

BOARD OF YAKIMA COUNTY COMMISSIONERS

IN THE MATTER OF AMENDING YAKIMA COUNTY }
CODE TITLE 15.08.175 AND TITLE 15.18.030(V) } ORDINANCE NO. 10-2009
PERTAINING TO AMATEUR RADIO AND PERSONAL }
WIND TOWERS }

WHEREAS, RCW 36.70A.130(4) requires that Yakima County, a “fully planning” county, shall update its comprehensive plan and development regulations, as necessary, to reflect local needs, new data, and current laws; and,

WHEREAS, under RCW 36.70A.130, the plan and development regulations are subject to continuing review and evaluation, but the plan may be amended no more than one time per year; and,

WHEREAS, as part of its comprehensive plan and development regulations update process, the County has established a public participation program, YCC 16B.10, which sets forth minimum requirements for ensuring adequate public notification and opportunities for comment and participation in the amendment process; and,

WHEREAS, the annual meeting of the Yakima County Planning Commission (Planning Commission) was held on May 5, 2008, which included an opportunity to suggest items for docketing; and,

WHEREAS, at the May 5, 2008 meeting Ray Gregg, President of the Yakima Amateur Radio Club, made a formal request to amend the Yakima County Zoning Ordinance (YCC Title 15) to add a definition for “Amateur Radio Towers” and “Amateur Radio Antenna Support Structures;” and,

WHEREAS, the public was informed of the opportunity to submit formal applications for amendments to *Plan 2015* and development regulations up to May 30, 2008; and,

WHEREAS, Yakima County Public Services – Planning Division Staff (Staff) has reviewed the proposal and made recommendation to the Yakima County Planning Commission; and,

WHEREAS, the Yakima County Planning Commission held a public hearing on this matter on September 24, 2008; and,

WHEREAS, the Planning Commission, having carefully considered the applicant’s justification, the staff recommendation, and the written and oral testimony in its deliberations, recommended approval of Staff’s Amateur Radio Tower and Antenna proposal, with an additional recommendation to waive the fees for Type I and Type II uses, to the Board of County Commissioners; and,

WHEREAS, after deliberating on the proposed amendments the Planning Commission issued to the Board of Yakima County Commissioners (the Board) its *Findings of Fact and Recommendation*, dated November 19, 2008 (Exhibit 1 attached hereto); and,

WHEREAS, upon increased public interest, Staff were directed by the Administrative Official to draft additional regulatory language for personal wind tower uses; and,

WHEREAS, Staff submitted draft regulatory language for all tower uses within Yakima County, including Amateur Radio, Communication and Wind Towers and their associated support structures; and,

WHEREAS, the Board held a duly advertised public hearing on December 1, 2009 at the Yakima City Hall to hear testimony on Ray Gregg's request to amend the Yakima County Zoning Ordinance (YCC Title 15) to add a definition for "Amateur Radio Antenna" and "Amateur Radio Antenna Support Structures", and to regulate HAM Towers separately from Communication Towers; and,

WHEREAS, the Board reviewed the proposed Amateur Radio Tower changes to the Yakima County Zoning Ordinance (YCC Title 15), and held deliberations on these changes on December X, 2009; and,

WHEREAS, the Board, having carefully considered the Mr. Gregg's proposal, the staff recommendation, the Planning Commission's findings and recommendations, and the written and oral testimony in its deliberations; now, therefore,

BE IT HEREBY ORDAINED BY THE BOARD OF YAKIMA COUNTY COMMISSIONERS:

Section 1. Findings. The Board of Yakima County Commissioners (the Board) finds that all RCW 36.70A (the Growth Management Act or GMA) and YCC Title 16B.10 prerequisites for the continuing review and evaluation of the comprehensive plan and implementing development regulations, as well as the minimum requirements for ensuring adequate public notification and opportunities for comment and participation in the amendment process, have been met. The Board makes the following findings:

- A. Planning Commission Recommendation. The Board hereby adopts the *Findings of Fact and Recommendation* of the Planning Commission (Exhibit 1 attached hereto). During their deliberations the Planning Commission recommended to approve Staff's Amateur Radio Tower and Antenna proposal. A subsequent motion was voted on to recommend approval of staff's modification of the applicant's proposal with a recommendation to the Board to eliminate the Type I and Type II application fee in a vote of 5-1.
- B. Planning Division Recommendation. The Board adopts the Yakima County Planning Division recommendations, except as outlined in Section 2 below.
- C. State Environmental Policy Act (SEPA). The SEPA Responsible Official has reviewed the potential adverse environmental impacts of the proposed amendments in accordance with the provisions of YCC 16, culminating in a Final Determination on December 10, 2008 to retain his *Adoption of Existing Environmental Documents and a Mitigated Determination of Non-significance* issued on November 21, 2008. The Board finds that environmental review is complete and adequate.
- D. Analysis of Cumulative Impacts. The cumulative impacts of the amendments to the Yakima County Zoning Ordinance have been considered as part of the review process in reaching the decisions in this ordinance.

E. Legislative Intent. The Board finds that HAM, Communication and Wind Towers and Support Structure use on private property require a Type xx zoning review

Section 2. YCC Title 15 Zoning Text Amendment. The Yakima County Zoning Ordinance (YCC, adopted by YCC 15.16.010 (1) and subsequently amended, is hereby amended as depicted by the following.

Add the following new definitions to Chapter 15.08 (underlined is new text):

15.08.077 Amateur Radio Antenna and Support Structure

"Amateur radio antenna and support structure" means any device for receiving or transmitting radio signals, including any tower, pole, mast, tree, or guy wire, used to support an amateur radio antenna.

