

ORDINANCE NO. 3961

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING CHAPTER 20.50, WIRELESS COMMUNICATION FACILITIES, SECTION 21.05.005, ACCESSORY ANTENNA DEVICE, AND SECTION 17.40.020, NON-CONFORMING BUILDING AND/OR STRUCTURE, OF THE EDMONDS COMMUNITY DEVELOPMENT CODE, PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Edmonds City Council adopted the current wireless code, Chapter 20.50 of the Edmonds Community Development Code, in 2011 after a year-long re-write process; and

WHEREAS, since that time staff identified several sections that needed to be revised to improve internal consistency; and

WHEREAS, there have been changes in federal law concerning wireless facilities that needed to be addressed at the local level; and

WHEREAS, Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 ("Act") provided the wireless industry with additional flexibility regarding modification of existing wireless telecommunication facilities; and

WHEREAS, pursuant to the Act, the City may not deny, and shall approve, any eligible request for a modification of an existing wireless tower or base station that does not substantially change the physical dimension of the tower or base station; and

WHEREAS, an eligible facilities request includes any request for modification of an existing wireless tower or base station that involves co-location of new transmission equipment, removal of transmission equipment, or replacement of transmission equipment; and

WHEREAS, this change applies to both conforming and non-conforming sites; and

WHEREAS, the City Council desires to amend the community development code so as to acknowledge these changes in federal law;

NOW, THEREFORE,

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

Section 1. Chapter 20.50 of the Edmonds Community Development Code, entitled “Wireless Communication Facilities,” is hereby amended to read as follows (new text is shown in underline; deleted text is shown in ~~strike-through~~):

**Chapter 20.50
WIRELESS COMMUNICATION FACILITIES**

Sections:

- 20.50.010 Purpose.
- 20.50.020 Applicability.
- 20.50.030 Exemptions.
- 20.50.040 Prohibitions.
- 20.50.050 General siting criteria and design considerations.
- 20.50.060 Permit requirements.
- 20.50.070 Application requirements.
- 20.50.080 Review time frames.
- 20.50.090 Building-mounted wireless communication facility standards.
- 20.50.100 Structure-mounted wireless communication facilities standards.
- 20.50.110 Monopole facility standards.
- 20.50.120 Temporary facilities.
- 20.50.130 Modification.
- 20.50.140 Abandonment or discontinuation of use.
- 20.50.150 Maintenance.
- 20.50.160 Definitions.

20.50.010 Purpose.

A. The purpose of this chapter is to regulate the placement, construction and modification of wireless communication facilities, in order to protect the health, safety and welfare of the public, while not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the city. The purpose of this chapter may be achieved through adherence to the following objectives:

1. Protect residential areas and land uses from potential adverse impacts that wireless communication facilities might create, including but not limited to negative impacts on aesthetics, environmentally sensitive areas, historically significant locations, flight corridors, and health and safety of persons and property;

2. Establishment of clear and nondiscriminatory local regulations concerning wireless telecommunications providers and services that are consistent with federal and state laws and regulations pertaining to telecommunications providers;
3. Encourage providers of wireless communication facilities to locate facilities, to the extent possible, in areas where the adverse impact on the community is minimal;
4. Encourage the location of wireless communication facilities in nonresidential areas and allow wireless communication facilities in residential areas only when necessary to meet functional requirements of the telecommunications industry as defined by the Federal Communications Commission;
5. Minimize the total number of wireless communication facilities in residential areas;
6. Encourage and, where legally permissible, require cooperation between competitors and, as a primary option, joint use of new and existing towers, tower sites and suitable structures to the greatest extent possible, in order to reduce cumulative negative impact on the city;
7. Ensure wireless communication facilities are configured in a way that minimizes the adverse visual impact of the facilities, as viewed from different vantage points, through careful design, landscape screening, minimal impact siting options and camouflaging techniques, and through assessment of technology, current location options, siting, future available locations, innovative siting techniques and siting possibilities beyond the jurisdictional boundaries of the city;
8. Enable wireless communication companies to enter into lease agreements with the city to use city property for the placement of wireless facilities, where consistent with other public needs, as a means to generate revenue for the city;
9. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively and efficiently;
10. Provide for the prompt removal of wireless communication facilities that are abandoned or no longer inspected for safety concerns and building code compliance, and provide a mechanism for the city to cause these abandoned wireless communication facilities to be removed as necessary to protect the citizens from imminent harm and danger;
11. Avoid potential damage to adjacent properties from tower failure, through strict compliance with state building and electrical codes; and
12. Provide a means for public input on wireless communication facility placement, construction and modification.

B. In furtherance of these objectives, the city shall give due consideration to the zoning code, existing land uses, and environmentally sensitive areas when approving sites for the location of communication towers and antennas.

C. These objectives were developed to protect the public health, safety and welfare, to protect property values, and to minimize visual impact, while furthering the development of enhanced telecommunications services in the city. These objectives were designed to comply with the Telecommunications Act of 1996. The provisions of this chapter are not intended to and shall not be interpreted to prohibit or to have the effect of prohibiting personal wireless services. This chapter shall not be applied in such a manner as to unreasonably discriminate between providers of functionally equivalent personal wireless services.

D. To the extent that any provision of this chapter is inconsistent or conflicts with any other city ordinance, this chapter shall control. Otherwise, this chapter shall be construed consistently with the other provisions and regulations of the city.

E. In reviewing any application to place, construct or modify wireless communication facilities, the city shall act within a reasonable period of time after an application for a permit is duly filed, taking into account the nature and scope of the application. Any decision to deny an application shall be in writing, supported by substantial evidence contained in a written record. The city shall approve, approve with conditions, or deny the application in accordance with this title, this chapter, the adopted Edmonds comprehensive plan, and other applicable ordinances and regulations.

F. Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012 provided the wireless industry with additional flexibility regarding modification of existing wireless telecommunication facilities. Specifically, the City may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of the tower or base station. An eligible facilities request includes any request for modification of an existing wireless tower or base station that involves: co-location of new transmission equipment; removal of transmission equipment; or replacement of transmission equipment. Any changes proposed to nonconforming wireless communication facilities must meet the criteria in ECDC 17.40.020.J.

