

**ORDINANCE NO.** 4034-24

**An ORDINANCE Relating to the Park District, Adopting a Planned Development Overlay under Chapter 19.29 EMC and Approving a Development Agreement**

**WHEREAS,**

- A. The Everett Housing Authority (“EHA”) owns or controls property located in the Delta neighborhood of north Everett. The EHA wishes to develop this property with a planned development as described in more detail below called the “**Park District**” (sometimes also referred as the “**Project**”).

*Purposes and Organization of Ordinance*

- B. One purpose of this Ordinance is to approve a planned development overlay for Park District under chapter 19.29 EMC. According to EMC 19.29.010:

This chapter establishes a mechanism for a property owner to propose a residential, commercial, industrial, or mixed-use development that is innovative or otherwise beneficial to the community but which does not strictly comply with the provisions of the zone in which the property is located. This mechanism is called a planned development overlay (“PDO”) and is intended to promote high quality developments which benefit the city more than would a development which complies with the specific requirements of this title, while allowing greater flexibility in the design of such developments.

EMC 19.29.040 allows for modification of permitted uses, while EMC 19.29.050 allows modification of development standards.

- C. The Park District planned development overlay (the “**PDO**”) contains the following elements, which are exhibits attached to this Ordinance:

Exhibit A.1, which contains modifications to Title 19 EMC for the Park District

Exhibit A.2, which contains the “**Park District Design Standards**”

Exhibit B, which contains the legal description of the Park District. This property is referred to in this ordinance as the “**Property**” and is the property to which the PDO applies.

Exhibit C, which contains the “**Preliminary Development Plan**”

- D. A second purpose of this Ordinance is to approve a development agreement for the Park District under RCW 36.70B.170 *et seq* and EMC 15.03.200. EMC 15.03.200(A)(1) states that a “development agreement must set forth the development standards and other provisions that



shall apply to and govern and vest the development, use, and mitigation of the development of the real property for the duration specified in the agreement.” EMC 15.03.200(A)(3) lists examples of development standards, including permitted uses, impact fees, development conditions, design standards, parks and open space, phasing, review procedures and others.

- E. The Park District Development Agreement is attached to this Ordinance as Exhibit D and is referred to as the “**Development Agreement.**”
- F. In addition to the PDO and Development Agreement, City Council actions regarding the Park District include an amendment to the Everett 2015-2035 Comprehensive Plan and vacation of certain public rights-of-way. These actions are completed in separate ordinances.

#### *Findings*

- G. The Property is owned or controlled by EHA and is located in the Delta neighborhood of north Everett. It contains approximately 16 acres of land. The Property was first developed in the 1940’s as public housing, known as Baker Heights, to support war efforts. Baker Heights was decommissioned in 2019, and the site has been vacant since that time.
- H. The Park District development will be a multi-phase project to create a new mixed-income, mixed-use development.
- I. The Project plans to contain approximately 1,500 dwelling units, 70,000 gross square feet of non-residential uses, 1.5 acres of publicly accessible park area, and a community garden. The nonresidential uses include 20,200 square feet of retail/restaurant, 24,000 square feet of office, and 26,400 square feet of non-profit space.
- J. The anticipated Project development schedule intends that all Project elements will be completed within 20 years. However, due to the different construction schedules and time frames for individual parts of the Park District, the Project will be phased, with each phase proceeding forward at different construction start times and completed at different times.
- K. The PDO and Development Agreement are together an integrated plan for Park District Project development.
  - 1. They together describe Project development, including without limitation the location of structures and features to be used in the design of improvements to be developed and incorporated into the Property.
  - 2. The Development Agreement contains, among other items, the review procedures to be used as more detailed designs become available and further requires that such review take place before issuance of building permits for individual project elements.
  - 3. The Development Agreement also contains modification procedures for modification of the PDO and the Development Agreement itself.





4. The Development Agreement contains a Mitigation Agreement for the Park District to make payments to help mitigate City police and fire service costs caused by the Park District, consistent with the FEIS and its addendum.
- L.** The City and EHA determined that the PDO is subject to the requirement for an Environmental Impact Statement (EIS) under the State Environmental Policy Act (SEPA).
1. The City assumed lead agency status for SEPA and agreed to EHA's recommendation for a consultant team to perform work on the EIS.
  2. The City's Responsible Official issued a Determination Significance on February 1, 2023.
  3. The City's Responsible Official issued a Draft EIS on October 25, 2023.
  4. The City's Responsible Official issued a Final EIS on February 5, 2024, followed by one addendum.
- M.** Notice of the proposed PDO was sent to the Washington State Department of Commerce on February 19, 2024, and a letter of receipt was received the same day.
- N.** The Everett Planning Commission has reviewed the PDO, including holding briefings on May 16, 2023, November 7, 2023, and December 5, 2023, and a public hearing and deliberations on February 20, 2024 and continued to March 5, 2024.
- O.** The Planning Commission, after hearing from the public and deliberating, voted to approve Resolution 24-01 on March 5, 2024, recommending the City Council approve the PDO contained in this Ordinance while recognizing that that the capital facilities and utilities element of the forthcoming comprehensive plan update must recognize and address the offsite infrastructure demands, such as those at Wiggums Hollow Park and sidewalk improvements on 15<sup>th</sup>, that are generated by this project.
- P.** On July 10, 2024, the City Council held a public hearing, after proper notice, and considered public comment and the entire record related to the PDO contained in this Ordinance.
- Q.** EMC 15.03.200(B) requires that a public hearing be held before consideration and approval of a development agreement, and that the public hearing be held in conjunction with the underlying land use decision. The Everett Planning Commission held a public hearing on the proposed planned development overlay, which is the underlying land use decision, on February 20, 2024, continued to March 5, 2024. The City Council held a public hearing on the Development Agreement on July 10, 2024.
- R.** Any conclusion below that may be construed as a finding is included here as such by this reference.

#### *Conclusions*

- S.** Any finding above that may be construed as a conclusion is included as such by this reference.



- T.** The Park District is consistent with and would implement the goals and policies of the 2020 “Housing Choices for All” and 2023 “Affordable Housing for All” mayoral directives, the Everett Comprehensive Plan, the Everett Rethink Housing Action Plan, and the Everett Climate Action Plan.
- U.** The PDO and Development Agreement are consistent with and supportive of goals, policies, and implementation strategies in the Everett Comprehensive Plan. Land use policy 2.1.3 calls for the city to “discourage the encroachment of commercial uses into residential zones”, but also calls out an exception for “a limited amount of small-scale office or retail uses in mixed use buildings in multiple family zones,” which is what the PDO includes.
- V.** The PDO and Development Agreement overlay set forth development standards, requirements, and guidelines through which EHA intends to develop the Property in an innovative manner, which will be beneficial to the community. It will provide for a high-quality development, which will benefit the City more than would a development strictly in accordance with current underlying zoning standards. The public will be benefited by the establishment of development standards, and on-site improvements and uses facilitated by the planned development overlay process.
- W.** As set forth in EMC 19.29.050(C), the City Council is approving this ordinance and the PDO in part based upon the “quality of the development plan” and satisfaction of the criteria in EMC 19.29.050(C).

  - 1. The Council finds and concludes that the Preliminary Development Plan, as developed over time, will meet or exceed the performance-based intent of the City's development standards in order to provide an exceptional residential and civic environment will be a high-quality development.
  - 2. With respect to the criterion “the quality of the proposed development and its compatibility with surrounding properties” (EMC 19.29.050(C)(1)), the City Council finds and concludes:

    - i. The Park District is consistent with the City’s vision for providing housing and services in Everett. It will be a quality development, including without limitation considering factors such as landscaping and buffering of buildings, parking, loading and storage areas; public safety; site access, on-site circulation, and off-street parking; light and shadow impacts; signs; possible nuisances or other undesirable impacts; and architectural design of buildings and harmonious use of materials.
    - ii. The Park District is consistent with and would implement the goals and policies of the Everett Comprehensive Plan, the Everett Climate Action Plan, and the Everett Housing Action Plan.
    - iii. The Park District retail and civic uses, public open spaces, buildings, and streets will be compatible with the surrounding neighborhood.





3. With respect to the criteria “unique characteristics of the subject property” and “the unique characteristics of the proposed use(s)” (EMC 19.29.050(C)(2,3)), the City Council finds and concludes that these criteria are satisfied because the transition of the Baker Heights from the 1940’s housing project to the proposed plan as a single development represents a unique opportunity for positive change.
  4. With respect to the criteria of “arrangement of buildings and open spaces,” “visual impact,” “public improvements,” and “preservation of natural features” (EMC 19.29.050(C)(4-7)), the City Council finds and concludes that these criteria are satisfied because the Preliminary Development Plan will meet or exceed the performance-based intent of the City's development standards on all of these criteria.
  5. With respect to the criterion “[t]he public benefit derived by allowing the proposed alteration of development standards” (EMC 19.29.050(C)(8), the City Council finds and concludes that this criterion is satisfied because:
    - i. The elements of the Park District will respond to and balance the needs of Everett residents and visitors, the EHA, the City, and other public agencies.
    - ii. The Park District development represents a significant change from the prior Baker Heights housing project. Accordingly, careful attention to safe, healthy, efficient, and attractive design, the project’s context within a growing metropolitan City near transit, jobs, and amenities, and EHA’s mission-driven inclusion of civic amenities would combine to provide significant public benefit to the neighborhood and City while appropriately mitigating impacts and downsides.
- X.** As set forth in EMC 19.29.040(B), the City Council is approving this ordinance and the PDO in part based upon the circumstances listed in EMC 19.29.040(B)(1). The City Council finds and concludes:
1. The PDO overlay has nonresidential uses representing around 5% of the Park District gross floor area. (EMC 19.29.040.B(1)(a)).
  2. These nonresidential uses would complement and support the Park District’s residential component and would be compatible with the surrounding neighborhood by providing opportunities for easy access to some daily needs including food and beverage, childcare, and entertainment at a neighborhood-level scale. Public benefit would be realized through better access to those daily needs for residents of the Delta Neighborhood and affordable space for nonprofit and civic uses. (EMC 19.29.040.B(1)(b-d)).
- Y.** The PDO and the Development Agreement are in the best long-term interests of the community. The PDO and the Development Agreement will mitigate adverse Project impacts.
- Z.** The PDO and the Development Agreement comply with the procedural and substantive requirements of chapter 19.29 EMC and EMC 15.030.200.





### *Further Considerations*

**AA.** The City recognizes the importance of natural open space and is willing to partner with EHA and other stakeholders to explore city acquisition of the wetland and natural area directly west of the Project and to explore for an interpretive trail or viewpoint consistent with the wetland's environmental functions and values.

Based on the evidence in the record and having entered the foregoing Findings and Conclusions,

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

**Section 1.** The City Council approves the Park District Planned Development Overlay (PDO) for the Property as set forth in this ordinance and in attached Exhibits A.1, A.2, B, and C.

**Section 2.** The City Council approves and authorizes the Mayor to sign and execute the Development Agreement in substantially the form as provided in attached Exhibit D. No Project permit may be issued pursuant to the PDO or this Ordinance until the Development Agreement and the Mitigation Agreement attached thereto are both duly executed by the parties and recorded with the Snohomish County Auditor.

**Section 3.** The procedures for modification of the PDO and the Development Agreement are set forth in the Development Agreement.

**Section 4.** 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 5.** 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.

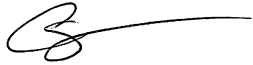
**Section 6.** The enactment of this Ordinance shall not affect any case, proceeding, appeal or other matter currently pending in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this Ordinance.

**Section 7.** 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:



Marista Jorve, City Clerk

PASSED: 7/10/2024

VALID: 07/11/2024

PUBLISHED: 7/13/2024

EFFECTIVE DATE: 7/26/2024



**EXHIBIT A.1**  
**TO PARK DISTRICT PDO ORDINANCE**  
**TITLE 19 CODE MODIFICATIONS**





# **Park District Planned Development Overlay**

## **Exhibit A.1 – Title 19 Code Modifications**

**July 3, 2024**



## Introduction

PDOs may modify any design and development provision in Title 19 of the Everett Municipal Code (EMC), as authorized under [EMC 19.29.050\(A\)](#). The Park District PDO modifications are limited to only the extent necessary to achieve project objectives, maximize the housing potential of the site, and provide neighborhood benefits such as commercial and civic uses and open space.

## Relationship to Underlying Zoning and Development Standards

Underlying zoning and development standards apply either through the UR3 zone or on a citywide basis. The Park District PDO modifies some of these standards within the boundaries of the PDO, as described in this document. Some UR3 zone or citywide standards are shown alongside the Park District PDO standards for reference only. Zoning and development standards not addressed in this document are subject to regulations in effect at time of development application.

## Vesting

Refer to the Park District Development Agreement for code vesting provisions.

## Amendments

Refer to the Park District Development Agreement for provisions on amending the PDO.

## Increased Flexibility & Strengthened Minimum Requirements

While most of the code modifications herein provide strategic flexibility necessary to implement EHA's development plan, there are a number of modifications that also strengthen code requirements. Examples include increases in some types of minimum setbacks. Other similar provisions are integrated in the design standards (Exhibit A.2). These features are intended to emphasize EHA's commitment to the provision of community benefit features and compliance with PDO approval criteria.

## Code Modifications

The Park District PDO contains the following types of code modifications described in detail in the following sections (with Title 19 reference noted in parentheses):

1. **Permitted uses** (Chapter 19.05 EMC)
2. **Height** (Chapter 19.22 EMC)
3. **Setbacks** (Chapter 19.06 EMC)
4. **Design standards** (Chapter 19.09 and 19.12 EMC)
5. **Signs** (Chapter 19.36 EMC)
6. **Landscaping** (Chapter 19.35 EMC)
7. **Parking** (Chapter 19.34 EMC)



## 1 – Permitted Uses

The section modifies [Chapter 19.05 EMC](#). The Park District PDO allowed uses and applicable special regulations are listed below. For uses not listed below, see Chapter 19.05 EMC.

### Commercial Uses

USE	PARK DISTRICT PDO	UR3 ZONE	PARK DISTRICT PDO SPECIAL REGULATIONS
Alcohol production, micro—e.g., microbrewery, microdistillery, microwinery	P		See EMC 19.13.070
Day care center, commercial	P	A	
Entertainment and recreation—enclosed in building (e.g., theater, fitness facility)	P		
Food or beverage establishment	P		Taverns, nightclubs and restaurants with live, amplified entertainment shall be set back a minimum of one hundred feet from the PDO boundary.
Offices	P		
Clinics	P		
Retail sales and service	P		
Veterinary clinic or animal day care—limited to small animal	P		Outside runs or other outside facilities for animals are not permitted. Buildings shall be constructed so noise from this use is not audible on residentially zoned lots outside the PDO boundary.  Limited to not more than 20 animals.



## Public, Institutional & Quasi-Public (Civic) Uses

USE	PARK DISTRICT PDO	UR3 ZONE	PARK DISTRICT PDO SPECIAL REGULATIONS
Community garden	P	P	
Food bank	P		
Government, administrative and service	P	C	
Library	P		
Parks	P	P	
Religious facility and places of worship	P	C	See EMC 19.13.080 for churches, religious facilities and places of worship. May occupy a maximum of 5,000 gross square feet.
Social services	P	P	
Transit and bicycle facilities —single bus stop with or without shelter —bike rack/repair station	P	P	
Transit station—where routes converge for transfers with more than one shelter	P	C	
Utilities—minor aboveground facilities	P	P	See EMC 19.13.020, Aboveground utility and communications facilities.
Utilities—major aboveground facilities	A	A	See EMC 19.13.020, Aboveground utility and communications facilities.



## 2 – Height

This section modifies [Chapter 19.22 EMC](#).

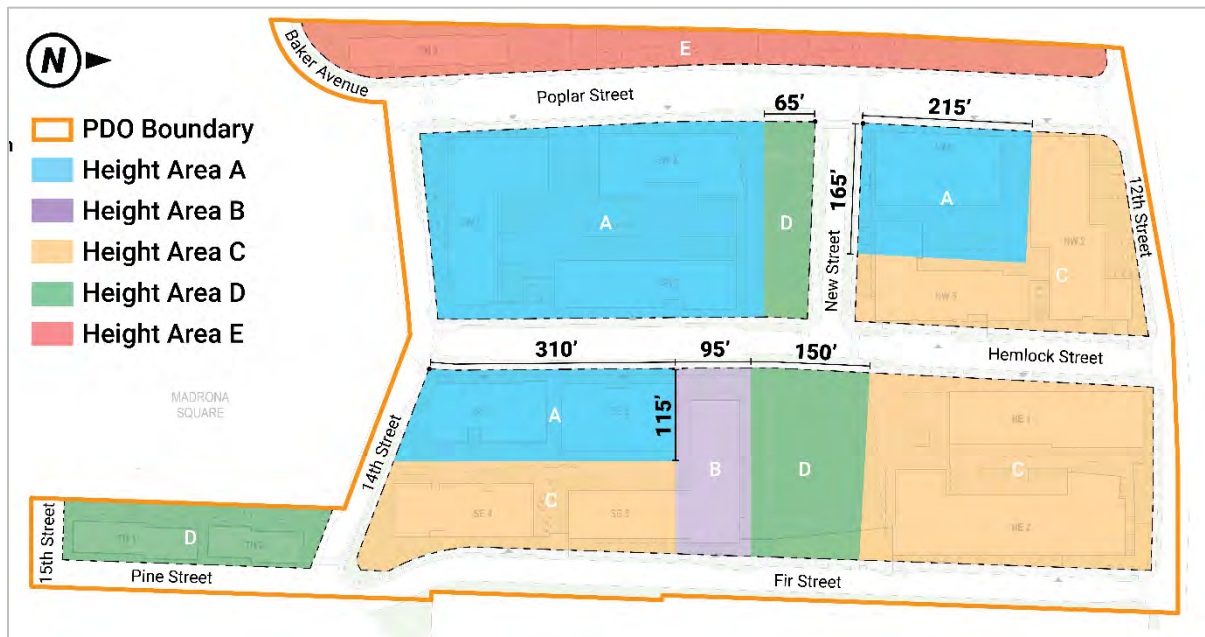
### Principal Buildings

This section modifies EMC 19.22.020 Table 22-1. The Park District PDO allows taller building heights in certain areas, shown in the table and map below.

Maximum Building Heights	PARK DISTRICT PDO	UR3 ZONE
Height Area A	12 floors	4 floors 50 feet
Height Area B	9 floors	
Height Area C	7 floors	
Height Area D	4 floors	
Height Area E	28 feet	
No color (right-of-way)	0 feet	

#### Notes:

1. The right-of-way lines are the anticipated locations after right-of-way changes (see Exhibit C).
2. Dimensions of the height limit area boundaries are the length along the adjacent right-of-way/property boundary line or height area boundary to which they refer.
3. Height limit area boundaries are perpendicular to the dimensioned right-of-way/property boundary line or dimensioned height limit area boundary lines at their intersection.
4. Height Area E on the west edge is expanded to the entire western strip of the site adjacent to R-2 zoning, beyond the horizontal buffer requirements of [EMC 19.22.030](#) Table 22-4.





## Where Heights are Measured From

The following modification applies to [EMC 19.22.060\(B\)](#). Within the Park District PDO the bottom of height measurements is based on a modified version of the commercial zones' method. The front lot line is not referenced because the Park District may consist of a single parcel with multiple buildings.

1. Park District PDO. The height of buildings shall be measured from the average of the record profile grade elevation of the street abutting the principal frontage of the building.

## Where Heights are Measured To

The following modification applies to [EMC 19.22.060\(C\)](#).

- C. Where Building Heights Are Measured To. Building heights are the vertical distance from the point identified in subsection (B) of this section of a building to the highest point of the occupied top floor.

## Basements

The following modification applies to [EMC 19.22.060\(D\)\(2\)](#). Within the Park District PDO basements are not counted as stories due to the site topography necessitating basements.

2. Basement. A floor or story with its finished floor surface located more than six feet below the point of height measurement (the average of the record profile grade elevation of the street abutting the principal frontage of the building) shall not be considered a floor or story.



## How High is a Floor or Story

The following modifications apply to [EMC 19.22.060\(E\)](#). Within the Park District PDO floors may be taller for height measurement purposes to allow more flexible retail uses on the first floor, allow for Washington state energy code-required HVAC systems within the ceilings on upper floors, allow steps in framing for terraces, and accommodate rooftop common areas.

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### E. How High Is a Floor or Story.

1. Total Floor or Story Calculation. The number of floors shall be calculated as follows:
  - a. First floor: 20 feet floor to floor. The first floor shall not have its finished floor surface more than six above the point of height measurement (the average of the record profile grade elevation of the street abutting the principal frontage of the building).
  - b. Upper floors: 12 feet floor to floor.
  - c. Top floor: 20 feet, as measured from the finished floor surface to the highest point of the ceiling. When directly associated with rooftop outdoor common areas, indoor common areas of up to 3,000 square feet are not considered to be an additional floor provided they comply with the same height standards applicable to building appurtenances.

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## Building Appurtenances

This section modifies [EMC 19.22.090\(B\)\(1\)](#). Within the Park District PDO additional height is permitted for rooftop building appurtenances associated with stairs, elevators, and residential common areas and pitched roofs are encouraged.

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### B. Other Building Appurtenances and Pitched Roofs.

1. Except as provided in subsection (A) or (B)(2) of this section, no building appurtenance or pitched roof shall exceed a height of 15 feet above the maximum height allowed in the zone for the principal building, unless the planning director determines that the appurtenance must be above such height for proper operation. Building appurtenances above seven feet in height shall be no closer than 15 feet from the edge of the roof.

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### 3 – Setbacks

The section modifies [EMC 19.06.020](#) Table 6-2. The Park District PDO substitutes minimum UR3 zone setbacks as shown in the table below. Setbacks differ based on building height.

Setback Standard	PARK DISTRICT PDO	UR3 ZONE
Minimum setbacks, buildings four stories or more:		
Front	0  Refer to the building frontage standards in the Park District Design Standards (Exhibit A.2)	20'
Rear (with alley)		20'
Rear (no alley)		20'
Side, Street		10'
Side, Interior		5'
Minimum setbacks, buildings three stories or less: Stoops, porches, balconies, and other similar types of dwelling unit entries and outdoor space may project into required setbacks up to 10 feet.		
Front	5'	20'
Rear (with alley)	10'	20'
Rear (no alley)	10'	20'
Side, Street	5'	10'
Side, Interior	0	5'



## 4 – Design Standards

The following chapters do not apply within the Park District PDO and are substituted with the Park District Design Standards (Exhibit A.2).

- [Chapter 19.09 EMC](#) – Multifamily Development Standards
- [Chapter 19.12 EMC](#) – Building Form & Design Standards

Within the Park District PDO, any EMC cross-references to the above chapters are redirected to the most applicable provisions of the Park District Design Standards.



## 5 – Signs

The Park District PDO utilizes the provisions of Sign Category B (see [EMC 19.36.040](#)) rather than the Sign Category C, which applies to the existing UR3 zone. This complements the commercial uses of the Neighborhood Business zone permitted in the PDO.

The Park District PDO is considered a nonresidential zone for the purpose of interpreting the temporary sign standards of [EMC 19.36.060](#).

In the Park District PDO, for the purposes of sign regulations, “street frontage” is interpreted as the frontage for each tenant in buildings with more than one tenant.

The Park District Design Standards (Exhibit A.2) provide additional design standards within the PDO.



## 6 – Landscaping

This section modifies [Chapter 19.35 EMC](#).

Because the Park District is an urban project with shallow or minimal building setbacks (refer to the Preliminary Development Plan in Exhibit C), particularly where there are storefronts, the Park District PDO is not part of any Landscape Category for the purposes of [EMC 19.35.060](#) Table 35-2.

The Park District Design Standards (Exhibit A.2) provide standards for street frontage landscaping. No interior lot line landscaping is required.



## 7 – Parking

This section modifies [Chapter 19.34 EMC](#).

The Park District PDO modifies parking standards for residential uses, supported by a parking analysis (Exhibit A.6.1). No changes are made to parking standards for nonresidential uses.

### Townhouse Parking Requirement

This section modifies [EMC 19.34.020](#) Table 34-1.

Land Use	PARK DISTRICT PDO	CITYWIDE
Dwelling, single-family (1-unit) detached	0.70 spaces per bedroom	2 per dwelling unit; where access is from a private drive: 3 per dwelling unit, except 2 per dwelling on a full-frontage lot that has on-street parking
Dwelling, 2- to 4-unit attached; cottage housing		

### Multifamily Parking Requirement

This section modifies [EMC 19.34.025](#) Table 34-2.

Off-street Parking by Unit (Bedroom) Size:	PARK DISTRICT PDO	PARK DISTRICT PDO ADDITIONAL STANDARDS	Metro Everett Parking Areas (See Map 34-1)		Outside Metro Everett Spaces per Dwelling Unit
			Area A	Area B	
Studio	0.70	Parking on private streets and access drives may be counted as part of the required parking supply	0.85	1.00	1.00
1-bedroom	0.70		1.00	1.00	1.00
2-bedroom	1.40		1.20	1.40	1.50
3- or more bedrooms	2.10 for 3-bedroom, and additional 0.70 per additional bedroom		1.60	1.90	2.00



## Parking Reduction Options

This section modifies [EMC 19.34.025](#). In the Park District PDO multifamily parking reductions for affordable housing, frequent transit proximity, and an approved transportation demand management plan are modified and they may be combined.

- B. Multifamily Off-Street Parking Reductions. Multifamily residential development may reduce required off-street parking based on factors shown below. A transportation demand management (TDM) plan (EMC 19.34.080) is required for use of any of these reduction factors. For the purpose of this section, "reduction factor" is the total number of parking stalls required after a reduction credit is applied. For example, one hundred stalls required with a reduction factor of 0.75 means that seventy-five stalls would be required with the reduction factor applied. The credit in this case would be twenty-five parking stalls. The reduction factors can be applied in combination, resulting in a higher cumulative reduction.

Table 34-3: Multifamily Parking Reduction (Resident Characteristics)

Resident Characteristic:	Reduction Factor**
Extremely low-income (30% AMI or below)	0.50
Low-income (60% AMI* or below)	0.65

\* AMI means "area median income" for Snohomish County. Use of this option requires the developer to record a covenant that prohibits use of the property for any purpose other than what was approved unless additional parking is provided.

\*\* Reduction factor only applies to qualifying low-income units.

Table 34-4: Multifamily Parking Reduction (Transportation Characteristics)

Transportation Alternatives:	Reduction Factor
Access to frequent transit service within one-quarter mile of site* (3 trips per hour**)	0.75
Access to high-frequency transit service within one-half mile of site* (6 trips per hour**)	0.55 to 0.75***

\* "Access to frequent transit service" means the building entrance is within the prescribed walking distance of a transit stop, except senior housing which must be within five hundred feet walking distance of a transit stop, with the level of frequency noted.

\*\* Frequency of service per hour is calculated between six a.m. and seven p.m. during the work week (Monday through Friday) and is based on scheduled service, not actual performance. Trip counts are one direction.

\*\*\* Reduction depends on the frequency of service and the quality of walking routes to that service

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## Bicycle Parking

This section modifies [EMC 19.34.030](#). Subsections EMC 19.34.030(A) and (B) are replaced with additional and simplified bicycle parking requirements. The bicycle parking space location and design standards of EMC 19.34.030(C) are unmodified.

- A. Bicycle parking shall be provided in all multifamily and nonresidential developments at the following rates:
1. Multifamily. One covered bicycle parking space shall be provided for every two multifamily units.
  2. Nonresidential. A least one bicycle parking space shall be provided for every 500 square feet of net nonresidential floor area.



## Car Share

This section modifies [EMC 19.34.060\(B\)\(1\)](#). In the Park District PDO additional credit is allowed for car share stalls.

1. Car Share Stalls. Car sharing is where cars are made available for rent to other individuals, thus encouraging less car ownership and reducing parking demand. A substitution in off-street parking spaces for required off-street parking is allowed as follows:
  - a. For every one car sharing space that is provided, the off-street parking requirement is reduced by four spaces. If ten or more shared car sharing spaces are provided, each car sharing space reduces the off-parking requirement by ten spaces.
  - b. The car sharing parking spaces must be shown on development plans.
  - c. A copy of the car sharing agreement between the property owner and the car share company must be submitted with development permits.
  - d. This reduction may not be used in addition to other exceptions or reductions in parking requirements otherwise provided in this chapter.
  - e. This credit is limited to a maximum of ten percent of the required off-street parking spaces.

## Shared Parking

This section modifies [EMC 19.36.070\(E\)](#). In the Park District PDO shared off-street parking may be located within 1,500 of the use it is to serve.

- E. Requirements for Shared Off-Street Parking.
  1. No Conflict. No substantial conflict between the operating hours of the uses for which joint use of parking is proposed is allowed.
  2. Assigned Stalls. Parking stalls that have been assigned to individual tenants or occupants shall not be eligible for shared parking.
  3. Distance.
    - a. Off-street parking facilities shall be located within 1,500 feet of the use which they are to serve, measured along the access route with a safe walking path.

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## General Parking Provisions

This section modifies [EMC 19.34.100](#). In the Park District PDO there is more flexibility in the allowed location of off-street parking location for residential and nonresidential uses.

### **19.34.100 Location of off-street parking.**

#### **A. Parking Location—General Requirements for Residential Uses.**

1. Required off-street parking for residential uses may be located anywhere within the Park District PDO, which may be on a different lot than the dwelling unit served.

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3. Private Access Drives. Parking on private streets and access drives within the Park District PDO shall be allowed. The location of such on-street parking shall conform to standard setbacks from intersections and driveways.

...

#### **B. Parking Location—General Requirements for Nonresidential Uses.**

...

2. For nonresidential uses, required off-street parking shall be located on property within 1,500 feet of the building or use which it is required to serve. This distance shall be measured along the access route. The property upon which the off-street parking is provided shall be located in the same zone as, or a zone which allows, the use for which the parking is required. Non-residential parking may be shared with residential parking subject to the location restrictions in EMC 19.34.100.A.

...



## Parking Area Design and Construction

This section modifies [EMC 19.34.120](#). Because structured parking has unique design considerations compared to surface parking lots, in the Park District PDO different parking dimensional standards may be used for structured parking facilities. Clarification is also made for the treatment of interim surface parking lots.

### **19.34.120 Parking area design and construction.**

- A. Parking Design Specifications. The minimum requirements for parking stall and aisle dimensions, striping, pavement thickness and subgrade shall be as set forth in the city design standards. Structured parking exception: The typical and minimum dimensions for the layout of structured parking facilities are not required to comply with the City of Everett Design and Construction Standards. Reasonable dimensions for layout and striping may be used that are based on established practices for structured parking facilities regarding aisle widths, turning radii, parking space widths and lengths, encroachments into parking spaces, or other dimensions.*
- B. Surfacing.*
  - 1. All parking areas shall consist of durable surface materials approved by the planning director and city engineer. Depending upon site and soil conditions, low impact development (LID) stormwater management facilities are encouraged, and may be required by the city's stormwater management manual.*
  - 2. Exceptions.*
    - a. For single-family and duplex uses, nonrequired parking that is located outside of the front and street side setbacks areas may use surface materials in accordance with city design standards; provided, however, that parking in the area between a street-facing facade and the street must be on a paved surface as allowed by EMC 19.34.110(C).*
    - b. Interim surface parking lots that are used as contingency overflow spaces or to provide additional interim spaces for any uses will have asphalt surface paving and markings and will employ the same layout and dimensioning procedures as described for structured parking set forth in subsection A of this section....*



**EXHIBIT A.2  
TO PARK DISTRICT PDO ORDINANCE**

**PARK DISTRICT DESIGN STANDARDS**





# **Park District Planned Development Overlay**

## **Exhibit A.2 – Park District Design Standards**

**July 3, 2024**

### **1.0 – Introduction**

This set of Design Standards replaces design standard language found in [Chapter 19.09 EMC](#) and [Chapter 19.12 EMC](#) with guidance specific to the Park District as part of the PDO. The purpose of these Design Standards is to ensure that future development within the Park District conforms with the vision, goals, and conceptual design plan as set forth within the PDO. The provisions are written in a clear manner that is intended to make City review straightforward, support high-quality design, and integrate strategic provisions for flexibility.

The new design provisions:

- Are specific to the site conditions, scale and opportunities of the Park District
- Substitute the City's current design standards and add additional topics related to taller buildings and more intense development
- Address small-scale neighborhood commercial development that will be permitted in the Park District PDO
- Support high quality design through strengthened or additional standards
- Provide mitigation techniques to reduce impacts on surrounding land uses
- In some cases, follow a similar format as the City's current design standards in order to assist with administration



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## **1.1 – Purpose of the Design Standards**

The overall purpose of the Park District Design Standards is to create an implementation tool that will direct a high level of design in the implementation of the Park District consistent with the goals of the Everett Comprehensive Plan. These standards are intended to:

- Provide clear objectives for the planning and design of development in the Park District.
- Preserve and protect the public health, safety, and welfare of Park District residents, employees, and visitors.
- Promote and accomplish the goals, policies, and objectives of the Everett comprehensive plan.
- Ensure that new townhouse, multifamily, and mixed-use development is of high quality and appropriate to the Park District's character and context with the Delta neighborhood and Everett.
- Promote increased pedestrian, bicycling, and transit use.
- Enhance the livability of residential developments.
- Enhance the public's physical and visual access to open space.

## **1.2 – Relationship to Other Standards**

Where provisions of these design standards conflict with provisions in any other section of the Everett Municipal Code, these provisions prevail unless otherwise required by law.

## **1.3 – Planning Director Authority**

The Planning Director has the authority to disapprove, approve with conditions, or require the applicant to make design changes if the Planning Director determines the design does not meet the design standards.

The Planning Director may engage the services of a licensed architect, or other licensed design professional when the Planning Director deems it appropriate and in the public interest, to provide recommendations in connection with the review of any project in the Park District, including those involving discretionary design-related decisions, such as a compliance alternative. Recommendations of the architect or design professional are advisory only and must not otherwise limit the Planning Director's authority to require changes in any project design to meet the design standards or the Planning Director's discretion to approve or deny requested compliance alternatives or apply discretionary criteria.

## **1.4 – Compliance Alternatives**

- A. Overview and purpose. The Park District Design Standards have been crafted to provide both predictability and flexibility to the project applicant(s) and the City. The predictability comes in the form of clear minimum standards. Flexibility comes in two forms: (1) Offering multiple ways of meeting a particular standard (an approach taken in a number of standards); and (2) allowing for compliance alternatives – which provide the applicant with the option of proposing an alternative design treatment provided such compliance alternative meets the purpose of the particular standard and any additional compliance



alternative criteria established for the applicable standard. For this reason, the Design Standards include a clear Purpose section.

- B. Applicability. An applicant can propose a compliance alternative to any standard in this document.
- C. Procedures. Compliance alternatives are reviewed administratively under a Review Process Type I (EMC 15.02.060).
- D. Approval criteria. The project applicant must successfully demonstrate to the Planning Director how the proposed compliance alternative meets the purpose of the standard and other applicable compliance alternative criteria that applies to the specific standard.
- E. Documentation. The Planning Director must document the reasons for approving all compliance alternatives (to be maintained with project application records) for the purpose of providing consistency in decision-making.

## 1.5 – Interpretation

The design standards herein include the following elements:

- A. Purpose statements, which are overarching objectives.
- B. Standards use words such as “must” and “is/are required,” signifying required actions.
- C. These design standards contain some specific standards that are easily quantifiable, while others provide a level of discretion in how they are complied with. In the latter case, the applicant must demonstrate to the Planning Director, in writing, how the project meets the purpose of the standard or standards.
- D. Photographs and illustrations are often included as visual examples of how developments can comply with the standards. In many cases, multiple examples are included to illustrate that there can be numerous ways of meeting the standards. Bad examples are also often included to clarify unacceptable designs.

## 1.6 – Definitions

**Introduction.** All words used in these design standards carry their customary meanings, except for those defined below or in [Chapter 19.04 EMC](#). Where there is a conflict between the definitions herein and within Chapter 19.04 EMC, the definitions herein apply.

“Articulation” means the giving of emphasis or variation to architectural elements (like windows, balconies, entries, planes, textures, materials, façade treatment, etc.) that create a complementary pattern or rhythm, dividing large buildings into smaller identifiable architectural components.

“Articulation interval” means the measure of articulation, the distance between architectural components.

“Blank wall” means a ground floor wall or portion of a ground floor wall as described in Section 5.5 that does not include a transparent window or door.



“Building frontage” refers to the street-facing elevation of a building. For buildings not adjacent to a street, it refers to the building elevation(s) that features the primary entrance to the uses within the building. Depending on the context the term is used in, it may also refer to the portions of a façade associated with uses within the building. For example, a “storefront” is a type of building frontage.

“EMC” means the Everett Municipal Code.

“Façade” means the entire street wall of a building extending from the grade of the building to the top of the parapet or eaves and the entire width of the building elevation, except where the context of the term refers to a particular segment of the building elevation. For buildings not adjacent to a street, the façade refers to the building elevation containing the main entrance or entrances to the building.

“Large tree” means tree species that have a canopy at least 30 feet in diameter at maturity.

“Mixed-use” means a building that includes a mix of permitted residential and non-residential uses.

“Modulation” means stepping forward or backward a portion of the facade as a means to articulate the facade. See also “vertical building modulation.”

“Roofline” means the highest edge of the roof or the top of a parapet, whichever establishes the top line of the structure when viewed in a horizontal plane.

“Storefront” means the principal façade of a ground-level use where portions of the interior are normally intended for public access. It may be oriented towards public streets, public or private sidewalks or plazas.

“Streetscape” means the space between the buildings on either side of a street that defines its character. The elements of a streetscape include building façades, landscaping (trees, yards, bushes, plantings, etc.), sidewalks, street paving, street furniture (benches, kiosks, trash receptacles, fountains, etc.), signs, awnings, and street lighting.

“Vertical building modulation” means a stepping back or projecting forward vertical walls of a building face, within specified intervals of building width and depth, as a means of breaking up the apparent bulk of a structure’s continuous exterior walls.

“Weather protection” means a permanent horizontal structure above pedestrian areas such as sidewalks and building entries that protects pedestrians from inclement weather.



## 2.0 – Streetscapes

### **Purpose**

- To provide complete, accessible, and connected streetscapes
- To promote high-quality and healthy landscaping

### **Relationship to Other Standards**

This section supplements the sidewalk standards of Chapter 19.33 EMC. Other standards are unique to the Park District. See Section 4.3 for other landscaping standards. See the City's approved tree species allowed within street rights-of-way at the [Tree Program website](#).

### **Standards**

#### **A. Streetscape character.**

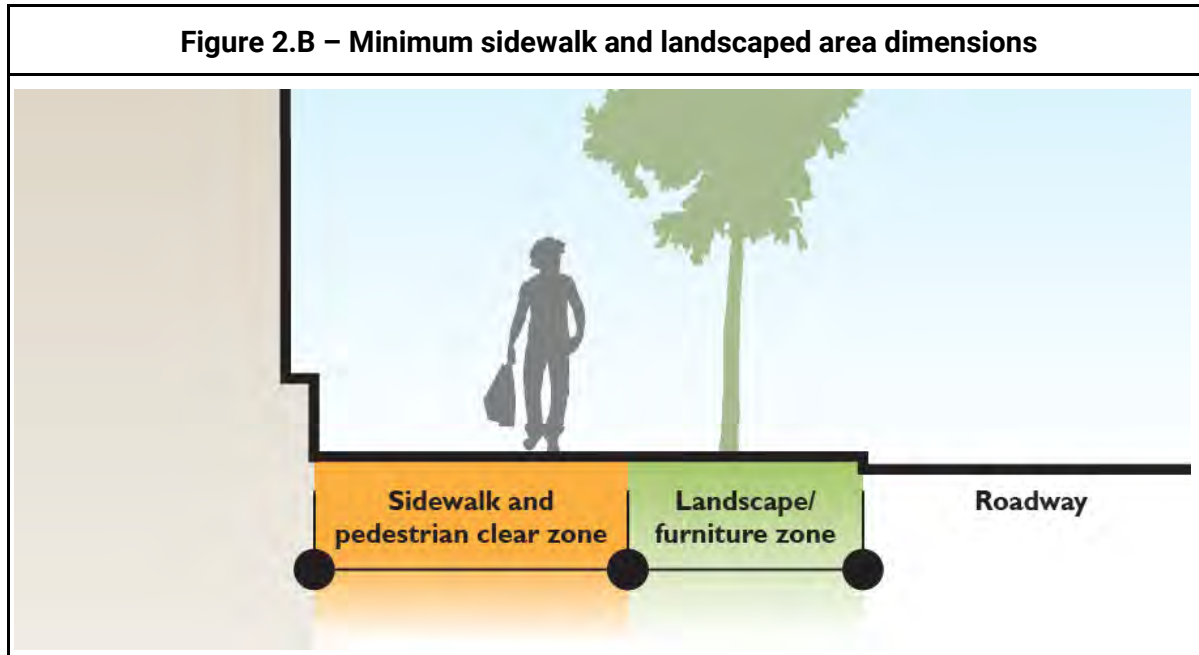
1. North-south streets. The north-south streets must have distinct streetscape designs which account for different conditions.
  - a. Poplar Street. On the west side, this street must have a variety of street tree species and non-uniform spacing, in keeping with a natural park-like approach to the landscaping and tree plantings in the west border area.
  - b. Hemlock Street. This street must have a limited set of street tree species with regular spacing, except where the pattern is interrupted by adjacent plazas and park-like areas where spacing may differ.
  - c. Fir Street. This street must have a limited set of street tree species on the west side of the street, and the east side these must be trees and other plantings that are varied in species and spacing to enhance the buffering from adjacent properties (see also Section 4.3.A).
2. East-west streets.
  - a. New Street (placeholder street name subject to change). The new east-west street must have a variety of street tree species and non-uniform spacing, in keeping with a natural park-like approach to the landscaping and tree plantings in adjacent open spaces.
  - b. 12th and 14th Streets. On the Park District frontages, these streets may have a mixture of approaches to street tree species and spacing appropriate to the context and design on adjacent intersecting streets.



**B. Street design.** All streets in the Park District must provide sidewalks and landscaped/furniture zone meeting these minimum widths on both sides of the street.

1. Minimum dimensions.

- a. Sidewalk and pedestrian clear zone minimum width: six feet, except eight feet when adjacent to a storefront (see Section 3.A).
- b. Landscape/furniture zone minimum width: four feet. Wider dimensions are required in some areas per subsection (C)(1) below.



2. Exceptions to the minimum dimensions of subsection (1):

- a. The east side of Fir Street.
- b. The west side of Poplar Street.
- c. Areas where the streetscape design is integrated with an adjacent open space.

**C. Street landscaping.**

1. A minimum ten percent of curbside landscape areas (measured parallel to street centerlines) must be at least eight feet wide. Large trees should be planted in these wider planting strips.
2. Street tree spacing must average not more than 30 feet. Average spacing may increase to comply with Everett public works standard clearances for sight triangles, driveways, street lights, and other street features or safety concerns.
3. Street trees must be placed in a minimum four-foot by six-foot planting area and selected species must be appropriate to the planting area and available soil to prevent



root penetration and sidewalk damage. The City may require root vaults or other measures in tight planting areas or where there may be conflicts with utilities.

4. Street tree size and spacing must be coordinated with and comply with the Fire Department's requirements for adequate clearance for fire equipment to access upper floors of buildings from streets.

See Section 4.3 for other landscaping standards.



### 3.0 – Building Frontages

This section applies to the ground floor of building frontages and storefronts.

#### **Purpose**

- To enhance pedestrian environments by emphasizing ground-level building frontage designs for commercial, mixed-use, and multifamily developments that have a variety of entryways and human activity.
- To promote the success of retail, service and civic tenants by allowing for distinguishing features at each tenant storefront.
- To promote good visibility between buildings and the street for security for pedestrians and to create a more welcoming and interesting streetscape.
- To promote ground level building frontage designs that provide a sense of privacy for any ground floor residential uses in a building while creating a lively, safe and welcoming streetscape environment for pedestrians.

#### **Relationship to Other Standards**

These standards substitute several standards in Chapter 19.12 EMC and apply some of the “street type”-related standards in Chapter 19.33 EMC to the Park District. Ground-floor residential standards are unique to the Park District.

#### **Standards**

##### **A. Storefront building frontage standards.**

1. Purpose.
  - a. Vitality and visual connections. Storefront building frontages are intended to support vital streetscapes and plazas and create visual connections to the interiors of uses intended for public access within the Park District.
  - b. Distinctive design. Storefronts should be designed for expressing the use inside, with distinctive signage, street furnishings, and opportunities for retail display.
2. Applicability. Storefront building frontage standards apply to ground-level uses where portions of the interior are normally intended for public access. Storefronts may be oriented towards public streets, public or private sidewalks or plazas.



### 3. Standards.

<b>Table 3.A.3 – Storefront building frontage standards</b>	
<b>Element</b>	<b>Standards</b>
<b>Ground-level</b>	
Land use	<p>These standards apply to uses normally intended for public access such as shops, services, public service and civic uses, ground-level office space, and leasing offices.</p> <p>They also apply to the residential building frontages containing entrance lobbies and common areas, even if they are secured from public use. Special standards apply to day care, educational, or similar facilities, as noted below.</p>
Tenant space depth	30' minimum
Floor to floor height	<p>12' minimum</p> <p>Applies to the minimum ground floor tenant space depth.</p>
<b>Storefront setback</b>	No minimum building setback is required.
<b>Ground level façade transparency</b>	<p>At least 60% of the ground floor transparency zone (the portion of the ground floor façade between 2' and 10' above sidewalk grade) area.</p> <p>For day care, education or similar facilities, at least 40% of the ground floor transparency zone must be composed of windows and may provide for screening or window treatments for visual separation from the exterior to interior activities.</p>
<b>Weather protection</b>	<p>All storefront entries must include weather protection a minimum of 6' feet deep for the width of the entry and have 10' to 15' of vertical clearance.</p> <p>Weather protection over the storefront is required along at least 50% of the subject storefront elevations, and it must be a minimum of 6' deep and have 10' to 15' of vertical clearance.</p> <p>Exception: Portions of storefronts that feature landscaping planters at least 2' in width between the sidewalk or plaza and storefront are exempt from this requirement and excluded from applicable calculations.</p> <p>Weather protection must not interfere with street trees, street lights, or street signs.</p>

### 4. COMPLIANCE ALTERNATIVE criteria/parameters.

- a. Façade transparency. Reduced transparency (to no less than 40 percent of the transparency zone) will be considered if the façade design between ground-level windows provides architectural variety and mitigates the impacts of blank walls.
- b. Weather protection. Reduced weather protection depths will be considered for up to 50 percent of the required weather protection features provided the design is proportional to architectural features of the building and helps to articulate the storefront façade (see the standard in subsection 5.2.A).



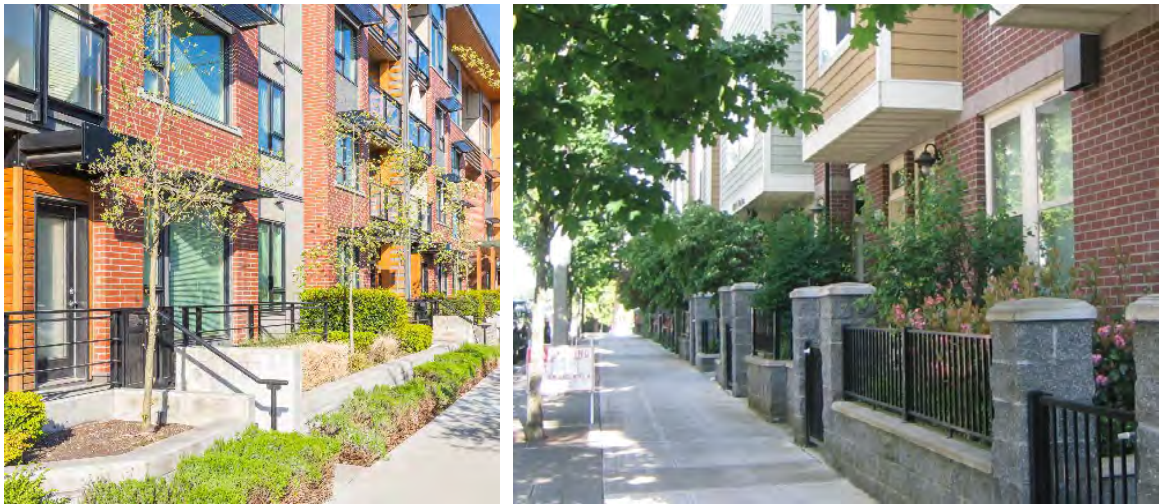
## **B. Ground-level residential building frontage standards.**

1. Applicability. These standards apply to spaces within residential buildings including dwelling units adjacent to sidewalks, plazas, or publicly-accessible paths and park space.
2. Purpose.
  - a. To integrate human-scaled design treatments to enhance the safety and character of streetscapes while respecting the privacy and livability of adjacent residential units. Human-scaled design treatments provide for a combination of vertical and horizontal features that articulate the ground levels and/or first two levels of a structure and provide an emphasis on entrances and recognizable references to the human activities within the adjacent space through window design or other characteristics.
  - b. To provide an effective and attractive transition between the public and private realm.
  - c. To avoid building designs that deprive ground level dwelling units of reasonable solar access due to overhanging building volumes or structures.
3. Standards. All residential building frontages must utilize at least two of the measures listed under subsections (a) and (b) and demonstrate how the ground level frontage design meets the purpose of the standards.
  - a. Ground level frontage.
    - i. Setback. Provide a five feet minimum landscaped setback from the sidewalk and the exterior wall of any unit.
    - ii. Elevation. Where the exterior wall of a dwelling unit is within ten feet of a sidewalk, raise the ground level at least two feet above the level of the sidewalk to help to improve privacy and enhance their relationship to the street.
    - iii. Planters. Provide raised landscaping planters at least two feet wide and 16 inches tall in the transitional area between the dwelling unit and the sidewalk (see Figure 3.B.1 below for examples).
  - b. Measures specific to dwelling units with direct ground-level access.
    - i. Provide a physical “threshold” feature such as a retaining wall, rockery, stair, gate, railing, landscaping, or a combination of such elements on private property that defines and bridges the boundary between the sidewalk and the private entry. Thresholds may screen but not completely obstruct views to and from the sidewalk. Refer to Chapter 19.40 EMC for fence height standards.
    - ii. Provide an outdoor space at least four feet deep and six feet wide (24 square feet minimum area) between the sidewalk and the dwelling unit entry such as a porch, patio, deck, or stoop (for stoops, refer to diversity requirements in Section 5.1). Where feasible, this space must be at the same level as the interior of the unit.



- c. Provide a covered area, porch, recess, or other weather protection at least three feet deep that provides cover for the unit entry.
- d. Frontage for residential common space. Where the frontage use is residential common space such as community rooms, exercise space, package pick-up and the like, the frontage shall provide 40 percent transparency, but may include screening or window treatments to provide privacy.

**Figure 3.B.1 – Acceptable ground-level residential frontages close to sidewalks.**



These examples include ground level and/or elevated planters and low fencing that help to provide an effective transition between public and private space. Adjacent dwelling units in the lower right example are generally at grade, whereas the other examples are elevated above the sidewalk level.



**Figure 3.C.2 – Unacceptable ground-level residential frontages close to sidewalks.**



Bad examples: Despite the raised ground level, the shallow setback design in the left image is insufficient to meet the purpose of the standards. In the right image, the upper level building cantilever doesn't meet the standards and creates a cold "cave stoop"-like form with poor solar access to the unit. The large areas of unscreened concrete walls in both examples are undesirable.



## 4.0 – Site Design

This section contains several subsections on issues of site design.

### 4.1 – Pedestrian Spaces and Circulation

#### **Purpose**

- To provide accessible, effective, and efficient pedestrian circulation for publicly-accessible uses and entrances within and among development components and connect to adjacent pedestrian routes and streets.
- To incorporate a connected system of attractive pathways that encourage walking and neighborhood connectivity.
- To create a pedestrian environment that is accessible, safe, and comfortable.
- To provide pedestrian access to transportation resources such as sidewalks, bikeways, crosswalks, and bus shelters connecting to all modes of transportation.

#### **Relationship to Other Standards**

These standards supplement the internal pedestrian access standards of Chapter 19.33 EMC, substitute the building entrance requirements of Chapter 19.09 EMC, and provide new pedestrian-oriented space standards unique to the Park District.

#### **Standards**

- A. General pedestrian connectivity.** The project must provide an integrated and connected pedestrian circulation network that encourages walking and functions as one of the defining features of the development. Routes that minimize walking distances must be utilized to the extent practical. Publicly accessible pedestrian connections must be made at intervals no greater than 600 feet.
- B. Pedestrian facility design.** The following are minimum dimensions. Larger dimensions may be appropriate for high-volume facilities and for facilities located adjacent to high-activity land uses.
1. Primary pathways (direct connections from sites to public streets and the primary walking routes through publicly-accessible courtyards, parks and plazas): Six feet wide paved surface.
  2. Secondary pathways: Five feet wide walking surface.
  3. Community garden pathways and other similar pathways through landscaped areas are excluded from these standards provided a generally parallel primary or secondary route is available.
- C. Pedestrian-oriented spaces.** This subsection describes the requirements and desired characteristics of pedestrian-oriented spaces, such as plazas, which may be used to meet the requirements of other standards in this document.
1. Required features.



- a. Space must be located in areas with significant pedestrian traffic to provide activity and security, such as adjacent to or visible from a building entry and street.
  - b. Hard and lightly-colored walking surfaces of concrete, approved unit paving, wood planking, or similarly smooth and durable materials. Form-in-place pervious concrete paving is allowed.
  - c. Fixed seating opportunities, including benches and/or integrated planter ledges and/or terraces.
  - d. Landscaping components that provide shade and add visual variety. This could include trees, planting beds, raised planters, and/or potted plants.
  - e. Bicycle racks (these may count toward required nonresidential bike parking quantities).
2. Prohibited features.
- a. Asphalt pavement except as a temporary treatment during construction.
  - b. Permanent outdoor storage of bulk materials and commercial merchandise.



## 4.2 – Residential Outdoor and Common Areas

### **Purpose**

- To create useable space that is suitable for leisure or recreational activities for residents.
- To create open space that contributes to the residential setting.
- To provide plazas and other pedestrian-oriented spaces in commercial areas that attract shoppers and enhance employees' and the public's opportunity for active and passive activities, such as dining, resting, people watching, human interaction and recreational activities.
- To enhance the development character and attractiveness of residential and commercial development.

### **Relationship to Other Standards**

These standards substitute the outdoor and common area standards of Chapter 19.09 EMC. The minimum area and distribution required is the same as Chapter 19.09 EMC and new design standards are provided unique to the Park District.

### **Standards**

The Park District will provide a mixture of publicly accessible open spaces, private outdoor spaces, and common residential outdoor spaces. The minimum standards to be applied to each phase of development are as follows:

#### **A. Amount of area required.**

All residential development, including residential portions of mixed-use development, must provide minimum outdoor and common areas equal to the amounts set in the table below. No payment in lieu of providing the required outdoor and common areas will be accepted.

<b>Table 4.2.A – Outdoor and Common Area Requirements</b>	
<b>Unit Size</b>	<b>Area Required</b>
Studio or 1-bedroom	75 square feet per unit
2+ bedrooms	100 square feet per unit

#### **B. Distribution of area.** At least 25 percent of the minimum area must be common areas. Of this minimum amount:

1. A minimum of 50 percent must be outdoor common area.
2. A maximum of 50 percent may be indoor common area.

#### **C. Design standards.**

1. Outdoor common areas must be accessible to all tenants of building and may include access for other residents of the Park District. They may include areas that are not accessible to the general public. Examples include, but are not limited to, park-like areas, landscaped courtyards, roof decks, building terraces, entrance plazas, gardens with



walkways, children's play areas, swimming pools, and water features. Such areas must meet the following design standards:

- a. Outdoor common areas must have minimum useable dimensions of 20 feet in any direction and 400 square feet in area. Wider minimum dimensions are required perpendicular to building elevations containing windows of dwelling units whose only solar access is from the applicable building wall. Specifically:
    - i. 20 feet minimum for such elevations up to three-stories tall.
    - ii. 25 feet minimum for such elevations four-stories tall, except 20 feet if one or more buildings features an upper level stepback at least five feet deep above the first or second floor.
    - iii. 30 feet minimum for such elevations five or more stories tall, except 20 feet if one or more buildings features an upper level stepback at least 10 feet deep above the first or second floor.
  - b. Outdoor common areas will include some of the following features: paths or walkable lawns, landscaping, seating, lighting, play structures, sports courts, or other amenities.
  - c. Outdoor common areas adjacent to ground-level windows, streets, service areas, and parking lots must be bordered with landscaping, fencing, and/or other acceptable treatments that enhance safety and privacy for both the common area and dwelling units (where applicable).
  - d. Elevated outdoor common spaces must include design elements that encourage year-round use and safety, such as areas for walking, seating, and amenities, weather protection elements, and landscaping features.
2. Indoor common areas are spaces for the common use of building residents. Access may also be extended to other residents of the Park District. Examples include, but are not limited to, multi-purpose entertainment space, fitness center, movie theater, kitchen, library, workshop, conference room, or similar amenities. Such areas must meet the following design standards:
- a. The space must be located in a location that can be reached by residents, such as near an entrance, lobby, elevator bank, or accessible interior corridors.
  - b. The minimum area is 250 square feet. The space must feature dimensions necessary to provide functional leisure or recreational activity (unless otherwise noted herein).
  - c. The space must be designed specifically to serve interior recreational functions and not merely be leftover unrentable space used to meet the open space requirement. Such space must include amenities and design elements that will encourage use by residents.



3. Private ground-level outdoor areas include patios, yards, porches, and stoops directly adjacent and accessible to the subject unit. Such areas must meet the following design standards:
  - a. Such areas must have minimum useable dimensions of six feet in any direction and 36 square feet in area.
  - b. Individual such areas larger than the minimum size requirements in subsection (a) must not be used in the calculations for determining the minimum area requirements for other units in the development.
  - c. Such areas not elevated above grade must be enclosed by a fence and/or hedge between 18 and 42 inches in height when at adjacent to a street, outdoor common area, or public space. Taller privacy screens between units are acceptable.
  - d. For stoops, refer to diversity requirements in Section 5.1.
4. Private balconies must be a minimum of four feet in any direction and no less than 36 square feet in area.



## 4.3 – Landscaping

### **Purpose**

- To promote and enhance the Park District as a walkable place and enhance the pedestrian environment and general appearance of development.
- To increase the physical comfort through heat mitigation and mental and physical well-being with comfortable walking spaces and providing connections to nature.
- To provide for green setbacks at the project edge to buffer adjacent existing residential development.
- Increase visibility to promote public safety and deter crime.
- To provide a varied environment that provides for a variety of scales, spaces, and experiences for residents and visitors

### **Relationship to Other Standards**

These standards supplement the landscaping standards in [Chapter 19.35 EMC](#). See also Exhibit A.1 for other Park District PDO landscaping standards.

### **Standards**

#### **A. PDO boundary landscaping.**

1. On the east boundary of the PDO, Type II landscaping at least ten feet deep is required. This standard applies whether the applicable area is in the right-of-way or on property. This standard does not apply to areas where this cannot be achieved in order to provide intersection alignments.
2. The community gardens shall not be located in the wetlands buffer. The wetlands buffer shall be planted with native plant material. Any portion of the community gardens adjacent to the wetlands buffer shall be planted with native plant material and may contain walking paths. Signs shall be posted which encourage community garden plot holders to use low or no chemicals.
3. On the west boundary of the PDO, fencing meeting the standards of [Chapter 19.40 EMC](#) and subsection (E) below plus an evergreen landscaping screen is required between proposed buildings within the Park District and adjacent existing residential buildings outside of the Park District boundary. Specific landscaping materials that screen adjacent properties shall be approved by the City.
4. On the 12th Street boundary of the PDO, Type III landscaping at least ten feet deep is required except at pedestrian-oriented spaces and recreation areas (see Section 4.1.C).
5. Boundary landscaping planting plans must be coordinated with applicable utility agencies and easement requirements.

#### **B. Landscape diversity.** The following standards demonstrate a commitment to integrating a diversity of landscape forms, species, textures, and colors that add richness to the Park District environment.

1. Trees. At least 30 percent of new trees must be conifers. These conifers must be native or verified non-invasive, low-maintenance, and ecologically beneficial.



2. Planting. A minimum of 60 percent of planting areas (excluding lawn) must be planted with native plants or verified non-invasive, low-maintenance, and ecologically beneficial plants.

3. A minimum of 30 native understory plant species must be planted throughout the site.

See Section 2.0 for streetscape standards.

**C. Canopy coverage.** Plan for at least 20 percent tree canopy coverage at the time of tree maturity. Areas covered by building footprints and vehicular paving are not included in coverage calculations. Open spaces on top of parking podiums, however, are included. Strategies must include:

1. Preserve existing, healthy mature trees when feasible.
2. Grow large deciduous and conifer trees by selecting appropriate species and providing adequate space for the trees to mature and be maintained.

**D. Planting and irrigation.**

1. No invasive or noxious species may be knowingly planted on the site and must be removed where found.
2. Large trees must be irrigated for five years after planting to ensure survival through increasingly hot, dry, and long summers.

**E. Fences and walls.**

1. Materials. Chain link fences are prohibited in the interior of the site. Coated chain link fencing with a dark color such as black, dark gray, or dark green may be used only along boundary conditions at the eastern and western edges of the Park District, but must be used in association with boundary plantings required in (A) above.
2. Retaining walls. Retaining walls taller than six feet and visible from a street shall employ design measures to mitigate the visual impact of the wall. Such measures may include treatment such as planting, integral patterns, additive design elements, and the like and must extend to include 50 percent of the wall.

**F. Foundation screening.** All street-facing elevations must have landscaping along any exposed foundation.



## 4.4 – Parking and Service Elements

### **Purpose**

- To reduce potential negative impacts of driveways and off-street parking facilities on the streetscape.
- To provide visibility and safe interactions between drivers and other sidewalk/roadway users.
- To limit adverse visual, odor, and noise impacts of mechanical equipment, utility cabinets, trash and recycling receptacles, and other service areas at ground and roof levels.
- To provide adequate, durable, well-maintained, and accessible service and equipment areas.
- To reduce impacts from the location and utilization of service areas.
- To provide service areas for truck deliveries and loading with practical access to building elevators that will be partially concealed from view when not in use, and will not interfere with pedestrian or vehicle traffic when in use.

### **Relationship to Other Standards**

These standards are unique to the Park District.

### **Standards**

#### **A. Off-street parking and loading.**

1. Off-street parking must be hidden and integrated into the buildings. Exceptions:
  - a. Entrance/exits.
  - b. This standard does not apply to interim parking uses for portions of the site planned for a later phase of development.
  - c. Other permanent surface-level parking must be set back at least five feet from the sidewalk and feature Type III landscaping between the sidewalk and parking area.
2. Parking garage entries.
  - a. Parking garage entrances are limited to 40 feet in width and must be designed and sited to complement, not subordinate, pedestrian entries.
  - b. Where vehicles enter and exit a parking garage or service area across a sidewalk or internal walkway, direct visibility between pedestrians and motorists must be provided. Mirrors and electronic visual/audio warnings alone are not acceptable methods. Direct visibility must be provided with one or more of the following features:
    - i. Setback entries.
    - ii. Cropped wall corners or chamfers..
    - iii. Wall openings.
    - iv. Other treatments to enhance safety and visibility.



- c. Sidewalk paving should be continuous across parking garage and service entries. Pavement markings or changes in pavement color or materials must be used.
  - d. At least 40 feet of queueing space, or the length of the design vehicle planned for service access, must be provided in the space between a sidewalk and a security threshold (e.g. gate or door) of garage and service area entries.
  - e. Garage entry doors and gates, if provided, must be at least 50 percent transparent between the bottom and top of the door or gate.
- 3. Parking garage service area locations. Each multi-family building with an elevator core must have access to a designated service area that provides for loading and unloading of trucks and the handling of refuse and recycling containers that is at least 50 percent concealed by doors, gates, fencing or landscaping from views from public streets and sidewalks. If the area serves multiple buildings, then it must provide for simultaneous operation of at least two vehicles.
  - 4. Service area loading dock operation. Vehicles using a loading dock must not extend across a sidewalk or into the adjacent street.
- B. Location of ground-level service areas and mechanical equipment.** Ground-level building service areas and mechanical equipment includes loading docks, trash collection and compactors, dumpster areas, storage tanks, electrical panels, HVAC equipment, and other utility equipment. If any such elements are outside the building at ground level, the following location standards apply:
- 1. Service areas must be located for convenient service access.
  - 2. Service areas must be screened with the structural and landscaping screening measures provided in subsection (C) below.
  - 3. Trash and recycling receptacle storage areas must be provided for all development, located on site and not in the public right-of-way.
- C. Screening of ground related service areas and mechanical equipment.**
- 1. Where screening of ground-level service areas is required [see subsection (B)(2) above], the following applies:
    - a. The service area must be paved and have a screening enclosure constructed of masonry, heavy-gauge metal, or other decay-resistant material. The enclosure must be sufficient to provide full screening from views from publicly-accessible sidewalks or adjacent property outside of the Park District.
    - b. Gates must be made of heavy-gauge, site-obscuring material. Chain link or chain link with slats is not an acceptable material for enclosures or gates.
    - c. Trash collection points and loading docks must be located and configured so that the enclosure gate swing does not obstruct pedestrian or vehicle vehicular traffic, or does not require that a hauling truck project into any public right-of-way.



2. The sides and rear of service enclosures must be screened with landscaping at least three feet wide in locations visible from the street and adjacent properties.
3. Where loading docks are sited along building frontages they must be designed to limit impacts on the pedestrian environment. Provide a provision of closure when not in use.

**D. Utility meters, electrical conduit, and other service utility apparatus.** These elements must be located and/or designed to limit their visibility by the public. If such elements are mounted in a location visible from the street, pedestrian pathway, or shared open space, they must be screened with a fence or vegetation and/or integrated into the building's architecture.

**E. Location and screening of roof-mounted mechanical equipment.**

1. All rooftop mechanical equipment, including air conditioners, heaters, vents, and similar equipment must be screened from public view both at grade and from adjacent properties with the exception of solar panels and wind turbines.
2. Unscreened rooftop mechanical equipment must be setback from the exterior building walls sufficient to not be visible from the ground-level across the street from the site.
3. For rooftop equipment, all screening devices must be well integrated into the architectural design through such elements as parapet walls, false roofs, roof wells, louvered surfaces, architectural screening, clerestories,, or within equipment rooms.
4. The screening devices must be as high as the equipment being screened.



## 5.0 – Building Design

This section contains several subsections on issues of building design.

### 5.1 – Building Design Diversity

#### **Purpose**

- To provide a varied environment that provides for a variety of scales, spaces, and experiences for residents and visitors
- To avoid highly repetitive, uniform spaces and places
- To support innovative design where it clearly benefits the ensemble of buildings, uses, and spaces

#### **Relationship to Other Standards**

These standards are unique to the Park District.

#### **Standards**

The following standards demonstrate a commitment to integrating a diversity of building forms that add richness to the Park District environment.

- A. Mixed-use and multifamily buildings must visibly vary in at least one significant aspect so that they are clearly not identical as viewed from public streets. Aspects can include forms, massing and the composition and articulation of exterior building materials, colors, fenestration patterns, building entries, weather protection features, and rooflines.
- B. Residential stoops. While individual stoops on one building may have a consistent design and form, the stoops on each building must be distinct from those in adjacent buildings. Specifically, stoops at different buildings must employ some combination of different stoop height and/or width, stairs, railings, materials, detailing, overhangs, and/or planter design.



## 5.2 – Massing and Articulation

### **Purpose**

- To create a District composed of a variety of building massing through evident differences in the enclosed volumes and how they are shaped.
- To further articulate the building massing and architectural expression as a means to provide for secondary scales and patterns that are smaller than the entire façade.

### **Relationship to Other Standards**

These standards substitute the façade design standards of Chapter 19.12 EMC.

### **Standards**

**A. Façade articulation.** Buildings must include at least two articulation features at intervals to meet the purpose of the standard. These standards apply to building elevations visible from streets and parks.

1. Maximum façade-articulation interval: 50 feet.
2. Articulation features.
  - a. Use of window fenestration patterns.
  - b. Use of weather protection features.
  - c. Use of vertical piers/columns (applies to all floors of the façade, excluding any upper level stepbacks).
  - d. Change in roofline plane.
  - e. Change in building material and/or siding style (applies to all floors of the façade, excluding any upper-level stepbacks).
  - f. Vertical elements such as a trellis with plants, green wall, art element that meet the purpose of the standard.
  - g. Providing vertical building modulation of at least 12 inches in depth if tied to a change in roofline or a change in building material, siding style, or color. Balconies may be used to qualify for this option if they are recessed or projected from the façade by at least 18 inches.
  - h. Window sunscreens.
  - i. Other design techniques that effectively reinforce a pattern of articulated façades.
3. COMPLIANCE ALTERNATIVE considerations associated with articulation standards. Proposals must meet the purpose of the standards. The following will be considered in determining whether the proposed articulation treatment meets the “purpose” of the standards.
  - a. Consider the type and width of the proposed articulation treatment and how effective it is in meeting the purpose given the building’s current and desired context (per the Park District Master Plan.



- b. Consider the visibility of the façade. Some streets are more prominent and visible than other streets. 12<sup>th</sup>, Poplar, and Hemlock Streets are examples of more visible streets. Fir and 14<sup>th</sup> Street are less prominent and warrant greater flexibility.
- c. Consider the size and width of the building. Smaller buildings (less than 120 feet wide) warrant greater flexibility than larger buildings.
- d. Consider the quality of façade materials in concert with doors, windows, and other façade features and their ability to add architectural variety to the street from a pedestrian scale and more distant observable scales.

**B. Maximum façade length.** Building elevations longer than 150 feet facing a street or park must include at least one of the following features to break up the massing of the building and add architectural variation.

- 1. Provide vertical building modulation at least six feet deep and 15 feet long. For multi-story buildings, the modulation must extend through at least one-half of the building floors.
- 2. Façade employs building walls with contrasting articulation and fenestration that help to visually break up the massing and add architectural variation. To qualify for this option, these contrasting façades must employ all of the following:
  - a. Different building materials and/or configuration of building materials.
  - b. Contrasting window design (sizes or configurations).
- 3. COMPLIANCE ALTERNATIVES to subsections (B)(1-2) will be considered provided the design meets the purpose of the standards. Supplemental consideration for approving alternative designs:
  - a. Width of the façade. The larger the façade, the more substantial articulation/modulation features need to be.
  - b. The type of articulation treatment and how effective it is in meeting the purpose given the building's context.



## 5.3 – Details and Entries

### **Purpose**

- To encourage the incorporation of design details and small-scale elements into building façades that are attractive at a pedestrian scale.
- To encourage the success of retail and civic tenants through distinguishing features at each tenant storefront.
- To create clear and welcoming building entries.

### **Relationship to Other Standards**

These standards substitute the building entry standards of Chapter 19.09 EMC. The façade detail standards are unique to the Park District.

### **Standards**

**A. Façade details.** All building façades subject to Storefront building-frontage requirements (see Section 3.0) must be enhanced with appropriate details. All new buildings must employ a combination of detail element from the lists below for each façade articulation interval (see Section 5.2).

1. Window and/or entry treatment, such as:
  - a. Transom windows.
  - b. Roll-up windows/doors.
  - c. Operable stacking doors/windows.
  - d. Recessed entry.
  - e. Custom door configuration.
  - f. Other specially designed window or entry treatment that meets the purpose of the standards.
2. Building elements and façade details, such as:
  - a. Custom-designed weather protection element such as a steel canopy, glass, or retractable awning. Custom-designed cloth awnings may be counted as a detail provided they are constructed of durable, high-quality material.
  - b. Decorative building-mounted light fixtures.
  - c. Terraced planters or fixed seating built into the building.
  - d. Other details or elements that meet the purpose of these standards.
3. Building materials and other façade/entry elements, such as:
  - a. Custom kick-plate, pilaster, base panel, or similar feature.
  - b. Hand-crafted material, such as special custom metal work and panels or custom wood work.



- c. Use of exterior paving materials adjacent to building entries, such as stamped concrete, inlaid concrete, tile, concrete pavers or stone.
- d. Other details that meet the purpose of the standards.

**B. Articulated building entries.** The primary entrance for all multifamily and multi-tenant buildings must be designed as a clearly defined and demarcated standout architectural feature of the building. Such entrances must be easily distinguishable from regular storefront or private residential entrances on the building. A weather protection feature with a minimum dimension of six feet by eight feet is required..



## 5.4 – Exterior Building Materials

### **Purpose**

- To encourage the use of durable, high quality building materials that minimize maintenance cost and provide visual interest from all observable vantage points.
- To promote the use of a distinctive mix of materials that helps to articulate façades and lends a sense of depth and richness to the buildings.
- To place the highest priority on the first floor in the quality and detailing of materials at the pedestrian scale.

### **Relationship to Other Standards**

These standards are unique to the Park District.

### **Standards**

#### **A. Quality building materials.**

1. Building must use high-quality durable materials. This is most important for the base of buildings, particularly for commercial and mixed use buildings where the façade is sited close to sidewalks.
2. Prohibited exterior building materials:
  - a. Fiberglass.
  - b. Vinyl and plastic siding.
  - c. Plywood.
  - d. T-111 siding.
  - e. Mirrored glass and other highly reflective materials.
  - f. Exterior insulation and finish system (EIFS).
3. The use of sustainably harvested, salvaged, recycled, or reused products is encouraged wherever possible.



## 5.5 – Blank Walls and Treatments

### Purpose

- To avoid untreated blank walls.
- To retain and enhance the character of Park District streetscapes.

### Relationship to Other Standards

Everett's current blank wall definition is retained and additional treatment provisions are provided.

### Standards

- A. Blank wall definition:** Exterior ground floor walls of buildings visible from a street or publicly accessible open space that are over four feet in height with a horizontal length greater than 15 feet, and do not include a window, building entry, or vertical building modulation. Exterior fire walls built along interior property lines are not considered blank walls.
- B. Blank wall treatment standards.** Untreated blank walls adjacent to a public street, pedestrian-oriented space, common usable open space, or pedestrian pathway are prohibited. Methods to treat blank walls can include:
1. Display windows at least 16 inches of depth to allow for changeable displays. Tack-on display cases do not qualify as a blank wall treatment.
  2. Landscape planting bed at least five feet deep or a raised planter bed at least two feet high and three feet deep in front of the wall with planting materials that are sufficient to obscure or screen at least 50 percent of the wall's surface within three years (see Section 4.3 for other landscaping standards).
  3. Installing a vertical trellis in front of the wall with climbing vines or plant materials.
  4. Installing a mural as approved by the Planning Director. Commercial advertisements are not permitted on such murals.
  5. Special building detailing that adds architectural variety at a pedestrian scale. Such measures may include treatment such as integral patterns, additive facade elements, and the like.

For large visible blank walls, a variety of treatments may be required to meet the purpose of the standards.



## 6.0 – Signs

### Purpose

- To enhance the visual character and identity of the Park District and reduce clutter and visual distraction.
- To promote economic development in the Park District
- To enhance and protect property values and the quality of life by preserving and enhancing the appearance of the streetscape.
- To promote the community's appearance by regulating the design, character, quality of materials, and of signs to maximize their positive visual impact.

### Relationship to Other Standards

Under Exhibit A.1, the Park District PDO is subject to Sign Category B sign standards. This section supplements the Sign Category B standards of Chapter 19.36 EMC.

### Standards

- A. Freestanding signs.** In addition to the requirements of EMC 19.36.050(A), pole signs are prohibited.
- B. Wall signs.** In addition to the requirements of EMC 19.36.050(B), the following standards apply:
1. Wall signs must be proportional to the façade. They must be no wider than two-thirds the width of the individual façade. This standard also applies to upper-level businesses.
  2. Wall signs that advertise the name of the building and are not associated with the name of any individual tenant are exempt from the maximum sign area, provided such signs are no larger than 25 square feet each and limited to three per building.
- C. Canopy and awning signs.** In addition to the requirements of EMC 19.36.050(G), the following standard applies: Signs must be no wider than two-thirds the width of the individual awning or no more than 20 feet, whichever is less.
- D. Sign illumination types prohibited.** In addition to the requirements of EMC 19.36.050(I), the following standard applies: Backlit cabinet signs are prohibited (where the sign face is illuminated through a translucent casing).
- E. Electronic changing message signs** are prohibited except when designed and placed as a window sign. Such signs must comply with the standards of EMC 19.36.050(C).



## 7.0 – Exterior Lighting

### **Purpose**

- Protect against light pollution and reclaim the ability to view the night sky and thereby help preserve the quality of life and scenic value of this desirable visual resource throughout the region and nearby natural open spaces.
- Help protect and enhance human health and wellness and wildlife habitation and migration by minimizing light pollution and its impact on all forms of life.
- Promote lighting practices and systems to conserve energy, decrease dependence on fossil fuels, and limit greenhouse gas emissions.
- Ensure that sufficient lighting can be provided where needed to promote safety and security on public and private property, and to allow for reasonable lighting outdoor activities.
- Provide attractive lighting that supports and enhances the urban environment, emphasizes architectural elements, and encourage pedestrian activity and wayfinding beyond daylight hours, especially during the long nights of Pacific Northwest winters.

### **Relationship to Other Standards**

These standards supplement the parking lot exterior lighting standards of Chapter 19.34 EMC and substitute the building entrance lighting standards of Chapter 19.09 EMC.

### **Standards**

#### **A. General standards.**

1. All luminaires must be fully shielded and must not emit light into the upper hemisphere around the luminaire or onto adjacent properties and structures, either through exterior full cut-off shields or through optics within the fixture. Support and mounting systems for luminaires must not allow post-installation adjustments that could defeat compliance of this requirement.
2. Exterior lighting is encouraged to follow the color temperature, timing, intensity, technology, and other recommendations of the International Dark Sky Association.

#### **B. Height.**

1. Freestanding pedestrian-scale lighting must not exceed 16 feet in height.
2. Building-mounted exterior lighting for roof decks is permitted provided luminaires located above the height of parapet walls are located at least ten feet horizontally from the edge of the roof.

**C. Lighting color (chromaticity).** The correlated color temperature of outdoor lighting must be 3,500 Kelvin maximum or lower (refer to American National Standard Institutes publication C78.377 for guidance on LED lighting). Wildlife-friendly color temperatures of 2,220 Kelvin or lower must be used near habitat areas such as wetlands. Exceptions may be made for architectural floodlighting, accent lighting, or outlining.

#### **D. Exterior lighting controls.**



1. Automated control systems, such as energy management systems, photoelectric switches, motion sensors, and astronomic timer switches, must be used to meet the hours of operation requirements and the technical and energy efficiency requirements of the applicable Washington State Energy Code.
2. Exceptions:
  - a. Egress lighting as required by the building code.
  - b. Lighting required for accessibility.
  - c. Lighting required by statute, law, or ordinance to operate all night.
  - d. A manual override at each exit door is allowed regardless of automatic control device.
  - e. Seasonal holiday lighting and event lighting.

**E. Decorative lighting** is permitted and should be limited to meet the purpose of this section. Consider dimming or curfews for such lighting after midnight. Such lighting includes:

1. Landscape lighting.
2. Architectural floodlighting, accent lighting, and outlining.
3. Lighting to illuminate flags, public art, water features, and similar edifices.
4. Outdoor rope and string lights for outdoor seating and gathering areas.

**F. Prohibited lighting.**

1. Dynamic lighting.
2. Luminaires exceeding 500,000 peak candelas and/or 500,000 lumens.
3. Laser lighting.
4. Any lighting of undeveloped environmentally sensitive areas.
5. Any lighting that may be confused with warning signals, emergency signals, or traffic signals.
6. Mercury, low pressure sodium, or other light sources in public areas that can impede or distort the perception of actual colors.
7. Blinking, flashing, intermittent, and/or moving lights unless specifically allowed elsewhere in the Everett Municipal Code.
8. Lighting permanently attached to trees.



**EXHIBIT B  
TO PARK DISTRICT PDO ORDINANCE**

**LEGAL DESCRIPTION OF THE PROPERTY**

THAT PORTION OF THE PLAT OF BAKER HEIGHTS, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 14 OF PLATS, PAGE 111, IN SNOHOMISH COUNTY, WASHINGTON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL OF BLOCK 1, BLOCK 2, BLOCK 3, BLOCK 4 AND BLOCK 5 OF SAID PLAT OF BAKER HEIGHTS;

TOGETHER WITH ANY PORTION OF VACATED STREET THAT WOULD ATTACH BY OPERATION OF LAW PER ORDINANCE NO. 1034-84, RECORDED UNDER RECORDING NO. 8610130077, IN SNOHOMISH COUNTY, WASHINGTON.

TOGETHER WITH THE PORTIONS OF LARCH, HEMLOCK, AND FIR STREETS VACATED BY ORDINANCE NO. 4036-24.

PARCEL B:

LOT 2, BINDING SITE PLAN NO. BSP 20-004, RECORDED MARCH 2, 2021 AS RECORDING NO. 202103245015, IN SNOHOMISH COUNTY, WASHINGTON.





**EXHIBIT C**  
**TO PARK DISTRICT PDO ORDINANCE**  
**PRELIMINARY DEVELOPMENT PLAN**





# Park District Planned Development Overlay

## Exhibit C – Preliminary Development Plan

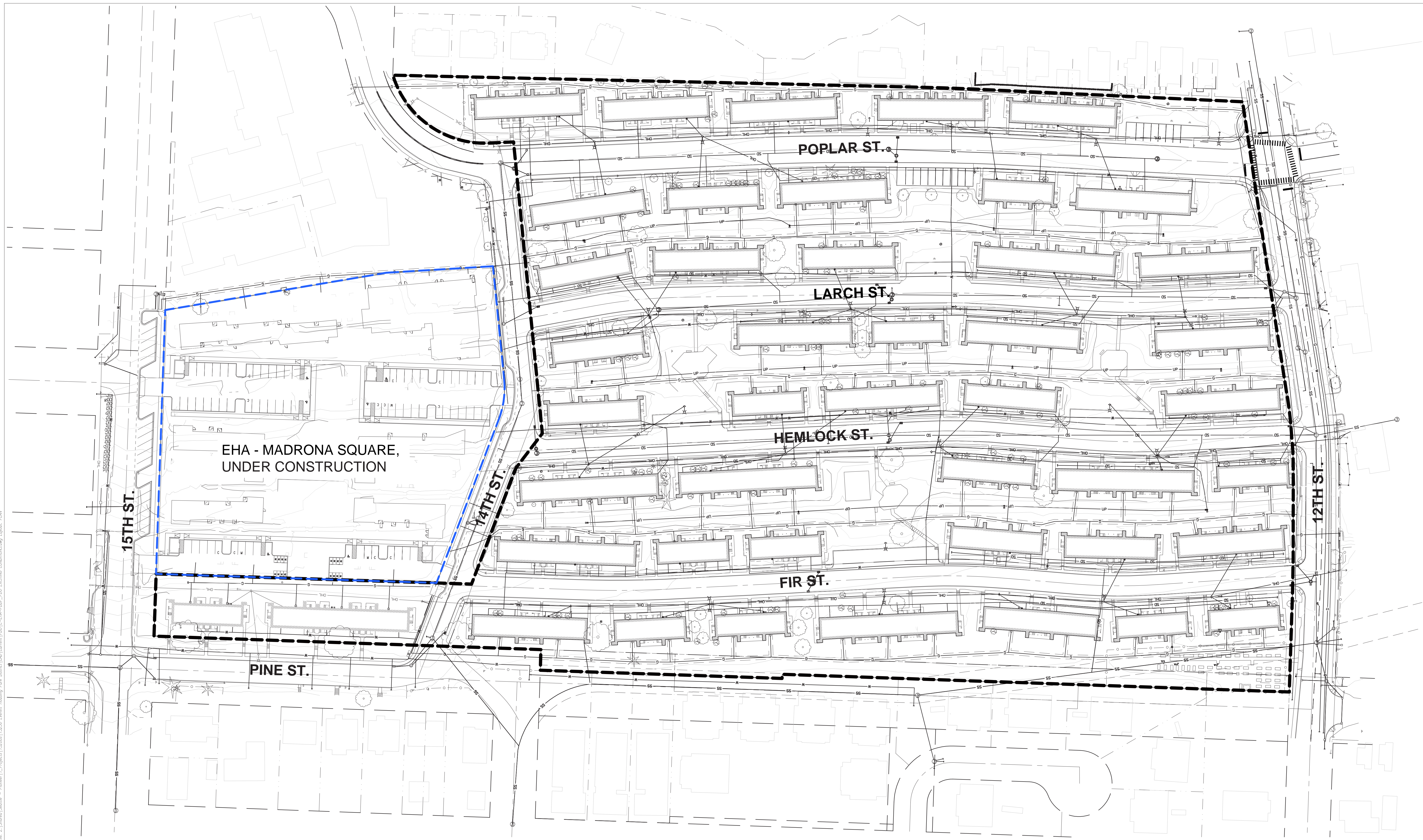
July 8, 2024

Sheet Index	
Exhibit #	Sheet Name
C	PRELIMINARY DEVELOPMENT PLAN
C.1	EXISTING CONDITIONS
C.1.1	Existing Site Conditions
C.2	PROJECT SUMMARY
C.2.1	Site Plan
C.2.2	Illustrative Site Plan
C.2.3	Site Sections
C.2.4	Massing Models
C.3	ARCHITECTURE
C.3.1	Ground Levels 1-5
C.3.2	Roof Plan
C.3.3	Building Height Diagram
C.4	LANDSCAPE ARCHITECTURE
C.4.1	Landscape Plan
C.5	SITE CIVIL ENGINEERING
C.5.1	Circulation Right-of-Way Plan
C.5.2	Typical Roadway Sections
C.5.3	R.O.W. Proposed for Vacation and Dedication
C.5.4	Grading and Storm Drain Plan
C.5.5	Sewer and Water Plan
C.5.6	Power and Franchise Plan
C.6	PHASING
C.6.1	Phasing Concept Diagram

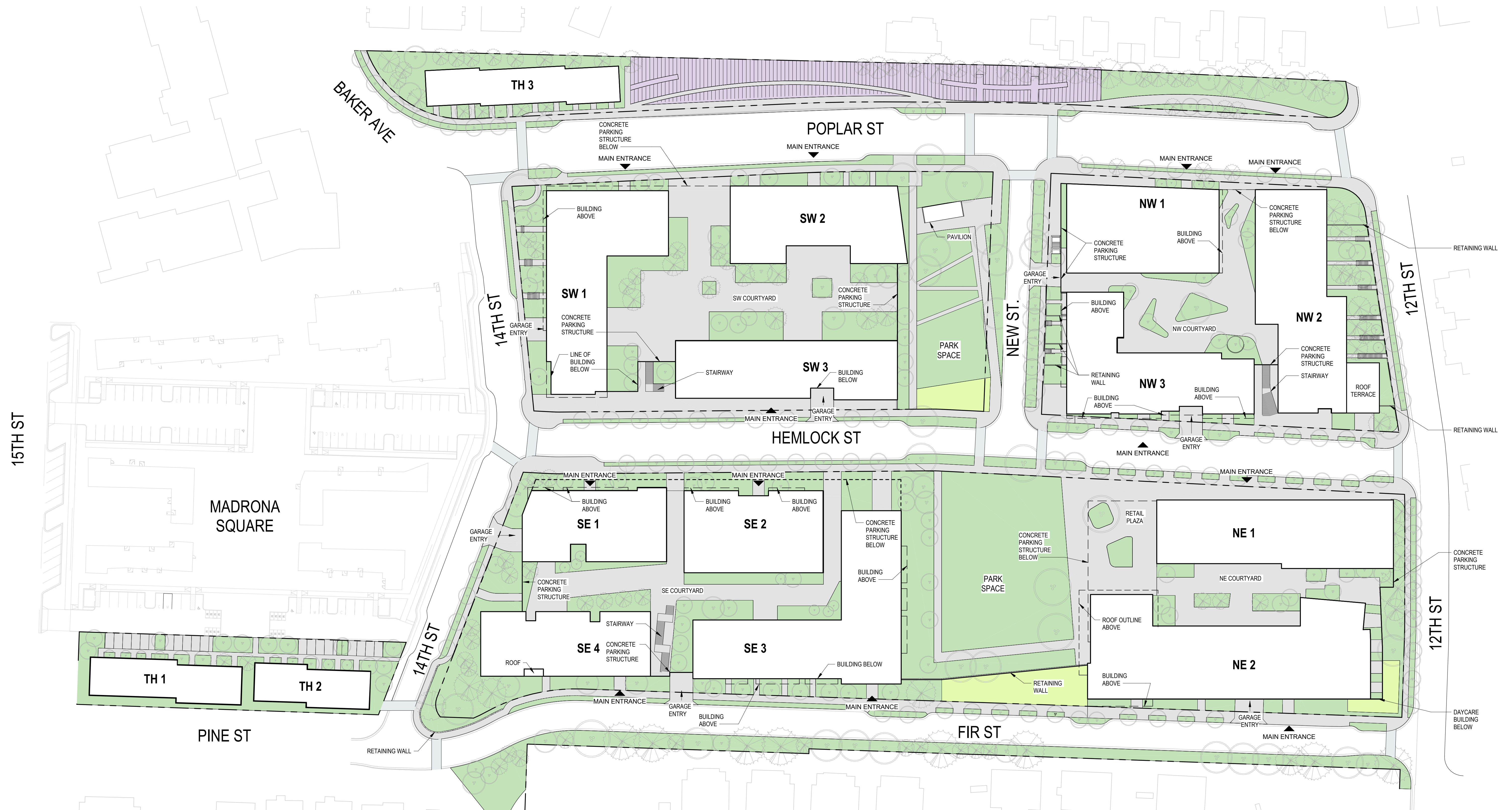
NOTE: NOTES WITH RED OUTLINES WILL BE REMOVED IN THE FINAL DEVELOPMENT PLAN.



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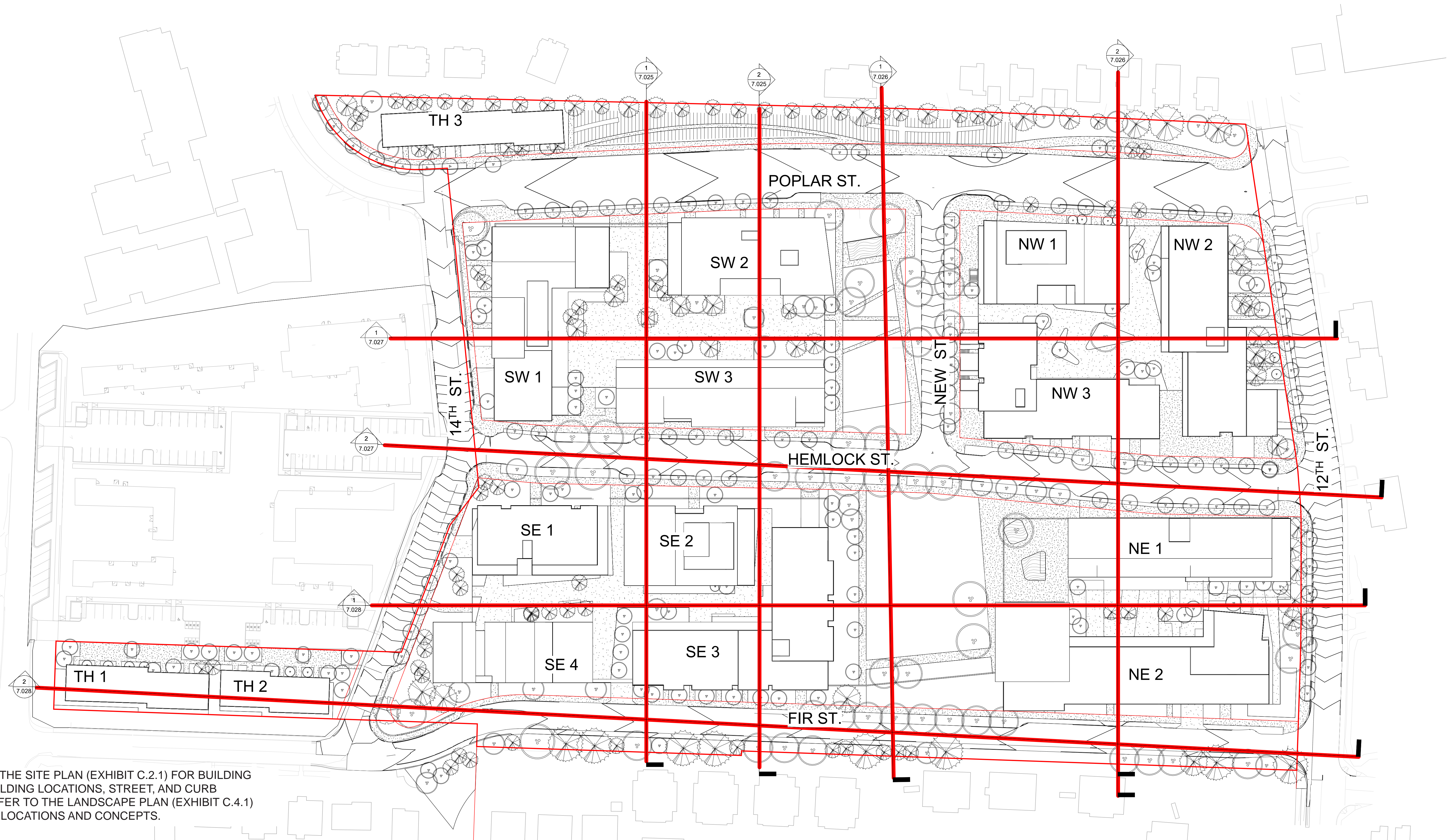
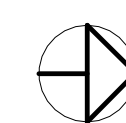
ILLUSTRATIVE PLAN; LANDSCAPE AND ARCHITECTURAL ELEMENTS MAY VARY TO ARCHITECTURAL DRAWINGS. IMAGE TO CONVEY GENERAL CHARACTER OF SPACE

NOTE: REFER TO THE SITE PLAN (EXHIBIT C.2.1) FOR BUILDING FOOTPRINTS, BUILDING LOCATIONS, STREET, AND CURB ALIGNMENTS. REFER TO THE LANDSCAPE PLAN (EXHIBIT C.4.1) FOR LANDSCAPE LOCATIONS AND CONCEPTS.

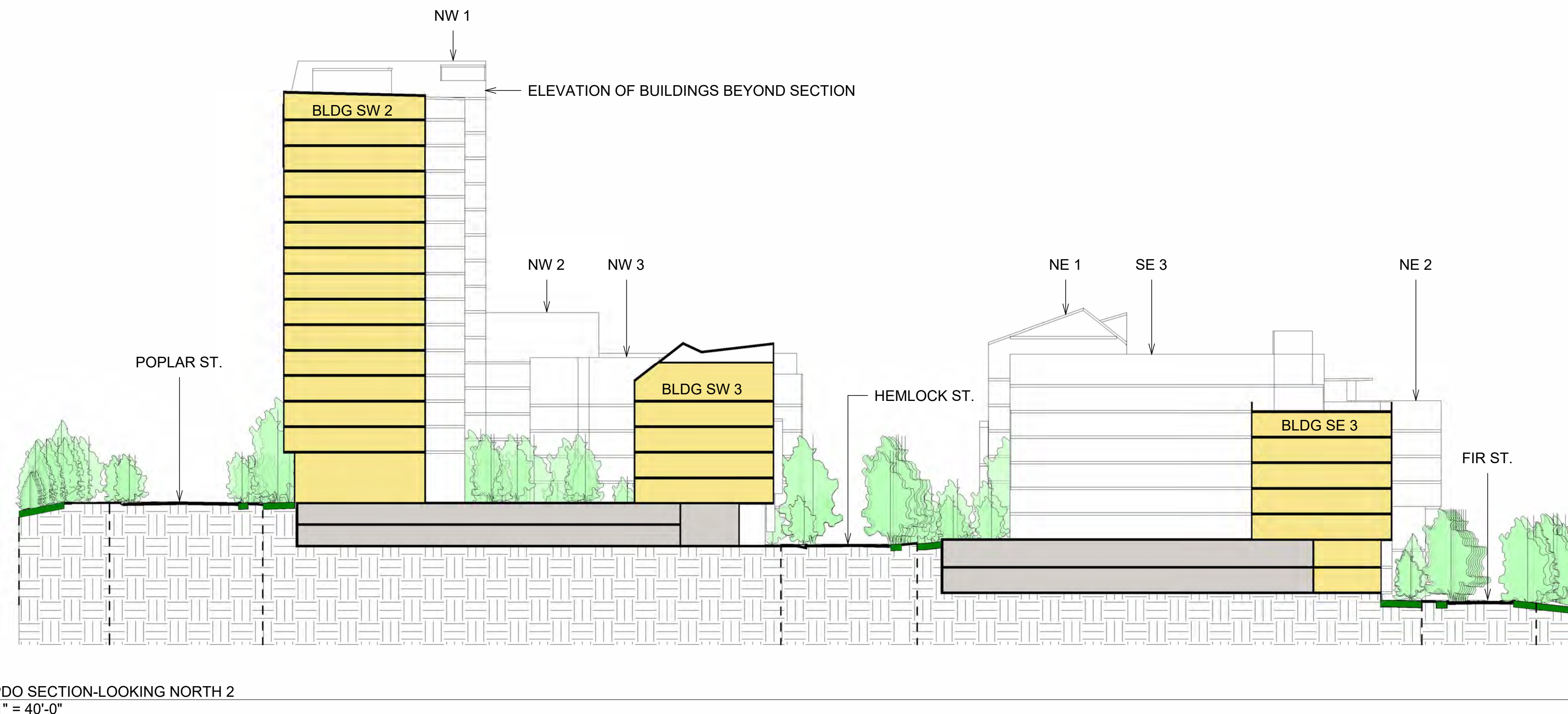
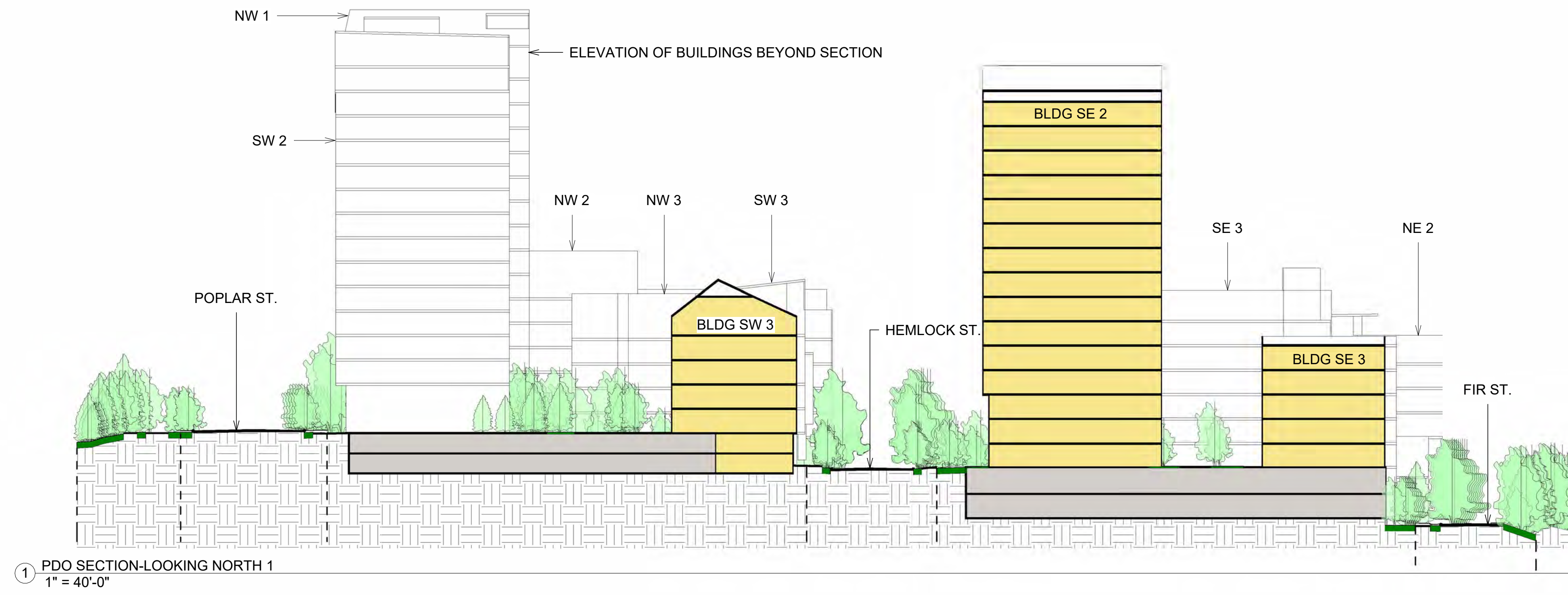




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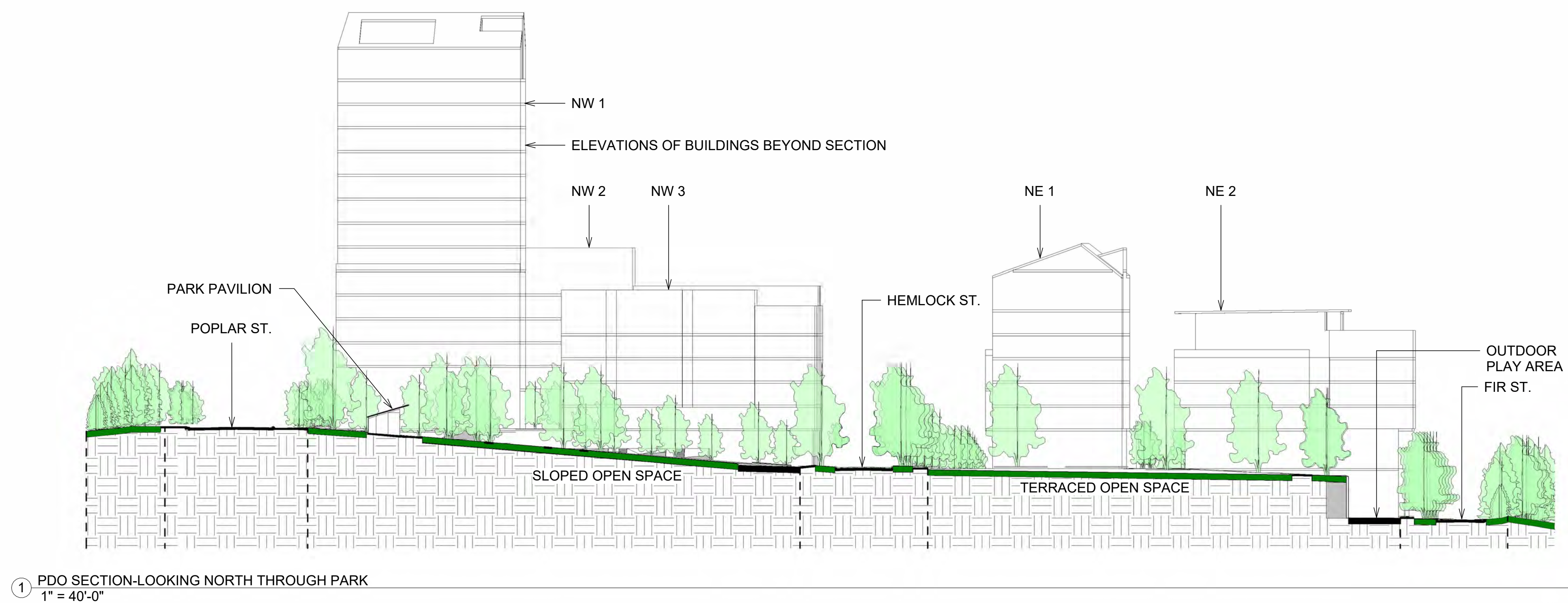
#### PROGRAM KEY

- RESIDENTIAL USES
- COMMERCIAL USES
- PARKING
- PROPERTY LINE

NOTE: REFER TO THE SITE PLAN (EXHIBIT C.2.1) FOR BUILDING FOOTPRINTS, BUILDING LOCATIONS, STREET, AND CURB ALIGNMENTS. REFER TO THE LANDSCAPE PLAN (EXHIBIT C.4.1) FOR LANDSCAPE LOCATIONS AND CONCEPTS.

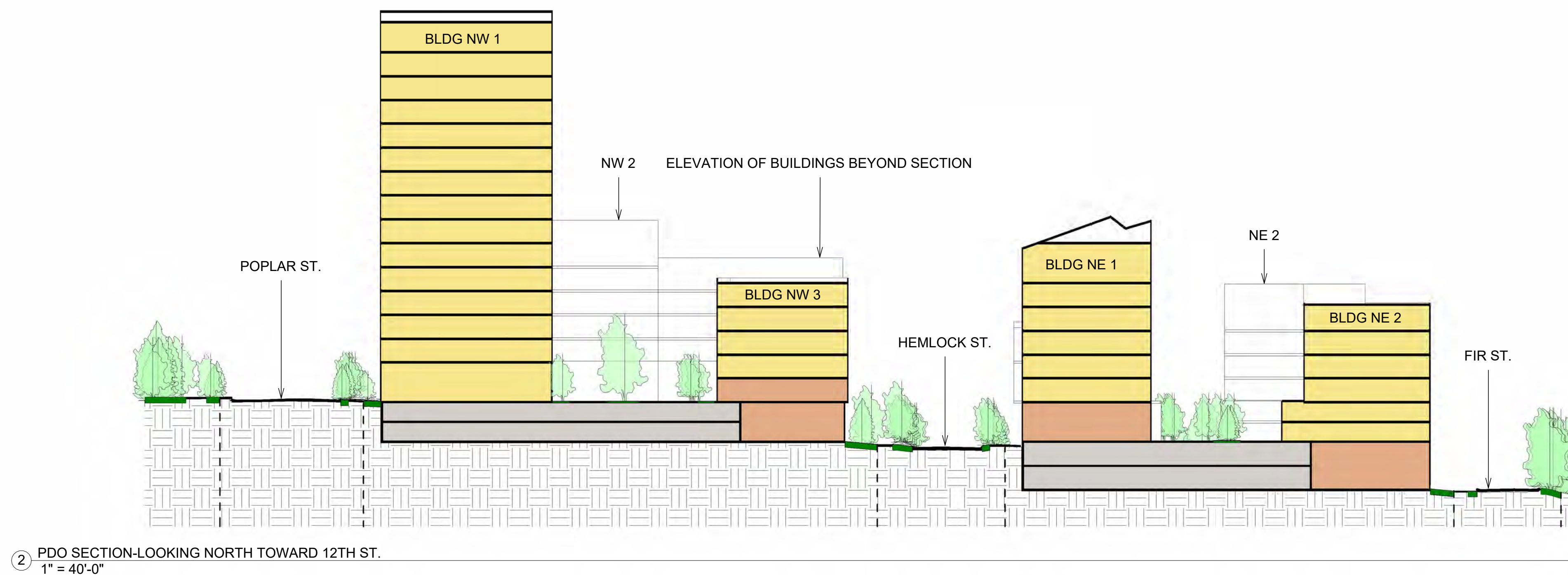
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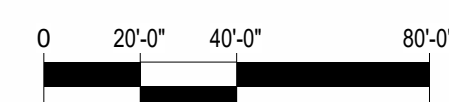
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- COMMERCIAL USES
- PARKING
- PROPERTY LINE

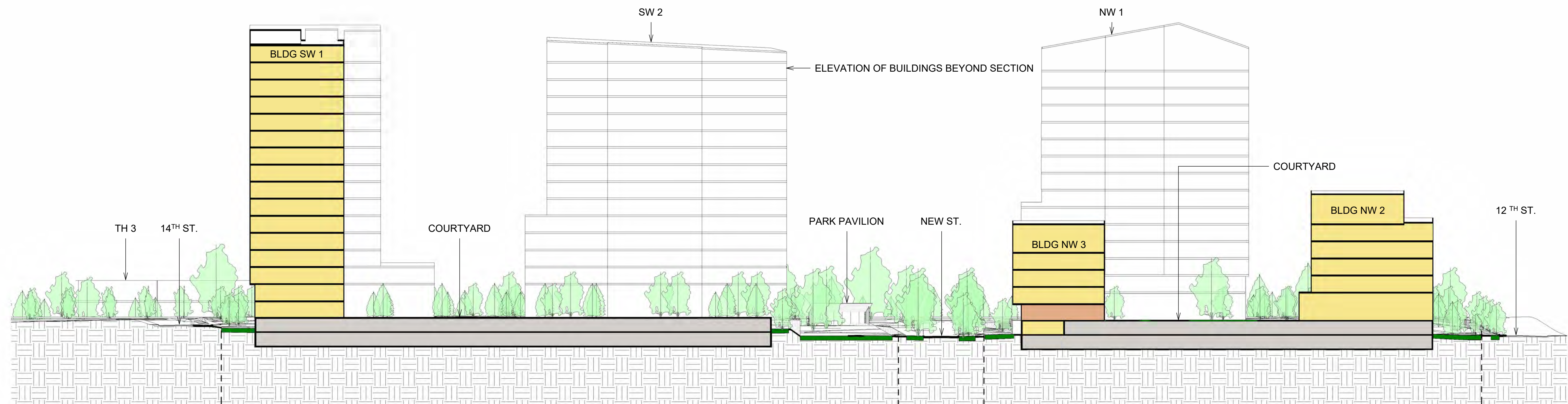


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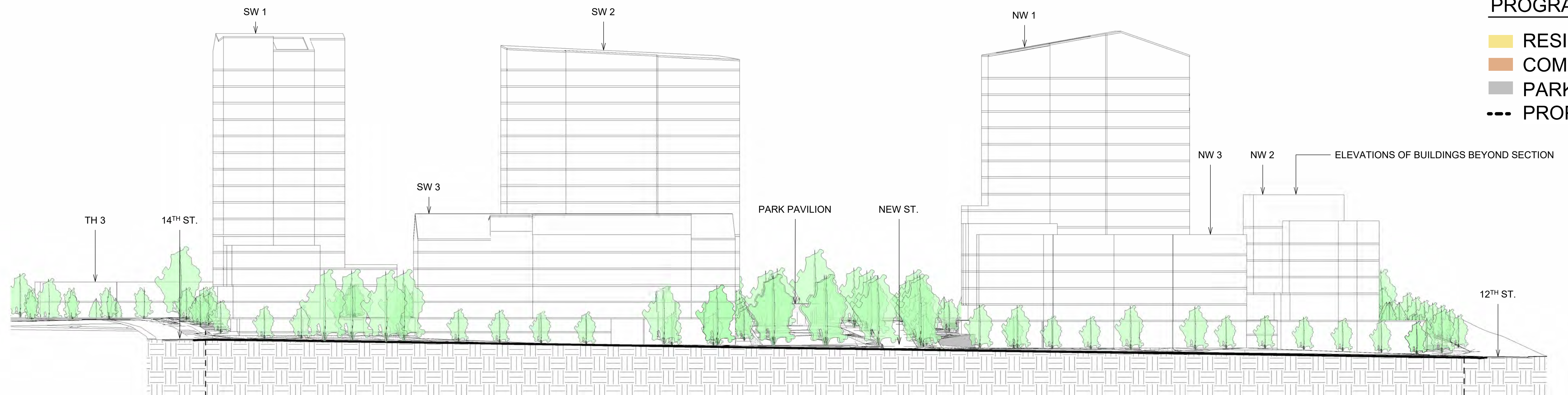
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① PDO SECTION-LOOKING WEST  
1" = 40'-0"



**PROGRAM KEY**

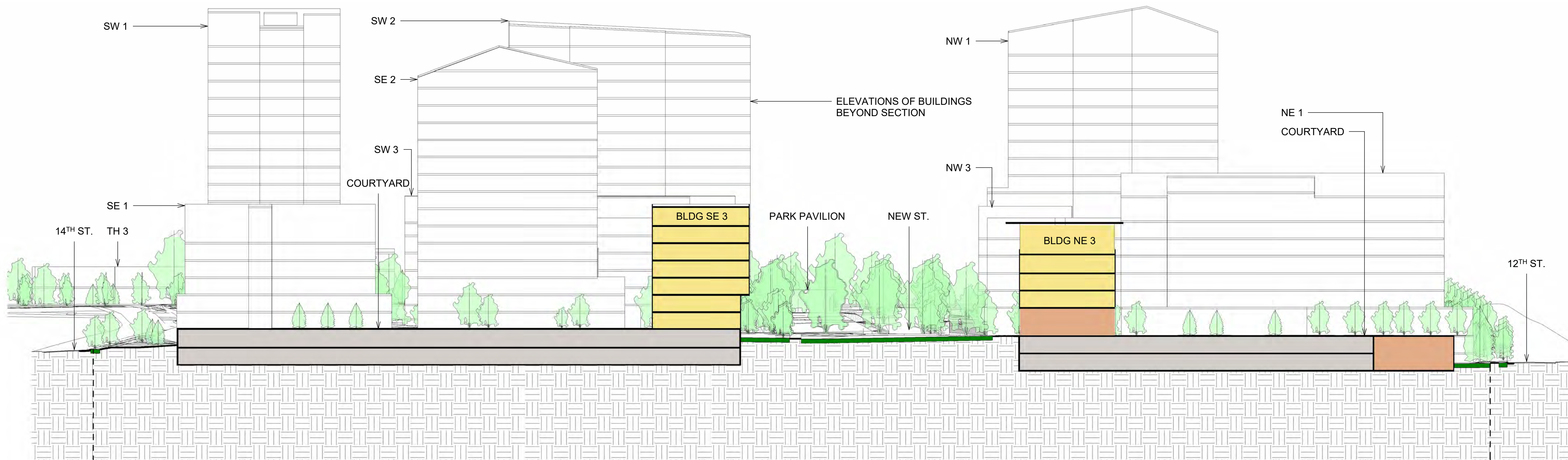
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- PARKING
- PROPERTY LINE

② PDO SECTION-LOOKING WEST THROUGH HEMLOCK ST.  
1" = 40'-0"

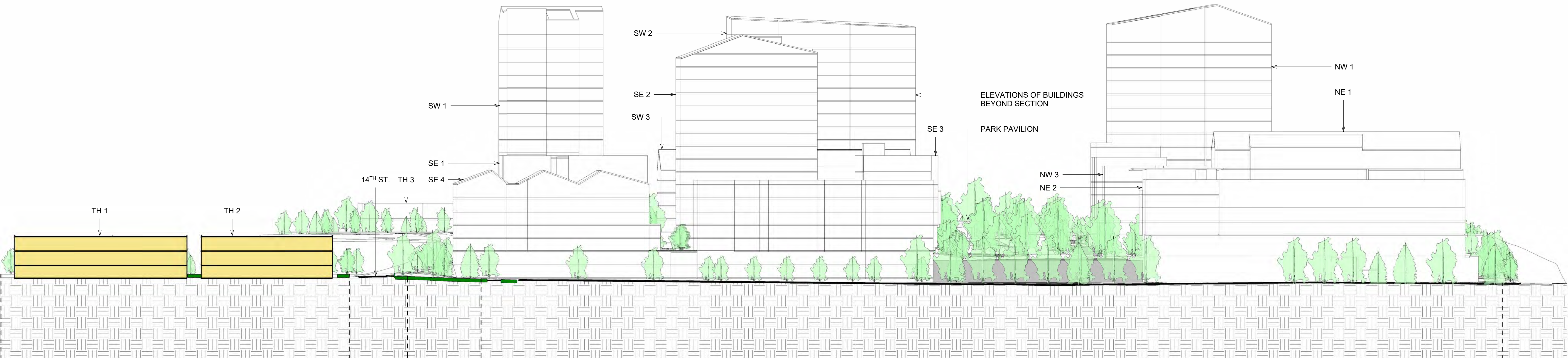
NOTE: REFER TO THE SITE PLAN (EXHIBIT C.2.1) FOR BUILDING FOOTPRINTS, BUILDING LOCATIONS, STREET, AND CURB ALIGNMENTS. REFER TO THE LANDSCAPE PLAN (EXHIBIT C.4.1) FOR LANDSCAPE LOCATIONS AND CONCEPTS.

NOTE: THE MAXIMUM BUILDING HEIGHTS INDICATED IN THE PRELIMINARY DEVELOPMENT PLAN WILL BE REDUCED AS NEEDED TO COMPLY WITH THE MAXIMUM APPROVED PDO STANDARD OF 12 FLOORS IN THE FINAL DEVELOPMENT PLAN.





① PDO SECTION-LOOKING WEST THROUGH PARK  
1" = 40'-0"



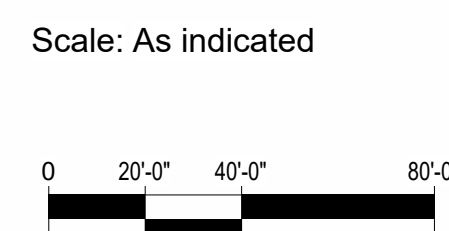
② PDO SECTION-LOOKING WEST THROUGH FIR STREET  
1" = 40'-0"

NOTE: REFER TO THE SITE PLAN (EXHIBIT C.2.1) FOR BUILDING FOOTPRINTS, BUILDING LOCATIONS, STREET, AND CURB ALIGNMENTS. REFER TO THE LANDSCAPE PLAN (EXHIBIT C.4.1) FOR LANDSCAPE LOCATIONS AND CONCEPTS.

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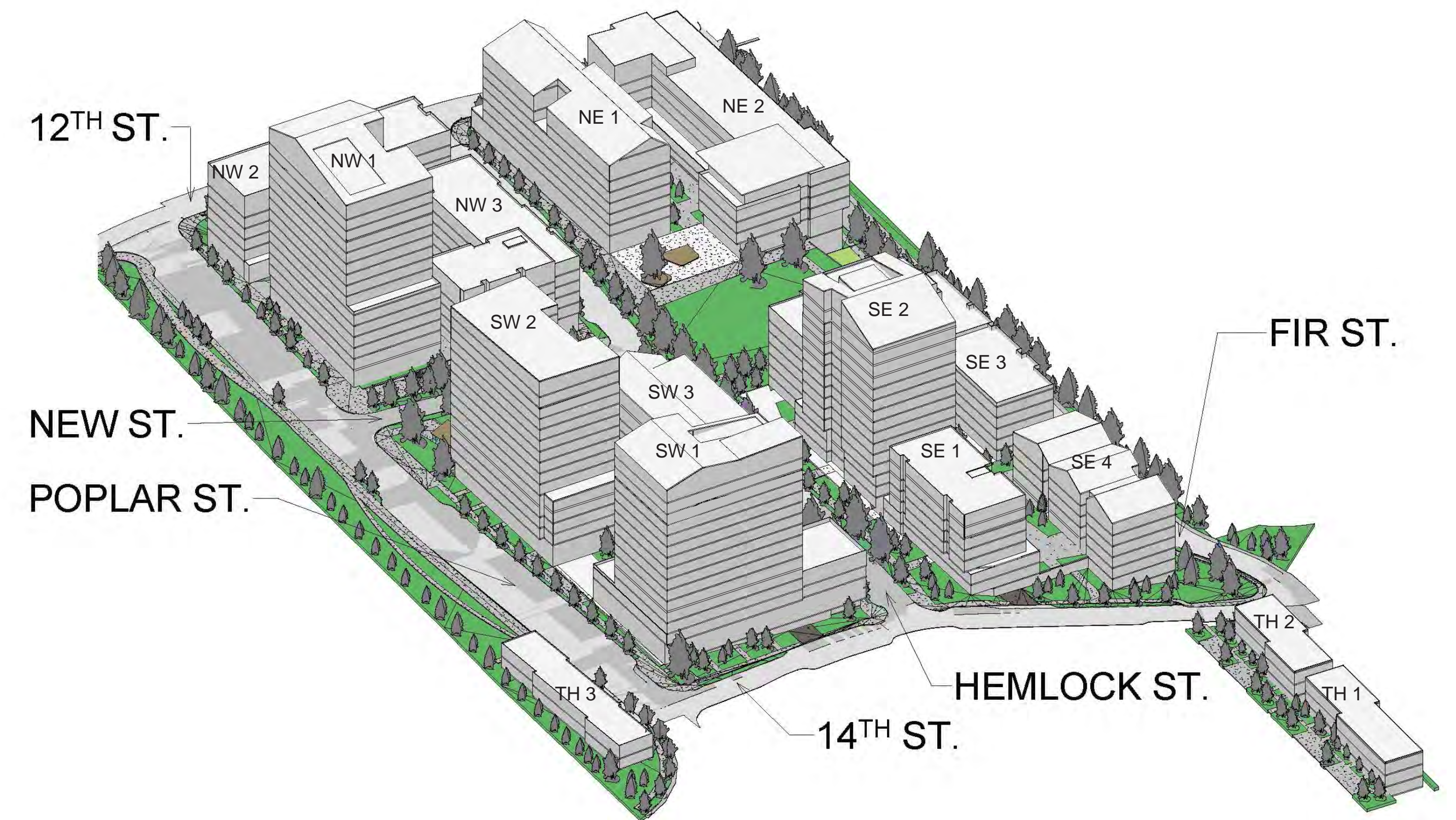
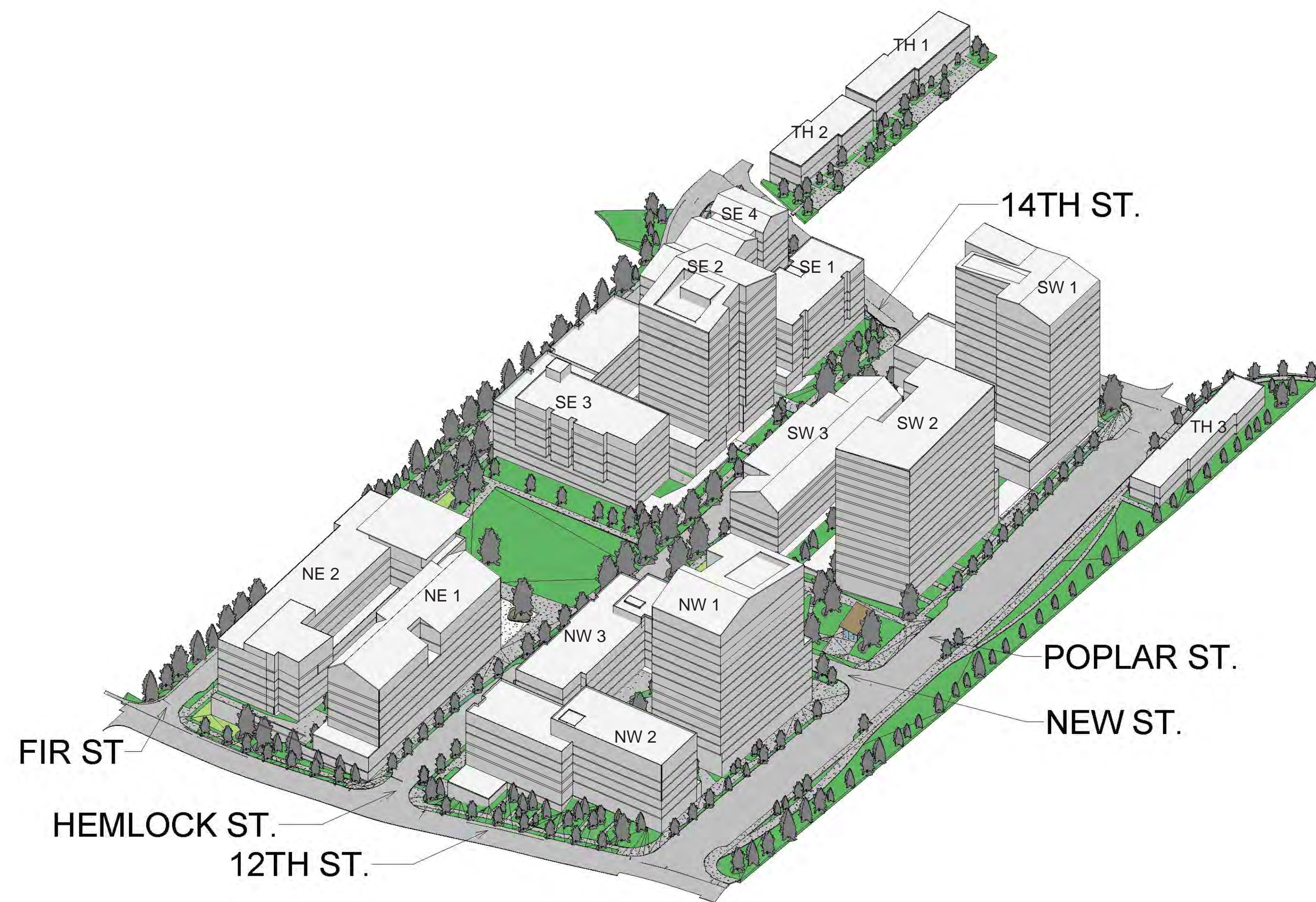
Prepared by: FRAMEWORK  
Revisions:



Preliminary Development Plan for PDO Application

VERSION AUGUST 23, 2023  
**SITE SECTIONS**  
EXHIBIT C.2.3e





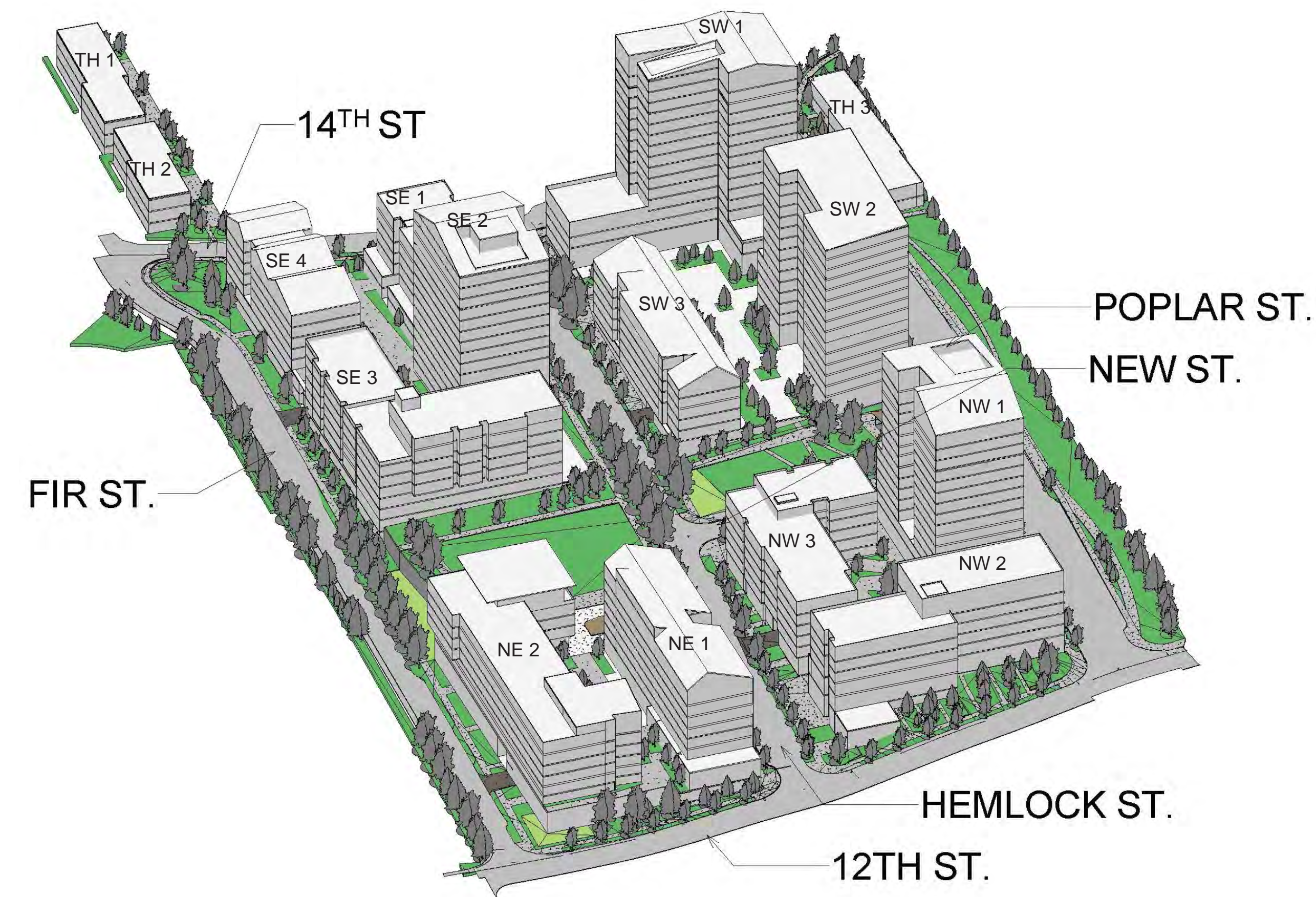
**1** MASSING MODEL VIEWED FROM THE NORTHWEST

**2** MASSING MODEL VIEWED FROM THE NORTHEAST

NOTE: REFER TO THE SITE PLAN (EXHIBIT C.2.1) FOR BUILDING FOOTPRINTS, BUILDING LOCATIONS, STREET, AND CURB ALIGNMENTS. REFER TO THE LANDSCAPE PLAN (EXHIBIT C.4.1) FOR LANDSCAPE LOCATIONS AND CONCEPTS.

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**3** MASSING MODEL VIEWED FROM THE SOUTHWEST

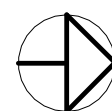
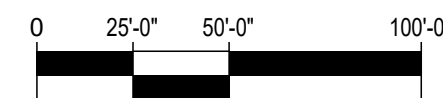
**4** MASSING MODEL VIEWED FROM THE SOUTHEAST

NOTE: REFER TO THE SITE PLAN (EXHIBIT C.2.1) FOR BUILDING FOOTPRINTS, BUILDING LOCATIONS, STREET, AND CURB ALIGNMENTS. REFER TO THE LANDSCAPE PLAN (EXHIBIT C.4.1) FOR LANDSCAPE LOCATIONS AND CONCEPTS.

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NOTE: REFER TO THE SITE PLAN (EXHIBIT C.2.1) FOR BUILDING FOOTPRINTS, BUILDING LOCATIONS, STREET, AND CURB ALIGNMENTS. REFER TO THE LANDSCAPE PLAN (EXHIBIT C.4.1) FOR LANDSCAPE LOCATIONS AND CONCEPTS.



**PROGRAM KEY**

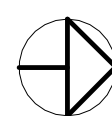
- 1. RESIDENTIAL
- 2. RETAIL
- 3. PARKING







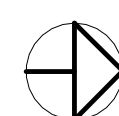
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**PROGRAM KEY**

- 1. RESIDENTIAL
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- 3. PARKING





#### PROGRAM KEY

- 1. RESIDENTIAL
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- 3. PARKING





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### PROGRAM KEY

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- 3. PARKING





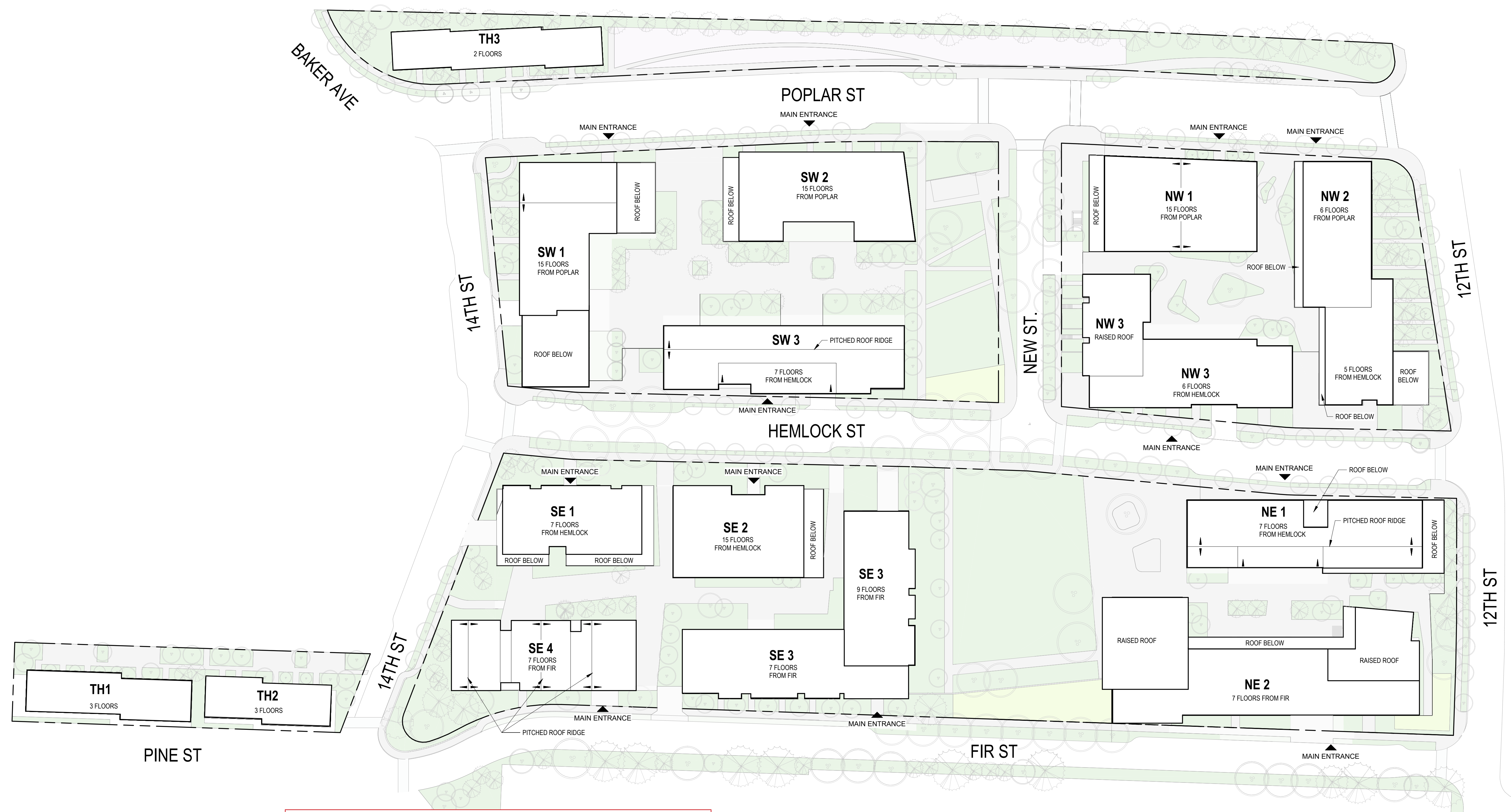
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- 1. RESIDENTIAL
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- 3. PARKING





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# Key

- 3** Indicates the number of floors for buildings based on the proposed Planned Development Overlay Zoning as calculated relative to the first floor at the main building entrances.
- ↓ Indicates main building entrance.



NOTE: REFER TO THE SITE PLAN (EXHIBIT C.2.1) FOR BUILDING FOOTPRINTS, BUILDING LOCATIONS, STREET, AND CURB ALIGNMENTS. REFER TO THE LANDSCAPE PLAN (EXHIBIT C.4.1) FOR LANDSCAPE LOCATIONS AND CONCEPTS.

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LEGEND

PUBLICLY-ACCESSIBLE  
OPEN SPACE

- Paving
- Planting  
*Native Dominant Shrubs Grasses, Perennials*
- Lawn
- Active Recreation Area
- Community Garden
- Plaza
- Landscape Buffer

- Setback - Type II Landscape Buffer
- Setback - Type III Landscape Buffer
- Crosswalks

PRIVATE OPEN SPACE

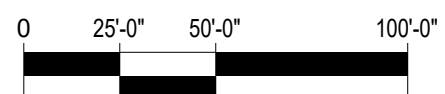
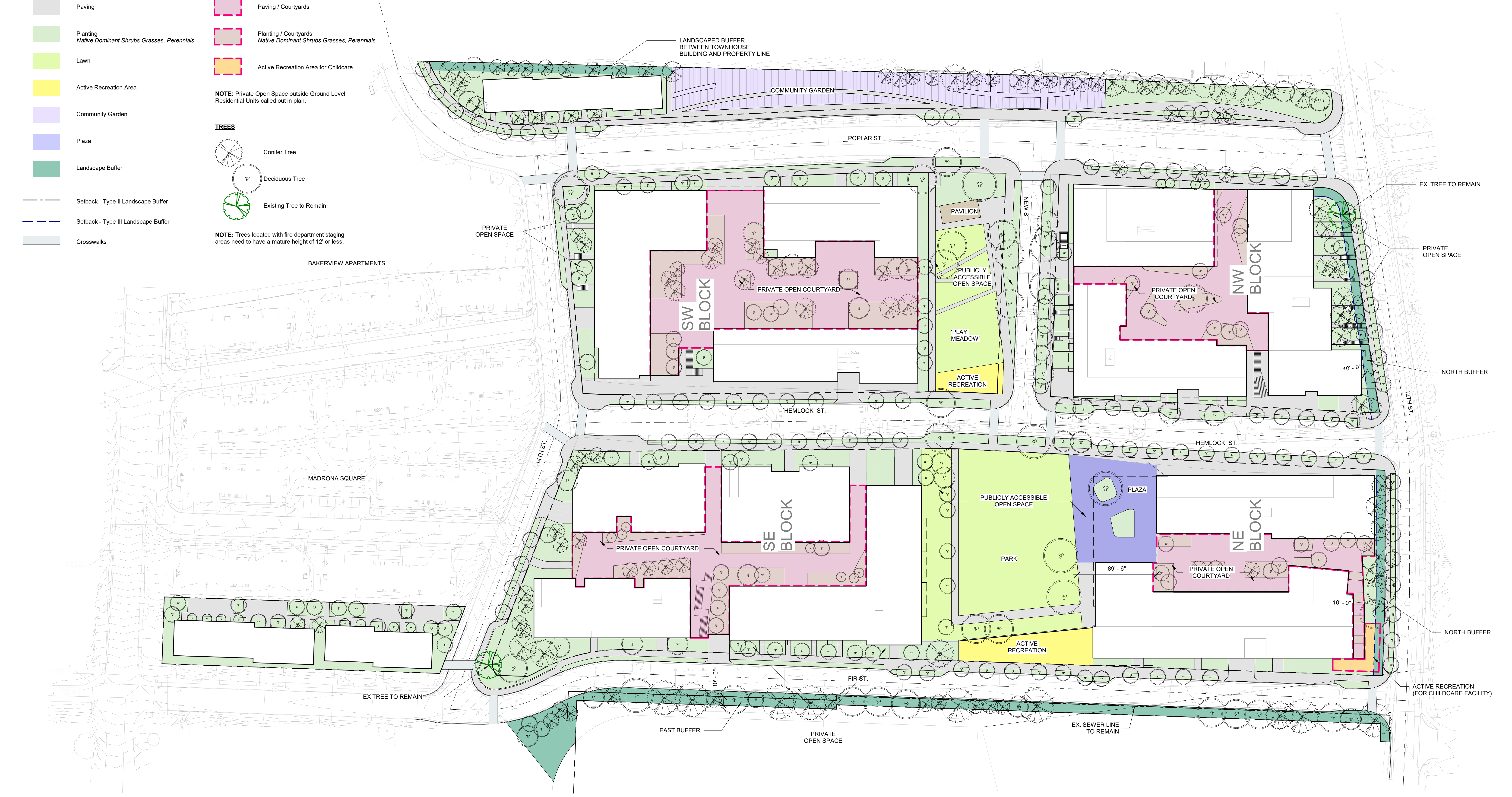
- Paving / Courtyards
- Planting / Courtyards  
*Native Dominant Shrubs Grasses, Perennials*
- Active Recreation Area for Childcare

NOTE: Private Open Space outside Ground Level Residential Units called out in plan.

TREES

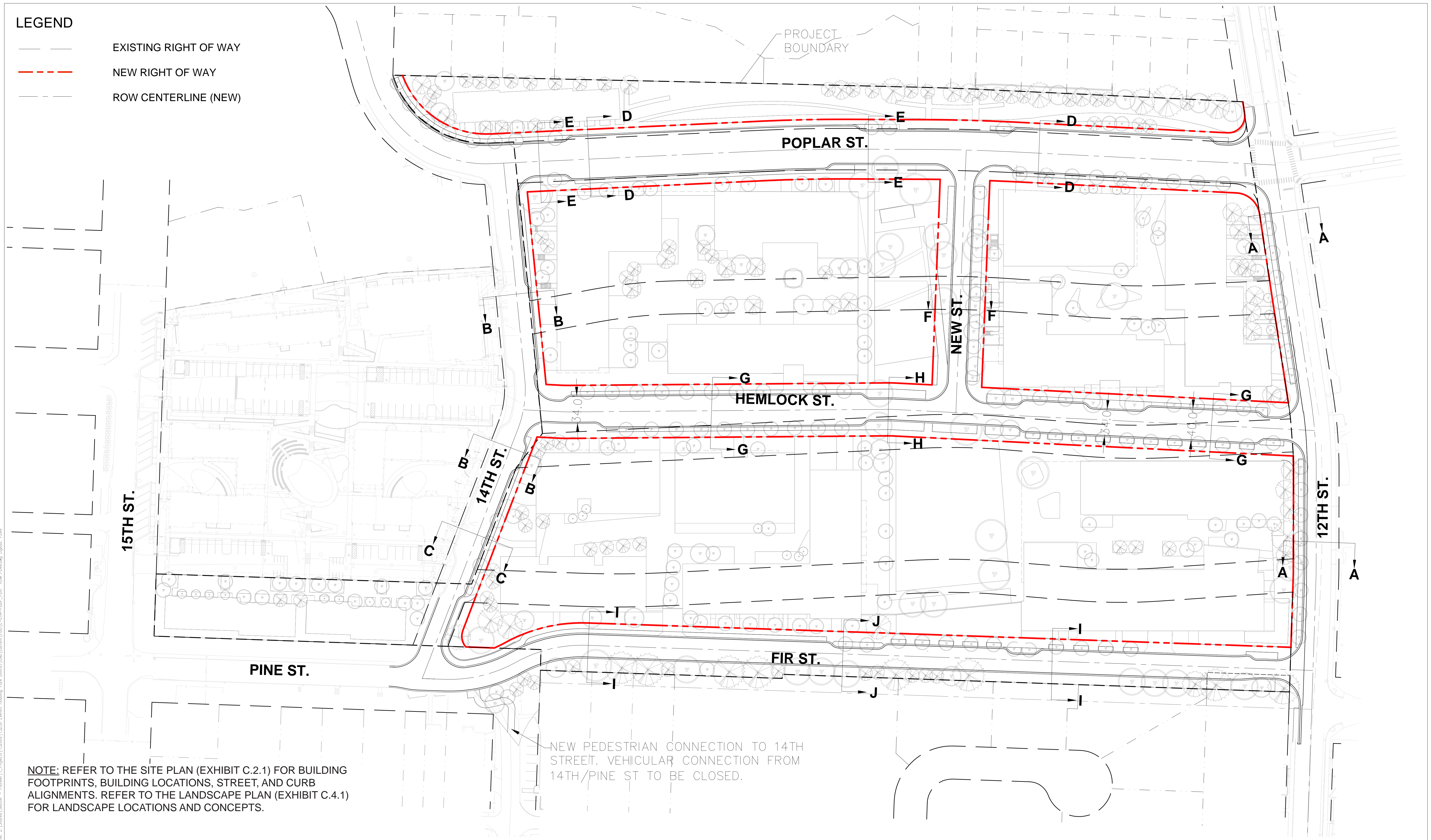
- Conifer Tree
- Deciduous Tree
- Existing Tree to Remain

NOTE: Trees located with fire department staging areas need to have a mature height of 12' or less.





- LEGEND**
- EXISTING RIGHT OF WAY
  - NEW RIGHT OF WAY
  - ROW CENTERLINE (NEW)



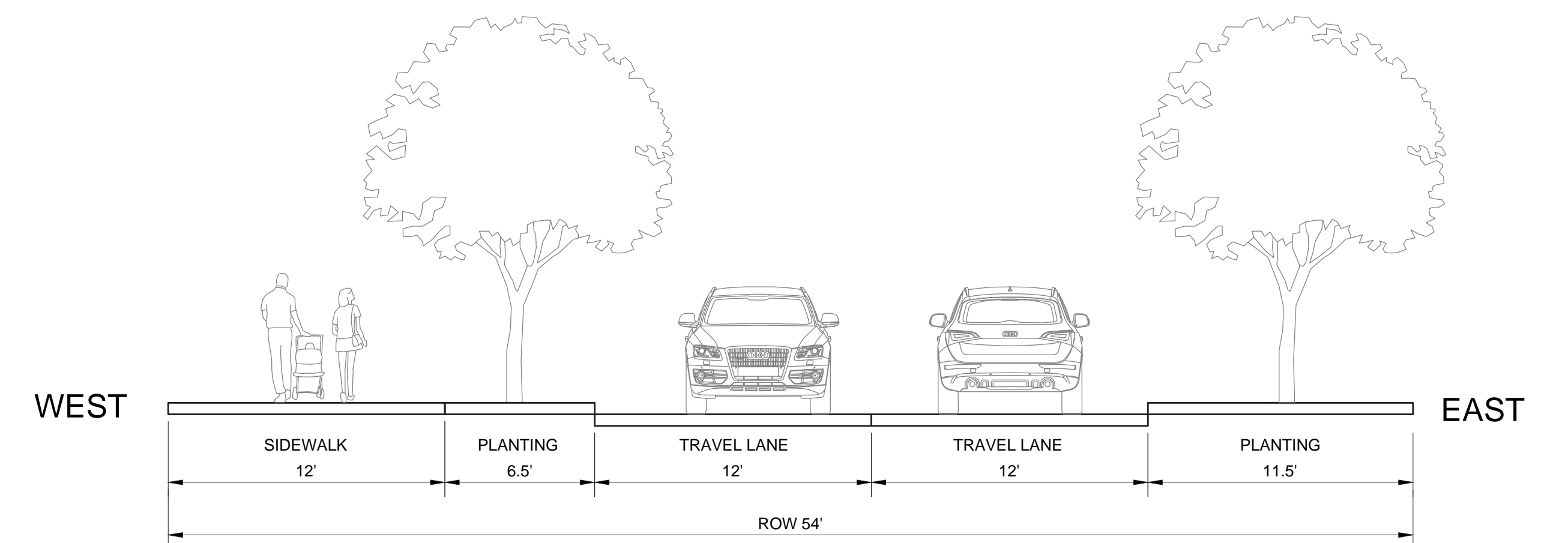
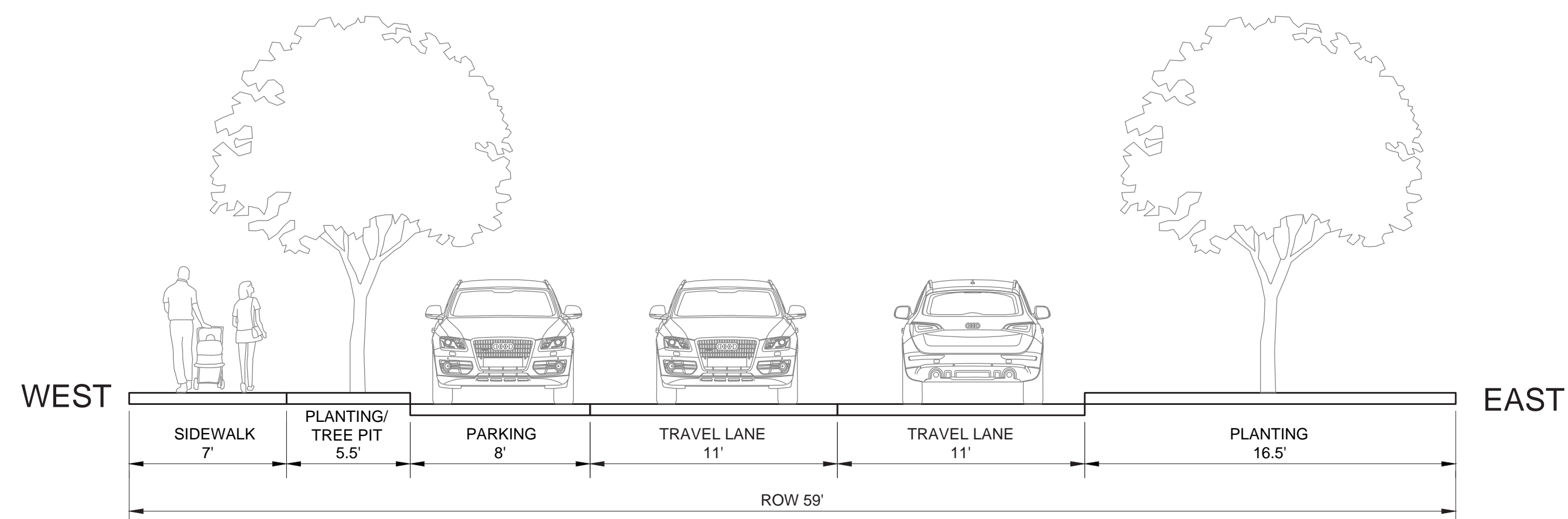
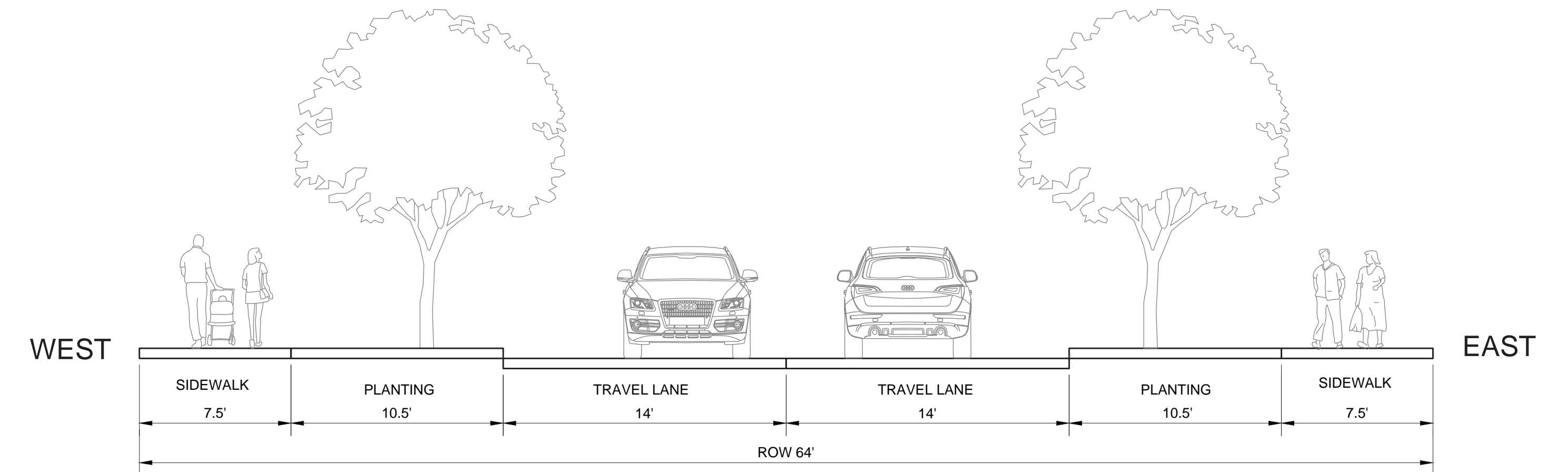
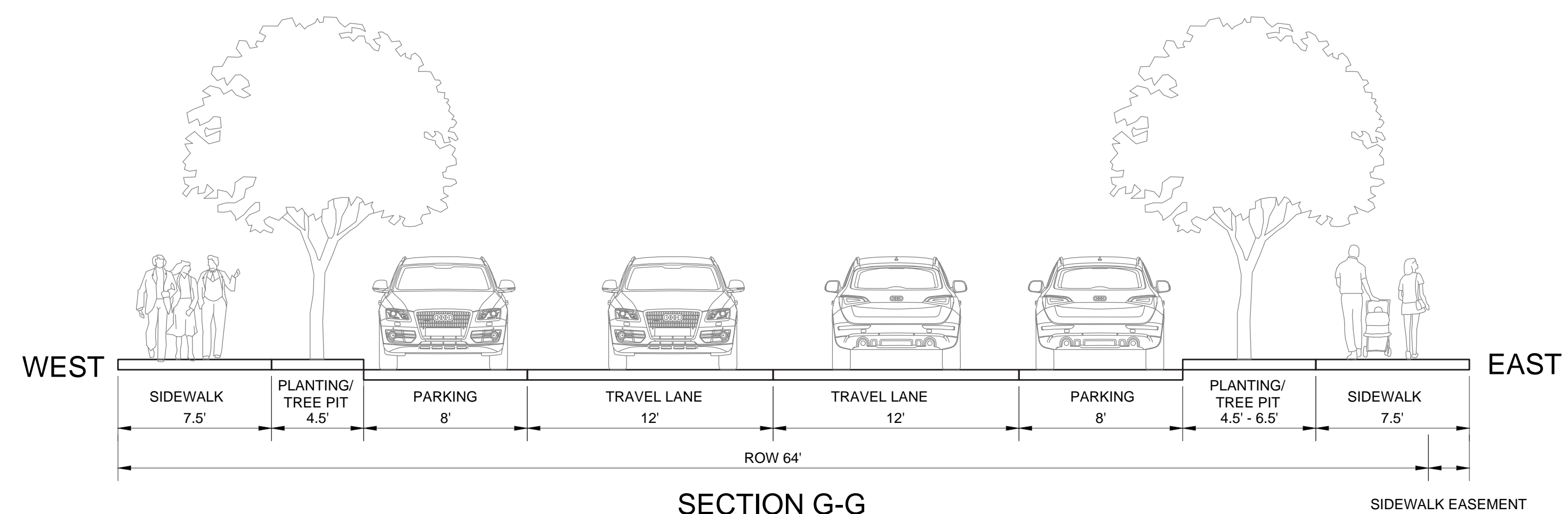
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NEW PEDESTRIAN CONNECTION TO 14TH STREET. VEHICULAR CONNECTION FROM 14TH/PINE ST TO BE CLOSED.





