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ORDINANCE NO. 3663

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING THE PROVISIONS OF THE EDMONDS COMMUNITY DEVELOPMENT CODE CHAPTER 18.40 GRADING AND RETAINING WALLS, AND ECDC 20.110.030 NUISANCE SECTION, TO ADD A NEW PARAGRAPH TO SPECIFY THE CITY'S REGULATION OF ROCKERIES, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

WHEREAS, by Ordinance No. 3651, the City Council adopted revisions to Title 19 of the Edmonds Community Development Code, including adoption of the International Building Code; and

WHEREAS, the revised Title 19 adopted by Ordinance No. 3651 included revisions pertaining to regulation of grading, retaining walls, and rockeries, and

WHEREAS, in practice, the erection of rockeries is a craft and is primarily utilized for erosion protection of cut slopes and as landscaping features, and as such, the City does not consider rockeries to be retaining walls; and

WHEREAS, the City Council, in adopting Ordinance No. 3651, amended Title 19 to deregulate the construction of rockeries in order to recognize the utility of rockeries as erosion protection measures and as landscaping features which, if properly located and less than a certain height, do not raise issues of critical public interest and therefore, should not be subject to regulations, and

WHEREAS, Edmonds Community Development Code Chapter 18.40, Grading and Retaining Walls, now also requires revisions to avoid duplication and ensure consistency with the revised Title 19, and

WHEREAS, there are certain conditions where rockeries, if erected, could pose a threat to the public interest and/or safety and should, therefore, be prohibited within the City of Edmonds; NOW, THEREFORE,

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

Section 1. The Edmonds Community Development Code Chapter 18.40 Grading and Retaining Walls is hereby amended in its entirety to read as follows:

Sections:

18.40.000 Grading

18.40.010 Retaining walls

18.40.020 Prohibited rockeries

18.40.000 Grading

A. Grading defined. Grading shall be as defined in the International Building Code.

B. Permit required. Except as provided in ECDC 19.00.010 and below, no person shall do any grading without first obtaining a permit from the building official. For grading proposed in conjunction with an approved subdivision or short plat, a separate grading permit is not required; however, grading plans and details shall be included on the subdivision/short plat civil plans, and plan approval by the City Engineer will constitute approval of the grading.

C. Application. The building official shall establish submittal requirements for application, review and approval of grading permits. For grading proposed in conjunction with an approved subdivision or short plat, as a minimum, all submittal requirements established by the building official for grading permits shall be included on or submitted with the subdivision or short plat civil plans; and grading plans and calculations shall be prepared,

stamped and signed by a Washington State licensed professional engineer.

18.40.010 Retaining walls.

A. Retaining walls defined. Retaining walls, including shoring structures, are structural systems that provide lateral support for vertical or near-vertical slopes in soil, including fill. The term “retaining wall” shall not include a rockery, and the City of Edmonds does not consider rockeries to be retaining walls. A rockery is a combination of rocks intended for erosion control or protection of a free-standing cut slope in firm, stable, undisturbed and competent native soil, or as a landscaping feature.

B. Permit Required. Except as provided in ECDC 19.00.010 and herein below, no person shall erect a retaining wall without first obtaining a permit from the building official. For retaining walls proposed for construction in conjunction with an approved subdivision or short plat, a separate retaining wall permit is not required; however, retaining wall details shall be included on the subdivision/short plat civil plans, and plan approval by the City Engineer will constitute retaining wall approval.

C. Application. The building official shall establish submittal requirements for application, review and approval of retaining wall permits. For retaining walls proposed for construction in conjunction with an approved subdivision or short plat, as a minimum, all submittal requirements established by the building official for retaining wall permits shall be included on or submitted with the subdivision or short plat civil plans.

18.40.020 Prohibited rockeries.

A. The following types of rockeries are prohibited. No person shall construct a rockery within the City of Edmonds under the following circumstances or in the following situations:

1. No rockery may encroach into or be located in, over or on any City right of way. The term “right of way” shall include developed or undeveloped rights of way. Rockeries on private property adjacent to city right of way must be set back from the city right of way a minimum horizontal distance equal to the height of the rockery.

2. No rockery shall be constructed over a public utility easement (recorded or prescribed).

3. No rockery shall be constructed in a manner which adversely affects drainage or creates a sight distance hazard as determined by the City Engineer.

4. No rockery shall support a surcharge. The term “surcharge” shall have that meaning assigned in the State adopted Building Code.

5. No rockery shall impound flammable materials. Flammable materials are materials as regulated by the State adopted Fire Code.

6. No rockery may exceed three feet in setback area height within a setback. The term “setback area height” is defined as the height measured vertically from the original grade of the soil to the highest point of the upper most rock. It is the property owner’s responsibility to verify original grade and compliance with setback area height by submitting a professional land surveyor letter and section view when an enforcement action is initiated due to a violation of this section.

7. No rockery shall be placed against fill where the rockery exceeds three feet in height. The height of a rockery shall be determined as the height measured vertically from the finished grade of the soil at the exposed toe of the rockery to the highest point of the upper most rock. It is the property owner’s responsibility to establish a defense to any enforcement action initiated due to a violation of this section by verifying the finished grade and compliance with maximum allowable height by submittal of a professional land surveyor letter and section view.

8. Rockeries are prohibited in designated geologically hazardous areas other than erosion hazard areas as defined in Chapter 23.80 of the Edmonds Community Development Code (ECDC) and within the designated Earth Subsidence Landslide Hazard Area of North Edmonds unless as provided by ECDC 19.10.070E.

9. No rockery shall exceed twelve feet in height. The height of a rockery shall be determined as the height measured vertically from the finished grade of the soil at the exposed toe of the rockery to the highest point of the upper most rock. It is the property owner’s responsibility to verify finished grade and compliance with maximum allowable height by submitting a professional land surveyor letter and section view when an enforcement action is initiated due to a violation of this section.

B. No person shall construct a prohibited rockery in the City of Edmonds. The violation of any provisions of this section shall be punishable as a misdemeanor in accordance with the provisions of the Edmonds City Code. It shall be a separate offense for each and every day or portion thereof during which any violation of any provision of this section is committed or allowed to continue. Construction of a rockery prior to October 1, 2007 shall be an affirmative defense to an enforcement action for violation of this section.

C. In addition to the preceding criminal remedy, the construction of a prohibited rockery after October 1, 2007 shall be considered a nuisance and shall be subject to abatement in accordance with the civil enforcement procedures of Chapter 20.110 ECDC.

Section 2. The Edmonds Community Development Code Section 20.110.030 Nuisance Section is hereby amended by the addition of a new paragraph (J) relating to rockeries to read as follows:

20.110.030 Nuisance section.

...

J. Violations of the provisions of ECDC 18.40.020 Prohibited rockeries.

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:	09/14/2007
PASSED BY THE CITY COUNCIL:	09/18/2007
PUBLISHED:	09/26/2007
EFFECTIVE DATE:	10/01/2007
ORDINANCE NO. <u>3663</u>	

SUMMARY OF ORDINANCE NO. 3663

of the City of Edmonds, Washington

On the 18th day of September, 2007, the City Council of the City of Edmonds, passed Ordinance No. 3663. 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 THE EDMONDS COMMUNITY DEVELOPMENT CODE CHAPTER 18.40 GRADING AND RETAINING WALLS, AND ECDC 20.110.030 NUISANCE SECTION, TO ADD A NEW PARAGRAPH TO SPECIFY THE CITY'S REGULATION OF ROCKERIES, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

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

DATED this 19th day of September, 2007.

CITY CLERK, SANDRA S. CHASE