authority for enforcement of state water quality protection laws. The mechanisms for responding to alleged water quality violations of agricultural origin and the role of the Clallam Conservation District in providing assistance to agricultural owners and operators to correct water quality violations is described in a 1998 memorandum of agreement with the Washington State Department of Ecology and a 1998 memorandum of understanding with the County.

(7) *Baseline Conditions, Indicators, Monitoring, and Adaptive Management.* The purpose of this section is to establish for enrollees in the alternate standards program, baseline conditions, monitoring indicators, and to utilize adaptive management.

(a) *Existing Baseline Functions and Values.* The County will use the following to establish the baseline of existing functions and values for AHCA and wetlands:

(i) Streamkeepers biological integrity scale (BIS) stream rating system dated December 2011.

(ii) Washington State Department of Ecology Water Quality Assessment 305 Report dated December 2012.

(iii) Washington State Department of Ecology 305(d) dated December 21, 2012.

(iv) Clallam County Baseline Inventory and Characterization Report for portions of Clallam County draining to the Strait of Juan de Fuca, March 2012.

(v) Revised draft WQA 20 Inventory and Characterization Report, May 2012.

(b) The County will use the following indicators to analyze the trends of the existing baseline functions and values of AHCA and wetlands:

(i) Stream reach classification changes based on the Streamkeepers biological integrity scale (BIS) stream rating system: healthy; compromised; impaired, highly impaired, and critically impaired.

(ii) Change in stream reach or AHCA water quality documented by Streamkeepers of Clallam County.

(iii) Removal or addition of a stream reach or AHCA from the Washington State Department of Ecology 305 list.

(iv) Change in stream reach or AHCA water quality documented in the Washington State Department of Ecology, Washington State Water Quality Assessment 305 Report.

(v) Water quality monitoring performed under the Pollution Identification and Correction (PIC) Plan for the Sequim Bay – Dungeness Watershed Clean Water District to strategically and systematically identify and address agricultural sources of pollution.

(vi) A downgrade to the classification of wetlands adjacent to or hydrologically connected to existing, ongoing agriculture activities.

(vii) Other Data Sources – Reserved.

(c) *Monitoring.* The Administrator will issue an annual report addressing the implementation of existing, ongoing agriculture at sites participating in the alternate standards program. The report will include the number and location of participants, the alternate agriculture worksheets, the change in AHCA and wetland native vegetation cover adjacent to agricultural operations authorized per this section, and Streamkeepers testing data or other functions and values measurable in the vicinity of significant concentration of agricultural operations. If the reporting indicates that AHCA and wetland functions and values are not being impacted in the vicinity of agricultural operation operating under this section, then the reports will be prepared every five years thereafter.

(d) *Adaptive Management.* The Administrator will review the above indicators and monitoring to determine trends in the baseline functions and values of subsection (7)(a) of this section. If there is a downward trend, the Administrator will assess whether existing, ongoing agriculture activities subject to this section are likely contributing to this downward trend and, if so, implement the following steps:

(i) Contact participating landowners of existing, ongoing agriculture and provide information to make them aware of the issue of concern (e.g., monitoring results).

(ii) If the baseline functions and values do not improve in subsequent monitoring results, the Administrator will seek to determine whether there is an identifiable cause to the problem through site visits, consultations with other agencies, or other means of investigating the cause.

(iii) If there is an identifiable issue related to existing, ongoing agriculture, the Administrator will seek compliance under subsection (6) of this section.

(iv) If the agricultural operations regulated under this section have implemented agricultural best management practices to achieve a low or moderate risk assessment, but the functions and values of the AHCA and wetlands still degrade, this may necessitate a revision to the required modification to the risk assessment performance standards or the enactment of protective measures in this section to address the problem.

Section 27.12.040, Pre-existing uses, is amended to read as follows:

All uses or structures, except those associated within agricultural activities regulated by 27.12.037, that are lawfully established prior to the effective date of this chapter and are consistent with CCC 27.12.035 may be continued, maintained, remodeled, or reconstructed provided there is no material expansion of the use or structure within a buffer or the critical area or increase of the nonconformity within this chapter. 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 critical area or its buffer and does not meet the standards set forth by this chapter~~ shall be subject to the standards of this chapter, 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 to determine if the proposed ~~development~~ conforms with the standards of this chapter, or if the proposal is an expansion or minor change or increases the nonconformity of the existing development which will require a variance.

(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. Any expansion or minor change to a pre-existing 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. 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 nonconforming 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 nonconforming structure.

Those proposals that cannot 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 nonconforming 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 nonconforming structure.~~

~~(ab)~~ For wetland or aquatic habitat conservation area buffers, a habitat management plan pursuant to Part Eight of this chapter will be required if such activity results in material disturbance to the critical area buffer outside the original footprint.

~~(be)~~ 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.

~~(cd)~~ 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 ground water 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 pre-existing 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: (i) Repairs, reconstruction or improvements to a structure which do not increase the ground floor area; and (ii) 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 improvement repair is started, or (B) if the structure has been damaged and is being restored before the damage occurred. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have

been identified by the local code or building enforcement official and which are the minimum necessary to ensure safe living condition shall not be included in the 50 percent determination. 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 (including 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.

Section 27.12.045, Review authority requirements, is amended to read as follows:

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 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 ~~through buffer averaging or variance, 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.
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 certificates).
- (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 public about other required permits for any development proposal within designated frequently flooded areas.
- (11) Coordinate review of critical area permit approvals with other known agencies of jurisdiction as required under Chapter [26.10](#) CCC, Consolidated Development Permit Process Code, and Chapter [27.01](#) CCC, 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 Chapter 26.10 CCC, Consolidated Development Permit Process Code.

Section 27.12.050, Official designation of critical areas, is amended to read as follows:

The location and extent of critical areas shall be designated by Clallam County based upon best available information from qualified professional sources and incorporated on the County's Critical Areas Map. This map shall be made. Clallam County shall develop, and make available to the public, ~~maps or other data bases, as appropriate, which~~ showing the location, extent, and classification of regulated critical areas as accurately as feasible. The 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 as well.

Critical areas shall not include those lands where 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~~ certified wetland professional as described in section 27.12.210, 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 two 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 Fish 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.

Section 27.12.055, Enforcement, is amended to read as follows:

(1) A violation is:

- (a) Any action or omission that violates any of the provisions of this chapter; or
- (b) Any action or omission that violates any of the provisions of any mitigation plan, habitat management plan, certificate of compliance, or other special report prepared pursuant to this chapter and approved by the review authority as part of any certificate of compliance, variance, reasonable use exception approval, or as a part of any Type I, II, or III permit issued under Chapter 26.10 CCC.

(2) A violation of the provisions of this chapter shall constitute a civil violation subject to a monetary penalty as well as prosecution as a misdemeanor. Conviction of a violation or payment of a penalty does not relieve a violator from compliance with this chapter.

(3) A violation of the provisions of this chapter is hereby determined to be detrimental to the public health, safety, and environment and is hereby declared to be a public nuisance, subject to prevention, removal, or abatement at the expense of the person(s) creating, causing, or committing such violation, and subject to the recording of a lien for such expenses against the property where the public nuisance is located, with such lien to be of equal priority with State, County, and municipal taxes.

(4) Violations of the provisions of this chapter are subject to the enforcement and penalty provisions contained in Chapter 20 Code of Clallam County, except to the extent preempted by State or federal law or by any voluntary enforcement and penalty provisions contained in this chapter.

(5) Any person subject to this chapter who violates any provision of this chapter or the provisions of a permit 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.

Clallam County shall not issue any permit, license or other development approval on a development proposal subject to an enforcement order under this section; provided, that Clallam County may issue such permits to rectify or correct enforcement orders.

Section 27.12.060, Warning and disclaimer, is amended to read as follows:

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 flood protection 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.

Section 27.12.065, Severability, is amended to read as follows:

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

Section 27.12.070, Conflict, is amended to read as follows:

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

Section 27.12.200, Applicability and purpose, is amended to read as follows:

— 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, storm water 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.

Section 27.12.205, Regulated uses and activities, is amended to read as follows:

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

- (1) A certificate of compliance if proposed within 200 feet of a regulated wetland consistent with Part Seven of this chapter; or
- (2) A variance consistent with Part Seven of this chapter if proposed within a regulated wetland or buffer; or
- (3) A variance consistent with Part Seven of this chapter if the standards and requirements cannot be met.

Section 27.12.210, Classification and designation, is amended to read as follows:

Regulated wWetlands 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 wW**etlands 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 nonwetland sites, including, but not limited to: irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape

amenities, or those wetlands created after July 1, 1990 (adoption date of Chapter 36.70A RCW, Growth Management Act), that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas to as mitigation the conversion of wetlands, and wetland modified for approved land use activities shall be considered as regulated wetlands.

The primary purpose of wetland regulations is to achieve a goal of no net loss of wetland function, value, and acreage. Beneficial functions performed by wetlands include, but are not limited to: providing food, breeding, nesting and/or rearing habitat for fish and wildlife; providing habitat for endangered, threatened and sensitive species; recharging and discharging ground water; contributing to stream flow during low flow periods; stabilizing stream banks and shorelines; storing storm and floodwaters to reduce flooding and erosion; and improving water quality through biofiltration, absorption, and the retention and transformation of sediments, nutrients, and toxicants.

Where development is proposed the wetland shall be delineated and rated in accordance with this chapter by a qualified wetland professional that meets the following criteria:

(a) A Bachelor of Science or Bachelor of Arts or equivalent degree in hydrology, soil science, botany, ecology, resource management, or related field, or four years of full-time work experience as a wetland professional may substitute for a degree, and

(b) At least two additional years of full-time work experience as a wetland professional; including delineating wetlands, preparing wetland reports, conducting function assessments, and developing and implementing mitigation plans, and

(c) Completion of additional wetland-specific training programs. This could include a more comprehensive program such as the University of Washington Wetland Science and Management Certificate Program or individual workshops on topics such as wetland delineation, function assessment, mitigation design, hydrophytic plant or hydric soil identification. A person certified as a Professional Wetland Scientist through the Society of Wetland Scientists professional certification program meets the above criteria.

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 subsections (2)(a) through (2)(i) of this section 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 (2)(a) of this section for each wetland.

————— (c) *Habitat Size*. Calculate the total wetland acreage and acreage of each individual habitat type identified in subsection (2)(a) of this section 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, CCC Title 33, 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, CCC Title 33, designated as public or commercial forest lands;

————— (v) Type 1–4 aquatic habitat conservation areas;

————— (vi) Wetlands totaling twenty (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

Hydrology Type*	Landscape Position	Water Source**	Water Output*
Type 1	Shallow soils formed on glacial till on hillsides	Perched	Discharges to stream

Hydrology Type*	Landscape Position	Water Source**	Water Output*
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 nonwetland 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/delay 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 ground water recharge to aquifers. Although some wetlands do provide a significant amount of ground water 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, ground water 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 ground water 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

Wetland Hydrology Types												
Hydrologic Function	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 and channel maintenance	L	H	N	L***	H	H	H	N	H	N	L	N

Class III wetlands are those wetlands classified as:

- Wetlands less than twenty (20) acres which do not satisfy Class I, II, or IV criteria.

Class IV wetlands are those wetlands classified as:

- Hydrologically isolated, less than one 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 (2) acres, and dominated by plant cover composed of non-native plant species.

Section 27.12.212810, Wetland Delineation and Rating boundary survey and ranking, is amended to read as follows:

(1) When feasible, an evaluation of any regulated wetland is necessary when there is a proposed development or activity to be located within 200 feet of the wetland. A delineation survey of the regulated wetland boundary and distance from development shall be determined using the 1987 U.S. Army Corps of Engineers Wetland Delineation Manual within the Regional Supplement for Western Mountains, Valleys, and Coast Region. 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 Chapter 3.30 CCC.

(2) The Washington State Delineation Manual (Chapter 90.58 RCW) 2014 Washington State Wetland Rating System for Western Washington Version 2, as amended, shall be used to rate and categorize identify and delineate regulated wetland boundaries. The Rating Summary of the wetland shall be used to determine the protection standards defined in 27.12.215 Wetland Buffers below.

(3) The wetland boundary shall be identified and delineated at the applicant's expense by a qualified professional as outlined above, 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 CCC Title 29.