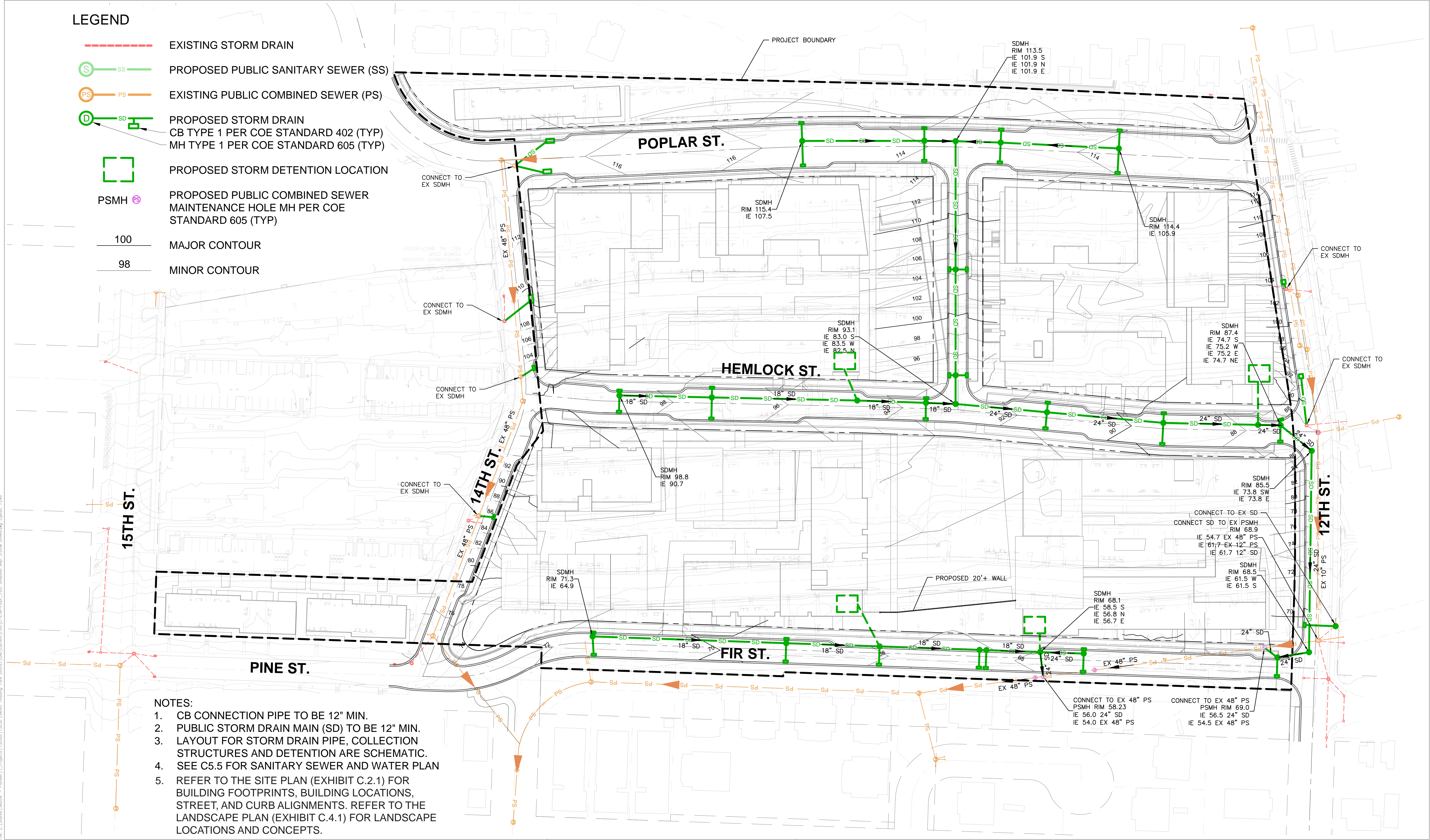




Printed: Feb 08, 2024 - 4:40:11pm by arborshille  
File: Z:\Shared\Seattle - Pioneer\1\_Planets\15200s\15250s\15250s Everitt Housing Park District\CAU\Current\PD01\CAU-PD02\_P80 - ROW\WHY SECTIONS.dwg Layout: PLAN (2)



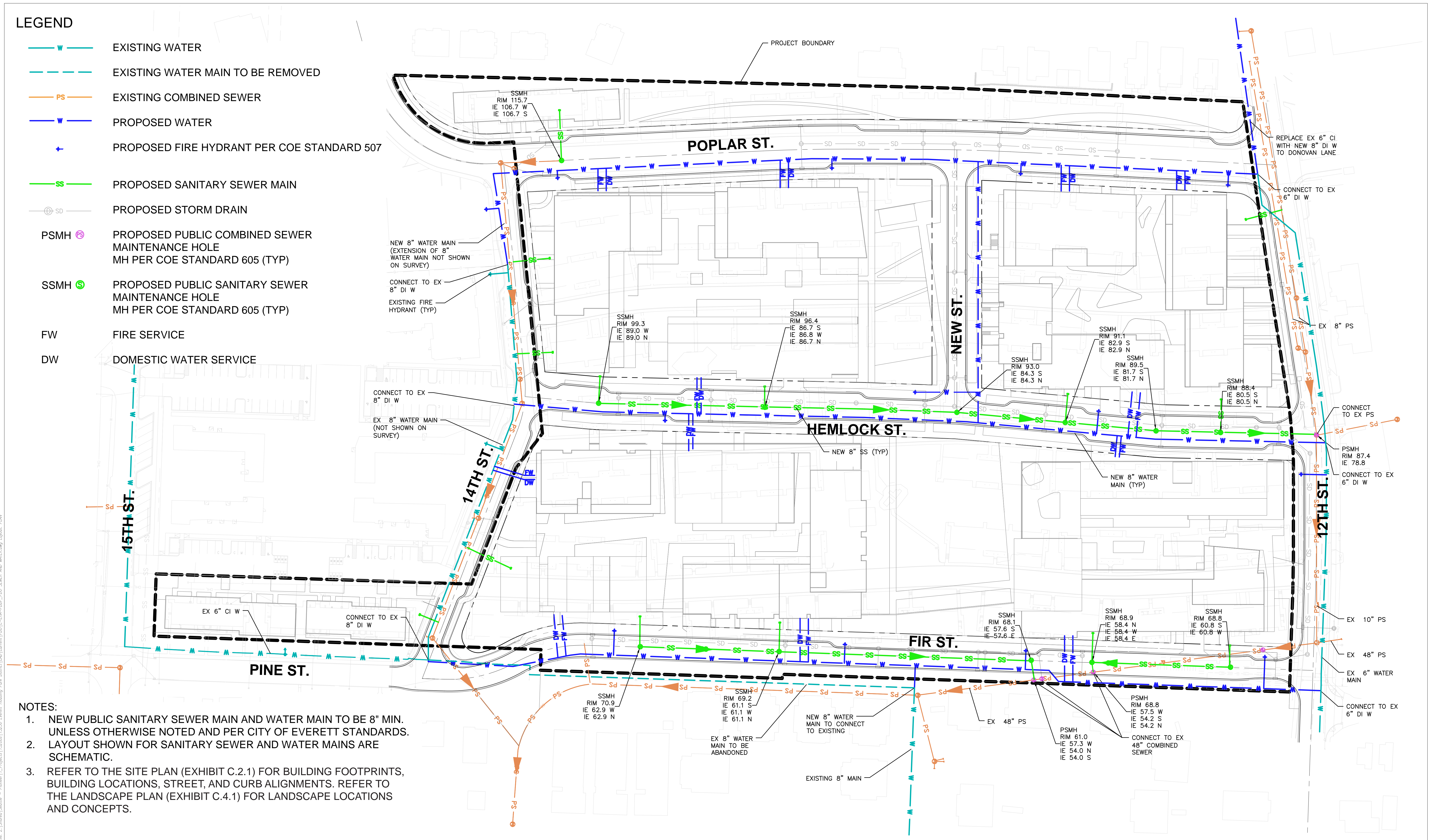
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File: Z:\Shared\Seattle - Pioneer\1 Projects\15200\15200 Everett Housing Park District C-24-PDO C-24-PDO GRADING AND STORM DRAINING Layout PLAN





LEGEND

- EXISTING WATER
- EXISTING WATER MAIN TO BE REMOVED
- EXISTING COMBINED SEWER
- PROPOSED WATER
- PROPOSED FIRE HYDRANT PER COE STANDARD 507
- PROPOSED SANITARY SEWER MAIN
- PROPOSED STORM DRAIN
- PSMH PROPOSED PUBLIC COMBINED SEWER MAINTENANCE HOLE MH PER COE STANDARD 605 (TYP)
- SSMH PROPOSED PUBLIC SANITARY SEWER MAINTENANCE HOLE MH PER COE STANDARD 605 (TYP)
- FW FIRE SERVICE
- DW DOMESTIC WATER SERVICE

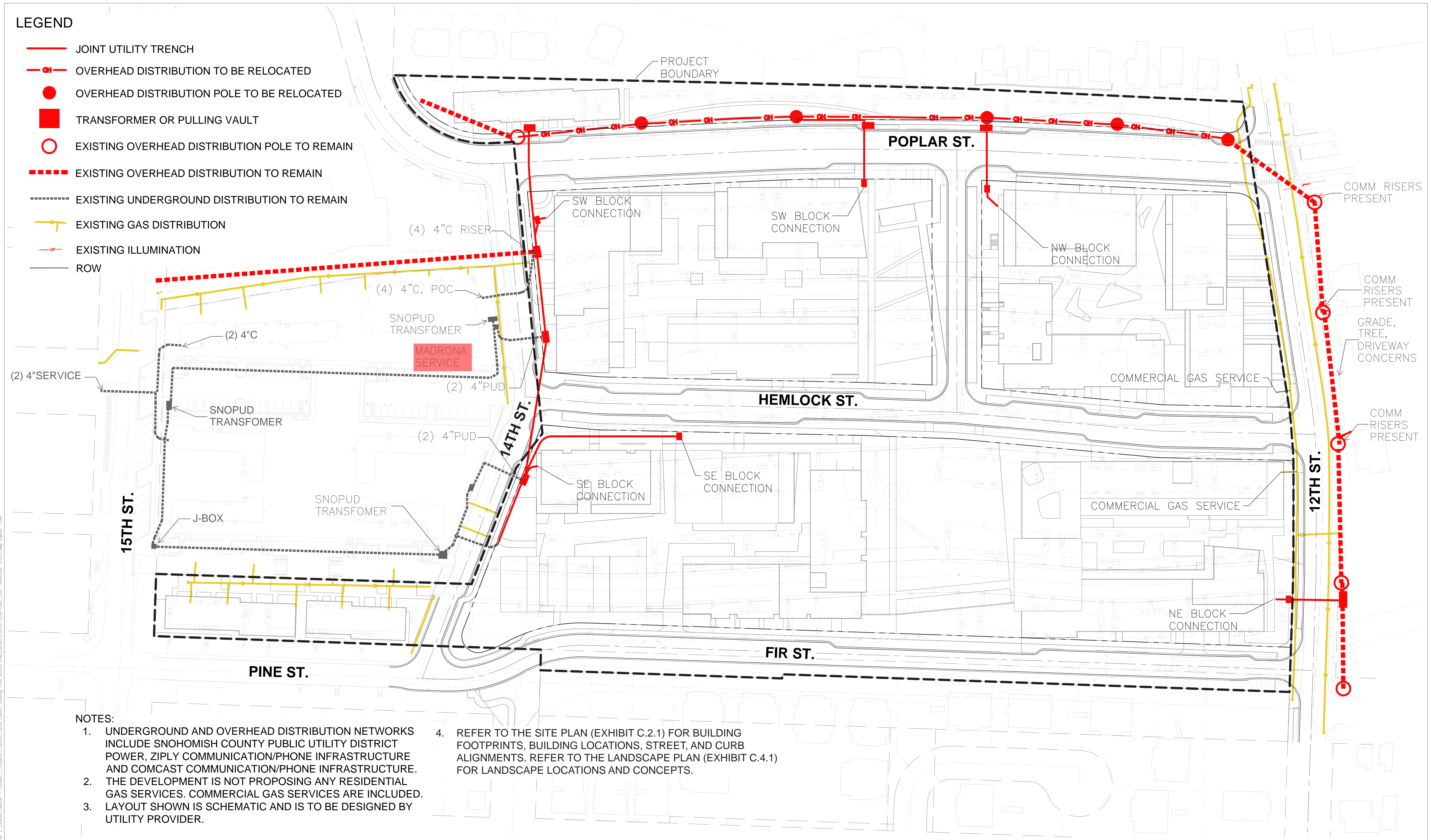


- NOTES:
1. NEW PUBLIC SANITARY SEWER MAIN AND WATER MAIN TO BE 8" MIN. UNLESS OTHERWISE NOTED AND PER CITY OF EVERETT STANDARDS.
  2. LAYOUT SHOWN FOR SANITARY SEWER AND WATER MAINS ARE SCHEMATIC.
  3. REFER TO THE SITE PLAN (EXHIBIT C.2.1) FOR BUILDING FOOTPRINTS, BUILDING LOCATIONS, STREET, AND CURB ALIGNMENTS. REFER TO THE LANDSCAPE PLAN (EXHIBIT C.4.1) FOR LANDSCAPE LOCATIONS AND CONCEPTS.



LEGEND

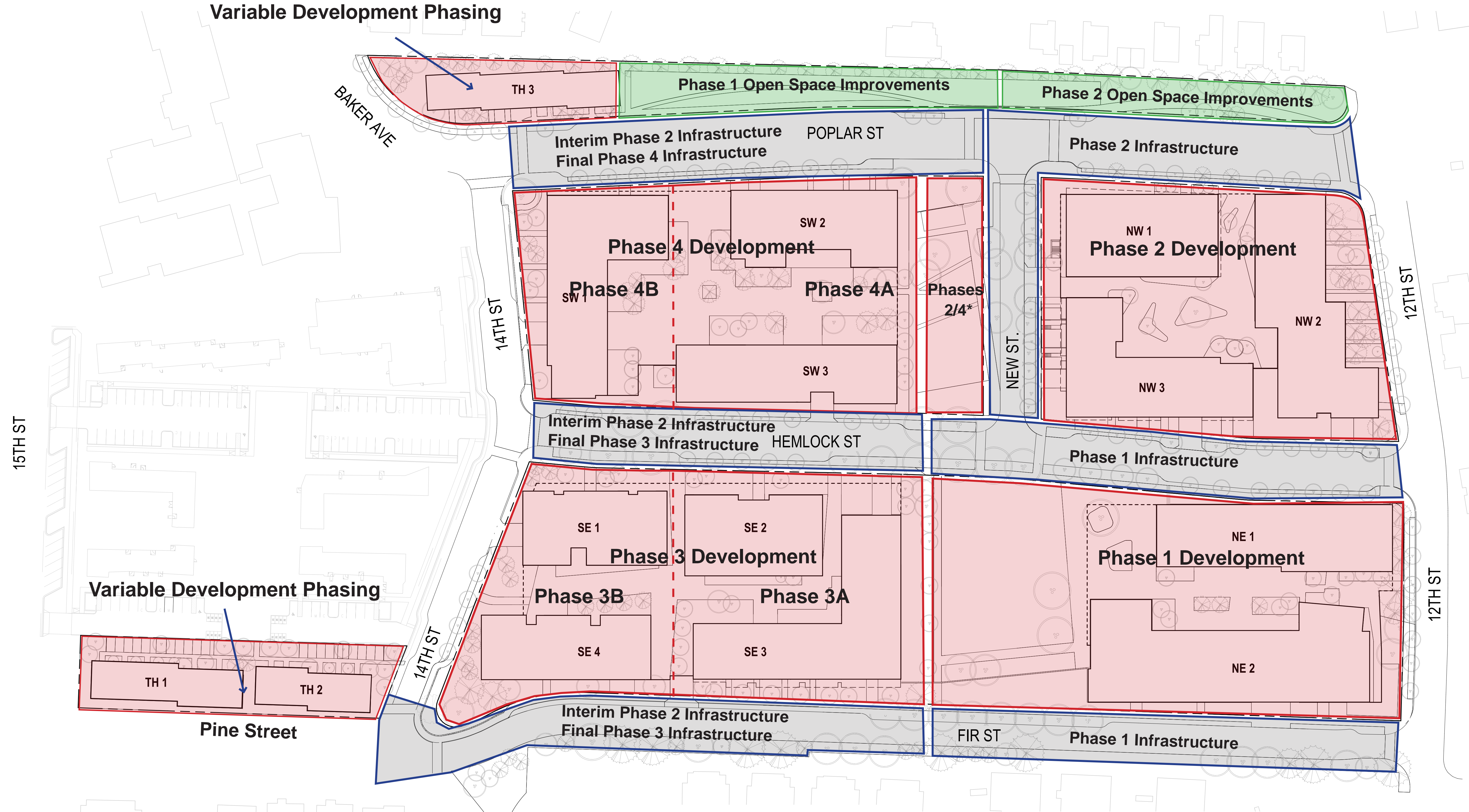
- JOINT UTILITY TRENCH
- OVERHEAD DISTRIBUTION TO BE RELOCATED
- OVERHEAD DISTRIBUTION POLE TO BE RELOCATED
- TRANSFORMER OR PULLING VAULT
- EXISTING OVERHEAD DISTRIBUTION POLE TO REMAIN
- EXISTING OVERHEAD DISTRIBUTION TO REMAIN
- EXISTING UNDERGROUND DISTRIBUTION TO REMAIN
- EXISTING GAS DISTRIBUTION
- EXISTING ILLUMINATION
- ROW



- NOTES:
- 1. UNDERGROUND AND OVERHEAD DISTRIBUTION NETWORKS INCLUDE SNOHOMISH COUNTY PUBLIC UTILITY DISTRICT POWER, ZIPLY COMMUNICATION/PHONE INFRASTRUCTURE AND COMCAST COMMUNICATION/PHONE INFRASTRUCTURE.
  - 2. THE DEVELOPMENT IS NOT PROPOSING ANY RESIDENTIAL GAS SERVICES. COMMERCIAL GAS SERVICES ARE INCLUDED.
  - 3. LAYOUT SHOWN IS SCHEMATIC AND IS TO BE DESIGNED BY UTILITY PROVIDER.
  - 4. REFER TO THE SITE PLAN (EXHIBIT C.2.1) FOR BUILDING FOOTPRINTS, BUILDING LOCATIONS, STREET, AND CURB ALIGNMENTS. REFER TO THE LANDSCAPE PLAN (EXHIBIT C.4.1) FOR LANDSCAPE LOCATIONS AND CONCEPTS.



## Variable Development Phasing



\* Phase 2: Interim park area landscaping  
Phase 4: Final park area landscaping

NOTE: REFER TO THE SITE PLAN (EXHIBIT C.2.1) FOR BUILDING FOOTPRINTS, BUILDING LOCATIONS, STREET, AND CURB ALIGNMENTS. REFER TO THE LANDSCAPE PLAN (EXHIBIT C.4.1) FOR LANDSCAPE LOCATIONS AND CONCEPTS.



**EXHIBIT D  
TO PARK DISTRICT PDO ORDINANCE  
DEVELOPMENT AGREEMENT**



## PARK DISTRICT DEVELOPMENT AGREEMENT

THIS PARK DISTRICT DEVELOPMENT AGREEMENT (this “**Agreement**”) is entered into as of the effective date stated below, by and between the CITY OF EVERETT, a Washington municipal corporation (the “**City**”) and HOUSING AUTHORITY OF THE CITY OF EVERETT, a body corporate and politic of the State of Washington (the “**EHA**”).

### RECITALS

- A. The EHA owns or controls the property located in the Delta neighborhood of north Everett containing approximately 16 acres of land, the legal description of which is contained in Exhibit A to this Agreement (the “**Property**”).
- B. The Property was first developed in the 1940’s as public housing, known as Baker Heights, to support war efforts. Baker Heights was decommissioned in 2019, and the site has been vacant since that time.
- C. The EHA wishes to develop the Property with a planned development called the “Park District” (sometimes also referred to in this Agreement as the “**Project**”).
- D. The Park District is a multi-phase project to create a new mixed-income, mixed-use development on the Property. The Project plans to contain approximately 1,500 dwelling units, 70,000 gross square feet of non-residential uses, 1.5 acres of publicly accessible park area, and a community garden.
- E. The Park District Project includes, among other things, an amendment to the Everett 2015-2035 Comprehensive Plan, a planned development overlay, and a reconfiguration of lots and public rights-of-way.
- F. The Park District is consistent with and would implement the goals and policies of the “Affordable Housing for All” Mayoral directive, the Everett Comprehensive Plan, the Everett Rethink Housing Action Plan, and the Everett Climate Action Plan.
- G. The Project’s planned development overlay, the associated preliminary development plan, and this Agreement together describe Project development, including without limitation the location of structures and features to be used in the design of improvements to be developed and incorporated into the Property. This Agreement contains, among other items, the review procedures to be used as more detailed designs become available and further requires that such review take place before issuance of building permits for individual project elements.
- H. This Agreement together with the Project planned development overlay sets forth development standards, requirements, and guidelines through which EHA intends to develop the Property in an innovative manner, which will be beneficial to the community. The intent is to provide for a high-quality development, which will benefit the City more than would a development strictly in accordance with current underlying zoning standards. The public will be benefited by the



establishment of development standards, and on-site improvements and uses facilitated by the planned development overlay process.

- I. The anticipated Project development schedule intends that all Project elements will be completed within 20 years from the effective date of this Agreement. However, due to the different construction schedules and time frames for individual parts of the Park District, the Project will be phased, with each phase proceeding forward at different construction start times and completed at different times.
- J. The City Council approved the EHA petition for street vacation and dedication for the Park District on February 7, 2024.
- K. The City Council's decision on this development agreement and the planned development overlay are legislative actions. EMC 15.03.200(B) requires that a public hearing be held before consideration and approval of a development agreement, and that the public hearing be held in conjunction with the underlying land use action. The proposed planned development overlay is the underlying land use action, and this Agreement relate to EHA's application for this land use action. The Planning Commission held a public hearing on the proposed planned development overlay on February 20, 2024, continued to March 3, 2024, with recommendation dated March 3, 2024. The City Council held a public hearing on the proposed planned development overlay and this Agreement on July 10, 2024.
- L. On July 10, 2024, the Everett City Council adopted Ordinance No. 4034-24 (the "**PDO Ordinance**") establishing the planned development overlay for the Park District (the "**PDO**") and authorizing execution of this Agreement.
- M. The parties agree that, as set forth in this Agreement and the PDO Ordinance, EHA's proposed development of the Property satisfies the criteria for approval of alternative development standards under EMC 19.29.050.C.
- N. The City Council approved the PDO Ordinance in part based on findings that:
  - 1. The preliminary development plan for the Park District attached to the PDO Ordinance as Exhibit C (the "**Preliminary Development Plan**") is consistent with the City's vision for providing housing and services in Everett.
  - 2. The Park District is consistent with and would implement the goals and policies of the Everett Comprehensive Plan, the Everett Climate Action Plan, and the Everett Housing Action Plan.
  - 3. The Property is compatible with the Park District Design Standards set forth in the PDO in Exhibit A.2. In addition, the policies of the Comprehensive Plan pertaining to compatibility of land uses, housing, economic development, transportation, climate change and sustainability, and urban design were considered in the design of the Project.
  - 4. The Park District PDO bears a substantial relation to public health, safety or welfare; and promotes the best long-term interests of the Everett community.



5. The Park District retail and civic uses, public open spaces, buildings, and streets will be compatible with the surrounding neighborhood.
  6. The Park District, as developed over time, will meet or exceed the performance-based intent of the City's development standards in order to provide an exceptional residential and civic environment.
  7. The elements of the Park District will respond to and balance the needs of Everett residents and visitors, the EHA, the City, and other public agencies.
  8. The City and EHA determined that the Park District PDO is subject to the requirement for an Environmental Impact Statement (EIS) under the State Environmental Policy Act (SEPA).
  9. The City assumed lead agency status for SEPA and agreed to EHA's recommendation for a consultant team to perform work on the EIS.
  10. The City's Responsible Official issued a Determination Significance on February 1, 2023.
  11. The City's Responsible Official issued a Draft EIS on October 25, 2023.
  12. The City's Responsible Official issued a Final EIS on February 5, 2024, and a later addendum, which concerns mitigation of the City's costs for Park District police and fire service.
- O. This Agreement is entered into pursuant to RCW 36.70B.170 *et seq* and Titles 15 and 19 EMC. The intent of the parties is to describe in this Agreement the development standards and regulations that shall apply to, govern, and vest the development and use of the Property. This Agreement shall be construed in a manner that is consistent with applicable development standards and regulations adopted by the City, except as modified herein.

## **AGREEMENT**

**NOW, THEREFORE**, in consideration of the mutual agreements contained herein, the receipt and sufficiency of which are hereby mutually acknowledged, the City and EHA hereby agree as follows:

### **1. PARK DISTRICT PROPERTY, PROJECT DESCRIPTION, PERMITTED USES**

- A. Property Description. The Property is the subject of this Agreement. The Property consists of the real property described and depicted in the attached Exhibit A.
- B. Project Description. The Project is generally as described in the recitals above.
- C. Park District Permitted Uses. The uses permitted on the Property shall be those uses that are in accordance with Exhibit A.1 of the PDO Ordinance and all applicable law.



## 2. PARK DISTRICT DEVELOPMENT STANDARDS

- A. Development Standards. Development on the Property shall be subject to all of the following (the “**Development Standards**”):
- (1) Park District Design Standards (“**Park District Design Standards**”), which is Exhibit A.2 of the PDO ordinance.
  - (2) Title 15 EMC and Title 19 EMC (except chapters 19.51, 19.52 and 19.53 EMC) as they exist on the effective date of this Agreement, as modified by Exhibits A.1 and A.2 of the PDO ordinance and as may be modified by this Agreement (such existing EMC provisions, as so modified, the “**Park District Development Regulations**”). For reference purposes, a copy of Title 19 EMC (except chapters 19.51, 19.52 and 19.53 EMC) and Title 15 EMC as they exist on the effective date of this Agreement is attached as Exhibit B to this Agreement. In this Agreement, references to provisions of the Park District Development Regulations are cited as “EMC [PDDR]” (e.g., “EMC [PDDR] 19.29.120 refers to EMC 19.29.120 in the Park District Development Regulations.)
- B. Conflict with then-Current EMC. In the event of a conflict between the Development Standards and the requirements of then-current EMC, the Development Standards shall prevail.
- C. Modification of Development Standards. Modification of Development Standards shall be in accordance with Section 6 of this Agreement.

## 3. PARK DISTRICT DEVELOPMENT PLAN

Development on the Property shall be subject to preliminary and final development plans as set forth in chapter 19.29 EMC [PDDR] as modified in Section 6 and elsewhere.

- A. Final Development Plans. Exhibit C of the PDO Ordinance contains the Preliminary Development Plan. EHA must submit a Final Development Plan, and may submit one for each Project Phase in accordance with the Development Standards and Section 6 below (as so approved, the “**Final Development Plans**”). Each Final Development Plan must identify the anticipated location and contents that Project phase (each so identified, a “**Project Phase**”). The Final Development Plans as approved represent refinements from the Preliminary Development Plan in the overall planning concepts consisting of the configuration of properties, infrastructure and phases, allocation of buildings and open space, all consistent with the Development Standards and this Agreement.
- B. Amendments to Final Development Plan. With each Project Phase EHA may propose a Final Development Plan for that Phase in accordance with Section 6 of this Agreement. All submissions for approval of a Final Development Plan or amendment thereof must be in accordance with this Agreement, all applicable Development Standards and applicable law. Time frames for submittal of sequential amendments to the Final Development Plan may exceed three years.



#### 4. PARK DISTRICT DEVELOPMENT REQUIREMENTS

Development on the Property shall be subject to the following:

A. Park Areas and Community Garden.

- (1) The Project shall include park areas of approximately 50,000 square feet exclusive of right-of-way and consisting of three components. The components shall be: an area between Fir Street and Hemlock Street flanked by building development; an area between Hemlock Street and Poplar Street flanked by building development and a new street; and an area south of 12th Street and between Poplar Street and the property line that is the western Project boundary. This park area is referred to in this Agreement as the “**Park Areas.**” The Park Areas shall be included in the Final Development Plan.
- (2) The Project shall include a community garden located in an area south of 12th Street and between Poplar Street and the property line that is the western Project boundary (the “**Community Garden**”). The Community Garden shall be at least the size of the existing community garden on the Property. The Community Garden shall be included in the Final Development Plan.
- (3) The provision of the Park Areas shall be accomplished according to the phases identified in the Park District Preliminary Development Plan Exhibit C.6.1, unless otherwise proposed and approved in a Final Development Plan. A portion of final landscaping in each Park Area may be provided in conjunction with later development.
- (4) Unless mutually agreed by the City and EHA by a writing specifically referencing this subsection, the Park Areas and the Community Garden do not create any credit against fees under chapter 19.53 EMC.

B. Rights of Way. With the adoption of the PDO Ordinance, the City Council also adopted a vacation ordinance that vacates certain City rights-of-way for the Project. In exchange for such vacation, the vacation ordinance requires that certain new rights-of-way within the Project be dedicated by the EHA to the City for public use. The Final Development Plan must provide for dedication of all such rights-of-way to the City during the first Project Phase, unless otherwise agreed to in writing by the Planning Director. All dedications must be by statutory warranty deed in a form acceptable to the Office of the City Attorney. The City may withhold Project certificates of occupancy until all such new rights-of-way are dedicated.

C. Mitigation Agreement

- (1) EHA and City will execute and record the Interlocal Agreement Regarding Mitigation of Park District Police and Fire Service Impacts in the form attached to this Agreement as Exhibit C (the “**Mitigation Agreement**”) at the same time that this Agreement is executed and recorded. No Project permit or other approval will be issued by the City unless and until the Mitigation Agreement is so executed and recorded.



- (2) If a court determines that the Mitigation Agreement in the form as executed by the Parties is not enforceable under applicable law, then the City may refuse to issue Project permits or approvals until the EHA provides an alternative or amended instrument reasonably acceptable to the City that provides the City with substantially similar payments as those under the Mitigation Agreement.

D. Impact Fees

- (1) Transportation. EHA shall pay fees for each portion of the Project in accordance with chapter 19.51 EMC (or successor code) in effect at the time of building permit issuance for such portion.
- a. The Project traffic analysis will identify the local improvements listed below as improvements that address transportation impacts from the Project that are adjacent to or in the vicinity of the Project but do not rise to the level of a significant adverse impact. These improvements (the ***“Identified Improvements”***) are:
- i. Baker Street west side sidewalk connection from Poplar to 15th Street
  - ii. Continuous sidewalk connection on the north side of 15th Street from Baker to Broadway
  - iii. 16th Street crossing improvement at Baker; including replacement of existing flashers with RRFBs.
  - iv. Continuous sidewalk improvements one or the other of:
    - 1. 14th Street on one side from Pine to E. Marine View Drive; or,
    - 2. 15th Street on north side from Pine to E. Marine View Drive.
- b. The City and EHA agree that the Identified Improvements are voluntary, appropriate and not already required under the Development Standards or in this Agreement. EHA agrees to construct the Identified Improvements and dedicate them to the City at no cost to the City. As they are completed, EHA will receive a dollar-for-dollar credit in the amount of EHA’s incurred design and construction costs for completed Identified Improvements, which will be applied toward the Project’s system-wide transportation mitigation fee. EHA will provide the City evidence of such costs upon request.
- c. If EHA’s design and construction costs for Identified Improvements in a Phase exceeds the system-wide transportation mitigation fee for that Project Phase, then EHA may either:



- i. eliminate the cost excess by constructing some Identified Improvements and delaying others until the next Phase, with the City selecting which Identified Improvements to delay; or
    - ii. construct the Identified Improvements and preserve the cost excess as trip generation credits. The excess trip generation credits may be applied against system-wide transportation mitigation fees due for any subsequent Project Phase.
  - d. It is anticipated that all Identified Improvements can be constructed by EHA for less than the amount of the total transportation mitigation fees for all Project Phases. Regardless of anything to the contrary in this Section 4.D.(1), EHA is not obligated to complete all Identified Improvements if the construction cost of all Identified Improvements exceeds the total transportation mitigation fees for all Project Phases; however, in that situation the City will select which Identified Improvements will be omitted in order to eliminate the excess.
- (2) School District. EHA shall pay fees for each portion of the Project in accordance with chapter 19.52 EMC (or successor code) in effect at the time of building permit issuance for such portion.
  - (3) Parks. EHA shall pay fees for each portion of the Project in accordance with chapter 19.53 EMC (or successor code) in effect at the time of building permit issuance for such portion.

E. Phasing and Interim Conditions

- (1) The timing of buildings, uses, and site improvements is dependent on the real estate market variables, development and operational costs, and the capacity of commercial and civic tenants and partners.
- (2) In the event that Project improvements are proposed in a sequence that would result in permanent public improvements having to be demolished when later improvements are constructed, the City may allow for interim public improvements in order to maintain reasonable public access during all Project Phases until Project completion.
- (3) Each Project Phase must construct improvements necessary to comply with all applicable requirements for that phase, including, but not limited to, parking, utilities, fire access, and landscaping.
- (4) EHA shall assess on-site parking conditions after each Project Phase is occupied. This assessment shall detail actual on-site parking supply and occupancy, including parking located along public rights-of-way. Depending on actual parking occupancy, EHA may request modification of parking requirements for future Project Phases. This may include reduced off-street parking, on street parking and/or modified TDM and Parking Management



Plan strategies to reduce parking demand. The City may not require increased off-street parking as a result of the parking assessments.

- (5) Interim surface parking areas may be provided by EHA for the purpose of overflow, residential uses, and non-residential uses.
- (6) Interim parking areas for construction use may be unpaved and without curbs and use gravel surfacing, all subject to approval by Everett Public Works. Interim sidewalks may be paved with asphalt. Interim walking paths may use gravel or woodchips.
- (7) At least 30 days before an interim use or feature with public access ends, EHA shall post signs conspicuously on the Property with notice of the end date.

F. Activation of Commercial and Retail Spaces. Through a robust community input process that included representatives from the Delta Neighborhood, EHA incorporated retail/commercial space in the Project. It is EHA's goal to occupy these spaces with neighborhood scale businesses and organizations that provide synergistic opportunities with each other and contribute to the activation of public amenity space uses and increase long term neighborhood resiliency, including walkability. EHA agrees that it is a benefit to the residents, the surrounding neighborhood, and the Project to activate these spaces. In furtherance of these goals, EHA agrees to the following:

- (1) In each Project building with a retail or commercial space, EHA will sequence the building construction so that the building's retail/commercial space(s) are ready for leasing no later than six months after the building's residential spaces are ready for leasing. EHA may request extensions of that deadline, which the Planning Director will review and will not unreasonably deny.
- (2) EHA will use reasonable efforts to attract tenants for Project retail and commercial spaces, including without limitation using advertising and brokers as necessary, with a focus on attracting tenants related to food/beverage, retail, restaurant, café/coffee shop uses.
- (3) EHA will provide commercially reasonable rent and tenant improvement allowances and incentives for Project retail and commercial space that are at least as advantageous to tenants as those generally used in retail and commercial space of like kind and quality north of 41st Street in Everett.
- (4) If a Project retail or commercial space is vacant, EHA will maintain the space in good condition, including without limitation all exterior surfaces in good condition, no peeling paint, no rust, clean and free of dirt, moss, and algae.
- (5) If a Project retail or commercial space is vacant for more than six months, EHA will further maintain the attractiveness of the space, if requested by the City, by painting windows with visually appealing scenes depicting or suggesting business or cultural activities and will display art or provide other displays of cultural or educational value. EHA may propose alternative means to maintain the attractiveness of the space, which the Planning Director will review and will not unreasonably deny.



- (6) If a Project retail or commercial space is vacant for more than six months, EHA will offer additional incentives (beyond subsection (3) above) to attract potential tenants to fill the vacant space as soon as possible. These incentives may include, but are not limited to, lower initial rents and construction of (or credit for) tenant improvements. If a Project retail or commercial space is vacant for more than one year, EHA must at least offer leasing terms with six months of zero rent (or equivalent tenant improvement allowance), but in no event is EHA obligated under this subsection (6) to offer a lease where the total rent to be received during the lease term for the space does not cover EHA's total costs to lease, operate and maintain the space during the lease term. EHA agrees to provide the City with an annual report outlining efforts taken to comply with 4.F for any space that has been vacant for more than six months.
- (7) If at the end of the term of this Agreement a Project building has retail or commercial space with history of long-term vacancy, the City and EHA will, as a prerequisite to the termination of this Agreement as to that building, execute and record a binding document for that building effective after the termination of this Agreement with provisions substantially similar to this Section 4.F.

## **5. AUTHORITY OF PLANNING DIRECTOR**

- A. Authority to Determine Compliance. The Planning Director shall have the authority from time to time, prior to the issuance of building permits and thereafter, to determine if proposed implementation of the Park District (including but not limited to applications, proposed site layouts and building designs, SEPA reviews, building permits, binding site plans, or other permits or approvals as may be required by the Development Standards, this Agreement, and applicable law) is consistent with the Final Development Plan, the Development Standards, this Agreement, and applicable law.
- B. Direction to Reject. If the Planning Director determines that any plan, design, application or other item submitted for approval is not consistent with the Final Development Plan, the Development Standards, this Agreement, or applicable law, the Planning Director will notify the applicant of the deficiency in writing, with reasonable specificity. EHA may then choose to amend the submission to address the deficiency, or may propose a modification under Section 6 of this Agreement. Should these steps fail to cure the deficiency, the Planning Director may reject (and by so rejecting prohibit issuance of building permits or other related Project permit or approval) the submission. A decision to reject based on such an inconsistency must not be arbitrary and must be made in writing and supported by detailed findings identifying the non-compliance.
- C. Third-Party Assistance. In reviewing Project plans, designs, applications, and other items, the City may contract with a third-party architect or other professional with appropriate expertise to assist the Planning Director. The selection of the architect or professional will be determined by the Planning Director, subject to the approval by EHA, which will not be unreasonably withheld. The EHA shall reimburse the City for the costs of such third party.



## 6. PARK DISTRICT MODIFICATIONS

A. Purpose. The purpose of this Section 6 is to provide a unified location and roadmap for standards and procedures for approval of proposed Project modifications for consistent application to the Park District. The City and EHA acknowledge and agree that the Project will be developed in phases over the term of this Agreement, and that EHA may propose modifications or refinements to the Final Development Plan with each Phase, which will be evaluated in accordance with the table below.

B. Modifications Table.

	Type of Proposed Modification	Process for Approval of Modification
1.	Proposed Final Development Plan contains modifications to Preliminary Development Plan	<p>When the EHA applies for a Final Development Plan, the new Plan shall be approved by Planning Director pursuant to EMC [PDDR] 19.29.080 if such final plan is in substantial compliance with the approved preliminary plan as provided in EMC [PDDR] 19.29.130.B.</p> <p>If final plan is not in substantial compliance, then approval of the final plan will require amendment of PDO Ordinance by City Council in accordance with EMC [PDDR] 19.29.060.A and EMC [PDDR] 19.29.060.B.1.</p>
2.	Modification of approved Final Development Plan	<p>A minor change to an approved Final Development Plan shall be authorized by the Planning Director when such change is consistent with either EMC [PDDR] 19.29.120 or EMC [PDDR] 19.29.130.B. Modifications that are not minor changes will require approval by City Council after Planning Commission recommendation accordance with EMC [PDDR] 19.29.120.B.</p>
3.	Modification of Park District Design Standards	<p>The Planning Director will review and approve proposals for modifications of the Park District Design Standards in accordance with processes contained in the Park District Design Standards.</p> <p>If a proposed modification is not subject to approval under the processes contained in the Park District Design Standards or is beyond the scope of such process, then the modification will require amendment of PDO Ordinance by City Council in accordance with EMC [PDDR] 19.29.060.A and EMC [PDDR] 19.29.060.B.1.</p>
4.	Modification of Park District Development Regulations	<p>Any modification of the Park District Development Regulations requires approval by City Council by amendment of the PDO Ordinance in accordance</p>



		with EMC [PDDR] 19.29.060.A and EMC [PDDR] 19.29.060.B.1.
6.	Modification of Development Agreement	<p>A minor modification is a modification as described in EMC [PDDR] 15.03.200.C.1.c. The Planning Director will review and decide upon minor modifications.</p> <p>A modification not minor under EMC [PDDR] 15.03.200.C.1.c requires City Council approval after City Council public hearing. Unless otherwise required by state law, such a modification does not require a recommendation from the Hearing Examiner or the Planning Commission or any action or hearing by the Hearing Examiner or the Planning Commission, regardless of anything in EMC [PDDR] 15.03.200 to the contrary.</p> <p>Changes to Section 4.C (Mitigation Agreement) or Section 4.D (Impact Fees) are examples of modifications that are not minor modifications.</p>

C. Modifications Examples. In each type of modification in the table above, the following are ordinarily examples of modifications that may be approved by the Planning Director:

- (1) minor boundary line adjustments of rights-of-way/property lines;
- (2) subdivision of lots without changes to buildings;
- (3) minor repositioning of proposed buildings within the same parcel or minor repositioning of common open space within the same parcel; and
- (4) reductions of anticipated footprint of a building or a building's unit count.

D. Opportunity for Guidance. The Planning Director or designee will provide an early opportunity for guidance regarding whether a project proposal would require a modification, and whether that modification can be approved by the Planning Director, so long as EHA identifies the proposed modifications and requests such guidance on those identified modifications. That opportunity shall include meetings for guidance requested by applicant and pre-application meetings between the applicant and relevant City staff, and such meetings will be followed by meeting notes drafted by the EHA for review and approval by City staff that will become part of the application file and follow the application through the review process.

E. Section Controlling. This Section 6 controls any contrary provision in chapter 19.29 EMC [PDDR] or successor chapter or EMC [PDDR] 15.03.200 or successor section.



## 7. VESTING OF DEVELOPMENT STANDARDS; APPLICABILITY OF EMC AND DEVELOPMENT STANDARDS

- A. Vesting Period. Pursuant to RCW 36.70B.170 *et seq.*, the Development Standards and other provisions of this Agreement shall apply to and govern and vest the development, use, and mitigation of development on the Property for a period of twenty years from the effective date of this Agreement (the “**Vesting Period**” or “**Buildout Period**”) unless extended or terminated as set forth herein. Permit applications submitted during the Vesting Period that are complete and consistent with this Agreement shall be processed in accordance with this Agreement notwithstanding the expiration of the Vesting Period.
- B. Relationship to EMC. To the extent this Agreement does not establish Development Standards or provisions addressing a certain subject, element or condition of the Project, then the Project shall be governed by the City's then-current EMC and development standards. For the purposes of clarity, the following is a non-exhaustive list of EMC provisions that are not vested under this Agreement, which means that then-current or successor versions of the following EMC provisions will govern the Project: (1) Title 14 EMC (Water and Sewers); (2) Title 16 EMC (Buildings and Construction); (3) Title 20 EMC (Environmental); and (4) chapter 19.51 EMC (Transportation Mitigation), chapter 19.52 EMC (School District Impact Fees), and chapter 19.53 EMC (Parks Impact Fees).
- C. New or Modified Laws. After the effective date of this Agreement, the City may adopt new or modified ordinances, codes, standards and regulations (collectively, “**New or Modified City Laws**”) relating to any Development Standards or to particular subject matter of this Agreement, but these will not apply to the Project during the Buildout Period unless one or more of the following apply:
- (1) the City and EHA mutually agree in writing to modify the Development Standards or other provision(s) of this Agreement (under the processes established for such modifications) in accordance with the New or Modified City Laws;
  - (2) the New or Modified City Laws concern off-street parking requirements and would, but for the Development Standards, apply to the Property, and EHA requests that such new or modified requirements replace the off-street parking requirements in the Development Standards, in which case the request is deemed to be a proposal approvable by the Planning Director under Section 6 above;
  - (3) the City determines that the New or Modified City Laws must be applied to development of the Property to avoid a serious threat to public health and safety; or
  - (4) the New or Modified City Laws are required by state or federal law, in which case New or Modified City Laws apply to the Project to the extent so required.
- D. Further Discretionary Actions. EHA acknowledges that the Development Standards contemplate the exercise of further discretionary powers by the City. These powers include, but are not limited to, review of additional permit applications under SEPA.



Nothing in this Agreement shall be construed to limit the authority or the obligation of the City to hold legally required public hearings, or to limit the discretion of the City and any of its officers or officials in complying with or applying the Development Standards.

- E. Extensions. Extensions to the Buildout Period of up to five years each may be authorized by mutual written agreement of the parties, with the first extension approved and signed on behalf of the City by the Mayor and any subsequent extension approved on behalf of the City by the Everett City Council and signed by the Mayor. The extension of the Buildout Period (and term of this Agreement) shall be formalized by an amendment to this Agreement without any additional process under Section 6 above.

## **8. GENERAL PROVISIONS**

- A. Notices. Any notice, request, direction or other communication under this Agreement shall be either (1) in writing delivered by first class mail, properly addressed and with the required postage or (2) by electronic mail. Notices to the City must be delivered to the City of Everett Planning Director at the current Planning Director address. Notices to the EHA must be delivered to the Executive Director of the Everett Housing Authority at the current Executive Director address. Receipt shall be deemed to have occurred on the date of delivery, or on the date of sending the electronic mail.
- B. Recording; Binding on Successors and Assigns. This Agreement and any amendments thereto shall be recorded with the Snohomish County Auditor's office, as necessary to be disclosed on title documents for the Property, and shall run with the land as binding on the parties and their successors and assigns. When this Agreement refers to EHA, that reference includes its successors and assigns. It is mutually agreed that the terms of this Agreement touch and concern the land and shall be covenants running with the land.
- C. Termination of Agreement. This Agreement shall terminate upon the expiration of the term identified in Section 8.K or when the Property has been fully developed, which ever first occurs, and all of the EHA's obligations in connection therewith are satisfied as determined by the City. Upon termination of this Agreement, the City shall record a notice of such termination in a form satisfactory to the Office of the City Attorney that the Agreement has been terminated.
- D. Approval of All Property Owners Required for Requested Modifications. The City has no obligation to consider or process any request from any Property owner for modifications under Section 6 above unless such a request is approved in writing by all fee-interest owners of Property subject to this Agreement.
- E. Process and Form of Amendment. Amendments to this Agreement must be in accordance with Section 6 above. To be effective, any amendment to this Agreement must be signed by the Mayor of the City on behalf of the City and by the Executive Director on behalf of the EHA.
- F. Enforcement. The Development Standards may be enforced by the City pursuant to EMC Chapter 1.20 or successive code, and EHA agrees that the City may withhold Project permits and administrative approvals pending compliance. Other than Development Standards, this Agreement shall be interpreted according to principles of contract law, to



determine the intent of the parties; if no interpretation is required, the City's enforcement authority includes, without limitation, enforcement pursuant to EMC Chapter 1.20 or successive code.

- G. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. Exclusive venue for all disputes related to this Agreement shall be in Snohomish County, Washington.
- H. Counterparts; Electronic or Scanned Signatures. This Agreement may be executed in more than one counterpart, each of which shall be deemed an original, and all of which shall constitute one and the same instrument. Electronic or scanned signatures on this Agreement shall constitute original signatures of the Parties.
- I. Captions. The captions of this Agreement are inserted solely for the convenience of reference only and do not define, describe or limit the scope or intent of this Agreement or any term hereof.
- J. Exhibits. Exhibits A and B and C are incorporated herein by this reference as if set forth in full herein.
- K. Term. The term of this Agreement shall continue for the twenty-year Vesting Period unless extended or terminated as set forth herein.
- L. Nonwaiver. The failure of either party to enforce strict performance by the other party of any of the provisions of this Agreement or to exercise any rights or remedies under this Agreement shall not be construed as a waiver or relinquishment to any extent of such party's right to assert or rely upon any such provisions or rights in that or any other instance; rather, the same shall be and remain in full force and effect.
- M. Severability. Subject to Section 4.C.2, should any court of competent jurisdiction find any provision of this Agreement to be invalid under Chapter 36.70B or otherwise, the remainder of the Agreement shall remain in full force and effect.
- N. Effective Date. This Agreement will be signed by each party after the effective date of the PDO Ordinance. The effective date of this Agreement is the date of last signature below. Neither party has any obligations under this Agreement until this Agreement is signed by both parties.

***[signatures on following page(s)]***



EXECUTED as of the effective date first by duly authorized officers of the parties hereto, intending to be legally bound hereby.

**CITY:**

City of Everett,  
a Washington municipal corporation

By: \_\_\_\_\_

Cassie Franklin, Mayor

Attest:

\_\_\_\_\_  
Office of the City Clerk

STATE OF WASHINGTON       )  
  ) ss.  
COUNTY OF SNOHOMISH    )

This record was acknowledged before me on \_\_\_\_\_ by Cassie Franklin as the Mayor of the City of Everett, a Washington municipal corporation.

*[Stamp Below]*

\_\_\_\_\_  
*Signature*  
Notary Public in and for the State of Washington  
My Commission Expires \_\_\_\_\_



**EHA:**

HOUSING AUTHORITY OF THE CITY OF EVERETT,  
a body corporate and politic of the State of  
Washington

By: \_\_\_\_\_

Mary Swenson, Interim Executive Director

STATE OF WASHINGTON        )  
  ) ss.  
COUNTY OF SNOHOMISH     )

This record was acknowledged before me on \_\_\_\_\_ by Mary Swenson as the  
Interim Executive Director of the Housing Authority of the City of Everett, a body corporate and politic of  
the State of Washington.

*[Stamp Below]*

\_\_\_\_\_  
*Signature*  
Notary Public in and for the State of Washington  
My Commission Expires \_\_\_\_\_



## EXHIBIT A – LEGAL DESCRIPTION AND DEPICTION

THAT PORTION OF THE PLAT OF BAKER HEIGHTS, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 14 OF PLATS, PAGE 111, IN SNOHOMISH COUNTY, WASHINGTON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL OF BLOCK 1, BLOCK 2, BLOCK 3, BLOCK 4 AND BLOCK 5 OF SAID PLAT OF BAKER HEIGHTS;

TOGETHER WITH ANY PORTION OF VACATED STREET THAT WOULD ATTACH BY OPERATION OF LAW PER ORDINANCE NO. 1034-84, RECORDED UNDER RECORDING NO. 8610130077, IN SNOHOMISH COUNTY, WASHINGTON.

TOGETHER WITH THE PORTIONS OF LARCH, HEMLOCK, AND FIR STREETS VACATED BY ORDINANCE NO. 4036-24.

PARCEL B:

LOT 2, BINDING SITE PLAN NO. BSP 20-004, RECORDED MARCH 2, 2021 AS RECORDING NO. 202103245015, IN SNOHOMISH COUNTY, WASHINGTON.



The Project has fixed external boundaries as shown in blue in the depiction. Property, as legally described above, remains part of the Property, regardless of whether internal lot boundaries are adjusted or internal lots are otherwise reconfigured, so long as the adjusted/reconfigured lot or lots do not extend outside the Project's external boundaries.



## **EXHIBIT B – TITLE 15 EMC AND TITLE 19 EMC**

Attached (and/or as available at the URL stated below) is Title 15 EMC and Title 19 EMC (except chapters 19.51, 19.52 and 19.53 EMC) as existing on the effective date of this Agreement.

<https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=1725229&searchid=62b05333-33a5-4652-87a7-e0b7337b0732&dbid=0>

This attachment (and/or linked document(s)), as modified as described in Section 2.A(2) of this Agreement, constitutes the Park District Development Regulations.



# **Title 15**

## **LOCAL PROJECT REVIEW PROCEDURES**

### Chapters:

- 15.01**      **Land Use Application Requirements**
- 15.02**      **Land Use and Project Review Procedures**
- 15.03**      **Land Use Decisions, Criteria and Authority**

## **Chapter 15.01**

### **LAND USE APPLICATION REQUIREMENTS**

### Sections:

#### **Article I.**

#### **Land Use Applications**

- 15.01.005**      **Introduction.**
- 15.01.010**      **Preapplication review.**
- 15.01.020**      **Land use permit application.**
- 15.01.022**      **Shoreline permit applications.**
- 15.01.030**      **Land division applications.**
- 15.01.035**      **Land division, supplemental requirements.**

#### **Article II.**

#### **Determination of Completeness**

- 15.01.040**      **Review for technically complete status.**
- 15.01.050**      **Determination of completeness or incomplete application.**

#### **Article III.**

#### **Time Limits for Permits and Permit Processing**

- 15.01.080**      **Review Process I through III.**
- 15.01.090**      **Determining time limits.**



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<b>15.01.100</b>	<b>Exceptions.</b>
<b>15.01.110</b>	<b>Time limit for Review Process I, II and III permits.</b>
<b>15.01.210</b>	<b>Time periods and expiration of land division approvals.</b>

## **Article I. Land Use Applications**

### **15.01.005 Introduction.**

The purpose of this chapter, in conjunction with Chapters [15.02](#) and [15.03](#), is to implement requirements in Chapter [36.70B](#) RCW, Local Project Review. Together, these three chapters are collectively referred to as the “Local Project Review Procedures.” Included within this chapter are land use application requirements, including how an application is determined complete and the time limits for permits and permit processing. For application procedures, please see Chapter [15.02](#). For land use decision criteria, please see Chapter [15.03](#). (Ord. 3774-20 § 3 (Exh. 2), 2020.)

### **15.01.010 Preapplication review.**

A. The purpose of preapplication review is to acquaint city staff with a sufficient level of detail about the proposed project to enable staff to advise the applicant accordingly. The purpose is also to acquaint the applicant with the applicable requirements of this title and other applicable city regulations. Further, the preapplication review is intended to provide the applicant with preliminary direction regarding the required content of the proposed application. However, the conference is not intended to provide an exhaustive review of all the potential issues that a given application could raise. The preapplication review does not prevent the city from applying all relevant laws to the application and does not constitute an approval of the project.

B. Preapplication review is required for Review Process II, III, and V applications, unless the ordinance or the planning director exempts the application in question or the applicant submits a completed form provided by the city requesting waiver of preapplication review, and such waiver is granted by the planning director.



- C. To initiate preapplication review, an applicant shall submit a completed request for preapplication meeting form provided by the planning department for that purpose, any required fee, preliminary site plan and all other information required by the city.
- D. The preapplication conference shall be scheduled within twenty-one calendar days, and held within thirty days—unless a longer period of time is agreed by the city and applicant, after the city accepts the application for preapplication review.
- E. Preapplication review does not vest an application nor does it constitute approval. (Ord. 3774-20 § 3 (Exh. 2), 2020.)

### **15.01.020 Land use permit application.**

A. *Content.* Applications shall be submitted upon forms provided by the planning director. An application shall identify all city land use permits required by the applicable development regulations as they apply to the proposed land use action. Applications may be filed by a property owner or an agent acting on his/her behalf. At a minimum, applications shall include the following information:

1. A completed land use permit application packet containing all required forms, information, and any special studies or information necessary to process the application indicated by the city in a preapplication meeting including, for example, where applicable to a project, traffic analysis, wetland and critical area studies, biological assessment; soil, stormwater and utility analyses.
2. Environmental checklist (SEPA) or other SEPA documentation including supporting information, when required under Chapter [197-11](#) WAC and the SEPA ordinance (Chapter [19.43](#)).
3. Complete and accurate special studies, reports, information, maps, plans, or other documentation required by the planning director to support the application and to enable the city to evaluate consistency and the environmental impacts of the proposal. When identified in the application packet, a supplemental narrative statement describing how the proposal meets the required evaluation criteria.



4. A statement that the applicant is the owner of the property affected by the application or is authorized by the owner to submit the application. For land divisions, a declaration of ownership form signed by the owner is required.
5. A written designation by the applicant of a single person or entity to receive determinations and notices required and issued as part of the project review process.
6. A property and/or legal description of the site for all applications required by the pertinent land use permit application packet and applicable development regulations. For land divisions, a legal description of the property proposed to be adjusted.
7. A complete and accurate site plan or proposed land use plans as described in the city's land use permit application packet. For land divisions, see plat and map requirements in Section [15.01.030](#).
8. A complete and accurate mailing list, as required by the pertinent land use permit application packet and development regulations.
9. Filing fee.

B. *Fees.* Fees shall be submitted with applications in accordance with the current land use development permit fee ordinance adopted by the city council. An application shall not be considered complete until the required fee has been submitted.

C. *Modification or Waiver.* The planning director may waive application requirements that are clearly not necessary to show an application complies with relevant regulations, review criteria and standards and may modify application requirements based on the nature of the proposed application, development site, or other factors.

D. *Supplemental Application Requirements.* Additional application requirements for shoreline permits, land division applications, and planned actions are set forth later in this chapter. (Ord. 3774-20 § 3 (Exh. 2), 2020.)



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### **15.01.022 Shoreline permit applications.**

Shoreline permit applications shall meet the requirements of the Joint Aquatic Review Project Application (JARPA) forms, if applicable to the project, and the information required by the planning department for shoreline permits. (Ord. 3774-20 § 3 (Exh. 2), 2020.)

### **15.01.030 Land division applications.**

A. *Applications.* All land division applications shall include the following:

1. The application materials as specified in Section [15.01.020](#), including application forms or checklists provided by the city.
2. A plat map, supplemental maps and/or site plan drawn to the specifications set forth in the applicable application.
3. A survey conducted by or under the supervision of a registered licensed land surveyor in the state of Washington, in accordance with the "Survey" section of Section [19.26.140](#).
4. A certificate, not older than ninety days, from a title company is required. The applicant shall be responsible for updating the title report to ensure that it is current as of the time of final land division review. This report must confirm that the title of the lands as described and shown on the land division is in the name of the owners signing the land division.

B. *Planning Director's Determination on Restrictive Covenants.* For purposes of meeting the requirements of this title and RCW [58.17.215](#), any restrictive covenant that has not been imposed by the city shall not be subject to the requirements of the alteration and vacation review procedures of this title.

C. *Notice of Correction.* The planning director may authorize corrections to the recorded final division map or other documents required by the city. It is the applicant's responsibility to provide all necessary maps or documents and pay all required fees and record the corrections as necessary. For the purpose of this title, a correction is the act of correcting an error on a map or document to bring it into conformity with the standards of this title or applicable survey standards as required by state law.



D. *Withdrawal of Preliminary or Final Approvals.* Except for formal subdivisions as provided by RCW [58.17.170](#), if a division of land or boundary line adjustment application was procured by misrepresentation, lack of material disclosure or erroneous information, or if there was deficient public notice as a direct result of the applicant or based on erroneous information or, if in the opinion of the planning director, a substantial change in conditions of approval has occurred and construction has not commenced, the city or hearing examiner may withdraw its approval of the project and require the applicant to correct the application. If the approval is withdrawn, the city or the hearing examiner shall issue a new decision on the application consistent with the review processes and standards of this title. (Ord. 3774-20 § 3 (Exh. 2), 2020.)

### **15.01.035 Land division, supplemental requirements.**

Supplemental requirements for certain Review Process I land divisions (minor amendments to land divisions, boundary line adjustments, and binding site plans with previously approved site plans) are as follows:

A. *Criteria for Minor Amendment.* For the purposes of this title, a minor amendment shall meet the following criteria:

1. The proposal represents a minor adjustment of lot lines or lot frontage that does not increase or decrease said lot lines and/or frontage in excess of ten percent;
2. The proposal does not result in substantial changes in the design or location of access, parking, circulation, drainage or public utility improvements;
3. The proposal does not result in additional lots or potential number of dwelling units;
4. The proposal would not modify or be in conflict with any of the conditions of preliminary approval;
5. In the opinion of the planning director, the proposal would not have an adverse effect on other lots within the project or on adjacent properties; and
6. The proposal is consistent with Titles [13](#), [19](#), [20](#) and other applicable city code provisions and standards.



B. *Approval of Adjacent Owners is Not Required for Minor Amendments.* The approval of other property owners within the proposed project is not required on the final division map or other documents if the city approves a minor amendment.

C. *When an Amendment Does Not Qualify as a Minor Amendment.* If the city determines that any proposed amendments are not minor, the project shall be processed as required for the original application meeting all the requirements of this title, including providing public notice to all property owners within the original project area.

D. *Binding Site Plans with Previously Approved Site Plans.* The following supplemental information shall be submitted with an application for a binding site plan with previously approved site plan:

1. The approved site plan with a copy of the corresponding decision and project numbers;
2. The SEPA threshold determination and corresponding checklist submitted for the approved project; and
3. A proposed or approved phasing plan.

E. *Boundary Line Adjustments.* Boundary line adjustment applications shall submit a declaration of legal documentation form. Requirements for final recording of boundary line adjustments shall be specified in rules for the administration and implementation of this title. (Ord. 3774-20 § 3 (Exh. 2), 2020.)

## **Article II. Determination of Completeness**

### **15.01.040 Review for technically complete status.**

Before accepting an application for processing, the city shall determine that the application is technically complete. A technically complete application contains all information required under Section [15.01.020](#). The city shall issue a notice of completeness or notice that the application is deemed incomplete as set forth in Section [15.01.050](#). (Ord. 3774-20 § 3 (Exh. 2), 2020.)



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**15.01.050 Determination of completeness or incomplete application.**

A. Within twenty-eight days after receiving a project permit application, the city shall mail (electronic mail acceptable) or personally provide a determination to the applicant which states either:

1. That the application is complete; or
2. That the application is incomplete and what is necessary to make the application complete.

B. To the extent known by the city, other agencies that may have jurisdiction over the application shall be identified in the city's completeness determination.

C. An application is complete for purposes of this section when it meets the procedural submission requirements set forth in Section [15.01.020](#) and is sufficient for continued processing even though additional information may be required or project modification may be undertaken subsequently. The determination of completeness shall not preclude the city from requesting additional information or studies either at the time of the notice of completeness or subsequently if new information is needed or substantial changes in the proposed action occur.

The determination of completeness may include the following as optional information:

1. A preliminary determination of those development regulations that will be used for project mitigation;
2. A preliminary determination of consistency, with the comprehensive plan or subarea plan, and applicable development regulations; or
3. Other information deemed appropriate by the planning director.

D. An application shall be deemed complete under this section if the planning director, within twenty-eight days of receiving the application, does not mail (electronic mail acceptable) or provide in person a written determination to the applicant that the application is incomplete.

E. If the planning director determines that an application is not complete, then within twenty-eight days after receiving the application, the planning director shall place in the mail (electronic mail acceptable) to the applicant a written statement that the application is incomplete based on a lack of information and listing what is required to make the application



technically complete; provided, however, an applicant may request or agree to an extension of the twenty-eight day completeness review period.

F. If the applicant receives a determination of the city that an application is not complete, the applicant shall have ninety days to submit the necessary information to the city. The planning director may grant an extension to the ninety-day time deadline for filing the required information. Within fourteen days after an applicant has submitted the additional information requested in a notice of incompleteness, the city shall make a new determination of completeness as described herein, and notify the applicant in the same manner.

G. If the required information is not submitted by the date specified and the planning director has not extended that date, the planning director may take one of the following actions as deemed appropriate by the planning director:

1. Reject and return the application and eighty percent of the application fee(s) and mail to the applicant a written statement which lists the remaining additional information needed to make the application technically complete; or
2. Issue a decision denying the application, based on a lack of information; or
3. Allow the applicant to start the technically complete review process a second time by providing the required missing information by a date specified by the review authority, in which case the review authority shall retain the application and fee pending expiration of that date, or a technical review of the application as amended by that date.

H. A determination of completeness for a project subject to environmental review under SEPA, including planned actions (which do not require threshold determinations), may be withdrawn in the following circumstances:

1. There are substantial changes to a proposal so that the proposal is likely to have significant adverse environmental impacts;
2. There is significant new information indicating, or on, a proposal's probable significant adverse environmental impacts; or
3. The determination of completeness was procured by misrepresentation or lack of material disclosure;



4. In the event that a determination of completeness is withdrawn and the responsible official determines that additional information is needed to process the application, the applicant shall be so notified, and the one-hundred-twenty-calendar-day period stayed pending receipt of the requested information by the city. (Ord. 3774-20 § 3 (Exh. 2), 2020.)

## **Article III. Time Limits for Permits and Permit Processing**

### **15.01.080 Review Process I through III.**

Except as otherwise provided in this title or by state law, the city shall provide a notice of decision as specified in Chapter [15.02](#) on all Review Process II and III applications, and on any Review Process I applications which require a notice of decision, within one hundred twenty days after the city notifies the applicant that the application is complete. (Ord. 3774-20 § 3 (Exh. 2), 2020.)

### **15.01.090 Determining time limits.**

In determining the number of days that have elapsed after the city has notified the applicant that the application is complete, the following periods shall be excluded:

- A. Any period during which the applicant has been requested by the planning director to correct plans, perform required studies, or provide additional required information. The period shall be calculated from the date the city notifies the applicant of the need for additional information until the earlier of the date the city determines whether the additional information satisfies the request for information or fourteen days after the date the information has been provided to the local government;
- B. If the city determines that the information submitted by the applicant under subsection A of this section is insufficient, it shall notify the applicant of the deficiencies and the procedures under subsection A of this section shall apply as if a new request for studies had been made;



- C. Any period during which an environmental impact statement is being prepared following a SEPA determination of significance;
- D. Any period during which the applicant has requested an interpretation of applicable provisions of the city code and development regulations;
- E. Any period for which a threshold determination requires further information from the applicant and/or consultation with other agencies with jurisdiction, as determined by the responsible official, in which case the running of the one-hundred-twenty-calendar-day period shall be stayed until the required information and/or consultation is provided;
- F. Any period for which a SEPA threshold determination requires further studies, including field investigations initiated by the city;
- G. Any time limits set forth in this section shall not apply to withdrawal of SEPA threshold determinations (DS, DNS) where such withdrawals are made in accordance with WAC [197-11-340](#) and [197-11-360](#);
- H. Any period for administrative appeals of project permits or SEPA determinations; and
- I. Any extension of time mutually agreed upon by the applicant and the city. (Ord. 3774-20 § 3 (Exh. 2), 2020.)

### **15.01.100 Exceptions.**

The time limit requiring a final decision within one hundred twenty days of the notice of application on a Review Process II or III decision does not apply if the land use permit application:

- A. Requires an amendment to the comprehensive plan or a development regulation;
- B. Requires approval of a new fully contained community as provided in RCW [36.70A.360](#), or the siting of an essential public facility as provided in RCW [36.70A.200](#);
- C. Is substantially revised by the applicant, in which case the new one-hundred-twenty-day time period shall start from the date at which the revised project application is determined to be complete; or



D. Results in a determination of completeness (of the application) being withdrawn under the determination of completeness or incomplete application, Section [15.01.050](#). (Ord. 3774-20 § 3 (Exh. 2), 2020.)

### **15.01.110 Time limit for Review Process I, II and III permits.**

A. *Review Process I.* If a complete application has not been filed for a building permit or equivalent construction permit within two years on a project for which a land use permit has been granted under Review Process I, and an extension has not been granted:

1. The land use permit shall be deemed to be terminated, except where a time limit on the land use permit is otherwise established by federal or state law, city ordinance, or an executed development agreement.
2. If the permittee requests an extension in writing not later than two years from the land use permit date, the planning director may grant a six-month extension.

B. *Review Process II and III.* If a complete application has not been filed for a building permit or equivalent construction permit within three years on a project for which a land use permit has been granted under Review Process II or III, and an extension has not been granted:

1. The land use permit shall be deemed to be terminated, except where a time limit on the land use permit is otherwise established by federal or state law, city ordinance, or an executed development agreement.
2. If the permittee requests an extension in writing not later than three years from the land use permit date, the planning director may grant a six-month extension.
3. For any reapplication, the city may use the existing SEPA determination or may require new or additional environmental documents as provided by WAC [197-11-600](#). (Ord. 3774-20 § 3 (Exh. 2), 2020.)

### **15.01.210 Time periods and expiration of land division approvals.**

See Section [15.02.400](#). (Ord. 3774-20 § 3 (Exh. 2), 2020.)



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## **Chapter 15.02**

### **LAND USE AND PROJECT REVIEW PROCEDURES**

Sections:

#### **Article I.**

##### **Types of Review Process**

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<b>15.02.015</b>	<b>Authority.</b>
<b>15.02.020</b>	<b>Exemptions and special circumstances.</b>
<b>15.02.030</b>	<b>Types of land use permit applications.</b>
<b>15.02.040</b>	<b>Determining appropriate review.</b>
<b>15.02.050</b>	<b>One project review process.</b>
<b>15.02.060</b>	<b>Review Process I—Minor administrative review.</b>
<b>15.02.070</b>	<b>Review Process II—Planning director review.</b>
<b>15.02.080</b>	<b>Review Process III: hearing examiner review.</b>
<b>15.02.090</b>	<b>Review Process V—Quasi-judicial city council review.</b>
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##### **Notice Requirements and SEPA Procedures**

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#### **Article III.**

##### **Hearing Examiner Procedures**

<b>15.02.200</b>	<b>Hearing examiner procedures.</b>
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#### **Article IV.**

##### **Shoreline Permit Procedures**

<b>15.02.300</b>	<b>Shoreline permit procedures.</b>
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**Article V.  
Land Division Procedures**

**15.02.400            Land division expirations and resubdivision.**

**Article VI.  
Planned Action Review**

**15.02.500            Planned action project review.**

**Article VII.  
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**15.02.600            Appeals.**

**Article VIII.  
Comprehensive Plan Docket Procedures**

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**Article IX.  
Interpretations, Vesting and Definitions**

**15.02.800            Interpretations of land use regulations.**

**15.02.810            Vested rights.**

**15.02.820            Definitions.**

**Article I. Types of Review Process**

**15.02.010    Introduction and user guide.**

The purpose of this chapter, in conjunction with Chapters [15.01](#) and [15.03](#), is to implement requirements in Chapter [36.70B](#) RCW, Local Project Review. Together, these three chapters are collectively referred to as the “Local Project Review Procedures.” Included within this chapter are the procedures for review of land use and development applications within the city, including public notice requirements for land use and development actions. For application



requirements, please see Chapter [15.01](#). For land use decision criteria, please see Chapter [15.03](#). (Ord. 3774-20 § 3 (Exh. 2), 2020.)

### **15.02.015 Authority.**

The planning director is authorized to promulgate rules for the implementation and administration of this chapter. (Ord. 3774-20 § 3 (Exh. 2), 2020.)

### **15.02.020 Exemptions and special circumstances.**

A. The project permit procedural requirements of this chapter, including the procedures for notice of completeness, notice of application, and notice of decision, shall not apply to Review Process I or V decisions or to building and other construction permits. Specifically exempted from these procedural requirements and the requirements of RCW [36.70B.060](#) through [36.70B.090](#), and RCW [36.70B.110](#) through [36.70B.130](#) are:

1. The adoption or amendment of a comprehensive plan, subarea plan, or development regulation or any other legislative action adopting, accepting, or authorizing a plan, regulation, or public project;
2. Lot line or boundary adjustments, street vacations and building and other construction permits, or similar administrative approvals, categorically exempt from environmental review under Chapter [43.21C](#) RCW or for which environmental review has been completed in connection with other project permits;
3. City council quasi-judicial decisions on land use permits;
4. The approval of final subdivisions; and
5. Conceptual site plan review and other preapplication processes that occur prior to submittal of a complete application for a land use permit.

B. *Building and Other Construction Permits.* Building and construction permits are not governed by this chapter, except in the unusual situation where they are not categorically exempt or prior environmental review has not been completed on the project, or where an applicant has opted



for the individual option under Section [15.02.050](#) to consolidate review of land use permits and all other city permits.

C. *Special Circumstances*. The city has determined that the following permits present special circumstances that warrant a different review process than that provided in RCW [36.70B.060](#) et seq.:

1. *Review Process V*. Adoption of a “planned development” overlay zone or a rezone or other zoning revision that is not of area-wide significance or general applicability, or other quasi-judicial permit decisions, which provide for a public hearing or meeting before the planning commission and an open public hearing before the city council.

D. *Legislative Decisions*. Legislative decisions are not subject to the permit process procedures of this title. In order to promote a public understanding of governmental actions relating to land use and the environment, certain legislative decisions are included in and governed by Section [15.02.095](#). Specifically, public notice requirements for certain legislative decisions made by the city council that relate to land use and the environment are also set forth in this chapter. (Ord. 3774-20 § 3 (Exh. 2), 2020.)

### **15.02.030 Types of land use permit applications.**

For the purpose of project review, all land use permit applications shall be classified as one of the following:

- A. Review Process I, minor administrative review decisions;
- B. Review Process II, planning director administrative review decisions;
- C. Review Process III, hearing examiner decisions:
  1. Review Process IIIA, hearing examiner final decision;
  2. Review Process IIIB, hearing examiner recommendation to city council for final decision;
- D. Review Process V, planning commission and city council land use quasi-judicial decisions. (Ord. 3774-20 § 3 (Exh. 2), 2020.)



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**15.02.040 Determining appropriate review.**

- A. The planning director shall determine the proper classification for all project permit applications. If the planning director determines that the choice among appropriate classifications cannot be ascertained from the code and its intent, the planning director shall resolve it in favor of the higher classification number.
- B. A project that involves two or more land use permits may be processed collectively under the highest numbered classification required for any part of the application or processed individually under each of the classifications identified by the specific city regulation. The applicant may determine whether the application is processed under the individual procedure option (see Section [15.02.050](#)). If the application is processed under the individual procedure option, the highest numbered classification must be processed prior to the subsequent lower numbered procedure.
- C. For any project dependent on a legislative decision, including a change in the comprehensive plan (see Section [15.02.095](#)), the legislative decision must be made prior to processing the land use permit application.
- D. Applications processed in accordance with subsection B of this section that have the same highest-numbered classification, but are assigned different hearing bodies, shall be heard by the highest decisionmaker. The city council is the highest, followed by the hearing examiner or planning commission, as applicable, the planning director, and then the planning department or other authorized city staff. (Ord. 3774-20 § 3 (Exh. 2), 2020.)

**15.02.050 One project review process.**

The city shall provide a project review process that is integrated with the SEPA review process to the maximum extent feasible. For projects that require more than one project permit approval, the SEPA threshold determination and all land use permit decisions shall be made concurrently to the extent permissible by law. To promote integration and avoid duplication, it is the intent of this process that any studies be used to fulfill all regulatory needs for which they provide adequate information, regardless of the specific law or requirement that caused their preparation. Likewise, it is the intent of this process to avoid duplication under different laws or regulations of measures to avoid or otherwise mitigate the same project impacts.



A. *Individual Procedure Option.* Under the individual procedure option, an applicant may request: (1) processing land use permits separately; or (2) processing land use and all other project permits including construction permits in a single consolidated project review process, which may include a request for a designated permit coordinator.

An application that involves two or more Review Process I, II, or III procedures shall be processed collectively under the highest numbered procedure required for any part of the application unless the applicant requests that the application be processed under the individual procedure option. Based upon the specific content of the application and the required permits, the planning director may grant or deny a request to process the application under individual procedures for separate permit decisions. If an applicant elects a single consolidated project review process for all city permits, as provided by RCW [36.70B.120](#), the planning director may determine the specific scope and procedures for the project review on the proposed action consistent with this title and other applicable city requirements.

B. *Timing of Notice of Application and SEPA Threshold Determination.* The planning director shall integrate the timing of the notice of application with environmental review under SEPA as follows:

1. Except for a determination of significance and except as otherwise expressly allowed in this subsection B, the planning director may not issue a threshold determination (where required), or issue a decision or a recommendation on a project permit until the expiration of the public comment period on the notice of application.
2. For all Review Process III applications, if the city's threshold determination requires public notice under the SEPA ordinance (Chapter [19.43](#)), the city shall issue its threshold determination at least fifteen days prior to the hearing examiner's open public hearing. As a general matter, unless the applicant prefers otherwise, the city should try to issue the SEPA threshold determination sufficiently in advance of the open public hearing to allow any administrative appeals to be filed and consolidated with the hearing on the application, so as to avoid postponing a hearing for which public notice has already been given.

C. *Combined Decision on Review Process I and II Applications.* For all applications that involve two or more Review Process I or II decisions, the planning director shall issue a single decision on the applications. The decision may be the permit; provided, however, an applicant may request an interpretation of applicable provisions of the city's development regulations under Section



[15.02.800](#), and the planning director may issue a written determination prior to issuance of a decision on the land use permits.

D. *Combined Report on Review Process I through III Applications.* For all applications involving one or more Review Process I or II applications plus one or more Review Process III applications, the city shall issue a single report stating:

1. All the interpretations, recommendations or decisions made as of the date of the report on all project permits included in the project review process that do not require an open public hearing; and
2. Staff recommendation on land use permits that do require an open public hearing before the examiner.
3. The report shall identify documents that contain an analysis of impacts resulting from the development and state any mitigation required or proposed under the development regulations or the agency's SEPA authority. If a SEPA threshold determination or other SEPA environmental document (such as an environmental impact statement or addendum) has not been issued previously, the report shall include or append them.

E. *Combined Hearings.* The planning director may combine any hearing on a project permit with any hearing that may be held by another local, state, regional, federal, or other agency; provided, that the hearing is held within the geographic boundary of the city. Hearings shall be combined if requested by an applicant, as long as the joint hearing can be held within the time periods specified in this title or the applicant agrees to the schedule in the event that additional time is needed in order to combine the hearings.

F. *Cooperation on Joint Hearings.* The planning director shall cooperate to the fullest extent possible with other agencies in holding a joint hearing if requested to do so, as long as:

1. The city is not expressly prohibited by statute from doing so;
2. Sufficient notice of the hearing is given to meet each of the agency's adopted notice requirements as set forth in statute, ordinance, or rule; and
3. The agency has received the necessary information about the proposed project from the applicant to hold its hearing at the same time as the city's hearing. (Ord. 3774-20 § 3 (Exh. 2), 2020.)



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**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 EMC [19.05.080](#) through [19.05.120](#), Tables 5-1 through 5-5, 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 EMC [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 EMC [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. (Ord. 3774-20 § 3 (Exh. 2), 2020.)

## **15.02.070 Review Process II—Planning director review.**

A. *Description*. Review Process II ("REV II") applies to permit applications that involve a greater exercise of administrative discretion by the planning director. No public hearing is required for REV II applications. Public notice requirements are specified in subsection C of this section and Sections [15.02.100](#) through [15.02.110](#).

B. *REV II Decisions Included*. The following permit applications are included as REV II decisions:

1. *Uses*. The following uses identified in Chapter [19.05](#) are REV II decisions:
  - a. Land use decisions identified as "Administrative Uses," or "A" in Sections [19.05.080](#) through [19.05.120](#), Tables 5-1 through 5-5;



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- b. Use of basement or other building spaces in the mixed urban zone (Section [19.05.040](#));
  - c. Modification of special regulations and notes in Tables 5-1 through 5-5 (Chapter [19.05](#));
  - d. Minor expansion of a conditional use (Section [15.03.120\(C\)\(4\)](#));
  - e. Specific uses (see Chapter [19.13](#) for uses that are subject to REV II review);
  - f. Other uses shown in the special regulations and notes in Tables 5-1 through 5-5 in Chapter [19.05](#) requiring a REV II decision.
2. *Modification of Development Standards.* The following modification of development standards allowed by this title are included as REV II decisions:
- a. Accessory dwelling units (EMC [19.08.100](#));
  - b. Modification of lot width requirements or on-site open space standards (Chapter [19.08](#) EMC);
  - c. Modification of specific use standards (Chapter [19.13](#) EMC);
  - d. Modification of structured parking standards (EMC [19.12.110](#)); and
  - e. Modification to specific standards for emergency housing, indoor emergency shelters, and outdoor emergency shelters (EMC [19.08.200](#)).
3. *Nonconforming.* Expansion of a nonconforming use greater than ten percent but less than or equal to twenty-five percent of land or building area (Chapter [19.38](#)).
4. *Building Heights.* The following modifications of building heights are included as REV II decisions:
- a. Amateur radio tower or antenna exceeding sixty-five feet above base elevation (Section [19.22.090](#)).
  - b. How heights are measured (Section [19.22.060](#)).
5. *Historic.* The following permit applications are included as REV II decisions:
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- a. Demolition of a building identified as a contributing structure within an Everett historic overlay zone or on the Everett register of historic places; provided, however, that demolition of a building on the Everett register of historic places shall be authorized by city council;
    - b. Construction of any new building with three or more dwelling units if within an historic overlay zone;
    - c. Construction of a new clinic, commercial building, or places of worship; or
    - d. Deviations from historic overlay zone standards and neighborhood conservation guidelines.
  6. *Off-Street Parking*. The following modifications of off-street parking standards allowed by this title are included as REV II decisions:
    - a. Modification of off-street parking set forth in Table 34-1 or 34-2 greater than twenty-five percent (Section [19.34.060](#)).
    - b. Modification of off-street parking location standards (Section [19.34.100](#)).
  7. *Critical Areas*. Development of previously altered critical areas which was unauthorized, and when the proposal is not categorically exempt under SEPA (Section [19.37.250\(B\)](#)).
  8. *Shorelines*. The following shoreline permit applications are included as REV II decisions:
    - a. The development will include new construction or additions to buildings within two hundred feet of the ordinary high water mark which are in excess of thirty-five feet in height; or
    - b. The development will include the construction of docks or other in-water facilities, including fill, which could interfere with the public's use of shorelines of the state.
  9. *Land Divisions*. Land division applications which meet the following are included as REV II decisions:
    - a. Unit lot land divisions (Chapter [19.27](#)).
    - b. Divisions of land into ten lots, but no more than fifty lots by subdivision or binding site plan (Chapter [19.24](#)).
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c. Reduction in lot depth (Section [19.06.080](#)).

d. Exception to the lot area, lot width, lot depth and setback standards for a division of land with more than one existing single-family dwelling on one lot. (Section [19.06.080](#))

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

11. Any permit application identified in this title as a Review Process II (REV II) decision.

12. If the planning director determines that the land use decision should be heard by the hearing examiner due to potential project impacts or public concerns, the planning director may require the permit application to be reviewed using Review Process III (hearing examiner).

C. *Public Notice Requirements*. Public notice of REV II decisions shall include notice of application and notice of decision.

1. *General Requirements*. Public notice of the notice of application shall be provided by:

a. Posting notice on or near the property with two signs no less than twenty-four inches by thirty-six inches in size, as specified by Section [15.02.110](#);

b. Posting additional signs if the project is a linear project, as specified by Section [15.02.110](#);

c. Mailing notice to owners of property located within one hundred fifty feet of the subject property; provided, however, that shoreline project permit applications shall be mailed to property owners within 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.

2. *Specific Land Use Notice Requirements*. In addition to the general requirements outlined above, the following notices are required as set forth below:

a. *Land Divisions*.



(1) *Right to Hearing.* Pursuant to RCW [58.17.095](#), any REV II preliminary plat application shall include a mailed notice which includes a statement that an open public hearing (REV III) shall be held if any person files a request within twenty-one days of publishing the notice.

(2) *State Highways.* Pursuant to RCW [58.17.155](#), whenever the city receives an application for a short subdivision which is located adjacent to state highway right-of-way, the city shall give written notice of the application to the Washington State Department of Transportation.

(3) *Adjacent City.* Pursuant to RCW [58.17.080](#), notice of the filing of a preliminary plat of a proposed subdivision adjacent to or within one mile of the municipal boundaries of a city or town, or which contemplates the use of any city or town utilities shall be given to the appropriate city or town authorities.

(4) *Airport.* Pursuant to RCW [58.17.080](#), notice of the filing of a preliminary plat of a proposed subdivision located within two miles of the boundary of a state or municipal airport shall be given to the secretary of transportation and to the airport manager.

(5) *County.* Pursuant to RCW [58.17.080](#), notice of the filing of a preliminary plat of a proposed subdivision located in the city and adjoining the municipal boundaries thereof shall be given to appropriate county officials.

b. *Historic.* Those REV II actions that are subject to review by the historical commission shall follow procedures for the conduct of open public meetings.

c. *Shorelines.* Those REV II actions that are applications for shoreline management substantial development, conditional use, or variance permits shall provide notice as set forth in WAC [173-27-110](#) and EMC [15.02.110\(C\)\(3\)\(b\)](#).

d. Buildings which provide shelter for survivors of domestic violence are exempt from notice to adjacent property owners.

D. *Notice of Decision.*

1. The planning director shall provide a notice of decision on all Review Process II applications.



- a. Except as otherwise provided in this title or by state law, the notice of decision shall be issued within one hundred twenty days after the determination of completeness.
  - b. 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 appurtenance structures from shoreline erosion, the notice of decision shall be issued within twenty-one days of the last day of the comment period.
2. The city shall use the procedures in Section [15.01.090](#) for determining the number of days that have elapsed after the issuance of its determination that the application was complete.
3. The notice of decision shall include a statement of any SEPA threshold determination and the procedures for any administrative appeal. The notice of decision may be a copy of the report or decision on the project permit application.
4. The notice of decision shall be provided to the applicant and to any person who, prior to the rendering of the decision, made a written request for a notice of the decision or submitted substantive comments on the application.
5. *Shoreline Permits.*
  - a. A notice of decision for shoreline substantial development, variance, and/or conditional use permit shall be provided to the Washington State Department of Ecology and the Attorney General's Office as set forth in WAC [173-27-130](#).
  - b. For shoreline conditional use and variance permits, the Washington State Department of Ecology issues the final decision. The Washington State Department of Ecology shall render the final decision and notify the city and the applicant of its decision approving or disapproving the permit within thirty days of filing by the city. The city shall notify those interested persons having contacted the city under the final decision.

E. *Expiration of REV II Decisions.*

1. Except as provided in subsection [\(E\)\(2\)](#) of this section, a land use permit issued under REV II shall terminate if a permittee does not apply for a building permit within three years, except as follows:



- a. Where a time limit on the land use permit is otherwise established under federal or state law, or city ordinance;
  - b. Where a development agreement has been executed (see Section [15.03.200](#)); or
  - c. Where the permittee requests an extension in writing not later than three years from the land use permit date, the planning director may grant a six-month extension.
2. *Land Division Approvals.* See Section [15.02.400](#) for expiration of land division approvals. (Ord. 3895-22 §§ 1, 2, 2022; Ord. 3774-20 § 3 (Exh. 2), 2020.)

### **15.02.080 Review Process III: hearing examiner review.**

A. *Description.* Review Process III is a discretionary review process in which the land use hearing examiner may approve, approve with conditions, modify, or disapprove an application based upon the requirements of the city's comprehensive plan, land use regulations, other applicable city ordinances or regulations, or any other applicable regulations administered by federal, state, regional, local, or other agencies. Specific criteria may apply to certain listed Review Process III applications.

B. *REV IIIA and REV IIIB Decisions Included.* There are two types of REV III review processes:

1. *Rev IIIA.* These are actions for which the hearing examiner issues a final decision on the application after an open public hearing.

- a. *Uses.*

- (1) Land use decisions identified as "Conditional Uses" or "C" in Sections [19.05.080](#) through [19.05.120](#), Tables 5-1 through 5-5.

- (2) *Industrial Zones Along the Waterfront.* Requests for additional heights to accommodate industrial activities with access to the marine shorelines or Snohomish River in Section [19.22.070](#).

- b. *Nonconforming.* Expansion of a nonconforming use greater than twenty-five percent of land or building area (Chapter [19.38](#)).



c. *Land Divisions*. Land division applications which meet the following are included as REV IIIA decisions:

- (1) Divisions of land into fifty lots or more by subdivision or binding site plan (Chapter [19.24](#));
- (2) Any preliminary plat application in which a person has filed a request for a public hearing within twenty-one days of publishing the notice.

d. *Shorelines*. The following shoreline permit applications are included as REV IIIA decisions:

- (1) Shoreline variance applications;
- (2) Shoreline conditional use applications;
- (3) See subsection [\(B\)\(1\)\(a\)\(2\)](#) of this section regarding additional heights in industrial zones along marine shorelines;
- (4) Shoreline development with one acre or more of the project footprint within shoreline jurisdiction.

e. *Variances*. Applications for variances from the standards of this title as set forth in Section [15.03.140](#).

f. *Appeals*. Appeals of REV I and REV II planning director decisions, including the appeals of the application of development standards by the planning director.

2. *Rev IIIB*. These are actions for which the hearing examiner issues a recommendation to the city council, who has final decision-making on these quasi-judicial decisions.

- a. Rezones which do not require an amendment to the comprehensive plan;
- b. Light rail station decision with development agreement (Section [19.05.110](#));
- c. Development agreements which do not require other actions subject to review by the planning commission.

C. *Public Notice Requirements*.



1. Public notice shall include notice of application, notice of open public hearing (if not in the notice of application) and notice of decision.
2. Public notice of the notice of application shall be provided by:
  - a. Posting notice on or near the property with signs no less than twenty-four inches by thirty-six inches in size, as specified by Section [15.02.110\(A\)\(1\)](#);
  - b. Posting additional signs if the project is a linear project, as specified by Section [15.02.110\(A\)\(2\)](#);
  - c. Mailing notice to the property owners located within five hundred feet;
  - d. Mailing notice to the SEPA mailing list (unless the project is categorically exempt);
  - e. Mailing notice to the neighborhood leader mailing list if applicable; and
  - f. Publishing notice in the official city newspaper.
3. *Land Divisions.*
  - a. *Adjacent City.* Pursuant to RCW [58.17.080](#), notice of the filing of a preliminary plat of a proposed subdivision adjacent to or within one mile of the municipal boundaries of a city or town, or which contemplates the use of any city or town utilities shall be given to the appropriate city or town authorities.
  - b. *Airport.* Pursuant to RCW [58.17.080](#), notice of the filing of a preliminary plat of a proposed subdivision located within two miles of the boundary of a state or municipal airport shall be given to the secretary of transportation and to the airport manager.
  - c. *County.* Pursuant to RCW [58.17.080](#), notice of the filing of a preliminary plat of a proposed subdivision located in the city and adjoining the municipal boundaries thereof shall be given to appropriate county officials.
4. *Shorelines.* Those REV III actions that are applications for shoreline management substantial development, conditional use, or variance permits shall provide notice as set forth in WAC [173-27-110](#) and Section [15.02.110\(C\)\(3\)\(b\)](#).
5. *Public Hearing Requirements.*



- a. Before rendering a decision on any application or making a recommendation, the hearing examiner shall hold one open public hearing.
- b. Notice of the open public hearing shall be provided at least fifteen days prior to the hearing date. The notice shall include the time and place of the public hearing.
- c. The hearing examiner may continue or reconvene the hearing in order to implement the requirements of this title.

6. *REV IIIB Process.* In addition to subsections [\(C\)\(1\)](#) through [\(5\)](#) of this section, notice of the city council meeting shall be provided to the applicant, to parties of record from the open public hearing before the hearing examiner, to any person who submitted substantive comments on the application, and to any person who has made a written request to the office of city council for notice of the hearing.

7. *Appeal Hearings.*

- a. Public notice under subsection C of this section is not required for an appeal hearing to the hearing examiner for a Review Process I or II decision.
- b. Public notice of the appeal hearing for appeals of Review Process I or II decisions shall be provided to parties of record to the appeal and/or as established by the hearing examiner in an order subsequent to a prehearing conference.
- c. Separate notice is not required for a SEPA appeal hearing that is consolidated with a Review Process IIIA permit decision if notice of the open record hearing on the permit has already been given.

D. *Expiration of REV III Decisions.*

1. A land use permit issued under Review Process III shall terminate if a permittee does not apply for a building permit within three years, except as follows:
  - a. Where a time limit on the land use permit is otherwise established under federal or state law, or city ordinance;
  - b. Where a development agreement has been executed (see Section [15.03.200](#)); or
  - c. Where the permittee requests an extension in writing not later than three years from the land use permit date, the planning director may grant a six-month extension.



2. *Land Division Approvals.* See Section [15.02.400](#) for expiration of land division approvals. (Ord. 3774-20 § 3 (Exh. 2), 2020.)

## **15.02.090 Review Process V—Quasi-judicial city council review.**

A. *Description.* Review Process V (“REV V”) applies to discretionary decisions that require a recommendation by the planning commission and a decision by the city council. REV V actions are a quasi-judicial decision that relates to an approval of a specific proposed project on specific property. This review process is similar to REV IIIB, except that an open public hearing and recommendation for REV V is from the planning commission and not the hearing examiner. See Section [15.02.095](#) for discretionary legislative land use decisions of city council.

B. *REV V Decisions Included.* The following land use decisions are REV V decisions:

1. Adoption of a rezone or other zoning revision that is not of area-wide significance or general applicability;
2. Adoption of a “planned development” overlay that is not of area-wide significance or general applicability;
3. Adoption of institutional overlay zone that is not of area-wide significance or general applicability as provided by Chapter [19.31](#);
4. Changes or revisions to institutional overlay zone master plan which are not consistent with prior city council approval;
5. Special aviation uses (Section [19.13.060](#)).

C. *Public Notice Requirements.* Public notice shall include notice of the public hearing or meeting and opportunity to comment on the application, and a notice of the final city council action taken.

1. Notice of the public hearing or meeting, including notice of opportunity to comment, shall be provided in the same manner for the planning commission and city council public hearings or meeting on the application, as follows:



- a. Posting notice on or near the property with signs no less than twenty-four inches by thirty-six inches in size, as specified by Section [15.02.110\(A\)\(1\)](#);
  - b. Posting additional signs if the project is a linear project, as specified by Section [15.02.110\(A\)\(2\)](#);
  - c. Mailing notice to the property owners located within five hundred feet;
  - d. Mailing notice to the SEPA mailing list (unless the project is categorically exempt);
  - e. Mailing notice to the neighborhood leader mailing list if applicable; and
  - f. Publishing notice in the official city newspaper.
2. Notice of the public hearing or meeting shall be provided at least fifteen days prior to the hearing date.
  3. Official notice of the final city council action taken shall be provided to the applicant and to any person who has made a written request to the office of the city council for notice of the decision. This notice shall state the date and place for commencing an appeal. (Ord. 3774-20 § 3 (Exh. 2), 2020.)

## **15.02.095 Legislative actions.**

A. *Description.* Several land use decisions are the discretionary authority of the city council. These decisions are not subject to the local project review procedures set forth in this chapter. These legislative actions require a recommendation from the planning commission.

B. *Decisions Included.* The following land use actions are considered legislative actions of the city council.

1. Adoption or amendment to the comprehensive plan or land use map;
2. Adoption or amendment of subarea plans;
3. Planned action ordinance or resolution;
4. Area-wide rezone in conjunction with a comprehensive plan land use map change;



5. Adoption or amendment to development regulations.

*C. Public Notice Requirements.*

1. Public notice shall include the following:
  - a. Mailing to all persons who have made written request to be notified of the proposed change;
  - b. Mailing to the SEPA mailing list if applicable;
  - c. Mailing to the neighborhood leader mailing list if applicable; and
  - d. Publishing notice in the official city newspaper.
2. Notice of the public hearing or meeting shall be provided at least fifteen days prior to the hearing date.

*D. Action Taken.*

1. The city council and planning commission shall be deemed to be acting in their legislative capacity in taking any of the above actions. If an action is a project permit rather than of area-wide significance or general applicability, the action shall be considered quasi-judicial in nature and shall be processed under Review Process V.
2. In reviewing the recommendation of the planning commission, the city council shall have the authority to approve, disapprove or modify the proposal in whole or in part, or remand the proposal in its entirety or the portions of the proposal about which it has concerns to the planning commission for further consideration. (Ord. 3774-20 § 3 (Exh. 2), 2020.)



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## Article II. Notice Requirements and SEPA Procedures

### 15.02.100 Notice of application.

Notice of application will serve as the principal public notice for review of projects subject to Review Processes II and III. Except for REV IIIB actions, a notice of application is not required for city council decisions; a notice of application is not required for REV I actions, either.

A. *Timing of Notice.* A notice of application shall be provided within fourteen days after the issuance of a determination of completeness for all REV II and REV III applications. For REV III, the notice of application shall be provided at least fifteen days prior to the open public hearing before the hearing examiner.

B. *Integrated Notice.*

1. Whenever possible, the notice of application will be combined or issued concurrently with other required notices including the notice of completeness, SEPA notice, and notice of public hearing.
2. When a SEPA determination of nonsignificance that requires public notice under WAC [197-11-340](#) is issued, both the notice of application and SEPA notice requirements (Section [15.02.130](#)) shall be met.
3. The planning director may issue a SEPA determination of significance concurrently with the notice of application, in which case the notice of application shall be combined with the determination of significance and scoping notice. Nothing in this section prevents a determination of significance and scoping notice from being issued prior to the notice of application.

C. *Content of Notice of Application.* The notice of application shall include the following information in whatever order or format the planning director deems appropriate for a type of application or for a specific application. A notice of availability or summary of the notice of application may be used for any required newspaper publication.

1. *Date.* The date of application, the date of the notice of completion for the application, and the date of the notice of application;



2. *Permits and Studies.* A description of the proposed project action and a list of the project permits included in the application and, if applicable, a list of any studies requested under this title or under RCW [36.70B.070](#);

3. *Other Permits.* The identification of other permits not included in the application to the extent known by the local government;

4. *Environmental Documents.* The identification of existing environmental documents that evaluates the proposed project, and the location where the application and any studies may be reviewed;

5. *Public Comment Period and Future Notices.* A statement of the public comment period, and statements of the right of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights;

6. *Hearings If Known.* The date, time, place, and type of hearing, if applicable and if scheduled at the date of notice of the application;

7. *Preliminary Determinations.* A statement of the preliminary determination, if one has been made at the time of notice, of those development regulations that will be used for project mitigation and of consistency with applicable development regulations as provided in RCW [36.70B.030\(2\)](#), and the comprehensive plan; and

8. *Other Information.* Any other information determined appropriate by the planning director.

D. *Notice of Appeal Hearings to Hearing Examiner.* Public notice is not required for an appeal hearing to the hearing examiner for a Review Process I or II decision. Public notice of the appeal hearing for appeals of Review Process I or II decisions shall be provided to parties of record to the appeal and/or as established by the hearing examiner in an order subsequent to a prehearing conference. Separate notice is not required for a SEPA appeal hearing that is consolidated with a Review Process IIIA permit decision if notice of the open record hearing on the permit has already been given. (Ord. 3774-20 § 3 (Exh. 2), 2020.)



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**15.02.110 Public notice and comments.****A. Content and Timing of Notice.**

1. *Posting of Property.* Where posting is required as part of a particular review process, a notice shall be posted conspicuously in two places on or near the subject property and shall be readily accessible for the public to review. Whenever the subject property fronts on a public street or alley, the property shall be posted with one sign per frontage including alleys plus one additional sign for each additional one hundred fifty lineal feet of frontage; provided, if more than a total of five hundred lineal feet of frontage exists, then the number of actual signs required and their placement shall be discretionary with the planning director (see next paragraph on posting of linear projects). All signs required to be posted shall remain in place until the final SEPA determination has been made.

2. *Posting of Linear Projects.* Signs shall be posted for linear projects, including projects that traverse numerous properties or occur along an alignment or corridor, every one-quarter mile, or as otherwise determined by the director, in locations readily accessible to the public. The planning director may determine the size and content of the signs.

3. *Content of Posted Signs.* The posting notice shall contain the following information:

- a. The name of the applicant;
- b. The address or locational description of the subject property;
- c. A written description of the requested action or actions;
- d. Identification of the existing environmental document that evaluates the application;
- e. For Review Process III, the date of public hearing, and for Review Process II, the date by which written comments must be received;
- f. The name, address, and phone number of the staff contact person;
- g. A site plan; and
- h. A statement regarding the availability of the notice of application and the location where the application may be reviewed.



4. *Mailing.* Where mailing to contiguous or adjacent property owners is required, the content of the notice shall meet the requirements for a notice of application and any other additional requirements for specific project notice as set forth in this chapter. Mailing shall be by first class mail unless otherwise specified by this chapter or by the planning director.

5. *Publication in Official City Newspaper.* Where publication is required as part of the notification for a particular review process, the notification shall be published in the official newspaper designated by city council. Notice shall be published at least fifteen days prior to the date of hearing or date of decision, as applicable.

6. *Responsibility for Notice.*

- a. The city shall be responsible for publication of notice.
- b. The applicant shall be responsible for posting the property subject to the application in compliance with rules established by the planning director.
- c. The applicant shall provide the planning director with an affidavit of compliance with the posting requirements of this section.
- d. The applicant shall be responsible for providing a mailing list in compliance with rules established by the planning director. The city shall be responsible for mailing the notice of application.

7. *Costs.* All costs of providing notice shall be borne by the applicant.

B. *Electronic Notice.* The planning director may establish procedures for providing notice and receiving comments electronically. The planning director may adopt forms that will facilitate the ability of applicants to file applications and to provide information electronically and for the city to issue notices electronically.

C. *Public Comments.*

1. Comments must be in writing, shall be as specific as possible, and shall be reasonably related to the factual circumstances or development standards applicable to the proposed action.
2. *Comment Period on Notice of Application.* Comments on a notice of application shall be submitted within fourteen days of its issuance; provided, however, that the fourteen-day



comment period shall commence on the date that the site is posted or notices published or mailed, whichever occurs later. Other than commenting on the notice of application, any other comment periods should be specified in the public notice inviting comments.

3. *Exceptions.*

a. *Land Divisions.*

(1) Comments on Review Process II preliminary subdivision, or subdivisions and short subdivision alteration or vacation applications shall be submitted within twenty days of the issuance of the notice of application.

(2) A copy of all written comments on Review Process II land divisions shall be provided to the applicant, and the applicant will have seven days from the receipt of the comments to respond to the city.

b. *Shoreline Permits.* Comments on shoreline substantial development, conditional use or variance permit applications shall be submitted within thirty days of the issuance of the 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.

4. "Submitted" means "physically or electronically received by the city." Notice: the city does not assume any responsibility for failure to receive comments received electronically. A sender should seek confirmation that the city received the comments to satisfy the timing required for submission of comments. (Ord. 3774-20 § 3 (Exh. 2), 2020.)

## **15.02.120 SEPA procedures.**

A. *Timing and Integration of SEPA.*

1. The primary purpose of the environmental review process is to provide environmental information to governmental decisionmakers to be considered prior to making their decision, and to provide for appropriate mitigation of environmental impacts in compliance



with this title, the SEPA ordinance (Chapter [19.43](#)), and the SEPA rules (Chapter [197-11 WAC](#)). The threshold determination and the EIS (if required) should be completed at the earliest point in the planning and decision-making process, at which time principal features of a proposal and its environmental impacts can be reasonably identified.

2. If the responsible official determines that the information initially supplied by an applicant is not reasonably sufficient to evaluate the environmental impacts of a proposal subject to environmental review under SEPA, further information may be required of the applicant under WAC [197-11-100](#) and [197-11-335](#), and this chapter.

a. The environmental checklist and necessary studies and analysis supporting the environmental checklist are part of the required permit application and are subject to the determination of completeness or incomplete application provisions of this title.

b. Any additional information required by the responsible official must be submitted as required by this title. Applicants should be aware that the city will evaluate projects that have incomplete or unavailable information under WAC [197-11-080](#).

3. At a minimum, any DNS, MDNS, or final environmental document shall be completed prior to the city making any decision irreversibly committing itself to adopt, approve or otherwise undertake any proposed nonexempt action. Further, as specified in WAC [197-11-070](#), until the responsible official issues a final DNS or final EIS, the city shall take no action concerning the proposal that would:

a. Have an adverse environmental impact; or

b. Limit the choice of reasonable alternatives.

4. For nonexempt proposals, the final DNS, MDNS, final EIS, or other final environmental document for the proposal shall accompany the city's final staff recommendation to any appropriate advisory body, such as the planning commission; provided, however, that preliminary discussions, public workshops or preliminary public hearings or meetings before the advisory body may occur prior to the final SEPA determinations. Exception: the SEPA threshold determination does not need to be final prior to a public hearing or meeting by the historic commission on a proposed project in the historic overlay zone since the historic commission's action is advisory to the responsible official.



5. When the city is the proponent for either a governmental action of a project nature or a governmental action of a nonproject nature, and the city is also the lead agency, then the maximum time limits contained in this chapter for the threshold determination and EIS process shall not apply to the proposal.

*B. Use of Categorical Exemptions.*

1. The responsible official shall determine if a permit or governmental proposal initiated by the city is categorically exempt. The determination of whether or not a proposal is exempt shall be made by:

- a. Ascertaining that the proposal is properly defined and by identifying the governmental permit required (WAC [197-11-060](#)); and
- b. Determining whether the proposal is exempt as minor new construction as set forth in Section [19.43.130](#) or new infill development as set forth in Section [19.43.140](#).
- c. If a proposal includes a series of actions, physically or functionally related to each other, some of which are exempt and some of which are not, the proposal shall not be exempt.
- d. The responsible official's determination that a proposal is exempt shall be final and not subject to administrative review.

2. If a proposal includes both exempt and nonexempt actions, exempt actions may be authorized with respect to the proposal prior to compliance with the procedural requirements of these guidelines subject to the following limitations:

- a. No nonexempt action shall be authorized;
- b. No action shall be authorized that would have an adverse environmental impact or limit the choice of reasonable alternatives;
- c. The responsible official may withhold approval of an exempt action that would lead to modification of the physical environment, when such modifications would serve no purpose if later approval of a nonexempt action is not secured;



d. The responsible official may withhold approval of exempt actions that would lead to substantial financial expenditures by a private applicant which would serve no purpose if later approval of a nonexempt action is not secured.

3. A determination whether the project or proposal is categorically exempt shall be made by the responsible official within fifteen days of receiving a request for such a determination from a private applicant or another governmental agency.

C. *Environmental Checklist.*

1. When a threshold determination is required under WAC [197-11-310](#) and an environmental checklist is required under WAC [197-11-315\(1\)\(a\)](#), a completed environmental checklist, substantially in the form provided in WAC [197-11-960](#), shall be filed with the application. For any application, including resubmitted applications, the city may use an existing SEPA determination or may require new or additional environmental documents as provided by WAC [197-11-600](#), including adoption of NEPA documents.

2. For private proposals, the city will require the applicant to complete the environmental checklist. The city may require that it, and not the private applicant, will complete all or part of the environmental checklist for a private proposal, if either of the following occurs:

- a. The city has technical information on a question or questions contained in the environmental checklist that is unavailable to the private applicant; or
- b. The applicant has provided misleading and inaccurate information on previous proposals or on proposals currently under consideration.

D. *Mitigated DNS.*

1. As provided in this section and in WAC [197-11-350](#), the responsible official may issue a mitigated determination of nonsignificance (mitigated DNS) for a proposal whenever:

- a. The city specifies mitigation measures in its DNS and conditions the proposal to include those mitigation measures so that the proposal will not have a probable significant adverse environmental impact; and
- b. The proposal is clarified or changed by the applicant to mitigate impacts of the proposal so that, in the judgment of the responsible official, the proposal will not have a probable significant adverse environmental impact.



2. After submission of an environmental checklist and prior to the city's threshold determination, an applicant may submit a written request for early notice of whether a determination of significance (DS) is likely under WAC [197-11-350](#).
3. The responsible official should respond to the request for early notice within fifteen working days. The response shall:
  - a. Be written;
  - b. State whether the city currently considers issuance of a DS likely and, if so, indicate the potentially significant adverse environmental impacts that are leading the city to consider a DS; and
  - c. State that the applicant may change or clarify the proposal to mitigate the indicated impacts, and revise the environmental checklist and/or permit application for the proposal as necessary to describe the changes or clarifications.
4. As much as possible, the city should assist the applicant with identification of impacts to the extent necessary to formulate mitigation measures.
5. When an applicant submits a changed or clarified proposal, along with a revised environmental checklist, the city shall base its threshold determination on the changed or clarified proposal and should make the determination within fourteen days of receiving the changed or clarified proposal.
  - a. If the city indicated specific mitigation measures in its response to the request for early notice, and the applicant changed or clarified the proposal to include those specific mitigation measures, the city shall issue and circulate a mitigated determination of nonsignificance under WAC [197-11-340\(2\)](#). The responsible official shall reconsider the DNS based on timely comments and may retain, modify or withdraw the DNS under WAC [197-11-340\(2\)\(f\)](#).
6. If the city indicated potentially significant adverse environmental impacts, but did not indicate specific mitigation measures that would allow it to issue a DNS, the city shall make the threshold determination, issuing a DNS or DS as appropriate.
  - a. The applicant's proposed mitigation measures (clarifications, changes or conditions) must be in writing and must be specific. For example, proposals to "control noise" or



“prevent storm water runoff” are inadequate whereas proposals to “muffle machinery to X decibel” or “construct two-hundred-foot storm water retention pond at Y location” may be adequate.

b. Environmental documents need not be revised and resubmitted if the clarifications or changes to the proposal are stated in writing in attachments to, or documents incorporated by reference into, the environmental review record. An addendum may be used in compliance with WAC [197-11-600](#) and [197-11-425](#).

c. If a proposal continues to have a probable significant adverse environmental impact, even with mitigation measures, an EIS shall be prepared.

7. The city’s written response to a request for early notice under the mitigated DNS provisions of this section shall not be construed as a determination of significance.

8. A mitigated DNS issued under WAC [197-11-340\(2\)](#) or [197-11-355](#) requires a public notice under Section [15.02.130](#). Whenever possible, SEPA notice under this section or the optional DNS process will be combined with or issued concurrently with other required notices including the notice of completeness, notice of application, and notice of public hearing.

9. Mitigation measures incorporated in the mitigated DNS shall be deemed conditions of approval of the permit decision and may be enforced in the same manner as any term or condition of the permit, or enforced in any manner specifically prescribed by the city.

10. If the city’s tentative decision on a permit or approval does not include mitigation measures that were incorporated in a mitigated DNS for the proposal, the responsible official should reevaluate the threshold determination to assure consistency with WAC [197-11-340\(3\)\(a\)](#) (withdrawal of DNS).

*E. Preparation of EIS—Additional Considerations.*

1. Preparation of draft and final EISs and draft and final supplemental EISs is the responsibility of the city under the direction of the responsible official per the procedures contained in this subsection. Before the city issues an EIS, the responsible official shall be satisfied that it complies with this chapter and Chapter [197-11](#) WAC.

2. The draft and final EIS or SEIS shall be prepared by a consultant selected by the city per the city’s adopted procedures. However, city staff may prepare EISs for city proposals. If the



responsible official requires an EIS for a proposal, the responsible official shall notify the applicant immediately after completion of the threshold determination. The responsible official shall also notify the applicant of the city's procedure for EIS preparation, including approval of the DEIS and FEIS prior to distribution.

3. The city may require that an applicant provide information the city does not possess, including specific investigations necessary to identify potentially significant adverse environmental impacts. However, the applicant may not be required to supply information that is not required under this chapter or WAC [197-11-100](#). (The limitation does not apply to information the city may request under another ordinance or statute.)

*a. Preparation of Draft Environmental Impact Statement.*

(1) When an EIS is required, all information required by the SEPA rules shall be presented by the consultant in substantially the same form as for the draft environmental impact statement in accordance with procedures of this subsection.

(2) The responsible official shall assure that the EIS is prepared in a responsible manner and with appropriate methodology. The responsible official shall direct the areas of research and examination to be undertaken, as well as the organization of the resulting document in accordance with this subsection.

(3) The draft environmental impact statement shall be prepared, or reviewed and approved, by the responsible official prior to distribution. If, in the opinion of the responsible official, the information provided by the consultant and/or subconsultant(s) for the draft environmental impact statement is inadequate, erroneous, misleading, unclear, has excessive jargon, or otherwise deficient, the responsible official will cause its distribution to be delayed for such time as may be required to correct said deficiencies.

(4) Upon acceptance of the information required under this section for the draft environmental impact statement, such information shall become the property of the city and the responsible official shall possess the right to edit, reproduce, modify and distribute said information.



b. *Preparation of Final Environmental Impact Statement.* Upon acceptance of the draft EIS, the responsible official shall cause its circulation and shall finalize said EIS in accordance with the procedures required by this title and the SEPA rules.

c. *Consultant Selection for Draft EIS.*

(1) When a DS is issued, a consultant will be selected per the city's adopted procedures.

(2) When a DS is issued, the applicant shall solicit and provide to the responsible official statements of qualifications for preparation of the EIS from at least three consultants.

(3) Based upon the responsible official's review of the responses to the statement of qualifications, the responsible official shall select a consultant and appropriate subconsultant or reject the proposed consultant and/or subconsultant and require that the applicant solicit new statements of qualifications. The review may include interviews with the responsible official.

(4) Upon issuance of a scoping determination by the responsible official, it shall be the responsibility of the applicant to negotiate a contract with the consultant and any subconsultant selected by the responsible official. The contract shall address all items in the scoping document. If there is a conflict between the contract and the scoping document, the scoping document shall prevail. The contract shall provide for modification to the scope based upon the results of the environmental studies and analysis developed in the course of preparing the draft EIS. The contract shall reserve sufficient funds for preparation of a well-written cover memo and summary for both the draft and final EIS that meet the requirements in WAC [197-11-435](#) and [197-11-440\(4\)](#) to synthesize the environmental analysis and evaluate and effectively communicate the environmental choices to be made among alternative courses of action and the effectiveness of mitigation measures, focusing on the main options that would be preserved or foreclosed for the future. After the responsible official is notified by the consultant and/or subconsultant that the contract with the applicant has been negotiated and executed in accordance with the provisions of this chapter and the city's adopted procedures, the consultant/subconsultant work on the EIS shall commence.



(5) The responsible official will meet with the consultant and any subconsultants to direct preparation of the draft EIS. The consultant shall meet with the applicant and/or discuss the EIS process with the applicant only when authorized by the responsible official.

(6) When the rough and preliminary draft EIS is provided to the responsible official, the consultant shall also provide a copy to the applicant, and the applicant shall be provided an opportunity to comment.

(7) All fees charged by the consultant and any subconsultant shall be the responsibility of the applicant. In no event shall the city be responsible for any such fees charged by the consultant or subconsultant except when the city is the applicant. All consultant and subconsultant contracts shall include language which recognizes that payment of the consultant/subconsultant fees shall be the sole responsibility of the applicant and not the responsibility of the city.

(8) In the event the actions or inactions of the consultant/subconsultant jeopardize the EIS process as defined herein, the responsible official is authorized to impose penalties in accordance with rules adopted by the responsible official. Such rules shall be incorporated into the consultant/subconsultant contract and the contract shall be consistent with said rules.

d. *Consultant/Applicant Responsibilities.* When a consultant prepares a draft, final or supplemental EIS, the following responsibilities are hereby specified (for purposes of this section, the term EIS includes any graphics, supporting materials, and technical studies):

(1) Consultant and subconsultant selected by city;

(2) City determines the scope of the EIS in compliance with WAC [197-11-360](#), and WAC [197-11-408](#) or [197-11-410](#) as appropriate;

(3) Applicant negotiates and executes contract with consultant and required subconsultants;

(4) Consultant submits information in the form of a rough draft EIS to city and applicant;



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- (5) Applicant reviews and provides comments on rough draft EIS to city;
  - (6) City reviews the rough draft EIS and applicant's comments;
  - (7) City prepares review comments and directs changes to the document;
  - (8) Consultant prepares preliminary draft of EIS;
  - (9) City approves preliminary draft EIS or directs that further revisions be made;
  - (10) Consultant prepares approved draft EIS in sufficient quantity to satisfy WAC [197-11-455](#). The specific number shall be determined by the responsible official;
  - (11) Consultant circulates draft EIS to agencies with expertise and jurisdiction, affected tribes and persons requesting a copy in compliance with WAC [197-11-455](#);
  - (12) City reviews comments and directs consultant in preparation of changes and additions to draft EIS, responses to draft EIS comments and preparation of final EIS, including reasonable alternatives or modified alternatives and environmental impacts that might not have been studied or fully evaluated in the draft EIS, using the same sequence of rough and preliminary final EIS as described above for the draft EIS;
  - (13) Consultant prepares final EIS;
  - (14) Consultant circulates final EIS in compliance with WAC [197-11-460](#).
- e. Public notice shall be given as specified in Section [15.02.130](#) at the expense of the applicant. (Ord. 3774-20 § 3 (Exh. 2), 2020.)

### **15.02.130 Notice of SEPA determinations.**

A. *Overview.* To the maximum extent feasible, SEPA notice shall be integrated into the other public notice requirements, including the notice of application process. Where a specific form of notice is required by both notice for the applicable review process and notice under SEPA, a single integrated notice shall meet the notice requirements (e.g., a single publication in the newspaper shall be sufficient to meet the publication requirements under both sections).



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B. *SEPA and Neighborhood Leader Mailing Lists.*

1. The city shall establish a SEPA mailing list consisting of all public or private groups or individuals who submit a written request with the responsible official that they be notified of all SEPA actions which require public notice under WAC [197-11-510](#).
2. The city shall also establish a neighborhood leader mailing list, which shall include the duly elected chairperson of each neighborhood group. It shall be the responsibility of the neighborhood chairperson or his/her designated representative to notify the responsible official in writing of the name and mailing address of his/her successor. "Neighborhood group" means a group representing a specified geographic area within the city which is formally recognized by the city's office of neighborhoods and which has elected officers and representatives on the council of neighborhoods.

C. *Optional DNS Process.*

1. To provide for an integrated project review process, the city will use the optional DNS process as set forth in WAC [197-11-355](#), unless the responsible official determines that another SEPA threshold determination process would more effectively implement SEPA procedures and requirements. A single comment period shall be used unless the responsible official determines that substantial new information regarding the environmental impacts of the proposal has been received during the comment period and that an additional public comment period on the new information is necessary.
2. If the city uses the optional process specified in subsection [\(C\)\(1\)](#) of this section, the city shall:
  - a. State on the first page of the notice of application that it expects to issue a DNS for the proposal, and that:
    - (1) The optional DNS process is being used;
    - (2) This may be the only opportunity to comment on the environmental impacts of the proposal;
    - (3) The proposal may include mitigation measures under applicable codes, and that project review process may incorporate or require mitigation measures regardless of whether an EIS is prepared; and



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- (4) A copy of the subsequent threshold determination for the specific proposal may be obtained upon request;
    - b. List in the notice of application the conditions being considered to mitigate environmental impacts, if a mitigated DNS is expected;
    - c. Provide a notice of application and SEPA public notice as required by Section [15.02.100\(B\)](#);
    - d. Send the notice of application and environmental checklist (or other environmental document if applicable) to:
      - (1) Agencies with jurisdiction, the Department of Ecology, affected tribes, and each local agency or political subdivision whose public services would be changed as a result of implementation of the proposal; and
      - (2) Anyone requesting a copy of the environmental checklist of the specific proposal.
  3. If the city indicates on the notice of application that a DNS is likely, an agency with jurisdiction may assume lead agency status during the comment period on the notice of application (WAC [197-11-948](#)).
  4. The responsible official shall consider timely comments on the notice of application and either:
    - a. Issue a DNS or mitigated DNS (or other environmental document if applicable) with no comment period using the procedures in subsection [\(C\)\(5\)](#) of this section;
    - b. Issue a DNS or mitigated DNS (or other environmental document if applicable) with a comment period using the procedures in subsection [\(C\)\(5\)](#) of this section, if the lead agency determines a comment period is necessary;
    - c. Issue a DS; or
    - d. Require additional information or studies prior to making a threshold determination.
  5. If a DNS or mitigated DNS is issued under subsection [\(C\)\(4\)\(a\)](#) of this section, the lead agency shall send a copy of the DNS or mitigated DNS to the Department of Ecology,
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agencies with jurisdiction, those who commented, and anyone requesting a copy. A copy of the environmental checklist need not be recirculated.

D. *Notice of SEPA Threshold Determinations.* Whenever the city issues a DNS under WAC [197-11-340\(2\)](#) or [197-11-355](#), or a DS under WAC [197-11-360\(1\)](#), the city shall give public notice as follows:

1. For site-specific proposals, notice shall be given by:
  - a. Mailing notice to the SEPA mailing list established under subsection B of this section;
  - b. Posting notice as specified by Section [15.02.110](#).
2. For nonproject or other proposals that are not site-specific (e.g., city or areawide), notice shall be given by:
  - a. Mailing notice to the SEPA mailing list established under subsection B of this section; and
  - b. Publishing notice in the official city newspaper.
3. In exceptional circumstances, where it is determined that methods of notice provided for SEPA notice in this subsection would not provide adequate public notice of a proposed action, the responsible official may require additional notice or notice by another reasonable method. Failure to require such additional or alternative notice shall not be a violation of any notice procedure.
4. Whenever the city issues a DS under WAC [197-11-360\(3\)](#), the city shall state the scoping procedure for the proposal in the DS as required in WAC [197-11-408](#).

E. *Notice of Draft EIS.* Whenever the city issues a draft EIS under WAC [197-11-455\(5\)](#) or a draft supplemental EIS under WAC [197-11-620](#), notice of the availability of those documents shall be given by:

1. Indicating the availability of the DEIS in any public notice required for a nonexempt permit;
2. Publishing notice in the official city newspaper;



3. Mailing a notice of availability to the SEPA mailing list and the neighborhood leader mailing list established under subsection A of this section; and
4. Sending the DEIS to other agencies and persons requesting a copy of the DEIS, as specified in WAC [197-11-455](#).

F. *Notice of Final EIS*. Whenever the city issues a final EIS under WAC [197-11-460](#) or a final supplemental EIS under WAC [197-11-620](#), notice of the availability of those documents shall be given by:

1. Indicating the availability of the FEIS in any public notice required for a nonexempt permit;
2. Mailing notice of availability to anyone who received or commented on the DEIS, as provided by WAC [197-11-460](#);
3. Sending the FEIS to all agencies with jurisdiction, to all agencies who commented on the DEIS, and to anyone requesting a copy of the FEIS.

G. The city may require an applicant to complete the public notice requirements for the applicant's proposal at his or her expense. (Ord. 3774-20 § 3 (Exh. 2), 2020.)

## **15.02.140 Outdoor emergency shelters.**

Outdoor emergency shelters are subject to the following notice requirements, review process and appeal procedures:

### **A. *Public Meeting*.**

1. A minimum of forty-five calendar days prior to the anticipated start of the outdoor emergency shelter, the sponsor and/or managing agency shall submit an application for an administrative use permit to the planning department and shall participate in a public information meeting organized by the city. The city shall provide mailed notice of the public informational meeting at least ten calendar days before the meeting to the following: (a) owners of property within five hundred feet of the subject property; (b) office of neighborhoods; and (c) any neighborhood organization in the vicinity of the outdoor emergency shelter site whose contact information is known to or made known to the



managing agency. The sponsor and/or managing agency shall provide to the city the names and addresses of all owners of property within five hundred feet of the subject property. The purpose of the meeting is to provide the surrounding community with information regarding the proposed duration and operation of the outdoor emergency shelter, conditions that will likely be placed on the operation of the outdoor emergency shelter, management plan, and to answer questions regarding the temporary outdoor emergency shelter.

2. A public meeting is not required for shelters provided for survivors of domestic violence.

*B. Notice of Application for Outdoor Emergency Shelter.*

1. A notice of application and copy of the application for an outdoor emergency shelter shall be provided prior to the decision regarding the issuance of the permit. The purpose of the notice is to inform the surrounding community of the application. The notice shall contain, at a minimum, the date of application, comment period date, project location, proposed duration and operation of the outdoor emergency shelter, number of residents for the shelter, conditions that will likely be placed on the operation of the outdoor emergency shelter, and the management plan.

2. The completed application shall contain at a minimum contact information for the applicant and detailed information regarding how the applicant will meet the requirements of the administrative use permit and the requirements of the International Fire Code. The managing agency of any outdoor emergency shelter that includes a tent or membrane structure shall comply with the requirements of the International Fire Code as adopted. The form of the notice and the application shall be provided by the planning department upon request by the sponsor and/or managing agency. The planning department shall distribute this notice as follows:

- a. A copy of the notice and application, or summary thereof, will be published in the official newspaper of the city at least ten calendar days prior to the decision regarding the issuance of the permit.
- b. A copy of the notice and application, or summary thereof, will be mailed to:



- (1) Owners of all property within five hundred feet of any boundary of the subject property;
- (2) Office of neighborhoods; and
- (3) Any neighborhood organization in the vicinity of the outdoor emergency shelter site whose contact information is known to or made known to the managing agency, at least ten calendar days prior to the decision regarding the issuance of the permit.
- (4) Public notices are not required for shelters provided for survivors of domestic violence.

C. *Review Process, Notice of Decision Regarding Issuance of Permit, and Appeal Procedure.* After review of the application for an outdoor emergency shelter, the planning director shall make a decision regarding the issuance of a permit together with any modifications requested. A notice of such decision regarding the issuance of a temporary use permit stating whether the permit and any modifications are granted or denied, along with information regarding the procedure for appeal of the decision, shall be mailed as required for the notice of application within three business days after the decision. The information regarding the procedure for appeal shall state at a minimum as follows:

1. The deadline for filing a notice of appeal of the planning director's decision is fifteen calendar days from the date the decision is mailed; and
2. The notice of appeal of the planning director's decision shall be filed with the city clerk.
3. The planning director's decision may be appealed to the city's hearing examiner, who has jurisdiction to hear this matter and who will issue the final decision of the city after a public hearing. The notice of the time and place of the public hearing shall be provided to the applicant and to any person who, prior to the rendering of the decision on the permit, made a written request for notice or submitted substantial comments on the application for the permit.
4. The public hearing procedures shall be as specified in Section [15.02.200](#). The hearing examiner shall issue findings within ten business days of the conclusion of the hearing. Within three business days of rendering the written decision, copies shall be mailed to the applicant and all who have requested notice by signing a register provided at the hearing.



The hearing examiner's decision shall constitute the city's final decision. Any appeal of the city's final decision may only be made to Snohomish County superior court in accordance with Chapter [36.70](#) RCW. The burden of proof on appeal shall be on the appellant.

*D. Additional Requirements for Applications Requesting Modification of Standards for Outdoor Emergency Shelter.*

1. The applicant may apply for an administrative use permit that applies standards that differ from those in Section [19.08.200](#) only where the applicant submits a description of the standard to be modified and demonstrates how the modification would result in a safe outdoor emergency shelter under the specific circumstances of the application. Such requests shall be reviewed by the city's planning director. The planning director shall make a decision regarding the issuance of a permit and modification of standards.
2. Notice of the request for modification of standards shall be provided with a ten-day comment period to any person who, prior to the rendering of the decision on the permit, made a written request for notice or submitted substantial comments on the application for the permit.
3. The planning director shall issue findings following the notice comment period. Within three business days of rendering the written decision, copies shall be mailed to the applicant and all who have requested notice to the planning director. An appeal of the planning director's decision may be to the hearing examiner in accordance with EMC [15.02.600\(D\)\(2\)](#).
4. In considering whether the modification should be granted, the city shall first consider the effects on the health and safety of residents and the community. The burden of proof shall be on the applicant. (Ord. 3895-22 § 3, 2022; Ord. 3774-20 § 3 (Exh. 2), 2020.)



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## Article III. Hearing Examiner Procedures

### 15.02.200 Hearing examiner procedures.

The following procedures apply to where this title requires the hearing examiner to conduct open public hearings.

A. *Project Review.* The hearing examiner shall receive and examine available information including environmental checklists and environmental impact statements, conduct public hearings, prepare a record thereof, enter findings of fact and conclusions based upon those facts, and enter decisions as provided herein.

B. *Final Action.* The decisions of the hearing examiner shall represent the final action on the applications and decisions specified in Review Process IIIA, including consolidated SEPA appeals on these actions. The recommendations of the hearing examiner shall not represent final action on the applications and decisions specified in Review Process IIIB; the city council decision following any remand shall represent final action.

C. *Reports by City Staff and Applicant/Appellant.*

1. When an application has been set for public hearing, the planning department or other appropriate city departments shall coordinate and assemble the comments and recommendations of other city departments and governmental agencies having an interest in the subject application and shall prepare a report summarizing the factors involved and the proposed findings and recommendations.

2. At least five working days prior to the scheduled hearing, the report shall be filed with the hearing examiner and copies thereof shall be mailed to the applicant and made available for use by any interested party for the cost of reproduction; provided, however, any appeal heard by the hearing examiner under this title shall be subject to the procedures in the appeals section of this title.

D. *Open Public Hearing.* Before rendering a decision on any application or appeal or making a recommendation, the hearing examiner shall hold one open public hearing thereon. Notice of the time and place of the public hearing and hearing procedures are specified in Section



[15.02.080\(C\)](#). The hearing examiner may continue or reconvene the hearing in order to implement the purposes and provisions of this title.

E. *Decision, Recommendation, Conditions.*

1. *Applicable to All Actions.* The hearing examiner's decision or recommendation may be to grant or deny the applications, or the hearing examiner may recommend or require of the applicant such conditions, modifications and restrictions as the hearing examiner finds necessary to make the project compatible with its environment and carry out the objectives and goals of the city's environmental policy ordinance, comprehensive plan, shoreline master program, other applicable plans and programs adopted by the city council, the unified development code (Title [19](#)), other applicable codes and ordinances of the city and regulations of other agencies. The scope of the hearing examiner's review for any hearing, recommendation, or decision on a proposed permit or appeal is further specified in Section [15.02.600](#). Conditions, modifications and restrictions which may be imposed include, but are not limited to:

- a. Exact location and nature of development, including additional building and parking area setbacks, screening in the form of landscaped berms, landscaping or fencing;
- b. Measures to avoid or otherwise mitigate the adverse environmental impacts of the development;
- c. Hours of use or operation or type and intensity of activities;
- d. Sequence and scheduling of the development;
- e. Maintenance of the development;
- f. Duration of use and subsequent removal of structures;
- g. Granting of easements and dedications of roads, walkways, utilities or other purposes and dedication of land or other provisions for public facilities, the need for which the hearing examiner finds would be generated in whole or in significant part by the proposed development;
- h. Provisions which would bring the proposal into compliance with the comprehensive plan;



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- i. Posting of assurance devices as required to insure compliance with any conditions, modifications and/or restrictions imposed on the proposal.
  2. *Additional Considerations.* The hearing examiner shall consider criteria for land use actions set forth in Chapter [15.03](#).
  3. *Findings Required.* When the hearing examiner renders a decision or recommendation, the hearing examiner shall make and enter written findings and conclusions from the record on all issues presented to the hearing examiner which support such recommendation or decision. Unless the applicant agrees to an extension or the hearing examiner is hearing an appeal, the hearing examiner shall render a decision or recommendation, as applicable, within ten working days of the conclusion of a hearing.
  4. *Notice of Decision.*
    - a. Not later than three working days following the rendering of a written decision or recommendation, copies shall be mailed to the applicant and to other persons who have requested notice of the decision by signing a register provided at the hearing. Alternatively, the city may transmit the decision electronically to any person who so indicates on the register at the hearing. The city shall retain the right to charge a reasonable fee to recover costs associated with providing such copies. The person mailing such decision shall prepare an affidavit of mailing, in standard form, and such affidavit shall become a part of the record of such proceedings.
    - b. If the hearing examiner is making a recommendation to the city council, the recommendation and a copy of the hearing examiner's record shall be transmitted to the city council.
    - c. *Shoreline Permits.*
      - (1) A notice of decision for shoreline substantial development, variance, and/or conditional use permit shall be provided to the Washington State Department of Ecology and the Attorney General's Office as set forth in WAC [173-27-130](#).
      - (2) For shoreline conditional use and variance permits, the Washington State Department of Ecology issues the final decision. The Washington State Department of Ecology shall render the final decision and notify the city and the applicant of its decision approving or disapproving the permit within thirty days of
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filing by the city. The city shall notify those interested persons having contacted the city under the final decision.

5. *Reconsideration.* Any aggrieved party of record who has actively participated in the hearing before the hearing examiner may file a written request for reconsideration with the hearing examiner within ten working days after the written decision of the hearing examiner has been rendered. "Actively participated in the hearing before the hearing examiner" means the party has submitted oral or written testimony, excluding persons who have merely signed a petition. This request shall set forth the specified errors of fact and/or law relied upon. The hearing examiner may deny the request in writing or issue a revised decision or reconvene the public hearing. If the hearing is reconvened, notice of said reconvened hearing shall be mailed to all parties of record not less than ten working days prior to the hearing date. The hearing examiner's written decision shall be rendered within fifteen working days of the conclusion of the reconvened hearing. Notice of the decision shall be provided as specified in subsection [\(E\)\(4\)](#) of this section.

6. *Remand from Council.* When the city council entertains a recommendation from the hearing examiner, the city council may accept the findings or conclusions of the hearing examiner, remand the recommendation to the hearing examiner or reverse the decision of the hearing examiner. Council's action shall be based upon the hearing examiner's record. No new information or evidence may be presented to the city council. After receiving the recommendation following remand, the city council shall either accept the recommendation of the hearing examiner or reverse the decision of the hearing examiner.

7. *Dismissal—Exhaustion.*

a. Under a motion filed by the city or a party to the appeal, the hearing examiner may summarily dismiss an appeal or application in whole or in part without hearing when the hearing examiner determines that the appeal or application is untimely, without merit on face, frivolous, beyond the scope of his/her jurisdiction, brought merely to secure a delay or that the applicant/appellant lacks standing. If the hearing examiner issues a dismissal order, the hearing examiner shall explain the reasons for the dismissal.

b. If the hearing examiner issues an order requiring the applicant, or any other party to the appeal, to provide additional information within a specified time period, and the party to which the order is directed fails to provide the information by the required



deadline, the hearing examiner may dismiss the appeal, issue a decision on the basis of information in the record, or take other action as deemed appropriate by the hearing examiner.

c. No person may seek judicial review of any decision or determination of the city unless the person first exhausts the administrative remedies provided by the city, except for an appeal of a determination by the planning director that a proposed land use is in violation of the unified development code.

8. *Jurisdiction Retained by Hearing Examiner.* Whenever the hearing examiner renders a decision, the hearing examiner retains jurisdiction for the purpose of making minor changes. A “minor change” is one or more changes which do not alter the scope of the decision.

a. Upon receipt of an application for a minor change, the hearing examiner may approve or disapprove a minor change by issuance of a written order.

b. It shall be the discretion of the hearing examiner to reconvene the hearing. If the hearing examiner does not reconvene the hearing, the hearing examiner may request written clarification or comments of the minor changes. Such comments will become part of the official record.

c. Copies of the order shall be mailed to all parties of record. Within ten days of the issuance of the order, a party of record may submit a written request with the hearing examiner’s office requesting a hearing. Upon receipt of such request, the hearing examiner’s order approving the minor change will be stayed pending the hearing. Absent receipt of a request for hearing, the order shall become final upon expiration of the ten-day period.

d. An open record hearing on a proposed change shall be considered a subsequent action and is not barred by the limitation on a single open record hearing for a land use permit.

9. For the purposes of this subsection, the hearing examiner shall have all the powers of the planning director (except for that of the SEPA responsible official), and those powers necessary to fulfill his/her function as land use hearing examiner, including



recommendations for docketing revisions to plans and development regulations (see Section [15.02.700](#)). (Ord. 3774-20 § 3 (Exh. 2), 2020.)

## **Article IV. Shoreline Permit Procedures**

### **15.02.300 Shoreline permit procedures.**

#### *A. Shoreline Permit Issuance.*

1. *Letter of Exemption.* Whenever a development is determined by the city to be exempt from substantial development permit requirements and the development is subject to a United States Army Corps of Engineers Section 10 permit under the River and Harbor Act of 1899, or a Section 404 permit under the Federal Water Pollution Control Act of 1972, the planning director shall prepare a letter addressed to the applicant and the Department of Ecology, exempting the development from the shoreline permit requirements of this chapter. This exemption letter shall be substantially as described in WAC [173-27-050](#).

2. *When Construction Authorized.* Development under a shoreline permit shall not begin and shall not be authorized until twenty-one days from the date of filing, or until all review proceedings, initiated within twenty-one days from the date of such filing, have been terminated, except as provided in RCW [90.58.140\(5\)\(b\)](#) and (c).

a. For purposes of a substantial development permit, “date of filing” means the date the decision is actually received by the Department of Ecology. For purposes of any permit that requires a variance or a conditional use, the “date of filing” means the date a decision by the Department of Ecology is transmitted to the city of Everett.

b. In addition, each permit for a substantial development, conditional use, or variance issued by the city should contain a provision that construction is not authorized until twenty-one days from the date of filing, or until all review proceedings initiated within twenty-one days from the date of such filing have been terminated, except as provided in RCW [90.58.140\(5\)\(b\)](#). Absence of the provision in a shoreline permit shall not affect enforcement of this requirement.



3. *Conditions on Shoreline Permits.* In granting or extending a permit, the planning director or examiner may attach conditions or modifications and restrictions regarding the location, character or other features of the proposed development as is necessary to make the permit compatible with the criteria set forth in the shoreline master program and this title.

4. *Other Applicable Requirements.* Issuance of a shoreline permit does not exempt the applicant from meeting requirements in other agency permits, procedures and regulations.

B. *Time Requirements of Shoreline Permits.* The time requirements in subsections [\(B\)\(1\)](#) and [\(B\)\(2\)](#) of this section shall apply to all shoreline permits, including substantial development permits, variances and conditional uses, unless a different time requirement is specified in the permit as provided in subsection [\(B\)\(3\)](#) of this section. The time frames established in subsections [\(B\)\(1\)](#) and [\(B\)\(2\)](#) of this section do not include the time during which a use or activity was not actually pursued due to the pendency of administrative appeals or legal actions or due to the need to obtain any other government permits and approvals for the development that authorize the development to proceed, including all reasonably related administrative or legal actions on any such permit or approvals.

1. Construction must be commenced or, where no construction activities are involved, the use or activity shall be commenced within two years of the effective date of a shoreline permit. The city may, at its discretion, extend the two-year time period for a reasonable time based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and to the Department of Ecology.

2. If a project for which a shoreline permit has been granted under these procedures has not been completed within five years after the effective date of the permit, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and to the Department of Ecology, the permit shall, at the end of the five-year period, be reviewed and, upon a showing of good cause, the city shall do either of the following:

- a. Extend the permit for one year; or
- b. Terminate the permit.



3. Upon a finding of good cause, based on the requirements and circumstances of the project proposed and consistent with the policy and provisions of the master program and the Shoreline Management Act, the city may apply different time limits from those set forth in subsections [\(B\)\(1\)](#) and [\(B\)\(2\)](#) of this section.

C. *Process for Revisions to Shoreline Permits.* When an applicant proposes substantive changes to the design, terms or conditions of a project from that which are approved in a permit issued under any review process, the applicant shall submit detailed plans and text to the planning director describing the proposed changes in relation to the original permit. Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, the master program and/or the policies and provisions of Chapter [90.58](#) RCW. Changes that are not substantive in effect do not require approval of a revision.

1. For revisions not requiring a conditional use permit or variance, if the planning director determines that the proposed changes are within the scope and intent of the original permit, the planning director shall approve a revision. The revised permit shall become effective immediately. The approved revision along with copies of the revised site plan and text as necessary to clearly indicate the authorized changes, and the final ruling on consistency with this section, shall be submitted to the Department of Ecology, the Attorney General, and to persons who received a copy of the original notice of decision for the application under this title.

2. For revisions requiring a conditional use permit or variance, if the planning director determines that the proposed changes are within the scope and intent of the original permit, the planning director shall submit the revision to the Department of Ecology for approval, approval with conditions, or denial, and shall indicate that the revision is being submitted under the requirements of WAC [173-27-100\(6\)](#). The Department of Ecology shall render and transmit to the city and the applicant its final decision within fifteen days of the date of the department's receipt of the submittal from the city. The city shall notify parties of record of the department's final decision. The revised permit is effective upon final action by the Department of Ecology. Appeals shall be in accordance with the appeals section of Section [15.02.600](#).

3. For purposes of this section, "within the scope and intent of the original permit" means all of the following:



- a. No additional over-water construction is involved except that pier, dock, or float construction may be increased by five hundred square feet or ten percent from the provisions of the original permit, whichever is less;
- b. Ground area coverage and height may be increased a maximum of ten percent from the provisions of the original permit;
- c. The revised permit does not authorize development to exceed height, lot coverage, setback, or any other requirements of the applicable master program except as authorized under a variance granted as the original permit or a part thereof;
- d. Additional or revised landscaping is consistent with any conditions attached to the original permit and with the applicable master program;
- e. The use authorized under the original permit is not changed; and
- f. No increased adverse environmental impact will be caused by the project revision.

4. If a revision to a permit is authorized after the original permit expired, the purpose of such revisions shall be limited to authorization of changes which are consistent with this section and which would not require a permit for the development or change proposed under the terms of Chapter [90.58](#) RCW, WAC [173-27-110](#), or the city's shoreline master program. If the proposed change constitutes substantial development, then a new permit is required.

5. If the proposed changes or the sum of the proposed revision and any previously approved revisions are not within the scope and intent of the original permit, the applicant shall apply for a new shoreline permit in the manner provided for in this chapter.

6. An application for a new permit may use or rely upon previous environmental review and supporting studies (such as biological assessments), as provided by the SEPA ordinance (Chapter [19.43](#)).

D. *Enforcement Provisions for Shoreline Regulations.* The city adopts by reference the enforcement provisions of WAC [173-27-240](#) through [173-27-300](#). Further, any person, firm or corporation who violates any provision of the city's shoreline regulations shall be subject to the city's civil enforcement procedures set forth in Chapter [1.20](#). The enforcement provisions and



procedures provided herein are not exclusive and the city is authorized to pursue any remedy it deems appropriate or is otherwise provided by law. (Ord. 3774-20 § 3 (Exh. 2), 2020.)

## **Article V. Land Division Procedures**

### **15.02.400 Land division expirations and resubdivision.**

A. *Expiration of Preliminary Subdivision Approval.* Final subdivision approval must be obtained within the time limits established in RCW [58.17.140](#), after which time the preliminary approval will be void. An extension may be granted by the city for one year if the applicant has attempted in good faith to submit the final plat within the time period; provided, however, that the applicant files a written request with the planning director requesting the extension at least thirty days before expiration of the time period.

B. *Expiration of Preliminary Short Subdivision or Preliminary Binding Site Plan Approval.* Final short subdivision or final binding site plan approval must be obtained within five years of the date of preliminary approval, after which time the preliminary approval will be void. An extension may be granted by the city for one year if the applicant has attempted in good faith to submit the final short plat or binding site plan within the time period; provided, however, that the applicant files a written request with the planning director requesting the extension of at least thirty days before the expiration of the time period. In the event of any public emergency declared by the mayor or city council, an additional extension of one year may be granted.

C. *Expiration of Preliminary Subdivision Alteration or Vacation Approval.* Final subdivision alteration or vacation approval must be obtained within five years of the date of preliminary approval, after which time the preliminary approval will be void. An extension may be granted by the city for one year if the applicant has attempted in good faith to submit the final plat alteration or vacation within the five-year time period; provided, however, the applicant must file a written request with the planning director requesting the extension at least thirty days before expiration of the five-year period. In the event of any public emergency declared by the mayor or city council, an additional extension of one year may be granted.



D. *Expiration of Preliminary Short Subdivision Alteration or Vacation Approval.* Final short subdivision alteration or vacation approval must be obtained within five years of the date of preliminary approval, after which time the preliminary short subdivision alteration or vacation approval will be void. No extension may be granted by the city to the applicant, except in the event of any public emergency declared by the mayor or city council, an additional extension of one year may be granted.

E. *Expiration of Approval for a Binding Site Plan with a Previously Approved Site Plan.* Final binding site plan approval must be obtained within the time frames established for the previously approved site plan. If the binding site plan with the previously approved site plan is totally constructed, the time frame shall be three years from the date the city notifies the applicant that the application is complete, after which time the binding site plan approval will be void. No extension may be granted by the city to the applicant except in the event of any public emergency declared by the mayor or city council, an additional extension of one year may be granted.

F. *Expiration of Boundary Line Adjustment Approval.* The applicant must submit and complete all required documents as specified by this title within six months following the date the applicant is notified that the boundary line adjustment would be approved upon submittal of all the required final documents for recording. Failure to submit and complete the required documents within the six-month period will result in the application becoming void. No time extension will be granted except in the event of any public emergency declared by the mayor or city council, an additional extension of one year may be granted. The final required documents must be recorded within the above stated time frame.

G. *Valid Land Use for Subdivision.* As required by RCW [58.17.170](#), a subdivision shall be governed by the terms of the approval of the final plat, and any lots created thereunder shall be a valid land use notwithstanding any change in zoning laws for a period of five years, unless the city council finds that a change in conditions in the subdivision creates a serious threat to the public health or safety.

H. *Unit Lot Subdivisions.*

1. *Ten Lots or More.* For unit lot subdivisions with ten units or more, see subsection A of this section.



2. *Less than Ten Lots.* For unit lot subdivisions with less than ten units, see subsection B of this section.

I. *Resubdivision Restrictions for Short Subdivisions.*

1. *Five-Year Restriction.* Land within an approved short subdivision shall not be resubdivided for a period of five years from the date of final approval of the short subdivision without the submission and approval of a final subdivision under all provisions of this title concerning the subdivision of land into ten or more lots, tracts or parcels.

2. *Nine-Lot Restriction.* When the original short subdivision contains nine or less lots, the above restrictions shall not apply to the creation of additional lots, not exceeding a total of nine. If the number exceeds nine, a new application must be filed and processed. After five years, further division may be permitted when otherwise consistent with the regulations of the city.

3. *Withdrawal of Application.* Where there have been no dedications to the public and no sales of any lots in a short subdivision, nothing contained in this section shall prohibit an applicant from completely withdrawing his entire short subdivision application and thereafter presenting a new application. (Ord. 3774-20 § 3 (Exh. 2), 2020.)

## **Article VI. Planned Action Review**

### **15.02.500 Planned action project review.**

A. *Planned Action Review Process.* The review process for a project that is proposed as a planned action shall be determined by the permits required for the planned action. Because an environmental impact statement will previously have been prepared, review of a project proposed as a planned action is intended to be simpler and more focused than for other projects. A planned action includes a type of project action, or a subsequent project that implements an adopted subarea plan, master planned development, or phased project, that is designed by ordinance or resolution as a planned action and meets the criteria in RCW [43.21C.031\(2\)\(a\)](#).



B. *Verification.* A project proposed as a planned action shall be reviewed for consistency with the comprehensive plan and adopted planned action ordinance and for compliance with applicable development regulations and city ordinances.

To determine whether a proposed action qualifies as a planned action, planned action project review shall include:

1. Verification that the project meets the description in, and will implement any applicable conditions or mitigation measures identified in, the designating ordinance or resolution; and
2. Verification that the probable significant adverse environmental impacts of the project have been adequately addressed in the prior environmental impact statement through review of an environmental checklist or modified environmental checklist form provided by the city for this purpose as allowed by WAC [197-11-172](#) and [197-11-315](#).

C. *Mitigation, Public Notice, and Appeals.* All projects processed as planned actions shall comply with mitigation requirements set forth in applicable development regulations and city ordinances and the adopted planned action ordinance or resolution. Through the local project review process, the city may place conditions on the project in order to mitigate nonsignificant impacts. Public notice and appeal procedures for projects that qualify as planned actions shall follow the requirements for the project permit. If notice is required, the notice shall state that the project has qualified as a planned action. (Ord. 3774-20 § 3 (Exh. 2), 2020.)

## **Article VII. Appeals**

### **15.02.600 Appeals.**

Depending on the type of permit, an appeal may be to the hearing examiner (“administrative appeal”) or to court (“judicial appeal”). If an administrative appeal is provided, it must be used before going to court. Generally, any administrative appeals must be filed with the city within fourteen days of the notice of decision, and any judicial appeals must be filed with the superior court within twenty-one days.



A. *Scope of Project Review and Appeals.* As required by RCW [36.70B.030](#), except for issues of code interpretation, neither the city nor any reviewing body shall reexamine alternatives to or hear appeals on the following items:

1. Type of land use permitted at the site, including uses that may be allowed under certain circumstances, such as planned unit development and conditional and special uses, if the criteria for their approval have been satisfied;
2. Density of residential development in urban growth area; and
3. Availability and adequacy of public facilities identified in the comprehensive plan, if the plan or development regulations provide for funding of these facilities as required by Chapter [36.70A](#) RCW.

B. *Time Limit for Appeal Decisions.* Land use permit decisions and SEPA determinations, including the adequacy of a final EIS, shall be appealable as provided for in this section. For purposes of this section, a final decision means the decision issued after any reconsideration or remand if applicable. The time period for hearing and deciding an administrative appeal to the city shall not exceed ninety days. However, the parties to an appeal may agree to extend this time period. This appeal period is not included in the time limit for issuing a permit (Section [15.01.080](#)).

C. *SEPA Appeals.* The city establishes the following administrative appeal procedures under the SEPA ordinance (Chapter [19.43](#)), RCW [43.21C.075](#) and WAC [197-11-680](#). For purposes of this subsection, "EIS" means a final environmental impact statement, final supplemental environmental impact statement, or a notice of adoption or addendum to a final EIS/SEIS that is prepared and used by the city for making a decision on the proposal. Except as specified in this chapter, SEPA appeals on land use permit decisions and any other city proposals shall be filed and heard at the same time as appeals on the applicable land use permit or city proposal.

1. *Procedural and Substantive Compliance.* For purposes of utilizing SEPA to assist in governmental planning and decisionmaking, the city recognizes a right of appeal by any aggrieved person on whether governmental action is in compliance with the substantive and procedural provisions of SEPA, including a threshold determination (DNS, MDNS or DS), adequacy of an EIS, and of a decision document issued by the responsible official or city which conditions or denies a project on the basis of SEPA substantive authority. Any



SEPA appeal shall meet the requirements of SEPA (see RCW [43.21C.075](#)), the SEPA ordinance (Chapter [19.43](#)), and this title, as further specified in this section.

2. *Review Process V—Judicial Appeal Only, Except for Determination of Significance.* No SEPA administrative appeal to the city is provided for Review Process V other than for an appeal of a determination of significance to the hearing examiner. The hearing examiner's open record appeal hearing shall occur prior to any permit hearing by a body designated under Review Process V to make a recommendation or decision on the project. Any further SEPA appeal shall not occur prior to a permit decision under Review Process V. Any appeals of Review Process V decisions shall be to Snohomish County superior court under Chapter [36.70C](#) RCW (the Land Use Petition Act or LUPA).

3. *Review Process I, II, and III—Administrative and Judicial Appeal.* SEPA administrative appeals are provided for Review Process I, II, and III. All SEPA administrative appeals shall be to the hearing examiner and are subject to the consolidated appeals provisions of this title. Any appeal of the hearing examiner's decision shall be to Snohomish County superior court under Chapter [36.70C](#) RCW. This means:

- a. For Review Process I and II permits, one open record appeal hearing is allowed on the appeal of a SEPA threshold determination and permit together. If the hearing examiner requires an EIS, one subsequent open record appeal is allowed on the adequacy of the EIS and permit together.
- b. For Review Process III permits, the hearing examiner must hear the SEPA administrative appeal for a Review Process III permit at the same open public hearing where the hearing examiner makes a recommendation or decision on the permit. If the hearing examiner requires an EIS or supplemental EIS, the hearing examiner must hear any appeal of the EIS at the open public hearing on the permit (which will generally be continued pending the preparation of the required environmental document).
- c. For Review Process I, II, and III, an appeal of a SEPA determination of significance shall be heard by the hearing examiner in its own separate open record appeal hearing, prior to the further processing of the land use permit application or issuance of a decision.



4. *Appeals on Other City Proposals.* This subsection applies to appeals of SEPA procedural determinations on project or nonproject proposals by the city that are not city legislative actions. If a SEPA threshold determination or EIS on a city proposal is issued prior to an application for a land use permit (or if no land use permit is required for the proposal), the city shall allow an administrative appeal to the hearing examiner in the public notice of the SEPA determination. The hearing examiner shall hear only the SEPA procedural appeal and shall not have jurisdiction over review of the city proposal unless otherwise provided by city ordinance. There shall be no further appeal of the hearing examiner's appeal decision until after the city makes a final decision on the proposal.

5. *Appeals To and From the Hearing Examiner.* The hearing examiner shall provide for the preparation of a record for use in any subsequent appeal proceedings. Any further appeal of the hearing examiner's decision on a SEPA administrative appeal on a Review Process I, II, and III permit shall be to Snohomish County superior court under Chapter [36.70C](#) RCW together with the appeal of the permit (unless state law provides for a different appeal process, such as to the Shoreline Hearings Board).

6. *Deference to Responsible Official.* The procedural determinations made by the city's responsible official shall be entitled to substantial weight.

D. *Permit Appeals.*

1. *Review Process I, Minor Administrative Decisions.* Appeals of Review Process I decisions shall be heard by the hearing examiner in the manner provided for in Review Process II appeals. Appeals of minor administrative decisions shall be to the hearing examiner and filed within fourteen days of issuance of the decision; provided, however, that appeals of shoreline permit decisions shall be filed within twenty-one days of the decision.

2. *Review Process II, Administrative Decisions.* Appeals of administrative decisions, including decisions for SEPA threshold determinations, shall be heard by the hearing examiner. The hearing examiner's decision on the appeal shall be final. Appeals of hearing examiner's decision shall be to Snohomish County superior court in accordance with Chapter [36.70C](#) RCW and filed within twenty-one days of issuance of the decision. Exception: no city administrative appeal is provided for limited utility extensions or construction of a bulkhead or other measures to protect a single-family residence and its appurtenant structures from shoreline erosion, as defined in RCW [90.58.140\(11\)\(b\)](#); any appeal shall be directly to the shoreline hearings board.



3. *Review Process IIIA, Hearing Examiner Decisions.* The decision of the hearing examiner on Review Process IIIA applications, including SEPA determinations, shall be final. Appeals of the hearing examiner's decisions shall be to Snohomish County superior court in accordance with Chapter [36.70C](#) RCW and filed within twenty-one days of issuance of the decision; provided, however, that appeals of the hearing examiner's decision on shoreline substantial development permits or revisions shall be to the Shorelines Hearings Board as set forth in RCW [90.58.180](#) and Chapter [461-08](#) WAC, the rules of practice and procedure of the Shorelines Hearings Board.

a. Appeals of revisions to shoreline permits not requiring a conditional use permit or variance shall be in accordance with RCW [90.58.180](#) and shall be filed within twenty-one days from the date of receipt of the city's action by the Department of Ecology. The party seeking review shall have the burden of proving the revision granted was not within the scope and intent of the original permit.

b. Appeals of revisions to shoreline permits requiring a conditional use permit or variance shall be in accordance with RCW [90.48.180](#) and shall be filed within twenty-one days from the date of receipt of the city's action by the Department of Ecology. The party seeking review shall have the burden of proving the revision granted was not within the scope and intent of the original permit.

4. *Review Process IIIB, Hearing Examiner Recommendation to Council.*

a. There is no appeal of the hearing examiner's recommendation. The decision of the city council constitutes the final action of the city and is appealable to Snohomish County superior court in accordance with Chapter [36.70C](#) RCW and shall be filed within twenty-one calendar days of issuance of the decision.

b. If a SEPA procedural determination is appealed for a proposal subject to Review Process IIIB, the appeal shall be heard with the hearing examiner's open public hearing on the permit. The decision of the hearing examiner shall be final and shall be stated in the hearing examiner's recommendation to the city council on the Review Process III permit. Any further SEPA appeal shall be to Snohomish County superior court under Chapter [36.70C](#) RCW together with the city council decision on the permit.



c. Nothing in this subsection limits the authority of the city council to condition or deny a proposed project under Review Process IIIB under applicable city standards and ordinances.

5. *Review Process V, Planning Commission/City Council Quasi-Judicial Decisions.* The decision of the planning commission constitutes a recommendation to the city council. The decision of the city council constitutes the final action of the city and is appealable to Snohomish County superior court in accordance with Chapter [36.70C](#) RCW and shall be filed within twenty-one days of issuance of the decision. (Ord. 3774-20 § 3 (Exh. 2), 2020.)

## **Article VIII. Comprehensive Plan Docket Procedures**

### **15.02.700 Docketing.**

#### *A. Overview.*

1. Except as allowed by Chapter [36.70A](#) RCW, the comprehensive plan may only be amended once per year. The city shall review all revisions as a comprehensive package of updates to the plan so the cumulative effect of all proposed amendments is fully understood.
2. For purposes of this section, “docketing” refers to compiling and maintaining a list of suggested changes to the comprehensive plan or development regulations in a manner that will ensure such suggested changes will be considered by the city and will be available for review by the public.

*B. Project Review Docket Applications.* If during project review, the city identifies deficiencies in plans or regulations, the identified deficiencies shall be docketed for possible future plan or development regulation amendments. For purposes of this subsection, a deficiency in a comprehensive plan or development regulation refers to the absence of required or potentially desirable contents of a comprehensive plan or development regulation. It does not refer to whether a development regulation addresses a project’s probable specific adverse environmental impacts which the city could mitigate in the normal project review process.



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C. *Annual Docket Process.*

1. Any interested person, including applicants, citizens, hearing examiners, city officials, and staff of other agencies, may suggest plan or development regulation amendments in writing to the planning director, which shall be docketed and considered on at least an annual basis, consistent with the provisions of RCW [36.70A.130](#).
2. The planning director is authorized to set deadlines for applications to amend the comprehensive plan. The planning director is also authorized to establish the docket for consideration of amendments. If the planning director believes a request should not be considered for the annual docket, this decision shall be forwarded to the city council who will have the legislative discretion to place the amendment on the final docket for further consideration.
3. The planning director shall provide the city council and planning commission the annual docket that will be considered and make this information available to the public.

D. *Application Requirements.* Any person proposing amendments to the comprehensive plan must submit the information as required by the planning director, including a complete description of the proposed amendment, the location of the amendment, and explanation of why the amendment is being proposed, and an explanation of how the proposed amendment is consistent with Chapter [36.70A](#) RCW, the Snohomish County Countywide Planning Policies, and the city's comprehensive plan adopted pursuant to Chapter [36.70A](#) RCW. (Ord. 3774-20 § 3 (Exh. 2), 2020.)

## **Article IX. Interpretations, Vesting and Definitions**

### **15.02.800 Interpretations of land use regulations.**

Any person may request an interpretation of applicable provisions of city land use requirements or development regulations as part of the project review process. Further, the planning director is authorized to issue interpretations of the land use and development regulations as necessary and to promulgate rules and procedures as consistent with the terms



of this title. Such interpretations shall constitute Review Process I decisions. (Ord. 3774-20 § 3 (Exh. 2), 2020.)

