

**ORDINANCE NO.** 3982-23

**An EMERGENCY ORDINANCE Relating to Temporary Uses, ADOPTING an Interim Official Control Allowing Temporary Uses under EMC 19.05.068 to be Renewed, Declaring an Emergency, and Setting a Public Hearing Date.**

**WHEREAS,**

- A.** The temporary use provisions of EMC 19.05.068 provide important flexibility to respond to opportunities or problems by temporarily allowing, with city approval, uses that are not otherwise allowed in a given zone; and
- B.** The temporary use provisions of EMC 19.05.068 are limited to 60 days without the possibility of renewal, which limits applicability in some circumstances; and
- C.** In October 2023 testing ordered by Catholic Housing Services indicated that parts of the Clare's Place building were contaminated with chemical residue, which required urgent action to provide safe housing for residents while the building was remediated; and
- D.** On October 16, 2023, the city issued a temporary use permit (REVI23-100) for placement of 30 outdoor shelters on adjacent city-owned property while the Clare's Place building was remediated; and
- E.** The temporary use permit is set to expire on December 15, 2023, several weeks before building remediation is complete; and
- F.** This ordinance will allow for temporary use permit REVI23-100 to be renewed for an additional period of time, estimated about 60 days, while building remediation is completed; and
- G.** This ordinance will also clarify that a temporary use permit is a Review Process I decision under Chapter 15.02 EMC; and
- H.** City staff will brief the Planning Commission on the process and effect of this ordinance at the commission's next meeting; and
- I.** The Planning Commission is directed to evaluate and consider the provisions of this ordinance and provide a recommendation to the City Council, by [4 months from the effective date] on whether to let the amendments to the temporary use provisions expire as defined in this ordinance, make the amendments permanent, or something else; and
- J.** This ordinance is categorically exempt under WAC 197-11-800(19) and WAC 197-11-880

- K. City staff will provide notice of the emergency ordinance to the Washington State Department of Commerce by [15 days from the effective date]; and
- L. The City Council considered the factors in EMC 15.03.400 in reviewing the proposed comprehensive plan policy amendments in this ordinance; and
- M. The City Council finds that the proposed amendments to the city's development regulations (unified development code) contained in this ordinance are consistent with the Everett comprehensive plan, bears a substantial relation to public health, safety and welfare, and promotes the best long-term interests of the Everett community.
- N. The code amendments meet the applicable criteria in EMC 15.03.300(C)(4):
  - 1. The public health, safety and welfare will be provided for by these unified development code amendments; and
  - 2. The proposed amendment bears a substantial relation to public health, safety or welfare; and
  - 3. The proposed amendments promote the best long-term interest of the Everett community.
- O. RCW 36.70A.390 provides that the City Council may adopt an interim official control after holding a public hearing or scheduling a public hearing within 60 days; and
- P. Everett City Charter Section 3.4 provides for emergency ordinances to take effect immediately.

**NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:**

**Section 1.** Section EMC 19.05.068 is hereby amended as follows, with strikeout text deleted and underlined text added:

- A. User Guide. This section establishes a mechanism whereby the city may, on a short-term basis, permit a use to be conducted that would not otherwise be allowed in the zone in which it is located. This section is intended to permit certain inherently temporary uses, such as community festivals and fresh vegetable stands, that would not be allowed in the zone in which they are proposed, but which, if limited in time and strictly controlled, may be in the best interest of the Everett community.
- B. Process for Deciding Upon a Proposed Temporary Use. The city will use the review process as described in Chapter 15.02 EMC, Local Project Review Procedures, to review and decide upon an application for a temporary use permit.
- C. Application Information. The applicant shall provide the following information to the planning department:
  - 1. A completed application on the form provided by the planning department, along with all information requested in that form;

2. An irrevocable, signed and notarized statement granting the city permission to summarily abate the temporary use and all physical evidence of that use if it is not removed by the applicant within the period specified as part of the permit, and agreeing to reimburse the city for any expenses incurred by the city in abating the temporary use; and

3. Written permission from the owner of the property upon which the temporary use is proposed to be located authorizing the proponent to use the subject property for the stated purposes and time period.

