

Ordinance _____

Amending portions of Clallam County Code 21.01, Building and Construction Code,
regarding the appeals process

BE IT ORDAINED BY THE BOARD OF CLALLAM COUNTY COMMISSIONERS:

Section 1. The Board of Commissioners makes the following findings:

1. Clallam County has adopted the most current construction codes as the State Building Code pursuant to chapter 19.27 RCW.
2. Chapter 19.27 RCW mandates that the State Building Code be administered and enforced by counties and cities, and grants counties and cities limited authority to amend the code as it applies within their jurisdictions.
3. Clallam County believes it is necessary to take action to clarify and proscribe an appeals process under the codes adopted pursuant to chapter 19.27 RCW and adoption of this Ordinance fulfills this purpose.
4. The Board of Commissioners held a public hearing on November 3, 2009 to consider the entire record and hear public testimony on the adoption of this proposed appellate process changes under this Ordinance

Section 2. The Board of Commissioners makes the following conclusions:

1. This ordinance is consistent with the most current edition of the State Building Code.
2. Adoption of the proposed appellate process amendments does not result in less restrictive performance standards or objectives than those in the State Building Code.
3. This ordinance is required to implement the State Building Code Act, not the Growth Management Act, and therefore does not adopt development regulations under Clallam County Code Titles 26 through 35. Pursuant to Clallam County Code 26.01, Planning Commission review is not required.
4. Environmental review under the State Environmental Policy Act is not required pursuant to WAC 197-11-800(20).
5. Clarification and proscription of an appellate process under the codes adopted pursuant to Chapter 19.27 RCW and this ordinance is in the best interest of Clallam County and will promote the health, safety, and welfare of the occupants or users of buildings and structures and the general public.
6. Clallam County Code 21.01.015, Definitions, adopted by Ordinances 790 and 824 is amended to read as follows:

21.01.015 Definitions.

For the purpose of this chapter, certain terms or words herein shall be interpreted as specifically defined in this chapter. All other words in this chapter shall carry the meanings as specified in the International Building Code, Plumbing Code, Mechanical Code, Fire Code, or applicable regulation:

(1) "Building code" means the Clallam County building code, consisting of the following codes: the Washington State Building Code, which includes the codes amended and enumerated in

RCW 19.27.031; the International Building Code; the International Residential Code; the International Mechanical Code; the International Fire Code; the Uniform Plumbing Code; the Washington State Energy Code; the Washington State Ventilation and Indoor Air Quality Code; Chapter 43.63B RCW, Mobile and Manufactured Home Installation; and any other ordinance of Clallam County as enumerated in this chapter.

(2) "Board of appeals" means the Clallam County Building Codes Board of Appeals.

~~(23)~~ "Building Official/Fire Marshal" means the officer or other designated authority charged with the administration and enforcement of the Clallam County building code, or a duly authorized representative.

~~(34)~~ "Department" means the Clallam County Department of Community Development.

~~(45)~~ "Director" means the Director of the Clallam County Department of Community Development.

7. Clallam County Code 21.01.140, Appeals, adopted by Ordinances 813 and 824, is repealed and replaced to read as follows:

21.01.140 Board of Appeals

(1) In order to hear and decide appeals of orders, decisions, or determinations made by the Building Official relative to the application and interpretation of the codes adopted in this chapter, there is hereby created a Board of Appeals. Members of the Board of Appeals shall be appointed by the Board of Commissioners and hold office at its pleasure. The board shall operate in compliance with Clallam County Policy 952, Boards and Committees.

(2) An application for appeal shall be based on a claim that the true intent of the adopted codes or the rules legally adopted thereunder has been incorrectly interpreted; the provisions of this code do not fully apply; an equally good or better form of construction is proposed.

(a) Appeals shall be in writing on forms provided by the Department of Community Development (Department). Appeals shall be filed with the Department not later than 20 days after the issuance of the decision being appealed.

(b) All hearings of the board shall be open to the public. In exercising its powers granted herein, the board may, in conformity with the applicable code or ordinance, reverse or affirm, in whole or in part; or modify the order, requirement, decision or determination appealed from; and may make such order, requirement, decision, or determination as should be made, and to that end, as the decision.

(c) The board shall have no authority to waive any of the requirements of any code adopted by the County.

(3) The Board of Appeals shall consist of five members qualified by experience and training to pass on matters pertaining to building construction who are not employees of the County. The members shall be appointed by the Board of Commissioners and consist of the following:

(a) One general contractor currently licensed by the state of Washington with at least 10 years of experience.

(b) One civil or structural engineer currently licensed by the state of Washington with at least 10 years of experience.

(c) One architect currently licensed by the state of Washington with at least 10 years of experience.

(d) One sitting certified building official with at least 5 years of experience.

(e) One fire district chief with at least 5 years of experience.

(f) Two alternates appointed meeting the above qualifications to hear appeals during the absence or disqualification of a member.

(4) The board shall timely render all decisions in writing. Appeals of decisions of the board shall be final and conclusive unless proceedings for review are thereafter properly and timely commenced, consistent with state law.

(5) Alternate to Board of Appeals. When a hearing or an appeal cannot be heard within a reasonable period of time, because the Board of Appeals cannot be constituted and convene, the matter shall be directed to the Hearing Examiner by the Building Official. The Hearing Examiner will hear and decide the matter. All applicable Board procedures and requirements remain unchanged. All parties and interested persons shall be notified in writing of the change to the Hearing Examiner.

(6) Consolidation of Appeals. To ensure timely and consistent decisions on appeal, a building code appeal may be consolidated by the Building Official with other, pending development permit appeals before the Hearing Examiner on the same subject matter, or case or controversy, and shall thereafter be heard as a consolidated appeal before the Hearing Examiner.

Section 3. Severability. Should any section, clause or provision of this ordinance or any code adopted hereby be declared by a court to be invalid, the same shall not affect the validity of the remainder, either in whole or in part.

Section 4: Limitations. Except as otherwise proscribed above, the remainder of CCC 21.01 and the enabling ordinances thereto shall remain in full force and effect.

Section 5: This Ordinance shall take effect in 10 days.

ADOPTED this _____ day of _____ 2009

BOARD OF CLALLAM COUNTY COMMISSIONERS

Howard V. Doherty, Jr., Chair

ATTEST:

Stephen P. Tharinger

Trish Holden, CMC, Clerk of the Board

Michael C. Chapman