## **15.02.810 Vested rights.**

Unless provided otherwise by this section, an application for a land use permit or other project permit shall be considered under the development regulations in effect on the date of filing of that complete application.

A. Project permit applications shall not include preapplication submittals or materials, conceptual site plan reviews, or applications or requests to the planning director for interpretations.

B. For purposes of this section, “date of filing of the complete application” shall mean the date on which the applicant files a project permit application that contains all required information and documents. If the planning director determines that an application is not technically complete, the “date of filing of complete application” shall mean the date on which the applicant submits a technically complete application (Section [15.01.040](#)).

C. *Subdivision and Short Subdivisions.* A project permit application for development or use of land subject to an unexpired subdivision or short subdivision approval shall follow the requirements of Chapter [58.17](#) RCW.

D. *SEPA Determinations and Vesting.* Development regulations could be revised or adopted during the time between the issuance of a SEPA determination and a building or construction permit application. Where conditions identified in the SEPA determination are based on adopted development regulations, the proposal is required to comply with the development regulations in effect at the time a complete building or construction permit application (or other application which by law vests development requirements) is filed.

E. For purposes of this section, “development regulations” shall mean those ordinances and regulations that control or affect the type, degree, or physical attributes of land development or use, including the unified development code, and shall not include the following:

1. Permit processing fees and taxes or administrative fees;



2. Ordinances or regulations that specify or are based upon adopted SEPA policies for the exercise of SEPA substantive authority, including the SEPA ordinance (Chapter [19.43](#));
3. Regulations that affect the procedure through which a project permit application is processed or considered, including but not limited to this chapter; and
4. Any ordinance or regulation that, by its terms, applies to developments or uses that exist on the effective date of that ordinance or regulation. (Ord. 3774-20 § 3 (Exh. 2), 2020.)

### **15.02.820 Definitions.**

- A. "Applicant" means the person or entity proposing a project. "Applicant" includes private or public entities. The applicant shall be the owner of land or authorized representative. "Applicant" includes the entity or person for which an authorized representative is submitting an application.
- B. "Application" means a written request to the city to issue a land use permit. Unless the context clearly requires otherwise, "application" refers to a "complete application."
- C. "Complete application" means an application that is technically complete and meets all requirements for a determination of completeness.
- D. "Consolidated process" means a single project review process for all land use permits subject to the procedural requirements of this title, including the individual procedure option in Section [15.02.050](#). It does not necessarily refer to consolidating land use permits with all other permits that might be required for a project.
- E. "Days" are in calendar days, including weekends and holidays. If a deadline falls on a weekend or federal, state, or city holiday, the deadline shall be extended to the close of the next business day at the applicable city office. When computing time periods, the first day shall be the date from which the designated period of time begins to run (such as the "permit date" or the date that notice is posted or mailed).
- F. "Open public hearing" means the open record hearing under RCW [36.70B.020\(3\)](#). An open public hearing may be held in order to render a project permit recommendation or decision



(predecision hearing) or after a determination on which there is an administrative appeal (appeal hearing).

G. "Permit" means any form of written permission given to any person, organization, or agency to engage in a specific activity. A permit includes all or part of an agency permit, license, certificate, approval, registration, entitlement, or other authorization to facilitate a particular proposal.

H. "Permit date" means the date the last city staff member or official executes the project permit document (or in the case of shoreline conditional use or variance permits, the date the permit is executed by the Washington State Department of Ecology). The permit date normally appears on the face of the permit. For Review Process III, the permit date typically will be the date of the hearing examiner decision or city council ordinance, unless there is a project permit administratively signed and issued by city staff to the applicant on that decision.

I. "Project permit" means any land use or environmental permit or license required from the city of Everett for a project action, including but not limited to building permits, subdivisions, binding site plans, unit lot subdivisions, planned unit developments, conditional uses, shoreline substantial development permits, permits or approvals required by critical area ordinances, site-specific rezones authorized by a comprehensive plan or subarea plan, but excluding the adoption of amendment of a comprehensive plan, subarea plan, or development regulations, except as otherwise specifically included in this subsection. A SEPA determination is not a permit; a project permit typically includes any conditions required as a result of SEPA review, as provided by this title. A project permit does not include nonproject actions as defined in the SEPA ordinance (Chapter [19.43](#)). Also see "land use permit." Preapplication documents and early conceptual review, such as site plan review, do not require open public hearings and are not project permits under this title.

J. "Public hearing or meeting" means an informal meeting, hearing, workshop, or other public gathering of people to obtain comments from the public or other agencies on a proposed project permit prior to the city's project permit decision. A "public meeting or hearing" is distinguished from the single "open public hearing" that creates the record in a final project permit recommendation or decision or an administrative appeal under this title. A public meeting or hearing may be required by law and may include certain formalities, such as a public hearing on an environmental impact statement. (Ord. 3774-20 § 3 (Exh. 2), 2020.)



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## Chapter 15.03

### LAND USE DECISIONS, CRITERIA AND AUTHORITY

Sections:

<b>15.03.010</b>	<b>Introduction and user guide.</b>
<b>15.03.030</b>	<b>Unlisted uses.</b>
<b>15.03.040</b>	<b>Land use project review and consistency.</b>
<b>15.03.060</b>	<b>Modification of development standards.</b>
<b>15.03.100</b>	<b>Administrative use.</b>
<b>15.03.120</b>	<b>Conditional use.</b>
<b>15.03.140</b>	<b>Variances.</b>
<b>15.03.200</b>	<b>Development agreements.</b>
<b>15.03.300</b>	<b>Unified development code amendment.</b>
<b>15.03.400</b>	<b>Comprehensive plan amendments.</b>

#### **15.03.010 Introduction and user guide.**

The purpose of this chapter, in conjunction with Chapters [15.01](#) and [15.02](#), is to implement requirements in Chapter [36.70B](#) RCW, Local Project Review. Together, these three chapters are collectively referred to as the “Local Project Review Procedures.” In addition to the local project review requirements, this chapter addresses who may apply for certain land use decisions, the criteria for land use decisions and the authority for those decisions. (Ord. 3774-20 § 3 (Exh. 2), 2020.)

#### **15.03.030 Unlisted uses.**

If a proposed use is not specifically listed in the use table (Chapter [19.05](#)) in a specific zone, the planning director may promulgate an interpretation as to whether or not such use is to be a permitted use, pursuant to Section [19.05.070](#). The planning director shall determine whether the proposed use meets the following criteria:

A. The use resembles or is of the same basic nature as a use or uses expressly authorized in the applicable zoning district or districts in terms of the following:



1. The activities involved in or equipment or materials employed in the use;
  2. The effects of the use on the surrounding area, such as traffic impacts, noise, dust, odors, vibrations, lighting and glare, and aesthetic appearance;
- B. The use is consistent with the stated purpose of the applicable district or districts;
- C. The use is compatible with the goals and policies of the Everett comprehensive plan. (Ord. 3774-20 § 3 (Exh. 2), 2020.)

### **15.03.040 Land use project review and consistency.**

- A. The review of a proposed project's consistency with applicable development regulations and the adopted comprehensive plan shall serve as the starting point for project review. Land use permit review shall not reanalyze these land use planning decisions in making a permit decision.
- B. The planning director or his/her designee ("director") may determine through the local project review process that existing requirements including mitigation measures in applicable development regulations and plans and other applicable laws provide adequate mitigation for some or all of the project's specific adverse environmental impacts.
- C. Nothing in this chapter limits the authority of the city to approve, condition, or deny a project as provided in its adopted development regulations and in its policies adopted under RCW [43.21C.060](#). Project review shall be used to: (1) review and document consistency with comprehensive plans and development regulations; (2) provide prompt and coordinated review by government agencies and the public on compliance with applicable environmental laws and plans, including mitigation for specific project impacts that have not been considered and addressed at the plan or development regulation level; and (3) ensure accountability by local government to applicants and the public for requiring and implementing mitigation measures.
- D. Project review shall be used to identify specific project design and conditions relating to the characteristics of a development; to identify specific adverse environmental impacts of the proposal not previously analyzed; and to address the details of site plans, curb cuts, stormwater facilities, transportation demand management, the payment of impact fees, or



other measures to avoid or otherwise mitigate a proposal's probable adverse environmental impacts.

E. A proposed project's consistency with the city's development regulations and the appropriate elements of the comprehensive plan or subarea plan adopted under Chapter [36.70A](#) RCW shall be determined by consideration of:

1. The type of land use allowed;
2. The level of development allowed, such as units per acre or other measures of density;
3. Infrastructure, including the adequacy of public facilities and services needed to serve the proposed development; and
4. The characteristics of the proposed development, such as compliance with specific development standards.

F. In determining consistency, the determinations made under this chapter shall be controlling.

G. Nothing in this section requires documentation, dictates procedures for considering consistency, or limits the planning director from asking more specific or related questions with respect to any of the four main categories listed in subsection E of this section. This chapter does not apply to the city's civil enforcement procedures, Chapter [1.20](#), except as specifically referenced herein. (Ord. 3774-20 § 3 (Exh. 2), 2020.)

### **15.03.060 Modification of development standards.**

A. *Overview.* Throughout this title, the planning director, city engineer or their designee ("director") may be authorized to approve project-specific modifications of the standards in this title.

B. *Review Process.*

1. An applicant shall submit a request for modification, providing such information as is required by the director, including application fees.



2. Where this title authorizes the director to modify development standards, the review process shall be Review Process I (REV I) unless otherwise indicated.
3. If the director determines that notice to contiguous property owners should be provided regarding a request to modify development standards, the director may require the proposed modification to be reviewed using a higher level of review process than otherwise required.
4. See Chapter [15.02](#) for notice and procedures for various review processes.

C. *General Criteria.* In considering any request for modification of standards in this title, the following criteria need to be met:

1. The request for modification would result in development that is equivalent or superior to what would likely result from compliance with the development standards which are proposed to be modified.
2. The request for modification meets the intent of the standards being modified.
3. The request for modification does not create any impacts or nuisances that cannot be mitigated, such as access points which are unsafe, noise, dust, odor, glare, visual blight or other undesirable environmental impacts.
4. The request for modification meets any additional modification criteria in the respective chapter. (Ord. 3774-20 § 3 (Exh. 2), 2020.)

### **15.03.100 Administrative use.**

A. *Overview.* An administrative use, identified in Chapter [19.05](#), is a mechanism by which the city may place special conditions on the use or development of property to ensure that new development is compatible with surrounding properties.

B. *Who May Apply.* A property owner, or their designated agent, may apply for an administrative use.



C. *Review Process.* Each zoning district includes uses which may be permitted if an administrative use is approved. See use tables in Chapter [19.05](#). The process for consideration of an administrative use is as follows:

1. The planning director may approve, approve with conditions, or deny an administrative use following the Type II Review process set forth in Chapter [15.02](#).
2. All administrative uses shall be evaluated by the criteria listed in subsection D of this section.
3. Some land uses may be subject to specific use standards set forth in Chapter [19.13](#). If the administrative use is included in Chapter [19.13](#), the requirements of that chapter must be met.
4. The planning director is authorized to approve a minor expansion or alteration of an existing administrative use as follows:
  - a. A minor expansion or alteration of an administrative use can be approved with Review Process I (see Chapter [15.02](#)).
  - b. For purposes of this section:
    - (1) A minor expansion shall be not more than twenty-five percent of the land or building gross floor area devoted to the existing administrative use.
    - (2) A minor alteration may include changes to final site plans and development which do not change the intent and compatibility with surrounding property which were originally approved.
5. The planning director may impose conditions to ensure the approval criteria in subsection D are met.

D. *Administrative Use Evaluation Criteria.* The following criteria shall be used for evaluating administrative uses:

1. Compatibility of proposed structures and improvements with surrounding properties, including the size, height, location, setback and arrangements of all proposed buildings and facilities, especially as they relate to light and shadow impacts on more sensitive land uses and less intensive zones.



2. The landscaping, buffering and screening of buildings, parking, loading and storage areas, especially as they relate to more sensitive land uses.
3. The generation of nuisance irritants such as noise, smoke, dust, odor, glare, visual blight or other undesirable impacts.

E. *Other Standards.*

1. *Revocation.* The planning director has the authority to review and modify or revoke administrative uses for failure to meet the requirements of an administrative use. Such decisions may be appealed pursuant to Section [15.02.600](#).
2. *Transfer of Ownership.* An administrative use runs with the land and compliance with the conditions of any such permit is the responsibility of the current owner of the property, whether that is the original applicant or a successor.
3. *Permit Expiration.* Administrative uses shall complete development and establish the permitted use within three years of approval. The planning director may authorize a one-time extension of six months. If the use is not commenced within that time frame, the administrative use is considered void and a new application is required. The city has no duty or obligation to notify the applicant or current property owner that the permit is due to expire. (Ord. 3774-20 § 3 (Exh. 2), 2020.)

## **15.03.120 Conditional use.**

- A. *Overview.* A conditional use, identified in Chapter [19.05](#), means a use which, because of its unusual size, infrequent occurrence, special requirements, possible safety hazards, or other possible detrimental effects on surrounding properties, may be approved only after meeting the requirements of this section.
- B. *Who May Apply.* A property owner, or their designated agent, may apply for a conditional use.
- C. *Review Process.* Each zoning district includes uses which may be permitted if a conditional use is approved. See use tables in Chapter [19.05](#). The process for consideration of a conditional use is as follows:



1. Conditional uses require a public hearing with action by the hearing examiner following Review Process III. See Chapter [15.02](#) for procedures.
2. All conditional uses shall be evaluated by the criteria listed in subsection D of this section.
3. Some land uses may be subject to specific use standards set forth in Chapter [19.13](#). If the conditional use is included in Chapter [19.13](#), the requirements of that chapter must also be met in conjunction with approval of a conditional use.
4. The planning director is authorized to approve a minor expansion of an existing conditional use using Review Process II.
  - a. A minor expansion of a conditional use, which was previously considered a special property use prior to adoption of this ordinance, can be reviewed pursuant to subsection [\(C\)\(4\)](#) of this section.
  - b. For purposes of this section, a minor expansion shall be not more than twenty-five percent of the land or building gross floor area devoted to the existing conditional use.
5. The hearing examiner may impose conditions to ensure the approval criteria in subsection D of this section are met.

D. *Conditional Use Evaluation Criteria.* The following criteria shall be used for evaluating conditional uses:

1. The adequacy of utilities, public facilities and services required to serve a proposed use.
2. The impact of traffic generated by the proposed use on the surrounding area, pedestrian circulation and public safety; and the ability of the proponent to mitigate such potential impacts.
3. Compatibility of proposed structures and improvements with surrounding properties, including the size, height, location, setback and arrangements of all proposed buildings and facilities, especially as they relate to light and shadow impacts on more sensitive land uses and less intensive zones.
4. The landscaping, buffering and screening of buildings, parking, loading and storage areas, especially as they relate to more sensitive land uses.



5. The generation of nuisance irritants such as noise, smoke, dust, odor, glare, visual blight or other undesirable impacts.
6. Compliance with the provisions of Title [19](#) and other city, state and federal regulations.

E. *Other Issues.*

1. *Revocation.* The planning director has the authority to review and modify or revoke conditional uses for failure to meet the requirements of a conditional use. Such decisions may be appealed pursuant to Chapter 15.02.600.
2. *Transfer of Ownership.* A conditional use runs with the land and compliance with the conditions of any such permit is the responsibility of the current owner of the property, whether that is the original applicant or a successor.
3. *Permit Expiration.* Conditional uses shall complete development and establish the permitted use within three years of approval. The planning director may authorize a one-time extension of six months. If the use is not commenced within that time frame, the conditional use is considered void and a new application is required. The city has no duty or obligation to notify the applicant or current property owner that the permit is due to expire. (Ord. 3774-20 § 3 (Exh. 2), 2020.)

### **15.03.140 Variances.**

- A. *User Guide.* This section establishes a mechanism whereby the provisions of Title [19](#) can be varied on a case-by-case basis if the application of such provisions would result in an unreasonable and unusual hardship. The criteria of this section shall be met in order to approve a variance.
- B. *Who May Apply.* A property owner, or their designated agent, may apply for a variance.
- C. *Review Process.* An application for a variance is considered by Review Process III. See Chapter [15.02](#) for procedures.
- D. *Criteria for Granting a Variance.* The city may grant a variance only if it finds that:



1. The variance will not be materially detrimental to the property in the area of the subject property or to the city as a whole; and
2. The variance is necessary because of exceptional or extraordinary circumstances regarding the size, shape, topography or location of the subject property; or the location of a preexisting improvement on the subject property that conformed to the zoning or unified development code in effect when the improvement was constructed; and
3. The variance will only grant the subject property the same general rights enjoyed by other property in the same area and zone as the subject property; and
4. The need for the requested variance is not the result of a self-created hardship.

E. *Variances Prohibited.* Under no circumstances shall the review authority grant a variance to any of the following:

1. To any provisions establishing the uses that are permitted to locate or that may continue to operate in any zone; or
2. To any of the procedural provisions of the code; or
3. To any provision that specifically states that its requirements are not subject to variance; or
4. To minimum lot size or maximum residential density requirements; or
5. To the critical areas standards in Chapter [19.37](#).

F. *Stay of Proceedings.* If a request for a variance is made in an effort to remedy a violation of Title [19](#) for which enforcement action has been commenced, the variance request stays all proceedings on the enforcement action until the variance has been acted upon. If, in the opinion of the mayor, a stay of proceedings would cause imminent peril to life or property, the mayor may continue enforcement action and such enforcement action may not be stayed except by a restraining order issued by superior court. If a variance request has been filed, enforcement shall be taken only to the extent that there shall no longer be imminent peril to life or property. (Ord. 3774-20 § 3 (Exh. 2), 2020.)



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### **15.03.200 Development agreements.**

A. *Development Agreements Authorized.* The city may enter into a development agreement pursuant to Chapter [36.70B](#) RCW with a person having ownership or control of real property within the city or for real property outside the city as part of a proposed annexation or a service agreement.

1. A development agreement must set forth the development standards and other provisions that shall apply to and govern and vest the development, use, and mitigation of the development of the real property for the duration specified in the agreement.
2. A development agreement shall be consistent with applicable development regulations adopted by the city under Chapter [36.70A](#) RCW.
3. For the purposes of this section, “development standards” includes, but is not limited to:
  - a. Project elements such as permitted uses, residential densities, and nonresidential densities and intensities or building sizes;
  - b. The amount and payment of impact fees imposed or agreed to in accordance with any applicable provisions of state law, any reimbursement provisions, other financial contributions by the property owner, inspection fees, or dedications;
  - c. Mitigation measures, development conditions, and other requirements under Chapter [43.21C](#) RCW;
  - d. Design standards such as maximum heights, setbacks, drainage and water quality requirements, landscaping, and other development features;
  - e. Affordable housing;
  - f. Parks and open space preservation;
  - g. Phasing;
  - h. Review procedures and standards for implementing decisions;
  - i. A build-out or vesting period for applicable standards; and



j. Any other appropriate development requirement or procedure.

4. Unless amended or terminated, a development agreement is enforceable during its term by a party to the agreement. A development agreement and the development standards in the agreement govern during the term of the agreement, or for all or that part of the build-out period specified in the agreement, and may not be subject to an amendment to a zoning ordinance or development standard or regulation or a new zoning ordinance or development standard or regulation adopted after the effective date of the agreement. A permit or approval issued by the city after the execution of the development agreement must be consistent with the development agreement.

5. A development agreement shall be recorded with the real property records of Snohomish County. During the term of the development agreement, the agreement is binding on the parties and their successors, including if the city assumes jurisdiction through incorporation or annexation of the area covering the property covered by the development agreement.

**B. *Development Agreements—Public Hearing Required.***

1. The city shall only approve a development agreement by ordinance or resolution after a public hearing.

2. The public hearing shall be conducted in conjunction with the underlying land use action. In the event the underlying land use action does not require a public hearing, a public hearing following Type III Review Process in Chapter [15.02](#) shall be conducted by the hearing examiner, with a recommendation to the city council.

3. See Chapter [15.02](#) for procedures for notice and conduct of public hearings for development agreements.

4. Minor modifications to development agreements, as set forth in subsection C of this section, do not require a public hearing.

**C. *Modification of Development Agreements.***

**1. *Minor Modifications.***

a. The applicant may apply for a minor modification to a development agreement following Review Process I set forth in Chapter [15.02](#).



- b. The planning director will review and decide upon an application for a minor modification. If the planning director determines that notice to contiguous property owners should be provided regarding the minor changes, the planning director may require the proposed modification to be reviewed using Review Process II set forth in Chapter [15.02](#).
- c. The planning director may approve a minor modification only if he or she finds that:
  - (1) The change is necessary because natural features of the subject property not foreseen by the applicant or by the city prior to approval of the development agreement; and
  - (2) The change will not result in reducing the landscaped area, buffering areas or the amount of open space on the project required by the development agreement; and
  - (3) The change will not result in increasing the residential density or gross floor area of the project as approved by the development agreement; and
  - (4) The change will not result in any structure, or vehicular circulation or parking area which will adversely affect abutting property or public right-of-way, or conflict with any provisions of the development agreement or Title [19](#); and
  - (5) The planning director determines that the change will not increase any adverse impacts or undesirable effects of the project and that the change in no way significantly alters the project.

2. *Major Modifications.* The applicant may seek a modification to the approved site plan that does not meet all of the requirements of subsection A of this section by submitting an application which will be reviewed by the city using the procedures set forth in this section as if it were an application for a new development agreement. (Ord. 3774-20 § 3 (Exh. 2), 2020.)

### **15.03.300 Unified development code amendment.**

This section establishes the mechanism and criteria to amend the unified development code, including amendments to the zoning maps.



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A. *Area-Wide Rezones.*

1. *Description.* An area-wide rezone is to change the zoning classification that is not site-specific.
2. *Who May Initiate.* Only the city may initiate area-wide rezones; the area-wide rezone may be initiated by the city council, mayor or designee.
3. *Review Process.* An area-wide rezone is considered by Review Process V. See Chapter [15.02](#) for procedures.
4. *Criteria.* The city may decide to approve a proposal to rezone land only if it finds that:
  - a. The proposal is consistent with the Everett comprehensive plan; and
  - b. The proposal bears a substantial relation to public health, safety or welfare; and
  - c. The proposal promotes the best long-term interests of the Everett community.

B. *Site-Specific Rezones.*

1. *Description.* A site-specific rezone is to change the zoning classification of a specific property or properties.
2. *Who May Initiate.* Site specific rezones may be initiated by the city or all property owners in the requested rezone area.
3. *Review Process.*
  - a. If the rezone includes an application to amend the comprehensive plan, the site-specific rezone is considered by Review Process V. See Chapter [15.02](#) for procedures.
  - b. If the rezone does not require an amendment to the Comprehensive Plan, the site-specific rezone is considered by Review Process IIIB. See Chapter [15.02](#) for procedures.
4. *Criteria.* The review authority may approve an application for a site-specific rezone if it finds that:
  - a. The proposed rezone is consistent with the Everett comprehensive plan; and



- b. The proposed rezone bears a substantial relation to public health, safety or welfare; and the proposed rezone promotes the best long-term interests of the Everett community; and
- c. The proposed rezone mitigates any adverse impact(s) upon existing or anticipated land uses in the immediate vicinity of the subject property.
- d. If a comprehensive plan amendment is required in order to satisfy subsection [\(4\)\(a\)](#) of this section, approval of the comprehensive plan amendment is required prior to or concurrently with the granting of an approval on the rezone.

5. *Development Agreements.* In some circumstances, in order to demonstrate the criteria for approval are met, the city may determine that a development agreement authorized pursuant to Chapter [36.70B](#) RCW and Section [15.03.200](#) is necessary.

C. *Unified Development Code Text Amendments.*

- 1. *Description.* Amendment of the text of the unified development code.
- 2. *Who May Initiate.* Amendments to the text of the unified development code may be initiated by the city council, mayor or designee, or planning commission.
- 3. *Review Process.* Amendments are considered by Review Process V. See Chapter [15.02](#) for procedures.
- 4. *Criteria.* The city may amend the text of the unified development code if it finds that:
  - a. The proposed amendment is consistent with the applicable provisions of the Everett comprehensive plan; and
  - b. The proposed amendment bears a substantial relation to public health, safety or welfare; and
  - c. The proposed amendment promotes the best long-term interests of the Everett community. (Ord. 3774-20 § 3 (Exh. 2), 2020.)



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### **15.03.400 Comprehensive plan amendments.**

A. *Description.* Amendments to the comprehensive plan may include both text (e.g., goals and policies) and maps (e.g., land use designations).

B. *Who May Initiate.* Amendments to the comprehensive plan may be initiated as follows:

1. *Area-Wide Amendments.* Area-wide amendments may be initiated only by the city council, mayor or designee, or planning commission. Area-wide amendments could include both text and map amendments.
2. *Site-Specific Amendments.* Site-specific amendments may be initiated by property owners, city council, mayor or designee, or planning commission.

C. *Review Process.*

1. *Docket.* Except as allowed by Chapter [36.70A](#) RCW, the comprehensive plan may only be amended once per year. The city shall review all revisions as a comprehensive package of updates to the plan so the cumulative effect of all proposed amendments is fully understood. The planning director is authorized to set deadlines for applications to amend the comprehensive plan and establish the docket for consideration of amendments. See Chapter [15.02](#) for application requirements.
2. Amendments are considered by Review Process V. See Chapter [15.02](#) for procedures.

D. *Land Use Map.* The following factors shall be considered in reviewing requests to amend the comprehensive plan land use map.

1. The proposed land use designation must be supported by or consistent with the existing policies of the various elements of the comprehensive plan.
2. Have circumstances related to the subject property and the area in which it is located changed sufficiently since the adoption of the land use element to justify a change to the land use designation? If so, the circumstances that have changed should be described in detail to support findings that a different land use designation is appropriate.
3. Are the assumptions upon which the land use designation of the subject property is based erroneous, or is new information available which was not considered at the time the land use element was adopted, that justify a change to the land use designation? If so, the



erroneous assumptions or new information should be described in detail to enable the planning commission and city council to find that the land use designation should be changed.

4. Does the proposed land use designation promote a more desirable land use pattern for the community as a whole? If so, a detailed description of the qualities of the proposed land use designation that make the land use pattern for the community more desirable should be provided to enable the planning commission and city council to find that the proposed land use designation is in the community's best interest.

5. Should the proposed land use designation be applied to other properties in the vicinity? If so, the reasons supporting the change of several properties should be described in detail. If not, the reasons for changing the land use designation of a single site, as requested by the proponent, should be provided in sufficient detail to enable the planning commission and city council to find that approval as requested does not constitute a grant of special privilege to the proponent or a single owner of property.

6. What impacts would the proposed change of land use designation have on the current use of other properties in the vicinity, and what measures should be taken to assure compatibility with the uses of other properties in the vicinity?

7. Would the change of the land use designation sought by the proponent create pressure to change the land use designation of other properties in the vicinity? If so, would the change of land use designation for other properties be in the best long-term interests of the community in general?

E. *Comprehensive Plan Policies.* The following factors shall be considered in reviewing proposed amendments to comprehensive plan policies.

1. Have circumstances related to the subject policy changed sufficiently since the adoption of the plan to justify a change to the subject policy? If so, the circumstances that have changed should be described in detail to support the proposed amendment to the policy.

2. Are the assumptions upon which the policy is based erroneous, or is new information available that was not considered at the time the plan was adopted, that justify a change to the policy? If so, the erroneous assumptions or new information should be described in detail to support the proposed policy amendment.



3. Does the proposed change in policy promote a more desirable growth pattern for the community as a whole? The manner in which the proposed policy change promotes a more desirable growth pattern should be described in detail.
4. Is the proposed policy change consistent with other existing plan policies, or does it conflict with other plan policies? The extent to which the proposed policy change is consistent with or conflicts with other existing policies should be explained in detail. (Ord. 3774-20 § 3 (Exh. 2), 2020.)

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**The Everett Municipal Code is current through Ordinance 4031-24, passed May 22, 2024.**

Disclaimer: The City Clerk's Office has the official version of the Everett Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

[City Website: www.everettwa.gov](http://www.everettwa.gov)

[Hosted by General Code.](#)



## Chapter 19.01

### INTRODUCTION TO UNIFIED DEVELOPMENT CODE

Sections:

<b>19.01.010</b>	<b>Title and purpose.</b>
<b>19.01.020</b>	<b>How to use the Unified Development Code.</b>
<b>19.01.030</b>	<b>Where to find information.</b>
<b>19.01.040</b>	<b>The development process.</b>

#### **19.01.010 Title and purpose.**

A. *Title.* The ordinance codified in this title shall be known as, and may be cited as, the Everett Unified Development Code ("UDC"); or Title [19](#), Everett Municipal Code.

B. *Purpose.* The Unified Development Code is adopted to promote and protect the public health, safety and welfare through the orderly regulation of land uses in the city. Further, the purposes of this title are to:

1. Provide for high standards for a living and working environment for all residents and visitors;
2. Provide the economic and social advantages resulting from an orderly planned use of land resources;
3. Encourage and guide development consistent with the goals and policies of the Everett comprehensive plan, adopted pursuant to Chapter [36.70A](#) RCW;
4. Establish the review procedures, public notice requirements and evaluation criteria for land use applications, comprehensive plan amendments and rezone actions;
5. Regulate the division of land into lots, tracts or parcels;
6. Regulate the size and use of lots, setbacks and other open spaces;
7. Regulate the use, location, height, bulk and size and design of buildings and structures;

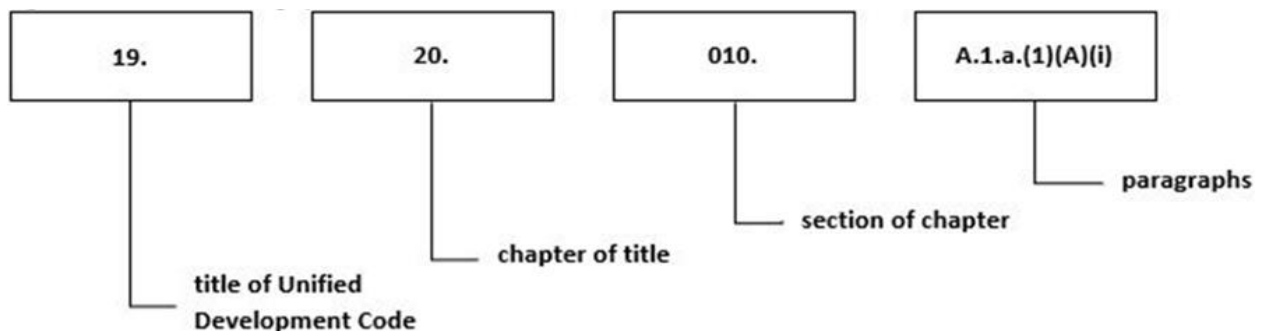


8. Regulate land use intensity and population density;
9. Establish requirements for off-street parking, landscaping and signs and other on-site and off-site development standards;
10. Protect and enhance the aesthetic quality of the natural and manmade environment; and
11. Provide for the enforcement of the regulations of this title. (Ord. 3774-20 § 5(A) (Exh. 3), 2020.)

### 19.01.020 How to use the Unified Development Code.

A. *Numbering System.* The numbering scheme used in the Unified Development Code operates in the following manner:

**Figure 1-1: UDC Numbering System**



B. *Zone Designations.* The zoning map establishes zone designations for all property in the city. An individual wanting to develop property in Everett should start by looking up the zone designation on the zoning map.

C. *Use Tables.* The use tables in Chapter [19.05](#) EMC list the permitted uses for each zone designation, as well as special regulations that apply to specific uses and specific locations. Use these tables to determine whether a use is allowed in a particular zone, and what type of review process is required.

D. *Development Standards.* After the zoning and allowable uses have been determined, the user should refer to the additional chapters of this title for development standards that apply to



building placement, building design, and site development standards (parking, landscaping, streets/sidewalks, fences, screening, and exterior lighting). Table 1-1 below provides a quick reference guide to standards for basic types of development (residential, commercial, industrial, etc.).

**Table 1-1: Applicable Regulations by Development Type**

<b>Type of Development</b>	<b>Regulations</b>	<b>See Chapter #:</b>
<b>Residential Dwelling—Single-Family (new or addition)</b>	• Building setbacks; lot coverage; densities	• 19.06—Lot and Building Placement
	• Building height	• 19.22—Building Heights
<b>Residential Accessory Building (garage, shed, etc.)</b>	• Accessory building regulations	• 19.08.110—Residential Accessory Buildings
	• Building setbacks; Lot coverage	• 19.06—Lot and Building Placement
	• Building height	• 19.22—Building Heights
<b>Duplex and Townhouse</b>	• Density, FAR, open space	• 19.08.030—Townhouse and Duplexes
	• Facades, roofs, transparency	• 19.08.040—Design Standards for Townhouses and Duplexes
<b>Multifamily Dwellings</b>	• Entrances; porches; common areas	• 19.09—Multifamily Development Standards
	• Modulation; facades;	• 19.12—Building Form and



<b>Type of Development</b>	<b>Regulations</b>	<b>See Chapter #:</b>
	weather protection; transparency	Design Standards
<b>Commercial Building</b>	<ul style="list-style-type: none"> <li>• Building form, modulation; facades, weather protection; transparency; other design standards</li> </ul>	<ul style="list-style-type: none"> <li>• 19.12—Building Form and Design Standards</li> </ul>
<b>Industrial Building</b>	<ul style="list-style-type: none"> <li>• Building materials; articulation; entrances; windows</li> </ul>	<ul style="list-style-type: none"> <li>• 19.12.200—Building Design Standards Applicable to the LI2 and HI Zones.</li> </ul>
	<ul style="list-style-type: none"> <li>• Open space, site design</li> </ul>	<ul style="list-style-type: none"> <li>• 19.12.210—Additional Standards Applicable to LI2 and HI Zones</li> </ul>
<b>Specific Uses</b>	<ul style="list-style-type: none"> <li>• Unique uses not addressed in above development types</li> </ul>	<ul style="list-style-type: none"> <li>• 19.13—Specific Use Standards</li> </ul>
<b>Division of Land</b>	<ul style="list-style-type: none"> <li>• Residential subdivisions</li> <li>• Short subdivisions</li> <li>• Binding site plans</li> <li>• Boundary adjustment</li> </ul>	Land Divisions: <ul style="list-style-type: none"> <li>• 19.24—Administration</li> <li>• 19.25—Land Division General Evaluation Criteria</li> <li>• 19.26—Land Division Development Standards</li> <li>• 19.27—Unit Lot Land Divisions</li> </ul>

E. *Other Development Regulations.* In addition to the standards in the Unified Development Code, the following additional standards apply to new development:



<b>Code Requirement</b>	<b>Administered By:</b>
Design and Construction Standards and Specifications	Public Works Department
EMC Title <a href="#">13</a> , Streets and Sidewalks	Public Works Department
EMC Title <a href="#">14</a> , Water and Sewers	Utilities/Public Works Department
International Fire Code	Fire Department
International Building Code	Building Official
Shoreline Master Program (2019, or as updated)	Planning Department

(Ord. 3774-20 § 5(A) (Exh. 3), 2020.)

### **19.01.030 Where to find information.**

<b>Topic</b>	<b>Location</b>
Maps (zoning, critical areas,	<a href="https://everettwa.gov/2205/Map-Gallery">https://everettwa.gov/2205/Map-Gallery</a>



Topic	Location
others)	
Subdivision/land division regulations	Chapters <a href="#">19.24</a> — <a href="#">19.27</a> EMC
Property-specific zoning and land use information	<a href="https://everettwa.gov/342/Planning">https://everettwa.gov/342/Planning</a> or <a href="https://everettwa.gov/2205/Map-Gallery">https://everettwa.gov/2205/Map-Gallery</a>
Land use applications	<a href="https://everettwa.gov/342/Planning">https://everettwa.gov/342/Planning</a>
Handouts and administrative guidelines	<a href="https://everettwa.gov/342/Planning">https://everettwa.gov/342/Planning</a>
Current land use permit status	<a href="https://everettwa.gov/169/Permit-Services">https://everettwa.gov/169/Permit-Services</a>
In-person inquiries	<a href="https://everettwa.gov/169/Permit-Services">https://everettwa.gov/169/Permit-Services</a>

(Ord. 3774-20 § 5(A) (Exh. 3), 2020.)

### **19.01.040 The development process.**

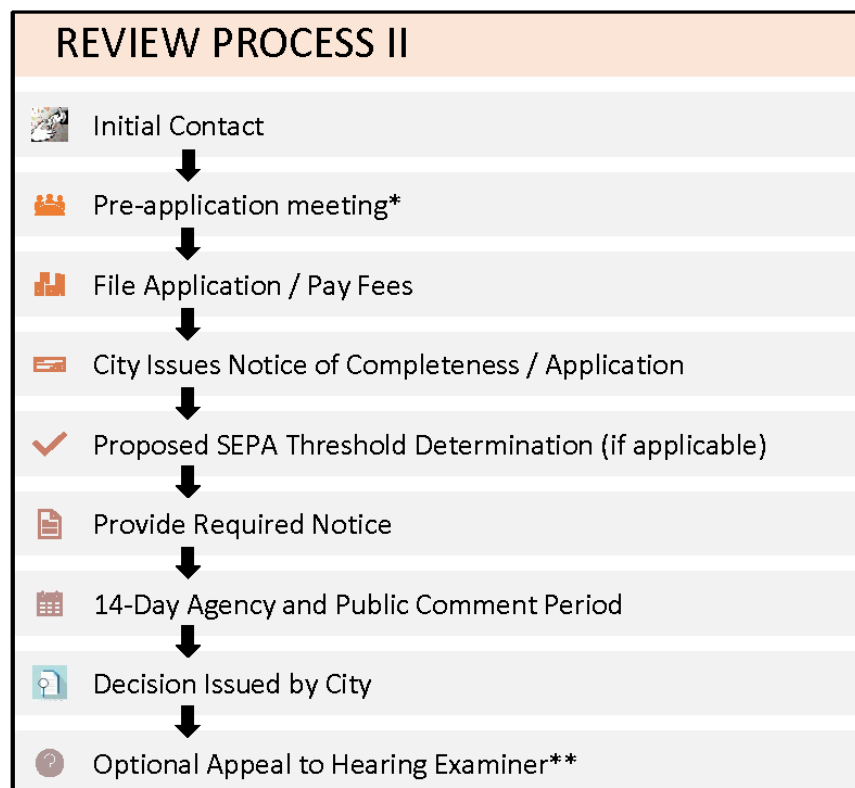
A. *General.* The development process involves review of a project for compliance with all applicable codes and standards before any construction activity may occur on a site. Most



projects are minor in nature and do not require a land use permit. These projects must obtain construction permits, which are reviewed by the planning department for compliance with the standards in this title.

B. *Land Use Permits.* A land use application may be required for larger projects, for projects involving a modification of development standards or for projects involving special uses or activities. A land use application generally must be completed prior to submittal of an application for construction permits. Land use permits typically fall under Review Process I, II or III. Refer to EMC Title [15](#) to determine the review process for the different types of land use applications. In addition, some larger projects may require a review under SEPA as set forth in Chapter [19.43](#) EMC. Figure 1-2 below illustrates how a land use permit is processed using Review Process II.

**Figure 1-2: Typical Review Process II Flowchart**



\* The preapplication meeting may be waived by the planning director.

\*\* Any appeals of the hearing examiner decision are to superior court.

(Ord. 3774-20 § 5(A) (Exh. 3), 2020.)



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**The Everett Municipal Code is current through Ordinance 4031-24, passed May 22, 2024.**

Disclaimer: The City Clerk's Office has the official version of the Everett Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

[City Website: www.everettwa.gov](http://www.everettwa.gov)

[Hosted by General Code.](#)



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## Chapter 19.02

### LEGAL EFFECT AND APPLICABILITY

Sections:

<b>19.02.010</b>	<b>Time of effect.</b>
<b>19.02.020</b>	<b>Applicability.</b>
<b>19.02.030</b>	<b>Benefits.</b>
<b>19.02.040</b>	<b>Limitations.</b>
<b>19.02.050</b>	<b>Relationship to other regulations and requirements.</b>
<b>19.02.060</b>	<b>Land use.</b>
<b>19.02.070</b>	<b>Design review.</b>
<b>19.02.100</b>	<b>Repeal of contract rezones.</b>

#### **19.02.010 Time of effect.**

This title, including amendments, applies to every development, use, action or activity commenced or engaged in after the effective date of this title, or amendment, unless expressly provided otherwise. (Ord. 3774-20 § 5(B) (Exh. 3), 2020.)

#### **19.02.020 Applicability.**

This title shall apply to all land and waters within the corporate boundaries of the city, except as otherwise provided by law. (Ord. 3774-20 § 5(B) (Exh. 3), 2020.)

#### **19.02.030 Benefits.**

This title shall be enforced for the benefit of 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 provisions of this title. (Ord. 3774-20 § 5(B) (Exh. 3), 2020.)



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**19.02.040 Limitations.**

It is the intent of this title to place the obligation of complying with its requirements upon the developers, permit applicants, owners and occupiers of the land or building within its jurisdiction. No provision of, or term used in, this title is intended to impose any duty upon the city or any of its officers or employees. Nothing contained in this title is intended to be nor shall be construed to create or form the basis for any liability on the part of the city, its officers, employees or agents for any injury or damage resulting from a failure to comply with provisions of this title, or by reason of or in consequence of any permission, denial or approval authorized or issued or done in connection with the implementation or enforcement pursuant to this title or by reason of any action or inaction on the part of the city related in any manner to the implementation or enforcement of this title by the city, its officers, employees or agents. (Ord. 3774-20 § 5(B) (Exh. 3), 2020.)

**19.02.050 Relationship to other regulations and requirements.**

All uses and development authorized by this chapter shall comply with all other regulations and requirements of the Everett Municipal Code or any other local, state or federal agency that has jurisdiction by law over land uses and development authorized by this chapter. Where a conflict exists between this chapter and other regulations, the more stringent requirements shall apply. If the requirements of any section of this title conflict with any other section, the more restrictive requirement shall apply. If, in the opinion of the planning director, neither section is more restrictive, the planning director shall determine how to apply the code. (Ord. 3774-20 § 5(B) (Exh. 3), 2020.)

**19.02.060 Land use.**

A. No building, structure or property shall hereafter be used and no building or part thereof shall be built, enlarged, demolished or moved except in conformity with the provisions of this title for the zone in which it is located. When the requirements of this title, as applied to a specific property, use or building are unclear, the planning director is hereby authorized to interpret how the requirements of this title shall apply.



B. No lot, yard, off-street parking or loading area, or other open space shall hereafter be reduced below the minimum requirements of this title. No existing lot, yard, off-street parking or loading area or other open space less than the minimum required by this title shall be further reduced unless specifically authorized by an approval granted under one of the review processes described in this title.

C. *Specific vs General.* Wherever a use is both specifically listed and generally implied in the use table, the more specific regulations shall supersede the general regulations.

D. *Listed vs Unlisted Uses.* See EMC [19.05.070](#). (Ord. 3774-20 § 5(B) (Exh. 3), 2020.)

### **19.02.070 Design review.**

The planning director may engage the services of a licensed architect, or other licensed design professional when the director deems it appropriate and in the public interest, to provide recommendations in connection with the review of any project that:

- A. Is subject to any design standard or guideline established in this title; or
- B. Involves discretionary design-related decisions, such as a modification of design standards, authorized in this title. Recommendations of the architect or design professional shall be advisory only, and shall not otherwise limit the director's authority to require changes in any project design to meet the design requirements of this title or the director's discretion to approve or deny requested modifications or apply discretionary design criteria. (Ord. 3774-20 § 5(B) (Exh. 3), 2020.)

### **19.02.100 Repeal of contract rezones.**

The ordinances and resolutions in Table 2-1, which are either contract or concomitant rezones or development agreements, are hereby repealed. Ordinances to be repealed are identified as "ORD" and resolutions to be repealed are identified as "RES."

**Table 2-1: Ordinances and Resolutions to Be Repealed**



ORD_RES	NAME_APP	LOCATION	URL_LASERFICHE	APPROVAL DATE
ORD. <a href="#">429-76</a>	Madison Villas/EHA	Glenwood Avenue and Fern Road	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=916052">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=916052</a>	12/15/1976
ORD. <a href="#">452-77</a>	Schmelzer	66th Place SE and Fleming Street	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=914529">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=914529</a>	5/18/1977
ORD. <a href="#">512-78</a> RES. 3160	Evergreen Terrace	Evergreen Way and 44th Street SE	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=912690">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=912690</a> <a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=705933">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=705933</a>	4/26/1978
ORD. <a href="#">639-79</a>	Jade	3rd Avenue SE	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=908769">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=908769</a>	10/17/1979
ORD. <a href="#">688-80</a>	Soundview	Greenwood Avenue and El Charlee Street	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=908228">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=908228</a>	5/7/1980



ORD_RES	NAME_APP	LOCATION	URL_LASERFICHE	APPROVAL DATE
ORD. <a href="#">664-80</a> (Phase I)  ORD. <a href="#">767-81</a> (Phase II)	Dujardin Property	North of Everett Mall Way between East Inner City Avenue and 3rd Avenue SE	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=908447">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=908447</a>  <a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=846058">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=846058</a>	2/13/80;  3/18/1981
ORD. <a href="#">696-80</a>	Moberg, Gary	15th Street and E Marine View Drive	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=908210">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=908210</a>	6/4/1980
ORD. <a href="#">732-80</a>	Gilbertson, Merlin	South Broadway between 1st and 2nd Avenue	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=890086">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=890086</a>	9/24/1980
ORD. <a href="#">797-81</a>	Claremont Village	50th Evergreen	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=845708">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=845708</a>	8/21/81;6/23/1986



ORD_RES	NAME_APP	LOCATION	URL_LASERFICHE	APPROVAL DATE
		Way		
ORD. <a href="#">734-80</a>	Workman, W.O.	37th Street N and Grand Avenue	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=890068">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=890068</a>	10/8/1980
RES. 769-81  ORD. <a href="#">2085-95</a>  ORD. <a href="#">2728-03</a>	Glenwood Terrace	West side of Glenwood Avenue near 53rd Street SW	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=846054">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=846054</a>  <a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=671122">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=671122</a>  <a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=2648">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=2648</a>	10/22/2003
ORD. <a href="#">766-81</a>	Seattle North Development Company	South of 100th Street, west of I-5	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=846060">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=846060</a>	3/11/1981
ORD. <a href="#">784-81</a>	Myszkowski, Edward	6629 Beverly Boulevard and Madison Street	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=845734">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=845734</a>	5/20/1981



ORD_RES	NAME_APP	LOCATION	URL_LASERFICHE	APPROVAL DATE
ORD. <a href="#">951-83</a>	Sunridge	1st Drive SE	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=837736">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=837736</a>	6/13/1983
ORD. <a href="#">762-81</a>	Matthews, Harry	6417 Rainier Drive	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=846068">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=846068</a>	3/12/1981
ORD. <a href="#">872-82</a>	TriStar Development Co	Hardeson Road and 5th Avenue W	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=842388">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=842388</a>	7/2/1982
ORD. <a href="#">882-82</a>	Puget Sound Industrial Association	South of Kasch Park to 100th Street SW	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=842368">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=842368</a>	9/1/1982
ORD. <a href="#">953-83</a>	Community Transit	2300 Kasch Park Road and Airport Road	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=837730">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=837730</a>	6/22/83; 2/24/03
ORD. <a href="#">912-82</a>	Ware	19th Avenue and 100th	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=841953">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=841953</a>	12/29/1982



ORD_RES	NAME_APP	LOCATION	URL_LASERFICHE	APPROVAL DATE
		Street SE		
ORD. <a href="#">1006-84</a>	Bolser Tire	542, 5501, 5511 Fleming Street	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=834108">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=834108</a>	2/22/1984
ORD. <a href="#">1000-84</a>	Kroeze Bros	North of Beverly Boulevard and Broadway intersection	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=834120">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=834120</a>	1/25/1984
ORD. <a href="#">1052-84</a>	RAMO Office Building	East of 19th Avenue SE and north of the Church of Latter Day Saints	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=831170">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=831170</a>	7/25/1984
ORD.	Birdseye, Robert; Maltby Tank and	Lenora Street and S	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=831174">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=831174</a>	7/11/1984



ORD_RES	NAME_APP	LOCATION	URL_LASERFICHE	APPROVAL DATE
<a href="#">1049-84</a>	Barge	1st Avenue; town of Lowell		
ORD. <a href="#">1156-85</a>	Thorsen, Roy; Central Body Works	3113 Grand Avenue	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=993903">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=993903</a>	7/31/1985
ORD. <a href="#">1134-85</a>	Associated Sand and Gravel Co Inc	East of Upper Ridge Road, North of 73rd Street SW	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=993901">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=993901</a>	4/24/1985
ORD. <a href="#">1190-85</a>	Washington Oaks	1717 Rockefeller Avenue	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=829736">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=829736</a>	12/4/1985
ORD. <a href="#">1194-85</a>	Everett Marina Village; Port of Everett	Port-Marina Village	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=829703">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=829703</a>	12/12/1985
ORD. <a href="#">1224-86</a>	Solie, Lloyd	East of 88th Street SE and 92nd	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=799224">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=799224</a>	1/22/1986



ORD_RES	NAME_APP	LOCATION	URL_LASERFICHE	APPROVAL DATE
		Street SE, west of the PUD ROW		
ORD. <a href="#">1225-86</a>	Johnson, Alan	Everett Mall Way, east of PUD ROW	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=799219">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=799219</a>	1/22/1986
ORD. <a href="#">1275-86</a>	Eastmont Properties	West of Merchant Way and Meadow Way, north of 94th Street SE, south of El Capitan Way and east of I-5.	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=799107">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=799107</a>	8/6/1986
ORD. <a href="#">1276-86</a>	Prince of Peace Lutheran Church	9320 Meadow	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=799102">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=799102</a>	8/6/1986



ORD_RES	NAME_APP	LOCATION	URL_LASERFICHE	APPROVAL DATE
		Way		
ORD. <a href="#">1277-86</a>	Wibblemean-Eastmont Auto Rebuild	West of Merchant Way and Meadow Way, north of 94th Street SE, south of El Capitan Way and east of I-5	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=799100">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=799100</a>	8/6/1986
ORD. <a href="#">1343-87</a>	Brenner, Berle	125 SW Everett Mall Way	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=798071">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=798071</a>	3/25/1987
ORD. <a href="#">1513-88</a>	Johnson, Richard	100th Street SW and 1st Avenue SE; MF	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=788939">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=788939</a>	8/10/1988



ORD_RES	NAME_APP	LOCATION	URL_LASERFICHE	APPROVAL DATE
ORD. <a href="#">1535-88</a>	Byrnes-Undi	10315-10333 19th Avenue	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=986993">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=986993</a>	11/9/1988
ORD. <a href="#">1586-89</a>	Craig Investment	Casino Road W and 5th Avenue W	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=1018555">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=1018555</a>	5/10/1989
ORD. <a href="#">1589-89</a>	Madison Court	North of Madison Street, approx. 150 feet west of Beverly Boulevard	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=1018557">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=1018557</a>	5/17/1989
ORD. <a href="#">1639-89</a>	Bill Saunders Investment	19th and Chestnut Street	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=731904">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=731904</a>	10/18/1989
RES. 3930  ORD. <a href="#">2031-94</a>	Titan 112th	112th Street SW and Hollowdale	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=686409">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=686409</a>  <a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=672460">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=672460</a>	4/12/1995



ORD_RES	NAME_APP	LOCATION	URL_LASERFICHE	APPROVAL DATE
(Phase I)  ORD. <a href="#">2048-95</a> (Phase II)		Place	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=671194">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=671194</a>	
ORD. <a href="#">1566-89</a>	Meridian Asphalt Batch Plant	East Marine View Drive and 15th Street	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=1018550">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=1018550</a>	3/1/1989
RES. 3455  ORD. <a href="#">1905-92</a>	Coons, Robert and Jeannette	10207 19th Avenue SE	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=697393">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=697393</a> <a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=698154">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=698154</a>	11/25/1992
RES. 4644  RES. 4753 (amendment)	Hearthstone Apartments	North of Merrill Creek Parkway between Narbeck Creek and Merrill Creek	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=531953">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=531953</a> <a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=500301">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=500301</a>	8/12/1998



ORD_RES	NAME_APP	LOCATION	URL_LASERFICHE	APPROVAL DATE
RES. 3843  ORD. <a href="#">2016-94</a>	Lakecrest Construction	10660 7th Avenue SE	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=693826">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=693826</a> <a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=672540">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=672540</a>	7/13/1994
RES. 4315  ORD. <a href="#">2225-97</a>	Pacific Rim Development	9800 block of 2nd Avenue W	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=682549">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=682549</a> <a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=532772">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=532772</a>	6/11/1997
RES. 4548 (Intent)  ORD. <a href="#">3198-10</a>	Aurdal/Dwayne Lane	2225 116th Street SE and 23 Drive SE	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=673671">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=673671</a> <a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=333284">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=333284</a>	4/22/1998
RES. 4548	See Aurdal/Dwayne Lane	730 105th Street SW	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=673671">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=673671</a>	4/22/1998
RES. 4974 (intent)	Scrupps, William	10121 9th Avenue W	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=474980">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=474980</a>	11/15/2000
RES. 4549 (Intent)	Bumpass, Earl	10121 9th Avenue W	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=673669">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=673669</a>	1/21/1998



ORD_RES	NAME_APP	LOCATION	URL_LASERFICHE	APPROVAL DATE
RES. 5076 (intent)  ORD. <a href="#">2522-01</a>	Group 4 Property  See Builder Investment Group (2009 & 2017)	19th Avenue SW and north of Fred Meyer on 132nd Street SE	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=474711">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=474711</a>  <a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=2089">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=2089</a>	7/11/2001
RES. 5382 (rezone, PDO)  RES. 6814 (amend master plan)  RES. 7382 (amend dev ag)	North Marina/Port of Everett/Waterfront Place Central	North of North Marina Boat Channel, south of the 10th Street Boat Launch, west of West Maine View Drive and east of the Everett Harbor Line	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=456522">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=456522</a>  <a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=3775">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=3775</a>  <a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=997648">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=997648</a>	9/17/2003



ORD_RES	NAME_APP	LOCATION	URL_LASERFICHE	APPROVAL DATE
RES. 5363 (rezone & dev ag)	Singh, Balbir	West Casino Road and 5th Avenue W	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=456565">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=456565</a>	7/16/2003
ORD. <a href="#">2704-03</a>	Mitrachkaw Property	3900 Wetmore Avenue	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=2549">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=2549</a>	7/16/2003
ORD. <a href="#">2846-05</a>	Lee Rezone	Evergreen Way and 4th Avenue W	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=3797">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=3797</a>	7/20/2005
ORD. <a href="#">2956-06</a>	Clark-East	96th Place SE and East of 19th Avenue SE	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=7277">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=7277</a>	12/13/2006
RES. 4866 (intent)	Safeway Inc	West of 4100 Block of Terrace Drive	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=489124">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=489124</a>	1/26/2000



ORD_RES	NAME_APP	LOCATION	URL_LASERFICHE	APPROVAL DATE
RES. 4547  ORD. <a href="#">2273-98</a>	Clark—Fountain	2126 and 2130 116th Street SE and 19th Avenue SE	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=1519">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=1519</a>  <a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=673674">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=673674</a>	1/21/1998
ORD. <a href="#">2926-06</a>	Clark—Eastmont	19th Avenue SE between 96th Place SE and 98th Street SE	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=7117">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=7117</a>	7/26/2006
ORD. <a href="#">2786-04</a> (rezone)	Asarco Smelter Site	SR 529 and East Marine View Drive	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=3228">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=3228</a>	9/8/2004
RES. 5601	Frauenholtz Property	Pecks Drive and Cady Road	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=440120">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=440120</a>	3/23/2005
ORD. <a href="#">3033-07</a>	Anthem Self Storage LLC	1610 SE Everett Mall	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=11682">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=11682</a>	10/24/2007



ORD_RES	NAME_APP	LOCATION	URL_LASERFICHE	APPROVAL DATE
		Way		
ORD. <a href="#">3086-08</a>	Miller Property	East of Hwy 99 at 4th Avenue W	<a href="https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=283081">https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=283081</a>	8/13/2008



(Ord. 3774-20 § 5(B) (Exh. 3), 2020.)

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**The Everett Municipal Code is current through Ordinance 4031-24, passed May 22, 2024.**

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## Chapter 19.03

### ZONING DISTRICTS AND MAPS

Sections:

- 19.03.010**      **Establishment of zone districts.**
- 19.03.020**      **Establishment of overlay zones.**
- 19.03.030**      **Purpose and application of zone districts.**
- 19.03.040**      **Maps incorporated.**
- 19.03.050**      **Zoning boundary interpretation.**

#### **19.03.010      Establishment of zone districts.**

A. In order to classify, regulate, restrict and segregate the uses of land, water and buildings; to regulate and restrict the location, height and bulk of buildings and other structures; to regulate the area of yards and other open spaces around buildings; and to regulate the intensity of land use and the density of population; the following zones, or zoning districts, are established:

Abbreviation	Name
AG	Agriculture
R-S	Suburban Residential
R-1	Single-Family Detached Low Density
R-2	Single-Family Detached Medium Density
R-2(A)	Single-Family Attached Medium Density Residential



Abbreviation	Name
UR3	Urban Residential 3
UR4	Urban Residential 4
NB	Neighborhood Business
B	Business
MU	Mixed Urban
LI1	Light Industrial 1
LI2	Light Industrial 2
HI	Heavy Industrial
P-OS	Park and Open Space
WRM	Watershed Resource Management

B. *Unzoned Areas.* If areas are not within a zoning district, they shall be: (1) reviewed under the Everett shoreline master program, if applicable; or (2) as an unlisted use in the adjacent zone, subject to the process set forth in EMC [19.05.070](#). (Ord. 3774-20 § 5(C) (Exh. 3), 2020.)

### **19.03.020 Establishment of overlay zones.**

In certain instances, special circumstances warrant the application of special regulations or administrative processes to specific areas. In order to apply these special regulations or administrative processes, the following overlay zones are established:



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Abbreviation	Name
H	Historic
I	Institutional
PD	Planned Development
APN	Airport/Port/Navy Compatibility

(Ord. 3774-20 § 5(C) (Exh. 3), 2020.)

### **19.03.030 Purpose and application of zone districts.**

A. *Agriculture Zone (AG)*. The purpose of the agricultural use zone is to provide and protect areas for certain agricultural uses on lands which are not appropriate for residential, commercial or industrial development at urban intensities.

B. *Residential Zones.*

1. *Suburban Residential Zone (R-S)*. The purpose of the suburban residential zone is to provide for and protect certain areas of the city for single-family detached residential uses where topography or other environmental constraints require larger minimum lot sizes. The secondary purpose of the R-S zone is to provide an interim “holding zone” in annexed areas for which other zoning is not established at the time of annexation.

2. *Single-Family Detached Low Density Residential Zone (R-1)*. The purpose of the single-family detached low density residential zone is to provide for and protect certain areas of the city for detached single-family residential uses.

3. *Single-Family Medium Density Residential Zone (R-2)*. The purpose of the single-family medium density residential zone is to provide for and protect areas of the city for single-family detached and a limited amount of duplex residential use.



4. *Single-Family Attached Medium Density Zone (R-2(A))*. The purpose of the single-family attached medium density zone is to provide for a variety of single-family living opportunities at densities which are compatible with adjoining single-family detached neighborhoods and which can be used as a transition between single-family neighborhoods and land uses of higher intensity.
5. *Urban Residential 3 (UR3)*. The primary purpose of the urban residential 3 zone is to provide for multiple-family residential use at medium densities. In this zone, commercial uses are generally prohibited.
6. *Urban Residential 4 (UR4)*. The primary purpose of the urban residential 4 zone is to provide for multiple-family residential use at high densities. Additional neighborhood-oriented commercial uses may be allowed within certain locations when developed in a mixed-use context.

C. *Business and Commercial Zones.*

1. *Neighborhood Business (NB)*. The purpose of the neighborhood business zone is to:
  - a. Provide for the limited scale retail, personal service and convenience consumer needs of the immediately adjacent residential neighborhoods, rather than the larger community;
  - b. Establish building and development standards which assure that uses, buildings and structures are appropriately sited, scaled and designed so as to be compatible with surrounding residential neighborhoods; and
  - c. Ensure that businesses can be accessed by nonmotorized means of transportation.
2. *Business (B)*. The purpose of the business zone is to provide a wide variety of business and commercial uses; to allow higher density residential uses; to provide effective building and streetscape standards intended to promote quality development and pedestrian accessibility.
3. *Mixed Urban (MU)*. The purpose and function of the mixed urban zone are:
  - a. To reinforce and enhance the downtown city core that provides local and regional service, retail, entertainment, civic and public uses, as well as a variety of urban housing choices;



- b. To provide for intensive, mixed use development in areas around high capacity transit stops, including bus rapid transit and future light rail stations; and
- c. To promote high quality, pedestrian friendly developments with attractive streetscapes and public amenities.

D. *Industrial Zones.*

1. *Zone Light Industrial 1 (LI1).* The purpose of the light industrial 1 (LI1) zone is to accommodate a diverse range of uses, including light industrial and manufacturing, with additional opportunities for residential use.
2. *Zone Light Industrial 2 (LI2).* The purpose of the light industrial (LI2) zone is to:
  - a. Provide for and protect areas for high quality campus style office and industrial park development on large parcels of land;
  - b. Establish standards which promote a high level of aesthetic amenities such as view, open space, native vegetation, landscaping, unusual natural site features and quality architectural design;
  - c. Protect and buffer adjacent residential uses from the incompatible aspects of office and industrial park development;
  - d. Allow for only those uses which are able to comply with the development requirements and performance criteria which assure compatibility with surrounding uses; and
  - e. To provide areas for development of high-quality single or multiple tenant business parks which offer opportunities for a wide variety of nonretail business to locate in small to medium office and warehouse spaces.
3. *Heavy Industrial (HI).* The purpose of the heavy manufacturing zone is to provide for and protect certain areas of the city for heavy manufacturing uses. This zone is also intended to:
  - a. Provide and protect areas of the city for marine-related commerce, while striking a balance with the need for limited commercial uses;
  - b. Preserve Everett's "working waterfront" character; and



- c. Further the goals of the Everett comprehensive plan and shoreline master program relating to public access to and enjoyment of the shoreline.

E. *Park and Open Space Zone (P-OS)*. The purpose of the park and open space zone is to provide a zoning classification for recreational and open space uses and other compatible public uses on current and future city-owned land, or for public properties characterized by environmental sensitivity and value to be preserved, for the most part, in their undisturbed state, and to provide and protect open space and other natural assets of the community.

F. *Watershed Resource Management (WRM)*. The purpose of the watershed resource management zone is to provide a land use classification which allows for the continuation of existing uses and anticipated future uses for land in the city-owned Chaplain Tract within the corporate limits of Everett. These are lands that are not intended for urban development and are located outside the urban growth boundary. These properties are intended to be used only for municipal service purposes that do not conflict with the maintenance of a safe and adequate water supply for the Everett water system, and which are in accordance with applicable license requirements.

G. *Overlay Zones*.

1. *Historic Overlay Zone (H)*. The purpose of the historic overlay zone is to:
  - a. Establish a regulatory mechanism for the designation and protection of historic sites, buildings, districts and landmarks;
  - b. Provide for methods of modifying the development standards of the underlying zone in the interest of preserving or enhancing the historic features or significance of a particular site; and
  - c. Recognize the depth of historical resources in Everett and their significance to the heritage of the community.
2. *Institutional Overlay Zone (I)*. The purpose of the institutional overlay zone is to allow for various institutional land uses with special needs and impacts to be located in the Everett community in a manner which is compatible with surrounding land uses through a master plan review process which requires public involvement and provides predictability to the institution and the public.



3. *Planned Development Overlay Zone (PD)*. The purpose of the planned development (PD) overlay zone is to allow for commercial, industrial and mixed-use developments which are of a unique character and desirable quality, and which are beneficial to the area in which the property is located and to the community in general. The planned development overlay zone may only be applied to commercial or industrial zones. It is the intent of this chapter to provide a public review process through which a planned development may be proposed with alternative standards to those contained in this title, and that the primary basis for city approval of alternative development standards is that the proposal will result in a development which, as a whole, provides public benefits and high quality development that otherwise cannot be realized through conformance to the requirements of this title.

4. *Airport/Port/Navy Compatibility Overlay Zone (APN)*. The purpose of the APN compatibility zone is to protect Paine Field Airport, Port of Everett, and Naval Station Everett from nearby incompatible land uses and development by implementing special development standards and project permit notice procedures. (Ord. 3774-20 § 5(C) (Exh. 3), 2020.)

### **19.03.040 Maps incorporated.**

The map or set of maps entitled “city of Everett zoning map” is adopted as part of this title.

Printed copies of all maps are available at the planning department. The online versions may be found at the official city website.

A. *Zoning*. See Map 3-1 below. The official zoning map of the city is on file with the office of the city clerk.

B. *Critical Areas*. These maps support the critical area regulations in Chapter [19.37](#) EMC.

C. *Street Designations*. See Chapter [19.33](#) EMC.

D. *Gateway Corridor Streets*. See Chapter [19.12](#) EMC.

E. *Drive-Through Facility Permitted Locations*. See Chapter [19.13](#) EMC.

F. *Overlay Zones*.

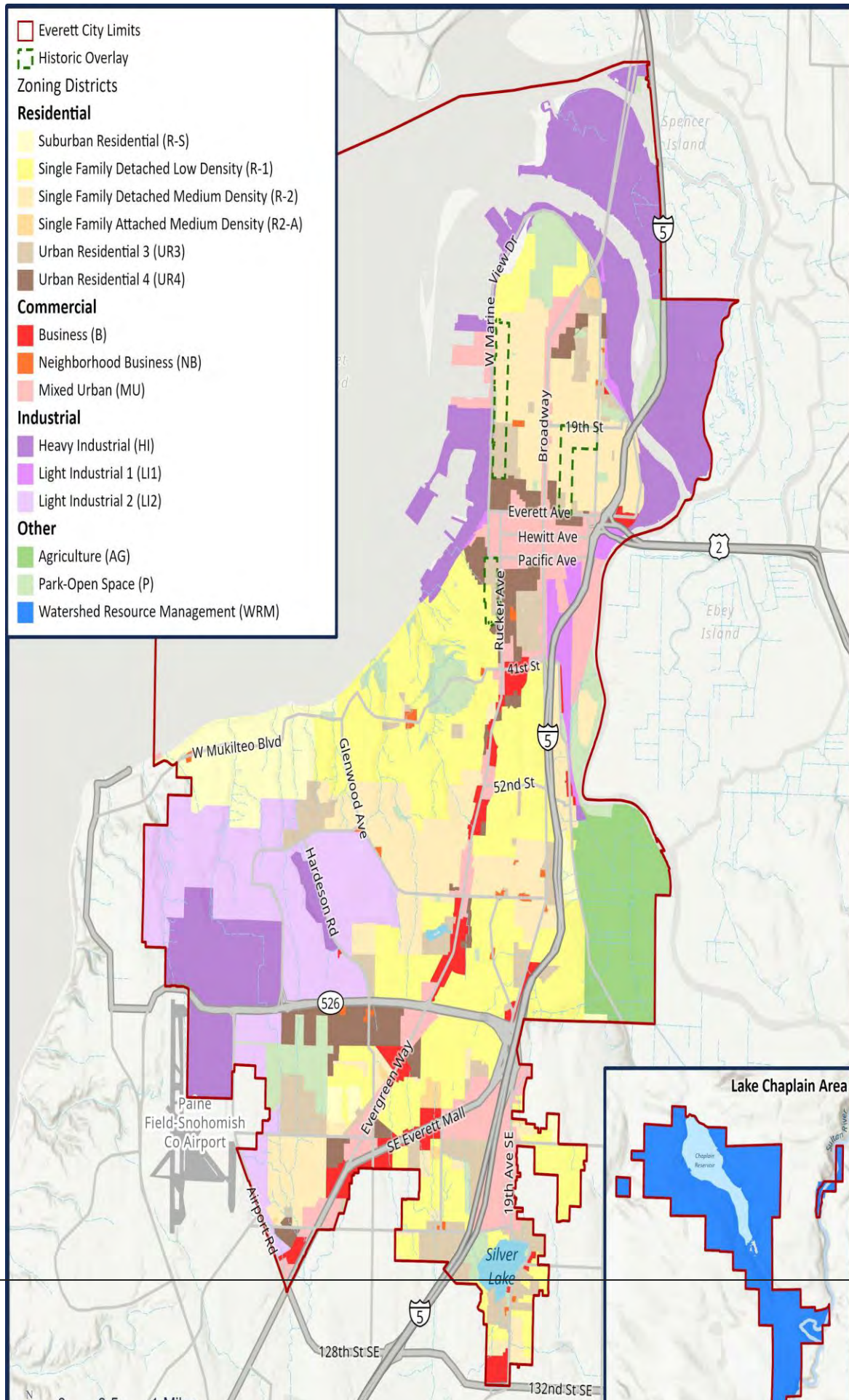
1. *Airport Compatibility*. See Chapter [19.17](#) EMC.



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- 2. *Port/Navy Compatibility*. See Chapter [19.17](#) EMC.
  - 3. *Historic Resources*. See Chapter [19.28](#) EMC.
  - G. *Building Heights*. See Chapter [19.22](#) EMC.
  - H. *Building Heights—Industrial Waterfront*. See Chapter [19.22](#) EMC.
  - I. *Adult Retail/Mini-Casinos*. See Chapter [19.13](#) EMC.
  - J. *Off-Street Parking Areas in Metro Everett*. See Chapter [19.34](#) EMC.
  - K. *Special Building Setbacks for West Marine View Dr.—23rd St./24th St.* See Chapter [19.06](#) EMC.
  - L. *Shoreline Designations*. See shoreline master program.

### **Map 3-1: Zoning**







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(Ord. 3774-20 § 5(C) (Exh. 3), 2020.)

### **19.03.050 Zoning boundary interpretation.**

Where uncertainty exists as to the precise location of zoning district boundaries, as shown on the zoning map, the following rules shall apply:

- A. *Following Property Lines.* Where a zoning boundary is indicated as approximately following a property line, the property line is the zone boundary.
- B. *Following Streets or Alleys.* Where a zone boundary is indicated as following a street or alley, the centerline of the street or alley is the zone boundary. Where this title provides for a minimum separation between a specified use or activity and a particular zone, the measurement shall be taken between the specified use or activity and the nearest lot within the zone, and not between the specified use or activity and the zone boundary within a public right-of-way.
- C. *Tidelands, Tidal Flats, Rivers, Lakes and Port Gardner Bay.* Where a zone boundary abuts a body of water, except as otherwise indicated in the urban deep water port, maritime, and municipal watershed shoreline environment designations as established in the shoreline master program, the zone boundary is the ordinary high water mark.
- D. *Other Cases.* Where a zone boundary is not indicated to follow a property line or public right-of-way, the boundary line is as drawn, based upon the scale shown on the zoning map.
- E. *Classification of Vacated Rights-of-Way.* Where a right-of-way is vacated, the area comprising the vacated right-of-way shall acquire the classification of the property to which it reverts unless otherwise provided by city council action. (Ord. 3774-20 § 5(C) (Exh. 3), 2020.)

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## Chapter 19.04

### DEFINITIONS

#### Sections:

<b>19.04.010</b>	<b>Overview.</b>
<b>19.04.020</b>	<b>General definitions.</b>
<b>19.04.030</b>	<b>Lot, building, and structure definitions.</b>
<b>19.04.040</b>	<b>Measurement definitions.</b>
<b>19.04.050</b>	<b>Use definitions, residential.</b>
<b>19.04.060</b>	<b>Use definitions, commercial.</b>
<b>19.04.070</b>	<b>Use definitions, industrial.</b>
<b>19.04.080</b>	<b>Use definitions, public, institutional, quasi-public.</b>
<b>19.04.090</b>	<b>Use definitions, miscellaneous.</b>
<b>19.04.100</b>	<b>Use definitions, other.</b>
<b>19.04.110</b>	<b>Critical areas definitions.</b>
<b>19.04.120</b>	<b>Sign definitions.</b>
<b>19.04.130</b>	<b>Historic resource definitions.</b>

#### **19.04.010 Overview.**

Except where specifically defined in this chapter or other sections of this title, all words used in this title shall have the meaning commonly or logically associated therewith. When not inconsistent with the context, words used in the present tense include the future, words in the singular include the plural, and words in the plural include the singular. The word “person” may be taken for persons, association, firm, partnership or corporation as well as the individual. The masculine includes the feminine. The word “occupied” includes premises designed or intended to be occupied; the word “used” includes designed or intended to be used. The word “shall” is always mandatory; the word “may” denotes a use of discretion in making a decision. (Ord. 3774-20 § 5(D) (Exh. 3), 2020.)



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**19.04.020 General definitions.**

“Accessory building” means a building which is subordinate and incidental to the permitted principal building, located on the same lot with such principal building, and erected or established only after or in conjunction with the establishment of the principal building. An accessory building includes, but is not limited to, garages, carports, storage buildings, and other similar buildings. An accessory building does not include accessory dwelling units.

“Accessory use, activity or structure” means a use, activity, structure or part of a structure which is customarily subordinate and incidental to the permitted principal use or building, located on the same lot with such principal use or building, and erected or established only after or in conjunction with the establishment of the principal use or building. A caretaker’s or watchman’s quarters are considered to be an accessory use in industrial zoning districts.

“Airport approach area” is the area of land under an imaginary approach surface of an airport as described in [14 CFR Part 77.19\(d\)](#).

“Airport compatibility area” or “ACA” means an area adjacent to a public use airport where land uses that are incompatible with airport operations are discouraged. The airport compatibility area is the area within a specified distance of each runway, to be measured as a distance extending outward from the portion of the runway centerline between runway thresholds.

“Airport hazard” means any structure or tree or use of land which obstructs the air space required for the flight of aircraft in landing or taking off at an airport or is otherwise hazardous to such landing or taking off of aircraft.

“Airport influence area” or “AIA” means an area within a specified distance of a public use airport that may experience impacts from airport operations. The airport influence area is the area within a specified distance of each runway, to be measured as a distance extending outward from the portion of the runway centerline between runway thresholds.

“Airport runway protection zone” means a trapezoidal area at ground level off the end of an airport runway, the dimensions of which are defined by the Federal Aviation Administration to enhance the safety and protection of people and property on the ground.

“Airport transitional area” is the area of land under an imaginary transitional surface of an airport as described in [14 CFR Part 77.19\(e\)](#).



“Alley” means a public or private way permanently reserved as a means of access to abutting property.

“Antique” means a product that is sold or exchanged because of the value derived by the age of the product being greater than fifty years.

“Applicant” means a person who applies for any permit or approval to do anything governed by this chapter and who has legal standing to apply for a permit or approval on the specific property.

“Architectural barrier” means a fence, berm, wall or combination of earth, plant and structural materials designed and constructed to reduce visual or noise impacts between properties or uses.

“Assurance device” means a financial mechanism by which the city assures compliance with the requirements of this chapter or other development or use entitlement.

“Brownfield” is real property, the expansion, redevelopment or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.

“Building official” means the building official for the city or his/her designee.

“Business license” means a license issued by the city for the purpose of collecting business tax revenues.

“Cease(d)” means, for purposes of Chapter [19.38](#) EMC, to come to an end; to not use; to vacate. For purposes of Chapter [19.38](#) EMC, no showing of intent to cease is required.

“Certificate of occupancy” means a permit to occupy a building.

“City attorney” means the city attorney for the city or his/her designee.

“City council” means the city council of the city.

“City engineer” means the public works director for the city or his/her designee.

“Clearing” means the act of removing or destroying vegetation or other organic plant materials by physical, mechanical, or chemical means.

“Code compliance officer” means the code compliance officer for the city.



“Comprehensive plan” means the city of Everett comprehensive plan, including any subarea plans, adopted pursuant to Chapter [36.70A](#) RCW.

“Conditional use” means a use which, because of its unusual size, infrequent occurrence, special requirements, possible safety hazards, or other possible detrimental effects on surrounding properties, may be approved only after a public hearing.

“Day, working” means any day on which the city administrative offices are open for normal business.

“Development” means all structures, uses or other alterations or modifications of the natural landscape occurring above or below ground or water on a particular lot. Within the riparian habitat zone or the special flood hazard area, the definition of “development” shall also include removal of substantial native vegetation, or alteration of natural site characteristics.

“Development permit” means any permit issued by the city to use or develop property that must be issued before initiating the use or development.

“Disabled person” means a person who is defined as handicapped under the provisions of the federal Fair Housing Act Amendments of 1988.

“Drainage facility” means the system of collecting, conveying and storing surface and stormwater runoff. Drainage facilities shall include but not be limited to all surface and stormwater runoff conveyance and containment facilities, including streams, pipelines, channels, ditches, wetlands, infiltration facilities, retention/detention facilities, erosion/sedimentation control facilities, and other drainage structures and appurtenances, both natural and manmade.

“Drive-in window or station” means a window or station used for providing service to customers who remain seated in their vehicles to conduct a business transaction, such as are commonly found at restaurants, financial institutions, or other similar businesses.

“Drive-through, drive-up or drive-in service” means a type of service provided by a business that allows customers to purchase products, food, beverages or services without leaving their cars.

“Electric vehicle” means any vehicle that operates, either partially or exclusively, on electrical energy from the grid, or an off-board source, that is stored on board for motive purpose.



“Electric vehicle” includes: (1) a battery electric vehicle; (2) a plug-in hybrid electric vehicle; (3) a neighborhood electric vehicle; and (4) a medium-speed electric vehicle.

“Electric vehicle charging station” means a public or private parking space that is served by battery charging station equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery or other energy storage device in an electric vehicle.

“Electric vehicle charging station—restricted” means an electric vehicle charging station that is (1) privately owned and restricted access (e.g., single-family home, executive parking, designated employee parking) or (2) publicly owned and restricted (e.g., fleet parking with no access to the general public).

“Erosion” means the process whereby the landform is worn away by the action of water, wind, rain, or ice activity.

“Geologist” means a person who is licensed in the state of Washington under the provisions of Chapter [18.220](#) RCW and Chapter [308-15](#) WAC, and who has at least one year of practical experience in the Pacific Northwest.

“Grading” means any excavating, filling, or clearing of land or any combination thereof.

“Hearing examiner” means the land use hearing examiner for the city.

“Historical commission” means the historical commission for the city.

“Homeless” means a person who lacks a fixed, regular, and adequate nighttime residence, and who has a primary nighttime residence that is:

1. A supervised publicly or privately operated shelter designed to provide temporary living accommodations; or
2. An institution that provides a temporary residence for mentally ill individuals intended to be institutionalized; or
3. A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.



“Landscaping” means the planting, removal and maintenance of vegetation along with the movement and displacement of earth, topsoil, rock, bark and similar substances done in conjunction with the planting, removal and maintenance of vegetation.

“Low impact development (LID)” means a stormwater management strategy that emphasizes conservation and the use of existing natural site features integrated with distributed, small-scale stormwater controls to more closely mimic natural hydrologic patterns in developed settings.

“Metro Everett” means the regionally designated growth center for Snohomish County identified in Chapter [19.02](#) of the Everett comprehensive plan.

“Minor exterior alteration” means development that alters the exterior envelope to a building whose value over a three-year period does not exceed fifty percent of the building’s valuation based on the city of Everett’s valuation methods.

“Municipal Code” means the various laws of the city contained within the Everett Municipal Code.

“Native vegetation” means vegetation on a site or plant species which are indigenous to the area in question; or if the site has been cleared, species of a size and type that were on the site on the effective date of this title or reasonably could have been expected to have been found on the site at the time it was cleared.

“Natural topography” means the elevation of a parcel of land prior to any human modification of the topography.

“Nonconforming building” means a legally established structure or building, the size, dimensions, or setbacks of which met the applicable Unified Development Code requirements in effect at the time the building was constructed, but which fails by reason of adoption, revision or amendment of the Unified Development Code to conform to the present requirements of the zone in which it is located.

“Nonconforming landscaping” means on-site landscaping, the dimensions, area or location of which met the applicable Unified Development Code requirements in effect at the time the use or building was established, but which fails by reason of adoption, revision or amendment of the Unified Development Code to conform to the present requirements of the zone in which it is located.



“Nonconforming lot” means a legally established lot, the area, dimensions or location of which met the applicable Unified Development Code requirements in effect at the time the lot was created, but which fails by reason of such adoption, revision or amendment of the Unified Development Code to conform to the present requirements of the zone in which it is located.

“Nonconforming parking” means legally established off-street parking for a particular use, the quantity, design, location or construction of which met the applicable Unified Development Code requirements in effect at the time the use was established, but which fails by reason of adoption, revision or amendment of the Unified Development Code to conform to the present requirements of the zone in which it is located.

“Nonconforming use” means a legally established use which met the applicable Unified Development Code requirements at the time it was established but which fails by reason of adoption, revision or amendment of the Unified Development Code to conform to the present requirements of the zone in which it is located.

“Off-street parking area” means an area designed and/or used for parking vehicles which is not located in a street or alley right-of-way.

“Outdoor storage of bulk materials” means the holding or stockpiling on land of material and/or products in a bulk form or in bulk containers, including but not limited to aggregate, topsoil, powder, grain, stone, bricks, wood chips, metal, building materials, parts, pallets, utility piping, used materials, and metal. Bulk materials may include products for sale, materials used in manufacturing activities, inoperable equipment or vehicles, and recycled materials.

“Owner” means the holder of fee title, a mortgagee, or contract purchaser.

“Park” means any property designated, dedicated, or developed by or on behalf of a government entity for park or open space use, including passive and active forms of recreation.

“Parking space” means a portion of an off-street parking area, meeting the city’s design and construction standards, having access to a public street or alley.

“Planning commission” means the planning commission for the city.

“Planning department” means the planning department for the city.

“Planning director” means the planning director for the city or his/her authorized representative.



“Practicable” means possible or capable of being done.

“Principal building” means the primary or predominant building on a lot.

“Principal use” means the primary or predominant use of any lot or building.

“Public agency” means any agency, political subdivision, or unit of local government of this state including but not limited to municipal corporations, special purpose districts, and local service districts; any agency of the state, the United States, or any Indian tribe recognized as such by the federal government.

“Public works director” means the public works department director for the city or his/her authorized representative.

“Reasonable alternative” means an alternative that is available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes, and having less impacts to regulated critical areas. It may include an area not owned by the applicant which could reasonably have been or be obtained, utilized, expanded, or managed in order to fulfill the basic purpose of the proposed activity.

“Recreational vehicle” means a vehicle which is (1) built on a single chassis; (2) four hundred square feet or less when measured at the largest horizontal projection; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

“Redevelopment” means the process to rebuild, restore or develop an area or property that has previously been developed for a specific use or purpose.

“Repair or maintenance” means an activity that restores the character, scope, size, and design of a serviceable area, structure, or land use to its previously authorized undamaged condition. Activities that change the character, size, or scope of a project beyond the original design and alter a regulated critical area are not included in this definition.

“Retention/detention facility” means a type of drainage facility designed either to hold water for a considerable length of time and then release it by evaporation, plant transpiration, and/or infiltration into the ground; or to hold runoff for a short period of time and then release it to the surface and stormwater management system.



“Review authority” means the individual or the board, council or commission with authority to review, make recommendations concerning, or approve development permits.

“Review process” means the procedure listed in EMC Title [15](#), Local Project Review Procedures, by which a specific use shall be evaluated before a determination is made concerning the issuance of an approval, a license or permit.

“Right-of-way” means the actual property which is publicly dedicated or reserved for street and alley access and for other public purposes such as public utilities, bicycle paths, and pedestrian walkways.

“Sensitive land uses” means those land uses which are particularly sensitive to the secondary effects of adult use businesses. Sensitive land uses include the following:

1. Single-family and multiple-family residential zones;
2. Churches, or other religious facilities or institutions;
3. Public and private schools, training facilities and technical schools which have twenty-five percent or more of their students under the age of eighteen;
4. Public parks and playgrounds;
5. Community development block grant designated neighborhoods.

“SEPA” means the current edition of the State Environmental Policy Act and the city ordinance implementing the state Act.

“Street” means a public or private thoroughfare which provides the principal means of access to abutting properties.

“Traffic engineer” means the traffic engineer for the city.

“Transfer of development rights” means, in general, the process for transferring development rights from a sending site to a receiving site.

“Use” means the activity or function carried out on an area of land, or in a building located thereon.

“Vacate” means to move out; to make vacant or empty; to leave.



“Water-dependent” has the same meaning as set forth in Chapter [19.08](#) of the Everett shoreline master program.

“Water-dependent use” has the same meaning as set forth in Chapter [19.08](#) of the Everett shoreline master program.

“Water-related uses” has the same meaning as set forth in Chapter [19.08](#) of the Everett shoreline master program.

“Zone” means a specifically delineated area within the city, which is indicated on the zoning map, within which regulations and requirements uniformly govern the use, location and size of buildings and land.

“Zoning map” means the map adopted by the city showing the geographic location of zones within the municipal boundaries. (Ord. 3963-23 § 1, 2023; Ord. 3896-22 § 1, 2022; Ord. 3774-20 § 5(D) (Exh. 3), 2020.)

### **19.04.030 Lot, building, and structure definitions.**

“Antenna” means any exterior apparatus or apparatuses designed for telephonic, radio, data, internet, or other communications through the sending and/or receiving of electromagnetic waves or radio frequency signals, including without limitation equipment attached to a tower or building for the purpose of providing personal wireless services.

“Awning—canopy” means a fixed-roofed structure, with open sides, which provides shade or protection and is in whole or in part self-supporting.

“Binding site plan” means a drawing to a scale specified by local ordinance which: (1) identifies and shows the areas and locations of all streets, roads, improvements, utilities, open spaces, and any other matters specified by local regulations; (2) contains inscriptions or attachments setting forth such appropriate limitations and conditions for the use of the land as are established by the local government body having authority to approve the site plan; and (3) contains provisions making any development be in conformity with the site plan.

“Blank wall” means exterior ground floor walls of buildings visible from a street or publicly accessible open space that are over four feet in height with a horizontal length greater than fifteen feet, and do not include a window, door, building modulation or other architectural



detailing. Building walls adjacent to an alley and exterior fire walls built along interior property lines are not considered blank walls.

“Building” means any structure built for the support, shelter or enclosure of persons, animals, vehicles, mechanical devices or property of any kind. When separated by common walls located on property lines, each portion of such structure shall be deemed a separate building. A building is constructed to include exterior walls of the structure, usually solid from the ground to the roof line except for window and door openings.

“Building appurtenance” means chimneys, steeples, television and radio antennas, ham radio antennas, television dish antennas, flagpoles, and vent pipes in any zone, and mechanical systems in zones other than single-family zones, and other similar features, excluding signs, which are customarily located on or above the roof of a building.

“Carport” means a covered shelter for an automobile, open on two or more sides.

“Courtyard” means any portion of the interior of a lot which is fully or partially enclosed by the walls of a building or buildings on the same development site, which is not within a required setback area and is unobstructed from the ground upward.

“Dish antenna” means a parabolic-shaped antenna which is designed to receive television broadcasts or other electronic communication signals. The antenna is considered as an accessory structure unless it is attached to the principal building, in which case it is considered a building appurtenance.

“Driveway” means an area of property designed to provide access between a street and a building or parking area.

“Duplex” contains two dwelling units (see Chapter [19.05](#) EMC, “Dwelling, 2-unit”), but unlike a townhouse, a duplex could be two units on separate floors (upper unit and lower unit) or two units joined at the side.

“Dwelling” means one or more habitable rooms designed to be occupied by one or more persons with shared facilities for living, sleeping, cooking, eating, and sanitation which meet the minimum requirements of EMC Title [16](#), Building and Construction, and in which all habitable rooms are internally accessible from within the dwelling.



“Facade” means the entire building exterior wall face, including grade to the top of the parapet or eaves, and the entire width of the building elevation. For buildings with more than one occupant, the facade for each occupant shall be that portion of the exterior wall face between the points where interior walls between tenants intersect with the exterior wall.

“Fence” means a manmade barrier erected to enclose, screen or separate areas of land.

“Frontage” means the area between (and/or on) a building facade and the public right-of-way or the pavement of a public sidewalk.

“Garage” means an accessory building constructed of at least three walls, designed or used for the shelter or storage of vehicles owned or operated by the occupants of the principal building.

“Garage, private attached” means a portion of the principal building which is attached by a common wall or substantial roof structure to the principal dwelling designed or used for the storage or shelter of vehicles owned or operated by the occupants of the principal building.

“Green roof” means an engineered roofing system that allows for the propagation of rooftop vegetation while maintaining the integrity of the underlying roof structure and membrane.

“Lot” means an area of land established by plat, subdivision or as otherwise permitted by law to be used, developed or built upon in accordance with the provisions of the Unified Development Code.

“Lot, corner” means a lot located at the junction of and fronting on two or more intersecting streets.

“Lot, interior” means any lot which is not a corner lot.

“Lot line” means a line of record that divides one lot from another lot or from a public or private street or alley.

“Lot line, front” means the lot line dividing a lot from the street. On a corner lot, only the shorter lot frontage shall be considered as the front lot line. On a panhandle lot, the front lot line and setbacks shall be determined during the subdivision approval process, or, if not determined during subdivision review, shall be determined by the planning director.



“Lot line, rear” means the lot line opposite and most distant from the front lot line. In the case of triangular or other irregularly shaped lots, an imaginary line ten feet in length located entirely within the lot, parallel to and at a maximum distance from the front lot line.

“Lot line, side” means any lot line which is not a front or rear lot line.

“Lot, panhandle” means a lot with access provided to the bulk of the lot by means of a narrow strip of land which does not meet the full frontage or width requirements of this title.

“Lot, substandard” means a lot that does not meet minimum lot area and/or dimensional (lot width, lot depth and/or lot frontage) requirements of this title.

“Manufactured home,” “mobile home,” “mobile home park subdivision,” “manufactured housing subdivision,” “mobile home park,” “manufactured housing community” or

“manufactured/mobile home community” has the same meaning as set forth in RCW [59.20.030](#).

“Designated manufactured home” or “new manufactured home” has the same meaning as set forth in RCW [35.63.160](#).

“Marquee” means a permanent roof-like structure or canopy of rigid material supported by and extending from the facade of a building.

“Open space” means land area not covered by buildings, roads, driveway and parking areas, or outdoor storage areas, including, but not limited to, landscape areas, gardens, woodlands, walkways, courtyards or lawns, and outdoor recreation areas. Except as otherwise provided by this title, open space includes setback areas that meet the requirements defined in this title.

“Open space, common” means private open space provided within a development which is provided for, and which is permanently accessible to, all residents/tenants of the development.

“Open space, private” means a small parcel of land or outside area (deck, lanai, patio) immediately adjacent to an individual dwelling unit maintained by and for its residents and reserved exclusively for their use.

“Open space, public” means an area that is visible and accessible to the public, but may be designed for the use and enjoyment of the development.

“Plat” is a map or representation of a subdivision, showing thereon the division of a tract or parcel of land into lots, blocks, streets and alleys, or other divisions and dedications.



“Plat, final” is the final drawing of the subdivision and dedication prepared for filing for record with the county auditor and containing all elements and requirements set forth in this chapter and in local regulations adopted under this chapter.

“Plat, preliminary” is a neat and approximate drawing of a proposed subdivision showing the general layout of streets and alleys, lots, blocks, and other elements of a subdivision consistent with the requirements of this chapter. The preliminary plat shall be the basis for the approval or disapproval of the general layout of a subdivision.

“Porch” means a roofed shelter, usually open at the sides, projecting from the face of a building and used to protect the entrance to a building; a carport is not considered a porch.

“Short plat” is the map or representation of a short subdivision.

“Short subdivision” means the division or redivision of land into nine or fewer lots, tracts, parcels, sites or divisions for the purpose of sale, lease, or transfer of ownership.

“Stoop” means a small stair, landing or ramp connecting a building entrance to a walkway or sidewalk.

“Street-facing dwelling unit facade” means a ground or first floor of a dwelling unit facade facing, and within thirty feet of, a front or side-street lot line on a public street.

“Structure” means a combination of materials constructed or erected on or under the ground, or attached to something having a permanent location on or under the ground.

“Structured parking” means a structure in which vehicle parking is accommodated on multiple stories or floors.

“Subdivision” means the division or redivision of land into ten or more lots, tracts, parcels, sites or divisions for the purpose of sale, lease, or transfer of ownership.

“Swale” means a shallow drainage conveyance with relatively gentle side slopes, generally with flow depths less than one foot.

“Tiny home,” “tiny house” or “tiny house with wheels” has the same meaning as set forth in RCW [35.21.686](#), which is a dwelling to be used as permanent housing with permanent provisions for living, sleeping, eating, cooking, and sanitation built in accordance with the state building code.



“Tiny house communities” has the same meaning as set forth in RCW [35.21.686](#), which is real property rented or held out for rent to others for the placement of tiny houses with wheels or tiny houses utilizing the binding site plan process in RCW [58.17.035](#).

“Tower” means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers or monopole towers. The term encompasses personal wireless service facilities towers, microwave towers, common-carrier towers, cellular telephone towers, personal communications services towers, alternative tower structures, and other similar structures, and its attendant base station.

“Townhouses,” also called “single-family, attached,” are buildings joined at the side by a common wall. Each dwelling has up to two or three stories and no dwellings are placed over another. Each dwelling has individual and direct pedestrian access to the street and typically contains some private open space in the front and back. A development of townhouses could include two units attached (see Chapter [19.05](#) EMC, “Dwelling, 2-unit”) or multiple units attached. (Ord. 3896-22 § 2, 2022; Ord. 3774-20 § 5(D) (Exh. 3), 2020.)

#### **19.04.040 Measurement definitions.**

“Base elevation” means the average elevation of the approved topography of a parcel at the midpoint on each of the four sides of the smallest rectangle which will enclose the proposed structure, excluding all eaves and decks. The approved topography of a parcel is the natural topography of a parcel or the topographic conditions approved by the city prior to January 1, 1988, or as approved by a subdivision, short subdivision, binding site plan, shoreline substantial development permit, or SEPA environmental review issued after January 1, 1988. On any lot exhibiting evidence of an unapproved fill, a soils analysis may be required to determine the approved topography. An approved bench mark will establish the relative elevation of the four points used to establish the base elevation.

“Benchmark” means a fixed reference point or object, more or less permanent in character, the elevation of which is known, or to which a nominal elevation can be assigned.

“Buildable area” means the lot area minus undevelopable areas.



“Building footprint” means the perimeter of a building at the outer edge of the outside walls of the building, including cantilevered portions of a building.

“Caliper” means diameter of a tree trunk measured six inches above the ground.

“Density” means a ratio of dwelling units to lot area, usually expressed in terms of dwellings per acre or square feet of land area per dwelling unit.

“Finished ground floor levels” is measured as the elevation from ground level to the floor level of the first story of the building at the main entrance.

“Floor” is the habitable level within a building that is above grade. Exposed basements less than four feet from grade or attics not exceeding four feet at the knee-wall shall not constitute a floor.

“Floor area ratio” means a measure of development intensity which is the gross building area (square footage of the total floor area except parking areas) divided by the lot area.

“Floor height” is measured from the surface of any floor to the surface of the floor above it or, if there is no floor above, from the surface of the floor to the top of the wall plate.

“Floorplate” is the total gross floor area of any given floor of a building, measured to the exterior of the wall or balcony.

“Grade” means the elevation of a lot prior to development.

“Grade, finished” means the elevation of a lot after completion of development.

“Gross floor area” means the sum of the gross horizontal areas of the floors of a building or buildings, measured from exterior faces of exterior walls, and from the centerline of common walls.

1. Gross floor area includes: basement space, elevator shafts and stairwell at each floor, mechanical equipment rooms or attic spaces with headroom of seven feet, six inches or more, penthouse floors, interior balconies and mezzanines, and enclosed porches.
2. Gross floor area shall not include: accessory water tanks and cooling towers, mechanical equipment rooms or attic spaces with headroom of less than seven feet, six inches, exterior steps or stairs, terraces, breezeways, and open spaces.



“Ground floor” means the floor of a building closest to the height of the adjacent front street sidewalk or, where no sidewalk exists, closest to the height of the grade at the front lot line.

Height, Building. See Chapter [19.22](#) EMC for how heights are measured.

“Line of sight” with respect to the siting of secure community transition facilities means the maximum unobstructed distance at which it is possible to reasonably visually distinguish and recognize individuals. For the siting of secure community transition facilities, this distance is six hundred feet. However, a distance less than six hundred feet may be considered if the applicant demonstrates that visual barriers exist or can be created that would reduce the line of sight to a distance less than six hundred feet.

“Lot area” means the total area within the lot lines of a lot, excluding any primary access easements or panhandles, and excluding any area dedicated for public right-of-way purposes.

“Lot coverage by building” means the amount or percent of the ground area of a lot on which buildings are located. This amount/percent includes all areas which are partially or totally enclosed and covered by a weathertight roof, including any garages, carports, and cantilevered portions of a building which are not above the ground floor of a building, and storage areas covered by a watertight roof even if not fully enclosed. Building coverage does not include eaves, decks, and uncovered porches. Minor portions of panhandle lots and primary access easements shall not be included in the lot area for purposes of calculating building coverage.

“Lot depth” means the mean distance between the front lot line and rear lot line.

“Lot frontage” means the length of the front lot line measured at the street right-of-way.

“Lot width” means the horizontal distance between side lot lines measured at right angles to the lot depth at a point midway between the front and rear lot lines.

“Setback” means the required minimum distance between any lot line and any structure, building or use.

“Setback, average” means calculating the average front setback of two adjacent properties. If the property is on the corner, the average setback is the front setback of the adjacent properties. If there are no adjacent properties, then there is no average setback unless otherwise allowed in this code.



*Setback, Front.* “Front setback” means the required minimum distance between the front lot line and any structure, building or use.

*Setback, Rear.* “Rear setback” means the required minimum distance between the rear lot line and any structure, building or use.

*Setback, Side (Interior).* “Side (interior) setback” means the required minimum distance between the side lot line which does not abut a street and any structure, building or use.

*Setback, Side (Street).* “Side (street) setback” means the required minimum distance between the side lot line abutting the street on a corner lot and any structure, building or use. (Ord. 3774-20 § 5(D) (Exh. 3), 2020.)

### **19.04.050 Use definitions, residential.**

This section defines uses set forth in Table 5-1 in EMC [19.05.080](#).

“Adult family home” has the same meaning as RCW [70.128.010](#), which means a residential home in which a person or persons provide personal care, special care, room, and board to more than one but not more than six adults who are not related by blood or marriage to the person or persons providing the services. An adult family home may provide services to up to eight adults upon approval from the department under RCW [70.128.066](#).

“Assisted living facility” means a residential facility for elderly persons (age fifty-five or older) who require moderate to extensive assistance with daily tasks such as cooking, eating, bathing, housekeeping, dispensing of medicines, shopping, appointments and other tasks.

“Congregate care facility” means a residential facility for the elderly. The minimum age limit for the elderly is fifty-five years for the residents, with younger spouses permitted. The facility typically has a central lobby, common dining area, hobby and/or recreational rooms. The fee structure shall include at least one meal per day in the common dining area. Accessory support uses for the tenants, such as pharmacies, banking service, etc., may be included.

“Day care, family home” means day care provided in the home as an incidental use to the principal residential use of the property, for up to twelve children full time, or six adults full time, or as otherwise provided by the state of Washington.



“Dormitory” means a building with sleeping accommodations, without in-room cooking facilities, for residents affiliated with an educational, religious, or other institution.

“Dwelling, cottage housing” means small, detached dwelling units clustered around a central common open space.

“Dwelling, multiple-family” means a building(s) or portion of a building arranged or designed to be occupied by five or more families living independently of each other.

“Dwelling, one-unit” means a detached building designed for and occupied by only one household, sharing no common walls with other dwelling units, except an accessory dwelling unit (“ADU”).

“Dwelling, three- to four-unit” means a building designed for and occupied by three or four households, living independently of each other in separate dwelling units. A three- to four-unit dwelling may be attached by a common wall or walls or stacked in a manner that individual dwelling units are located above or below other dwelling units.

“Dwelling, two-unit” means a building designed for and occupied by two households, living independently of each other in separate dwelling units. A two-unit dwelling may be attached by a common wall or walls or stacked in a manner that individual dwelling units are located above or below other dwelling units. A two-unit dwelling does not include an accessory dwelling unit (“ADU”) which may be permitted on a lot with a one-unit dwelling.

“Dwelling unit, accessory,” or “ADU,” means a dwelling unit which is subordinate to a permitted principal dwelling unit located on the same lot.

“Dwelling unit, micro-housing” or “small efficiency dwelling unit” means a single, independent, residential dwelling unit within a multifamily building of no less than 24 units and consisting of one habitable room (excluding kitchen, bath, closets, storage areas, and built-ins). These units have a living room floor area two hundred twenty square feet or less, or a total gross unit size three hundred twenty square feet or less.

“Emergency housing” has the same meaning as RCW [36.70A.030\(9\)](#):

“Emergency housing” means any facility that is constructed for the primary purpose of providing temporary indoor accommodations for individuals or families who are homeless, or at imminent risk of becoming homeless, that is intended to address the basic health, food, clothing, and personal



hygiene needs of individuals or families consistent with RCW [36.70A.030\(9\)](#). Emergency housing may or may not require occupants to enter into a lease or an occupancy agreement.

“Emergency shelter, indoor” means any facility that is constructed for the primary purpose of providing shelter for people experiencing homelessness in general or for specific populations of people experiencing homelessness consistent with RCW [36.70A.030\(10\)](#). People may be granted admittance on a nightly or extended-stay basis. Emergency shelters may include day centers that do not provide overnight accommodations. Supportive services may or may not be provided in addition to the provision of shelter.

“Emergency shelter, outdoor” means a facility that provides shelter in temporary structures for people experiencing homelessness in general or for specific populations of people experiencing homelessness. “Temporary structure” means not affixed to land permanently including tents, vehicles, or other structures not regulated under the building code. People may be granted admittance on a nightly or extended-stay basis.

“Extreme weather shelter, temporary” means a facility intended to house people experiencing homelessness for specific situations such as cold or hot weather or poor air quality conditions. The shelter operations are limited to the duration of the period that the extreme conditions persist. People may be granted admittance either for an overnight stay, during the day, or both.

*Family Home (Day Care and Adult)*. Please see definitions of “adult family home” and “day care, family home.”

“Group housing, extended care facility” means a state-licensed extended care facility, including an assisted living facility, congregate care facility, nursing or convalescing home, and any other group housing serving more than sixteen individuals.

“Group housing, residential care facility” means a state-licensed residential care facility designed to serve as the primary residence for individuals and two resident staff, which has shared living quarters without separate bathroom and/or kitchen facilities for each unit.

“Live/work” units mean built spaces that function predominantly as work spaces and secondarily as residences.

“Managing agency” means an organization that has the capacity to organize and manage a homeless encampment. A “managing agency” may be the same entity as the sponsor.



“Mobile home park,” “manufactured housing community,” or “manufactured/mobile home community” has the same meaning as in RCW [59.20.030](#): any real property which is rented or held out for rent to others for the placement of two or more mobile homes, manufactured homes, or park models for the primary purpose of production of income, except where such real property is rented or held out for rent for seasonal recreational purpose only and is not intended for year-round occupancy.

“Nursing or convalescent home” means a facility or institution for the care of the aged or infirm, or a place of rest for those suffering bodily disorders. This term does not include hospitals or facilities for the primary treatment of sickness or injuries, or for surgical care, or congregate care facilities.

“Permanent supportive housing,” also referred to as supportive housing, has the same meaning as RCW [36.70A.030\(16\)](#):

“Permanent supportive housing” is subsidized, leased housing with no limit on length of stay that prioritizes people who need comprehensive support services to retain tenancy and utilizes admissions practices designed to use lower barriers to entry than would be typical for other subsidized or unsubsidized rental housing, especially related to rental history, criminal history, and personal behaviors. Permanent supportive housing is paired with on-site or off-site voluntary services designed to support a person living with a complex and disabling behavioral health or physical health condition who was experiencing homelessness or was at imminent risk of homelessness prior to moving into housing to retain their housing and be a successful tenant in a housing arrangement, improve the resident’s health status, and connect the resident of the housing with community-based health care, treatment, or employment services. Permanent supportive housing is subject to all of the rights and responsibilities defined in chapter [59.18](#) RCW.

“Recreational vehicle (RV) park” means real property rented or held out for rent to others for the placement of recreational vehicles.

“Secure community transition facility” means a facility, as defined in RCW [71.09.020](#), for the housing of sexually violent predators.

“Short-term rental” means the use of an entire dwelling unit or portion thereof by any person or group of persons to occupy for rent for a period of less than thirty consecutive days. Short-term rentals do not include hotels or motels.



“Sponsor” means a local faith-based or other local community-based organization that has an agreement with the managing agency to provide basic services and support for the residents of a homeless encampment, such as shelter, food and sanitation, and liaison with the surrounding community and joins with the managing agency in an application for a temporary use permit. A “sponsor” may be the same entity as the managing agency.

*Supportive housing.* See “Permanent supportive housing.”

“Tiny house” and “tiny house with wheels” mean a dwelling to be used as permanent housing with permanent provisions for living, sleeping, eating, cooking, and sanitation built in accordance with the state building code.

“Tiny house communities” means real property rented or held out for rent to others for the placement of tiny houses with wheels or tiny houses utilizing the binding site plan process in RCW [58.17.035](#).

“Transitional housing” has the same meaning as RCW [84.36.043\(2\)\(c\)](#):

“Transitional housing” means a project that provides housing and supportive services to homeless persons or families for up to two years and that has as its purpose facilitating the movement of homeless persons and families into independent living.

(Ord. 3963-23 § 2, 2023; Ord. 3896-22 §§ 3 – 9, 2022; Ord. 3895-22 §§ 4 – 7, 2022; Ord. 3774-20 § 5(D) (Exh. 3), 2020.)

## **19.04.060 Use definitions, commercial.**

This section defines uses set forth in Table 5-2 in EMC [19.05.090](#).

“Animal day care” means short-term daytime (not overnight) care for dogs, cats and other small animals.

“Auto fuel sales” means a business selling gasoline, diesel and other fuel products such as propane. This includes convenience stores selling food and related items.

“Automobile and truck service, heavy” means a business where vehicle repair and maintenance of heavy trucks over eighteen thousand pounds and other large equipment is performed.



“Automobile and truck service, light” means a business where vehicle repair and maintenance, cleaning and alterations are performed. Cleaning includes automatic and self-service washing, vacuuming and detailing.

“Automobile dismantling/recycling” means the disassembly of vehicles, together with sorting, cleaning and storage of spare parts and recyclable materials, such as scrap metals.

“Automobile drive-through facility” means all equipment and improvements used to allow customers to be served from within their vehicles. This includes order placing stations, speakers, service windows, signs, driveways and holding lanes.

“Automobile, light truck or RV sales or rental” means a business where new or used cars, light trucks and recreational vehicles are displayed for sale, rent or lease, typically outdoors on a paved parking lot. This use may include a showroom and/or service facility.

“Body repair and painting” means a business that includes repair of damaged vehicles and painting or repainting.

“Casino, mini” means a business which provides gambling and gaming as a primary source of its revenue, which may include food and beverage sales for consumption on the premises as a secondary part of its business activity.

“Clinic” means a building or portion of a building designed and used for the medical, dental or surgical diagnosis or treatment of patients under the care of doctors.

“Commercial parking” means a parking lot or parking garage that is designed, used or intended to be used for the parking of motor vehicles outside the street right-of-way. Commercial parking areas are used, rented or leased to the general public, customers or residents of development, or are provided as public parking for persons commuting to another location, such as a park-and-ride lot. This use does not include parking lots or garages which are constructed as required for, or accessory to, another permitted use.

“Convention center” means a large civic building or group of buildings designed for conventions, industrial shows, and the like, having large exhibit areas and often including conference rooms, hotel accommodations, restaurants, and other facilities.

“Day care center, commercial” means a day care facility for more than twelve children or adults.



“Entertainment and recreation, enclosed” means an entertainment or recreation facility under private ownership and operated by a for-profit or nonprofit organization, and providing one or more of the following types of entertainment activities: cinemas, billiard parlors, nightclubs, coin-operated arcades, bowling alleys, ice skating and roller skating; one or more of the following types of recreation facilities: fitness center, indoor gymnasium, spa or health club, including tennis, handball, golf, squash, volleyball, racquetball, badminton, skate park and swimming. The use does not include adult use business, adult retail or adult entertainment as defined in this title.

“Entertainment and recreation, not enclosed” means an entertainment or recreation facility under private ownership and operated by a for-profit or nonprofit organization and providing one or more of the following types of entertainment activities: ice skating; skate park and swimming; or commercial outdoor recreation, including golf courses, archery range, or similar use.

“Equipment sales and rental” means service industry providing machinery, equipment and tools of all kinds and sizes (from earthmoving to powered access, from power generation to hand-held tools, etc.) for a limited period of time to final users, mainly to construction contractors but also to industry and individual consumers.

“Food or beverage establishment” means restaurants, cafes, and similar types of land uses that prepare and serve edible goods for consumption by the customer including beverage service.

“Heavy truck and equipment sales” means a business where new or used trucks over eighteen thousand pounds are displayed for sale, typically outdoors on a paved parking lot. This use may include a showroom and/or service facility.

“Hotel” or “motel” means a transient accommodation offering three or more lodging units to guests for periods of less than thirty days, and may also provide incidental services such as restaurants, meeting rooms or recreational facilities.

“Impound, storage, tow yard” means a lot used for the temporary storage of vehicles which have been towed by a towing company or for impounded vehicles, but which does not include permanent vehicle storage or dismantling of vehicles.

“Kennel, commercial” means an establishment that houses, cares for, breeds, or raises dogs, cats or other small domestic animals for profit.



“Microbrewery, microdistillery, or microwinery” means a small-scale business located in a building where the primary use is for restaurant, retail, or tasting room, and which specializes in producing limited quantities of wine, beer, or other alcoholic beverage.

“Office” means a building or portion thereof which is used for general business, and nonprofit administrative purposes not involving manufacturing, sale of inventory or provision of services involving manual skills or mechanical processes. Not included in the category of office are those businesses and occupations defined by this title as clinics, government administrative offices or uses such as private clubs.

“Retail sales and service” means a business providing products for retail sale or service to the general public or to group members, excluding marijuana retail.

“Social services” means a use operated by a public agency, nonprofit, or other organizations of a charitable nature generally providing a service to people of the community. Staff may be located primarily on site or may be based off site and provide regular hours or visits on site. Generally, they provide the service on the site or have employees at the site on a regular basis. The service is ongoing, not just for special events. Examples include services for behavioral health, counseling, therapy, drug and alcohol rehabilitation, and prepared meal distribution. This definition does not include schools, hospitals, clinics, day cares, food banks, or residential uses.

“Storage, commercial” means a building or buildings containing separate storage spaces of a limited size leased or rented on an individual basis, which do not include warehouses or loading docks. Where allowed, commercial storage may also include separate storage space located outside of buildings, or under a roof only, such as boat or RV storage, and is of a limited size leased or rented on an individual basis.

“Veterinary clinic” means a facility rendering surgical and medical treatment to animals, which may include overnight accommodations for purposes of recovery. For the purpose of these regulations, small animals shall be deemed to be ordinary household pets, excluding horses, donkeys, or other such animals not normally housed or cared for entirely within the confines of a residence. (Ord. 3896-22 § 10, 2022; Ord. 3895-22 §§ 8 – 10, 2022; Ord. 3774-20 § 5(D) (Exh. 3), 2020.)



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**19.04.070 Use definitions, industrial.**

This section defines uses set forth in Table 5-3 in EMC [19.05.100](#).

“Aggregates extraction and related manufacturing” means the mining and processing of sand and gravel resources and closely related manufacturing such as concrete or asphalt batch plants, manufacturing of products using concrete or aggregate materials, storage and transport of mined or excavated materials, and other closely related uses accessory to aggregate extraction activities.

“Aircraft assembly” means the assembly of aircraft components into finished aircraft or the repair, service or maintenance of aircraft, including engine testing, test flights, and major overhaul or rebuilding.

“Distribution center” means a building designed to store products for retailers and wholesalers, to be redistributed to another location or to customers.

“Freight terminal” means a transportation facility furnishing services incidental to air, motor freight, and rail transportation. Examples of these facilities include: freight forwarding services; freight terminal facilities; joint terminal and service facilities; overnight mail processing facilities; packing, crating, inspection and weighing services; postal service bulk mailing distribution centers; transportation arrangement services; trucking facilities, including transfer and storage.

“Heavy industrial, manufacturing, processing, fabrication or assembly” means uses that generate potentially noxious or objectionable impacts such as noise, smoke, dust, vibration, odor, or concussion, the use or outdoor storage of heavy equipment, or outdoor storage of large quantities of bulk materials.

“Heliport” means an area of land, water, or structural surface designed, used, or intended to be used for landing or takeoff of passengers or cargo from or by helicopters, plus accessory buildings and uses.

“Light industrial, manufacturing, or assembly” means uses which are capable of being constructed, maintained and operated in a manner designed to be compatible with adjoining residential, commercial or other less intensive land uses. These uses do not generate noxious or objectionable impacts such as noise, smoke, dust, vibration, odor, or concussion; do not require the use of heavy equipment; and do not involve outdoor storage of large quantities of bulk materials or heavy equipment.



“Marine terminal” means a water-dependent transportation facility furnishing services incidental to barge, marine shipping and other marine vessels.

“Railyard” means a complex series of railroad tracks for the assembly, storing, sorting, maintenance, or loading and unloading, of railroad cars and locomotives. Railyards have many tracks in parallel for keeping rolling stock stored off the mainline, so that they do not obstruct the flow of traffic.

“Storage yard” means the use of land to store material, equipment, or vehicles, and any structures associated with the outdoor storage. This use includes bulk fuel, vehicle impound lot, bulk materials, large equipment and cargo shipping containers.

“Warehouse” means a building used to store merchandise, materials or commodities. (Ord. 3774-20 § 5(D) (Exh. 3), 2020.)

#### **19.04.080 Use definitions, public, institutional, quasi-public.**

This section defines uses set forth in Table 5-4 in EMC [19.05.110](#).

“Aboveground utility and communications facility, major” means a structure or improvement built or installed aboveground for the purpose of providing utility services or communications services to more than one lot. Included in this definition for purposes of this title are electrical substations; water storage reservoirs or tanks or pumping stations; telephone exchanges; manmade regional drainage detention or retention facilities; natural gas regulating facilities greater than four feet in height; sewer lift stations; wireless communications facilities including personal wireless service facilities; television or radio transmission or reception towers, antennas; and other ancillary or similar facilities or structures housing utility or communications equipment or improvements as determined by the planning director. This term shall not apply to equipment and vehicle storage yards, offices and buildings used to support the operations of utility or communication service providers.

“Aboveground utility and communications facility, minor” means fire hydrants; amateur radio antennas or towers and television reception dishes or antennas for private residential use regulated by EMC [19.22.090](#); utility poles carrying electrical transmission lines with fifty-five thousand volts or less of electrical power; pad-mounted switches and transformers; telephone or television cables; utility structures less than four feet in height above grade, minor



aboveground equipment associated with underground utility facilities, or other such similar facilities as determined by the planning director. This term shall not apply to equipment and vehicle storage yards, offices and buildings used to support the operations of utility or communication service providers.

“Bicycle facilities” means improvements and provisions made to accommodate or encourage bicycling, including parking facilities (bike racks) and bikeways.

“Cemetery” means land or structures dedicated for the interment of human or animal remains.

“Community garden” means a site where food, ornamental crops, or trees are grown for small-scale cultivation, generally to residents of apartments and other dwelling types without private gardens.

“Correctional facilities” means public or private facilities providing for the confinement of juvenile offenders, for the incarceration, confinement or detention of individuals arrested for or convicted of a crime, or for the punishment, correction and/or rehabilitation of individuals convicted of crimes whose freedom is restricted. The term “jails and correctional facilities” includes those group-care homes, Class II (as defined in this section, including subclassifications II-A, II-B, and II-C) which are exempt from the provisions of the Federal Fair Housing Act Amendments of 1988 and the Washington Housing Policy Act (RCW [35.63.220](#)).

“Food bank” is a place where stocks of food, typically basic provisions, are supplied free of charge to people in need, by a nonprofit or charitable organization.

“Government administrative offices” means offices for federal, state, county, city or other governmental, public utility, school district, or quasi-public agencies where staff of such agencies are employed in the administration of government or public services. This term does not include correctional facilities, utility facilities, equipment storage or parking, schools, fire stations, community centers, parks, or other public or quasi-public service uses specifically listed in this title.

“Government use” means offices or facilities for federal, state, county, city or other governmental, public utility, school district, or quasi-public agencies where staff of such agencies are employed in the administration of government or public services. This term does not include correctional facilities, utility facilities, schools, parks, or other public or quasi-public service uses specifically listed in this title.



“Hazardous waste” means all dangerous and extremely hazardous waste as defined in RCW [70.105.010\(15\)](#), except for moderate risk waste as set forth in RCW [70.105.010\(17\)](#).

“Hazardous waste storage” means the holding of hazardous waste for a temporary period, as regulated by the state dangerous waste regulations, Chapter [173-303](#) WAC.

“Hazardous waste treatment” means the physical, chemical or biological processing of hazardous waste for the purpose of rendering these wastes for material resource recovery, amenable for storage, or reduced in volume, as regulated by the state dangerous waste regulations, Chapter [173-303](#) WAC.

“Hazardous waste treatment and storage facility, off-site” means treatment and storage facilities which treat and store hazardous wastes generated on properties other than those on which the off-site facilities are located.

“Hazardous waste treatment and storage facility, on-site” means treatment and storage facilities which treat and store hazardous wastes generated on the same property.

“Hospital” means an institution that provides twenty-four-hour-per-day care for the diagnosis, treatment, care and curing of individuals suffering from illness, injury or any condition requiring medical, obstetric, surgical, or psychiatric care; and other related uses customarily incidental thereto.

“Light rail station” means a dedicated public facility providing access to light rail trains and consisting of an elevated platform with waiting areas, ticket vending machines and pedestrian facilities providing connections to bus transit and the local community.

“Park” means any property designated, dedicated, or developed by or on behalf of a government entity for park or open space use, including passive and active forms of recreation.

“Place of worship” or “religious facility” means a place for people to gather for religious practice. Examples include churches, synagogues and mosques and accessory uses including bible study schools and day care.

“Schools (public and private)—elementary, middle and high schools” means a public or private facility that provides teaching or learning. Typical uses include elementary, junior and senior high schools and related uses, except as otherwise specifically defined in this code.



“Schools (public and private)—institutions of higher education” means public or private vocational and trade schools, academies, colleges, and universities, including classrooms, administrative offices, cafeteria, athletic facilities, dormitories, and off-street parking areas.

“Solid waste transfer station” means a solid waste handling facility where nonhazardous solid waste is delivered by public agencies, businesses or individuals and transferred and/or sorted into other containers to be transported to another location for ultimate disposal. A solid waste transfer station may include provisions for extraction of recyclable or reusable materials, as well as collection facilities for recyclable materials.

“Transit facilities” means public or private improvements at selected points along existing or future transit routes for passenger pick-up, drop-off and waiting. Improvements may include pullouts, shelters, waiting areas, benches, information and directional signs or structures, and lighting.

“Transit station” means a dedicated transit facility where several transit routes converge, designed to accommodate several buses at once to permit transfer between transit routes. A transit center may provide transit passenger shelters and waiting areas but does not include off-street parking for transit passenger vehicles.

“Transportation facilities of statewide significance” means the interstate highway system; interregional state principal arterials including ferry connections that serve statewide travel; regional transit systems as defined in RCW [81.104.015](#); high capacity transportation systems serving regions as defined in RCW [81.104.015](#); intercity passenger rail services; intercity high-speed ground transportation; rail fixed guideway system, as defined in RCW [81.104.015](#), excluding yards and service and maintenance facilities; the freight and passenger railroad system as regulated by the Federal Railroad Administration, excluding yards and service and maintenance facilities; and in shoreline zones, and in adjacent zones where all or any portion of a development is within a shoreline designated area or zone, marine port and barge facilities and services that are related to marine activities affecting international and interstate trade, excluding centralized, high density concentrations of port, deep water port, and marine shipping facilities and services. (Ord. 3976-23 §§ 1, 2, 2023; Ord. 3774-20 § 5(D) (Exh. 3), 2020.)



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**19.04.090 Use definitions, miscellaneous.**

This section defines uses set forth in Table 5-5 in EMC [19.05.120](#).

“Adaptive reuse” means the process of reusing a building for a purpose or use other than for which it was built or designed.

“Adult cabaret” means any commercial premises, including any cabaret premises, to which the public, patrons, or members are invited or admitted, and where an entertainer provides adult-oriented entertainment, not constituting “adult entertainment, live,” as defined in this section, to any member of the public, patrons, or a member.

“Adult entertainment establishment, live” means any building or portion of a building which contains any exhibition or dance wherein any employee or entertainer is unclothed or in such attire, costume or clothing so as to expose to view any portion of the female breast below the areola, or male or female genitals, vulva, anus and/or buttocks, or any portion of the pubic hair and which exhibition or dance is for the benefit of a member or members of the adult public, or advertised for the use or benefit of a member of the adult public, held, conducted, operated or maintained for profit, direct or indirect.

“Adult mini theater” means an enclosed building with a capacity of less than fifty persons, a portion of an enclosed building with a capacity of less than fifty persons, or outdoor theater with a capacity of less than fifty persons used for presenting motion picture films, video cassettes, cable television or any other such visual media, distinguished or characterized by emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas” as defined herein for observation by patrons therein.

“Adult motion picture theater” means an enclosed building with a capacity of fifty or more persons, a portion of an enclosed building with a capacity of fifty or more persons, or outdoor theater with a capacity of fifty or more persons used for presenting motion picture films, video cassettes, cable television or any other such visual media, distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas” as defined herein for observation by patrons therein.

“Adult-oriented entertainment” means:

1. Any exhibition, performance or dance of any type conducted in a premises where such exhibition, performance or dance is distinguished or characterized by a predominant



emphasis on the depiction, description, simulation or relation to the following sexual activities:

- a. Human genitals in a state of sexual stimulation or arousal;
  - b. Acts of human masturbation, sexual intercourse or sodomy; or
  - c. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast; or
2. Any exhibition, performance or dance which is intended to sexually stimulate any member of the public and which is conducted on a regular basis or as a substantial part of the premises' activity. This includes, but is not limited to, any such exhibition, performance or dance performed for, arranged with or engaged in with fewer than all members of the public on the premises at the time, with separate consideration paid, either directly or indirectly, for such performance, exhibition or dance and which is commonly referred to as table dancing, couch dancing, taxi dancing, lap dancing, private dancing or straddle dancing.

"Adult-oriented merchandise" means any goods, products, commodities, or other ware, including, but not limited to, videos, CD ROMs, DVDs, computer disks or other storage devices, magazines, books, pamphlets, posters, cards, periodicals or nonclothing novelties which depict, describe or simulate specified anatomical areas, or specified sexual activities, as defined in this chapter.

"Adult panoram establishment" means any building or portion of a building which contains device(s) which for payment of a fee, membership fee or other charge is used to exhibit or display a picture, view or other graphic display distinguished or characterized by emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined herein for observation by patrons therein.

"Adult retail" means an enclosed building or any portion thereof which, for money or any other form of consideration, devotes a significant or substantial portion of stock in trade to the sale, exchange, rental, loan, trade, transfer or viewing of "adult-oriented merchandise." For purposes of this definition, a retail establishment devotes a significant or substantial portion of its stock in trade to adult-oriented merchandise if the sale, exchange, rental, loan, trade, transfer or viewing of such adult-oriented merchandise is clearly material to the economic viability of the



business. It is presumed that such adult-oriented merchandise accounts for any one or more of the following:

1. Thirty percent or more of the retail dollar value of gross sales over any quarterly period;
2. Thirty percent or more of the floor area of the store open to the public;
3. Thirty percent or more of the retail dollar value of all merchandise displayed in the store;
4. Thirty percent or more of the store's inventory (whether measured by retail dollar value or number of items); or
5. Thirty percent or more of the store's stock in trade.

In no event shall a retailer whose transactions only incidentally or marginally relate to adult-oriented merchandise be considered an adult retail use establishment.

"Adult use business" means any live adult entertainment establishment, adult panoram establishment, adult motion picture and adult mini theater, or any establishment which provides one or more of the activities listed herein even if only a portion of the establishment is dedicated to one or more of the activities listed herein.

"Agricultural activities" means those activities conducted on lands defined in RCW [84.34.020\(2\)](#), and those activities involved in the production of crops or livestock, for example, the operation and maintenance of farm and stock ponds or drainage ditches, operation and maintenance of ditches, irrigation drainage ditches, changes between agricultural activities and normal maintenance, repair or operation of existing serviceable structures, facilities or improved areas. Activities which bring an area into agricultural use are not part of an ongoing operation. An operation ceases to be ongoing when the area on which it is conducted is converted to a nonagricultural use or has lain idle for more than five years, unless the idle land is registered in a federal or state soils conservation program, or unless the activity is maintenance of irrigation ditches, laterals, canals or drainage ditches related to an existing and ongoing agricultural activity. Forest practices are not included in this definition.

"Agricultural industries" means industrial processing of agricultural products, excluding breweries or wineries.



“Community center” means a building or other enclosed structure open to the general public that is owned and operated by a public agency or nonprofit corporation, organization or association registered by Washington State, and that is used primarily for cultural, educational, recreational, or social purposes, and may include other minor supporting uses or activities. Not included in the category of community center as a primary use are those businesses and occupations defined by this title as clinics, government administrative offices or uses such as churches, schools, private clubs or fraternal organizations.

“Greenhouse” or “nursery” means a site where trees, shrubs and other plant materials are grown, propagated and/or stored for the purpose of retail or wholesale sales.

“Marijuana,” “marijuana processor,” “marijuana producer,” and “marijuana retailer” shall have the meanings set forth in RCW [69.50.101](#):

1. “Marijuana” or “marihuana” means all parts of the plant Cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include:
  - a. The mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination; or
  - b. Hemp or industrial hemp as defined in RCW [15.140.020](#), seeds used for licensed hemp production under Chapter [15.140](#) RCW.
2. “Marijuana processor” means a person licensed by the state Liquor and Cannabis Board to process marijuana into marijuana concentrates, usable marijuana, and marijuana-infused products, package and label marijuana concentrates, usable marijuana, and marijuana-infused products for sale in retail outlets, and sell marijuana concentrates, usable marijuana, and marijuana-infused products at wholesale to marijuana retailers.



3. “Marijuana producer” means a person licensed by the state Liquor and Cannabis Board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

4. “Marijuana retailer” means a person licensed by the state Liquor and Cannabis Board to sell marijuana concentrates, usable marijuana, and marijuana-infused products in a retail outlet.

“Marina” is a facility that provides wet and/or dry moorage for at least five boats, boat launching, storage, supplies and services for small pleasure craft. A marina may also include facilities for commercial and industrial vessels, and rescue and law enforcement vessels. The shoreline master program further describes this use.

“Private club or lodge” means an association of persons organized for some common purpose, including fraternal organizations but not including groups organized primarily to render a service which is customarily carried on as a business. (Ord. 3774-20 § 5(D) (Exh. 3), 2020.)

### **19.04.100 Use definitions, other.**

“Aircraft landing facilities” means airports, landing fields, helipads, or seaplane landing facilities and terminals for the accommodation of passengers and/or cargo carried by means of air transport.

“Home occupation” means an occupation which is incidental and subordinate to a residential use, which is carried on by a member of the family residing in the dwelling.

“Junk store” means a retail store that sells previously used merchandise or goods the majority of which:

1. Have not been maintained, repaired, restored or reconditioned to a functional condition; or
2. Consist of salvaged or disassembled parts of merchandise, equipment or objects no longer in their original assembled configuration.



This definition excludes secondhand stores, pawnshops, thrift stores and artwork made from recycled or previously used materials incorporated into artwork. The planning director is authorized to maintain a list of stores that qualify as junk stores.

“Pawnshop” means an establishment that engages, in whole or in part, in the business of loaning money on the security of pledges of personal property, or deposits or conditional sales of personal property, or the purchase or sale of personal property.

“Secondhand store” means retail sales of previously used merchandise, the majority of which is not donated, such as clothing, furniture, appliances, household goods, sporting goods, recreational equipment or other merchandise not considered to be antique, that is in good repair or has been restored or reconditioned to a clean and usable condition. This definition excludes “pawn shop,” “thrift store,” and “junk store.” The planning director is authorized to maintain a list of stores that qualify as secondhand stores.

“Specified anatomical areas” means:

1. Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola; and
2. Human male genitals in a discernible turgid state, even if completely and opaquely covered.

“Specified sexual activities” means:

1. Human genitals in a state of sexual stimulation or arousal;
2. Acts of human masturbation, sexual intercourse or sodomy;
3. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

“Thrift store” means a store that derives the majority of its sales from donated previously used merchandise such as clothing, furniture, appliances, household goods, sporting goods, recreational equipment or other merchandise not considered to be antique. The planning director is authorized to maintain a list of stores that qualify as thrift stores. (Ord. 3774-20 § 5(D) (Exh. 3), 2020.)



### **19.04.110 Critical areas definitions.**

This section defines specific terms to be applied where used in Chapter [19.37](#) EMC.

“Alteration” means any human-induced action which impacts the existing condition of a critical area. Alterations include but are not limited to grading; filling; dredging; draining; channelizing; cutting, pruning, limbing or topping, clearing, relocating or removing vegetation; applying herbicides or pesticides or any hazardous or toxic substance; discharging pollutants; grazing domestic animals; paving, construction, application of gravel; modifying for surface water management purposes; or any other human activity that impacts the existing vegetation, hydrology, wildlife or wildlife habitat. Alteration does not include walking, passive recreation, fishing or other similar activities.

“Best available science” means current scientific information used in the process to designate, protect, or restore critical areas, that is derived from a valid scientific process as defined by WAC [365-195-900](#) through [365-195-925](#).

“Biological assessment” is an evaluation of the potential effects of a proposed action on listed and proposed species and designated and proposed critical habitat and determination whether any such species or habitat is likely to be adversely affected by the action.

“Biologist” means a person who has earned a degree in biological sciences from a college or university, with practical experience that includes at least two years’ expertise in matters involving wetlands biology or stream ecology in the Pacific Northwest.

“Bog” means wetlands with extensive living sphagnum moss or sphagnum peat and a distinctive flora that results from the acidic substrate.

“Buffer” means an area which provides the margin of safety through protection of slope stability, attenuation of surface water flows and erosion controls necessary to minimize risk to the public from loss of life or well-being or property damage resulting from natural disasters, or an area which is an integral part of the natural system and which provides shading, input of organic debris and coarse sediments, room for variation in stream or wetland boundaries, habitat for wildlife and protection from harmful intrusion necessary to protect the public from losses suffered when the functions and values of important aquatic resources are degraded.



“Buffer management” means an activity proposed by a public agency, public utility, or private entity, and approved by the planning director, within a buffer required by this title, that is proposed to:

1. Reduce or eliminate a verified public safety hazard;
2. Maintain or enhance wildlife habitat diversity; or
3. Maintain or enhance the fishery or other functions of stream, wetland, or terrestrial ecosystems.

“Buildable area” means the lot area minus undevelopable areas.

“Channel gradient” refers to a measurement over a representative section of at least five hundred linear feet, where available, with at least ten evenly spaced measurement points along the normal stream channel, but excluding unusually wide areas of negligible gradient such as marshy or swampy areas, beaver ponds, and impoundments. Channel gradient may be determined utilizing stream profiles plotted from United States Geological Survey topographic maps (see Washington Forest Practices Board Manual, Section 23) or a more detailed survey specific to the project site and/or area.

“Compensation” means the replacement, enhancement, or creation of an undevelopable critical area equivalent in functions, values and size to those being altered or lost to development.

“Compensation, in-kind” means the replacement of wetlands with substitute wetlands whose characteristics closely approximate those destroyed or degraded by a regulated activity.

“Compensation, off-site” means the replacement of wetlands away from the lot on which a regulated wetland has been impacted.

“Compensation, on-site” means the replacement of wetlands on or adjacent to the lot on which a wetland has been impacted by a regulated activity.

“Compensation, out-of-kind” means the replacement of wetlands with substitute wetlands whose characteristics do not closely approximate those destroyed or degraded by a regulated activity.



“Critical area” means geologically hazardous areas, wetlands, lakes, ponds, streams, frequently flooded (flood hazard) areas, and fish and wildlife habitat conservation areas, as defined in Chapter [36.70A](#) RCW and this chapter.

“Critical area protective covenant” means a covenant granted for the protection of a critical area and its buffer through the maintenance of the natural environment. The covenant prohibits alteration of the area and must be duly recorded on appropriate documents of title and filed with the Snohomish County auditor.

“Critical area tract” means a legally created, nonbuilding lot containing a critical area which is subject to a critical area protective covenant and which shall be duly recorded on the appropriate documents of title and filed with the Snohomish County auditor.

“Culvert” means a short section of pipe placed in a stream and filled over in order to provide a stream crossing.

“Development” means all structures, uses or other alterations or modifications of the natural landscape occurring above or below ground or water on a particular lot. Within the riparian habitat zone or the special flood hazard area, the definition of “development” shall also include removal of substantial native vegetation, or alteration of natural site characteristics.

“Enhancement” means an action which increases the functions and values of a stream or wetland or terrestrial ecosystem.

“Erosion hazard areas” means those areas of the city with slopes of twenty-five percent and greater in Qva and Qal geologic units; exposed slopes of greater than twenty-five percent in other geologic units; and drainage areas which receive stormwater discharge.

“Exotic” means any species of plant or animal that is nonnative to the subject lot or area.

“Fish and wildlife habitat conservation areas” means an area of habitat that is necessary and suitable for maintaining individual species, species diversity, or biological diversity. Fish and wildlife habitat conservation areas include:

1. Habitats of primary association;
2. Streams/riparian corridors;
3. Continuous vegetative corridors linking watersheds;



4. Significant biological areas listed by the city; and
5. Lakes.

“Functions and values” or “functional values” means the beneficial roles served by critical areas including, but not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, conveyance and attenuation, ground water recharge and discharge, erosion control, wave attenuation, protection from hazards, recreation, educational opportunities, aesthetics, and slope and soil stabilization.

“Geologically hazardous areas” means areas susceptible to erosion, landslide, seismically induced soil failure, or other geological events.

“Geologist” means a person who is licensed in the state of Washington under the provisions of Chapter [18.220](#) RCW and Chapter [308-15](#) WAC, and who has at least one year of practical experience in the Pacific Northwest.

“Habitat assessment” means a written report based on a site investigation process to evaluate the potential presence or absence of a regulated fish or wildlife species or habitat potentially affected by a development proposal, and containing an assessment of the potential impacts of the proposal on any regulated species or habitat subject to these regulations.

“Habitat management plan” means an activity proposed by a public agency or private entity, and approved by the planning director, within an area which may impact a fish and wildlife habitat conservation area to preserve, protect or enhance the fish and wildlife habitat conservation area.

“Habitats of primary association” means a critical component(s) of the habitats of federally or state-listed endangered, threatened, candidate, sensitive, and priority wildlife or plant species which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term. Habitats of primary association include, but are not limited to, winter ranges, migration ranges, breeding sites, nesting sites, regular large concentrations, communal roosts, roosting sites, staging areas, and “priority habitats” listed by the Washington State Department of Fish and Wildlife.

“Habitats, priority” include:

1. Wetlands;



2. Riparian zones;
3. Marine/estuarine shorelines;
4. Urban natural open space. This includes areas that are not critical areas, but may include parks and other deeded open space areas that are actively managed to protect native plants and animals.

“Hazard tree” means any tree that poses a threat to public safety, or poses an imminent risk of damage to private property. “Hazard tree” includes any tree that, under normal environmental conditions or in windstorms common to the Pacific Northwest, is likely to cause damage to a structure with frequent human use, including residential structures, a place of employment or public assembly, and other similar places, or damage to an approved public road or utility facility.

“Hillsides” means geological features on the landscape having slopes of fifteen percent or greater.

“Hydric soil” means a soil that is saturated, flooded or ponded long enough during the growing season to develop anaerobic conditions in the upper part. The presence of hydric soil shall be determined following the methods described in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands.

“In-lieu fee (ILF) mitigation” means a program involving the restoration, establishment, enhancement, and/or preservation of aquatic resources through funds paid to a program sponsor to satisfy compensatory mitigation requirements for unavoidable impacts to wetlands and other aquatic resources. Per federal rule, sponsorship of ILF programs is limited to governmental, tribal, or nonprofit natural resource management entities. Similar to a wetland mitigation bank, an ILF program sells credits to permittees whose unavoidable impacts occur within a specified geographic area (service area). When credits are purchased from the ILF program, the permittee’s obligation to provide compensatory mitigation is then transferred to the ILF program sponsor. The sponsor is then required to implement mitigation within a specified time frame, working with regulatory agencies to make sure impacts are fully mitigated. ILF programs are approved by the U.S. Army Corps of Engineers and the Washington State Department of Ecology.



“Lake” means a natural or artificially created permanent body of water with an average depth of six feet or greater and an area larger than twenty acres, as measured at the ordinary high water mark.

“Land use impacts, high” means commercial, industrial, institutional, retail sales, high-intensity recreation (golf courses, ball fields), and residential uses with a density of more than one dwelling unit per acre and other similar uses.

“Land use impacts, low” means low-intensity open space (such as passive recreation and natural resources preservation) and unpaved trails and other similar uses.

“Land use impacts, moderate” means residential uses with a density of one unit per acre or less, moderate-intensity open space (parks), and paved trails and other similar uses.

“Landslide” means episodic downslope movement of a mass of soil or rock that includes but is not limited to rock falls, slumps, mudflows, earth flows, and avalanches.

“Landslide hazard areas” means those areas of the city subject to a risk of landslide based on a combination of geologic, topographic, and hydrologic factors.

“Low impact development (LID)” means a stormwater management strategy that emphasizes conservation and the use of existing natural site features integrated with distributed, small-scale stormwater controls to more closely mimic natural hydrologic patterns in developed settings.

“Marsh” means an area permanently inundated by water less than six feet deep and occupied predominantly by an emergent wetland vegetation community.

“Mitigation” means avoiding, minimizing, or compensating for adverse impacts and includes the use of any or all of the following actions:

1. Avoiding the impact altogether by not taking a certain action or parts of an action;
2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;
3. Rectifying the impact by repairing, rehabilitating or restoring the affected critical area;



4. Reducing or eliminating the impact over time by preservation or maintenance operations during the life of the development proposal;
5. Compensating for the impact by replacing or enhancing substitute critical areas;
6. Monitoring the required mitigation area and taking remedial action when necessary.

“Monitoring” means the collection and analysis of data by various methods for the purposes of understanding and documenting changes in natural systems and features, and including gathering baseline data, evaluating the impacts of development proposals on the biological, hydrologic and geologic elements of such systems, and assessing the performance of required mitigation measures.

“Native vegetation” means vegetation on a site or plant species which are indigenous to the area in question; or if the site has been cleared, species of a size and type that were on the site on the effective date of this title or reasonably could have been expected to have been found on the site at the time it was cleared.

“Normal rainfall” means that rainfall that is at or above the mean of the accumulated rainfall record, based upon the water year, for the city as recorded at the Seattle Tacoma International Airport, or other local rainfall recording station recognized by the city.

“Open water component” means water in dispersed patches covering forty to sixty percent of the wetland which have not less than six inches and not more than six feet of standing water for at least ten months of the year.

“Ordinary high water mark” means the mark that will be found by examining the channel bed and banks of a stream, lake or pond and ascertaining where the presence and action of waters are so common and usual, and so long maintained in all years of normal rainfall, as to mark upon the soil a character distinct from that of the abutting upland in respect to vegetation. In any area where the ordinary high water mark cannot be found, the line of mean high water shall substitute. In braided channels and alluvial fans, the ordinary high water mark or substitute shall be measured so as to include the entire stream feature.

“Plant associations of infrequent occurrence” means one or more plant species on a landform type which, because of the rarity of the habitat or the species involved or both, or for other botanical or environmental reasons, do not occur frequently in Everett or Snohomish County.



“Pond” means an area permanently inundated by water in excess of six feet deep and less than twenty acres and larger than two thousand five hundred square feet in area as measured at the ordinary high water mark.

“Protected area” means lands that lie within the boundaries of the floodway and riparian corridor.

“Reasonable use” or “reasonable economic use” means a legal concept that has been articulated by federal and state courts in regulatory takings cases.

“Restoration” means the return of a stream or wetland, or terrestrial ecosystem, to a state in which its functions and values significantly approach its unaltered state.

“Riparian corridor” means a perennial, intermittent, ephemeral stream or swale including its channel bottom, lower and upper banks, and area beyond the top of the upper bank which influences the stream through shading and organic matter input, and is influenced by the presence of water, particularly in regard to plant composition. The riparian corridor is the transitional area between aquatic and upland ecosystems and does not necessarily include the entire floodplain of a stream.

“Salmonid” means a member of the fish family Salmonidae. In the city these include Chinook, coho, chum, sockeye and pink salmon; cutthroat, brook, brown, rainbow and steelhead trout; and Dolly Varden, kokanee and char.

“Seismic hazard areas” means those areas of the city subject to severe risk of earthquake damage as a result of seismically induced ground shaking, settlement, or soil liquefaction. These conditions occur in areas underlain by cohesionless soils of low density sometimes in association with a shallow ground water table.

“Significant biological areas” means the following areas of the city:

1. Plant associations of infrequent occurrence;
2. Commercial and recreational shellfish areas;
3. Kelp and eelgrass beds;
4. Herring, sand lance, and smelt spawning areas;
5. State natural area preserves and natural resource conservation areas; and



6. Those areas listed in the 1981 SEPA Resource Inventory as significant biological areas, which are:

- a. Maulsby Swamp;
- b. Kasch Park (Bomarc) Bog;
- c. Simpson Lee site Category I wetlands;
- d. Narbeck Swamp;
- e. Jetty Island.

“Significant surface water connection” means a surface water flow that is continuous for thirty days or more during years of normal rainfall.

“Steep slopes” means any ground that rises ten feet or more for every twenty-five feet of horizontal distance, thus having a grade of forty percent or steeper. A slope is delineated by establishing its toe and top:

- 1. “Toe” of a steep slope is the lowermost limit of the area where the ground surface rises ten feet or more vertically within a horizontal distance of twenty-five feet.
- 2. “Top” of a steep slope is a distinct, sharp break in slope which separates slopes inclined at less than forty percent from slopes equal to or greater than forty percent. Where no distinct break in slope exists, the top of the steep slope shall be the uppermost limit of the area where the ground surface drops ten feet or more vertically within a horizontal distance of twenty-five feet.

“Stream” means those areas where naturally occurring surface waters flow sufficiently to produce a defined channel or bed which demonstrates evidence of the passage of water including, but not limited to, bedrock channels, gravel beds, sand and silt beds and defined-channel swales. A “defined channel or bed” means a watercourse that is scoured by water or contains deposits of mineral alluvium. The channel or bed need not contain water during the entire year. Streams do not include watercourses which were created entirely by artificial means, such as irrigation ditches, canals, roadside ditches or storm or surface water run-off features, unless the artificially created watercourse contains salmonids or conveys a stream that was naturally occurring prior to the construction of the artificially created watercourse.



“Stream channel bottom” means the submerged portion of the stream cross-section which is totally an aquatic environment. The channel bottom may be seasonally dry.

“Stream, Type F” means those streams defined in WAC [122-16-030](#), Water Typing System, as Type F water.

“Stream, Type Np” means those streams defined in WAC [122-16-030](#), Water Typing System, as Type Np water.

“Stream, Type Ns” means those streams defined in WAC [122-16-030](#), Water Typing System, as Type Ns water.

“Stream, Type S” means those streams defined in WAC [122-16-030](#), Water Typing System, as Type S water.

“Swamp” means an area permanently saturated or inundated by water, and occupied predominantly by either a scrub-shrub or forested wetland vegetation community.

“Unavoidable and necessary impacts” means impacts to regulated critical areas after the applicant proposing to alter a regulated critical area has demonstrated that no reasonable alternative exists for the proposed project.

“Undevelopable area” means:

1. Regulated wetlands;
2. Geologically hazardous areas which are determined by supporting studies to be unsuitable for development;
3. Streams;
4. Habitats of primary association;
5. Plant associations of infrequent occurrence.

“Undisturbed, relatively” is defined in question H2.0 of the 2014 Washington State Wetland Rating System for Western Washington.

“Unstable soils” means soils which by their physical nature are not suitable to support buildings, roads, utilities or other manmade development related improvements, or which have the potential for slope failure, erosion, or subsidence. Unstable soils include, but are not limited to,



those areas defined as landslide hazard areas, erosion hazard areas, and seismic hazard areas, or other soils which have been determined by the public works director or the building official to be unsuitable for building foundations or structural support.

“Upper bank” means that portion of the topographic cross-section of a stream which extends from the break in the general slope of the surrounding land to the ordinary high water mark.

“Wetland boundary” means, for the purposes of the calculation of the area of the wetland, the total extent of the wetland, both on site and off site.

“Wetland class” means a description of vegetation habitat based on the predominant life forms that occupy a particular layer of vegetation and possess an aerial coverage of thirty percent or greater of the entire wetland. The basis for these descriptive classes is derived from the Wetlands Taxonomic Classification System of the United States Fish and Wildlife Service (Cowardin et al., 1979).

“Wetland, contiguous” means wetland systems connected by hydric soils or a significant surface water connection. For purposes of this title, wetlands will not be considered contiguous if the only hydrologic connection is a Category I, II or III stream, or if the wetlands had historically been connected but are now separated by a legal fill or culvert which is one hundred feet or more in length.

“Wetland edge” means the line delineating the outer edge of a wetland established by using the Washington State Wetlands Identification and Delineation Manual (Ecology Publication No. 96-94, 1997).

“Wetland, estuarine” means a tidal fringe wetland found along the mouth of a river and influenced by tidal activity. Water flows and depths are controlled by tidal cycles in the adjacent ocean. Estuarine wetlands have a salinity higher than 0.5 parts per thousand.

“Wetland mitigation bank” means a site where wetlands are restored, created, enhanced, or, in exceptional circumstances, preserved, expressly for the purpose of providing compensatory mitigation in advance of authorized impacts to similar resources. Banks typically involve the consolidation of many small wetland mitigation projects into a larger, potentially more ecologically valuable site. Such consolidation encourages greater diversity of habitat and wetland functions. It also helps create more sustainable systems. Banks provide a greater



likelihood of success over permittee-responsible mitigation projects, since the banks are up and running before unavoidable damage occurs to a wetland(s) at another site.

“Wetlands” means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation adapted for life in saturated soil conditions. Regulated wetlands generally include swamps, marshes, ponds, bogs and similar areas. Regulated wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands created as mitigation and wetlands modified for approved land use activities shall be considered as regulated wetlands. For identifying and delineating regulated wetlands, the city shall use the Washington State Wetland Identification and Delineation Manual.

“Wetlands,” for the purpose of inventory mapping, means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. Wetlands must have one or more of the following three attributes:

1. At least periodically, the soil supports predominantly hydrophytes;
2. The substrate is predominantly undrained hydric soil;
3. The substrate is nonsoil and saturated with water at some time during the growing season of each year.

Wetlands include all areas waterward from the wetland edge. Where the vegetation has been removed, or substantially altered, a wetland shall be determined by the presence or evidence of hydric or organic soils.

“Wetlands, emergent” means a regulated wetland that does not qualify as a forested wetland or a scrub-shrub wetland with at least thirty percent of the surface area covered by erect, rooted, herbaceous vegetation as the uppermost vegetative strata.

“Wetlands, forested” means a regulated wetland with at least thirty percent of the surface area covered by woody vegetation greater than twenty feet in height.



“Wetlands, isolated” means those wetlands which:

1. Are outside of and not contiguous to any one-hundred-year floodplain or riparian corridor of a lake, river, or stream; and
2. Have no contiguous hydric soil or surface water connection between the wetland and another surface water body.

“Wetlands, riparian” means those wetlands that generally occur within a riparian corridor that is contiguous to or has a surface hydrologic connection with a stream. Wetlands formed by hillside seeps that are not hydrologically affected by water in a nearby stream are not riparian wetlands. However, wetlands on a hillside may be riparian wetlands if adjacent to a stream that flows down the hillside.

“Wetlands, scrub-shrub” means a regulated wetland that does not qualify as a forested wetland with at least thirty percent of its surface area covered by woody vegetation less than twenty feet in height as the uppermost strata. (Ord. 3774-20 § 5(D) (Exh. 3), 2020.)

## **19.04.120 Sign definitions.**

This section defines specific terms to be applied where used in Chapter [19.36](#) EMC.

“Abandoned sign” means a sign which no longer identifies or advertises a bona fide business, lessor, service, owner, product or activity, or for which no legal owner can be found.

“Awning sign” means the use of an awning attached to a building for advertisement, identification or promotional purposes. Only that portion of the awning which bears graphics, symbols and/or written copy shall be construed as being a sign.

“Billboard” means an exterior sign which contains a message that is unrelated to the use or activity of the property or facilities on which the sign is located, and which is supported by a substantial permanent sign structure. Billboards are typically owned or leased separately from the principal buildings or uses on the property upon which they are located and are larger and/or taller than would otherwise be permitted by this title.

“Cabinet sign” means an internally illuminated sign in which a removable sign face (usually with translucent sign graphics) is enclosed on all edges by a metal cabinet.



“Canopy” means an overhead structure attached to a building that provides weather protection for pedestrians.

“Clearance of a sign” means the smallest vertical distance between grade and lowest point of any sign, including framework and embellishments, extending over that grade.

“Commercial sign” means a sign erected for a business transaction or advertising the exchange of goods and services.

“Construction sign” means any sign used to identify the architects, engineers, contractors or other individuals or firms involved with the construction of a building, or to announce the character or type of building.

“Directional sign” means a single- or double-faced sign designed to guide or direct pedestrian or vehicular traffic from the public right-of-way to a location, activity or service on the site.

“Electrical sign” means a sign or sign structure in which electrical wiring, connections or fixtures are used.

“Electronic changing message sign” means an electrically activated sign whose message content, either in whole or in part, may be changed by means of electronic programming. These signs shall include those displaying time, temperature, and messages of a public or commercial nature.

“Feather or sail sign” means a vertical portable sign that contains a harpoon-style pole or staff driven into the ground for support or supported by means of an individual stand.

“Flag” means a flat piece of cloth, with distinctive colors, patterns or symbols used to represent a country or group, having one end of the cloth attached to a vertical staff (directly or by rope and pulley mechanism) and all other ends free-flowing under natural movement of wind.

“Flashing sign” means a sign or a portion thereof which changes light intensity or switches on and off in a constant pattern, or contains motion or the optical illusion of motion by use of electrical energy.

“Freestanding sign” means a permanent pole, ground or monument sign attached to the ground and supported by uprights or braces attached to a foundation in the ground and not attached to any building.



“Halo lighting” means a method of sign illumination that consists of opaque sign elements with light projected behind them illuminating the mounting surface.

“Incidental sign” means a small sign, emblem or decal informing the public of goods, facilities or services available on the premises, e.g., a credit card sign or a sign indicating hours of business, which does not exceed two square feet in size.

“Indirect lighting” means lighting displayed or reflected on the surface or face of a sign which is not inside the sign and not a part of the sign proper.

“Interior-oriented sign” means a sign that is used to direct persons on a site to a particular location, activity, or service on the same site, or to provide persons a list of products or services offered on the site such as a menu board. Text, pictures and logos must be of a size that is intended to be read by persons on the site.

“Monument sign” means a freestanding sign attached to a permanent foundation or decorative base and not attached to or dependent on support from any building, pole, posts or similar uprights.

“Noncommercial sign” means any sign that is not a commercial sign. This definition also includes signs regarding fund raising or membership drive activities for noncommercial or nonprofit entities or groups.

“Off-premises sign” means an advertising, informational, directional or identification sign other than a billboard, which relates to products, businesses, services or premises not located on or otherwise directly associated with the site on which the sign is erected.

“Permanent sign” means a sign constructed of weather-resistant material and intended for permanent use and that does not otherwise meet the definition of “temporary sign.” Wall-mounted sign holders designed for insertion of signs and posters shall be considered permanent signage and subject to all standards of Chapter [19.36](#) EMC.

“Pole sign” means any freestanding sign more than five feet in height that does not meet the definition of monument, ground or portable sign. These signs are composed of the sign cabinet or base and the sign pole or pylon by which it connects to the ground.

“Portable sign” means any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported. Portable signs include, but are not limited to,



signs designed to be transported by means of wheels, A-frame signs, menu and sandwich board signs, and advertising flags.

“Projecting sign” means any sign, other than a flat wall sign, which is attached to and projects more than twelve inches from a building wall or other structure not specifically designed to support the sign.

“Readerboard” means a sign or a part of a sign on which the letters are readily replaceable such that the copy can be changed from time to time at will.

“Roof sign” means any sign erected over or on the roof of a building, or attached to the wall of a building and extending above the roofline.

“Sign” means any device, structure, fixture, placard, painted surface, awning, banner or balloon using graphics, lights, symbols and/or written copy designed, used or displayed for the purpose of advertising, informing, identifying, attracting attention to, or promoting the interest of any person, institution, business, event, product, goods or services; provided, that the same is visible from a street, way, sidewalk, or parking area open to the public.

“Sign area” means the entire area of a sign on which copy is to be placed. Sign structure, architectural embellishments, framework and decorative features which contain no written or advertising copy shall not be included. Sign area shall be calculated by measuring the perimeter enclosing the extreme limits of the module or background containing the advertising or identifying message; provided, that individual letters using a wall as the background, without added decoration or change in wall color, shall have a sign area calculated by measuring the smallest rectangle enclosing each letter and totaling the square footage thereof. For double-faced signs, total sign area shall be calculated by measuring only one face.

“Sign height” means the vertical distance from grade to the highest point of a freestanding sign or any vertical projection thereof, including its supporting columns. Grade shall be determined by taking the average elevation at finished grade for the midpoints of the four sides of the smallest rectangle that will enclose all area which is within a five-foot horizontal radius of the sign and its supporting structure.

“Temporary sign” means any sign that is intended and designed to be displayed for a limited period of time, including, without limitation, a sign that is not permanently mounted, painted or otherwise affixed, excluding portable signs as defined by this chapter, including any poster,



banner, placard, stake sign or sign not placed in the ground with concrete or other means to provide permanent support, stability and rot prevention. Temporary signs may only be made of nondurable materials including, but not limited to, paper, corrugated board, flexible, bendable or foldable plastics, foamcore board, vinyl canvas or vinyl mesh products of less than twenty-ounce fabric, vinyl canvas and vinyl mesh products without polymeric plasticizers and signs painted or drawn with water soluble paints or chalks. Signs made of any other materials shall be considered permanent and are subject to the permanent sign regulations of Chapter [19.36](#) EMC. Blade and feather signs are not considered temporary signs.

“Under-canopy sign” means a sign suspended from a horizontal building projection (i.e., weather protection) over a public or private sidewalk.

“Video board” means an electronically activated sign that creates the effect of motion or animation, except as allowed by Chapter [19.36](#) EMC for changing electronic message signs which are in compliance with the 2-1-2 provision.

“Wall sign” means a sign attached, painted onto or erected parallel to and extended not more than one foot from the facade or face of any building to which it is attached and supported throughout its entire length, with the exposed face of the sign parallel to the plane of said wall or facade.

“Wall sign, upper story” means a wall sign located above the floor plate of the second floor for buildings containing more than one story.

“Window sign” means a sign affixed to windows of a building, whether temporary or permanent, lighted or unlighted, which may be viewed from the exterior of the building. The term does not include merchandise located within a building. (Ord. 3774-20 § 5(D) (Exh. 3), 2020.)

### **19.04.130 Historic resource definitions.**

This section defines specific terms to be applied where used in Chapter [19.28](#) EMC.

