

Ordinance _____

An ordinance amending Clallam County Code, Chapter 21.01, Building and Construction Code, in conjunction with the adoption of a new Clallam County Code Compliance Title

BE IT ORDAINED BY THE BOARD OF CLALLAM COUNTY COMMISSIONERS:

Section 1. Section .140 Appeals is amended to read as follows:

(1) Appeals of administrative decisions to approve, deny, or condition a permit application not subject to Chapter 26.10 must be filed within fourteen (14) calendar days from the date the written decision was mailed, hand-delivered, or otherwise served according to the provisions of the building code. The appeal filing fee must accompany the appeal and shall be the same as the fee for Type I appeals as specified in the "Planning Division Fee Schedule 300-A" at CCC 5.100.300.

(2) Appeals shall be heard by the Hearing Examiner whose decision shall be final and conclusive unless proceedings for review are properly and timely commenced consistent with State law, including Chapter 36.70C RCW, as now enacted or hereafter amended. The Hearing Examiner may not interpret the administrative provisions of the building code nor waive any of the requirements of the building code.

(3) Appeals of decisions arising from related permits as are set forth in section 26.10.200 CCC shall be heard according to the provisions of Chapter 26.10 CCC.

~~— (1) Appealable Issues. This section shall govern appeals of orders, decisions, or determinations made by the Building Official/Fire Marshal or designee relative to the application and interpretation of the building code.~~

~~— (2) Appeals of issues set forth in Chapter 26.10 CCC, shall be heard by the Clallam County Hearing Examiner as specified in Chapter 26.04 CCC and in the rules of procedure for proceedings before the Hearing Examiner of Clallam County, Washington.~~

~~— (3) Limitations of Authority. The Clallam County Hearing Examiner shall have no authority relative to interpretation of the administrative provisions of the building code nor shall the Clallam County Hearing Examiner or any other person be empowered to waive requirements of said code.~~

~~— (4) Filing of Appeals. An appeal may be filed with the Clallam County Hearing Examiner by any person having legal standing or a legal interest in the building or land involved in the appealable issue. Such appeal shall be filed in writing with the Building Official within thirty (30) days from the date that notice of any appealable action is served by either personal delivery or by deposit in the United States mail, except where other service is specifically provided in the construction codes. The filing fee shall be \$100. The filed appeal shall contain:~~

~~(a) A heading in the words: "Before the Clallam County Hearing Examiner";~~

~~(b) A caption reading: "Appeal of _____," giving the names of all appellants participating in the appeal;~~

~~(c) A brief statement setting forth the legal standing, or legal interest in the building or land involved in the notice and order of each of the appellants;~~

~~(d) A brief statement in ordinary and concise language of the specific order, decision, or determination appealed, together with any material facts claimed to support the contentions of the appellant;~~

~~(e) A brief statement in ordinary and concise language of the relief sought and the reasons why it is claimed that the appealed order, decision, or determination should be reversed, modified, or otherwise set aside;~~

~~(f) The signatures of all parties named as appellants and their official mailing addresses;~~
~~(g) The verification, by declaration under penalty of perjury, by at least one appellant as to the truth of the matters stated in the appeal.~~

~~—(5) Scheduling and Noticing Appeal for Hearing. As soon as practicable after receiving a written appeal, a date, time, and place for the hearing of the appeal by the Clallam County Hearing Examiner shall be established. Such date shall not be less than ten (10) days nor more than sixty (60) days from the date that the appeal was filed with the Building Official. Written notice of the time and place of the hearing shall be given at least ten (10) days prior to the date of the hearing to each appellant either by personal delivery or by deposit in the United States mail.~~

~~—(6) Scope of Hearing Examiner's Review. In rendering a decision, the Hearing Examiner may, in conformity with the applicable building code, reverse or affirm, wholly or in part, or may modify, the order, decision, or determination appealed from, and may make such other order, decision, or determination as the Hearing Examiner deems necessary and proper.~~

~~—(7) Judicial Review. The decision of the Hearing Examiner shall be final and conclusive unless within fifteen (15) days from the date of service by either personal delivery or deposit in the United States mail the appellant files a petition for writ of certiorari to the Superior Court of the State of Washington for Clallam County. The proper and timely filing of such petition shall stay the enforcement of the decision of the Hearing Examiner during the pendency of the Superior Court litigation, except when a stay of the decision presents an exigent danger to the health and safety of persons and property.~~

Section 2. Section .150 Enforcement is created to read as follows:

(1) A violation of the provisions of this title is any action or omission that violates a provision of this title or a condition of any permit issued pursuant to this title.

(2) A violation of the provisions of this title 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 title.

(3) A violation of the provisions of this title 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 a lien to be of equal rank with state, county, and municipal taxes.

(4) The provisions of this title and the international codes adopted within this title are subject to the enforcement and penalty provisions contained in CCC Title <>, Code Compliance, except to the extent preempted by state or federal law, and except to the extent preempted by any contrary enforcement and penalty provisions contained in this title.

(5) Any person who violates this title or the provisions of a permit or approval issued pursuant to this title 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.

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

ADOPTED this _____ day of _____ 2007

BOARD OF CLALLAM COUNTY COMMISSIONERS

Stephen P. Tharinger, Chair

ATTEST:

Michael C. Chapman

Trish Holden, CMC, Clerk of the Board

Howard V. Doherty, Jr.