[Ord. 3845 § 2 (Att. A), 2011].

20.50.020 Applicability.

A. Except as provided herein, all wireless communication facilities shall comply with the provisions of this chapter. The standards and process requirements of this chapter supersede all other review process, setback, height or landscaping requirements of the Edmonds Community Development Code.

B. All proposed installations are subject to a threshold determination under the State Environmental Policy Act (SEPA) according to Chapter 20.15A ECDC unless categorically exempt pursuant to WAC 197-11-800. [Ord. 3845 § 2 (Att. A), 2011].

C. For existing sites only, to the extent feasible, additional antennas and equipment shall maintain the appearance intended by the original facility, including, but not limited to, color, screening, landscaping, camouflage, concealment techniques, mounting configuration, or architectural treatment.

20.50.030 Exemptions.

The following are exemptions from the provisions of this chapter:

- A. Radar systems for military and civilian communication and navigation.
- B. Handheld, mobile, marine and portable radio transmitters and/or receivers.
- C. Satellite antennas, including direct to home satellite services, and those regulated in ECDC 16.20.050(D).
- D. Licensed amateur (ham) radio stations and citizen band stations as regulated in ECDC 16.20.050(E).
- E. Earth station antenna(s) one meter or less in diameter and located in any zone.
- F. Earth station antenna(s) two meters or less in diameter and located in the business and commercial zones.
- ~~G. Maintenance or repair of a communication facility, antenna and related equipment, transmission structure, or transmission equipment enclosures; provided, that the equipment, structure or enclosures maintain compliance with the standards of this chapter. If the cost of repair of a legally nonconforming equipment, structure and/or enclosure exceeds 50 percent of the fair market value of the equipment, structure and/or enclosure, the repair shall be conducted in accordance with the provisions of this chapter.~~
- H.G. Subject to compliance with all other applicable standards of this chapter, a building permit application need not be filed for emergency repair or maintenance of a facility until five business days after the completion of such emergency activity. [Ord. 3845 § 2 (Att. A), 2011].

20.50.040 Prohibitions.

A. The following wireless communication facilities are prohibited in Edmonds:

- 1. Guyed towers.
- 2. Lattice towers.

B. Monopoles are prohibited in the following locations:

- 1. All residential zones (single-family (SF) and multifamily (MF));
- 2. Downtown waterfront activity center;

3. Public (P) and open space (OS) zoned parcels; and

4. Within the city rights-of-way. [Ord. 3845 § 2 (Att. A), 2011].

20.50.050 General siting criteria and design considerations.

A. The city of Edmonds encourages wireless communication providers to use existing sites or more frequent, less noticeable sites instead of attempting to provide coverage through use of taller towers. To that end, applicants shall consider the following priority of preferred locations for wireless communication facilities:

1. Co-location, without an increase in the height of the building, pole or structure upon which the facility would be located;
2. Co-location, where additional height is necessary above existing building, pole, or structure;
3. A replacement pole or structure for an existing one;
4. A new pole or structure altogether.

B. Co-location shall be encouraged for all wireless communication facility applications and is implemented through less complex permit procedures.

1. To the greatest extent technically feasible, applicants for new monopole facilities shall be required to build mounts capable of accommodating at least one other carrier.
2. Any wireless communication facility that requires a conditional use permit (CUP) under the provisions of this chapter shall be separated by a minimum of 500 feet from any other facility requiring a CUP, unless the submitted engineering information clearly indicates that the requested site is needed in order to provide coverage for the particular provider and other siting options have been analyzed and proven infeasible.

C. Noise. Any facility that requires a generator or other device which will create noise audible beyond the boundaries of the site must demonstrate compliance with Chapter 5.30 ECC, Noise Abatement and Control. A noise report, prepared by an acoustical engineer, shall be submitted with any application to construct and operate a wireless communication facility that will have a generator or similar device. The city may require that the report be reviewed by a third party expert at the expense of the applicant.

D. Business License Requirement. Any person, corporation or entity that operates a wireless communication facility within the city shall have a valid business license issued annually by the city. Any person, corporation or other business entity which owns a monopole also is required to obtain a business license on an annual basis.

E. Signage. Only safety signs or those mandated by a government entity with jurisdiction may be located on wireless communication facilities. No other types of signs are permitted on wireless communication facilities.

F. Any application must demonstrate that there is sufficient space for temporary parking for regular maintenance of the proposed facility.

G. Finish. A monopole may be constructed of laminated wood, fiberglass, steel, or similar material. The pole shall be a neutral color so as to reduce its visual obtrusiveness, subject to any applicable standards of the FAA or FCC. ~~A monopole shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA or FCC, be painted a neutral color so as to reduce its visual obtrusiveness.~~

H. Design. The design of all buildings and ancillary structures shall use materials, colors, textures, screening and landscaping that will blend the facilities with the natural setting and built environment.

I. Color. All antennas and ancillary facilities located on buildings or structures other than monopoles shall be of a neutral color that is identical to or closely compatible with the color of the supporting structure so as to make the antenna and ancillary facilities as visually unobtrusive as possible.

J. Lighting. Monopoles shall not be artificially lighted unless required by the FAA, FCC or other government entity with jurisdiction. If lighting is required and alternative lighting options are permitted, the city shall review the lighting alternatives and approve the design that would cause the least disturbance to the surrounding area. No strobe lighting of any type is permitted on any monopole. If FAA guidelines would require a strobe, the location shall be denied unless no other site or combination of sites would provide adequate coverage in accord with FCC requirements.

K. Advertising. No advertising is permitted at wireless communication facility sites or on any ancillary structure or facilities equipment enclosure.

L. Equipment Enclosure. Each applicant shall use the smallest equipment enclosure practical to contain the required equipment and a reserve for required co-location.

M. Radio Frequency Emissions Compliance. The applicant shall demonstrate that the project will not result in levels of radio frequency emissions that exceed FCC standards, including FCC Office of Engineering Technology (OET) Bulletin 65, Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields, as amended. Additionally, if the director determines the wireless communication facility, as constructed, may emit radio frequency emissions that are likely to exceed Federal Communications Commission uncontrolled/general population standards in the FCC Office of Engineering Technology (OET) Bulletin 65, Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields, as amended, in areas accessible by the general population, the director may require post-installation testing to determine

whether to require further mitigation of radio frequency emissions. The cost of any such testing and mitigation shall be borne by the applicant.