“Certificate of appropriateness” means the commission has reviewed the proposed changes to a register property and certified the changes as not adversely affecting the historic characteristics of the property which contribute to its designation.



“Certified local government” or “CLG” means the local government has been certified by the State Historic Preservation Officer as having established its own historic preservation commission and a program meeting federal and state standards.

“Class of properties eligible for special valuation” means properties listed on the Everett register of historic places or certified as contributing to an Everett register historic district.

“Contributing structure” means a building that was constructed more than fifty years ago which retains the original style and architectural qualities that contribute to the historic character of the neighborhood.

“Emergency repair” means work necessary to prevent destruction or dilapidation to real property or structural appurtenances thereto immediately threatened or damaged by fire, flood, earthquake or other disaster.

“Everett register of historic places” or “register” means the local listing of properties provided for in Chapter [19.28](#) EMC.

“Historic district” is a geographically definable area—urban or rural, small or large—possessing a significant concentration, linkage or continuity of sites, buildings, structures and/or objects united by past events or aesthetically by plan or physical development.

“Integrity,” as used in Chapter [19.28](#) EMC, means wholeness, completeness and unimpaired condition of a structure, building and district.

“National Register of Historic Places” means the national listing of properties significant to our cultural history because of their documented importance to our history, architectural history, engineering or cultural heritage.

“Ordinary repair and maintenance,” as used in Chapter [19.28](#) EMC, means work for which a permit issued by the city is not required by law, and where the purpose and effect of such work is to correct any deterioration or decay of or damage to the real property or structure appurtenance therein and to restore the same, as nearly as may be practicable, to the condition prior to the occurrence of such deterioration, decay or damage including painting.

“Significance” or “significant” used in the context of historic significance means the following: a property with local, state or national significance is one which helps in the understanding of the history of the local area, state or nation (whichever is applicable) by illuminating the local,



statewide or nationwide impact of the events or persons associated with the property, or its architectural type or style in information potential. The local area can include the city, county, or western Washington, or a modest geographic or cultural area, such as a neighborhood. Local significance may apply to a property that illustrates a theme that is important to one or more localities; state significance to a theme important to the history of the state; and national significance to property of exceptional value in representing or illustrating an important theme in the history of the nation.

“Site,” as used in Chapter [19.28](#) EMC, means a place where a significant event or pattern of events occurred. It may be the location of prehistoric or historic occupation or activities that may be marked by physical remains; or it may be the symbolic focus of a significant event or pattern of events that may not have been actively occupied. A site may be the location of ruined or now nonexistent building or structure if the location itself possesses historic cultural or archaeological significance.

“Special valuation for historic properties” or “special valuation” means the local option program which when implemented makes available to property owners a special tax valuation for rehabilitation of historic properties under which the assessed value of an eligible historic property is determined at a rate that excludes, for up to ten years, the actual cost of the rehabilitation (Chapter [84.26](#) RCW and Chapter 19.221, Laws of 1986).

“State Register of Historic Places” means the state listing of properties significant to the community, state or nation but which do not meet the criteria of the National Register. (Ord. 3774-20 § 5(D) (Exh. 3), 2020.)

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**The Everett Municipal Code is current through Ordinance 4031-24, passed May 22, 2024.**

Disclaimer: The City Clerk’s Office has the official version of the Everett Municipal Code. Users should contact the City Clerk’s Office for ordinances passed subsequent to the ordinance cited above.

[City Website: www.everettwa.gov](http://www.everettwa.gov)

[Hosted by General Code.](#)



## Chapter 19.05

### USES

#### Sections:

<b>19.05.010</b>	<b>Purpose and applicability.</b>
<b>19.05.020</b>	<b>General provisions.</b>
<b>19.05.030</b>	<b>Uses allowed by zone, overlay, street type or shorelines.</b>
<b>19.05.040</b>	<b>Use of basement or other building spaces in the mixed urban zone.</b>
<b>19.05.050</b>	<b>Prohibited uses.</b>
<b>19.05.060</b>	<b>Modification of use regulations.</b>
<b>19.05.065</b>	<b>Accessory uses, facilities and activities.</b>
<b>19.05.067</b>	<b>Home occupations.</b>
<b>19.05.068</b>	<b>Temporary uses.</b>
<b>19.05.070</b>	<b>Use table, overview.</b>
<b>19.05.080</b>	<b>Table 5-1 (residential use table).</b>
<b>19.05.090</b>	<b>Table 5-2 (commercial use table).</b>
<b>19.05.100</b>	<b>Table 5-3 (industrial use table).</b>
<b>19.05.110</b>	<b>Table 5-4 (public, institutional, quasi-public use table).</b>
<b>19.05.120</b>	<b>Table 5-5 (miscellaneous use table).</b>
<b>19.05.200</b>	<b>Watershed resource management zone.</b>
<b>19.05.210</b>	<b>Park and open space zone.</b>

#### **19.05.010 Purpose and applicability.**

The purpose of this chapter is to establish the uses generally permitted in each zone which are compatible with the purpose of the zone and other uses allowed within the zone. All uses and structures proposed on properties within Everett shall be subject to the permitted uses and other requirements of this chapter. (Ord. 3774-20 § 5(E) (Exh. 3), 2020.)



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### **19.05.020 General provisions.**

- A. Land uses which are listed in Tables 5-1 through 5-5 of this chapter shall be permitted subject to the review process listed in the table for a specific use in a particular zone. If a use is not listed, please refer to EMC [19.05.070\(B\)](#) regarding unlisted uses.
- B. Any one or more land uses identified as being allowed within a particular zone may be established on any parcel within that zone, subject to the planning permit required for the use, and compliance with all other applicable requirements of the city of Everett.
- C. Where a project is proposed for development with two or more of the land uses listed in the use table, the overall project shall be subject to the highest review process (e.g., III is higher than II) for any of the proposed uses.
- D. Land uses may be subject to specific use standards set forth in Chapter [19.13](#) EMC.
- E. Land uses are subject to height (Chapter [19.22](#) EMC), setback (Chapter [19.06](#) EMC) and/or other requirements in this title.
- F. *Accessory Uses.* See EMC [19.05.065](#) for accessory use standards. (Ord. 3774-20 § 5(E) (Exh. 3), 2020.)

### **19.05.030 Uses allowed by zone, overlay, street type or shorelines.**

- A. *Overview.* Except for lands covered by water and subject to the Everett shoreline master program, all property within the city is located within a zoning district set forth in Map 3-1 (Chapter [19.03](#) EMC) and shown in Tables 5-1 through 5-5. In addition to being located within a zoning district, a property may also be located within a zoning overlay. A use that is allowed in Tables 5-1 through 5-5 may be further restricted based on whether the property fronts on a designated street type.
- B. *Zoning Districts.*
1. The land uses listed in Tables 5-1 through 5-5 determine whether a use is allowed in a zoning district. See Chapter [19.03](#) EMC for the city's zoning districts map. The zoning districts are located along the horizontal header row, and the uses allowed in the zoning districts are located on the vertical column of Tables 5-1 through 5-5.



2. The watershed resource management zone (not shown in Tables 5-1 through 5-5) applies to city-owned lands located in the city's Chaplain watershed property. See EMC [19.05.200](#) for the requirements which apply to properties in the watershed resource management zone.
3. The park and open space zone (not shown in Tables 5-1 through 5-5) applies to city-owned public parks and open space property, in addition to additional public property developed as public parks or managed as open space. See EMC [19.05.210](#) for the requirements which apply to properties in the park and open space zone.

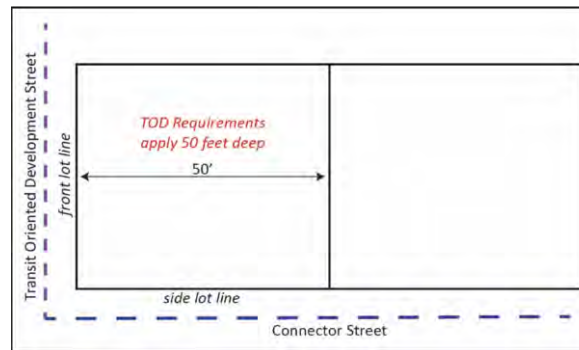
C. *Zoning Overlays.*

1. If a property is located within an overlay zone, it may provide for additional restrictions or exceptions that might apply to the property. Overlay standards may be found in Tables 5-1 through 5-5 or within specific sections as further outlined below.
2. For historic overlay zones, see Chapter [19.28](#) EMC.
3. For airport, port and navy compatibility area, see Chapter [19.17](#) EMC.
4. For planned development overlays, see Chapter [19.29](#) EMC.
5. For institutional overlays, see Chapter [19.31](#) EMC.

D. *Street Type Designations.*

1. Certain streets within Everett have one of four street types designated: transit-oriented development ("TOD") street, pedestrian street, connector street and residential mixed-use corridor. See Chapter [19.33](#) EMC for Street Type Map.
2. A use that is allowed in Tables 5-1 through 5-5 may be further restricted based on whether the property fronts on a designated street type. The restriction based on street type designation could apply to the entire property or to ground floor uses.
3. *Corner Lots.* For corner lots with more than one street type designation, the most restrictive street type designation applies to that portion of the lot measured fifty feet in depth from the lot line adjoining the designation. See Figure 1 for how to apply this requirement.



**Figure 1: Corner Lots****E. Shorelines of the State.**

1. All uses, developments and activities proposed on properties under the jurisdiction of the Everett shoreline master program, in addition to being subject to the requirements of this title, shall be subject to the procedures and review criteria for shoreline substantial development permits, variances, and conditional use permits in Chapter [15.03](#) EMC.
2. All uses, developments and activities in shoreline jurisdiction shall be subject to the development standards and special regulations of this title and the requirements of the shoreline master program, except as follows:
  - a. When a conflict exists between the shoreline master program and this title, the shoreline master program shall take precedence over this title.
  - b. Zoning districts shown on Map 3-1 do not include areas waterward of the ordinary high water mark (OHWM). These areas will be subject to the Everett shoreline master program restrictions on uses, developments and activities. (Ord. 3774-20 § 5(E) (Exh. 3), 2020.)

### **19.05.040 Use of basement or other building spaces in the mixed urban zone.**

A. *Purpose.* The purpose of this section is to allow basements or other spaces in buildings existing in the mixed urban (MU) zone, as of the effective date of the ordinance codified in this title, to be considered for uses that are not otherwise permitted, but which, if properly designed and managed, would not create unacceptable impacts on surrounding properties or the area in



general. Other spaces, in addition to basements in existing buildings that, due to their location or configuration are not readily usable for permitted uses, as determined by the planning director, may be considered using the process described herein. This process differs from the unlisted use process listed in EMC [19.05.070\(B\)](#) in that uses that are not specifically authorized in the MU zone may be considered using the process described herein.

**B. Review Process.**

1. Any request to allow a use that is not otherwise permitted in the MU zone, as provided by this section, shall be reviewed using Review Process II.

2. *Review Criteria.* The following criteria shall be used as the basis for approving, denying, or conditionally approving a request to allow the use of a basement space, or other space as provided herein, for a use not otherwise permitted in the MU zone.

- a. Traffic generated by the proposed use.
- b. Noise generated by the proposed use.
- c. Impacts from odor, vibration, dust or other nuisances.
- d. Aesthetic character and quality of the proposed use.
- e. Public safety impacts.
- f. Compliance with building and fire codes.
- g. Hours of the day of proposed use or activity.
- h. Proposed management and operational procedures to minimize and mitigate potential impacts.
- i. Other factors not specified herein that would create a conflict with the uses that are permitted in the MU zone.

3. *Action.* Any proposal that gives the outward appearance of a use or activity that is incompatible with the intent and purpose of the MU zone shall be denied. The city shall retain the right to revoke a permit issued under this section for a use that fails to comply with any conditions of approval of said permit, or which operates in a manner inconsistent



with representations made in the application, pursuant to Chapter [1.20](#) EMC. (Ord. 3774-20 § 5(E) (Exh. 3), 2020.)

### **19.05.050 Prohibited uses.**

If Tables 5-1 through 5-5 do not indicate a specific review process for a specific use and zone, the use shall not be permitted in that zone. The following uses are prohibited anywhere within the city of Everett:

- A. Aggregates extraction.
- B. The disassembly, dismantling, or storage of more than five wrecked vehicles as defined in RCW [46.80.010\(6\)](#) at any one time unless completely contained within an enclosed building.
- C. Manufacture of explosives.
- D. Stockyards, slaughterhouses, or rendering plants.
- E. Petroleum refineries.
- F. Sanitary landfills. (Ord. 3774-20 § 5(E) (Exh. 3), 2020.)

### **19.05.060 Modification of use regulations.**

A. *Use Regulations That May Be Modified.* An applicant may propose, and the planning director may allow, deny or condition using Review Process II, a modification of the special regulations and notes in Tables 5-1 through 5-5 in this chapter.

B. *Evaluation Criteria.*

1. Any proposal to modify use regulations shall not undermine the intent of the standards. The planning director shall not approve a request for modification unless the proposal provides architectural and urban design elements equivalent or superior to what would likely result from compliance with the use regulations which are proposed to be modified.



2. The planning director shall consider the criteria set forth in EMC [15.03.060](#) in making a decision. (Ord. 3774-20 § 5(E) (Exh. 3), 2020.)

### **19.05.065 Accessory uses, facilities and activities.**

A. *General.* Accessory uses, facilities and activities normally associated with a use listed as a permitted use in a zone are permitted as part of that permitted use on the same lot as the principal structure. The accessory use, facility or activity must be clearly secondary to the permitted use. The primary use or activity shall be established before or concurrent with the accessory use or activity. For home occupations as an accessory to a residential use, see EMC [19.08.120](#).

B. *Authority of the Planning Director.* The planning director is specifically authorized to determine if a particular accessory use, facility or activity is normally associated with a particular permitted use and if a particular accessory use, facility or activity is clearly secondary to the permitted use.

C. *Exceptions and Limitations.* This title establishes specific limitations and regulations for some accessory uses and facilities for some uses in some zones. Where applicable, those specific regulations supersede the general statement of subsection [\(A\)](#) of this section. (Ord. 3774-20 § 5(E) (Exh. 3), 2020.)

### **19.05.067 Home occupations.**

Home occupations are permitted in any residential zone provided the home occupations comply with EMC [19.08.120](#). (Ord. 3774-20 § 5(E) (Exh. 3), 2020.)

### **19.05.068 Temporary uses.**

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. (Ord. 3895-22 § 11, 2022; Ord. 3774-20 § 5(E) (Exh. 3), 2020.)



### 19.05.070 Use table, overview.

A. *General.* Land uses which are listed in Tables 5-1 through 5-5 of this chapter shall be permitted subject to the review process listed in the table for a specific use in a particular zone. If Tables 5-1 through 5-5 do not indicate a specific review process for a specific use and zone, the use shall not be permitted in that zone. If a use is not listed, please refer to subsection (B) of this section regarding unlisted uses. See Chapter [19.33](#) EMC for street type designations.

B. *Unlisted Uses.*

1. *Similar in Nature and Impact.* If a use is not listed but is similar in nature and impact to a use that is listed in Tables 5-1 through 5-5, the planning director may interpret and classify the use (see subsection (E) of this section) and proceed with review in accordance with the criteria outlined in EMC [15.03.030](#).

2. *Not Similar in Nature or Impact.* If a use is not listed and cannot be interpreted as similar in nature or similar in impact to a use that is listed in Tables 5-1 through 5-5, the use is deemed prohibited.

C. *Special Use Restrictions or Exceptions.* In some of the cells contained in Tables 5-1 through 5-5 are special regulations and endnotes. These special regulations and endnotes indicate that there are additional requirements or exceptions that apply to the specific use and/or zone corresponding with that particular cell in Tables 5-1 through 5-5. The special regulations are, in most cases, listed on the page(s) following Tables 5-1 through 5-5 in which the number is listed or provide reference to special regulations contained within the applicable other chapters of this code.

D. *Administrative Use and Conditional Use Permit Criteria.* Criteria for the evaluation of administrative use and conditional use permits assigned in Tables 5-1 through 5-5 are set forth in Chapter [15.03](#) EMC.

E. *Classification of Uses.* Land uses in Tables 5-1 through 5-5 are classified in one of four categories:

Key	Review Process
-----	----------------



<b>Key</b>	<b>Review Process</b>
P = Permitted	Review Process I (REV I)
A = Administrative Use—subject to public notice and discretionary approval	Review Process II (REV II)
C = Conditional Use Permit—subject to hearing and discretionary approval	Review Process III (REV III)
Cell empty = Prohibited Use	Prohibited

(Ord. 3774-20 § 5(E) (Exh. 3), 2020.)

### 19.05.080 Table 5-1 (residential use table).

<b>USE</b>	<b>R-S</b>	<b>R-1</b>	<b>R-2</b>	<b>R-2(A)</b>	<b>UR3</b>	<b>UR4</b>	<b>NB</b>	<b>B</b>	<b>MU</b>	<b>LI1 LI2</b>	<b>HI</b>	<b>AG</b>	<b>SPECIAL REGULATIONS</b>
<b>RESIDENTIAL USES</b>													
Dormitory					A	P		P <sup>1</sup>	P <sup>1</sup>				<sup>1</sup> TOD streets: Residential use on the ground



USE	R-S	R-1	R-2	R-2(A)	UR3	UR4	NB	B	MU	LI1 LI2	HI	AG	SPECIAL REGULATIONS
													floor cannot exceed twenty-five percent of the street frontage of the block.
Dwelling unit, accessory	P	P	P	P	P	P	P					P	See EMC <a href="#">19.08.100</a> , Accessory dwelling units.
Dwelling, 1-unit	P	P	P	P	P <sup>2</sup> 5	P <sup>2</sup> 5	P <sup>5</sup>	P <sup>5</sup>	P <sup>5</sup>			P	<sup>2</sup> Allowed on property within a historic overlay zone.  <sup>5</sup> Allowed if meeting the minimum density requirements set forth in EMC <a href="#">19.06.100</a> .
Dwelling, 2-unit	C <sup>4</sup>	P <sup>3</sup>	P <sup>3</sup>	P	P	P <sup>2</sup> 5	P <sup>5</sup>	P <sup>5</sup>	P <sup>5</sup>			P	See EMC <a href="#">19.08.030</a> and <a href="#">19.08.040</a> , townhouse



USE	R-S	R-1	R-2	R-2(A)	UR3	UR4	NB	B	MU	LI1 LI2	HI	AG	SPECIAL REGULATIONS
													<p>and duplex standards in single-family zones, and Chapter <a href="#">19.09</a> EMC for all other zones.</p> <p><sup>2</sup>Allowed on property within a historic overlay zone.</p> <p><sup>3</sup>See Chapter <a href="#">19.08</a> EMC for limitations on two-unit dwellings in the R-1 and R-2 zones.</p> <p><sup>4</sup>Allowed only through the unit lot process for subdividing, as provided by Chapter <a href="#">19.27</a> EMC.</p> <p><sup>5</sup>Allowed if</p>



USE	R-S	R-1	R-2	R-2(A)	UR3	UR4	NB	B	MU	LI1 LI2	HI	AG	SPECIAL REGULATIONS
													meeting the minimum density requirements set forth in EMC <a href="#">19.06.100</a> .
Dwelling, 3- to 4-unit				P	P	P	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	A <sup>6</sup>			See EMC <a href="#">19.08.030</a> and <a href="#">19.08.040</a> , townhouse and duplex standards in single-family zones, and Chapter <a href="#">19.09</a> EMC for all other zones.  <sup>1</sup> TOD streets: Residential use on the ground floor cannot exceed twenty-five percent of the street frontage of the block.  <sup>6</sup> Prohibited in



USE	R-S	R-1	R-2	R-2(A)	UR3	UR4	NB	B	MU	LI1 LI2	HI	AG	SPECIAL REGULATIONS
													the LI2 zone and allowed in the LI1 zone only within Metro Everett. If on a TOD street, residential use on the ground floor cannot exceed twenty-five percent of the street frontage of the block.
Dwelling, multiple-family					P	P	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	P <sup>6</sup>			See Chapter <a href="#">19.09</a> EMC for multifamily development standards.  <sup>1</sup> TOD streets: Residential use on the ground floor cannot exceed twenty-five percent of the street frontage



USE	R-S	R-1	R-2	R-2(A)	UR3	UR4	NB	B	MU	LI1 LI2	HI	AG	SPECIAL REGULATIONS
													<p>of the block.</p> <p><sup>6</sup>Prohibited in the LI2 zone and allowed in the LI1 zone only within Metro Everett. If on a TOD street, residential use on the ground floor cannot exceed twenty-five percent of the street frontage of the block.</p>
Dwelling, micro-housing						P	A <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	P <sup>6</sup>			<p><sup>1</sup>TOD streets: Residential use on the ground floor cannot exceed twenty-five percent of the street frontage of the block.</p> <p><sup>6</sup>Prohibited in the LI2 zone</p>



USE	R-S	R-1	R-2	R-2(A)	UR3	UR4	NB	B	MU	LI1 LI2	HI	AG	SPECIAL REGULATIONS
													and allowed in the LI1 zone only within Metro Everett. If on a TOD street, residential use on the ground floor cannot exceed twenty-five percent of the street frontage of the block.
Dwelling, cottage housing					P		P						See EMC <a href="#">19.08.070</a> , Cottage housing.
Emergency housing <sup>10</sup>	A <sup>9</sup>	A <sup>9</sup>	A <sup>9</sup>	A <sup>9</sup>	A	A	A	A	A	A	A <sup>9</sup>	A <sup>9</sup>	See EMC <a href="#">19.08.200</a> .  <sup>9</sup> Use prohibited, except that pursuant to RCW <a href="#">35.21.915</a> , a religious organization



USE	R-S	R-1	R-2	R-2(A)	UR3	UR4	NB	B	MU	LI1 LI2	HI	AG	SPECIAL REGULATIONS
													<p>may host the homeless on property owned or controlled by the religious organization whether within buildings located on the property or elsewhere on the property outside of buildings, subject to the conditions set forth in EMC <a href="#">19.08.200</a> and an administrative use permit.</p> <p><sup>10</sup> Buildings which provide shelter for survivors of domestic violence are allowed as a permitted use</p>



USE	R-S	R-1	R-2	R-2(A)	UR3	UR4	NB	B	MU	LI1 LI2	HI	AG	SPECIAL REGULATIONS
													in all zones.
Emergency shelter, indoor <sup>10</sup>	A <sup>9</sup>	A <sup>9</sup>	A <sup>9</sup>	A <sup>9</sup>	A	A	A	A	A	A	A <sup>9</sup>	A <sup>9</sup>	See EMC <a href="#">19.08.200</a> .  <sup>9</sup> Use prohibited, except that pursuant to RCW <a href="#">35.21.915</a> , a religious organization may host the homeless on property owned or controlled by the religious organization whether within buildings located on the property or elsewhere on the property outside of buildings, subject to the conditions set forth in EMC



USE	R-S	R-1	R-2	R-2(A)	UR3	UR4	NB	B	MU	LI1 LI2	HI	AG	SPECIAL REGULATIONS
													<a href="#">19.08.200</a> and an administrative use permit.  <sup>10</sup> Buildings which provide shelter for survivors of domestic violence are allowed as a permitted use in all zones.
Emergency shelter, outdoor <sup>10</sup>	A <sup>9</sup>	A <sup>9</sup>	A <sup>9</sup>	A <sup>9</sup>	A <sup>9</sup>	A	A	A	A	A	A <sup>9</sup>	A <sup>9</sup>	See EMC <a href="#">19.08.200</a> .  <sup>9</sup> Use prohibited, except that pursuant to RCW <a href="#">35.21.915</a> , a religious organization may host the homeless on property owned or controlled by



USE	R-S	R-1	R-2	R-2(A)	UR3	UR4	NB	B	MU	LI1 LI2	HI	AG	SPECIAL REGULATIONS
													<p>the religious organization whether within buildings located on the property or elsewhere on the property outside of buildings, subject to the conditions set forth in EMC <a href="#">19.08.200</a> and an administrative use permit.</p> <p><sup>10</sup> Buildings which provide shelter for survivors of domestic violence are allowed as a permitted use in all zones.</p>
Temporary extreme weather shelter	A <sup>9</sup>	A <sup>9</sup>	A <sup>9</sup>	A <sup>9</sup>	A	A	P	P	P	P	A <sup>9</sup>	A <sup>9</sup>	See EMC <a href="#">19.13.190</a> .



USE	R-S	R-1	R-2	R-2(A)	UR3	UR4	NB	B	MU	LI1 LI2	HI	AG	SPECIAL REGULATIONS
													<sup>9</sup> Use prohibited, except that pursuant to RCW <a href="#">35.21.915</a> , a religious organization may host the homeless on property owned or controlled by the religious organization whether within buildings located on the property or elsewhere on the property outside of buildings, subject to the conditions set forth in EMC <a href="#">19.08.200</a> and an administrative use permit.



USE	R-S	R-1	R-2	R-2(A)	UR3	UR4	NB	B	MU	LI1 LI2	HI	AG	SPECIAL REGULATIONS
Family home (day care or adult)	P	P	P	P	P	P	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	P <sup>7</sup>		P	<sup>1</sup> TOD streets: Residential use on the ground floor cannot exceed twenty-five percent of the street frontage of the block.  <sup>7</sup> Permitted only within an existing dwelling unit.
Group housing, residential care facility	P <sup>11</sup>	P <sup>11</sup>	P <sup>11</sup>	P <sup>11</sup>	P	P	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	P <sup>7</sup>			<sup>1</sup> TOD streets: Residential use on the ground floor cannot exceed twenty-five percent of the street frontage of the block.  <sup>7</sup> Permitted only within an existing dwelling unit.  <sup>11</sup> A conditional use permit is



USE	R-S	R-1	R-2	R-2(A)	UR3	UR4	NB	B	MU	LI1 LI2	HI	AG	SPECIAL REGULATIONS
													required for group housing residential care facilities serving more than six individuals.
Group housing, extended care facility					A	P	A <sup>8</sup>	P <sup>8</sup>	P <sup>8</sup>	A <sup>8</sup>			<sup>8</sup> TOD or pedestrian streets: prohibited use on the ground floor.
Live/work unit							P	P	P	P	A		See EMC <a href="#">19.08.125</a> for live/work unit requirements.  See "Uses, accessory to permitted principal uses including home occupations" for residential zones.
Manufactured/mobile/RV													The entry of



USE	R-S	R-1	R-2	R-2(A)	UR3	UR4	NB	B	MU	LI1 LI2	HI	AG	SPECIAL REGULATIONS
park or tiny home community													manufactured homes, park models, recreational vehicles or tiny homes in an approved manufactured housing community is allowed.  See EMC <a href="#">19.08.210</a> .
Secure community transition facility										C	C		
Short-term rentals	P	P	P	P	P	P	P	P	P			P	See EMC <a href="#">19.08.150</a> for short-term rental requirements.

**1** TOD streets: Residential use on the ground floor cannot exceed twenty-five percent of the street frontage of the block.

**2** Allowed on property within a historic overlay zone.

**3** See Chapter [19.08](#) EMC for limitations on two-unit dwellings in the R-1 and R-2 zones.

**4** Allowed only through the unit lot process for subdividing, as provided by Chapter [19.27](#) EMC.

**5** Allowed if meeting the minimum density requirements set forth in EMC [19.06.100](#).



**6** Prohibited in the LI2 zone and allowed in the LI1 zone only within Metro Everett. If on a TOD street, residential use on the ground floor cannot exceed twenty-five percent of the street frontage of the block.

**7** Permitted only within an existing dwelling unit.

**8** TOD or pedestrian streets: prohibited use on the ground floor.

**9** Use prohibited, except that pursuant to RCW [35.21.915](#), a religious organization may host the homeless on property owned or controlled by the religious organization whether within buildings located on the property or elsewhere on the property outside of buildings, subject to the conditions set forth in EMC [19.08.200](#) and an administrative use permit.

**10** Buildings which provide shelter for survivors of domestic violence are allowed as a permitted use in all zones.

**11** A conditional use permit is required for group housing residential care facilities serving more than six individuals.

(Ord. 3963-23 § 3 (Exh. 1), 2023; Ord. 3896-22 § 11 (Exh. 1), 2022; Ord. 3895-22 § 12 (Exh. 1), 2022; Ord. 3774-20 § 5(E) (Exh. 3), 2020.)

### 19.05.090 Table 5-2 (commercial use table).

USE	R-S	R-1	R-2	R-2(A)	UR3	UR4	NB	B	MU	LI1 LI2	HI	AG	SPECIAL REGULATIONS
COMMERCIAL USES	(See EMC <a href="#">19.39.060</a> , Performance regulations—General, regarding requirements to prevent nuisance impacts.)												
Alcohol production, micro—e.g., microbrewery, microdistillery, microwinery						A <sup>1</sup>	A	P	P	P <sup>2</sup>	P <sup>2</sup>	P	See EMC <a href="#">19.13.070</a> .  <sup>1</sup> Permitted only on designated residential mixed-use corridor or TOD streets. The use



USE	R-S	R-1	R-2	R-2(A)	UR3	UR4	NB	B	MU	L11 L12	HI	AG	SPECIAL REGULATIONS
													<p>must be located on the ground floor of a residential mixed-use development with no less than fifty percent of the gross floor area used for single-family or multifamily residential uses.</p> <p><sup>2</sup>See Industrial Uses. Alcohol production is allowed as a primary use without the requirement to include a restaurant, retail, or tasting room.</p>
Automobile drive-through facility								p <sup>3</sup>	p <sup>3</sup>	p <sup>3</sup>			<p>See EMC <a href="#">19.13.095</a> for regulations concerning drive-through</p>



USE	R-S	R-1	R-2	R-2(A)	UR3	UR4	NB	B	MU	LI1 LI2	HI	AG	SPECIAL REGULATIONS
													facilities.  <sup>3</sup> In Metro Everett, permitted only in the areas indicated on Map 13-2.
Auto fuel sales								P <sup>4</sup>	A <sup>4</sup>	P <sup>4</sup>	P		<sup>4</sup> TOD or pedestrian streets: prohibited use.
Automobile, light truck or RV sales or rental								P <sup>5</sup>		P <sup>7</sup>			<sup>5</sup> In the B zone, permitted only on Broadway, Evergreen Way, Rucker Avenue, and on Everett Mall Way with the following condition: On Everett Mall Way, minimum lot area for vehicle sales and related/supportive uses is two and one-half acres.  <sup>7</sup> Not permitted in



USE	R-S	R-1	R-2	R-2(A)	UR3	UR4	NB	B	MU	LI1 LI2	HI	AG	SPECIAL REGULATIONS
													the LI1 zone, and in the LI2 zone, only automobile rental is permitted on Airport Road where the minimum lot area for vehicle rental and related/supportive uses is one and one-half acres.
Equipment sales and rental								P	A	P	P		
Heavy truck and equipment sales										P	P		
Automobile and truck service, light; body repair and painting								p <sup>4</sup>	p <sup>4</sup>	p <sup>4</sup>	p <sup>8</sup>		See EMC <a href="#">19.13.140</a> for light automobile and truck service, body repair and painting.  <sup>4</sup> TOD or pedestrian streets: prohibited use.  <sup>8</sup> In HI zone, light



USE	R-S	R-1	R-2	R-2(A)	UR3	UR4	NB	B	MU	L11 L12	HI	AG	SPECIAL REGULATIONS
													vehicle servicing is permitted only in multiple-tenant building or development.
Automobile and truck service, heavy											P		
Automobile dismantling/recycling										P <sup>9</sup>	P <sup>9</sup>		<sup>9</sup> Permitted only in the L11 and HI zones when completely contained within an enclosed building.
Impound, storage yard, tow yard										P <sup>10</sup>	P <sup>10</sup>		<sup>10</sup> Impound, storage and tow yards shall comply with landscaping and screening requirements of Chapter <a href="#">19.39</a> EMC.
Casino, mini								P <sup>11</sup>		P <sup>11</sup>			See EMC <a href="#">19.13.170</a> .  <sup>11</sup> Mini-casinos are also not permitted



USE	R-S	R-1	R-2	R-2(A)	UR3	UR4	NB	B	MU	LI1 LI2	HI	AG	SPECIAL REGULATIONS
													within the area defined in Map 13-1.
Convention center								P	P	P			
Day care center, commercial	C	C	C	C	A	P	P	P	P	P	P		
Entertainment and recreation—enclosed in building (e.g., theater, fitness facility)						A <sup>1</sup>	P	P	P <sup>12</sup>	P <sup>12</sup>			<p><sup>1</sup>Permitted only on designated residential mixed-use corridor or TOD streets. The use must be located on the ground floor of a residential mixed-use development with no less than fifty percent of the gross floor area used for single-family or multifamily residential uses.</p> <p><sup>12</sup>In Metro Everett on TOD or</p>



USE	R-S	R-1	R-2	R-2(A)	UR3	UR4	NB	B	MU	LI1 LI2	HI	AG	SPECIAL REGULATIONS
													pedestrian streets: Private clubs are a prohibited use on the ground floor.
Entertainment and recreation—not enclosed (e.g., amusement, outdoor arena)								P	C	A	P	C	
Food or beverage establishment						A <sup>1</sup> 13	P <sup>14</sup>	P <sup>14</sup>	P <sup>14</sup>	P <sup>14</sup> 15	P <sup>14</sup>		<sup>1</sup> Permitted only on designated residential mixed-use corridor or TOD streets. The use must be located on the ground floor of a residential mixed-use development with no less than fifty percent of the gross floor area used for single-family or multifamily



USE	R-S	R-1	R-2	R-2(A)	UR3	UR4	NB	B	MU	LI1 LI2	HI	AG	SPECIAL REGULATIONS
													<p>residential uses.</p> <p><sup>13</sup>Taverns, nightclubs and restaurants with live entertainment prohibited.</p> <p><sup>14</sup>Taverns, nightclubs and restaurants with live, amplified entertainment shall be set back a minimum of one hundred feet from any residential zone.</p> <p><sup>15</sup>Allowed as an accessory use only.</p>
Lodging—hotels, motels								P	P	P			
Offices						A <sup>1</sup>	P	P	P	P <sup>15</sup>	P <sup>15</sup>		<sup>1</sup> Permitted only on designated residential mixed-use corridor or TOD streets. The use



USE	R-S	R-1	R-2	R-2(A)	UR3	UR4	NB	B	MU	L11 L12	HI	AG	SPECIAL REGULATIONS
													<p>must be located on the ground floor of a residential mixed-use development with no less than fifty percent of the gross floor area used for single-family or multifamily residential uses.</p> <p><sup>15</sup>Allowed as an accessory use only.</p>
Clinics						A <sup>1</sup>	P <sup>16</sup>	P	P <sup>17</sup>	A <sup>17</sup>			<p><sup>1</sup>Permitted only on designated residential mixed-use corridor or TOD streets. The use must be located on the ground floor of a residential mixed-use development with no less than fifty</p>



USE	R-S	R-1	R-2	R-2(A)	UR3	UR4	NB	B	MU	L11 L12	HI	AG	SPECIAL REGULATIONS
													<p>percent of the gross floor area used for single-family or multifamily residential uses.</p> <p><sup>16</sup>NB zone: permitted to occupy a maximum of fifty percent of the gross floor area.</p> <p><sup>17</sup>In Metro Everett on TOD or pedestrian streets: Clinics are a prohibited use on the ground floor; provided, however, that the following are not considered clinics for the purpose of this restriction: dentists, psychiatrists, chiropractors, physical therapists,</p>



USE	R-S	R-1	R-2	R-2(A)	UR3	UR4	NB	B	MU	L11 L12	HI	AG	SPECIAL REGULATIONS
													<p>optometrists or ophthalmologists.</p> <p><sup>(a)</sup>Government public health agency uses providing clinical services shall be deemed to be a permitted use on the ground floor within the MU or L11/L12 zone.</p> <p><sup>(b)</sup>Health events on a property within the MU or L11/L12 zone providing clinical health services to the general public, not exceeding three days in duration and occurring not more than once every ninety days, shall be exempt from the prohibition of clinics on the</p>



USE	R-S	R-1	R-2	R-2(A)	UR3	UR4	NB	B	MU	L11 L12	HI	AG	SPECIAL REGULATIONS
													ground floor.
Parking, commercial—applicable if principal use								P	P <sup>18</sup>	P <sup>18</sup>	P		<sup>18</sup> In Metro Everett, surface parking lots prohibited as a principal use.
Retail sales and service						A <sup>1</sup> 19	P <sup>19</sup>	P <sup>19</sup>	P <sup>19</sup>	P <sup>19</sup> 20	P <sup>20</sup>		<sup>1</sup> Permitted only on designated residential mixed-use corridor or TOD streets. The use must be located on the ground floor of a residential mixed-use development with no less than fifty percent of the gross floor area used for single-family or multifamily residential uses.  <sup>19</sup> On TOD or pedestrian streets: Pawnshops,



USE	R-S	R-1	R-2	R-2(A)	UR3	UR4	NB	B	MU	L11 L12	HI	AG	SPECIAL REGULATIONS
													<p>secondhand stores, thrift stores, and junk stores are a prohibited use on the ground floor.</p> <p><sup>20</sup>Permitted as an accessory use for those products produced on premises; up to but no more than seventy-five percent of goods sold may be produced off site and by other producers.</p>
Storage, commercial—enclosed in building (e.g., mini-storage)								P	A <sup>21</sup>	P <sup>21</sup>	P		<sup>21</sup> TOD or pedestrian streets: prohibited use on the ground floor.
Storage, commercial—not enclosed in building (e.g., boat or RV								P <sup>4</sup>		P <sup>4</sup>	P		<sup>4</sup> TOD or pedestrian streets: prohibited use



USE	R-S	R-1	R-2	R-2(A)	UR3	UR4	NB	B	MU	L11 L12	HI	AG	SPECIAL REGULATIONS
storage)													
Veterinary clinic or animal day care—limited to small animal							p <sup>23</sup>	P	p <sup>22</sup>	p <sup>22</sup>			<p>Outside runs or other outside facilities for animals are not permitted. Buildings shall be constructed so noise from this use is not audible on residentially zoned lots.</p> <p><sup>22</sup>In Metro Everett only on TOD or pedestrian streets: prohibited use on the ground floor.</p> <p><sup>23</sup>Limited to not more than 20 animals in the neighborhood business zone.</p>
Veterinary clinic or commercial kennels—large animal or commercial kennels								A		A <sup>22</sup>		A	Buildings and outside runs shall be placed and constructed so



USE	R-S	R-1	R-2	R-2(A)	UR3	UR4	NB	B	MU	LI1 LI2	HI	AG	SPECIAL REGULATIONS
													<p>noise from this use is not audible on residentially zoned lots.</p> <p><sup>22</sup>In Metro Everett only on TOD or pedestrian streets: prohibited use on the ground floor.</p>

**1** Permitted only on designated residential mixed-use corridor or TOD streets. The use must be located on the ground floor of a residential mixed-use development with no less than fifty percent of the gross floor area used for single-family or multifamily residential uses.

**2** See Industrial Uses. Alcohol production is allowed as a primary use without the requirement to include a restaurant, retail, or tasting room.

**3** In Metro Everett, permitted only in the areas indicated on Map 13-2.

**4** TOD or pedestrian streets: prohibited use.

**5** In the B zone, permitted only on Broadway, Evergreen Way, Rucker Avenue, and on Everett Mall Way with the following condition: On Everett Mall Way, minimum lot area for vehicle sales and related/supportive uses is two and one-half acres.

**6** Reserved.

**7** Not permitted in the LI1 zone, and in the LI2 zone, only automobile rental is permitted on Airport Road where the minimum lot area for vehicle rental and related/supportive uses is one and one-half acres.

**8** In the HI zone, light vehicle servicing is permitted only in multiple-tenant building or development.

**9** Permitted only in the LI1 and HI zones when completely contained within an enclosed building.

**10** Impound, storage and tow yards shall comply with landscaping and screening requirements of Chapter [19.39](#) EMC.

**11** Mini-casinos are also not permitted within the area defined in Map 13-1.



- 
- 12** In Metro Everett on TOD or pedestrian streets: Private clubs are a prohibited use on the ground floor.
- 13** Taverns, nightclubs and restaurants with live entertainment prohibited.
- 14** Taverns, nightclubs and restaurants with live, amplified entertainment shall be set back a minimum of one hundred feet from any residential zone.
- 15** Allowed as an accessory use only.
- 16** NB zone: permitted to occupy a maximum of fifty percent of the gross floor area.
- 17** In Metro Everett on TOD or pedestrian streets: Clinics are a prohibited use on the ground floor; provided, however, that the following are not considered clinics for the purpose of this restriction: dentists, psychiatrists, chiropractors, physical therapists, optometrists or ophthalmologists.
- (a)** Government public health agency uses providing clinical services shall be deemed to be a permitted use on the ground floor within the MU or LI1/LI2 zone.
- (b)** Health events on a property within the MU or LI1/LI2 zone providing clinical health services to the general public, not exceeding three days in duration and occurring not more than once every ninety days, shall be exempt from the prohibition of clinics on the ground floor.
- 18** In Metro Everett, surface parking lots prohibited as a principal use.
- 19** On TOD or pedestrian streets: Pawnshops, secondhand stores, thrift stores, and junk stores are a prohibited use on the ground floor.
- 20** Permitted as an accessory use for those products produced on premises; up to but no more than seventy-five percent of goods sold may be produced off site and by other producers.
- 21** TOD or pedestrian streets: prohibited use on the ground floor.
- 22** In Metro Everett only on TOD or pedestrian streets: prohibited use on the ground floor.
- 23** Limited to not more than twenty animals in the neighborhood business zone.

(Ord. 3895-22 § 13 (Exh. 2), 2022; Ord. 3774-20 § 5(E) (Exh. 3), 2020.)

### **19.05.100 Table 5-3 (industrial use table).**



USE	R-S	R-1	R-2	R-2(A)	UR3	UR4	NB	B	MU	L11 L12	HI	AG	SPECIAL REGULATIONS
INDUSTRIAL USES	(See EMC <a href="#">19.39.060</a> , Performance regulations—General, regarding requirements to prevent nuisance impacts. See EMC <a href="#">19.12.200</a> and <a href="#">19.12.210</a> for building and additional standards applicable to the LI2 and HI zones.)												
Freight terminal										P <sup>1</sup>	P		<sup>1</sup> TOD or pedestrian streets: prohibited use.
Heavy industrial, manufacturing, processing, fabrication or assembly											P <sup>2</sup>		<sup>2</sup> The following facilities are subject to a conditional use permit: (a) batch plant; (b) blast furnace; (c) drop forge; and (d) power generation plant.
Heliport									C	C	A		
Light industrial, manufacturing, or assembly									C <sup>3</sup>	P <sup>3</sup>	P		Alcohol production and coffee roasters: see EMC <a href="#">19.13.070</a> .  <sup>3</sup> TOD or pedestrian streets: prohibited use on the ground floor.



USE	R-S	R-1	R-2	R-2(A)	UR3	UR4	NB	B	MU	L1 L2	HI	AG	SPECIAL REGULATIONS
Marine terminal											P		
Railyard										C	A		
Storage yard										A <sup>1</sup> 4	P <sup>4</sup>		<sup>1</sup> TOD or pedestrian streets: prohibited use.  <sup>4</sup> Any composting and recycling facilities over one acre in size is subject to a conditional use permit.
Warehouse or distribution centers									A <sup>3</sup>	P <sup>3</sup>	P		<sup>3</sup> TOD or pedestrian streets: prohibited use on the ground floor.



**1** TOD or pedestrian streets: prohibited use.

**2** The following facilities are subject to a conditional use permit: a) batch plant; b) blast furnace; c) drop forge; and d) power generation plant.

**3** TOD or pedestrian streets: prohibited use on the ground floor.

**4** Any composting and recycling facilities over one acre in size is subject to a conditional use permit.

(Ord. 3774-20 § 5(E) (Exh. 3), 2020.)

### 19.05.110 Table 5-4 (public, institutional, quasi-public use table).

USE	R-S	R-1	R-2	R-2(A)	UR3	UR4	NB	B	MU	LI1 LI2	HI	AG	SPECIAL REGULATIONS
PUBLIC, INSTITUTIONAL AND QUASI-PUBLIC USES													
Cemetery	C	C	C	C	C			A				C	
Community garden	P	P	P	P	P	P	P	P	P	P	P	P	
Food bank							A	P	A <sup>1</sup>	P <sup>1</sup>	P		<sup>1</sup> In Metro Everett on TOD or pedestrian streets: prohibited use on the ground floor.
Government—limited public service (e.g., public works yards, vehicle storage, etc.)					C <sup>2</sup>	C <sup>2</sup>		P <sup>2</sup>	C <sup>2</sup>	P	P		<sup>2</sup> TOD or pedestrian streets: public works yards or vehicle storage



USE	R-S	R-1	R-2	R-2(A)	UR3	UR4	NB	B	MU	LI1 LI2	HI	AG	SPECIAL REGULATIONS
													prohibited use.
Government, administrative and service					C	C	P	P	P	A	A		
Government, correctional facility									C				See EMC <a href="#">19.13.130</a> for jails and correctional facilities.
Hospitals	C	C	C	C	C	C	C	P	A	C			See EMC <a href="#">19.13.120</a> for hospitals.
Light rail station								p <sup>3</sup>	p <sup>3</sup>	p <sup>3</sup>	p <sup>3</sup>		<sup>3</sup> Permitted only by development agreement with approval by city council.
Parks, fire stations	P	P	P	P	P	P	P	P	P	P	P	P	Permitted use if park master plan or capital facility plan approved by Everett city council, otherwise an administrative



USE	R-S	R-1	R-2	R-2(A)	UR3	UR4	NB	B	MU	LI1 LI2	HI	AG	SPECIAL REGULATIONS
													use.
Religious facility and places of worship	C	C	C	C	C	C <sup>4</sup>	A <sup>4</sup>	P <sup>4</sup>	P <sup>1</sup>	C <sup>1</sup>			See EMC <a href="#">19.13.080</a> for churches, religious facilities and places of worship.  <sup>1</sup> In Metro Everett on TOD or pedestrian streets: prohibited use on the ground floor.  <sup>4</sup> TOD or pedestrian streets: prohibited use on the ground floor.
Schools (public and private)—elementary, middle and high schools	C	C	A	A	A	A	P	P	P	A			See EMC <a href="#">19.13.180</a> , Schools
Schools (public and private)—institutions			C	C	C	C	P	P	P	A			See EMC <a href="#">19.13.180</a> ,



USE	R-S	R-1	R-2	R-2(A)	UR3	UR4	NB	B	MU	LI1 LI2	HI	AG	SPECIAL REGULATIONS
of higher education													Schools
Social services	P <sup>8</sup>	P <sup>8</sup>	P <sup>8</sup>	P <sup>8</sup>	P <sup>8</sup>	A <sup>7</sup>	P <sup>9</sup>	P	P <sup>10</sup>	A <sup>10</sup>			<p><sup>7</sup>Permitted only on designated residential mixed-use corridor or TOD streets. The use must be located on the ground floor of a residential mixed-use development with no less than fifty percent of the gross floor area used for single-family or multifamily residential uses.</p> <p><sup>8</sup>Permitted only as an accessory use in permanent supportive housing facilities, transitional housing facilities, and shelters</p>



USE	R-S	R-1	R-2	R-2(A)	UR3	UR4	NB	B	MU	LI1 LI2	HI	AG	SPECIAL REGULATIONS
													<p>hosted by a religious organization pursuant to RCW <a href="#">35.21.915</a>.</p> <p>Services provided on site shall be limited to residents of the shelter or housing.</p> <p><sup>9</sup>May occupy a maximum of fifty percent of the gross floor area.</p> <p><sup>10</sup>In Metro Everett on TOD or pedestrian streets: prohibited on the ground floor except as an accessory use to emergency housing, indoor emergency shelters, and outdoor emergency</p>



USE	R-S	R-1	R-2	R-2(A)	UR3	UR4	NB	B	MU	LI1 LI2	HI	AG	SPECIAL REGULATIONS
													shelters.
Solid waste transfer station										C <sup>5</sup>	C		<sup>5</sup> TOD or pedestrian streets: prohibited use.
Solid waste—hazardous waste treatment and storage										A <sup>5</sup> 6	A <sup>6</sup>		<sup>5</sup> TOD or pedestrian streets: prohibited use.  <sup>6</sup> Any hazardous waste treatment and storage facility over one acre in size is subject to a conditional use permit.
Transit and bicycle facilities  —single bus stop with or without shelter  —bike rack/repair station	P	P	P	P	P	P	P	P	P	P	P	P	
Transit					C	A	A	P	A	A	A		



USE	R-S	R-1	R-2	R-2(A)	UR3	UR4	NB	B	MU	LI1 LI2	HI	AG	SPECIAL REGULATIONS
station—where routes converge for transfers with more than one shelter													
Transportation facilities of statewide significance	C	C	C	C	C	C	A	A	A	A	A	A	
Utilities—minor aboveground facilities	P	P	P	P	P	P	P	P	P	P	P	P	See EMC <a href="#">19.13.020</a> , Aboveground utility and communications facilities.
Utilities—major aboveground facilities	A	A	A	A	A	A	A	P	P	P	P	P	See EMC <a href="#">19.13.020</a> , Aboveground utility and communications facilities.

**1** In Metro Everett only on TOD or pedestrian streets: prohibited use on the ground floor.

**2** TOD or pedestrian streets: Public works yards or vehicle storage prohibited use.

**3** Permitted by development agreement with approval by city council.

**4** TOD or pedestrian streets: prohibited use on the ground floor.

**5** TOD or pedestrian streets: prohibited use.

**6** Any hazardous waste treatment and storage facility over one acre in size is subject to a conditional use permit.



**7** Permitted only on designated residential mixed-use corridor or TOD streets. The use must be located on the ground floor of a residential mixed-use development with no less than fifty percent of the gross floor area used for single-family or multifamily residential uses.

**8** Social services permitted as an accessory use in permanent supportive housing facilities, transitional housing facilities, and shelters hosted by a religious organization pursuant to RCW [35.21.915](#). Services provided on site shall be limited to residents of the shelter or housing.

**9** May occupy a maximum of fifty percent of the gross floor area.

**10** In Metro Everett on TOD or pedestrian streets: prohibited on the ground floor except as an accessory use to emergency housing, indoor emergency shelters, and outdoor emergency shelters.

(Ord. 3976-23 § 3, 2023; Ord. 3895-22 § 14 (Exh. 3), 2022; Ord. 3774-20 § 5(E) (Exh. 3), 2020.)

### 19.05.120 Table 5-5 (miscellaneous use table).

USE	R-S	R-1	R-2	R-2(A)	UR3	UR4	NB	B	MU <sup>3</sup>	LI1 LI2	HI	AG	SPECIAL REGULATIONS
MISCELLANEOUS USES													
Adaptive reuse of nonresidential buildings	A	A	A	A	P	P	P	P	P	P	P		See EMC <a href="#">19.13.030</a> .
Adult retail								P		P	P		See EMC <a href="#">19.13.040</a> , Adult retail business.
Adult use business								P		P	P		See EMC <a href="#">19.13.050</a> , Adult use business.
Agriculture, industrial										A <sup>1</sup>	A	A	<sup>1</sup> TOD streets: prohibited use on the ground



USE	R-S	R-1	R-2	R-2(A)	UR3	UR4	NB	B	MU <sup>3</sup>	L11 L12	HI	AG	SPECIAL REGULATIONS
													floor.
Agriculture, farming or farm use												P	
Agriculture, greenhouse or nursery							A	P		P <sup>2</sup>	P	P	<sup>2</sup> TOD or pedestrian streets: prohibited use.
Assembly, community center	A	A	A	A	P	P	P	P	P	P	A	P	
Clubs or lodges (private), or similar uses				C	C	A	P	P	P	A		P	<sup>3</sup> TOD or pedestrian streets: Private clubs are a prohibited use on the ground floor.
Marijuana—producer or processor										A	A		
Marijuana—retail								P	P	P			
Marina								P	P	P	P		

<sup>1</sup> TOD streets: prohibited use on the ground floor.

<sup>2</sup> TOD or pedestrian streets: prohibited use.

<sup>3</sup> TOD or pedestrian streets: Private clubs are a prohibited use on the ground floor.



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(Ord. 3774-20 § 5(E) (Exh. 3), 2020.)

### **19.05.200 Watershed resource management zone.**

A. *Permitted Uses.* The following land uses and uses customarily incidental thereto are permitted within the WRM zone:

1. Public water supply management and conservation, including storage, treatment, pumping, and residual solids management;
2. Hydroelectric power generation;
3. Forestry management;
4. Biosolids application;
5. Public recreation, where allowed;
6. Wildlife habitat management;
7. Uses incidental to the above listed uses.

B. *Review Process.* All permitted uses are allowed as permitted use subject to Review Process I as set forth in Chapter [15.02](#) EMC.

C. *Development Standards.* All uses within the WRM zone shall be subject to the policies and requirements of applicable management plans adopted by the Everett city council, the policies and regulations of the shoreline master program, if applicable, and the Everett comprehensive plan. The standards applicable to any structures or improvements to be built or installed on the property shall be as needed to accomplish the purpose of such structures or improvements; provided, that said improvements are compatible with city council adopted land use and management plans for the property, and with other adjoining properties. All uses shall comply with requirements for protection of critical areas set forth in Chapter [19.37](#) EMC, where applicable. (Ord. 3774-20 § 5(E) (Exh. 3), 2020.)



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## **19.05.210 Park and open space zone.**

### *A. Permitted Uses.*

1. Public park development uses include any park and recreational activity, including active and passive outdoor recreational activities, trails, open space, cultural activities, park buildings and structures, concessionaires, general park operations and maintenance activities, ranger's or caretaker's quarters, other compatible public uses and structures, and uses customarily incidental thereto, and are permitted in accordance with the provisions of EMC Title [15](#), Local Project Review Procedures.
2. Transportation facilities of statewide significance through a Review Process II land use decision, except that a Review Process I land use decision is required for projects that are categorically exempt under SEPA and a Review Process III land use decision is required for projects in shoreline jurisdiction with a project area greater than one acre.

### *B. Development Standards.*

1. Park and open space development shall comply with the standards of Chapter [19.37](#) EMC and the Everett shoreline master program, where applicable.
2. Development standards for city-owned park uses shall be determined on a case-by-case basis by the parks department and approved by the park commission through the review processes described herein.
3. Development standards for non-city-owned park and open space is subject to Review Process II set forth in EMC Title [15](#), Local Project Review Procedures. A master site plan can be approved pursuant to this process.

*C. Other Review Processes.* Park development on property not zoned "park and open space" is subject to the review process and development standards in Tables 5-1 through 5-5 of this chapter. (Ord. 3774-20 § 5(E) (Exh. 3), 2020.)

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**The Everett Municipal Code is current through Ordinance 4031-24, passed May 22, 2024.**



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Disclaimer: The City Clerk's Office has the official version of the Everett Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

[City Website: www.everettwa.gov](http://www.everettwa.gov)

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## Chapter 19.06

### LOTS, SETBACKS AND RESIDENTIAL DENSITIES

Sections:

<b>19.06.010</b>	<b>Minimum lot area, width, depth, frontage.</b>
<b>19.06.020</b>	<b>Building setbacks/building placement standards.</b>
<b>19.06.030</b>	<b>Exceptions to building or structure placement requirements.</b>
<b>19.06.040</b>	<b>Calculation of lot area.</b>
<b>19.06.050</b>	<b>Front lot line on corner sites.</b>
<b>19.06.060</b>	<b>Lot requirements for lots created through land division process.</b>
<b>19.06.070</b>	<b>Minimum lot area—Averaging in land divisions.</b>
<b>19.06.080</b>	<b>Land divisions—Exceptions to minimum lot area, width, depth, frontage and lot coverage.</b>
<b>19.06.090</b>	<b>Other administrative modifications of development standards.</b>
<b>19.06.100</b>	<b>Residential densities—Multiple-family uses.</b>
<b>19.06.110</b>	<b>Density and lot size—Attached housing in single-family zones.</b>

#### **19.06.010 Minimum lot area, width, depth, frontage.**

Minimum requirements for lot area, width, depth, frontage and maximum lot coverage by building standards are shown in Table 6-1 below. Note there may be additional requirements for individual zones based on specific land use types. Exceptions to these standards may be granted for lots created through a binding site plan or unit lot land division as allowed in EMC [19.06.080](#).

**Table 6-1: Minimum Lot Area, Width, Depth, Frontage, Lot Coverage by Building**

ZONE	R-S	R-1	R-2	R-2(A)	UR3	UR4	NB	B	MU	LI1	LI2	HI	AG
STANDARDS <sup>(1)</sup> :													
Min. Lot	9,000	6,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	2.5	1	5



ZONE	R-S	R-1	R-2	R-2(A)	UR3	UR4	NB	B	MU	LI1	LI2	HI	AG
Area	sf <sup>(2)</sup>	sf <sup>(2)</sup>	sf <sup>(2)(3)</sup>	sf <sup>(2)</sup>	sf	sf	sf	sf	sf	sf	acres	acre	acres
Lot Width, Min.	60'	50'	50'	50'	50'	50'	50'	50'	50'	50'	150'	100'	N/A
Lot Depth, Min.	80'	80'	80'	80'	80'	80'	80'	80'	80'	80'	150'	100'	N/A
Lot Frontage Min.	40'	40'	40'	40'	40'	40'	40'	40'	40'	40'	40'	40'	40'
Maximum Lot Coverage by Building	35%	35%	40%	40%	N/A	N/A	N/A	N/A	N/A	N/A	50%	N/A	N/A

**Footnotes for Table 6-1:**

(1) See EMC [19.06.070](#) and [19.06.080](#) for exceptions to minimum lot requirements.

(2) This standard applies to lots used for single-family detached dwellings. See EMC [19.08.030](#) for additional lot requirements applicable to other housing types. Not more than one single-family detached dwelling may be permitted unless meeting the minimum lot area required in the R-S, R-1 and R-2 zones unless otherwise allowed by this title.

(3) In the R-2 zone, minimum lot area for single-family dwellings with alley access shall be four thousand five hundred square feet. Any lot under five thousand square feet in area shall be subject to the small lot single-family provisions in EMC [19.08.020](#).

(Ord. 3845-21 § 1, 2021; Ord. 3774-20 § 5(F) (Exh. 3), 2020.)



## 19.06.020 Building setbacks/building placement standards.

A. Minimum Building Setbacks for Principal Structures. The standards set forth in Table 6-2 below apply to all new development. Also refer to Chapter [19.22](#) EMC, Building and Structure Heights.

**Table 6-2: Minimum Building Setbacks for Principal Structures**

ZONE	R-S	R-1	R-2	R-2(A)	UR3	UR4	NB	B	MU	LI1	LI2	HI	AG
Minimum Setback:													
Front	20'	20'	20'	20'	20'	10'	None	None	None	None	20'	None	25'
Rear (with alley)	20'	20'	20'	20'	20'	None	None	None	None	None	None <sup>(1)</sup>	10' <sup>(1)</sup>	25'
Rear (no alley)	20'	20'	20'	20'	20'	10' <sup>(3)</sup>	10'	None <sup>(2)</sup>	None <sup>(2)</sup>	None <sup>(2)</sup>	15' <sup>(1)</sup>	10' <sup>(1)</sup>	
Side, Street	10'	10'	10'	10'	10'	10'	10'		None	None	20'	None	10'
Side, Interior	5'	5'	5'	5'	5'	5' <sup>(4)</sup>	5'	<sup>(2)</sup>	None	None	15' <sup>(1)</sup>	None <sup>(1)</sup>	10'

**Footnotes:**

(1) Twenty-five feet when abutting lots located in residential zones.

(2) Ten feet when abutting lots located in residential zones.

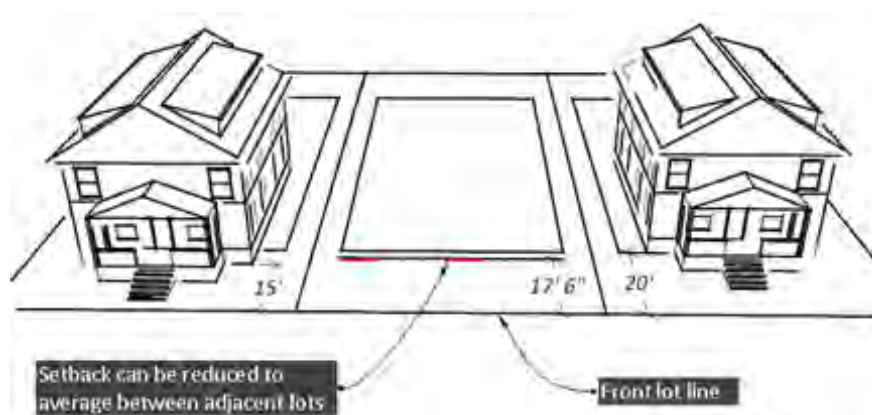
(3) Twenty feet when abutting lots located in the R-S, R-1 and R-2 zones.

(4) No side, interior setback is required within Metro Everett.



B. *Average Front Setback—Residential Structures in Residential Zones.* In certain instances, existing residential dwellings do not meet the current front setback standard for the applicable zone district. In such cases, the applicant may use the average of the existing front facade setback of the two nearest and adjacent existing residential buildings on the same side of the street as the minimum required front setback for the lot. For corner lots, the applicant may use the same setback as the adjacent building on the same side of the street. This provision shall apply to principal dwellings only. The resulting setback shall not be less than fifty percent of the required setback standard.

**Figure 6-1: Building Placement**



C. *Additional Building Placement Requirements (Applicable Within Metro Everett Only).* Front or side street (corner) setbacks ten feet or more. Any principal building set back ten feet or more from the minimum front or side street (corner) setback line shall include design features, such as a plaza or forecourt (see EMC [19.12.140\(C\)](#)), along the front or side street (corner) lot line in order to provide an impression of a continuous facade line at the front setback.

D. *Building Setbacks for Lots Fronting on and Taking Access from a Private Access Drive.* For lots that are accessed from a private access drive, the minimum setback shall be five feet from the edge of the easement. Where vehicle parking is provided between the access drive and the dwelling or garage, the minimum setback shall be twenty feet from the edge of pavement or curb face.

E. *Building Setbacks for Residential Accessory Structures in Residential Zones.* The following setback requirements apply to all buildings which are accessory to residential uses in all residential zones:



**Table 6-3: Setbacks for Accessory Buildings (Attached and Detached) in Residential Zones**

<b>MINIMUM SETBACK:</b>	<b>STANDARD:</b>
Front and side, street	<p>a) Accessory buildings shall not be located in front setback areas or street side setback areas for corner lots, except as provided by b) below.</p> <p>b) Accessory buildings on a corner lot with doors or openings for vehicles facing and accessing the side street shall be set back a minimum of 10 feet from the side street lot line or a minimum of 20 feet from the public sidewalk, whichever is greater. If there is no public sidewalk, the planning director, with input from the city engineer shall determine if there shall be a setback greater than 10 feet from the side street lot line. This determination shall be based on future planned improvements within the right-of-way.</p>
Side, interior	<p>a) See Table 6-2.</p> <p>b) Accessory buildings shall not be located within the interior side setback area, unless the side lot line abuts an alley, in which case there shall be no required side setback from the alley.</p>
Rear	<p>a) Alley Lots. No minimum rear setback.</p> <p>b) Nonalley lots: 5 feet.</p> <p>c) The city engineer and planning director shall determine the rear setback for accessory buildings on double fronting lots (lots with street frontages along the front and rear property lines).</p>

F. *Building Setbacks for Accessory Dwelling Units (ADU)*. The following table is a summary of the standards required for ADUs:

**Table 6-4: Minimum ADU Building Setbacks**



Subject	Standard
Front and Side Setbacks	See Table 6-2: Minimum Building Setbacks for Principal Structures
Rear Setbacks:	a) Alley Lots. No minimum rear setback.  b) Nonalley Lots. 5-foot rear setback.

(Ord. 3963-23 § 4, 2023; Ord. 3845-21 § 2, 2021; Ord. 3774-20 § 5(F) (Exh. 3), 2020.)

### 19.06.030 Exceptions to building or structure placement requirements.

A. *Lot Setback Exceptions.* The exceptions to building or structure placement apply as outlined in Table 6-5 below, or as otherwise authorized by this title.

**Table 6-5: Exception to Setback Standards**

Exception	Front	Rear	Side	Side (Street)	Standard
1) Chimneys with or without foundations, bay windows, eaves, greenhouse windows and other elements of a structure that customarily extend beyond the exterior	P	P	P	P	<ul style="list-style-type: none"> <li>May encroach up to 18 inches. The total horizontal dimension of the elements that extend into a required setback, excluding eaves, may not exceed 25 percent of the length of the facade upon which the architectural element is located.</li> </ul>



Exception	Front	Rear	Side	Side (Street)	Standard
walls of a structure and do not require a foundation; dish antennas under 36-inch diameter					<ul style="list-style-type: none"> <li>Setback standards for cell towers and other antennas: see Chapter <a href="#">19.13</a> EMC.</li> </ul>
2) Fences	P	P	P	P	Subject to the fence regulations contained within Chapter <a href="#">19.40</a> EMC.
3) Flagpoles	P	P	P	P	Must not exceed 35 feet in height.
4) Garages/carports on slopes	P				<ul style="list-style-type: none"> <li>If the topography of a lot is such that the front building setback line is 8 feet or more above or below street grade, and there is no reasonable way to construct a driveway up to the dwelling level, a garage/carport is allowed within the front setback, provided it is set back at least 5 feet from the front lot line and complies with the street intersection sight-obstruction requirements of the city engineer.</li> </ul>
5) Heat pumps, air conditioning, swimming pool pumps, and other similar mechanical equipment, and	P	P	P	P	<ul style="list-style-type: none"> <li>May be located in any required setback provided that any such equipment shall not be located within 3 feet of any side lot line or rear lot line where there is no alley; provided, further that any location in</li> </ul>



Exception	Front	Rear	Side	Side (Street)	Standard
propane tanks					<p>a front or side street (corner) setback may be allowed through a modification of development standards process.</p> <ul style="list-style-type: none"> <li>Any such equipment shall be visually screened from surrounding properties and streets.</li> <li>Any such equipment may not exceed the maximum permissible noise levels set forth in Chapter <a href="#">20.08</a> EMC, Noise Control.</li> </ul>
6) Rockeries and retaining walls	P	P	P	P	<ul style="list-style-type: none"> <li>Any structure retaining fill material, which is less than 4 feet in height above finished grade, may be located in any required setback.</li> <li>Any structure retaining fill material, which is 4 feet or greater, but less than 6 feet in height above finished grade, may be located in any required setback but, if visible from a public right-of-way or residentially zoned property, shall be constructed of or faced with brick, stone, split-face or fluted concrete block, textured poured-in-place concrete, or other materials with texture to reduce the apparent mass of the</li> </ul>



Exception	Front	Rear	Side	Side (Street)	Standard
					<p>wall.</p> <ul style="list-style-type: none"> <li>Any structure retaining fill material that is greater than 6 feet in height above finished grade shall comply with accessory building setback requirements, unless otherwise approved by the planning director as a REV II process.</li> </ul>
7) Shoreline use and access areas, associated improvements	P	P	P	P	May be located in any required setback area. The landward end of a pier may be located in the required setback area.
8) Signs, marquees and awnings	P	P	P	P	Subject to the requirements of Chapter <a href="#">19.36</a> EMC or other specific regulations of this title.
9) Transit shelters	P	P	P	P	Transit stops, transit shelters and bicycle facilities serving the public may be placed within required setbacks
10) Setback reductions (including zero lot lines) approved as part of a formal unit lot land division application	P	P	P	P	Buildings may encroach into what would otherwise be considered a required setback area for internal lot lines.



Legend: "P" means permitted

**B. *Porches, Decks and Steps.***

**1. *Rear or Side Setback.***

- a. No setback from rear or side lot lines if no higher than forty-two inches above the existing grade.
- b. Setback in rear may be reduced fifty percent, or six feet, whichever is more permissive, if no higher than ten feet above existing grade and if uncovered (i.e., no roof).

**2. *Front and Side Street Setback.***

- a. Setback in front or side (street) may be reduced fifty percent, or six feet, whichever is more permissive, if no higher than forty-two inches above existing grade.
- b. Steps and accessibility ramps may encroach into setback if no higher than forty-two inches above existing grade.
- c. See Chapter [19.08](#) EMC for front porch design standards.

**C. *Encroachment into Public Right-of-Way.*** The following may be authorized by the city engineer within the public right-of-way:

1. Signs, marquees and awnings may project into (over) the public right-of-way.
2. Street furniture and landscaping may be placed in the public right-of-way when consistent with the sidewalk standards set forth in EMC [19.33.030](#).
3. Transit stops, transit shelters and bicycle facilities may be placed in the public right-of-way when consistent with the sidewalk standards set forth in EMC [19.33.030](#).
4. Any other encroachment.

**D. *West Marine View Drive at 23rd and 24th.*** No buildings shall be constructed on property located within the westerly extension of the right-of-way lines for 23rd Street and 24th Street in Blocks 483, 486 and 556, immediately east of West Marine View Drive (see Map 6-1). All buildings to be constructed north or south of these extended right-of-way lines shall meet the



setbacks that would be required if the property lines coincided with the extension of the right-of-way lines.

E. See EMC [19.06.090\(A\)](#) for building setback modifications for single-family and two-family (duplex) uses on lots without frontage on a public street.

**Map 6-1: 23rd and 24th Street Setback Required**



(Ord. 3774-20 § 5(F) (Exh. 3), 2020.)



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**19.06.040 Calculation of lot area.**

All of the following are deleted from the net square footage of a lot for the purpose of determining minimum lot area:

- A. The driving surface, including curbs and gutters, of all private roads serving more than one principal dwelling unit and private primary access easement drives. The area of any other type of easement is not subtracted from the net square footage of a lot;
- B. The panhandle portion of panhandle lots;
- C. Drainage tracts;
- D. Common recreation facilities;
- E. Public right-of-way, except dedications of additional right-of-way required as part of a land division approval for street improvements or widening;
- F. Critical areas and their buffers, except geologically hazardous slopes not associated with another critical area. (Ord. 3774-20 § 5(F) (Exh. 3), 2020.)

**19.06.050 Front lot line on corner sites.**

- A. When a development site is comprised of more than one platted lot or parcel of land, the planning director shall determine which lot line is to be the front lot line.
- B. In making the determination of front lot line the planning director shall use the following criteria:
  - 1. The orientation of the originally created lot or parcel lines;
  - 2. The relationship of the proposed development to existing topography, buildings, alleys and development patterns in the immediate vicinity;
  - 3. The classification of the affected streets (arterial, collector, local, etc.) and how the application of "front lot line" would affect vehicular traffic flow and pedestrian safety;



4. Comprehensive plan policy language which may designate a particular street as a "gateway" street. (Ord. 3774-20 § 5(F) (Exh. 3), 2020.)

### **19.06.060 Lot requirements for lots created through land division process.**

A. *Minimum Lot Dimensions.* Except as provided in this title, every lot shall be of a shape such that two lines, one equal to the required width and one equal to the required depth for the land use district, may be placed at right angles to each other entirely within the lot boundaries. The panhandle portion of a panhandle lot may not be used for purposes of meeting this requirement. For lots with vehicular access from a private access drive, the access drive and associated easement are excluded from the calculation of lot width.

B. *Lot Shape.* Irregularly shaped lots shall be prohibited unless approved by the director or through a unit lot land division. In general, all lots shall be composed of straight lines which provide adequate building site and private rear yard area, except as permitted in unit lot land divisions and binding site plans through review and approval of a site plan.

C. *Other Lot Requirements.*

1. Lot arrangement and design shall take into consideration, to the maximum extent possible, the natural features of the site such as critical areas, parks, open space, and views. Each lot shall provide a suitable building site and driveway access from existing or proposed streets.
2. Double frontage lots shall be avoided whenever possible.
3. Lots shall not, in general, access from arterial streets. Where driveway access from a street may be necessary for several adjoining lots, the city may require that such lots be served by combined access points and driveways designed or arranged so as to avoid requiring vehicles to back into traffic.
4. Through the unit lot land division or binding site plan process, the director may modify the Everett Unified Development Code requirements for individual lots for width, depth, area, frontage, setbacks and minimum building site; provided, that Everett Unified Development Code density standards are met for the total site.



5. Individual lots that take access from a cul-de-sac may be allowed a reduced frontage, but not less than a minimum of twenty feet if the front setback is increased to thirty feet.

6. Minimum Building Site Requirements. All new lots shall contain suitable area for a building footprint, setbacks, access and off-street parking in accordance with the standards in this section. Additional open space and design requirements may apply under Chapter [19.08](#) EMC depending on housing type.

- a. Minimum Building Footprint Area. One thousand two hundred square feet, with a minimum dimension of twenty-five feet.
- b. *Setbacks*. Per underlying zone and Table 6-2.
- c. Access and Parking. Driveways and off-street parking shall be provided in accordance with Chapter [19.34](#) EMC.

D. *Block Length*. Blocks within a land division greater than four hundred feet shall be avoided wherever possible.

E. *Panhandle Lots*. The planning director and city engineer shall have the authority to allow panhandle lots and may require an easement rather than a panhandle configuration based on the maximum development potential of a site. In subdivisions, panhandle shaped lots are restricted to sites that contain natural constraints such as topography greater than fifteen percent or critical areas. In short subdivisions, panhandle shaped lots are permitted without the above restrictions, provided all panhandle lots meet the following standards:

1. No panhandle shaped lot shall be permitted in short subdivisions where the ownership is common with a contiguous property;
2. Side-by-side panhandle access drives in subdivisions or short subdivisions are not permitted;
3. Panhandle lot access drives are required to comply with the same standards applied to easement access short subdivisions, including, but not limited to, road width and landscaping standards. (Ord. 3774-20 § 5(F) (Exh. 3), 2020.)



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**19.06.070 Minimum lot area—Averaging in land divisions.**

In any formal subdivision within the R-S, R1 and R-2 zones and in short subdivisions the individual lots shall be considered legal lots if the average of the areas of all lots meets the minimum requirement for the district in which the land division is located, and further provided:

- A. That no lot shall be less than four thousand square feet with a minimum of fifty feet of width and eighty feet of depth unless in a R-2 zone where the lot abuts and takes vehicular access from a public alley;
- B. On lots with alley access, no individual lot therein shall have an area less than three thousand square feet, be less than thirty feet in width, or less than eighty feet in lot depth. On such lots, the minimum lot frontage requirement shall be not less than thirty feet, and the lot frontage requirements listed elsewhere in this chapter shall not apply;
- C. That lot area averaging may not be used to create lots for duplexes or multiple-family dwellings with less lot area than otherwise required by this title for the zone in which the property is located;
- D. Not more than a thirty-five percent increase over the required minimum lot area for any single lot shall be credited in computing average lot area;
- E. The small lot single-family development standards of EMC [19.08.020](#) shall apply to single-family dwellings on lots with less than five thousand square feet created using the lot area averaging process;
- F. Critical areas and buffers may not be used as credit for lots utilizing lot size averaging. (Ord. 3774-20 § 5(F) (Exh. 3), 2020.)

**19.06.080 Land divisions—Exceptions to minimum lot area, width, depth, frontage and lot coverage.**

Using the land division process in this title (Chapters [19.24](#) through [19.27](#) EMC), certain types of applications may be granted an exception to the lot standards in this chapter. The criteria for an exception depend on the type of land division proposed, as follows:



A. *Binding Site Plans Involving Nonresidential Uses (or in Commercial or Industrial Zones).* Lots created through a binding site plan are not required to comply with minimum requirements for lot area, width, depth or frontage. Other zoning standards for open space and building perimeter landscaping, when required, shall not be reduced under this exception and shall be based on the size of the originating parcel.

B. *Unit Lot Developments Involving a Division of Land—Applicable to Single-Family Detached Uses.*

1. Lots created through a unit lot land division process, including short subdivision, subdivision, or cottage housing, may be granted an exception from the following requirements of this chapter:

- a. Lot area; provided the overall density of the project complies with the underlying zoning requirements (this chapter) and Chapter [19.08](#) EMC.
- b. Lot width;
- c. Lot depth;
- d. Interior side building setbacks, including zero lot line; provided, that building construction shall comply with all building and fire code requirements. Setback reductions along the exterior boundary of the parent lot may not be granted;
- e. Lot frontage;
- f. Lot coverage; and
- g. Minimum building site standards in this chapter.

2. *Evaluation Criteria for Modification of Development Standards.*

- a. The director determines through review of a site plan the proposed project design will provide adequate building sites, open space, parking and building setbacks;
- b. The proposed unit design complies with the requirements of EMC [19.08.020](#), small lot single-family development.

C. *Subdivisions and Short Subdivisions—Lot Depth.* Subdivisions and short subdivisions may request (REV II) a reduction in lot depth. Such a reduction shall be limited to the following:



1. When the originating parcel meets the lot frontage and lot width standards of this chapter;
2. Exceptions that would allow any lot to be less than seventy feet shall not be granted;
3. The lot or lots shall meet all other requirements of this chapter and shall provide a suitable building site, setbacks and off-street parking.

D. *Division of Land with More Than One Existing Single-Family Dwelling on One Lot.* An exception to the lot area, lot width, lot depth and setback standards may be granted (REV II) subject to the following minimum standards:

1. The existing structures shall be single-family dwellings in a single-family zone;
2. All lots and existing structures shall meet minimum fire safety and public utility standards, and minimum maintenance standards as defined by the city;
3. All lots and existing structures shall provide for adequate off-street parking. When existing parking is nonconforming, the division of land shall not result in off-street parking becoming more nonconforming; and
4. All lots must have full frontage on a public street. The use of easement access, panhandle lot or alley frontage is not permitted.

E. *Dedication of Public Right-of-Way.* If a proposed land division requires a dedication of right-of-way for an existing public street, one hundred percent of the dedicated area may be credited toward meeting the minimum lot area of the proposed project. The applicant may be required to distribute the credit evenly among all of the lots, rather than to apply all credit toward one lot. The planning director shall have the authority to modify lot area, dimensional requirements and setbacks in applying this requirement through the land division process. For single-family lots, no individual lot shall contain less than four thousand five hundred square feet after the dedication, excluding access easements.

F. *Transfer of Development Rights (TDR).* Reductions in minimum lot size, lot width and lot depth may be granted as part of a TDR in accordance with Chapter [19.37](#) EMC. (Ord. 3774-20 § 5(F) (Exh. 3), 2020.)



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### **19.06.090 Other administrative modifications of development standards.**

A. *Building Setback Modifications for Single-Family and Two-Family (Duplex) Uses on Lots Without Frontage on a Public Street.*

1. An applicant may propose and the planning director, using the Review Process II described in EMC Title [15](#), may allow an applicant to deviate from the building setback standards in Table 6-2 in EMC [19.06.020](#), provided the proposal satisfies the evaluation criteria in Chapter [15.02](#) EMC.
2. In evaluating such a proposal, the planning director, using the criteria, shall determine if the alternative design or plan provides equivalent or superior results to that which would be required by compliance with the development building setback requirements of this chapter.

B. *Development Standards That Cannot Be Modified.* Any standard that is not specifically listed in this section for modification requests, or in EMC [19.06.080](#), cannot be modified except as permitted in EMC [19.41.010](#) for variances. (Ord. 3774-20 § 5(F) (Exh. 3), 2020.)

### **19.06.100 Residential densities—Multiple-family uses.**

A. *Overview.* “Density” means a ratio of dwelling units to lot area. Some residential developments are subject to minimum or maximum density requirements, depending on location or housing type. Other development requirements, such as maximum floor-to-area requirements, height and building coverage limits, building setbacks, and off-street parking requirements, may affect density that can be achieved as well.

B. *Minimum Density.* In order to ensure efficient use of land within areas designated for multifamily residential development, a minimum number of residential units is required as set forth in Table 6-6 below. These minimum residential development requirements do not apply to lots within Everett’s historic overlay zones.

C. *Maximum Density.* The maximum density for multifamily residential development is set forth in Table 6-6 below.



**Table 6-6: Residential Density**

Standard	UR3	UR4	NB	B	MU	LI1 LI2	HI	AG
Minimum Number of Residential Units	2	3	None	3 (applicable only where residential occupies more than 50% of gross floor area)			n/a	None
Maximum Residential Density	None (see exception in subsection (D) of this section)	None	1 unit per 500 s.f. of lot area	None			n/a	

D. *Density Limits in an Historic Overlay Zone.* Residential development within a UR3 zone with an historic overlay (see Chapter [19.28](#) EMC) shall not exceed one dwelling unit per one thousand five hundred square feet of lot area (up to twenty-nine dwelling units per acre). (Ord. 3774-20 § 5(F) (Exh. 3), 2020.)

### **19.06.110 Density and lot size—Attached housing in single-family zones.**

A. *Overview and Applicability.* Single-family, attached (townhouse) and duplex housing may be allowed in single-family (R-S, R-1, R-2 and R-2(A)) zones, subject to specific review processes set forth in Chapter [19.05](#) EMC, review criteria in Chapter [15.03](#) EMC, specific performance and design standards found in Chapter [19.08](#) EMC, and this section.

B. *Density and Lot Size Requirements for Attached Housing in Single-Family Zones.*

1. Except for an attached accessory dwelling unit, which is subject to the requirements of EMC [19.08.100](#), any attached housing is subject to the lot and density limits of this section.



2. See Table 6-7 below for maximum density and minimum lot size requirements in single-family zones. See Chapter [19.05](#) EMC for permitted housing types, Chapter [19.08](#) EMC for design and other standards for attached housing.

**Table 6-7: Maximum Density and Minimum Lot Size for Attached Housing in Single-Family Zones**

<b>Zone</b>	<b>Maximum Density</b>	<b>Minimum Lot Size</b>
R-S	1 unit per 9,000 sq. ft. of lot area	No lot shall have an area less than 4,000 square feet except that lots with alley access can have 3,000-square-foot lots.
R-1	1 unit per 6,000 sq. ft. of lot area	Each lot may be less than 6,000 square feet; provided, that 12,000 square feet is provided for both dwelling units.
R-2	1 unit per 3,750 sq. ft. of lot area	The minimum lot area for a two-unit dwelling is 7,500 square feet; there is no minimum lot area for individual lots within the development.
R-2(A)	1 unit per 2,900 sq. ft. of lot area	The minimum lot area for the development is 9,000 square feet; there is no minimum lot area for individual lots within the development.

(Ord. 3774-20 § 5(F) (Exh. 3), 2020.)

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**The Everett Municipal Code is current through Ordinance 4031-24, passed May 22, 2024.**

Disclaimer: The City Clerk's Office has the official version of the Everett Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

[City Website: www.everettwa.gov](http://www.everettwa.gov)



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[Hosted by General Code.](#)



## Chapter 19.08

### RESIDENTIAL USES AND DEVELOPMENT STANDARDS

Sections:

<b>19.08.010</b>	<b>General overview.</b>
<b>19.08.015</b>	<b>Definitions.</b>
<b>19.08.020</b>	<b>Small lot single-family.</b>
<b>19.08.030</b>	<b>Townhouse and duplexes.</b>
<b>19.08.040</b>	<b>Design standards for townhouses and duplexes.</b>
<b>19.08.050</b>	<b>Front porch and entrance requirements.</b>
<b>19.08.060</b>	<b>Garage requirements.</b>
<b>19.08.070</b>	<b>Cottage housing.</b>
<b>19.08.100</b>	<b>Accessory dwelling units.</b>
<b>19.08.110</b>	<b>Residential accessory buildings.</b>
<b>19.08.120</b>	<b>Home occupations.</b>
<b>19.08.125</b>	<b>Live/work units.</b>
<b>19.08.130</b>	<b><i>Repealed.</i></b>
<b>19.08.135</b>	<b>Reasonable accommodation.</b>
<b>19.08.140</b>	<b><i>Repealed.</i></b>
<b>19.08.150</b>	<b>Short-term rentals.</b>
<b>19.08.200</b>	<b>Homeless shelter and housing.</b>
<b>19.08.210</b>	<b>Manufactured homes, mobile homes, tiny homes and recreational vehicles.</b>
<b>19.08.220</b>	<b>Secure community treatment facilities.</b>
<b>19.08.300</b>	<b>Administrative modification of development standards.</b>
<b>19.08.400</b>	<b>Design review.</b>
<b>19.08.500</b>	<b>Authority of planning director.</b>

#### **19.08.010 General overview.**

This chapter addresses:

- A. Development standards for small lot development;



- B. Development standards for multi-unit residential uses within the R-S, R-1, R-2 and R-2(A) zones;
- C. Front porch and entrance requirements for: (1) residential dwellings provided front or side-street setback exceptions; (2) small lot single-family development; (3) two- to four-unit dwellings in the R-S, R-1, R-2 and R-2(A) zones; (4) cottage housing; or (5) any dwelling within an historic overlay zone; and
- D. Development standards for cottage housing, accessory dwelling units, residential accessory buildings, home occupations, boarding and rooming, bed and breakfast houses, short-term rentals, group housing and temporary shelters, secure community transition facilities, manufactured home and RV parks, and reasonable accommodation.
- E. For residential development standards in the UR3 or UR4 zone, or multifamily in commercial or industrial zoning districts, please see Chapter [19.09](#) EMC. (Ord. 3774-20 § 5(G) (Exh. 3), 2020.)

### **19.08.015 Definitions.**

The following definitions are used within this chapter. For additional definitions, please refer to Chapter [19.04](#) EMC.

“Duplex” contains two dwelling units (see Chapter [19.05](#) EMC, “Dwelling, 2-unit”), but unlike a townhouse, a duplex could be two units on separate floors (upper unit and lower unit) or two units joined at the side.

“Floor area ratio,” or “FAR,” means a measure of development intensity which is the gross floor area (square footage of the total floor area except parking areas) divided by the lot area. For purposes of this chapter, gross floor area excludes (1) any basement that is more than seventy-five percent below natural grade and (2) up to two hundred forty square feet of unenclosed porches.

“Street-facing dwelling unit facade” means a ground or first floor of a dwelling unit facade facing, and within thirty feet of, a front or side-street lot line on a public street.

“Townhouses,” also called “single-family, attached,” are buildings joined at the side by a common wall. Each dwelling has up to two or three stories and no dwellings are placed over



another. Each dwelling has individual and direct pedestrian access to the street and typically contains some private open space in the front and back. A development of townhouses could include two units attached (see Chapter [19.05](#) EMC, "Dwelling, 2-unit") or multiple units attached. This chapter places limits on how many may be attached in the R-S, R-1, R-2 and R-2(A) zones. (Ord. 3774-20 § 5(G) (Exh. 3), 2020.)

### **19.08.020 Small lot single-family.**

Single-family dwellings to be built on lots having less than five thousand square feet in any zone shall meet the development standards contained herein. It is the intent of these development standards that single-family dwellings on small lots be compatible with neighboring properties, friendly to the streetscape, and in scale with the lots upon which they are to be constructed. The planning director is authorized to promulgate guidelines, graphic representations, and examples of housing designs and methods of construction that do or do not satisfy the intent of these standards.

A. *Floor to Area Ratio (FAR)*. Gross floor area of the dwelling, excluding the garage, shall not exceed fifty percent (0.50 FAR) of the lot area. An additional 0.15 FAR is allowed for detached accessory structures on lots.

B. A dwelling shall meet the front porch and entrance requirements set forth in EMC [19.08.050](#).

C. Any garage shall meet the garage requirements set forth in EMC [19.08.060](#). (Ord. 3774-20 § 5(G) (Exh. 3), 2020.)

### **19.08.030 Townhouse and duplexes.**

A. *Intent, Applicability and Authority*.

1. *Intent*. The intent of the standards in this section is to ensure compatibility of townhouse or duplex units into neighborhoods with predominantly detached single-family homes.



2. *Applicability.* The standards in this section address townhouse or duplex units when proposed in single-family zones (R-S, R-1, R-2 and R-2(A)). For this housing type in other zones, please refer to the multifamily development standards in Chapter [19.09](#) EMC.
3. *Authority.* The planning director or review authority is authorized to condition projects to ensure compatibility.

**Figure 8-1: Example of Single-Family, Attached**



**B. Where Allowed, Density, FAR and Open Space Standards.**

1. Townhouses and duplexes are allowed within the R-S, R-1, R-2 and R-2(A) zones as set forth in Table 8-1 below. Standards for ownership, density, floor area ratio (FAR), open space and heights are also included within the table. See subsection [\(C\)](#) of this section or design standards in EMC [19.08.040](#) for additional requirements.

**Table 8-1: Townhouse or Duplex, Review Process in Single-Family Zones**

Zone	2-Unit Townhouse or Duplex	3- to 4-Unit Townhouse
<b>R-S</b>	a) Review Process III.  b) Ownership opportunity must be created (e.g., condominium or unit-lot subdivision).  c) Maximum density and minimum lot area: see Chapter <a href="#">19.06</a> EMC.	Not permitted.



Zone	2-Unit Townhouse or Duplex	3- to 4-Unit Townhouse
	d) FAR: maximum 0.5. e) Open space: 250 sq. ft. per unit. f) Height: see Chapter <a href="#">19.22</a> EMC.	
<b>R-1</b>	a) Review Process I. b) Allowed only when each dwelling unit may be owner-occupied, as provided through zero lot line subdivision, condominium, or residential binding site plan. c) Maximum density and minimum lot area: see Chapter <a href="#">19.06</a> EMC.	Not permitted.
<b>R-2</b>	a) Review Process I. b) Maximum density and minimum lot area: see Chapter <a href="#">19.06</a> EMC.	Not permitted.
<b>R-2(A)</b>	a) Review Process I. b) Maximum density and minimum lot area: see Chapter <a href="#">19.06</a> EMC.	a) Review Process I. b) Ownership opportunity must be created (e.g., condominium or unit-lot subdivision). c) Density: 1 unit per 2,900 sq. ft. of lot area. d) FAR: maximum 0.5. e) Open space: 250 sq. ft. per unit.



Zone	2-Unit Townhouse or Duplex	3- to 4-Unit Townhouse
		f) Height: see Chapter <a href="#">19.22</a> EMC.

2. This housing type is not allowed on easement or panhandle lots unless the city's fire marshal, city engineer and planning director approve access, off-street parking and fire protection requirements.

C. *General Standards.* Townhouses and duplexes within the R-S, R-1, R-2 and R-2(A) zones are required to meet the following standards:

1. Alley access is required if available.
2. See EMC [19.08.040](#) for design standards and guidelines.
3. Front Porch and Main Entrance. Dwellings must meet the front porch and entrance requirements set forth in EMC [19.08.050](#).
4. See EMC [19.08.060](#) for garage requirements.
5. See Chapter [19.22](#) EMC for maximum height requirements.
6. See Chapter [19.06](#) EMC for building placement and setback requirements.
7. See Chapter [19.35](#) EMC for landscape requirements (Ord. 3774-20 § 5(G) (Exh. 3), 2020.)

### **19.08.040 Design standards for townhouses and duplexes.**

A. *Applicability.* The design standards in this section apply to the two- to four-unit townhouse or duplex housing types in the R-S, R-1, R-2 and R-2(A) zones.

B. *Site Design.*

1. Design sites to have both an external orientation to the streetscape and an internal orientation to the residential environment with unifying open space and pedestrian pathways.



2. Design emphasis should be given to the pedestrian, rather than the auto environment, through placement of parking in a less prominent location.
3. Vehicular access and parking must be from an alley if one is available.
4. No more than one street access point for every two units is allowed, unless on a corner lot.

C. *Facades, Separation, Roofs and Transparency.*

1. *Facades.*

- a. Facades of attached residences within the same project should be distinct and even different, but also should maintain unifying compositional elements such as a common window header or sill line, and/or aligned vertical centerlines of windows and doors between upper and lower floors. See Figure 8-2.
- b. Facades for each dwelling unit must include at least two of the following architectural elements: (1) horizontal modulation (upper level step-backs of at least two feet), (2) bay, bow, or garden windows, (3) building ornamentation such as a frieze, or (4) other architectural element the planning director determines accomplishes the intent. See Figure 8-3.
- c. Attached dwelling units need to employ one of the following methods of vertical modulation:
  - (1) Setback variation between dwelling units, with no more than two adjacent dwelling units having the same setback. The setback between units needs to be at least one foot. (See Figure 8-4.)
  - (2) Vertical modulation within each dwelling unit. (See Figure 8-5.)

**Figure 8-2: Facades of Units Distinct**





**Figure 8-3: Facade Architectural Elements**



**Figure 8-4: Example of Setback Variation Between Units**





**Figure 8-5: Example of Vertical Modulation Within Unit**

2. *Roofs.*

a. Roof forms should complement neighboring properties. For example, if gables with pitches greater than 3:12 are the most prominent local roof form, then the proposed building should include a gable roof form with similar slope, unless there is a compelling reason (e.g., a green roof) to the contrary.

b. Roofs must incorporate architectural elements in roof forms, such as vertical or horizontal changes in rooflines; varied roof forms; dormers; deep roof overhangs (more than twenty-four inches); rafter tails, brackets, corbels, or other decorative supports; and/or prominent cornice, soffit, or fascia details.

c. For two-unit buildings, the predominant roof pitch must be the same, with roof eaves projecting the same distance from the building wall for each dwelling unit.

3. *Building Separation.* Where the density of the zone allows more than one building to be developed on a lot, a minimum separation of ten feet, not including eaves or other building appurtenances, is required between buildings.

4. *Exterior Stairs.* Fire escapes and exterior stairs providing access to an upper floor are not allowed on any facade that faces a street.

5. *Transparency.* At least fifteen percent of the area of each street-facing facade must be windows or main entrance doors. Windows used to meet this standard must allow views from the building to the street. Glass block does not meet this standard. Windows in garage doors do not count toward meeting this standard.



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D. *On-Site Open Space.*

1. *General Requirements.*

- a. The amount of open space required per unit is shown in Table 8-1 in EMC [19.08.030\(B\)](#).
- b. On-site open space may be private or common open space.
- c. Required front and side street (corner) setbacks and driveways shall not be included in the open space calculation.
- d. Common open space may include:
  - (1) Interior side setback areas which are contiguous with other on-site common open space areas;
  - (2) Rear setback areas which are contiguous with other on-site common open space areas and which are not part of a street side setback area on corner lots.
- e. Required landscaping or critical area buffers without common access links such as pedestrian trails, do not count toward required open space.
- f. Open space areas shall not be used for or occupied by driveways, parking, service areas, or any other vehicular use.
- g. Plans for open space shall be approved by the city.

2. *Minimum Size Standards.*

- a. Private open space shall be a minimum of ten feet in any direction, no less than one hundred square feet in area. A rear or side yard, which is part of a required setback area, may be counted toward this requirement if it meets the minimum dimensions.
- b. Common open space shall be a minimum of twenty feet in any direction, no less than four hundred square feet in area.

3. *Where Located.*

- a. Private open space on the ground shall be located to the rear of the unit.



- b. Each unit should have direct access to on-site open space without travel through parking areas or other open space areas of other units.
- c. A private deck, porch, balcony, patio, or roof garden may be counted towards the open space requirement provided it has a minimum dimension of six feet in any direction.

4. *Design Standards.*

- a. Open space areas shall be developed with lawn, landscaping, usable active or passive recreation areas, courtyards, seating and walkways.
- b. Bark or gravel covering of required common open space areas shall not exceed ten percent.
- c. Pavement covering of open space areas shall be limited to active recreation surfaces, walkways, and courtyard areas.

E. *Landscaping/Screening.*

- 1. See Chapter [19.35](#) EMC for landscaping and street tree requirements.
- 2. Screening of waste containers from view of neighboring properties is required. (Ord. 3774-20 § 5(G) (Exh. 3), 2020.)

### 19.08.050 Front porch and entrance requirements.

A. *Where Applicable.* The standards in this section apply to any dwelling within thirty feet of a front or side-street lot line along a public street and as required in Table 8-2 below:

**Table 8-2: Front Facade and Entrance Applicability**

Use	Single-Family Zones (R-S, R-1, R-2, R-2(A))	UR3	UR4



<b>Use</b>	<b>Single-Family Zones (R-S, R-1, R-2, R-2(A))</b>	<b>UR3</b>	<b>UR4</b>
Any residential dwelling provided a front or side-street setback exception (see EMC <a href="#">19.06.030</a> )	X	X	X
Small lot (4,500 sq. ft. or less) single-family dwelling	X	n/a	n/a
Two-family dwelling unit	X	n/a	n/a
Three- or four-family dwelling	X	n/a	n/a
Cottage housing	n/a	X	n/a
Any dwelling within an historic overlay zone	X	X	X

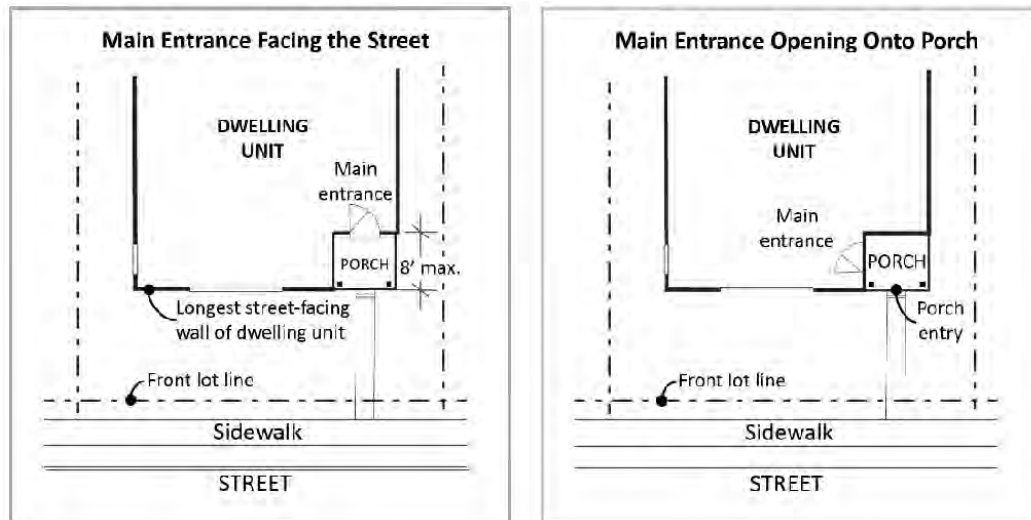
**B. Main Entrance.**

1. At least one main entrance must be located within eight feet of the street-facing facade. (See Figure 8-6.)
2. The entrance must open onto an unenclosed porch that is at least thirty-six square feet in area.
3. The main entrance to each dwelling unit shall be on the ground floor.
4. For two-family units allowed on corner lots in the R-S, R-1 or R-2 zones, each entrance must be oriented towards a separate street frontage and have its own address.
5. For two- to four-family units, one main entrance with internal access to units is allowed.



6. Fire escapes and exterior stairs providing access to an upper level are not allowed on any street-facing facade.

**Figure 8-6: Main Entrance Requirements**



C. *Porch Requirements.* Porches, where required by this chapter or title, shall meet the following requirements:

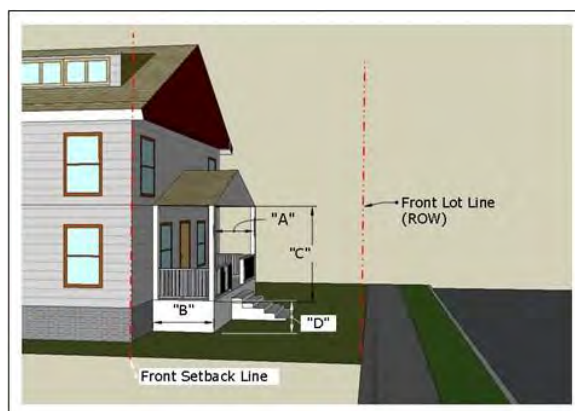
1. A weather-protective roof is required above the main entrance and required porch.
2. Porches must meet the setback requirements unless otherwise excepted pursuant to EMC [19.06.030](#).
3. Porches shall meet the standards set forth in Table 8-3 below and illustrated in Figure 8-7.

**Table 8-3: Front Porch Requirements**

Standard	Figure	Porch
Width, minimum	<b>A</b>	6 feet



Standard	Figure	Porch
Width, maximum		None
Depth, minimum	<b>B</b>	6 feet
Depth, maximum	<b>B</b>	None
Height, minimum	<b>C</b>	8 feet
Height, maximum		1 floor
Finish level above average grade	<b>D</b>	18 inches, minimum  42 inches, maximum

**Figure 8-7: Front Porch Requirements**



(Ord. 3774-20 § 5(G) (Exh. 3), 2020.)

### 19.08.060 Garage requirements.

A. *Where Applicable.* The standards in this section apply as set forth in Table 8-4 below:

**Table 8-4: Garage Requirements, Where Applicable**

Use	Single-Family Zones (R-S, R-1, R-2, R-2(A))	Multifamily Zones (UR3 and UR4)
Any residential dwelling provided a front or side-street setback exception (see EMC <a href="#">19.06.030</a> )	X	X
Small lot (4,500 sq. ft. or less) single-family dwelling	X	n/a
Two-family dwelling unit	X	n/a
Three- or four-family dwelling	X	n/a
Any dwelling within an historic overlay	X	X

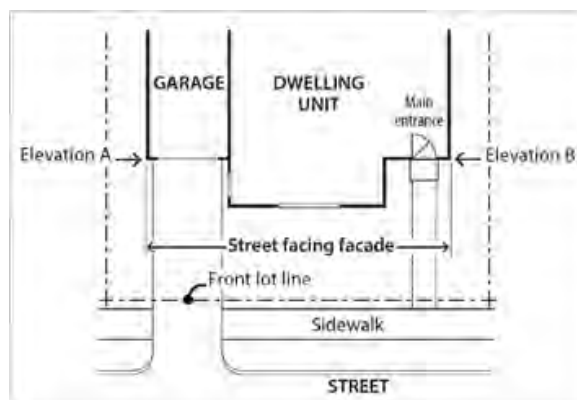


Use	Single-Family Zones (R-S, R-1, R-2, R-2(A))	Multifamily Zones (UR3 and UR4)
zone		

B. *Garage Setbacks and Lengths.* The purpose of these standards is to encourage residential character and lessen the visual prominence of garages along street frontages where applicable.

1. See Chapter [19.34](#) EMC for access and driveway requirements, including the requirement to obtain access from an alley if available.
2. Except along alleys, all garage wall facades facing the street shall be set back a minimum of five feet behind the front wall of the primary building mass.
3. The length of the garage wall facade facing the street may be up to fifty percent of the length of the street-facing dwelling unit facade, except that a garage wall facade set back a minimum of twenty feet behind the front facade of the dwelling unit is allowed a two-car-wide garage facade of up to twenty feet. (See Figure 8-8 below.)
4. Where the street-facing facade of the dwelling unit is less than twenty-two feet in length, an attached garage is prohibited as part of that facade.

**Figure 8-8: Garage Setbacks and Lengths**



(Ord. 3774-20 § 5(G) (Exh. 3), 2020.)



### 19.08.070 Cottage housing.

Cottage housing is a cluster of small detached dwelling units around a common open space.

A. *Intent.*

1. To provide an opportunity for small detached housing types clustered around an open space.
2. To provide centrally located and functional common open space that fosters a sense of community.
3. To provide semi-private areas around the individual dwellings to enable diversity in landscape design and foster a sense of ownership.
4. To ensure minimal visual impact from vehicular use and storage areas for residents of the cottage housing development as well as adjacent properties, and to maintain a single-family character along public streets.

**Figure 8-9: Example Cottage Housing with Parking Off the Alley**



B. *Standards and Guidelines.*

1. The standards for cottage housing are pursuant to Table 8-5 below:



**Table 8-5: Cottage Housing Standards**

<b>Standard</b>	<b>Requirement</b>
1) Density:	1 unit per 1,500 square feet
2) Maximum Gross Floor Area (dwelling):	1,500 square feet per dwelling
3) Maximum Gross Floor Area for Ground or Main Floor:	800 square feet per dwelling
4) Minimum Common Open Space:	250 square feet per dwelling (see subsection <a href="#">(B)(2)</a> of this section)
5) Minimum Private Open Space:	200 square feet per dwelling (see subsection <a href="#">(B)(3)</a> of this section)
6) Maximum Height:	25 feet subject to all parts of the roof above 18 feet shall be pitched
7) Setbacks (to exterior property)	Same as other residential uses in



Standard	Requirement
lines):	the respective zoning district
8) Minimum Distance Separating Structures (including accessory structures):	10 feet
9) Minimum Off-Street Parking Spaces:	See Chapter <a href="#">19.34</a> EMC
10) Clustering Groups:	Developments shall contain a minimum of 4 and a maximum of 12 dwellings located in a cluster group to encourage a sense of community among the residents. A development site may contain more than one cluster.

2. *Common Open Space Requirements.*

- a. Shall abut at least fifty percent of the cottages in a cottage housing development.
- b. Shall have cottages abutting on at least two sides of the common open space.



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- c. Cottages shall be oriented around and have an entry facing the common open space.
    - d. Cottages shall be within sixty feet walking distance of the common open space.
  - 3. Required private open space shall be adjacent to each dwelling unit and for the exclusive use of the cottage resident(s). The private space shall be:
    - a. Usable (not on a steep slope).
    - b. Oriented toward the common open space as much as possible.
    - c. No dimension less than ten feet.
  - 4. Cottage facades facing the common open space or common pathway shall feature a roofed porch at least eighty square feet in size with a minimum dimension of six feet on any side.
  - 5. Parking shall be:
    - a. Located on the same property as the cottage development.
    - b. Screened from public streets and adjacent residential uses by landscaping or architectural screening.
    - c. Located in clusters of not more than five adjoining spaces (except where parking areas are adjacent to an alley).
    - d. Prohibited in front and interior yard setback areas.
  - 6. A cottage housing development shall be designed to be visually and aesthetically compatible with the neighborhood. Consideration shall be given to review of proposed building materials, roof pitches, building forms, landscaping and open space in the approval process. The city may condition the project to address compatibility with adjoining neighborhood. (Ord. 3774-20 § 5(G) (Exh. 3), 2020.)
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**19.08.100 Accessory dwelling units.**

A. The following table provides standards required for accessory dwelling units (ADUs). In the event there is a conflict between the provisions of this section or any other provision of the EMC, the provisions of this section shall control:

**Table 8-6: ADU Standards**

<b>Subject</b>	<b>Standard</b>
1) Lot Requirements:	No minimum lot size required.
2) Number of Units	Up to two ADUs per one principal dwelling unit.
3) ADU Size:	An ADU shall not exceed a gross floor area of 1,000 square feet, except no maximum size for an ADU located within one floor of a principal dwelling unit.
4) Lot Coverage:	a) See applicable zone (Chapter <a href="#">19.06</a> EMC).  b) An additional 5% of the lot's ground area may be used for up to two accessory dwelling unit(s).
5) Maximum Height:	See Chapter <a href="#">19.22</a> EMC.



Subject	Standard
6) Setbacks:	See Chapter <a href="#">19.06</a> EMC.
7) Parking and Vehicle Access:	See city standards in EMC Title <a href="#">13</a> and Chapter <a href="#">19.34</a> EMC.
8) Historic Overlay:	Any ADU located within an historic overlay zone, and not located entirely within an existing principal dwelling unit, must also comply with the design requirements of the historic overlay and be reviewed by the city's historical commission with a recommendation to the planning director.

(Ord. 3963-23 § 5, 2023; Ord. 3901-22 § 2 (Exh. B § 45), 2022; Ord. 3774-20 § 5(G) (Exh. 3), 2020.)

### 19.08.110 Residential accessory buildings.

The following requirements apply to all buildings which are accessory to residential uses in the R-S, R-1, R-2, or R-2(A) zones:

A. Accessory buildings or uses may not be established until the principal dwelling or dwellings are constructed on the lot.

B. *Use of Accessory Buildings.*

1. Detached accessory buildings are limited to accessory uses.



2. The following spaces are allowed within a detached accessory building: bathrooms, hobby rooms, home occupations, home offices, recreation rooms, or laundry rooms. The following rooms are not allowed in accessory buildings: bedrooms, dining rooms, or kitchens. (See EMC [19.08.100](#) regarding accessory dwelling units.)

C. *General Standards.* The following table is a summary of the standards required for residential accessory buildings:

**Table 8-7: Residential Accessory Building Standards**

Subject	Standard
1) Maximum Size:	<p>a) The footprint shall not exceed the lesser of 1) 15% of the total lot area; 2) 3,000 square feet; or 3) the dwelling's building footprint.</p> <p>I. Exceptions for Attached Garage. An attached garage constructed as an integral part of the dwelling is not included in this limitation. "Integral" means that at least two sides, or a side and ceiling, of the garage abuts habitable space of the dwelling.</p> <p>II. Porches. Any porch, including any covered decks or patios which are an integral part of the porch are not considered an accessory building and subject to these provisions. See Chapter <a href="#">19.06</a> EMC for lot coverage requirements.</p> <p>III. Exceptions for Other Structures. Up to 200 square feet of the following accessory buildings or structures are not included in the size calculations above: child's playhouse or treehouse, play structure, gazebo, doghouses, patio or garden trellis. This exception does not include sheds or other storage buildings.</p> <p>b) A detached accessory building(s) shall be compatible with the dwelling including roof pitch and building materials.</p> <p>c) If the city finds that the impacts of accessory buildings which are larger than 1,000 square feet will create noise, vibrations or impact privacy to adjoining properties in excess of what a smaller accessory building would create, the city shall have the authority to impose greater setback</p>



Subject	Standard
	<p>requirements, landscape buffers, or other requirements as necessary to mitigate the impacts.</p> <p>d) If the principal use is a housing type with maximum floor-to-area ratios (FAR), please see FAR limits that may affect the size of residential accessory buildings.</p>
2) Setbacks, Front and Side Street:	<p>a) Any accessory residential structure located within the rear setback area required for a principal dwelling shall have a minimum separation from the principal dwelling of 10 feet, not including eaves or other building appurtenances.</p> <p>b) See Chapter <a href="#">19.06</a> EMC.</p>
3) Maximum Height:	See Chapter <a href="#">19.22</a> EMC.
4) Design Standards:	<p>a) Metal siding or corrugated metal roofing material shall be prohibited on all accessory buildings with a gross floor area larger than two hundred square feet, unless materials similar in appearance are used in the majority of the principal building or if approved by the planning director.</p> <p>b) The planning director, using the review process described in EMC Title <a href="#">15</a>, Local Project Review Procedures, may allow accessory buildings with metal siding or corrugated metal roofing.</p>
5) Temporary Covers:	<p>Structures that are covered or partially covered with tarps, fabric, metal, plastic or any other similar type of materials shall:</p> <p>a) Be prohibited between any portion of the principal building and abutting streets. This prohibition shall apply to any area of the lot that is located between the street and a line that is parallel to the street and extended from any facade of the principal building that faces the street to the side lot line(s), or to the rear lot line on the street side of a corner lot; and</p>



Subject	Standard
	b) Be immediately removed or repaired in the event of disrepair or in the event of damage caused by weather, fire, collision, accident or other forms of damage.
6) Shipping Containers	Shipping containers or other similar storage units do not qualify as accessory buildings under this section and shall be prohibited in residential zones.

(Ord. 3774-20 § 5(G) (Exh. 3), 2020.)

### 19.08.120 Home occupations.

A. Home occupations may be permitted in any residential zone provided such home occupations comply with the requirements of the zone in which the property is located and the following requirements:

1. Home occupations shall not occupy more than twenty-five percent of the total floor area of the residence, or six hundred square feet, whichever is less. Home occupations carried on within a dwelling shall be provided access to the work space through the dwelling only, with no direct access to the outside;
2. The occupation shall be carried on entirely within a residence or accessory building by the occupant thereof;
3. The home occupation may be located in the principal dwelling or in the accessory structure. If located in an accessory structure, the following regulations shall apply:
  - a. The area devoted to the occupation, as described in subsection [\(A\)\(1\)](#) of this section, shall be based upon the floor area of the dwelling only; and
  - b. Access to the work space may be directly from the outside;
4. No noise, dust, smoke, light, glare or odor shall be emitted other than is commonly associated with a residential use;



- 
5. The occupation shall be conducted in such a manner as to give no outward appearance of a business nor manifest any characteristics of a business;
  6. Occupations which shall be prohibited as home occupations include, but are not limited to:
    - a. Veterinarians;
    - b. Clinics;
    - c. Auto repair;
    - d. Auto sale;
    - e. Barber/beauty shops;
    - f. Real estate offices;
    - g. Offices with client visits;
    - h. Retail sales, on premises;
    - i. Any use of a nature which is similar to those listed in this chapter or which creates impacts on surrounding properties which are similar to those created by the uses listed herein;
  7. There shall be no person other than a resident of the dwelling employed on the premises;
  8. If the occupation is the type in which classes are held or instruction is given, there shall be not more than five students allowed in any one class or instruction period. Classes shall not exceed a total of twenty hours in any week;
  9. No stock in trade shall be sold or displayed on the premises, and no equipment or materials shall be stored on any outdoor portion of the premises;
  10. Parking of student, client or employee vehicles shall not create any hazard or congestion;
  11. No receipt or delivery of products shall be permitted except as is commonly anticipated in residential areas. Commercial vehicle deliveries shall not exceed two per
-



week. The gross vehicle weight of delivery vehicles shall not exceed eighteen thousand pounds;

12. No signs shall be allowed for home occupations; and

13. Home occupations shall comply with all other local, state and federal regulations pertinent to the activity pursued, and the requirements of or permission granted by this section shall not be construed as an exemption from such regulations.

B. Any person engaging in a home occupation shall register as a business with the city treasurer's office and shall be subject to the city business and occupations tax.

C. Garage sales shall not be considered to be a home occupation. (Ord. 3774-20 § 5(G) (Exh. 3), 2020.)

### **19.08.125 Live/work units.**

A. Live/work units are built spaces that function as both work spaces and residences.

B. The multiple-family design guidelines do not apply to live/work units.

C. No portion of a live/work unit may be rented or sold as a commercial space for a person or persons not living on the premises, or as a residential space for a person or persons not working on the premises.

D. At least one resident in each live/work unit shall maintain at all times a valid city business license for a business on the premises. (Ord. 3774-20 § 5(G) (Exh. 3), 2020.)

### **19.08.130 Boarding and rooming.**

*Repealed by [Ord. 3896-22](#).* **19.08.135 Reasonable accommodation.**

A. *Overview.* This section establishes the application and review procedures by which the city will fulfill its obligations under the federal Fair Housing Act (FHA) and other federal or state laws.



1. The federal Fair Housing Act (FHA) requires local governments to make reasonable accommodations in the application of zoning regulations when such accommodations are necessary to afford a disabled individual an equal opportunity to use and enjoy a dwelling. The city is required to consider requests for reasonable accommodation. In addition, other state and federal laws prohibiting housing discrimination may apply under certain circumstances.
2. In the event that a waiver or modification of zoning regulations in a given situation is required by a law other than the FHA, such waiver or modification shall be requested and reviewed using the procedures established in this section.

*B. Application Requirements.*

1. Requests for reasonable accommodation shall be submitted to the planning director, along with any applications fees required pursuant to Chapter [16.72](#) EMC, if any.
2. The request shall include information as determined necessary by planning director to make a determination whether reasonable accommodation should be approved. Unless waived by the planning director, the applicant shall submit the following information:
  - a. Name of property owner(s).
  - b. The specific modification(s) of the Unified Development Code requirements requested in order to allow the reasonable accommodation.
  - c. The nature of the disability or disabilities of the individual(s) for whom the accommodation is requested, and an explanation why the specific accommodation is necessary based on the disability.
  - d. Such other information as may be determined by the planning director following either a preapplication meeting or review of a request for reasonable accommodation.

*C. Planning Director Approval.*

1. The following shall be taken into consideration in whether to approve a request for reasonable accommodation:
  - a. Whether any adverse impacts would happen if the request for reasonable accommodation is approved based on the size of the dwelling and lot, traffic and



parking conditions on the lot and in the surrounding area including streets, anticipated vehicle usage by residents and visitors, and any other circumstances the planning director determines relevant to determine adverse impacts.

b. The applicant's need for accommodation in light of the anticipated land use impacts.

2. If handicap eligibility and need for accommodation are demonstrated, the planning director shall approve an accommodation, unless the requested accommodation would make a dwelling available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

3. Any decision to grant reasonable accommodation applies specifically to the property identified in the decision, and may not be transferred to any other property.

*D. Other Provisions.*

1. Approval of reasonable accommodation permits a dwelling to be inhabited only according to the terms and conditions of the applicant's proposal and the director's decision.

2. If the planning director determines that the accommodation has become unreasonable because circumstances have changed or adverse land use impacts have occurred that were not anticipated, the planning director shall rescind or modify the decision to grant reasonable accommodation.

3. Eligibility for a reasonable accommodation under the Fair Housing Act does not relieve the owner, applicant and residents from the obligation to comply with all building, fire, land use and all other standards and regulations applicable under local, state and federal laws.

4. Any decision on a request for accommodation is unique to the specific circumstances related to the individual request and location. A decision issued for a specific property shall not establish a precedent that would be applicable to any other request for accommodation. (Ord. 3774-20 § 5(G) (Exh. 3), 2020.)



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**19.08.140 Bed and breakfast house.**

*Repealed by [Ord. 3896-22](#).* **19.08.150 Short-term rentals.**

Short-term rentals shall comply with the following provisions:

A. *License Required.* A city business license is required to operate a short-term rental. No more than two short-term rental sites may be operated by any individual, marital group, a group of people, or a corporate entity such as an LLC, within the city.

B. *Location.* A short-term rental use may be located in a dwelling unit or an accessory dwelling unit. See EMC [19.08.100](#) for applicable accessory dwelling unit requirements, including owner occupancy if applicable.

C. *Number of Guests.* The total number of guests occupying a dwelling unit may not exceed eight on a site, including any site with an accessory dwelling unit.

D. *Signs.* No signs identifying the use as a short-term rental are permitted. (Ord. 3963-23 § 6, 2023; Ord. 3896-22 § 14, 2022; Ord. 3774-20 § 5(G) (Exh. 3), 2020.)

**19.08.200 Homeless shelter and housing.**

A. *Applicability.*

1. This section applies to the following uses:

- a. Emergency housing.
- b. Indoor emergency shelter.
- c. Outdoor emergency shelter.

2. This section shall not apply to:

- a. Emergency or disaster situations as defined by RCW [38.52.010\(9\)](#); provided, however, that the inability of a sponsor or managing agency to locate a site shall not be deemed to constitute an emergency or disaster.



- b. Placement of a tiny house or a tiny house with wheels used as a primary residence in a manufactured/mobile home community; provided, that each tiny house contains at least one internal toilet and at least one internal shower or the manufactured/mobile home community provides for the toilets and showers.

**B. General Provisions.**

1. Applications for facilities which provide shelter for survivors of domestic violence do not require notice to adjacent property owners.
2. A religious organization may host individuals or families experiencing homelessness pursuant to RCW [35.21.915](#), including extreme weather shelters, on property owned or controlled by the religious organization whether within buildings located on the property or elsewhere on the property outside of buildings, subject to the conditions set forth in this section.
3. The city may require an organization to enter into a memorandum of understanding for fire safety that includes inspections, an outline for appropriate emergency procedures, a determination of the most viable means to evacuate occupants from inside a site with appropriate illuminated exit signage, panic bar exit doors, and a completed fire water agreement indicating: (a) posted safe means of egress; (b) operable smoke detectors, carbon monoxide detectors as necessary, and fire extinguishers; and (c) a plan for monitors who spend the night awake and are familiar with emergency protocols, who have suitable communication devices, and who know how to contact the fire department.
4. *Management Responsibility Plan.* Prior to or upon filing a land use application, the managing agency and sponsor shall prepare an emergency shelter management responsibility plan, which shall be included with their permit application. The management responsibility plan shall, at a minimum, address the details of the facility operations and responsibilities identified in subsections [\(B\)\(5\)](#) through [\(7\)](#) of this section. If children under eighteen are allowed in the facility, such as for family shelters, specific provisions must be identified in the management responsibility plan to ensure safety, security, and well-being of minors.
5. *Managing Agency Responsibilities.*



- a. The managing agency and residents of the facility shall ensure compliance with state law and the Everett Municipal Code concerning, but not limited to, drinking water connections, solid waste disposal, human waste, electrical systems, and fire-resistant materials.
- b. The managing agency shall identify a person or persons as a point of contact for the Everett police department that is available at all times.
- c. The managing agency shall maintain an admission process that adequately provides for the safety and welfare of residents of the facility and the community, with particular attention to the safety of children and other vulnerable residents, and may include consideration of the applicant's sex offender status; the number and nature of the applicant's criminal convictions; the number and nature of the applicant's pending criminal cases; or active warrants issued for the applicant's arrest.
- d. The managing agency shall immediately contact the Everett police department if, in the opinion of staff or security, a person is a potential threat to the safety of residents of the facility or the community.
- e. The managing agency shall permit inspections of the facility by the city's code compliance officers, building inspector, permit services manager, fire marshal or their designee without prior notice. The managing agency shall implement all directives resulting from such inspections within the given compliance schedule.
- f. The managing agency shall submit an updated management plan to the appropriate city department within thirty days of any changes in operations that are covered in the plan.

6. *Transportation Plan.*

- a. A transportation plan is required.
- b. The facility shall be located within one-half mile of transit service.

7. *Code of Conduct.* The managing agency shall develop a shelter resident code of conduct agreement that addresses expected acceptable conduct during the resident's stay and shall submit the code in the management plan. The code of conduct shall, at a minimum, contain rules that limit adverse impacts within the shelter and the surrounding



neighborhood. All residents of an emergency shelter are required to sign the code of conduct agreement, which shall be enforced by the managing agency.

8. *Additional Requirements for Applications Requesting Modification of Standards.* The applicant may request in their application for standards that differ from those in this section only where the applicant submits a description of the standard to be modified and demonstrates how the modification would result in a safe facility under the specific circumstances of the application in accordance with EMC [15.02.140\(D\)](#).

9. Social services provided as part of an indoor emergency shelter, outdoor emergency shelter, or emergency housing facility are assumed to be provided only for residents of the facility. If social services will be provided on site to nonresidents, the use must be reviewed and separately permitted under the appropriate approval process defined in Chapter [19.05](#) EMC.

C. *Standards for Outdoor Emergency Shelters.*

1. *Duration.* Outdoor emergency shelters may be approved for a period not to exceed one year. The permit shall specify a date by which the use shall be terminated, and the site returned to pre-shelter conditions. The planning director may grant extensions for up to one year each; provided, that all conditions have been complied with and circumstances associated with the use have not changed. A request for an extension should be submitted in writing no less than sixty days prior to the end of the expiration date of the permit to ensure continued operations.

2. *Maximum Size.*

- a. Outdoor emergency shelters are limited to forty units per site.
- b. The maximum number of residents within an outdoor emergency shelter is one hundred.

3. *Setbacks.*

- a. Outdoor emergency shelters shall be located a minimum of forty feet from the property line of abutting properties. A lesser setback may be approved if the planning director determines there is sufficient vegetation, topographic variation, or other site conditions that obscure the site from abutting properties.



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- b. Outdoor emergency shelter units shall meet all setbacks required by the International Fire Code.
  - 4. *Fencing.* Sight-obscuring fencing is required around the perimeter of the outdoor emergency shelter unless the planning director determines that there is sufficient vegetation, topographic variation, or other site conditions such that fencing would not be effective.
  - 5. *Lighting.* Exterior lighting must be directed downward and contained within the outdoor emergency shelter.
  - 6. *Inspections.*
    - a. The managing agency shall permit inspections of the outdoor emergency shelter by the Snohomish health district without prior notice and implement all directives of the health district within the time period specified by the health district.
    - b. The managing agency shall permit access by the Everett police department and Snohomish County sheriff, without prior notice, to the outdoor emergency shelter site at all times.
  - 7. *Other.*
    - a. Units are limited to one hundred twenty square feet and must be spaced at least six feet apart;
    - b. Electricity and heat, if provided, must be inspected and approved by the city's building official;
    - c. Space heaters, if provided, must be approved by the city fire marshal;
    - d. Each unit must have a fire extinguisher;
    - e. Adequate restrooms must be provided, including restrooms solely for families if present, along with hand-washing and potable running water to be available if not provided within the individual units, including accommodating black water. (Ord. 3895-22 § 15, 2022; Ord. 3774-20 § 5(G) (Exh. 3), 2020.)



## **19.08.210 Manufactured homes, mobile homes, tiny homes and recreational vehicles.**

### *A. Definitions.*

1. The definition of “manufactured home,” “mobile home,” “mobile home park subdivision,” “manufactured housing subdivision,” “mobile home park,” “manufactured housing community” or “manufactured/mobile home community” shall have the same meaning as set forth in RCW [59.20.030](#).
2. The definition of “designated manufactured home” or “new manufactured home” has the same meaning as set forth in RCW [35.63.160](#).
3. “Recreational vehicle” means a vehicle which is (a) built on a single chassis; (b) four hundred square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
4. “Tiny home,” “tiny house” or “tiny house with wheels” has the same meaning as set forth in RCW [35.21.686](#), which is a dwelling to be used as permanent housing with permanent provisions for living, sleeping, eating, cooking, and sanitation built in accordance with the state building code.
5. “Tiny house communities” has the same meaning as set forth in RCW [35.21.686](#), which is real property rented or held out for rent to others for the placement of tiny houses with wheels or tiny houses utilizing the binding site plan process in RCW [58.17.035](#).

### *B. Where Allowed.*

1. *Manufactured Homes, New or Designated.* A new or designated manufactured home may be placed on any lot within the city in the same manner and meeting the same design and development standards as site built homes, factory built homes, or homes built to any other state construction or local design standards, subject to the following:
  - a. The manufactured home must be set upon a permanent foundation, as specified by the manufacturer, and the space from the bottom of the home to the ground must



be enclosed by concrete or a concrete product approved by the planning director which can be either load bearing or decorative;

b. The manufactured home is thermally equivalent to the state energy code; and

c. The manufactured home meets all other requirements for a designated manufactured home as defined in RCW [35.63.160](#).

2. *Manufactured Homes or Mobile Homes.* A manufactured home or mobile home may be placed in a mobile home park subdivision, manufactured housing subdivision, mobile home park, manufactured housing community or manufactured/mobile home community that was legally in existence before June 12, 2008, as set forth in RCW [35.21.684](#).

3. *Recreational Vehicles or Tiny Houses.*

a. A recreational vehicle or tiny house may be used as a primary residence in a manufactured/mobile home community which was legally in existence before June 12, 2008, as set forth in RCW [35.21.684](#) if the recreational vehicle or the tiny house meets the following requirements:

(1) The recreational vehicle or tiny house meets fire, safety and other requirements of the city building official and fire marshal;

(2) The recreational vehicle or tiny house contains at least one internal toilet and at least one internal shower, or the manufactured/mobile home community provides toilets and showers for use of the recreational vehicle or tiny house's occupants.

b. A recreational vehicle or tiny house may be used as temporary where allowed pursuant to Chapter [19.05](#) EMC.

c. A recreational vehicle or tiny house may not be used as a primary residence within the city except as otherwise allowed above.

4. *Tiny House Communities.* See Chapter [19.05](#) EMC to see where tiny house communities are permitted. (Ord. 3774-20 § 5(G) (Exh. 3), 2020.)



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**19.08.220 Secure community treatment facilities.**

A. *Essential Public Facilities.* A secure community transition facility ("SCTF") is an essential public facility. In addition to complying with the city's requirements for a conditional use permit, the applicant for a SCTF shall comply with the city's siting process for essential public facilities.

B. *Maximum Number of Residents.* No SCTF shall house more than twelve persons, excluding resident staff.

C. *Siting Criteria.*

1. No SCTFs shall be allowed in or within the line of sight of the following specified uses, whether such uses are located within or outside the city limits. In or within the line of sight of any "risk potential activity" as defined in RCW [71.09.020](#), as amended, include, but are not limited to:

- a. Public and private schools;
- b. School bus stops;
- c. Licensed day care and licensed preschool facilities;
- d. Public parks, publicly dedicated trails, sports fields and playgrounds;
- e. Recreational and community centers;
- f. Churches, synagogues, temples and mosques;
- g. Public libraries; and
- h. Other risk potential activities identified by the Department of Social and Health Services.

2. The distance provided for line of sight shall be measured by following a straight line from the nearest point of the property parcel upon which the secure community transition facility is to be located, to the nearest point of the parcel of property or land use district boundary line from which the proposed land use is to be separated.

3. In order to assist in providing equitable distribution, there shall be a separation of one mile between an SCTF and any existing SCTF, jail, correctional facility, mental health facility,



work release, pre-release or similar facility. (A “similar facility” includes, but is not limited to, Madison House, Everett Gospel Mission Men Shelter, Everett Gospel Mission Women and Children Shelter, Green House, Evergreen Manor and establishments providing similar services.)

D. *Review Process III (Special Property Use/Conditional Use Permit).* A conditional use permit Review Process III application for SCTF shall comply with all the permitting and procedural requirements pertaining to a conditional use permit Review Process III including those found under EMC Title [15](#).

E. *Existing SCTFs.* In the event a SCTF is legally sited in accordance with the provisions of this title, this does not preclude any subsequent siting of any risk potential activity described in subsection [\(C\)\(1\)](#) of this section within the line of sight.

F. When evaluating an application for a SCTF consideration shall also be given to those siting provisions provided in RCW [71.09.250\(8\)](#). (Ord. 3774-20 § 5(G) (Exh. 3), 2020.)

### **19.08.300 Administrative modification of development standards.**

A. *General.* An applicant may propose and the planning director, using the review process described in EMC Title [15](#), Local Project Review Procedures, may allow an applicant to deviate from the development standards, provided the proposal satisfies the evaluation criteria of this subsection. In evaluating such a proposal, the planning director, using the criteria in subsection [\(C\)](#) of this section, shall determine if the alternative design or plan provides superior results to that which would be required by compliance with the development standards of this chapter.

B. *Development Standards That Can Be Modified.*

1. The following development standards in this chapter can be modified:
  - a. Any design or development standard regarding facade, window, door, roof, entrance or siding requirements.
  - b. Lot width requirements (REV II).
  - c. Landscape requirements.



- d. Minimum size, location and design standards for on-site open space (REV II).
- 2. The following development standards cannot be modified:
  - a. Minimum lot size requirements.
  - b. Maximum density requirements.
  - c. Lot coverage requirements.
  - d. Floor area ratio (FAR) requirements.
  - e. Setback requirements.
  - f. Land division or owner occupancy requirements.
  - g. Home occupations prohibited.

C. *Evaluation Criteria for Modification.* See Chapter [15.03](#) EMC. (Ord. 3774-20 § 5(G) (Exh. 3), 2020.)

#### **19.08.400 Design review.**

The planning director may engage the services of a licensed architect, or other licensed design professional when the director deems it appropriate and in the public interest, to provide recommendations in connection with the review of any project that:

- A. Is subject to any design standard or guideline established in this chapter; or
- B. Involves discretionary design-related decisions, such as a modification of design standards, authorized in this chapter; or
- C. Involves design-related decisions to implement building facade requirements set forth in EMC [19.08.040](#).

Recommendations of the architect or design professional shall be advisory only and shall not otherwise limit the director's authority to require changes in any project design to meet the design requirements of this title or the director's discretion to approve or deny requested modifications or apply discretionary design criteria. (Ord. 3774-20 § 5(G) (Exh. 3), 2020.)



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**19.08.500 Authority of planning director.**

The planning director shall have the authority to disapprove, approve with conditions, or require the applicant to make design changes if he/she determines the design does not meet the design standards, guidelines or evaluation criteria of this title. (Ord. 3774-20 § 5(G) (Exh. 3), 2020.)

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**The Everett Municipal Code is current through Ordinance 4031-24, passed May 22, 2024.**

Disclaimer: The City Clerk's Office has the official version of the Everett Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

[City Website: www.everettwa.gov](http://www.everettwa.gov)

[Hosted by General Code.](#)



## Chapter 19.09

### MULTIFAMILY DEVELOPMENT STANDARDS

Sections:

<b>19.09.010</b>	<b>Purpose and applicability.</b>
<b>19.09.020</b>	<b>Building form and design standards.</b>
<b>19.09.030</b>	<b>Building entrance requirements.</b>
<b>19.09.040</b>	<b>Front porches.</b>
<b>19.09.050</b>	<b>Required outdoor and common areas.</b>
<b>19.09.060</b>	<b>Other requirements.</b>
<b>19.09.100</b>	<b>Modification of development standards.</b>
<b>19.09.120</b>	<b>Design review.</b>
<b>19.09.140</b>	<b>Authority of planning director.</b>

#### **19.09.010 Purpose and applicability.**

A. *Purpose.* The purpose of the requirements contained in this chapter is to promote a broad range of housing opportunities in the city, improve the livability of multiple-family housing, encourage development of single-family attached and multiple-family housing in Everett that enhances safety and creates an attractive environment for residents and which reinforces and enhances the desirable qualities of the city's neighborhoods.

B. *Applicability.*

1. The standards in this chapter apply to residential development within multifamily zones (UR3 or UR4), commercial zones (NB, B, MU) and where allowed in industrial zones (LI1).
2. *Conflicts.* In the event of a conflict between these requirements and the standards of other sections of the Unified Development Code, these requirements shall control; provided, however, the requirements established as part of the creation of any historic overlay zone shall take precedence over any conflicting requirements in this chapter.
3. *Mixed Use.* When multifamily development is to be part of a mixed-use commercial development, the requirements contained herein shall apply to the multifamily



development but may be modified by the planning director as needed to provide for the reasonable accommodation of mixed-use and commercial development encouraged by the comprehensive plan.

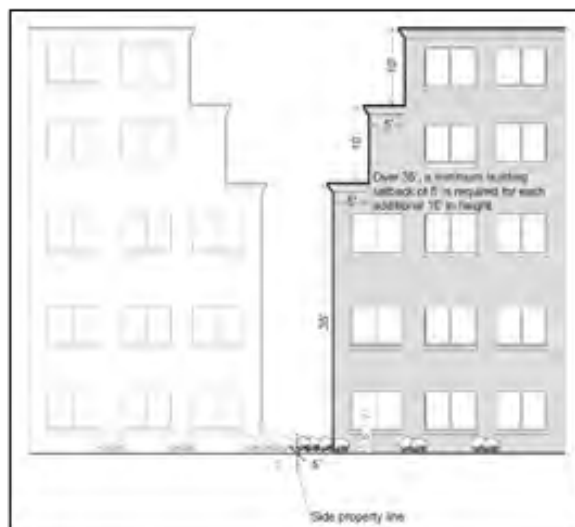
4. *Future Phases.* When multifamily development is proposed to be added as a later phase to an existing multifamily development which does not meet the requirements contained herein, the requirements contained herein shall apply, but may be modified by the planning director as needed to provide for continuity between the existing and proposed phases of development. (Ord. 3774-20 § 5(H) (Exh. 3), 2020.)

## 19.09.020 Building form and design standards.

### A. *Building Modulation.*

1. See EMC [19.12.030](#) for standards that address finish floor levels and building modulation.
2. In addition to the requirements set forth in EMC [19.12.030](#), multifamily development outside of Metro Everett is required to have an additional five-foot interior side setback for each ten feet or fraction thereof by which the building exceeds thirty-five feet in height for only those portions of the building which exceed thirty-five feet in height.

**Figure 9-1: Multifamily Upper Floor Modulation Outside Metro Everett**

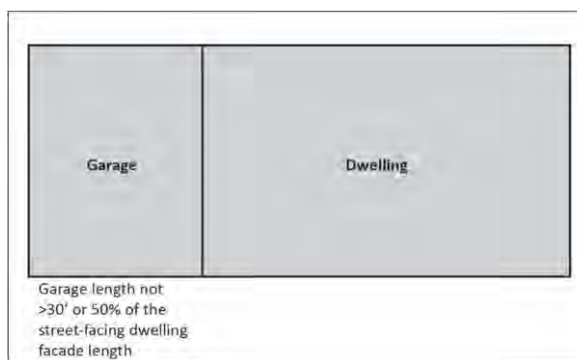




**B. Facades.**

1. See EMC [19.12.040](#) for standards that address facade design, including vertical and horizontal articulation, facades longer than one hundred feet, blank walls, exposed fire walls, exterior building materials and street corner buildings.
2. In addition to the requirements set forth in EMC [19.12.030](#), residential development is required to have street-facing facades of residential buildings designed to look as a series of buildings no wider than fifty feet each.
3. *Garage Facades.* The length of the garage wall facade facing the street may be up to fifty percent of the length of the street-facing dwelling unit facade, except the maximum length allowed is thirty feet if the garage wall facade is within twenty feet of the front or side-street lot line. These standards do not apply to structured parking (see EMC [19.12.110](#)).

**Figure 9-2: Garage Facade Length**



4. *Side Facades Abutting Residential Zones.* Balustrades of balconies and decks, not on the ground level, that are parallel to and within fifteen feet of an interior side setback shall be at least seventy-five percent opaque for properties in or abutting any residential zone.
- C. *Weather Protection.* See EMC [19.12.120](#) and Table 12-4 for weather protection requirements.
- D. *Transparency.* See EMC [19.12.130](#) and Table 12-4 for transparency requirements.
- E. *Structured Parking.* If the residential development includes structured parking, see EMC [19.12.110](#) for structured parking requirements. (Ord. 3774-20 § 5(H) (Exh. 3), 2020.)



### **19.09.030 Building entrance requirements.**

#### *A. Pedestrian Access to Building Entrances.*

1. Developments with exterior pedestrian circulation systems shall connect building entrances to the public sidewalk, off-street parking areas, common open space areas and alley where applicable.
2. The exterior pedestrian circulation system shall be a minimum of three feet wide for residential development with twenty or fewer units and five feet wide for more than twenty units. The pedestrian system shall be designed to meet federal, state and local accessibility standards, and where adjacent to driveways and parking areas they shall be separated by landscaping, raised curbs at least six inches high, bollards, or other treatments as approved.
3. For multifamily developments with sixteen or fewer parking spaces, the pedestrian circulation system may be located within an auto travel lane.
4. *Lighting and Landscaping Entrances.* Entrances shall include walkways with lighting and landscaping so that occupants and guests do not need to search for a location. Lighting shall be sufficient to identify faces from a reasonable distance and allow the pedestrians the opportunity to choose another route. See Chapter [19.35](#) EMC for landscaping requirements.
5. Ground level entrances within twenty feet of a public sidewalk shall provide landscaping or other measures (e.g., courtyard, patio or grade change) to create a transition between the living areas of the dwelling and the street.

#### *B. Location.*

1. All nonservice, exterior entrances must be visible from other residential buildings within the development and/or public areas, such as common courtyards, parking areas, or public sidewalks.

#### **Figure 9-3: Example of Building Without Main Entrance on Street-Facing Wall**

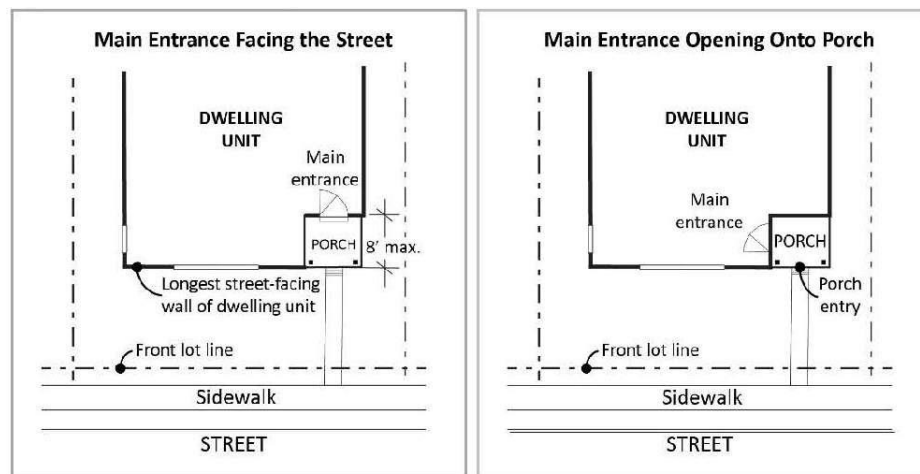


**Figure 9-3: Example of building without main entrance on street-facing wall**



2. For buildings over five stories, a prominent entryway and lobby shall be provided.
3. At least one main entrance for each structure must:
  - a. Be within eight feet of the longest street-facing wall of the structure; and
  - b. Either: (1) face the street; (2) be at an angle of up to forty-five degrees from the street; or (3) open onto a porch that is at least sixty-four square feet in area, has at least one porch entrance facing the street, and has a roof that is no more than twelve feet above the floor of the porch.

**Figure 9-4: Main Entrance Requirements**



4. As an alternative to subsection [\(B\)\(3\)](#) of this section, an entrance to a multi-dwelling structure may face a courtyard if the courtyard-facing entrance is located within sixty feet of a street and the courtyard is at least fifteen feet in width, abuts a street and is landscaped or hard-surfaced for use by pedestrians.

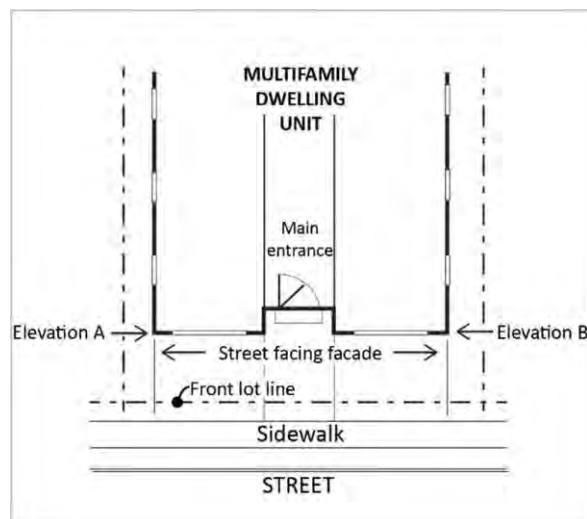


C. *Distance from Grade.* The main entrance required by subsection (B)(3) of this section must be within four feet of average grade, measured at the outermost corners of the street-facing facade.

**Figure 9-5: The Main Entrance Is More Than Four Feet Above Average Grade**



**Figure 9-6: How to Measure Average Grade for Entrance Elevation**



D. *Exterior Stairs.* Fire escapes and exterior stairs providing access to an upper level are not allowed on any facade that faces a street. (Ord. 3774-20 § 5(H) (Exh. 3), 2020.)



### **19.09.040 Front porches.**

Front porches which are either required or allowed as an exception to setback requirements (see EMC [19.06.030](#)) are subject to the design standards outlined in EMC [19.08.050](#). (Ord. 3774-20 § 5(H) (Exh. 3), 2020.)

### **19.09.050 Required outdoor and common areas.**

A. *Purpose and Intent.* The required outdoor and common area standards for residential development ensure opportunities for outdoor relaxation, recreation or community gathering places. The standards ensure that some of the land not covered by buildings is of adequate size, shape, and location to be usable for outdoor recreation or relaxation. Required outdoor areas are an important aspect in addressing the livability of a residential property. The standards also allow for common area requirements to be met by indoor community facilities because they also provide opportunities for recreation and gathering.

B. *Outdoor and Common Area Requirements.*

1. Definitions or terms used in this section:

- a. "Outdoor area" may be provided as private open space, such as a patio or balcony, or may be provided as common open space, such as outdoor courtyards and outdoor play area.
- b. "Common area" may include common open space, indoor recreational facilities, indoor community rooms or other community gathering places.
- c. "Common open space" has the same meaning as set forth in EMC [19.04.030](#): "private open space provided within a development which is provided for, and which is permanently accessible to, all residents/tenants of the development."
- d. "Open space" has the same meaning as set forth in EMC [19.04.030](#): "land area not covered by buildings, roads, driveway and parking areas, or outdoor storage areas, including, but not limited to, landscape areas, gardens, woodlands, walkways, courtyards or lawns, and outdoor recreation areas. Except as otherwise provided by



this title, open space includes setback areas that meet the requirements defined in this title.”

e. “Private open space” has the same meaning as set forth in EMC [19.04.030](#): “a small parcel of land or outside area (deck, lanai, patio) immediately adjacent to an individual dwelling unit maintained by and for its residents and reserved exclusively for their use.”

2. Outdoor and common area is required in the amounts stated below. Outdoor and common area requirements, as set forth below, are based on unit size:

**Table 9-1: Outdoor and Common Area Requirements**

Unit Size	Area Required:
Studio or 1-bedroom	75 square feet per unit
2+ bedrooms	100 square feet per unit

3. *Required Common Area.* For multifamily residential development with fifty or more units, at least twenty-five percent of the required area in subsection [\(B\)\(2\)](#) of this section shall be common area as further set forth below:

a. At least fifty percent of the required common area must be outdoor open space. Outdoor areas may be passive or active, such as:

(1) Passive areas, such as outdoor courtyards, seating areas, or family picnic area with amenities such as landscaping, lighting, weather protection and other features that encourage use year-round;

(2) Active areas, such as tot-children’s play area, hard surface game court, or outdoor swimming pool.

b. Up to fifty percent of the required common area may be indoor common area, such as indoor recreation facilities or indoor community rooms.



- c. Common areas shall be centrally located so as to be near a majority of the dwelling units and constructed so as to be accessible to residents and visible from dwellings on the site.
- 4. *Minimum Size Standards.*
  - a. Private open space shall be a minimum of six feet in any direction, no less than thirty-six square feet in area.
  - b. Common open space shall be a minimum of twenty feet in any direction, no less than four hundred square feet in area. The common open space must be located to provide convenient and accessible access from the residential units.
- 5. Top floors and/or roof top decks may be used for up to one hundred percent of required outdoor area provided:
  - a. Amenities such as seating areas, landscaping, lighting, weather protection and other features that encourage use year-round, as approved by the planning director, are incorporated.
  - b. The space must have hard durable surfacing for all trafficked areas.
- 6. Off-street parking and loading areas shall not be considered as outdoor or common areas as required by this section.
- 7. *Expansion of Residential Development.* Where an increase in the number of dwelling units for a residential development is proposed, common area shall be provided in accordance with the requirements of this chapter, minus the amount of common area by which the previous residential development was deficient.
- 8. When setback areas can be included in calculations:
  - a. Private open space located at ground level may extend into the required setback areas, subject to minimum size standards in subsection (B)(4) of this section, but when located within a required street setback, the outdoor area must either be at least two feet above the grade of the closest adjoining sidewalk or separated from the street lot line by a minimum three-foot setback landscaped to create privacy.

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**Figure 9-7: Example of Private Open Space in Front Setback**





b. Common open space may include:

- (1) Interior side setback areas which are contiguous with other on-site common open space areas;
- (2) Rear setback areas which are contiguous with other on-site common open space areas and which are not part of a street side setback area on corner lots.

9. Plans for outdoor and common areas shall be submitted for review and approval of the planning director prior to issuance of building permits.

10. A payment in lieu of providing the common or private open space may be approved by the planning director.

a. The fee may be in lieu of up to fifty percent of the required on-site common or private open space; provided, that the fee may be in lieu of up to one hundred percent of the required on-site common or private open space where the subject property is within a half mile of an existing or planned public park or trail consistent with the Everett parks, recreation, and open space plan in effect at the time of application.

b. The fee per square foot of common or private open space not provided shall be equal to the average capital cost per square foot of neighborhood parks as identified in the capital facilities element of the comprehensive plan.

c. The payment shall be held in a reserve account by the city and may only be expended to fund a capital improvement for parks and recreation facility identified in the Everett parks, recreation, and open space plan in effect at the time of application.



d. The payment shall be expended in all cases within five years of collection; provided, that any payment not so expended shall be refunded with interest to be calculated from the original date the deposit was received by the city and at the same rate applied to tax refunds pursuant to RCW [84.69.100](#); however, if the payment is not expended within five years due to delay attributable to the developer, the payment shall be refunded without interest.

**Table 9-2: Multifamily Open Space Calculation (Example)**

<b>Large Project (50+ Units)</b>			
<b>Unit Size</b>	<b># of Units</b>	<b>Area per Unit (sq. ft.)</b>	<b>Area Required (sq. ft.)</b>
Studio	15	75	1,125
1-bed	15	75	1,125
2-bed	10	100	1,000
3+ beds	10	100	1,000
<b>TOTALS</b>	<b>50</b>		<b>4,250</b>
Common Area Required (25%)			1,063
Outdoor Area (50%)			531
Indoor Area (50%)			531
Private or Common Open Space			3,188
<b>Small Project (&lt;50 Units)</b>			



<b>Unit Size</b>	<b># of Units</b>	<b>Area per Unit (sq. ft.)</b>	<b>Area Required (sq. ft.)</b>
Studio	10	75	750
1-bed	15	75	1,125
2-bed	10	100	1,000
3+ beds	10	100	1,000
<b>TOTALS</b>	<b>45</b>		<b>3,875</b>
Common Area Required			0
Outdoor Area (50%)			0
Indoor Area (50%)			0
Private or Common Open Space			3,875

(Ord. 3830-21 § 5, 2021; Ord. 3774-20 § 5(H) (Exh. 3), 2020.)

### **19.09.060 Other requirements.**

The following requirements of this title also pertain to multifamily development:

- A. *Density*. See Chapter [19.06](#) EMC for minimum and maximum density requirements for residential development.
- B. *Lot and Building Placement Requirements*. See Chapter [19.06](#) EMC for building setbacks and exceptions, and minimum lot requirements if applicable.
- C. *Building Height*. See Chapter [19.22](#) EMC for minimum and maximum building heights.



D. *Landscaping and Trees*. See Chapter [19.35](#) EMC for landscaping and tree requirements.

E. *Off-Street Parking*. See Chapter [19.34](#) EMC for off-street parking requirements.

F. *Streets, Sidewalks and Pedestrian Access*. See Chapter [19.33](#) EMC for street, sidewalk and additional pedestrian access requirements. (Ord. 3774-20 § 5(H) (Exh. 3), 2020.)

### **19.09.100 Modification of development standards.**

An applicant may propose and the planning director, using the review process described in EMC Title [15](#), Local Project Review Procedures, may allow an applicant to deviate from certain development standards of this chapter, as provided herein, provided the proposal satisfies the evaluation criteria of this section. In evaluating such a proposal, the planning director shall determine if the alternative design provides equivalent or superior results to that which would be required by compliance with the development standards of this chapter.

A. *What Can Be Modified*. The following standards can be modified:

1. Building modulation.
2. Facades (dwelling and garage).
3. Building entrance requirements.
4. Required outdoor and common area.

B. *Evaluation Criteria for Modification*. See Chapter [15.03](#) EMC.

C. *Appeal of Planning Director's Decision*. An appeal of the planning director's decision using this process shall be reviewed by the hearing examiner in accordance with EMC Title [15](#), Local Project Review Procedures. Substantial weight shall be given to the decision of the planning director in considering any appeal. (Ord. 3774-20 § 5(H) (Exh. 3), 2020.)



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**19.09.120 Design review.**

The planning director may engage the services of a licensed architect, or other licensed design professional when the director deems it appropriate and in the public interest, to provide recommendations in connection with the review of any project that:

- A. Is subject to any design standard or guideline established in this chapter; or
- B. Involves discretionary design-related decisions, such as a modification of design standards, authorized in this chapter; or
- C. Involves design-related decisions to implement building form and design standards set forth in EMC [19.09.020](#).

Recommendations of the architect or design professional shall be advisory only and shall not otherwise limit the director's authority to require changes in any project design to meet the design requirements of this title or the director's discretion to approve or deny requested modifications or apply discretionary design criteria. (Ord. 3774-20 § 5(H) (Exh. 3), 2020.)

**19.09.140 Authority of planning director.**

The planning director shall have the authority to disapprove, approve with conditions, or require the applicant to make design changes if he/she determines the design does not meet the design standards, guidelines or evaluation criteria of this title. (Ord. 3774-20 § 5(H) (Exh. 3), 2020.)

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**The Everett Municipal Code is current through Ordinance 4031-24, passed May 22, 2024.**

Disclaimer: The City Clerk's Office has the official version of the Everett Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

[City Website: www.everettwa.gov](http://www.everettwa.gov)



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[Hosted by General Code.](#)



## Chapter 19.12

### BUILDING FORM AND DESIGN STANDARDS

#### Sections:

<b>19.12.010</b>	<b>Purpose.</b>
<b>19.12.020</b>	<b>Applicability and user guide.</b>
<b>19.12.030</b>	<b>Building form standards.</b>
<b>19.12.040</b>	<b>Facade design (articulation, blank and exposed fire walls, exterior building and fencing materials).</b>
<b>19.12.100</b>	<b>Design standards and street designations.</b>
<b>19.12.110</b>	<b>Structured parking.</b>
<b>19.12.120</b>	<b>Weather protection.</b>
<b>19.12.130</b>	<b>Building transparency.</b>
<b>19.12.140</b>	<b>Special design standards.</b>
<b>19.12.200</b>	<b>Building design standards applicable to the LI2 and HI zones.</b>
<b>19.12.210</b>	<b>Additional standards applicable to the LI2 and HI zones.</b>
<b>19.12.300</b>	<b>Modification of development standards.</b>
<b>19.12.310</b>	<b>Design review.</b>
<b>19.12.320</b>	<b>Authority of planning director.</b>

#### **19.12.010 Purpose.**

The purpose of this chapter is to:

- A. Encourage building design that combines appropriate, compatible architectural scale with streetscape design and pedestrian amenities;
- B. To protect less intensive zones and uses from impacts that could result from excessive mass and vertical scale of larger buildings. This objective can be accomplished by applying the standards in this chapter in conjunction with the building placement and height regulations in Chapters [19.06](#) and [19.22](#) EMC; and



C. Recognize that a flexible design approach providing a menu of options will result in buildings that are attractive, durable and contribute to Everett's image. (Ord. 3774-20 § 5(I) (Exh. 3), 2020.)

### **19.12.020    Applicability and user guide.**

A. *General.*

1. Unless otherwise indicated below, the development standards of this chapter apply to nonresidential development on properties in the following zones: UR3, UR4, NB, B, MU, LI1, LI2, HI.
2. For all mixed-use and multiple-family residential development in the above zones, the reader should first review Chapter [19.09](#) EMC, which will direct the reader back to this chapter for some development standards.

B. UR3, UR4, NB, B, MU and LI1 Zones. See EMC [19.12.030](#) through [19.12.140](#) for applicable development standards.

C. LI2 and HI Zones. See EMC [19.12.200](#) through [19.12.210](#) for applicable development standards.

D. The standards in this chapter apply primarily to building design. Refer to the following chapters in this title for additional regulations applicable to new development:

1. Chapter [19.06](#) EMC, Lots, Setbacks and Residential Densities.
2. Chapter [19.22](#) EMC, Building and Structure Heights.
3. Chapter [19.33](#) EMC, Streets, Sidewalks and Pedestrian Circulation.
4. Chapter [19.34](#) EMC, Parking, Loading and Access Requirements.
5. Chapter [19.35](#) EMC, Landscaping.
6. Chapter [19.36](#) EMC, Signs.

E. This chapter does not apply to properties with a zone designation of R-S, R-1, R-2, R-2(A), WRM or AG.



F. *Exceptions.* The following are excepted from the requirements of this chapter:

1. Minor exterior alterations, provided, however, the alteration shall meet the following:
  - a. The alterations to the exterior shall meet the applicable standards of this chapter;
  - b. The alterations do not create a greater nonconformance unless otherwise allowed through modification of standards; and
  - c. The alterations are not as a result in a change of use or occupancy (see subsection [\(F\)\(3\)](#) of this section).
2. Interior alterations which do not change the exterior appearance of the building and/or site.
3. Change of use or occupancy which is either a minor exterior alteration or interior alterations; provided, however, that if the change in use or occupancy creates additional off-street parking or uses outdoor areas to conduct business or store materials, the development shall provide the following:
  - a. The development shall meet the parking requirements of this title, Chapter [19.34](#) EMC (Parking, Loading and Access Requirements) and, as required, Chapter [19.35](#) EMC (Landscaping) and Chapter [19.33](#) EMC (Streets, Sidewalks and Pedestrian Access); and
  - b. Any building alteration includes weather protection as required by this chapter.

G. *Conflict with Other Provisions.* In the event of a conflict between these standards and other sections of the Unified Development Code, these requirements shall control; provided:

1. The requirements for mixed-use and multifamily development established in Chapter [19.09](#) EMC shall control; and
2. The requirements established as part of any historic or design overlay zone shall take precedence over any conflicting requirements in this chapter. (Ord. 3774-20 § 5(l) (Exh. 3), 2020.)