(4) The delineation and rating shall be reviewed and approved by DCD. The approved report shall be valid for five-years from the date of the report. Fees for the report review shall be collected as specified in Chapter 5.100 CCC. 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.

Section 27.12.215, Protection standards for regulated wetlands, is amended to read as follows:

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) 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 horizontally from the regulated wetland edge as marked in the field.

Table 5. Wetland Buffers

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

Wetland Buffers for Low Impact Land Uses

<u>Wetland Category</u>	<u>Wetland Characteristics Habitat (H)</u>	<u>Standard Buffer Width</u>
<u>Category I (Total of scores for all functions is 23 points or having "special characteristics" identified in the rating form)</u>	<u>High level of habitat function (H score 8-9 points)</u>	<u>150 feet</u>
	<u>Bogs or wetlands of high conservation value</u>	<u>125 feet</u>
	<u>Estuarine and coastal lagoons</u>	<u>100 feet</u>
	<u>Moderate level of habitat function (H score 6-7 points)</u>	<u>75 feet</u>
	<u>Not meeting any above characteristics</u>	<u>50 feet</u>
<u>Category II (Total of scores for all functions is 20-22 point or having "special characteristics" identified in the rating form)</u>	<u>High level of habitat function (H score 8-9 points)</u>	<u>150 feet</u>
	<u>Estuarine</u>	<u>75 feet</u>
	<u>Moderate level of habitat function (H score 6-7 points)</u>	<u>75 feet</u>
	<u>Not meeting any above characteristics</u>	<u>50 feet</u>
<u>Category III (Total of scores for all functions is 16-19 points)</u>	<u>Moderate level of habitat function (H score 6-7 points)</u>	<u>75 feet</u>
	<u>Low habitat function (H score 3-5 points)</u>	<u>40 feet</u>
<u>Category IV (total scores for all functions is less than 16 points)</u>	<u>Score for all basic functions is less than 16 points</u>	<u>25 feet</u>

Wetland Buffers for Moderate Impact Land Uses

<u>Wetland Category</u>	<u>Wetland Characteristics Habitat (H)</u>	<u>Standard Buffer Width</u>
<u>Category I (total of scores for all functions is 23 points or having "special characteristics identified in the rating form")</u>	<u>High level of habitat function (H score 8-9 points)</u>	<u>225 feet</u>
	<u>Bogs or wetlands of high conservation value</u>	<u>190 feet</u>
	<u>Estuarine and coastal lagoons</u>	<u>150 feet</u>
	<u>Moderate level of habitat function (H score 6-7 points)</u>	<u>110 feet</u>
	<u>Not meeting any above characteristics</u>	<u>75 feet</u>
<u>Category II (Total of scores for all functions is 20-22 point or having "special characteristics" identified in the rating form)</u>	<u>High level of habitat function (H score 8-9 points)</u>	<u>225 feet</u>
	<u>Estuarine</u>	<u>110 feet</u>
	<u>Moderate level of habitat function (H score 6-7 points)</u>	<u>110 feet</u>
	<u>Not meeting any above characteristics</u>	<u>75 feet</u>
<u>Category III (Total of scores for all functions is 16-19 points)</u>	<u>Moderate level of habitat function (H score 6-7 points)</u>	<u>110 feet</u>
	<u>Low habitat function (H score 3-5 points)</u>	<u>60 feet</u>
<u>Category IV (total scores for all functions is less than 16 points)</u>	<u>Score for all basic functions is less than 16 points</u>	<u>40 feet</u>

Wetland Buffers for High Impact Land Uses

<u>Wetland Category</u>	<u>Wetland Characteristics Habitat (H)</u>	<u>Standard Buffer Width</u>
<u>Category I (total of scores for all functions is 23 points or having "special characteristics identified in the rating form")</u>	<u>High level of habitat function (H score 8-9 points)</u>	<u>300 feet</u>
	<u>Bogs or wetlands of high conservation value</u>	<u>250 feet</u>
	<u>Estuarine and coastal lagoons</u>	<u>200 feet</u>
	<u>Moderate level of habitat function (H score 6-7 points)</u>	<u>150 feet</u>
	<u>Not meeting any above characteristics</u>	<u>100 feet</u>
<u>Category II (Total of scores for all functions is 20-22 point or having "special characteristics" identified in the rating form)</u>	<u>High level of habitat function (H score 8-9 points)</u>	<u>300 feet</u>
	<u>Estuarine</u>	<u>150 feet</u>
	<u>Moderate level of habitat function (H score 6-7 points)</u>	<u>100 feet</u>
	<u>Not meeting any above characteristics</u>	<u>100 feet</u>
<u>Category III (Total of scores for all functions is 16-19 points)</u>	<u>Moderate level of habitat function (H score 6-7 points)</u>	<u>150 feet</u>

	<u>Low habitat function (H score 3-4 points)</u>	<u>80 feet</u>
<u>Category IV (total scores for all functions is less than 16 points)</u>	<u>Score for all basic functions is less than 16 points</u>	<u>50 feet</u>

(b) Required Measures to Minimize Impacts

<u>Lights</u>	• <u>Direct lights away from wetland</u>
<u>Noise</u>	• <u>Locate activity that generates noise away from wetland</u> • <u>If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source</u> • <u>For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10-foot heavily vegetated buffer strip immediately adjacent to the outer wetland buffer</u>
<u>Toxic runoff</u>	• <u>Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered</u> • <u>Establish covenants limiting use of pesticides and herbicides within 150 feet of wetland</u> • <u>Apply integrated pest management</u>
<u>Stormwater runoff</u>	• <u>Retrofit stormwater detention and treatment for roads and existing adjacent development to the wetland</u> • <u>Prevent channelized flow from lawns that directly enters the buffer</u> • <u>Use low intensity development techniques (for more information refer to the drainage ordinance and manual)</u>
<u>Change in water regime</u>	• <u>Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns</u>
<u>Pets and human disturbance</u>	• <u>Use privacy fencing OR plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion</u> • <u>Place wetland and its buffer in a separate tract or protect with a conservation easement</u>
<u>Dust</u>	• <u>Use best management practices to control dust</u>

(cb) Buffers that are in their natural state should not be altered and should remain in their natural condition, and enhanced whenever possible. Buffers should be well vegetated with native vegetation and species appropriate to the region, and shall not include plants on the County's noxious weed list.

(de) 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 and values. 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.

(e) When a wetland buffer contains an existing legally established public or private (does not include driveways) road, the County may allow development on the landward side of the road; provided, that the development will not have an adverse impact to the wetland. Likewise, in an existing subdivision where there is a legally established residence on a developed lot between the wetland and the proposed lot for development, the buffer shall not extend onto the undeveloped lot. The County shall consider the hydrologic, geologic, and/or biological habitat connection potential and the extent and permanence of the buffer interruption.

(fd) Buffer Averaging or Variance Reduction. Buffer widths may be modified or reduced by the review authority through buffer averaging or a variance approval. The buffer at its narrowest point shall never be less than either 75 percent of the required width or 75 feet for Category I and II, 50 feet for Category II, and 25 feet for Category IV, whichever is greater. Such requests shall be processed in accordance with Part Seven of this chapter; ~~provided, that buffers cannot be reduced to less than fifty (50) feet at any point except through buffer averaging or a reasonable use exception pursuant to Part Seven of this chapter.~~ Mitigation for buffer averaging, ~~or~~ or reasonable use exception shall include a written plan for the restoration of degraded wetland and/or associated buffers in order to increase the ecological function of the wetland.

(ge) 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 fifteen (15) percent; ~~Enhancement of a minimally vegetated buffer to restore buffer functions may be done in lieu of a buffer increase, 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 (5) acres (gross density), active recreation, and commercial and industrial land uses.~~

(hf) Any wetland that is created, restored, or enhanced as compensation for approved regulated wetland destruction shall have the required standard buffer required for the category of the created, restored, or enhanced wetland per the Wetland Buffer Table.

(ig) Hazard Tree Removal. Where a threat to human life or property is demonstrated by a report from an arborist or forester, certified by the International Society of Arboriculture (ISA) or American Society of Consulting Arborists (ASCA); or has qualified tree risk assessment training through the Tree Risk Assessment Qualifications (TRAQ) or equivalent; the Administrator may allow the falling of a danger or hazard tree subject to the following criteria: (i) tree removal is the minimum necessary to balance the protection of the critical area and its buffer with protection of life and property; and (ii) planting of a tree as a replacement, and planted in a 2:1 replacement ratio to account for replaced trees that do not survive, or shrubs when a certified arborist determines replanting a tree

will create future hazard scenario; and (iv) where reasonable and safe leaving hazard trees as snags and logs for habitat and/or woody debris recruitment, with preservation of snags as priority over logs may be required to assure habitat protection. The 2:1 tree replacement ratio shall be applied to ensure no net loss of critical area function.

(2) *Critical Area Delineation and 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 regulation wetland. 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 markers identification of boundaries shall consist of survey flags or equivalent markers composed of one-half (1/2) inch galvanized iron pipe or equivalent monument, at least eighteen (18) inches long, and daylight above the surface at least one inch. Field markers shall be spaced at a minimum of every fifty (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 project. 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.

— (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 eriosote, arsenic or copper.

(34) *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 and recommend a permanent wildlife passable fence established at the wetland buffer for protection. This requirement may be waived by the review authority if an alternative to fencing which achieves the same objective is proposed and approved.

(45) *Forest Practices Class I 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 nonforest uses shall have all local permits withheld for a period of six (6) years, as authorized by the Washington State Forest Practices Act (Chapter 76.09 RCW). 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 nonforest 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 nonforest 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.

(56) *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 Chapter 27.14 CCC Stormwater Management 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.

(67) *Land Divisions.* All proposed divisions of land which contain regulated wetlands shall comply with the following procedures and development standards:

(a) Only fifty (50) percent of regulated wetlands with permanent open water shall be permitted for use in calculating minimum lot area as required by CCC 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 subsection (7)(c) of this section, 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 CCC 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 as 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 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.

(78) *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 on existing and ongoing agricultural lands 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 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: (i) a notice to title of the presence of the critical area or buffer, (ii) a statement as to the applicability of this chapter to the property, and (iii) 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.

(810) *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) Storm water 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.

(914) *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 shall obtain a certificate of compliance or variance. Any new road or bridge construction proposed within a critical area or associated buffer requires a variance approval pursuant to Part Seven of this chapter and shall also comply with the following minimum development standards, as applicable:

(a) It shall also be shown that no other reasonable practicable alternative exists and the road or street crossing serves multiple properties, where 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) Storm water 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.

(92) *Signs.* Prior 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.

(113) *Storm Water Management.* The following storm water management standards are required, as they apply:

(a) New development shall utilize best management practices to minimize storm water quantity and quality impacts to critical areas, both during and following construction. This includes locating discharge points as far from the wetland as feasible.

(b) Storm water 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 storm water 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) Storm water 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 ~~hazardous~~ dangerous” wastes under Chapter 173-303 WAC (regardless of quantity) shall not allow direct precipitation or storm water runoff to contact such substances where stored on-site.

(g) Compliance with the Clallam County storm water 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 one-half (1/2) inch galvanized iron pipe or equivalent monument, at least eighteen (18) inches long, and daylight above the surface at least one inch. Field markers shall be spaced at a minimum of every fifty (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.~~

~~(125) Trail 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 pedestrian bridges and viewing platforms, may be allowed in wetlands and associated buffers through the issuance of a certificate of compliance pursuant to chapter 173, subject to the following standards:~~

~~(a) Trails and related facilities shall, to the extent feasible, be placed on existing road grade, utility corridors, or other previously disturbed areas. They shall be placed to avoid removal of significant, old growth, or mature trees;~~

~~(b) Trails should be generally parallel to the perimeter of the wetland, located only in the outer 25% of the buffer and shall have no adverse impact on water quality;~~

~~(c) 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 three (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 five ten (510) feet in width; except for regional public trails which shall be a maximum of fourteen (14) feet whereby design considerations are made to minimize impacts to critical areas and buffers;~~

~~(de) 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;~~

(ed) Trails shall be limited to nonmotorized use;

(fe) Trail surfacing shall be comprised of natural pervious materials (e.g., gravel, rock, bark) and that permanent surfacing materials (e.g., bituminous asphalt, ~~or concrete, gravel~~) requires a variance approval pursuant to Part Seven of this chapter; except for regional public trails may have up to ten (10) feet of permanent surfacing materials. Any construction materials shall not significantly alter the existing drainage or negatively affect the critical area;

(gf) All proposals shall also submit a mitigation plan pursuant to Part Eight of this chapter.

