

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE NO. 2-90

) IN THE MATTER OF AMENDING CHAPTER
) 10 OF LANE CODE AND ADOPTING RE-
) VISED LAND USE REGULATIONS IN
) SECTIONS 9.015, 9.384, 9.386,
) 9.439, 9.440 AND 9.536 OF EUGENE
) CODE, 1971, FOR AMATEUR RADIO
) ANTENNA STRUCTURES WITHIN THE
) URBANIZABLE AREA OF THE EUGENE
) URBAN GROWTH BOUNDARY AND ADOPTING
) SAVINGS AND SEVERABILITY CLAUSES

FILED

JUN 21 1990

COUNTY CLERK

FOR LANE COUNTY OF

BY *[Signature]*

WHEREAS, on April 8, 1987, the Lane County Board of Commissioners adopted Ordinance No. 18-86 amending Lane Code by the addition of sections 10.600-20 and -25 to adopt the Eugene Land Use Regulations, and transfer the administration of land use regulations within the Eugene Urban Growth Boundary to Eugene in accordance with an Urban Transition Agreement identified as Exhibit "C" of Ordinance 18-86; and

WHEREAS, Article VIII of the Urban Transition Agreement provides for County adoption of changes in land use regulations made by the City for application to the Eugene Urban Growth Boundary area; and

WHEREAS, on October 9, 1989, the Eugene City Council adopted Ordinance No. 19639, "An Ordinance Concerning Amateur Radio Antenna Structures; Amending Sections 9.015, 9.384, 9.386, 9.439, 9.440 and 9.536 of the Eugene Code, 1971; and Declaring an Emergency"; and

WHEREAS, on February 7 and March 6, 1990, the Lane County Planning Commission conducted a public hearing to review the proposed amendments to the Eugene Code took action on March 6, 1990 to recommend adoption by the Lane County Board of County Commissioners; and

WHEREAS, Lane County Board of County Commissioners has conducted public hearings and is ready to take action;

NOW, THEREFORE, the Board of County Commissioners of Lane County **ORDAINS** as follows:

1. The provisions of sections 9.015, 9.384, 9.386, 9.439, 9.440 and 9.536 of the Eugene Code, 1971, as adopted by Lane County Ordinance No. 18-86, and amended by Lane County Ordinance

1 - IN THE MATTER OF AMENDING CHAPTER 10 OF LANE CODE AND ADOPTING REVISED LAND USE REGULATIONS IN SECTIONS 9.015, 9.384, 9.386, 9.439, 9.440 AND 9.536 OF EUGENE CODE, 1971, FOR AMATEUR RADIO ANTENNA STRUCTURES WITHIN THE URBANIZABLE AREA OF THE EUGENE URBAN GROWTH BOUNDARY AND ADOPTING SAVINGS AND SEVERABILITY CLAUSES (LC 10.600-25)

No. 7-88, are hereby further amended to revise the regulations for constructing amateur radio antenna structures, as indicated in Exhibit "A" attached and incorporated herein by this reference. The regulations shall not be codified into Lane Code.

2. Chapter 10 of the Lane Code is hereby amended by removing and substituting the following page:

REMOVE THIS PAGE

INSERT THIS PAGE

10.600-20 - 10.600-25(2), i.e. 10-340 (a total of one page)	10.600-20 - 10.600-25(2), i.e. 10-340 (a total of one page)
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This page is attached hereto and incorporated herein by this reference. The purpose of this substitution is to include specific reference to this Board of County Commissioner action amending the Eugene Land Use regulations to be applied by Eugene on urbanizable land within the Eugene Urban Growth Boundary.

Ordinances amended by this Ordinance shall remain in force to authorize a punishment, penalty or forfeiture incurred before this amendment takes effect, or a suit, prosecution or proceeding ending when the amendment takes effect, for an offense or violation committed under the amended Ordinance.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not effect the validity to the remaining portions hereof.

While not a part of this Ordinance, findings in attached Exhibit "B" are adopted in support of this decision.

DATED this 20th day of June, 1990.

Bill Rogers

Chair, Lane County Board of
Commissioners

Judy Haldeman

Recording Secretary for this
Meeting of the Board

APPROVED AS TO FORM
DATE 5-23-90
Stephen Z. Weber
OFFICE OF LEGAL COUNSEL

2 - IN THE MATTER OF AMENDING CHAPTER 10 OF LANE CODE AND ADOPTING REVISED LAND USE REGULATIONS IN SECTIONS 9.015, 9.384, 9.386, 9.439, 9.440 AND 9.536 OF EUGENE CODE, 1971, FOR AMATEUR RADIO ANTENNA STRUCTURES WITHIN THE URBANIZABLE AREA OF THE EUGENE URBAN GROWTH BOUNDARY AND ADOPTING SAVINGS AND SEVERABILITY CLAUSES (LC 10.600-25)

bcj/3823

ORDINANCE NO. 19639

AN ORDINANCE CONCERNING AMATEUR RADIO ANTENNA STRUCTURES; AMENDING SECTIONS 9.015, 9.384, 9.386, 9.439, 9.440, AND 9.536 OF THE EUGENE CODE, 1971; AND DECLARING AN EMERGENCY.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. Section 9.015 of the Eugene Code, 1971, is amended by adding definitions for "Amateur radio antenna structure" and "Radio towers and transmitters" in alphabetical order therein, to provide:

9.015 Definitions. As used in this chapter, unless the context requires otherwise, the following words and phrases mean:

Amateur radio antenna structure. An antenna and any structure supporting an antenna that a federally licensed amateur radio operator uses to transmit or receive electromagnetic waves.

Radio towers and transmitters. Except for amateur radio antenna structures, any structure or facility exceeding the building height maximum allowed in the zoning district wherein the tower or transmitter is to be located and used to broadcast radio signals under license from the Federal Communications Commission.

Section 2. The matrix set forth in Section 9.384 of the Eugene Code, 1971, is amended by adding the following in alphabetical order therein:

9.384 Uses. The following reflects the uses permitted outright, conditionally, or subject to standards or other requirements of this code within the RA, R-1, R-2, R-3, and R-4 zoning districts:

- P Permitted outright.
- C Conditional use permit approval required.
- P/C Permitted or conditional See related standard.
- Std In addition to other applicable regulations, section 9.386 includes special standards for the use listed.

RA R1 R2 R3 R4

Amateur radio antenna structure (Std 31). P P P P P

Section 3. Section 9.386 of the Eugene Code, 1971, is amended by add-

ing a new standard (31) thereto, to provide:

9.386 Special Standards For Certain Uses In Residential Districts.

(31) Amateur Radio Antenna Structures.

(a) The maximum permitted height is 70 feet above the ground directly below the structure's base, unless a variance is approved according to the procedures in this code. If the antenna structure will be on a building roof in an R-4 zoning district (which has no maximum height), it may extend 18 feet above the roof.

(b) The minimum setback from all property lines to the structure's base is at least one foot for every three feet of height, unless a variance is approved according to the provisions of this code. (For example, an antenna structure 70 feet in height would need to be set back a minimum of 23 feet from all adjacent property lines.) This standard shall not apply to antenna structures that extend a maximum of 18 feet above the height of the main house or building, whether the antenna structure is attached to it or free-standing.

(c) Parts and assembly must be in compliance with the manufacturer's specifications or those of an engineer licensed by the State of Oregon.

(d) Must be adequately grounded as required by specialty codes adopted in chapter 8 of this code.

(e) Structures and related guy wires and ground anchors must comply with setback standards of the zone in which they are located.

(f) Unless a conditional use permit is approved according to the provisions of this code, must be accessory to the main use of the properties on which they are located.

(g) Whether attached to another structure or building, or are free-standing, a building permit must be obtained prior to installation. Documentation may be required that verifies compliance with applicable codes and standards.

(h) Must be in compliance with other applicable standards of the zoning district wherein they will be located.

Section 4. The matrix set forth in Section 9.439 of the Eugene Code, 1971, is amended by adding the following in alphabetical order therein, to provide:

9.439 Uses. The following reflects the uses permitted outright, conditionally, or subject to standards or other requirements of this code within the C-1, C-2, C-3, C-4 and GO zoning districts:

- P Permitted outright
- C Conditional Use Permit approval required
- * Notations at end of the list

NEC Not elsewhere classified
 Standards . Code includes special requirements for use listed

	C1	C2	C3	C4	G0
Amateur radio antenna structure (Std)	P	P	P		P

Section 5. Section 9.440 of the Eugene Code, 1971, is amended by adding a new subparagraph (1) thereto, to provide:

9.440 Special Standards. In addition to general provisions, parking, and other regulations required by this code, the following uses are subject to the special standards set forth in this section:

- (1) Amateur radio antenna structure:
 1. The maximum permitted height is 70 feet above the ground directly below the structure's base, unless a variance is approved according to the procedures in this code. If the antenna structure will be on a building roof in a C-2 or C-3 zoning district (which has no maximum height), it may extend 18 feet above the roof.
 2. The minimum setback from all property lines to the structure's base is at least one foot for every three feet of height, unless a variance is approved according to the provisions of this code. (For example, an antenna structure 70 feet in height would need to be set back a minimum of 23 feet from all adjacent property lines.) This standard shall not apply to antenna structures that extend a maximum of 18 feet above the height of the main house or building, whether the antenna structure is attached to it or freestanding.
 3. Parts and assembly must be in compliance with the manufacturer's specifications or those of an engineer licensed by the State of Oregon.
 4. Must be adequately grounded as required by specialty codes adopted in chapter 8 of this code.
 5. Structures and related guy wires and ground anchors must comply with setback standards of the zone in which they are located.
 6. Unless a conditional use permit is approved according to the provisions of this code, must be accessory to the main use of the properties on which they are located.
 7. Whether attached to another structure or building, or are free-standing, a building permit must be obtained prior to installation. Documentation may be required that verifies compliance with applicable codes and standards.
 8. Must be in compliance with other applicable standards of the zoning district wherein they will be located.