### 19.12.030 Building form standards.

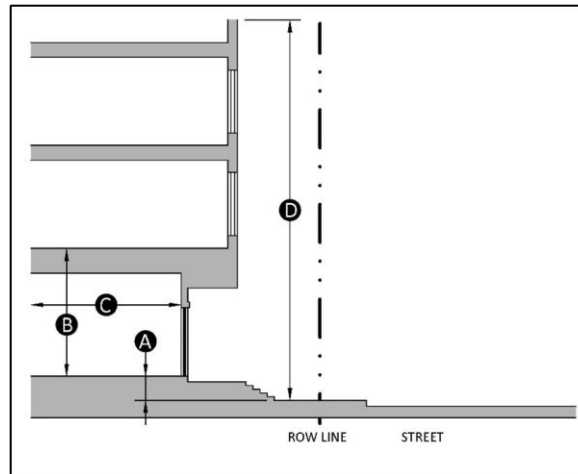
A. *Finish Floor Levels and Building Depth.* The requirements set forth in Table 12-1 apply to the form of buildings in the city. These requirements include the ground floor finish level above sidewalk, height of ground floor ceilings, and depth of ground floor space.

**Table 12-1: Building Form Standards**

Building Form	Illustration	UR3 UR4	NB	B	MU	LI1
Finish Floor Level (ground floor)	A					
Residential		None				
Nonresidential		None			6 inches maximum in Metro Everett only	
Ground Floor Ceiling Height (finish floor to finish floor)	B					
Residential		n/a	n/a	n/a	12 feet minimum	12 feet minimum
Nonresidential		n/a	n/a	n/a	15 feet minimum	12 feet minimum
Building Depth (ground floor)	C					
Depth		n/a	n/a	n/a	50 feet minimum	30 feet minimum
Height	D					



Building Form	Illustration	UR3 UR4	NB	B	MU	LI1
See Chapter <a href="#">19.22</a> EMC						

**Figure 12-1: Building Form**

B. *Building Modulation and Upper Floorplate Limits.* The requirements set forth in Table 12-2 apply to upper floor modulation and upper floorplate area for buildings. Upper floor modulation is measured from the ground floor facade as placed on the property. The upper floorplate is the top floor of the building.

**Table 12-2: Building Modulation and Upper Floorplate Limits**

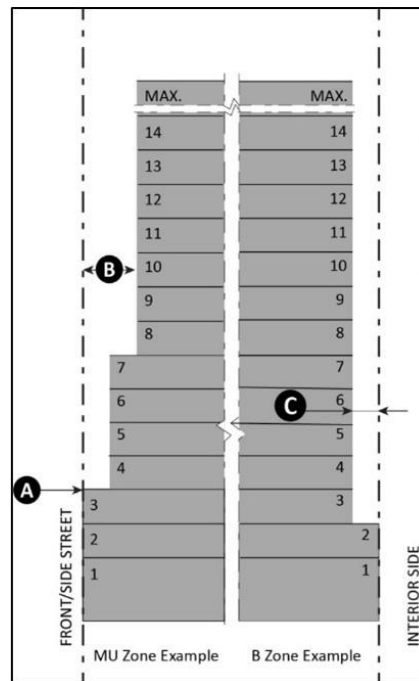
Modulation, Floorplate	Illustration	UR3 UR4	NB	B	MU	LI1
Upper Floor Modulation	12-2					
Front and Side Street						



Modulation, Floorplate	Illustration	UR3 UR4	NB	B	MU	LI1
Floors 4—5	A	n/a	10 feet minimum	10 feet minimum	10 feet minimum	10 feet minimum
Floors 6—7	A	10 feet minimum	n/a	n/a	n/a	n/a
Floors 8—11	B	n/a			10 feet from floors 4—5	n/a
Floors 12+	n/a				n/a	
Interior Side						
Floors 3—7	D	5 feet minimum	5 feet minimum	10 feet minimum	No minimum	n/a
Floors 8—11	n/a	n/a	n/a	n/a	No minimum <sup>(1)</sup>	
Floors 12+	n/a	n/a	n/a	n/a	No minimum <sup>(1)</sup>	
Upper Floorplate Area						
Floors 12+		n/a	n/a	n/a	12,000 sq. ft. maximum	n/a

**(1)** No minimum modulation requirement, but subject to Review Process II and compliance with vertical and horizontal modulation/articulation requirements.



**Figure 12-2: Upper Floor Modulation**

(Ord. 3774-20 § 5(I) (Exh. 3), 2020.)

### 19.12.040 Facade design (articulation, blank and exposed fire walls, exterior building and fencing materials).

Applicability of standards in this section is shown in Table 12-3. The standards in this section do not apply to the LI2 and HI zones.

**Table 12-3: Facades—Development Standards Applicability**

Standard	UR3	NB	B	MU	LI1
	UR4				
<b>Facades:</b>					



<b>Standard</b>	<b>UR3 UR4</b>	<b>NB</b>	<b>B</b>	<b>MU</b>	<b>LI1</b>
A. Vertical articulation	X	X		X	
B. Horizontal articulation	X	X		X	
C. Facades longer than 100'	X	X	X	X	X
D. Blank wall standards	X	X		X	X
E. Exposed fire wall standard	X	X		X	X
F. Exterior building materials	X	X		X	X
G. Street corner buildings		X		X	

"X" indicates which standards are applicable in the respective zone

A. *Vertical Articulation.* Vertical articulation is required to distinguish the building's top, middle, and ground story of front and side street (corner) facades. Examples of vertical articulation include stone or masonry bases, belt courses, cornice lines, parapets, lintel beams, entablatures, friezes, awnings or canopies, changes in materials or window patterns, recessed entries, or other architectural treatments.

**Figure 12-3: Example of Vertical Articulation**





B. *Horizontal Articulation.* Horizontal articulation is required to visually break up the massing of the ground floor of the front and side street (corner) facades into segments no greater than twenty-five feet in width. Examples of horizontal articulation include bays, mullions, columns, piers, pilasters, recessed entries, awnings, or other architectural treatments.

C. *Facades Longer Than One Hundred Feet.* Building facades longer than one hundred feet in width must utilize a combination of vertical and horizontal articulation with a change in building materials, finishes, and/or fenestration technique. See Chapter [19.09](#) EMC for additional standards applicable to multifamily residential buildings.

D. *Blank Walls.* Blank walls at the ground floor are prohibited and shall be designed with windows, doors, architectural elements, murals, landscaping or other treatments as approved by the planning director.

E. *Exposed Fire Walls.* Exposed fire walls visible from a street or open space shall have material, color, and/or textural changes, as approved by the department, which adds visual interest to the wall.

F. *Exterior Building Materials.*

1. Exterior insulating finishing systems (EIFS) are prohibited on the ground floor of front and side street (corner) facades.
2. EIFS, where employed, shall be trimmed in wood, masonry, or other approved materials, and shall be sheltered from weather by roof overhangs or other methods.
3. Exposed standard and/or fluted concrete masonry units (CMUs) are prohibited above the basement level on front and side street (corner) facades.



4. Exposed CMUs employed at the ground level or higher on front and corner side facades shall be split, rock- or ground-faced.
5. Metal siding shall have visible corner moldings and trim, and shall incorporate masonry or other similar durable materials at the ground level.
6. *Prohibited Materials.* The following materials may not be used on any exterior surface which is visible from any area beyond the subject property:
  - a. Mirrored glass and other highly reflective materials.
  - b. Corrugated fiberglass.
  - c. Chain link fencing, except for temporary purposes, such as during construction.
  - d. Textured or scored plywood, including T-111 or similar plywood, and sheet pressboard.

G. *Street Corner Buildings.* Corner sites, in addition to other design elements required by this code, shall employ corner building articulations such as rounded or chamfered corners, prominent corner facing building entrances, public plazas, or other distinctive corner treatments as approved by the planning director. (Ord. 3774-20 § 5(I) (Exh. 3), 2020.)

### **19.12.100 Design standards and street designations.**

Some building and site design standards are based on the designation of adjacent streets. Table 12-4 lists the design standards that are different based on the applicable street designation. To determine the street designation for an individual property, see Map 33-1 in Chapter [19.33](#) EMC. The table applies in conjunction with the detailed standards in the following sections, in addition to other standards in this title as follows:

[19.12.110](#) — Structured Parking  
Frontage and Setback  
Standards



[19.12.120](#) — Weather Protection

[19.12.130](#) — Transparency

[19.22.020](#) — Minimum Building Heights

[19.33.030](#) — Public Sidewalk Standards

[19.33.040](#) — Public Sidewalk Treatments

**Table 12-4: Structured Parking, Weather Protection, Transparency, Sidewalk Requirements and Building Height by Street Designation**

Standard:	STREET TYPE DESIGNATION (see Map 33-1)				
	TOD	PEDESTRIAN	CONNECTOR	RESIDENTIAL MIXED USE	UNDESIGNATED
Structured Parking Frontage Standards	See EMC <a href="#">19.12.110</a> . Standards below are maximum distance a parking structure at the ground floor may occupy on various street designations.				
Structured parking integrated with other building (accessory use)	10% of front building facade	25% of front building facade	50% of front building facade	50% of front building facade	50% of front building facade <sup>(3)</sup>
Standalone parking structure (principal use)	25'	25'	50'	75'	100' <sup>(3)</sup>
Structured Parking Setback Standards	See EMC <a href="#">19.12.110</a> .				



Standard:	STREET TYPE DESIGNATION (see Map 33-1)				
	TOD	PEDESTRIAN	CONNECTOR	RESIDENTIAL MIXED USE	UNDESIGNATED
Front, side and rear <sup>(1)</sup>	See underlying zone setback requirements and limits on frontage set forth above				
Below grade	0'				
Weather Protection	See EMC <a href="#">19.12.120</a>				
Length, minimum	90% of front building facade	75% of front building facade	45% of front building facade		Same width as entrance
Depth, minimum	8' from front building facade	6' from front building facade			3' from front building facade
Height above sidewalk	8' minimum  15' maximum				
Transparency	See EMC <a href="#">19.12.130</a>				
Percent comprised of windows and/or doors with clear glass (2'—10')	90%	60%	45%	45%	See blank walls (EMC <a href="#">19.12.040</a> )
Sidewalk Standards	See EMC <a href="#">19.33.030</a>				



<b>Standard:</b>	<b>STREET TYPE DESIGNATION (see Map 33-1)</b>				
	<b>TOD</b>	<b>PEDESTRIAN</b>	<b>CONNECTOR</b>	<b>RESIDENTIAL MIXED USE</b>	<b>UNDESIGNATED</b>
Frontage zone width	2' minimum  6' desirable	2' minimum  6' desirable	None	None	None
Ped clear zone width	8' minimum  10' desirable	8' minimum	6' minimum	per city engineer	per city engineer
Landscape/furniture zone width	6' minimum  8' desirable	6' minimum	6' minimum	4' minimum	per city engineer
Total minimum width	16' minimum	16' minimum	12' minimum	10' minimum	per city engineer
<b>Sidewalk Treatments</b>	See EMC <a href="#">19.33.040</a>				
At least 2 treatments:	Required	Required	Required	N/A	N/A
Minimum Building Height	See EMC <a href="#">19.22.020(B)</a> <sup>(2)</sup>				
Principal building	2—4 floors	N/A	N/A	N/A	N/A



Standard:	STREET TYPE DESIGNATION (see Map 33-1)				
	TOD	PEDESTRIAN	CONNECTOR	RESIDENTIAL MIXED USE	UNDESIGNATED
Accessory building	No minimum	N/A	N/A	N/A	N/A

(1) Structured parking garages accessed from the rear with no internal turnaround shall be set back at least twenty-five feet from the far side of the alley, except as otherwise approved by city engineer.

(2) Refer to Chapter [19.22](#) EMC for additional building height standards.

(3) Applicable only within Metro Everett.

(Ord. 3774-20 § 5(l) (Exh. 3), 2020.)

### 19.12.110 Structured parking.

The following requirements apply to any structure that includes parking of vehicles. For access and surface parking requirements, please see Chapter [19.34](#) EMC. Modification of these standards is subject to Review Process II outlined in Chapter [15.02](#) EMC, and evaluation criteria in Chapter [15.03](#) EMC.

A. *Setback and Street Frontage Standards.* The setback and street frontage standards set forth in Table 12-4 apply to all structured parking. The frontage standards apply to the ground floor of that portion of a structured parking facility twenty feet in depth measured perpendicular to the front lot line. The frontage standards include any access driveways, if allowed.

**Figure 12-4: Structured Parking Standards**





**B. Structured Parking Design.**

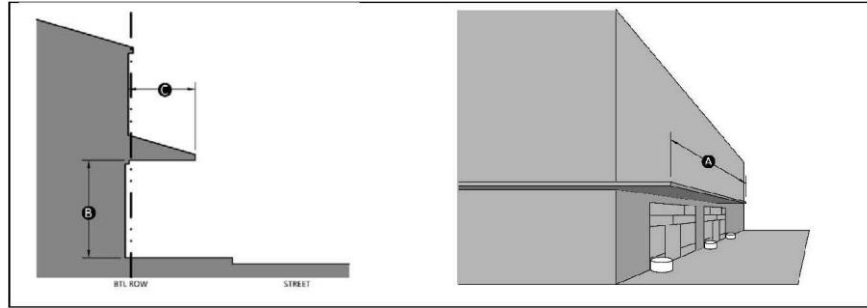
1. Structured parking must be designed to obscure the view of parked cars. Where structured parking is provided on the ground level adjacent to the sidewalk to accomplish this, features such as planters, decorative grilles, or works of art shall be provided as approved by the city.
2. Where the structured parking wall is built to the sidewalk edge, the facade shall use a combination of artwork, grillwork, special building material treatment/design, and/or other treatments as approved by the city that enhance the pedestrian environment. In order to meet transparency requirements, structured parking can incorporate openings with grillwork or other treatments to resemble windows.
3. Structured parking levels above the ground floor shall use articulation treatments that break up the massing of the garage and add visual interest. (Ord. 3774-20 § 5(l) (Exh. 3), 2020.)

**19.12.120 Weather protection.**

A. *General Requirements.* Weather protection, such as an awning, shall be required on any building facade fronting a public street as set forth in Table 12-4.

**Figure 12-5: Weather Protection Standards**





**B. Design Requirements.**

1. Weather protection shall be supported by the building if projected over public sidewalks.
2. All frames and supports must be made of metal or similar rigid material. Frames and supports made of wood are allowed within the UR3 and UR4 zones. Other materials are prohibited unless approved by the planning director.
3. The entire width of the main entrance to a building shall incorporate weather protection.

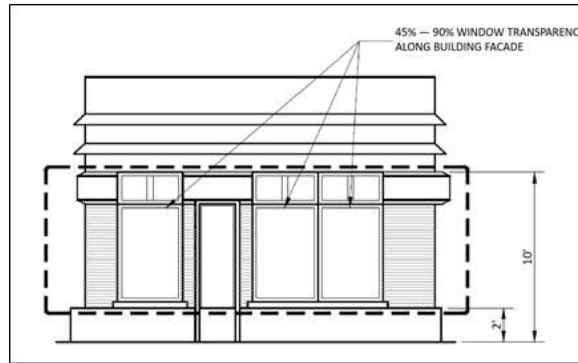
C. Recessed entries with weather protection may count towards meeting the standards in Table 12-4 above. (Ord. 3774-20 § 5(I) (Exh. 3), 2020.)

### **19.12.130 Building transparency.**

Transparent windows or doors, on the ground floor and facing the street, are required as set forth in Table 12-4 below; provided, however, that these standards do not apply to structured parking. Transparency measurements are done on the ground floor of the street facade, between two and ten feet above grade. See Figure 12-6 for how this is measured.

**Figure 12-6: Transparency Requirements**





(Ord. 3774-20 § 5(I) (Exh. 3), 2020.)

### 19.12.140 Special design standards.

The following site and design requirements apply to development that includes one or more of the design features in subsection (A), (B) or (C) of this section, or where development abuts a residential zone along a rear property line, as required under subsection (D) of this section.

A. *Building Entrances.* Applies to Metro Everett and NB zones only. The main entrance to each structure must face the street, courtyard, or plaza. The entire width of main entrances shall incorporate weather protection as outlined in Table 12-4 and EMC [19.12.120](#).

B. *Recessed Entries.* Applies to Metro Everett and NB zones only.

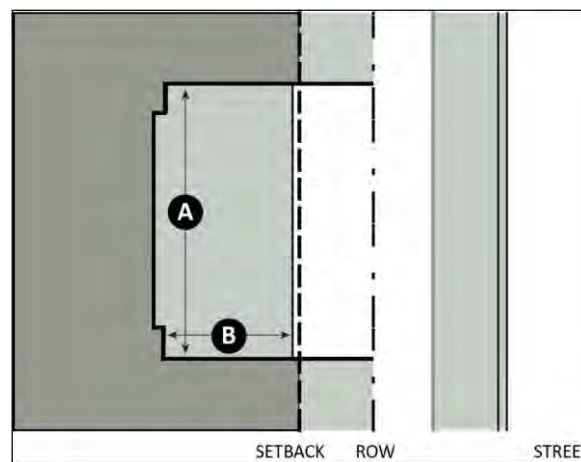
1. Any entrance that is set back more than three feet from the front building facade shall comply with the standards set forth in Table 12-5 below.

**Table 12-5: Recessed Entries**

Standard	Illustration	Measurement
Width of Recessed Entry	<b>A</b>	3 feet minimum. Where depth exceeds 4 feet, width shall be 2x



Standard	Illustration	Measurement
		depth.
Depth of Recessed Entry	<b>B</b>	3 feet minimum
Height Clearance		8 feet minimum

**Figure 12-7: Recessed Entries**

2. *Metro Everett.* For buildings within Metro Everett that are constructed to the edge of a public sidewalk, the entry shall be recessed in accordance with the requirements of this section.

C. *Plazas and Forecourts.* The standards in this subsection apply only to the MU zone within Metro Everett.

Description: A forecourt or plaza is where all or a portion of the front facade of a building is set back ten feet or more from the front setback line, creating a space without buildings of at least one hundred forty-four square feet along the lot frontage. For the purpose of these design standards, plaza and forecourt are further defined below.



1. *Plaza.* A plaza is a public space that is designed for intensive public use. A plaza is more than nine hundred square feet in area.
2. *Forecourt.* A forecourt is a small court space which could be used as an entry court or shared garden space for apartment buildings, or as an additional shopping or restaurant seating area within commercial zones. A forecourt is less than nine hundred square feet in area but more than one hundred forty-four square feet.
3. Any plaza or forecourt meeting the description in subsection [\(C\)\(1\)](#) of this section shall meet the standards in Table 12-6 and subsection [\(C\)\(4\)](#) of this section.

**Table 12-6: Plaza and Forecourt Standards**

Standard	Illustration	Forecourt	Plaza
Width, minimum	<b>A</b>	12 feet	30 feet
Depth, minimum	<b>B</b>	12 feet	30 feet
Size, area (minimum)	<b>C</b>	144 square feet	900 square feet
Size, area (maximum)	<b>C</b>	900 square feet	25% of lot area

4. *Plaza and Forecourt Design Standards.*

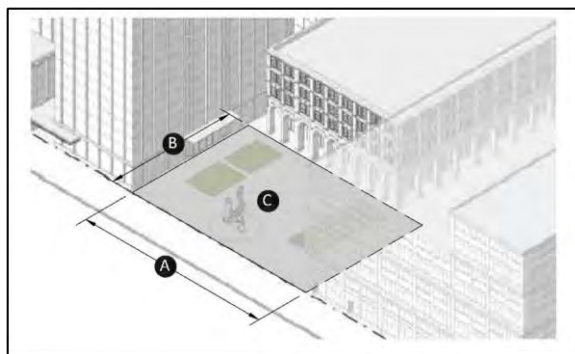
- a. A plaza or forecourt shall include architectural or other site design features along the front setback line. Examples include landscape planters, distinctive change in pavement color or type, sitting walls, etc. These features shall generally be no higher than thirty-six inches above the adjacent sidewalk.
- b. A plaza or forecourt shall be surfaced with high quality, durable impervious or semi-pervious materials, such as concrete, brick, or stone pavers, covering no less than



seventy-five percent of the surface area. Any nonpaved area of the plaza must be landscaped.

- c. A plaza or forecourt shall feature paths, landscaping, seating, lighting, public art and/or other pedestrian amenities to make the area more functional and enjoyable.
- d. A plaza of two thousand square feet or more in area must be designed to include one or more central markers, such as a fountain or sculpture.
- e. Circulation within the plaza or forecourt shall connect pedestrians to public streets on which the plaza abuts and major design features of the plaza, such as seating areas or open air cafes.
- f. A plaza or forecourt may not contain driveways, parking spaces, passenger drop-offs, garage entrances, loading berths, exhaust vents, mechanical equipment, or refuse and recycling storage.

**Figure 12-8: Plaza and Forecourt**



D. *Design Standards for Development Abutting Residential Zone Along Rear Property Line.* Any new development exceeding fifteen thousand square feet of gross floor area in the NB, B, MU, or LI1 zone which abuts a residential zone shall provide plans to demonstrate visual compatibility with the adjacent residential zone. Development subject to this requirement shall provide plans and demonstrate the following:

- 1. The rear side of the building visible from the adjacent residentially zoned property shall be given architectural treatment using two or more of the following:
  - a. Visible rooflines;



- b. Windows;
- c. Secondary entrances;
- d. Balconies;
- e. Use of brick and/or stone on at least ten percent of the building facade that faces the alley; or
- f. Awnings. (Ord. 3774-20 § 5(l) (Exh. 3), 2020.)

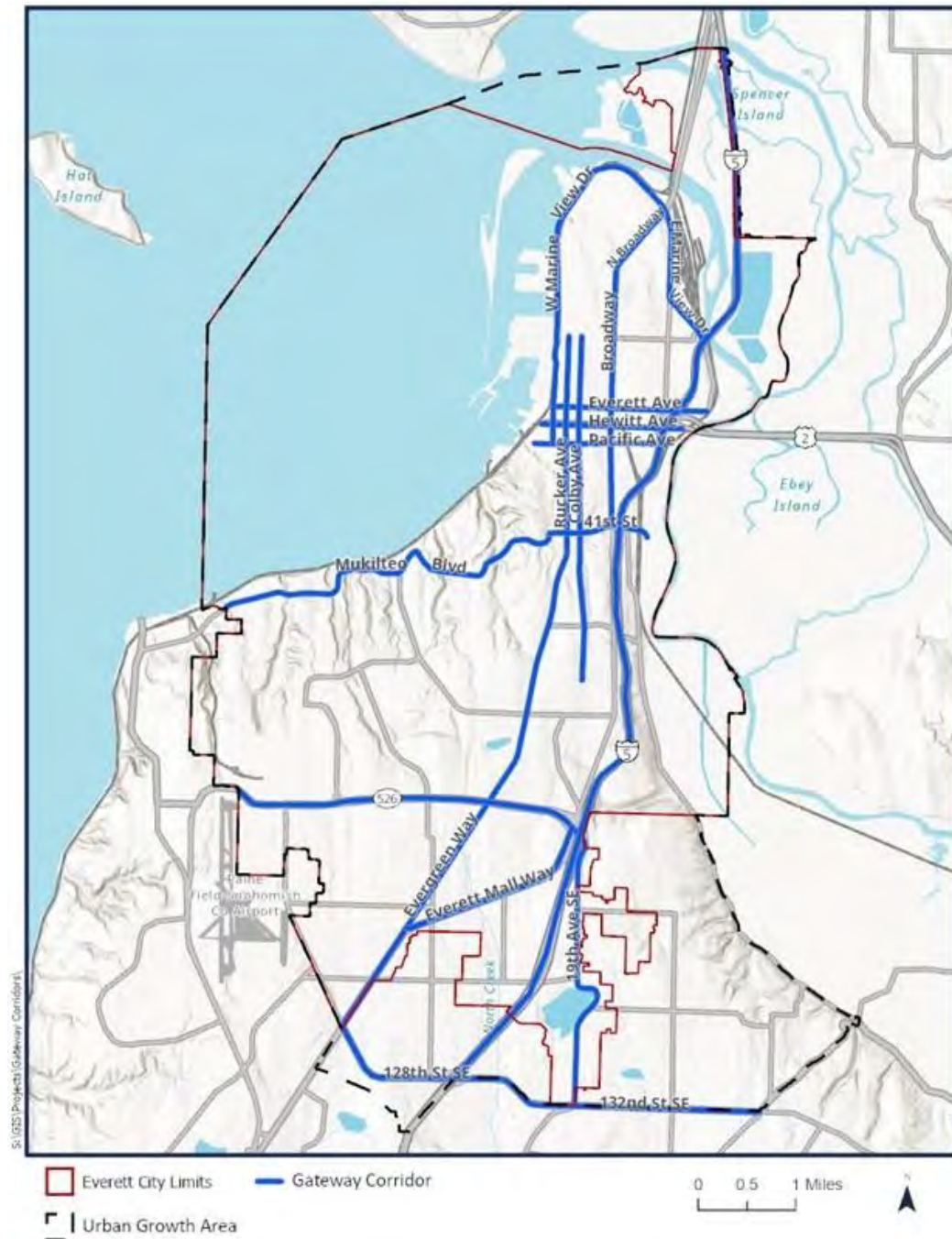
### **19.12.200 Building design standards applicable to the LI2 and HI zones.**

A. *Applicability.* The following standards apply to development of properties located within the LI2 and HI zones. For properties located within the airport/port/navy compatibility overlay zone, see Chapter [19.17](#) EMC for additional use and development standards. For properties located within shoreline jurisdiction, see the city's shoreline master program for additional permitting requirements. The design standards in this section apply when any of the following criteria are met. These standards are applicable only to the facade or portion(s) of the building meeting any of the following criteria:

1. The proposed building(s) faces, abuts and is visible from a designated gateway corridor street and is located within four hundred feet of a gateway corridor street. See Map 12-1;
2. The proposed building(s) faces, abuts and is visible from a residentially zoned property; or
3. The proposed building(s) abuts a shoreline public access trail, or is visible from publicly accessible navigable waters (e.g., Port Gardner Bay, Snohomish River).

#### **Map 12-1: Gateway Corridors**





## B. Building Design.

1. **Building Materials.** Prefabricated metal buildings and buildings with corrugated metal siding shall be prohibited. Exterior building materials shall be selected so as not to project or reflect natural or artificial lighting or glare into residential areas. Building exterior materials shall be factory finished, stained, integrally colored, or otherwise suitably treated. Materials may include:



- a. Split face or fluted concrete masonry units (CMU).
- b. Factory glazed concrete masonry units (CMU).
- c. Face brick.
- d. Stone veneer.
- e. Insulated glazing and framing systems.
- f. Architectural pre-cast concrete.
- g. Painted or stained site-cast concrete.
- h. Architectural concrete.
- i. Factory finished, standing seam metal roofing (for application to pitched roof systems only).
- j. EIFS.
- k. Architectural metal. Do not use glossy metal.

2. *Building Articulation Standards.* Buildings with exterior walls greater than sixty feet in length in the LI2 zone and one hundred feet in length in the HI zone shall be required to provide architectural modulation, in accordance with the following standards:

- a. *Vertical Articulation.* Vertical articulation is required to distinguish the building's upper and lower levels of front and side street (corner) facades. Examples of vertical articulation include cornice lines, awnings or canopies, changes in materials or window patterns, recessed entries, reveals, or other architectural treatments.
- b. *Horizontal Articulation.* Horizontal articulation is required to visually break up the massing of the ground floor of the front and side street (corner) facades into segments no greater than sixty feet in width for the LI2 zone and one hundred feet in width for the HI zone. Examples of horizontal articulation include bays, mullions, columns, piers, pilasters, recessed entries, awnings, or other architectural treatments.
- c. The planning director may allow use of other methods to achieve the intent of the vertical/horizontal articulation standards. This includes use of landscaping which



breaks up flat expanses of building walls, or a combination of techniques providing the desired effect.

3. *Building Entrance and Window Design.*

a. *Building Entrances.* Primary building entrances should be easily identifiable and relate to human scale.

(1) Locate main entrances to be clearly identifiable from primary driveways and drop-offs. For example:

(A) Design building entrances to contrast with the surrounding wall plane.

(B) Consider tinted glass, painted doors, or recessed features that will create a shaded effect.

(C) Create a frame around doorways by changing materials from the primary facade material.

(2) All building entrances shall be well lit. Consider using building entranceways as a transition from the building to the ground. Incorporate walls, terraces, grading and plant materials to accomplish this transition.

b. *Ground Floor Windows.* A minimum of thirty percent of the portion of the facade abutting office and commercial uses that are contained within the industrial use shall be comprised of windows with clear, "vision" glass. (Ord. 3774-20 § 5(I) (Exh. 3), 2020.)

### **19.12.210 Additional standards applicable to the LI2 and HI zones.**

A. *On-Site Open Space.* On-site open space is required for all developments within the LI2 zone on lots five acres or greater in area. On-site open space is not required in the HI zone. For lots less than five acres that were created through a binding site plan, the open space requirement applies if the originating or parent parcel was at least five acres in area prior to the binding site plan. On-site open space shall be provided in accordance with the following standards:

1. There shall be provided on each lot a minimum open space area or areas, containing at least twenty percent of the lot area, in accordance with the following:



- a. All of the required open space shall be landscaped, as required by this chapter, provided in natural open areas, or improved with passive or active recreational facilities.
- b. The required building setback areas and the building landscaping required by Chapter [19.35](#) EMC may be included in the calculation of required open space.
- c. Driveways, loading areas, outdoor storage, parking lots and the interior landscaping required in parking lots shall not be considered as satisfying the open space requirements.
- d. Exception: Critical areas and their buffers may be used to satisfy up to fifty percent of the required open space.

**B. *Site Design.***

1. Buildings, walls, and landscaping should be arranged to screen less visually aesthetic components necessary for industrial development, including loading and service bays, outdoor bulk storage areas, trash enclosures, mechanical equipment, and noise and odor producing facilities. Service areas and bulk storage should be screened from view of public right-of-way and screened with compatible architectural features and walls, and/or dense landscaping.
2. Trash enclosures should not be visually prominent from the public view of the site.

**C. *Performance Standards.*** All permitted uses must address the generation of nuisance irritants such as noise, smoke, dust, odor, glare, visual blight or other undesirable impacts during the review process for establishing, expanding or modifying the use. The city shall have the authority to impose conditions necessary to ensure mitigation of potential nuisance impacts, including redesign of the project, when located in proximity to residential uses.

**D. *Lighting and Glare in Central Waterfront Planning Area.*** Development within the Central Waterfront Planning Area (see Map 12-2) is required to meet the site lighting standards in this subsection.

1. *Intent.* The intent of this provision is to encourage the use of lighting as an integral design component to enhance buildings, landscaping, or other site features; increase night sky visibility and to reduce the general illumination of the sky; reduce horizontal light glare



and vertical light trespass from a development onto adjacent parcels and natural features; and use lighting in conjunction with other security methods to increase site safety.

2. *Standards.*

- a. All site lighting shall meet dark-sky standards.
- b. *Site Lighting Levels.* All publicly accessible areas shall be lighted with average minimum and maximum levels as follows:
  - (1) Minimum of one-half foot-candle;
  - (2) Maximum (for high volume pedestrian areas and building entries) of four foot-candles.
- c. Lighting shall be provided at consistent levels, with gradual transitions between maximum and minimum levels of lighting and between lit areas and unlit areas. Highly contrasting pools of light and dark areas shall be avoided.
- d. Parking area lighting fixtures shall be full cut-off (zero percent candlepower at ninety degrees horizontal and ten percent maximum candlepower at eighty degrees from vertical), dark-sky rated, and mounted no more than thirty feet above the ground, with lower fixtures preferable so as to maintain a human scale.
- e. Lighting for parking areas within three hundred feet of areas designated for residential uses shall be on light standards not exceeding twenty feet or the height of any building situated between the parking area and the area designated for residential use, whichever is taller.
- f. Pedestrian-scaled lighting (light fixtures no taller than fifteen feet) is encouraged in areas of pedestrian activity.
- g. Lighting must not trespass onto adjacent private parcels, nor shall a light source (luminaire) be visible at the property line. All building lights shall be directed onto the building itself and/or the ground immediately adjacent to it. The light emissions shall not be visible above the roofline of the building.
- h. Building wall mounted parking lot lighting is prohibited.



3. A lighting plan demonstrating compliance with these standards shall be submitted for review and approval at time of submittal for any permit that includes site lighting.

**Map 12-2: Central Waterfront Planning Area**



(Ord. 3774-20 § 5(l) (Exh. 3), 2020.)



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**19.12.300 Modification of development standards.**

A. *General.* An applicant may propose and the planning director, using the review process described in Chapter [15.02](#) EMC, may allow an applicant to deviate from the development standards of this chapter, provided the proposal satisfies the general evaluation criteria in Chapter [15.03](#) EMC.

B. *Standards That May Be Modified.* The following standards in this chapter may be modified:

1. Building form standards;
2. Structured parking;
3. Weather protection;
4. Building transparency; and
5. Special design standards. (Ord. 3774-20 § 5(l) (Exh. 3), 2020.)

**19.12.310 Design review.**

A. The planning director may engage the services of a licensed architect, or other licensed design professional when the director deems it appropriate and in the public interest, to provide recommendations in connection with the review of any project that:

1. Is subject to any design standard or guideline established in this chapter; or
2. Involves discretionary design-related decisions, such as a modification of design standards, authorized in this chapter; or
3. Involves design-related decisions to implement building facade requirements set forth in EMC [19.12.040](#).

B. Recommendations of the architect or design professional shall be advisory only, and shall not otherwise limit the director's authority to require changes in any project design to meet the design requirements of this title or the director's discretion to approve or deny requested modifications or apply discretionary design criteria. (Ord. 3774-20 § 5(l) (Exh. 3), 2020.)



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**19.12.320 Authority of planning director.**

The planning director shall have the authority to disapprove, approve with conditions, or require the applicant to make design changes if he/she determines the design does not meet the design standards, guidelines or evaluation criteria of this title. (Ord. 3774-20 § 5(l) (Exh. 3), 2020.)

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**The Everett Municipal Code is current through Ordinance 4031-24, passed May 22, 2024.**

Disclaimer: The City Clerk's Office has the official version of the Everett Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

[City Website: www.everettwa.gov](http://www.everettwa.gov)

[Hosted by General Code.](#)



## Chapter 19.13

### SPECIFIC USE STANDARDS

Sections:

<b>19.13.005</b>	<b>Purpose.</b>
<b>19.13.010</b>	<b>Modification of use standards.</b>
<b>19.13.020</b>	<b>Aboveground utility and communications facilities.</b>
<b>19.13.030</b>	<b>Adaptive reuse of nonresidential buildings.</b>
<b>19.13.040</b>	<b>Adult retail business requirements.</b>
<b>19.13.050</b>	<b>Adult use business requirements.</b>
<b>19.13.060</b>	<b>Airfields, float plane facilities, landing facilities and special aviation uses.</b>
<b>19.13.070</b>	<b>Alcohol production and coffee roasters.</b>
<b>19.13.080</b>	<b>Churches, religious facilities or places of worship.</b>
<b>19.13.090</b>	<b>Community center.</b>
<b>19.13.095</b>	<b>Drive-through facilities.</b>
<b>19.13.110</b>	<b>Hazardous waste treatment and storage facilities.</b>
<b>19.13.120</b>	<b>Hospitals.</b>
<b>19.13.130</b>	<b>Jails and correctional facilities.</b>
<b>19.13.140</b>	<b>Light automobile and truck service, body repair and painting.</b>
<b>19.13.160</b>	<b>Marijuana.</b>
<b>19.13.170</b>	<b>Mini-casinos.</b>
<b>19.13.180</b>	<b>Schools.</b>
<b>19.13.190</b>	<b>Temporary extreme weather shelters.</b>

#### **19.13.005 Purpose.**

This chapter addresses specific nonresidential uses which are included in the use tables of Chapter [19.05](#) EMC. For the specific uses identified in this chapter, there are additional or specific regulations for the specific use. (Ord. 3774-20 § 5(j) (Exh. 3), 2020.)



### **19.13.010 Modification of use standards.**

An applicant may propose, and the review authority may approve, an applicant to deviate from the specific use standards in this chapter. The modification request will use Review Process II described in Chapter [15.02](#) EMC, Local Project Review Procedures, unless the specific land use requires a higher-level review (e.g., Review Process III), in which case, the modification request will be considered concurrent with the underlying land use decision. (Ord. 3774-20 § 5(J) (Exh. 3), 2020.)

### **19.13.020 Aboveground utility and communications facilities.**

A. Major utility and communications facilities shall be designed, landscaped or otherwise screened to ensure compatibility with surrounding properties. Aboveground utility and communications structures and antennas shall be designed, constructed, painted and screened so as to blend with surrounding uses and buildings. The review authority may impose additional restrictions on the location, setbacks, height, design, landscaping and screening of aboveground utility and communications facilities if necessary to minimize visual impacts and promote greater compatibility with existing or planned uses on surrounding properties. Amateur radio tower antennas shall be regulated by EMC [19.22.090](#) and are not subject to review under this section.

B. Antennas associated with aboveground utility or communications facilities shall be located on existing or replacement towers or structures to the maximum extent technically feasible to discourage the proliferation of tower structures. Installation or collocation of antennas on existing or replacement towers or structures shall be preferred unless the proponent can demonstrate that a new structure is necessary to adequately serve the needs of the public. When proposed to be installed on an existing or replacement tower or structure located in a nonresidential zone located at least three hundred feet from residential zones, facilities which are subject to Review Process II shall be reviewed using Review Process I, subject to meeting all requirements of this section. When proposed to be located on an existing or replacement utility or communications structure or other nonresidential structure in a residential zone, Review Process II shall be required.

C. Tower structures for aboveground utility and/or communications facilities shall not be located in or within three hundred feet of residentially zoned areas, in or within two hundred



feet of gateway corridors (see Map 12-1 in Chapter [19.12](#) EMC) as designated by the Everett comprehensive plan, or in or within two hundred feet of areas under the jurisdiction of the shoreline master program, unless the applicant provides an analysis of alternative sites and existing facilities which are technically feasible where the structure could be located or collocated, which demonstrates that the proposed facility cannot adequately serve the needs of the public for the proposed utility or communications service in an alternative location. When location in or within two hundred feet of a gateway corridor, or in or within two hundred feet of areas under the jurisdiction of the shoreline master program, is necessary to serve the public need for utility or communications services, use of existing or replacement utility and communications facilities is encouraged. When existing facilities are used or replaced, addition to or replacement of existing structures may exceed the height of the existing facility by not more than twenty feet.

D. When tower structures for aboveground utility and/or communications facilities are proposed to be located within three hundred feet of residentially zoned areas, in or within two hundred feet of gateway corridors as designated by the Everett comprehensive plan, or in or within two hundred feet of areas under the jurisdiction of the shoreline master program, zones which otherwise require Review Process II shall use Review Process III.

E. All utility and communication facilities shall be installed underground or within structures to the greatest extent practical in order to maximize safety and minimize visual and noise impacts upon surrounding properties. When it is not practical to install underground or within structures, all utility and communications facilities shall be architecturally designed and screened so as to minimize visual impacts on and promote compatibility with surrounding properties.

F. Aboveground utility and communications facilities shall be designed so as to be the lowest height possible to adequately serve the needs of the public for the proposed utility or communications service. The review authority, in considering the proposed utility or communications facility, may allow antenna or tower height to exceed the height permitted in the underlying zone without having to satisfy the variance approval criteria of Chapter [15.03](#) EMC. Approval may only be granted if it can be demonstrated that such height is necessary to adequately serve the needs of the public for the proposed utility or communications service. The applicant shall provide an evaluation of alternative designs and locations which could result in a lower tower or antenna height.



G. Towers associated with aboveground utility and communication facilities and all ancillary structures shall comply with the setback standards of the zone in which the property is located; provided, that when allowed to be located in or within two hundred feet of residential zones, the height of any tower shall not exceed the horizontal distance between the base of the tower and the nearest residential property line. The review authority, in considering the proposed utility or communications facility, may allow a lesser setback without having to satisfy the variance approval criteria of EMC [15.03.140](#), if it can be demonstrated that a lesser setback is necessary to adequately serve the needs of the public for the proposed utility or communications service, or that a lesser setback will result in better screening than in a location which meets the setbacks required herein.

H. The aboveground utility or communications facility shall be removed from the site should the use for such purposes be discontinued for one hundred twenty days or more. The planning director shall have the discretion, upon the request of the owner of the facility, to allow an extension of this time period to allow for the use of the site by another utility or communications service provider.

I. Maintenance, repair, or replacement of existing utility or communications facilities or appurtenant structures and the installation of minor aboveground utility and communications facilities are exempt from this section. This exemption includes replacement or increased heights of not more than twenty feet to accommodate wireless telecommunications antennas. Utility and communications service providers are encouraged to locate such facilities of a minor nature and small scale on existing or replacement structures, where technically feasible, in preference to erecting new towers or structures for such purposes.

J. To the extent provided by law, the city may require utility or communications service provider to allow up to two additional service providers to be located on shared facilities to discourage the proliferation of tower structures, consistent with technological feasibility. The review authority may allow an additional twenty feet in tower height per additional provider to accommodate collocation.

K. Utility or communications facilities which require towers for which safety lights are required by the FAA shall not be permitted unless the applicant demonstrates that such a facility in the proposed location and at such a height is necessary to adequately serve the needs of the public for the proposed utility or communications service.



L. The planning director may require review by an expert third party who is approved by the city and the applicant, to be paid for by the applicant, when needed for review of site-specific data submitted by the applicant concerning technical aspects related to specific facilities and locations. (Ord. 3774-20 § 5(j) (Exh. 3), 2020.)

### **19.13.030 Adaptive reuse of nonresidential buildings.**

A. *Purpose.* The purpose of this section is to allow for adaptive reuse of nonresidential buildings in residential zones that are functionally obsolete in order to improve the economic feasibility of a property by considering uses that are not otherwise permitted, but which, if properly designed and managed, would not create unacceptable impacts on surrounding properties or the immediate vicinity in general. This process differs from the unlisted use process listed in EMC [19.05.070\(B\)](#) in that uses that are not specifically authorized in the underlying residential zone may be considered using the process described herein.

B. *Procedures.* Any request for adaptive reuse of nonresidential buildings shall be reviewed as set forth in Table 5-5 in EMC [19.05.120](#). If the property is outside a historic overlay zone but listed on a historic register or as a contributing structure in a historic register district, the historical commission shall review the proposal and make a recommendation to the review authority.

C. *Circumstances.* The city may allow a use in a residential zone that is not specifically allowed in that zone if it is necessary to encourage adaptive reuse of a building under the following circumstances:

1. It is unlikely that the primary building on the subject property could be preserved if only uses permitted in the underlying zone were allowed.
2. Allowing a different use would enhance the character of the building and immediate vicinity.
3. The use would not have a detrimental effect upon surrounding properties or the immediate vicinity.

D. *Uses.* The following uses may be considered for adaptive reuse of an existing building in a residential zone:



- 
1. Dwelling units. Density based on underlying zoning plus one additional dwelling unit;
  2. Assisted living facilities;
  3. Libraries;
  4. Museums and art galleries;
  5. Social services;
  6. Public services;
  7. Business incubators;
  8. Artist studios;
  9. Music venues;
  10. Cafes and bistros;
  11. Live/work units;
  12. Bed and breakfasts;
  13. Other uses not listed above if determined through the review process to be compatible with surrounding properties and the immediate vicinity.

E. *Review Criteria.* The following criteria shall be used as the basis for determining compatibility with surrounding uses and approving, denying, or conditionally approving a request to allow the adaptive reuse of a nonresidential building in a residential zone:

1. Evaluation criteria set forth in EMC [15.03.100](#).
2. The adaptive reuse would promote or aid in the preservation or rehabilitation of the primary building.
3. No significant adverse impacts to public safety.
4. Compliance with building and fire codes.
5. Hours of the day of proposed use or activity.



6. Proposed management and operational procedures to minimize and mitigate potential impacts.
7. Expansions to the primary building shall not exceed ten percent of the existing footprint or five hundred square feet, whichever is greater, and will not detrimentally affect the outside character of the building.
8. Other factors not specified herein that would create adverse impacts to the immediate vicinity.
9. Any proposal that would adversely affect properties in the immediate vicinity shall be denied. The city shall retain the right to revoke a permit issued under this section that fails to comply with any conditions of approval of said permit, or which operates in a manner inconsistent with representations made in the application, pursuant to Chapter [1.20](#) EMC. (Ord. 3895-22 § 16, 2022; Ord. 3774-20 § 5(j) (Exh. 3), 2020.)

#### **19.13.040 Adult retail business requirements.**

A. An adult retail business shall not be located or maintained within two hundred fifty feet, measured from the nearest property line of the adult retail use establishment to the nearest property line of any of the following uses or zones located inside or outside of the city of Everett:

1. Public library;
2. Public playground or park;
3. Public or private school and its grounds, from kindergarten to twelfth grade;
4. Nursery school or day care center;
5. Church, temple, mosque, synagogue, or other place of religious worship;
6. Lots located in residential zones.

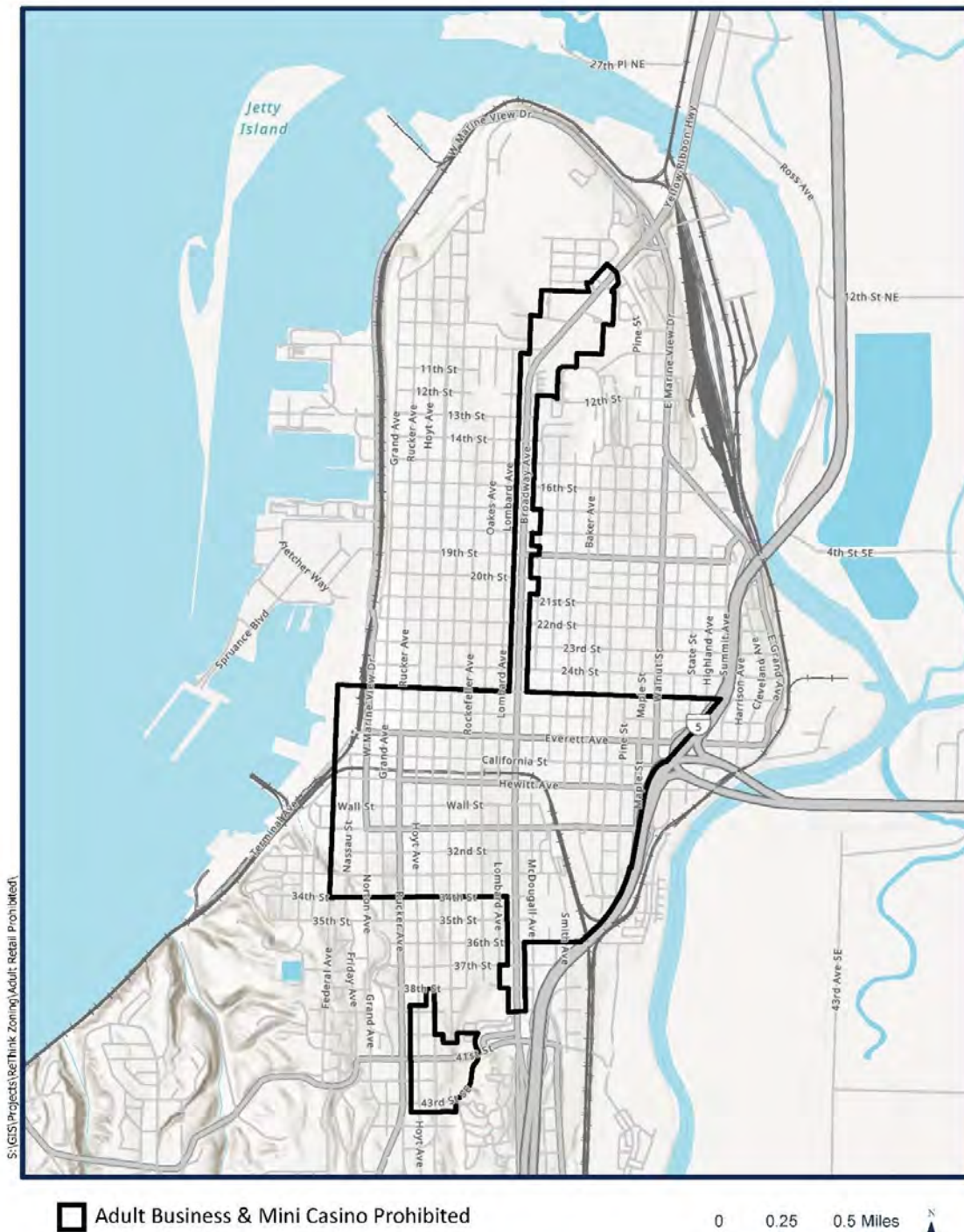
B. An adult retail business shall not be located or maintained within the area designated by the map set forth in Map 13-1.



C. An adult retail business shall not be located within one thousand feet of any other adult retail use establishment or any adult use business.

**Map 13-1: Adult Retail Stores Prohibited**





(Ord. 3774-20 § 5(j) (Exh. 3), 2020.)



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**19.13.050 Adult use business requirements.**

An “adult use business” as defined by this title shall be permitted within the city limits only if it meets all of the locational requirements set forth in this section.

A. Adult use businesses shall be prohibited within one thousand feet of:

1. Any area of the city zoned for residential purposes; residential zones shall include the R-S, R-1, R-2, R-2(A), UR3 and UR4 zones and any other residential zone hereafter adopted by the city.
2. Any religious facility or place of worship. For purposes of this section, land uses for which the principal use is not a religious facility or place of worship but which include such a use as an accessory or incidental use to the principal use, such as a chapel within a hospital, a social service use which provides religious services such as the Everett Gospel Mission, or other similar arrangement, shall not be deemed to be a religious facility or place of worship.
3. Any public or private school offering general education for students between the years kindergarten through twelfth grade. For purposes of this section, athletic training facilities such as gymnastics, judo, karate, and dance and similar uses shall not be deemed to be a school.
4. Any public park or playground operated by the city; for purposes of this section, bike paths, trails, waterways and boat launches shall not be deemed to be a public park.
5. Any designated community development block grant neighborhood.

B. Adult use businesses shall be prohibited from locating within five hundred feet of:

1. Any other adult use business.
2. Any existing establishment selling alcoholic beverages for consumption on premises.

C. Distances provided for herein shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the property parcel upon which the proposed adult use business is or is to be located, to the nearest point of the parcel of property or the zoning district boundary line from which the proposed adult use business is or is to be separated.



D. Nothing within locational requirements set forth in this chapter shall preclude an adult use business from conducting more than one adult use activity within a single structure; provided, the adult use business shall comply with provisions of this title and all other city ordinances.

E. In the event an adult use business is legally established in accordance with the requirements of this title and does not constitute a nonconforming use as defined in subsection (B) of this section, and a sensitive land use described in subsections (A)(2) through (A)(3) of this section locates within the required separation distance, the zoning conformity of the legally established adult use shall not be affected.

F. Adult use businesses, panoram premises and public places of adult entertainment shall not be permitted within the area defined in Map 13-1. (Ord. 3895-22 § 17, 2022; Ord. 3774-20 § 5(j) (Exh. 3), 2020.)

### **19.13.060 Airfields, float plane facilities, landing facilities and special aviation uses.**

#### *A. General Provisions.*

1. All such facilities which are proposed shall be reviewed using Review Process IIIA.
2. Public or private airfields, airports and float plane facilities shall be developed in accordance with Federal Aviation Administration requirements.
3. Public or private airfields, airports and seaplane facilities shall be designed and constructed in a manner which has the least noise impact on surrounding properties, especially areas developed with or designated for residential use.
4. Public or private airfields, airports and float plane facilities shall be located so as to avoid safety hazards and minimize noise impacts, particularly on residential land uses.

*B. Special Aviation Uses.* Special aviation uses shall consist of helipads, including the establishment or modification of the use and any supporting landing or communications facilities. Modification of a special aviation use shall include more flights or increased environmental impact than was identified in the city's decision (or, if not specified in the decision, then the SEPA environmental document that served as a basis for the city's decision).



1. Special aviation uses shall be reviewed under Review Process V, except for emergency airlift landing facilities for existing hospitals which are subject to Review Process IIIA.
2. Facilities shall be located so as to avoid safety hazards and minimize noise impacts, particularly on residential land uses.
3. Facilities shall be designed, constructed and operated in a manner that has the least noise impact on surrounding properties, especially areas developed with or designated for residential use.
4. Facilities shall be developed in accordance with Federal Aviation Administration requirements. (Ord. 3774-20 § 5(j) (Exh. 3), 2020.)

#### **19.13.070 Alcohol production and coffee roasters.**

Where permitted, the production of alcohol or roasting of coffee shall be designed and operated so as not to create odor impacts to surrounding uses and shall comply with the odor regulations of the Puget Sound Clean Air Agency. (Ord. 3774-20 § 5(j) (Exh. 3), 2020.)

#### **19.13.080 Churches, religious facilities or places of worship.**

- A. New church structures, religious facilities or places of worship shall be located a minimum of fifteen feet from adjacent residentially zoned properties.
- B. Church buildings, religious facilities or places of worship shall comply with the height requirements of the zone in which it is located.
- C. Where churches, religious facilities or places of worship are located adjacent to local residential streets, the parking lot entrances/exits shall be oriented toward the nearest collector or arterial street. (Ord. 3976-23 § 4, 2023; Ord. 3774-20 § 5(j) (Exh. 3), 2020.)



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**19.13.090 Community center.**

- A. A community center shall be located adjacent to or within four hundred feet of collector or arterial streets.
- B. A community center shall be located within one-quarter mile of transit routes.
- C. Where a community center is located adjacent to local residential streets, the parking lot entrances/exits shall be oriented toward the nearest collector or arterial street. The review authority may allow other means of access through the review process to provide for safe circulation and emergency vehicle access.
- D. Structures shall be located a minimum of twenty-five feet from adjacent residentially zoned properties.
- E. Community center buildings shall comply with the height requirements of the zone in which it is located; however, the review authority may consider allowing a greater height, provided the additional height is necessary to accommodate the functional needs of the facility and that the facility is designed to be the lowest height that will accommodate the functional needs.
- F. All freestanding signs shall be monument signs with a maximum height of eight feet and shall include low plantings around the base of the sign to make it a part of the landscape. (Ord. 3774-20 § 5(j) (Exh. 3), 2020.)

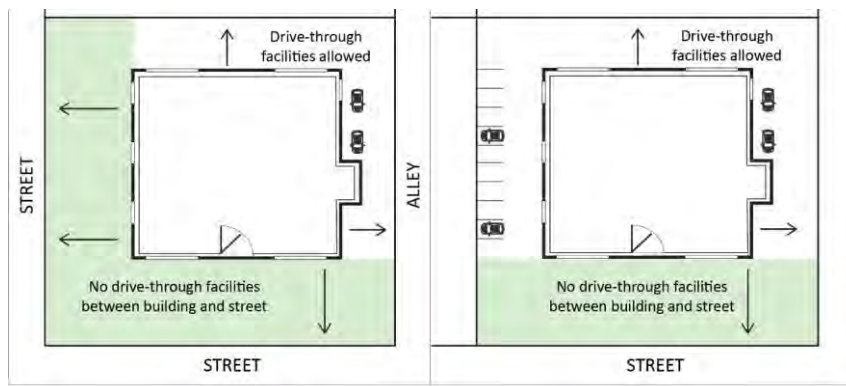
**19.13.095 Drive-through facilities.**

- A. *Standards for Service Windows, Order Placing Stations and Holding Lanes.* All businesses with drive-up service windows shall meet the following standards:
  - 1. Drive-through facilities, where permitted, including vehicle holding lanes, shall not be located closer to the public street than the building located closest to the street, unless located one hundred fifty feet or more from the street right-of-way (see Figure 1.)
  - 2. Holding lanes shall be designed and located so as to not obstruct off-street parking areas, loading areas or pedestrian movement on the lot or adjoining lots.



3. Drive aisles, holding lanes, order stations and drive-up windows shall not be located within a required setback or landscape area.
4. Drive-up service windows shall be located fifty feet or more from lots located in residential zones.
5. Drive-up order placing stations shall be located one hundred feet or more from lots located in residential zones.
6. For restaurants, there shall be one outdoor waste receptacle provided for each eight parking spaces.

**Figure 1: Drive-Up Facilities**



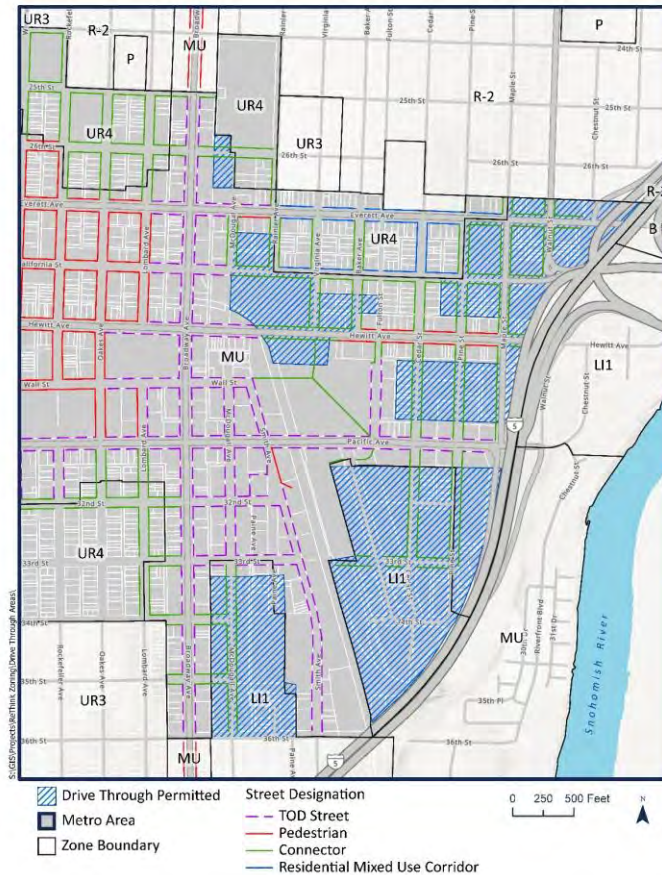
B. *Vehicle Holding and Stacking.* Vehicle holding and stacking for all drive-up service lanes shall be provided in accordance with the city design standards.

C. *Restricted Locations for Drive-Through Facilities—Metro Everett.*

1. Drive-through facilities are not allowed in the following areas of Metro Everett:
  - a. Streets designated as transit-oriented development (TOD) or pedestrian; or
  - b. Residential zones (UR3 and UR4).
2. Where drive-through facilities are permitted in Metro Everett is shown in Map 13-2.

**Map 13-2: Permitted Drive-Through Areas**





(Ord. 3774-20 § 5(J) (Exh. 3), 2020.)

### 19.13.110 Hazardous waste treatment and storage facilities.

Hazardous waste treatment and storage facilities shall be permitted in accordance with the following requirements:

A. *Commercial Zones, Institutional Uses in Residential Zones.* In the NB, B, MU zones, and for institutional uses in residential zones, on-site hazardous waste treatment and storage facilities shall be permitted as an accessory use to any activity generating hazardous waste which is lawfully permitted within such zones; provided, that such facilities meet the state siting criteria adopted pursuant to the requirements of RCW [70.105.210](#).

B. *Industrial Zones.* In the LI1, LI2 HI use zones, on-site and off-site hazardous waste treatment and storage facilities shall be permitted; provided, that such facilities meet the state siting



criteria adopted pursuant to the requirements of RCW [70.105.210](#). (Ord. 3774-20 § 5(j) (Exh. 3), 2020.)

### **19.13.120 Hospitals.**

- A. Vehicle, pedestrian and ambulance traffic shall be directed toward the nearest collector or arterial street and away from local residential streets.
- B. Hospitals and hospital-related structures shall be set back a minimum of fifty feet from adjacent residentially zoned lots.
- C. Hospitals and hospital-related uses shall be screened from adjacent residentially zoned lots by the landscaping requirements of landscape category B. (Ord. 3774-20 § 5(j) (Exh. 3), 2020.)

### **19.13.130 Jails and correctional facilities.**

#### *A. Permitted Use—Proportionality to Everett's Population.*

1. In order for jails and correctional facilities to be classified as a permitted use, the applicant must demonstrate the existence of proportionality of their distribution throughout the county and its cities. The applicant must make application to the city demonstrating that in relation to Everett, Snohomish County and cities within Snohomish County have accepted their proportional share of jails and correctional facilities. This shall be determined using the following formula:

A = "Everett's current population"  
divided by "Snohomish County's  
current population"

B = "Current number of jails and  
correctional facilities' beds in  
Everett" divided by "Current  
number of jails and correctional



facilities' beds in Snohomish  
County"

2. Jails and correctional facilities shall be a permitted use subject to the location criteria set forth herein unless A is less than B, in which case they are not a permitted use.

3. The population figures used shall be the current population figures issued by the state of Washington Office of Financial Management. The city shall supply the figures for the current number of beds for jails and correctional facilities both within the city and countywide. If the applicant disagrees with the figures supplied by the city to make the calculation, the applicant can supply his/her own figures along with supporting documentation. This will be considered by the planning department in rendering its written decision.

4. If it is determined that Snohomish County and cities within Snohomish County have accepted their proportional share of jails and correctional facilities in relation to Everett, then the proposed use will be considered a permitted use within those locations defined in subsection (B) of this section and subject to the appropriate review process. Within twenty-one days of receipt of a completed application, the planning department, using the review process described in Chapter 15.02 EMC, Land Use and Project Review Procedures, shall render a written decision on whether the applicant has demonstrated that in relation to Everett the county and other cities within the county have accepted their proportional share of jails and correctional facilities.

B. *Locational Criteria.* Subject to the provisions of this chapter, jails and correctional facilities shall be a permitted use in the MU zone within the four-block area bounded by Wall on the north, Pacific on the south, Colby on the west and Lombard on the east subject to the review process described in Chapter 15.02 EMC, Land Use and Project Review Procedures. Jails and correctional facilities are not permitted uses in any other portion of the MU zone, nor in any other zone.

C. *Expansions.* Notwithstanding any provisions to the contrary, the proportionality requirement set forth in subsection (A) of this section does not apply to the expansion of existing governmental facilities within the four-block area described in subsection (B) of this section for the purpose of adding jails and correctional facilities. (Ord. 3774-20 § 5(J) (Exh. 3), 2020.)



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### **19.13.140 Light automobile and truck service, body repair and painting.**

Vehicle service and repair businesses shall comply with the following requirements:

- A. All vehicle maintenance work shall be performed in an enclosed building when located within one hundred fifty feet of lots located in residential zones. The garage doors of the building may not face toward the residentially zoned properties.
- B. Vehicle washing facilities are not permitted within fifty feet of residentially zoned lots.
- C. Vehicles being serviced shall not be parked on public right-of-way.
- D. Inoperable vehicles, used or discarded tires and vehicle parts shall be screened from view by a solid sight-obscuring fence and landscaping as required by Chapter [19.35](#) EMC. (Ord. 3774-20 § 5(j) (Exh. 3), 2020.)

### **19.13.160 Marijuana.**

- A. *Definitions.* The terms “marijuana,” “marijuana processor,” “marijuana producer,” and “marijuana retailer” shall have the meanings set forth in RCW [69.50.101](#). “City” means the city of Everett.
- B. *Producers and Processors.* Marijuana producers and marijuana processors may operate in the city of Everett, provided there is full compliance with all of the following provisions:
  - 1. Marijuana producers and marijuana processors must comply with all requirements of state law, the Washington State Liquor and Cannabis Board, and the city;
  - 2. Marijuana producers and marijuana processors may locate only within the LI1, LI2, and HI zones;
  - 3. Marijuana producers and marijuana processors may not locate within one thousand feet of any parcel zoned as residential (R-S, R-1, R-2, R-2(A), UR3 or UR4 zones);
  - 4. Marijuana producers and marijuana processors may not locate within one thousand feet of any parcel containing an elementary or secondary school, playground, recreation



center or facility, child care center, public park, public transit center, or library, or any game arcade to which admission is not restricted to persons aged twenty-one years or older;

5. Tier 2 and Tier 3 marijuana producers and/or processors may not operate or locate in the city; and

6. There shall be a minimum separation of one thousand feet between production and/or processing uses, measured as the shortest distance between the boundaries of the lot upon which each use is located.

C. *Retailers.* Marijuana retailers may operate in the city pursuant to the following restrictions:

1. Marijuana retailers must comply with all requirements of state law, Washington State Liquor and Cannabis Board and the city;

2. Marijuana retailers may locate only within the B, MU, LI1, LI2 and HI zones;

3. Marijuana retailers may not locate in neighborhood business (NB) zones;

4. Marijuana retailers may not locate in a building in which nonconforming retail uses have been established in residential zones (R-S, R-1, R-2, R-2(A), UR3 or UR4 zones);

5. Marijuana retailers may not locate within one thousand feet of any parcel containing an elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older;

6. Marijuana retailers may not locate within two thousand five hundred feet of any other legally established marijuana retailer;

7. Customer parking for marijuana retailers must be on the public street side of the structure in which the marijuana retailer is located and may not be off of or adjacent to an alley. However, staff parking and business deliveries may occur on the alley side of the structure;

8. Vehicular access to the parking lot for a marijuana retailer shall be from the public street frontage and may not be from an alley. Any property located on a street from which vehicular access to the site from the street is prohibited by the city engineer shall not be allowed for use as a marijuana retailer;



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9. Marijuana retailers shall not be allowed on any parcel containing a residential use;
  10. Marijuana retailers shall not be allowed on any parcel that is contiguous to a parcel containing residential use, unless the planning director, using Review Process II as described in Chapter [15.02](#) EMC, finds the following:
    - a. There is a physical separation between the two uses, such as another commercial building, or a substantial change in topography;
    - b. The retail use is located in a shopping center as one of multiple tenants with adequate parking for all uses and access as stated above;
    - c. The building in which the retail use is located faces the commercial street and the residential use faces a residential street in the opposite direction, without a shared alley between the two;
    - d. The residential use is located at least one hundred feet from the common lot line between the two uses;
  11. In reviewing a proposed marijuana retailer under this section, the planning director shall have the authority to require improvements including, but not limited to, fencing or landscaping to screen the retail use from the residential use;
  12. The front facade of retail stores shall consist of storefront window(s), doors, and durable, quality building materials consistent with the design standards of the zone in which the property is located. Transparency requirements for windows shall apply unless in conflict with Washington State Liquor and Cannabis Board regulations. If located in a zone without design standards, at least three of the following shall be provided:
    - a. Special treatment of windows and doors, other than standard metal molding/framing details, around all ground floor windows and doors, decorative glazing, or door designs.
    - b. Decorative light fixtures with a diffuse visible light source or unusual fixture.
    - c. Decorative building materials, such as decorative masonry, shingle, brick, or stone.
    - d. Individualized patterns or continuous wood details, decorative moldings, brackets, trim or lattice work, ceramic tile, stone, glass block, or similar materials.
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- e. Use of a landscaping treatment as part of the building's design, such as planters or wall trellises.
- f. Decorative or special railings, grill work, or landscape guards.
- g. Landscaped trellises, canopies, or weather protection.
- h. Sculptural or hand-crafted signs.
- i. Special building elements, such as pilasters, entablatures, wainscots, canopies, or marquees that exhibit nonstandard designs.

13. The maximum number of retail marijuana stores allowed in the city of Everett shall not exceed eight. Any retail marijuana store hereafter established shall be certified as a medical marijuana provider by the Washington State Liquor and Cannabis Board.

D. *Measurements.* Distances provided under this section shall be measured as the shortest distance between the perimeters of the parcels at issue.

E. *Compliance.* Marijuana producers, marijuana processors, and marijuana retailers are required to acquire all necessary business licenses and are required to comply with municipal tax regulations and all other applicable city ordinances and regulations.

F. *Establishment.* For purposes of the two-thousand-five-hundred-foot setback between marijuana retailers, marijuana retailers shall be considered to be legally established in the order in which they are issued a city of Everett business license. The city will not accept a business license application for a recreational marijuana business prior to the applicant providing the city a copy of a letter from the Washington State Liquor and Cannabis Board indicating that the applicant has been approved for a recreational marijuana license. The city will process business license applications for recreational marijuana businesses in the order in which they are accepted.

G. *Enforcement.* Any violation of this section is subject to enforcement under the provisions of Chapter [1.20](#) EMC or through action of the city attorney seeking injunctive or other civil relief in any court of competent jurisdiction. The violator will be responsible for costs, including reasonable attorney fees. (Ord. 3774-20 § 5(j) (Exh. 3), 2020.)



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**19.13.170 Mini-casinos.**

The following regulations shall apply to mini-casinos:

A. The space devoted to gambling and gaming activity and support services (i.e., security) shall not be more than eight thousand square feet. Other incidental uses such as restaurant or nightclub uses shall not be restricted by the eight thousand square feet limitation if no gambling or gaming activity occurs within such space.

B. Mini-casinos shall be located in:

1. A freestanding building; or
2. A unit in a larger development; provided, that the mini-casino is separated from all other uses by a lobby or similar open space or common area from adjacent units in the development, and that there are no other mini-casinos located within six hundred feet of the exterior walls of the building in which the mini-casino is located.

C. Mini-casinos shall not be permitted in the area shown on Map 13-1. (Ord. 3774-20 § 5(j) (Exh. 3), 2020.)

**19.13.180 Schools.**

This section applies to public and private elementary and secondary schools, colleges, universities and public vocational education centers; it does not apply to private training schools such as beauty schools, business colleges or technical training facilities, which shall be treated as commercial uses by this title.

A. Elementary and middle schools may be located on local or arterial streets. High schools shall be located adjacent to or within four hundred feet of collector or arterial streets.

B. Structures shall be located a minimum of twenty-five feet from residentially zoned properties.

C. Schools may exceed the maximum building height in Chapter [19.22](#) EMC when considered under an administrative use permit or conditional use permit.



D. Temporary classrooms of any size and accessory structures smaller than one thousand square feet shall be reviewed using Review Process I. (Ord. 3976-23 § 4, 2023; Ord. 3774-20 § 5(j) (Exh. 3), 2020.)

### **19.13.190 Temporary extreme weather shelters.**

Temporary extreme weather shelters are limited to temporary use for the duration of a dangerous weather or environmental event, such as extreme cold, heat, or smoke. The shelter provider shall notify the city forty-eight hours prior to beginning shelter operations. Shelter registration may be required to facilitate communication to the community and ensure fire safety conditions are provided in the facility. (Ord. 3895-22 § 18, 2022.)

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**The Everett Municipal Code is current through Ordinance 4031-24, passed May 22, 2024.**

Disclaimer: The City Clerk's Office has the official version of the Everett Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

[City Website: www.everettwa.gov](http://www.everettwa.gov)

[Hosted by General Code.](#)



## Chapter 19.17

### AIRPORT/PORT/NAVY COMPATIBILITY OVERLAY

#### Sections:

<b>19.17.005</b>	<b>User guide.</b>
<b>19.17.010</b>	<b>Purpose.</b>
<b>19.17.020</b>	<b>Applicability—Airport compatibility.</b>
<b>19.17.030</b>	<b>Exemptions.</b>
<b>19.17.040</b>	<b>Preexisting uses.</b>
<b>19.17.050</b>	<b>Airport compatibility area map.</b>
<b>19.17.060</b>	<b><i>Repealed.</i></b>
<b>19.17.070</b>	<b>Uses and development approvals within the airport compatibility area.</b>
<b>19.17.080</b>	<b>Notice and disclosure required within an airport influence area.</b>
<b>19.17.090</b>	<b>Disclosure text for airport influence area.</b>
<b>19.17.100</b>	<b>Port and naval compatibility area designated.</b>
<b>19.17.110</b>	<b>Port compatibility area.</b>
<b>19.17.120</b>	<b>Compatibility with Naval Station Everett.</b>

#### **19.17.005 User guide.**

This chapter establishes a mechanism for review of project proposals and permits within areas close in proximity to Paine Field, the Port of Everett, and/or Naval Station Everett. These areas are characterized by heavy industrial use and higher levels of noise, light, and glare than otherwise found in other areas of the city. (Ord. 3774-20 § 7 (Exh. 5), 2020.)

#### **19.17.010 Purpose.**

The purpose of this chapter is to provide for uses allowed in the underlying zones while protecting Paine Field, the Port of Everett, and/or Naval Station Everett from nearby incompatible land uses and development by:



- A. Identifying areas where incompatible uses should be discouraged;
- B. Notifying property owners if their property is located adjacent to Paine Field, the Port of Everett marine terminal, or Naval Station Everett, that they may experience impacts from operations and may be subject to certain limitations;
- C. Recognizing and supporting Paine Field, Port of Everett and Naval Station Everett as essential public and military facilities and significant economic resource; and
- D. Promoting land use compatibility between properties located near Paine Field, the Port of Everett marine terminal, and Naval Station Everett and operations at each of these major facilities. (Ord. 3774-20 § 7 (Exh. 5), 2020; Ord. 3458-15 § 1, 2015.)

### **19.17.020     Applicability—Airport compatibility.**

- A. Airport compatibility requirements of this chapter applies to:
  - 1. Development activities and uses within the airport influence area (AIA), as defined in subsection [\(B\)](#) of this section and the table below.
  - 2. Development activities and uses within the airport compatibility area (ACA), as defined in subsection [\(B\)](#) of this section and the table below.
- B. Airport Name: Snohomish County Airport/Paine Field.

FAA Identifier: KPAE.

Airport Elevation: 609 feet.

**Table 17-1: Paine Field AIA-ACA**

<b>Runways</b>	<b>Runway Alignment</b>	<b>Runway Length</b>	<b>ACA Distance</b>	<b>AIA Distance</b>
16R/34L	N/S, West	9,010 feet	10,200 feet	14,000 feet



Runways	Runway Alignment	Runway Length	ACA Distance	AIA Distance
16L/34R	N/S, East	3,004 feet	7,200 feet	9,000 feet
12/30	NW/SE	2,000 feet	5,700 feet	9,000 feet

(Ord. 3774-20 § 7 (Exh. 5), 2020; Ord. 3458-15 § 1, 2015.)

### 19.17.030 Exemptions.

A. *Airport Compatibility.* The following development activities and uses are exempt from the airport compatibility requirements of this chapter, provided the development activity or use will not interfere with airport operations:

1. Any air navigation use or facility, airport visual approach or airport arresting device, meteorological device, or a type of approach device approved by the Federal Aviation Administration, the location and height of which is fixed by its functional purpose.
2. Aeronautical activity, including but not limited to:
  - a. Aerospace industry and aerospace manufacturing;
  - b. Fixed base operations, and other necessary airport support facilities, as approved by the airport, if located outside of airport property;
  - c. Aerospace and aviation educational facilities, including technical schools and flight training schools.
3. Development activities regulated by the city's construction codes, EMC Title [16](#), which are determined by the planning director to be minor or incidental in nature and consistent with the purpose of this chapter.

B. Personal wireless telecommunications services facilities that are subject to the requirements of EMC [19.13.020](#) shall comply with the requirements of EMC [19.17.080](#) and [19.17.090](#) but are exempt from other provisions of this chapter.



C. Minor exterior alterations which are incidental in nature and consistent with the purpose of this chapter. (Ord. 3774-20 § 7 (Exh. 5), 2020; Ord. 3458-15 § 1, 2015.)

#### **19.17.040 Preexisting uses.**

A. Uses and structures lawfully established as of effective date of the ordinance codified in this chapter are exempt from the requirements of EMC [19.17.070](#).

B. Expansion of any use or structure identified in EMC [19.17.070\(A\)](#) shall be exempt from the provisions of EMC [19.17.070](#) when the use of the structure lawfully existed at the effective date of the ordinance codified in this chapter.

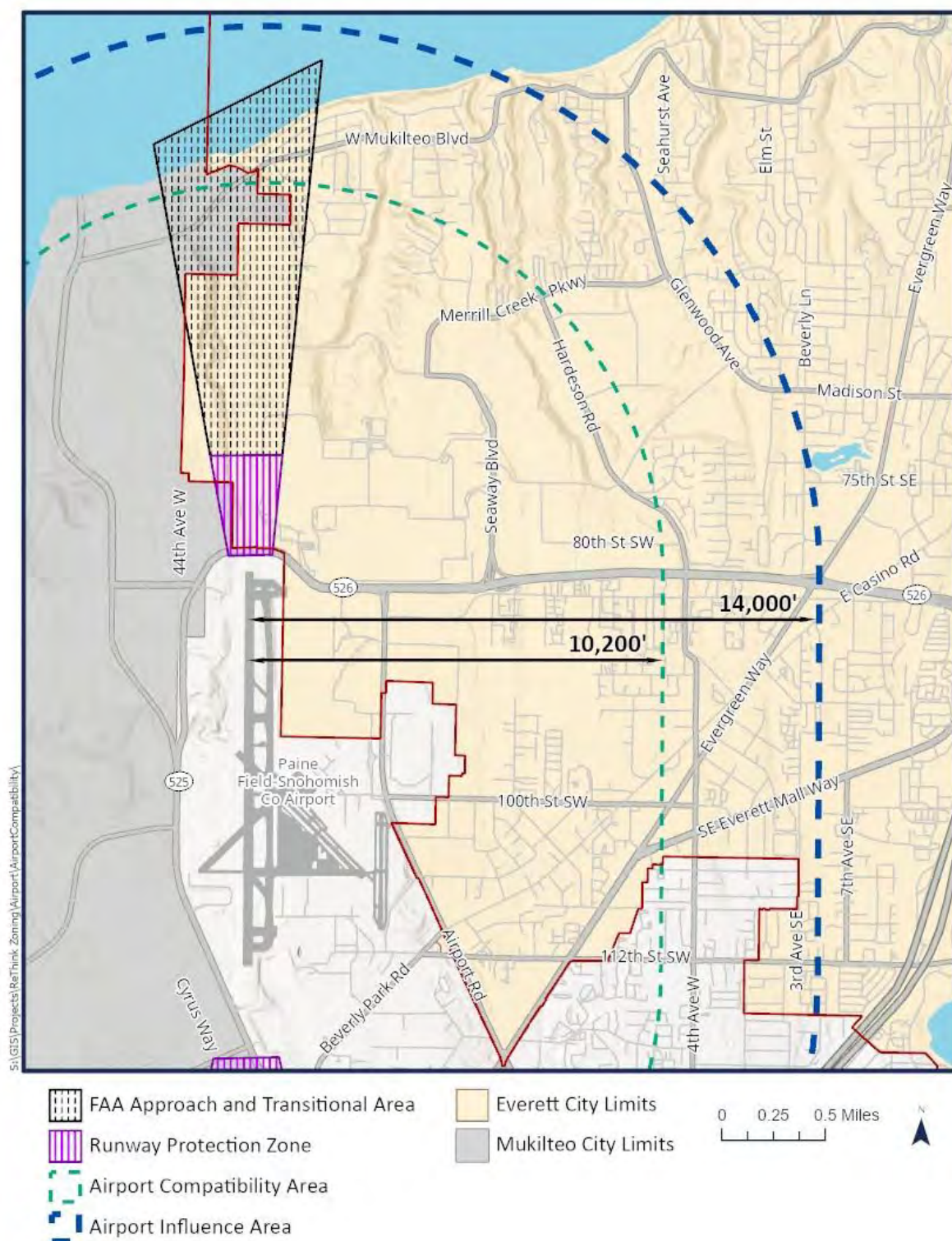
C. A preexisting use may be changed to any use allowed by the underlying use zone. (Ord. 3774-20 § 7 (Exh. 5), 2020; Ord. 3458-15 § 1, 2015.)

#### **19.17.050 Airport compatibility area map.**

The boundaries of the airport influence area, runway protection zone, and airport compatibility area from Table 17-1 above, are illustrated in the airport compatibility overlay map shown in Map 17-1.

#### **Map 17-1: Airport Compatibility Area**





(Ord. 3774-20 § 7 (Exh. 5), 2020; Ord. 3458-15 § 1, 2015.)



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**19.17.060 Federal Aviation Administration review.**

*Repealed by [Ord. 3774-20](#).* **19.17.070 Uses and development approvals within the airport compatibility area.**

A. *Permitted Uses and Development Activities.* All properties located within the airport compatibility area (ACA) shall be permitted to have the same uses as permitted in the underlying zoning district subject to the requirements of the underlying use zone and the requirements of this chapter.

B. Approvals of all uses and development activities within an ACA shall be subject to the following requirements:

1. *Runway Protection Zone.* The proposal will not locate the storage of explosives, hazardous waste, fuel, gas or petroleum, or other hazardous materials within the runway protection zone set forth in Map 17-1 and the Paine Field Airport Master Plan.
2. *Structure Height Limitations.*
  - a. No structure, including any rooftop appurtenance and construction-related equipment (e.g., cranes), shall be erected, altered, or maintained that will penetrate or interfere in any way with the airport's airspace plan as set forth in the Paine Field Airport Master Plan or that allowed in accordance with the adopted [14 CFR Part 77](#), Federal Aviation Administration (FAA) Regulations. Penetration of any airport surface as defined in [14 CFR Part 77](#) may only be allowed if explicitly authorized by the FAA.
  - b. An applicant for a permit or approval is responsible for researching [14 CFR Part 77](#) to determine whether notification is required, regardless of whether the property that is the subject of the application is within or outside of the airport compatibility area (ACA). Nothing in this chapter shall diminish the responsibility of the project proponents to submit FAA Form 7460-1, "Notice of Proposed Construction or Alteration" to the FAA if required by [14 CFR Part 77](#).
3. Permit applications for uses proposed within an ACA shall provide information showing proximity to airport runways, approach areas, and transitional areas. Application materials should be of sufficient detail to determine that the proposal is compatible with airport operations and consistent with all requirements of this chapter.



4. In addition to any notice requirements for the proposed use or underlying use zone, the city shall provide notice of new development activities with ten thousand square feet of gross floor area or greater, or any development with a building or structure that is taller than thirty feet within the airport compatibility area, to the Paine Field airport manager and shall allow the airport manager to submit comments to the department regarding the proposal, including those related to potential adverse impacts on airport operations and FAA standards.

C. The city may deny, approve, or approve with conditions an application for a development permit or approval within an ACA. The application shall be approved only if the proposal will not require a change in airport operations or flight patterns, including but not limited to adverse impacts due to concentrations of people, height hazards, noise abatement procedures, visual hazards such as lighting and reflective building materials, emissions such as smoke, steam, dust, gas or thermal plumes, transmissions that may cause electrical interference, or wildlife attractants. (Ord. 3774-20 § 7 (Exh. 5), 2020; Ord. 3458-15 § 1, 2015.)

#### **19.17.080 Notice and disclosure required within an airport influence area.**

A. When notice of application is required in EMC Title [15](#), the city shall provide notice of applications for development activities or uses within an ACA to the airport manager of Paine Field.

B. Applicants for development within an ACA are encouraged to work cooperatively with the airport manager and refer to FAA and Washington State Department of Transportation guidance related to airport and land use compatibility.

C. Development approvals and building permits for development activity and uses subject to EMC [19.17.070\(B\)\(4\)](#) shall not be issued until the owner of the property with the proposed development activity or use signs and records with the county auditor a disclosure notice that:

1. Is in a form provided by the department;
2. Contains a legal description of the property;
3. Bears a notarized signature of the owner; and



4. Contains the disclosure text set forth in EMC [19.17.090](#).

This subsection does not apply when the disclosure text already has been recorded against the property.

D. In no case shall liability attach to the city for any actions, error, or omissions of any person subject to the requirements of this section. (Ord. 3774-20 § 7 (Exh. 5), 2020; Ord. 3458-15 § 1, 2015.)

### **19.17.090 Disclosure text for airport influence area.**

The following shall constitute the airport influence area disclosure required by EMC [19.17.080](#):

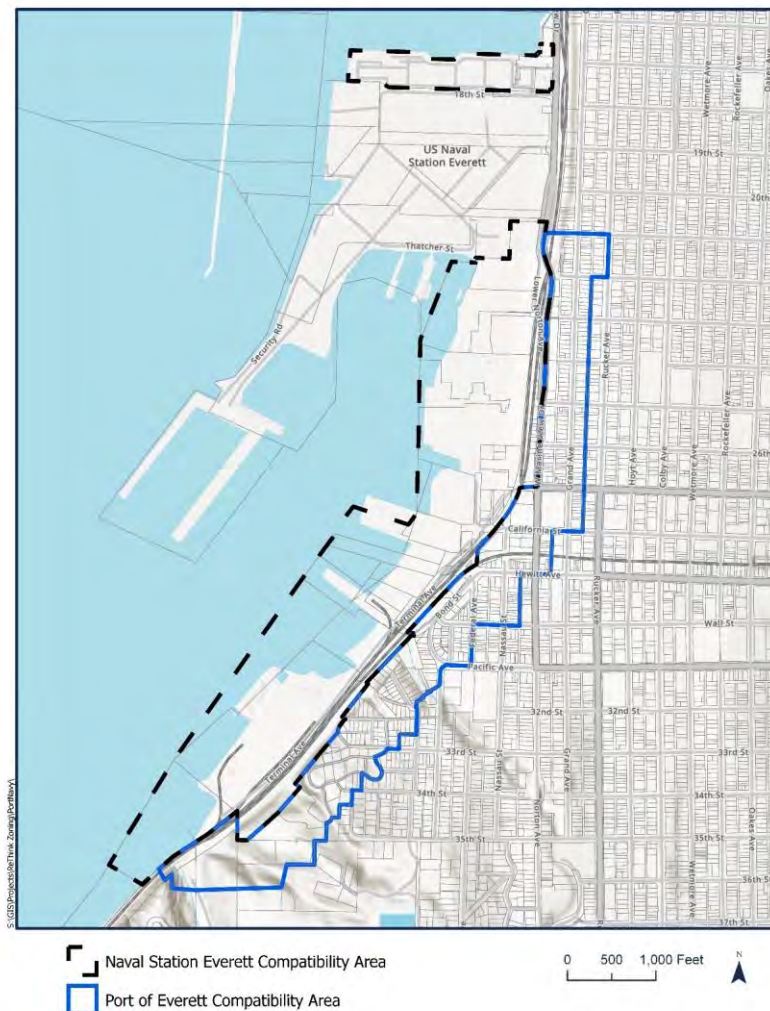
Your real property is located within the Airport Influence Area of Paine Field. Occupants of properties within the Airport Influence Area may be subject to inconveniences or discomforts arising from aviation activities, including but not limited to noise, odors, fumes, dust, smoke, hours of operation, low overhead flights and other aeronautical activities. Everett Municipal Code (EMC) 19.17.080 requires that you receive this disclosure notice in connection with permits you are or may be seeking. A provision of EMC [20.08.100](#) provides that “Noise originating from aircraft in flight and sounds which originate at airports and are directly related to flight operations” is exempt from noise control regulations. The City of Everett has adopted airport compatibility regulations in Chapter [19.17](#) EMC which may affect you and your land. You may obtain a copy of Chapter [19.17](#) EMC from the City of Everett. In addition, current and future property owners are notified that the Federal Aviation Administration establishes standards and notification requirements for potential height hazards that may be caused by structures, buildings, trees and other objects affecting navigable air space through [14](#) Code of Federal Regulations Federal Aviation Regulations Part 77. This disclosure may no longer be applicable if the subject property is removed from the Airport Influence Area.

(Ord. 3774-20 § 7 (Exh. 5), 2020; Ord. 3458-15 § 1, 2015.)

### **19.17.100 Port and naval compatibility area designated.**

A port and naval compatibility area (“PCA” or “NCA”), as set forth in Map 17-2, is established. Development within these areas is subject to the requirements set forth in EMC [19.17.110](#) and [19.17.120](#).



**Map 17-2: Port and Naval Compatibility Area Map**

(Ord. 3774-20 § 7 (Exh. 5), 2020.)

### 19.17.110 Port compatibility area.

This section applies to development activities and uses within the port compatibility area ("PCA"), as set forth in Map 17-2.

A. *Uses and Development Approvals Within the Port Compatibility Area (PCA).* All properties located within the PCA shall be permitted to have the same uses as permitted in the underlying zoning



district subject to the requirements of the underlying use zone and the requirements of this section.

1. The city shall provide notice of permit applications to the managers of the port for new developmental activities with more than ten thousand square feet of gross floor area within the PCA, and shall allow the manager(s) to submit comments to the department regarding the proposal, including those related to potential adverse impacts on port operations, in addition to any notice requirements for the proposed use or underlying use zone for Review Process II, III, or V application. A preapplication meeting under EMC Title [15](#) may be required unless waived by the city.
2. The city shall consider comments provided by the Port of Everett, and where necessary, apply such conditions of approval to mitigate potential impacts to port operations or to identify measures the applicant may employ to mitigate potential or perceived impacts to their proposed project related to existing or future port operations.

B. *Notice and Disclosure Within Port Compatibility Area.* This subsection establishes notification and disclosure requirements for any development activities or uses within a port compatibility area (PCA) subject to the requirements of this section.

1. The city shall provide written notice to applicants that their project is within the PCA. That notice shall include the following language:

Your real property is located within the Port Compatibility Area (PCA). Occupants of properties within the PCA may be subject to inconveniences or discomforts arising from maritime activities, including but not limited to noise, odors, glare, fumes, dust, construction activity, smoke, traffic, hours of operation, low overhead flights and other maritime activities. Everett Municipal Code (EMC) 19.17. requires that you receive this disclosure notice in connection with permits you are or may be seeking. Provisions of EMC [20.08](#) provide that noise exemptions apply to “created by watercraft ... in operation”, and “operation of equipment or facilities of surface carriers engaged in commerce by railroad”. The City of Everett has adopted PCA regulations in Chapter [19.17](#) EMC which may affect you and your land.

2. Applicants for development within the PCA are encouraged to work cooperatively with the Port of Everett in the design of proposed buildings or land development proposals in order to address design elements that will promote compatibility with port operations and to mutually benefit both parties. (Ord. 3774-20 § 7 (Exh. 5), 2020.)



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**19.17.120 Compatibility with Naval Station Everett.**

A. *Applicability.* This section applies to development activities and uses within the Navy compatibility area ("NCA"), as set forth in Map 17-2.

B. *Uses and Development Approvals Within the Navy Compatibility Area (NCA).*

1. All properties located within the NCA shall be permitted to have the same uses as permitted in the underlying zoning district subject to the requirements of the underlying use zone and the requirements of this section.
2. The city shall provide notice of permit applications to Naval Station Everett for new development activities within the NCA, and shall allow Naval Station Everett to submit comments to the department regarding the proposal, including those related to potential adverse impacts on Navy operations,
3. The city shall consider comments provided by Naval Station Everett, and where necessary, apply such conditions of approval to mitigate potential impacts to Navy operations or to provide measures to mitigate impacts created by port operations and other activities within the NCA.
4. Applicants for development within the NCA are encouraged to work cooperatively with Naval Station Everett in the design of proposed buildings or land development proposals in order to address design elements that will promote compatibility with Navy operations and to mutually benefit both parties.

C. *Additional Standards for Development in the Navy Compatibility Area.*

1. *Security Setbacks.* New facilities, including buildings, parking, storage areas and public access trails, are not permitted within fifty feet of Naval Station Everett. Roads and driving aisles are permitted within this fifty-foot setback.
2. *Outdoor Storage of Bulk Materials.* Bulk materials cannot be located in required security setbacks from Naval Station Everett set forth in subsection [\(C\)\(1\)](#) of this section.
3. *Landscaping.* Landscaping on property adjacent to Naval Station Everett shall be maintained between eighteen inches and six feet above grade to allow visibility of the required security setback areas set forth in subsection [\(C\)\(1\)](#) of this section.



4. *Required Coordination.* Any development that is on a lot within two hundred feet of Naval Station Everett or has frontage on the shoreline shall coordinate with Naval Station Everett on security and public safety issues. A comprehensive security and public safety plan must be submitted to the city at time of land use permit review. Naval Station Everett shall be provided at least fifteen days to review and comment on the plan. The planning director is authorized to establish conditions that address potential security impacts upon Naval Station Everett.

5. *Electromagnetic Radiation.* Any business within one-fourth mile (one thousand three hundred twenty feet) of Naval Station Everett that generates electromagnetic radiation (EMR) shall coordinate with Naval Station Everett. An EMR frequency spectrum plan must be submitted to the city at time of land use permit review. Naval Station Everett shall be provided at least fifteen days to review and comment on the plan. The planning director is authorized to establish conditions that address potential EMR impacts to Naval Station Everett.

6. *Marine Traffic.* Any development that generates marine traffic in the Everett Harbor must coordinate with Naval Station Everett. A port operations plan must be submitted to the city at time of land use permit review. Naval Station Everett shall be provided at least fifteen days to review and comment on the plan. The planning director is authorized to establish conditions that address potential impacts from marine traffic on Naval Station Everett.

7. *Windows.* All windows on north facing facades within one hundred feet of Naval Station Everett shall be translucent (does not allow views to Naval Station Everett). (Ord. 3774-20 § 7 (Exh. 5), 2020.)

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**The Everett Municipal Code is current through Ordinance 4031-24, passed May 22, 2024.**

Disclaimer: The City Clerk's Office has the official version of the Everett Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

[City Website: www.everettwa.gov](http://www.everettwa.gov)



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[Hosted by General Code.](#)



## Chapter 19.22

### BUILDING AND STRUCTURE HEIGHTS

Sections:

<b>19.22.010</b>	<b>Overview.</b>
<b>19.22.020</b>	<b>Heights for principal and accessory buildings.</b>
<b>19.22.030</b>	<b>Where height reductions are required.</b>
<b>19.22.040</b>	<b>Airport compatibility area.</b>
<b>19.22.060</b>	<b>How heights are measured.</b>
<b>19.22.070</b>	<b>Exceptions for heights in industrial zones.</b>
<b>19.22.080</b>	<b>Development height incentives program.</b>
<b>19.22.090</b>	<b>Other accessory structures and appurtenance height limits.</b>
<b>19.22.100</b>	<b>Modification of building heights.</b>
<b>19.22.150</b>	<b>Building heights maps.</b>

#### **19.22.010 Overview.**

The standards in this chapter establish the maximum, and if applicable, minimum building and structure heights for development within the city. The purpose of these standards includes:

- A. To promote a reasonable building scale and relationship between buildings within an area or zoning district;
- B. To promote compatibility between areas with different height limits;
- C. To promote greater separation between uses that might not be compatible;
- D. To promote options for privacy for neighboring properties; and
- E. To promote additional heights in exchange for public benefits. (Ord. 3774-20 § 5(K) (Exh. 3), 2020.)



## 19.22.020 Heights for principal and accessory buildings.

### A. Maximum Building Heights.

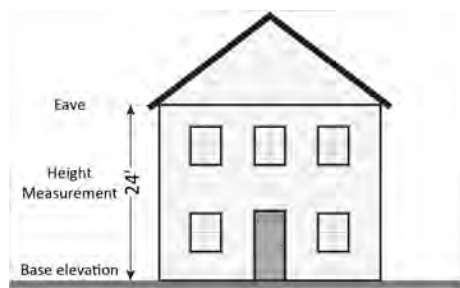
1. *Principal Buildings.* Maximum building heights for principal buildings are set forth in Map 22-1 and in Table 22-1 below. A building must meet both standards in Table 22-1 (maximum floors and maximum feet).

**Table 22-1: Maximum Building Heights**

Height Standard	Zone									
	Single-Family Zones (R-S, R-1, R-2, R-2(A))	UR3 <sup>1</sup>	UR4	NB	B	MU	LI1	LI2	HI	AG
Maximum Floors	n/a	4	See map	See map	See map	See map	See map	See map	See map	3
Maximum Feet	28'	50'	See map	See map	See map	See map	See map	See map	See map	35'

<sup>1</sup> If located within an historic overlay, the maximum height is limited to three floors or thirty-eight feet in maximum height, with the maximum height to the eaves at the side lot line twenty-four feet. (see Figure 22-1).

**Figure 22-1: Where to Measure Eave Height**





2. *Detached Accessory Residential Buildings.* Maximum building heights for detached accessory residential buildings are set forth in Table 22-2 below.

**Table 22-2: Maximum Detached Accessory Residential Building Heights**

Development Site	Zone		
	Single-Family Zones (R-S, R-1, R-2, R-2(A))	UR3	UR4
Alley lots	1. 6:12 pitch roof or greater: 2 floors up to 24'  2. Less than 6:12 pitch roof: 1 1/2 floors up to 18'	2 floors, up to 28' maximum	The greater of 2 floors, up to 28' maximum, or the height of the existing/proposed principal building
Nonalley lots	1 1/2 floors up to 18' maximum	2 floors up to 24' maximum	2 floors up to 24' maximum

3. *Accessory Dwelling Units.* The maximum building height for accessory dwelling units is twenty-eight feet for alley lots and twenty-four feet for non-alley lots, except that accessory dwelling units located within a principal dwelling unit may meet the height of the zone.

4. See EMC [19.22.090](#) for height limits on other accessory uses and structures.

B. *Minimum Building Heights.* In order to encourage efficient use of property within Metro Everett, and along streets designated as transit-oriented development (see Map 33-1 in Chapter [19.33](#) EMC), minimum building heights are required as set forth below.

**Table 22-3: Minimum Building Heights**

Building	Zone or Street Designation
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<b>Type</b>	<b>UR3</b>	<b>UR4</b>	<b>MU</b>	<b>MU on TOD Street</b>
Principal Building	2 floors	2 floors	2 floors	4 floors
Accessory Building	No minimum	No minimum	No minimum	No minimum

C. *Incentive Height Maximums.* Where Map 22-1 includes a range of maximum building heights (e.g., five to eight floors), the lower number is referred to as the “base height maximum” and the higher number is referred to as the “incentive height maximum.” A building may be built to the base height maximum without application of the development heights incentive program. See development height incentives program (EMC [19.22.080](#)). (Ord. 3963-23 § 7, 2023; Ord. 3774-20 § 5(K) (Exh. 3), 2020.)

### **19.22.030 Where height reductions are required.**

A. *Intent.* The following requirements are intended to promote compatibility between areas with different permitted heights and different permitted uses. The following instances might require reduction in allowed building heights:

1. Where multifamily zones abut single-family zones;
2. Where commercial zones abut single-family zones;
3. Where industrial uses abut single- or multifamily zones;
4. Where development is within the airport compatibility area.

B. *Height Reductions—Adjacency, Table.*

1. Table 22-4 requires height reductions where a development site is in a zone identified in Column A and which abuts an adjacent zone shown in Column B. In these circumstances, the development must adhere to the height limits in the adjacent zone (from Column B) for



the distance specified in Column C. If the proposed development abuts a residential zone that is not within the city limits, the height limits assumed will be twenty-eight feet.

2. The measurement of distance from the building to adjacent zone is from adjacent zone boundary, except where the adjacent zone boundary is along the centerline of a street or alley, the measurement shall be made from the property line across an alley or street in the adjacent residential zone.

3. See Figure 22-2 for illustration of how these reductions are applied.

**Table 22-4: Height Reductions**

<b>Column A</b>	<b>Column B</b>	<b>Column C*</b>	<b>Column E</b>
<b>Zone(s) (Development Site)</b>	<b>Adjacent Zone</b>	<b>Distance to Match Height to Adjacent Zone</b>	<b>Height Reduction</b>
<b>R-S, R-1, R-2 or R-2(A)</b>	n/a	n/a	n/a
<b>UR3 and UR4</b>	RS, R-1, R-2 or R-2(A)	35'	Height limited to height allowed in adjacent zone within 35' (Column C), then height can meet height of the development zone (Column A).
<b>NB</b>	RS, R-1, R-2 or R-2(A)	35'	Height limited to height allowed in adjacent zone within 35' (Column C), then height can meet height of the development zone (Column A).

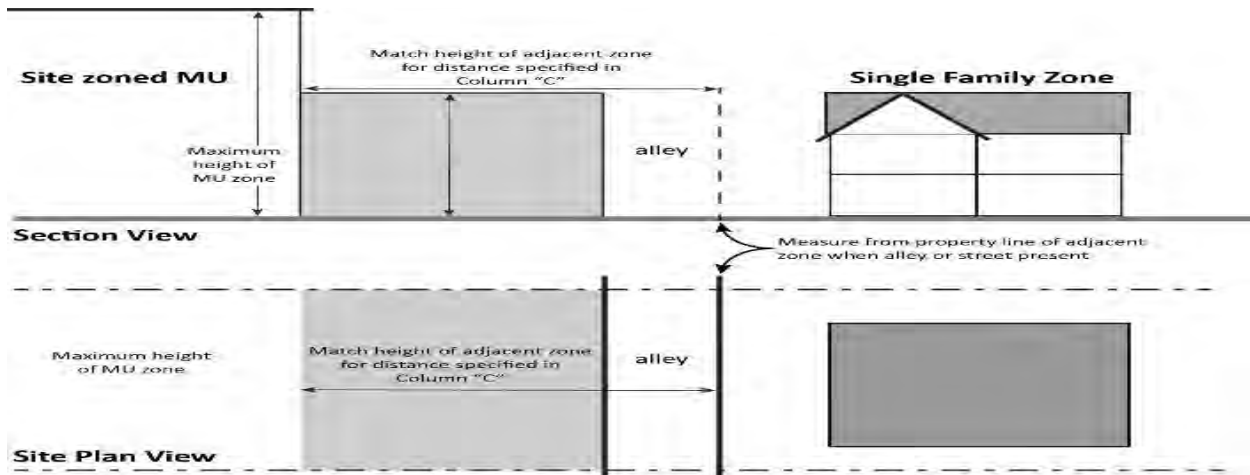


<b>Column A</b>	<b>Column B</b>	<b>Column C*</b>	<b>Column E</b>
<b>Zone(s) (Development Site)</b>	<b>Adjacent Zone</b>	<b>Distance to Match Height to Adjacent Zone</b>	<b>Height Reduction</b>
<b>B and MU</b>	RS, R-1, R-2, R-2(A), UR3, or UR4	50'	Height limited to height allowed in adjacent zone within 50' (Column C), then height can meet height of the development zone (Column A).
<b>LI1</b>	RS, R-1, R-2, R-2(A), UR3, or UR4	75'	Height limited to height allowed in adjacent zone within 75' (Column C), then height can meet height of the development zone (Column A).
<b>LI2</b>	RS, R-1, R-2, R-2(A), UR3, or UR4	100'	Height limited to height allowed in adjacent zone within 100' (Column C), then height can meet height of the development zone (Column A).
<b>HI</b>	RS, R-1, R-2, R-2(A), UR3, or UR4	150'	Height limited to height allowed in adjacent zone within 150' (Column C), then height can meet height of the development zone (Column A).

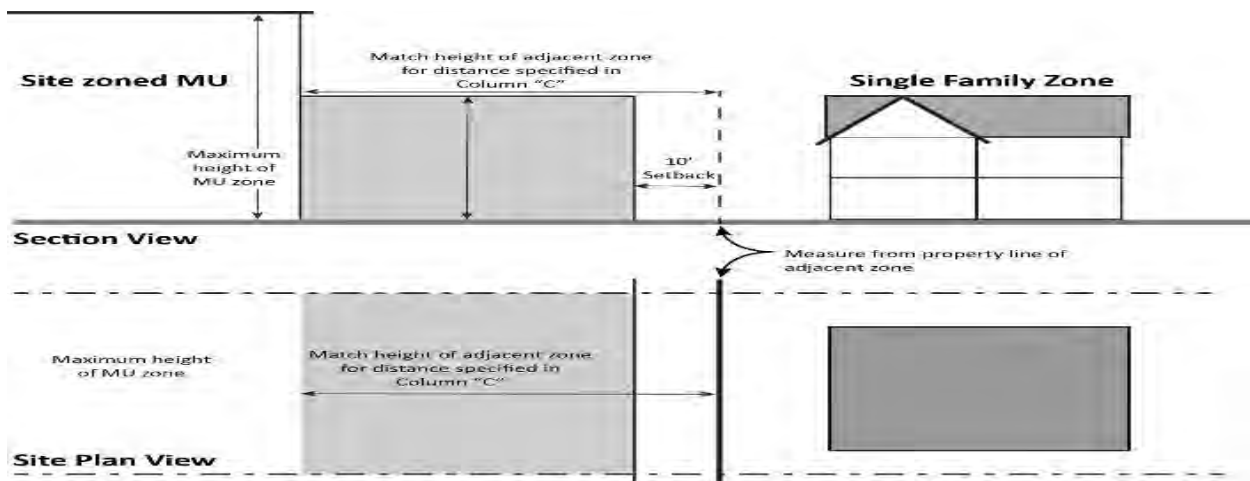
\* See EMC [19.22.060](#) for how this measurement is determined.

**Table 22-2: Building Height Reduction Illustration**





*This illustration shows the point of measurement with an alley.*



*This illustration shows the point of measurement when the building abuts a single-family zone without an alley. EMC [19.06.020](#) requires the building to be set back ten feet from the single-family zone, as well.*

(Ord. 3774-20 § 5(K) (Exh. 3), 2020.)



## **19.22.040 Airport compatibility area.**

In order to protect the health, welfare, safety and quality of life of the general public, property owners and aircraft operators and to protect the long-term viability of Paine Field, new development within the airport compatibility area may be subject to height reductions. See Chapter [19.17](#) EMC. (Ord. 3774-20 § 5(K) (Exh. 3), 2020.)

## **19.22.060 How heights are measured.**

A. *Overview.* Building heights may be measured by the number of stories (floors) and/or by total feet permitted. Where the height limits show both floors and feet, both standards must be met. Where maximum building heights are shown in floors only, how the height of floors is calculated is explained in subsection [\(D\)](#) of this section.

B. *Where Heights Are Measured From.* Where heights are measured from depends on the zone or location, and whether the site has alley access or is sloped and subject to subsection [\(B\)\(4\)](#) of this section.

1. *Commercial Zones.* The height of buildings shall be measured from the average sidewalk elevation at the front lot line or, where no sidewalk exists, the average of the record profile grade elevation of the street abutting the principal frontage of the building, as determined by the public works department.

2. *Industrial Zones.* The height of buildings shall be the number of floors from the base elevation of a building to the highest point of the roof, exclusive of building appurtenances.

3. *Residential Zones.* Building height measurements in residential zones depend on the zone and/or the overlay that might be applied.

- a. *UR4 Zone.* The height of buildings shall be measured from the average sidewalk elevation at the front lot line or, where no sidewalk exists, the average of the record profile grade elevation of the street abutting the principal frontage of the building, as determined by the public works department.

- b. *Historic Overlay Zones.* Where a residential zone includes an historic overlay, the height of buildings shall be measured from the average sidewalk elevation at the front



lot line or, where no sidewalk exists, the average of the record profile grade elevation of the street abutting the principal frontage of the building, as determined by the public works department.

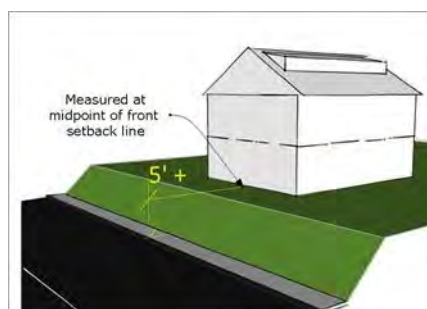
c. *Other Residential Zones.* The height of buildings shall be the number of floors and vertical distance from the base elevation of a building to the highest point of the roof, exclusive of building appurtenances.

4. *Exceptions for Height Measurements.* The following are exceptions to how heights are measured outlined in subsections [\(B\)\(1\)](#) through [\(B\)\(3\)](#) of this section.

a. *Alley Access Accessory Buildings.* Accessory residential buildings or detached accessory dwelling units which are accessed from an alley shall measure building heights from the average alley elevation at the rear lot line.

b. *Steeper Sites.* Any zone in which building heights are determined based on the sidewalk elevation at the front lot line and where a site for development has a difference in existing grade between the sidewalk and midpoint of the front setback line of five feet or more, the height shall be determined as the number of floors and vertical distance from the base elevation of a building to the highest point of the roof, exclusive of building appurtenances.

**Figure 22-3: Height Measurement for Steeper Sites**



5. *Where to Measure Height Reductions From.* Where height reductions are required for buildings due to being adjacent to residential zones (see EMC [19.22.030](#)), the measurement of distance from the building to adjacent zone is from adjacent zone boundary, except where the adjacent zone boundary is along the centerline of a street or alley, the



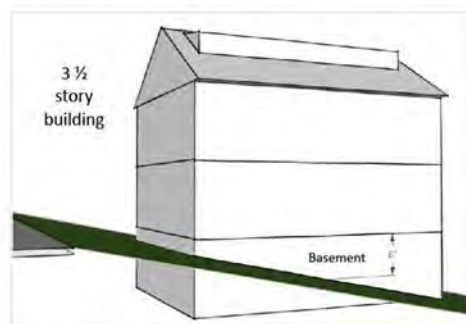
measurement shall be made from the property line across an alley or street in the adjacent residential zone. See Figure 22-2.

C. *Where Building Heights Are Measured To.* Building heights are the vertical distance from the point identified in subsection (B) of this section of a building to the highest point of the roof, exclusive of building appurtenances. "Building appurtenance" means chimneys, steeples, television and radio antennas, ham radio antennas, television dish antennas, flagpoles, and vent pipes in any zone, and mechanical systems in zones other than single-family zones, and other similar features, excluding signs, which are customarily located on or above the roof of a building.

D. *What Floors Are Included in Height.*

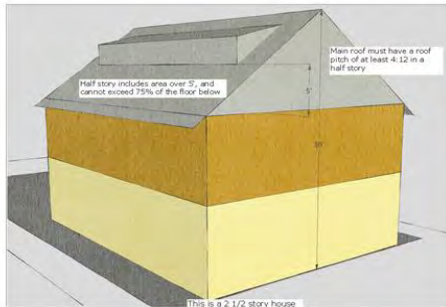
1. The number of floors or stories shall include all floors located above where heights are measured from (sidewalk or base elevation).
2. *Basement.* A story located below a story which has its finished floor surface more than six feet above the point of height measurement (sidewalk or base elevation) for fifty percent or more of the total building perimeter, shall be considered a story.

**Figure 22-4: When Basements Are Included in Height**



3. *Underground.* Any floors underground which are not counted as a story in subsection (D)(2) of this section are not included in the overall floor or story limits for building heights.
4. *Half Story.* A half story is a usable living space within a sloping roof (minimum pitch of 4:12), usually having dormer windows for lighting and where the calculated total gross floor area, not counting floor area with a net floor-to-ceiling distance less than five feet, is no greater than seventy-five percent of the floor below.



**Figure 22-5: Half Story Illustration****E. How High Is a Floor or Story.**

1. *Total Floor or Story Calculation.* The number of floors shall be calculated as follows:

a. *Commercial and Industrial Zones.*

(1) First floor: fifteen feet.

(2) Upper floors: ten feet.

b. *Residential Zones.* All floors calculated at ten feet.

2. *How to Calculate Floors with Different Heights.*

a. Any habitable floor with a height less than the numbers shown above shall be considered a floor. For example, a building in a commercial zone with a first floor height of twelve feet and four upper floors of nine feet is considered five floors.

b. Any floor with a height greater than shown above is allowed but shall be calculated as a fraction of the floor limits. For example, a building with five upper floors each measuring twelve feet would count as six floors ( $5 \times 1.2 = 6$ ) for determining maximum floor height limits.

3. *Fractions.* Any fractions shall be rounded down to the next whole number, except that when this computation results in a fraction which equals 0.5 or larger, the number is rounded up to the next whole number. For example, a calculation of 6.4 floors is rounded down to six floors, while a calculation of 6.5 floors is rounded up to seven floors. A residential building with two floors at fourteen feet would be considered a three-floor building ( $2 \times 1.4 = 2.8$ , or three floors). (Ord. 3774-20 § 5(K) (Exh. 3), 2020.)



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**19.22.070 Exceptions for heights in industrial zones.**

In those areas zoned for industrial use, additional heights are sometimes necessary to accommodate industrial activities. The following provisions allow for additional heights above what is shown in Map 22-2.

A. *Industrial Zones Along Waterfront.* For those areas zoned industrial and waterward of the BNSF rail tracks, with access to the marine shorelines or the Snohomish River shown in Map 22-2 below, an additional two floors may be approved with Review Process III after review of a viewshed analysis that demonstrates the following:

1. The increased height is necessary to support water dependent industrial activities on the property;
2. The increased height will not obstruct the view of a substantial number of residences for those areas adjoining the shoreline; and
3. The increased height will not cause adverse impact on views from adjoining public parks or public open spaces.

B. *Industrial Zones Near Paine Field.* Aircraft manufacturing plants are permitted to have a building height of one hundred sixty feet within the Paine Field airport compatibility area. (Ord. 3774-20 § 5(K) (Exh. 3), 2020.)

**19.22.080 Development height incentives program.**

A. *Purpose.* The intent of the development height incentives program established in this section is to allow additional building height in exchange for the developer's contribution to programs set forth in this section.

B. *Overview.* Maximum building heights for principal buildings are set forth in Map 22-1. Where Map 22-1 includes a range of maximum building heights (e.g., five to eight floors), the lower number is referred to as the "base height maximum" and the higher number is referred to as the "incentive height maximum." A building may build to the base height maximum without application of the development height incentives program. In order to achieve the incentive height maximum, a development must comply with this section.



C. *How to Receive Additional Heights.* The maximum building height of a principal building may be increased to the incentive height maximum indicated in Map 22-1 when development meets one or more of the program options and requirements set forth in Table 22-5. These options permit an increase in floor heights as indicated and may be combined with more than one public benefit for additional floor heights, not to exceed the incentive height maximum indicated in Map 22-1.

**Table 22-5: Development Height Incentive Standards**

Benefit Provided	Height Incentive Offered
<b>Housing</b>	
Affordable housing provided on or off site	<b>5:1</b>  Five square feet additional floor area for each one square foot of affordable housing
Fee-in-lieu-of (affordable housing)	<b>2:1</b>  Two square feet additional floor area for each one square foot



<b>Benefit Provided</b>	<b>Height Incentive Offered</b>
	of affordable housing
<b>Historic Building Preservation</b>	
Transfer of development rights from place on city register of historic places	<b>5:1</b>  Five square feet for each one square foot of development rights transferred from historic place
<b>Green Building</b>	
Buildings certified by Green Building Council or equivalent	Gold – 50% of the incentive height maximum  Platinum – 100% of the incentive height



<b>Benefit Provided</b>	<b>Height Incentive Offered</b>
	maximum
<b>Public Parking</b>	
<p>Dedicated public parking (above ground floor in structured parking)</p> <p>(This incentive is only offered in Metro Everett)</p>	<p><b>4:1</b></p> <p>Four square feet for each one square foot of public parking dedicated for public use (deed restricted)</p>
<p>Dedicated public parking (below ground)</p> <p>(This incentive is only offered in Metro Everett)</p>	<p><b>6:1</b></p> <p>Six square feet for each one square foot of public parking dedicated for public use (deed restricted)</p>



Benefit Provided	Height Incentive Offered
<b>Public Art</b>	
Contribution to city's public art fund or art provided and located as approved by Everett cultural arts commission	<b>1:1</b>  One square foot of additional floor area for each square foot of fees provided based on subsection <a href="#">(D)(9)</a> of this section
<b>Agricultural Land Preservation</b>	
Transfer of development rights from agricultural resource lands	5,000 square feet of additional floor area for each certified development right transferred
<b>Parks, Outdoor and Common Areas</b>	



<b>Benefit Provided</b>	<b>Height Incentive Offered</b>
Public parks	<b>1:2</b>  One square foot for each two square feet of public park dedicated or improved
Additional outdoor and common areas	<b>1:1</b>  One square foot for each one square foot of public open space

D. *Requirements for Height Incentive Program.*

1. *General.* In order to receive the additional heights shown in Table 22-5 above, development must meet the following requirements for the applicable incentive.
2. *Affordable Housing.*
  - a. "Affordable housing" means residential housing for low- and moderate-income households as defined in Chapter [3.78](#) EMC regarding multifamily housing property tax exemption.
  - b. Affordable housing can be provided on site or off site, or a payment in lieu of providing affordable housing can meet this requirement.



c. *Rent/Sale and Income Restricted.* Any development which receives a height bonus by providing affordable housing shall be required to record a deed restriction which will restrict the rent or sale of the housing units to those households whose income qualifies for this program. The length of the deed restriction shall be no less than fifty years.

d. *Fee-in-Lieu-of Program.* A fee in lieu of, at a reduced ratio of two to one, may be approved by the planning director. See subsection [\(D\)\(9\)](#) of this section.

3. *Historic Building Preservation.*

a. A development project may provide for the preservation of historic resources through the city's transfer of development rights program.

b. The development rights must be obtained from a building on the city of Everett's register of historic places.

c. Any improvements to buildings from which development rights are transferred will be required to meet city requirements for historic buildings as set forth in a development agreement approved by the planning director.

4. *Green Building.*

a. Additional building height is allowed for buildings certified by the U.S. Green Building Council, or equivalent standards.

b. Any use of equivalent green building standards must be approved by the planning director.

c. If certification has not been achieved at the time the first certificate of occupancy is issued for the building, the developer shall post a performance bond in a form acceptable to the city. The performance bond shall be based on the value of land per square foot of building in the area of the city in which the proposed development is located. The developer will forfeit the performance bond if green building certification is not achieved within one year of the city's issuance of the certificate of occupancy. The city reserves the right to use the funds for any purpose, including but not limited to green building improvements to publicly owned buildings.

5. *Public Parking.*



- a. *Where Available.* This height incentive is only available in Metro Everett.
- b. *Building Use and Public Parking.*
  - (1) *Residential Parking Spaces.* Parking spaces that serve residences during the evening must be made available to the public between seven-thirty a.m. and five-thirty p.m.
  - (2) *Nonresidential Parking Spaces.* Parking spaces that are dedicated to nonresidential use during the day shall be made available to the public between the hours of five-thirty p.m. and one a.m.
- c. *Fees.* Reasonable, market-rate fees may be charged for public parking. A fee schedule shall be submitted to the planning director annually for review and approval.
- d. *Term.* The property owner will be required to record deed restrictions that show that the city will retain a permanent interest in the public parking as long as the building is occupied. The form and conditions of the deed restrictions must be approved by the city and will be required before a final certificate of occupancy.

6. *Public Art.*

- a. To receive an incentive height bonus for public art, a developer must contribute fees set forth in subsection (D)(9) of this section to the city of Everett municipal arts fund. In lieu of providing the financial contribution to the fund, the city's cultural arts commission may approve public art to be completed by the developer; provided, that the value of that art equals the fees set forth in subsection (D)(9) of this section.
- b. All public art shall include a maintenance plan to ensure the public art is properly funded and maintained.

7. *Agricultural Land Preservation.*

- a. A development height incentive may be provided where a development severs the development rights from the fee interest of property that is designated as "agricultural lands of long-term commercial significance" by Snohomish County.
- b. The development rights being acquired must be certified by Snohomish County.



- c. Each agricultural development right which is acquired shall entitle the developer to five thousand square feet of additional floor area.
- d. In order to implement this program cooperatively with Snohomish County, the city of Everett adopts Chapter [365-198](#) WAC, as now or hereafter amended, by reference.

8. *Parks, Outdoor and Common Areas.*

- a. To receive an incentive height bonus for public parks, a developer must either:
  - (1) Dedicate land to the city as approved by the parks director, mayor and city council; or
  - (2) Improve an existing public park or open space, or provide funds in lieu of improvement, in an amount that is equivalent in value of a land dedication, and as approved by the parks director.
- b. To receive an incentive height bonus for outdoor and common areas, the developer shall provide outdoor and common areas in addition to the minimum requirements set forth in EMC [19.09.050](#).

9. *Fee in Lieu Of.*

- a. *When Allowed.* Where a fee in lieu of is allowed, the determination of the fee must follow the requirements set forth in subsection [\(D\)\(9\)\(b\)](#) of this section.
- b. *Fee Calculation.*
  - (1) The in-lieu-of fee is based on the bonus provided. For example, if a developer wishes to pay an in-lieu-of fee to support two floors of affordable housing in return for four bonus floors, the fee is based on the two floors of affordable housing.
  - (2) The in-lieu-of fee, as of July 1, 2020, is based on the zoning designation and values set forth below. The fee will be adjusted annually based on the adjustment process set forth in EMC [16.72.020](#).
    - (A) Mixed urban zone: seven dollars and fifty cents per square foot.
    - (B) Light industrial zone(s): six dollars per square foot.



(C) Multifamily (UR3 and UR4) zones: five dollars per square foot.

Fee Calculation Example No. 1: A developer wishes to provide a fee in lieu of providing affordable housing in the urban mixed zone. The developer wishes to support two floors of affordable housing, which would provide a height bonus of four additional floors. The floorplates of the upper floors are seven thousand five hundred square feet. The in-lieu-of fee would be one hundred twelve thousand five hundred dollars based on 2020 rates. ( $2 \times 7,500 \times \$7.50 = \$112,500$ .) In this example, the developer would have four additional floors, or thirty thousand square feet of gross floor area, in exchange for an affordable housing fee of one hundred twelve thousand five hundred dollars.

Fee Calculation Example No. 2: A developer wishes to build one additional floor and provide to the city's public art fund. The gross floor area of that incentive floor is seven thousand five hundred square feet. The in-lieu-of fee would be fifty-six thousand two hundred fifty dollars based on 2020 rates. ( $7,500 \times \$7.50 = \$56,250$ .)

c. *City Funds.* Any fees accepted by the city shall be deposited into city funds to be used for the purpose for which they were deposited. The city will annually account for the deposit and expenditure of the funds provided in lieu of the developer providing the required benefit. (Ord. 3774-20 § 5(K) (Exh. 3), 2020.)

## **19.22.090 Other accessory structures and appurtenance height limits.**

### **A. Antennas.**

1. Except for amateur radio towers and antennas as set forth in subsection [\(A\)\(2\)](#) of this section, the height of any antenna shall not exceed five feet above the maximum permitted building height above the base elevation of the principal building and shall not exceed the horizontal distance between the base of the antenna and the nearest property line.
2. Amateur radio towers and antennas for use by a noncommercial, licensed amateur operator shall be allowed if they:
  - a. Do not exceed the height of sixty-five feet above the base elevation of the principal building;



- b. Are located and constructed in a manner that will prevent it from falling onto adjoining properties;
- c. Do not interfere with nearby utility lines, etc.;
- d. Are not located within any required setback area.

3. An amateur radio tower or antenna may exceed sixty-five feet above the base elevation of the principal building if approved by the planning director using Review Process II described in EMC Title [15](#), Local Project Review Procedures. In order to approve an antenna or tower height which exceeds sixty-five feet above the base elevation of the principal building, the planning director shall approve the minimum height necessary to reasonably allow for transmission and reception of radio signals, and the antenna or tower shall:

- a. Be located and constructed in a manner that will prevent it from falling onto adjacent properties;
- b. Not interfere with nearby utility lines;
- c. Not be located within any required setback area.

**B. *Other Building Appurtenances.***

1. Except as provided in subsection [\(A\)](#) or [\(B\)\(2\)](#) of this section, no building appurtenance shall exceed a height of five feet above the maximum height allowed in the zone for the principal building, unless the planning director determines that the appurtenance must be above such height for proper operation.

2. The planning director, using the review process described in EMC Title [15](#), Local Project Review Procedures, may allow an atrium appurtenance which does not increase the floor area of the building but which allows for passive solar energy usage to exceed the maximum building height allowed by the zone in which the subject property is located by not more than twenty percent of the maximum permitted building height. In reviewing such a proposal, the planning director shall not approve the proposed building appurtenance if it would significantly obstruct views from and solar access for surrounding properties.

**C. *Places of Worship and Steeples.*** Places of worship shall comply with the height requirements of this chapter. Steeples may exceed the maximum building height.



D. *Flags.* The maximum height of flagpoles shall be in accordance with the height standard on that property. (See EMC [19.36.030](#) for additional standards for size of flags.)

E. *Signs.* See EMC [19.36.040](#) for height of freestanding signs.

F. *Towers for Aboveground Utility and Communication Facilities.* Towers associated with aboveground utility and communication facilities and all ancillary structures, that when allowed to be located in or within two hundred feet of residential zones, the height of any tower shall not exceed the horizontal distance between the base of the tower and the nearest residential property line. (Ord. 3774-20 § 5(K) (Exh. 3), 2020.)

### **19.22.100 Modification of building heights.**

A. *General.* An applicant may propose and the planning director, using the Review Process II described in EMC Title [15](#), Local Project Review Procedures, may allow an applicant to deviate from the building height standards, provided the proposal satisfies the evaluation criteria of this section. In evaluating such a proposal, the planning director, using the criteria in subsection [\(C\)](#) of this section, shall determine if the alternative design or plan provides superior results to that which would be required by compliance with the development standards of this chapter.

B. *Building Height Standards That Can Be Modified.*

1. The following development standards in this chapter can be modified:
  - a. Minimum building heights;
  - b. How heights are measured; provided, however, that a view analysis is required if visible from adjoining properties;
2. The following development standards cannot be modified:
  - a. Maximum building heights (Table 22-1);
  - b. Maximum accessory residential building and accessory dwelling unit building heights (Table 22-2).

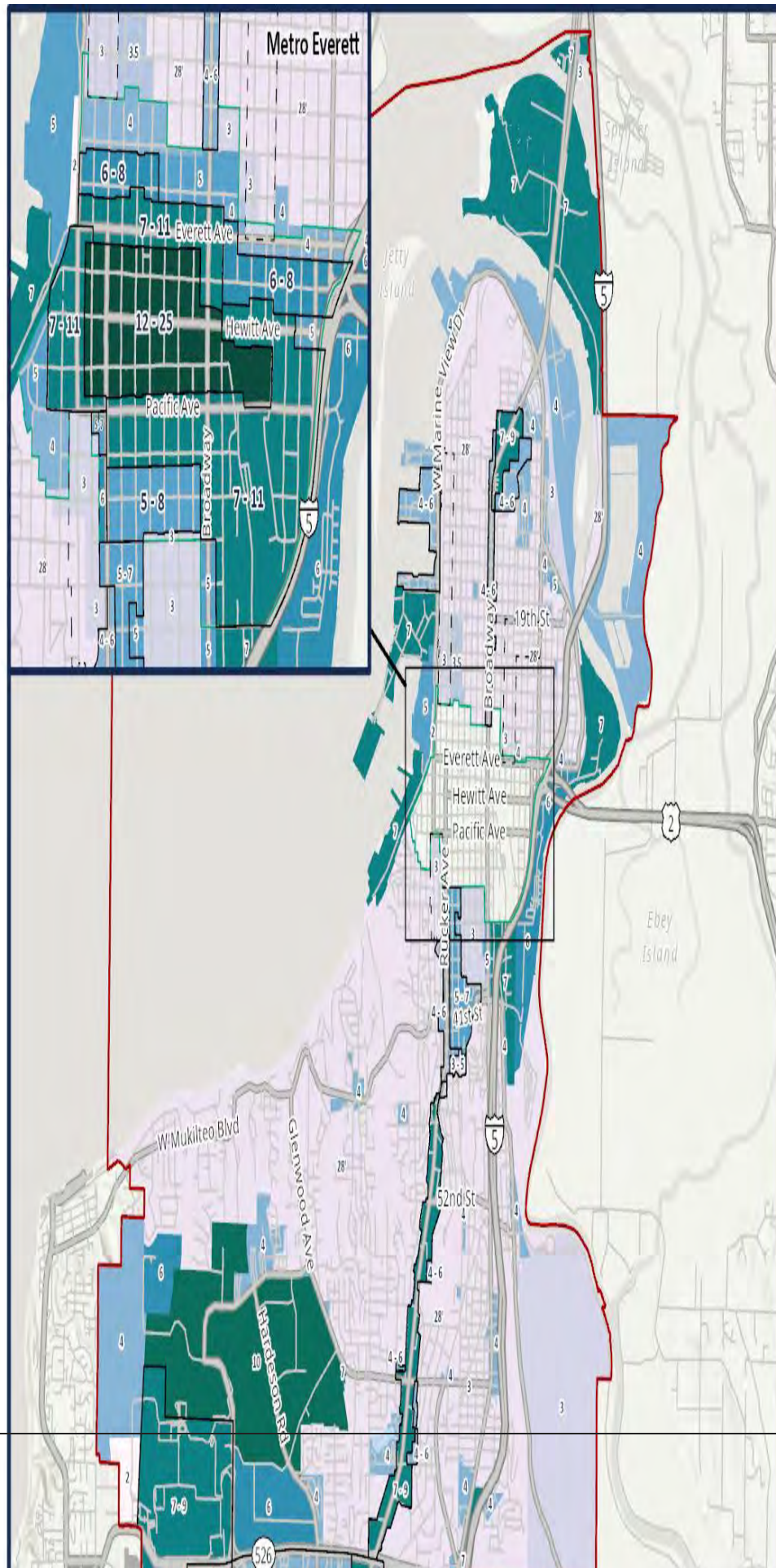
C. *Evaluation Criteria for Modification.* See EMC [15.03.060](#). (Ord. 3774-20 § 5(K) (Exh. 3), 2020.)



## **19.22.150 Building heights maps.**

### **Map 22-1: Maximum Building Heights Map\***

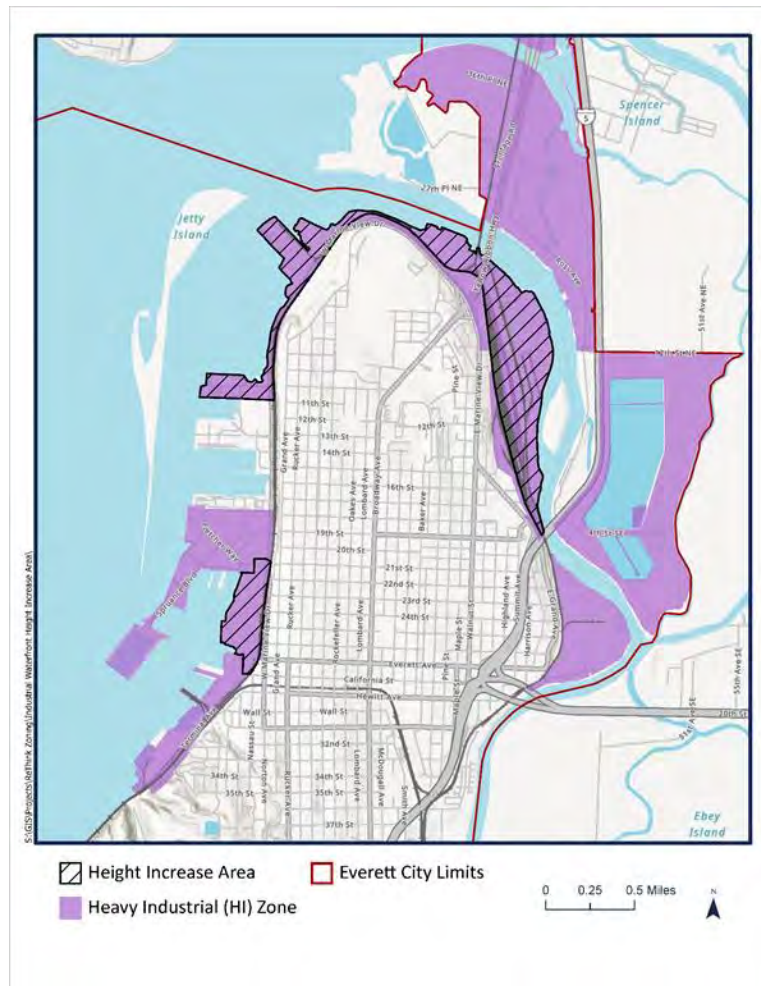






\* This building height map at a scale of 1:24,000 or higher can be viewed at the city planning office or in the map gallery of the city's website.

**Map 22-2: Industrial Waterfront Height Increase Area**



(Ord. 3832-21 § 2 (Exh. 2), 2021; Ord. 3774-20 § 5(K) (Exh. 3), 2020.)

**The Everett Municipal Code is current through Ordinance 4031-24, passed May 22, 2024.**

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## Chapter 19.24

### LAND DIVISION ADMINISTRATION

Sections:

<b>19.24.010</b>	<b>Purpose.</b>
<b>19.24.020</b>	<b>Authority.</b>
<b>19.24.030</b>	<b>Jurisdiction.</b>
<b>19.24.040</b>	<b>Divisions of land—Compliance required.</b>
<b>19.24.050</b>	<b>Boundary line adjustments—Compliance.</b>
<b>19.24.060</b>	<b>Exemptions.</b>
<b>19.24.070</b>	<b>Effect of noncompliance.</b>
<b>19.24.080</b>	<b>Illegal transfers—Filing unapproved division of land or boundary line adjustment.</b>
<b>19.24.090</b>	<b>Violation—Penalty.</b>
<b>19.24.100</b>	<b>Definitions.</b>

#### **19.24.010 Purpose.**

The purpose of this chapter is to regulate the division of land and to promote the public health, safety, and general welfare in accordance with standards established by the state (Chapter [58.17](#) RCW) and city; to promote orderly development and the efficient use of land; to provide a range of housing options that may not be possible through a traditional single-family subdivision; to provide for adequate light and air; to provide for adequate provisions for water, sewer, fire protection, parks and recreation areas, sites for school and school grounds and other public requirements; to provide safe and efficient vehicular access; to facilitate nonvehicular travel modes; to provide safe pedestrian routes to local schools; to provide for the expeditious review and approval of developments that may require a division, redivision, alteration, vacation or a boundary line adjustment of land; to adequately provide for the housing and commercial needs of the citizens of the city; to promote design that is compatible with the natural environment; to implement the comprehensive plan; and to require uniform monumenting of land and conveyancing by accurate legal description. (Ord. 3774-20 § 5(L) (Exh. 3), 2020.)



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**19.24.020 Authority.**

These regulations are authorized by Chapter [58.17](#) RCW and other applicable state laws and city ordinances. (Ord. 3774-20 § 5(L) (Exh. 3), 2020.)

**19.24.030 Jurisdiction.**

These regulations shall apply to all divisions, redivisions, alterations or vacations and boundary line adjustments of all lands within the incorporated area of the city of Everett. (Ord. 3774-20 § 5(L) (Exh. 3), 2020.)

**19.24.040 Divisions of land—Compliance required.**

Every division, redivision, alteration or vacation of land into lots, tracts, parcels, sites or divisions for the purpose of sale, lease or transfer of ownership shall proceed in compliance with the provisions of state law, Chapters [19.24](#) through [19.27](#) EMC, and this title. All contiguous parcels of land under common ownership, regardless of date of acquisition or location in different lots, tracts, parcels, sites, tax lots or separate government lots that are subject to a division of land shall constitute a single application. Multiple applications or applications and/or exemptions shall not be utilized as a substitute for a comprehensive development approach in accordance with the requirements of EMC Title [15](#), Local Project Review Procedures. (Ord. 3774-20 § 5(L) (Exh. 3), 2020.)

**19.24.050 Boundary line adjustments—Compliance.**

Every adjustment of a boundary line on a lot or lots, tracts, parcels or sites shall proceed in compliance with the provisions of Chapters [19.24](#) through [19.27](#) EMC and this title. The boundary line adjustment process shall not be utilized as a substitute for a comprehensive development application for a division of land. All boundary line adjustments shall be subject to the requirements and review process as defined in EMC Title [15](#). (Ord. 3774-20 § 5(L) (Exh. 3), 2020.)



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**19.24.060 Exemptions.**

- A. The provisions of Chapters [19.24](#) through [19.27](#) EMC and this title shall not apply to:
1. Cemeteries and other burial plots while used for that purpose;
  2. A division made by testamentary provisions or the laws of descent;
  3. A division for the purpose of lease when no residential structure other than mobile homes, tiny houses or tiny houses with wheels as defined in RCW [35.21.686](#), or travel trailers are to be placed upon the land when a binding site plan has been approved by the city for the use of the land;
  4. A division made for the purpose of alteration by adjusting boundary lines, between platted or unplatted lots or both, which does not create any additional lot, tract, parcel, site, or division nor create any lot, tract, parcel, site, or division which contains insufficient area and dimension to meet minimum requirements for width and area for a building site;
  5. Divisions of land into lots or tracts classified for industrial or commercial use when the city has approved a binding site plan for the use of the land in accordance with Chapters [19.24](#) through [19.27](#) EMC and this title;
  6. A division for the purpose of leasing land for facilities providing personal wireless services while used for that purpose. "Personal wireless services" means any federally licensed personal wireless service. "Facilities" means unstaffed facilities that are used for the transmission or reception, or both, of wireless communication services including, but not necessarily limited to, antenna arrays, transmission cables, equipment shelters, and support structures;
  7. A division of land into lots or tracts of less than three acres for "electric utility facilities" as authorized in Chapter [58.17](#) RCW; provided the facility complies with all other city zoning and development regulations; and
  8. Divisions of land into lots or tracts where condominiums are being created under Chapter [64.32](#) or [64.34](#) RCW, and subject to the applicability requirements of RCW [58.17.040](#).
- B. The exemptions provided herein shall not be construed as exemptions from compliance with all other applicable standards required by the city and state. (Ord. 3774-20 § 5(L) (Exh. 3), 2020.)
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### **19.24.070 Effect of noncompliance.**

No building permit or other development permit including approvals for preliminary division of land or boundary line adjustment shall be issued for any lot or parcel of land divided in violation of Chapter [58.17](#) RCW, Chapters [19.24](#) through [19.27](#) EMC or this title. All purchases or transfers of property shall comply with the provisions of Chapter [58.17](#) RCW, Chapters [19.24](#) through [19.27](#) EMC, and this title, and each purchaser or transferee may recover damages from any person, firm, corporation or agent selling or transferring land in violation of Chapter [58.17](#) RCW, Chapters [19.24](#) through [19.27](#) EMC, or this title, including any amount reasonably spent as a result of an inability to obtain any development permit and spent to conform to the requirements of Chapter [58.17](#) RCW, Chapters [19.24](#) through [19.27](#) EMC, and this title as well as the cost of investigation, suit and reasonable attorney's fees. A purchaser or transferee may, as an alternative to conforming the property to these requirements, rescind the sale or transfer and recover the cost of investigation, suit and reasonable attorney's fees. (Ord. 3774-20 § 5(L) (Exh. 3), 2020.)

### **19.24.080 Illegal transfers—Filing unapproved division of land or boundary line adjustment.**

The county auditor shall refuse to accept the recording of any division, redivision, alteration or vacation of land or boundary line adjustment that has not been approved by the city in accordance with the provisions of Chapters [19.24](#) through [19.27](#) EMC and this title. Should any division, redivision, alteration or vacation of land or boundary line adjustment be filed without such certification as set forth in Chapters [19.24](#) through [19.27](#) EMC and this title, the city attorney may apply for a writ of mandate on behalf of the city directing the auditor to remove the unapproved division of land, alteration or vacation, or boundary line adjustment from the auditor's files. (Ord. 3774-20 § 5(L) (Exh. 3), 2020.)

### **19.24.090 Violation—Penalty.**

A. *Violation.*



1. Any person, firm, corporation, or association, or any agent of any person, firm, corporation or association, who violates any provision of Chapters [19.24](#) through [19.27](#) EMC and this title shall be subject to the enforcement procedures provided by Chapter [1.20](#) EMC, as amended.
2. Any violation of the provisions of Chapters [19.24](#) through [19.27](#) EMC and this title constitutes a public nuisance which the city can abate by an action in Snohomish County superior court. The cost of such action shall be assessed against the violator.

B. *Exception.* If performance of an offer or agreement to sell, lease, or otherwise transfer a lot, tract, or parcel of land following preliminary approval of a division of land is expressly conditioned on the recording of the final maps containing the lot, tract, or parcel under Chapters [19.24](#) through [19.27](#) EMC and this title, the offer or agreement is not a violation of any provisions of Chapters [19.24](#) through [19.27](#) EMC and this title. All payments on account of an offer or agreement conditioned as provided in this section shall be deposited in an escrow or other regulated trust account and no disbursement to sellers shall be permitted until the final maps are recorded. (Ord. 3774-20 § 5(L) (Exh. 3), 2020.)

### **19.24.100 Definitions.**

“Alteration” means any alteration of a recorded subdivision or short subdivision or portion thereof, except as provided in RCW [58.19.17.040\(6\)](#) and EMC Title [15](#), Local Project Review Procedures, that would alter, redesign or eliminate a public street, easement access drive, common ownership area(s), greenbelt(s), environmentally sensitive area(s), open space tract(s), and restrictive covenant(s) required by the city to be shown on the face of the final plat or short plat map.

“Applications, multiple” means more than one application for a division of land submitted on the same property, contiguous property or on property that is currently being reviewed or has been granted preliminary approval by the city.

“Binding site plan” means the division or redivision of land into lots, tracts, parcels, sites or divisions for the purpose of sale, lease, or transfer of ownership with a site plan, as authorized by RCW [58.17.035](#).



“Binding site plan map” means a final drawing to scale which identifies and shows the areas and locations of all streets, roads, improvements, utilities, open spaces, and any other matters required by the city to be identified, and which contains:

- a. Inscriptions or attachments setting forth such appropriate limitations and conditions for the use of the land as established by the city;
- b. Provisions requiring any development to be in conformity with the site plan;
- c. Provisions in which an applicant can offer for sale, lease, or transfer of ownership of lots, parcels, tracts or sites;
- d. Provision for including required dedications;
- e. Requirements for filing for record with the county auditor; and
- f. All elements and requirements set forth in state law and in Chapters [19.24](#) through [19.27](#) EMC and this title.

“Block” means a group of lots, tracts, parcels, or sites within well-defined and fixed boundaries.

“Boundary line adjustment” means an adjustment of lot lines represented by platted or unplatted lots, or both, which does not create any additional lot, tract, parcel, site or division of land, nor create any lot, tract, parcel, site, or division of land which contains insufficient area and dimension to meet minimum requirements specified by this title for lots, tracts, parcels, sites or division of land.

“Boundary line adjustment map” means a drawing to scale showing all the required information as specified by Chapters [19.24](#) through [19.27](#) EMC and this title for boundary line adjustments.

“Boundary lines” means lot lines that separate and establish an area with fixed limits for lots, tracts, parcels, or sites.

“Certificate” means a report by a title insurance company certifying that the title of lands as described and shown on the map for the proposed division of land is in the name of the owners signing the declaration of ownership and final division map.

“City standards” means the city of Everett public works department design and construction standards and specifications.



“Common ownership” means an ownership by the same person, corporation, firm, entity, partnership, or unincorporated association; or ownership by different corporations, firms, partnerships, entities, or unincorporated associations in which a stockbroker, partner, or associate, or a member of his family owns an interest in each corporation, firm, entity, or unincorporated association.

“Condominium” means real property, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real property is not a condominium unless the undivided interests in the common elements are vested in the unit owners, and unless a declaration, a survey map and plans have been recorded pursuant to Chapter [64.32](#) RCW, the Horizontal Property Regimes Act, and Chapter [64.34](#) RCW, the Condominium Act.

*Contiguous Property or Land.* A lot, tract, parcel or site shall be considered contiguous when at least one boundary line of one lot, tract, parcel or site touches a boundary line or lines of another lot, tract, parcel or site, either along a common line or at any point.

*Contiguous Property Owner(s).* An owner of a lot, tract, parcel or site shall be considered contiguous when at least one boundary line of one lot, tract, parcel or site touches a boundary line or lines of another lot, tract, parcel or site in a proposed application for a division of land. If the proponent of the application for a division of land has lots, tracts, parcels or sites under common ownership that are contiguous to the proposed application, he/she shall not be considered to be a contiguous property owner.

“Dedication” means the deliberate appropriation of land by its owner for any general and public use, reserving to himself or herself no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted.

“Dedictory statement” means a statement or representation on the final division map of those conditions and restrictions required to appear on the face of the final division map as a condition of approval.

“Division of land” means any segregation of land that creates lots, tracts, parcels, or sites not otherwise exempted by Chapters [19.24](#) through [19.27](#) EMC and this title which alters or affects the shape, size or legal description of any part of the owner’s land.



“Encroachment” means any physical appurtenance including, but not limited to, buildings, walls, roof overhangs, fences and hedges that has been established across a lot line of record. Within the context of a land division action or boundary line adjustment, such a physical appurtenance shall be considered an encroachment if any portion of the structure is located on a lot that is not subject to the land division or boundary line adjustment action. The term “gap” shall be distinguished from an encroachment.

“Final approval” means the final official action taken by the city on a proposed division of land where all the conditions of preliminary approval have been met.

“Final binding site plan map” means the final permanent reproducible binding site plan map prepared for filing for record with the county auditor, which meets all the standards as specified in Chapters [19.24](#) through [19.27](#) EMC and this title.

“Final plat map” means the final permanent reproducible drawing of a prepared subdivision and dedication required for filing for record with the county auditor.

“Final short plat map” means the final permanent reproducible drawing of a short subdivision prepared for filing for record with the county auditor.

“Final unit lot short subdivision” means the final permanent reproducible drawing of a prepared unit lot short subdivision and dedication required for filing for record with the county auditor.

“Final unit lot subdivision” means the final permanent reproducible drawing of a prepared unit lot subdivision and dedication required for filing for record with the county auditor.

“Gap” means the area between a lot line of record and a physical appurtenance creating an apparent property line which is beyond the lot line of record of the property subject to a land division or boundary line adjustment action.

“Improvement” means any structure or work constructed including, but not limited to, roads, storm drainage systems, sanitary sewage facilities, water mains, parks, and pedestrian and landscaping improvements.

“Open record public hearing” means an open public hearing as defined by EMC Title [15](#), Local Project Review Procedures.



“Panhandle lot” means a lot where access is provided to the bulk of the lot by means of a narrow strip of land which functions primarily to provide access and/or utilities to the lot and which has insufficient remaining width to permit a dwelling unit.

“Parent lot” means a lot proposed for, or which has been, further divided into additional lots, tracts or parcels.

“Person,” for the purpose of Chapters [19.24](#) through [19.27](#) EMC and this title, shall include, but not be limited to, the following: individuals, corporations, associations and partnerships.

“Phasing plan” means a plan approved by the city for incremental installation of public and private improvements.

“Preliminary approval” means an official action on a proposed division of land that refers to placement of specific conditions which must be complied with before final approval may be granted.

“Preliminary plat, short plat and binding site plan” means a neat and approximate drawing of a proposed division of land showing the general layout of streets, lots, blocks, existing and proposed easements, and other elements consistent with the requirements of Chapters [19.24](#) through [19.27](#) EMC and this title.

“Private access drive” means a road in private ownership utilized principally for providing access to lots, tracts, parcels or sites from an improved public right-of-way.

“Private access drive lot” means any lot whose principal means of access is from an easement access drive.

“Redivision” means the division of land in an approved subdivision, short subdivision, or binding site plan.

“Request for final approval” means a request made by the applicant for final approval of a division of land, when the applicant has completed all the requirements of preliminary approval.

“Restrictive covenant” means a restriction or control imposed on the use of land other than by a condition or easement. A restrictive covenant runs with the land and may be placed on the face of the final division map or filed separately at recording of the final division maps.



“Short subdivision” means the division or redivision of land into nine or fewer lots, tracts, parcels, sites or divisions for the purpose of sale, lease, or transfer of ownership.

“Subdivision” means the division or redivision of land into ten or more lots, tracts, parcels, sites or divisions for the purpose of sale, lease, or transfer of ownership.

“Suitable guarantee” means an acceptable guarantee to the city to insure performance and/or warranty of improvements.

“Survey” means a survey of the proposed division of land or boundary line adjustment along with the preparation of the required maps done by or under the supervision of a registered land surveyor in the state of Washington. The division of land or boundary line adjustment map that is to be prepared shall be a true and correct representation of lands actually surveyed in accordance with RCW [58.17.250](#), Chapters [19.24](#) through [19.27](#) EMC and this title.

“Topography” means an actual field topography survey showing on a map the relative positions and elevations of the land done by or under the supervision of a registered land surveyor in the state of Washington. All topography surveys must be done per city of Everett datum and must show the location of bench marks used.

“Unit lot short subdivision” means the division or redivision of land authorized by Chapter [19.27](#) EMC into nine or fewer lots, tracts, parcels, sites or divisions for the purpose of sale, lease, or transfer of ownership.

“Unit lot subdivision” means the division or redivision of land authorized by Chapter [19.27](#) EMC into ten or more lots, tracts, parcels, sites or divisions for the purpose of sale, lease, or transfer of ownership.

“Vacation” means any eradication of lot lines or elimination of any area designated or dedicated for public use within a recorded subdivision or short subdivision or portion thereof, except as provided for in the city’s boundary line adjustment ordinance and in accordance with the city street vacation ordinance and Chapters [35.79](#) and [36.87](#) RCW. (Ord. 3774-20 § 5(L) (Exh. 3), 2020.)

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**The Everett Municipal Code is current through Ordinance 4031-24, passed May 22, 2024.**



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## **Chapter 19.25**

### **LAND DIVISION GENERAL EVALUATION CRITERIA**

Sections:

- 19.25.010**            **Applicability and other city codes and regulations.**
- 19.25.020**            **General evaluation criteria—Binding site plan and site plan approval.**
- 19.25.030**            **General evaluation criteria—Boundary line adjustments.**
- 19.25.040**            **Evaluation criteria—Subdivision, short subdivision, unit lot land division, alteration or vacation.**

#### **19.25.010    Applicability and other city codes and regulations.**

All land divisions and boundary line adjustments shall be reviewed under the general evaluation criteria in this section. Other applicable codes and regulations include but are not limited to:

- A. City of Everett design and construction standards and specifications (DCSS);
- B. EMC Title [13](#), Streets and Sidewalks;
- C. EMC Title [14](#), Water and Sewers;
- D. International Fire Code, as currently adopted;
- E. Shoreline Master Program (2019, or as updated). (Ord. 3774-20 § 5(M) (Exh. 3), 2020.)

#### **19.25.020    General evaluation criteria—Binding site plan and site plan approval.**

An application that complies with all of the following general evaluation criteria listed below, the requirements of Chapters [19.24](#) through [19.27](#) EMC and this title, and applicable city standards



shall be approved. An application that does not comply with these criteria shall be denied by the city.

A. *Comprehensive Plan*. The proposed binding site plan, site plan and other application information proposed for development shall conform to the general purposes of the comprehensive plan.

B. *Zoning and Unified Development Code*. The proposed binding site plan, site plan and other required application information shall meet the requirements of this title, except as permitted by the design and development provisions of this chapter and except as provided in EMC [19.06.080](#).

C. *Natural Environment*. The binding site plan, site plan and other required application information shall meet the requirements of critical area regulations of Chapters [19.37](#) and [19.43](#) EMC and the State Environmental Policy Act, Chapter [197-11](#) WAC.

D. *Public Services*. The proposed project shall be designed to meet the following:

1. Adequate water supply to city standards;
2. Adequate sewage disposal to city standards;
3. Appropriate surface water management to city standards;
4. Adequate fire protection and hydrants to city standards;
5. Appropriate access to city standards for or to all anticipated uses within the project;
6. Provisions for all appropriate deeds, dedications, and all other easements; and
7. Provisions made for access to and maintenance of all common facilities.

E. *Existing Public Facilities and Services*. The proposed project shall be designed to not adversely impact the following public facilities and services:

1. Existing streets and other transportation systems;
2. Existing utilities system; and
3. Police, fire, parks, and schools.



F. *Phasing Plan*. In lieu of requiring the completion of all public/private improvements for the entire site prior to occupancy of any structure on the site, the city may approve a phasing plan. The city may require suitable guarantees as provided in the suitable guarantee section of this chapter. The public/private improvements in each phase must be designed to stand on their own as required by the city. A phasing plan can only be approved if each city department responsible for the conditions of the permit agrees on the phased development plan. In most cases, those departments are planning and community development, public works, and fire.

G. *Previously Approved Site Plan*. Where a development has previously received land use approval from the city and the subject property is to be divided through a binding site plan, the application shall be reviewed under this section. The project must be consistent with the previously approved site plan and all other approvals or permits issued. The review process shall be as required by EMC Title [15](#) for a binding site plan with previously approved site plan. (Ord. 3774-20 § 5(M) (Exh. 3), 2020.)

### **19.25.030 General evaluation criteria—Boundary line adjustments.**

An application that complies with all of the general evaluation criteria listed below and the requirements of the boundary line adjustment submittal and review process of EMC Title [15](#), Local Project Review Procedures, shall be approved. An application that does not comply with these criteria shall be denied by the city.

A. The proposed boundary line adjustment shall not allow the adjustment of boundary lines which will result in the creation of any additional lot, tract, parcel, building site, or division, nor create any lot, tract, parcel, building site, or division which contains insufficient area dimension to meet the minimum requirements as specified by Chapter [19.06](#) EMC for lots, tracts, parcels, or building sites;

B. The proposed boundary line adjustment shall not allow the adjustment of boundary lines which will result in directional changes in the orientation of the lot(s), tract(s), parcel(s), or building sites, such as the changing of front yards into side or rear yards or vice versa;

C. The proposed boundary line adjustment shall not allow the adjustment of boundary lines where the adjustment will result in an increase in the potential number of dwelling units on lots, tracts, parcels or building sites permitted;



- D. The proposed boundary line adjustment shall not allow the adjustment of boundary lines of nonconforming lots where the adjustment of the line(s) will result in making the lots, tracts, parcels or building sites more nonconforming;
- E. The proposed boundary line adjustment shall not allow boundary lines to be adjusted when the adjustment will result in the city being unable to provide adequate utilities;
- F. The proposed boundary line adjustment shall not allow boundary lines to be adjusted when the adjustment will result in inadequate frontage on a public street;
- G. The proposed boundary line adjustment shall not allow boundary lines to be adjusted where such adjustment will likely create an unusable lot, that is subject to the reasonable use process as defined in the critical area regulations in Chapter [19.37](#) EMC; and
- H. The proposed boundary line adjustment shall not allow a boundary line to be adjusted where the adjustment will result in a violation of a city or state code. (Ord. 3774-20 § 5(M) (Exh. 3), 2020.)

#### **19.25.040 Evaluation criteria—Subdivision, short subdivision, unit lot land division, alteration or vacation.**

An application that complies with all of the following general evaluation criteria listed below, the requirements of Chapters [19.24](#) through [19.27](#) EMC and this title, and applicable city standards shall be approved. In any such approval, the city shall make written findings that the application has made appropriate provisions in accordance with the requirements of this section. An application that does not comply with these criteria shall be denied by the city.

- A. *Public Use and Interest.* The proposed project and design shall promote the public use and interest in accordance with the standards established by the state, city, and Chapters [19.24](#) through [19.27](#) EMC and this title;
- B. *Public Health, Safety, and General Welfare.* The proposed project and design shall promote the public health, safety and general welfare in accordance with the standards established by the state, city, and Chapters [19.24](#) through [19.27](#) EMC and this title;



C. *Comprehensive Plan*. The proposed project and design shall conform to the general purposes of the comprehensive plan;

D. *Unified Development Code*. The proposed project and design shall meet the requirements of this title, including but not limited to the following:

1. Chapter [19.06](#) EMC, Lots, Setbacks and Residential Densities;
2. Chapter [19.26](#) EMC, Land Division Development Standards or Chapter [19.27](#) EMC, Unit Lot Land Divisions;
3. Chapter [19.30](#) EMC, Flood Damage Prevention;
4. Chapter [19.33](#) EMC, Streets, Sidewalks and Pedestrian Circulation;
5. Chapter [19.34](#) EMC, Parking, Loading and Access Requirements;
6. Chapter [19.35](#) EMC, Landscaping;

E. *Natural Environment*. The proposed project and design shall meet the requirements of environmentally sensitive area regulations of this title and Chapter [19.43](#) EMC, Environmental Policy, and the State Environmental Policy Act, Chapter [197-11](#) WAC, if applicable;

F. *Drainage*. The proposed project and design shall meet the requirements of the city's drainage regulations in the stormwater management program (SWMP) and design and construction standards and specifications;

G. *Open Space and On-Site Recreation*. The proposed project and design shall meet the requirements for open space and on-site recreation as defined in Chapter [19.09](#) EMC and EMC [19.12.210](#). These requirements are based on the type of use proposed and zoning designation of the property;

H. *Public Facilities*. The proposed project shall be consistent with all regulations and requirements in EMC Titles [14](#) and [16](#), the design and construction standards and specifications, and other adopted plans and policies, including the following:

1. Adequate water supply to city standards;
2. Adequate sewage disposal to city standards;
3. Appropriate surface water management to city standards;



4. Adequate fire protection and hydrants to city standards;
5. Appropriate vehicular and nonmotorized access designed to meet city standards for anticipated uses within the project;
6. Provisions for all appropriate deeds, dedications, and all other easements;
7. Provisions made for access to and maintenance of all common facilities; and
8. Transportation systems for both motorized and nonmotorized travel modes, including: streets, alleys, sidewalks, transit stops, bike lanes, and safe pedestrian routes to schools and schoolgrounds. This includes connections to existing and planned facilities;

I. *Existing Public Services.* The proposed project shall be designed to not adversely impact the following public services:

1. Police;
2. Fire;
3. Parks; and
4. Schools;

J. *Floodplain.* The proposed project and design shall meet the requirements of this title and flood damage prevention requirements in Chapter [19.30](#) EMC;

K. *Landscaping Standards.* The proposed project and design shall meet the landscaping standards as established in Chapter [19.35](#) EMC. (Ord. 3774-20 § 5(M) (Exh. 3), 2020.)