N. Landscaping and Screening.

1. The visual impacts of wireless communication facilities should be mitigated and softened through landscaping or other screening materials at the base of a monopole, facility equipment compound, equipment enclosures and ancillary structures. If the antenna is mounted flush on an existing building, or camouflaged as part of the building and other equipment is housed inside an existing structure, no landscaping is required. The director or his designee may reduce or waive the standards for those sides of the wireless communication facility that are not in public view, when a combination of existing vegetation, topography, walls, decorative fences or other features achieve the same degree of screening as the required landscaping; in locations where the visual impact of the facility would be minimal; and in those locations where large wooded lots not capable of subdivision and natural growth around the property perimeter provide a sufficient buffer.

2. Landscaping shall be installed on the outside of fences in accordance with Chapter 20.13 ECDC. Existing vegetation shall be preserved to the maximum extent practicable and may be used as a substitute for or as a supplement to landscaping or screening requirements. The following requirements apply:

a. Type I landscaping shall be placed around the perimeter of the equipment cabinet enclosure, except that a maximum 10-foot portion of the fence may remain without landscaping in order to provide access to the enclosure.

b. Landscaping area shall be a minimum of five feet in width around the perimeter of the enclosure.

c. Vegetation selected should be native and drought tolerant.

d. Landscaping shall be located so as not to create sight distance hazards or conflicts with other surrounding utilities.

3. When landscaping is used, the applicant shall submit a landscaping bond pursuant to ECDC 20.13.040.

4. The use of chain link, plastic, vinyl or wire fencing is prohibited. Ornamental metal or wood fencing materials are preferred. [Ord. 3845 § 2 (Att. A), 2011].

20.50.060 Permit requirements.

A. No person may place, construct, reconstruct or modify a wireless communication facility subject to this chapter without first having in place a permit issued in accordance with this chapter. Except as otherwise

provided herein, the requirements of this chapter are in addition to the applicable requirements of this title and ECDC Title 18.

B. Applications will be reviewed based on the type of wireless communication facilities requested to be permitted. Each wireless communication facility requires the appropriate type of project permit review, as shown in Table 20.50.060(B)(1). In the event of uncertainty on the type of a wireless facility, the director shall have the authority to determine what permits are required for the proposed facility. The conditional use permit types referenced are described in Chapter 20.01 ECDC.

**Table 20.50.060(B)(1)
– Permit Requirements for Wireless Communication Facilities**

Type of Wireless Communication Facility	Permits Required		
	Building Permit	Conditional Use Permit (CUP)	Right-of-Way Permit
Building-mounted facilities or facilities co-located on an existing <u>structure or</u> monopole	X		X (<u>as applicable</u>)
<u>New s</u> Structure-mounted <u>facilities involving structure replacement to obtain additional height (excluding co-location on existing monopole)</u>	X (as applicable)	X (Type II)	X (as applicable)
<u>New m</u> Monopole facilities (structure <u>pole</u> complies with height requirement of the underlying zone in ECDC Title 16)	X		X (<u>as applicable</u>)
<u>New m</u> Monopole facilities (structure <u>pole</u> exceeds maximum height of zone in ECDC Title 16)	X	X (Type III-B)	X (<u>as applicable</u>)

C. Any application submitted pursuant to this chapter for projects located on public or private property shall be reviewed and evaluated by the director, or his designee. The director of public works or his/her designee shall review all proposed wireless communication facilities that are located partially or fully within the city rights-of-way. Regardless of whether the director or the director of public works or their respective designees are reviewing the application, all applications will be reviewed and evaluated pursuant to the provisions of this chapter.

D. All applications for wireless communication facilities shall be reviewed for compliance with the applicable design standards by the director or his designee.

E. The applicant is responsible for obtaining all other permits from any other appropriate governing body with jurisdiction (i.e., Washington State Department of Labor and Industries, Federal Aviation Administration, etc.).

F. No provision of this chapter shall be interpreted to allow the installation of a wireless communication facility which minimizes parking, landscaping or other site development standards established by the Edmonds Community Development Code.

G. Wireless communication facilities that are governed under this chapter shall not be eligible for variances under Chapter 20.85 ECDC. Any request to deviate from this chapter shall be based solely on the exceptions set forth in this chapter.

H. Third Party Review. Applicants may use various methodologies and analyses, including geographically based computer software, to determine the specific technical parameters of the services to be provided utilizing the proposed wireless communication facilities, such as expected coverage area, antenna configuration, capacity, and topographic constraints that affect signal paths. In certain instances, a third party expert may be needed to review the engineering and technical data submitted by an applicant for a permit. The city may at its discretion require third party engineering and technical review as part of a permitting process. The costs of the technical third party review shall be borne by the applicant.

1. The selection of the third party expert is at the discretion of the city. The third party expert review is intended to address interference and public safety issues and be a site-specific review of engineering and technical aspects of the proposed wireless communication facilities and/or a review of the applicants' methodology and equipment used, and is not intended to be a subjective review of the site which was selected by an applicant. Based on the results of the expert review, the city may require changes to the proposal. The third party review shall address the following:

- a. The accuracy and completeness of submissions;
- b. The applicability of analysis techniques and methodologies;
- c. The validity of conclusions reached;
- d. The viability of other site or sites in the city for the use intended by the applicant; and
- e. Any specific engineering or technical issues designated by the city.

I. Any decision by the director or the director of public works shall be given substantial deference in any appeal of a decision by the city to either approve, approve with conditions, or deny any application for a wireless communication facility.

J. No alterations or changes shall be made to plans approved by the director, director of public works, or hearing examiner without the approval of the city.

K. Co-location of additional antennas on permitted nonconforming monopoles is not considered to increase the nonconformity of the structure and is therefore allowed; provided, no increase to the height of a nonconforming monopole is allowed. [Ord. 3845 § 2 (Att. A), 2011].