(136) *Utilities.* Placement of utilities within regulated wetland and associated buffers may be allowed through a variance approval in accordance with Part Seven of this chapter, 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 buffer:

(i) New utilities shall use existing utility corridors whenever possible.

(ii) New utilities should be located to minimize impacts to the wetland and wetland buffer by crossing through the narrowest point and/or locating utilities in the outer portion of the buffer.

(iii) New utility corridors shall be aligned where possible to avoid cutting trees greater than twelve (12) inches in diameter at four and one-half (4.5) feet measured on the uphill side.

(iv) 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 growth constraints, and appropriate steps shall be taken to ensure that such vegetation survive.

(147) *Zoning and Comprehensive Plan Amendment.* Prior to taking action on a zoning or comprehensive plan map amendment, the applicant shall complete identify all critical areas and priority habitats 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 Chapter 27.01 CCC, Clallam County Environmental Policy. Findings of such review may be used as 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 Fish and Wildlife Habitat Conservation Areas

Section 27.12.300, Applicability and purpose, is amended to read as follows:

~~—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, storm water 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.

Section 27.12.305, Regulated uses and activities, is amended to read as follows:

— Applicability of this chapter is set forth in Part One of this chapter. 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:

- (1) 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 of this chapter; or
- (2) A variance consistent with Part Seven of this chapter if proposed within an aquatic or Class I or II wildlife habitat conservation areas or associated buffer; or
- (3) A variance consistent with Part Seven of this chapter if the standards and requirements cannot be met.

Section 27.12.310, Classification and designation, is amended to read as follows:

(1) *Classification.* The following classifications shall be used in designating aquatic and wildlife habitat conservation areas:

(a) *Aquatic Fish and Wildlife Habitat Conservation Areas.* Includes those streams and other water bodies identified by the Washington Department of Natural Resources Forest Practices Water Typing, 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 Chapter 90.58 RCW, Shoreline Management Act, as now or hereafter amended, and those streams, lakes and wetlands which meet the criteria for Type F, Np, and Ns, and also non-shoreline ponds and lakes Type 1—5 waters as defined herein. Type S, Shorelines, are regulated by CCC 35, Shoreline Master Program.

<u>“F” – Fish</u>	<u>Streams and waterbodies that are known to be used by fish or meet the physical criteria to be potentially used by fish. Fish streams may or may not have flowing water all year; they may be perennial or seasonal.</u>
<u>“Np” – Non-Fish Perennial</u>	<u>Streams that have flow year-round and may have spatially intermittent dry reaches downstream of perennial flow during normal rainfall years. Type Np streams do not meet the default physical criteria of a Type F stream. Type Np also includes streams that have been proven not to contain fish or fish habitat using methods described in Forest Practices Board Manual Section 23.</u>
<u>“Ns” – Non-Fish Season</u>	<u>Streams that do not have surface flow during at least some portion of the year, and do not meet the physical criteria of a Type F stream, and are connected to a higher order typed water, such as Type Np or Type F.</u>

— 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 Fish and Wildlife Habitat Conservation Areas~~. 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 ~~(such as the Washington Department of Fish and Wildlife's (WDFW) Priority Habitat Species (PHS) program)~~ and federal public agencies having jurisdiction over such species. ~~Habitats may be mapped or documented in databases available to Clallam County and its residents, identified by County staff, consulting biologists, or other resources.~~

(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, ~~or those species listed on the Department of Fish and Wildlife's Priority Habitat and Species map.~~

~~(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, CCC Title 31.~~

(2) ~~Designation~~ All ~~land~~ and ~~shorelands~~ classified as ~~aquatic fish~~ and wildlife habitat conservation areas are hereby designated as ~~fish 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 relevant 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 area resource map ~~portfolio~~ as guidance in identifying the presence of ~~fish aquatic~~ and wildlife habitat conservation areas ~~and refer to other agency maps.~~ These maps may be based on the following information sources:

(a) Department of Wildlife ~~Non-Game and~~ Priority Habitat and Species ~~Map and~~ Database;

~~(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;~~

~~(be) National Wetlands Inventory;~~

~~(cf) Department of Natural Resources Washington Natural Heritage Program Mapping Waters of the State;~~

~~(g) Coastal Zone Atlas of Clallam County;~~

~~(dh) Limiting Factors Analyses for Anadromous Fish and Habitat Restoration Plans;~~

~~(i) Watershed Plans and Analyses;~~

Section 27.12.315, Protection standards for aquatic fish and wildlife habitat conservation areas, is amended to read as follows:

Those regulated uses identified in this subsection within the jurisdiction of designated aquatic fish and wildlife habitat conservation areas shall comply with the performance standards outlined in this section to meet no net loss of functions and values for these areas:

(1) Buffers.

(a) *Buffer Width.* Except as otherwise allowed, buffers shall be maintained along all fish and wildlife aquatic habitat conservation areas as noted in Table 6 in the chart below, or where the landowner can provide evidence that the tree-height potential is less than the standard buffer noted. 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 horizontally 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 storm waters, 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

<u>Designation</u>	<u>Buffer</u>
<u>Shoreline</u>	<u>Equivalent to the setback set by the Shoreline Master Program.</u>
<u>Fs</u>	<u>150 feet</u>
<u>Np and Ns</u>	<u>100 feet</u>
<u>Non-shoreline natural ponds and lakes under 20 acres</u>	<u>100 feet*</u>

*Where lakes/ponds have associated wetlands, a wetland delineation and rating may be required in accordance with CCC 27.12 Wetlands section. The greater of the buffers shall apply.

Designation	Buffer Width for Major New Development and Land Divisions*	Buffer Width for Minor New Development**
Aquatic Habitat Conservation Area		

Designation	Buffer Width for Major New Development and Land Divisions*	Buffer Width for Minor New Development**
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***
Type 2 Waters	150 feet	65 feet
Type 3 Waters	100 feet	60 feet
Type 4 Waters	50 feet	50 feet****
Type 5 Waters	50 feet	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 seventy-five (75) feet.

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

(b) Buffers that remain in their natural state should not be diminished ~~altered~~ and should remain in their natural condition, and enhanced and restored whenever possible. Buffers should be well vegetated with species appropriate to the region and native vegetation, and shall not include plants on the County's noxious weed list.

(c) Aquatic Fish and Wildlife 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 and values. ~~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, by means of a restoration plan prepared by a qualified professional. ~~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) Interrupted Buffer. The buffers shown above shall apply to all parcels; provided, that where there is a legally established, public or private (does not include driveways) roadway present, the buffer will end on the waterward side of the road and will not extend to the areas landward of the road. Likewise, in an existing subdivision where there is legally established residences on a developed lot waterward of an undeveloped lot, the buffer shall not extend onto the undeveloped lot. The County shall consider the hydrologic, geologic, and/or biological habitat connection potential and the extent and permanence of the buffer interruption.

(e) Buffer Averaging or Variance 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 of this chapter; provided, that buffers cannot be reduced to less than fifty (50) feet at any point except through buffer averaging or a reasonable use exception pursuant to Part Seven of this chapter. 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 and shall result in no net loss of ecological function. The net buffer area shall not be reduced within the affected stream segment.

(f) Buffer widths for Wildlife Habitat Conservation Areas will be determined through a mandatory habitat management plan (HMP). 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 The habitat management plan shall be provided indicates a larger buffer is necessary to protect habitat values of such species, or is located within landslide or erosion hazard area.

(f) Shorelines of the State. All development subject to the Shoreline Management Act, Chapter 90.58 RCW 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 by a report from a qualified arborist or forester, such as an arborist certified by the International Society of Arboriculture (ISA) and American Society of Consulting Arborists (ASCA), the Administrator may allow the felling of a dangerous hazard tree subject to the following criteria: (i) tree removal is the minimum necessary to balance protection of the critical area and its buffer with protection of life and property; and (ii) planting of a tree as a replacement, and planted in a 2:1 replacement ratio to account for replaced trees that do not survive, or shrubs when a certified arborist determines replanting a tree will create future hazard scenarios; and (iv) where reasonable and safe leaving hazard trees as snags and logs for habitat and/or woody debris recruitment may be required to assure habitat protection.

(2) Critical Area Delineation and 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 fish and wildlife habitat conservation area 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 markers identification of boundaries shall consist of survey flags or equivalent markers composed of one-half (1/2) inch galvanized iron pipe or equivalent monument, at least eighteen (18) inches long, and daylight above the surface at least one inch. Field markers shall be spaced at a minimum of every fifty (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.

(3) Permanent signage. The critical area buffer shall be permanently marked with a sign visible to the land owner and guests following development of the parcel or upon remediation of a violation. The sign shall indicate that the area is protected to maintain critical area functions and values and to consult the Planning Department for restrictions. The sign shall be maintained in perpetuity.

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, regional watershed management plans, 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/Maintenance/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 equipment that are 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. Allowed 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.

Fencing. Clallam County shall require that all buffer areas for Type F, Np, and Ns 4—3 aquatic fish and wildlife 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) RCW 77.55.181 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.~~

(ab) 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.

(be) 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 in this chapter, CCC Title 35, Clallam County Shoreline Master Program (SMP), and RCW 90.58.147. Such projects are subject to violation and enforcement procedures set forth by such 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 and 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 which do not meet the standards of this chapter and are later converted to nonforest uses shall have all local permits withdrawn for a period of six (6) years, as authorized by the Washington State Forest Practices Act (Chapter 76.09 RCW). This moratorium shall run with the land and be duly recorded in the public records. For the purpose of implementing this policy, the conversion of land to nonforest 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 nonforest 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, and 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 and will require a State Environmental Protection Act (SEPA) determination.

(8) *Land Disturbing Activities*. Land disturbing activities located within the jurisdiction of critical areas shall obtain a certificate of compliance and provide for storm water quality and quantity control, including preparation of a temporary erosion and sediment control plan and permanent drainage plan, consistent with the Chapter 27.14 CCC Stormwater Management 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 ~~o~~Ordinary ~~h~~High ~~w~~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 CCC Title 33, Zoning Code.

(c) Land divisions within ~~F Type I 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 CCC 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 fish and wildlife 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 on existing and ongoing agricultural lands is limited and impacts are controlled through approval and implementation of a mitigation plan. Large hooved livestock must be fenced out of the buffer of all wetland, streams, and geohazard areas. 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: (a) a notice to title of the presence of the critical area or buffer, (b) a statement as to the applicability of this chapter to the property, and (c) 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.~~

(112) *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)~~ RCW 77.55.181 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 or approved variance.

(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 wood 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, geology and biological functions.

The following criteria shall be met for all stabilization structures:

- (A) Avoidance or relocation of a structure for improvement that needs protection has been reviewed and is not feasible or practical;
- (B) The action is the minimum necessary to meet the desired goals;
- (C) Any adverse impacts have been minimized in accordance with Part [Eight](#) of this chapter;

- (D) The public need, if any, for a stabilization structure has been identified;
- (E) The state's interests in adjacent resources is protected and maintained;
- (F) 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;

The proposal is not located within a channel meander hazard.

