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ORDINANCE NO. 3510

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING ECDC 16.20.050(E) AND (F) DEALING WITH AMATEUR RADIO ANTENNAS AND WAIVERS FOR TECHNOLOGICAL IMPRACTICALITY IN ORDER TO CORRECT CERTAIN SCRIVENERS ERRORS, WITHOUT ALTERING THE SUBSTANCE OF THE REGULATIONS, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

WHEREAS, the City Council, following Planning Board recommendations and public hearing, enacted regulations governing satellite radio antennas and amateur radio antennas by Ordinance No. 3490; and

WHEREAS, a citizen has pointed out an incorrect paragraph reference within the ordinance and grammatical errors within the ordinance and the Council finds correction of these errors to be appropriate so that it may be more readily understood by its citizens and applied by the hearing examiner; and

WHEREAS, the provisions of paragraphs E and F of ECDC Section 16.20.050 have been restructured, and punctuation and references corrected without changing the substance of such provisions, and

WHEREAS, after review of the ordinance, the City Council finds that it corrects scrivener's errors without amending the content and is therefore in conformance with the prior action of the City Council based upon public hearings, and the recommendation of the Planning Board, NOW, THEREFORE,

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

Section 1. ECDC 16.20.050(E) Amateur Radio Antenna and (F) Technological Impracticality are hereby amended to, but only to, correct scrivener's errors in the following manner:

16.20.050 Site development standards - accessory buildings and structures.

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E. Amateur Radio Antennae.

1. The following applications for the following approvals shall be processed in accordance with ECDC 20.95.050 Staff Decision Notice Required:

a. Requests to utilize an amateur radio antenna dish which measures greater than one (1) meter or 1.1 yards in diameter;

b. Requests to utilize an antenna which:

i. would be greater than 12 feet in height above the principal building on a site. The height of the antenna shall be determined by reference to the highest point of the roof of the principal building, exclusive of the chimney or other roof mounted equipment. The request to locate a 12 foot antenna on a building is limited to buildings whose height conforms to the highest limit of the zone in which the building is located.

ii. would exceed the height limit of the zone when mounted on the ground or on any accessory structure [see subparagraph 2(d) below].

2. The application shall comply with the following regulations:

a. Definition. "Amateur radio antenna" means an antenna, or any combination of a mast or tower plus an attached or mounted antenna, which transmits noncommercial communication signals and is utilized by an operator licensed by the Federal Communications Commission. Guy wires for amateur radio antennas are considered part of the structure for the purpose of meeting development standards.

b. General. Amateur radio antennas must be installed and maintained in compliance with the Uniform Building and Electrical Codes, as the same exist or are hereafter amended. A building permit shall be required to install an amateur radio antenna.

c. Location. Amateur radio antennas may be ground- or roof-mounted, however, these devices shall:

i. Be located and constructed in such a manner as to reasonably ensure that in its fully extended position, it will not fall in or onto adjoining properties;

ii. Not be located within any required setback area, and

iii. Be retracted in inclement weather posing a hazard to the antenna.

d. Height. The height of a ground-mounted tower or roof-top antenna may not exceed the greater of the height limit applicable to the zone or 65 feet when extended by a telescoping or crank-up mechanism unless an applicant obtains a waiver (see subsection F. below).

i. Only telescoping towers may exceed the height limits established by subsection E(1)(b) of this section. Such towers shall comply with the height limit within the applicable zone and may only exceed the height limit of the applicable zone and/or 65-foot height limit when extended and operating and if a waiver has been granted.

ii. An antenna located on a nonconforming building or structure which exceeds the height limit of the zone in which it is located shall be limited to height limit of the zone plus twelve feet.

e. Aesthetic. To the extent technically feasible and in compliance with safety regulations, specific paint colors may be required to allow the tower to blend better with its setting.

F. Technological Impracticality - Request for waiver.

1. The owner, licensee or adjacent property owner may apply for a waiver if:

a. Strict application of the provisions of this zoning code would make it impossible for the owner of a satellite television

antenna to receive a usable satellite television antenna to receive a usable satellite signal;

b. Strict application of the provisions of this zoning code would make it impossible for the holder of any amateur radio license to enjoy the full benefits of an FCC license or FCC protected right; or

c. an adjacent property owner or holder of an FCC license or right believes that alternatives exist which are less burdensome to adjacent property owners.