20.50.070 Application requirements.

In addition to the requirements of ECDC 20.02.002, and those associated with the permit types referenced in ECDC 20.50.060, the following information must be submitted as part of a complete application for a wireless communication facility permit in the city of Edmonds:

A. Project description including a design narrative, technology description, and co-location analysis indicating the alternative locations and technologies considered;

B. Existing wireless coverage map overlaid on a current aerial photo showing provider's existing facilities and wireless coverage in the area;

C. Proposed wireless coverage map overlaid on a current aerial photo showing provider's wireless coverage with the proposed facility;

D. Site information on scaled plans, including:

1. Site plan;

2. Elevation drawings;

3. Undergrounding details, as applicable;

4. Screening, camouflaging or landscaping plan and cost estimate (produced in accordance with Chapter 20.13 ECDC), as appropriate;

E. Photos and photo simulations showing the existing appearance of the site and appearance of the proposed installation from nearby public viewpoints;

F. Noise report (per ECDC 20.50.050(C)), if applicable;

G. Radio frequency emissions report for the proposed facility, which shall not be reviewed further by the city;

H. Any other documentation deemed necessary by the director in order to issue a decision. [Ord. 3845 § 2 (Att. A), 2011].

20.50.080 Review time frames.

A. Co-Located Facilities (Building- and Structure-Mounted).

1. For new or replacement wireless antennas mounted on existing structures requiring a building or engineering permit, the city shall issue a final decision on the project within 90 days of the date the application is determined to be complete. The city shall have 30 days from the date of filing to determine whether the application is complete; if deemed incomplete, the city shall inform the applicant in writing of the documentation needed to make the application complete. The city shall have 14 days from the receipt of the additional information to issue a letter of completeness, or request additional information as appropriate. Such decision shall be final and appealable only to superior court under the Land Use Permit Act.

2. The 90-day time period for a decision may be extended by mutual written agreement of the city and the applicant if circumstances warrant.

3. For purposes of this section, "co-located facilities" includes any of the following types of facilities:

a. Facilities that are mounted or installed on an existing monopole, building or structure ~~for the purpose of transmitting and/or receiving radio frequency signals for communications purposes~~; or

b. Facilities that do not involve a substantial increase in the size of a monopole. For purposes of this section, "substantial increase in the size of a monopole" means:

i. The mounting of the proposed antenna on the monopole would increase the existing height of the monopole by more than 10 percent or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater; provided, however, that the mounting of the proposed antenna may exceed the size limits set forth in this subsection if necessary to avoid interference with existing antennas;

ii. The mounting of the proposed antenna would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter;

iii. The mounting of the proposed antenna would involve adding an appurtenance to the body of the monopole that would protrude from the edge of the tower more than 20 feet, or more than the width of the monopole at the level of the appurtenance, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this subsection if necessary to shelter the antenna from inclement weather or to connect the antenna to the monopole via cable; or

iv. The mounting of the proposed antenna would involve excavation outside the current monopole site, defined as the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site; or

c. Facilities that are a part of a distributed antenna system; provided, that the distributed antenna system connects to an existing tower or antenna. ~~A "distributed antenna system," for the purposes of this section, is a network of spatially separated antenna sites connected to a common source that provides wireless service within a discrete geographic area or structure.~~

B. New Monopoles. Wireless communication facilities requiring a Type III-B conditional use permit shall meet the requirements of Chapter 20.05 ECD. [Ord. 3845 § 2 (Att. A), 2011].

20.50.090 New Building-mounted wireless communication facility standards.

A. Generally. Wireless communication facilities located on the roof or on the side of the building shall be grouped together, integrated to the maximum possible degree with the building design, placed toward the center of the roof and/or thoroughly screened from residential building views and from public views using radio frequency-transparent panels. Building-mounted wireless communication facilities shall be painted with nonreflective colors to match the existing surface where the antennas are mounted.

B. Height. The following requirements shall apply:

1. Downtown Waterfront/Activity Center (As Identified in the Edmonds Comprehensive Plan). For buildings at, or which exceed, the height limit of the underlying zone, antennas shall be flush-mounted and no portion of the antenna may extend above the building on which it is mounted. For buildings below the height limit, antennas may be built to the maximum height of the zone provided they are screened consistent with the existing building in terms of color, architectural style and material. Flush-mounted antennas may encroach into a required setback or into the city right-of-way if a right-of-way use agreement is established with the city. Antennas shall not project into the right-of-way by more than two feet and shall provide a minimum clearance height of 20 feet over any pedestrian or vehicular right-of-way.

2. Outside the Downtown/Waterfront Activity Center. The maximum height of building-mounted facilities and equipment shall not exceed nine feet above the top of the roof on which the facility is located. This standard applies to all buildings regardless of whether they are at or above the maximum height of the underlying zone. Such antennas must be well integrated with the existing structure or designed to look like common rooftop structures such as chimneys, vents and stovepipes.

C. Equipment Enclosure. Equipment enclosures for building-mounted wireless communication facilities shall first be located within the building on which the facility is located. If an equipment enclosure within

the building is reasonably unavailable, then an equipment enclosure may be incorporated into the roof design provided the enclosure meets the height requirement for the zone. If the equipment can be screened by placing the equipment below existing parapet walls, no additional screening is required. If screening is required, then the screening must be consistent with the existing building in terms of color, architectural style and material. Finally, if there is no other choice but to locate the equipment enclosure on the ground, the equipment must be enclosed within an accessory structure which meets the setbacks of the underlying zone and be screened in accordance with ECDC [20.50.050\(N\)](#).

D. Feed Lines and Coaxial Cables. Feed lines and cables should be located below the parapet of the rooftop, if present. If the feed lines and cables are visible from a public right-of-way or adjacent property, they must be painted to match the color scheme of the building.



Acceptable Building-Mounted WCF



Unacceptable Building-Mounted WCF

[Ord. 3845 § 2 (Att. A), 2011].

20.50.100 New Structure-mounted wireless communication facilities standards.

A. Generally. Wireless communication facilities located on structures other than buildings, such as utility poles, light poles, flag poles, transformers, and/or tanks, shall be designed to blend with these structures and be mounted on them in an inconspicuous manner.