(ii) All stabilization structures shall minimize any potential negative impacts to the natural functions of the shoreline and shall meet the following minimum standards:

- (A) The placement 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 bioengineering when 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 ~~Np and Ns Type II—V~~ streams and is required on ~~F Type-I~~ 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 shall be 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 ~~the~~ 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 ~~and~~ 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, bicycle crossings, viewing points, etc.;

(c) The road or street repair is the minimum necessary to provide safe roads and streets;

(d) Storm water and drainage impacts have been evaluated and have been determined to be consistent with this chapter;

(e) Deckings, gutters and appurtenances shall not contain petroleum-based treatments or preservatives including creosote, arsenic or copper and

(f) Bridges shall be required for ~~Type-I F~~ 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 fish and wildlife habitat conservation areas ~~and shall follow the Washington Department of Fish and Wildlife Water Crossing Design Guidelines, 2013, as amended and can use as reference the Integrated Streambank Protection Guidelines (ISPG) and Incorporating Climate Change into the Design of Water Crossing Structures: Final Project Report;~~

(14) *Roads and Bridges – New Construction.* ~~Any n~~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 shall~~ obtain a certificate of compliance ~~or variance. Any new road or bridge construction proposed within a critical area or associated buffer requires a variance approval pursuant to Part Seven of this chapter~~ 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 an 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) Storm water and drainage impacts have been evaluated and have been determined to be consistent with this chapter;

(f) Crossings in streams with fish salmonid spawning areas shall be located to minimize impact on the spawning areas;

(g) Deckings, abutments and piers shall not contain or be treated with wood-based treatments or preservatives, including creosote, arsenic or copper; and

(h) Bridges shall be required for F 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 and shall follow the Washington Department of Fish and Wildlife Water Crossing Design Guidelines, 2013, as amended and can use as reference the Integrated Streambank Protection Guidelines (ISPG) and Incorporating Climate Change into the Design of Water Crossing Structures: Final Project Report;

(15) *Signs.* Prior to issuance of permits for major 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 half (1/2) inch galvanized iron pipe or equivalent monument, at least eighteen

(18) inches long, and shall be set into the surface at least one inch. Field markers shall be spaced at a minimum of every fifty (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 three (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 ~~ten (10)~~ five (5) feet in width; except for regional public trails which shall be a maximum of fourteen (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 nonmotorized use;

(e) Trail surfacing shall be comprised of ~~natural pervious~~ materials (e.g., ~~gravel, rock,~~ bark) and that permanent surfacing materials (e.g., bituminous asphalt, ~~or concrete gravel~~) require a variance approval pursuant to Part Seven of this chapter; except for regional public trails may have up to ten (10) feet 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~~ of this chapter.

(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 structures, 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 unapproved location, shall not be considered as replacement or alteration and shall be subject to the requirements for Utilities – New Construction, as set forth in subsection (19) of this section;

(e) Bridges shall not be required for Type ~~F 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;

(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 of this chapter, subject to the following standards:

(a) New utility transmission facilities which carry oil, gas or any other hazardous substances are prohibited within a regulated fish and wildlife habitat conservation area and critical area 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 fish and wildlife habitat conservation area or buffer:

(i) New utilities shall use existing utility corridors whenever possible.

(ii) New utilities should be located to minimize impacts to the fish and wildlife conservation area and critical area buffer by crossing through the narrowest point and/or locating utilities in the outer portion of the buffer.

(iii) New utility corridors shall be aligned when possible to avoid cutting trees greater than twelve (12) inches in diameter at four and one-half (4.5) feet measured on the uphill side.

(iviii) 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.

(20) *Zoning or Comprehensive Plan Amendment.* Prior to taking action on a zoning or comprehensive plan map amendment, the applicant shall identify all critical areas and priority complete an environmental assessment that habitats that shall be provided 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 Chapter 27.01 CCC, Clallam County Environmental Policy. 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.

(21) *Storm Water Management.* The following storm water management standards are required, as they apply:

(a) New development shall utilize best management practices to minimize storm water quantity and quality impacts to critical areas both during and following construction. This includes locating discharge points as far from fish and wildlife habitat conservation area as feasible.

(b) Storm water 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 storm water runoff to contact such substances where stored on-site.

(d) Compliance with Clallam County storm water regulations is required, as applicable.

(2) *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 I 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.

Section 27.12.320, Protection standards for ~~Class I~~ Wildlife hHabitat eConservation aAreas, is amended to read as follows:

(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 **review filing** and approval of a habitat management plan as specified in Part Eight of this chapter. In the case of bald eagles, an approved bald eagle management plan **reviewed and approved** by the **U.S. Fish and Wildlife Service 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. An 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 range 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 of this chapter. An 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 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 **fish and wildlife habitat conservation areas wetlands**. All forest practice regulations 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 nonforest uses shall have all local permits withheld for a period of six years, as authorized by the Washington State Forest Practices Act (Chapter 76.09 RCW). This determination 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 nonforest 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 nonforest 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. 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 **and will require a State Environmental Protection Act (SEPA) determination**.

(3) *Land Disturbing Activities*. Land disturbing activities located within the jurisdiction of critical areas shall obtain a certificate of compliance and provide for storm water quality and quantity control, including preparation of a temporary erosion and sediment control plan and

permanent drainage plan, consistent with Chapter 27.14 CCC Stormwater Management 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: (a) a notice to title of the presence of the critical area or buffer, (b) a statement as to the applicability of this chapter to the property, and (c) 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.~~

~~(45) *Zoning or Comprehensive Plan Amendment.* Prior to taking action on a zoning or comprehensive plan map amendment, the applicant shall identify all critical areas and priority habitats 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; 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 Chapter 27.01 CCC. Clallam County Environmental Policy. Findings of such review may be used to confirm 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.~~

~~Section 27.12.325, Protection standards for Class II wildlife habitat conservation areas, is amended to read as follows:~~

~~— All development within the jurisdiction of designated Class II wildlife habitat conservation areas shall adhere to the following standards:~~

~~(1) All new major development within Class II wildlife habitat conservation areas may require the filing of a habitat management plan (HMP). An 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.~~

~~(2) *Land Disturbing Activities.* Land disturbing activities located within the jurisdiction of critical areas shall obtain a certificate of compliance and provide for storm water 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 Chapter 27.01 CCC, Clallam County Environmental Policy. 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

Section 27.12.400, Applicability and purpose, is amended to read as follows:

— 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.

Section 27.12.405, Regulated uses and activities, is amended to read as follows:

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

- (1) A certificate of compliance if proposed within the jurisdiction of landslide, seismic or erosion hazard consistent with Part Seven of this chapter; or
- (2) A variance consistent with Part Seven of this chapter if proposed within a landslide hazard or its associated buffer; or
- (3) A variance consistent with Part Seven of this chapter if the standards and requirements cannot be met.

Section 27.12.410, Classification and designation, is amended to read as follows:

(1) *Classification.* The following definitions and terms shall be used in classifying geologically hazardous areas:

(i) *Landslide Hazard Areas.* Lands potentially subject to mass movement due to a combination of geomorphic, 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. They include areas susceptible to landslide because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors.

(ii) Glaciolacustrine silt and clays on terraces.

(iii) Slopes of fifteen (15) percent 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) Areas that have shown movement during the Holocene epoch (from 10,000 years ago to the present) or which are underlain or covered by mass wastage debris of this epoch.

(v) 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.

(vi) Planar slope forms sixty-five (65) percent or steeper with vertical relief of ten (10) or more feet, except areas composed of consolidated rock.

(vii) Concave slope forms twenty-five (25) percent or steeper with vertical relief of ten (10) or more feet, except areas composed of consolidated rock.

(viii) 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) Areas potentially unstable as a result of rapid stream incision, stream bank erosion,~~

~~—(x) Areas that show evidence of or are at risk from snow avalanches,~~

~~—(xi) Any area with a slope of 40 percent or steeper and with a vertical relief of 10 or more feet except areas composed of bedrock. A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least 10 feet of vertical relief,~~

~~—(xii) Ravines with a vertical relief of ten (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.~~

(xiii) Any area located on or adjacent to a river, stream, or alluvial fan or debris flow, presently or potentially subject to inundation by debris or deposition of stream-transported sediments.

(ixii) Slopes that are parallel or subparallel 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.

Areas of ongoing erosion activity which causes accelerated erosion, sedimentation of critical areas, and threatens public health, safety, and welfare.

(iii) Any slope forms 40 percent or steeper with a vertical relief of ten (10) 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 ten (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.

(vi) Areas containing soils which, according to the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS) Soil Survey Program, may experience significant erosion.

(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 subsection (1)(c)(iii) of this section 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, or channel migration zones 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) Department of Natural Resources (DNR) GIS Portal;
- (b) Sweet Edwards/EMCOM Hazard Rating Maps;
- ~~(b) Coastal Zone Management Atlas;~~
- (c) Soil Survey of Clallam County;
- (d) U.S.G.S. Topographic Maps;
- (e) Aerial photos; and
- (f) Recent geologic events.

Section 27.12.415, Landslide hazard procedures standards, recommended to read as follows:

All development within the jurisdiction of designated landslide hazard areas shall provide a Geotechnical report and adhere to the following standards:

(1) *Buffers.*

(a) A minimum buffer of fifty (50) feet shall be established from the top, toe and all edges of landslide hazard areas for major and 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 both standards for the protection of aquatic habitat conservation areas. The standards for the protection of aquatic habitat conservation areas shall not be altered and should remain in their natural condition, and be enhanced whenever possible.

(c) The buffer may be reduced to not less than twenty (20) feet by the Administrator upon the submittal of a geotechnical report as specified in Part Eight of this chapter; provided further, that vegetation removal, including mature trees, within the buffer area that is reduced is kept to a minimum and a risk assessment is complete.

(d) Any buffer reduction to less than twenty (20) feet, or developments proposed within the landslide hazard areas shall require a reasonable use exception approval pursuant to Part Seven of this chapter, and shall require a geotechnical report as required by Part Eight of this chapter.

(e) *Hazard Tree Removal.* Where a threat to human life or property is demonstrated by a report from an arborist or forester certified by the International Society of Arboriculture (ISA) or American Society of Consulting Arborists (ASCA); or has qualified tree risk assessment training through the Tree Risk Assessment Qualifications (TRAQ) or equivalent, the Administrator may allow the falling of a danger or hazard tree subject to the following criteria: (i) tree removal is the minimum necessary to balance the protection of the critical area and its buffer with protection of life and property; and (ii) planting of a tree may be required to assure habitat protection as a replacement, and planted in a 2:1 replacement ratio to account for replaced tree that do not survive, or shrubs when a

certified arborist determines replanting a tree will create a future hazard scenario; and (iii) where reasonable and safe leaving hazard trees as snags and logs for habitat and/or woody debris recruitment, with preservation of snags as a priority over logs. The 2:1 tree replacement ratio shall be applied to ensure no net loss of critical area functions.

(f) Pre-existing lots or land divisions regulated by CCC 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 storm water 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 geologic 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 nonforest uses shall have all local permits withheld for a period of six (6) years, as authorized by the Washington State Forest Practices Act (Chapter 76.09 RCW). 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 nonforest 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 nonforest 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 for 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 shall 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.

(4) *Land Disturbing Activities.* Land disturbing activities located within the jurisdiction of critical areas shall obtain a certificate of compliance and provide for storm water quality and quantity control, including preparation of a temporary erosion and sediment control plan and permanent drainage plan, consistent with Chapter 27.14 CCC Stormwater Management, 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) *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 this chapter) 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 CCC 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: (a) a notice to title of the presence of the critical area or buffer; (b) a statement as to the applicability of this chapter to the property; and (c) 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 hazard area or associated buffer shall obtain a certificate of compliance and mitigation plan approval. Development in accordance with this chapter shall comply with the following minimum development standards, as applicable:

(a) Expansion or new construction of 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 and/or maintained road or street crossings should provide for other purposes, such as utility crossings, pedestrian crossings, viewings, viewing points, etc.;

(c) 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, treatments and piers shall not contain petroleum-based treatments or preservatives, including creosote, arsenic or copper; and

Bridges shall be required for ~~Shorelines 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](#) of this chapter 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) Storm water and drainage impacts have been evaluated and have been determined to be consistent with this chapter.

(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 one-half (1/2) inch galvanized iron pipe or equivalent monument at least eighteen (18) inches long, and daylight above the surface at least one inch. Field markers shall be placed at a minimum of every fifty (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 plans associated with the development proposal. Field stakes shall remain in place until any required. Field 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) Permanent signage. The critical area buffer shall be permanently marked with a sign visible to the landowner and guests following development of the parcel or upon remediation of a violation. The sign shall indicate that the area is protected to maintain critical area functions and values and to consult the Planning Department for restrictions. The sign shall be maintained in perpetuity.

(109) *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 buffer established for wetlands, fish aquatic habitat conservation areas, frequently flooded area, or landslide hazard areas through the issuance of a certificate of compliance pursuant to Chapter 17A.05, subject to the following standards:

Trails and trail-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 as the disturbed area, including that private trail surfaces for private use are a maximum of three (3) feet in width and other trails, either privately or publicly owned that allow public use (with or without fee) the trail surfaces shall be a maximum of ten (10) feet in width; except for regional public trails which shall be a maximum of fourteen (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 nonmotorized 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 of this chapter; except for regional public trails may have up to ten (10) feet

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](#) of this chapter;

(g) All proposals shall also submit a mitigation plan pursuant to Part [Eight](#) of this chapter.

