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ORDINANCE NO. 3456

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING THE PROVISIONS OF ECDC 19.00.060(B) TO PROVIDE FOR INTERPRETATIONS, APPEALS AND ALTERNATIVE MATERIAL REVIEW BY A BUILDING CODE BOARD OF REVIEW, EXCEPTING THE PROVISIONS OF CHAPTER 19.05 FROM SAID REVIEW, ENACTING A NEW CHAPTER 10.15 BUILDING BOARD OF APPEALS, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

WHEREAS, appeals from the Building Official's interpretation of the Uniform Building Code, determinations of suitable and alternative methods or materials and similar requests authorized under the State building codes have previously been referred to the City's hearing examiner; and

WHEREAS, the City Council deems it to be in the public interest to recreate a Building Board of Appeals in order to provide both the expertise of professionals within the construction area, as well as the participation of local citizens in such review, NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF EDMONDS, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. The Edmonds Community Development Code Section 19.00.060 Interpretation, appeals and alternative materials (B) Appeals is hereby amended to read as follows:

19.00.060 Interpretation, appeals and alternative materials.

...

B. Appeals. Appeals from the building official's interpretation of the Uniform Building Code, determinations of suitable, alternative methods or materials, and any other appeal delegated to the Board of Appeals pursuant to the Uniform Code for the Abatement of Dangerous Buildings, the Uniform Mechanical Code, the Uniform Plumbing Code and any and all other codes adopted pursuant to the direction and authority of Chapter 19.27 shall be reviewed by the City's Building Board of Appeals pursuant to the procedures established pursuant to Chapter 20.91 ECDC and RCW Chapter 19.27. In the event of conflict between the provisions of ordinance and state statute, the state statute shall control. Provided, however, that any denial of grant of a permit or interpretation of any code arising with respect to any tract of land lying within the earth's subsidence and landslide hazard area set forth and defined in Chapter 19.05 ECDC shall be appealable directly to and only to, the Snohomish County Superior Court. Any conflict or doubt shall be resolved in favor of the sole discretion of the Superior Court with respect to any property lying within an established landslide or earth subsidence area or subject to Chapter 19.05's coverage. Appeals to Superior Court shall be instituted within ten (10) calendar days of the date of mailing of the written decision of the Building Official. Appeal from the actions of the Building Board of Appeals shall be appealable to the Snohomish County Superior Court in accordance with the provisions of the Land Use Petition Act.

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Section 2. The Edmonds City Code is hereby amended by the adoption of a new chapter 10.15 relating to the Building Board of Appeals to read as follows:

Chapter 10.15

Building Board of Appeals

- 10.15.010 Purpose.**
- 10.15.020 Membership.**
- 10.15.030**
- 10.15.040 Limitations of authority.**
- 10.15.050 Tests.**
- 10.15.060 Limitation of authority.**

10.15.010 Purpose.

The Building Board of Appeals shall hear appeals from the Building Official's interpretation of the Uniform Building Code, determinations of suitable, alternative methods and materials and any other appeal delegated to a Board of Appeals pursuant to the State Building Codes, including but not limited to the Uniform Building Code, the Uniform Fire Code, the Uniform Code for Abatement of Dangerous Buildings, the Uniform Mechanical Code, the Uniform Plumbing Code and any and all other codes adopted pursuant to the direction and authority of Chapter 19.27 RCW.

10.15.020 Membership.

A. There is created a Building Board of Appeals consisting of members who are qualified by experience and training to pass on matters pertaining to building construction and who are not employees of the City of Edmonds. The technical expertise of Board Members may be supplied through training or experience as an architect, builder, fire inspector, mechanical or electrical expert, plumber, engineer, or others with similar technical training. Four of the Board Members shall be active, practicing members of one of the prior listed disciplines or professions and the fifth shall be a citizen familiar with any of the previously referred to disciplines or professions. The technical members of the Board with the required professional or technical expertise may be appointed, regardless of where such individuals reside. The lay person shall be a resident of the City of Edmonds. Members of the Board shall be appointed by the Mayor and confirmed by the City Council.