1. Wireless communication facilities located on structures within unzoned city rights-of-way adjacent to single-family residential (RS) zones shall satisfy the following requirement:

a. No metal pole or tower shall be used within the right-of-way adjacent to a single-family zoned neighborhood unless required in order to comply with the provisions of the State Electrical Code. Wooden poles of height and type generally in use in the surrounding residential neighborhood shall be used unless prohibited by the State Electrical Code.

2. Wireless communication facilities located on structures shall be painted with nonreflective colors in a scheme that blends with the underlying structure.

B. Height.

1. The maximum height of structure-mounted wireless communication facilities shall not exceed the maximum height specified for each structure or zoning district (rights-of-way are unzoned); provided the wireless communication facility may extend up to six feet above the top of the structure on which the wireless communication facility is installed. Antennas and related equipment shall be mounted as close as practicable to the structure. ~~This includes installation of facilities on structures built at or above the maximum height allowed in a specific zone, so long as the diameter of any portion of a wireless communication facility in excess of the allowed height does not exceed the shortest diameter of the structure at the point of attachment. The height and diameter of the existing structure prior to replacement or enhancement for the purposes of supporting wireless communication facilities shall be used to determine compliance with this subsection.~~

2. Only one extension is permitted per structure.

3. If installed on an electrical transmission or distribution pole, a maximum 15-foot vertical separation is required from the height of the existing power lines at the site (prior to any pole replacement) to the bottom of the antenna. This vertical separation is intended to allow wireless carriers to comply with the electrical utility's requirements for separation between their transmission lines and the carrier's antennas.

C. Equipment Enclosure. Equipment enclosures shall first be located underground. If the enclosure is within the right-of-way, the enclosure shall be underground. If there is no other feasible option but to locate the equipment enclosure above ground on private property, the equipment must be enclosed within an accessory structure which meets the setbacks of the underlying zone and be screened in accordance with ECDC 20.50.050(N).

D. Feed Lines and Coaxial Cable. Feed lines and cables must be painted to closely match the color scheme of the structure which supports the antennas.

E. Only wireless communication providers with a valid right-of-way use agreement shall be eligible to apply for a right-of-way construction permit, which shall be required prior to installation of facilities within the city right-of-way and be in addition to other permits specified in this chapter.



Acceptable Structure-Mounted WCF



Unacceptable Structure-Mounted WCF

[Ord. 3845 § 2 (Att. A), 2011].

20.50.110 New Monopole facility standards.

A. New monopoles are not permitted within the city unless the applicant has demonstrated that:

1. Coverage Objective. There exists a gap in service and the proposed wireless communication facility will eliminate such gap in service; and
2. Alternatives. No existing structure, building, or other feasible site or sites, or other alternative technologies not requiring a new monopole in the city, can accommodate the applicant's proposed wireless communication facility; and
3. Least Intrusive. The proposed new wireless communication facility is designed and located to remove the gap in service in a manner that is, in consideration of the values, objectives and regulations set forth in this chapter, this title, and the comprehensive plan, the least intrusive upon the surrounding area.



Acceptable Monopole WCF (Possible Co-Location Opportunity)



Acceptable Monopole WCF

B. All monopole facilities shall conform to the following site development standards:

1. To the greatest extent possible, monopole facilities shall be located where existing trees, existing structures and other existing site features camouflage these facilities.
2. Existing mature vegetation should be retained to the greatest possible degree in order to help conceal the facility.
3. Equipment Enclosure. The first preference is for the equipment enclosure to be located underground. If the enclosure is within the right-of-way, the enclosure must be underground. If there is no other choice but to locate the equipment enclosure on the ground, the equipment must be enclosed within an accessory structure which meets the setbacks of the underlying zone and be screened in accordance with ECDC [20.50.050\(N\)](#).

4. Feed Lines and Coaxial Cables. Feed lines and cables must be painted to closely match the color scheme of the structure which supports the antennas.

C. Review Criteria. The hearing examiner shall review an application for a new monopole exceeding the maximum height of the zone as a Type III-B conditional use permit (per Chapter 20.05 ECDC), and shall determine whether or not each of the above standards is met. Examples of evidence demonstrating the Type III-B conditional use permit requirements include, but are not limited to, the following:

1. That the monopole height is the minimum necessary in order to achieve the coverage objective;
2. That no existing monopoles, structures or alternative site(s) are located within the geographic area that meet the applicant's engineering requirements to fulfill its coverage objective (regardless of the geographical boundaries of the city);
3. That existing monopoles or structures are not of a sufficient height or could not feasibly be extended to a sufficient height to meet the applicant's engineering requirements to meet its coverage objective;
4. That existing structures or monopoles do not have sufficient structural strength to support the applicant's proposed antenna and ancillary facilities;
5. That the applicant's proposed antenna would cause electromagnetic interference with antennas on the existing monopoles or structures, or the antennas on existing structures would cause interference with the applicant's proposed antenna;
6. That an alternative technology that does not require the use of a new monopole is unsuitable. Costs of alternative technology that exceed new monopole or antenna development shall not be presumed to render the technology unsuitable; and
7. The applicant demonstrates other limiting factors that render existing monopoles and structures or other sites or alternative technologies unsuitable. Engineering and technological evidence must be provided and certified by a registered professional engineer and clearly demonstrate the evidence required.

D. Zoning Setback Exceptions.

1. Generally, wireless communication facilities placed on private property must meet setbacks identified in ECDC Title 16. However, in some circumstances, allowing modifications to setbacks may better achieve the goal of this section of concealing such facilities from view.
2. The director or hearing examiner, depending on the type of application, may approve modifications to be made to setbacks when:

- a. An applicant for a wireless communication facility can demonstrate that placing the facility on certain portions of a property will provide better screening and aesthetic considerations than provided under the existing setback requirements; or
 - b. The modification will aid in retaining open space and trees on the site; or
 - c. The proposed location allows for the wireless communication facility to be located a greater distance from residentially zoned properties.
3. This zoning setback modification cannot be used to waive/modify any setback required under the State Building Code or Fire Code.
 4. A request for a setback exception shall be made at the time the initial application is submitted. [Ord. 3845 § 2 (Att. A), 2011].

