

**CITY OF WHITE SALMON
ORDINANCE NO. 2022-12-1118**

**AN ORDINANCE OF THE CITY OF WHITE SALMON, WA, AMENDING WHITE
SALMON MUNICIPAL CODE SECTION 2.20.030 TO CREATE A BOARD OF
APPEALS**

WHEREAS, Chapter 15 of the White Salmon Municipal Code has heretofore been establishing rules and regulations for the construction, alteration, removal, demolition, equipment, use and occupancy, location and maintenance of buildings and structures, including permits and penalties; and

WHEREAS, WSMC Section 15.04.010 adopts by reference the most current edition of the International Building Code (IBC); and

WHEREAS, WSMC Section 15.04.028 provides that appeals of any building official decision, order or determination relative to the application and interpretation of the code shall be subject to Section 112, Board of Appeals, International Building Code; and

WHEREAS, the most current edition of the IBC references building official appeals in Section 113 thereof, entitled 'Board of Appeals'; and

WHEREAS, IBC Section 113 provides that building official appeals shall be heard and decided by board of appeals consisting of members who are qualified by experience and training to pass on matters pertaining to building construction and are not employees of the jurisdiction; and

WEHREAS, the City Council of the City of White Salmon desires to amend White Salmon Municipal Code 2.20.030 Boards to provide for a Board of Appeals;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF WHITE SALMON DO
ORDAIN AS FOLLOWS:

by the City Council of the City of White Salmon that the following amendments be made to White Salmon Municipal Code Chapter 13.16.055:

SECTION 1 – Amendment to WSMC 2.20.030

A new subsection D of Section 2.20.030 is hereby added to provide as follows:

2.20.030D. Board of Appeals.

D. Board of Appeals.

1. Purpose and intent.
 - a. All properly filed appeals pursuant to the adopted building codes in WSMC Title 15 shall be heard by the board of appeals created by this code. The board shall have no authority to review administrative decisions or grant modifications to the provisions of any administrative chapter as adopted by Title 15, nor can the board waive a code requirement.
 - b. The board of appeals shall hear appeals from the building official's interpretation of the adopted building codes, 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 International Building Code, the International Residential Code, the International Mechanical Code, the Uniform Plumbing code, the International Fire Code, the Ventilation and Indoor Air quality code, the Washington State Energy code, the Uniform Code for the Abatement of Dangerous Buildings, and any and all other codes adopted pursuant to the direction and authority of Chapter 19.27 RCW.
 - c. The provisions of the state building codes as adopted by the city are not intended to prevent the use of any material, alternate design of construction not specifically prescribed by those codes, provided any alternative has been approved and its use authorized by the building official or on appeal or request for review by the board of appeals.
 - d. In the event that there is an inconsistency between the terms of the building codes adopted by the city and the terms of this code, the terms in this code shall prevail.
2. Creation and establishment. There is hereby established a City of White Salmon Board of Appeals to consist of three (3) members who are qualified by experience and training to pass upon any order, decision or determination of the City Building Official. The technical expertise of board members shall be supplied through training or experience as an architect, builder, general contractor, developer, fire inspector, mechanical engineering, electrician, plumber, or structural engineer. The board members shall be active, practicing members of one of the prior listed disciplines or professionals and shall reside in Klickitat or Skamania County.
3. Term of office. The members shall be appointed by the Mayor and approved by the City Council upon application duly made and presented and shall serve for a term of three years.

4. Board of appeals procedures.
 - a. The board of appeals shall convene at such time as it is necessary to address matters to be heard under WSMC Section 15.04.025 and IBC Section 113.
 - b. Executive sessions. Executive sessions of the board may be called pursuant to the State Open Public Meetings law by the chair or vice chair of the board and are not open to the public.
 - c. Public notice. Public notice shall be given of all meetings. No hearing shall be scheduled until fifteen calendar days after the required hearing notifications are mailed. Meetings are open to the public.
 - d. Department/interested party. At any public meeting, representatives from the city and any other interested party may appear in person, by agent or by attorney, offer evidence and testimony and cross-examine witnesses. All evidence and testimony shall be presented publicly. The board may take judicial notice of facts to the same extent and in the same manner as courts of record and may consider relevant facts within the personal knowledge of any member of the board that are stated into the record by such member.
 - e. Recording. All meetings before the board shall be recorded.
 - f. Compensation. The board shall receive no compensation regardless of the number or type of cases heard.
 - g. Removal. Board members shall be removed from office by the city council prior to the end of their terms for just cause. Any member who is unavailable for three consecutive appeal hearings shall be automatically removed.
 - h. Conflict of interest. Members with a material or financial interest in a matter before the board shall declare such interest and refrain from participating in discussions, deliberations, and voting on such matters. The appearance of fairness doctrine as now codified or as hereafter amended by the state of Washington shall apply to board proceedings.

5. Power and duties of the board.
 - a. The board may adopt rules and procedures governing all proceedings consistent with the provisions set forth herein. The rules and regulations may include meeting location, meeting time, procedures, content of a complete appeal application and time to be allotted for each case.
 - b. Burden of proof.
 - i. 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 the code or evidence that any material or construction does not conform to the requirements of the code, the appeal from the building official shall be denied.
 - ii. The board may continue any proceeding in order to permit the appellant 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 appellant and at no expense to the city. 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 method 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 proceedings.
 - c. Decision of the board.
 - i. The board shall render formal written decisions within fifteen (15) business days of the date of the hearing. Every decision of the board shall be based upon findings of fact and every finding of fact shall be supported in the record of its proceedings. The building official shall take immediate action in accordance with the decision of the board.
 - ii. Copies of the decision shall be forwarded to the appellant, or their attorney of record, a copy shall be placed in the appeal file and copies shall be made available to any person as a matter of public information. Decisions shall be filed with the building department as a matter of public record.


- d. Appeals from decisions of the board.
 - i. The filing of a land use petition for review shall not stay proceedings upon the decision appealed, but the court may grant a stay in accordance with the Land Use Petition Act.
 - ii. All decisions of the board may be appealed pursuant under the Land Use Petition Act to the Klickitat County Superior Court.

SECTION 2 - SEVERABILITY.

If any section, sentence, or phrase of this Chapter is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence or phrase of this Chapter.

SECTION 3 – EFFECTIVE DATE. This ordinance shall take effect five days following the date of its publication by summary.

PASSED by the City Council of the City of White Salmon at a regular meeting this 7th day of December 2022.



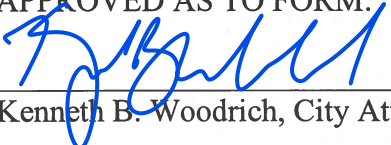
Maria Keethler, Mayor

ATTEST:



Stephanie Porter, Clerk/Treasurer

APPROVED AS TO FORM:



Kenneth B. Woodrich, City Attorney