(110) *Utilities*. Placement of utilities within landslide hazards and associated buffers may be allowed through a variance approval in accordance with Part [Seven](#) of this chapter, 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 whenever possible to avoid cutting trees greater than twelve (12) inches in diameter at four and one-half (4.5) 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.

(124) *Zoning or Comprehensive Plan Amendment*. Prior to taking action on a zoning or comprehensive plan map amendment, the applicant shall identify all critical areas and priority habitats ~~complete an environmental assessment~~ that shall be approved by Clallam County, to confirm the nature, extent and rating of critical areas on the property. 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 Chapter [27.01](#) CCC, Clallam County Environmental Policy. Findings of such review may be used as a condition to mitigate the impact through the SEPA threshold determination or to deny the proposal for zoning or comprehensive plan map amendment if the impacts are significant and cannot be mitigated.

(132) *Storm Water Management*. The following storm water management standards are required when they apply:

(a) New development shall utilize best management practices to minimize storm water 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, storm water 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 a energy dissipating device at the outlet.

(c) Development which handle, store, dispose, transport, or generate hazardous substances/wastes defined as "dangerous" or "extremely hazardous dangerous" wastes under Chapter [173-303](#) WAC (regardless of quantity) shall not allow direct precipitation or storm water runoff to contact such substances where stored on-site.

(d) Compliance with the Clallam County storm water regulations is required, as applicable.

Section 27.12.420, Erosion hazard protection standards, is amended to read as follows:

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 nonforest uses shall have all local permits withheld for a period of six (6) years, as authorized by the Washington State Forest Practices Act (Chapter 76.09 RCW). 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 nonforest uses shall mean the division of land for the preparation of land for land division or construction. Should a landowner wish to remove the moratorium or convert the land to nonforest 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;

(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.

(2) *Land Disturbing Activities. — All Critical Areas*. Land disturbing activities located within the jurisdiction of an erosion hazard zone are restricted to May 1st to October 1st unless an erosion and sedimentation control plan is submitted with a drainage plan consistent with Chapter 27.14 CCC Stormwater Management, critical areas shall obtain a certificate of compliance and provide for storm water 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.

Vegetation Retention. Vegetation should be retained to the maximum extent practicable. Clearing limits should be identified on all site plans and marked in the field with orange construction barrier fencing to be installed prior to beginning any land disturbing activities.

(4) *Zoning or Comprehensive Plan Amendment*. Prior to taking action on a zoning or comprehensive plan amendment, the applicant shall identify all critical areas and priority habitats 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 Chapter 27.01 CCC, Clallam County Environmental Policy. 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.

Section 27.12.425, Seismic hazard protection standards, is amended to read as follows:

All development within designated seismic hazard areas shall adhere to the following standards in addition to the general standards specified in CCC [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 of this chapter) 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 fifty (50) percent 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 of this chapter. 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 identify all critical areas and priority habitats ~~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 Chapter [27.01](#) CCC, Clallam County Environmental Policy. Findings of such review may be used to condition or mitigate 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

Section 27.12.500, Application and purpose, is amended to read as follows:

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

- ~~(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.~~
- (12) In addition to the requirements of this section, Clallam County uses the Clallam County Building and Construction Code, Chapter [21.01](#) CCC, which includes the adoption of International Building Code, Appendix and International Residential Code, Section R322, which sets forth minimum structural standards required in frequently flooded areas.
- (23) This section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, when any other provisions, easements, covenants, or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Section 27.12.505, Designation and duties of Floodplain Administrator, is amended to read as follows:

(1) The Clallam County Director of Community Development, or their designee, is hereby appointed to administer, implement, and enforce this chapter by granting or denying development permits in accordance with its provisions.

(2) Duties and responsibilities of the Floodplain Administrator shall include the review of all development permits to determine that:

- (a) The permit requirements of this chapter have been satisfied;
- (b) All other required State and federal permits have been obtained;
- (c) The site is reasonably safe from flooding;
- (d) The proposed development is not located in the floodway. If located in the floodway, assure the encroachment provisions of CCC [27.12.520\(3\)](#) are met.
- (e) Notify FEMA when annexations occur in the special flood hazard area.

~~Section 27.12.510, Regulated uses and activities, is amended to read as follows:~~

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

- ~~— (1) A certificate of compliance if within frequently flooded areas;~~
- ~~— (2) A variance consistent with Part Seven of this chapter if the standards and requirements cannot be met.~~

Section 27.12.515, Classification and designation, is amended to read as follows:

(1) *Classification.* Frequently flooded areas shall be classified as floodways, floodplains and special flood hazard areas (SFHA). “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 0.5 feet. “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.* Floods classified as floodway, floodplain, or special flood hazard areas in the Federal Emergency Management Agency report titled “The Flood Insurance Study (FIS) for Clallam County, WA and Incorporated Areas” dated April 23, 2025, as now or hereafter amended, with accompanying Flood Insurance Rate and Boundary Maps (FIRM) dated April 23, 2025, are designated as frequently flooded areas. The study and maps are on file at Clallam County. When base flood elevation data has been provided in the Flood Insurance Study, the Administrator, or his/her designee shall obtain a review, and reasonably utilize any base flood elevation and floodway data available from the U.S. Federal Emergency Management Agency, Washington State Department of Ecology, or other qualified source. Where base flood elevation data and floodway delineation are 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. Special flood hazard areas shall be delineated by engineering studies that meet the specifications of [44 CFR § 65](#) and approved by FEMA and then adopted by Clallam County. The only method to alter data or maps related to special flood hazard areas is through an officially processed map change, through a physical map revision, a County-wide remapping, or a Letter of Map Change (LOMC) submitted to FEMA and approved. The landowner Qualified professionals

may submit these studies to FEMA to alter the location of the special flood hazard areas through the Letter of Map Change (LOMC) process, with the concurrence of the Administrator.

(3) If a project will alter the base flood elevation (BFE) or boundaries of the special flood hazard area (SFHA), the project proponent shall provide the community with engineering documentation and analysis regarding the proposed change. If the change to the BFE or boundaries of the SFHA would normally require a Letter of Map Change, then the project proponent shall initiate, and receive approval of, a Conditional Letter of Map Revision (CLOMR) prior to approval of the development permit. The project shall be constructed in a manner consistent with the approved CLOMR. If a CLOMR application is made, then the project proponent shall also supply the full CLOMR documentation package to the Floodplain Administrator to be attached to the floodplain development permit, including all required property owner notifications.

Section 27.12.520, Protection standards for certain development proposals, is amended to read as follows:

All development within designated frequently flooded areas shall be in conformance with the Clallam County Building and Construction Code, Chapter 21.01 CCC, as amended, in addition to the following:

(1) *Critical Facilities.* Critical facilities are prohibited within areas designated as frequently flooded.

(2) For new development within designated floodplains in the Puget Sound basin, the Administrator may require additional information as needed to demonstrate that the proposed development is consistent with the National Oceanic and Atmospheric Administration's (NOAA) recommendations in the 2008 Biological Opinion (BiOp) on the Federal Flood Insurance Program to avoid impacts on Endangered Species Act - listed Puget Sound Chinook salmon, Puget Sound steelhead, Hood Canal summer-run chum salmon, and Southern Resident killer whales, and/or designated critical habitat for those species through submittal of the FEMA checklist and a habitat management plan.

(3) Land Divisions.

(a) New land divisions within designated frequently flooded area are prohibited, unless each lot designated for development contains at least one building site, including access and utilities, is not within such areas and is one acre or larger in size, and the lot also complies with the minimum lot size allowed under CCC Title 33, 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.

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 the flood elevation data has not been provided or is not available from another authoritative source, it shall be included as part of the application for development proposals which contain at least 50 lots or five 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.

(4) *Land Disturbing Activities.* Land disturbing activities located within the jurisdiction of critical areas shall obtain a certificate of compliance and provide for storm water quality and quantity control, including preparation of a temporary erosion and sediment control plan and

permanent drainage plan, consistent with Chapter [27.14](#) CCC, Stormwater Management, 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 0.0-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 above 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.

(b) Elevated areas for the purpose of creating a flood sanctuary for livestock are allowed on agricultural lands where livestock is allowed. Livestock flood sanctuaries shall be sized appropriately for the expected number of livestock and elevated sufficiently to protect livestock. Elevated areas do not relax National Flood Insurance Program standards (NFIP).

(54) *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 permanent 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: (a) a notice to title of the presence of the critical area or buffer, (b) a statement as to the applicability of this chapter to the property, and (c) 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 Chapter [21.01](#) CCC, Building and 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: (i) repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and (ii) 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 the ordinance codified in this chapter for all other special flood hazard areas. If a portion of the preexisting lot lies outside the flood hazard area, building shall be directed to the nonhazardous 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](#) of this chapter 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) Storm water 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;

(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 signs, and pedestrian bridges and viewing platforms, may be allowed in the critical area and associated buffers through the issuance of a certificate of compliance pursuant to 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 identify all critical areas and priority habitats complete an environmental assessment that shall be approved by Clallam County, to confirm the nature, extent and location of critical areas on the property; determine if the subsequent development proposal will 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 Chapter [27.01](#) CCC, Clallam County Environmental Policy. 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

Section 27.12.600, Applicability and purpose, is amended to read as follows:

— 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 CCC 27.12.610. 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 ground water.
- (3) Recognize the relationship between surface and ground water resources.

Section 27.12.605, Regulated uses and activities, is amended to read as follows:

— Applicability of this chapter is set forth in Part One of this chapter. 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 CCC 27.12.615, as they apply, and shall also require the one of the following:

- (1) A certificate of compliance for those activities listed in CCC 27.12.030 and 27.12.615 when proposed within a critical aquifer recharge area; or
- (2) A variance consistent with Part Seven of this chapter if the standards for set forth in this subsection cannot be met.

Section 27.12.610, Classification and designation, is amended to read as follows:

A critical aquifer recharge area is defined as a geologically defined 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 geologic 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 WA 365-190-080 Clallam County and as shown on the County's Critical Areas Map.

(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 ground water monitoring data, well head protection areas, depth to ground water, topography (e.g., slopes), and locally adopted ground water protection plans and studies.

Lands classified as having high, moderate or low aquifer recharge potential shall also be classified as having 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 are shall be delineated on the County's Critical Areas 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 well head protection areas for Class A water systems. A well head 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.

Section 27.12.615, Performance standards for certain development activities, is amended to read as follows:

The following protection standards shall apply to the regulated uses outlined below in areas designated as critical aquifer recharge area. Projects administered through WRIA and Watershed plans are exempt from provision of this section. An approved certification 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 waste, sewage sludge, fertilizers, or other chemical or biological hazards or dangerous wastes as defined in Chapter 173-303 WAC, or any other substances, solids or liquids in quantities identified by the Clallam County Environmental Health Division, consistent with Chapter 173-303 WAC, as a risk to ground water quality, shall be designed and constructed so as to:

- (a) Prevent the release of such substances to the ground, ground waters 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 and 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 ground water quality. Aboveground or underground storage facilities designed and maintained according to an approved plan from the U.S. A. National 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 structural and/or management and seek the technical assistance of the Clallam County Conservation District and Cooperative Extension Agent.

(3) *Land Divisions.* Divisions of land regulated by CCC Title 29, Clallam County Land Division Code, shall be evaluated for their impact on ground water 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 ground water shall be required to assess the impact on ground water quality.

(b) Alternative site designs, alternative sewage disposal system design (e.g., denitrification), phased development and/or ground water quality monitoring shall be required to reduce contaminant loading where site conditions indicate that the proposed action will measurably degrade ground water quality.

(c) Open spaces shall be required on development proposals overlying areas highly susceptible for contaminating ground water 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 storm water quality and quantity control, including preparation of a temporary erosion and sediment control plan and permanent drainage plan, consistent with the Chapter 27.14 CCC Stormwater Management 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 by submittal of a hydrologic study.

(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 stations, landfills, junk yards, salvage yards, auto wrecking yards, shall demonstrate that such facilities will not significantly impact ground water 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 of this chapter.

(7) *Storm Water Standards for Commercial and Industrial Uses.* All new commercial and industrial land uses which either (a) have more than 5,000 square feet of impervious area; or (b) handle, store, use, transport or generate hazardous substances/wastes defined as dangerous or extremely hazardous dangerous wastes under Chapter 173-303 WAC (regardless of quantity), which may come in contact with storm water 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 ground water resources using available and reasonable best management practices as outlined in the Stormwater Management Manual for Puget Sound Basin (Department of Ecology, 1992) as amended, or any drainage design manual for Clallam County or storm water regulations, if applicable. Standard drywells are prohibited except where pretreated using all appropriate and reasonable best management practices. Maintenance of storm water 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 Chapter 173-303 WAC 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.