20.50.120 Temporary facilities.

A. The installation of a "cell on wheels" or COWs and the installation site shall comply with all applicable laws, statutes, requirements, rules, regulations, and codes, including, but not limited to, the Uniform Fire Prevention and Building Code and National Electric Code.

~~B. COWs may only be used in the immediate aftermath of declared emergencies in the city of Edmonds in order to provide temporary wireless service.~~ All COWs and related appurtenances shall be completely removed from the installation site within 30 days of the date of the end of the emergency as determined by the mayor. [Ord. 3845 § 2 (Att. A), 2011].

20.50.130 Modification.

The applicant and/or co-applicant may apply to alter the terms of a conditional use permit (CUP) by modifying specific features of the wireless communication facility. ~~If any of the following changes are proposed or occur, S~~ such modifications must be submitted to the city as a new CUP application. ~~This provision shall not apply to routine maintenance of a wireless communication facility (WCF), as described in ECDC-20.50.030(G).~~ [Ord. 3845 § 2 (Att. A), 2011].

20.50.140 Abandonment or discontinuation of use.

A. At such time that a licensed carrier plans to abandon or discontinue operation of a wireless communication facility, such carrier will notify the director by certified U.S. mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than 30 days prior to abandonment or discontinuation of operations.

B. In the event that a licensed carrier fails to give such notice, the wireless communication facility shall be considered abandoned upon the discovery of such discontinuation of operations.

C. Within 90 days from the date of abandonment or discontinuation of use, the carrier shall physically remove the wireless communication facility. "Physically remove" shall include, but not be limited to:

1. Removal of antennas, mounts or racks, the equipment enclosure, screening, cabling and the like from the subject property.
2. Transportation of the materials removed to a repository outside of the city.
3. Restoration of the wireless communication facility site to its pre-permit condition, except that any landscaping provided by the wireless communication facility operator may remain in place.
4. If a carrier fails to remove a wireless communication facility in accordance with this section, the city shall have the authority to enter the subject property and physically remove the facility. Costs for removal of the wireless communication facility shall be charged to the wireless communication facility owner or operator in the event the city removes the facility. [Ord. 3845 § 2 (Att. A), 2011].

20.50.150 Maintenance.

A. The applicant shall maintain the WCF to standards that may be imposed by the city at the time of granting a permit. Such maintenance shall include, but not be limited to, painting, structural integrity, and landscaping.

B. In the event the applicant fails to maintain the facility, the city of Edmonds may undertake enforcement action as allowed by existing codes and regulations. [Ord. 3845 § 2 (Att. A), 2011].

20.50.160 Definitions.

A. "Antenna" means a device used to capture an incoming and/or to transmit an outgoing radio frequency signal. Antennas include, but are not limited to, the following types: omni-directional (or "whip"), directional (or "panel"), parabolic (or "dish"), and ancillary antennas (antennas not directly used to provide wireless communication services).

B. "Cell-on-wheels (COW)" are used to provide temporary service, usually for special events, before the installation of a permanent wireless site, or in emergencies.

C. "Co-location" means the mounting or installation of an antenna on an existing tower, building or structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

D. "Distributed antenna system (DAS)" is a network of spatially separated antenna sites connected to a common source that provides wireless service within a discrete geographic area or structure.

E. "Guyed tower" means a monopole or lattice tower that is tied to the ground or other surface by diagonal cables.

F. "Lattice tower" is a wireless communication support structure which consists of metal crossed strips or bars to support antennas and related equipment.

G. "Licensed carrier" is a company authorized by the Federal Communications Commission to build and operate a commercial mobile radio services system.

H. "Monopole" means a freestanding structure which consists of a single vertical pole, fixed into the ground and/or attached to a foundation with no guy wires built for the sole or primary purpose of supporting FCC-licensed antennas and their associated facilities. Antenna(s) may be externally mounted (visible antenna) or internally mounted (no visible antennas).

I. "Satellite earth station antenna" includes any antenna in any zoning district that:

1. Is designed to receive direct broadcast satellite service, including direct-to-home satellite services, and that is one meter or less in diameter;
2. Is two meters or less in diameter in areas where commercial or industrial uses are generally permitted;
3. Is designed to receive programming services by means of multi-point distribution services, instructional television fixed services, and local multi-point distribution services, that is one meter or less in diameter or diagonal measurement; and
4. Is designed to receive television broadcast signals.

J. "Unlicensed wireless services" means the offering of telecommunications services using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services.

K. "Wireless communication facility (WCF)" means an unstaffed facility for the transmission and reception of radio or microwave signals used for commercial communications. A WCF provides services which include cellular phone, personal communication services, other mobile radio services, and any other service provided by wireless common carriers licensed by the Federal Communications Commission (FCC). WCFs are composed of two or more of the following components:

1. Antenna;
2. Mount;
3. Equipment enclosure;
4. Security barrier.

L. "Wireless communication facility (WCF), building-mounted" means a wireless communication facility mounted to the roof, wall or chimney of a building. Also, those antennas mounted on existing monopoles.

M. "Wireless communication facility (WCF), camouflaged" means a wireless communication facility that is disguised, hidden, or integrated with an existing structure that is not a monopole, guyed or lattice tower, or placed within an existing or proposed structure.

N. "Wireless communication facility (WCF), equipment enclosure" means a small structure, shelter, cabinet, or vault used to house and protect the electronic equipment necessary for processing wireless communication signals. Associated equipment may include air conditioning and emergency generators.

O. "Wireless communication facility (WCF), monopole" means a wireless communication facility not attached to a structure or building and not exempted from regulation under ECDC 20.50.030. Does not include co-location of a facility on an existing monopole, utility pole, light pole, or flag pole.

P. "Wireless communication facility (WCF), related equipment" is all equipment ancillary to a wireless communication facility such as coaxial cable, GPS receivers, conduit and connectors.

Q. "Wireless communication facility (WCF), structure-mounted" means a wireless communication facility located on structures other than buildings, such as light poles, utility poles, flag poles, transformers, and/or tanks.