B. Alternative Members. In addition, up to three alternative technical members and one alternative lay member may be appointed by the Mayor subject to the confirmation of the City Council. Such alternates shall serve when required in order to assure a five-member panel consisting of four technical persons and one lay representative.

C. Term. On the date of initial appointment to the Board, the Mayor shall appoint two technical members to two-year terms, two technical members to four-years terms and the lay member to a three-year term. Thereafter, members, whether technical or lay, regular or alternative, shall be appointed to four-year terms.

D. The Building Official shall serve as an ex-officio member of Board and act as the secretary to said Board, but shall have no

vote on any matter before the Board, provided, however, that the Fire Chief shall serve as an ex-officio member on appeals relating to the Uniform Fire Code and act as secretary with respect to such cases.

10.15.030 Removal.

Members of the Board of Appeals shall serve at the pleasure of the City and may be removed at any time for any reason which the Mayor, with confirmation of the City Council, deem to be in the public interest. Any member who is unavailable for three consecutive appeals shall be automatically removed and a new member or alternate appointed.

10.15.040 Limitations of authority.

A. The Building Board of Appeals shall have no authority relative to the interpretation of the administrative provisions of any of the state building codes, nor shall a Board be empowered to waive any requirement of any such code.

B. The provisions of the State Building Code as adopted by the City are not intended to prevent the use of any material, alternate design or method of construction not specifically prescribed by this Code, provided any alternative has been approved and its use authorized by the Building Official or on appeal or request for review, by the Building Board of Appeals.

C. The Building Board of Appeals, on review, may approve the use of any material, alternate design or method of construction providing that it finds that the proposed design is satisfactory and complies with the provisions of this Code and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in the applicable code in suitability, strength, effectiveness, fire resistance, durability, safety and sanitation.

D. The Building Board of Appeals shall require that sufficient evidence or proof be submitted to substitute any claims that may be made regarding its use. The details of any action granting approval of alternate shall be recorded and entered in the written decision of the Board.

10.15.050 Tests.

The appellant bears the burden of proof in any proceeding before the Board. If there is insufficient evidence of compliance with any

of the provisions of this Code or evidence that any material or construction does not conform to the requirements of this Code, the appeal from the decision of the Building Official shall be denied. The Board may also continue any proceeding in order to permit the appellant or applicant to provide proof of compliance through tests conducted in accordance with general engineering practice and best scientific evidence. Such tests shall be made by the applicant or appellant and at no expense to the jurisdiction. Test methods shall be as specified by the applicable building code or by other recognized testing standards. If there are not recognized and accepted test methods for the proposed alternate, testing methods shall utilize generally accepted engineering practice and best scientific method. Reports of such tests shall be retained and made a part of the record of the proceeding.

10.15.060 Limitation of authority.

Nothing herein shall be interpreted to permit the Board to hear any appeal, nor any request for deviation of design or alternative methods with respect to any property lying within a recognized landslide hazard and earth subsidence area or which is otherwise subject to the requirements of ECDC Chapter 19.05.

Section 3. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title.

APPROVED:

MAYOR GARY HAAKENSEN

ATTEST/AUTHENTICATED:

CITY CLERK, SANDRA S. CHASE

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY _____
W. SCOTT SNYDER

FILED WITH THE CITY CLERK:	05/16/2003
PASSED BY THE CITY COUNCIL:	05/20/2003
PUBLISHED:	05/30/2003
EFFECTIVE DATE:	06/04/2003
ORDINANCE NO. <u>3456</u>	

SUMMARY OF ORDINANCE NO. 3456

of the City of Edmonds, Washington

On the 20th day of May, 2003, the City Council of the City of Edmonds, passed Ordinance No. 3456. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING THE PROVISIONS OF ECDC 19.00.060(B) TO PROVIDE FOR INTERPRETATIONS, APPEALS AND ALTERNATIVE MATERIAL REVIEW BY A BUILDING CODE BOARD OF REVIEW, EXCEPTING THE PROVISIONS OF CHAPTER 19.05 FROM SAID REVIEW, ENACTING A NEW CHAPTER 10.15 BUILDING BOARD OF APPEALS, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

The full text of this Ordinance will be mailed upon request.

DATED this 21st day of May, 2003.

CITY CLERK, SANDRA S. CHASE