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**The Everett Municipal Code is current through Ordinance 4031-24, passed May 22, 2024.**

Disclaimer: The City Clerk's Office has the official version of the Everett Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

[City Website: www.everettwa.gov](http://www.everettwa.gov)



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## Chapter 19.26

### LAND DIVISION DEVELOPMENT STANDARDS

#### Sections:

<b>19.26.010</b>	<b>Applicability.</b>
<b>19.26.020</b>	<b>Public use reservations.</b>
<b>19.26.030</b>	<b>Nonconforming single-family dwellings.</b>
<b>19.26.040</b>	<b>Floodplain regulations.</b>
<b>19.26.050</b>	<b>Vehicle access requirements.</b>
<b>19.26.060</b>	<b>Frontage improvements.</b>
<b>19.26.070</b>	<b>Off-street parking improvements.</b>
<b>19.26.080</b>	<b>Clearing and grading.</b>
<b>19.26.090</b>	<b>Easements.</b>
<b>19.26.100</b>	<b>On-site open space and recreation facilities.</b>
<b>19.26.110</b>	<b>Underground utilities.</b>
<b>19.26.120</b>	<b>Homeowners' association incorporation.</b>
<b>19.26.130</b>	<b>Suitable guarantee.</b>
<b>19.26.140</b>	<b>Survey.</b>
<b>19.26.150</b>	<b>Encroachments and gaps.</b>
<b>19.26.160</b>	<b>Dedication.</b>

#### **19.26.010    Applicability.**

Unless otherwise indicated in each section below, these standards apply to all divisions of land in the city, including subdivision, short subdivision, unit lot subdivision and alteration or vacation. Also refer to Chapter [19.06](#) EMC, Lots, Setbacks and Residential Densities, and Chapter [19.08](#) EMC, Residential Uses and Development Standards. (Ord. 3774-20 § 5(N) (Exh. 3), 2020.)



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**19.26.020 Public use reservations.**

A. *Reservation or Dedication.* If the city concludes in the review of the division of land that the dedication or reservation of areas or sites for schools, school grounds, park land, and playgrounds is reasonably necessary and is a direct result of the proposal, the city may require that such reservation or dedication be provided.

B. *Street Right-of-Way Realignment or Widening.* If the city concludes that the street right-of-way adjacent to a proposed division of land is inadequate for widening, and realignment of the existing streets is necessary as a direct result of the proposed project, the city may require a dedication of necessary right-of-way and improvement of that right-of-way.

C. *Voluntary Agreements.* Nothing herein shall prohibit voluntary agreements with the city or a school district that allows a payment in lieu of dedication of land for parklands, playgrounds, and school sites or to mitigate a direct impact that has been identified as a consequence of a proposed project as authorized in Chapter [82.02](#) RCW. (Ord. 3774-20 § 5(N) (Exh. 3), 2020.)

**19.26.030 Nonconforming single-family dwellings.**

This section applies to divisions or redivisions of land with more than one existing single-family residence on one lot.

A. When divisions or redivisions of land are submitted proposing the creation of new lots with existing structures that are nonconforming in accordance with Chapter [19.38](#) EMC, the existing structures shall comply with all Everett Unified Development Code requirements including, but not limited to, setbacks or parking requirements; provided, however, nothing shall prohibit the division of such land as long as the division does not make the structures more nonconforming.

B. *Exception.* If the lots cannot meet Unified Development Code and lot area requirements and the structures are legal nonconforming structures, the applicant may apply for an exception from the Everett Unified Development Code lot area, dimensional, lot coverage and setback requirements using the review process as defined in Chapter [15.02](#) EMC, Land Use and Project Review Procedures. The planning director shall use the criteria in EMC [19.06.080\(D\)](#) as a basis for reviewing all such requests. (Ord. 3774-20 § 5(N) (Exh. 3), 2020.)



### 19.26.040 Floodplain regulations.

Land identified in the Everett flood insurance study dated June 19, 2020, or subsequent update, with accompanying flood insurance maps, shall not be subdivided unless the requirements of the city's flood damage prevention regulations as set forth in Chapter [19.30](#) EMC, as amended, are met. (Ord. 3774-20 § 5(N) (Exh. 3), 2020.)

### 19.26.050 Vehicle access requirements.

A. Every residential lot and unit created through the land division process shall provide vehicle access in accordance with the standards in this section. All required access improvements shall be installed prior to final approval, except as otherwise allowed by Chapters [19.24](#) through [19.27](#) EMC and this title. The following standards apply based on the maximum potential development and length of the access road. Pavement width, thickness, subgrade and other detailed specifications may be found in the city's design and construction standards and specifications (DCSS). To view the detailed standards, follow links in Table 26-1 below, or obtain a copy of the standards from the engineering/permit services division.

**Table 26-1: Vehicle Access Road Types—Residential Land Divisions**

Type of Access	Potential Number of Dwelling Units Served <sup>(1)</sup>	Length of Access Road	Access Road Classification per DCSS 300 Series Standard Drawings
Private Access Drive A (two lot short plat only)  Easement or panhandle lots	1—2 dwelling units	150' or less	Private Drive Standard A (14' width. Not a fire lane)  Walkway not required
		More than 150'	With fire code official



<b>Type of Access</b>	<b>Potential Number of Dwelling Units Served<sup>(1)</sup></b>	<b>Length of Access Road</b>	<b>Access Road Classification per DCSS 300 Series Standard Drawings</b>
			approval
Private Access Drive B	3—9 dwelling units <sup>(2)</sup>	More than 150'	Private Drive Standard B (20' fire lane)  Walkway required for 3 or more units
Private Access Drive C	10 or more dwelling units <sup>(3)</sup>	More than 150'	Private Drive Standard C (26' fire lane)  Walkway required
Public Streets	—	Not Applicable	See Design and Construction Standards and Specifications (300 Series)

**Footnotes:**

**(1)** Accessory dwelling units are not included in the potential number of units served. All other dwelling types are included.

**(2)** Private Drive B standard if building height is less than or equal to thirty feet as determined by the fire code official; or, Private Drive C standard if building height is more than thirty feet.

**(3)** Private access drive is not allowed for any land division which creates ten or more lots, except if approved through the unit lot subdivision process set forth in Chapter [19.27](#) EMC.



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B. *Development Standards for Private Access Drives.*

1. *Where Permitted.* Private access drives are allowed to provide access to dwellings and off-street parking areas within any land division authorized under Chapters [19.24](#) through [19.27](#) EMC and this title; provided, however that any land division which creates ten or more lots not authorized by Chapter [19.27](#) EMC is required to provide a public street as set forth in subsection [\(C\)](#) of this section. Under certain circumstances, the city may require installation of a public street, rather than a private access drive (see subsection [\(C\)](#) of this section). As an alternative to the private access drive, the applicant may provide a public street meeting the city design and construction standards, subject to approval by the city engineer.
2. *Calculation of Number of Units Served.* For determining the number of units served by a private access drive, the city shall count the maximum number of potential units that may be served by the proposed land division, including future development that may be built out at a later date, and development potential for land beyond the road end. Accessory dwelling units are not included in the number of units served.
3. *Design.* All private access drives shall be designed and constructed to city design and construction standards and specifications. Fire lane requirements in the DCSS and EMC Title [46](#) shall be administered by the fire code official and city engineer through review of all land division applications. The fire code official will determine when the access drive is considered a fire lane based on number of units served, length and other factors. See Table 26-1.
4. All units in a development that abut or are adjacent to a private access drive are required to use the access drive, unless it is determined by the city engineer that:
  - a. An existing dwelling and its off-street parking are in a location where access would be impractical or impossible due to the topography or physical constraints of the site; or
  - b. A potential safety issue would be created as a result of using the private access drive as determined by the city engineer.
5. For any private access drive with public utilities, the city engineer shall determine the required easement width based on city standards.



6. *Vehicle Turnaround.* All dwellings accessed by a private drive shall provide a vehicle turnaround as required by the city's DCSS and approved by the city engineer and fire code official. For land divisions that require site plan approval, the vehicle turnaround for each dwelling must be shown on the site plan.

7. *Maintenance.* The access drive shall be maintained to the design standard as shown on approved permit documents. The maintenance responsibility shall be with the homeowners' association or, if no HOA, by the property owners benefiting from use of the access drive.

8. *Easements and Tracts.* All private access roads shall be placed within either an access and utility easement, or a separate tract. Where the road is placed in a tract, it shall be dedicated to the homeowners. The ownership, use rights and maintenance responsibilities shall be clearly shown on the final land division map and supporting documents.

9. *Common Private Access Drive Use.* The city engineer may allow the use of a common private access drive on an existing or adjacent land division if the unit count for the property to be divided together with the adjacent property does not exceed the maximum number of units allowed and such private access drive can or currently meets the DCSS standards. The applicant shall provide the following:

- a. An easement providing for access, utilities, and maintenance from all owners of property that the private access drive crosses over and who have legal access to such easement;
- b. An amendment to the existing land division map to accurately reflect the proposed changes; and
- c. All improvements as if the lot were included in the original land division.

C. *Public Streets.* These standards are applicable to all land divisions that extend an existing public street or install a new public street:

1. *When Required.* Installation of a new public street or improvements of an existing street are required for all land divisions except for boundary line adjustments or as allowed under subsection [\(A\)](#) of this section, or if the applicant can demonstrate to the city engineer that none of the following applies:



- a. The improvement of a public street is necessary to facilitate adequate supply of sewer and utilities;
- b. The improvement of a public street is necessary to provide on-street parking;
- c. The improvement of a public street is necessary to provide access to potential additional lots or future developable area;
- d. The improvement of a public street is necessary to provide a through connection to existing or potential future development that is currently, or will be, accessed by a public street; and
- e. The improvement of a public street is necessary to protect the public health, safety and welfare of the residents and general public.

2. *Street Standards.* All streets shall be built to current city standards as required in EMC Title [13](#) and the city's design and construction standards and specifications, and shall meet minimum requirements for right-of-way width, pavement width, sidewalks and off-street parking as defined in classification of streets. The minimum requirement for each street classification shall be based on the maximum potential number of dwelling units served by the logical extension of common streets to serve other land. The city engineer will have the authority to deviate from construction and street classification standards.

3. Right-of-way width in excess of the standards of Chapters [19.24](#) through [19.27](#) EMC and this title may be required if or when, in the opinion of the city engineer, topography so requires.

4. Proposed streets for all divisions of land shall be extended to the boundary lines of the tract being developed to provide for the logical extension of streets and utilities for coordinated development of contiguous tracts or parcels of land. If in the opinion of the city such extension is not necessary due to physical conditions that may exist on or adjacent to the site, the city shall not be obligated to require an extension.

5. Access to Local and Arterial Streets. For all divisions of land, the city may require that access to city streets be limited. Such requirement may include but not be limited to providing for common lot access points, shared driveways, and alley access.



6. Dead End Streets. All permanent and temporary dead end streets shall provide a turnaround in accordance with city standards. The city engineer and fire marshal may, in certain cases, eliminate or reduce the size of the required turnaround if residential sprinkler systems are provided in accordance with standards as specified by the city's fire marshal.

D. *Development Standards for Nonresidential Zones.* Street standards applicable to commercial, industrial and other nonresidential zones shall follow Chapter [13.68](#) EMC and the city's design and construction standards and specifications (DCSS). (Ord. 3774-20 § 5(N) (Exh. 3), 2020.)

### **19.26.060 Frontage improvements.**

A. Whenever a division, redivision, or alteration of such division of land is on an existing public street, such frontage shall be fully improved in accordance with city standards, as administered by the city engineer, including pedestrian improvements. In lieu of providing frontage improvements, the applicant may pay a voluntary fee. A fee in lieu of frontage improvements may be permitted when:

1. The proposed frontage improvement(s) including pedestrian improvements would not result in a smooth transition to existing improvements;
2. Providing a sidewalk or walkway on a single property's frontage would not effectively provide for pedestrian safety; or
3. The proposed frontage improvement(s) may negatively impact drainage or traffic facilities in the area.

B. The fees shall be based on the cost to design and install frontage improvements per city standards. Such cost shall be determined by the applicant's engineer, who must be a licensed engineer in the state of Washington. The cost estimate must be approved by the city engineer.

C. The city engineer may establish a fee for the cost to design and install frontage improvements per the city standards, which the applicant can choose to pay in lieu of calculation of the applicant's own fee as defined in the design and development provisions of this chapter.



D. Fees collected per subsections [\(B\)](#) and [\(C\)](#) of this section shall be used by the city to install frontage improvements including, but not limited to, pedestrian improvements, curb, gutter and sidewalks in the vicinity of the applicant's project. Such fees must be paid prior to final approval. (Ord. 3774-20 § 5(N) (Exh. 3), 2020.)

### **19.26.070 Off-street parking improvements.**

All existing and proposed uses for a division of land are required to provide parking to meet the requirements of Chapter [19.34](#) EMC. (Ord. 3774-20 § 5(N) (Exh. 3), 2020.)

### **19.26.080 Clearing and grading.**

A. Before any site modification where existing natural features would be disturbed or removed, a grading plan meeting city standards and the provisions of Chapters [19.24](#) through [19.27](#) EMC and this title must be submitted and approved by the city engineer showing the extent of the proposed modification.

B. Debris and waste materials of any kind shall not be buried in any land or deposited in any critical area.

C. All erosion control plans must be in compliance with city standards and the city's drainage ordinance.

D. In critical drainage areas or on sites that are classified as critical areas, the city may prohibit clearing of lots until building permits have been issued.

E. All clearing and grading shall be based on sound engineering techniques and meet the following minimum standards:

1. The project design and grading shall follow good engineering practices. Consideration shall be given to protection of slope stability, prevention of erosion, structural suitability for future building sites, driveways, and public streets;



2. Building sites, driveways, and public streets shall not be located on fill unless approved by the city based on information provided to the city by the applicant in a geotechnical report prepared by a Washington State licensed geotechnical engineer;
3. Grading shall be done in such a manner as to minimize the need for rockeries and retaining walls along lot lines, streets and the exterior boundaries of the project;
4. Clearing and grading limits shall be established so as to not impact critical areas, the required buffers, and adjacent properties;
5. Each lot shall have a suitable building site and driveway access. All grading should gradually transition to the approved grading limit and the project's exterior boundaries; and
6. Excavation of foundation material, utility trenches, and required public improvements shall not be distributed within the project boundaries and must be disposed of at a preapproved site, unless otherwise approved by the city engineer and shown on an approved grading plan.

F. On projects that have critical area features and in critical drainage areas, clearing and grading and other significant earth work may be limited to a specific time period as determined by the city.

G. All projects must be in compliance with the approved grading plan prior to final approval being granted. The planning director or city engineer may require a final as-built topography map to show compliance with the approved grading plan and to calculate building height as required by Chapters [19.24](#) through [19.27](#) EMC and this title. (Ord. 3774-20 § 5(N) (Exh. 3), 2020.)

## **19.26.090 Easements.**

Permanent easements shall be provided for utilities and other public services whenever requested by the city engineer. (Ord. 3774-20 § 5(N) (Exh. 3), 2020.)



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**19.26.100 On-site open space and recreation facilities.**

- A. Land divisions shall provide common on-site open space and/or recreation facilities in accordance with the standards of Chapter [19.08](#) or [19.09](#) EMC. All required improvements must be installed prior to final approval.
- B. Common on-site open space and recreation facilities shall be placed within a tract under common ownership of all lot or unit owners within the development. The ownership, use rights and maintenance responsibilities shall be clearly shown on the final land division map and supporting documents. (Ord. 3774-20 § 5(N) (Exh. 3), 2020.)

**19.26.110 Underground utilities.**

It is the intent of this provision to require underground installation of all new utilities.

- A. All divisions of land shall have all necessary power lines, telephone wires, television cables, fire alarm systems and other communication wires, cables or lines placed in an underground location.
- B. All such underground installations or systems shall be approved by the appropriate utility company and shall adhere to all governing applicable regulations including, but not limited to, the city and state applicable regulations and specific requirements of the appropriate utility.
- C. All utility easements within a proposed project shall be approved by the appropriate utility company before final acceptance of the project and shall be shown in their exact location on the final drawing of said project.
- D. Nothing in this section or any other section of Chapters [19.24](#) through [19.27](#) EMC and this title in relation to underground wiring shall apply to power lines carrying a voltage of fifteen kV or more, nor shall it be construed to prohibit the placement of pad mounted transformers, terminal pedestals or other electrical and communications devices above ground, as determined by the appropriate utility involved.
- E. *Exceptions.*
1. If the appropriate utility company determines that an underground system as proposed above cannot reasonably be installed according to accepted engineering practices, this



requirement may be waived upon receipt of a written notice from said utility to the city engineer.

2. Where a utility service must be extended to access the proposed development, the city may waive the underground requirement for the portion of the service located within public right-of-way, if the city engineer identifies a significant conflict due to any of the following circumstances:

- a. There are topographic constraints present that make constructing the improvement impractical;
- b. The location of existing underground utilities; or
- c. Placement of the required utilities underground would create a potential safety hazard for property owners, the city or the general public. (Ord. 3774-20 § 5(N) (Exh. 3), 2020.)

### **19.26.120 Homeowners' association incorporation.**

Construction of privately owned common improvements will require maintenance and upkeep over time. This includes roads, fire lane access requirements, pedestrian facilities, open space and recreation areas, and utility infrastructure. This section is intended to provide a framework by which future homeowners will be required to manage and maintain these improvements by establishing when a homeowners' association (HOA) must be created for this purpose and what must be included in the relevant HOA documentation.

A. *Applicability.* This section applies to any land division that includes a common private access drive, and at least one of the following:

1. Privately owned common open space or recreation areas required by Chapters [19.24](#) through [19.27](#) EMC and this title;
2. Privately owned common parking areas; or
3. Privately owned common private utilities (water, sewer, electric, gas, fiber, cable) or stormwater detention/treatment facilities.



A land division that includes only a private access drive and does not include other privately owned common facilities is not required to form an HOA under this chapter.

B. Prior to the recording of the subdivision, the applicant shall provide evidence that the HOA has been incorporated pursuant to the laws of the state of Washington, including the filing of the association's articles of incorporation with the Washington Secretary of State. In the event the homeowners' association should cease to be a corporation under the laws of the state of Washington and as required by this section, such association shall continue as an unincorporated association governed by the Homeowners' Association Act (Chapter [64.38](#) RCW).

C. *HOA Covenants.* Prior to the issuance of building permits or final land division approval, whichever occurs first, the applicant shall provide a preliminary draft of covenants, declarations and restrictions for review by the city. Prior to the recording of the subdivision, the applicant shall provide final covenants, declarations and restrictions in a form satisfactory to the city attorney, which shall be recorded with the county auditor's office providing that the HOA shall be subject to and comply with:

1. Such covenants, declarations and restrictions;
2. The Homeowners' Association Act (Chapter [64.38](#) RCW);
3. The applicable Washington corporation statute; and
4. Any applicable conditions, or other provisions of the city code required to be shown on the land division map.

D. *Maintenance of Private Common Areas and Infrastructure.* All common open space and recreation areas and all private utility infrastructure located within a land division shall be maintained in perpetuity by the homeowners' association. Prior to the recording of the land division, the applicant shall provide the covenants, declarations and restrictions required by subsection [\(C\)](#) of this section for review by the city, which shall provide that the following common areas and infrastructure are maintained by the HOA in accordance with all applicable provisions of the city code. Said covenants, declarations and restrictions shall provide authority for the city, after providing reasonable written notice to the HOA and opportunity to perform required maintenance, to recover any costs incurred by the city to maintain private infrastructure or common areas due to a failure of the homeowners' association to adequately



maintain privately owned improvements, including a lien on the property or other appropriate assurance device, as determined by the city.

1. Private access drives;
2. Vehicle and pedestrian access easements;
3. Joint use and maintenance agreements;
4. Common off-street parking;
5. Common open space (including, but not limited to, landscape areas, gardens, woodlands, walkways, courtyards or lawns, and outdoor recreation areas);
6. Private utility infrastructure (including, but not limited to, stormwater facilities, underground utilities and utility easements); and
7. Any other common buildings or improvements.

E. *Maintenance of Lot, Buildings and Facilities.* Buildings, utilities and facilities on individual lots shall be maintained by the property owner in accordance with city codes and the requirements of the covenants, declarations and restrictions applicable to the development. Prior to the recording of the land division, the applicant shall provide the covenants, declarations and restrictions required by subsection [\(C\)](#) of this section for review by the city, which shall provide that buildings, utilities and facilities on individual lots shall be maintained by the property owner in accordance with city codes and the requirements of such covenants, declarations and restrictions. The city may require a separate covenant for stormwater facility operation and maintenance.

F. *Recorded Conditions for Unit Lot Land Divisions.* Notes shall be placed on the final land division map recorded with the county auditor's office to acknowledge the following:

1. Approval of the design and layout of the development was granted by the review of the development, as a whole, on the parent site by the development plan approval (stating the project file number);
2. Subsequent platting actions, additions or modifications to the structure(s) may not create or increase any nonconformity of the parent site as a whole, and shall conform to the approved site development plan;



3. If a structure or portion of a structure has been damaged or destroyed, any repair, reconstruction or replacement of the structure(s) shall conform to the approved site development plan;
4. The individual unit lots are not separately buildable outside of the context of the approved development plan for the subdivision and additional development of the individual unit lots may be limited as a result of the application of development standards to the parent site.
5. Minor additions, decks and alterations may be approved if consistent with the approved site plan and underlying zoning. The applicant is responsible for obtaining necessary authorization from the HOA. (Ord. 3774-20 § 5(N) (Exh. 3), 2020.)

### **19.26.130 Suitable guarantee.**

#### *A. Performance Guarantee Requirements for All Divisions or Redivisions of Land.*

1. In lieu of completing the required improvements in the proposed division of land, the applicant may request final approval subject to the approval of a suitable guarantee. The guarantee must be in a form acceptable to the city and an amount commensurate with improvements to be completed. The amount of the guarantee is established at one hundred percent of the cost of the city having to construct the improvements plus twenty percent. The guarantee amount will require yearly review by the city and the applicant will be required to revise the guarantee amount to reflect current inflation rate. Based on the revised amount, the applicant will resubmit a suitable guarantee to the city. Also, the guarantee will be restricted as far as the amount of permissible time in which the improvements must be completed. The guarantee must be acceptable to the city attorney.
2. Guarantee funds will not be released by the city unless approval has been received from all applicable departments that are responsible for acceptance and/or maintenance of such improvements.
3. All improvements begun by the applicant must be completed. Once the applicant has begun making improvements, the applicant shall not be eligible for submitting a guarantee to the city to cover the incomplete improvements unless specifically approved by the city



engineer in accordance with final approval. If approved, the amount of the guarantee may exceed the limits noted in the provisions of this section to offset additional city exposure.

**B. *Warranty Requirements for Acceptance of Final Improvements.***

1. At the time of final acceptance of the improvements, the applicant shall provide to the city a one-year warranty guarantee at ten percent of the established final cost of the improvements in a form which must be acceptable to the city attorney.
2. For the purpose of Chapters [19.24](#) through [19.27](#) EMC and this title, final approval shall not be deemed given until such time as all of the required improvements have been satisfactorily installed in accordance with the requirements of preliminary approval.
3. The planning director shall require a maintenance assurance device acceptable to the city for common or private landscaped areas in accordance with Chapter [19.41](#) EMC. (Ord. 3774-20 § 5(N) (Exh. 3), 2020.)

## **19.26.140 Survey.**

A survey is required for all divisions, redivisions, alteration or vacation of land and boundary line adjustment meeting the following minimum standards:

- A. A survey for division, redivision, alteration or vacation, and a boundary line adjustment must be conducted by or under the supervision of a registered land surveyor in the state of Washington. The surveyor shall certify on the final map that it is a true and correct representation of the lands actually surveyed and that the survey was done in accordance with city and state law.
- B. In all divisions of land and boundary line adjustments, lot corners must be set before final approval can be granted, except for corners located within a critical area.
- C. In all divisions of land, perimeter monuments must be set before final approval can be granted.
- D. In all divisions of land, control monuments must be set before final acceptance of public improvements. Performance guarantees must include the installation of all control monuments. Control monuments must be installed per city design and construction standards.



E. In all divisions of land where final approval is to be granted by the acceptance of a performance guarantee, lot corner and perimeter monuments must be set. The performance guarantee must include the resetting of any monument that has been lost during construction of public improvements.

F. Regarding all residential condominium binding site plans where all lots are not to be shown: prior to the recording of the binding site plan, the boundary of the parcel must be surveyed and all lot corners set or found in accordance with the provisions of this section. If divisions are submitted in accordance with an approved phasing plan, all new lot corners must be set or found prior to recording.

G. For boundary line adjustment, a record of survey must be filed with the county auditor in accordance with Chapter [58.09](#) RCW. The filing number of the boundary line adjustment must be on the boundary line adjustment/survey map with the legal description of the total area being adjusted before the boundary line adjustment/survey is ready for recording. (Ord. 3774-20 § 5(N) (Exh. 3), 2020.)

### **19.26.150 Encroachments and gaps.**

Whenever an encroachment or gap is disclosed by a survey during the city's review of a land division action, the applicant shall either (A) remove the encroachment, or (B) resolve the encroachment or gap through an appropriate conveyance such as a quitclaim deed, or other device acceptable to the city, and disclose the same on the face of the final plat or short plat map; or, (C) resolve the encroachment or gap through other method as approved by the city. Once all requirements of the city's Unified Development Code are met, the resolution shall be disclosed on the face of the final map approving the application.

#### ***A. Resolution of Encroachments—Timing.***

1. In cases where the encroachment is located on the abutting property and extends into the applicant's property, the resolution of the encroachment must occur prior to application submittal.
2. When the encroachment is located on the applicant's property, one of the following must occur:



- 
- a. If the applicant proposes to remove the encroachment as part of the land division action, preliminary approval may be issued subject to removal prior to the final approval; or
    - b. If the applicant does not propose to remove the encroachment, then resolution of the encroachment must occur prior to preliminary approval.
  3. If the conveyance method is utilized to resolve an encroachment, provision (such as a penumbral easement) must be made for maintenance of the physical appurtenance which had been encroaching. The deed shall be recorded concurrently with or prior to final approval.
- B. *Resolution of Gaps—Timing.* Gaps shall be resolved by the following means: (1) the applicant shall, prior to final approval, execute a quitclaim deed releasing all interest in the gap; and (2) if the physical appurtenance belongs to the abutting property owner, it shall be left in place but a new fence, or other permanent form of demarcation of the lot line of record, acceptable to the city, shall be erected on the lot line of record. In the event the applicant constructs a new fence to resolve a gap, the fence shall be a minimum of four feet in height and shall meet city standards for such a fence; provided, however, the city reserves the right to allow gaps to be resolved through other means not specifically listed herein.
- C. *Resolution of Gaps by Conveyance Method—Failure of Abutting Property Owner to Accept Deed.* Where the conveyance method described in subsection (B) of this section is used to resolve a gap but the abutting (i.e., receiving) property owner refuses to accept the deed instrument, the quitclaim deed may be executed by the applicant and held in trust by the city for the abutting (receiving property) owner; provided, however, when that occurs, a notice shall be filed with the county auditor on the title of the abutting property indicating that the city is holding such an instrument in trust and that legal description of the gap will become the property of the abutting property owner at such time as the instrument is accepted and recorded. (Ord. 3774-20 § 5(N) (Exh. 3), 2020.)

## **19.26.160 Dedication.**

Any dedication, donation or grant as shown on a land division map shall constitute a statutory warranty deed to the said grantee for the use intended. The intention to dedicate shall be



evidenced by the owner through the presentment for filing of a final division map showing the dedication thereon; and the acceptance by the public shall be evidenced by the approval of such final maps for filing by the city. (Ord. 3774-20 § 5(N) (Exh. 3), 2020.)

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## Chapter 19.27

### UNIT LOT LAND DIVISIONS

#### Sections:

<b>19.27.010</b>	<b>Purpose and applicability.</b>
<b>19.27.020</b>	<b>Unit lot land division standards applicable to all developments.</b>
<b>19.27.030</b>	<b>Unit lot land division standards—Townhouse/single-family attached.</b>
<b>19.27.040</b>	<b>Condominium developments existing as of the effective date of this chapter.</b>
<b>19.27.050</b>	<b>Unit lot standards—Single-family detached and cottage housing.</b>
<b>19.27.060</b>	<b>Ownership of common areas.</b>
<b>19.27.070</b>	<b>Development and design standards.</b>
<b>19.27.080</b>	<b>Single-family attached—Commencement of construction, final land division approval.</b>

#### **19.27.010 Purpose and applicability.**

##### *A. Purpose.*

1. The primary purpose of these provisions is to establish a process which allows greater flexibility in the development of single-family detached and attached housing on lots which do not strictly conform to the development standards of Chapters [19.24](#) through [19.27](#) EMC and this title. For single-family attached and townhouse dwellings, the intent is to apply only those site development standards applicable to the parent site as a whole, rather than individual lot standards. For single-family detached dwellings, these standards are intended to provide flexibility for a development that is innovative and consistent with comprehensive plan policies promoting architectural compatibility with housing on adjacent properties, affordable housing, and owner-occupied housing types.

2. The secondary purpose of these provisions is to allow for the unit lot subdivision process to be applied to townhouse and single-family detached condominium developments for which, as of the effective date of the ordinance codified in this chapter, either:



a. A condominium declaration and survey had been recorded pursuant to Chapter [64.34](#) RCW; or

b.

(1) A complete application for formal approval of a site development plan had been filed, and (2) the recording of a condominium declaration and survey had been deferred in anticipation of the adoption of this chapter, and (3) the application had been accepted by the city and was still actively being processed by the city.

**B. *Applicability.***

1. *Townhouse Unit Lot Development.* The provisions of this chapter apply to the division of land for single-family attached dwelling developments in zones that allow this use. To use this process, a development shall have a minimum of two single-family attached units.

2. *Townhouse and Single-Family Detached Condominiums in Existence as of May 13, 2014.* The provisions of this section apply to single-family attached developments, and/or single-family detached condominium developments for which, as of the effective date of this chapter, either:

a. A condominium declaration and survey had been recorded pursuant to Chapter [64.34](#) RCW, in which all property owners apply to subdivide existing condominium dwelling units into unit lot subdivisions; or

b.

(1) A complete application for formal approval of a site development plan had been filed, and (2) the recording of a condominium declaration and survey had been deferred in anticipation of the adoption of this chapter, and (3) the application had been accepted by the city, and was still actively being processed by the city.

c. This chapter is not applicable to developments that include filing of a residential condominium under Chapter [64.34](#) RCW, Condominium Act; and provided all other requirements of Chapters [19.24](#) through [19.27](#) EMC and this title are met.



3. *Single-Family Detached and Cottage Housing.* This process may be used as an alternative to a conventional subdivision or short subdivision and shall be permitted in any residential zone allowing for the development of single-family detached dwellings. To use this process, developments shall contain at least two single-family detached dwellings.

C. *Site Plan Approval Required.* All developments using the unit lot process are required to submit a site plan for review and approval as part of the land division application. The site plan must demonstrate compliance with the applicable regulations of Chapters [19.24](#) through [19.27](#) EMC and this title.

D. *Conflict.* In the event of a conflict between this chapter and any other provisions of Chapters [19.24](#) through [19.26](#) and this title, the requirements of this chapter shall control. (Ord. 3774-20 § 5(O) (Exh. 3), 2020.)

### **19.27.020 Unit lot land division standards applicable to all developments.**

All applications for unit lot subdivisions or short subdivisions shall be considered under the following standards of Chapters [19.24](#) through [19.27](#) EMC and this title, where applicable:

- A. Chapter [19.25](#) EMC—General evaluation criteria applicable to unit lot subdivisions;
- B. Chapter [19.26](#) EMC—Land Division Development Standards;
- C. Chapter [19.06](#) EMC—Lots, Setbacks and Residential Densities, except as modified through EMC [19.06.080](#);
- D. Chapter [19.08](#) EMC—Residential Uses and Development Standards;
- E. Chapter [19.09](#) EMC—Multifamily Development Standards;
- F. Chapter [19.33](#) EMC—Streets, Sidewalks and Pedestrian Circulation;
- G. Chapter [19.34](#) EMC—Parking, Loading and Access Requirements;
- H. Chapter [19.35](#) EMC—Landscaping; and



I. All other requirements of Chapters [19.24](#) through [19.27](#) EMC and this title. (Ord. 3774-20 § 5(O) (Exh. 3), 2020.)

### **19.27.030 Unit lot land division standards—Townhouse/single-family attached.**

Development on individual unit lots within the unit lot subdivision need not conform to the minimum lot area or dimensional standards of Chapter [19.06](#) EMC; provided, that overall development of the parent site meets the development and design standards of the underlying zoning and the requirements of this section. There shall be no minimum required lot area for individual lots for attached dwellings; provided the area of the unit lot shall be large enough to contain the dwelling unit and any accessory structures, decks, fences, garages, driveways, private yard areas, parking, landscaping or other improvements that are accessory to the dwelling unit; provided further, so long as conforming to the approved site development plan, such accessory improvements may encroach upon or be located in an adjoining unit lot or common area pursuant to an appropriate easement. (Ord. 3774-20 § 5(O) (Exh. 3), 2020.)

### **19.27.040 Condominium developments existing as of the effective date of this chapter.**

Single-family attached and/or single-family detached dwelling developments existing at the time the ordinance codified in this chapter became effective may be subdivided into individual unit lots. The development as a whole shall meet development standards applicable at the time the development was approved. As a result of the unit lot subdivision, development on individual unit lots may be nonconforming as to some or all of the development standards of Chapters [19.24](#) through [19.27](#) EMC and this title as applied to the individual unit lot, except that any private open space for individual dwelling units shall be provided on the same lot as the dwelling unit it serves. The review authority shall have the authority to add reasonable conditions of approval that would make the development more closely conform to current landscaping and/or design standards. (Ord. 3774-20 § 5(O) (Exh. 3), 2020.)



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### **19.27.050 Unit lot standards—Single-family detached and cottage housing.**

All single-family detached and cottage housing developments involving a land division under this chapter shall be reviewed under additional standards in this title based on the type of housing proposed as follows:

A. Single-family detached development, except cottage housing:

1. EMC 19.08.020—Small lot single-family standards;
2. EMC 19.06.080(B)—Exceptions to minimum lot area, width, depth, frontage and lot coverage standards.

B. Cottage housing:

1. EMC 19.08.070—Cottage housing standards;
2. EMC 19.06.080(B)—Exceptions to minimum lot area, width, depth, frontage and lot coverage standards. (Ord. 3774-20 § 5(O) (Exh. 3), 2020.)

### **19.27.060 Ownership of common areas.**

Portions of the parent site not subdivided for individual unit lots or not dedicated to the city as public streets or public utility systems shall be owned in common by the owners of the individual lots within the subdivision, or by a homeowners' association comprised of the owners of the individual unit lots within the subdivision. (Ord. 3774-20 § 5(O) (Exh. 3), 2020.)

### **19.27.070 Development and design standards.**

Except as otherwise provided in this chapter, all unit lot subdivisions shall comply with the applicable development and design standards of Chapters [19.08](#), [19.09](#) and [19.12](#) EMC. (Ord. 3774-20 § 5(O) (Exh. 3), 2020.)



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**19.27.080 Single-family attached—Commencement of construction, final land division approval.**

A. For single-family attached unit lot land divisions, site development and building construction may commence upon approval of a development plan, but prior to final land division approval and recording; provided, that all applicable permits and approvals have been obtained by the applicant. However, no dwelling unit or unit lot may be sold, transferred, occupied or conveyed prior to final subdivision approval and recording.

B. The city is authorized to approve changes between the preliminary and final land division approval; provided, that no change shall be allowed that does not fully comply with the applicable requirements of Chapters [19.24](#) through [19.27](#) EMC and this title. (Ord. 3774-20 § 5(O) (Exh. 3), 2020.)

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## Chapter 19.28

### HISTORIC RESOURCES

#### Sections:

19.28.010	Purpose.
19.28.020	Historic overlay zone designation.
19.28.030	Establishment of historic overlay zone boundaries.
19.28.040	Effect of historic overlay zone designation.
19.28.050	Construction or alteration of structures within historic overlay zone.
19.28.060	Neighborhood conservation guidelines.
19.28.070	Permitted uses and deviations.
19.28.080	Actions subject to review by the Everett historical commission.
19.28.090	Actions subject to administrative review.
19.28.100	Use of neighborhood conservation guidelines and historic overlay zone standards.
19.28.110	Roof lines.
19.28.120	Appeal to the hearing examiner.
19.28.130	Everett register of historic places.
19.28.140	Changes to properties on Everett register of historic places.
19.28.150	Review and monitoring of properties for special property tax valuation.

#### 19.28.010 Purpose.

The historic overlay zone applies to several historic neighborhoods by designating certain areas as historic overlay zones with regulations and guidelines governing the alteration of a place or structure that has been designated as a contributing historic building.

Many historic resources are identified in Everett by listing on one or more of the following historic registers: Everett register of historic places, Washington State Heritage Register, and the National Register of Historic Places. The process for designating historic overlay zones, inclusion on the Everett register of historic places and the role of the Everett historical commission is described in this chapter. (Ord. 3774-20 § 5(P) (Exh. 3), 2020.)



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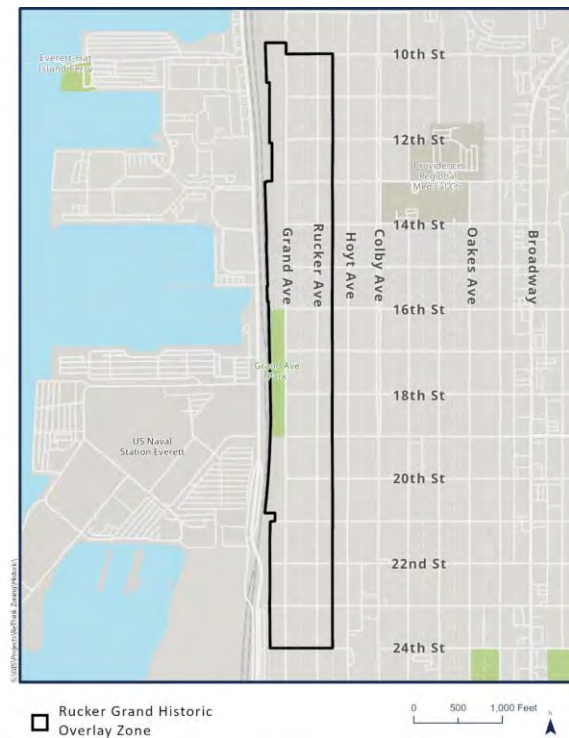
**19.28.020 Historic overlay zone designation.**

The proposal to include a specific area or property within an historic overlay zone (existing or new) may be initiated by the city or property owner(s). The proposal shall include a map of the proposed boundaries and a city-approved inventory of the contributing structures within the proposed boundaries that were built more than fifty years ago which retain the original style and architectural qualities that contribute to the historic character of the neighborhood. The Everett historical commission shall review the historic overlay zone proposal and make a recommendation to the planning commission who will then forward a recommendation to the city council, based upon the following:

- A. The property proposed to be included within an existing historic overlay zone is listed in at least one of the following city-approved inventories, surveys or local register: historic resource survey Everett, Washington, 2002; Everett register of historic places; Rucker/Grand historic overlay district inventory, 1992; Norton/Grand historic overlay district inventory, 2001; Norton/Grand historic overlay district inventory, 2009 expansion; Riverside neighborhood historic overlay district inventory, 2006; Everett Claremont neighborhood survey, 2014.
- B. The property is adjacent to an area already within an historic overlay zone or adjacent to property listed on the Everett historic resource survey or the Everett register of historic places, or may be an entirely new area of the city with a concentration of historic structures and inclusion of the property in an historic overlay zone is necessary to afford protection to historic properties and promote compatibility between buildings and developments.
- C. The proposal to be included within an historic overlay zone has been reviewed by the Everett historical commission with a recommendation to approve, disapprove or modify the request. If the historical commission recommends modifying the proposed historic overlay zone boundaries, it shall include in its findings a list of the factors, including policies in the comprehensive plan. (Ord. 3774-20 § 5(P) (Exh. 3), 2020.)

**19.28.030 Establishment of historic overlay zone boundaries.****Map 28-1: Rucker/Grand Historic Overlay Zone**





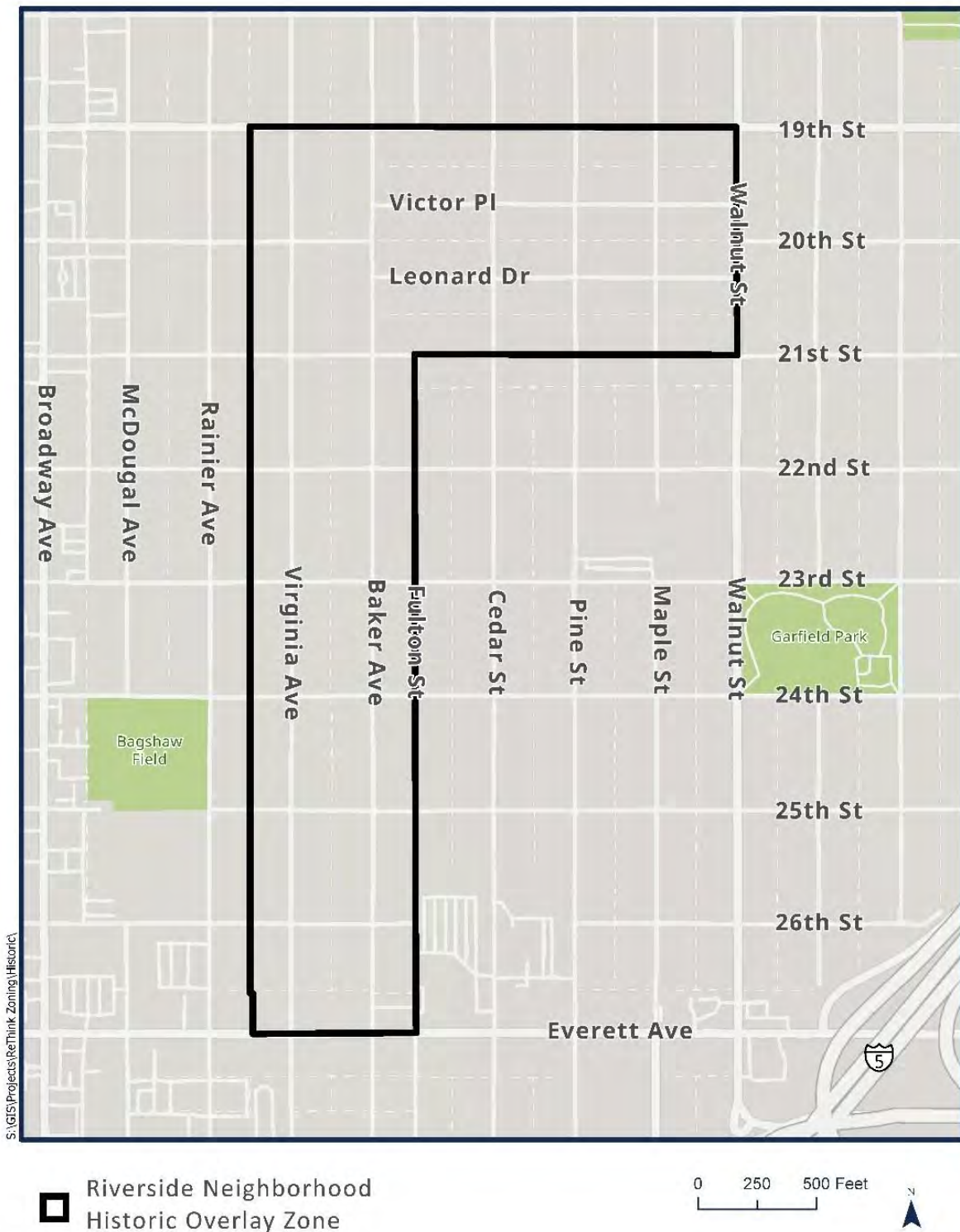
**Map 28-2: Norton/Grand Historic Overlay Zone**





**Map 28-3: Riverside Neighborhood Historic Overlay Zone**





(Ord. 3774-20 § 5(P) (Exh. 3), 2020.)



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**19.28.040 Effect of historic overlay zone designation.**

Designation of an historic overlay zone will have the following effects:

- A. No feature identified as a contributing structure may be altered except as provided in EMC [19.28.050](#) and [19.28.070](#).
- B. The other requirements of this title apply to the subject property unless they conflict with a specific provision of this chapter. Where a conflict exists, the provisions of the historic overlay zone will govern. (Ord. 3774-20 § 5(P) (Exh. 3), 2020.)

**19.28.050 Construction or alteration of structures within historic overlay zone.**

The city will review any new construction or proposed alteration to a contributing structure within an historic overlay zone using the following criteria:

- A. The magnitude of the impact of the construction or proposed alteration to the site, structure or district;
- B. The reasonableness of the proposed alteration in light of other alternatives available to achieve the objectives of the applicant;
- C. The extent to which the proposed alteration may be necessary to meet the requirements of any other law, statute, ordinance, regulation, code or ordinance;
- D. Any other relevant standards or guidelines adopted by the city. (Ord. 3774-20 § 5(P) (Exh. 3), 2020.)

**19.28.060 Neighborhood conservation guidelines.**

The neighborhood conservation guidelines, historic overlay zone standards, and other development regulations are to be used in the review of construction and development within designated historic overlay zones. The neighborhood conservation guidelines may be amended as necessary by the planning director, following recommendation from the historical



commission, to further the goal of preserving the historic character of the neighborhood. The city shall maintain photographs and illustrations of developments or design elements that are consistent with the neighborhood conservation guidelines. (Ord. 3774-20 § 5(P) (Exh. 3), 2020.)

### **19.28.070 Permitted uses and deviations.**

A. *Permitted Uses.* All properties located within the historic overlay zone shall be permitted to have the same uses as permitted in the underlying zoning district, except where this chapter specifies exceptions to the requirements of the underlying zone.

B. *Deviations.* An applicant may propose, and after review and recommendation by the historical commission, the planning director may allow an applicant to deviate from certain development standards contained in the neighborhood conservation guidelines and historic overlay zone standards, provided the proposal satisfies the evaluation criteria of this subsection. This process differs from the variance procedure in that rather than approval being based upon unusual circumstances or a physical hardship, it is based upon the quality of the proposed design. This alternative process is intended to promote well-designed and innovative housing which may not strictly comply with the established standards and guidelines, but which meets the intent of the standards and guidelines. In evaluating such a proposal, the planning director, using the historical commission's recommendation as a guide, shall determine if the alternative design provides equivalent or superior results than compliance with the established standards and guidelines.

1. *What Can Be Changed.*

- a. Historic overlay zone guidelines.
- b. Roof pitch.
- c. Building modulation.

2. *Basis for Deviation.* The applicant, if requesting a deviation from standards for either a multifamily or single-family development, shall provide plans and a written narrative describing the deviation request to the historical commission for review. The plans and narrative shall provide the historical commission with sufficient detail to determine if the proposed development will provide a project equivalent or superior to what would result



from compliance with the neighborhood conservation guidelines and historic overlay zone standards. The historical commission shall make their recommendations to the planning director based on the following criteria:

- a. Unique characteristics of the property and surroundings and how they will be protected or enhanced by the deviation;
- b. Positive characteristics of the proposed development and whether such characteristics could be provided by compliance with the standards and guidelines;
- c. Whether proposed design mitigates impacts that could be caused by deviation from the standards. (Ord. 3774-20 § 5(P) (Exh. 3), 2020.)

### **19.28.080 Actions subject to review by the Everett historical commission.**

A. The following actions within designated historic overlay zones which require building permits for exterior work shall be subject to review of the historical commission using relevant regulations and the historic overlay zone neighborhood conservation guidelines. All decisions of the historical commission relative to building permits shall constitute recommendations to the planning director consistent with the city's REV I or REV II processes as specified in EMC Title [15](#).

1. Demolition of a building identified as a contributing structure;
2. Additions of more than one hundred fifty square feet to a contributing structure;
3. Conversion of a single-family or two-dwelling unit contributing structure to a building with three or more dwelling units;
4. Construction of any new residential building with three or more dwelling units, or a detached accessory dwelling;
5. Construction of a new clinic, commercial building, or place of worship.
6. An accessory dwelling when not located entirely within an existing principal dwelling.



B. Consistent with the special valuation program described in Chapter [84.26](#) RCW, the historical commission is the designated local review board to review applications and execute an agreement with the applicant if approved. (Ord. 3963-23 § 8, 2023; Ord. 3774-20 § 5(P) (Exh. 3), 2020.)

### **19.28.090 Actions subject to administrative review.**

All actions which are not specified in EMC [19.28.080](#) shall be subject to administrative review by planning staff utilizing the city's REV I process as specified in EMC Title [15](#). (Ord. 3774-20 § 5(P) (Exh. 3), 2020.)

### **19.28.100 Use of neighborhood conservation guidelines and historic overlay zone standards.**

In reviewing any proposed action, the historical commission, planning director and staff shall use the neighborhood conservation guidelines, historic overlay zone standards and other applicable development standards as the basis for approving or modifying any proposed construction plans. (Ord. 3774-20 § 5(P) (Exh. 3), 2020.)

### **19.28.110 Roof lines.**

All new buildings shall feature roofs which slope a minimum of six-to-twelve vertical-to-horizontal ratio, and a maximum of twelve-to-twelve vertical-to-horizontal ratio, except that detached garages, and building additions of less than two hundred square feet, are not required to meet this pitch if the design is compatible with the existing structure. (Ord. 3774-20 § 5(P) (Exh. 3), 2020.)

### **19.28.120 Appeal to the hearing examiner.**

Any decision of the planning director or designee in applying the neighborhood conservation guidelines and the historic overlay zone standards shall be subject to appeal to the land use



hearing examiner. Appeals shall be filed in accordance with the provisions of EMC Title [15](#). (Ord. 3774-20 § 5(P) (Exh. 3), 2020.)

### **19.28.130 Everett register of historic places.**

A. *Criteria for Placement on the Everett Register.* Any building, structure, site, object or district may be designated for inclusion in the Everett register if it is significantly associated with the history, architecture, archaeology, engineering or cultural heritage of the community; if it has integrity; is at least fifty years old, or is of lesser age and has exceptional importance; and if it falls in at least one of the following categories:

1. Embodies the distinctive architectural characteristics of a type, period, style or method of design or construction, or represents a significant and distinguishable entity whose components may lack individual distinction;
2. Is associated with events that have made a significant contribution to the broad patterns of national, state or local history;
3. Is an outstanding work of a designer, builder or architect who has made a substantial contribution to the art;
4. Exemplifies or reflects special elements of the city's cultural, special, economic, political, aesthetic, engineering or architectural history;
5. Is associated with the lives of persons significant in national, state or local history;
6. Has yielded or may be likely to yield important archaeological information;
7. Is a building or structure removed from its original location, but is significant primarily for architectural value, or is the only surviving structure associated with an historic person or event;
8. Is a cemetery which derives its primary significance from age, from distinctive design features, or from association with historic events or cultural patterns;
9. Is a reconstructed building constructed in an historically accurate manner on the original site;



10. Is a creative and unique example of old architecture and design created by persons not formally trained in the architectural or design professions, and which does not fit into formal architectural or historical categories.

*B. Process for Designating Properties or Districts to the Everett Register.*

1. Any person may nominate a building, structure, site, object or district for inclusion in the Everett register. Members of the Everett historical commission may submit nominations. In its designation decision, the commission shall consider the Everett historic resource survey and the Everett comprehensive plan.
2. In the case of individual properties, the designation shall include the complete address and all features including outbuildings which contribute to its designation.
3. In the case of Everett register district, the designation shall include description of the boundaries of the district; the characteristics of the district which justify its designation; and a list of all properties including features, structures, sites and objects which contribute to the designation of the district.
4. The Everett historical commission shall consider the merits of the nomination at a public hearing. If the commission finds that the nominated property is eligible for the Everett register of historic places, the commission shall make recommendations to the city council that the property be listed in the register. The public, property owner(s) and the authors of the nomination, if different, and lessees, if any, shall be notified of the listing.
5. Inclusion into the Everett register of historic places requires owner approval. Everett register historic districts require approval by owners of a majority of the properties in the proposed district.
6. Compliance with the Everett historical commission's advice on proposed changes to the historic register properties is voluntary. But if the building is altered to destroy its historical and architectural significance, then the property would be taken off the register and would lose its special valuation status.

*C. Removal of Properties from the Register.* In the event that any property is no longer deemed appropriate for designation to the Everett register of historic places, the commission or property owner may initiate removal from such designation by the same procedure as provided for in establishing the designation, subsection [\(B\)](#) of this section.



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D. *Effects of Listing on the Register.*

1. Listing on the Everett register of historic places is an honorary designation denoting significant association with the historic, archaeological, engineering or cultural heritage of the community.
2. Prior to the commencement of any work on a register property, excluding painting, and emergency measures, the owner must request a certificate of appropriateness from the commission for the proposed work. Violation of this rule shall be grounds for the commission to review the property for removal from the register.
3. As a certified local government (CLG), the commission may grant special tax valuation for the rehabilitation of properties listed on the Everett register of historic places.
4. Prior to whole or partial demolition of a register property, the property owner must request and receive a waiver of a certificate of appropriateness. (Ord. 3774-20 § 5(P) (Exh. 3), 2020.)

### **19.28.140 Changes to properties on Everett register of historic places.**

A. *Review Required.* No person shall change the use, construct any new building or structure, or reconstruct, alter, restore, remodel, repair, move or demolish any existing property on the register without review by the historical commission and issuance of a certificate of appropriateness, or in the case of demolition a waiver as a result of the review. The review shall apply to all features of the property that contribute to its designation as identified on the nomination form.

B. *Exemption.* This section shall have no application to ordinary repair and maintenance, including painting, nor to emergency repairs.

C. *Review Process.*

1. *Requests for Review and Issuance of a Certificate of Appropriateness or Waiver.* The building official shall report any application for a permit to work on a designated Everett register property to the commission staff, who shall notify the applicant of the commission review requirements. The commission shall review the application for certificate of appropriateness or waiver prior to the building official granting a permit. Any conditions



agreed to by the applicant in this review process shall become conditions of approval of the permits granted. If conditions are not met, the certificate of appropriateness may be revoked or, in the case of a waiver involving demolition, the city may take such action it deems appropriate including issuance of stop-work orders and/or suspension of permits.

2. *Commission Review.* The owner or their agent shall apply to the commission for a review of the proposed changes to a register property or within a register historic district and request a certificate of appropriateness or, in the case of demolition, a waiver. Each application for review of proposed changes shall be accompanied by such information as is required by the commission established in its rules for the proper review of the proposed project.

3. *Commission Procedures.* The commission shall meet with the applicant and review the proposed work according to the requirements set forth in this chapter, and, in the case of reconstruction, alteration, restoration, remodel, repair or moving, the design review criteria established in the Washington State Advisory Council's Standards for Rehabilitation and Maintenance of Historic Properties. The commission's recommendation shall state the findings of fact and reasons relied upon in reaching its decision. Any conditions agreed to by the applicant in this review process shall become conditions of approval of the permits granted. The decision concerning the granting or denial of a certificate of appropriateness shall be made by the planning director on the advice of the commission according to the standards established in the commission's rules. Once a decision is rendered, it shall be transmitted to the building official. The building official may then issue the permit provided the proposed work meets all other appropriate regulations.

4. *Demolition.* A waiver of the certificate of appropriateness is required before a permit may be issued to allow whole or partial demolition of a designated Everett register property. The owner or their agent shall apply to the commission for review of the proposed demolition and request a waiver. When there is no feasible alternative to demolition, then either the significant historic character defining features should be saved and incorporated as part of the new design, or the new design should, in some measure, preserve or recognize the historic character or provide reasonable mitigation. The commission shall make a recommendation to the city council. The commission may recommend that: (a) the waiver be granted; (b) the waiver be granted with conditions; or (c) the waiver be denied. In addition, the commission may recommend that the property be removed from the register upon demolition. Conditions, in the case of a recommendation



waiving a certificate of appropriateness involving demolition, may include a recommendation that the owner provide reasonable mitigation for the loss of the Everett register property. Reasonable mitigation for the loss may include a demolition that: (1) saves significant facade features and incorporates them into the design of the structure; (2) incorporates identified character defining features into the design of the new structure; or (3) such other alternatives found acceptable to the historical commission or the city council. (Ord. 3774-20 § 5(P) (Exh. 3), 2020.)

### **19.28.150 Review and monitoring of properties for special property tax valuation.**

- A. The class of properties eligible for special valuation shall be limited to properties listed on the Everett register of historic places.
- B. Applications for special property tax valuation in connection with substantial improvement of historic properties, as defined in Chapter [84.26](#) RCW, shall be submitted to the commission by the county assessor within ten days of filing.
- C. The commission shall approve applications for special valuation if the property meets the provisions of Chapter [84.26](#) RCW and is not altered in a way which adversely affects those elements which contribute to its designation and the owner(s) enters into an agreement with the commission which requires the owner(s) for the ten-year period of classification to:
1. Monitor the property for its continued qualification for special valuation;
  2. Comply with rehabilitation plans and maintenance as defined in the agreement;
  3. Make the historic aspects of the property accessible to public view one day a year, if the property is not visible from the public right-of-way;
  4. Apply to the commission for approval or denial of any demolition or alteration; and
  5. Comply with all other provisions in the original agreement.
- D. Owners of Everett register properties that have been granted special valuation must execute an historic preservation agreement with the city. This agreement covers the owner's



obligation for maintenance, repair or alteration of the historic structure. Any breach of this historic preservation agreement may result in the loss of special valuation.

E. Once an agreement between an owner and the commission has become effective, there shall be no changes in standards of maintenance, public access, alteration or report requirements, or any other provisions of the agreement, during the period of the classification without the approval of all parties to the agreement.

F. An application for classification as an eligible historic property shall be approved or denied by the commission before December 1st of the calendar year in which the application is made.

G. The commission shall notify the county assessor and the applicant of the approval or denial of the application.

H. If the commission determines that the property qualifies as an eligible historic property, the commission shall certify the fact in writing and shall file a copy of the certificate with the county assessor within ten days of the determination and no later than December 31st.

I. Any decision of the commission acting as the local review board on any application for classification as historic property, eligibility for special valuation, may be appealed to superior court. (Ord. 3774-20 § 5(P) (Exh. 3), 2020.)

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## Chapter 19.29

### PLANNED DEVELOPMENT OVERLAY

#### Sections:

<b>19.29.010</b>	<b>User guide.</b>
<b>19.29.020</b>	<b>Review process.</b>
<b>19.29.030</b>	<b>Minimum lot area.</b>
<b>19.29.040</b>	<b>Modification of permitted uses.</b>
<b>19.29.050</b>	<b>Modification of development standards.</b>
<b>19.29.060</b>	<b>Planned development overlay approval.</b>
<b>19.29.080</b>	<b>Final development plan.</b>
<b>19.29.120</b>	<b>Final development plan—Amendments permitted.</b>
<b>19.29.130</b>	<b>Mutual safeguards.</b>
<b>19.29.140</b>	<b>Conflict.</b>

#### **19.29.010 User guide.**

This chapter establishes a mechanism for a property owner to propose a residential, commercial, industrial, or mixed-use development that is innovative or otherwise beneficial to the community but which does not strictly comply with the provisions of the zone in which the property is located. This mechanism is called a planned development overlay (“PDO”) and is intended to promote high quality developments which benefit the city more than would a development which complies with the specific requirements of this title, while allowing greater flexibility in the design of such developments. The criteria to be used in determining a proposed planned development’s quality are listed in EMC [19.29.050\(C\)](#). (Ord. 3774-20 § 5(Q) (Exh. 3), 2020.)

#### **19.29.020 Review process.**

All proposals for a PDO shall be reviewed using the review process as described in EMC Title [15](#), Local Project Review Procedures. (Ord. 3774-20 § 5(Q) (Exh. 3), 2020.)



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**19.29.030 Minimum lot area.**

The minimum lot area required for property proposed for a PDO shall be:

- A. MU zone—one acre;
- B. LI2 zone—twenty acres;
- C. HI zone—five acres;
- D. Residential zones—one acre;
- E. All other commercial or industrial zones—two acres. (Ord. 3774-20 § 5(Q) (Exh. 3), 2020.)

**19.29.040 Modification of permitted uses.**

A. *Residential Use.*

- 1. Residential use may not be allowed in industrial zones through the PDO process.
- 2. Up to four units of attached housing may be allowed in single-family zones.
- 3. Multifamily is allowed only as set forth in Chapter [19.05](#) EMC.
- 4. On-site recreational and community facilities are allowed in all residential zones.

B. *Nonresidential Uses.*

- 1. The planned development overlay may allow nonresidential uses which are not otherwise permitted in the underlying use zone only under one or more of the following circumstances:
  - a. The use shall be part of a planned development in which not more than twenty-five percent of the gross floor area of the development is devoted to a use which is not otherwise permitted in the underlying use zone.
  - b. The use shall be supportive of and/or complementary to the other uses within a planned development.
  - c. The use shall be compatible with the uses permitted in the surrounding area.



- d. There is public benefit to be realized by allowing the proposed use.
2. Nonresidential uses may be located within the residentially zoned portion of a planned development when the proposed development includes residential use as an integral component of the planned development and when nonresidential uses are situated and developed in such a manner as to be compatible with any residential uses that are existing or which could be developed in the adjoining residentially zoned area. (Ord. 3774-20 § 5(Q) (Exh. 3), 2020.)

### **19.29.050 Modification of development standards.**

A. The city, using the planned development overlay, may allow the following development standards to be modified:

1. Building setbacks;
2. Height of building or structure;
3. Required off-street parking spaces;
4. Landscaping requirements;
5. Sign requirements;
6. Standards specified in the special regulations or footnotes of the use tables (Chapter [19.05](#) EMC);
7. Lot size;
8. Lot width;
9. Design and development standards contained in this title;
10. Residential increase of up to fifteen percent greater than the density would be allowed pursuant to Chapter [19.06](#) EMC without the planned development overlay if:
  - a. The design quality of the development offsets the impact of the increase in density;
  - and



- b. The increase in density is compatible with existing uses in the immediate vicinity of the subject property.

B. Standards which may not be modified or altered are:

1. Shoreline regulations when the property is located in an area under the jurisdiction of the Everett shoreline master program;
2. Standards pertaining to development in critical areas or floodplains;
3. Regulations pertaining to nonconforming uses.

C. *Basis for Approval of Alternative Development Standards.* Approval of alternative development standards using the planned development overlay differs from the variance procedure described in Chapter [19.41](#) EMC in that rather than being based upon a hardship or unusual circumstance related to a specific property, the approval of alternative development standards proposed by a planned development shall be based upon the quality of the development plan and the criteria listed in this subsection. In evaluating a planned development which proposes to modify the development standards of the underlying use zone, the city shall consider and base its findings upon the ability of the proposal to satisfy the following criteria:

1. The quality of the proposed development and its compatibility with surrounding properties, especially related to:
  - a. Landscaping and buffering of buildings, parking, loading and storage areas;
  - b. Public safety;
  - c. Site access, on-site circulation and off-street parking;
  - d. Light and shadow impacts;
  - e. Number, size and location of signs;
  - f. Generation of nuisance irritants such as noise, smoke, dust, odor, glare, vibration or other undesirable impacts;
  - g. Architectural design of buildings and harmonious use of materials;
2. The unique characteristics of the subject property;



3. The unique characteristics of the proposed use(s);
4. The arrangement of buildings and open spaces as they relate to various uses within or adjacent to the planned development;
5. Visual impact of the planned development upon the surrounding area;
6. Public improvements proposed in connection with the planned development;
7. Preservation of unique natural features of the property;
8. The public benefit derived by allowing the proposed alteration of development standards. (Ord. 3774-20 § 5(Q) (Exh. 3), 2020.)

### **19.29.060 Planned development overlay approval.**

#### *A. Planning Commission Action.*

1. A public hearing, pursuant to EMC Title [15](#), shall be conducted by the planning commission, which shall make its decision based upon all information provided in the application materials and/or presented at the public hearing.
2. The planning commission, after reviewing the evidence, shall take formal action in writing either approving the proposal as presented, approving subject to certain specific modifications, or disapproving it.
3. The action of the planning commission is a recommendation to the city council.

#### *B. City Council Action.*

1. A planned development overlay must be approved by the city council, following a public hearing.
2. After approval from city council, a planned development overlay may proceed to final development plan approval as set forth in EMC [19.29.080](#).

#### *C. Zoning Map.*



1. A planned development overlay approved by city council shall be noted on the official zoning map.
2. In the event that the final development plan is not submitted for approval as set forth in EMC [19.29.080](#), the planning director shall remove the planned development overlay from the official zoning map. (Ord. 3774-20 § 5(Q) (Exh. 3), 2020.)

### **19.29.080 Final development plan.**

A. *Procedure.* The final development plan shall consist of elements presented for preliminary approval. The procedure involved in final approval shall consist of the following:

1. The final development plan shall be submitted to the planning department.
2. The planning staff shall review the final development plan to see that it is in substantial compliance with the previously approved preliminary development plan.
3. All schematic drawings presented in the preliminary development stage shall be presented in detailed form, i.e., landscaping, circulation, utilities, building location, etc.
4. If the final plan is in substantial compliance with the approved preliminary plan, it shall be approved by the planning director using the review process as described in EMC Title [15](#), Local Project Review Procedures.

B. *Time Limit for Submission.*

1. Within a period of three years following the approval of the preliminary development plan by city council or such other time frame established, the applicant shall file with the planning department a final development plan.
2. *Extension.* The planning director, for good cause, may extend for one year the period for filing of the final development plan.

C. *Failure to Submit.* If the applicant fails to apply for final approval for any reason within the time specified in subsection [\(B\)](#) of this section, the rezone shall become void. All future land uses or site development shall be subject to the requirements of the underlying use zone



unless a new application for a planned development is submitted and approved. (Ord. 3774-20 § 5(Q) (Exh. 3), 2020.)

### **19.29.120 Final development plan—Amendments permitted.**

A. Minor changes in the location, siting, height of buildings and structures may be authorized by the director without additional public hearings if these changes were required by engineering or other circumstances not known at the time the preliminary plan was approved. No changes authorized by this section may cause any of the following:

1. A change in the use, intensity or character of the development;
2. An increase in the overall ground coverage of structures of more than ten percent;
3. A reduction in approved open space, off-street parking, or loading zones; or
4. A reduction in the public benefit provided by the approved plan.

B. Changes in uses, rearrangements of lots, blocks, buildings, tracts, or changes in the provision of common open space and changes other than listed above shall be reviewed by the city council following a recommendation from the planning commission, following the same notification and public hearing process as required for the original approval. Such amendments may be made only if they are shown to be in the best long-term interests of the community. (Ord. 3774-20 § 5(Q) (Exh. 3), 2020.)

### **19.29.130 Mutual safeguards.**

A. The city shall not impose additional Unified Development Code standards on a proposed planned development which has been given preliminary approval, even if code standards have been amended, provided a final development plan is submitted within the original three-year period or within the time period prescribed by the development agreement for final development plan submittal. If the applicant requests an extension of time, the city may impose additional standards on the preliminary planned development approval if such changes are based upon changes to the Unified Development Code or any other ordinances which have occurred since the original planned development approval was granted.



B. A plan submitted for final approval shall be deemed to be in substantial compliance with the plan given preliminary approval, provided any modification by the applicant does not:

1. Increase the residential density;
2. Reduce the area set aside for common open space;
3. Relocate the open space in a manner which makes it less accessible or usable to the public or the tenants of the development;
4. Reduce any of the landscape buffers in width or density of planting between the development and adjoining properties;
5. Change the point(s) of access to different streets;
6. Increase the total ground area covered by buildings or other impervious surfaces by more than ten percent;
7. Relocate buildings or impervious surfaces to areas designated as “critical areas”;
8. Fail to preserve trees or other unique natural features which were required to be preserved by the preliminary planned development approval. (Ord. 3774-20 § 5(Q) (Exh. 3), 2020.)

### **19.29.140 Conflict.**

If there is a conflict between this chapter and any other chapter of this title, the requirements of this chapter shall control. (Ord. 3774-20 § 5(Q) (Exh. 3), 2020.)

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## **Chapter 19.30**

### **FLOOD DAMAGE PREVENTION**

Sections:

<b>19.30.010</b>	<b>User guide and purpose.</b>
<b>19.30.020</b>	<b>Lands to which this chapter applies.</b>
<b>19.30.030</b>	<b>Basis for establishing the areas of special flood hazard.</b>
<b>19.30.040</b>	<b>Compliance.</b>
<b>19.30.050</b>	<b>Abrogation and greater restrictions.</b>
<b>19.30.060</b>	<b>Warning and disclaimer of liability.</b>
<b>19.30.080</b>	<b>Administration.</b>
<b>19.30.090</b>	<b>Provisions for flood hazard reduction.</b>
<b>19.30.100</b>	<b>Variances.</b>
<b>19.30.300</b>	<b>Standards for coastal high hazard areas (V zones).</b>
<b>19.30.310</b>	<b>Density fringe area.</b>
<b>19.30.320</b>	<b>Density fringe area—Maximum allowable density.</b>
<b>19.30.330</b>	<b>Density fringe area—Maximum allowable obstruction.</b>
<b>19.30.340</b>	<b>Density fringe area—Exceptions to maximum allowable density and obstruction limitations.</b>
<b>19.30.350</b>	<b>Density fringe area—Recording required when density and obstruction allowances are increased.</b>
<b>19.30.360</b>	<b>Density fringe area—General provisions.</b>
<b>19.30.370</b>	<b>Density fringe area—Permitted uses.</b>
<b>19.30.380</b>	<b>Density fringe area—Prohibited uses.</b>
<b>19.30.400</b>	<b>Definitions.</b>

#### **19.30.010 User guide and purpose.**

The legislature of the state of Washington has delegated the responsibility to local communities to adopt floodplain management regulations designed to promote the public health, safety, and general welfare of its citizenry.



The flood hazard areas of Everett are subject to periodic inundation, which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

These flood losses may be caused by the cumulative effect of obstructions in areas of special flood hazards that increase flood heights and velocities and, when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.

It is the purpose of this chapter to promote the public health, safety, and general welfare; reduce the annual cost of flood insurance; and minimize public and private losses due to flood conditions in specific areas by provisions designed to protect human life and health; minimize expenditure of public money for costly flood control projects; minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public; minimize prolonged business interruptions; minimize damage to public facilities and utilities, such as water and gas mains; electric, telephone, and sewer lines; and streets and bridges located in flood hazard areas; help maintain a stable tax base by providing for the sound use and development of flood hazard areas so as to minimize blight areas caused by flooding; notify potential buyers that the property is in a special flood hazard area; notify those who occupy flood hazard areas that they assume responsibility for their actions; and participate in and maintain eligibility for flood insurance and disaster relief. (Ord. 3766-20 § 9 (Exh. A), 2020.)

### **19.30.020 Lands to which this chapter applies.**

This chapter shall apply to all special flood hazard areas within the boundaries of Everett. (Ord. 3766-20 § 9 (Exh. A), 2020.)

### **19.30.030 Basis for establishing the areas of special flood hazard.**

The special flood hazard areas identified by the Federal Insurance Administrator in a scientific and engineering report entitled "The Flood Insurance Study (FIS) for Snohomish County, Washington and Incorporated Areas" dated June 19, 2020, and any revisions thereto, with



accompanying flood insurance rate maps (FIRMs) dated June 19, 2020, and any revisions thereto, are hereby adopted by reference and declared to be a part of this chapter. The FIS and the FIRM are on file at 2930 Wetmore Avenue, Everett, WA 98201.

The best available information for flood hazard area identification as outlined in EMC 19.30.080.C.2. shall be the basis for regulation until a new FIRM is issued that incorporates data utilized under EMC 19.30.080.C.2. (Ord. 3766-20 § 9 (Exh. A), 2020.)

#### **19.30.040 Compliance.**

All development within special flood hazard areas is subject to the terms of this chapter and other applicable regulations. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Enforcement of the provisions of this chapter shall be performed in accordance with the procedures established in Chapter [1.20](#) EMC. (Ord. 3766-20 § 9 (Exh. A), 2020.)

#### **19.30.050 Abrogation and greater restrictions.**

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 3766-20 § 9 (Exh. A), 2020.)

#### **19.30.060 Warning and disclaimer of liability.**

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of Everett, any officer or employee thereof, or the Federal Insurance



Administration for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder. (Ord. 3766-20 § 9 (Exh. A), 2020.)

## **19.30.080 Administration.**

### *A. Establishment of Development Permit.*

1. *Development Permit Required.* A development permit shall be obtained before construction or development begins within any area of special flood hazard established in EMC [19.30.030](#). The permit shall be for all structures, including manufactured homes, as set forth in EMC [19.30.400](#), Definitions, and for all development, including fill and other activities, also as set forth in EMC [19.30.400](#), Definitions.

2. *Application for Development Permit.* Application for a development permit shall be made on forms furnished by the floodplain administrator and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question, and existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- a. Elevation, in relation to mean sea level, of the lowest floor (including basement) of all structures recorded on a current elevation certificate with Section B completed by the floodplain administrator;
- b. Elevation in relation to mean sea level to which any structure has been floodproofed;
- c. Where a structure is to be floodproofed, certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet floodproofing criteria in EMC 19.30.090.B.2;
- d. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development;
- e. Where a structure is proposed in a VE zone, a V-zone design certificate;



- f. Where development is proposed in a floodway, an engineering analysis indicating no rise of the base flood elevation; and
- g. Any other such information that may be reasonably required by the floodplain administrator in order to review the application.

B. *Designation of the Floodplain Administrator.* The planning director is hereby appointed to administer, implement, and enforce this chapter by granting or denying development permits in accordance with its provisions. The planning director may delegate authority to implement these provisions.

C. *Duties and Responsibilities of the Floodplain Administrator.*

1. Duties of the floodplain administrator shall include, but not be limited to, the review of all development permits to determine that:

- a. The permit requirements of this chapter have been satisfied;
- b. All other required state and federal permits have been obtained;
- c. The site is reasonably safe from flooding;
- d. The proposed development is not located in the floodway. If located in the floodway, assure the encroachment provisions of EMC 19.30.090.D.1 (No Rise Standard) are met;
- e. Notify FEMA when annexations occur in the special flood hazard area.

2. *Use of Other Base Flood Data (In A and V Zones).* When base flood elevation data has not been provided (in A or V zones) in accordance with EMC [19.30.030](#), Basis for establishing the areas of special flood hazard, the floodplain administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source in order to administer EMC 19.30.090.B, Specific Standards, and 19.30.090.D, Floodways.

3. *Information to Be Obtained and Maintained.*

- a. Where base flood elevation data is provided through the FIS, FIRM, or required as in subsection C.2 of this section, obtain and maintain a record of the actual (as-built) elevation (in relation to mean sea level) of the lowest floor (including basement) of all



new or substantially improved structures, and whether or not the structure contains a basement.

b. Obtain and maintain documentation of the elevation of the bottom of the lowest horizontal structural member in V or VE zones.

c. For all new or substantially improved floodproofed nonresidential structures where base flood elevation data is provided through the FIS, FIRM, or as required in subsection C.2 of this section.

(1) Obtain and maintain a record of the elevation (in relation to mean sea level) to which the structure was floodproofed.

(2) Maintain the floodproofing certifications required in subsection A.2.c of this section.

d. Certification required by EMC 19.30.090.D.1 (No Rise Standard).

e. Records of all variance actions, including justification for their issuance.

f. Improvement and damage calculations.

g. Maintain for public inspection all records pertaining to the provisions of this chapter.

4. *Alteration of Watercourse.* Whenever a watercourse is to be altered or relocated:

a. Notify adjacent communities and the Department of Ecology prior to such alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administrator through appropriate notification means;

b. Assure that the flood-carrying capacity of the altered or relocated portion of said watercourse is maintained.

5. *Review of Building Permits.* Where elevation data is not available either through the FIS, FIRM, or from another authoritative source (subsection C.3 of this section), applications for floodplain development shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available.



6. *Changes to Special Flood Hazard Area.*

a. If a project will alter the BFE or boundaries of the SFHA, then the project proponent shall provide the community with engineering documentation and analysis regarding the proposed change. If the change to the BFE or boundaries of the SFHA would normally require a letter of map change, then the project proponent shall initiate, and receive approval of, a conditional letter of map revision (CLOMR) prior to approval of the development permit. The project shall be constructed in a manner consistent with the approved CLOMR.

b. If a CLOMR application is made, then the project proponent shall also supply the full CLOMR documentation package to the floodplain administrator to be attached to the floodplain development permit, including all required property owner notifications.

D. *Enforcement.* The provisions of this chapter shall be enforced pursuant to EMC [19.41.030](#) and Chapter [1.20](#) EMC. (Ord. 3766-20 § 9 (Exh. A), 2020.)

## **19.30.090 Provisions for flood hazard reduction.**

A. *General Standards.* In all areas of special flood hazards, the following standards are required:

1. *Anchoring.*

a. All new construction and substantial improvements, including those related to manufactured homes, shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

b. All manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors. For more detailed information, refer to guidebook, FEMA-85, "Manufactured Home Installation in Flood Hazard Areas."

2. *Construction Materials and Methods.*



- a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- c. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

3. *Utilities.*

- a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems;
- b. Water wells shall be located on high ground that is not in the floodway;
- c. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters;
- d. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding, and in accordance with requirements of the Snohomish Health District.

4. *Subdivision Proposals and Development.* All subdivisions, as well as new development shall:

- a. Be consistent with the need to minimize flood damage;
- b. Have public utilities and facilities, such as sewer, gas, electrical, and water systems, located and constructed to minimize or eliminate flood damage;
- c. Have adequate drainage provided to reduce exposure to flood damage;
- d. Where subdivision proposals and other proposed developments contain greater than fifty lots or five acres (whichever is the lesser), base flood elevation data shall be included as part of the application.



B. *Specific Standards.* In all areas of special flood hazards where base flood elevation data has been provided as set forth in EMC [19.30.030](#), Basis for establishing the areas of special flood hazard, or EMC 19.30.080.C.2, Use of Other Base Flood Data (In A and V Zones), the following provisions are required:

1. *Residential Construction.*

- a. In AE and A1-30 zones or other A zoned areas where the BFE has been determined or can be reasonably obtained, new construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot or more above the BFE. Mechanical equipment and utilities shall be waterproof or elevated least one foot above the BFE.
- b. New construction and substantial improvement of any residential structure in an unnumbered A zone for which a BFE is not available and cannot be reasonably obtained shall be reasonably safe from flooding, but in all cases the lowest floor shall be at least two feet above the highest adjacent grade.
- c. New construction and substantial improvement of any residential structure in a V, V1-30, or VE zone shall meet the requirements in EMC [19.30.300](#).
- d. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs must meet or exceed the following minimum criteria:
  - (1) Have a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.
  - (2) The bottom of all openings shall be no higher than one foot above grade.
  - (3) Openings may be equipped with screens, louvers, valves, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters.
  - (4) A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry and exit of floodwaters.

Alternatively, a registered engineer or architect may design and certify engineered openings.



2. *Nonresidential Construction.* New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet the requirements of subsection B.2.a or b of this section.

a. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet all of the following requirements:

- (1) In AE and A1-30 zones or other A zoned areas where the BFE has been determined or can be reasonably obtained, new construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall have the lowest floor, including basement, elevated one foot or more above the BFE, or elevated as required by ASCE 24, whichever is greater. Mechanical equipment and utilities shall be waterproofed or elevated at least one foot above the BFE, or as required by ASCE 24, whichever is greater.
- (2) If located in an unnumbered A zone for which a BFE is not available and cannot be reasonably obtained, the structure shall be reasonably safe from flooding, but in all cases the lowest floor shall be at least two feet above the highest adjacent grade.
- (3) If located in a V, V1-30, or VE zone, the structure shall meet the requirements in EMC [19.30.300](#).
- (4) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
  - (A) Have a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.
  - (B) The bottom of all openings shall be no higher than one foot above grade.
  - (C) Openings may be equipped with screens, louvers, valves, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters.



(D) A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry and exit of floodwaters.

Alternatively, a registered engineer or architect may design and certify engineered openings.

b. If the requirements of subsection B.2.a. of this section are not met, then new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet all of the following requirements:

1. Be dry floodproofed so that below one foot or more above the base flood level the structure is watertight with walls substantially impermeable to the passage of water or dry floodproofed to the elevation required by ASCE 24, whichever is greater;
2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
3. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in EMC 19.30.080.C.3.b;
4. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection B.1.d of this section.

3. *Manufactured Homes.* All manufactured homes to be placed or substantially improved on sites shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot or more above the base flood elevation and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

4. *Recreational Vehicles.* Recreational vehicles placed on sites are required to:



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- a. Be fully licensed and ready for highway use, on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; and
  - b. Comply with EMC Title [17](#).
5. *Enclosed Area Below the Lowest Floor*. If buildings or manufactured homes are constructed or substantially improved with fully enclosed areas below the lowest floor, the areas shall be used solely for parking of vehicles, building access, or storage.
6. Appurtenant Structures (Detached Garages and Small Storage Structures). For A Zones (A, AE, A1-30, AH, AO):
- a. Appurtenant structures used solely for parking of vehicles or limited storage may be constructed such that the floor is below the BFE, provided the structure is designed and constructed in accordance with the following requirements:
    - (1) Use of the appurtenant structure must be limited to parking of vehicles or limited storage;
    - (2) The portions of the appurtenant structure located below the BFE must be built using flood resistant materials;
    - (3) The appurtenant structure must be adequately anchored to prevent flotation, collapse, and lateral movement;
    - (4) Any machinery or equipment servicing the appurtenant structure must be elevated or floodproofed to or above the BFE;
    - (5) The appurtenant structure must comply with floodway encroachment provisions in subsection D.1 of this section (No Rise Standard);
    - (6) The appurtenant structure must be designed to allow for the automatic entry and exit of floodwaters in accordance with subsection B.1.d of this section;
    - (7) The structure shall have low damage potential;
    - (8) If the structure is converted to another use, it must be brought into full compliance with the standards governing such use; and
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(9) The structure shall not be used for human habitation.

7. Detached garages, storage structures, and other appurtenant structures not meeting the above standards must be constructed in accordance with all applicable standards in subsection B.1 of this section.

8. Upon completion of the structure, certification that the requirements of this section have been satisfied shall be provided to the floodplain administrator for verification.

C. *AE and A1-30 Zones with Base Flood Elevations but No Floodways.* In areas with BFEs (but a regulatory floodway has not been designated), no new construction, substantial improvements, or other development (including fill) shall be permitted within zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

D. *Floodways.* Located within areas of special flood hazard established in EMC [19.30.030](#) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that can carry debris and increase erosion potential, the following provisions apply:

1. *No Rise Standard.* Prohibit encroachments, including fill, new construction, substantial improvements, and other development, unless certification by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge.

2. *Residential Construction in Floodways.* Construction or reconstruction of residential structures is prohibited within designated floodways, except for repairs, reconstruction, or improvements to a structure that do not increase the ground floor area; and repairs, reconstruction, or improvements to a structure, the cost of which does not exceed fifty percent of the market value of the structure, either before the repair or reconstruction is started or, if the structure has been damaged and is being restored, before the damage occurred. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to assure safe living



conditions, or to structures identified as historic places, may be excluded in the fifty percent.

3. *Substantially Damaged Residences in Floodway.*

a. For all substantially damaged residential structures, other than farmhouses, located in a designated floodway, the floodplain administrator may make a written request that the Department of Ecology assess the risk of harm to life and property posed by the specific conditions of the floodway. Based on analysis of depth, velocity, flood-related erosion, channel migration, debris load potential, and flood warning capability, the Department of Ecology may exercise best professional judgment in recommending to the local permitting authority repair, replacement, or relocation of a substantially damaged structure consistent with WAC [173-158-076](#). The property owner shall be responsible for submitting to the local government and the Department of Ecology any information necessary to complete the assessment. Without a favorable recommendation from the Department for the repair or replacement of a substantially damaged residential structure located in the regulatory floodway, no repair or replacement is allowed per WAC [173-158-070\(1\)](#).

b. Before the repair, replacement, or reconstruction is started, all requirements of the NFIP, the state requirements adopted pursuant to Chapter [86.16](#) RCW, and all applicable local regulations must be satisfied. In addition, the following conditions must be met:

- (1) There is no potential safe building location for the replacement residential structure on the same property outside the regulatory floodway.
- (2) A replacement residential structure is a residential structure built as a substitute for a legally existing residential structure of equivalent use and size.
- (3) Repairs, reconstruction, or replacement of a residential structure shall not increase the total square footage of floodway encroachment.
- (4) The elevation of the lowest floor of the substantially damaged or replacement residential structure is a minimum of one foot higher than the BFE.
- (5) New and replacement water supply systems are designed to eliminate or minimize infiltration of floodwater into the system.



(6) New and replacement sanitary sewerage systems are designed and located to eliminate or minimize infiltration of floodwater into the system and discharge from the system into the floodwaters.

(7) All other utilities and connections to public utilities are designed, constructed, and located to eliminate or minimize flood damage.

4. *All Other Building Standards Apply in the Floodway.* If subsection D.1 of this section (No Rise Standard) is satisfied, or construction is allowed pursuant to subsection D.2 of this section, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this section.

5. *Critical Facility.* Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA (one-hundred-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet above BFE or to the height of the five-hundred-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the BFE shall be provided to all critical facilities to the extent possible.

6. *Livestock Sanctuaries.* Elevated areas for the purpose of creating a flood sanctuary for livestock are allowed on farm units where livestock is allowed. Livestock flood sanctuaries shall be sized appropriately for the expected number of livestock and be elevated at least one foot above the BFE to protect livestock. Proposals for livestock flood sanctuaries shall meet all procedural and substantive requirements of this chapter. (Ord. 3766-20 § 9 (Exh. A), 2020.)

### **19.30.100 Variances.**

The variance criteria set forth in this section of the chapter are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this chapter would create an exceptional hardship to the



applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.

It is the duty of the city of Everett to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below the base flood elevation are so serious that variances from the flood elevation or from other requirements in this chapter are quite rare. The long-term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this chapter are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.

A. *Requirements for Variances.* Variances shall only be issued:

1. Upon a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;
2. For the repair, rehabilitation, or restoration of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure;
3. Upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;
4. Upon a showing of good and sufficient cause;
5. Upon a determination that failure to grant the variance would result in exceptional hardship to the applicant;
6. Upon a showing that the use cannot perform its intended purpose unless it is located or carried out in close proximity to water. This includes only facilities defined in EMC [19.30.400](#) in the definition of "functionally dependent use."



7. Variances shall not be issued within any floodway if any increase in flood levels during the base flood discharge would result.
8. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the BFE, provided the procedures of EMC [19.30.080](#) and [19.30.090](#) have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

B. *Variance Criteria.* In considering variance applications, the city of Everett shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:

1. The danger that materials may be swept onto other lands to the injury of others;
2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity to the facility of a waterfront location, where applicable;
6. The availability of alternative locations for the proposed use, which are not subject to flooding or erosion damage;
7. The compatibility of the proposed use with existing and anticipated development;
8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9. The safety of access to the property in time of flood for ordinary and emergency vehicles;
10. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site; and



11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities, such as sewer, gas, electrical, water system, and streets and bridges.

*C. Additional Requirements for the Issuance of a Variance.*

1. Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:
  - a. The issuance of a variance to construct a structure below the BFE will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars for one hundred dollars of insurance coverage; and
  - b. Such construction below the BFE increases risks to life and property.
2. The floodplain administrator shall maintain a record of all variance actions, including justification for their issuance.
3. The hearing examiner shall condition the variance as needed to ensure that the requirements and criteria of this chapter are met.
4. Variance applications shall be reviewed and processed as specified in EMC Title [15](#), Local Project Review Procedures. (Ord. 3766-20 § 9 (Exh. A), 2020.)

### **19.30.300 Standards for coastal high hazard areas (V zones).**

Located within areas of special flood hazard established in EMC [19.30.030](#) are coastal high hazard areas, designated as zones V1-30, VE, and/or V. These areas have special flood hazards associated with high velocity waters from surges and, therefore, in addition to meeting all provisions in this chapter, the following provisions shall also apply:

A. All new construction and substantial improvements in zones V1-30 and VE (V if base flood elevation data is available) on the community's FIRM shall be elevated on pilings and columns so that:

1. *Elevation.*



- a. *Residential Buildings.* The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated one foot or more above the base flood level.
    - b. *Nonresidential Buildings.* The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated one foot or more above the base flood level or meets the elevation requirements of ASCE 24, whichever is higher; and
  2. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent chance of being equaled or exceeded in any given year (one-hundred-year mean recurrence interval). A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this subsection.
- B. Obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures in zones V1-30, VE, and V on the community's FIRM and whether or not such structures contain a basement. The floodplain administrator shall maintain a record of all such information.
- C. All new construction within zones V1-30, VE, and V on the community's FIRM shall be located landward of the reach of mean high tide.
- D. Provide that all new construction and substantial improvements within zones V1-30, VE, and V on the community's FIRM have the space below the lowest floor either free of obstruction or constructed with nonsupporting breakaway walls, open-wood lattice work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purposes of this section, a breakaway wall shall have a design safe loading resistance of not less than ten and no more than twenty pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of twenty pounds per square foot (either by design or when so required by local or state codes) may be permitted only if a



registered professional engineer or architect certifies that the design proposed meets the following conditions:

1. Breakaway wall collapse shall result from water load less than that which would occur during the base flood; and
2. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any given year (one-hundred-year mean recurrence interval). If breakaway walls are utilized, such enclosed space shall be usable solely for parking of vehicles, building access, or storage. Such space shall not be used for human habitation.

E. Prohibit the use of fill for structural support of buildings within zones V1-30, VE, and V on the community's FIRM.

F. Prohibit manmade alteration of sand dunes within zones V1-30, VE, and V on the community's FIRM which would increase potential flood damage.

G. All manufactured homes to be placed or substantially improved within zones V1-30, V, and VE on the community's FIRM on sites:

1. Outside of a manufactured home park or subdivision;
2. In a new manufactured home park or subdivision;
3. In an expansion to an existing manufactured home park or subdivision; or
4. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood; shall meet the standards of subsections A through F of this section and manufactured homes placed or substantially improved on other sites in an existing manufactured home park or subdivision within zones V1-30, V, and VE on the FIRM shall meet the requirements of EMC 19.30.090.B.3.

H. Recreational vehicles placed on sites within V or VE zones on the community's FIRM shall:



1. Be fully licensed and ready for highway use, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; and
2. Comply with EMC Title [17](#). (Ord. 3766-20 § 9 (Exh. A), 2020.)

### **19.30.310 Density fringe area.**

A. This section and EMC [19.30.320](#) through [19.30.380](#) provide specific criteria to be used in regulating development in areas of high flood damage potential where conventional floodway areas cannot be established. In order to foster the continued agricultural use of prime farmlands in these floodplain areas, and maintain an acceptable level of flood hazard protection, the development criteria outlined by this chapter shall apply to all development in the density fringe area. The development criteria contained in EMC [19.30.320](#) and [19.30.330](#) shall be utilized to prevent a cumulative increase in the base flood elevation of more than one foot.

B. The density fringe area shall consist of the areas designated on the Flood Insurance Study (FIS) for Snohomish County and Incorporated Areas, and the Flood Insurance Rate Maps (FIRMs) dated June 19, 2020, and as amended in paper or digital format. (Ord. 3766-20 § 9 (Exh. A), 2020.)

### **19.30.320 Density fringe area—Maximum allowable density.**

The land area occupied by any use or development permitted by this chapter that will displace floodwaters shall not exceed two percent of the land area of that portion of the lot located in the density fringe area. The limitations of this section shall not apply to those uses listed in EMC [19.30.340](#). (Ord. 3766-20 § 9 (Exh. A), 2020.)

### **19.30.330 Density fringe area—Maximum allowable obstruction.**

The maximum width (sum of widths) of all new construction, substantial improvements or other development shall not exceed fifteen percent of the length of a line drawn perpendicular



to the known floodwater flow direction at the point where the development(s) is located. The length of said line shall not extend beyond the property boundary or the edge of the density fringe area, whichever is less. The limitations of this section shall not apply to those uses listed in EMC [19.30.340](#). (Ord. 3766-20 § 9 (Exh. A), 2020.)

### **19.30.340 Density fringe area—Exceptions to maximum allowable density and obstruction limitations.**

The following uses shall be exempt from the maximum allowable density and obstruction limitations of EMC [19.30.320](#) and [19.30.330](#):

- A. Water-dependent utilities;
- B. Dikes;
- C. Utility facilities; and
- D. Public works, when the project proponent demonstrates that the floodwater displacement effects of the proposal when considered together with the maximum potential floodwater displacement allowed by EMC [19.30.320](#) and [19.30.330](#) shall not cause a cumulative increase in the base flood elevation of more than one foot. Floodwater displacement information shall be obtained and certified by a professional engineer. (Ord. 3766-20 § 9 (Exh. A), 2020.)

### **19.30.350 Density fringe area—Recording required when density and obstruction allowances are increased.**

When the density and/or the allowable obstruction area in a density fringe designation is increased pursuant to EMC [19.30.320](#) and [19.30.330](#), the property owner shall record with the auditor's office a notice in a form approved by planning and development services describing the related flood hazard permit number, subject property assessor number(s) and structures included in the density fringe area calculations. (Ord. 3766-20 § 9 (Exh. A), 2020.)



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**19.30.360 Density fringe area—General provisions.**

The following regulations shall apply to all development in the density fringe area:

- A. Identified natural drainage channels that are secondary to the river channel(s) in discharging floodwaters downstream during flood periods shall be preserved or maintained as open space.
- B. All structures and development shall be oriented parallel to known floodwater flow directions in order to minimize flow obstruction. Determination of such orientation shall be based upon topographical and historical flood data. When such information is not available, orientation shall be in an upstream-downstream direction, parallel with the adjacent river channel except that such orientation shall not be required for utility transmission lines permitted by EMC 19.30.370.G, and roads permitted by EMC 19.30.370.M.
- C. All new construction and substantial improvements shall comply with the flood hazard protection standards of EMC [19.30.090](#). (Ord. 3766-20 § 9 (Exh. A), 2020.)

**19.30.370 Density fringe area—Permitted uses.**

The following uses are permitted in the density fringe area:

- A. Agriculture, including:
  - 1. Accessory agricultural structures such as but not limited to barns, milking parlors, silos, manure tanks, and loafing sheds that provide direct support for primary agricultural activities, including tilling of the soil, raising of crops, horticulture, viticulture, small livestock, poultry, pasturing, grazing, dairying and/or animal husbandry; and
  - 2. Livestock protection mounds, when the mounds do not consist of solid waste as defined by this title; and
  - 3. Manure pits and lagoons;
- B. Forestry, including processing of forest products with portable equipment;
- C. Preserves and reservations;



D. Parks and recreational activities;

E. Removal of rock, sand and gravel; provided, that the applicant can provide clear and convincing evidence that such a use will not divert flood flows causing channel shift or erosion, accelerate or amplify the flooding of downstream flood hazard areas, increase the flood threat to upstream flood hazard areas, or in any other way threaten public or private properties. When allowed, such removal shall comply with the provisions of the Everett shoreline management program;

F. Utility transmission lines;

G. *Water-dependent utilities.* Examples of such uses are dams for domestic/industrial water supply, flood control and/or hydroelectric production; water diversion structures and facilities for water supply, irrigation and/or fisheries enhancement; floodwater and drainage pumping plants and facilities; hydroelectric generating facilities and appurtenant structures; structural and nonstructural flood damage reduction facilities; and stream bank stabilization structures and practices;

H. Improvements to existing residential structures that do not exceed the maximum allowable density and obstruction requirements of EMC [19.30.320](#) and [19.30.330](#);

I. Single-family farmhouse structures, including modular homes and mobile homes placed on permanent concrete foundations, if the following conditions are met:

1. The structure is constructed to building code standards;
2. The farmhouse is necessary to the operation of a commercial farm engaged in agriculture;
3. A potential building site for the farmhouse on the same farm site is not available outside the density fringe area;
4. Earth fill utilized for building foundation shall be emplaced and stabilized in a manner that will prevent erosion from floodwater flow;
5. New and replacement water supply systems are designed to eliminate or minimize infiltration of floodwaters into the system;



6. New and replacement sanitary sewerage systems are designed and located to eliminate or minimize infiltration of floodwaters into the system and to eliminate or minimize discharge from the system into the floodwaters;
7. All other utilities and connections to public utilities are designed, constructed, and located to eliminate or minimize flood damage;
8. An egress plan for vacating the structure during the base flood occurrence shall be provided;

J. Marinas;

K. Dikes, if the applicant can provide clear and convincing evidence that:

1. Adverse effects upon adjacent properties will not result relative to increased floodwater depths and velocities during the base flood or other more frequent flood occurrences;
2. Natural drainage ways are minimally affected in that their ability to adequately drain floodwaters after a flooding event is not impaired; and
3. The proposal has been coordinated through the appropriate diking district where applicable, and that potential adverse effects upon other affected diking districts have been documented;

L. Utility facilities;

M. Public works, limited to:

1. Roads;
2. Bridges;
3. Docks; and
4. Port facilities; and

N. In urban growth areas only, sawmill storage yards when located adjacent to existing sawmill uses. (Ord. 3766-20 § 9 (Exh. A), 2020.)



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**19.30.380 Density fringe area—Prohibited uses.**

The following uses shall be prohibited in the density fringe area:

- A. Any structure, including mobile homes, designed for, or to be used for human habitation of, a permanent nature (including temporary dwellings authorized by Chapter [19.05](#) EMC, except as provided by EMC 19.30.370.H and I;
- B. The construction or storage of any object subject to flotation or movement during flooding;
- C. The filling of marshlands;
- D. Solid waste landfills, dumps, junkyards, outdoor storage of vehicles and/or materials;
- E. Damming or relocation on any watercourse that will result in any downstream increase in flood levels during the base flood;
- F. Critical facilities;
- G. The listing of prohibited uses in this section shall not be construed to alter the general rule of statutory construction that any use not permitted is prohibited. (Ord. 3766-20 § 9 (Exh. A), 2020.)

**19.30.400 Definitions.**

The following definitions pertain to this chapter, as amended, and unless expressly provided otherwise, to all other provisions of this title that are governed by this chapter.

- A. "Alteration of watercourse" means any action that will change the location of the channel occupied by water within the banks of any portion of a riverine water body.
- B. "Appeal" means a request for a review of the interpretation of any provision of this chapter or a request for a variance.
- C. "Area of shallow flooding" means a designated zone AO, AH, AR/AO or AR/AH (or VO) on a community's flood insurance rate map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow. Also referred to as the sheet flow area.



D. "Area of special flood hazard" means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. It is shown on the flood insurance rate map (FIRM) as zone A, AO, AH, A1-30, AE, A99, or AR (V, VO, V1-30, VE). "Special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard".

E. "ASCE 24" means the most recently published version of ASCE 24, Flood Resistant Design and Construction, published by the American Society of Civil Engineers.

F. "Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year (also referred to as the "one-hundred-year flood").

G. "Base flood elevation (BFE)" means the elevation to which floodwater is anticipated to rise during the base flood.

H. "Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

I. *Building*. See "Structure."

J. "Building code" means the currently effective versions of the International Building Code and the International Residential Code adopted by the State of Washington Building Code Council.

K. "Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

L. "Coastal high hazard area" means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on the FIRM as zone V1-30, VE or V.

M. "Critical facility" means a facility for which even a slight chance of flooding might be too great. Critical facilities include (but are not limited to) schools, nursing homes, hospitals, police, fire and emergency response installations, wastewater treatment facilities, and installations which produce, use, or store hazardous materials or hazardous waste.



N. "Density fringe area" means that portion of the special flood hazard area of the lower Snohomish River in which floodway areas cannot reasonably be established and in which development is regulated by maximum development density criteria.

O. "Development" means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the area of special flood hazard.

P. "Elevation certificate" means an administrative tool of the National Flood Insurance Program (NFIP) that can be used to provide elevation information, to determine the proper insurance premium rate, and to support a request for a letter of map amendment (LOMA) or letter of map revision based on fill (LOMR-F).

Q. "Elevated building" means, for insurance purposes, a nonbasement building that has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

R. "Essential facility" means the same as "essential facility" defined in ASCE 24. Table 1-1 in ASCE 24-14 further identifies building occupancies that are essential facilities.

S. "Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by the community.

T. "Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

U. "Farmhouse" means a single-family dwelling located on a farm site where resulting agricultural products are not produced for the primary consumption or use by the occupants and the farm owner.

V. "Flood" or "flooding" means:



1. A general and temporary condition of partial or complete inundation of normally dry land areas from:
  - a. The overflow of inland or tidal waters.
  - b. The unusual and rapid accumulation or runoff of surface waters from any source.
  - c. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in subsection (1)(b) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in subsection (1)(a) of this definition.

W. "Flood elevation study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards. Also known as a flood insurance study (FIS).

X. "Flood insurance rate map (FIRM)" means the official map of a community on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a digital flood insurance rate map (DFIRM).

Y. "Floodplain" or "flood-prone area" means any land area susceptible to being inundated by water from any source. See "Flood" or "flooding."

Z. "Floodplain administrator" means the community official designated by title to administer and enforce the floodplain management regulations.

AA. "Floodplain management regulations" means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance,



grading ordinance and erosion control ordinance) and other application of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

BB. "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents. Floodproofed structures are those that have the structural integrity and design to be impervious to floodwater below the base flood elevation.

CC. "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Also referred to as "regulatory floodway."

DD. "Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long-term storage or related manufacturing facilities.

EE. "Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

FF. "Historic structure" means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or



4. Individually listed on the Everett register of historic places; provided, that the city's historic preservation program continues to be certified either:
  - a. By an approved state program as determined by the Secretary of the Interior; or
  - b. Directly by the Secretary of the Interior in states without approved programs.

GG. "Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter (i.e., provided there are adequate flood ventilation openings).

HH. "Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a recreational vehicle.

II. "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

JJ. "Mean sea level" means, for purposes of the National Flood Insurance Program, the vertical datum to which base flood elevations shown on a community's flood insurance rate map are referenced.

KK. "New construction" means, for the purposes of determining insurance rates, structures for which the start of construction commenced on or after the effective date of an initial flood insurance rate map or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

LL. "New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is



completed on or after the effective date of adopted floodplain management regulations adopted by the community.

MM. *One-Hundred-Year Flood or 100-Year Flood.* See “Base flood.”

NN. “Reasonably safe from flooding” means development that is designed and built to be safe from flooding based on consideration of current flood elevation studies, historical data, high water marks and other reliable data known to the community. In unnumbered A zones where flood elevation information is not available and cannot be obtained by practicable means, “reasonably safe from flooding” means that the lowest floor is at least two feet above the highest adjacent grade.

OO. “Recreational vehicle” means a vehicle:

1. Built on a single chassis;
2. Four hundred square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

PP. “Start of construction” includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty days from the date of the permit. The “actual start” means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the “actual start of construction” means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.



QQ. "Structure" means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally aboveground, as well as a manufactured home.

RR. "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty percent of the market value of the structure before the damage occurred.

SS. "Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct previously identified existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to assure safe living conditions; or
2. Any alteration of a historic structure; provided; that the alteration will not preclude the structure's continued designation as a historic structure.

TT. "Variance" means a grant of relief by a community from the terms of a floodplain management regulation.

UU. "Water surface elevation" means the height, in relation to the vertical datum utilized in the applicable flood insurance study of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

VV. "Water dependent" means a structure for commerce or industry that cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations. (Ord. 3766-20 § 9 (Exh. A), 2020.)

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## Chapter 19.31

### INSTITUTIONAL OVERLAY ZONE

Sections:

<b>19.31.010</b>	<b>Purpose.</b>
<b>19.31.020</b>	<b>Permitted uses.</b>
<b>19.31.030</b>	<b>Review process.</b>
<b>19.31.040</b>	<b>Standards for the formation of the institutional zone.</b>
<b>19.31.050</b>	<b>Development standards.</b>
<b>19.31.060</b>	<b>Effect of approval.</b>

#### **19.31.010 Purpose.**

The purpose of the institutional zone is to allow for various institutional land uses with special needs and impacts to be located in the Everett community in a manner which is compatible with surrounding land uses through a master plan review process which requires public involvement and provides predictability to the institution and the public. (Ord. 3774-20 § 5(R) (Exh. 3), 2020.)

#### **19.31.020 Permitted uses.**

A. *Uses Established Through Institutional Overlay Zone Master Plan.* The institutional zone is intended to allow for the establishment, expansion, and revision of institutional uses including, but not limited to, colleges, schools, hospitals, government facilities, and social services located in use zones where such uses are not already listed as permitted uses. Such uses and closely related uses ancillary to the principal institutional use shall be established through the master plan review process.

B. *Use Permitted in Underlying Use Zone.* For any parcel of land not owned by the institution that sponsored an institutional overlay zone master plan, but located within an approved master plan, the uses permitted shall be those allowed by the underlying use zone. (Ord. 3774-20 § 5(R) (Exh. 3), 2020.)



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**19.31.030 Review process.**

The institutional zone shall be established only in conjunction with a master plan which generally specifies the parameters for development of the property. The institutional zone and master plan shall be reviewed using the review process described in EMC Title [15](#), Local Project Review Procedures. Either the sponsoring institution or the city may initiate the establishment of an institutional overlay zone.

A. As part of the master plan for the institution, the following factors shall be addressed:

1. Permitted uses and ancillary uses;
2. Permitted intensity of development, which shall consider:
  - a. Gross floor area of development;
  - b. Maximum building height;
  - c. Minimum building setbacks;
  - d. Maximum lot coverage;
  - e. Minimum and maximum number of off-street parking spaces;
  - f. Aesthetic considerations related to building bulk, architectural compatibility, light and glare, urban design, landscaping, street trees, solar access and shadow impacts;
3. Traffic impacts, adequacy of access to the site and within the site, on-street parking impacts and limitations, other traffic-related improvements;
4. Other ordinance requirements including, but not limited to, drainage, noise, environmental impacts, and other requirements of local, state and federal laws;
5. Phasing of development within the institutional zone.

B. Prior to the formal filing of an application for an institutional overlay zone, the sponsoring institution or the city, whichever initiated the establishment of the institutional overlay zone, shall hold public meetings to discuss the proposal and address the concerns of the affected area residents and property owners. The master plan shall reflect the various concerns raised through the public input process.



C. Upon filing of a valid rezone application and completion of the required environmental review process, the planning commission shall review the proposed master plan, rezone, and any required amendments to the Everett general plan at public workshops and at least one public hearing at which the planning commission shall make a decision regarding the proposed institutional overlay zone. The planning commission may approve, disapprove, or modify the proposed master plan. The decision of the planning commission shall take the form of a recommendation to the city council, who shall make the final decision. (Ord. 3774-20 § 5(R) (Exh. 3), 2020.)

#### **19.31.040 Standards for the formation of the institutional zone.**

A. *Formation.* The minimum area which may be included within an institutional zone shall be five acres, measured to the center of abutting city street rights-of-way.

B. *Additions.* The addition of contiguous property to an existing institutional zone shall have no minimum required area.

C. *Property Ownership.* An institutional overlay may consist of multiple parcels, some of which are owned by an institution and others under separate ownership. (Ord. 3774-20 § 5(R) (Exh. 3), 2020.)

#### **19.31.050 Development standards.**

A. Development standards for the individual institutional zone shall be established as part of the master plan approval process. The city shall establish standards for the following:

1. Building height;
2. Setbacks (front, sides, rear, and, if desired, from specified uses or properties);
3. Lot coverage;
4. Landscaping;
5. Signs;



6. Off-street parking;
7. Other standards determined by the city to be necessary to ensure land use compatibility with other uses in the surrounding area.

B. The city shall consider the following in determining the standards for a particular institutional zone in a specific location:

1. The institution's compatibility with surrounding uses, especially related to:
  - a. Public safety;
  - b. Site access, on-site circulation and off-street parking;
  - c. Architectural design of buildings and harmonious use of materials;
  - d. Landscaping and buffering of buildings, parking, loading and storage areas;
  - e. Light and shadow impacts;
  - f. Generation of nuisance irritants such as noise, smoke, dust, odor, glare, vibration or other undesirable impacts;
  - g. Number, size and location of signs.
2. The unique characteristics of the subject property;
3. The unique characteristics of the proposed use(s);
4. The arrangement of buildings and open spaces as they relate to each other within the institutional campus;
5. Visual impact of the institution on the surrounding area;
6. Public improvements proposed in connection with the institution; and
7. The public benefit provided by the institution.

C. For parcels of land located within an institutional overlay zone approved master plan, but not owned by the institution that sponsored the master plan, the property shall be developed under the standards of the underlying zoning. (Ord. 3774-20 § 5(R) (Exh. 3), 2020.)



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**19.31.060 Effect of approval.**

The approval by the city council of a master plan for an institutional zone shall have the effect of a general guide for future development within the institutional zone. The approved master plan shall remain binding upon the sponsoring institution and the city. The review of an individual phase or of the entire development as well as the review of any revision or change shall be in accordance with the review processes described in EMC Title [15](#), Local Project Review Procedures. (Ord. 3774-20 § 5(R) (Exh. 3), 2020.)

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## Chapter 19.33

### STREETS, SIDEWALKS AND PEDESTRIAN CIRCULATION

Sections:

<b>19.33.010</b>	<b>Applicability and user guide.</b>
<b>19.33.020</b>	<b>Street designations.</b>
<b>19.33.030</b>	<b>Public sidewalk requirements.</b>
<b>19.33.040</b>	<b>Public sidewalk treatments.</b>
<b>19.33.050</b>	<b>Exceptions to public sidewalk standards.</b>
<b>19.33.060</b>	<b>Pedestrian access to public streets—Internal pedestrian connections.</b>
<b>19.33.070</b>	<b>Land divisions for residential development—Pedestrian access to schools.</b>
<b>19.33.080</b>	<b>Easements and dedications.</b>

#### **19.33.010    Applicability and user guide.**

This chapter contains regulations concerning public sidewalks, pedestrian connections to public sidewalks, and internal pedestrian circulation within private property. It is intended to supplement the standards in EMC Title [13](#), Streets and Sidewalks, and the city's design and construction standards and specifications (DCSS). Detailed specifications and standard drawings for public streets and private access drives may be found in the DCSS. Where there is a conflict, the most restrictive regulations shall prevail. (Ord. 3774-20 § 5(S) (Exh. 3), 2020.)

#### **19.33.020    Street designations.**

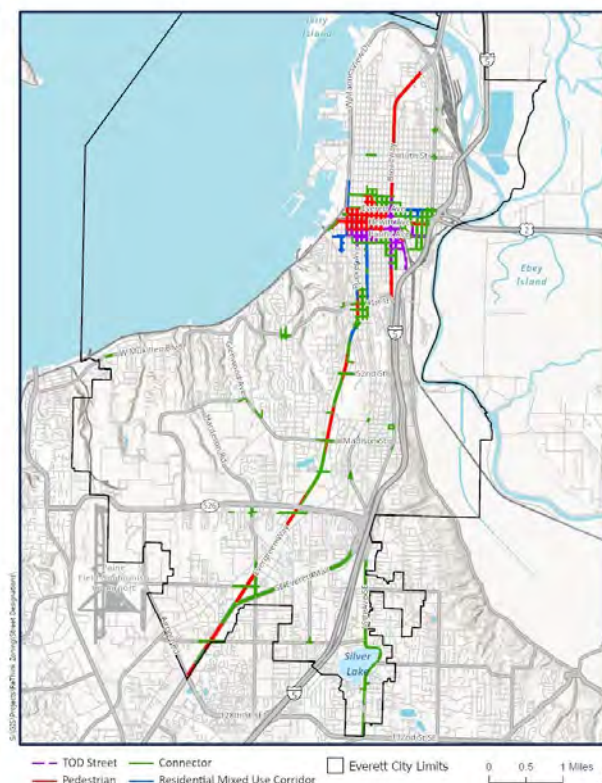
The designations established herein serve as a basis for application of development standards in the land use code. They are not to be confused with the functional street classification system used by the city, state and federal government for transportation planning.

A. *Street Type Designations Map.* Streets within Everett may have one of four street types designated: transit oriented development street (TOD), pedestrian street, connector street and



residential mixed-use corridor. All other streets are considered undesignated. These street types function as a design and use overlay. For example, some uses may be prohibited outright along TOD or pedestrian streets, or the use may be prohibited on the ground floor of a building. Sidewalk, window transparency and other design standards may also be different based on the street designation. Use restrictions by street type are included in Chapter [19.05](#) EMC. Please refer to Chapter [19.12](#) EMC for additional development standards for these street types.

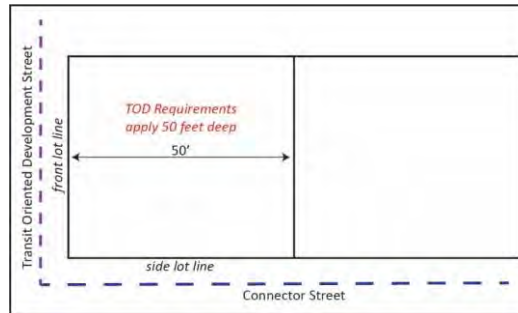
**Map 33-1: Street Designations Map**



B. *Corner Lots*. For corner lots with more than one street type designation, the most restrictive street type designation applies to that portion of the lot measured fifty feet in depth from the lot line adjoining the designation. See Figure 33-1 for how to apply this requirement.

**Figure 33-1: Corner Lots**





C. How development standards are applied to specific properties based on street designations. When a lot or lots have frontage on a public street with one of the street designations shown on Map 33-1, certain developments standards will be different than if the property fronted on a street without a street designation. The following standards are affected by street designations, as shown in Table 33-1:

1. Uses (Chapter [19.05](#) EMC, Tables 5-1 through 5-5);
2. Structured parking (EMC [19.12.110](#));
3. Weather protection (EMC [19.12.120](#));
4. Building transparency (EMC [19.12.130](#));
5. Public sidewalk requirements (EMC [19.33.030](#));
6. Heights for principal and accessory buildings (EMC [19.22.020](#)).

**Table 33-1: Structured Parking, Weather Protection, Transparency, Sidewalk Requirements and Building Height by Street Type**

Standard:	STREET TYPE DESIGNATION (see Map 33-1)				
	TOD	PEDESTRIAN	CONNECTOR	RESIDENTIAL MIXED USE	UNDESIGNATED
<b>Structured Parking Frontage Standards</b>	See <a href="#">19.12.110</a> . Standards below are maximum distance a parking structure at the ground floor may occupy on various street designations.				



Standard:	STREET TYPE DESIGNATION (see Map 33-1)				
	TOD	PEDESTRIAN	CONNECTOR	RESIDENTIAL MIXED USE	UNDESIGNATED
Structured parking integrated with other building (accessory use)	10% of front building facade	25% of front building facade	50% of front building facade	50% of front building facade	50% of front building facade <sup>(3)</sup>
Stand-alone parking structure (principal use)	25 feet	25 feet	50 feet	75 feet	100 feet <sup>(3)</sup>
Structured Parking Setback Standards	See EMC <a href="#">19.12.110</a> .				
Front, side and rear <sup>(1)</sup>	See underlying zone setback requirements and limits on frontage set forth above.				
Below grade	0 feet				
Weather Protection	See EMC <a href="#">19.12.120</a> .				
Length, minimum	90% of front building facade	75% of front building facade	45% of front building facade		Same width as entrance
Depth, minimum	8 feet from	6 feet from front building facade			3 feet from front



Standard:	STREET TYPE DESIGNATION (see Map 33-1)				
	TOD	PEDESTRIAN	CONNECTOR	RESIDENTIAL MIXED USE	UNDESIGNATED
	front building facade				building facade
Height above sidewalk	8 feet, minimum 15 feet, maximum				
Transparency	See EMC <a href="#">19.12.130</a> .				
Percent comprised of windows and/or doors with clear glass (2'-10')	90%	60%	45%	45%	See blank walls (Chapter <a href="#">21.040</a> EMC)
Sidewalk Standards	See EMC <a href="#">19.33.030</a> .				
Frontage Zone Width	2' min  6' desirable	2' minimum  6' desirable	None	None	None
Ped Clear Zone Width	8' minimum  10' desirable	8' minimum	6' min.	per city engineer	per city engineer



<b>Standard:</b>	<b>STREET TYPE DESIGNATION (see Map 33-1)</b>				
	<b>TOD</b>	<b>PEDESTRIAN</b>	<b>CONNECTOR</b>	<b>RESIDENTIAL MIXED USE</b>	<b>UNDESIGNATED</b>
Landscape/Furniture Zone Width	6' minimum  8' desirable	6' minimum	6' min.	4' min.	per city engineer
Total Min. Width	16' min.	16' min.	12' min.	10' min.	6' min.
<b>Sidewalk Treatments</b>	See EMC <a href="#">19.33.040</a> .				
At least 2 treatments:	Required	Required	Required	N/A	N/A
<b>Minimum Building Height</b>	See EMC <a href="#">19.22.020(B)</a> <sup>(2)</sup> .				
Principal Building	2–4 floors	N/A	N/A	N/A	N/A
Accessory Building	No minimum	N/A	N/A	N/A	N/A

**Table 33-1 Footnotes:**

(1) Structured parking garages accessed from the rear with no internal turnaround shall be set back at least twenty-five feet from the far side of the alley, except as otherwise approved by city engineer.

(2) Refer to Chapter [19.22](#) EMC for additional building height standards.



(3) Applicable only within Metro Everett.

(Ord. 3774-20 § 5(S) (Exh. 3), 2020.)

### **19.33.030 Public sidewalk requirements.**

A. These standards apply to properties that front on a public street with a designation of TOD, pedestrian, connector or residential mixed-use as shown in Map 33-1. The standards apply when a development is required to install street and alley improvements in accordance with EMC [13.68.020](#), or as amended. This includes both new development and expansions or alterations of an existing use.

1. *Public Sidewalk Standards for Designated Streets.*

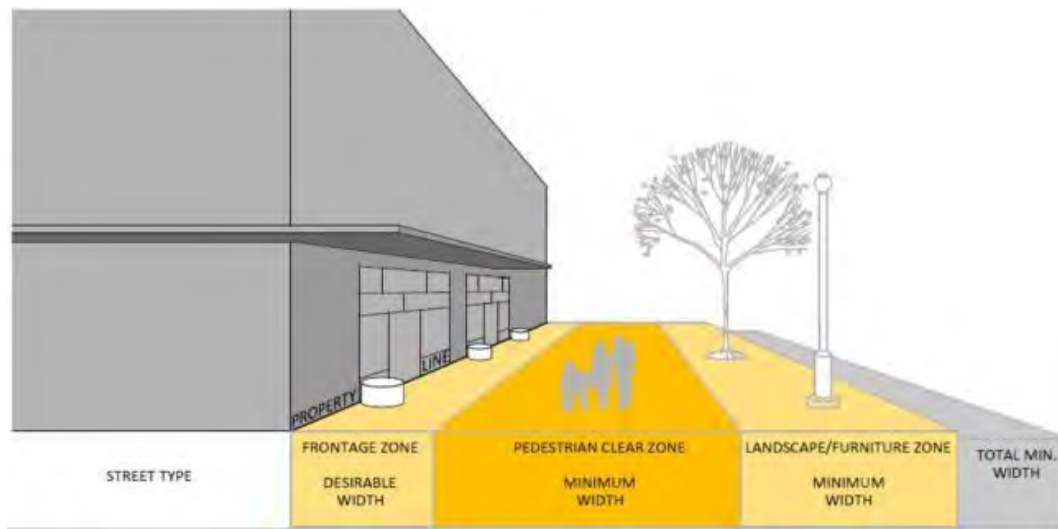
- a. Sidewalks shall be installed on all frontage on public right-of-way, except when authorized within an easement by the city engineer.
- b. *Sidewalk Width.* Sidewalks shall provide frontage zone, pedestrian clear zone, landscape/furniture zone, and total minimum width consistent with Table 33-2.
- c. Sidewalk pattern shall carry across the driveway.

2. *Undesignated Streets.* The standards in this subsection do not apply to streets shown as “undesignated.” Sidewalk improvement standards for undesignated streets are based on the requirements in EMC Title [13](#) and the city’s design and construction standards and specifications.

B. *Historic Overlay Districts.* Sidewalks in historic overlay districts shall include color and patterns similar to other sidewalks in the historic overlay as directed by the city’s public works standards.

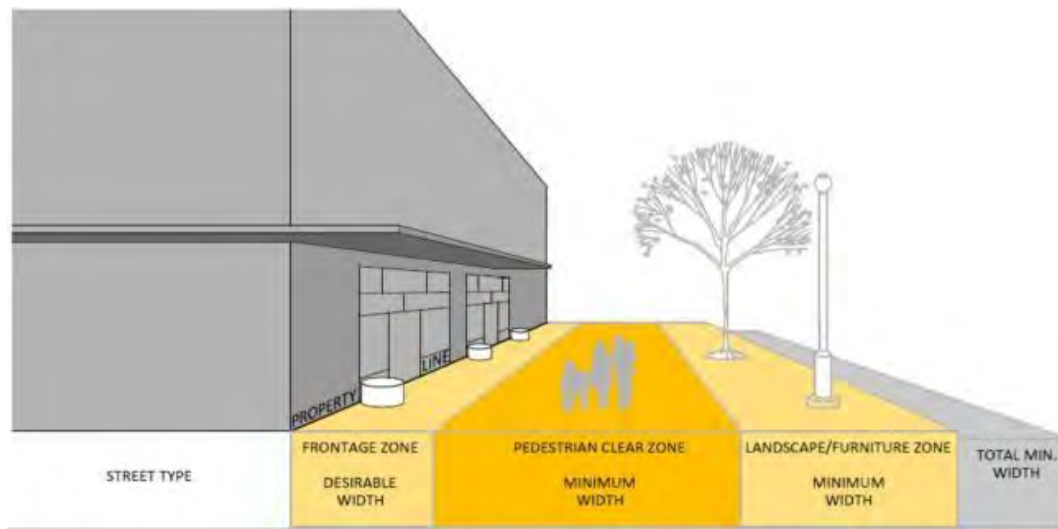
**Table 33-2: Public Sidewalk Widths by Street Designation**





STREET TYPE	FRONTAGE ZONE MINIMUM WIDTH	PEDESTRIAN CLEAR ZONE MINIMUM WIDTH	LANDSCAPE/FURNITURE ZONE MINIMUM WIDTH	TOTAL MIN. WIDTH
TOD	2'-6'	8'-10'	6'-8'  8' desirable	16' min
Pedestrian	2'-6'	8' minimum	6' minimum	16' min
Connector	None	6' minimum	6' minimum	12' min
Residential Mixed-Use	None	Per city engineer	4' minimum	10' min
Undesignated	None	Per city engineer	Per city engineer	6' min





STREET TYPE	FRONTAGE ZONE MINIMUM WIDTH	PEDESTRIAN CLEAR ZONE MINIMUM WIDTH	LANDSCAPE/FURNITURE ZONE MINIMUM WIDTH	TOTAL MIN. WIDTH
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*See public sidewalk treatment requirements below for specific street designs.*

(Ord. 3774-20 § 5(S) (Exh. 3), 2020.)

### 19.33.040 Public sidewalk treatments.

On streets designated in Map 33-1 as TOD or pedestrian, at least two sidewalk treatments are required from the following list:

- A. Special surfacing treatment, such as unit pavers, special materials, and inlays, as approved by the city;
- B. Artwork incorporated into or along the sidewalk which is approved by the city's cultural arts commission;
- C. Decorative tree grates;



- D. Decorative clocks;
- E. Informational kiosks;
- F. Landscaping elements, not otherwise required by this title, incorporated into curb bulbs and/or sidewalks; or
- G. Other treatments as approved by planning director and city engineer. (Ord. 3774-20 § 5(S) (Exh. 3), 2020.)

### **19.33.050 Exceptions to public sidewalk standards.**

The following exceptions to public sidewalk standards are allowed:

- A. *Point Obstructions.* Point obstructions, such as power poles, light poles and fire hydrants, may encroach into the pedestrian clear zone, but the sidewalk must have clear width remaining to meet accessibility requirements.
- B. *Steep Topography at Right-of-Way Line.* Sidewalks may be located adjacent to the curb when there is inadequate right-of-way or in steep topography areas where grading to a full street width would cause too great of an impact.
- C. *Frontage and Landscape/Furniture Zone Shift.* In areas where ground-level active uses are anticipated within the building frontage zone, such as sidewalk cafes or merchandise display, frontage zones should be designed to be wide enough to accommodate those uses. In no case can an active use encroach on the pedestrian clear zone. In rare cases, the furniture zone may be reduced in width when approved by the city engineer and planning director in order to maintain the minimum pedestrian clear zone and allow for activation of uses in the frontage zone.
- D. *Other Considerations at the Direction of the City Engineer.* The city engineer may allow a modification or reduction of the public sidewalk standards in this chapter in the following circumstances:
  - 1. The required sidewalk improvements would conflict with existing underground or aboveground utilities, including sewer, water, stormwater, or power poles;



2. A modification of the required sidewalk improvement is necessary to provide a smooth transition to an existing sidewalk on the adjacent property, or to an alley where the sidewalk intersects the alley; or
3. The required sidewalk improvement would create a traffic or pedestrian safety hazard, such as sight distance problems or conflicts with other ingress/egress locations. (Ord. 3774-20 § 5(S) (Exh. 3), 2020.)

### **19.33.060 Pedestrian access to public streets—Internal pedestrian connections.**

A. This purpose of this section is to provide safe and efficient pedestrian access from building entrances to the following: public sidewalks; transit stops; other buildings on the same site; parking lots; and common open space areas.

B. *Where Required.* An exterior pedestrian circulation system shall be required if there are no internal building pedestrian access routes that connect buildings to a public street, parking areas, or other buildings on the site.

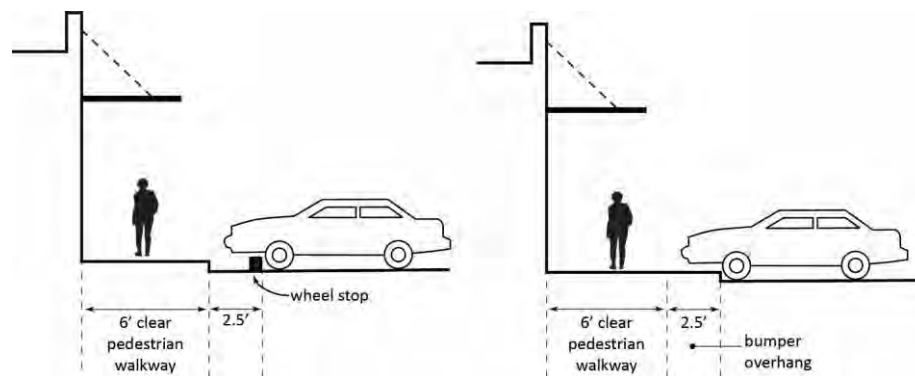
C. *Design Requirements.*

1. All developments with exterior pedestrian circulation systems shall provide connections between building entrances and the public sidewalk, transit stops, off-street parking areas, common open space areas and alleys where applicable. For developments with multiple buildings, provide for pedestrian circulation between all buildings.
2. The exterior pedestrian circulation system shall be a minimum of three feet wide without obstructions, designed to meet federal, state and local accessibility standards, and where adjacent to driveways and parking areas they shall be separated by landscaping, raised curbs at least six inches high, bollards, or other treatments as approved.
3. For safety and access, landscaping shall not block visibility to and from a path, especially where it approaches a roadway or driveway.
4. In commercial settings where buildings face onto a parking area rather than the street, provide six-foot-wide walkways adjacent to the facades of retail and mixed-use buildings.



This requirement applies where the adjacent parking stalls have wheel stops. When wheel stops are not incorporated, the walkway width shall be increased to a minimum of eight feet six inches.

**Figure 33-1: Walkway Width Adjacent to Surface Parking—With and Without Wheel Stops**



5. *Nonresidential and Multifamily Development.* For nonresidential and multifamily developments with sixteen or fewer parking spaces, the pedestrian circulation system may be located within an auto travel lane.

6. *Single-Family Detached and Duplex.* A driveway may be used to meet the pedestrian connection requirement between the building entrance and the public sidewalk. (Ord. 3774-20 § 5(S) (Exh. 3), 2020.)

### **19.33.070 Land divisions for residential development—Pedestrian access to schools.**

A. In all land divisions for residential development, the city may require pedestrian improvements to ensure safe walking conditions are provided between the development and existing schools or schoolgrounds.

B. Pedestrian improvements may be required off-site in order to mitigate a safety hazard created by the development as determined by the city engineer.



C. When a proposed division or redivision of land is on an established school bus route, the applicant may be required to provide a school bus shelter. The city engineer shall make this decision as it relates to the potential needs of the development. (Ord. 3774-20 § 5(S) (Exh. 3), 2020.)

### **19.33.080 Easements and dedications.**

A. In order to facilitate pedestrian access from a project to proposed and existing streets and to provide access to schools, parks, playgrounds, trails, transit stops or other pedestrian facilities, the city may require perpetual unobstructed pedestrian access easements of at least ten feet in width to these facilities. For land divisions, pedestrian easements shall be shown on the face of the final division map.

B. Where insufficient right-of-way exists to accommodate the full width of the required sidewalk, the city engineer may require either of the following:

1. A public easement for the portion of the sidewalk located on private property; or
2. A dedication of land sufficient to allow the sidewalk to be located entirely within the public right-of-way. (Ord. 3774-20 § 5(S) (Exh. 3), 2020.)

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## **Chapter 19.34**

### **PARKING, LOADING AND ACCESS REQUIREMENTS**

Sections:

<b>19.34.010</b>	<b>Purpose and applicability.</b>
<b>19.34.020</b>	<b>Required off-street parking spaces.</b>
<b>19.34.025</b>	<b>Multifamily off-street parking requirements and reductions.</b>
<b>19.34.030</b>	<b>Bicycle access and parking.</b>
<b>19.34.040</b>	<b>Off-street parking requirements, general provisions.</b>
<b>19.34.050</b>	<b>Exceptions to off-street parking space requirements.</b>
<b>19.34.060</b>	<b>Reductions to off-street parking space requirements.</b>
<b>19.34.070</b>	<b>Shared parking.</b>
<b>19.34.080</b>	<b>Transportation demand management.</b>
<b>19.34.090</b>	<b>Nonconforming parking.</b>
<b>19.34.100</b>	<b>Location of off-street parking.</b>
<b>19.34.105</b>	<b>Vehicle storage in residential zones.</b>
<b>19.34.110</b>	<b>Vehicular access to off-street parking—Alleys and driveways.</b>
<b>19.34.120</b>	<b>Parking area design and construction.</b>
<b>19.34.130</b>	<b>Drive-through facilities.</b>
<b>19.34.140</b>	<b>Pedestrian access.</b>
<b>19.34.150</b>	<b>Off-street loading requirements.</b>
<b>19.34.200</b>	<b>Modification of required off-street parking spaces, location and driveway width standards.</b>

#### **19.34.010 Purpose and applicability.**

This chapter establishes the standards for the amount, location and development of off-street vehicle parking, standards for bicycle parking, standards for on-site loading areas and standards for access to parking from city streets and/or alleys.

A. *Purpose.* The purpose of this chapter is to ensure parking and loading facilities contribute to a quality and healthy urban environment, to reduce the number of vehicle miles traveled, to reduce hazards to public safety, and to reduce impacts to on-street parking.



B. *Where Off-Street Parking Requirements Apply.* The standards of this chapter apply to all development within the city of Everett, including any off-street parking required by the city or put in for the convenience of property owners or users.

C. *City of Everett Design and Construction Standards and Specifications for Development.* The City of Everett Design and Construction Standards and Specifications for Development, hereinafter referred to as “city design standards,” contain detailed standards for parking lot design, surfacing, and driveways. These standards are administered by the public works director, who has authority to develop, disseminate, revise and update design and construction standards and specifications for all work performed pursuant to construction-related permits issued by the city of Everett. (Ord. 3616-18 § 2 (Exh. 1), 2018.)

### **19.34.020 Required off-street parking spaces.**

The minimum number of required off-street vehicle parking spaces shall be determined in accordance with Table 34-1, unless otherwise set forth in this chapter.

**Table 34-1: Off-Street Parking Spaces Required**

<b>Land Use</b>	<b>Minimum Parking Spaces Required*</b>
<b>RESIDENTIAL</b>	<i>Spaces per dwelling unit unless otherwise indicated</i>
<b>Accessory dwelling unit</b>	1, plus required space(s) for principal dwelling; see EMC <a href="#">19.34.050(C)</a> for exceptions
<b>Dormitories</b>	1 per 3 bedrooms
<b>Day care, family home or adult family home</b>	2 per dwelling unit, plus 1 for each staff person on shift not living on premises
<b>Dwelling, micro-housing</b>	1 per 2 dwelling units



Land Use	Minimum Parking Spaces Required*
<b>Dwelling, multifamily</b>	See multifamily (EMC <a href="#">19.34.025</a> )
<b>Dwelling, single-family (1-unit) detached</b>	2 per dwelling unit; where access is from a private drive: 3 per dwelling unit, except 2 per dwelling on a full-frontage lot that has on-street parking
<b>Dwelling, 2- to 4-unit attached; cottage housing</b>	
<b>Group housing, residential care facility</b>	1 per 4 bedrooms, plus 1 per every 2 employees on shift  (2 spaces minimum)
<b>Group housing, extended care facility, including independent living units in congregate care facility, convalescent or nursing homes</b>	Independent Living Units:  0.75 per dwelling unit or see exception in EMC <a href="#">19.34.050(D)</a>  Congregate care, nursing home, etc. where people are assisted with daily activities:  1 for each 4 beds
<b>Permanent supportive housing</b>	As determined by planning director and city engineer, with no less than a minimum of 1 per 4 bedrooms, plus 1 per every 2 employees on shift (2 spaces minimum). When allowed to be less than required for multiple-family housing, must be located within 1,320 feet walking distance of public transit stop, with pedestrian access on sidewalk or safe walking path.
<b>Live/work unit</b>	1 per unit, plus 1 additional space for any unit with 1,500+ square feet of gross floor area



<b>Land Use</b>	<b>Minimum Parking Spaces Required*</b>
<b>Senior housing</b>	0.75 per dwelling unit
<b>Short-term rentals</b>	<p>For rental of an entire dwelling unit: three off-street parking spaces for any site with on-street parking in front of the site, and no less than four off-street parking spaces for any site without on-street parking in front of the site.</p> <p>For rental of rooms within a dwelling unit: one off-street parking space per guest room.</p>
<b>COMMERCIAL USES</b>	<i>Spaces per square feet of gross floor area of building unless otherwise indicated</i>
<b>Auto, small truck, boat, motorcycle, RV maintenance</b>	1 per 750 square feet
<b>Commercial storage (e.g., ministorage, self-storage)</b>	<p>1 per 6,000 square feet (not including office)</p> <p>- loading lanes may be included as required parking spaces if not left unattended</p>
<b>Day care center, commercial</b>	<p>Whichever is greater:</p> <p>1 for each 10 children or</p> <p>2 for each 3 employees on shift; in addition,</p> <p>1 vehicle loading space for each 20 children</p>
<b>Entertainment (e.g., theaters, clubs, and other completely enclosed amusement uses)</b>	1 per 5 seats or 1 per 400 square feet, whichever is greater
<b>Food or beverage establishment</b>	1 per 200 square feet



<b>Land Use</b>	<b>Minimum Parking Spaces Required*</b>
<b>Health club or athletic facility</b>	1 per 300 square feet
<b>Lodging (hotels/motels)</b>	1 per guest room
<b>Medical office and clinics, including: - medical and dental offices, clinics, alternative health care</b>	1 per 300 square feet
<b>Office use, including: - general office; laboratories; financial institutions</b>	1 per 400 square feet
<b>Outdoor recreation, commercial</b>	As determined by planning director and city engineer based on parking analysis
<b>Retail trade and services, bulky merchandise (appliance, furniture)</b>	1 per 1,000 square feet
<b>Retail trade and services, general trade</b>	1 per 400 square feet
<b>Retail trade and services, outdoor including: - auto, boat or trailer sales, retail nurseries, lumberyards, and similar bulk retail uses</b>	1 per 1,000 square feet
<b>PUBLIC AND INSTITUTIONAL USES</b>	
<b>Clubs, lodges, similar uses</b>	1 per 3 persons allowed by building and/or fire codes in the main assembly room or auditorium, plus any parking necessary for eating, drinking establishment on premises
<b>Community and regional parks and</b>	As determined by planning director and city



<b>Land Use</b>	<b>Minimum Parking Spaces Required*</b>
<b>recreational facilities</b>	engineer based on parking analysis
<b>Government</b> - limited point of service (e.g., public works yards, fire station, vehicle storage, etc.)	As determined by planning director and city engineer based on parking analysis
<b>Government</b> - administrative and service	As determined by planning director and city engineer based on parking analysis
<b>Hospitals</b>	As determined by planning director and city engineer based on parking analysis
<b>Neighborhood parks and recreational facilities</b>	As determined by planning director and city engineer based on parking analysis
<b>Places of worship or religious facility</b>	1 per 5 seats in the main worship area
<b>Schools (public and private)</b> - elementary and middle, high schools, and institutions of higher education	As determined by planning director and city engineer based on parking and traffic analysis
<b>INDUSTRIAL</b>	
<b>Heavy industrial, manufacturing, or assembly</b>	1 per 1,000 square feet, plus parking for office as required
<b>Light industrial, manufacturing, or assembly</b>	1 per 750 square feet, plus parking for office as required
<b>Warehousing and distribution</b>	1 per 2,000 square feet, plus parking for office as required

\* See exceptions and reductions in EMC [19.34.050](#) or [19.34.060](#).



(Ord. 3896-22 § 15, 2022; Ord. 3895-22 § 19, 2022; Ord. 3774-20 § 8 (Exh. 6), 2020; Ord. 3724-20 § 3, 2020; Ord. 3616-18 § 2 (Exh. 1), 2018.)

### 19.34.025 Multifamily off-street parking requirements and reductions.

A. *Multifamily Off-Street Parking Requirements.* The following off-street parking requirements apply to multifamily residential development. See Map 34-1 for Metro Everett parking area designations.

**Table 34-2: Multifamily Off-Street Parking Requirements**

Off-street Parking by Unit (Bedroom) Size:	Metro Everett Parking Areas (See Map 34-1)  Spaces per Dwelling Unit		Outside Metro Everett Spaces per Dwelling Unit
	Area A	Area B	
Studio	0.85	1.00	1.00
1-bedroom	1.00	1.00	1.00
2-bedroom	1.20	1.40	1.50
3- or more bedrooms	1.60	1.90	2.00

B. *Multifamily Off-Street Parking Reduction Options.* Multifamily residential development may reduce required off-street parking based on one of three options shown below. These options cannot be used in combination; only one option can be used. A transportation demand management (TDM) plan (EMC [19.34.080](#)) is required for use of any option. For the purpose of this section, “additional reduction factor” is the total number of parking stalls required after a



reduction credit is applied. For example, one hundred stalls required with a reduction factor of 0.75 means that seventy-five stalls would be required with the reduction factor applied. The credit in this case would be twenty-five parking stalls.

**Table 34-3: Multifamily Parking Reduction, Option A (Resident Characteristics)**

<b>Resident Characteristic:</b>	<b>Additional Reduction Factor</b>
Extremely low-income (30% AMI or below)	0.50
Low-income (60% AMI* or below)	0.65

\* AMI means “area median income” for Snohomish County. Use of this option requires the developer to record a covenant that prohibits use of the property for any purpose other than what was approved unless additional parking is provided.

**Table 34-4: Multifamily Parking Reduction, Option B (Transportation Characteristics)**

<b>Transportation Alternatives:</b>	<b>Additional Reduction Factor</b>
Access to frequent transit service* (3 trips per hour**)	0.75
Transportation demand management plan approved by city	0.90



\* “Access to frequent transit service” means the building entrance is within one-quarter mile walking distance of a transit stop, except senior housing which must be within five hundred feet walking distance of a transit stop, with the level of frequency noted.

\*\* Frequency of service per hour is calculated between six a.m. and seven p.m. during the work week (Monday through Friday) and is based on scheduled service, not actual performance. Trip counts are one direction.

**Table 34-5: Multifamily Parking Reduction, Option C (Development Characteristics)**

<b>Transportation Alternatives:</b>	<b>Additional Reduction Factor</b>
Shared parking in a mixed-use building where at least 50% of the gross floor area is nonresidential	0.50*

\* This option may only be used where the nonresidential development provides off-street parking consistent with Table 34-1.

<b>How to calculate multifamily off-street parking reductions:</b>
<b>Example 1:</b>
A 20-unit apartment, all with 1 bedroom, in Metro Everett would require 20 parking spaces. If these spaces are restricted to very low-income residents, then only 10 parking spaces would be required if Option A were chosen.



20 units @ 1 space per unit x 0.50 reduction factor = 10 spaces
<b>Example 2:</b>
The same 20-unit apartment is proposed, but without any income restrictions. However, the apartment is located on a Swift route with frequent transit service. In this scenario, 15 parking spaces would be required.
20 units @ 1 space per unit x 0.75 reduction factor = 15 spaces

(Ord. 3774-20 § 8 (Exh. 6), 2020; Ord. 3616-18 § 2 (Exh. 1), 2018.)

### 19.34.030 Bicycle access and parking.

#### A. *When Bicycle Parking Is Required.*

1. *Nonresidential Developments.* Bicycle parking shall be provided in any development required to provide six or more off-street parking spaces. Determining if bicycle parking will be required based on off-street parking requirements shall be calculated prior to consideration of the exceptions or reductions to off-street parking allowed in EMC [19.34.050](#) or [19.34.060](#).
2. *Multifamily Developments.* Bicycle parking shall be provided in any multifamily development with four dwelling units or more.



**B. Number of Bicycle Parking Spaces Required.**

1. *Nonresidential Developments.* At least one bicycle parking space shall be provided for every twelve off-street parking spaces, up to a maximum of twenty bicycle spaces.

**How to calculate bicycle parking requirements:**

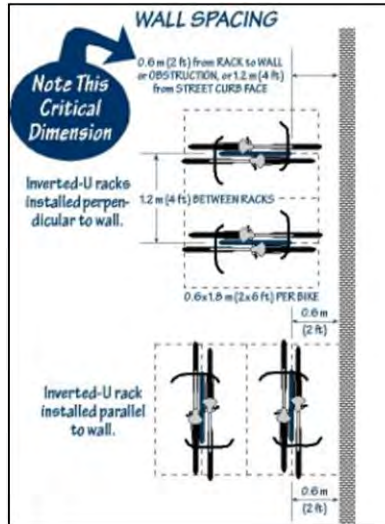
A 40,000-square-foot office building in downtown would not be required to provide off-street parking. However, prior to the exception for off-street parking in Parking Area A of Metro Everett (see Map 34-1), the development would have required 100 off-street parking spaces. This project would require eight bicycle parking spaces.

40,000 square feet / 400 sq. ft. per parking space = 100 off-street parking spaces  
100 off-street parking spaces / 12 = 8.33  
bicycle parking spaces (round down to 8)

2. *Multifamily Developments.* Four covered bicycle parking spaces shall be provided for every ten multifamily units, with the exception of senior housing, which shall be provided at the rate of one space for every four units. If individual garages are provided, the number of units requiring bicycle parking may be reduced correspondingly.

**Figure 1: Bicycle Parking Example (Source: Bend, OR Code)**





C. *Bicycle Parking Space Location and Design.*

1. *Nonresidential Development.* Bicycle facilities for nonresidential development shall include both short-term and long-term facilities.
  - a. Short-term facilities are intended for patrons parked less than four hours. Weather protection is not required for short-term facilities.
  - b. Long-term facilities are intended for employees and occupants of the nonresidential building. At least fifty percent of the required bicycle spaces shall be long-term facilities. These facilities shall be weather protected and conveniently located for the bicyclist in common areas. It is not necessary for all on-site bicycle spaces to be grouped in one central location.
2. *Residential Development.* Bicycle facilities for residential development shall be weather protected and conveniently located for the bicyclist in common areas. It is not necessary for all on-site bicycle spaces to be grouped in one central location.
3. All bicycle parking shall be located in locations that do not impede pedestrian or vehicle traffic flow, and shall be well lit for nighttime use.
4. All bicycle parking facilities shall be designed to allow a bicycle frame to be locked to a structure (e.g., bike rack) which is securely anchored to the ground, or within a lockable storage area.



5. The planning director or city engineer may promulgate rules for the design and location of bicycle facilities required for development. (Ord. 3616-18 § 2 (Exh. 1), 2018.)

#### **19.34.040 Off-street parking requirements, general provisions.**

A. *Off-Street Parking Calculations Where Uses Not Specified.* If the proposed use is not shown in Table 34-1, the planning director, in consultation with the city engineer, may use one of the following options to determine requirements for off-street parking:

1. Where a use is similar in nature and off-street parking demand to the proposed use, the minimum parking spaces for that similar use may be used.
2. Where there is not any use that is similar in nature, the following minimum off-street parking requirements will be used:
  - a. Nonresidential uses: one parking space per five hundred square feet of gross floor area.
  - b. Residential uses: one parking space per one thousand square feet of gross floor area.

B. *Off-Street Parking Calculations on Sites with Combination of Uses.* The requirement for different uses on the same site, or a combination of uses within one building or tenant space, shall be the sum of all requirements for the individual uses reduced by any applicable joint or shared parking provisions. See EMC [19.34.060\(B\)](#) for reductions for mixed-use projects.

C. *What Can Be Considered as Off-Street Parking.* Off-street parking spaces may include spaces in garages, carports, parking lots, and/or driveways if vehicles are not parked in a vehicle travel lane or a required front setback; provided, that for single-family detached dwellings, duplexes and accessory dwelling units (ADUs), off-street parking is allowed in the front setback on a driveway that meets the standards of this title. Off-street parking for electric vehicles may be included in parking required by this chapter. Refer to the International Building Code for requirements on electric vehicle charging infrastructure.

D. *Off-Street Parking Must Be Maintained.* Off-street parking spaces must be retained in the amount required at the time of development approval, except that existing off-street parking,



which exceeds current requirements, may be removed if the quantity of parking is not reduced below the current requirements for use on the site, or through shared parking agreements, if any.

E. *How Fractions Are Addressed.* If the formula for determining the number of off-street parking spaces results in a fraction, the number of off-street parking spaces shall be rounded to the nearest whole number with fractions of 0.50 or greater rounding up and fractions below 0.50 rounding down.

F. *Use of Common Parking Areas.* Required off-street parking spaces may be provided in an area owned and maintained in common by a homeowners' association or other entity. Parking spaces located in a common area shall be available to customers, guests and invitees of residents, and shall not be reserved for any specific tenant or dwelling unit. (Ord. 3774-20 § 8 (Exh. 6), 2020; Ord. 3616-18 § 2 (Exh. 1), 2018.)

### **19.34.050 Exceptions to off-street parking space requirements.**

A. *Nonresidential Parking in Metro Everett.* To reduce reliance on single-occupant vehicles in Metro Everett, two off-street parking areas are set forth in Map 34-1. Nonresidential developments within these areas have reduced off-street requirements as follows (see EMC [19.34.025](#) for multifamily parking reductions):

1. *Parking Area A.*

- a. Nonresidential uses are not required to provide off-street parking, with the exception of government offices, which shall either meet the requirement for off-street parking for government, or provide a parking management study and plan for approval of the planning director and city engineer.
- b. Any development not required to provide off-street parking may be required to install bicycle facilities as set forth in EMC [19.34.030](#).
- c. Any nonresidential development with five thousand square feet of gross floor area or more, and which does not provide off-street parking based on the standards in Table 34-1, will be required to submit a transportation demand management plan for approval of the city engineer as set forth in EMC [19.34.080](#).



2. *Parking Area B.* At the discretion of the city engineer, required off-street parking for nonresidential uses may be reduced up to twenty-five percent from the requirements set forth in Table 34-1. The reduction may be granted upon approval of a transportation demand management plan (see EMC [19.34.080](#)), together with a finding that the off-street parking reduction will not cause a significant adverse impact on adjoining neighbors, residents or business.

B. *Historic Buildings and Sites.* Structures and sites that are individually listed on the Everett register of historic places shall be exempt from all parking quantity requirements.

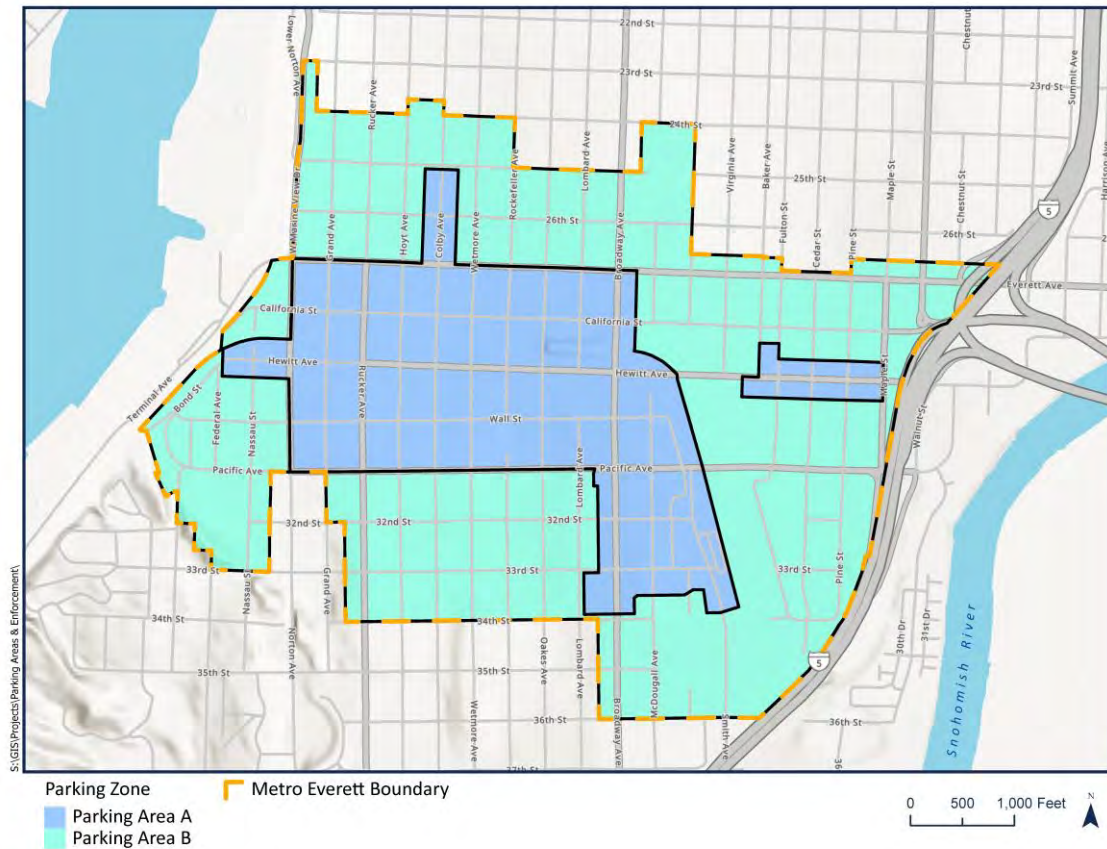
C. *Accessory Dwelling Units.* The minimum off-street parking requirement for an accessory dwelling is waived for lots within one-half mile walking distance of a transit stop or station with all day service (at least one trip per hour seven a.m. through eight p.m. weekdays).

D. *Housing for Seniors or People with Disabilities.* Any housing units that are specifically for seniors or people with disabilities, that are located within one-fourth mile of a transit stop that receives transit service at least four times per hour for twelve or more hours per day, are not required to provide off-street parking for the units; provided, however, that off-street parking for staff and visitors will be required as determined by city engineer and planning director based on a parking analysis.

E. *Metro Everett Off-Street Parking Areas (Map).*

### **Map 34-1: Metro Everett Off-Street Parking Area**





(Ord. 3963-23 § 9, 2023; Ord. 3774-20 § 8 (Exh. 6), 2020; Ord. 3616-18 § 2 (Exh. 1), 2018.)

### 19.34.060 Reductions to off-street parking space requirements.

A. *Parking Study as Alternative to Reduce Parking.* The planning director, in consultation with the city engineer, may approve a modification to the off-street parking set forth in Table 34-1 or 34-2. A modification greater than twenty-five percent requires a Review Process II described in EMC Title 15, Local Project Review Procedures. Any reduction in off-street parking could impact future development if a change in use requires additional off-street parking.

1. A parking study for the proposed use(s) must be prepared by a professional with expertise in preparing traffic and parking analysis.
2. The parking study must demonstrate to the satisfaction of the planning director that a lesser standard is adequate.



3. A transportation demand management (TDM) plan (see EMC [19.34.080](#)) may be required as a condition of any approved modification.

B. *Reduction of Off-Street Parking for Transportation Alternatives and Mixed-Use Projects.* Off-street parking may be reduced for the following transportation alternatives and mixed-use projects. A parking study is not required for use of these alternatives.

1. *Car Share Stalls.* Car sharing is where cars are made available for rent to other individuals, thus encouraging less car ownership and reducing parking demand. A substitution in off-street parking spaces for required off-street parking is allowed as follows:

- a. For every one car sharing space that is provided, the off-street parking requirement is reduced by four spaces.
- b. The car sharing parking spaces must be shown on development plans.
- c. A copy of the car sharing agreement between the property owner and the car share company must be submitted with development permits.
- d. This reduction may not be used in addition to other exceptions or reductions in parking requirements otherwise provided in this chapter.
- e. This credit is limited to a maximum of ten percent of the required off-street parking spaces.

2. *Motorcycle Parking.*

- a. For every four motorcycle/scooter parking spaces provided, the off-street parking requirement is reduced by one space.
- b. This credit is limited to a maximum of five off-street parking spaces, or five percent of the standard off-street parking requirement for the development, whichever is less.

3. *Bicycle Parking.*

- a. For every five nonrequired bicycle parking spaces provided, the off-street parking requirement is reduced by one space.