R. "Wireless communication services" means any personal wireless services as defined in the Federal Telecommunications Act of 1996, including federally licensed wireless telecommunications services consisting of cellular services, personal communications services (PCS), specialized mobile radio services (SMR), enhanced specialized mobile radio services (ESMR), paging, and similar services that currently exist or that may be developed in the future. [Ord. 3845 § 2 (Att. A), 2011].

Section 2. Section 21.05.005 of the Edmonds Community Development Code, entitled "Accessory antenna device," is hereby repealed.

~~21.05.005 Accessory antenna device.~~

~~Accessory antenna device is an antenna including, but not limited to, test mobile antennas and global positioning (GPS) antennas which are less than 12 inches in height or width, excluding the support structure. [Ord. 3099 § 2, 1996].~~

Section 3: Section 17.40.020 of the Edmonds Community Development Code, entitled "Nonconforming building and/or structure," is hereby amended to read as follows (new text is shown in underline; deleted text is shown in ~~strike-through~~):

17.40.020 Nonconforming building and/or structure.

A. Definition. A nonconforming building is one which once met bulk zoning standards and the site development standards applicable to its construction, but which no longer conforms to such standards due to the enactment or amendment of the zoning ordinance of the city of Edmonds or the application of

such ordinance in the case of a structure annexed to the city. Subject to the other provisions of this section, an accessory building that is not an accessory dwelling unit shall be presumptively nonconforming if photographic or other substantial evidence conclusively demonstrates that the accessory building existed on or before January 1, 1981. In the case of a property that was annexed after January 1, 1981, then the date shall be that of the effective date of the annexation of the city of Edmonds. Such presumption may be overcome only by clear and convincing evidence.

B. Continuation. A nonconforming building or structure may be maintained and continued, unless required to be abated elsewhere in this chapter or section, but it may not be changed or altered in any manner which increases the degree of nonconformity of the building except as expressly provided in subsections (C) through (I) of this section.

C. Historic Buildings and Structures. Nothing in this section shall prevent the full restoration by reconstruction of a building or structure which is either listed on the National Register of Historic Places, the Washington State Register of Historic Places, the Washington State Cultural Resource Inventory, or the Edmonds Register of Historic Places, or is listed in a council-approved historical survey meeting the standards of the State Department of Archaeology and Historic Preservation. "Restoration" means reconstruction of the historic building or structure with as nearly the same visual design appearance and materials as is consistent with full compliance with the State Building Code and consistent with the requirements of Chapter 20.45 ECDC, Edmonds Register of Historic Places. The reconstruction of all such historic buildings and structures shall comply with the life safety provisions of the State Building Code.

D. Maintenance and Alterations.

1. Ordinary maintenance and repair of a nonconforming building or structure shall be permitted.
2. Solar Energy Installations on Buildings That Exceed Existing Height Limits. A rooftop solar energy installation mounted on a nonconforming building that exceeds the existing height limit may be approved as a Type II staff decision if:
 - a. The installation exceeds the existing roof height by not more than 36 inches.
 - b. The installation is designed and located in such a way as to provide reasonable solar access while limiting visual impacts on surrounding properties.
3. Alterations which otherwise conform to the provisions of the zoning ordinance, its site development and bulk standards, and which do not expand any nonconforming aspect of the building, shall be permitted.
4. In an effort to provide modular relief, minor architectural improvements in commercial and multifamily zones may encroach into the nonconforming setback adjacent to an access easement or public right-of-way not more than 30 inches. Minor architectural improvements may also be

permitted in nonconforming side or rear yard setbacks only if they intrude not more than 30 inches nor one-half of the distance to the property line, whichever is less. "Minor architectural improvements" are defined as and limited to bay windows, eaves, chimneys and architectural detail such as cornices, medallions and decorative trim. Such improvements shall be required to obtain architectural design review. Nothing herein shall be interpreted to exempt such improvements in compliance with the State Building and Fire Codes.

5. Alterations required by law or the order of a public agency in order to meet health and safety regulations shall be permitted.

E. Relocation. Should a nonconforming building or structure be moved horizontally for any reason for any distance, it shall thereafter come into conformance with the setback and lot coverage requirements for the zone in which it is located. Provided, however, that a building or structure may be moved on the same site without full compliance if the movement reduces the degree of nonconformity of the building or structure. Movement alone of a nonconforming building or structure to lessen an aspect of its nonconformity shall not require the owner thereof to bring the building or structure into compliance with other bulk or site development standards of the city applicable to the building or structure.

F. Restoration. If a nonconforming building or structure is destroyed or is damaged in an amount equal to 75 percent or more of its replacement cost at the time of destruction, said building shall not be reconstructed except in full conformance with the provisions of the Edmonds Community Development Code. Determination of replacement costs and the level of destruction shall be made by the building official and shall be appealable as a Type II staff decision under the provisions of Chapter 20.06 ECDC. Damage of less than 75 percent of replacement costs may be repaired, and the building returned to its former size, shape and lot location as existed before the damage occurred, if, but only if, such repair is initiated by the filing of an application for a building permit which vests as provided in ECDC 19.00.015 et seq. within one year of the date such damage occurred. This right of restoration shall not apply if:

1. The building or structure was damaged or destroyed due to the unlawful act of the owner or the owner's agent; or
2. The building is damaged or destroyed due to the ongoing neglect or gross negligence of the owner or the owner's agents.

G. Residential Buildings in Commercial Zones. Existing nonconforming buildings in commercial zones in use solely for residential purposes, or structures attendant to such residential use, may be remodeled or reconstructed without regard to the limitations of subsections (B), (E) and (F) of this section, if, but only if, the following conditions are met:

1. The remodel or reconstruction takes place within the footprint of the original building or structure. "Footprint" shall mean an area equal to the smallest rectangular area in a plane parallel to the ground in which the existing building could be placed, exclusive of uncovered decks, steps,

porches, and similar features; and provided, that the new footprint of the building or structure shall not be expanded by more than 10 percent and is found by the city staff to be substantially similar to the original style and construction after complying with current codes.

2. All provisions of the State Building and Electrical Codes can be complied with entirely on the site. No nonconforming residential building may be remodeled or reconstructed if, by so doing, the full use under state law or city ordinance of a conforming neighboring lot or building would be limited by such remodel or reconstruction.

