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ORDINANCE NO. 3499

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, ADOPTING AN INTERIM ZONING REGULATION AMENDING THE PROVISIONS OF ECDC CHAPTER 20.100 ADOPTING A NEW SECTION 20.100.050 RELATING TO DNR MORATORIUMS, AMENDING SECTION 20.100.040 TO INTEGRATE MORATORIUM PROCEDURES WITH REVIEW OF APPROVED PERMITS, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

WHEREAS, RCW 76.09.060, the Forest Practices Act, provides that the City shall impose a six-year moratorium for the violation of the Forest Practices Act by a failure to comply with the terms of a Department of Natural Resources (DNR) permit or a failure to apply for a DNR permit as determined by the Washington State Department of Natural Resources, and

WHEREAS, said statutory provisions require the City to adopt procedures for lifting such a moratorium, and

WHEREAS, the City has provisions regarding the review of permits in the event of violation or public nuisance and these provisions would benefit from coordination with the procedures required to be adopted by the City, and

WHEREAS, the City has received notice that such a moratorium must be imposed and adopts this interim zoning ordinance pending final adoption of an ordinance in this regard,
NOW, THEREFORE,

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

Section 1. Chapter 20.100 Hearing Examiner, Planning Advisory Board and City

Council review is hereby amended as an interim zoning ordinance by the addition of Section

20.100.050 Forest Practices Act Moratoriums to read as follows:

20.100.050 Forest Practices Act moratorium.

When the City has been notified by the Washington State Department of Natural Resources (hereinafter DNR) that a violation of the Forest Practices Act has occurred, pursuant to the requirements of RCW 79.09.060, the City by the Director of Development Services, shall impose a six-year moratorium on that portion of the property or project which has been converted from forest use, as such term is defined by statute or the order of DNR. The moratorium may be conditioned in order to preserve public safety and prevent further environmental damage.

A. The owner of the property or permittee impacted by the moratorium or any property owner within 300 feet of the site:

1) May appeal the nature and extent of the moratorium as a staff decision pursuant to the provisions of Section 20.105.010, or

2) May apply to the Director at any time during the six-year period for a lifting of the moratorium. The moratorium shall be lifted only upon a showing by the owner or permittee that all significant issues identified by the Director relating to safety, aesthetics, the violation of any City permit condition of approval and any violation of City code will be fully mitigated by the action of the permittee. In the event that any issue has not been fully mitigated, the lifting of the moratorium may be conditioned upon the future satisfaction of conditions or by a bond or other surety designed to mitigate the negative impacts of the applicant's actions and/or violations.

B. In the event that the City has initiated a review of an approved permit pursuant to the provisions of 20.100.050, the procedures in paragraph A. shall not apply and a hearing regarding whether, and under what conditions a moratorium may be lifted, shall be consolidated with a hearing under Section 20.100.040.

Section 2. As an interim zoning ordinance, ECDC 20.100.040 Review of approved permits is hereby amended by the addition of a new sub-section D relating to integration with moratorium provisions to read as follows:

20.100.040 Review of approved permits.

...

D. Integration with moratorium procedures:

If a moratorium has been imposed by the City pursuant to the requirements of the Forest Practices Act, and a procedure is pending before the City's hearing examiner pursuant to this section regarding the review of approved permits, a decision regarding if, when, how and pursuant to what conditions a moratorium imposed by the City pursuant to the provisions of 20.100.050 should be lifted, such review shall be consolidated with a proceeding under this section in order that one open record hearing may be held. The hearing examiner may utilize the moratorium as a condition or remedy under this section and/or may require that the compliance with conditions imposed pursuant to this review procedure be a pre-condition to the lifting of any moratorium.

E. Appeal of hearing examiner decision.

1. If the underlying permit is one for which this Code provides for a final decision by the City's hearing examiner, the City's hearing examiner decision shall be final, Appeal may be taken from the hearing examiner's decision pursuant to Land Use Petition Act to Snohomish County Superior Court.

2. If the underlying permit is one for which closed record review before the City Council is permitted by the provisions of this Code, an appeal may be taken to the City Council pursuant to the provisions of 20.105.040.

Section 3. This is an interim zoning ordinance enacted pursuant to the provisions of RCW 35A.63.220. In accordance with the provisions of this statute, it has been enacted without a public hearing. Pursuant to such statutory requirements, a public hearing is hereby set for the 1st day of June, 2004, said date being within sixty (60) days of the enactment of this interim zoning ordinance. This ordinance shall expire six months from its effective date unless extended by the Council following public hearing.

Section 4. 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:	04/30/2004
PASSED BY THE CITY COUNCIL:	05/04/2004
PUBLISHED:	05/09/2004
EFFECTIVE DATE:	05/14/2004
ORDINANCE NO. <u>3499</u>	

SUMMARY OF ORDINANCE NO. 3499

of the City of Edmonds, Washington

On the 4th day of May, 2004, the City Council of the City of Edmonds, passed Ordinance No. 3499. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, ADOPTING AN INTERIM ZONING REGULATION AMENDING THE PROVISIONS OF ECDC CHAPTER 20.100 ADOPTING A NEW SECTION 20.100.050 RELATING TO DNR MORATORIUMS, AMENDING SECTION 20.100.040 TO INTEGRATE MORATORIUM PROCEDURES WITH REVIEW OF APPROVED PERMITS, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

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

DATED this 5th day of May, 2004.

CITY CLERK, SANDRA S. CHASE