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ORDINANCE NO. 3604

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING THE PROVISIONS OF THE EDMONDS CITY CODE TO ADOPT A NEW CHAPTER 4.04 ENTITLED CONCESSION AGREEMENTS, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

WHEREAS, from time to time requests are made to utilize City property and/or City right of way for private purposes; and

WHEREAS, the City has authority to grant leases and other concession agreements that are consistent with the public's full use of public property, and in certain cases, enhance the public's use and enjoyment such as concession agreements to embrace the use of City parks; and

WHEREAS, any use of the public right of way must not interfere with travel of the public, must be strictly permissive, revocable at the will of the City and conferring no vested right whatsoever; and

WHEREAS, approval of any lease is not a quasi-judicial decision of the City Council, but rather a legislative act solely within the Council's discretion; NOW, THEREFORE,

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

Section 1. The Edmonds City Code is hereby amended by the enactment of a new Chapter 4.04 Concession Agreements to read as follows:.

4.04.010 Concession agreements.

A concession agreement is a lease of public property or city right of way. Decisions to lease City property or public right of way are legislative decisions to be granted at the sole discretion of the City Council.

By way of illustration and not limitation, a concession agreement may provide for the lease of public property or right of way for private use to vend food or beverages, rent bicycles, roller skates, fishing equipment or other uses which the City Council, in its sole discretion, believes are consistent with the public's full use and enjoyment of park, public property or right of way, or enhance the general atmosphere of the community.

4.04.020 Concession agreements on public property.

A. "Public property" shall mean any property in fee by the City of Edmonds.

B Concession agreements may be granted at the sole discretion of the City Council from time to time as it deems appropriate. The revenue from the lease of public property shall accrue to the general fund, provided, however, that concession agreements for lease of property owned, purchased or utilized by a utility or other special purpose fund shall accrue to that fund.

C. Such agreements shall be approved by the City Council in a form created and approved by the City Attorney. The Lessee shall provide proof of insurance in a minimum of \$1,000,000 per occurrence and \$5,000,000 in the aggregate and shall fully indemnify and hold harmless the City, its officers, agents, employees and volunteers.

D. A concession agreement relating to park property shall comply in all respects a park plan adopted as a part of the City's comprehensive plan. No concession agreement shall be approved for park property until approved in the applicable portion of the comprehensive plan, parks element.

E. Concession agreements relating to park property shall be approved only after a public hearing. Notice of the public hearing shall be posted at least at three locations at the perimeter of the park property and at the site sought for lease by a concessionaire.

4.04.030 Leases of public right of way.

A. “Public right of way” shall mean property held for street or alley purposes and shall typically be limited to unopened City right of way. The lease of public right of way developed for street purposes shall comply with the street vendor’s ordinance and/or street use provisions of Chapter 18.70 as applicable.

B. Any concession agreement for the lease of unopened street right of way shall confer no vested right on the Lessee. Any concession or lease agreement drafted by the City Attorney shall provide that it may be terminable at the will of the City Council with or without cause. On termination, a pro-rated portion of the lease payment shall be returnable to the Concessionaire or Lessee.

C. The Lessee shall provide proof of insurance in a minimum of \$1,000,000 per occurrence and \$5,000,000 in the aggregate and shall fully indemnify and hold harmless the City, its officers, agents, employees and volunteers.

4.04.040 Exemptions.

Persons leasing property from the City through a concession agreement shall obtain a City business license. The use of property leased under a concession agreement shall be consistent with the uses permitted in the adjacent zone. Adjacent zone means that zoning, other than public zoning or right of way designation, which is closest to the area leased. In the event that differing zones are equidistant from the leased property, the more restrictive use provisions of an adjacent zone shall be applied.

Section 2. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title.

APPROVED:

MAYOR GARY HAAKENSEN

ATTEST/AUTHENTICATED:

CITY CLERK, SANDRA S. CHASE

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY _____
W. SCOTT SNYDER

FILED WITH THE CITY CLERK:	09/15/2006
PASSED BY THE CITY COUNCIL:	09/18/2006
PUBLISHED:	09/24/2006
EFFECTIVE DATE:	09/29/2006
ORDINANCE NO. <u>3604</u>	

SUMMARY OF ORDINANCE NO. 3604

of the City of Edmonds, Washington

On the 18th day of September, 2006, the City Council of the City of Edmonds, passed Ordinance No. 3604. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING THE PROVISIONS OF THE EDMONDS CITY CODE TO ADOPT A NEW CHAPTER 4.04 ENTITLED CONCESSION AGREEMENTS, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

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

DATED this 19th day of September, 2006.

CITY CLERK, SANDRA S. CHASE