- b. For every development which provides shower facilities and clothing storage areas for bicycle commuters, the off-street parking requirement is reduced by four spaces. The facilities shall be for the use of the employees and occupants of the building, and shall be located where they are easily accessible to bicycle parking facilities.
  - c. Each bicycle parking space must meet the location and design requirements of EMC [19.34.030](#).
  - d. This credit is limited to a maximum of five off-street parking spaces, or five percent of the standard off-street parking requirement for the development, whichever is more.
4. *Mixed-Use Projects*. Mixed-use buildings or developments, including developments such as a mini-mall, may have complementary parking utilization patterns, in which case sharing of the off-street parking can allow for a reduced number of stalls in a development.
- a. *Projects with Residential Units*. For mixed-use buildings with residential units where fifty percent or more of the gross floor area is dedicated to nonresidential uses, it is reasonable to expect that there would be a substantial amount of parking left vacant during the hours when parking is needed by residents. The residential off-street parking requirement may be reduced by up to fifty percent with an approved transportation demand management (TDM) plan.
  - b. *Mixed-Use Projects, General*. If more than one type of land use (see Table 34-1) occupies a single structure or parcel of land, the total requirements for off-street parking may be reduced by five percent of the sum of the requirements for all uses.
  - c. *Mixed Use Projects, Specific*. See EMC [19.34.070](#) for reduced off-street parking for specific shared parking options. (Ord. 3616-18 § 2 (Exh. 1), 2018.)

### **19.34.070 Shared parking.**

A. *Purpose and Intent*. Shared parking between more than one type of use can reduce the amount of off-street parking by enabling more efficient time utilization of parking resources. Through leveraging complementary peak time demands of different uses, or by leveraging single-trip, multiple-stop demands between multitenant sites or nearby properties, shared



parking allows a reduction of physical off-street parking spaces without a reduction in effective supply.

B. *When Shared Parking Is Allowed.* The planning director, in consultation with the city engineer, may allow shared parking for two or more uses, either within the same site or on different sites.

C. *How Shared Parking Is Approved.* An application for shared parking shall be submitted to the city. Applications for shared parking shall include supporting data and analysis which demonstrate compliance with subsections [\(D\)](#) and [\(E\)](#) of this section:

D. *Reducing Off-Street Parking with Shared Parking.*

1. *Residential.* Pursuant to EMC [19.34.060\(B\)\(4\)](#), for mixed-use buildings with residential units where fifty percent or more of the gross floor area is dedicated to nonresidential uses, it is reasonable to expect that there would be a substantial amount of parking left vacant during the hours when parking is needed by residents. The residential off-street parking requirement may be reduced by up to fifty percent with an approved transportation demand management (TDM) plan.

2. *Nighttime Uses.* Up to fifty percent of the off-street parking required by this chapter for primarily nighttime uses such as theaters, bowling alleys, bars and restaurants may be supplied by parking serving primarily daytime uses such as banks, offices, retail stores, personal service shops and manufacturing and wholesale uses.

3. *Daytime Uses.* Up to fifty percent of the off-street parking required by this chapter for primarily daytime uses may be supplied by parking serving primarily nighttime uses.

4. *Churches and Schools.* Up to one hundred percent of the off-street parking required by this chapter for a church or an auditorium incidental to a public or parochial school may be supplied by parking serving primarily nighttime uses.

5. *Other.* A development may propose other shared parking proposals for approval of the city engineer.

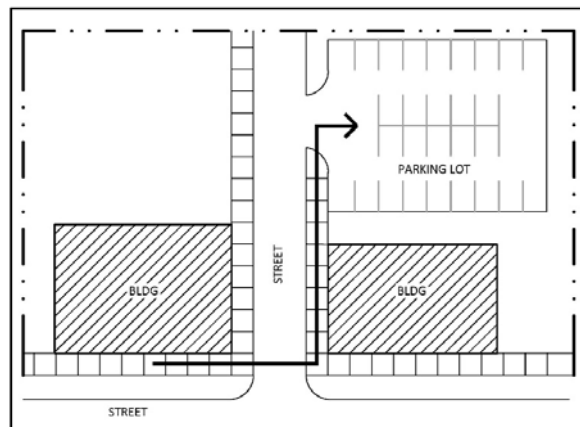
E. *Requirements for Shared Off-Street Parking.*

1. *No Conflict.* No substantial conflict between the operating hours of the uses for which joint use of parking is proposed is allowed.



2. *Assigned Stalls.* Parking stalls that have been assigned to individual tenants or occupants shall not be eligible for shared parking.
3. *Distance.*
  - a. Off-street parking facilities shall be located within five hundred feet of the use which they are to serve, measured along the access route with a safe walking path.
  - b. Off-street parking facilities for nonresidential uses within Metro Everett shall be located within one thousand feet, measured along the access route with a safe walking path.

**Figure 2: Shared Parking and Safe Walking Path**



4. *Joint Use Agreement.* The right of joint use of shared off-street parking must be demonstrated through a binding agreement that is tied to the land or similar written instrument establishing the joint use. The binding agreement may restrict future changes to use of the property. All agreements are subject to review and approval of the city in order to have off-street parking reduced pursuant to this section. (Ord. 3616-18 § 2 (Exh. 1), 2018.)

## **19.34.080 Transportation demand management.**

### **A. When a Transportation Demand Management (TDM) Plan Is Required.**

1. A TDM plan must be prepared for the following development projects:



- a. A TDM plan is required for new construction of a principal building in excess of fifty thousand square feet of gross floor area.
  - b. A TDM plan is required for substantial renovation of a principal building with a gross floor area of at least fifty thousand square feet and involving a change of use.
  - c. A TDM plan is required for any development with an exception or reduction of parking allowed pursuant to EMC [19.34.050](#) or [19.34.060](#).
  - d. A TDM plan is not required for single-, duplex- or triplex-dwelling units.
2. A TDM plan must be reviewed and approved, approved with modifications, or disapproved by the city engineer or designee. A preliminary TDM plan shall be submitted before a building permit is approved. TDM plans may be written in two steps:
  - a. *Preliminary TDM Plan.* When a TDM plan is required, a preliminary plan must be submitted along with the development application. The TDM plan should include the requirements outlined in subsections B, C and D of this section. If a preliminary TDM plan is submitted and approved by the city engineer or designee, then a final TDM plan is not required until a certificate of occupancy is requested.
  - b. *Final TDM Plan.* A final TDM plan meeting the requirements outlined in subsections [\(B\)](#), [\(C\)](#) and [\(D\)](#) of this section is required before a certificate of occupancy may be granted. The TDM plan must be approved by the city engineer or designee.
3. A building permit or land use approval shall not be granted until a final TDM plan meeting the requirements outlined in sections (B), (C) and (D) of this section is approved by the city engineer or designee, and a covenant approved by the planning director requiring compliance with the approved TDM plan is recorded by the applicant. The covenant shall include enforcement mechanism(s), which may include, but are not limited to, enforcement pursuant to Chapter [1.20](#) EMC, injunctive relief, monetary penalties, and loss of units available for rental.

**B. *What Is Required in a TDM Plan.***

1. A TDM plan must be consistent with a TDM guide established by the city engineer.



- 
2. A TDM plan must be prepared by a qualified professional with demonstrated experience in transportation planning, traffic engineering, or comparable field, unless otherwise allowed by the city engineer.
  3. A TDM plan must determine:
    - a. The anticipated travel demand for the project.
    - b. How the anticipated travel demand for the project will be met on site or off site, including:
      - (1) Number of on-street vehicle parking spaces, off-street vehicle parking spaces, or shared vehicle parking arrangements.
      - (2) Number of short-term and long-term bicycle parking spaces.
      - (3) Accommodations for pedestrians, cyclists, motorists, transit riders, and the mobility-impaired.
    - c. The strategies that will be employed to reduce single-occupancy vehicle trips, reduce vehicle miles traveled by site users, and promote transportation alternatives such as walking, cycling, ridesharing, and transit.
    - d. The modal share objectives that will be sought from the implementation of TDM strategies.
  4. A TDM plan must include ways to ensure ongoing compliance and enforcement of approved TDM strategies.
  5. Fees as required to review and approve the TDM plan, and annual fees to monitor the implementation of the TDM plan, as required by the city.
- C. *TDM Strategies.* TDM strategies may include, but are not limited to, the following:
1. Walking, cycling, ridesharing, and transit promotion and education.
  2. Parking cash-out programs or unbundled parking/market rate pricing.
  3. Shared parking arrangements.
  4. Enhanced bicycle parking and services (above the minimum required).
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5. Support for car share and bike share services and facilities.
6. Carpooling or vanpooling programs or benefits.
7. Free or subsidized transit passes, transit-to-work shuttles, or enhanced transit facilities (such as bus shelters).
8. Guaranteed ride home (GRH) programs.
9. Provision for alternative work schedules (i.e., flextime, compressed work week, staggered shifts, telecommuting).
10. Promotion of “live near your work” programs.
11. Roadway improvements adjacent to the site that will help encourage transportation alternatives.
12. Designation of an on-site employee and/or resident transportation coordinator.
13. Membership in a transportation management association (TMA).

D. *TDM Performance Standards*. In making its decision, the city engineer must make written findings of fact on the following matters:

1. The project includes performance objectives to minimize single-occupancy vehicle trips and maximize the utilization of transportation alternatives to the extent practicable, taking into account the opportunities and constraints of the site and the nature of the development.
2. The project must meet the anticipated transportation demand without placing an unreasonable burden on public infrastructure, such as transit and on-street parking facilities, and the surrounding neighborhood.
3. The TDM plan includes ways to ensure ongoing compliance to reduce transportation impacts. (Ord. 3774-20 § 8 (Exh. 6), 2020; Ord. 3672-19 § 9, 2019; Ord. 3616-18 § 2 (Exh. 1), 2018.)



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**19.34.090 Nonconforming parking.**

If a use which was lawfully established has less parking than required by the zoning code, it need not provide additional parking except under the following circumstances:

A. *Expansion of Building.* Any increase in the floor area of a building shall provide additional parking for the added floor area in accordance with the current parking requirements for such use, unless otherwise provided an exception under EMC [19.34.050](#) or reduction under EMC [19.34.060](#).

B. *Change of Use.*

1. In Metro Everett, no additional parking shall be required for changes in use for buildings in existence prior to January 1, 2007.
2. Outside of Metro Everett, no additional parking shall be required for changes in use for buildings in existence prior to December 2, 1956.
3. Except as otherwise allowed above, any change in use which requires more parking than the previous use shall provide parking in accordance with the current parking requirements for the changed use minus the number of parking spaces by which the previous use was deficient, unless otherwise provided an exception under EMC [19.34.050](#) or reduction under EMC [19.34.060](#).

C. *Surfacing Materials.* Where building or parking lot expansion is proposed, existing parking that does not meet current city requirements for surfacing shall be paved in accordance with city design standards if the value of the proposed expansion exceeds fifty percent of the value of existing buildings. (Ord. 3616-18 § 2 (Exh. 1), 2018.)

**19.34.100 Location of off-street parking.**

A. *Parking Location—General Requirements for Residential Uses.*

1. Required off-street parking for residential uses shall be provided on the same lot as the dwelling it is required to serve.



2. Parking may not be located within required setbacks, except as allowed under EMC [19.34.110\(C\)](#) and this section, with the following exceptions:

a. *Single-Family (One-Unit Dwelling) or Two-Unit Dwelling.* Parking may be located within the front or street side setbacks on a driveway that meets city design standards or within the rear or interior side setbacks. This exception does not apply to:

- (1) Easement access lots;
- (2) Historic overlay zones, if applicable; or
- (3) The front setback for alley access lots, except as allowed under EMC [19.34.110\(B\)](#).

b. *Multiple-Family.* Parking may be located within setbacks in the following circumstances:

- (1) Within the rear setback when access is from an alley;
- (2) Within the rear setback when (A) meeting outdoor and common area requirements (Chapter [19.09](#) EMC); (B) when meeting landscaping and screening requirements (Chapter [19.35](#)); and (C) when not abutting a single-family (R-S, R-1, R-2, R-2(A)) zone.
- (3) When parking is located below grade, parking may be located within any required setback if situated completely below grade, and the required landscaping can be provided on top of the below-grade parking structure.

3. *Private Access Drives.* Parking on any private access drive shall be prohibited except when authorized through a land division or other land use permit. Off-street parking may be located adjacent to an approved access drive outside of the minimum required dimensions of the access drive. Where applicable, the homeowners' association shall be responsible for enforcing this requirement.

4. *Multiple-Family Standards.* Off-street parking areas shall not be located closer to the public street than the building located closest to the street.



5. *Historic Overlay.* Off-street parking in an historic overlay zone shall not be located closer to the public street than the building located closest to the street unless approved by the planning director due to street topography which precludes other placement.

6. *Modification of Standards.* Parking location standards may be modified with Review Process II described in EMC Title [15](#), Local Project Review Procedures.

B. *Parking Location—General Requirements for Nonresidential Uses.*

1. Parking, except as otherwise allowed for automobile, light truck or RV sales or rental, shall not be located within a required building setback, required landscape area or open space.

2. For nonresidential uses, required off-street parking shall be located on property within five hundred feet of the building or use which it is required to serve. This distance shall be measured along the access route. The property upon which the off-street parking is provided shall be located in the same zone as, or a zone which allows, the use for which the parking is required.

3. *Separation of Surface Parking Lots from Public Right-of-Way.*

a. Surface parking lots shall not be located between buildings and Broadway or Evergreen Way.

b. For all other streets, surface parking lots shall be set back either ten feet from the public sidewalk, or five feet from the property line, whichever is greater. The intent of this requirement is to provide a minimum ten-foot landscape separation between surface parking lots and public streets in accordance with Chapter [19.35](#) EMC.

c. There shall be no setback required from a public alley.

4. Surface parking lots shall be set back from interior lot lines consistent to meet the landscaping and screening requirements of Chapter [19.35](#) EMC.

5. Marijuana retailers shall comply with the parking location requirements set forth in EMC [19.13.160](#).

6. *Modification of Standards.* Parking location standards may be modified with Review Process II described in EMC Title [15](#), Local Project Review Procedures.



C. *Parking Location Requirements, Metro Everett.*

1. *Separation of Surface Parking from Public Right-of-Way.* All surface parking lots within Metro Everett shall have a minimum front setback of forty feet. For corner lots, the minimum setback from a street side lot line shall be five feet. Exception: within the Light Industrial 1 zone, the minimum front setback for surface parking shall be fifteen feet. Where surface parking is provided, it shall be separated from any public sidewalk by a minimum of five feet to allow screening/landscaping in accordance with Chapter [19.35](#) EMC.
2. There shall be no setbacks required for rear and side interior lot lines unless otherwise necessary to accommodate landscaping/screening in accordance with Chapter [19.35](#) EMC.
3. *Nonresidential Uses.* Parking for nonresidential uses in Metro Everett shall be located within one thousand feet of the use for which it is required, measured along the access route.
4. *Modification of Standards.* Parking location standards may be modified with Review Process II described in EMC Title [15](#), Local Project Review Procedures.

D. *Parking Location—Alley Requirements for Multifamily and Nonresidential.* Structured parking garages accessed from the rear with no internal turnaround shall be set back at least twenty-five feet from the far side of the alley, except as otherwise approved by city engineer. (Ord. 3774-20 § 8 (Exh. 6), 2020; Ord. 3672-19 § 10, 2019; Ord. 3616-18 § 2 (Exh. 1), 2018.)

### **19.34.105 Vehicle storage in residential zones.**

- A. The following vehicle types may be stored on a residential lot upon which a principal dwelling is located: recreational vehicles, campers, travel trailers, boats, motorcycles, and other types of similar recreational vehicles. If such vehicles are located within the front or street-side setback of the principal building and/or accessory building, they must be stored on an approved driveway (see EMC [19.34.110\(C\)](#)). In addition, any vehicle stored on a residential lot shall be owned by the owner of the property or resident of the dwelling.
- B. Vehicles over sixteen thousand pounds gross vehicle weight which are not specifically mentioned in subsection A of this section shall not be parked or stored on residentially zoned



lots. In respect to any motor vehicle designed, used or maintained primarily for the transportation of property which is not equipped with a plate or marker showing the manufacturer's gross vehicle weight rating, the weight of a vehicle shall be determined as follows:

1. Any motor vehicle having less than six wheels is the equivalent of a vehicle having a manufacturer's gross vehicle weight rating of less than sixteen thousand pounds.
2. Any motor vehicle having six wheels or more is the equivalent of a vehicle having a manufacturer's gross vehicle weight rating of sixteen thousand pounds or more. (Ord. 3616-18 § 2 (Exh. 1), 2018.)

### **19.34.110 Vehicular access to off-street parking—Alleys and driveways.**

A. *Alleys.* Access to off-street parking areas shall be provided from the alley where available. The intent of this requirement is to:

1. Enhance the safety of parking areas;
2. Minimize potential conflicts between vehicles and pedestrians;
3. Efficiently manage traffic in off-street parking areas;
4. Reduce visual impacts on surrounding properties and improve streetscape appearance.

B. *Alley Access Exception.* Access from the public street where the lot abuts an alley will only be allowed as an exception to the alley access requirement. The city engineer, in consultation with the planning director, may allow access from the street in lieu of, or in addition to, using the alley in the following circumstances:

1. The topography of the site and/or adjacent alley makes use of the alley infeasible; or
2. The requirement for access from the alley would create a traffic or pedestrian safety hazard, such as sight distance problems or conflicts with other ingress/egress locations; or
3. There is an existing improvement that prevents use of the alley for vehicular access; or



4. For nonresidential or mixed uses, driveway access from the street is necessary to provide access for commercial customer traffic; this exception may not be used to justify a street access point that primarily provides access to employee or resident parking areas; or
5. Providing access from the street will reduce or minimize adverse impacts on adjacent properties; or
6. Street access for multiple levels of off-street parking within a structure when access from an alley to all parking levels is not feasible.

C. *Driveways.* The design of all driveways and internal vehicle circulation shall be in accordance with EMC Title [13](#) and the city design standards. Maximum driveway width within the public right-of-way shall be as provided in Chapter [13.16](#) EMC. For residential zones, the following additional requirements shall apply to the portion of the driveway located outside the right-of-way:

1. For nonalley access lots, the maximum driveway width within the front or street side setback shall not exceed thirty feet, or fifty percent of the lot frontage width, whichever is less. However, a minimum driveway width of ten feet will be allowed in all cases.
2. *Sidewalk Design/Driveways.* Where new driveways and/or sidewalks are installed within the public right-of-way, the sidewalk pattern shall carry across the driveway. (Ord. 3774-20 § 8 (Exh. 6), 2020; Ord. 3616-18 § 2 (Exh. 1), 2018.)

### **19.34.120 Parking area design and construction.**

A. *Parking Design Specifications.* The minimum requirements for parking stall and aisle dimensions, striping, pavement thickness and subgrade shall be as set forth in the city design standards.

B. *Surfacing.*

1. All parking areas shall consist of durable surface materials approved by the planning director and city engineer. Depending upon site and soil conditions, low impact development (LID) stormwater management facilities are encouraged, and may be required by the city's stormwater management manual.

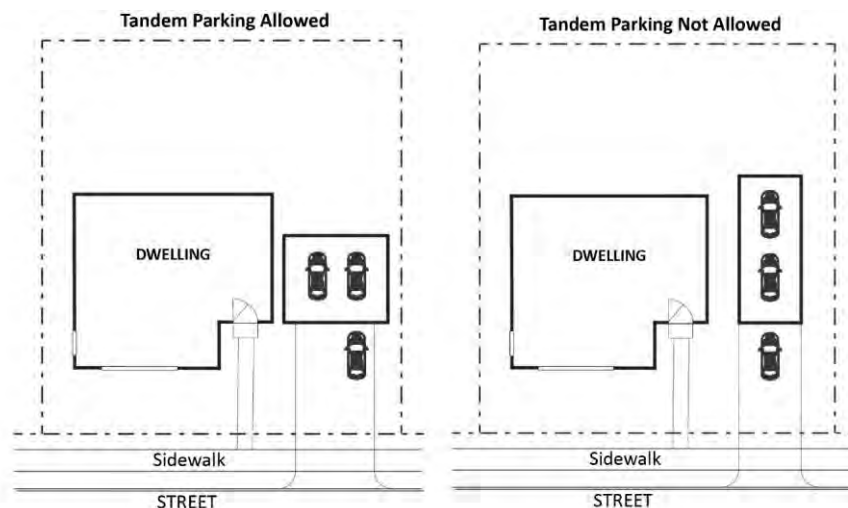


2. *Exception.* For single-family and duplex uses, nonrequired parking that is located outside of the front and street side setbacks areas may use surface materials in accordance with city design standards; provided, however, that parking in the area between a street-facing facade and the street must be on a paved surface as allowed by EMC [19.34.110\(C\)](#).

C. *Landscaping and Screening.* Landscaping and screening for parking lots shall be in accordance with the standards of Chapter [19.35](#). Parking of trucks or fleet vehicles is considered off-street parking for the purposes of calculating the parking lot interior landscaping required by Chapter [19.35](#) EMC.

D. *Tandem Parking.* In residential zones (R-S, R-1, R-2, R-2(A), UR3 and UR4), no more than two required parking spaces serving the same dwelling unit may be parked in tandem. See Figure 3 for illustration.

**Figure 3: Tandem Parking\***



\* The figure above illustrates a situation where a dwelling (e.g. dwelling with an ADU) has three off-street parking spaces required, of which only one can be in tandem. If only two off-street parking spaces are required, the figure on the right would be allowed because the third space would not be a required off-street parking space.

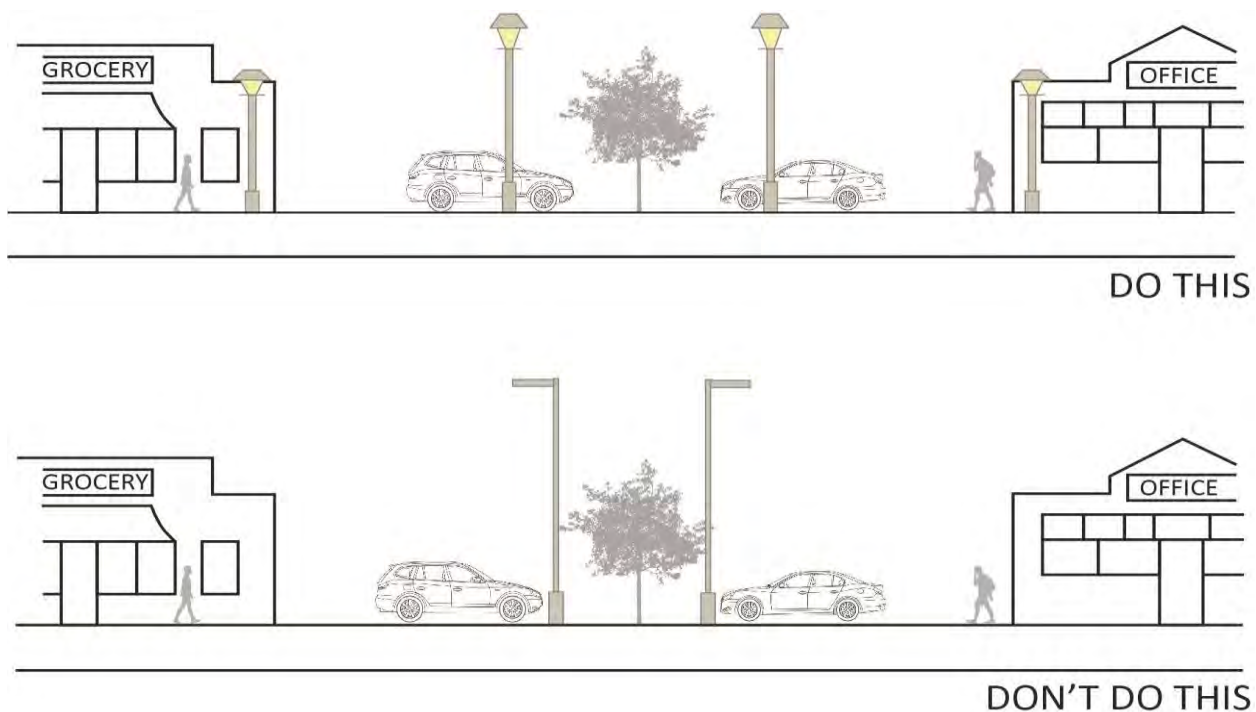
E. *Accessible Parking.* Accessible parking stalls shall meet the requirements of Washington State Regulations for Barrier Free Facilities (Chapter [51-50](#) WAC).



F. *Parking Area Illumination.* All surface parking areas for multiple-family and nonresidential uses shall provide illumination to improve site security and minimize light spill and glare impacts on adjacent properties. Parking area illumination shall meet the following standards:

1. Parking area lighting fixtures shall be full cut-off (zero percent candlepower at ninety degrees horizontal and ten percent maximum candlepower at eighty degrees from vertical), dark sky rated, and mounted no more than thirty feet above the ground, with lower fixtures preferable so as to maintain a human scale.
2. All fixtures over fifteen feet in height shall be fitted with a full cut-off luminaire.
3. *Figure 4.* Acceptable and unacceptable parking area lighting.

**Figure 4: Parking Area Illumination**



4. Except within industrial zones, pedestrian-scaled lighting (light fixtures no taller than fifteen feet) is encouraged in areas of pedestrian activity.
5. Lighting must not trespass onto adjacent private parcels. All building-mounted lights shall be directed onto the building itself and/or the ground immediately adjacent to it. The light emissions shall not be visible above the roof line of the building.



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G. *Maintenance.*

1. All off-street parking spaces shall be maintained to the design standard as shown on approved permit documents. Such spaces shall not be used at any time or in any manner that precludes use for off-street parking of operable motor vehicles regularly used by occupants, employees, guests or customers.
2. Where parking is owned in common (e.g., by a homeowners' association), the covenants shall clearly indicate which parties are responsible for parking facility maintenance. (Ord. 3774-20 § 8 (Exh. 6), 2020; Ord. 3672-19 § 11, 2019; Ord. 3616-18 § 2 (Exh. 1), 2018.)

### **19.34.130 Drive-through facilities.**

See EMC [19.13.095](#) for standards and restrictions for drive-through service windows, order placing stations and holding lanes. (Ord. 3774-20 § 8 (Exh. 6), 2020; Ord. 3616-18 § 2 (Exh. 1), 2018.)

### **19.34.140 Pedestrian access.**

Design of pedestrian facilities through parking areas shall be in accordance with Chapter [19.33](#) EMC and the city design standards. (Ord. 3774-20 § 8 (Exh. 6), 2020; Ord. 3616-18 § 2 (Exh. 1), 2018.)

### **19.34.150 Off-street loading requirements.**

A. *Nonresidential Truck Loading and Unloading Berths.* Every nonresidential building hereafter constructed or altered that is engaged in retail, manufacturing, wholesale or storage activities, excluding self-service storage facilities, which requires delivery of merchandise or materials by trucks shall provide truck loading and unloading berths according to city design standards, except in Metro Everett. All loading areas shall be separated from required parking areas and shall be designated for truck loading space.

B. *Hotel, Office, Restaurant, or Assembly Truck Loading and Unloading Berths.* Every hotel, office building, restaurant, assembly structure or similar use shall provide truck loading and unloading berths according to the following standards, except in Metro Everett or when such



use is being reviewed using a review process which involves either the hearing examiner or city council as set forth in EMC Title [15](#), Local Project Review Procedures.

C. *Truck Loading and Unloading for Other Uses.* The city engineer is authorized to require loading space as necessary to provide for the safe and efficient delivery of merchandise or materials to the following uses:

1. Uses with a smaller floor area than the minimum listed in the city design standards;
2. Uses in Metro Everett; or
3. Uses being reviewed using the hearing examiner review process as set forth in EMC Title [15](#), Local Project Review Procedures.

The city engineer shall have the authority to require measures or improvements that will ensure that the specific uses within the building are protected from unsafe conditions resulting from truck loading and unloading and required off-street parking areas and public right-of-way.

D. *Modification of Off-Street Loading Requirements.* The requirements of subsections [\(A\)](#) and [\(B\)](#) of this section may be modified by the city engineer. In order to grant a modification to the requirements of subsections [\(A\)](#) or [\(B\)](#) of this section, the city engineer shall require the applicant to provide sufficient information to demonstrate that the method of providing loading/unloading for a particular use, building or site will be sufficient to assure that required off-street parking areas, public right-of-way and surrounding properties are protected from unsafe conditions resulting from truck loading and/or unloading. The city engineer is not authorized to allow the loading and/or unloading of trucks to occur on public streets except on a nonrecurring basis as approved through the temporary street use permit process. The use of alley right-of-way for the loading and/or unloading of trucks is allowed without permit.

E. *Truck Loading in Building Setback Areas.* Truck loading areas shall not be located within required building setbacks. Where loading berths are located within one hundred feet of areas zoned for residential use, the applicant shall provide measures necessary to reduce noise and visual impacts from the commercial area. Noise mitigation measures may include architectural or structural barriers, berms, walls or a restriction on the hours of operation, if necessary to meet the requirements of the city's noise ordinance.

F. *Truck Loading and Maneuvering in Manufacturing Zones.* Within industrial zones, truck loading and maneuvering areas shall not be located within one hundred thirty feet of areas zoned for



residential use. Truck loading/unloading shall not be permitted on streets. Truck loading operations and maneuvering areas shall not be permitted to occupy an area exceeding fifty percent of the total linear dimensions of the building perimeter. (Ord. 3774-20 § 8 (Exh. 6), 2020; Ord. 3616-18 § 2 (Exh. 1), 2018.)

### **19.34.200 Modification of required off-street parking spaces, location and driveway width standards.**

An applicant may propose, and the planning director, using the review process described in EMC Title [15](#), Local Project Review Procedures, may allow an applicant to deviate from the following standards of this chapter, provided the proposal satisfies the evaluation criteria in Chapter [15.03](#) EMC:

- A. Reduction of off-street parking required by Table 34-1 or 34-2, or for an accessory dwelling unit;
- B. Location of off-street parking;
- C. Vehicular access to off-street parking, alleys and driveways;
- D. Parking area design and construction;
- E. Standards for drive-through facilities; or
- F. Off-street loading requirements. (Ord. 3774-20 § 8 (Exh. 6), 2020; Ord. 3616-18 § 2 (Exh. 1), 2018.)

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**The Everett Municipal Code is current through Ordinance 4031-24, passed May 22, 2024.**

Disclaimer: The City Clerk's Office has the official version of the Everett Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

[City Website: www.everettwa.gov](http://www.everettwa.gov)



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## Chapter 19.35

### LANDSCAPING

#### Sections:

19.35.010	User guide.
19.35.020	Purpose.
19.35.030	Application of landscaping requirements.
19.35.040	Location of landscaping.
19.35.050	Landscaping type definitions and requirements (Types I—IV).
19.35.055	Plant specifications.
19.35.060	Application of landscape categories and type (Tables 35-1 and 35-2).
19.35.080	Outdoor display and off-street parking area landscape requirements.
19.35.090	Special landscape requirements applicable to residential zones.
19.35.100	Landscape requirements for land divisions.
19.35.110	Additional landscaping requirements in the LI2 and HI zones.
19.35.120	Landscaping adjacent to freeways.
19.35.130	Additional landscaping requirements and design standards.
19.35.140	Landscape plan requirements.
19.35.150	Irrigation plan requirements.
19.35.160	Landscaping installation and performance assurance requirements.
19.35.170	Landscape maintenance and maintenance assurance requirements.
19.35.180	Landscape enforcement.
19.35.190	Administrative modification of landscaping requirements.

#### 19.35.010 User guide.

Table 35-1, Landscape Categories for Use Zones, contains the landscape category for each zone. This landscape category is either A, B, C, D or E. This chapter establishes the requirements for each landscape category. It also establishes minimum buffers between certain uses, and provides a method for modification of the requirements of this chapter. Certain zones include special landscaping regulations that are in addition to or exceptions from the standards in this



chapter. Table 35-2 identifies when special regulations may apply. (Ord. 3774-20 § 9 (Exh. 7), 2020; Ord. 3322-13 § 3, 2013; Ord. 1671-89, 1989.)

### **19.35.020 Purpose.**

The purpose of this chapter is to enhance compatibility between land uses and zones; screen undesirable views which have a blighting effect upon adjoining streets and properties; provide a visual buffer and physical separation between land uses of varying intensities on abutting properties; minimize the impacts of noise, light and glare; temper the extremes of microclimates; provide privacy; reduce dust; reduce the visual monotony of large expanses of paved parking lots; implement the policies of the Everett general plan; reduce stormwater runoff and pollution of surface waters, reduce erosion and sedimentation; conserve energy; aid in regulating vehicle circulation; and retain existing natural vegetation and protect and preserve urban wildlife habitat to the extent feasible. (Ord. 3774-20 § 9 (Exh. 7), 2020; Ord. 1671-89, 1989.)

### **19.35.030 Application of landscaping requirements.**

The planning department shall review and may approve, disapprove or approve with modification all site/landscape plans for all uses and developments which are required to provide landscaping in accordance with the requirements of individual zones and the provisions of this chapter. No permit for use which is subject to the requirements of this section shall be issued until the landscape plan for such use has been approved by the planning department. This chapter shall apply under the following circumstances:

- A. *New Development.* All new uses shall provide landscaping in accordance with the requirements of this chapter when the use-standards table indicates a particular landscape category applies to that use, or when a particular landscape category and/or additional specific landscaping requirements are imposed as part of a discretionary permit review process.
- B. *Expansions of or Alterations to Existing Uses.* The requirements of this section shall apply to remodeling or expansion of existing uses when the value of the new construction or alteration occurring within a two-year period is equal to or greater than thirty-five percent of the assessed value of the existing improvements. Where conformance with this section would create a



nonconformity of parking standards or would conflict with the location of existing buildings on the lot, the planning director shall determine how the code is to be applied. Where a nonconformity with parking standards will be created, the planning director should consult with the city traffic engineer. In determining how to apply the landscaping requirements in such circumstances, the planning director may allow landscaping to be clustered on portions of the site visible from adjacent streets and shall use the following criteria in deciding which of the landscaping requirements to adjust, listed in the order of highest importance:

1. Compliance with street frontage landscaping standards;
2. Compliance with perimeter landscaping standards;
3. Compliance with internal area of parking lot standards;
4. Compliance with other landscaping standards of this title.

C. *Change of Use or Occupancy.* When the use of a building or lot changes to another use which does not involve expansion or remodeling as provided in subsection (B) of this section, such use need not provide additional landscaping except under the following circumstances:

1. Additional off-street parking is required, in which case the landscaping required by EMC [19.35.080](#) shall be required for all new parking spaces or parking facilities provided.
2. The use is subject to a review process in which the review authority has discretionary authority as set forth in EMC Title [15](#), Local Project Review Procedures, in which case the review authority shall establish the minimum landscape requirements for the specific use.
3. New uses, storage or other activities which take place outdoors are to occur, in which case the requirements of EMC [19.39.050](#) shall apply.
4. The previous use did not comply with the requirements of the landscaping regulations in effect at the time it was established, in which case the new use shall comply with such requirements in effect at the time of establishment of the previous use. If the location of existing buildings prevents conformance with the requirements of this chapter, the planning director shall determine how the code is to be applied.

D. *Difference of Standards.* Where there is a difference in the standards listed in this chapter and the specific requirements listed in individual zones, the more substantial requirements shall be required. The planning director may permit alternative landscaping, as provided in EMC



[19.35.190](#), when the overall site development plan proposed provides equivalent or better results than required by this title. (Ord. 3774-20 § 9 (Exh. 7), 2020; Ord. 3322-13 § 4, 2013; Ord. 2538-01 § 38, 2001; Ord. 1849-92 §§ 24, 25, 1992; Ord. 1793-91 § 5, 1991; Ord. 1729-90 § 18, 1990; Ord. 1671-89, 1989.)

### **19.35.040 Location of landscaping.**

Landscaping shall be located where indicated by Table 35-2. Where required landscape width exceeds the required setback, the landscape width may be reduced to the minimum setback width if the landscape type is increased to the next higher standard (e.g., Type III to Type II), except that where Type III landscaping is required along street frontages, it need not be increased to Type II landscape standards. (Ord. 3774-20 § 9 (Exh. 7), 2020; Ord. 1849-92 § 28, 1992; Ord. 1671-89, 1989.)

### **19.35.050 Landscaping type definitions and requirements (Types I—IV).**

A. *Type I: Visual Screen.* Type I landscaping is intended to provide a very dense sight barrier to significantly separate uses and zoning districts. It shall generally consist of a mix of predominantly evergreen plantings including living trees, shrubs and ground covers. The choice and spacing of plantings shall be such that they will form a dense hedge sufficient to obscure sight through the screen within three years after planting. Where a sight obscuring fence is required, chain-link fencing with slats shall not be considered to be sight-obscuring. Type I landscaping shall consist of the following:

1. Evergreen trees planted along the entire length of the required buffer at intervals no greater than twenty feet on center. Trees shall be chosen and spaced so as to form an effective visual screen which creates a solid sight-obscuring barrier within three years of planting. Trees shall be a minimum of six feet high at the time of planting.
2. Type I landscaping shall include a solid wood fence or masonry wall, or combination of wood and masonry, six feet in height and located along the property line between the residential and nonresidential use.



3. The entire width of the required buffer shall be landscaped. The remaining area which is not planted with the sight-obscuring barrier shall be planted with shrubs and ground cover. Shrubs shall be at least two-gallon size and a minimum of eighteen inches high at the time of planting. Shrubs and ground cover shall be planted to attain a coverage of ninety percent of the planting area within three years.

4. Lawns and other ground covers may be used to cover up to seventy-five percent of the landscape area which is not used for the sight-obscuring barrier.

B. *Type II: See-Through Buffer.* Type II landscaping is intended to create a visual separation between uses and zones. Type II landscaping shall consist of:

1. A mix of evergreen and deciduous trees, with no more than thirty percent being deciduous, and planted at intervals no greater than twenty feet on center. Required deciduous trees shall be at least two inches caliper at the time of planting. Evergreen trees shall be at least six feet tall at time of planting.

2. A mix of evergreen and deciduous shrubs, with not more than thirty percent being deciduous, at least two-gallon size and a minimum of eighteen inches high at the time of planting, planted at a density of five per one hundred square feet of planting area, together with other living ground cover planted to attain a coverage of ninety percent within three years of planting.

Trees to be planted under overhead electric power lines shall be species recommended in Snohomish County PUD No. 1's Tree Book, Puget Sound Energy's Energy Landscaping or an alternative approved by the planning director. If the species planted is expected to be less than twenty feet high at maturity, the planning director may require that additional trees be planted.

C. *Type III: Ornamental Effects Landscaping.* Type III landscaping is intended to provide a visual separation of uses from streets, and visual separation of compatible uses so as to soften the appearance of the development from public streets and soften the appearance of parking areas, buildings, and other improvements. Type III landscaping shall consist of:

1. Canopy-type broadleaf deciduous trees or spreading evergreen trees planted in wells or strips with a mix of living evergreen and deciduous ground covers and low shrubs. Up to one hundred percent of the trees may be deciduous. Deciduous trees shall have a minimum caliper of two inches at the time of planting. Evergreen trees shall have a



minimum height of six feet at time of planting. Trees shall be spaced at intervals no greater than thirty feet on center.

Trees planted in Type III landscaped areas along street frontages must have a minimum spread of ten feet and a minimum height of twenty feet at maturity, unless a lower height is required under power lines.

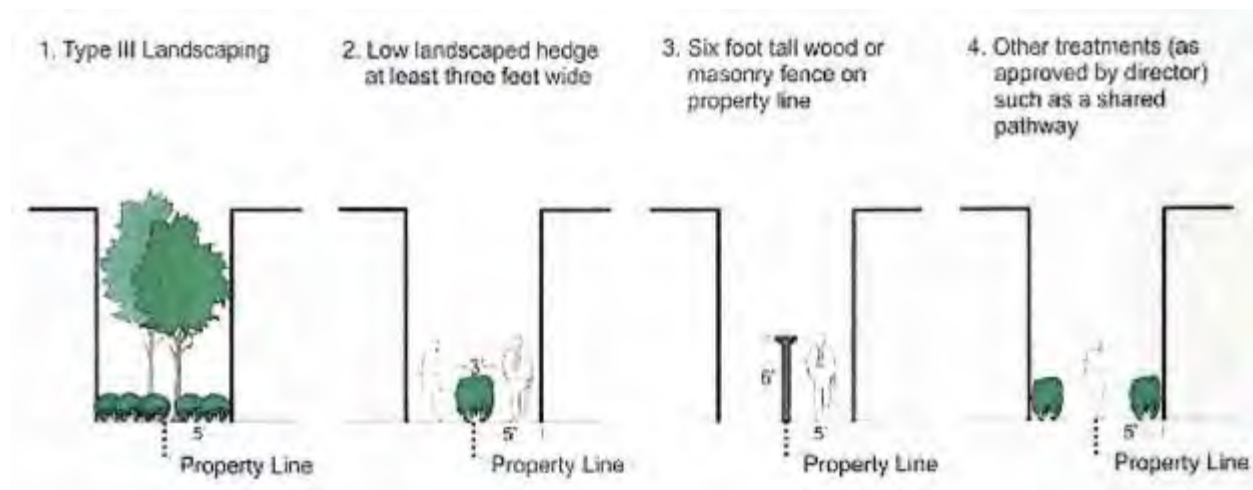
2. Shrubs and living ground cover shall be chosen and planted to attain a coverage of ninety percent within three years of planting. Shrubs shall be a minimum of eighteen inches high at the time of planting and shall be planted at a density of five shrubs per one hundred square feet of that portion of the landscape area which is not planted in ground cover. Ground cover may be used for up to seventy-five percent of the required ninety percent coverage.

3. Along interior lot lines where buildings on both sides of an interior lot line are five feet or less from the property line, one of the following screening methods may be used rather than the standards in subsections [\(C\)\(1\)](#) and [\(2\)](#) of this section:

- a. Provide a low landscaped hedge at least three feet wide between the building and the property line. The hedge shall include at least one three-gallon shrub for every three lineal feet.
- b. Provide a solid wood fence or masonry wall, or combination of wood and masonry, six feet in height and located along the property line.
- c. Other treatments that meet the intent of the standards as approved by the planning director.

#### **Figure 35-1: Side Yard Options**





D. *Type IV: Soil Stabilizing Vegetation/Landscaping.* Type IV landscaping is intended to provide soil stability, prevent erosion and prevent sedimentation to off-site properties and improvements. Type IV landscaping shall consist of lawn, other living ground cover, shrubs and trees with a root structure which stabilizes soil where necessary to prevent erosion and sedimentation. Type IV landscaping may include other organic and/or inorganic soil-stabilizing materials such as rockeries, retaining walls or other similar slope and soil stabilization devices. A minimum of sixty percent of the required front setback fronting a public street and a required street side setback shall be landscaped exclusive of any type of impervious surface or gravel or any other similar material. If a permitted driveway or off-street parking area is within the setback, the required landscaped area can be reduced to forty percent. Landscaping shall consist primarily of grass or other living ground cover, shrubs, and/or trees. (Ord. 3774-20 § 9 (Exh. 7), 2020; Ord. 3322-13 § 5, 2013; Ord. 1849-92 §§ 26, 27, 1992; Ord. 1729-90 § 19, 1990; Ord. 1671-89, 1989.)

### 19.35.055 Plant specifications.

Unless otherwise specified, the following standards shall apply to all areas which are required to be landscaped by this chapter:

A. *Trees.* Trees to be planted under overhead electric power lines shall be species recommended in Snohomish County PUD No. 1's Tree Book, Puget Sound Energy's Energy Landscaping or an alternative approved by the planning director. If the species planted is expected to be less than twenty feet high at maturity, the planning director may require that additional trees be planted. Trees that do not meet these standards, such as palm trees and



*Thuja occidentalis* “emerald green,” may only be permitted for a portion of the landscaping through the modification process in EMC [19.35.190](#) when the proposal includes equal or better design quality, and increases the number of trees provided.

The planning director may modify the size of street trees required by this title when trees must be located in aboveground planters due to the location of underground utilities or other underground features.

1. Required deciduous trees shall be at least two inches caliper at the time of planting. If the species planted is expected to be less than twenty feet high at maturity, the planning director may require that additional trees be planted.
2. Required evergreen trees shall be at least six feet high at the time of planting. If the species planted is less than twenty feet high at maturity, the planning director may require that additional trees be planted.

B. *Shrubs*. Required shrubs shall be at least two-gallon size and at least eighteen inches high at the time of planting except if used for Type I landscaping.

C. *Ground Covers*.

1. Ground cover includes low-growing, living plant materials such as perennials, grass, low-growing shrubs, and similar plants. For purposes of this title, chipped wood, bark, similar mulching materials or nonliving artificial plant materials are not acceptable substitutes for required ground cover, except that in portions of LID stormwater facilities that count toward required landscaping, no more than twenty-five percent of the required ground cover may be in rock and mulch.
2. In order to accomplish ninety percent coverage of bare soil by ground cover within three years, spacing for ground cover shall be as follows:
  - a. Two-and-one-half-inch pots: twelve inches on center;
  - b. Four-inch pots: eighteen inches on center;
  - c. One-gallon pots: twenty-four inches on center;



- d. Alternative spacing of particular species may be approved by the city if documentation concerning the effectiveness of the ground cover is submitted with the landscape plan.

D. *Plant Materials, Size, Characteristics.* All plant materials, sizes and characteristics shall be in accordance with the current American Standards for Nursery Stock.

1. See the city's recommended tree list for recommended species.
2. The use of plant species native to the Pacific Northwest is encouraged.
3. Species listed in Snohomish County's noxious weeds lists (Classes A, B and C) are prohibited and shall be eradicated or controlled when present. Invasive species such as English ivy cultivars "Baltica," "California," "Pittsburgh," and Star, Atlantic ivy, and Scotch broom shall not be planted.
4. See the city's stormwater regulations for additional standards for plantings in stormwater facilities. (Ord. 3774-20 § 9 (Exh. 7), 2020; Ord. 3322-13 § 6, 2013; Ord. 2657-02 § 33, 2002; Ord. 1671-89, 1989. Formerly 19.35.110.)

### **19.35.060 Application of landscape categories and type (Tables 35-1 and 35-2).**

A. *General.* Table 35-1 specifies landscape categories for all use zones within the city, while Table 35-2 lists the applicable landscape type and width. The specific regulations pertaining to each landscape category are contained in this section. Where there is a conflict between the general and specific regulations, the more specific regulations shall control.

B. *Instructions for Tables 35-1 and 35-2.* First, determine the property's zoning from the city's zoning map (see Chapter [19.03](#) EMC, Map 3-1). Then refer to Table 35-1 to determine which landscape category applies to that zone. Use Table 35-2 to determine which perimeter landscape types apply for that category. Also refer to the applicable footnotes and detailed requirements standards for specific uses in the following sections of this chapter.

**Table 35-1: Landscape Categories for Use Zones**



Use Zone	Landscape Category
R-2(A); UR3; UR4 <sup>(4)</sup>	A <sup>(1)</sup>
NB <sup>(2)</sup> ; B <sup>(3)</sup> ; MU, LI1	B
HI	C
LI2	D
R-S, R-1; R-2; AG	E <sup>(1)</sup>

**Footnotes for Table 35-1:**

**1** Landscape Category E for single-family detached or two-family (duplex) dwellings. Landscape Category B for permitted nonresidential uses. See EMC [19.35.090](#) for permitted townhouse and duplex developments in these zones.

**2** Landscape Category E for single-family detached or duplex dwellings.

**3** Landscape Category E for single-family detached or duplex dwellings. Landscape Category A for single-family attached or multiple-family dwellings.

**4** Also see EMC [19.35.090\(B\)](#) for additional requirements applicable to the UR4 zone within Metro Everett.

C. *Perimeter Landscaping.* Table 35-2 of this section establishes the type and width of landscaping required along property lines for the landscape category required in each individual zone in Table 35-2. This chart establishes the minimum requirements for each landscape category. However, additional standards may be required for uses being reviewed under review processes involving the hearing examiner, planning commission or city council as set forth in EMC Title [15](#), Local Project Review Procedures, when necessary to enhance compatibility between zones and uses. Where a minimum width of landscaping is specified, the actual width of the planting area shall be measured. Curbs, paving or other protective or boundary marking devices shall not be included in the measurement of landscape width.



D. *Application of Type IV Landscaping.* Type IV landscaping shall be used in the following circumstances:

1. All uses which are indicated as requiring Landscape Category E in the use-standards tables of individual zones.
2. All interior portions of lots which are not developed with buildings, parking area and uses and which are not regulated by subsection (A) of this section, or EMC [19.35.080](#) or [19.35.090](#), or by other more specific landscape regulations contained in this title.

**Table 35-2: Perimeter Landscape Standards**

Street Frontage <sup>(1)</sup>			Interior Lot Lines <sup>(2)</sup>		
Landscape Category	Type	Width of Landscaping	Abutting Zone	Type	Width of Landscaping
A	III	Minimum setback depth <sup>(3)</sup>	Single-family <sup>(4)</sup>	I	10 feet or width of required setback, whichever is less
			Others	III	5 feet or distance between building and lot line, whichever is less
B	III	10 feet or distance between lot line and building,	Residential <sup>(5)</sup>	I	10 feet
			Others	III	5 feet or distance between building and lot



Street Frontage <sup>(1)</sup>			Interior Lot Lines <sup>(2)</sup>		
Landscape Category	Type	Width of Landscaping	Abutting Zone	Type	Width of Landscaping
		whichever is less <sup>(3)</sup> <sup>(11)</sup>			line, whichever is less
C	III	15 feet or distance between building and lot line, whichever is less <sup>(3)</sup> <sup>(8)</sup> <sup>(10)</sup>	Residential <sup>(5)</sup>	I	25 feet
			Commercial <sup>(6)</sup> <sup>(11)</sup>	III	10 feet
			Industrial <sup>(7)</sup>	III	5 feet
D	III	20 feet or distance between building and lot line <sup>(3)</sup> <sup>(8)</sup> <sup>(10)</sup>	Residential <sup>(5)</sup>	I	25 feet
			Commercial or industrial	II	10 feet
E	IV	<sup>(9)</sup>	All zones	IV	<sup>(9)</sup>

**Footnotes for Table 35-2:**

**1** All public right-of-way behind the sidewalk shall also be landscaped to Type III standards. Additional trees are not required in the portion of the landscaping in the public right-of-way.

**2** Interior lot lines which do not abut an alley.

**3** See EMC [19.35.080](#) for landscaping requirements for off-street parking and outdoor display areas.

**4** AG, R-S, R-1, R-2, R-2(A) zones.

**5** AG, R-S, R-1, R-2, R-2(A), UR3, UR4 zones.

**6** NB, B and MU zones.

**7** LI1, LI2 and HI zones.



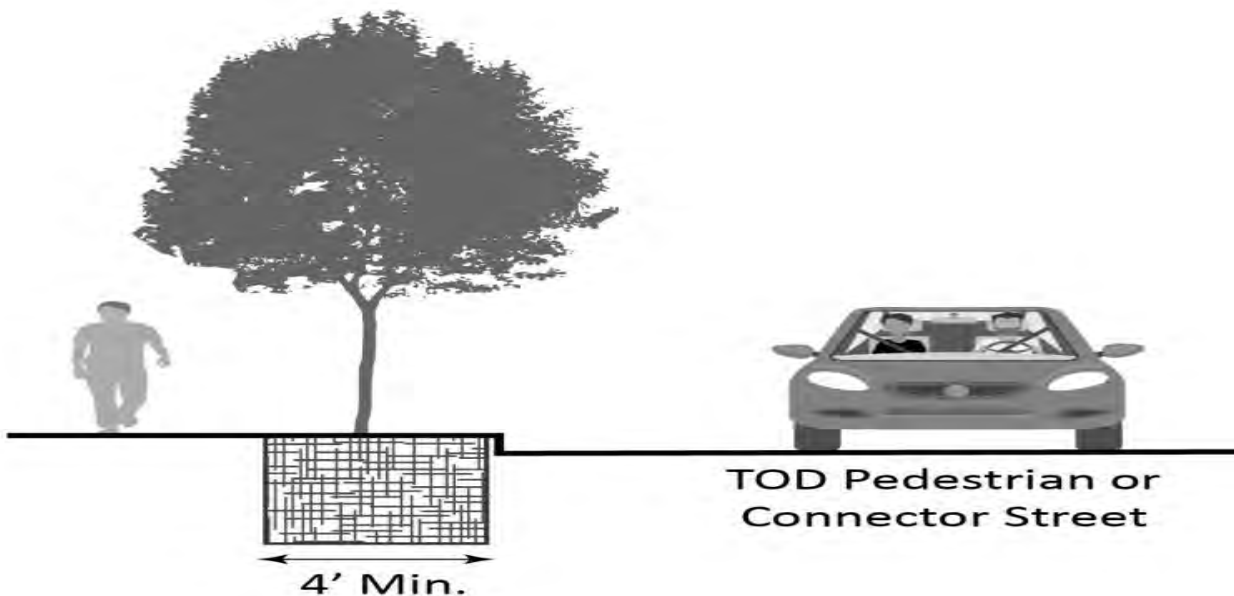
**8** See EMC [19.35.110](#) for additional requirements in LI2 zone.

**9** See subsection [\(D\)](#) of this section for application of Category IV landscaping.

**10** The minimum landscape width for off-street parking areas abutting street right-of-way shall be fifteen feet.

**11** For streets designated TOD, pedestrian and connector on Map 33-1, the required street trees shall be provided between the sidewalk and curb edge within the public right-of-way in a minimum four-foot by six-foot vault or other method as approved by the city to prevent root penetration and sidewalk damage. Spacing of trees shall average not more than thirty feet. Spacing is subject to city of Everett public works standard clearances for sight triangles, driveways, street lights, and other street features or safety concerns. Tree spacing may be reduced to increase visibility of signs and buildings if approved by the city. The city shall maintain a recommended tree list that includes species selection and spacing requirements. See Figures 35-2 and 35-3 below.

**Figure 35-2: Street Trees on TOD, Pedestrian and Connector Streets**



(Ord. 3774-20 § 9 (Exh. 7), 2020; Ord. 3617-18 §§ 60, 61, 2018; Ord. 3322-13 § 7, 2013; Ord. 2538-01 §§ 37, 39, 2001; Ord. 1849-92 § 31, 1992; Ord. 1671-89, 1989.)



### **19.35.080 Outdoor display and off-street parking area landscape requirements.**

The following requirements shall apply to landscaping of all off-street parking, outdoor automobile sales and outdoor display areas, except as otherwise provided in this title for specific zones. The purpose of this section is to provide visual relief along the street frontage of outdoor display and off-street parking areas, to prevent a monotonous visual experience of large expanses of paving, to create shade and mitigate the heat island effect of paved parking areas, to improve water quality, to improve stormwater management, to help control the flow of traffic, and to soften the appearance of parking structures.

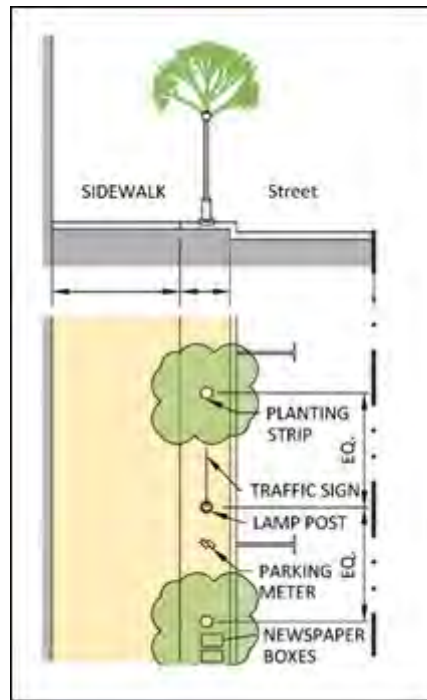
A. Parking and storage areas, automobile sales lots and other outdoor display areas which front on a street right-of-way shall provide the required landscaping in Table 35-2.

B. The following amounts of landscaping shall be provided in the internal area of parking lots exclusive of the landscaping required to be provided along street frontages and along interior lot lines by Table 35-1 of this chapter. Parking of trucks, fleet vehicles, trailers, or other type of vehicles is considered off-street parking for the purposes of calculating the internal area of parking lots in this section.

1. If a lot or development site contains a total of twenty or fewer parking spaces, or not more than six thousand square feet of parking and maneuvering area, whichever is less, no landscaping is required in the internal area of parking lots.

#### **Figure 35-3: Street Trees on TOD, Pedestrian and Connector Streest**





2. If the parking area contains more than twenty parking spaces or six thousand square feet of maneuvering area, and fewer than one hundred parking spaces, a minimum of twenty square feet of landscaping shall be planted for each parking stall. Plantings must consist of a mix of trees, shrubs and ground cover. At least one tree shall be planted for every eight parking spaces. Calculations resulting in a fraction larger than one-half shall be rounded up to the next whole number.

3. If the parking area contains one hundred or more parking spaces, a minimum of thirty square feet of landscaping shall be provided for each parking stall. Plantings must consist of a mix of trees, shrubs and ground cover. At least one tree shall be planted for every six parking spaces. Calculations resulting in a fraction larger than one-half shall be rounded up to the next whole number.

4. Outdoor storage areas and vehicle sales do not require interior landscaping; however, such sites shall still provide landscaping along street frontages and other lot lines as required by subsection [\(A\)](#) of this section and Table 35-2.

C. Landscaping of the planting areas located in the interior of parking lots as required by subsection [\(D\)](#) of this section shall conform to the following standards:



1. Trees shall be canopy-type broadleaf deciduous trees or spreading evergreen trees. Trees must have a minimum spread of ten feet and a minimum height of twenty feet at maturity. Trees that do not meet these standards, such as palm trees and *Thuja occidentalis*, “emerald green,” may only be permitted for a portion of the landscaping through the modification process in EMC [19.35.190](#) when the proposal includes superior design quality, and increases the number of trees provided. Evergreen trees shall be a minimum of six feet high at time of planting. Deciduous trees must be a minimum of two-inch caliper. Up to fifty percent of the required trees within parking areas may be deciduous. Provided, that if the required number of evergreen trees are added to interior lot line landscape areas, up to one hundred percent of the trees interior to the parking areas may be deciduous. Said evergreen trees shall be in addition to those required along interior lot lines and planted within a minimum ten-foot-wide landscaped area.
  2. A mix of evergreen and deciduous shrubs and ground cover shall be provided in the required landscape areas. Ground cover shall be selected and planted so as to withstand foot traffic and provide ninety percent coverage within three years of planting. Shrubs and ground covers shall meet the specifications in EMC [19.35.055](#).
  3. Landscaping shall be dispersed throughout the parking area, rather than being concentrated in a small portion of the lot. No parking space shall be located more than eighty feet from an internal landscape area in the same row. Planting islands with at least one tree shall be provided at the end of each parking row.
  4. Tree wells/islands should be a minimum of five feet by five feet or four feet by six feet excluding curbing, and the size of the tree wells/islands and curbing shall be shown on the landscape plan. If another size is proposed, the applicant shall provide documentation from a certified landscape architect concerning the viability of the size of the tree well for the growth characteristics of the subject tree. No tree shall be planted in a location where any part of a maneuvering or parked vehicle, including bumper overhang into landscaped areas, may pass within two feet of the tree. Landscape islands not containing trees may be narrower than five feet wide.
  5. Trees shall be maintained in accordance with the standards established in EMC [19.35.170](#).
- D. Except where a greater landscape width and more substantial landscape type is required by Table 35-2, where outdoor display areas and off-street parking facilities for office, commercial



or industrial uses abut residential zones, they shall be separated therefrom by a ten-foot-wide landscape strip planted with Type I landscaping. The landscape requirement may be reduced to five feet in width and planted with Type II landscaping if a six-foot-high screening fence constructed of wood, masonry or a combination of wood and masonry is erected on the property line between the residential zone and the outdoor display area of off-street parking facility.

E. Where off-street parking facilities for multiple-family uses are located adjacent to single-family zones (R-S, R-1, R-2, R-2(A) and AG), they shall be separated therefrom by a fifteen-foot-wide strip landscaped to Type II standards. The landscape strip may be reduced to ten feet if a six-foot-high solid screening fence constructed of wood, masonry or combination of wood and masonry is erected on the property line between the multiple-family use and the single-family zone and Type I landscaping is provided. Separation between parking areas for multiple-family uses and adjoining multiple-family zoned properties shall be as provided in this chapter.

F. All planting areas bordering driveways and parking areas shall be protected therefrom by curbing, wheelstops or other similar protective devices, except as necessary to accommodate low impact development stormwater management facilities. Such protective devices shall be shown on landscape plans.

G. Parking in structures visible from a public street, alley and/or adjacent properties must include evergreen landscaping and/or architectural and artistic treatment to screen the parking, break up the massing of the structure, and add visual interest. Plantings should include planters, planter boxes, and trellis structures. Ground floor parking visible from public right-of-way or properties zoned to allow residential use shall include architectural/artistic screening a minimum of three feet high or evergreen landscape screening a minimum of three feet high at maturity. Deciduous trees and shrubs may be mixed with evergreen landscape screening, but at least seventy percent of the landscaping must be evergreen.

#### **Figure 35-4: Landscaping of Parking Structures**





(Ord. 3774-20 § 9 (Exh. 7), 2020; Ord. 3672-19 § 12, 2019; Ord. 3617-18 § 62, 2018; Ord. 3322-13 § 9, 2013; Ord. 2657-02 §§ 31, 32, 2002; Ord. 2538-01 § 41, 2001; Ord. 1849-92 §§ 30, 33, 34, 1992; Ord. 1729-90 §§ 20, 21, 1990; Ord. 1671-89, 1989.)



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**19.35.090 Special landscape requirements applicable to residential zones.**

A. Additional landscaping applicable to townhouse and duplex developments in single-family zones [R-S, R-1, R-2 and R-2(A)]. In addition to providing landscaping pursuant to Tables 35-1 and 35-2, street trees between the curb and sidewalk, or within five feet if there is no landscape strip, is required along the street frontage. Street trees shall be two inches in caliper at breast height, planted every thirty feet on center.

B. Additional landscaping applicable to multifamily development in the UR4 zone (Metro Everett only). The standards in this section apply to properties in the UR4 zone in Metro Everett and are in addition to the standards in Tables 35-1 and 35-2.

C. For developments with residential uses all street-facing elevations must have landscaping along any exposed foundation. The landscaped area may be along the outer edge of a porch instead of the foundation. This landscaping requirement does not apply to portions of the building facade that provide access for pedestrians or vehicles to the building. The foundation landscaping must meet the following standards:

1. The landscaped area must be at least three feet wide.
2. There must be at least one shrub for every three lineal feet of foundation.
3. Ground cover plants must fully cover the remainder of the landscaped area. (Ord. 3774-20 § 9 (Exh. 7), 2020.)

**19.35.100 Landscape requirements for land divisions.**

A. *Residential Land Divisions.* All land divisions involving residential uses shall provide landscaping per the standards in this section. For any residential land division, a landscape plan must be submitted for review and approval prior to issuance and any construction permits for the site.

**Table 35-4: Landscape Requirements for Land Divisions**



Location	Type	Width
Public street frontage	III	5'
Private access drive frontage	III <sup>(1)</sup>	5'
Individual lots or unit lots	IV	Varies
Common facilities (recreation or stormwater facilities).	III	5'

**Footnote for Table 35-4:**

**1** Street trees and groundcover only. Shrubs are not required.

B. *Unit Lot Subdivision.* In addition to perimeter and other landscaping required for the parent site per Tables 35-1, 35-2 and 35-4, landscaping shall be provided on each unit lot where yard area abuts an access drive, and between driveways and/or parking areas on abutting lots. A landscape plan shall be submitted with the land use application showing the following:

1. Perimeter landscape standard along rear or interior lot lines of parent site.
2. All required perimeter landscaping shall be placed within a common area.

C. *Other Requirements.*

1. *Binding Site Plans.* Landscaping shall be required on all binding site plans in accordance with this chapter. However, landscaping along interior lot lines that are internal to the site may be waived if the city has approved a site plan and master landscaping plan for the total site.



2. This provision shall not apply to landscaping for the perimeter site boundary. (Ord. 3774-20 § 9 (Exh. 7), 2020.)

### **19.35.110 Additional landscaping requirements in the LI2 and HI zones.**

A. *LI2 Zone.* In addition to the perimeter landscaping required by Table 35-2, site landscaping shall be provided in accordance with the standards of this section. Where this section specifies a requirement which is different from the standards in Table 35-2, the more substantial requirements shall apply.

1. Each building shall be surrounded by fifteen feet of landscaping, except for loading areas, access to buildings and pedestrian walkways up to five feet in width. Landscaping within this area shall consist of:
  - a. A mix of evergreen and deciduous trees and shrubs, with lawn or hardy ground cover which will cover seventy-five percent of the landscape area within two years of planting.
  - b. Trees shall be planted at a density of three per one thousand square feet of landscape area. Evergreen trees shall be a minimum of six feet tall at the time of planting and deciduous trees a minimum diameter of one and one-half inches, measured at six inches above the ground.

B. *HI Zone—Central Waterfront Planning Area (CWPA).* The following standards in Table 35-5 apply to properties within the CWPA and are in addition to the standards in Table 35-2.

**Table 35-5: Central Waterfront Planning Area Landscape Standards**

Street frontage	15' for parking abutting ROW
Private internal roadways	10' of landscaping with street trees



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	30' on center
Buildings	200 square feet of entryway landscaping is required for the business and visitor entrances to all principal buildings
Adjacent to Naval Station Everett and Port of Everett	Landscaping shall be maintained to allow visibility of the required setback areas between 18 inches and 6 feet above grade

(Ord. 3774-20 § 9 (Exh. 7), 2020.)

### **19.35.120 Landscaping adjacent to freeways.**

Where perimeter landscaping is required by this title for specific uses, and the lot upon which such use is proposed abuts the right-of-way of any limited access state highway, including Interstate 5, SR 526 or SR 2, a landscape strip, a minimum of ten feet in width, shall be planted along the entire length of the lot adjacent to the highway. Said landscape strip shall be planted to Type II standards, unless the use is otherwise required to provide more substantial landscaping by other sections of this title. (Ord. 3774-20 § 9 (Exh. 7), 2020; Ord. 3322-13 § 10, 2013; Ord. 1671-89, 1989. Formerly 19.35.090.)



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**19.35.130 Additional landscaping requirements and design standards.**

A. *Landscaping in the Public Right-of-Way.* Landscaping located within public rights-of-way shall be approved by the Everett public works department, prior to planting, as part of the review of landscape plans required by EMC [19.35.140](#). The public works department may require specific types of street trees for planting in public rights-of-way abutting the property for which the landscaping is required. Such street trees shall be selected and planted in accordance with the public works department requirements.

B. *Landscaping by Bus Stops.* Landscaping shall allow visibility of bus stops and shall not interfere with transit operations. Trees planted within bus zones shall not be located within eighteen inches of the back of curb.

C. *Landscape Design for Crime Prevention.* The review authority, for Type II or higher permits, may require landscaping to meet these requirements.

1. Landscape designs should discourage concealment issues close to buildings, doors and windows.
2. Landscaping should be installed and maintained to not interfere or obstruct:
  - a. Exterior surveillance cameras;
  - b. Views of all doors and windows; and
  - c. Exterior light fixtures.
3. Landscaping should be designed and maintained to enhance safety by providing visual corridors throughout the interior of parking lots and other portions of the site used by pedestrians, such as by selecting a majority of shrubs that can be maintained below three feet high and a majority of trees with the lowest branches above six feet high.

D. Pedestrian walkways shall be permitted to cross required landscape areas and drive aisles.

E. *Low Impact Development (LID).* Low impact development (LID) stormwater management facilities, such as rain gardens and bioretention areas, are encouraged to be used in conjunction with the landscaping type requirements and parking lot landscaping requirements:

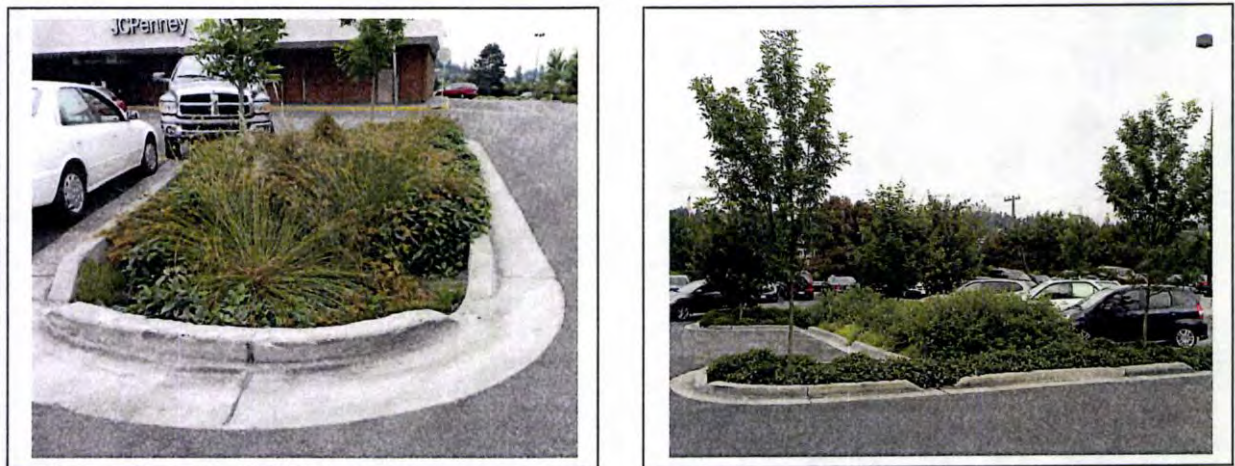
1. Where site and soil conditions make LID a feasible option;



2. Where maintenance of the LID areas will not adversely impact the purpose of the required landscaping;
3. Where the plant species provided are suitable to the hydrological conditions resulting from directing stormwater to these areas; and
4. Where sufficient planting areas are provided to accommodate the required number of trees and shrubs, area of ground cover, and minimum planting width. Additional landscape area and width will likely be required to accommodate both the required number of trees and stormwater facilities. Landscape areas that include both required trees and flowing stormwater conveyance must be a minimum of ten feet wide.

The implementation of LID stormwater management facilities within required landscaping must be approved by the city, and shall comply with the design and construction standards set forth in the city's stormwater management manual.

**Figure 35-5: Low Impact Landscape Design in Parking Lot**



(Ord. 3774-20 § 9 (Exh. 7), 2020; Ord. 3322-13 § 11, 2013. Formerly 19.35.095.)

### **19.35.140 Landscape plan requirements.**

- A. The applicant shall submit landscape plans for review by the planning department. Except for plans for residential projects with two or fewer units, landscape plans shall be prepared by



professionals licensed or certified in Washington State, such as licensed landscape architects, architects, engineers, or certified professional horticulturists, nurserypersons, or landscape designers. The planning director may grant exemptions from this standard for small projects that result in requirements for installation of five or fewer new trees or one thousand square feet of landscaping. The landscape plan may be incorporated into the site development plan or provided separately.

B. The landscape plan shall be drawn to a scale which is appropriate to accurately depict the following information:

1. The species names of all plants proposed to be used;
2. The number, size and spacing of all proposed plants and the height of trees and shrubs at the time of planting;
3. The lot area and the area of the lot required to be landscaped (separately list the area of parking lot and other required landscaping);
4. The area of the lot proposed to be landscaped (separately list the area of parking lot and other required landscaping);
5. Location and dimensions of planting areas, excluding curbs;
6. Details of any existing, proposed or required berms, retaining walls, and fences;
7. The location of any existing, proposed or required pedestrian walkways;
8. Location and height of existing and proposed overhead electrical power lines on and adjacent to the site;
9. Location of any utility easements on the property;
10. Location of bus stops and paratransit loading/unloading areas on and adjacent to the site;
11. A description of how the plan avoids conflicts with locations of trees and shrubs related to bumper overhangs in parking areas, vehicle sight distance, parking lot lighting, signs, adjacent bus stops, and other site features, such as artwork. This may be included in a separate document;



12. Specifications for planting areas, including soil quality or composition and depth, amendments, and mulch. When applicable, soil specifications must provide soil/growing conditions equal to or better than those required in the city's current stormwater management manual, and must be included on both the civil and landscaping plans. Sufficient soil must be provided to enable growth of trees to maturity. Structural solutions may be required when necessary to support trees in small planting areas;
13. Cross-section drawings for any landscape areas that incorporate low impact development stormwater facilities;
14. Maintenance and plant replacement schedules when required landscaping is provided in containers, such as when the location of underground utilities prevents the installation of required street trees. (Ord. 3774-20 § 9 (Exh. 7), 2020; Ord. 3322-13 § 12, 2013; Ord. 1849-92 § 35, 1992; Ord. 1671-89, 1989. Formerly 19.35.100.)

### **19.35.150 Irrigation plan requirements.**

- A. All landscape areas shall be provided with an irrigation system. The planning director may waive the requirement for an irrigation system when existing mature vegetation would be harmed by installation of an irrigation system for that portion of the required landscape area where the mature vegetation is located. The planning director may also waive irrigation requirements for all or portions of a site through the modification process in EMC [19.35.190](#) when the applicant commits to ensuring the full establishment of plantings that do not need irrigation at maturity, or will otherwise be watered during low rainfall conditions. When approving a modification, the planning director may require a five-year maintenance assurance device.
- B. Except for residential projects with two or fewer units, irrigation plans shall be prepared and approved by either a Washington State licensed landscape architect or an irrigation association certified irrigation designer.
- C. Irrigation plans must include:
  1. Method of irrigation of required landscape areas and schematic of irrigation system;
  2. Backflow prevention device; and



3. Service location. Irrigation plans and equipment are encouraged to include rain shut off devices and evapotranspiration based schedules.

D. Irrigation systems shall not be located within public right-of-way unless approved by the public works department. (Ord. 3774-20 § 9 (Exh. 7), 2020; Ord. 3322-13 § 13, 2013. Formerly 19.35.115.)

### **19.35.160 Landscaping installation and performance assurance requirements.**

A. Landscaping required pursuant to this title shall be installed in accordance with the approved landscape plan prior to the issuance of a certificate of occupancy or final project approval. An applicant may request a temporary certificate of occupancy for an exception to this requirement. If a temporary certificate is issued, all required landscaping shall be installed within six months after issuance of the temporary certificate of occupancy. The planning department shall require a performance assurance device, as described in Chapter [19.41](#) EMC, prior to issuing a temporary certificate of occupancy.

B. Prior to issuance of a final certificate of occupancy, the planning department shall verify that the landscaping is installed in accordance with the approved landscape plan. The engineer of record shall certify that planting areas were prepared and amended per the landscaping plan requirements, and that all construction debris was removed from the landscape areas prior to soil preparation and installation of plants.

C. If the installation of the required landscaping or screening is not completed within the period specified, the performance assurance device may be used by the city to contract for completion of the installation. Upon completion of the installation, any portion of the remaining security shall be returned.

D. The planning department shall perform the final landscape and screening inspection prior to any performance assurance device being returned. Any portion of the landscaping not installed properly shall cause the certificate of occupancy to be withheld or revoked until the project is completed or cause the assurance device to be used by the city. (Ord. 3774-20 § 9 (Exh. 7), 2020; Ord. 3322-13 § 14, 2013; Ord. 1671-89, 1989. Formerly 19.35.120.)



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### **19.35.170 Landscape maintenance and maintenance assurance requirements.**

A. All landscape areas required by this title shall be maintained in accordance with the following standards:

1. All landscaping shall be maintained with respect to pruning, trimming, mowing, watering, insect control, fertilizing, or other requirements to create a healthy growing condition, attractive appearance, and to maintain the purpose of the landscape type.
  - a. Pruning of trees must be consistent with ANSI A300 (Part 1) American National Standard for Tree Care Operations—Tree, Shrub, and Other Woody Plant Management—Standard Practices (Pruning) and companion publication Best Management Practices Tree Pruning. Required trees shall not be pruned to maintain a height below twenty feet, except as required under power lines or as approved through the landscape modification process in EMC [19.35.190](#).
  - b. The topping, shearing or pollarding of required trees is prohibited.
  - c. Portions of trees that extend over areas used by pedestrians or vehicle maneuvering or parking areas, or that abut driveways, shall be limbed up to a height of seven feet to maintain pedestrian and vehicle clearance and clear lines of sight.
2. Topped, sheared, pollarded, dead, diseased, stolen, vandalized, improperly pruned, missing, or damaged plants shall be replaced within three months, or as required by this chapter.
3. All landscaped areas shall be maintained reasonably free of weeds and trash.
4. All required landscaping which is located within public right-of-way shall be maintained by the abutting property owner.
5. All corner lots shall maintain a vision clearance triangle. See EMC [19.41.060](#) for additional standards.
6. All LID stormwater management facilities shall also be maintained in accordance with the city of Everett stormwater management manual.



B. A maintenance assurance device, as described in Chapter [19.41](#) EMC, shall be required by the planning department to ensure that landscaping will be maintained for two years, according to the approved plans and specifications. (Ord. 3774-20 § 9 (Exh. 7), 2020; Ord. 3322-13 § 15, 2013; Ord. 2657-02 § 34, 2002; Ord. 1849-92 § 36, 1992; Ord. 1671-89, 1989. Formerly 19.35.130.)

### **19.35.180 Landscape enforcement.**

When the city takes enforcement action to ensure that dead, diseased, stolen, vandalized, improperly pruned, or damaged plants are replaced, a two-year maintenance assurance device, as described in Chapter [19.41](#) EMC, shall be required for the replaced landscaping. (Ord. 3774-20 § 9 (Exh. 7), 2020; Ord. 3322-13 § 16, 2013. Formerly 19.35.140.)

### **19.35.190 Administrative modification of landscaping requirements.**

A. The planning director may authorize a reduced width of planting or waive some or all of the landscaping requirements in the following instances:

1. When existing conditions on or adjacent to the site, including, but not limited to, differences in elevation, existing vegetation, or location of buildings or utilities would render the requirements of this section ineffective.
2. When Type I visual screening is required, an applicant may request to use plantings that can be expected to form a healthy sight-obscuring evergreen hedge within three years in lieu of two rows of trees. In reviewing such a request for modification, the planning director shall consider the applicant's request in light of the intent of Type I landscaping and the nature of the use or development which is being screened.
3. When the applicant proposes an alternative method of landscaping that would achieve the intent and purpose of the landscaping required in this title and which the director determines to provide equal or better treatment. Some examples include the use of native vegetation existing on site, preservation of groves of trees, preservation of wetlands and/or wildlife habitat, increasing perimeter landscape width in strategic locations, providing unique focal points of interest, and planting trees or shrubs that do not meet the type or size requirements at a higher number and closer spacing.



4. When development will occur in phases and development of subsequent phases will result in removal of landscaping required by this title.

5. When the subject property abuts railroad right-of-way developed with rail facilities, the planning director may modify the landscaping requirements for that portion of the property abutting the railroad right-of-way, if such modification will not reduce the compatibility between the subject property and other properties in the vicinity.

B. In approving a request for a modification of landscaping requirements, the planning director shall issue findings upon which the approval is based. The director may attach conditions to any such approval of a request for modification of landscaping requirements if necessary to assure that the intent of the landscape type and any modification thereof is maintained. (Ord. 3774-20 § 9 (Exh. 7), 2020; Ord. 3322-13 § 8, 2013; Ord. 2538-01 § 40, 2001; Ord. 1849-92 § 28, 1992; Ord. 1671-89, 1989. Formerly 19.35.070.)

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**The Everett Municipal Code is current through Ordinance 4031-24, passed May 22, 2024.**

Disclaimer: The City Clerk's Office has the official version of the Everett Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

[City Website: www.everettwa.gov](http://www.everettwa.gov)

[Hosted by General Code.](#)



## Chapter 19.36

### SIGNS

#### Sections:

<b>19.36.010</b>	<b>Purpose and applicability.</b>
<b>19.36.020</b>	<b>Permit administration.</b>
<b>19.36.030</b>	<b>General requirements.</b>
<b>19.36.040</b>	<b>Sign categories—Freestanding signs—Wall signs.</b>
<b>19.36.050</b>	<b>Development standards for specific sign types.</b>
<b>19.36.060</b>	<b>Temporary signs.</b>
<b>19.36.070</b>	<b>Removal of nonconforming signs.</b>

#### **19.36.010 Purpose and applicability.**

A. *Purpose and Intent.* The intent of this chapter is to promote public health, safety, and welfare through a comprehensive system of reasonable, effective, consistent sign standards and requirements and to:

1. Promote the goals and policies of the comprehensive plan;
2. Promote economic vitality of the city's business districts and corridors;
3. Ensure that signs are compatible with the desired character and identity of Everett and its various districts and corridors;
4. Promote the free flow of traffic and protect pedestrians and motorists from injury and property damage caused by, or which may be fully or partially attributable to, cluttered, distracting, and/or illegible signage;
5. Prevent property damage, personal injury, and litter from signs which are improperly constructed, poorly maintained, or of flimsy materials;
6. Protect property values, the local economy, and the quality of life by preserving and enhancing the appearance of the streetscape;
7. Provide consistent sign design standards;



8. Promote signs that are designed appropriate to the site's existing and planned context, including the size and characteristics of the site, and the envisioned character of the applicable area per adopted plans;
9. Prevent visual clutter and provide an improved visual environment for the citizens of and visitors to the city; and
10. Enable the fair and consistent enforcement of these sign regulations.

B. *User Guide.* The sign standards in this chapter are contained within EMC [19.36.040](#), [19.36.050](#) and [19.36.060](#). To determine which sign standards apply to a particular piece of property, the user will need the following information:

1. *Zoning of the property.* Refer to the city's zoning map.
2. Applicable sign category. Refer to Table 36-1 in this chapter. The table assigns a sign category for each use zone. This category is A, B, C or D.
  - a. For freestanding and wall signs, see Table 36-2 in EMC [19.36.040](#) for specific standards applicable to each sign category.
  - b. For other sign types and general development standards, see EMC [19.36.050](#).
  - c. For temporary signs, see EMC [19.36.060](#). (Ord. 3684-19 § 2(A)(Exh. 1 § 1), 2019.)

## **19.36.020 Permit administration.**

A. *Permits Required.* Except as exempted in subsection B of this section, no sign shall be erected, re-erected, attached, structurally altered, or relocated by any person, firm or corporation without a sign permit issued by the city. Sign permit applications shall be submitted to the building official, with approval required by the planning department. All signs shall be subject to review by the city engineer to determine that there will be no hazards created for motorists or pedestrians.

B. *Exemptions and Exceptions.*

1. *Exemptions.* The following signs and activities are exempt from regulation under this chapter:



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- a. Regulatory, identification or directional signs installed by, or at the direction of, a government entity;
  - b. Signs required by law;
  - c. Official public notices or official court notices;
  - d. Signs or displays not visible from streets, rights-of-way, sidewalks or parking areas open to the public;
  - e. In nonresidential zones, the flag of government or noncommercial institutions such as a school. Flags in residential zones up to twenty-four square feet. In residential zones, one flagpole shall be allowed. In all zones the maximum height of flagpoles shall be in accordance with the height standard of the underlying zone;
  - f. Point-of-purchase advertising displays, such as product dispensers or vending machines;
  - g. "No trespassing," "no dumping," "no parking – tow-away," "private" and other informational warning signs which do not exceed six square feet in surface area;
  - h. Structures intended for separate use such as dumpsters and recycling containers; provided, that no advertising oriented to the public right-of-way is attached to such structures;
  - i. Reasonable seasonal decorations within the appropriate public holiday season, or civic festival season. Such displays shall be removed promptly at the end of the season;
  - j. Sculptures, fountains, mosaics, murals and design features;
  - k. Postal signs;
  - l. Historic site markers or plaques, gravestones and address numbers mounted flush on the wall of a building;
  - m. Lettering or symbols painted directly onto or flush-mounted magnetically onto a licensed and operable motor vehicle operating in the normal course of business;
  - n. Billboards. Billboards are regulated pursuant to Chapter [16.20](#) EMC;



- o. Repair, cleaning, repainting or other normal maintenance activities, and other changes that do not alter the sign structure.

2. *Exceptions—Signs Not Requiring Permits.* The following types of signs are not required to obtain a sign permit, but must be in conformance with all other requirements of this chapter and other applicable city ordinances:

- a. Portable signs meeting the requirements of this chapter;
- b. Nonelectric signs not exceeding two square feet in area in single-family residential zones;
- c. Incidental signs;
- d. Directional signs not exceeding six square feet in area, the sole purpose of which is to provide for pedestrian and vehicular traffic direction.

3. *Exemptions From Overall Permitted Sign Area Requirements.* The following types of signs shall not be computed in the overall sign area requirements of this chapter:

- a. Incidental signs;
- b. Directional signs;
- c. Interior-oriented signs;
- d. Temporary signs meeting the requirements of this chapter;
- e. Temporary window displays and painted window signs;
- f. Street numbering of buildings;
- g. Portable, window and temporary signs shall not be included in maximum sign area in Table 36-2.

C. *Signs Visible from Interstate 5.* Any sign that is within six hundred sixty feet of Interstate 5 may require approval from the Washington State Department of Transportation (Chapter [468-66](#) WAC) in addition to a sign permit from the city. The applicant is responsible for obtaining approval from the state prior to review by the city.

D. *Administrative Modification of Sign Standards.*



1. The intent of the modification process is to provide design flexibility options that may not be possible through strict application of the sign standards. This process may not be used to allow a sign that is otherwise prohibited by this chapter. The requirements of this chapter may be modified by the planning director using the review process described in EMC Title [15](#), except for the following:
  - a. Standards for electronic changing message signs;
  - b. Overall sign height for freestanding signs (sign category A only).
2. *Administrative Modification Review Criteria.* The director shall use the following applicable review criteria to evaluate the modification request:
  - a. The modification request is due to unusual conditions related to sign visibility needs for a specific building or lot. Unusual conditions may include building size, sign location and distance from the street;
  - b. The modification will not create a traffic or pedestrian safety hazard;
  - c. The modification will not adversely impact adjacent properties;
  - d. The proposed sign or signs are part of an integrated design for the site that includes building design, landscaping and other site improvements;
  - e. The proposed modification will not create visual clutter or distract motorists; and
  - f. The size and scale of the proposed signage are compatible with the character of the surrounding area.
3. *Conditions.* The director may impose conditions necessary to mitigate impacts of the proposed sign or signs, including the following:
  - a. Landscaping necessary to provide aesthetic treatment or screening of any prominent sign components;
  - b. Limitations on sign illumination;
  - c. Other restrictions that are necessary to protect views, promote compatibility with surrounding land uses, or limit impacts on adjacent properties, driveways, sidewalks or streets.



E. *Administrative Guidelines and Graphic Information.* The planning director is authorized to promulgate administrative guidelines and graphic materials to illustrate requirements of this chapter or to provide examples of signs that are permitted or prohibited by this chapter. Such materials may be revised periodically at the discretion of the director. (Ord. 3684-19 § 2(A)(Exh. 1 § 2), 2019.)

### **19.36.030 General requirements.**

A. *Prohibited Signs.* The following signs are prohibited:

1. Signs or sign structures which by coloring, shape, design or location resemble or conflict with traffic control signs or devices;
2. Signs that create a safety hazard for pedestrian or vehicular traffic, as determined by the city engineer or building official;
3. Revolving signs, signs with flashing, rotating, or blinking lights. This includes signs with a changing light intensity or brightness, or which are so constructed and operated as to create an appearance or illusion of motion or animation;
4. Signs that move by force of wind, including feather or sail signs, electrical power, or mechanical means;
5. Signs attached to public property without permission of the government agency owning the same, including, without limitation, trees, utility poles, street lights;
6. Privately installed signs that restrict use or activity of any public right-of-way without permission from the city;
7. Signs placed on vehicles or trailers which are parked or located for the primary purpose of displaying said sign. (This does not apply to signs or lettering on buses, taxis or vehicles operating during the normal course of business, or vehicles which are advertising themselves for sale);
8. Displays of banners, clusters of flags, posters, pennants, ribbons, streamers, strings of lights, spinners, twirlers or propellers, flashing, rotating or blinking lights, strobe lights,



flares, balloons or inflated signs over twenty-four inches in diameter, and similar devices of a carnival nature; except those signs that are permitted in accordance with this chapter;

9. Searchlights and beacons;
10. Roof signs, including statues, figures, or objects;
11. Signs employing exposed electrical conduits, ballast boxes, or other equipment;
12. Fabric awning signs and backlit awning signs;
13. Signs for home occupations;
14. Flags in residential zones exceeding twenty-four square feet.

B. *Maintenance.* All signs and components thereof must be maintained in good repair and in a safe, neat, clean and attractive condition. The premises surrounding a freestanding sign shall be free and clear of rubbish and shall meet the requirements for protective islands and/or landscaping in this chapter. The owner of the lot upon which the sign is located shall be responsible for sign maintenance.

C. *Abandoned Signs—Hazardous Signs.* Abandoned signs shall be removed by the owner or lessee of the premises upon which the sign is located within six months of abandonment. Signs which constitute a safety hazard to the public shall be removed or made safe immediately.

D. *Sign Enforcement—Violations—Penalties.*

1. *Enforcement.* The planning director, or the planning director's designee, shall have authority to administer, implement, and enforce this chapter. The planning director or planning director's designee may promulgate regulations consistent with this chapter. The authority of the planning director is not exclusive and is concurrent to another's lawful authority to enforce the provisions of this chapter, including, without limitation, the jurisdiction of the Everett police department to enforce provisions of this code.

2. *Violations.* It is a violation of this chapter to fail to comply with or to be in conflict with any provision of this chapter. It shall be a separate offense for each and every day during which any violation of any of the provisions of this chapter is committed, continued, or permitted.

3. *Penalties.*



- a. Any person, firm, corporation, or association or any agent thereof who violates any of the provisions of this chapter shall be subject to the provisions of Chapter [1.20](#) EMC.
- b. Any violation of any provision of this chapter constitutes a public nuisance which the city can abate by an action in county superior court. The costs of such action shall be taxed against the violator.
- c. Penalty and enforcement provisions provided in this chapter are not exclusive, and the city may pursue any remedy or relief it deems appropriate.

4. *Removal.* Signs not meeting the requirements of this chapter are subject to removal by the city. This includes the following:

- a. Signs located on public or private property that create an immediate threat to the safety of the public.
- b. Signs that create an imminent danger to persons or property.
- c. Signs placed in the public right-of-way that do not meet the requirements of this chapter.
- d. Unauthorized signs placed on any utility pole, public property, public building or public structure, or on any traffic sign.
- e. Signs placed within the right-of-way without the permission of the abutting property owner may be removed by the abutting property owner or the city.
- f. Temporary signs placed within the public right-of-way that may otherwise be allowed by this chapter, but which are in a degraded or dilapidated state due to age, exposure to the elements, or damage may be removed by the city. This includes signs that are illegible.
- g. The planning director or his/her designee will attempt to contact the owner after removal of signs. The owner may contact the planning director or his/her designee to retrieve any signs removed. Failure to retrieve within fourteen days from date of removal will result in disposal by the city. The city shall not be responsible for damages or loss incurred during the removal or storage of any sign.



E. *Sign Owner Responsibility.* By installing any sign in the city of Everett, whether or not a permit is required, the owner of the sign acknowledges responsibility for compliance with this chapter, for the safety of the sign, and for any and all damage to property or injury to person resulting from the sign. (Ord. 3684-19 § 2(A)(Exh. 1 § 3), 2019.)

### **19.36.040 Sign categories—Freestanding signs—Wall signs.**

A. *General.* Table 36-1 specifies sign categories for all use zones within the city. The specific regulations pertaining to each sign category are contained in this section. These standards apply to permanent signs. Where there is a conflict between the general and specific regulations, the more specific regulations shall control.

B. *Instructions for Tables 36-1 and 36-2.* First, determine the property's zoning from the city's zoning map. Then, refer to Table 36-1 to determine which sign category applies to that zone. Use Table 36-2 to determine sign requirements applicable to permanent freestanding and wall signs. Also refer to the applicable footnotes and detailed requirements listed for the MU zone in this section. Where a sign is not regulated by a zone or sign category, see the development standards in EMC [19.36.050](#) for specific sign types.

**Table 36-1: Sign Categories for Use Zones**

Use Zone	Sign Category
AG; R-S; R-1; R-2; R-2(A)	D <sup>(1)</sup>
UR3; UR4	C <sup>(2)</sup>
NB, LI1 <sup>(3)</sup> <sup>(5)</sup> , LI2, HI, MU (within Metro Everett) <sup>(4)</sup>	B
B, MU (outside of Metro	A



Use Zone	Sign Category
Everett)	

**Footnotes for Table 36-1:**

- 1 Sign category C for permitted nonresidential uses in these zones.
- 2 Sign category D for single-family detached and two-family (duplex) dwellings in these zones.
- 3 Sign category D for residential dwelling unit.
- 4 See subsection [\(C\)](#) of this section for additional sign standards applicable to the MU zone for Metro Everett.
- 5 Sign category B for nonresidential and mixed-use buildings. Sign category C for residential buildings.

**Table 36-2: Freestanding Signs and Wall Signs**

	FREESTANDING SIGNS <sup>(7)(8)</sup>					WALL SIGNS <sup>(4)(10)</sup>
SIGN CATEGORY	Maximum Number (1)	Maximum Area in square feet (s.f.)	Min. Setback from Lot Line Abutting the Street ROW	Interior Setback (feet)	Max. Height (feet)	Maximum Size (s.f.) (3)
A <sup>(9)</sup>	1 sign for every 300 feet of street frontage or fraction thereof up	75 s.f. plus an additional 25 s.f. for each additional business	Monument signs: 3' from back of sidewalk <sup>(12)</sup> ; Freestanding pole signs:	10	25 <sup>(9)</sup>	Greater of 48 s.f. or 15% of the area of the building facade up to a maximum of



	<b>FREESTANDING SIGNS<sup>(7)(8)</sup></b>					<b>WALL SIGNS<sup>(4)(10)</sup></b>
<b>SIGN CATEGORY</b>	<b>Maximum Number (1)</b>	<b>Maximum Area in square feet (s.f.)</b>	<b>Min. Setback from Lot Line Abutting the Street ROW</b>	<b>Interior Setback (feet)</b>	<b>Max. Height (feet)</b>	<b>Maximum Size (s.f.) (3)</b>
	to a maximum of 4 signs for the entire site	on a lot having more than 1 business up to a maximum area of 150 s.f. <sup>(2)</sup>	10'			300 s.f.
<b>B</b>	1 sign for every street frontage <sup>(6)</sup>	40 s.f. <sup>(2)</sup>	Monument signs: 5'; Freestanding pole signs: 10'	10	20 <sup>(9)</sup>	Greater of 32 s.f. or 15% of the area of the building facade up to a maximum of 100 s.f.
<b>C <sup>(4) (11)</sup></b>	1 sign for every street frontage	All uses other than SFR, duplex, home	1 foot setback for every 1 foot of sign	10	10	All uses other than SFR, duplex or home occupation:



	<b>FREESTANDING SIGNS<sup>(7)(8)</sup></b>					<b>WALL SIGNS<sup>(4)(10)</sup></b>
<b>SIGN CATEGORY</b>	<b>Maximum Number (1)</b>	<b>Maximum Area in square feet (s.f.)</b>	<b>Min. Setback from Lot Line Abutting the Street ROW</b>	<b>Interior Setback (feet)</b>	<b>Max. Height (feet)</b>	<b>Maximum Size (s.f.) (3)</b>
		occupation or B&B house: 32 s.f. <sup>(5)</sup>	height			greater of 24 s.f. or 15% of the area of the building facade up to a maximum of 40 s.f.
		SFR or duplex: 2 s.f.		None		SFR or duplex: 2 s.f.
D <sup>(4)</sup> <sup>(11)</sup>	1 sign per unit	2 s.f. <sup>(5)</sup>	None	10	4	2 s.f. <sup>(5)</sup>

**Footnotes for Table 36-2:**

**1** Interstate 5, SR 526, alleys, vacant, or unimproved rights-of-way are not considered street frontages for calculating the number of allowable freestanding signs.

**2** If two or more signs are permitted, the signs may be combined into one sign up to twice the maximum amount allowed for one sign.

**3** Awning signs shall be considered to be wall signs for the purpose of determining allowable sign area. Also refer to the requirements in this chapter for projecting signs, canopy signs and window signs.



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- 4** Projecting signs are prohibited in sign categories C and D.
- 5** Bed and breakfast house in sign categories C and D: one freestanding sign is permitted. The sign shall be a maximum of twelve square feet and shall have a minimum setback of ten feet from the abutting right-of-way. In sign category D, one wall sign is permitted up to a maximum of twenty-four square feet.
- 6** In the MU zone, freestanding signs shall be prohibited. For additional standards applicable to the MU zone, see subsection C of this section.
- 7** All freestanding signs must provide a landscape/protective island around the base of the sign. Refer to EMC [19.36.050](#).
- 8** A single commercial use on a corner lot with a street frontage of less than one hundred feet on both streets shall be permitted only one freestanding sign.
- 9** Monument type signs shall be limited to eight feet in height.
- 10** Backlit cabinet signs are limited to twenty square feet in sign categories A and B and six square feet in the MU zone. For sign categories C and D, backlit cabinet signs are prohibited.
- 11** For sign categories C and D, internal illumination is prohibited except for electronic changing message centers. See EMC [19.36.050\(C\)](#) and (I).
- 12** If no sidewalk is present, monument signs shall be set back three feet from the property line.

*C. Special Regulations for the MU Zone Within Metro Everett Only.* Signage in the MU zone in Metro Everett shall conform to sign category requirements in Tables 36-1 and 36-2 unless otherwise stated in this section.

*1. Illumination Standards.*

- a. Backlit signs with letters or graphics on a plastic sheet (cabinet signs) are prohibited unless otherwise noted.
- b. Backlit logos under six square feet or individual backlit letters are permitted.
- c. Externally lit signs are encouraged.

*2. Wall Signs.*

- a. Wall signs shall be designed and located appropriate to the building's architecture. For example, wall signs must not cover windows, building trim or ornamentation.
- b. Wall signs may not extend above the building parapet, soffit, the eave line or the roof of the building, or the windowsill of the second story. Exception: individual letters



may extend above the building parapet, soffit or eave line by a maximum of eighteen inches. There shall be no backing material or exposed/visible supports.

c. Wall signs should be mounted plumb with the building, with a maximum protrusion of one foot, unless the sign incorporates sculptural elements or architectural devices. The sign frame shall be concealed or integrated into the building's architectural character in terms of form, color, and materials.

3. *Upper Story Wall Signage.* In the event of a conflict with other provisions of this chapter, the requirements in this section shall prevail.

a. One upper story sign may be permitted per building facade for nonresidential and mixed-use buildings. Such signs are in addition to other permanent signs allowed pursuant to sign category B.

b. Each upper story wall sign shall not exceed one hundred ninety square feet.

c. Upper story wall signs shall be limited to logo and/or name only.

d. Upper story wall signs shall be located forty feet or more above the elevation of the sidewalk or alley, but may not extend above the building parapet, soffit, the eave line or the roof of the building. Signs shall be mounted so as to not obstruct any window, building trim, ornamentation or other significant architectural detail.

e. Upper story wall signs shall be limited to channel lettering and/or logos, with halo lighting effects. Lighting may be used to accent signs. Electronic message center signs and cabinet signs are prohibited. (Ord. 3774-20 § 10 (Exh. 8), 2020; Ord. 3684-19 § 2(A)(Exh. 1 § 4), 2019.)

### **19.36.050 Development standards for specific sign types.**

The following standards shall apply in addition to the standards listed elsewhere in this chapter. For signs that meet the definition of more than one sign type, the planning director shall determine which standards apply based on the sign's function, location and orientation.

#### **A. *Freestanding Signs.***



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1. *Minimum Lettering.*

- a. A minimum lettering height of six inches for the primary tenant or entity and three inches for secondary tenant or entity is required for readability.
- b. Freestanding signs for individual businesses are encouraged to include the street address number.

2. Freestanding signs must have a substantial base that is at least half as wide and thick (measured horizontally) as the sign itself. Sign bases must have an architectural treatment that incorporates materials similar to the sign and/or building.

3. *Protective Islands Around Sign Base.* At the time of installation, all freestanding signs shall include protective islands and curbing to prevent vehicles from hitting the sign structure and to improve the overall visual appearance of the structure. Protective islands shall be designed and constructed so as to provide protection at least three feet in all directions from the sign structure and shall be landscaped in accordance with the following standards:

- a. Install one square foot of landscaping at the base of the sign per one square foot of sign face.
- b. Landscaping shall include a decorative combination of ground cover and shrubs to provide seasonal interest in the area surrounding the sign.
- c. The city may reduce the landscaping requirement where the signage incorporates stone, brick, or other decorative materials.

4. *Location.* Freestanding signs shall not be located within the public right-of-way.

5. *Identification Signs for Residential Development.* Each entrance to a subdivision development or manufactured home park may have a freestanding or fence-mounted identification sign up to twenty-four square feet in area. The height of such signs shall not exceed four feet.

B. *Wall Signs.*

1. *Location and Design.*



a. Wall signs shall not cover windows, building trim, or ornamentation. This includes blank areas above canopies, areas between vertical piers or columns or blank areas on a gabled roof.

b. *Upper Story Wall Signs Outside Metro Everett.* Tenants on upper levels may include window signs or wall signs placed on the facade above the business, provided the permitted sign square footage shall be shared with the tenant below.

2. *Maximum Height.* Wall signs may not extend above the roof of the building. Exception: within sign categories A and B, individual letters may extend above the building parapet, soffit or eave line by a maximum of eighteen inches. There shall be no backing material or exposed/visible supports.

C. *Electronic Changing Message Signs.* For any sign which meets the definition of electronic changing message sign, as defined in this title, the following provisions shall apply:

1. The sign category for the zone in which the sign is proposed must allow for internal illumination of signs, except as provided in subsection [\(C\)\(8\)](#) of this section.

2. The maximum sign area for an electronic changing message center shall be as listed in Table 36-3.

3. Any form of technology may be used for electronic changing message signs. However, animation, movement or video imaging is prohibited.

4. Electronic changing message signs shall maintain a 2-1-2 transition frequency. "2-1-2" means a message display time of a minimum of two seconds, a transition time between messages of a maximum of one second, followed by a message display time of a minimum of two seconds with all segments of the total message to be displayed within ten seconds. Displays which scroll onto the signboard must hold for a minimum of two seconds including scrolling.

5. *Brightness Limits.*

a. Integrate automatic dimming capability that adjusts to the brightness of ambient light at all times of the day and night;



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- b. Daytime, based on the time from sunrise to sunset as calculated for Everett, WA: five thousand maximum nits (a measure of luminance that will keep signage balanced with surrounding landscape); and
  - c. Nighttime, based on the time from sunset to sunrise as calculated for Everett, WA: one hundred fifty maximum nits (a measure of luminance comparable to typical nighttime signage and consistent with the Illuminating Engineering Society of North America (IESNA)).
  - d. *Light Trespass Standards.* Adopt a trespass limit of one-tenth foot-candle at the property line of any park or residential property.
6. All changing message signs shall be constructed as an integral part of a permanent sign constructed on site. "Integral" shall be considered to be incorporated into the framework and architectural design of the permanent sign.
7. Video boards shall be prohibited.
8. *Schools and Religious Facilities in Residential Zones.* One electronic changing message sign may be approved for a school or religious facility located in areas designated sign category C or D, subject to Review Process II, if it meets all of the following criteria and conditions:
- a. The sign shall not be located closer than one hundred feet from any existing residence located within a residential zone and shall be of such light intensity to not cause any disruption of surrounding residential uses;
  - b. The sign shall display only one color for the message and one color for the background within each message;
  - c. Sign display shall not change more frequently than one time per hour;
  - d. There shall be no transition effects, including scrolling or other movement, allowed between messages;
  - e. The sign shall not be used for commercial purposes;
  - f. The sign shall not be operated as a video board;
  - g. The sign shall not be illuminated between ten p.m. and six a.m.;
-



- h. A sign permit is required. The planning director shall have the authority to condition or deny an electronic changing message sign if it would be incompatible with neighborhood aesthetic character; and
- i. The maximum sign area and maximum area of the electronic changing message component of the sign shall comply with Table 36-3.

**Table 36-3:**

<b>Arterial Classification</b>	<b>Sign Category A</b>	<b>Sign Category B</b>	<b>Sign Category C</b>		<b>Sign Category D</b>	
	<b>ECM sq. ft. <sup>(2)</sup></b>	<b>ECM sq. ft. <sup>(2)</sup></b>	<b>Total sq. ft. <sup>(1)</sup></b>	<b>ECM sq. ft. <sup>(2)</sup></b>	<b>Total sq. ft. <sup>(1)</sup></b>	<b>ECM sq. ft. <sup>(2)</sup></b>
Principal Arterial	Lesser of 50% of sign area or 40 sq. ft.	Lesser of 50% of sign area or 24 sq. ft.	32	24	24	18
Minor/Collector			24	18	20	15

**Footnotes for Table 36-3:**

**1** Total area for entire sign.

**2** Total area for electronic changing message component of sign.

"ECM" means electronic changing message.

D. *Portable Signs.* Portable signs allowed in sign categories A and B. The following regulations shall apply to all portable signs:

1. Portable signs shall not exceed eight square feet per side or forty-two inches in height.
2. No more than one portable sign may be displayed per entity.
3. All portable signs shall be located on the premises which they are serving unless located on the public sidewalk, in which case a minimum six-foot clear zone is provided. The intent



of this requirement is to allow for safe and unobstructed use of the sidewalk by pedestrians.

4. Signs shall be located directly in front of the sponsoring entity during business hours only.
5. Signs shall be located so as not to create a traffic safety hazard by obstructing the vision of motorists on private property or public right-of-way.
6. Owners of such signs shall assume liability for damage or injury resulting from their use and shall provide the city with an appropriate legal document satisfactory to the city attorney holding the city harmless and indemnifying the city for such resulting loss and/or injury.
7. Portable signs shall be nonilluminated.
8. Portable signs shall be displayed only during business hours.

E. *Window Signs.* Window signs meeting the following conditions are allowed for commercial uses:

1. *Maximum Size.* Permanent and temporary window signs are limited to a maximum of twenty-five percent of the window area. Every effort should be made to integrate window signs with window display.
2. *Materials.* Window signs constructed of neon, stained glass, gold leaf, cut vinyl, and etched glass are allowed. Painted signs shall display the highest level of quality and permanence as determined by the city.
3. Internally lit neon or stained glass window signs are allowed, provided they meet the above sign standards and there is no more than one sign for each fifteen feet of building frontage.
4. Window signs shall not be included in the calculation of sign area for wall signs.

F. *Projecting Signs.* Projecting signs are allowed for sign categories A and B and may be used in conjunction with wall signs. Projecting signs shall meet the following standards:

1. Projecting signs shall not exceed twenty-four square feet in area. Exception: In the MU zone in Metro Everett, there shall be no size limitations for projecting signs on designated



transit-oriented development (TOD) streets or pedestrian streets unless otherwise noted herein.

2. *Projection.*

- a. Horizontal oriented signs: no more than eight feet.
- b. Vertically oriented signs: no more than three feet.
- c. Signs may project into a public right-of-way for storefront buildings, subject to a right-of-way use permit.
- d. Minimum clearance above grade shall be eight feet.
- e. Projecting signs shall not extend above the building parapet, soffit, the eave line or the roof of the building except that a vertically oriented neon sign on Hewitt Avenue may project up to twenty-five percent above the roofline.
- f. Projecting signs shall not revolve or rotate and/or employ moving or flashing lights except on Hewitt Avenue east of Grand Avenue if the sign conforms to other applicable standards and does not create excessive glare as determined by the city.

3. Structural Support. Projecting signs shall be supported only with ornamental structural supports; guy wires and angle iron are prohibited.

4. Number of Signs. One primary sign on each street.

5. Location. Projecting signs shall not be located directly over windows or in conflict with other signs or architectural features of the building as determined by the city.

G. *Canopy and Awning Signs.*

1. Canopy and awning signs may be used in place of permitted wall signs, provided they meet the following conditions:

- a. *Location.* Signs may be placed on the front, above, or below the canopy.
- b. *Clearance.* Signs shall be placed a minimum of eight feet above the sidewalk or walkway.

2. *Under-Canopy Signs.*



a. Signs placed under canopies are in addition to allowable wall signs and shall meet the following requirements:

i. *Projection.* Under-canopy signs shall have one foot minimum between the sign and the outer edge of the marquee, awning, or canopy and between the sign and the building facade.

ii. *Clearance.* Under-canopy signs shall maintain a minimum clearance of eight feet between the walkway and the bottom of the sign, or as approved by the city engineer.

iii. *Number and Size.* One sign is permitted per street frontage. Under-canopy signs shall not exceed six square feet in area.

iv. Under-canopy signs shall be mounted perpendicular to the customer entrance so as to be visible from the sidewalk.

H. *Interior-Oriented and Directional Signs.* On-premises directional signs shall be allowed provided:

1. *Interior-Oriented Signs.*

a. Each sign shall be oriented to persons who are already upon the premises; and

b. Signs shall not be designed or located so as to be intentionally legible from the abutting street right-of-way or residentially zoned properties; and

c. Each sign shall not exceed thirty-two square feet in area; and

d. Signs shall not be internally illuminated unless other signs for the use of the property are permitted to be internally illuminated by the sign category for that particular use; and

e. Each sign shall be located a minimum of ten feet from any street right-of-way; and

f. A sign permit shall be required if the sign is illuminated or if it exceeds six square feet in area.

2. *Directional Signs.*

a. Directional signs shall not exceed six square feet in area per side and four feet in height.



- b. Advertising shall be limited to incidental graphics such as trade names and trademarks.

I. *Sign Illumination.*

1. *Permitted Sign Illumination.* For sign categories C and D, only external illumination is permitted. For sign categories A and B, all signs may be internally or externally illuminated. Examples of internal lighting include:

- a. Signs with individual backlit letters. Such signs may consist of individual letters mounted on a wall (containing necessary wiring through the wall) or individual letters placed on a raceway, where light shines only through the letters.
- b. Opaque signs with backlit letters or logos. In such signs, light only shines through letter or logo openings.
- c. Halo lighting, where letters are backlit, but light shines only through the edges of the letters.
- d. Neon (letters and accessory graphics).
- e. Electronic changing message signs, consistent with the standards of this chapter.
- f. Cabinet signs, where permitted, when the lighting element is contained entirely within the cabinet housing.

2. *Performance Regulations.* The light directed upon, or internal to, any sign shall be shaded, shielded or directed so that the light intensity or glare shall not adversely affect surrounding or facing premises, or adversely affect safe vision of operators of vehicles moving on public or private roads, highways or parking areas, or adversely affect safe vision of pedestrians on a public right-of-way. Glare and intense lighting of signs shall not shine on, or directly reflect into, residential structures. Externally lit signs shall not be directed towards the sky.

J. *Other Requirements.*

1. Signs within areas under the jurisdiction of the shoreline master program shall comply with the requirements of the underlying zoning and sign category, and the following standards:



- a. Billboards are prohibited in shoreline areas.
- b. Conceptual sign plans and designs shall be submitted for review and approval at the time of shoreline permit approval.
- c. All signs shall be located and designed to minimize interference with vistas, viewpoints, and visual access to the shoreline.
- d. When feasible, signs shall be mounted flush with the building or awning. No sign, other than directional signs, shall be placed in a required view corridor or vista unless mounted flush against the building.
- e. Overwater signs or signs on floats or pilings shall be permitted only when related to water dependent uses.
- f. Signs marking historical or cultural sites must be approved by the historical commission.
- g. Lighted signs shall be hooded, shaded, or directed downward onto the site and away from surrounding properties or watercourses.
- h. Signs within the municipal watershed shoreline designation shall be limited to directional signs only.
- i. Signs within areas designated urban conservancy or urban conservancy agriculture shall be limited to interpretive and public access signs.

2. *Signs Within Shoreline Master Program Jurisdiction.* Signs for water dependent uses shall comply with the sign category of the landward adjacent zone. Standards for educational and interpretive signs shall be determined through the shoreline permit requirements. (Ord. 3774-20 § 10 (Exh. 8), 2020; Ord. 3684-19 § 2(A)(Exh. 1 § 5), 2019.)

### **19.36.060 Temporary signs.**

These standards apply to all signs meeting the definition of temporary signs in this title. For portable signs, see EMC [19.36.050\(D\)](#).

#### *A. General Requirements for Temporary Signs.*



1. No sign shall obstruct or impair access to a public sidewalk, public or private street or driveway, traffic control sign, bus stop, fire hydrant, bench or any type of street furniture, or otherwise create a hazard.
2. *Duration.* All temporary signs shall be removed within seven days following the event or activity being promoted.

B. *Temporary Signs in Public Right-of-Way.*

1. *Location.* Temporary signs are prohibited from being placed within roundabouts, medians, shoulders, travel lanes and areas of the public right-of-way that are not accessible by a sidewalk or pedestrian walking path. Temporary signs shall not be located in right-of-way adjacent to public property owned or under the control of a unit of federal, state or local government, or special purpose district such as a school, park, public utility, port or library district, unless otherwise approved by the unit of government or special purpose district.
2. *Safety.* All temporary signs shall be placed in a manner that is safe for all users of public right-of-way. Temporary signs shall not block access to structures or parked cars, and shall not block vehicular sight distance at corners or intersections.
3. *Residential Zones.* Temporary signs in residential zones are limited in size to four square feet total, and shall not exceed three feet in height from the ground when displayed.
4. *Nonresidential Zones.* Temporary signs in nonresidential zones are limited in size to six square feet total, and shall not exceed three feet in height from the ground when displayed.
5. Temporary signs shall only be placed in the right-of-way if the sign owner has permission from the owner of the abutting property.

C. *Temporary Signs on Private Property.*

1. All signs placed on private property shall have the consent of the property owner or person in control of the property, such as a tenant. The property owner or person in control of the property may remove the sign(s) without notice. For residential uses in any zone, no more than four signs visible from the public right-of-way per lot are allowed. The total size of all signs combined shall be limited to six square feet total.



2. *Temporary Signs in Residential Zones.* Maximum height of all temporary signs shall be six feet. For nonresidential uses, no more than one sign visible from the public right-of-way per tenant space is allowed. The sign shall be limited to six square feet in size.
3. *Temporary Signs in Nonresidential Zones.* Maximum height of all temporary signs shall be six feet, except for temporary banners placed on a building.
  - a. For nonresidential uses, no more than one sign visible from the public right-of-way per tenant space is allowed. The sign shall be limited to six square feet in size.
  - b. *Temporary Banners on Buildings.* Not more than one temporary banner per tenant space may be permitted. The maximum size for temporary banners shall be thirty-two square feet for a duration not to exceed thirty days during any consecutive three-hundred-sixty-five-day period.
4. Signs that exceed the height or size requirements herein are considered permanent signs and must meet the standards of the applicable sign category in this chapter. (Ord. 3684-19 § 2(A)(Exh. 1 § 6), 2019.)

### **19.36.070 Removal of nonconforming signs.**

A. All existing signs within the city which are not in compliance with the requirements of this chapter upon the effective date of the ordinance codified in this title are considered to be nonconforming signs. Nonconforming signs shall be made to conform with the requirements of this section under the following circumstances:

1. When any sign for which a sign permit is required by this section is proposed to be installed on a premises upon which is located a nonconforming sign or signs, one nonconforming sign shall be removed or brought into conformance with this section for each new sign installed for a particular business.
2. Portable signs which do not conform with the requirements of this section shall be removed within six months of the effective date of this title or, if located within an area being annexed to the city, within six months of the effective date of annexation, whichever is later.



3. Whenever a building, or portion thereof, upon which is located a nonconforming roof sign, is proposed to be expanded or remodeled, all nonconforming roof signs located on that portion of the building being remodeled or expanded shall be removed or brought into compliance with this chapter if such expansion or remodel adds to the building the lesser of:

- a. Ten percent or more of the gross floor area of the existing building;
- b. One thousand square feet gross floor area;
- c. A value for the new construction or remodeling greater than or equal to ten percent of the assessed value of the existing building.

4. Whenever any modification is to be made to the structure, frame or support of any nonconforming sign, such nonconforming sign shall be removed or brought into conformance with this title. Adding a new sign face to a nonconforming sign which does not modify the shape, size or any structural element of a nonconforming sign shall be permitted, except that conversion to an electronic changing message sign is prohibited.

5. Whenever the facade of a building upon which is located a nonconforming wall sign or nonconforming projecting sign is remodeled or renovated, all nonconforming wall signs located on the portion of the facade being renovated shall be brought into conformance with this chapter.

6. Whenever a lot upon which is located a nonconforming sign is the subject of an application which requires Review Process III, IV or V as set forth in EMC Title [15](#), Local Project Review Procedures, the review authority may require removal of any nonconforming sign as a condition of approval.

7. *Exception for Multi-Tenant Shopping Centers Using a Shared Freestanding Sign.* When an individual tenant applies for a permit to install or modify a wall sign, a nonconforming freestanding sign on the site need not be brought into compliance with the standards in this chapter.

B. Any sign which has been designated historic pursuant to Chapter [19.28](#) EMC shall not be required to be removed by this section. (Ord. 3774-20 § 10 (Exh. 8), 2020; Ord. 3684-19 § 2(A)(Exh. 1 § 7), 2019.)



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**The Everett Municipal Code is current through Ordinance 4031-24, passed May 22, 2024.**

Disclaimer: The City Clerk's Office has the official version of the Everett Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

[City Website: www.everettwa.gov](http://www.everettwa.gov)

[Hosted by General Code.](#)



## Chapter 19.37

### CRITICAL AREAS

#### Sections:

19.37.010	User guide.
19.37.020	Purpose.
19.37.030	Applicability.
19.37.040	Critical area features.
19.37.050	Exemptions—Exceptions—Modifications.
19.37.060	Permitted uses and activities.
19.37.070	Critical area reports—General.
19.37.073	Critical area reports—Professional qualifications and report content.
19.37.075	Wetlands, streams and lakes—Mitigation plans—Required content.
19.37.076	Critical area reports—Alternative best available science analysis.
19.37.080	Geologically hazardous areas.
19.37.085	Wetland and stream preservation and protection goals—Mitigation sequencing.
19.37.090	Wetland designation, delineation, mapping and rating—Lakes.
19.37.100	<i>Repealed.</i>
19.37.110	Standard wetland buffer width requirements.
19.37.120	Wetland alteration thresholds and compensation.
19.37.125	Wetland mitigation banks.
19.37.130	Areas of special flood hazard.
19.37.140	<i>Repealed.</i>
19.37.150	<i>Repealed.</i>
19.37.160	Streams and lakes.
19.37.170	Standard stream and lake buffer requirements.
19.37.180	Stream alteration thresholds and compensation.
19.37.185	Buffer width averaging for wetlands, lakes and streams.
19.37.190	Fish and wildlife habitat conservation areas.



<b>19.37.200</b>	<b>Ground water discharge areas—Seeps and springs.</b>
<b>19.37.210</b>	<b><i>Repealed.</i></b>
<b>19.37.220</b>	<b>Critical area protective requirements—Setbacks from buffers—Fencing—Signs—Covenants.</b>
<b>19.37.230</b>	<b><i>Repealed.</i></b>
<b>19.37.240</b>	<b>Assurance devices.</b>
<b>19.37.250</b>	<b>Previously altered critical areas.</b>
<b>19.37.260</b>	<b>Enforcement—Restoration plans.</b>

**NOTE:** Historic versions are available for this chapter. Click the history button for older versions prior to the incorporation of Ordinances [3676-19](#), [3457-15](#), [3323-13](#), [3202-10](#), [3129-09](#) and [2909-06](#).

## **19.37.010 User guide.**

Many areas of Everett have been or may become designated, identified, inventoried, classified or rated as critical areas by the city or other public agencies. This chapter establishes regulations for development within or near all critical areas. If you are interested in developing property identified as containing or adjacent to steep slopes, lakes, streams, marine waters, wetlands, springs, erosion hazard areas, landslide hazard areas, seismic hazard areas, or other unstable soil conditions, you should read this chapter. This chapter contains more stringent requirements than other provisions within this title for affected properties. These regulations supersede any less restrictive requirements contained elsewhere in this title. No action may be undertaken by any person which results in any alteration of a critical area or its buffer unless such alteration complies with the requirements of this chapter. Alteration includes the terms “use” and “development” as defined in this title, and includes any modification of the natural environment of critical areas or their buffer including any clearing, grading, filling and/or excavation. Certain exceptions to the requirements of this chapter are listed in EMC [19.37.050](#). (Ord. 3676-19 § 1, 2019; Ord. 2909-06 § 1, 2006.)

## **19.37.020 Purpose.**

Erosion, flood, landslide, and seismic hazard areas, streams, wetlands, protective buffers, and wildlife habitat areas constitute critical areas that are of special concern to the city. The purpose



of this chapter is to designate, classify and protect the critical areas of the Everett community by establishing standards for development and use of properties which contain or adjoin critical areas and thus protect the public health, safety, and welfare by:

- A. Preserving, protecting, and restoring critical areas by regulating development within such areas and their buffers;
- B. Mitigating unavoidable adverse impacts by regulating alterations when protection cannot be required;
- C. Protecting the public from personal injury, loss of life or property damage due to flooding, erosion, landslides, seismic events, or soil subsidence;
- D. Avoiding publicly financed expenditures to correct misuses of critical areas, which may cause:
  - 1. Unnecessary maintenance and replacement of public facilities,
  - 2. Publicly funded mitigation of avoidable impacts,
  - 3. Public costs for emergency rescue and relief operations where the causes are avoidable, or
  - 4. Degradation of the natural environment;
- E. Protecting and enhancing unique, sensitive, and valuable elements of the environment, including fish and wildlife habitat;
- F. Alerting appraisers, assessors, owners, potential buyers or lessees to the presence of critical areas and the respective development limitations of such areas;
- G. Providing city officials with sufficient information, direction and authority to protect critical areas when evaluating public or private development proposals;
- H. Implementing the policies of the Growth Management Act, State Environmental Policy Act, Chapter [43.21C](#) RCW, Chapter [19.43](#) EMC, the city's comprehensive plan, and all updates and amendments, functional plans and other land use policies formally adopted or accepted by the city; and



I. Providing for the maintenance and enhancement of views, solar access, and/or elimination of future potential hazards or nuisances while protecting critical area functions and values. (Ord. 3323-13 § 1, 2013; Ord. 2909-06 § 2, 2006.)

### **19.37.030 Applicability.**

A. This chapter establishes regulations for the protection of critical areas and applies to all lands, all land uses and development activity, and all structures or facilities, whether or not a permit or authorization is required, and shall apply to every person, firm, partnership, corporation, group, government agency, or other entity that owns, leases or administers land within the city. No person, company, agency, or applicant shall alter a critical area or buffer except as consistent with the purposes and requirements of this chapter. For development proposals on properties within shoreline jurisdiction, the shoreline master program applies in addition to the regulations contained in this chapter. No alteration of a critical area may occur until the city has issued all approvals required by this chapter. By way of example and not limitation, no development permit may be issued; no subdivision of land may be approved; no clearing, filling, or grading may occur; nor may any use be established, altered, or expanded on any lot until approvals required by this chapter have been granted by the city.

B. In addition to the requirements of this chapter, the applicant shall obtain all necessary state, federal and other local permits. (Ord. 3676-19 § 2, 2019; Ord. 3202-10 § 3, 2010; Ord. 3129-09 § 29, 2009; Ord. 2909-06 § 3, 2006.)

### **19.37.040 Critical area features.**

On all lots containing or within three hundred feet of critical areas, the following features and their buffers shall not be altered or developed except as otherwise permitted by this chapter:

- A. Areas of special flood hazard (if located in a designated floodplain, also see Chapter [19.30](#) EMC);
- B. Wetlands;
- C. The following geologically hazardous areas:



1. Erosion hazard areas;
2. Landslide hazard areas;
3. Seismic (liquefaction) hazard areas;

D. Fish and wildlife habitat conservation areas, including streams/riparian areas, lakes, marine waters, habitats of primary association, continuous vegetative corridors linking watersheds, and significant biological areas as defined in this title;

E. Ground water discharge areas, such as springs and seeps. (Ord. 3676-19 § 3, 2019; Ord. 2909-06 § 4, 2006.)

### **19.37.050 Exemptions—Exceptions—Modifications.**

Certain activities are exempt from the requirements of this chapter, while other activities which are regulated by this chapter may be granted specific exceptions or an administrative modification. This section lists the activities which are exempt from the regulations of this chapter, the exceptions which may be granted to the requirements of this chapter, and the administrative modifications which can be granted to the requirements of this chapter.

All activities or developments which are exempted, excepted, or granted modifications shall use reasonable methods to avoid and minimize potential impacts to critical areas, including use of any applicable best management practices. Such activities or developments which are exempted, excepted, or granted modifications shall not be exempt from other laws or permit requirements which may be applicable.

A. *Exemptions.* The following are exemptions to the provisions of this chapter; however, the exemptions listed in this section may not be exempted from other state or federal regulations or permit requirements. Any incidental damage to, or alteration of, a critical area that is not a necessary outcome of the exempted activity shall be restored, rehabilitated, or replaced at the expense of the property owner.

1. *Exempted Actions.*
  - a. Emergencies that threaten the public health, safety and welfare, as verified by the city. Emergency actions that create an impact to a critical area or its buffer shall use



reasonable methods to address the emergency; in addition, they must have the least possible impact to the critical area and/or its buffer.

b. Existing and ongoing agricultural activity occurring prior to and since January 3, 1990; provided, however, at such time as the property ceases to be used for agricultural activities and a development activity is proposed, the property shall be brought into compliance with the provisions of this chapter; and further provided, that existing ditches and drain tiles are not expanded in a manner that will drain wetlands in existence as of the date this chapter becomes effective. This exemption does not apply to filling or alteration of wetlands not in agricultural use as of January 3, 1990. The city encourages the use of best management practices or farm conservation plans to reduce impacts of agricultural practices on critical areas.

c. Normal and routine maintenance of legally constructed irrigation and drainage ditches; provided, that this exemption shall not apply to any ditches used by salmonids.

d. Normal and routine maintenance of agricultural ponds, livestock watering ponds and fish ponds; provided, that such activities shall not involve the conversion of any wetland or stream not used for such purposes prior to and since January 3, 1990.

e. Entirely artificial structures or wetlands intentionally constructed by humans from upland areas for purposes of stormwater drainage or water quality control, or ornamental landscape ponds, which are not part of a mitigation plan required by this chapter.

f. The following water, sewer, storm drainage, electric, natural gas, cable communications, and telephone utility-related activities, and maintenance of public streets and public park facilities when the activity does not expand or encroach further into the critical area, does not significantly impact a fish or wildlife habitat conservation area, and when undertaken pursuant to best management practices to minimize impacts to critical areas and their buffers:

- (1) Normal, routine, and emergency maintenance or repair of existing utility structures or rights-of-way, including vegetation management;



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- (2) Installation, construction, or modification in improved street rights-of-way and replacement, operation or alteration of the following facilities:
- (A) Natural gas, cable communications, telephone facilities, water and sewer lines, pipes, mains, equipment or appurtenances;
  - (B) Electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of fifty-five thousand volts or less;
- (3) Normal and routine maintenance or repair of public streets, state highways, and public park facilities, including vegetation management. Maintenance and repair does not include any modification that changes the character, scope, or size of the original structure, facility, or improved area, nor does it include construction of a maintenance road or the dumping of maintenance debris.
- g. Forest practices on city-owned watershed property located in remote areas not contiguous to the Everett corporate boundaries, undertaken in accordance with the requirements of the State Department of Natural Resources.
- h. Minimal soil disturbance for site investigative work necessary for land use application submittals such as surveys, soil logs, percolation tests and other related activities. Disturbed areas shall be immediately restored.
- i. Conservation measures intended to preserve soil, water, vegetation, fish and other wildlife and their associated habitat that do not involve adversely impacting functions of the critical area.
- j. Routine maintenance of existing landscaping and fencing including removal of invasive vegetation, that does not involve grading, excavation or filling.
- k. Modification to existing structures. Legally constructed structures and improvements in existence on January 13, 1990, that do not meet the buffer requirements of this chapter may be remodeled, reconstructed, expanded or replaced; provided, that the new construction or related activity does not further alter or increase the impact to the critical area or buffer as a result of the proposed modification. For structures that are damaged or destroyed as a result of flood, fire or act of nature, restoration work shall be initiated by the applicant within one year of the date of damage or destruction, as evidenced by issuance of a valid building permit. The
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work authorized by such permit must be completed within the term of the permits issued by the city, which includes any written extensions. Expansions and additions shall not further encroach into a critical area or the portion of the required buffer between the critical area and existing improvements. Expansions within the critical area or buffer shall be limited to a maximum of one thousand square feet of impervious surface. To the extent feasible based on site-specific conditions, expansions shall result in no additional hydrologic impacts from stormwater runoff by using techniques such as low impact development. Remodeling, reconstruction, and expansions shall be subject to all other requirements of the zoning code.

B. *Exceptions.* All exceptions must be approved by the city through the review process listed in EMC Title [15](#) prior to the exception applying. The following are exceptions to the requirements of this chapter; however, the exceptions listed in this section still require compliance with the other requirements of this chapter, except as allowed by the exception. The exception may not be exempted from other state or federal regulations or permit requirements. Any incidental damage to, or alteration of, a critical area that is not a necessary outcome of the allowed development shall be restored, rehabilitated, or replaced at the expense of the property owner.

1. New accessory structures up to one hundred square feet, including storage buildings and garden sheds. Where structures, lawns and associated improvements have been legally established within a buffer area, new structures may be placed within the outer fifty percent of a legally altered critical area buffer. The one-hundred-square-foot limit shall include all associated improvements such as walkways or other impervious areas. Only one such exception per site or property is allowed.
2. New accessory structures between one hundred one square feet and two hundred square feet. Where structures, lawns and associated improvements have been legally established within a buffer area, new structures and additions to existing structures up to two hundred square feet may be permitted within the improved portion of the buffer as follows:
  - a. The two-hundred-square-foot limit shall include all associated improvements such as walkways or other impervious areas;
  - b. The new structure or addition shall be placed within the outer fifty percent of a legally altered critical area;



- c. The new structure or addition maintains a minimum setback of ten feet from the critical area;
- d. A minimum of one square foot of legally altered buffer area is restored for every one square foot of new structure;
- e. A critical area covenant is recorded;
- f. A habitat assessment is completed if within an F stream buffer;
- g. A fence and critical area sign are provided to protect the newly established buffer area; and
- h. Only one exception per site or property is allowed.

3. *Wetland Exception.* The following wetlands may be excepted from compliance with the wetland preservation and protection goals in this chapter. Mitigation must be provided for any approved impacts per EMC [19.37.120](#).

- a. All isolated category IV wetlands less than four thousand square feet that meet all of the following criteria:
  - (1) Are not associated with riparian areas or their buffers;
  - (2) Are not associated with shorelines of the state or their associated buffers;
  - (3) Are not part of a wetland mosaic;
  - (4) Do not score five or more points for habitat function based on the 2014 update to the Washington State Wetland Rating System for Western Washington: 2014 Update (Ecology Publication No. 14-06-029, or as revised and approved by Ecology);
  - (5) Do not contain a priority habitat or a priority area for a priority species identified by the Washington Department of Fish and Wildlife, do not contain federally listed species or their critical habitat.
- b. Wetlands less than one thousand square feet that meet the above criteria and do not contain federally listed species or their critical habitat are exempt from the buffer provisions contained in this chapter.



4. The following actions may be required to provide a habitat assessment or biological assessment under EMC [19.37.190](#), Fish and wildlife habitat conservation areas. If the application of this chapter would prohibit or unreasonably restrict the ability to provide necessary utilities or infrastructure improvements, a development proposal by a public agency or a utility to construct utility facilities for the conveyance of water, sewage, storm drainage, electricity, natural gas, cable or telecommunications, or the construction of streets and highways, the agency or utility may request an exception. Such a request shall be reviewed using the review process described in EMC Title [15](#), Local Project Review Procedures. The city may approve, or approve with modifications, such a request only when the following findings are made:

- a. The application of this chapter would prohibit or unreasonably restrict the ability to provide necessary utilities or infrastructure improvements or maintenance;
- b. There is no other reasonable alternative to the proposed development with less impact on the critical area;
- c. The proposal mitigates impacts on the critical areas;
- d. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site; and
- e. The proposal is consistent with other applicable regulations and standards.

5. *Docks*. This section does not apply to areas under jurisdiction of the shoreline master program.

- a. Repair and maintenance of an existing legally established dock are permitted; provided, that all of the following criteria are met:
  - (1) There is no expansion in overwater coverage;
  - (2) There is no increase in the size and number of pilings;
  - (3) There is no use of toxic materials, such as creosote, CCA and other treated wood products;
  - (4) There is no new spanning of water between three and thirteen feet deep; and
  - (5) There is no new increase in the use of materials creating shade.



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- b. New docks are permitted subject to compliance with any WDFW HPA or U.S. Army Corps of Engineers permit conditions. Piers and docks shall be located, designed and constructed so as to cause minimum interference with public use of the water surface and shoreline; to mitigate the impacts to ecological function and critical areas; to avoid or minimize impacts to views; and to cause no undue harm to adjacent properties.
  - c. New docks shall be a maximum of four feet in width and a maximum walkway width of four feet. Overwater surfaces shall be constructed of unobstructed grating which provides at least fifty percent of open surface area. Piles, floats or other parts of the structure that come in direct contact with the water shall be approved by applicable federal and state agencies for use in water and shall not be treated or coated with biocides such as paint or pentachlorophenol. Use of arsenate compounds or creosote treated members is prohibited.
  - d. Only one dock shall be permitted for all lots in any short subdivision or subdivision that occurs after September 1, 2000. Such dock shall be shared between all lots in the short subdivision or subdivision.
  - e. Covered overwater moorage, either fixed or floating, shall be prohibited.
  - f. No dock may be located within fifteen feet of an interior lot line, unless shared with the owner of the adjacent lot, in which case no setback is required.
  - g. No single-family lot shall have more than one dock.
  - h. No dock shall exceed four feet in width, twenty-five feet in length or five feet in height above the ordinary high water mark on the landward side.
6. *Reasonable Use Exception.* This section does not apply to areas within jurisdiction of the shoreline master program.
- a. Nothing in this chapter is intended to preclude reasonable economic use of property as set forth in this title. If the requirements of this chapter as applied to a specific lot would deny all reasonable economic use of the lot, development will be permitted if the applicant demonstrates all of the following to the satisfaction of the planning director:
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- (1) There is no other reasonable use or feasible alternative to the proposed development with less impact on the critical area; and
- (2) The proposed development does not pose a threat to the public health, safety and welfare on or off of the subject lot; and
- (3) Any alterations permitted subject to the requirements of this chapter shall be the minimum necessary to allow for reasonable use of the property; and
- (4) The inability of the applicant to derive reasonable economic use of the property is not the result of actions by the applicant in subdividing the property or adjusting a boundary line, thereby creating the undevelopable condition after the effective date of the ordinance codified in this chapter; and
- (5) The proposal mitigates the impacts on the critical areas and buffers to the maximum extent possible.

b. *Reasonable Use Decision Process.* Whenever an applicant for a development proposal submits a reasonable use proposal to the planning director, the submittal shall include the following information which will be used to evaluate the criteria for reasonable use exception:

- (1) The location, size, and description of the areas of the lot which are either critical areas, required buffers, or setbacks required by this chapter;
- (2) A description of the location and area of the lot which is within setbacks required by other standards of the zoning code;
- (3) An analysis of the minimum development necessary to achieve “reasonable economic use” of the lot, including a narrative which includes a factual basis for this determination;
- (4) An analysis of the impact that the development described in this section would have on the critical areas and buffer functions, including an analysis of impacts on fish and wildlife resources;
- (5) An analysis of whether any other reasonable use with less impact on the critical areas and buffers is possible. This must also include an analysis of whether there is any practicable on-site alternative to the proposed development with less



impact, including reduction in density, phasing of project implementation, change in timing of activities, revision of lot layout, and/or related site planning considerations that would allow a reasonable economic use with less adverse impacts to the critical areas and buffers. The phasing analysis shall address whether pre-project mitigation of impacts to buffers is feasible to reduce impacts on critical areas. The analysis shall also address stormwater impacts and mitigation required by the city's stormwater management regulations;

(6) A design of the proposal so that the amount of development proposed as "reasonable economic use" will have the least impact practicable on the critical areas;

(7) An analysis of the modifications needed to the standards of this chapter to accommodate the proposed development;

(8) A description of any modifications needed for the required front, side and rear setbacks, building height, and landscape widths to provide for a reasonable use while providing protection to the critical areas;

(9) A description of the proposed enhancement/restoration of the critical area and buffer necessary to result in no net loss of function to the maximum extent feasible;

(10) Such other information as the planning director determines is reasonably necessary to evaluate the issue of reasonable economic use as it relates to the proposed development.

c. *Reasonable Use Administrative Modification.* If, in order to provide reasonable economic use, the standards of this title need to be modified, the planning director is authorized to grant an administrative modification to the standards of this title in accordance with the following:

(1) If a reasonable economic use of a lot cannot exist without modification of the required front, side and/or rear setbacks, building height, and/or landscape widths, the planning director is authorized to administratively modify such standards only to the extent necessary to provide for a reasonable economic use



of the lot while providing greater protection to the critical areas than if the standard were met;

(2) If a reasonable economic use of a lot cannot exist without a reduction of the buffers of the critical areas, the planning director is authorized to administratively permit a reduction in the buffers only to the extent necessary to provide for a reasonable use of the lot. Where buffer reduction is permitted, enhancement/restoration of the buffer and/or critical area must be provided so that mitigation results in no net loss of critical area and buffer functions to the maximum extent feasible; or

(3) If a reasonable economic use of a lot cannot exist by means of either subsection [\(B\)\(6\)\(c\)\(1\)](#) or [\(2\)](#) of this section, then the planning director is authorized, using the review process described in EMC Title [15](#), Local Project Review Procedures, to administratively grant a transfer of development rights in addition to subsection [\(B\)\(6\)\(c\)\(1\)](#) or [\(2\)](#) of this section, or in lieu of them. For purposes of this section, "transfer of development rights (TDR)" means that the city severs the development rights from the fee interest and permits the owner of the restricted property to either transfer an authorized portion of the development rights in that property to another lot owned by the restricted party in accordance with the following provisions, or permits the owner of the restricted property to sell an authorized portion of the rights to owners of land who can use the authorized development rights in accordance with the following:

(A) *Single-Family Zones*. The number of dwelling units allowed under a reasonable use determination for any residential development may be transferred to a single-family zone; provided, that the number of dwelling units allowed to be transferred to the receiving site shall not exceed the lesser of:

- (i) The number of dwelling units which the planning director determines to be the minimum necessary to allow for reasonable economic use of the restricted property; or
- (ii) The number of dwelling units that would be allowed on the receiving site with an assumed twenty percent increase in lot size. In approving a transfer of development rights to the receiving site in a single-family zone,



the planning director shall have the authority to allow for a reduction of the minimum lot area allowed by the zone in which the receiving site is located by not more than twenty percent. The director shall have the authority to reduce the required lot width and depth by not more than twenty percent. All dwelling units on such lots shall be single-family dwellings.

(B) *Multiple-Family Zones.* The amount of development transferred to the receiving lot shall be limited only by all other requirements of this title applicable to the use zone in which the receiving lot is located (building height, off-street parking, setbacks, multiple-family development standards, etc.), excluding maximum permitted density.

(C) *Commercial and Industrial Zones.* The amount of development transferred to the receiving lot shall not exceed that which can be accommodated by allowing an increase of permitted height on the receiving lot of not more than fifteen feet. All other requirements of the use zone in which the receiving lot is located shall be applicable to the transferred development.

d. All other requirements of this chapter shall apply to the subject property, including but not limited to submittal of mitigation plans, monitoring reports, and assurance devices, installation of fencing and signs, and recording of protective covenants. (Ord. 3676-19 § 4, 2019; Ord. 3457-15 § 1, 2015; Ord. 2909-06 § 5, 2006.)

### **19.37.060 Permitted uses and activities.**

A. Uses permitted on lots containing or adjoining critical areas shall be the same as those permitted in the use zone in which the lot is located. Each use shall be evaluated in accordance with the review process required for the proposed use in the use zone in conjunction with the requirements of this chapter and other city, state, and federal regulations.

B. The following uses/activities are permitted in critical areas and their buffers:

1. Minor utility construction projects. Utility projects which have minor or short-duration impacts to critical areas, provided such projects are constructed using best management



practices to avoid and minimize impacts to critical areas and required buffers, subject to the following criteria:

- a. The activity does not significantly impact a Type F stream, a category I wetland, or a fish and wildlife habitat conservation area and complies with other provisions of this chapter; and
  - b. There is no reasonable alternative to the proposed activity with less impact on the critical area; and
  - c. The activity involves the placement of a utility pole, street sign, anchor, vault, or other small component of a utility facility; and
  - d. The activity results in disturbing less than one hundred square feet of critical area and buffer.
2. Buffer management, as defined in this title, when approved by the planning director and all agencies with jurisdiction.
  3. Select vegetation removal activities. The following vegetation removal activities are permitted:
    - a. *Pruning*. Pruning is limited to trimming, limbing, thinning, windowing, and skirting in a manner consistent with this subsection.
      - (1) A permit is required to prune trees in critical areas. Prior to pruning, trimming, limbing, thinning, windowing, and/or skirting:
        - (A) The applicant shall submit a pruning report by a certified arborist and have all work be performed under the direction of a certified arborist.
        - (B) The applicant, in lieu of the above and an application fee as determined by the planning director, shall:
          - (i) Submit a plan showing the location of the proposed work, using aerial photos or a site plan that accurately depicts the location of trees to be pruned;



- (ii) Submit photos of the trees to be pruned, a description of the portions of the tree to be removed by pruning, and documentation that the trees are located on property owned by the applicant;
  - (iii) Sign a declaration stating that they have read and understand, and will comply with, the applicable city regulations;
  - (iv) Submit photos of the trees that were pruned after the work is completed.
- (C) The city shall review and issue the tree pruning permit upon submittal of a complete application that demonstrates the proposal complies with all applicable requirements.
- (D) The city shall conduct a site inspection upon completion of the work or any time thereafter if the work was done without a certified arborist to determine that the work has been conducted in accordance with city regulations.
- (2) Pruning must adhere to the standards in ANSI A300, 2008 Edition, or as subsequently amended.
- (3) Pruning shall not result in the removal of more than thirty-three percent of the tree's crown.
- (4) Pruning shall not include topping of trees unless underneath power lines.
- (5) Pruning activity shall not result in any soils disturbance on the site.
- (6) A tree that is an active nest site for a species of local or state importance or provides critical habitat such as an eagle perch, or other listed threatened or endangered species, shall not be pruned.
- (7) Topping trees or pruning trees in excess of thirty-three percent is considered a nonhazardous tree removal activity and therefore must comply with subsection B.3.c of this section.
- (8) Once a tree is permitted to be pruned, it may be continued to be pruned but may not be pruned beyond thirty-three percent of the tree's original crown.



b. *Hazard tree removal with replanting.* The removal of hazard trees from critical areas and required buffers subject to the replanting of native trees to maintain critical area and buffer functions. Hazard trees are those trees that pose a threat to public safety, or pose an imminent risk of damage to private property.

(1) The director may determine that a tree or trees pose an apparent hazard or threat to public safety and approve their removal. The director may require, at the owner's cost, an assessment and recommendation from a certified arborist, registered landscape architect or professional forester that documents the hazard and provides a replanting schedule for replacement trees.

(2) Where hazards can be eliminated without complete removal of the tree, the director may require that a wildlife snag remain in the critical area or required buffer.

(3) Where tree removal is necessary, the landowner shall provide replacement trees as recommended by the assessment or at a ratio of two trees for every tree removed. Trees shall be placed at a location approved by the director to avoid future tree hazards and in accordance with an approved restoration plan.

(4) If a tree to be removed provides critical habitat, such as an eagle perch, a qualified biologist shall be consulted to determine timing and methods of removal that will minimize impacts. The biologist's report shall be circulated to agencies with expertise for review and comment prior to approval by the director.

(5) If a tree to be removed is located within a geologically hazardous area, the planning director may require submittal of a geotechnical report documenting the impact on the property.

(6) Unless otherwise provided, or as a necessary part of an approved alteration, mitigation, or buffer management plan, removal of any vegetation or woody debris from a wildlife habitat conservation area or wetland, or required stream or wetland buffer, shall be prohibited.

(7) The city may require that a hazard tree assessment be completed, and that hazard trees be removed from buffers, and trees replanted in accordance with the requirements of this chapter prior to final approvals for a development proposal.



c. *Nonhazardous tree removal with replanting.* Except as allowed under subsection B.2 of this section, the planning director, using the review process described in EMC Title [15](#), Local Project Review Procedures, may allow up to a maximum of ten percent of all nonhazardous trees within the outer half of a critical area buffer to be removed.

Removal of nonhazardous trees must comply with the following requirements:

- (1) Proposals to remove nonhazardous trees shall include a planting plan prepared by a qualified professional biologist, arborist, or forester unless waived by the planning director. The plan must show the number, size, and type of plants to be planted and where the plants will be located. The plants should be placed in an area within the buffer that will be most beneficial to the stream or wetland and an area where future cutting will not be necessary. A minimum of three, three- to five-gallon native trees of different varieties must be planted for every tree to be removed unless it would create an overcrowded situation in which case the planning director can reduce this ratio or allow shrubs to be planted as an alternative. On geologically hazardous slopes, the tree size shall be a minimum of two gallons or if bareroot an equivalent size. The planning director shall have discretion to reduce the number of trees to be cut if the proposed plan fails to replace over the long term the loss of functions and values of the buffer that may result from the cutting of trees. A tree inventory is required with the tree type and size shown on a site plan unless waived by the planning director. Only trees greater than a six-inch caliper within the outer half of the critical area buffer can be counted unless the trees to be removed are less than six-inch caliper.
- (2) Tree removal is limited to once every five years.
- (3) A tree that is an active nest site for a species of local importance or provides critical habitat such as an eagle perch shall not be cut.
- (4) If the buffer's edge has not been delineated and cannot be determined by the city, a wetland or stream buffer delineation will be required.
- (5) If the trees to be removed are on a geologically hazardous slope, a geological assessment letter or geotechnical report is required unless waived by the planning director. A geologically hazardous covenant must be recorded prior to tree cutting.



(6) Tree stumps must not be removed and all wood debris must be left within the buffer unless otherwise recommended by a biologist or geologist. A minimum of twenty-five percent of cut trees shall be left as snags approximately twenty feet tall unless within striking distance of structures, yards, or trails.

(7) Where the stump of a big-leaf maple or other tree with a similar growth habit that has been approved for removal remains in the buffer, branches that sprout from the stump may be removed annually.

(8) Prior to cutting, all trees to be cut must be marked, all required replacement plants must be on the property ready to be planted, and a critical areas covenant must be recorded. The replacement plants must be planted prior or immediately after the trees have been cut and placed in an area within the buffer that will be most beneficial to the stream or wetland.

(9) A survey may be required if trees are to be removed near any lot line.

(10) *Forest Practices*. Where applicable, applications for tree removal shall also include a city of Everett timber harvest application and include an estimate of the number of board feet to be cut.

(11) Planting of additional trees beyond what is required in this section or buffer enhancement may be required if trees have been cut without planning director approval.

d. *Weed Removal*. The removal of the following invasive, nonnative and noxious weeds in conjunction with a mitigation plan or buffer management plan approved by the director, including revegetation with native plants. The director may require that only hand tools or light equipment be used for removal.

(1) Invasive and noxious weeds identified in a list adopted by the city or county;

(2) English ivy (*Hedera helix*);

(3) Himalayan blackberry (*Rubus armeniacus*) and evergreen blackberry (*Rubus laciniatus*);

(4) Scotch broom (*Cytisus scoparius*).



4. *Public and private pedestrian paths and trails.* Public and private pedestrian trails, including interpretive signage, overlooks, and benches, may be permitted subject to the following criteria and subject to approval by the director:

- a. The trail or path is designed to minimize impacts to the critical area and its buffer. The trail is located on the outer twenty-five percent of the buffer, except for areas which provide for public viewpoints of the critical area or educational opportunities and which are designed to minimize the footprint of the trail/path within the critical area or its buffer. Trails and paths shall not be permitted when critical area functions will be substantially degraded. The width of trails shall be the minimum necessary, and should not exceed five feet, unless trails are provided for shoreline public access, in which case maximum trail width shall be eight feet. The trails should be one hundred percent porous to the maximum extent feasible. The proposal must comply with EMC [19.37.190](#).
- b. The trail surface meets all other requirements including all applicable water quality standards. Use of pervious surfaces is encouraged.
- c. Critical area and buffer widths shall be increased where possible, equal to the width of the trail corridor, including disturbed areas.
- d. Trails proposed to be located in landslide or erosion hazard areas shall be constructed in a manner that does not increase the risk of landslide or erosion and in accordance with an approved geotechnical report.
- e. Public and quasi-public trails shall include interpretive signs identifying the critical area and buffer specific to the site.

5. Stormwater facilities are allowed in stream and wetland buffers subject to all of the following criteria:

- a. Stormwater management facilities are permitted only within the outer twenty-five percent of the buffer.
- b. The subject buffer area has been previously substantially and legally altered and is unvegetated, sparsely vegetated, and/or vegetated with nonnative or invasive species.



- c. Stormwater facilities shall be integrated into the stream or wetland buffer as a natural drainage system. The slopes and all areas that are disturbed shall be planted with native vegetation consistent with a buffer enhancement/mitigation plan. Aboveground concrete walls and structures are not permitted. Below grade structures may be permitted only if it can be shown to the satisfaction of the planning director that the use of such materials fits with the natural design of the proposed facility and does not interfere with wildlife passage or adversely impact biological functions of the buffer or the adjacent critical area.
- d. The location of a maintenance/access road is limited to the upland side of the facility outside the buffer.
- e. The facilities must include a buffer enhancement and management plan that would improve the functional performance of the buffer and associated critical area.
- f. All site development plans must incorporate low impact stormwater management techniques where site conditions allow as required by the city's stormwater management regulations.
- g. For Type Np and Ns streams and category II, III, and IV wetlands, the planning director may grant an exception to the outer twenty-five percent limitation when the applicant demonstrates that the project would significantly increase wetland or stream function and would not substantially alter stream or wetland hydrology. A significant increase in wetland function shall be defined as no reduction in any individual function as measured by the Western Washington Wetland Rating System, and at least a five-point overall increase in the combined function score as measured by the Western Washington Wetland Rating System. (Ord. 3676-19 § 5, 2019; Ord. 3323-13 § 2, 2013; Ord. 2909-06 § 6, 2006.)

### **19.37.070 Critical area reports—General.**

A. *Supporting Information.* All land uses and developments proposed on or adjacent to critical areas and their buffers shall include studies which describe the environmental conditions of the site. No activity, including clearing, filling or grading, shall be permitted until the information required by this section is reviewed and approved by the city. Such studies shall be prepared by



experts with demonstrated qualifications in the area of concern, who shall prepare the studies in accordance with the requirements of this chapter to the satisfaction of the planning department. The city may retain consultants at the applicant's expense to assist the review of studies and/or conduct site evaluations which are outside the range of staff expertise. The planning director is authorized to develop and maintain a detailed list of required study contents.

**B. When a Critical Area Report Is Required.** A critical area report is required when a proposed development is located on a site with a documented or suspected critical area, or within three hundred feet of a documented critical area on an adjacent parcel (or two hundred feet from an active geologically hazardous area). The city may waive the requirement for a critical area report in the following circumstances on a case-by-case basis:

1. The critical area was previously documented by a study and the city has determined the proposed development would meet the minimum required buffer for the critical area and the project would not impact the critical area; or
2. There is existing legally established development located between the critical area and the proposed development site and any required buffers on the site would be ineffective.

**Table 37.1: Critical Area Reports—Summary**

<b>Document/Report Type</b>	<b>When Required</b>	<b>Notes:</b>
Geological Assessment Letter	Potential geologically hazardous area exists on or within 200 feet of the proposed project area	Reconnaissance study
Geological Report	An active geologically hazardous area exists on or within 200 feet of the proposed project area	Detailed study
Critical Area Delineation Report	Wetland, stream or lake on site or within 300 feet	Identifies and maps critical areas and buffers



<b>Document/Report Type</b>	<b>When Required</b>	<b>Notes:</b>
Wetland or Stream Mitigation Plan	Alteration or fill of wetlands, streams or buffers	Includes monitoring and contingency elements
Biological Assessment for Threatened Species	Development within 200 feet of Type F stream	For federally listed threatened or endangered species
Biological Assessment for Threatened Species	Development within “protected area” or “special flood hazard area”	Per biological opinion by NMFS for development within 100-year floodplain. See EMC <a href="#">19.37.190</a> .
Biological Evaluation	Typically not required by the city, but may be required by state or federal agencies	Generic term for other types of analysis
Habitat Assessment	Potential impacts on regulated threatened/endangered species	Can apply to either terrestrial or aquatic habitat. See EMC <a href="#">19.37.190</a> .
Habitat Management Plan	Provided with a habitat assessment when a development is proposed on or adjacent to a “habitat of primary association” for fish and wildlife habitat conservation area	See EMC <a href="#">19.37.190</a>
Monitoring Report	After completion of enhancement or mitigation work within critical areas	Provided post-development



Document/Report Type	When Required	Notes:
	and/or buffers	

(Ord. 3676-19 § 6, 2019; Ord. 2909-06 § 7, 2006.)

### **19.37.073 Critical area reports—Professional qualifications and report content.**

#### *A. General Requirements for All Critical Area Reports.*

1. *Preparation by a Qualified Professional.* A critical area report shall be prepared by a qualified professional who is a certified professional scientist, a noncertified professional scientist with a minimum of five years of experience, or a professional who demonstrates sufficient expertise to the satisfaction of the planning director. The qualifications of the professional who prepared the plan shall be included in the report. The accuracy of the report shall be certified by the professional who is the principal author of the report. When a geological assessment is required, the report shall be prepared by a licensed geologist or geotechnical engineer. The director shall have the authority to hire an outside consultant at the applicant's expense to review plans when the city has concerns about the accuracy or completeness of the plan.

2. *Report Content.* The written report (and the accompanying plan sheets) shall contain all of the following information, at a minimum:

- a. The name and contact information of the applicant; the name, qualifications, and contact information for the primary author(s) of the wetland critical area report; and a description of the proposal;
- b. Tax parcel numbers of the subject property;
- c. Documentation of any fieldwork performed on the site, including delineations, function assessments, baseline hydrologic data, date and time of site evaluation, etc.;



- d. Identification and characterization of all critical areas and buffers on or adjacent to the proposed project area. For areas off site of the project site, estimate conditions within three hundred feet of the project boundaries using the best available information;
- e. The wetland or stream rating as defined in this chapter, as applicable;
- f. A description of the proposed actions including an estimation of acreages of impacts to critical areas and buffers based on the field delineation;
- g. An assessment of the probable cumulative impacts to the critical areas and buffers resulting from the proposed development;
- h. A description of reasonable efforts made to apply mitigation sequencing provisions per EMC [19.37.085](#) to avoid, minimize, and mitigate impacts to critical areas pursuant to the mitigation sequencing provisions of this chapter;
- i. A description of measures taken to protect and enhance existing habitat connections with other natural areas;
- j. Site maps and site plans depicting delineated critical areas and buffers, impacts of the proposal on critical areas and buffers, grading and clearing limits, and other project and site-specific information as determined necessary by the director;
- k. Dimensions of all buffers and distances between critical areas and existing and proposed structures and lot lines.

**B. *Minimum Standards for Geological Assessments.*** A geological assessment is a site investigation process to evaluate the on-site geology affecting a subject property and contiguous properties and the extent to which geological factors may be impacted by the proposed development activity.

1. A field investigation and geological assessment shall be completed to evaluate whether or not an active geological hazard area exists within two hundred feet of the site.
  - a. The geological assessment shall be submitted in the form of a geotechnical letter when the geologist or geotechnical engineer finds that no active geological hazard area exists on or within two hundred feet of the site. The geotechnical letter shall meet the



minimum required content listed in this section and shall be in the format established by the director.

b. The geological assessment shall be submitted in the form of a geotechnical report when the geologist or geotechnical engineer finds that an active geologically hazardous area exists on or within two hundred feet of the proposed project area. The geotechnical report shall meet the minimum requirements established by the director pursuant to this section.

2. A geological assessment shall include a field investigation and may include the use of historical air photo analysis, review of public records and documentation, and interviews with adjacent property owners or others knowledgeable about the area, etc.