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.

(10) *Zoning or Comprehensive Plan Amendment.* Prior to taking action on a zoning or comprehensive plan map amendment, the applicant shall identify all critical areas and priority habitats 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 Chapter 27.01 CCC, Clallam County Environmental Policy. 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.

(11) *Best Management Practices (BMPs).* BMPs are meant to prevent spill and leaks from occurring and potentially infiltrating into the ground. The following resources provide information on pollution prevention:

(a) The Washington State Department of Ecology provides guidance on preventing pollution from dangerous waste. This information also applies to hazardous materials before they become waste, while they are being handled, stored, treated, or transported.

(b) Hazardous waste collection facilities and programs.

(c) The Washington State Department of Ecology Stormwater Manual for Western Washington, Volume IV: Source Control.

(d) Municipal Stormwater General Permit Guidance for Cities and Counties: writing regulations to prohibit illicit discharges, dumping, and illicit connections.

(e) The City of Spokane Critical Materials Handbook includes information about BMPs to prevent pollution of the Spokane Aquifer that can be applied to other areas.

(f) The Thurston County Nonprofit Program has an abundance of information on various pollution prevention practices including floor drains, secondary containment, etc.

Part 1. Permit Application Requirements

Section 27.12.700, Application Requirements is amended to read as follows:

(1) Applications required by this chapter shall be submitted to the Administrator by the property owner, lessee, contractor, purchaser, other person entitled to possession of the property, or by an authorized agent, along with the appropriate fee established under Chapter 5.1003.30 CCC.

(2) Applications shall be reviewed by the Administrator for completeness, consistent with this chapter and Chapter 26.10 CCC, 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. Required mitigation plans shall include proof that reasonable alternatives were sought to avoid the impact as defined in 27.12.900, such as seeking alternative routes.

(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 within 200 feet. 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 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.

Section 27.12.705, Certificate of compliance, is amended to read as follows:

(1) Compliance with this chapter is demonstrated through the issuance of a certificate of compliance. Those activities that are listed as exempt activities under CCC 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. The following types of permit and/or actions are required by the County Code and in review of these land uses and activities, Clallam County shall assure compliance with this chapter. Approval by Clallam County of the following permits 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 CCC 27.12.035 shall also comply with this chapter.

• Building permit

• On-site sewage disposal permit

• Zoning conditional use or variance

• Land Divisions and related actions under CCC Title 29

• Comprehensive Plan and zoning map amendment

• Road approach permit

• Storm water and/or clearing and grading, if applicable

(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 Chapter 26.10 CCC, 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 CCC, 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 conditions (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.~~

~~(cd) 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 CCC, Consolidated Development Permit Process Code.~~

(3) A request for a Certificate of Compliance shall meet the following criteria prior to issuance: 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, CCC Title 31; the Clallam County Zoning Code, CCC Title 33 ~~CCC Title 35, Clallam County Shoreline Master Program (SMP); the Clallam County Environmental Code, Chapter 27.01 CCC;~~ and the other applicable provisions of the Clallam County Code; and

(c) The proposed development is consistent with watershed, flood management, ground water, and other plans adopted by ordinance or resolution by the Board of Clallam County, as they apply.

~~(de) 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 and may consult State agencies for unavoidable impacts to evaluate the mitigation to achieve no net loss of critical area functions and values.~~

(4) *Effectiveness and Expiration of a Certificate of Compliance.* A certificate of compliance shall be valid for a period of three (3) 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.

Section 27.12.710, Variances to the performance standards—Applicability, is amended to read as follows:

— (1) 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 CCC 27.12.720; 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 CCC 27.12.740.~~

(2) Variances shall not be granted for the following proposed development activities:

— (a) Any construction of the habitable portion of a structure that would be below the base flood elevation.

— (b) Any development within a designated floodway if any increase in flood levels during a base flood would result.

— (c) Any reduction of a buffer width for wetlands and aquatic habitat conservation areas to less than fifty (50) feet at any point; except as allowed by buffer averaging.

— (d) Any reduction of a buffer width for landslide hazard areas to less than twenty (20) feet at any point; except for channel meander hazards.

— (e) Any reduction of the buffer width for channel meander hazards to less than fifty (50) feet at any point.

Section 27.12.715, Types of variance applications—~~Buffer reduction~~, is amended to read as follows:

(1) Applications for a variance to the performance standards specified by this chapter ~~that are consistent with CCC 27.12.715~~, may be processed by the following ~~three~~ types of variance procedures that are listed in the following order of precedence; provided, that the approval is consistent with this subsection and chapter:

(a) ~~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 Chapter 26.10 CCC Consolidated Development Permit Process Code; provided, that the buffer width is not reduced more than twenty-five (25) percent at any point; except that buffers ~~for minor new development moderate and low impacts~~ adjacent to Type Np4 and Type Ns5 ~~aquatic fish~~ may be reduced down to a minimum of ~~fifty twenty-five (5025)~~ feet through the buffer averaging process. The intent of buffer averaging is no net loss of the total buffer area ~~and function~~. Specific requirements for buffer averaging requests are ~~identified~~ specified in CCC 27.12.730 and 27.12.735.

(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 (15) percent is requested; provided further, that applications shall be processed in accordance with Chapter 26.10 CCC, as it applies or is subsequently amended to incorporate administrative variance procedures. Criteria for approval of an administrative variance are specified in CCC 27.12.725.

(b) ~~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 Clallam County Hearing Examiner in accordance with Chapter 26.10 CCC, provided that a mitigation plan consistent with Part Eight of this chapter is also provided. Criteria for approval of a variance are specified below, in CCC 27.12.725.

(c) Reasonable Use Exception. 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 CCC 27.12.740.

(2) Variances shall not be granted for the following proposed development activities:

(a) Any construction of the habitable portion of a structure that would be below the base flood elevation.

(b) Any development within a designated floodway if any increase in flood levels during a base flood would result.

(c) Any reduction of a buffer width for wetlands and aquatic habitat conservation areas to less than fifty (50) feet at any point; except as allowed by buffer averaging.

(d) Any reduction of a buffer width for landslide hazard areas to less than twenty (20) feet at any point; except for channel meander hazards.

(3) A variance or buffer averaging approval shall not be effective until the reconsideration and appeal period set forth under Chapter 26.10 CCC has concluded.

(a) 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.

(b) 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.

(c) A variance approval or buffer averaging shall be valid for a period of five (5) 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.

Section 27.12.720, Variance application and processing requirements, is amended to read as follows:

(1) Requests for a variance or buffer averaging shall be made on forms provided by the Administrator and shall contain the information found in CCC 27.12.700 and Chapter 26.10 CCC, 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 CCC, Consolidated Development Permit Process Code.

Section 27.12.725, Requirements for buffer averaging, is amended to read as follows:

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

(1) Determine whether the reduced buffer:

(a) Acts as a biofilter that protects water quality of the wetland, aquatic habitat conservation area, and/or any interconnected surface and ground water resources.

(b) Moderates wetland and aquatic habitat conservation area water level fluctuations.

(c) Contributes woody debris and other nutrient inputs to wetlands, aquatic habitat conservation area, and/or interconnected surface water features.

(d) Limits visual, auditory, and direct intrusion between critical areas and developed environments.

(e) Provides important wildlife habitat components for species dependent or associated with wetland, marine, and riverine environments.

(f) Allows for the natural movement of a stream within its floodplain or channel migration zone.

(g) Separates development from potential flooding impacts.

(2) Alterations are, to the extent practicable, placed on existing road grades, utility corridors, or other developed lands.

(3) The modified buffer maintains, increases, and/or enhances the protection of native plant communities.

(4) The modified buffer maintains, increases, and/or enhances the protection of significant habitat features classified pursuant to Parts Two and Three of this chapter.

(5) The modified buffer retains, increases, and/or enhances the protection of significant wildlife movement corridors classified pursuant to Part Three of this chapter.

(6) 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 (5) acres.

(7) 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.

(78) The modified buffer maintains, increases, and/or enhances the protection of erosion and landslide hazard areas adjacent to the critical area.

(89) 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 CCC.

(910) The buffer dimension is not reduced more than twenty-five (25) percent at any point; except that buffers for moderate and low impacts adjacent to Type Np and Type Ns fish habitats may be reduced down to a minimum of fifty (50) feet through the buffer averaging process.

(10) A buffer averaging plan prepared by a qualified professional shall be prepared that indicates the location of the reduced portion of the buffer and the increased portion of the buffer will be located. No net loss of buffer area for the critical area shall be shown.

Section 27.12.725, Criteria of approval for a variance, is amended to read as follows:

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, 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 result in a net loss of ecological function-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 will not grant a privilege not available to other properties within the same zoning district.

(6) The granting of the variance is the minimum necessary to afford relief to accommodate a use allowed under the Comprehensive Plan, CCC Title 31, Zoning Code, CCC Title 33, Clallam County Shoreline Master Program (SMP), CCC Title 35, or other applicable provisions of the Clallam County Code.

(7) The granting of the variance will not materially compromise the goals and policies of the Comprehensive Plan, CCC Title 31, or be inconsistent with County land use codes or inconsistent with the spirit and intent of this chapter.

(8) A mitigation plan pursuant to this chapter has been submitted and is approved by the review authority for the proposed variance request.

~~Section 27.12.730, Requirements for buffer averaging, is amended to read as follows:~~

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

~~(1) Determine whether the reduced buffer:~~

~~(a) Acts as a biofilter that protects water quality of the wetland, aquatic habitat conservation area, and/or any interconnected surface and ground water resources;~~

~~(b) Moderates wetland and aquatic habitat conservation area water level fluctuations;~~

~~(c) Contributes woody debris and other nutrient inputs to wetlands, aquatic habitat conservation area, and/or interconnected surface water features;~~

~~(d) Limits visual, auditory, and direct intrusion between critical areas and developed environments;~~

~~(e) Provides important wildlife habitat components for species dependent or associated with wetland, marine, and riverine environments;~~

~~(f) Allows for the natural movement of a stream within its floodplain or channel migration zone;~~

~~(g) Separates development from potential flooding impacts;~~

~~(2) Alterations are, to the extent practicable, placed on existing road grades, utility corridors, or other developed lands;~~

- ~~_____ (3) The modified buffer maintains, increases, and/or enhances the protection of native plant communities.~~
- ~~_____ (4) The modified buffer maintains, increases, and/or enhances the protection of significant habitat features classified pursuant to Parts Two and Three of this chapter.~~
- ~~_____ (5) The modified buffer retains, increases, and/or enhances the protection of significant wildlife movement corridors classified pursuant to Part Three of this chapter.~~
- ~~_____ (6) 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 (5) acres.~~
- ~~_____ (7) 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.~~
- ~~_____ (8) The modified buffer maintains, increases, and/or enhances the protection of erosion and landslide hazard areas adjacent to the critical area.~~
- ~~_____ (9) 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 33.52 CAC.~~
- ~~_____ (10) The buffer dimension is not reduced more than twenty-five (25) percent at any point.~~

Section 27.12.735, Effectiveness and expiration of a variance approval, is amended to read as follows:

- ~~———— (1) A variance or buffer averaging approval shall not be effective until the reconsideration and appeal period set forth under Chapter 26.10 CCC 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 (5) 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.~~

Section 27.12.740, Reasonable use exception, is amended to read as follows:

~~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 CCC 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 Chapter 26.10 CCC. 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 have access to all available data or other information that pertains to the subject property which may be used by an applicant.~~

~~(2) Approval of a reasonable use exception requires consistency with all of the following criteria listed in subsections (2)(a) through (2)(e) of this section. Demonstration of consistency is burdened upon the applicant:~~

- ~~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 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.~~

~~(f) The use is not the result of the applicant's actions such as by segregating or dividing the property and creating an undevelopable condition.~~

(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~~

Section 27.12.800, Purpose and applicability, is amended to read as follows:

In order to maintain and protect critical areas, environmental information will be required to evaluate a development proposal that will be located within 200 feet of a critical area. ~~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 Chapter 3.30 CCC, as now or hereafter amended.~~ In such circumstances where a conflict in findings of a ~~special~~ report and the findings of the County in the review of the ~~special~~ report exist, the applicant or affected party may appeal such decisions of the County pursuant to the procedure in this chapter and Chapter [26.10](#) CCC, Consolidated Development Permit Process Code.