15.08.502 Personal Wind Towers

A system designed as providing a secondary source of electrical power to an existing or new building or facilities, wherein the power generated is used primarily for on-site consumption and generates 20Kw or less. The system consists of a wind turbine and associated controls and may include a tower. Anemometers are considered wind towers for the purposes of this title.

Add the following regulatory note (ff) to Table 15.18:

(ff) Towers

Towers and support structures:

- 1a) That are under the height restriction of a zoning district with a specific height standard, are self-supporting and have a 2.0 feet or less radius from the center axis of the base of the tower, and have antennae, rotors and other attachments with a diameter of 9.0 feet or less, shall be subject to Type I review criteria. [35': FW, MR, VR, RT, R1, R2; 45': R3, RS, B1, B2, C, CH]
- 1b) That are above the height restrictions of a zoning district with a specific height standard or are not self-supporting or have a 2.0 feet or greater radius from the axis of the base of the tower, and have antennae, rotors and other attachments with a diameter of greater than 9.0 feet, and the height of the tower is 70.0 feet or less, the tower shall be subject to at least a Type II review criteria.
- 1c) That are within a zoning district that has a specific height standard and do not qualify for a type I or Type II are Type III.
- 1d) That are located in the R/ELDP, AG, I, or MIN zoning districts, where height of buildings or structures is not specified, are self-supporting, have a 2.0 feet or less radius from the center axis of the base of the tower, and have antennae, rotors and other attachments with a diameter of 9.0 feet or less, and the height of the tower is 70.0 feet or less, the tower shall be subject to a Type I review criteria.
- 1e) That are located in the R/ELDP, AG, I, or MIN zoning districts, where height of buildings or structures is not specified, are not

self-supporting or 2.0 feet or greater radius from the center axis of the base of the tower, or and have antennae, rotors and other attachments with a diameter of greater than 9.0 feet, and the height of the tower is 100.0 feet or less, the tower shall be subject to a Type II review criteria.

- 1f) That are located in the R/ELDP, AG, I, or MIN zoning districts, where height of buildings or structures is not specified, tower height is greater than 100.0 feet are a Type III.
- 1g) That propose to co-locate on existing towers, buildings, structures and facilities without an increase in height and have antennae, rotors and other attachments with a diameter of less than 9.0 feet, is a Type I.
- 2) All towers and items affixed thereto, guy wires, or supports shall meet the setback standards of the zoning district in which they are located. Greater setbacks may be enforced by the Administrative Official.
- 3) All towers and their guy wires or supports shall adhere to the requirements of the Airport Safety Overlay, when applicable.
- 4) Towers that are located in R/ELDP, AG, I, MIN, and qualify as a Type III, but will be removed within 3 years, are considered temporary in nature and may be considered a Type II by the Reviewing Official. An extension of one year may be requested by the applicant. No more than two extensions will be granted by the Administrative Official.
- 5) With consideration to engineering and structural requirements, towers shall be subject to the following visual compatibility standards:
 - a. Towers and antenna(e) should reflect the visual characteristics of the structure to which it is attached. This should be achieved through the use of colors and materials, as appropriate. When located on structures such as buildings or water towers, the placement of the antenna on the structure should reflect the following order of priority in order to minimize visual impact:
 - i. A location as close as possible to the center of the structure; and
 - ii. Along the outer edges or side-mounted, provided that, in this instance, additional means such as screens should be considered and may be required on a case-by-case basis; and
 - iii. When located on the outer edge or side-mounted, be placed on the portion of the structure less likely to be seen from adjacent lands containing, in descending order of priority: existing residences, public parks and open spaces, and public roadways.
 - b. To the extent that there is no conflict with the color and lighting requirements of the Federal Communications Commission and the Federal Aviation Administration for aircraft safety purposes, transmission support structures shall be designed to blend in with existing surroundings to the extent feasible.

This should be achieved through the use of compatible colors and materials, and alternative site placement to allow the use of topography, existing vegetation or other structures to screen the proposed transmission support structure from adjacent lands containing, in descending order of priority: existing residences, public parks and open spaces, and public roadways.

- c. The provisions of this title may be waived by the Administrative Official in order to achieve greater levels of screening than that which would be available by using the stated setback during the course of the review process.
- 6) Towers and support structures shall be removed within 1 year of the date of ceasing operation. Antenna shall be removed from support structures within 180 days after the antenna is no longer operational.
- 7) Personal wind towers shall be designed, installed and operated so that noise generated by the system shall not exceed fifty decibels (50 dBA) measured from the nearest property line, except during short term events such as utility outages and severe wind storms.
- 8) Towers will be located no nearer than 50.0 feet from an edge of right-of-way or easement of a public or private road.
- 9) No more than one tower per parcel in residential districts and no more than 2 towers per parcel in all other zoning districts shall be permitted.

Section 3. Severability. The provisions of this ordinance are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, sections, or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of the ordinance, or the validity of its application to any other persons or circumstances.

Section 4. Ratification. Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

Section 5. Effective Date. This ordinance shall be effective at 11:59 PM on December 31, 2009.

ADOPTED this ____ day of December, 2009.

J. Rand Elliott, Chairman

Attest: Christina Steiner

Michael D. Leita, Commissioner

Clerk of the Board

Kevin Bouchey, Commissioner
*Constituting the Board of County Commissioners
for Yakima County, Washington*

APPROVED AS TO FORM:

Deputy Prosecuting Attorney

Attachments:

Exhibit 1: Planning Commission's *Findings of Fact and Recommendation*, dated November 19, 2008

DRAFT