3. These provisions shall apply only to the primary residential use on site and shall not apply to nonconforming accessory buildings or structures.

4. A nonconforming residential single-family building may be rebuilt within the defined building envelope if it is rebuilt with materials and design which are substantially similar to the original style and structure after complying with current codes. Substantial compliance shall be determined by the city as a Type II staff decision, except that any appeal of the staff decision shall be to the ADB rather than to the hearing examiner. The decision of the ADB shall be final and appealable only as provided in ECDC 20.07.006.

H. Subject to the other provisions of this section, an accessory building that is not an accessory dwelling unit shall be presumptively nonconforming if photographic or other substantial evidence conclusively demonstrates that the accessory building existed on or before January 1, 1981. In the case of a property that was annexed after January 1, 1981, then the date shall be that of the effective date of the annexation to the city of Edmonds. Such presumption may be overcome only by clear and convincing evidence.

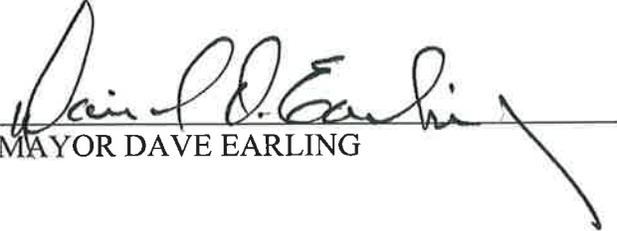
I. BD5 Zone. The BD5 zone was created in part to encourage the adoption and reuse of existing residential structures for live/work and commercial use as set forth in ECDC 16.43.030(B)(5). In the BD5 zone, conforming and nonconforming buildings may be converted to commercial or other uses permitted by ECDC 16.43.020 without being required to come into compliance with the ground floor elevation requirements of ECDC 16.43.030(B). [Ord. 3866 § 2, 2011; Ord. 3781 § 1, 2010; Ord. 3736 §§ 13, 14, 2009; Ord. 3696 § 1, 2008].

J. The antenna and related equipment of a nonconforming Wireless Communication Facility may be completely replaced with a new antenna and related equipment, provided that, upon replacement, the applicant shall use the best available methods and materials to enhance the appearance of the antenna and related equipment and/or screen it from view in a manner that improves the visual impact or the conspicuity of the nonconformity.

Section 4. Severability. If any section, subsection, clause, sentence, or phrase of this ordinance should be held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 5. 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 DAVE EARLING

ATTEST/AUTHENTICATED:


SCOTT PASSEY, CITY CLERK

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY 
JEFF TARADAY

FILED WITH THE CITY CLERK:	February 21, 2014
PASSED BY THE CITY COUNCIL:	February 25, 2014
PUBLISHED:	March 2, 2014
EFFECTIVE DATE:	March 7, 2014
ORDINANCE NO.	3961

SUMMARY OF ORDINANCE NO. 3961

of the City of Edmonds, Washington

On the 25th day of February, 2014, the City Council of the City of Edmonds, passed Ordinance No. 3961. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING CHAPTER 20.50, WIRELESS COMMUNICATION FACILITIES, SECTION 21.05.005, ACCESSORY ANTENNA DEVICE, AND SECTION 17.40.020, NON-CONFORMING BUILDING AND/OR STRUCTURE, OF THE EDMONDS COMMUNITY DEVELOPMENT CODE, PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

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

DATED this 26th day of February, 2014.



CITY CLERK, SCOTT PASSEY

Everett Daily Herald

Affidavit of Publication

STATE OF WASHINGTON }
COUNTY OF SNOHOMISH } ss

The undersigned, being first duly sworn on oath deposes and says that she is Principal Clerk of THE HERALD, a daily newspaper printed and published in the City of Everett, County of Snohomish, and State of Washington; that said newspaper is a newspaper of general circulation in said County and State; that said newspaper has been approved as a legal newspaper by order of the Superior Court of Snohomish County and that the notice is a true copy of City Ordinances - Ordinance Nos. 3961 and 3962 546760

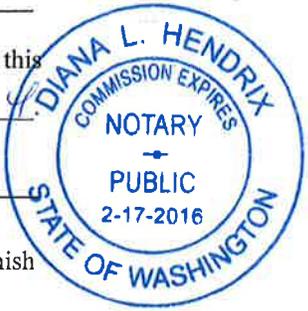
a printed copy of which is hereunto attached, was published in said newspaper proper and not in supplement form, in the regular and entire edition of said paper on the following days and times, namely:

1 issue(s), such publication commencing on 03/02/2014 and ending on 03/02/2014 and that said newspaper was regularly distributed to its subscribers during all of said period. The amount of the fee for such publication is \$ 41.28.

Karen E. Zeman

Subscribed and sworn before me on this 3rd day of March, 2014.

Diana L. Hendrix



Notary Public in and for the State of Washington, residing at Everett, Snohomish County.

City of Edmonds EDH101416 - PO: ORD. 3961 & 3962
ORDERED BY: SCOTT PASSEY

ORDINANCE SUMMARIES
of the City of Edmonds, Washington
On the 25th Day of February, 2014, the City Council of the City of Edmonds, Washington, passed the following Ordinances. The summaries consisting of titles are provided as follows:
ORDINANCE NO. 3961
AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING CHAPTER 20.50, WIRELESS COMMUNICATION FACILITIES, SECTION 21.05.005, ACCESSORY ANTENNA DEVICE, AND SECTION 17.40.020, NON-CONFORMING BUILDING AND/OR STRUCTURE, OF THE EDMONDS COMMUNITY DEVELOPMENT CODE, PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.
ORDINANCE NO. 3962
AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING CHAPTER 17.40 OF THE EDMONDS COMMUNITY DEVELOPMENT CODE TO ADD SECTION 17.40.023, AMNESTY FOR CERTAIN LONG-EXISTING WIRELESS COMMUNICATION FACILITIES, PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.
The full text of any Ordinance will be mailed upon request. Dated this 26th Day of February, 2014.
CITY CLERK, SCOTT PASSEY
Published: March 2, 2014.