D. Criteria for Granting a Temporary Use Permit. The city may grant a temporary use permit only if it finds that:

1. The proposed temporary use will not be materially detrimental to the public welfare, or injurious to the property or improvements in the immediate vicinity; and

2. The proposed temporary use is compatible in terms of location, access, traffic, noise, nuisance, dust control and hours of operation with existing land uses in the immediate vicinity; and

3. The proposed temporary use is not otherwise allowable in the zone in which it is proposed.

E. Dimensional Requirements and Development and Performance Standards. The city shall establish dimensional requirements and development and performance standards as part of the approval of each temporary use permit. The city will use the nature of the proposed use and character of the surrounding area as guides in establishing these requirements and standards.

F. Frequency and Duration of Temporary Use. ~~The city may not grant a temporary use permit to the same user for the same use more frequently than once in every three hundred sixty-five-day period.~~ The city may only grant a temporary use permit for a specified period of time, not to exceed sixty days except as otherwise provided in this section. The temporary use permit shall specify a date by which the use shall be terminated.

G. Removal of a Temporary Use. The city shall designate, as part of the temporary use permit, a period following the expiration of the permit within which the temporary use must be terminated and all physical evidence of the use must be removed by the applicant. If the temporary use and all physical evidence of the use are not removed within the time specified, it will constitute a violation of this title. Further, the city is authorized to abate the temporary use in accordance with subsection (C)(2) of this section.

H. Exception to Permit Requirement.

1. Garage Sales. Garage sales shall be limited to two events per year with a maximum duration not to exceed four days per event.

2. Commercial and Industrial Zones. The following temporary uses, when located in commercial and industrial zones for not longer than the time periods specified below, are exempt from the permit requirements of this section:

a. Not to exceed forty-five days:

(1) Christmas tree lots;

b. Not to exceed ten consecutive days:

(1) Amusement rides;

(2) Carnivals and circuses;

(3) Parking lot sales which are ancillary to the indoor sale of the same goods and services.

I. Prohibited on Public Right-of-Way. See EMC 13.30.010 for permit requirements to use public right-of-way.

**Section 2.** Section EMC 15.02.060 is hereby amended as follows, with strikeout text deleted and underlined text added:

**15.02.060      Review Process I—Minor administrative review.**

A. Description.

1. Review Process I (“REV I”) applies to permit applications that involve minor administrative land use decisions. Review Process I applications shall be reviewed administratively by the planning department staff to determine compliance with the unified development code and other applicable ordinances and regulations.

2. If a Review Process I application is not categorically exempt under SEPA, the application shall be processed under Review Process II.

B. Decisions Included.

1. Land use decisions identified as “Permitted,” or “P,” in Sections 19.05.080 through 19.05.120, Tables 5-1 through 5-5, and Temporary Use permits under Section 19.05.068 are Review Process I (REV I) decisions.

2. Land Divisions. The following permit applications are included as REV I decisions:

a. All short subdivision applications.

b. All other land division applications, including preliminary and final approvals, not identified as REV II or REV III decisions.

c. Pursuant to RCW 58.17.100, all final plat approvals regardless of the number of lots created. See REV II and REV III decisions for preliminary plat approval authority.

3. Historic. The following permit applications are included as REV I decisions:

- a. Construction of a new single-family or two-unit dwelling;
- b. Addition of an accessory dwelling unit to an existing single-family or two-unit dwelling;
- c. Alteration of significant features identified in a historic resource inventory of a structure or site on the Everett register of historic places;
- d. Additions of more than one hundred fifty square feet to a building with three or more dwelling units when identified as a contributing structure and within an Everett historic overlay zone.

4. The review process for land use decisions shall be REV I unless otherwise indicated in this title, or as otherwise determined by the planning director based on subsection (B)(5) of this section.

5. Administrative determinations made by the planning department staff that are not associated with an application specifically identified in the unified development code and that are categorically exempt under SEPA are not subject to the procedures and requirements of this title.

6. If the planning director determines that notice to contiguous property owners should be provided regarding a land use decision, the planning director may require the permit application to be reviewed using a higher level of review process than otherwise required.

C. Action Taken. Action taken on the application shall be one of the following:

- 1. Permit issuance or approval, which may include conditions on the project;
- 2. Permit denial explaining the reasons the permit was not approved; or
- 3. A letter explaining what additional information is necessary or other approvals which are required before the permit can be issued.

An administrative appeal to the hearing examiner is provided. Any appeals shall be in accordance with the appeals section of this chapter (see Section 15.02.600).