2. The request for waiver shall be reviewed by the Hearing Examiner and may be granted upon a finding that one of the following sets of criteria have been met.

a. Technological Impracticality.

i. Actual compliance with the existing provisions of the City's zoning ordinance would prevent the satellite television antenna from receiving a usable satellite signal or prevent an individual from exercising the rights granted to him or her by the Federal Communication Commission (FCC) by license, law or FCC regulation; or

ii. The alternatives proposed by the property owner or licensee constitute the minimum necessary to permit acquisition of a usable satellite signal by a satellite television antenna or to exercise the rights granted pursuant to a valid FCC license, law or FCC regulation.

b. Less Burdensome Alternatives. The hearing examiner is also authorized to consider the application of adjacent property owners a for waiver consistent with the provisions of subsection (F)(1)(c) of this section without the requirement of a finding that a usable satellite signal cannot be acquired when the applicant or adjacent property owner(s) establish that the alternatives proposed by the applicant are less burdensome to the adjacent property owners than the requirements which would otherwise be imposed under this ordinance. For example, adjacent property owners may request alternative on additional screening or the relocation of the antenna on the licensee's property. In the interactive process described in subsection 3 below, the hearing examiner shall attempt to balance the impact of the tower on the views of adjacent properties, as well as the impacts of alternative screening and relocation in order to equitably distribute any negative impacts among the neighbors while imposing reasonable conditions on the

antenna, its location and screening that do not impair the rights granted by the FCC to the licensee.

3. The process shall be an interactive one in which the hearing examiner works with the licensee to craft conditions which place the minimum possible burden on adjacent property owners while permitting the owner of the satellite antenna or holder of an amateur radio license to fully exercise the rights which he or she has been granted by federal law. For example, the number of antennas and size of the array shall be no greater than that necessary to enjoy full use of the FCC license. Conditions may include but are not limited to requirements for screening and landscaping, review of the color, reflectivity and mass of the proposed satellite television antenna or amateur radio facilities, and other reasonable restrictions. Any restriction shall be consistent with the intent of the City Council that a waiver to the antenna owner be granted only when necessary to permit the satellite television antenna to acquire usable satellite signal or to allow the licensee to exercise the rights granted by Federal Communication Commission license after consideration of aesthetic harmony of the community. The process employed should involve the interaction of the licensee or owner and the neighborhood. Certain issues have been pre-empted by federal law and shall not be considered by the hearing examiner. Such issues include, but are not limited to the impacts of electromagnetic radiation, the potential interference of the amateur radio facility with electronic devices in the neighborhood and any other matter pre-empted by federal law or regulation. Impact on view and on the values of neighboring properties may be considered in imposing reasonable conditions but shall not be a basis for denial of a permit to construct the antenna.

4. The application fee and notification for consideration of the waiver by an owner of a satellite television antenna shall be the same as that provided for processing a variance. No fee shall be charged to the holder of a valid FCC amateur radio license.

5. In the event that an applicant for waiver is also obligated to undergo architectural design review, the Architectural Design Board shall defer any issues relating to the antenna and/or other amateur radio equipment to the hearing examiner. The hearing examiner may, at his or her discretion, request the Architectural Design Board review and comment regarding required screening and landscaping and its integration into sight and landscaping plans. No additional fee shall be required of the applicant upon such referral.

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Section 2. Savings Clause. In the event that this ordinance or any part thereof is invalidated by a court of competent jurisdiction, the provisions of Ordinance 3490 shall be revived to the extent necessary to maintain regulation of amateur radio antennas and a process for waiver. In that event, the provisions of this ordinance shall serve as a guide to the Council's intent in the interpretation and application of Ordinance 3490.

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: 07/16/2004
PASSED BY THE CITY COUNCIL: 07/20/2004
PUBLISHED: 07/25/2004
EFFECTIVE DATE: 07/30/2004
ORDINANCE NO. 3510

SUMMARY OF ORDINANCE NO. 3510

of the City of Edmonds, Washington

On the 20th day of July, 2004, the City Council of the City of Edmonds, passed Ordinance No. 3510. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING ECDC 16.20.050(E) AND (F) DEALING WITH AMATEUR RADIO ANTENNAS AND WAIVERS FOR TECHNOLOGICAL IMPRACTICALITY IN ORDER TO CORRECT CERTAIN SCRIVENERS ERRORS, WITHOUT ALTERING THE SUBSTANCE OF THE REGULATIONS, 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 July, 2004.

CITY CLERK, SANDRA S. CHASE