Section 27.12.810, Wetland boundary survey and ranking, is amended to read as follows:

~~(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 Chapter 3.30 CCC.~~

~~(2) The Washington State Delineation Manual (Chapter 90.58 RCW) 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 wetland 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 CCC Title 29.~~

~~(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.~~

Section 27.12.815, Drainage and erosion control plan, is amended to read as follows:

~~(1) This plan shall utilize best management practices and shall address methods to minimize storm water 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 storm water 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 Department.~~

Section 27.12.820, Geotechnical report, is amended to read as follows:

(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 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 predevelopment 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 CC 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 storm water best management practices that were not previously included as a part of the geotechnical report shall be incorporated.

Section 27.12.825, Grading plan, is amended to read as follows:

~~(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 Department.~~

Section 27.12.830, Habitat management plan, is amended to read as follows:

(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 220-610-100-232-12-292, 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 qualified profession person who has been educated as a biologist or environmental scientist with knowledge in the flora and fauna of the Olympic region in this field and has professional experience as a wildlife biologist. For minor new development proposals, the Department of Community Development will require may complete the plan unless the applicant wishes to employ a qualified professional at the applicant's expense to prepare the plan. Where this plan is required for the protection of bald 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.

Section 27.12.835, Mitigation plan – ~~Applicability~~ amended, read as follows:

(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 200 feet of ~~Class I~~ wildlife habitat conservation area, or within a designated critical habitat associated with 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 Building Official determines through a site inspection that required buffer 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 conditions of 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.

Section 27.12.840, Mitigation plan – General requirements, is amended to read as follows:

(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 demonstrate that the project will 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 manners, 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, stabilizing, 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 actions.

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

(e) Compensating for the impact by repairing, enhancing, or providing substitute resources or environments for unavoidable impacts. This may be done by intentionally creating critical area functions and buffers 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.

(f) Monitoring the impact using adaptive management strategies and having a contingency plan in place when necessary to ensure success.

(3) The review authority shall determine whether identified impacts can be first avoided and secondly minimized. For 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) Mitigation Plans and measures may not result in an extraordinary hardship or denial of reasonable use of the property. Critical area impacts can be mitigated if mitigation measures would not result in an extraordinary hardship and denial of reasonable use of the property.

Section 27.12.84 Wetlands Mitigation Plans—Special requirements, is amended to read as follows:

(1) Wetland mitigation plans shall be prepared by a qualified professional 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 of this chapter.

(3) Authorized losses of wetland hydrologic functions ~~classified pursuant to Part Two of this chapter~~ shall be mitigated within 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 that is part of, and contiguous to other aquatic habitat conservation areas and wetlands.

(5) Compensatory mitigation for direct and indirect disturbance to regulate wetlands shall follow Washington Department of Ecology Wetland Mitigation guidelines (Pub 21-06-003, as amended).

(6) 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 best available science, 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 protection and management of the compensation area to avoid further development or degradation.

(7) Wetland mitigation plans required by this section 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, 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; buffer, and ownership.

(b) *Environmental Goals and Objectives.* The report shall identify goals and objectives and include:

(i) The purpose 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 in 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.

(8) *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, percent aerial cover, species abundance and diversity targets, habitat diversity indices, or other ecological, geological or hydrological criteria.

(98) *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 and period characteristics; etc. These written specifications shall be accompanied by detailed photographs, 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.

(109) *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 water to determine pollutant loading and changes from the natural variability of background conditions (e.g., nutrients, heavy metals);
 - (d) Measuring base flow rates and stream 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.
- Monitoring plans shall include outlining how the monitoring data will be evaluated by the agency that is 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 (2) years.

(110) *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.

(121) *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 150 percent of the expected cost of compensation and shall be effective for a period of no less than two (2) years nor greater than five

(5) 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.

Section 27.12.850, Aquatic Fish and wildlife habitat conservation areas Mitigation Plans—Special requirements, is amended to read as follows:

(1) Mitigation plans for impacts to fish and wildlife habitat conservation areas shall be prepared by a biologist with qualified 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 Rule of 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 critical 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.

Section 27.12.855, Geologic Hazardous areas Mitigation Plans—Special requirements, is amended to read as follows:

(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 CCC [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 activity would result in probable damage to public resources.

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.

Section 27.12.860, Frequently flooded areas Mitigation Plans—Special requirements, is amended to read as follows:

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 zone and floodplain function.

(11) A floodplain analysis may be required for proposals that have the potential to raise the base flood elevation by more than one foot at any point within the community. The applicant will be required to apply for any changes to the elevation through FEMA.

Section 27.12.865, Critical aquifer recharge areas Mitigation Plan—Special requirements, is amended to read as follows:

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

- (1) Geologic setting and soil information of site and surrounding area;
- (2) Water quality data, including pH, temperature, conductivity, nitrates, and bacteria;
- (3) Location and depth of existing water tables;
- (4) Storage potential of facility site (permeability/transmissivity);
- (5) Hydrologic budget;
- (6) Local ground water 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 wellhead 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 ground water quality and quantity;
- (11) Recommendations on appropriate mitigation, if any, to assure that there shall be no measurable exceedence of minimum state ground water quality standards or measurable reduction in available quantity of ground water;
- (12) Emergency management plan; and
- (13) Provide for contaminant release detection.

Part Nine. Definitions

Section 27.12.900, Definitions, is amended to read as follows:

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" means the Director of the Clallam County Department of Community Development or his/her designee.

(2) "Agriculture" or "agricultural activities" means the use of land for commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable or animal products or of berries, grain, hay, straw, turf, seed, cottonwood trees, Christmas trees, not subject to the excise tax imposed by RCW ~~84.33.170~~ 84.33.100 through 84.33.140, or livestock, including those activities directly pertaining to the production of crops or livestock including, but not limited to, cultivation, harvest, grazing, on-site animal waste storage and disposal, fertilization, the operation and maintenance of farm and stock ponds, drainage ditches, irrigation systems, and canals, and normal maintenance, operation and repair of existing serviceable structures, facilities, or approved areas. Activities (like installing drainage tiles) that allow an area to be utilized for agricultural use, or the processing or packing of primarily (i.e., over 50 percent) off-site agricultural materials are not considered agricultural activities.

(3) "Alteration" means 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 for weeds identified by the Washington Department of Agriculture or Clallam County Cooperative Extension); applying herbicides or pesticides or any hazardous or toxic substance; discharging storm water runoff or pollutants; grazing domestic animals; modifying for surface water management purposes; or any other human activity that changes existing vegetation, hydrology, wildlife, and wildlife habitat.

(4) "Alteration of watercourse" means any action that will change the location of the channel occupied by water within the banks of any portion of a riverine waterbody.

(5) "Applicant" means an individual, person, public agency or business entity such as a corporation or a partnership which applies for review of a proposal, permit or approval subject to review under this chapter. "Applicant" shall also mean any predecessor or any successor in interest involving the proposal.

(6) "Aquaculture" means 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, shore-based 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 broodstocking 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 quantities.

(7) "Aquifer" means 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.

(8) "Aquifer recharge" means 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 storm water) or by the injection of water into the underground environment (e.g., drainfields and drywells).

(9) "Area of shallow flooding" means a designated zone AO, AH, AR/AO, AR/AH, or VO on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow. Also referred to as the "sheet flow area."

(10) "Area of special flood hazard" means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year as shown on the Flood Insurance Rate Map (FIRM) as zone A, AO, AH, A1-30, AE, A99, A, V, VO, V1-30, VE).

"Special food hazard area" is synonymous in meaning with the phrase "area of special flood hazard."

(11) "Base flood" means 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."

(12) "Base flood elevation (BFE)" means the elevation to which floodwater is anticipated to rise during base flood.

(13) "Basement" means any area of the building having its floor sub-grade (below ground level) on all sides.

(14) "Best management practices" means 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 on surface water and ground water flow, circulation patterns, and to the chemical, physical, and biological characteristics of critical areas.

(15) "Buffer" means 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.

(16) "Categories of Proposed Land Uses" means the land use types listed per the level of impact as described in this table:

<u>Level of Impact from Proposed Land Use</u>	<u>Land Use Type</u>
<u>High</u>	• <u>Commercial, industrial, and institutional uses</u> • <u>Multifamily residential</u> • <u>Residential (more than one dwelling per acre)</u> • <u>Conversion to high intensity agriculture (e.g., dairies, nurseries, greenhouse, animal and livestock, and growing and harvesting crops requiring annual tilling)</u> • <u>High intensity recreation (golf courses, sports fields, playgrounds, etc.)</u> • <u>Other uses not listed in the moderate or low impact category, or similar expected levels of impacts to such uses</u>
<u>Moderate</u>	• <u>Residential development on parcel size one acre to five acres in size, or cumulative residential structures over 4,000 square feet</u> • <u>Any Land Division</u>

	• <u>Moderate intensity recreational open spaces (e.g., parks with biking, jogging, primitive camping, etc.)</u> • <u>Conversion to moderate intensity agriculture (orchards, hay fields, etc.)</u> • <u>Paved trails</u> • <u>Building of logging roads</u> • <u>Utility corridor right-of-way shared by several utilities and including access/maintenance road</u>
<u>Low</u>	• <u>Forest management</u> • <u>Residential development less than 4,000 square feet of cumulative structure footprint and less than 7,000 square feet of impervious surface (including gravel) on existing lots of record of parcels five acres (or 1/128 of a standard section) or greater in size</u> • <u>Low intensity recreational open spaces with no or minimal vegetation clearing and management</u> • <u>Unpaved trails</u> • <u>Utility corridor without a maintenance road and little or no vegetation management</u>

(176) "Clearing" means the destruction, disturbance or removal of vegetation by physical, mechanical, chemical or any other means.

(187) "Conservation easement" means a limited protective easement granted to Clallam County or other organization authorized to protect and management of lands or portions thereof.

(19) "Creation" means process of building a new critical area to offset the unavoidable loss to another critical area. The goal is to compensate for the loss of the function and public benefit by establishing a new critical area that is ecologically equivalent or better than the original.

(2048) "Critical facility" means a facility in which even a slight chance of flooding or destruction caused by a geologic hazard would be of 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 highway.

(2149) "Development" or "development proposal" means 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 building site plan; franchise right-of-way construction permit; master plan development; planned 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; paving, mining, drilling operations and storage of equipment or materials; 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 nonnative 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. Any development in a special flood hazard area must still obtain a floodplain development permit.

(220) "Development proposal site" means, 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.

(234) "Elevation certificate" means an administrative tool of the National Flood Insurance Program (NFIP) that can be used to provide elevation information, to determine the proper insurance premium rate, and to support a request for a Letter of Map Amendment (LOMA) or Letter of Map Revision based on fill (LOMR-F).

(242) "Elevated building" means a nonbasement building that has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, pile, pilings, or columns.

(253) "Enhancement" means 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.

(264) "Erosion" means 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, events such as landslides. Geologic erosion occurs as an ongoing process that acts on all land surfaces to some degree. Human activities such as removing vegetation, increasing storm water runoff or decreasing slope stability often accelerate or aggravate natural erosion processes.

(275) "Existing, ongoing agriculture" means agriculture that is both: (a) on land located within the agricultural retention zoning district and on land that meets the criteria and is enrolled in the Washington State open space and agricultural conservation program per RCW [84.34.020\(2\)\(b\)](#) and [\(2\)\(c\)](#); and (b) is on land that has been used for agriculture since June 16, 1992, and not ceased use for agriculture for more than 18 consecutive years at any one time. Changing the type of agricultural activities being conducted is not considered new or expansion of existing agricultural activity. Agriculture that meets the definition of "existing, ongoing agriculture" on farmed wetlands, farmed wetland pastures, and prior converted wetlands is allowed to continue subject to the provisions of CCC [27.12.037](#).

(286) "Flood Insurance Study" means an 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.

(297) "Flood" or "flooding" means 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, and/or mudslides which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current. This may also include the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined above.

(3028) "Flood elevation study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination,

evaluation and determination of mudslide and/or flood-related erosion hazards. Also known as a “Flood Insurance Study (FIS).”

(3129) “Flood Insurance Rate Map (FIRM)” means the official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a “Digital Flood Insurance Rate Map (DFIRM).”