D. Public Notice Requirements.

- 1. No public notice is required for REV I land use decisions except for shoreline permit applications as set forth in subsection (D)(5) of this section.
- 2. When a project requires more than one land use permit, public notice shall follow the public notice requirements for the highest review process.
- 3. The city provides a notice of application, which is a public record. These records are available upon request and may be available electronically through the city's open data portal or other web-based applications.

4. Historic. Those REV I actions that are subject to review by the historical commission shall follow procedures for public notice and conduct of public meetings.

5. Shorelines. Those REV I actions that are applications for shoreline management substantial development shall provide notice as set forth in WAC 173-27-110 and Section 15.02.110(C)(3)(b):

- a. Notice of application within fourteen days of the determination of completeness;
- b. A public comment period not less than thirty days following the date of notice of application, except that comments shall be submitted within twenty days for shoreline permits for limited utility extensions or for the construction of a bulkhead or other measures to protect a single-family residence and its appurtenant structures from shoreline erosion. See the definitions section of the city's shoreline master program for the definition of a limited utility extension;
- c. Mailing notice to the latest recorded real property owners as shown by the records of the county assessor within at least five hundred feet of the boundary of the property upon which the development is proposed;
- d. Mailing notice to the SEPA mailing list (unless the project is categorically exempt); and
- e. Mailing notice to the neighborhood leader mailing list if applicable.

**Section 3.** This ordinance is designated as an emergency ordinance under Everett City Charter Section 3.4 and shall be effective immediately upon becoming valid.

**Section 4.** Sections 1 and 2 of this ordinance shall be repealed on [6 months from effective date].

**Section 5.** A public hearing regarding this ordinance is hereby scheduled for December 20, 2023

**Section 6.** The following is provided for reference and may not be complete:

EMC Amended/Repealed by this Ordinance	Ordinance History of EMC Amended/Repealed by this Ordinance
EMC 15.02.060	(Ord. 3774-20 § 3 (Exh. 2), 2020.)
EMC 19.05.068	(Ord. 3774-20 § 3 (Exh. 2), 2020.) (Ord. 3895-22 § 11, 2022)

**Section 7.** The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any internal references.

**Section 8.** The City Council hereby declares that should any section, paragraph, sentence, clause or phrase of this ordinance be declared invalid for any reason, it is the intent of the City Council that it

would have passed all portions of this ordinance independent of the elimination of any such portion as may be declared invalid.

**Section 9.** The enactment of this Ordinance shall not affect any case, proceeding, appeal or other matter currently pending in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this Ordinance.

**Section 10.** It is expressly the purpose of this Ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provision or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.



---

Cassie Franklin, Mayor

ATTEST:



---

City Clerk

PASSED: 12/6/2023

VALID: 12/07/2023

PUBLISHED: 12/8/2023

EFFECTIVE DATE: 12/7/2023











# ORD 3982-23\_CB 2312-74\_Amended

Final Audit Report

2023-12-07

Created:	2023-12-07
By:	Ashleigh Scott (AScott@everettwa.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAs-yekVZyb6tMjPcN9FJIZ5jHQ3pz2CKA

## "ORD 3982-23\_CB 2312-74\_Amended" History

-  Document created by Ashleigh Scott (AScott@everettwa.gov)  
2023-12-07 - 5:26:59 PM GMT
-  Document emailed to Cassie Franklin (cfranklin@everettwa.gov) for signature  
2023-12-07 - 5:27:52 PM GMT
-  Email viewed by Cassie Franklin (cfranklin@everettwa.gov)  
2023-12-07 - 5:42:59 PM GMT
-  Document e-signed by Cassie Franklin (cfranklin@everettwa.gov)  
Signature Date: 2023-12-07 - 5:43:11 PM GMT - Time Source: server
-  Document emailed to Marista Jorve (mjorve@everettwa.gov) for signature  
2023-12-07 - 5:43:12 PM GMT
-  Email viewed by Marista Jorve (mjorve@everettwa.gov)  
2023-12-07 - 8:36:48 PM GMT
-  Document e-signed by Marista Jorve (mjorve@everettwa.gov)  
Signature Date: 2023-12-07 - 8:37:04 PM GMT - Time Source: server
-  Document emailed to Ashleigh Scott (AScott@everettwa.gov) for filling  
2023-12-07 - 8:37:05 PM GMT
-  Form filled by Ashleigh Scott (AScott@everettwa.gov)  
Form filling Date: 2023-12-07 - 9:19:24 PM GMT - Time Source: server
-  Agreement completed.  
2023-12-07 - 9:19:24 PM GMT