Section 6. Subparagraph (b) of Section 9.536 of the Eugene Code, 1971,

is amended to provide:

9.536 Building Height Exceptions. In addition to other restrictions on building heights imposed under this code, the following building height limitations apply. Building height exemptions allowed under this section shall not excuse shadow-casting point height limitations required under the solar access provisions of this code.

(b) Roof structures and architectural features: Roof structures for the housing of elevators, stairways, tanks, ventilating fans, and similar equipment required to operate and maintain the building, fire or parapet walls, skylights, towers, flagpoles, chimneys, smokestacks, T.V. antennas, steeples and similar structures may be erected above the height limits prescribed in this ordinance, provided that no roof structure, feature or any other device above the prescribed height limit shall be allowed or used for the purpose of providing additional floor space. Provided, further, that no roof structure or architectural feature shall be erected more than 18 feet above the height of the main building, whether such structure is attached to it or freestanding.


Section 7. That the matters contained herein concern the public welfare and safety and therefore, an emergency is hereby declared to exist, and this Ordinance shall become effective immediately upon its passage by the City Council and approval by the Mayor.

Passed by the City Council this
9th day of October, 1989



City Recorder

Approved by the Mayor this
9th day of October, 1989



Mayor

10.600-20

Lane Code

10.600-25(2)

-20 Eugene Urban Growth Boundary. The City of Eugene shall have the responsibility and the authority to administer its land use regulations on urbanizable land within the Eugene Urban Growth Boundary. For the purpose of this subsection, the following words and phrases shall mean:

(1) Eugene Urban Growth Boundary. All urbanizable land within the urban growth boundary, as defined by the Eugene-Springfield Metropolitan Area General Plan, on November 21, 1989, or as amended thereafter on the effective date of any Plan amendment enacted by Lane County, which is west of I-5 or within the area known as Glenwood (bounded on the north and east by the Willamette River and the west and south by I-5).

(2) Urbanizable Land. Urbanizable lands are those unincorporated lands between the Eugene City Limits and the Eugene Urban Growth Boundary.

-25 Applicable Land Use Regulations. Lane County has adopted the following land use regulations to be applied by Eugene on urbanizable land within the Eugene Urban Growth Boundary.

(1) The Eugene Land Use regulations as adopted by the Lane County Board of Commissioners as part of Ordinance No. 18-86 as amended in Ordinance Nos. 16-87, 5-88, 6-88, 7-88, 1-89, 2-89, 13-89 and 2-90.

(2) Copies of these applicable land use regulations shall be on file at the Lane County Land Management Division.

18-86; 4.27.87
21-87; 11.25.87
11-89; 11.21.89
13-89; 1.12.90

10-340

WP 1/co/00036/C

FINDINGS IN SUPPORT OF THE ADOPTION OF THE ORDINANCE

1. In 1986-1987, Lane County engaged in an Urban Transition program with the Cities of Eugene and Springfield, in the form of County adoption of ordinances and agreements transferring land use and other regulatory authority to the City within the Urban Growth Boundary and outside the City limits.
2. Since 1986, several modifications have been made to City Code regulations within the transition area. Those changes have been adopted by the County in the form of amendments to Lane Code 10.600.
3. In 1989, in the form of Ordinance 19639, the City of Eugene modified its Code to incorporate changes involving the regulation of amateur radio antenna structures. The purpose of the changes was to make such structures permitted uses (with safety and setback standards) in residential and commercial zoning districts.
4. In adopting such changes, the City was responding to interpretations of Federal Communication Commission rules which disallow local jurisdictions from unduly precluding amateur radio. Removal of amateur radio structures from Conditional Uses in the City Code would serve to allow such communications without undue restriction, while at the same time still providing for safety and setback standards. Commercial radio antenna structures will continue to be Conditional Uses.
5. The Board of County Commissioners of Lane County finds that the action by the City serves to provide broader access to amateur radio communications than would be possible by more severe restrictions in a Conditional Use procedure, and also for reasons given in 4. above, finds that incorporation of the City Code changes into Lane Code Chapter 10 is an appropriate action.

UNDERLINING _____ indicates material being added.

LEGISLATIVE FORMAT

BRACKETS [] indicate material being deleted.

10.600-20

Lane Code

10.600-25(2)

BOOK 144 PAGE 0628

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10-340

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