(329) “Floodplain” or “flood-prone area” means an area of land susceptible to being covered (or inundated) with water during a flood. Also known as the “frequently flooded area.”

(334) “Flood proofing” means any combination of structural and nonstructural additions, changes, or adjustments to structure which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents. “Flood proofed structures” are those that have the structural integrity and design to be pervious to floodwater below the base flood elevation.

(342) “Floodway” means 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.

(353) “Footprint” means all area covered up to the exterior dimensions of structural improvements, including: buildings, outbuildings, decks, porches, overhangs, driveways, and other manmade structures that preclude or have the effect of precluding establishment and/or continued growth of natural vegetation.

(364) “Forest practices” means as defined in WAC [222-16-010222-16-010\(21\)](#), as amended, any activity conducted on or directed pertaining to forest lands and relating to growing, harvesting, or processing timber or removing forest biomass, including but not limited to: road and trail construction, harvesting, final and intermediate precommercial thinning, reforestation, fertilization, prevention and suppression of disease 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 soil, timber or public resources.

(375) “Frequently flooded areas” means the floodway and special flood hazard area, combined. Also known as “floodplain.”

(386) “Functional dependent use” means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and shipbuilding and ship repair facilities, and does not include long-term storage or related manufacturing facilities.

(397) “Functional beneficial functions, or functions and values” means 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, ground water 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.

(40) “Geologic hazardous areas” means those areas susceptible to erosion, sliding, earthquake, or other geological events, as further defined under WAC 365-190-120, as now or hereafter amended.

(4138) "Grading" means any excavating, filling or removing of the surface layer or any combination thereof.

(4239) "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 nonnative 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 five years) or are being used for livestock grazing, seeding, or cutting for hay.

(430) "Hazardous substances" means those substances defined as hazardous or dangerous wastes in Chapter 173-303 WAC and/or the Model Toxics Control Act (Chapter 70A.305 RCW and Chapter 173-40 WAC).

(44) "High level land use". See definition of Categories of Land Uses.

(454) "Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

(462) "Historic structure" means any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.

(473) "Hydrogeology" means the science dealing with the properties, distribution, and circulation of ground water and related aspects of water.

(484) "Impervious surface" means the ground surface area which either prevents or retards the entry of water into the soil mass as under natural conditions prior to development; and/or a hard surface on which rainfall water runs off the surface in greater quantities or at an increased rate of flow than the flow present under natural conditions prior to development. Common impervious surfaces 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 storm water. Open, uncovered retention/detention facilities are not considered impervious surfaces.

(495) "Lake" means a body of standing water five acres or greater in a depression of land or expanded part of a river, including reservoirs. A lake is bounded by the ordinary high water mark or, where a stream enters a lake, the extension of the elevation of the lake's ordinary high water mark within the stream. 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 Chapter 90.58 RCW (Shoreline Management Act) and have been inventoried as "shorelines of the State" under the Shoreline Master Program for Clallam County.

(5046) "Land disturbing activity" means 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.

(5147) "Land divisions" means any division of land regulated under the Clallam County Land Division Ordinance, CCC Title 29, as now or hereafter amended.

(5248) "Landslide" means 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.

(53) "Low level land use". See definition of Categories of Land Uses.

(5449) "Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter (not provided there are adequate floor ventilation openings).

~~(50) "Major new development" means 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 CCC Title 33, Zoning;~~
~~(c) Any new commercial or industrial development authorized under Chapter 33.35 CCC, Amendment, except when authorized as a home enterprise activity consistent with CCC Title 33, Zoning;~~

~~(d) Any structure, regardless of use, with a footprint in excess of 4,000 square feet;~~
~~(e) Any land division pursuant to CCC Title 29, Subdivisions.~~

~~(51) "Marine bluff" means 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 percent slope, or where the ground surface rises 10 feet or more vertically within a horizontal distance of 25 feet.~~

(52) "Mean sea level" means the vertical datum to which base flood elevations shown on a community Flood Insurance Rate Map are referenced, for purposes of the National Flood Insurance Program.

(563) "Mineral extraction" includes activities involved in the extraction of minerals (excluding water) from the earth for industrial, commercial or construction uses.

(574) "Minor improvement" means 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.

(55) *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, and an associated home enterprise as defined and approved under CCC Title 33, Zoning; provided, that all of the following criteria are met:

(i) Grading shall not exceed 500 cubic yards; and

(ii) Land disturbing activities shall not exceed 20,000 square feet, except that on parcels less than five acres, land disturbing activities must not exceed 15 percent of the gross parcel size; and

(iii) The total cumulative footprint of all structures on a parcel must be less than 4,000 square feet; and

(iv) The total cumulative impervious surface area on the parcel must be less than 10 percent of the gross parcel size; and

(v) All land disturbing activities must be located on slopes less than 15 percent; and

(vi) All land disturbing activities must comply with any critical area buffer and other protection standards established for parcels created by land division.

(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.

(58) "Moderate level land use". See definition of Categories of Land Uses.

(59) "Monitoring" means the collection and analysis of data for the purposes of documenting changes in natural ecosystems and features. This includes gathering baseline data and following 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.

(60) "Native vegetation" means 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 by *Flora of the Olympic Peninsula* by N. Buckingham and E. Shreiner, 1995.

(61) "New construction" means (for the purposes of determining insurance rates) structures for which the "start of construction" commenced on or after the effective date of an initial Flood Insurance Rate Map or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

(62) "No Net Loss" means that a critical area must not lose functions or values and those standards that are intended to limit the impacts from new development and other land uses by

adopting a mitigation hierarchy to avoid, minimize, remediate, and offset negative impacts on ecosystems.

(6359) “Normal maintenance” means 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.

(640) “Normal repair” means 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; fill or excavation of native soils; or clearing and grading of previously undisturbed soils or slopes.

(651) “Open space” means 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.

(662) “Ordinary high water mark” means a 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 those conditions existed on the effective date of the ordinance codified in 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.

(673) “Performance standard” or “protection standard” means a measure, control, procedure, or process to ensure that critical areas are protected. For the purposes of this chapter, these terms have the same meanings as “regulation.”

(684) “Person” means any individual or public or private entity (i.e., corporations).

(695) “Pond” means a naturally existing or artificially created body of standing water less than 2 acres in size and not defined as “shorelines of the State” by Chapter 90.58 RCW (Shoreline Management Act). Ponds do not 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.

(7066) “Practicable alternative” means 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.

(71) “Preservation” means the removal of a threat to, or preventing the decline of, critical area conditions by an action in or near a critical area. This term includes activities commonly associated with the protection and maintenance of wetlands or streams through the implementation of appropriate legal and physical mechanisms (such as recording conservation easements and providing structural protection like fences and signs).

(7267) "Priority habitat" means 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 Database.

(7368) "Priority species" include those which are State-listed endangered, threatened, sensitive, candidate and monitor species as well as priority game and nongame species under Chapter 220232-12 WAC.

(7469) "Public facilities" means 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.

(750) "Public utility" means a business or service, whether 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 communication.

(76) "Qualified professional" means an individual who has met State approved or recognized degree, certification, licensure registration, or other requirement that would provide expertise in preparing reports, conducting assessments, and developing and implementing mitigation plans. The administrator shall determine the requirements for qualified professionals and verify the qualifications of the professional submitting any reports. The County shall maintain a list of qualified professionals to provide to landowners.

(774) "Ravine" means a landform usually lacking a floodplain that develops adjacent to a stream, and is characterized by steep sides composed of unconsolidated materials or surficial deposits.

(782) "Reasonable alternative" means an activity that could feasibly attain or approximate a proposal's objectives at a low environmental cost or decreased level of environmental degradation. Reasonable alternative may include any activity over which the regulatory authority has authority to control in the project area.

(83) "Recreational vehicle" means 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.

(8074) "Regional trail" means a public trail system that crosses between regional planning areas or jurisdictions, including other counties, cities, or tribal reservations.

(8175) "Regulated use or activity" means 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.")

(83) "Rehabilitation" means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions and environmental processes to a degraded wetland. Rehabilitation results in a gain in wetland function, but does not result in a gain in wetland acres.

(8476) "Restoration" means the return of a critical area (e.g., stream or wetland) to a state in which its natural functions and values approach its unaltered state as closely as possible.

(8577) "Review Authority" means. ~~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 Department of Community Development, as prescribed by this chapter and/or Chapter 26.10 CCC, Consolidated Development Permit Process.

(86) "Riparian Management Zones" means a scientifically based description of the area adjacent to rivers and streams that has the potential to provide full function based on the site potential tree height conceptual framework. This area that has the potential to provide full riparian functions. In forested ecoregions, this is the area within one SPTH200yr (minimum 100 feet) measured from the wider of the OHWM, CMZ or active floodplain. In dryland ecoregions the RMZ begins at the wider of OHWM, CMZ, or active floodplain; its width is equal to the greater of one SPTH200yr, 100 feet, or the outermost point of the riparian vegetative community.

(8778) "Road" or "street" means 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 land division pursuant to Clallam County Land Division Code (CCDC Title 29), and (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 right-of-way.

(8879) "Salmonid" means 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.

(89) "Seismic hazard areas" means areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement or subsidence, soil liquefaction, surface faulting, or tsunamis.

(890) "Site investigation" means work necessary for land use application submittals such as surveys, soil logs, geotechnical tests, and other related activities.

(891) "Special flood hazard areas" means a floodway and adjoining land area. In a riverine system, this area is subject to a 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.

(892) "Species of concern" means species classified as endangered, threatened, sensitive, candidate or monitored by the Washington Department of Fish and Wildlife under Chapter 220232-12 WAC. 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.

(893) "Start of construction" includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations, or the erection of temporary forms; nor does it include the

installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building whether or not that alteration affects the external dimension of the building.

~~(84) 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.~~

~~_____ (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:~~

~~_____ (i) 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;~~

~~_____ (ii) 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;=~~

~~_____ (iii) 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: (A) 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 four percent; (B) lakes, ponds, or impoundments having a surface area of one acre or greater at seasonal low water; or~~

~~_____ (iv) 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: (A) the site must be connected to a stream bearing salmonids and accessible during some period of the year; and (B) the off channel water must be accessible to juvenile salmonids through a drainage with less than a five percent gradient.~~

~~_____ (e) "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:~~

~~_____ (i) 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;~~

~~_____ (ii) 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: (A) stream segments having a defined channel of five 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; (B) ponds or impoundments having a surface area of less than one acre at seasonal low water and having an outlet to an anadromous fish stream;

_____ (iii) Are used by significant numbers of resident game fish. Waters with the following characteristics are presumed to have significant resident game fish use: (A) 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; (B) ponds or impoundments having a surface area greater than 0.5 acre at seasonal low water; or

_____ (iv) 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 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 two 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 aboveground 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 manmade water conveyances may be physically connected to a Type 5 water, all manmade 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.

(9485) "Structure" means 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 above, on, or below the surface of the ground or water. For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

(9586) "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged conditions would equal or exceed 50 percent of the market value of the structure before the damage occurred.

(9687) "Substantial improvements" means 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.

(97) “Top of Bank” means the point on a stream bank where an abrupt change in slope is evident.

(898) “Toe of slope” means the lowermost topographic break in slope. Where no distinct break exists, this point shall be the lowermost limit of the landslide hazard area as defined and classified by this chapter.

(899) “Top of slope” means 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.

(9100) “Unavoidable and necessary impacts” means 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.

(9101) “Utility” means a fixed improvement which conveys power, gas, oil, water, sewage, surface drainage, or communication signals.

(92) “Water-dependent uses” means 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.

(10293) “Variance” means a grant of relief from a community from the terms of a floodplain management regulation.

(94) “Water-related uses” means 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 not limited to: warehousing or storage facilities; support services for fish hatcheries; seafood processing plants; wood products manufacturing; log storage; watercraft sales; boating supplies.

(10395) “Watershed” means the interrelated system of surface and near-surface water bodies that drain to a common outlet.

(104) “Wetland” means 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 adapted for life in saturated soils conditions. Wetlands generally include swamps, marshes, bogs, 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, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands.

ADOPTED this _____ day of _____ 20

BOARD OF CLALLAM COUNTY COMMISSIONERS

Mark Ozias

ATTEST:

Randy Johnson

Loni Gores, MMC
Clerk of the Board

Mike French, Chair

DRAFT