3. A geological assessment shall include the following minimum information and analysis:

a. An evaluation of any areas on the site or within two hundred feet of the site that are geologically hazardous as set forth in EMC [19.37.080\(A\)](#), Designation.

b. An analysis of the potential impacts of the proposed development activity on any geologically hazardous area. The analysis shall include information regarding any potential geological hazard that could result from the proposed development either on site or off site. For landslide hazard areas, the analysis shall consider the run-out hazard of landslide debris to the proposed development that starts upslope, whether the slope is part of the subject property or starts off site.

c. Identification of any mitigation measures required to eliminate potentially significant geological hazards both on the proposed development site and any potentially impacted off-site properties. When hazard mitigation is required, the mitigation plan shall specifically address how the proposed activity maintains or reduces the preexisting level of risk to the site and adjacent properties on a long-term basis. The mitigation plan shall include recommendations regarding any long-term maintenance activities that may be required to mitigate potential hazards.

d. The geological assessment shall document the field investigations, published data and references, data and conclusions from past geological assessments or geotechnical investigations of the site, site-specific measurements, tests, investigations,



or studies, as well as the methods of data analysis and calculations that support the results, conclusions, and recommendations.

e. The geological assessment shall contain a summary of any other information the geologist identifies as relevant to the assessment and mitigation of geological hazards.

C. *Additional Critical Area Report Content for Wetlands.* A critical area report for wetlands shall be prepared by a qualified professional who is a certified professional wetland scientist, a noncertified professional wetland scientist with a minimum of five years of experience in the field of wetland science, including experience preparing wetland and stream reports, or a professional who demonstrates expertise in wetland science, stream ecology, or fish and wildlife biology to the satisfaction of the planning director.

1. Wetland shall be rated according to the categories defined by the Washington State Department of Ecology Washington State Rating System for Western Washington 2014 Update, or as revised (Ecology Publication No. 14-06-029).
2. Hydrogeomorphic classification; wetland acreage, and Cowardin classification of vegetation communities; and, to the extent possible, hydrologic information such as location and condition of inlet/outlets. Provide acreage estimates, classifications, and ratings based on entire wetland complexes, not only the portion present on the proposed project site.

D. *Additional Critical Area Report Content for Biological Assessments (BA).* Refer to requirements for habitat assessment in subsection E of this section.

E. *Additional Critical Area Report Content for Habitat Assessment and Habitat Management Plans (HMP).*

1. *Habitat Assessment.* All habitat assessments required by this chapter shall include the following elements in addition to the general requirements for all critical area reports listed in this section:
  - a. A detailed description of the vegetation on and adjacent to the site.
  - b. Identification and a detailed description of any critical fish or wildlife species or habitats, including listed threatened or endangered species, as set forth in this chapter, on or adjacent to the site and the distance of such habitats or species in relation to the



site. Describe efforts to determine the status of any critical species in the project area, including information on survey methods, timing, and results of surveys for species or suitable habitat identification.

c. Include any information received from biologists with special expertise on the species or habitat type, such as WDFW, Tribal, USFS, or other local, regional, federal, and university fish, wildlife and habitat biologists and plant ecologists. Include any such conversations in the habitat assessment and cite as personal communication.

d. An assessment of the project's direct and indirect potential impacts and cumulative impacts on the subject habitat, including water quality impacts.

e. A discussion of potential mitigation measures that would avoid or minimize temporary and permanent impacts, proposed mitigation measures, contingency measures, and monitoring plans.

f. The city may require that the applicant request a separate evaluation of the site by WDFW staff to confirm the findings of the habitat assessment.

g. Developments in the floodplain must show the one-hundred-year flood elevation contour, the floodway boundary, and the protected area boundary on the site plan.

2. *Habitat Management Plan.* The director may require that all or a portion of the following be included in a habitat management plan:

a. A map drawn to scale or survey showing the following information:

(1) All lakes, ponds, streams, wetlands and tidal waters on or adjacent to the subject property, including the name (if named), and ordinary high water mark of each, and the stream or wetland category consistent with the requirements of this chapter;

(2) The location and description of the fish and wildlife habitat conservation area on the subject property, as well as any potential fish and wildlife habitat conservation area within a distance of the subject property that may impact an affected species or habitat; and

(3) The location of any observed evidence of use by a species regulated by the provisions of the fish and wildlife habitat sections of this chapter.



b. An analysis of how the proposed development activities will affect the fish and wildlife habitat conservation area and any affected species including the potential direct, indirect, and cumulative effects of the proposed action on the regulated species and its habitat within the project area.

c. Provisions to reduce or eliminate the impacts of the proposed development activities on any fish and wildlife habitat conservation area and affected species. The HMP should describe components of the project that may benefit or promote the recovery of listed species and are included as an integral part of the proposed project. These conservation (or mitigation) measures serve to minimize or compensate for project effects on the species under review. The following items should be addressed:

(1) Provide specific recommendations, as appropriate, to reduce or eliminate the adverse effects of the proposed activity. Potential measures include: timing restrictions for all or some of the activities; clearing limitations; avoidance of specific areas; special construction techniques; HMP conditions; replanting with native vegetation; potential of habitat enhancement (i.e., fish passage barrier removal); best management practices, etc.;

(2) Include a description of proposed monitoring of the species, its habitat, and mitigation effectiveness.

d. The HMP shall identify the specific habitat objectives the HMP is designed to achieve and include recommendations regarding all actions taken which are necessary to avoid reducing the likelihood that the species will maintain and reproduce over the long term, and/or actions to maintain or enhance the significant features present. (Ord. 3676-19 § 7, 2019.)

### **19.37.075 Wetlands, streams and lakes—Mitigation plans—Required content.**

A. Wetland and buffer impact mitigation plans shall:

1. Include a baseline study that quantifies the existing wetland and buffer functions, functions that will be lost, and the functions after mitigation. This could involve assessing



functions using Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington: Final Report, March 2012, Washington State Department of Ecology Publication No. 10-06-011, or as amended;

2. Specify how functions will be preserved or replaced;
3. Specify how impacts will be avoided, minimized or compensated for;
4. Assess the potential changes in wetland hydroperiod from the proposed project and identify how the project design will mitigate adverse impacts to the wetland hydroperiod;
5. Describe the future vegetation community types for monitoring years, including dominant vegetation expected. Plants shall be native species, commercially available or available from local sources, high in food and cover value for fish and wildlife, and mostly perennial;
6. Specify when mitigation will occur relative to project construction and to the requirements of permits issued by other agencies;
7. Include measurable criteria for evaluating whether the performance goals of the mitigation proposal have been met, and include provisions for maintenance and monitoring the mitigated area on a long-term basis to determine whether the plan was successful;
8. Include a contingency plan specifying what corrective actions will be taken to achieve performance goals should the mitigation not be successful; and
9. Include provisions for an assurance device as provided by Chapter [19.40](#) to ensure that work is completed in accordance with the mitigation plan, that maintenance and monitoring occur on a regular basis, and that restoration or rehabilitation is performed in accordance with the contingency plan if mitigation failure results within five years of implementation. The construction performance guarantees shall not be released until the applicant's qualified professional and the planning director sign off to indicate that construction has been completed as planned. A separate performance assurance device shall be required for maintenance, monitoring, and contingency. This guarantee shall not be released until the applicant's qualified professional and the planning director sign off that maintenance and monitoring have been completed per the plan, and the mitigation meets performance goals.



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B. Stream, lake and buffer impact mitigation plans shall:

1. Include a baseline study that quantifies the existing functions of the system, functions that will be lost, and the stream and buffer functions after mitigation;
2. Specify how functions will be replaced;
3. Specify when mitigation will occur relative to project construction and to the requirements of permits issued by other agencies;
4. Where buffer enhancement is proposed, include an analysis of the ability of the buffer to protect water quality, as outlined in the Update on Wetland Buffers: The State of the Science, Final Report, October 2013, Washington State Department of Ecology Publication No. 13-06-11, or as amended;
5. Include provisions for maintaining and monitoring the mitigated area on a long-term basis to determine whether the plan was successful;
6. Include a contingency plan specifying what corrective actions will be taken should the mitigation not be successful; and
7. Include provisions for an assurance device as provided by Chapter [19.40](#) EMC to ensure that work is completed in accordance with the mitigation plan and that restoration or rehabilitation is performed in accordance with the contingency plan if mitigation failure results within five years of implementation.

C. *Construction Plans.* Construction plans necessary to implement requirements of the detailed mitigation plan shall be provided prior to issuance of construction permits. Plans shall include the proposed construction sequencing and timing; surface and subsurface hydrologic conditions, including proposed hydrologic regimes for compensatory mitigation areas; grading and excavation details, erosion and sediment control measures; a planting plan specifying plant species, quantities, location, size, spacing, density, proper placement, fertilization standards, and provisions for temporary irrigation systems. (Ord. 3676-19 § 8, 2019.)



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### **19.37.076 Critical area reports—Alternative best available science analysis.**

The planning director may, using the review process described in EMC Title [15](#), Local Project Review Procedures, authorize a modification to the standards in this chapter as follows:

- A. An applicant must submit a critical area study by a qualified professional that documents that the proposed development design/standards will result in a net improvement of the functions of the critical area over that which would be obtained by applying the standard prescriptive measures contained in this chapter. The study must address best available science as it relates to the critical area functions.
- B. The study must be circulated to appropriate state and federal resource agencies for review and comment opportunity prior to planning director authorization.
- C. The development design/standards may include, but are not necessarily limited to, measures prescribed in an approved watershed conservation plan or other similar conservation plan that addresses critical areas protection consistent with this section.
- D. The proposed design/standards must not be materially detrimental to the public welfare or injurious to property or improvements in the vicinity and zone in which the subject property is located. (Ord. 3676-19 § 9, 2019.)

### **19.37.080 Geologically hazardous areas.**

A. *Designation.* The following geologically hazardous areas shall not be altered except as otherwise provided by this chapter:

- 1. Landslide hazard areas:
  - a. Those areas defined as high and very high/severe risk of landslide hazard in the Dames and Moore Methodology for the Inventory, Classification and Designation of Geologically Hazardous Areas, City of Everett, Washington: July 1, 1991, or as revised through best available science:



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- (1) Very high/severe: slopes greater than fifteen percent in the Qtb, Qw, and Qls geologic units; and slopes greater than fifteen percent with uncontrolled fill.
    - (2) High: slopes greater than forty percent in all other geologic units (not Qtb, Qw, and Qls or uncontrolled fill).
  - b. Those areas defined as medium risk of landslide hazard in the Dames and Moore Methodology for Inventory, Classification and Designation of Geologically Hazardous Areas, City of Everett, Washington: July 1, 1991, or as revised through best available science, when combined with springs or seeps, immature vegetation, and/or no vegetation:
    - (1) Slopes less than fifteen percent for Qtb, Qw, and Qls geologic units and uncontrolled fill.
    - (2) Slopes of twenty-five percent to forty percent in all other geologic units.
  - c. Any area with all three of the following characteristics:
    - (1) Slopes greater than fifteen percent; and
    - (2) Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and
    - (3) Springs, ground water seepage, or saturated soils.
  - d. Any area which has shown movement during the Holocene epoch (from ten thousand years ago to the present) or which is underlain or covered by mass wastage debris of that epoch.
  - e. Any area potentially unstable as a result of rapid stream incision, stream bank erosion or undercutting by wave action.
  - f. Areas of historic failures, including areas of unstable, old and recent landslides or landslide debris within a head scarp, and areas exhibiting geomorphological features indicative of past slope failure, such as hummocky ground, slumps, earthflows, mudflows, etc.
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- g. Any area with a slope of forty percent or steeper and with a vertical relief of fifteen or more feet, except those manmade slopes created under the design and inspection of a geotechnical professional, or slopes composed of consolidated rock.
- h. Areas that are at risk of landslide due to high seismic hazard.
- i. Areas that are at risk of landslides or mass movement due to severe erosion hazards.

2. Seismic/liquefaction hazard areas:

- a. Those areas mapped as seismic/liquefaction hazards per the Dames and Moore Methodology for the Inventory, Classification and Designation of Geologically Hazardous Areas, City of Everett, Washington: July 1, 1991, or as revised through best available science.
- b. Those areas mapped as high and moderate to high liquefaction susceptibility on the Liquefaction Susceptibility Map of Snohomish County, Washington, Washington State Department of Natural Resources, Palmer, Stephen, et al., September, 2004.

3. Erosion hazard areas:

- a. Those areas defined as high and very high/severe risk of erosion in the Dames and Moore Methodology for the Inventory, Classification and Designation of Geologically Hazardous Areas, City of Everett, Washington: July 1, 1991, or as revised through best available science:
  - (1) High erosion hazard areas include slopes of twenty-five to forty percent in Qva and Qal geologic units; and slopes of greater than forty percent in other (not Qva or Qal) geologic units.
  - (2) Very high/severe erosion hazard areas include slopes of greater than forty percent in Qva and Qal geologic units.
- b. Those areas defined as medium risk of erosion in the Dames and Moore Methodology for the Inventory, Classification and Designation of Geologically Hazardous Areas, City of Everett, Washington: July 1, 1991, or as revised through best available science, when they contain debris and mud flows, gullying or rifling, immature vegetation, or no vegetation:



(1) Slopes of twenty-five to forty percent in other (not Qva or Qal) geologic units.

4. Other areas which the city has reason to believe are geologically hazardous.

**B. *Geologically Hazardous Slope Setbacks and Slope Protection.***

1. *Geotechnical Assessment Requirements.* Development proposals on or within two hundred feet of any area designated as or which, based on site-specific field investigation, the city has reason to believe are geologically hazardous areas shall submit a geological assessment as required by subsection F of this section.

2. The setback buffer requirement shall be based upon information contained in a geological assessment, and shall be measured on a horizontal plane from a vertical line established at the edge of the geologically hazardous area limits (both from the top and toe of slope). In the event that a specific setback buffer is not included in the recommendation of the geological assessment, the setback buffer shall be based upon the standards contained in Chapter [19.18](#) of the International Building Code (IBC), or as the IBC is updated and amended.

a. If the geological assessment recommends setback buffers that are less than the standard buffers that would result from application of Chapter [19.18](#) of the IBC, the specific rationale and basis for the reduced buffers shall be clearly articulated in the geological assessment.

b. The city may require larger setback buffer widths under any of the following circumstances:

(1) The land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse impacts.

(2) The area has a severe risk of slope failure or downslope stormwater drainage impacts.

(3) The increased buffer is necessary to protect public health, safety and welfare based upon findings and recommendations of the geological assessment.

3. Unless otherwise permitted as part of an approved alteration, the setback buffers required by this subsection shall be maintained in native vegetation to provide additional



soil stability and erosion control. If the buffer area has been cleared, it shall be replanted with native vegetation in conjunction with any proposed development activity.

4. The city may impose seasonal restrictions on clearing and grading within two hundred feet of any geologically hazardous areas.

C. *Permitted Alterations.* Unless associated with another critical area, the planning director, using the review process described in EMC Title [15](#), Local Project Review Procedures, may allow alteration of an area identified as a geologically hazardous area or the setback buffers specified in the IBC if an approved geotechnical report demonstrates that:

1. The proposed development will not create a hazard to the subject property, surrounding properties or rights-of-way, or erosion or sedimentation to off-site properties or bodies of water;
2. The proposal addresses the existing geological constraints of the site, including an assessment of soils and hydrology;
3. The proposed method of construction will reduce erosion potential, landslide and seismic hazard potential, and will improve or not adversely affect the stability of slopes;
4. The proposal uses construction techniques which minimize disruption of existing topography and natural vegetation;
5. The proposal is consistent with the purposes and provisions of this chapter and mitigates any permitted impacts to critical areas in the vicinity of the proposal;
6. The proposal mitigates all impacts identified in the geotechnical letter or geotechnical report;
7. All utilities and access roads or driveways to and within the site are located so as to require the minimum amount of modification to slopes, vegetation or geologically hazardous areas; and
8. The improvements are certified as safe as designed and under anticipated conditions by a geologist.



D. *Additional Requirements.* As part of any approval of development on or adjacent to geologically hazardous areas or within the setback buffers required by subsection B of this section:

1. The city shall require:

- a. Geologically hazardous areas not approved for alteration and their buffers shall be placed in a critical area protective covenant or tract as required by EMC [19.37.220](#);
- b. Any geologically hazardous area or required setback buffer that is allowed to be altered subject to the provisions of this chapter shall be subject to a covenant of notification and indemnification/hold harmless agreement in a form acceptable to the city attorney. Such document shall identify any limitations placed on the approved alterations.

2. The city may require:

- a. The presence of a geologist on the site to supervise during clearing, grading, filling and construction activities which may affect geologically hazardous areas, and provide the city with certification that the construction is in compliance with his/her recommendations and has met with his/her approval, and other relevant information concerning the geologically hazardous conditions of the site;
- b. Vegetation and other soil-stabilizing structures or materials be retained or provided;
- c. Long-term maintenance of slopes and on-site drainage systems.

E. *Prohibited Alterations.* Modification of geologically hazardous areas shall be prohibited under the following circumstances:

1. Where geologically hazardous slopes are located in a stream, wetland, and/or a fish and wildlife habitat conservation area or their required buffers, alteration of the slopes is not permitted, except as allowed under EMC [19.37.050](#). The required buffer for such slopes shall be determined through the site-specific geological assessment, but in no case shall be less than twenty-five feet from the top of slopes of twenty-five percent and greater.



2. Any proposed alteration that would result in the creation of or which would increase or exacerbate existing geological hazards, or which would result in substantial unmitigated geological hazards either on site or off site, shall be prohibited.

F. *Geological Assessment.* A geological assessment is a site investigation process to evaluate the on-site geology affecting a subject property and contiguous properties and the extent to which geological factors may be impacted by the proposed development activity.

1. Geological assessments shall be submitted to the department for review and approval as part of the integrated permit review process described in EMC Title [15](#), Local Project Review Procedures. The department shall review the geological assessment and either:

- a. Accept the geological assessment; or
- b. Reject the geological assessment and require revisions or additional information.

2. When the geological assessment has been accepted, the department shall issue a decision on the land use permit application as provided for in EMC Title [15](#), Local Project Review Procedures.

3. A geological assessment for a specific site may be valid for a period of up to five years when the proposed land use activity and site conditions affecting the site are unchanged. However, if any surface and subsurface conditions associated with the site change during that five-year period or if there is new information about a geological hazard, the applicant may be required to submit an amendment to the geological assessment. (Ord. 3676-19 § 10, 2019; Ord. 2909-06 § 8, 2006.)

### **19.37.085 Wetland and stream preservation and protection goals—Mitigation sequencing.**

A. *Preservation and Protection Goals.* It is the short-term goal of this chapter that there be no net loss of the functions and values of all critical areas regulated by this chapter. An additional goal is no net loss of wetland acreage. The long-term goal is a net gain in functions and values. To realize critical area preservation goals, the city will require the following methods of impact mitigation in order of preference:



1. Avoid impact altogether by not taking a certain action or parts of an action;
2. Minimize impact by limiting the degree or magnitude of the action and its implementation by using appropriate technology, or by taking affirmative steps to avoid or reduce impact;
3. Rectify the impact by repairing, rehabilitating or restoring the affected critical areas;
4. Reduce or eliminate the impact over time by prevention and maintenance operations during the life of the actions;
5. Compensate for the impact by replacing, enhancing, or providing substitute wetland areas and environments;
6. Monitor the impact and take appropriate corrective measures.

Where impacts cannot be avoided, the applicant shall seek to implement other appropriate mitigation actions. (Ord. 3676-19 § 11, 2019.)

### **19.37.090 Wetland designation, delineation, mapping and rating—Lakes.**

A. *Wetland Delineation.* Identification of wetlands and delineation of their boundaries pursuant to this chapter shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements. All areas within the city meeting the wetland designation criteria in that procedure are hereby designated critical areas and are subject to the provisions of this chapter.

B. The approximate location and extent of known or suspected wetlands are shown on the city's critical area maps. These maps shall be used as a guide for the city, applicants and/or property owners, and may be updated as new wetlands are identified. The exact location of a wetland boundary shall be determined through field investigation by a qualified professional applying the approved federal wetland delineation manual and applicable regional supplements methods and procedures.

C. Wetlands shall be rated and regulated according to the categories defined by the Washington State Department of Ecology Washington State Wetland Rating System for Western



Washington 2014 Update, or as revised (Ecology Publication No. 14-06-029). Wetlands, as defined by this chapter, shall be classified as category I, category II, category III, or category IV.

1. Category I wetlands are those that: (a) represent a unique or rare wetland type; or (b) are more sensitive to disturbance than most wetlands; or (c) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or (d) provide a very high level of function. All wetlands that meet one or more of the following criteria shall be considered category I wetlands:

- a. Bogs;
- b. Mature forested wetlands larger than one acre;
- c. Wetlands that perform a very high level of function as evidenced by a score of twenty-three points or more on the Wetland Rating Form—Western Washington.

2. Category II wetlands are ecologically important and provide a high level of function. They are difficult but not impossible to replace. Wetlands that meet the following criteria shall be considered category II wetlands:

- a. Wetlands that do not meet the criteria of category I wetlands;
- b. A wetland identified by the State Department of Natural Resources as containing “sensitive” plant species;
- c. Wetlands with high functions and values as indicated by a score of twenty to twenty-two points on the Wetland Rating System Form—Western Washington.

3. Category III wetlands provide a moderate level of functions. They are typically more disturbed, smaller, and/or more isolated in the landscape than category I or II wetlands. Wetlands that meet the following criteria shall be considered category III wetlands:

- a. Wetlands that score sixteen to nineteen points on the Wetland Rating Form—Western Washington.

4. Category IV wetlands provide the lowest level of function and are often heavily disturbed, but still provide important functions. Category IV wetlands include:

- a. All wetlands that score nine to fifteen points on the Wetland Rating Form—Western Washington. (Ord. 3676-19 § 12, 2019; Ord. 3457-15 § 2, 2015; Ord. 2909-06 § 9, 2006.)



## 19.37.100 Wetland critical area report criteria.

### *Repealed by [Ord. 3676-19](#).* **19.37.110 Standard wetland buffer width requirements.**

#### A. *Standard Buffer Width.*

1. The following buffer widths listed in Tables 37.2 and 37.3 apply to all wetlands within the city of Everett. Buffer widths have been established in accordance with the best available science. Buffers are based on the category of wetland and the habitat score as determined by a qualified wetland professional using the Washington State Wetland Rating System for Western Washington: 2014 Update (Ecology Publication No. 14-06029, or as revised and approved by Ecology).

When feasible, a relatively undisturbed vegetated corridor at least one hundred feet wide must be protected between the wetland and any nearby priority habitat. Presence or absence of a nearby habitat must be confirmed by a qualified biologist. If there is a presence of a nearby priority habitat and if the wetland has a habitat function score of six or more, a one-hundred-foot-wide relatively undisturbed, vegetated corridor must be provided between the wetland and other priority habitats if there is a corridor available to provide. If a corridor is available and is not set aside into an easement or tract, the buffers listed in Table 37.2 apply.

**User instructions:** Use the following two tables to determine wetland buffers. Table 37.2 includes the standard buffers without utilizing the general mitigation measures described below. The reduced buffers in Table 37.3 apply to projects when the applicant elects to incorporate all general mitigation measures. If priority habitat is not present, use Table 37.3.

**Table 37.2: Standard Wetland Buffers without General Mitigation Measures**

CRITICAL AREA	BUFFER WIDTHS (feet)
WETLAND CATEGORY	HABITAT FUNCTION SCORES



	<b>3-5</b>	<b>6-7</b>	<b>8-9</b>
I	100	150	300
Based on total score or forested			
I	250	300	
Bogs			
I	200		
Estuarine			
II	100	150	300
Based on total score			
II	150		
Estuarine			
III	80	150	300
IV	50		

**Table 37.3: Reduced Wetland Buffers When General Mitigation Measures Are Applied**

<b>WETLAND</b>	<b>WETLAND TYPE</b>	<b>HABITAT FUNCTION SCORES</b>
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CATEGORY		3-5	6-7	8-9
		BUFFER WIDTHS (in feet)		
I	All including forested except those listed below	75	110	225
I	Bogs	190	225	
II	All except estuarine	75	110	225
II	Estuarine	110		
III		60	110	225
IV		40		

2. The standard buffer widths required by this chapter presume the existence of a relatively intact native vegetated community including native tree cover, shrub understory and ground cover. If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species, the buffer vegetation shall be enhanced or restored to the width required by this section. The vegetation shall include native plant communities that are appropriate for the Puget Lowland ecoregion or with a plant community that provides similar functions.

B. *Increased Standard Wetland Buffer Width.* The minimum buffer width stated in subsection A of this section shall be increased:

1. When the minimum buffer for a wetland extends into an area with a slope of greater than twenty-five percent, the buffer shall be the greater of:

- a. The minimum buffer for that particular wetland; or
- b. Twenty-five feet beyond the point where the slope becomes twenty-five percent or less for at least a horizontal distance of ten feet;



2. When the wetland is used by salmonids, plant and/or animal species proposed or listed by the federal government or state as endangered, threatened, rare, candidate, sensitive or monitored; or has critical or outstanding potential habitat for those species or has unusual nesting or resting sites such as heron rookeries or raptor nesting trees, and the increased buffer is necessary to protect such habitat;
3. When a habitat assessment or habitat management plan is required by EMC [19.37.190](#) and an increased buffer is necessary to protect critical habitat or affected species, the buffer shall be the buffer in the approved habitat assessment or habitat management plan;
4. When the adjacent land is classified as a geologically hazardous area, the buffer shall be the greater of the standard wetland buffer or the setback buffer required by EMC [19.37.080](#);
5. When the standard buffer has minimal or degraded vegetative cover that cannot be improved through enhancement; or
6. When the city finds, based upon a site-specific wetland analysis, that impacts on the wetland from a proposed development can only be mitigated by a greater buffer width.

C. *General Mitigation Measures*. Implementation of all of the following general mitigation measures allows use of the reduced wetland buffers listed in Table 37.3:

1. Direct lights away from the wetland.
2. Locate activity that generates noise away from the wetland.
3. Route all new, untreated runoff away from the wetland while ensuring wetland is not dewatered.
4. Establish covenants limiting use of pesticides within one hundred fifty feet of the wetland.
5. Apply integrated pest management.
6. Retrofit stormwater detention and treatment for roads and existing adjacent development.
7. Prevent channelized flow from lawns that directly enters the buffer.



8. Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns.
9. Use privacy fencing; plant dense vegetation to delineated buffer edge and discourage disturbance using vegetation appropriate for the ecoregion; place the wetland and its buffer in a separate tract.
10. Use best management practices to control dust.

D. Where wetland functions have been improved due to voluntary implementation of an approved stewardship, restoration and/or enhancement plan that is not associated with required mitigation or enforcement, the standard wetland buffer width shall be determined based on the previously established wetland category and habitat score as documented in the approved stewardship and enhancement plan. (Ord. 3676-19 § 14, 2019; Ord. 3457-15 §§ 3, 4, 2015; Ord. 2909-06 § 11, 2006.)

### **19.37.120 Wetland alteration thresholds and compensation.**

#### *A. Wetland Preservation/Alteration Thresholds.*

1. *Category I Wetlands.* All category I wetlands shall be preserved except as provided in this chapter. The planning director, using the review process as described in EMC Title [15](#), Local Project Review Procedures, may allow alteration of category I wetlands:
  - a. Where alteration is allowed pursuant to EMC [19.37.050](#); or
  - b. The alteration is to allow a public park or public recreational use; provided, that there is no feasible and reasonable alternative to making the alteration and the alteration does not act to degrade the functions of the wetland, or the alteration proposed has a reasonable likelihood of being fully mitigated;
2. *Category II, III, and IV Wetlands.* All category II, III, and IV wetlands shall be preserved except as provided in this chapter. The planning director, using the review process described in EMC Title [15](#), Local Project Review Procedures, may allow alteration of category II wetlands:
  - a. Where alteration is allowed pursuant to EMC [19.37.050](#); or



b. Where impacts cannot be avoided, and the applicant demonstrates through a mitigation sequencing analysis that reduction in the size, scope, configuration, or density of the project as proposed and all alternative designs of the project as proposed that would avoid or result in less adverse impact on a regulated wetland or its buffer are not feasible and will not accomplish the basic purpose of the project;

3. *Category I, II, III, and IV Wetlands in the Silver Lake Watershed.* When alteration of wetlands in the Silver Lake Watershed is allowed in subsections A.1 and A.2 of this section, the applicant must also demonstrate to the satisfaction of the planning director and public works director that such activities will result in an enhancement of wetlands which improves the water quality functions of the wetland, or will improve the other functions of the wetland if the water quality functions of the wetland will not be degraded. Any such proposed activities shall be reviewed using the review process described in EMC Title [15](#), Local Project Review Procedures;

4. The director may approve alteration of wetlands and buffers when proposed to restore or enhance wetland functions.

B. *Compensating for Wetland Impacts.* Wetland and buffer alteration allowed by this section shall be subject to the following requirements:

1. Each activity/use shall be designed so as to minimize overall wetland or buffer alteration to the greatest extent possible.
2. Construction techniques and field marking of areas to be disturbed shall be approved by the city prior to site disturbance to ensure minimal encroachment.
3. A mitigation plan shall be prepared in accordance with subsection C of this section.
4. The city may require the applicant to rehabilitate a wetland or its buffer by removing debris, sediment, nonnative vegetation, or other material detrimental to the area by replanting disturbed vegetation, or by other means deemed appropriate by the city. Rehabilitation or restoration may be required at any time that a condition detrimental to water quality or habitat exists.
5. Wetland Compensation Ratios. In approving alteration or relocation of a wetland, the city shall require that an area larger than the altered portion of the wetland be provided as compensation for destruction of the functions of the altered wetland and to ensure that



such functions are replaced. The ratios in this section apply to creation, restoration, and enhancement which is in-kind (within the same hydrogeomorphic (HGM) class), on or adjacent to the site, timed prior to or concurrent with alteration, and has a high probability of success. The city may accept or recommend compensation which is off site and/or out-of-kind, if the applicant can demonstrate that on-site compensation is infeasible due to constraints such as parcel size or wetland type or that a wetland of a different type or location is justified based on regional needs or functions. When mitigating allowed impacts to wetlands, the standard ratios in Table 37.4 shall be used, except as otherwise provided below in this subsection.

**Table 37.4: Standard Wetland Compensation Ratios**

<b>Category and Type of Wetland Impacts</b>	<b>Reestablishment or Creation</b>	<b>Rehabilitation Only<sup>1</sup></b>	<b>Reestablishment or Creation (R/C) and Rehabilitation (RH)<sup>1</sup></b>	<b>Reestablishment or Creation (R/C) and Enhancement (E)<sup>1</sup></b>	<b>Enhancement Only<sup>1</sup></b>
All category IV	1.5:1	3:1	1:1 R/C and 1:1 RH	1:1 R/C and 2:1 E	6:1
All category III	2:1	4:1	1:1 R/C and 2:1 RH	1:1 R/C and 4:1 E	8:1
Category II Estuarine	Case-by-case	4:1  Rehabilitation of an estuarine	Case-by-case	Case-by-case	Case-by-case
All other category	3:1	6:1	1:1 R/C and 4:1 RH	1:1 R/C and 8:1 E	12:1



Category and Type of Wetland Impacts	Reestablishment or Creation	Rehabilitation Only <sup>1</sup>	Reestablishment or Creation (R/C) and Rehabilitation (RH) <sup>1</sup>	Reestablishment or Creation (R/C) and Enhancement (E) <sup>1</sup>	Enhancement Only <sup>1</sup>
II					
Category I Forested	6:1	12:1	1:1 R/C and 10:1 RH	1:1 R/C and 20:1 E	24:1
Category I Based on score for functions	4:1	8:1	1:1 R/C and 6:1 RH	1:1 R/C and 12:1 E	16:1
Category I Bog	Not considered possible <sup>2</sup>	6:1 Rehabilitation of a bog	R/C Not considered possible <sup>2</sup>	R/C Not considered possible <sup>2</sup>	Case-by-case
Category I Estuarine	Case-by-case	6:1 Rehabilitation of an estuarine	Case-by-case	Case-by-case	Case-by-case

**NOTE:** Preservation is discussed in the following section.

**Creation** = The manipulation of the physical, chemical, or biological characteristics present to develop a wetland on an upland or deepwater site, where a wetland did not previously exist. Activities typically



Category and Type of Wetland Impacts	Reestablishment or Creation	Rehabilitation Only <sup>1</sup>	Reestablishment or Creation (R/C) and Rehabilitation (RH) <sup>1</sup>	Reestablishment or Creation (R/C) and Enhancement (E) <sup>1</sup>	Enhancement Only <sup>1</sup>
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involve excavation of upland soils to elevation that will produce a wetland hydroperiod, create hydric soils, and support the growth of hydrophytic plant species. Establishment results in a gain in wetland acres.

**Reestablishment** = The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland. Activities could include removing fill material, plugging ditches, or breaking drain tiles. Activities could also involve breaching a dike to reconnect wetlands to a floodplain or return tidal influence to a wetland. Reestablishment results in a gain in wetland acres.

**Rehabilitation** = The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic function of a degraded wetland. Activities could involve breaching a dike or reconnecting wetland to a floodplain or returning tidal influence to a wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres.

**Enhancement** = The manipulation of the physical, chemical or biological characteristics of a wetland site to heighten, intensify or improve functions or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention or habitat. Activities typically consist of planting vegetation, controlling nonnative or invasive species, modifying the site elevation or the proportion of open water to influence hydroperiods, or some combination of these. Enhancement results in a change in some wetland functions and can lead to a decline in other wetland functions, but does not result in a gain in wetland acres.

<sup>1</sup> These ratios are based on the assumption that the rehabilitation or enhancement actions implemented represent the average degree of improvement possible for the site. Proposals to implement more effective rehabilitation or enhancement actions may result in a lower ratio, while less effective actions may result in a higher ratio. The distinction between rehabilitation and enhancement is not clear-cut.



Instead, rehabilitation and enhancement actions span a continuum. Proposals that fall within the gray area between rehabilitation and enhancement will result in a ratio that lies between the ratios for rehabilitation and the ratios for enhancement.

**2** Bogs are considered irreplaceable wetlands because they perform some special functions that cannot be replaced through compensatory mitigation. Impacts to such wetlands would therefore result in a net loss of some functions no matter what kind of compensation is proposed.

a. *Increased Mitigation Ratios.* The city may increase the ratios under any one of the following circumstances:

- (1) Uncertainty as to the probable success of the proposed restoration or creation;
- (2) Significant period of time between destruction and replication of wetland functions;
- (3) The proposed mitigation will result in a lower category wetland or projected losses in functions relative to the wetland being impacted;
- (4) The relocation is off site or the replacement is with out-of-kind compensation;
- (5) The wetland has been illegally filled or altered.

b. *Decreased Mitigation Ratios.* The city may decrease these ratios under the following circumstances:

- (1) Documentation by a qualified wetland specialist demonstrates that the proposed mitigation actions have a very high likelihood of success.
- (2) Documentation by a qualified wetland specialist demonstrates that the proposed mitigation actions will provide significantly greater functions than the wetland being impacted.
- (3) The mitigation actions are conducted in advance of the impact and have been shown to be successful.

c. In lieu of the ratios described above, mitigation ratios may be calculated in one of the following ways:



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- (1) Using the method in Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington: Final Report, March 2012, Washington State Department of Ecology Publication No. 10-06-011, or as amended.
  - (2) For properties designated “urban mixed-use industrial” in the city’s shoreline master program, the applicant shall use the Snohomish Estuary Wetland Integration Plan (SEWIP, 1997) and Salmon Overlay (2001) for projects that include wetland compensation. Per Table 37.4, mitigation ratios for estuarine wetlands shall be determined on a case-by-case basis.
- d. In no case shall the mitigation acreage be less than that which is altered.
6. When wetland compensation is allowed, the city may require that the wetland compensation be completed and functioning prior to allowing the existing wetland to be filled or altered. For category I wetlands, the city shall require the relocated wetland area to be completed and functioning prior to allowing the existing wetland to be altered.
  7. The city may limit certain development activities near a wetland to specific months in order to minimize impacts on wetland functions.
  8. The city may apply additional conditions or restrictions or require specific construction techniques in order to minimize impacts on wetland functions.
  9. Wetland compensation shall not occur in areas having high-quality terrestrial habitat.
  10. When wetland compensation is allowed, mitigation areas shall be located to preserve or achieve contiguous wildlife habitat corridors to minimize the isolation and fragmenting effects of development on habitat areas.
  11. When wetland creation is proposed, all required buffers for the creation site shall be located on the proposed creation site, except where mitigation banking is used to purchase buffer credits. Properties adjacent to or abutting wetland creation projects shall not be responsible for providing any additional buffer requirements.
  12. *In-Lieu Fee Mitigation.* In-lieu fee (ILF) mitigation is a program involving the restoration, establishment, enhancement, and/or preservation of aquatic resources through funds paid to a program sponsor to satisfy compensatory mitigation requirements for unavoidable
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impacts to wetlands and other aquatic resources. Per federal rule, sponsorship of ILF programs is limited to governmental, tribal, or nonprofit natural resource management entities. Similar to a wetland mitigation bank, an ILF program sells credits to permittees whose unavoidable impacts occur within a specified geographic area (service area). When credits are purchased from the ILF program, the permittee's obligation to provide compensatory mitigation is then transferred to the ILF program sponsor. The sponsor is then required to implement mitigation within a specified time frame, working with regulatory agencies to make sure impacts are fully mitigated. ILF programs are approved by the U.S. Army Corps of Engineers and the Washington State Department of Ecology. The city may allow compensation for unavoidable impacts to wetlands through contribution to an approved ILF program.

C. *Wetland and Buffer Mitigation Plans.* When wetland or buffer alteration or buffer reduction is permitted by this chapter, a mitigation plan shall be required to describe the methods the applicant will use to minimize impacts to wetland functions. A detailed mitigation plan shall be approved by the city prior to any development activity occurring on a lot upon which wetland or wetland buffer alteration, restoration, creation or enhancement is proposed. See EMC [19.37.075](#) for required wetland mitigation plan content. (Ord. 3676-19 § 15, 2019; Ord. 3457-15 § 5, 2015; Ord. 2909-06 § 12, 2006.)

### **19.37.125 Wetland mitigation banks.**

A. Wetland mitigation banks are sites where wetlands are restored, created, enhanced, or, in exceptional circumstances, preserved, expressly for the purpose of providing compensatory mitigation in advance of authorized impacts to similar resources. Banks typically involve the consolidation of many small wetland mitigation projects into a larger, potentially more ecologically valuable site. Such consolidation encourages greater diversity of habitat and wetland functions. It also helps create more sustainable systems. Banks provide a greater likelihood of success over permittee-responsible mitigation projects, since the banks are up and running before unavoidable damage occurs to a wetland(s) at another site.

1. The city may allow wetland mitigation banking in lieu of other forms of wetland impact mitigation when the mitigation site being used for the credit allowed pursuant to this section is either a wetland created from a site which was previously nonwetland, a wetland



of lesser size or functional value than the wetland being altered, or where the mitigation bank site substantially increases wetland functions in the watershed within which it is located. Under the wetland mitigation banking process, alteration of a wetland on the development site shall occur only when the created or enhanced wetland is successfully functioning in accordance with an approved wetland mitigation plan. The created or enhanced wetland shall have a higher wetland function rating than that being altered. In evaluating a wetland mitigation banking proposal, the planning director shall determine the amount of credit given for mitigation banking using the ratios described in EMC 19.37.120.B.5 as a guide. The amount of credit will be dependent upon the functions of the wetland being altered and the wetland being used for mitigation banking. The city, using the review process described in EMC Title [15](#), Local Project Review Procedures, may allow wetland mitigation banking under any of the following circumstances:

- a. When alteration is allowed pursuant to the “reasonable use” exception as provided in EMC [19.37.050\(B\)\(6\)](#);
- b. When alteration is allowed for a water-dependent or water-related use;
- c. When on-site or off-site mitigation in the immediate vicinity of the project is not reasonable;
- d. When the wetland being altered is of a lower quality and has lesser functions than the wetland which is being used for the mitigation banking.

2. Wetland mitigation banks may be approved under the provisions of Chapter [173-700](#) WAC. For any wetland mitigation bank certified under Chapter [173-700](#) WAC, credits from a wetland bank may be approved for use as compensation for unavoidable impacts to wetlands when:

- a. The director determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts.
- b. The proposed use of credits is consistent with the terms and conditions of the bank’s certification.
- c. Replacement ratios for projects using bank credits shall be consistent with the terms and conditions of the bank’s certification.



d. Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank's certification. In some cases, bank service areas may include portions of more than one adjacent drainage basin for specific wetland functions. (Ord. 3676-19 § 16, 2019.)

### **19.37.130 Areas of special flood hazard.**

Areas of special flood hazard shall be governed by the provisions of Chapter [19.30](#). (Ord. 2909-06 § 13, 2006.)

### **19.37.140 Fish and wildlife habitat conservation areas designation and mapping.**

*Repealed by [Ord. 3676-19](#).* **19.37.150 Lakes, ponds, and created ponds.**

*Repealed by [Ord. 3676-19](#).* **19.37.160 Streams and lakes.**

A. Streams shall be classified based upon an amended version of the water classification system established under WAC [222-16-030](#) as follows:

1. *Type S Stream.* Those streams, within their ordinary high water mark, as inventoried as "shorelines of the state" under Chapter [90.58](#) RCW and the rules promulgated pursuant thereto, including the periodically inundated areas of their associated wetlands.
2. *Type F Stream.* Those stream segments within the ordinary high water mark, including the periodically inundated areas of their associated wetlands, that are not Type S streams, and which are demonstrated or provisionally presumed to be used by salmonid fish. Stream segments which have a width of two feet or greater at the ordinary high water mark and have a gradient of sixteen percent or less for basins less than or equal to fifty acres in size, or have a gradient of twenty percent or less for basins greater than fifty acres in size, are provisionally presumed to be used by salmonid fish. A provisional presumption of



salmonid fish use may be refuted at the discretion of the community development director where any of the following conditions are met:

- a. It is demonstrated to the satisfaction of the city that the stream segment in question is upstream of a complete, permanent, natural fish passage barrier, above which no stream section exhibits perennial flow;
- b. It is demonstrated to the satisfaction of the city that the stream segment in question has confirmed, long-term, naturally occurring water quality parameters incapable of supporting salmonid fish;
- c. Sufficient information about a geomorphic region is available to support a departure from the characteristics described above for the presumption of salmonid fish use, as determined in consultation with the Washington State Department of Fish and Wildlife, the Department of Ecology, affected tribes, or others;
- d. The Washington State Department of Fish and Wildlife has issued a hydraulic project approval pursuant to RCW [77.55.100](#), which includes a determination that the stream segment in question is not used by salmonid fish;
- e. No salmonid fish are discovered in the stream segment in question during a stream survey conducted according to the protocol provided in the Washington Forest Practices Board Manual, Section 13, Guidelines for Determining Fish Use for the Purpose of Typing Waters under WAC [222-16-031](#); provided, that no unnatural fish passage barriers have been present downstream of said stream segment over a period of at least two years;
- f. The following stream segments shall not be considered Type F streams:
  - (1) Merrill and Ring Creek south of Merrill Creek Parkway;
  - (2) Edgewater Creek;
  - (3) Narbeck Creek;
  - (4) Forgotten Creek.

3. *Type Np Stream.* Those stream segments within the ordinary high water mark, including the periodically inundated areas of their associated wetlands, that are perennial and are



not Type S or Type F streams. However, for the purpose of classification, Type Np streams include intermittent dry portions of the channel below the uppermost point of perennial flow. If the uppermost point of perennial flow cannot be identified with simple, nontechnical observations (see Washington Forest Practices Board Manual, Section 23), then said point shall be determined by a qualified professional selected or approved by the city.

4. *Type Ns Stream.* Those stream segments within the ordinary high water mark, including the periodically inundated areas of their associated wetlands, that are not Type S, Type F, or Type Np streams. These include seasonal streams in which surface flow is not present for at least some portion of a year of normal rainfall that are not located downstream from any Type Np stream segment.

B. *Lakes.* Silver Lake shall be protected as required by the shoreline master program. All other lakes shall be subject to the regulations in this chapter. (Ord. 3676-19 § 19, 2019; Ord. 2909-06 § 16, 2006.)

### **19.37.170 Standard stream and lake buffer requirements.**

A. *Standard Buffer Width.* It is the goal of this chapter to preserve streams and their buffers in a natural condition to the maximum extent possible.

1. Buffers shall be measured from the top of the upper bank or, if that cannot be determined, from the ordinary high water mark as surveyed in the field. In braided channels and alluvial fans, the top of the bank or ordinary high water mark shall be determined so as to include the entire stream feature.
2. The standard buffer widths required by this chapter presume the existence of a relatively intact native vegetated community including native tree cover, shrub understory and ground cover. If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species, the buffer width shall be increased as required by this section.
3. Except as otherwise provided by EMC [19.37.050](#), the following minimum buffers of native vegetation shall apply to streams based upon stream classification:

**Table 37.5: Stream Buffers**



<b>Stream Classification (Type)</b>	<b>Standard Buffer: Intact Native Vegetation</b>	<b>Standard Buffer: Unvegetated; Sparsely Vegetated; or Vegetated with Invasive Species</b>
Type S	100 feet	150 feet
Type F	100 feet	150 feet
Type Np	50 feet	75 feet
Type Ns	50 feet	75 feet

B. *Standard Buffer Width Increase.* The city shall require increased buffer widths as necessary to protect streams when the stream is particularly sensitive to disturbance, or the development poses unusual impacts and the increased buffer width is necessary to protect the critical areas described in this subsection. Circumstances which may require buffers beyond minimum requirements include, but are not limited to, the following:

1. When the minimum buffer for a stream extends into an area with a slope of greater than twenty-five percent, the buffer shall be the greater of:
  - a. The minimum buffer for that particular stream; or
  - b. Twenty-five feet beyond the point where the slope becomes twenty-five percent or less;
2. The stream reach affected by the development proposal serves as critical fish habitat for spawning or rearing as determined by the city using information from resource agencies including, but not limited to, the Washington State Department of Fish and Wildlife, U.S. Fish and Wildlife Service, and recognized tribal nations;



3. The stream or adjacent riparian corridor is used by species listed by the federal government or the state as endangered, threatened, rare, sensitive, or monitored, or provides critical or outstanding actual or potential habitat for those species, or has unusual nesting or resting sites such as heron rookeries or raptor nesting or lookout trees;
4. The land adjacent to the stream and its associated buffer is classified as a geologically hazardous or unstable area;
5. Increased buffer width is necessary to effectively include the riparian corridor of the stream.

C. *Standard Stream Buffer Width Reduction with Enhancement.* The planning director may, using the review process as described in EMC Title [15](#), Local Project Review Procedures, reduce the standard stream buffer width only when there has previously been substantial legal alteration of the stream and/or buffer on the subject lot or adjoining lots resulting in the existing buffer being unvegetated, sparsely vegetated, or vegetated with nonnative invasive species and when buffer enhancement is provided per the following criteria. Where buffer reduction with enhancement is permitted by this chapter, it shall be limited to portions of buffers that have minimal functions due to prior legal alteration.

1. The planning director shall only allow a buffer width reduction when the proposal includes a critical area and buffer enhancement plan that improves the functions of the buffer and the critical area.
2. A mitigation/enhancement plan shall be prepared in accordance with this chapter.
3. If a limited portion of the buffer has been previously legally altered and meets the criteria in this section, a buffer width reduction may be approved for that portion of the required buffer only.
4. The following criteria shall be used to determine when a required buffer is degraded and substantial legal alterations are present:
  - a. The required buffer area has been graded or substantially altered and has not been substantially revegetated (i.e., the buffer is covered with gravel, impervious surface, mowed lawn, or is vegetated with primarily invasive species such as reed canary grass, Himalayan blackberry, purple loosestrife, or other nonnative invasive species covering more than seventy-five percent of the buffer area).



b. Substantial clearing of the buffer was authorized and substantial revegetation with native species has not occurred.

c. A buffer that has been logged in the past but that has been revegetated with an overstory of willow, cottonwood, alder, evergreen, or mixed evergreen/deciduous overstory, and an understory shrub layer of noninvasive species does not constitute substantial alteration.

D. *Riparian Wetland*. Any stream adjoined by a riparian wetland shall have the buffer which applies to the wetland, unless the stream buffer requirement is more protective, in which case the stream buffer requirement shall apply.

E. *Lake Buffers*. Lakes have the following buffers of native vegetation:

- a. Lakes used by salmonids: one hundred feet;
- b. Lakes with no salmonid use: fifty feet.

If a wetland or stream occurs along the fringe of a lake, the buffer shall be the greater of that required for the lake or for the wetland or stream.

F. *Buffers for Restored Stream Channels*. When a culverted portion of a stream is proposed to be restored to an open channel, the buffer width shall be determined by the director following review of a critical area study. The study must include an analysis of the buffer width necessary to protect water quality and habitat functions of the stream.

G. *Riparian Corridors*. When a development is proposed on a lot with a disturbed riparian corridor, the city shall require that the habitat be enhanced by creating more diversity and eliminating any source of degradation, including, but not limited to:

- 1. Vegetative plantings of native or preferred wildlife food species;
- 2. Construction of nesting islands or installation of nesting boxes;
- 3. Removal of pollutant sources or fish movement blockages; or
- 4. Other actions necessary to enhance the viability of the riparian corridor for the benefit of wildlife habitat. (Ord. 3676-19 § 20, 2019; Ord. 2909-06 § 17, 2006.)



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## **19.37.180 Stream alteration thresholds and compensation.**

### *A. Stream Preservation/Alteration Thresholds.*

1. *Type S Streams.* All Type S streams shall be regulated by the city of Everett shoreline master program.
2. *Type F Streams.* All Type F streams shall be preserved. The city may only allow alteration of Type F streams under the following circumstances:
  - a. Where alteration is allowed pursuant to EMC [19.37.050](#);
  - b. *Stream Crossings.* Stream crossings are regulated by the Washington State Department of Fish and Wildlife (WDFW). Stream crossings shall only be permitted as provided by EMC [19.37.050](#) or to provide access to a lot or a substantial portion of a lot when no other feasible means of access exists. Use of common access points shall be required for abutting lots which have no other feasible means of access. Alteration for the purpose of providing access shall be limited to the minimum number of stream crossings required to permit reasonable access. Bridging may be required when necessary to protect significant stream functions. If a culvert is allowed, the design and installation must be approved by WDFW;
  - c. When the proposal results in significant restoration of functions to the stream segment and the alteration is approved by the Washington State Department of Fish and Wildlife.
3. *Type Np and Type Ns Streams.*
  - a. Except as provided in this subsection, no alteration of a Type Np or Ns stream shall be allowed except as otherwise provided by EMC [19.37.050](#); or
  - b. The planning director may, using the review process described in EMC Title [15](#), Local Project Review Procedures, allow alteration or relocation of Type Np and Ns streams under the following conditions:
    - (1) Stream and buffer functions in the relocated/altered stream section must be equal to or greater than the functions provided by the stream and buffer prior to relocation/alteration;



- (2) The equivalent base flood storage volume shall be maintained;
- (3) There shall be no impact to local ground water;
- (4) There shall be no increase in water velocity;
- (5) There is no interbasin transfer of water;
- (6) The relocation shall occur on site and shall not result in additional encumbrances on neighboring properties unless necessary easements and waivers are obtained from affected property owners;
- (7) The relocation maintains or enhances existing connections to other critical areas and priority habitats.

c. *Stream Crossings.* Stream crossings are regulated by the Washington State Department of Fish and Wildlife (WDFW). Stream crossings shall only be permitted as provided by EMC [19.37.050](#) or to provide access to a lot or a substantial portion of a lot when no other feasible means of access exists. Use of common access points shall be required for abutting lots which have no other feasible means of access. Alteration for the purpose of providing access shall be limited to the minimum number of stream crossings required to permit reasonable access. Bridging may be required when necessary to protect significant stream functions. If a culvert is allowed, the design and installation must be approved by WDFW.

4. *Watershed Management Plans.* The city shall not allow relocation or alteration of any Type F stream located within an area where an adopted watershed management plan does not allow for stream alteration or relocation, except when allowed by EMC [19.37.050](#), or to allow access to a lot or substantial portion of a lot when no other feasible means of access exists.

B. *Compensating for Stream Impacts.* Stream system and buffer alteration, when allowed by this chapter, shall be subject to the following requirements:

1. Each activity/use shall be designed so as to minimize overall stream system or buffer alteration to the greatest extent possible.
2. Construction techniques and field marking of areas to be disturbed shall be approved by the city prior to site disturbance to ensure minimal encroachment.



3. A mitigation plan shall be prepared in accordance with this section.
4. The city may require the applicant to rehabilitate a stream system and its buffer area by removing harmful debris, sediment, nonnative vegetation, or other material detrimental to the area, by replanting disturbed vegetation, by removing tightlined or culverted portions of a stream from pipes/culverts, or by other means deemed appropriate by the city. Rehabilitation or restoration may be required at any time that a condition detrimental to stream functions exists.
5. In approving alteration or relocation of a stream system or its buffer, the city may require that an area larger than the altered portion of the stream and its buffer be provided as compensation for destruction of the functions of the altered stream system and to ensure that such functions are replaced.
6. When stream system relocation or compensation is allowed, the city shall require that the stream relocation be completed prior to allowing the existing stream to be filled or altered.
7. The city may limit certain development activities near a stream to specific months in order to minimize impacts on water quality and wildlife habitat.
8. The city may apply additional conditions or restrictions, or require specific construction techniques, in order to minimize impacts to stream systems and their buffers.
9. Stream compensation shall not occur in areas having high-quality terrestrial habitat.

*C. Voluntary Daylighting of Streams in Pipes and Culverts.*

1. To encourage daylighting of streams in pipes and culverts, the planning director may modify development standards as set out in subsection C.2 of this section when the applicant submits a plan for daylighting that meets the following criteria:
  - a. The plan is prepared by a qualified professional;
  - b. The ecological functions of the daylighted waters and adjacent area are improved so the new riparian corridor is compatible with and protects the ecological functions of the existing riparian corridor upstream and downstream and does not contribute to flooding; ecological functions include preventing erosion, protecting water quality, and providing diverse habitat; and



- c. If the plan proposes daylighting the pipe or culvert in a different location on the parcel from its current location or off the parcel, the ecological functions required in subsection C.1.b of this section are provided as effectively as they would be without the relocation.
2. If the director finds the conditions in subsection C.1 of this section are met, the director may modify the following development standards. The modification shall be the minimum to provide sufficient area to meet the standards in subsection C.1 of this section and shall be in the following order of priority:
  - a. Yard and/or setback requirements on the property may be reduced, unless reducing them is injurious to safety.
  - b. The stream and adjacent buffer area may count toward required landscaping.
  - c. The stream and adjacent buffer area may count toward open space requirements for all multiple-family and M-1 zone requirements.
  - d. Building heights may be increased. (Ord. 3676-19 § 21, 2019; Ord. 2909-06 § 18, 2006.)

### **19.37.185 Buffer width averaging for wetlands, lakes and streams.**

The city may allow buffer width averaging; provided, that the total area on the lot contained within the buffer is not less than that required within the standard buffer, and that averaging will not reduce the critical area functions. The city may require buffer width averaging in order to provide protection to a particular portion of a critical area which is especially sensitive, or to incorporate existing significant vegetation or habitat areas into the buffer. Buffer width averaging shall not adversely impact the functions and values of the critical area. The adjusted minimum buffer width shall not be less than seventy-five percent of the standard buffer width. (Ord. 3676-19 § 22, 2019.)

### **19.37.190 Fish and wildlife habitat conservation areas.**

A. All areas meeting the definition of fish and wildlife habitat conservation areas are subject to the regulations in this chapter.



B. *Fish and Wildlife Habitat Conservation Areas Mapping.* The approximate location and extent of fish and wildlife habitat conservation areas within the city of Everett's planning area are shown on maps compiled and maintained by the city planning and community development department. These maps shall be used as a general guide only for the assistance of property owners, project applicants, and other interested parties; boundaries are generalized. The actual type, extent and boundaries of fish and wildlife habitat conservation areas shall be determined by a qualified scientific professional according to the procedures, definitions and criteria established by this chapter. In the event of any conflict between the habitat location or type shown on the city's fish and wildlife habitat conservation areas maps and the criteria or standards of this chapter, the criteria and standards resulting from the field investigation shall control.

C. Other mapping sources include the Washington State Department of Fish and Wildlife priority habitat and species maps.

D. *Goals and Additional Requirements.* If a development or redevelopment is proposed on or within a distance which could impact habitats of primary association, significant biological areas, and/or vegetative corridors linking watersheds, as described in this title, the applicant shall provide a habitat assessment. In areas within the riparian habitat zone or special flood hazard area, a biological assessment is required. The biological assessment shall be prepared in accordance with Regional Guidance for Floodplain Habitat Assessment and Mitigation produced by FEMA Region 10, April 2011, or as amended. The biological assessment must demonstrate that any proposed development in the riparian habitat zone or the floodway, coupled with appropriate habitat conservation measures, does not adversely affect water quality, water quantity, flood volumes, flood velocities, spawning substrate, and/or floodplain refugia for listed salmonids.

If the habitat assessment/biological assessment determines that the proposed development could potentially adversely impact a fish and wildlife habitat conservation area, the applicant shall provide a habitat management plan (HMP) as described in subsection G of this section, prepared by a wildlife biologist for evaluation by the city, state and federal agencies. The HMP must address activities that can be taken to preserve, protect, or enhance the affected fish and wildlife habitat conservation areas. The HMP shall be based upon sound habitat management practices and be designed to achieve specific habitat objectives. If the habitat assessment finds that the proposed development could result in substantial elimination of or significant reduction in riparian corridors, existing connections between critical areas, or continuous



vegetated corridors linking watersheds, the HMP must analyze alternatives and measures to maximize the maintenance of existing corridors. The city shall ask the appropriate resource agencies to review and comment on the development impacts and the provisions of the HMP.

1. *Distance for Habitats of Primary Association.*

a. *Salmonids and Steelhead.* When development is proposed within the distances specified below, a habitat assessment shall be required.

- (1) Within two hundred fifty feet of the Snohomish River or its estuary;
- (2) Within two hundred feet of a Type F stream including but not limited to North Creek or Swamp Creek together with tributaries with direct confluence to those streams and the associated wetlands, and marine shorelines;
- (3) Within one hundred fifty feet of Lake Chaplain;
- (4) Within two hundred twenty-five feet of a Type Np or Ns stream with unstable slopes within the special flood hazard area;
- (5) Within one hundred fifty feet of a Type Np or Ns stream without unstable slopes within the special flood hazard area; or
- (6) Within the special flood hazard area.

b. *Other Species.* If habitats of primary association are identified for other species, the director, after consulting with the Department of Fish and Wildlife, shall determine the appropriate distance from a designated fish and wildlife habitat conservation area which will require a habitat assessment or HMP.

c. *Continuous Vegetative Corridors Linking Watersheds and Significant Biological Areas.* If a development is proposed within an area that provides a continuous vegetative corridor linking watersheds or a significant biological area, a habitat assessment is required.

E. The following actions are exempt from other requirements of this chapter, but may require preparation of a habitat assessment or biological assessment when conducted within a fish and wildlife habitat conservation area:

1. EMC [19.37.060\(B\)\(1\)](#), minor utility construction projects.



2. EMC [19.37.060\(B\)\(4\)](#), trails with impervious surfaces.
3. Any development application that involves ESA Section 7 consultation with federal agencies is required to follow that process to determine impacts to endangered species and mitigation requirements rather than the procedure described herein. However, the application must demonstrate compliance with all applicable city regulations, and must submit a copy of the biological assessment provided to federal agencies as part of the city's permit process.
4. Maintenance of critical public infrastructure.

F. *Habitat Assessment.*

1. A habitat assessment may be integrated into another critical area study or provided as a separate report, provided the requirements of this subsection are met.
2. The habitat assessment shall be completed by a qualified professional with expertise and experience in preparing fish and wildlife critical area reports or biological assessments.
3. The purpose of the assessment is to determine whether or not a fish or wildlife habitat conservation area identified in subsection B of this section and any associated buffer are located on or adjacent to a proposed development, and whether the proposed development could potentially adversely impact the regulated fish or wildlife habitat area and affected species.
4. If an approved habitat assessment determines that no fish or wildlife habitat conservation areas identified in subsection B of this section or associated buffers are present on or adjacent to the site, or that the proposal will not adversely impact those areas and/or affected species, then the fish and wildlife habitat area review will be considered complete.
5. If the habitat assessment determines that a fish or wildlife habitat conservation area identified in subsection B of this section or associated buffers are present on or adjacent to the proposed development and that the proposal will potentially adversely impact those areas and/or affected species, an HMP shall be prepared. The HMP must identify all actions that could be taken and which are necessary to avoid reducing the likelihood that the species will maintain and reproduce over the long term and/or actions to maintain or enhance the significant features present.



6. The director may consult with the Department of Fish and Wildlife before accepting the habitat assessment as final, and if recommended by the Department of Fish and Wildlife may require preparation of an HMP.
7. The city may require that the applicant request a separate evaluation of the site by WDFW staff to confirm the findings of the habitat assessment.
8. The department shall review the habitat assessment and either:
  - a. Accept the habitat assessment as complete and include any recommended mitigation measures necessary to reduce impacts to the critical fish and wildlife habitat conservation areas or affected species as project requirements; or
  - b. Require preparation of an HMP if the habitat assessment indicates potential unmitigated adverse impacts to the critical fish and wildlife habitat conservation areas or affected species.

G. *Habitat Management Plan.*

1. *HMP Submittal and Review Process.* The habitat management plan shall be prepared by a qualified professional who understands the habitat requirements for the affected species. The consultant must demonstrate such expertise to the satisfaction of the director, who may require resumes, work examples or other information demonstrating professional expertise on relevant habitat and/or fisheries issues. The city will meet with the consultant and direct preparation of the habitat management plan. The city must review and accept the habitat management plan as complete before issuing any approvals for the proposed development. In the event of a dispute regarding appropriate content in the habitat management plan, the city may require additional studies or additional supporting information as provided for by this chapter.
2. A biological assessment which meets the requirements of federal and state agencies may be accepted as meeting these requirements.
3. The HMP shall be evaluated by city, state and federal agencies with permit jurisdiction or expertise, as required by this section, and the director shall consider all comments submitted by state and federal agencies, and require necessary revisions to the HMP, if any, prior to accepting the HMP as final.



4. The director shall condition approvals of activities allowed within or adjacent to a habitat conservation area or its buffers, as necessary to minimize or mitigate any potential adverse impacts to the habitat conservation area and affected species. Mitigation measures shall be based upon the analysis, conclusions, and recommendations contained in the HMP. At a minimum, all requirements and mitigation measures necessary to avoid reducing the likelihood that the species will maintain and reproduce over the long term shall be required as permit conditions for the development proposal.

H. *Compensation for Impacts within the One-Hundred-Year Floodplain.*

1. Compensation must be provided for any effects to floodwater storage and fish habitat function within the one-hundred-year floodplain. Indirect adverse effects of development in the floodplain (effects to stormwater, riparian vegetation, bank stability, channel migration, hyporheic zones, wetlands, etc.) must be mitigated such that equivalent or better salmon habitat protection is provided.

2. The mitigation plan shall stipulate avoidance and conservation measures, as are needed to ensure that there is no net adverse effect during any phase of the project. Outside the floodway or riparian habitat zone, the mitigation plan shall include such avoidance, minimization, restoration, conservation or compensation measures to mitigate all impacts.

3. Calculation of impacts and mitigation shall be performed in accordance with Planning Director Interpretation No. 2011-1, or as amended.

4. The following priorities for mitigation of impacts to fish habitat within the one-hundred-year floodplain shall be considered in the habitat assessment and mitigation plan, with the long-term goal of improving functions and values of fish habitat in the estuary over existing conditions:

- a. Assignment (purchase) of equivalent mitigation credits from an established mitigation bank within the estuary;
- b. Creation or restoration of the functions and values of fish habitat in an area that is available to fish more frequently than the habitat being impacted;
- c. Creation or restoration of off-channel refuge habitat;
- d. Restoration of fish habitat where it has been previously eliminated or degraded;



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- e. Enhancement of existing habitat to improve functions and values;
  - f. Buffer enhancement in riparian habitat areas;
  - g. Replacement of the habitat functions and values that are impacted by development.
5. Also in accordance with RPA-3.A.3.b, where conditions permit, the city shall require development within the one-hundred-year floodplain to use low impact development (LID) methods consistent with the city's stormwater management regulations, to minimize or avoid stormwater effects.
6. All development proposals shall protect, enhance, or restore habitat to the maximum extent practicable, either on site or off site.
7. When development occurs in floodplain areas, the portion of the site not elevated above the one-hundred-year flood elevation shall be designed to create floodplain refugia and prevent stranding of aquatic species during flood events to the maximum extent practicable.
8. Restoration of fish habitat either on site or off site is allowed in order to mitigate for habitat impacts caused by development within the floodplain. Restoration and mitigation for impacts may occur in areas which flood more frequently than the area proposed for development (e.g., tidal restoration project that provides greater habitat benefits to juvenile salmonids).
9. The city shall have the authority to require changes in the design of a development if necessary to avoid, minimize or mitigate impacts to endangered species or habitat for such species. (Ord. 3676-19 § 23, 2019; Ord. 3457-15 § 6, 2015; Ord. 2909-06 § 19, 2006.)

### **19.37.200 Ground water discharge areas—Seeps and springs.**

Lots which contain or are affected by springs, seeps or ground water discharge areas shall be evaluated to determine the relationship the discharge has on geologically hazardous areas, wetlands, streams, fish, plant and wildlife habitat areas. An analysis of such features shall be included in the application for development of the subject property. The city may allow



modification of such features consistent with the provisions of this chapter related to geological hazards, streams, wetlands, fish, plant, and wildlife habitat areas, as applicable. (Ord. 3676-19 § 24, 2019; Ord. 2909-06 § 20, 2006.)

### **19.37.210 Lot area—Lot coverage—Permitted number of dwelling units in multiple-family developments.**

*Repealed by [Ord. 3676-19](#).* **19.37.220 Critical area protective requirements—Setbacks from buffers—Fencing—Signs—Covenants.**

A. *General Requirements.* Storage of building materials, junk and other items is not permitted within critical areas or buffers. All construction staging areas must be shown on approved plans and located outside of critical areas and buffers.

B. *Setbacks from Buffers.* To maintain the integrity of the buffer, principal buildings shall be set back a minimum of ten feet from the edges of all critical area buffer boundaries. All other structures and improvements shall maintain a setback of five feet from the edge of the buffer.

C. *Fencing and Other Protection Mechanisms.* Except for utility and road projects, the city shall require that any development proposed on a lot which contains or adjoins a critical area provide a fence or other structural protection along the outer edge of a buffer to minimize encroachment and disturbance. Fencing shall be split-rail or an alternative approved by the planning director. Fencing must be installed in a manner that allows continuous wildlife habitat corridors along critical fish and wildlife areas.

D. *Signs.* The city may require the applicant to provide informational signs in conspicuous locations on the fence or near the wetland to identify the wetland as a critical area and the importance of maintaining it in a clean and undisturbed condition. Such signs shall meet the requirements for incidental signs as specified in Chapter [19.36](#).

E. *Protection of Significant Trees within Buffers (Heritage Trees and Evergreens at Least Eight-Inch Diameter at Breast Height).* If trees are identified on the outer edge of the buffer such that their



drip line extends beyond the buffer edge, the following tree protection requirements must be followed:

1. A tree protection area shall be designed to protect each tree or tree stand during site development and construction. Tree protection areas may vary widely in shape, but must extend a minimum of five feet beyond the existing tree canopy area along the outer edge of the drip line of the tree(s), unless otherwise approved by the department.
2. Tree protection areas shall be added and clearly labeled on all applicable site development and construction drawings submitted to the department.
3. Temporary construction fencing at least thirty inches tall shall be erected around the perimeter of the tree protection areas prior to the initiation of any clearing or grading. The fencing shall be posted with signage clearly identifying the tree protection area. The fencing shall remain in place through site development and construction.
4. No clearing, grading, filling or other development activities shall occur within the tree protection area, except where approved in advance by the department and shown on the approved plans for the proposal.
5. No vehicles, construction materials, fuel, or other materials shall be placed in tree protection areas. Movement of any vehicles within tree protection areas shall be prohibited.
6. No nails, rope, cable, signs, or fencing shall be attached to any tree proposed for retention.
7. The department may approve the use of alternate tree protection techniques if an equal or greater level of protection will be provided.

F. *Critical Area Covenants.* Except as provided for below, the city shall require that all features classified as critical areas by this chapter and their buffers, including fish and wildlife habitat conservation areas, be placed in critical area protective covenants. Covenants shall not be required for:

1. Utility and road projects in public rights-of-way.
2. Utility and road projects on private easements where the proponent does not own the land.



3. Any development within the special flood hazard area will require a notice on title that the property contains land within the riparian habitat zone and/or special flood hazard area.

G. *Critical Area Tracts.* The city may require that any area classified as a critical area and its buffer be placed in a separate tract, rather than included in the protective covenant. A tract shall be required when the proposal includes a short subdivision or binding site plan. Such a tract shall remain in the same ownership as the parcel it was segregated from; placed into undivided common ownership of all lots within a proposed subdivision, short subdivision, or binding site plan; or dedicated to a public agency which is willing to accept the tract for long-term management of the protected resource.

H. *Notice on Title.* The owner of any property on which a development proposal is submitted shall file with the Snohomish County auditor a notice approved by the planning department, which shall provide notice in the public record of the presence of the critical area covenant or tract, the application of this chapter to the property, and that limitations on actions in or affecting such areas may exist. The applicant shall submit proof that the notice has been filed for record before the city may approve any development proposal on the site. The notice shall run with the land, and failure to provide such notice to any purchaser prior to transferring any interest in the property is a violation of this chapter. (Ord. 3676-19 § 26, 2019; Ord. 2909-06 § 22, 2006.)

### **19.37.230 Appeals.**

Repealed by [Ord. 3676-19](#). **19.37.240 Assurance devices.**

The city shall require performance or maintenance assurance devices in accordance with Chapter [19.40](#) to ensure compliance with this chapter and adequate protection and maintenance of critical areas. (Ord. 2909-06 § 24, 2006.)



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**19.37.250 Previously altered critical areas.**

It is the goal of this chapter to restore and enhance the condition of critical areas which have been previously altered. Properties containing critical areas which have been previously altered may be developed in accordance with all requirements of this chapter and this title of the code.

A. *Legal Alterations.* Critical areas regulated by this chapter which previously have been legally altered in accordance with all local, state and federal regulations in effect at the time of alteration may be developed in accordance with the requirements of this chapter. Any prior alteration which was legally commenced that resulted in a critical area which is regulated by this chapter being reclassified as buildable shall be evaluated using the review process described in EMC Title [15](#), Local Project Review Procedures. The planning director may approve any development proposal which meets all other requirements of this title, or modify such proposal based upon the impacts that the proposal would have on any remaining area classified by this chapter as a critical area. The planning director shall use all authority granted by this chapter, SEPA, or other legal mechanism to require enhancement of the previously altered critical area to the condition which would be required by this chapter for new development, to the maximum extent feasible.

B. *Unauthorized Alterations.*

1. Critical areas regulated by this chapter which have been illegally altered may be developed in accordance with the requirements of this title; provided, that all critical areas which were illegally altered shall be considered critical areas and shall be regulated in accordance with the requirements of this chapter. Any proposal to develop on a lot which contains a critical area that has been illegally altered shall be reviewed by the planning director using the review process described in EMC Title [15](#), Local Project Review Procedures.
2. The planning director shall require restoration of the unauthorized area of alteration to a condition which is equivalent or superior to its prior natural condition, to the extent that such condition can be determined. As an alternative to restoration of the illegally altered critical area, the planning director may allow for the recreation of wetlands, stream corridors, or habitat areas of the same type which have been altered in a different location than that which has been altered if the alternative location will result in a net improvement



in functions or a higher quality critical area than possible in the area which has been previously altered.

3. Any illegal alteration of a critical area that occurred prior to the effective date of the ordinance codified in this chapter which is not proposed for development as allowed by this chapter shall be restored as provided by this section. (Ord. 2909-06 § 25, 2006.)

### **19.37.260 Enforcement—Restoration plans.**

A. Any person, firm, corporation, or association or any agent thereof who violates any provision of this chapter shall be subject to the enforcement provisions of Chapter [1.20](#) EMC and this title.

B. *Restoration of Impacts Required.* Any unauthorized impacts on a critical area feature or buffer will require restoration of the affected area to an equivalent or improved condition prior to the violation occurring. A restoration plan must be consistent with the requirements of this chapter and a public works permit may be required by the city. If an equivalent or improved condition cannot be provided, the violator shall be subject to a fine in an amount equal to the value of the damage to the portion of the critical area that cannot be restored, determined using best available methods of calculating the value of vegetation, land and water resources, including but not limited to the evaluation methods of the International Society of Arboriculture. In addition to the authority of the city's code enforcement officer to impose penalties pursuant to Chapter [1.20](#) EMC, the code enforcement officer may impose the fine described in this section as applicable.

C. Restoration plans shall include, but not be limited to, the replacement of all improperly removed vegetation with approved species such that the biological and habitat values will be replaced to an equivalent or improved condition, improper fill removed and slope stabilized. Studies by a qualified expert shall be submitted to determine the conditions which were likely to exist on the lot prior to the illegal alteration.

D. Restoration shall also include installation and maintenance of interim and emergency erosion control measures until such time as the restored ground cover and vegetation reach sufficient maturation to function in compliance with the performance standards adopted by the city.



E. The city shall stop work on any existing permits and halt the issuance of any or all future permits or approvals for any activity which violates the provisions of this chapter until the property is fully restored in compliance with this chapter and all penalties are paid.

F. Notwithstanding the other provisions provided in this chapter, anything done contrary to the provisions of this chapter or the failure to comply with the provisions of this chapter is declared to be a public nuisance. (Ord. 3901-22 § 2 (Exh. B § 46), 2022; Ord. 3676-19 § 28, 2019; Ord. 2909-06 § 26, 2006.)

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**The Everett Municipal Code is current through Ordinance 4031-24, passed May 22, 2024.**

Disclaimer: The City Clerk's Office has the official version of the Everett Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

[City Website: www.everettwa.gov](http://www.everettwa.gov)

[Hosted by General Code.](#)



## Chapter 19.38

### NONCONFORMITIES

Sections:

<b>19.38.010</b>	<b>Purpose and intent.</b>
<b>19.38.020</b>	<b>Nonconforming uses.</b>
<b>19.38.030</b>	<b>Nonconforming structures.</b>
<b>19.38.040</b>	<b>Substandard lots—Nonconforming lots.</b>
<b>19.38.050</b>	<b>Certifications.</b>
<b>19.38.060</b>	<b>Definitions.</b>

#### **19.38.010 Purpose and intent.**

A. The purpose of this chapter is to regulate nonconforming structures, uses and lots. This chapter includes regulations for determining the legal status of nonconforming uses, structures and other site improvements by creating provisions through which they may be established, maintained, altered, reconstructed, expanded or abated.

B. For additional requirements related to other nonconformities, see the following sections of this title:

1. Open space and common areas—see Chapter [19.09](#) EMC for multifamily residential and Chapter [19.12](#) EMC for industrial uses;
2. Adult use businesses—see Chapter [19.13](#) EMC;
3. Parking—see Chapter [19.34](#) EMC;
4. Landscaping—see Chapter [19.35](#) EMC;
5. Signs—see Chapter [19.36](#) EMC;
6. Uses within shoreline jurisdiction—see shoreline master program. (Ord. 3774-20 § 5(T) (Exh. 3), 2020.)



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**19.38.020 Nonconforming uses.**

A. *Continuation.* A nonconforming use is transferable to a new owner or tenant; provided, that the use is not expanded or discontinued as provided in subsection B of this section and may continue and need not be brought into conformance with this chapter unless a specific provision of this title otherwise requires conformance.

B. *Discontinuation.* Any use which is nonconforming and has ceased for a period of two or more years shall lose such nonconforming status. All subsequent use of the property or building shall be a use which conforms with the requirements of this title.

1. A nonconforming use shall be considered discontinued if it meets any of the following criteria:
  - a. A permitted use has been established within the building containing the nonconforming use;
  - b. No product or inventory is displayed, stored or sold directly related to the nonconforming use; and
  - c. Buildings and/or portions of the site engaged in the nonconforming use have been vacant for one year or more.
2. For the purpose of this section a nonconforming residential use shall not be considered discontinued if the unit or units are vacant, provided the property is maintained consistent with the adopted provisions of the International Property Maintenance Code and with EMC [8.20.020](#), Nuisances—Residential property and nonresidential property. However, when a nonconforming residential use has been changed to a permitted use, the residential use shall not be reestablished.
3. *Voluntary Demolition.* Where a property owner undertakes voluntary demolition and replacement, the nonconforming use shall not be established in the new structure.

C. *Change of Nonconforming Use.* In general, a nonconforming use may not be changed to another nonconforming use. However, in certain circumstances a change of nonconforming use may be authorized subject to the following requirements:



1. The intensity of the use shall not be increased. As a guide, the city shall consider traffic generation, parking, potential nuisance generation (noise, light/glare, smoke, dust, etc.), changes to products or services rendered and type of equipment used.
2. The planning director shall have the authority to require supporting studies, plans, or additional information to evaluate the proposed change of nonconforming use.
3. Conditions may be applied to limit the proposed impacts of the use on the surrounding properties and the city as a whole.
4. Adaptive reuse of nonresidential buildings shall be permitted in accordance with EMC [19.05.120](#) (Table 5-5—Miscellaneous Use Table) and standards in EMC [19.13.030](#).

D. *Expansion.* A nonconforming use may be expanded through an increase in building area, land area and/or parking area using the review process described in EMC Title [15](#) and the following evaluation criteria:

1. For a residential use, the expansion shall not result in an increase in the number of dwelling units further above the maximum allowed by this title;
2. The expansion shall not result in a decrease in the number of off-street parking spaces further below the minimum required by this title;
3. The impact of traffic generated by the proposed use on the surrounding area, pedestrian circulation and public safety, and the proposal's ability to mitigate potential impacts;
4. The site has sufficient area to provide for off-street parking, landscaping and screening from adjacent uses;
5. The adequacy of streets, utilities and public services to accommodate the proposed use;
6. Compatibility of the proposed use or building to surrounding properties, especially as it relates to size, height, location and setback of buildings;
7. The number, size and location of signs and lighting, especially as they relate to more sensitive land uses;
8. The landscaping, buffering and screening of parking, loading and storage areas;



9. The generation of nuisance irritants such as noise, smoke, odor, glare, visual blight or other undesirable environmental impacts;
10. Hours of operation and potential impacts on adjacent properties.

*E. Damage or Destruction.*

1. If a structure housing a nonconforming use is destroyed to any extent by fire or other casualty not intentionally caused by the owner, the structure may be rebuilt and the use may be reestablished if the following requirements are met:
  - a. The nonconformity is certified by the planning department;
  - b. A complete building permit application is filed within one year of such fire or other casualty; and
  - c. Construction is commenced and completed in conformance with the provisions of the building code then in effect. This provision shall not reduce any requirements of the building or fire codes in effect when such structure is rebuilt.
2. *Exception.* A nonresidential nonconforming use located in a residential zone which is damaged beyond fifty percent of its appraised value, as determined by the building official, shall lose its nonconforming status and shall not be rebuilt. (Ord. 3774-20 § 5(T) (Exh. 3), 2020.)

### **19.38.030 Nonconforming structures.**

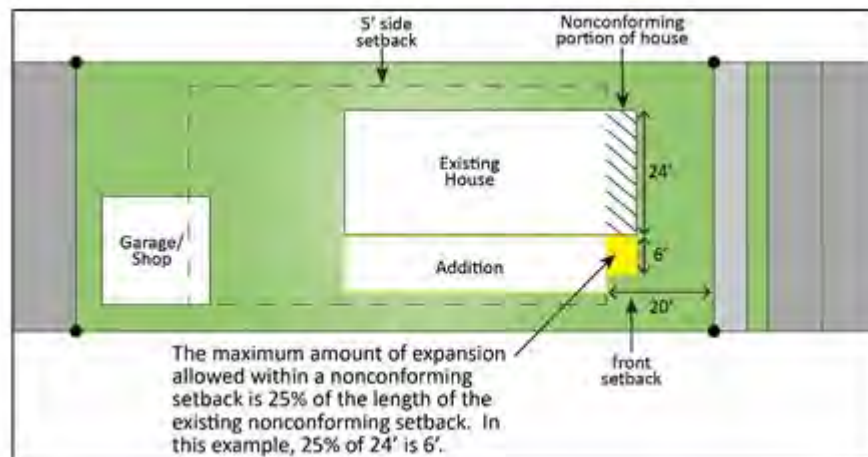
*A. Alteration or Expansion.*

1. Additions, maintenance or repair to a nonconforming structure which does not increase the nonconformity shall be permitted; provided the addition, maintenance or repair complies with building and Unified Development Code requirements.
2. A nonconforming structure which does not meet required setbacks or height may be expanded along the nonconforming setbacks or to the existing nonconforming height if approved by the planning director; provided the following criteria are met:
  - a. The expansion does not make the setback or height more nonconforming;



- b. The expansion shall not exceed twenty-five percent within the nonconforming setback or for the portion of the structure that is nonconforming as to building height; and
- c. The expansion complies with all other requirements of this chapter, and the nonconformity has been certified by the planning department.

**Figure 38-1: Expansion of Nonconforming Building**



**B. Damage or Destruction.**

1. If a nonconforming structure is destroyed or damaged to any extent by fire or other casualty not intentionally caused by the owner, the structure may be rebuilt if the following requirements are met:
  - a. The nonconformity of the structure is certified;
  - b. A complete building permit application is properly filed within one year of such fire or other casualty; and
  - c. Construction is commenced and completed in conformance with the provisions of the building code then in effect. This provision shall not reduce any requirements of the building or fire codes in effect when such structure is rebuilt.



2. If a nonconforming structure which has no permanent foundation is destroyed and the foundation's location cannot be verified by the planning department, then any new construction shall comply with the requirements of this title.

C. *Demolition of Nonconforming Structures.* Following the abatement or voluntary demolition of a nonconforming structure, any new construction shall be in conformance with this title, except in the following circumstances:

1. A single-family dwelling or duplex which is nonconforming in setbacks, height or lot coverage may be voluntarily removed or demolished and replaced by a new single-family dwelling or duplex which has the same nonconforming setbacks, height or lot coverage as the prior nonconforming dwelling, provided:
  - a. The nonconformity is not increased;
  - b. The new dwelling meets all current building code requirements; and
  - c. The nonconformity of the dwelling is certified by the planning department.
2. A detached accessory structure which is accessory to a single-family dwelling or duplex that has nonconforming setbacks may be demolished and a new accessory structure may be built in the same location; provided:
  - a. The new accessory structure does not exceed fifteen feet in height within the setback, or the height at which the structure was certified above fifteen feet within the setback;
  - b. The new accessory structure meets current building code requirements; and
  - c. The location of the nonconforming accessory structure is certified by the planning department. (Ord. 3774-20 § 5(T) (Exh. 3), 2020.)

#### **19.38.040 Substandard lots—Nonconforming lots.**

This section addresses lots that do not meet minimum lot area and/or dimensional requirements of this title, and lots that have been created or altered prior to there being a



formal land division requirement in the city. This section also addresses how such lots may be considered legal lots for zoning purposes.

A. *R-S, R-1 and R-2 Zones.* In the R-S, R-1 and R-2 zones, subject to other limitations imposed by other provisions of this title, a single-family dwelling may be erected on any single “lot” as defined in this title. A lot shall meet the following criteria, as applicable:

1. A lot created via the subdivision process of Chapter [58.17](#) RCW;
2. A lot which was created prior to December 1, 1956;
3. Any lot which met minimum lot area requirements under the regulations or standards of Snohomish County prior to annexation or incorporation into the city of Everett; and
4. A lot reduced below minimum zoning requirements as a result of public acquisition of property.

B. *Substandard Lots—Multifamily, Commercial and Industrial Zones.* Any substandard lot may be used for any of the uses permitted in the respective zone, subject to the special regulations and end notes in Chapter [19.05](#) EMC, and in accordance with the review process and general evaluation criteria in EMC Title [15](#) and all other regulations including minimum yards, provided:

1. All such lots shall meet the definition of “nonconforming lot” as defined in this title and shall not have been merged or otherwise created illegally.
2. Commercial or industrial lots which have been created through the binding site plan process are exempt from this section.
3. The use complies with all other requirements of this title.

C. *Substandard Lots—Merger Clause.* The following applies to substandard lots in the R-S, R-1 and R-2 zones which otherwise meet the criteria in subsection [\(A\)](#) of this section:

1. If two or more substandard lots or a combination of lots or substandard lots and portion(s) of lots and substandard lots are contiguous and were acquired by common conveyance prior to the above dates, or which have been legally combined at any time subsequent to the above dates, and if all or part of the lots do not meet the requirements established for minimum lot area and width, the lands involved shall be merged and considered to be a single undivided lot. No portion of the lot shall be used, altered or sold



in a manner which diminishes compliance with lot area and width requirements, nor shall any division of any such lot be made which creates a lot with area or width below the requirements permitted by this chapter.

2. If two or more substandard lots or a combination of lots or substandard lots and portions of lots or substandard lots are contiguous and a structure is constructed on or across the lot line(s) which make the lots contiguous, then the lands involved shall be merged and considered to be a single undivided lot. No portion of said lot shall be used, altered or sold in any manner which diminishes compliance with lot area or width requirements, nor shall any division be made which creates a lot with area or width below the requirements permitted by this title.

For purposes of this section, “structure” means anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground and includes, but is not limited to, houses, garages, carports and accessory structures. (Ord. 3774-20 § 5(T) (Exh. 3), 2020.)

### **19.38.050     Certifications.**

Certain nonconforming uses, structures and lots require certification by the city if any development or improvements are proposed on the subject lot or lots that requires a building permit. Certification involves providing documentation that the use, structure or lot was substantially and legally established either prior to enactment of zoning regulations, or prior to zoning regulations being changed, resulting in the use or structure no longer being in compliance with current code. Certification must establish the physical nature of improvements and when such improvements were installed. Certification involves providing the necessary application, fees and supporting documents to the planning department.

A. *Nonconforming Use or Building Certification.* For a building permit application, it may be necessary to certify a use, building, or structure which complied with the zoning requirements at the time it was established or constructed and now does not comply with the current zoning use and/or development standards. The certification process typically involves submitting an application and supporting documentation showing the dates, location and/or nature of the use and structure(s).



1. Development of a nonconforming use requires certification that the use was legally established based on the zoning and development codes at the time the use was established, and that the use was not discontinued except as allowed by this chapter.
2. Development of a nonconforming building requires certification that the structure was legally established based on the zoning and development codes at the time the building was established; provided, however, that replacement of roofs, interior remodels, replacement of siding, window replacement or normal repair and maintenance does not require certification.

*B. Nonconforming Lot Certification.*

1. Substandard lots, as provided by EMC [19.38.040](#), must be certified as nonconforming prior to the issuance of a permit for a principal building. In order to be certified as a legal lot for building purposes, the applicant shall provide sufficient information to verify that the lot was legally created and that all applicable city Unified Development Code requirements in effect at the time the lot was created were met, or that the lot was created prior to annexation to the city and met the minimum zoning or Unified Development code requirements of Snohomish County at the time the lot was established.
2. Certification as a nonconforming lot shall not be construed as a representation or guarantee that the city can issue a building permit for the subject property. All applicable city regulations pertaining to the issuance of building permits must also be met in order for a building permit to be issued on a nonconforming lot certified under this section.

*3. Exception to Lot Certification Requirement.*

- a. *Residential Zones.* Lot certification is not required for any substandard lot that contains a dwelling unit.
- b. *Commercial and Industrial Zones.* The planning director may waive the requirement for lot certification based on prior development activity and/or changes in zoning. (Ord. 3774-20 § 5(T) (Exh. 3), 2020.)



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**19.38.060 Definitions.**

The following definitions are used within this chapter. For additional definitions, please refer to Chapter [19.04](#) EMC.

“Nonconforming lot” means a legally established lot, the area, dimensions or location of which met the applicable Zoning or Unified Development Code requirements in effect at the time the lot was created, but which fails by reason of such adoption, revision or amendment of the Zoning or Unified Development Code to conform to the present requirements of the zone in which it is located.

“Substandard lot” means a parcel of land that does not meet minimum lot area, lot width, lot depth or lot frontage requirements of this title. (Ord. 3774-20 § 5(T) (Exh. 3), 2020.)

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## Chapter 19.39

### GENERAL PROVISIONS

#### Sections:

<b>19.39.010</b>	<b>User guide.</b>
<b>19.39.020</b>	<b>Animals.</b>
<b>19.39.030</b>	<b>Garbage receptacles, dumpsters and recycle bins—Placement and screening.</b>
<b>19.39.040</b>	<b>Junk in yard.</b>
<b>19.39.050</b>	<b>Outdoor use, activity and storage.</b>
<b>19.39.060</b>	<b>Performance regulations—General.</b>
<b>19.39.070</b>	<b>Surveys required.</b>
<b>19.39.080</b>	<b>Vehicle and equipment repair on residential premises.</b>

#### **19.39.010 User guide.**

This chapter contains a variety of regulations and standards that apply to the development and use of land. The regulations of this chapter do not all pertain to the same general subject matter. The regulations are arranged in alphabetical order by topic, so a careful review of the contents of this chapter is important in finding all pertinent regulations. (Ord. 3774-20 § 5(U) (Exh. 3), 2020.)

#### **19.39.020 Animals.**

The keeping of animals shall be governed by the provisions of the animal control ordinance (Chapter [6.04](#) EMC). (Ord. 3774-20 § 5(U) (Exh. 3), 2020.)



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### **19.39.030 Garbage receptacles, dumpsters and recycle bins—Placement and screening.**

The following requirements apply in all areas except single-family zones:

A. *Placement.* Garbage receptacles, dumpsters, and recycle bins shall be provided in all multifamily, commercial, industrial and institutional developments and shall not be located in a required front yard setback area, or street side setback area for corner lots. Where an alley abuts a lot in any zone, the garbage receptacles, dumpsters, or recycle bin shall be located adjacent to the alley.

B. *Screening.* All garbage dumpsters and recycle bins must be screened from view from the street and from adjacent properties. This screening may be done using dense vegetation or by placing the dumpster or recycle bin in a structural enclosure. (Ord. 3774-20 § 5(U) (Exh. 3), 2020.)

### **19.39.040 Junk in yard.**

Except in zones where such uses are specifically permitted by this title in compliance with specific regulations, it is a violation of this title to accumulate junk (scrap or salvage metal, paper, trash, cloth, batteries, rubber debris, scrap wood, junked, dismantled or wrecked vehicles, etc.) or for an owner of property or person in control of property to allow junk to accumulate on property in the city. (See also the minimum maintenance ordinance and the cease and desist ordinance.) (Ord. 3774-20 § 5(U) (Exh. 3), 2020.)

### **19.39.050 Outdoor use, activity and storage.**

A. *Residential Zones.* Uses and activities normally associated with a residential use are allowed in a residential zone. The outdoor storage of firewood may not be located within front setback areas but may be located in other required setback areas.

B. *Commercial and Industrial Zones.*

1. *General.* Subject to the requirements of subsections [\(B\)\(2\)](#) through [\(6\)](#) of this section, the uses and activities that are allowable on a site in commercial and industrial zones may be



conducted out of doors unless individual zones of this title limit outside activity for a particular use in a particular zone. Where there is a conflict in requirements in this chapter and elsewhere in this title, the more restrictive requirements shall apply.

2. *Site Plan.* The applicant shall submit a site plan for approval by the planning department. The site plan shall be accompanied by an application form provided by the planning department and shall include all information requested on the application form.

3. *Specific Use and Development Requirements.* The city will review an application for outdoor use, activity and storage using the appropriate review process for the principal use. If the principal use is established, the review process described in EMC Title [15](#), Local Project Review Procedures, shall be used. The review authority will make a decision based upon the following standards:

- a. All outdoor use, activity and storage areas must comply with setback requirements for the primary use.
- b. A solid sight-obscuring fence or other appropriate screening approved by the planning department is required around the outside edges of the area devoted to the outdoor use, activity or storage. The height of outdoor storage abutting public streets or residential zones shall not be higher than the height of the screen device approved by the planning department.
- c. Except in the LI2 zone, outdoor use, activity or storage areas located adjacent to property in the same zone may be located in the required interior side and rear setback yards. All outdoor use, activity and storage areas located adjacent to residential zones must meet required setbacks for the primary use.
- d. When gross floor area or lot coverage requirements are applicable, an outdoor use, activity or storage area will be used in calculating the permitted gross floor area or lot coverage of a use or development if this area will be used as an outdoor use, activity or storage area for at least two months in every year.
- e. If located on an unimproved area of the site, the underlying ground must be improved as required by the department of public works.



4. *Exceptions to Outdoor Use, Activity or Storage.* The following outdoor uses and activities, when located in commercial and industrial zones, are exempt from the requirement of this subsection as stated below:

a. Exceptions to subsections [\(B\)\(3\)\(a\)](#) through [\(d\)](#) of this section; provided, that a temporary certificate of occupancy from the building department is obtained:

(1) Outdoor Christmas tree lots and fireworks stands if these uses will not exceed forty-five days.

(2) Outdoor amusement rides; carnivals and circuses; and parking lot sales which are ancillary to the indoor sale of the same goods and services if these uses will not exceed ten days.

b. Exception to subsections [\(B\)\(3\)\(a\)](#) and [\(b\)](#) of this section:

(1) Outdoor dining areas, where permitted.

(2) Outdoor display of vehicles for sale or lease; provided, that they meet all of the standards of EMC [19.35.080](#).

5. *Modification.* The applicant may request a modification of the requirements of subsections [\(B\)\(2\)](#) through [\(4\)](#) of this section by submitting a written request with their site plan to the planning director for review. The planning director may approve a modification using the review process as described in EMC Title [15](#), Local Project Review Procedures, if:

a. The modification will not create a greater impact on any nearby residential use than would be created without the modification; and

b. The modification will not detract from the character of nearby uses; and

c. The modification will not be injurious to public health, safety or welfare; and

d. The modification is consistent with the policies of the Everett general plan; and

e. Landscaping or other means of screening is provided to reduce the visual impact of the outdoor use, activity or storage areas on surrounding properties and public right-of-way.



6. *Appeals of Outdoor Use, Activity and Storage Modification Requests.* The planning director's determination may be appealed as provided for in EMC Title [15](#), Local Project Review Procedures, for the applicable review process. (Ord. 3774-20 § 5(U) (Exh. 3), 2020.)

### **19.39.060 Performance regulations—General.**

This section contains general requirements intended to prevent nuisance impacts. Some chapters of this title contain more detailed performance regulations. For example, see Chapter [20.08](#) EMC (Noise Control).

A. *Light and Glare Regulation.* Any artificial surface which produces light or glare which annoys, injures, endangers the health or safety of persons, or interferes with the use of property is a violation of this title.

B. *Heat Regulation.* Heat generated by any activity or operation on the subject property which injures or endangers the health or safety of persons or interferes with the use of abutting property or streets is a violation of this title.

C. *Noise Regulation.* Noise shall be regulated in accordance with the provisions of the noise regulations in Chapter [20.08](#) EMC.

D. *Odor—Air Emissions.* Any odor which injures or endangers the health or safety of persons or interferes with the use of abutting properties or streets is a violation of this title. Emissions to air shall comply with the standards of the State Department of Ecology and the Puget Sound Clean Air Agency. See EMC [19.13.070](#) regarding alcohol production and coffee roasters.

E. *Vibration and Concussion.* Except during periods of construction, vibration or concussion resulting from a permitted use on a lot shall not be discernible on other properties without the aid of instruments. (Ord. 3774-20 § 5(U) (Exh. 3), 2020.)



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**19.39.070 Surveys required.**

- A. For all new buildings, additions, or alterations of existing buildings, the planning director and building official shall both have the independent authority to require the applicant to have a survey completed to verify that the setback and height standards of this title are met.
- B. Upon consideration of scope of the proposed project and the materials submitted by the applicant, the planning director or building official, in their sole discretion, may require a full survey, limit the required survey to a determination of specified property corners or a bench mark for elevation, or require additional information which will demonstrate compliance without requiring a survey.
- C. Where the proposed building, addition, or alteration is within one foot of a required setback or within one foot of the maximum allowable height, the planning director and building official should always require a full or limited survey, unless extraordinary circumstances justify otherwise. (Ord. 3774-20 § 5(U) (Exh. 3), 2020.)

**19.39.080 Vehicle and equipment repair on residential premises.**

Servicing, repairing, assembling, wrecking, modifying, restoring, or otherwise working on any vehicle on any residential premises in any zone district shall be subject to the following:

- A. Work shall be limited to the repair and maintenance of vehicles, equipment, or other conveyance currently registered as specified in the Washington Vehicle Code to the occupant or a member of the occupant's family, which shall be limited to parents, grandparents, spouse, or children related by blood, marriage or adoption. This limitation precludes auto repair on residential premises by any commercial entity.
- B. Such work shall be conducted on no more than one vehicle at any one time.
- C. Such work shall only be done within an enclosed structure (such as a garage) or in an area which is screened from public view.
- D. Such work shall be done only between the hours of eight a.m. and ten p.m.
- E. Such work shall not be done in a public right-of-way.



- F. Storage of parts, equipment, or other supplies needed for the repair of the vehicle on the premises must be kept within an enclosed structure or in an area which is screened from public view.
- G. No such work which creates a nuisance as defined in Chapter [8.20](#) EMC shall be permitted.
- H. Upon completion of any work allowed by this section, the property shall be cleaned of all debris, oil, grease, gasoline, cloths, rags, and equipment or material used in the work, and shall be left in such a condition that no hazard to persons or property shall remain.
- I. Recycling and disposal of all vehicle and automotive waste products shall be done in accordance with Washington State law. (Ord. 3774-20 § 5(U) (Exh. 3), 2020.)

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## Chapter 19.40

### FENCES

#### Sections:

<b>19.40.010</b>	<b>Fences height and location.</b>
<b>19.40.020</b>	<b>Barbed wire, razor wire, chain link, electric and other similar fence materials.</b>
<b>19.40.030</b>	<b>Fences within public right-of-way.</b>
<b>19.40.040</b>	<b>Fences abutting public street frontage.</b>
<b>19.40.050</b>	<b>Temporary fencing.</b>
<b>19.40.060</b>	<b>Maintenance.</b>

#### **19.40.010 Fences height and location.**

A. *Residential Zones—Fence Height and Setbacks.* Fences shall not exceed a height of:

1. Forty-two inches within the front setback or the abutting right-of-way.
2. Six feet within the street side setback or the abutting right-of-way.
3. Seven feet within the interior side or rear setbacks.
4. *Exceptions.*
  - a. Fences within the front setback or the abutting right-of-way may be up to six feet in height if the fence is at least ten feet from the sidewalk, is at least seventy percent transparent from three feet to six feet, and is not chain link or other type of similar material. If no sidewalk exists, the minimum distance required is determined by the city engineer.
  - b. For corner lots or double fronting lots, the front and street side or rear fence heights can be switched if the front of the house faces the street side or rear.
  - c. *Arbors.* Arbors may exceed the maximum fence height within the front setback for a distance of up to twenty percent of the lot frontage on the street, provided the height of the arbor does not exceed eight feet.



d. Where a structure has a nonconforming front setback, a fence along the street-facing facade line is not required to comply with the fence height limitation for the front setback.

e. Conditional Uses. For development subject to the conditional use process, fences may deviate from the standards in this section as approved by the review authority.

B. *MU and NB Zones.*

1. *Height and Location.* Fences may be up to six feet in height if the fence is at least ten feet from the back of the sidewalk and is at least seventy percent transparent. The transparency requirement shall not apply to any fence thirty-six inches or less in height. If no sidewalk exists, the fence must be set back a minimum of ten feet from where the sidewalk will be placed in the future as determined by the city engineer.

2. *Materials.* Chain link, wire, corrugated, sheet metal or other similar types of fences are prohibited.

C. *Freeways (I-5 and SR-526).* Fences abutting freeways shall have no height limit.

D. *Commercial and Industrial Zones.* Fences in commercial and industrial zones shall not exceed ten feet in height, including barbed wire located on top of the fence except:

1. Any fence taller than forty-two inches must be set back a minimum of ten feet or the required landscape width, whichever is greater, from any lot line along a street; and
2. Any fence within ten feet of a residentially zoned property shall not exceed seven feet in height.

3. See subsection [\(B\)](#) of this section for fence height restrictions in the MU and NB zones.

E. *Retaining Walls and Berms.* Fences placed on top of berms shall be constructed so as not to exceed the maximum height allowed if the berm were not there. Fences placed upon rockeries or retaining walls shall be permitted to be constructed to the maximum allowable fence height above the rockery or retaining wall, provided the rockery or retaining wall does not exceed a height of six feet. Fences constructed on top of retaining walls which are greater than six feet in height shall not exceed a maximum fence height of forty-two inches. (Ord. 3774-20 § 5(V) (Exh. 3), 2020.)



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**19.40.020 Barbed wire, razor wire, chain link, electric and other similar fence materials.**

- A. Barbed wire, razor wire and other such materials are not permitted in any residential zone except for security facilities around utility or communications facilities, or government facilities. In commercial and industrial zones, these fencing materials are permitted only atop a fence or wall at least six feet in height. For property located within a commercial or industrial zone, these materials are not permitted on any fence located within ten feet of a residentially zoned property.
- B. Wire, excluding chain link, corrugated, nondecorative sheet metal, or other similar type fencing is prohibited along a street fronting lot line in all zones.
- C. Chain link fences are prohibited in the MU and UR4 zones, and in the historic overlays.
- D. *Electric Fences.* Electric fences may be installed and maintained in the AG zone for the purpose of controlling permitted livestock; provided, that no such fence shall border any public right-of-way or constitute a lot line fence. Electric fences are permitted in commercial and industrial zones using the review process described in Chapter [15.02](#) EMC, provided such fence shall be installed interior to a nonelectric perimeter barrier not less than six feet in height. (Ord. 3774-20 § 5(V) (Exh. 3), 2020.)

**19.40.030 Fences within public right-of-way.**

- A. A permit from the public works department must be obtained prior to placement of any fence within the city right-of-way.
- B. Fencing for sidewalk cafes shall be reviewed and approved by the city engineer and planning director.
- C. Setback for Fences Abutting a Public Sidewalk. No fence, if located within the public right-of-way, shall be located closer than two feet from any public sidewalk.
- D. Fences located near fire hydrants, water mains and other infrastructure will require review and approval by the city engineer. (Ord. 3774-20 § 5(V) (Exh. 3), 2020.)



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**19.40.040 Fences abutting public street frontage.**

When street frontage landscaping is required by this title, any fences along the public street frontage shall be located behind the landscaping. (Ord. 3774-20 § 5(V) (Exh. 3), 2020.)

**19.40.050 Temporary fencing.**

Temporary fencing that is necessary for construction activity, including chain link and barricade type fencing, may be allowed in any zone for up to twelve months, or as necessary for site security needs during ongoing construction activity. (Ord. 3774-20 § 5(V) (Exh. 3), 2020.)

**19.40.060 Maintenance.**

All fences, whether or not required by this title, shall be maintained in a condition of repair so as not to be dangerous to human life or a danger to the property. For fences visible from the public right-of-way, damaged sections, missing boards, or leaning fences shall be repaired, replaced or removed so as to not create a visual or attractive nuisance. (Ord. 3774-20 § 5(V) (Exh. 3), 2020.)

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## Chapter 19.41

### GENERAL AUTHORITY AND REQUIREMENTS

Sections:

<b>19.41.010</b>	<b>Variances.</b>
<b>19.41.020</b>	<b>Enforcement, violation and penalties.</b>
<b>19.41.030</b>	<b>Business license applications.</b>
<b>19.41.040</b>	<b>Compliance with SEPA and other laws.</b>
<b>19.41.050</b>	<b>Promulgation of rules, procedures and interpretations.</b>
<b>19.41.060</b>	<b>Maintenance.</b>
<b>19.41.070</b>	<b>Assurance devices.</b>
<b>19.41.080</b>	<b>Validity.</b>

#### **19.41.010 Variances.**

The provisions of this title can be varied on a case-by-case basis if the application of such provisions would result in unreasonable and unusual hardship. The criteria in EMC [15.03.140](#) must be met in order to approve a variance. See Chapter [15.01](#) EMC for application requirements and Chapter [15.02](#) EMC for procedures and public notice requirements. (Ord. 3774-20 § 5(W) (Exh. 3), 2020.)

#### **19.41.020 Enforcement, violation and penalties.**

A. *Enforcement.* Enforcement of the provisions of this title and of any permits or approvals issued pursuant thereto shall be performed in accordance with the procedures established in this title and Chapter [1.20](#) EMC.

B. *Violation.* No person, firm, association, corporation or any agent thereof shall violate or fail to comply with any provisions of this title nor use any property, erect any structure, occupy or use any structure or place any improvement on any property in violation of any provision of this title. Each such person, firm, association, corporation or agent thereof shall be deemed



guilty of a separate offense for each and every day during which any violation of any provision of this title is committed, continued or permitted.

C. *Penalties.* Any violation or failure to comply with the provisions of this title shall be subject to the provisions of the enforcement procedures as set forth in Chapter [1.20](#) EMC. Further, any building or structure set up, erected, built, used, moved or maintained or any use of property contrary to the provisions of this title, shall be and the same is declared to be a public nuisance. The city administration, upon concurrence of the city attorney, may file for injunctive or other forms of civil relief in superior court. The penalty and enforcement provisions provided in this title shall not be exclusive, and the city may pursue any remedy or relief it deems appropriate. (Ord. 3901-22 § 2 (Exh. B § 47), 2022; Ord. 3774-20 § 5(W) (Exh. 3), 2020.)

### **19.41.030 Business license applications.**

All applications for business license which are submitted to the city clerk shall be reviewed by the planning department to determine whether the proposed business meets the requirements of this title and the specific requirements of the zone in which the business is proposed to be located. (Ord. 3774-20 § 5(W) (Exh. 3), 2020.)

### **19.41.040 Compliance with SEPA and other laws.**

A. The State Environmental Policy Act (SEPA) applies to many of the decisions that will be made using this title. Each application shall be evaluated and, where applicable, comply with SEPA, with state regulations, federal regulations and city regulations and ordinances. The minimum requirements set forth in the zoning code may be increased based upon the SEPA review process or requirements contained in other city regulations.

B. Project permit applications must be processed in accordance with Chapter [36.70B](#) RCW, Local Project Review, which is implemented by EMC Title [15](#), Local Project Review Procedures. Each project permit application will be processed in accordance with the permit application classification (type of land use application) and the procedures for processing permits established in EMC Title [15](#), Local Project Review Procedures. (Ord. 3774-20 § 5(W) (Exh. 3), 2020.)



### **19.41.050 Promulgation of rules, procedures and interpretations.**

The planning director is authorized to promulgate administrative rules, procedures and interpretations consistent with the terms of this title. Appeals of any such rule, procedure, interpretation or other administrative determination made by the planning director shall be made in accordance with the appeal procedures as set forth in EMC Title [15](#), Local Project Review Procedures. (Ord. 3774-20 § 5(W) (Exh. 3), 2020.)

### **19.41.060 Maintenance.**

A. *Overview.* Various chapters of this title establish specific development, performance and maintenance standards for uses and developments on individual properties.

1. All properties or parts thereof shall be maintained in a safe and sanitary condition to reduce blight and sustain the highest quality of life standard within the city.
2. All exterior property and premises and the interior of every structure shall be free from any accumulation of rubbish or garbage.
3. All premises and exterior property shall be maintained as further set forth in subsection [\(B\)](#) of this section.
4. All properties or parts thereof shall be maintained to meet the requirements of this title and any conditions or restrictions imposed on the property by federal, state or city requirements.

B. *Maintenance Requirements.*

1. *Fences.* All fences, whether or not required by this title, shall be maintained in a condition of repair so as not to be dangerous to human life or a danger to the property. For fences visible from the public right-of-way, damaged sections, missing boards, or leaning fences shall be repaired, replaced or removed so as to not create a visual or attractive nuisance.
2. *Corner Building Sites.* All corner building sites located in use districts that require a front and a side yard shall maintain a clear triangle at the intersection of the street and/or alley rights-of-way for the purpose of traffic safety. No building, structure, object or growth over



thirty-six inches in height, measured from the mean grade of the intersecting streets, shall be allowed within this triangle. One angle of this triangle shall be formed by the intersecting street rights-of-way and the sides of the triangle measured along the property lines from said angle shall be fifteen feet in length; the third side of such triangle shall be a straight line connecting the ends of the two aforementioned lines.

3. *Vision Clearance.* All corner building sites located in use districts that require a front and a side setback shall maintain a clear triangle at the intersection of the street and/or alley rights-of-way for the purpose of traffic safety. No building, structure, fence, object or growth over thirty-six inches in height, measured from the mean grade of the intersecting streets, shall be allowed within this triangle. One angle of this triangle shall be formed by the intersecting street pavement edge or curb and the sides of the triangle measured along the street pavement edge or curb from said angle shall be fifteen feet in length; the third side of such triangle shall be a straight line connecting the ends of the two aforementioned street pavement edge or curb lines. See Chapter [19.40](#) EMC for additional fence standards.

4. *Landscaping.* All landscape areas required by this title shall be maintained in accordance with the following standards:

a. All landscaping shall be maintained with respect to pruning, trimming, mowing, watering, insect control, fertilizing, or other requirements to create a healthy growing condition, attractive appearance, and to maintain the purpose of the landscape type.

(1) Pruning of trees must be consistent with ANSI A300 (Part 1) American National Standard for Tree Care Operations—Tree, Shrub, and Other Woody Plant Management—Standard Practices (Pruning) and companion publication Best Management Practices Tree Pruning. Required trees shall not be pruned to maintain a height below twenty feet, except as required under power lines or as approved through the landscape modification process in EMC [19.35.190](#).

(2) The topping, shearing or pollarding of required trees is prohibited.

(3) Portions of trees that extend over areas used by pedestrians or vehicle maneuvering or parking areas, or that abut driveways, shall be limbed up to a height of seven feet to maintain pedestrian and vehicle clearance and clear lines of sight.



- b. Topped, sheared, pollarded, dead, diseased, stolen, vandalized, improperly pruned, missing or damaged plants shall be replaced within three months, with the plants indicated on the approved landscape plan or as required by this chapter.
- c. All landscaped areas shall be maintained reasonably free of weeds and trash.
- d. All required landscaping which is located within public right-of-way shall be maintained by the abutting property owner.
- e. All LID stormwater management facilities shall also be maintained in accordance with the city of Everett stormwater management manual.
- f. When the city takes enforcement action under EMC [19.41.020](#) to ensure that dead, diseased, stolen, vandalized, improperly pruned, or damaged plants are replaced, a two-year maintenance assurance device, as described in EMC [19.41.070](#), shall be required for the replaced landscaping.

5. *Maintenance of Private Common Areas.* All common open space and recreation areas and all private utility infrastructure shall be maintained by the property owner or an owners' association, as applicable, including but not limited to:

- a. Private access drives;
- b. Vehicle and pedestrian access easements;
- c. Joint use and maintenance agreements;
- d. Common off-street parking;
- e. Common open space (including, but not limited to, landscape areas, gardens, woodlands, walkways, courtyards or lawns, and outdoor recreation areas);
- f. Private utility infrastructure (including, but not limited to, underground utilities and utility easements); and
- g. Any other common buildings or improvements.

6. *Maintenance of Lot, Buildings and Facilities.* Buildings, utilities and facilities on lots shall be maintained by the property owner in accordance with city codes and the requirements applicable to the development.



7. *Land Division Covenants, Declarations and Restrictions.* Prior to the recording of a land division, the applicant shall provide covenants, declarations and restrictions required by the city for review and approval. The common areas and infrastructure identified in subsection [\(B\)\(3\)](#) of this section must be maintained by an owners' association in accordance with all applicable provisions of the city code. Said covenants, declarations and restrictions shall provide authority for the city, after providing reasonable written notice to the association and opportunity to perform required maintenance, to recover any costs incurred by the city to maintain private infrastructure or common areas due to a failure of the association to adequately maintain privately owned improvements, including a lien on the property or other appropriate assurance device, as determined by the city.

8. *Wetland, Shoreline, and Critical Area Buffers and Mitigation Plans.*

a. Buffers that are required to be protected with signs or fences shall be maintained as required by this title or the Everett shoreline master program.

b. Buffer impacts which are approved with mitigation shall ensure that work is completed in accordance with the mitigation plan, that maintenance and monitoring occur on a regular basis, and that restoration or rehabilitation is performed in accordance with the contingency plan if mitigation failure results within five years of implementation.

(1) The construction performance guarantees shall not be released until the applicant's qualified professional and the planning director sign off to indicate that construction has been completed as planned.

(2) A separate performance assurance device shall be required for maintenance, monitoring, and contingency. This guarantee shall not be released until the applicant's qualified professional and the planning director sign off that maintenance and monitoring have been completed per the plan, and the mitigation meets performance goals.

C. *Enforcement.* Failure to comply with this title will be enforced through the procedures set forth in Chapter [1.20](#) EMC. (Ord. 3774-20 § 5(W) (Exh. 3), 2020.)



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**19.41.070 Assurance devices.**

A. *User Guide.* Various chapters of this title establish specific development, performance and maintenance standards for uses and developments on individual properties. This chapter establishes the mechanism by which the city ensures that the requirements of this chapter are met through the posting of an assurance device to guarantee completion of required improvements or continued maintenance of improvements required by this title.

B. *General.* The planning director may allow or require performance and maintenance assurance devices in conformance with the provisions of this chapter.

C. *When Applicable.*

1. The planning director shall require a performance assurance device if:
  - a. The applicant is unable to complete the work or improvements to be covered by the assurance device because of unavoidable circumstances that in no way resulted from the actions or inaction of the applicant;
  - b. It is reasonably certain that the applicant will be able to complete the work or improvements to be covered by the assurance device within a reasonable amount of time;
  - c. Granting a certificate of occupancy prior to completion of the work or improvements will not be materially detrimental to the city or the properties in the vicinity of the subject property; and
  - d. The proposal is part of a phased development and work required as part of a current phase will be completed within a time frame established by the planning director, based upon the specific circumstances related to the site.
2. *Maintenance Assurance Device.* The planning director may require a maintenance assurance device when necessary to ensure that improvements required by this title are properly maintained. The planning director shall establish a time frame for which the maintenance assurance device shall be effective.
3. Work to be performed by any state agency or unit of local government shall be exempt from providing guarantees based on RCW [35A.21.250](#).



D. *Form of Assurance Device.* In each case where the city requires or allows an applicant to provide an assurance device, the planning director, with the approval of the city attorney, shall determine the type of assurance device that will be used.

E. *Amount of Assurance Device.*

1. *General.* The planning director shall determine the amount of the assurance device as follows:

a. For a performance assurance device the amount shall be one hundred fifty percent of the cost of the work or improvements covered by the assurance device based on estimated costs immediately following the expiration of the device, except that the amount of an assurance device for any improvement regulated by Chapter [19.37](#) EMC (Critical Areas) shall be three hundred percent of the cost of the work or improvements based on estimated costs immediately following the expiration of the device.

b. For a maintenance assurance device, the amount will not be less than ten percent of the cost of replacing the materials covered by the assurance device based on estimated costs on the last day covered by the device.

c. In determining the amount of the assurance device, the planning director may require that the applicant provide a detailed estimate of the cost of the improvements for which the assurance device is required. The planning director may use the estimate to determine the amount of the assurance device but is not bound by the information submitted by the applicant in determining the appropriate amount.

2. *Responsibility.* The assurance device shall specify the following information:

a. The work or improvements covered by the assurance device;

b. Either the period of time covered by the maintenance assurance device or the date after which the city will use the proceeds of the performance assurance device to complete the required work or improvements.

3. The city may require the assurance device to be provided before any permits for which the assurance device is required are issued.

F. *License Signed by Owner of Subject Property.* In each case where the city requires or allows an applicant to provide an assurance device, the applicant shall provide, in a form acceptable to



the city attorney, a license to run with the property which allows the city, its employees, agents or contractors to go on the subject property for the purpose of inspecting, making or maintaining the improvements covered by the assurance device. The license shall be valid for the length of time required for the assurance device.

G. *Release of Assurance Device.* After the work or improvements covered by a performance assurance device have been completed to the satisfaction of the city, or at the end of the time covered by the maintenance assurance device, the applicant may request the planning director to release the assurance device. Prior to the release of the assurance device, the city shall verify that the conditions of the assurance device have been satisfactorily complied with.

H. *Use of Proceeds—Notice to Applicant.* If during the period of time covered by a maintenance assurance device or after the date by which the required work or improvements are to be completed under a performance assurance device, the planning director determines that the work or improvements have not been satisfactorily maintained or completed, he/she shall notify the applicant. The notice should contain substantially the following information:

1. A statement that the work must be done or the improvement must be made to comply with the requirements of the assurance device;
2. A statement setting forth the amount of time that the applicant has to commence and complete the required work or improvements; and
3. A statement that, if the work or improvements are not commenced and completed within the time specified, the city will use the proceeds of the assurance device to have the required work or improvements completed.

I. *Use of Proceeds—Work by the City.* If the work or improvements covered by the assurance device are not completed within the time specified in the notice given under subsection [\(H\)](#) of this section, the city shall obtain the proceeds of the device and do the work or make the improvements covered by the device. The city may either have employees of the city do the work or make the improvements or have a contractor do the work or make the improvements.

J. *Use of Proceeds—Emergency Work by City.* If at any time the planning director determines that an action or inaction associated with any assurance device has created an emergency situation endangering the public health, safety or welfare, creating a potential liability for the city, or endangering city streets, utilities or property and, if the nature or timing of such an emergency



precludes the notification of applicants as provided in subsection (H) of this section while still minimizing or avoiding the affects of the emergency, the city may use the assurance device to correct the emergency situation. The city may either have employees of the city do the work or make the improvements or may have a contractor do the work or make the improvements. If the city uses the assurance device as provided by this section, the applicant shall be notified by certified mail, return receipt requested, within four working days of the commencement of emergency work. The notice must state the work that was completed and the nature or timing of the emergency that necessitated the use of the assurance device without prior notification.

K. *Use of Proceeds—Refund of Excess, Charge for All Costs.* The applicant is responsible for all costs incurred by the city in doing the work and making the improvements covered by the assurance device. The city shall release or refund any proceeds of an assurance device remaining after subtracting all costs related to doing the work covered by the device. The applicant shall reimburse the city for any amount expended by the city that exceeds the proceeds of the device. The city is entitled to file a lien against the subject property for which the assurance device was issued for the amount of any excess which the city expends in doing the work or making the improvements.

L. *Itemized Statement.* In each case where the city uses any of the proceeds of the device, it shall give the applicant an itemized statement of all proceeds and funds used. (Ord. 3774-20 § 5(W) (Exh. 3), 2020.)

### **19.41.080    Validity.**

Should any section, subsection, paragraph, sentence, clause or phrase of this title or its application to any person or situation be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this title or its application to any other person or situation. The city council of the city declares that it would have adopted this title and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional. (Ord. 3774-20 § 5(W) (Exh. 3), 2020.)



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## Chapter 19.43

### ENVIRONMENTAL POLICY

Sections:

<b>19.43.010</b>	<b>Title.</b>
<b>19.43.020</b>	<b>Purpose.</b>
<b>19.43.030</b>	<b>State rules—Adoption by reference.</b>
<b>19.43.040</b>	<b>Additional definitions.</b>
<b>19.43.065</b>	<b>Rules.</b>
<b>19.43.070</b>	<b>Forms.</b>
<b>19.43.075</b>	<b>Fees.</b>
<b>19.43.080</b>	<b>Designation of responsible official.</b>
<b>19.43.090</b>	<b>Lead agency determination and responsibilities.</b>
<b>19.43.110</b>	<b>Designation of official to perform consulted responsibilities for the city.</b>
<b>19.43.130</b>	<b>Categorical exemptions—Minor new construction.</b>
<b>19.43.140</b>	<b>Categorical exemptions—Infill development.</b>
<b>19.43.200</b>	<b>Rules and procedures concerning substantive authority.</b>
<b>19.43.220</b>	<b>General policies.</b>
<b>19.43.230</b>	<b>Specific policies.</b>
<b>19.43.240</b>	<b>Substantive authority.</b>
<b>19.43.260</b>	<b>Notice—Statute of limitations.</b>
<b>19.43.320</b>	<b>Third party liability.</b>

#### **19.43.010 Title.**

The ordinance codified in this chapter shall hereinafter be known as the “city environmental policy ordinance,” may be cited as such, and will hereinafter be referred to as “this chapter.”  
(Ord. 3774-20 § 5(X) (Exh. 3), 2020.)



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**19.43.020 Purpose.**

The purpose of this chapter is to establish a clearly understood and effective set of policies and procedures for implementing the State Environmental Policy Act as set forth in Chapter [43.21C](#) RCW, through the adoption of city environmental policies, and rules and procedures designed to take into consideration the environmental impact of actions taken by or affecting the city. The city adopts this chapter under the State Environmental Policy Act (SEPA), RCW [43.21C.120](#), and the SEPA rules, WAC [197-11-904](#). (Ord. 3774-20 § 5(X) (Exh. 3), 2020.)

**19.43.030 State rules—Adoption by reference.**

This chapter applies to proposals by the city and to city review of, or decisions on, proposals by public or private applicants or other governmental entities. The city adopts the state SEPA rules, Chapter [197-11](#) WAC as may be amended, by reference, as supplemented by additional or more specific provisions contained in this chapter and EMC Title [15](#), Local Project Review Procedures. (Ord. 3774-20 § 5(X) (Exh. 3), 2020.)

**19.43.040 Additional definitions.**

In addition to those definitions contained within WAC [197-11-700](#) through [197-11-799](#), when used in this chapter, the following terms shall have the following meanings, unless the context indicates otherwise:

“Ordinance” means the ordinance, resolution, or other procedure used by the city to adopt regulatory requirements.

“Planning director” means the director of the department of planning and community development or successor agencies and his/her designee.

“Responsible official” means the planning director designated by the mayor who shall carry out the city’s procedural responsibilities as the lead agency under this chapter.

“SEPA rules” means Chapter [197-11](#) WAC as adopted by the State of Washington Department of Ecology. (Ord. 3774-20 § 5(X) (Exh. 3), 2020.)



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**19.43.065 Rules.**

The city is authorized to promulgate rules for the interpretation and implementation of this chapter through administrative rules adopted by the responsible official, and resolutions or ordinances adopted by city council. (Ord. 3774-20 § 5(X) (Exh. 3), 2020.)

**19.43.070 Forms.**

The city shall use the forms substantially as set forth in the SEPA rules. However, the responsible official may modify the forms if he/she determines that a modified format would improve clear presentation of the proposed action, the environmental impacts of the proposed action, the environmental determination being made by the city, and/or the opportunity for commenting on the proposed action or environmental determination. (Ord. 3774-20 § 5(X) (Exh. 3), 2020.)

**19.43.075 Fees.**

A. Except as otherwise noted in this chapter, all fees required for processing of actions by the city in accordance with the provisions of this chapter shall be established by the land use permit fee ordinance.

B. *Environmental Impact Statement.*

1. Notwithstanding any provisions of this chapter, the responsible official may with the concurrence of the applicant contract directly with a consultant or subconsultant for preparation of an EIS, or a portion of the EIS, and may bill such costs and expenses directly to the applicant. The city may require that the applicant post bond or other guaranty device satisfactory to the city to otherwise ensure payment of such costs;
2. If a proposal is modified so that an EIS is no longer required, the responsible official shall refund any fees collected under this subsection which remain after incurred costs are paid.



- C. The city may collect a reasonable fee from an applicant to cover the cost of meeting SEPA public notice requirements relating to the applicant's proposals.
- D. The city shall not collect a fee for performing its duties as a consulted agency.
- E. The city may charge any person for copies of any document prepared under this chapter, and for mailing the document, in a manner provided by Chapter [42.17](#) RCW. (Ord. 3774-20 § 5(X) (Exh. 3), 2020.)

### **19.43.080 Designation of responsible official.**

- A. For those proposals for which the city is the lead agency, the responsible official shall be the planning director.
- B. For all proposals for which the city is the lead agency, the responsible official shall make the threshold determination, supervise scoping and preparation of any required EIS, and perform any other functions assigned to the "lead agency" or "responsible official" by those sections of the SEPA rules that were adopted by reference.
- C. The city shall retain all documents required by the SEPA rules (Chapter [197-11](#) WAC) and make them available in accordance with Chapter [42.17](#) RCW, and Chapter [2.92](#) EMC.
- D. Public information on SEPA can be obtained at the lead agency through the city's planning and community development department, 2930 Wetmore Avenue, Suite 8-A, Everett. (Ord. 3774-20 § 5(X) (Exh. 3), 2020.)

### **19.43.090 Lead agency determination and responsibilities.**

- A. When the city receives an application for or initiates a proposal that involves a nonexempt action, the responsible official shall determine the lead agency for that proposal under WAC [197-11-050](#) and [197-11-922](#) through [197-11-940](#). This determination shall be made for each proposal involving a nonexempt action unless the lead agency has been previously determined or the responsible official is aware that another agency is in the process of determining the lead agency.



- B. When the city is the lead agency for a proposal, the responsible official shall supervise compliance with the threshold determination requirements, and if an EIS is necessary, shall supervise preparation of the draft and final EIS.
- C. When the city is not the lead agency for a proposal, all departments of the city shall use and consider, as appropriate, either the DNS or the final EIS of the lead agency in making decisions on the proposal. The city shall not prepare or require preparation of a DNS or EIS in addition to that prepared by the lead agency, unless required under WAC [197-11-600](#). In some cases, the city may require or conduct supplemental environmental review under WAC [197-11-600](#).
- D. If the city receives a lead agency determination made by another agency that appears inconsistent with the criteria of WAC [197-11-922](#) through [197-11-940](#), it may object to the determination. Any objection must be made to the agency originally making the determination and resolved within fifteen days of receipt of the determination, or the city must petition the Department of Ecology for a lead agency determination under WAC [197-11-946](#) within the fifteen-day time period. Any such petition on behalf of the city may be initiated by the responsible official.
- E. The responsible official is authorized to make agreements as to lead agency status or shared lead agency duties for a proposal under WAC [197-11-942](#) and [197-11-944](#).
- F. In making a lead agency determination for a private project, the responsible official shall require sufficient information from the applicant to identify which other agencies have jurisdiction over the proposal. (Ord. 3774-20 § 5(X) (Exh. 3), 2020.)

### **19.43.110 Designation of official to perform consulted responsibilities for the city.**

- A. The responsible official shall be responsible for preparation of written comments for the city in response to a consultation request prior to a threshold determination, participation in pre-draft consultation, participation in scoping, and reviewing a draft EIS.
- B. The city's responsible official shall be responsible for the city's compliance with WAC [197-11-550](#) whenever the city is a consulted agency and is authorized to develop operating procedures which will ensure that responses to consultation requests are prepared in a timely



fashion and include data from all appropriate departments of the city. (Ord. 3774-20 § 5(X) (Exh. 3), 2020.)

### **19.43.130 Categorical exemptions—Minor new construction.**

A. The following exempt levels are established for minor new construction under WAC [197-11-800\(1\)\(c\)](#) based on conditions in the city. The exemptions in this subsection apply to all licenses required to undertake the construction in question. The exemptions in this section apply except when the project:

1. Is undertaken wholly or partly on lands covered by water;
2. Requires a license governing discharges to water that is not exempt under RCW [43.21C.0383](#) (waste discharge permits);
3. Requires a license governing emissions to air that is not exempt under RCW [43.21C.0381](#) (air operating permits) or WAC [197-11-800\(7\)](#) or (8);
4. Involves demolition of a structure listed in a local, state or national historic register; or
5. Requires a land use decision that is not exempt under WAC [197-11-800\(6\)](#).

B. The following types of projects shall be exempt:

1. The construction or location of no more than thirty single-family dwelling units.
2. The construction or location of no more than sixty multifamily dwelling units.
3. The construction of a barn, loafing shed, farm equipment storage building, produce storage or packing structure, or similar agricultural structure, covering no more than forty thousand square feet and to be used only by the property owner or his or her agent in the conduct of farming the property. This exemption shall not apply to feed lots.
4. The construction of an office, school, commercial, recreational, service or storage building with no more than thirty thousand square feet of gross floor area and with associated parking facilities designed for no more than ninety automobiles. This exemption includes parking lots for no more than ninety automobiles not associated with a structure.



5. Any fills or excavations of no more than one thousand cubic yards throughout the total lifetime of the fill or excavation and any excavation, fill or grading necessary for an exempt project in subsection [\(B\)\(1\)](#), [\(2\)](#), [\(3\)](#), or [\(4\)](#) of this section. (Ord. 3774-20 § 5(X) (Exh. 3), 2020.)

### **19.43.140 Categorical exemptions—Infill development.**

The following exempt levels are established for new construction under RCW [43.21C.229](#):

- A. Residential development up to two hundred dwelling units in Metro Everett, urban residential 4 (UR4) zones, or mixed urban (MU) zones;
- B. Mixed-use development in Metro Everett, mixed urban (MU) or business (B) zones;
- C. Commercial development up to sixty-five thousand square feet, excluding retail development; or
- D. Any minor new construction identified as exempt pursuant to EMC [19.43.130](#). (Ord. 3774-20 § 5(X) (Exh. 3), 2020.)

### **19.43.200 Rules and procedures concerning substantive authority.**

The following sections contain rules and policies for the use of SEPA's substantive authority, such as decisions to require mitigation of adverse environmental impacts in compliance with policies contained in this chapter, or decisions to deny a proposal on the basis of significant adverse impacts identified in the environmental review documents prepared under SEPA. Procedures for appealing SEPA determinations to agencies or the courts are set forth in EMC Title [15](#), Local Project Review Procedures. (Ord. 3774-20 § 5(X) (Exh. 3), 2020.)

### **19.43.220 General policies.**

The city adopts by reference the general policies of the State Environmental Policy Act (SEPA) as set forth in RCW [43.21C.010](#) and [43.21C.020](#) in order to achieve the environmental goals of the community. (Ord. 3774-20 § 5(X) (Exh. 3), 2020.)



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**19.43.230 Specific policies.**

The city adopts the following specific policies in order to achieve the environmental goals of the Everett community:

*A. Policies Pertaining to the Natural Environment.*

1. *Earth.*

- a. To encourage land development practices that result in a minimal disturbance to the city's vegetation and soils;
- b. To encourage building and site planning practices that are consistent with the city's natural topographical features;
- c. To insure prompt development, restoration and effective erosion control of property after land clearing through the use of phased development, replanting, hydroseeding and other appropriate engineering techniques;
- d. Prohibit development on steep slope areas when such development would create imminent danger of landslides.

2. *Air.*

- a. To work in cooperation with the Air Pollution Control Agency having jurisdiction over the proposal, to secure and maintain such levels of air quality as will protect human health and safety and to the greatest degree practicable, prevent injury to plant and animal life and to property, foster the comfort and convenience of inhabitants, promote the economic and social development of the city, and facilitate the enjoyment of the natural attractions of the city.

3. *Water.*

- a. To encourage development and construction procedures which conform to the South Everett Drainage Basin Plan and Chapter [14.28](#) EMC, or as such may be amended or superseded, to minimize surface water and ground water runoff and diversion and to minimize erosion and reduce the risk of slides;



- b. To encourage sound development guidelines and construction procedures which respect and preserve the city's watercourses; to minimize water quality degradation and control the sedimentation of creeks, streams, ponds, lakes and other water bodies; to preserve and enhance the suitability of waters for contact recreation and fishing; to preserve and enhance the aesthetic quality of the waters; to encourage water conservation and reuse;
- c. To maintain and protect ground water resources, to minimize adverse effects of alterations in ground water quantities, locations and flow patterns.

4. *Plants and Animals.*

- a. To protect the unique and threatened or endangered plants and animals and critical areas and habitat within the city;
- b. To preserve and enhance the city's physical and aesthetic character by preventing indiscriminate removal or destruction of trees and ground cover on undeveloped and partially developed property;
- c. To encourage the retention of trees and other vegetation for visual buffers and soil retention;
- d. To encourage building and site planning practices that are consistent with the city's vegetational features while at the same time recognizing that certain factors such as condition (e.g., disease, danger of falling, etc.), proximity to existing and proposed structures and improvements, interference with utility services, protection of scenic views, and the realization of a reasonable enjoyment of property may require the removal of certain trees and ground cover.

5. *Energy and Natural Resources.*

- a. To encourage the wise use of nonrenewable natural resources;
- b. To encourage efficient use of renewable resources;
- c. To incorporate energy conservation features as feasible and practicable into all city projects and promote energy conservation throughout the community.

B. *Policies Pertaining to the Built Environment.*



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1. *Environmental Health.*

- a. To encourage development practices consistent with Chapter [20.08](#) EMC or as such may be amended or superseded. To minimize the exposure of citizens to the harmful physiological and psychological effects of excessive noise; to control the level of noise in a manner which promotes commerce; the use, value and enjoyment of property; sleep and repose; and the quality of the environment;
- b. To require proposals involving the potential risk of an explosion or the release of hazardous substances to the environment to include specific measures which will ensure the public health, safety and welfare;
- c. To restrict or prohibit uses which will expose the public to unsanitary conditions or disease;
- d. To restrict or prohibit uses which are dangerous to health, safety or property in times of flood or cause excessive increases in flood heights or velocities;
- e. To require that uses vulnerable to floods, including public facilities which serve such uses, shall be protected against flood damage at the time of initial construction;
- f. To meet the minimum requirements of the National Flood Insurance Program and State of Washington Flood Control Program.

2. *Land and Shoreline Use.*

a. *Relationship to Land Use Plans and Estimated Population.*

- (1) To implement and further the city's comprehensive plans, including the land use plan, transportation plan, open space, parks and recreation plan, Everett comprehensive plan, shoreline master program and other plans formally adopted by the city;
- (2) To encourage orderly growth in undeveloped areas of the city by maximizing the efficiency of utilities and roads and other capital improvements.

b. *Housing.*

- (1) To encourage the provision and maintenance of adequate housing for the residents of Everett, for all income levels;



- (2) To evaluate impacts of new nonresidential development which would reduce existing housing stock or reduce land available for residential development.

c. *Light and Glare.*

- (1) To minimize excessive light and glare.

d. *Aesthetics.*

- (1) To encourage development which maintains and improves the existing aesthetic character of the community;
- (2) To maximize protection of existing public scenic vistas and scenic corridors.

e. *Recreation.*

- (1) To protect the existing open space areas for future generations and promote their expansion.

f. *Historic and Cultural Preservation.*

- (1) To consider the historical and archaeological importance of all buildings and sites prior to any change in use or development, and to recognize properties and structures included in the "Historical Resource Survey for Everett Washington" (1986) or as such may be amended or superseded, as properties of historical significance.

3. *Transportation.*

- a. To approve street designs which are beneficial to the public in consideration of vehicular and pedestrian safety, efficiency of service, influence on the amenities and livability of the community, and economy of both construction and the use of land;
- b. To encourage increased traffic volumes only in areas with sufficient capacity to provide safe and efficient traffic flow or where adequate traffic improvements will be provided in conjunction with the development; to require adequate vehicular and pedestrian access to new developments, and minimize pedestrian-vehicular conflict points.

4. *Public Services and Utilities.*



- a. To encourage and approve development only where adequate public services, including fire and police protection, are available or will be made available to serve the proposal;
- b. To encourage and approve development only where adequate utilities, including water, sewer, power, communications and drainage facilities are available or will be made available in conjunction with the proposal;
- c. To protect the existing open space areas for future generations and promote their expansion.

*C. Other Policies.*

1. To minimize the reduction of available natural light due to the casting of shadows by new development;
2. To encourage planned residential development; to preserve and maintain sensitive environmental areas which could be negatively impacted by traditional development techniques;
3. A single development or land use though otherwise consistent with zoning and other city policies may create adverse impacts upon facilities and services, natural systems or the surrounding area when aggregated with the impacts of prior or other proposed development. It is the policy of the city to analyze such cumulative environmental impacts and condition or deny proposals to minimize or prevent adverse impacts in accordance with other provisions of this chapter;
4. In assessing the environmental impacts of a proposal and in determining the need for conditioning or denying a proposal in accordance with other provisions of this chapter, the responsible official shall utilize SEPA, all policies, guidelines and regulations adopted pursuant to SEPA, federal, state and regional environmental quality standards, and the legislative enactments of the city, both specific and general, now in effect or enacted in the future;
5. The city reserves the right to impose specific conditions upon any action or to deny action in conformance with the policies stated in this chapter, so as to mitigate or prevent adverse environmental impacts;



6. It is not the intent or purpose of this chapter to prevent or delay the reasonable development of land in the city. (Ord. 3774-20 § 5(X) (Exh. 3), 2020.)

### **19.43.240 Substantive authority.**

- A. The policies, procedures and goals set forth in this chapter are supplementary to those set forth in existing authorizations of all branches of government of this state, including state agencies, municipal and public corporations, and counties.
- B. The city may attach conditions to a permit or approval for a proposal so long as:
1. Such conditions are necessary to mitigate specific probable adverse environmental impacts identified in environmental documents prepared pursuant to this chapter; and
  2. Such conditions are in writing; and
  3. The mitigation measures included in such conditions are reasonable and capable of being accomplished; and
  4. The city has considered whether other local, state or federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts; and
  5. Such conditions are based on one or more policies in EMC [19.43.220](#) and [19.43.230](#) and are cited in the license or other decision document (such as a DNS, MDNS or decision document issued pursuant to the publication of an EIS).
- C. The city may deny a permit or approval for a proposal on the basis of SEPA so long as:
1. A finding is made that approving the proposal would result in probable significant adverse environmental impacts that are identified in a final EIS or final supplemental EIS prepared pursuant to this chapter; and
  2. A finding is made that there are no reasonable mitigation measures capable of being accomplished that are sufficient to mitigate the significant adverse identified impact; and
  3. The denial is based on one or more policies identified in EMC [19.43.220](#) and [19.43.230](#) and is identified in writing in the decision document.



D. In addition to the policies established under EMC [19.43.220](#) and [19.43.230](#), the city designates and adopts by reference the following policies as the basis for the city's exercise of authority pursuant to this section:

1. The city shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs and resources to the end that the state and its citizens may:
  - a. Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
  - b. Assure for all people of Washington safe, healthful, productive and aesthetically and culturally pleasing surroundings;
  - c. Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;
  - d. Preserve important historic, cultural and natural aspects of our national heritage;
  - e. Maintain, wherever possible, an environment which supports diversity and variety of individual choice;
  - f. Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and
  - g. Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.
2. The city recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment. (Ord. 3774-20 § 5(X) (Exh. 3), 2020.)

### **19.43.260 Notice—Statute of limitations.**

- A. The city, applicant for, or proponent of an action may publish a notice of action under RCW [43.21C.080](#) for any action.



B. The form of the notice shall be substantially in the form provided in WAC [197-11-990](#). The notice shall be published by the city clerk or proponent pursuant to RCW [43.21C.080](#). Use of a notice of action shall not be construed to reopen an appeal period if a party previously failed to exhaust its administrative remedies. (Ord. 3774-20 § 5(X) (Exh. 3), 2020.)

### **19.43.320 Third party liability.**

A. This chapter provides for and promotes the health, safety and welfare of the general public, and does not create or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this chapter.

B. Nothing contained in this chapter is intended to be nor shall be construed to create or form the basis for any liability on the part of the city, its officers, employees or agents, for any injury or damage resulting from the failure of any applicant to comply with the provisions of this chapter, or by reason or in consequence of any inspection, notice, order, certificate, permission or approval authorized or issued or completed in connection with the implementation or enforcement pursuant to this chapter or by reason of any action or inaction on the part of the city related in any manner to the enforcement of this chapter by its officers, employees or agents. (Ord. 3774-20 § 5(X) (Exh. 3), 2020.)

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**19.45.010 Director of planning and community development duties.**

The director of planning and community development shall make an annual report to the city council in January of each year on the status of the zoning code and map. (Ord. 1671-89, 1989.)

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[City Website: www.everettwa.gov](http://www.everettwa.gov)

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## Chapter 19.50

### SMALL PROJECT IMPACT FEE

#### Sections:

<b>19.50.010</b>	<b>Title, authority, and purpose.</b>
<b>19.50.020</b>	<b>Location of definitions and usage.</b>
<b>19.50.030</b>	<b>When a transportation impact fee is required.</b>
<b>19.50.040</b>	<b>Credit for improvements and nonduplication of mitigation.</b>
<b>19.50.050</b>	<b>Option to prepare traffic analysis.</b>
<b>19.50.060</b>	<b>Administrative procedures and appeals.</b>
<b>19.50.065</b>	<b>Fee exemptions.</b>
<b>19.50.070</b>	<b>Application to projects currently underway.</b>
<b>19.50.080</b>	<b>Projects in core area.</b>
<b>19.50.090</b>	<b>Interpretation and implementation.</b>

#### **19.50.010 Title, authority, and purpose.**

A. *Title.* The ordinance codified in this chapter may be referred to or cited as the small project impact fee ordinance, or “SPIFO,” and will be referred to herein as “this chapter.”

B. *Purpose and Authorization.* The purpose of this chapter is to implement the city’s comprehensive plan including its transportation and capital facility elements. This chapter enables the city to collect impact fees from proposed projects that generate additional traffic and are not subject to the city’s transportation mitigation ordinance (TMO) (Chapter [19.51](#) EMC). The fees adopted under this chapter are authorized by and in accordance with the provisions of RCW [82.02.050](#) through [82.02.090](#). (Ord. 3774-20 § 5(Y) (Exh. 3), 2020.)

#### **19.50.020 Location of definitions and usage.**

This chapter adopts by reference the definitions contained in RCW [82.02.090](#). For terms not defined therein, this chapter adopted by reference the definitions used and contained in EMC [19.51.180](#). (Ord. 3774-20 § 5(Y) (Exh. 3), 2020.)



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**19.50.030 When a transportation impact fee is required.**

A project that is not subject to TMO and will generate ten or more average daily vehicle trips is required to pay a transportation impact fee as defined in EMC [19.51.100\(D\)](#), except as otherwise provided in this chapter. The fee assessed under this chapter is and shall be based on a method of calculation that takes into account the factors specified by RCW [82.02.060](#). There shall be one service area for purposes of this chapter; however, within the core area as defined in EMC [19.51.180](#), trip generation shall be calculated as provided in EMC [19.50.080](#). (Ord. 3774-20 § 5(Y) (Exh. 3), 2020.)

**19.50.040 Credit for improvements and nonduplication of mitigation.**

- A. A person required to pay an impact fee for system improvements under this chapter shall not be required to pay a fee under RCW [43.21C.060](#), TMO, or any other development regulation for those same system improvements.
- B. The city traffic engineer shall take into consideration and give fair credit for an applicant's contribution to transportation system improvements for facilities identified in the capital facilities plan that address some or all of a proposed project's approval related to the proposed project. The city traffic engineer shall also take into consideration and give fair credit for the contributions made by the subject property owner or his/her predecessor(s) in interest under any transportation funding device, such as a local improvement district (LID), transportation benefit district (TBD), development agreement, or similar mechanism. Any claim for credit made later than the time of application for a building permit shall be deemed to be waived.
- C. The prohibition on duplication limits the city from requiring an applicant to pay more than once for a transportation improvement to address the same environmental impact. It is not a duplicative requirement for an applicant to pay an impact fee for system improvements and to pay for or install transportation improvements that are otherwise authorized by law, provided these different mitigation obligations do not address the same, specific environmental impact resulting from the project.
- D. Agreements may provide for credit for future improvements if the city and applicant agree that the applicant is implementing transportation improvements beyond those required under this chapter. (Ord. 3774-20 § 5(Y) (Exh. 3), 2020.)



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**19.50.050 Option to prepare traffic analysis.**

In order to allow the impact fee to be adjusted to consider unusual circumstances in specific cases to ensure that impact fees are imposed fairly or to calculate an adjustment in the standard fee for a particular development that permits consideration of studies and data submitted by the applicant, the applicant has the option of preparing a traffic analysis at his expense to provide a basis for an adjustment in the standard fee. The traffic analysis shall meet the specifications for a traffic analysis called for in EMC [19.51.060](#) through [19.51.080](#) and as published in the standards and specifications manual, or as otherwise approved by the city traffic engineer. (Ord. 3774-20 § 5(Y) (Exh. 3), 2020.)

**19.50.060 Administrative procedures and appeals.**

A. RCW [82.02.070](#) and [82.02.080](#) are hereby adopted by reference into this chapter as the administrative procedures for collection and refunding of impact fees under this chapter.

B. Payment of all transportation impact fees shall be made prior to building permit issuance, except as provided in subsection [\(C\)](#) of this section.

C. The deferral of transportation impact fees shall be allowed only for single-family attached and detached construction being constructed by an applicant having a contractor registration number or other unique identification number and in accordance with the following:

1. For this subsection:
  - a. "Applicant" includes an entity that controls, is controlled by, or is under common control with the applicant.
  - b. "Common control" means two or more entities controlled by the same person or entity.
  - c. "Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity, whether through the ownership of voting shares, by contract, or otherwise.
2. An applicant wishing to defer the payment of transportation impact fees shall:



- a. Submit a signed and notarized deferred fee application and completed lien form concurrent with the building permit application for the building subject to the fee; and
- b. Submit a certification that the applicant has requested no more than a total of twenty deferred impact fee requests in the calendar year within the city; and
- c. Pay a nonrefundable two hundred fifty dollar administration fee for each unit or lot of a single development project for which the deferral of the fee is requested.

Beginning January 1, 2018, and each January 1st thereafter, this fee shall be adjusted in accordance with the most recent change in the Consumer Price Index (CPI) or other official measurement of inflation used by the city. If the change in the CPI or other official measurement of inflation used by the city indicates an increase of less than one percent since the last adjustment of the fees listed herein, there shall be no increase for that year. At such time that the change in the CPI or other official measurement of inflation used by the city for one or more years indicates an increase of one percent or more since the last adjustment of the fees, the cumulative percentage increase since the last adjustment of fees shall be applied.

3. The lien shall:

- a. Be in a form approved and provided by the city;
- b. Be signed by all owners of the property, with all signatures acknowledged as required for a deed;
- c. Include the legal description, property tax account number, and address for each lot or unit the lien will encumber;
- d. Be binding and subordinate on all successors in title after the recording;
- e. Be junior and subordinate to a first mortgage for the purpose of construction upon the same real property granted by the person who applied for the deferral of impact fees, but in no case shall the lien be in less than second place.

4. The lien shall be recorded by the applicant, at their own expense, and a conformed copy of the recorded document shall be provided to the city prior to the issuance of the building permit that is subject to the transportation impact fee.



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5. Each applicant eligible to defer impact fees shall only be entitled to annually receive deferrals for no more than a total of twenty building permits within the city.
  6. The applicant shall be responsible for the payment of all recording fees.
  7. The deferred transportation impact fee shall be paid in full prior to whichever of the following occurs first:
    - a. Issuance of a certificate of occupancy;
    - b. The closing of the first sale of the property occurring after the issuance of the applicable building permit for which the fees were deferred; or
    - c. Eighteen months from the date of building permit issuance.
  8. If the building for which the deferral of the transportation impact fee is requested is located within a subdivision, unit lot subdivision or short subdivision, the subdivision, unit lot subdivision or short subdivision shall be recorded prior to recording the lien for impact fees and issuance of the building permit.
  9. After the applicant has paid all deferred transportation impact fees, the applicant is responsible for submitting a lien release application to the city. The applicant, at their own expense, will be responsible for recording lien releases.
  10. Compliance with the requirements of the deferral option shall constitute compliance with subdivision or short subdivision conditions pertaining to the timing of the transportation impact fee payment.
  11. If deferred transportation impact fees are not paid in accordance with terms authorized by state law and this section, the city may initiate foreclosure proceedings for the unpaid transportation impact fees and all costs associated with the collection of the unpaid transportation impact fees.
  12. A request to defer transportation impact fees under this section may be combined in one application with a request to defer school impact fees under EMC [19.52.090](#).
- D. All fees collected under this chapter shall be obligated or expended on public facilities that are addressed by an adopted capital facilities plan element of a comprehensive land use plan. If fees are earmarked for a specific project, and the city determines that it is not feasible to
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implement that project within six years (or such other time period established pursuant to RCW [82.02.070\(3\)](#) on public facilities intended to benefit the development activity for which the impact fees were paid), the fees may be expended or encumbered on a replacement project that provides similar or greater improvement to the transportation system.

E. The city engineer or designee shall be the official responsible for preparing the annual reports required under RCW [82.02.070](#).

F. An applicant's commitment to specific performance to construct a transportation improvement, including any bonds or financial assurance associated with the improvement, shall not be considered a fee under this chapter, regardless of whether a monetary value has been assigned to the improvement in the traffic analysis or other project review documents or agreements.

G. An applicant may appeal the city traffic engineer's determination of the impact fee required under this chapter by following the administrative appeal procedures for the underlying development approval. If there are no administrative appeal procedures for the underlying development approval, the appeal shall follow the administrative appeal procedures in EMC [15.02.060](#) and [15.02.600](#) for the appeal of minor administration decisions. (Ord. 3774-20 § 5(Y) (Exh. 3), 2020.)

### **19.50.065 Fee exemptions.**

A. The city may, on a case-by-case basis, grant exemptions to the application of the transportation impact fee for new low income housing units in accordance with the conditions specified under RCW [82.02.060\(2\)](#). To qualify for the exemption, the developer shall submit an application to the planning and community development director for consideration by the city prior to application for building permit. Conditions for such approvals shall meet the requirements of RCW [82.02.060\(2\)](#), which includes payment of the fee from public funds other than the fee for transportation improvement account. In addition, any approved exemption will require a covenant that will assure the project's continued use for low income housing. The covenant shall be an obligation that runs with the land upon which the housing is located, and shall be recorded against the title of the real property.



B. The city may, on a case-by-case basis, grant a partial exemption of not more than eighty percent of transportation impact fees, with no explicit requirement to pay the exempted portion of the fee from public funds, for low income housing units, pursuant to the following:

1. The mayor, or designee, may grant an exemption to a low income housing project for each low income unit.
2. The decision to grant, partially grant or deny an exemption shall be based on the public benefit of the specific project, the extent to which the applicant has sought other funding sources, the financial hardship to the project of paying the transportation impact fees, the impacts of the project on public facilities and services, and the consistency of the project with adopted city plans and policies relating to low income housing.
3. An exemption granted under this subsection (B) must be conditioned upon requiring the developer to record a covenant approved by the director of planning and community development that prohibits using the property for any purpose other than for low income housing. At a minimum, the covenant must address price restrictions and household income limits for the low income housing, and require that, if the property is converted to a use other than for low income housing as defined in the covenant, the property owner must pay the applicable transportation impact fees in effect at the time of any conversion. Covenants required by this subsection must be recorded with the Snohomish County auditor.
4. For purposes of this section, low income housing is defined as any housing with a monthly housing expense that is no greater than thirty percent to fifty percent of the median family income adjusted for family size for Everett, as reported by the United States Department of Housing and Urban Development. (Ord. 3774-20 § 5(Y) (Exh. 3), 2020.)

### **19.50.070 Application to projects currently underway.**

This chapter applies to a subsequent phase of a project for which an application for project level review of the subsequent phase has not been deemed complete as of the effective date of the ordinance codified in this chapter. If a mitigation commitment has been made but has not been fully met by an applicant, the applicant is required to fulfill the commitment and, in addition, may be responsible for complying with the traffic study and mitigation requirements



of this chapter. Nothing in this chapter shall be construed to contravene the authority of the responsible official to require or withdraw a SEPA threshold determination as provided in WAC [197-11-310](#) and [197-11-340\(3\)\(a\)](#). (Ord. 3774-20 § 5(Y) (Exh. 3), 2020.)

### **19.50.080 Projects in core area.**

For projects within the core area, the fee shall be calculated by using seventy-five percent of project trip generation using the ITE Trip General Manual. If an applicant feels that this results in an overestimate of traffic from their site they have the option to hire a traffic engineer to justify a greater credit based on reasonable trip generation assumptions and analysis of TDM measures.

For purposes of this chapter, the core area is defined in EMC [19.51.180](#). (Ord. 3774-20 § 5(Y) (Exh. 3), 2020.)

### **19.50.090 Interpretation and implementation.**

- A. This chapter shall be liberally construed to achieve the purposes set forth in EMC [19.50.010](#).
- B. Nothing in this chapter shall affect the ability of the city to require nonduplicative mitigation of transportation impacts, including collection of fees, under other ordinances and development regulations.
- C. Except as specifically provided in EMC [19.50.070](#), the enactment of this chapter shall not affect any case, proceeding, appeal, or other matter in any court or before the city or in any way modify any obligation, right or liability, civil or criminal, which may be in existence on the effective date of the ordinance codified in this chapter or as may exist by virtue of any of the ordinances herein superseded or repealed.
- D. This chapter is intended to provide for and promote the health, safety and welfare of the general public, and is not intended 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 chapter. It is the specific intent of this chapter to place the obligation of complying with its requirements upon the applicant.



It is the specific intent of this chapter that no provision nor any term used in this chapter is intended to impose any duty whatsoever upon the city or any of its officers or employees, for whom the implementation and enforcement of this chapter shall be discretionary and not mandatory.

Nothing contained in this chapter is intended to be nor shall be construed to create or form the basis for any liability on the part of the city, or its officers, employees or agents, for any injury or damage resulting from the failure of an applicant to comply with the provisions of this chapter, or by reason or in consequence of any inspection, notice, order, certificate, permission or approval authorized or issued or done in connection with the implementation or enforcement pursuant to this chapter, or by reason of any action or inaction on the part of the city related in any manner to the enforcement of this chapter by its officers, employees or agents.

E. The city traffic engineer may interpret the requirements of this chapter on a case-by-case basis, consistent with the purposes set forth in EMC [19.50.010](#). The city traffic engineer and responsible official are authorized to promulgate rules and regulations consistent with the terms of this policy. (Ord. 3774-20 § 5(Y) (Exh. 3), 2020.)

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## **EXHIBIT C – FORM OF MITIGATION AGREEMENT**

[attached]



**INTERLOCAL AGREEMENT  
BETWEEN  
CITY OF EVERETT AND HOUSING AUTHORITY OF THE CITY OF EVERETT REGARDING  
MITIGATION OF PARK DISTRICT POLICE AND FIRE SERVICE IMPACTS**

This Interlocal Agreement Regarding Mitigation of Park District Police and Fire Service Impacts ("**Mitigation Agreement**") is dated as of last signature below and is between CITY OF EVERETT, a Washington municipal corporation (the "**City**") and the HOUSING AUTHORITY OF THE CITY OF EVERETT, a body corporate and politic of the State of Washington (the "**EHA**") (individually a "**Party**" and collectively the "**Parties**").

**RECITALS**

A. The EHA controls property located in the Delta neighborhood of north Everett containing approximately 16 acres of land. This property is currently owned by EHA Park District LLC, a Washington limited liability company wholly owned by EHA.

B. This property was first developed in the 1940s as public housing, known as Baker Heights, to support war efforts. Baker Heights was decommissioned in 2019, and the site has been vacant since that time.

C. The EHA wishes to develop the property legally described in Exhibit A to this Mitigation Agreement with a planned development called the Park District (such development, the "**Park District**"; such legally described property, the "**Property**"). The Property will be conveyed to EHA before construction and portions of the Property may subsequently be conveyed to others, either in fee or via lease.

D. The EHA has requested, and the City is approving, a development agreement for the Park District on the Property, which is being executed by the parties contemporaneously with this Mitigation Agreement (the "**Development Agreement**").

E. The City issued a Final Environmental Impact Statement on February 5, 2024 (the "**FEIS**") regarding the Park District pursuant to the requirements of the State Environmental Policy Act ("**SEPA**") chapter 43.21C RCW and pursuant to chapter 19.43 EMC.

F. With respect to police services, the FEIS states that, using a ratio of one police staff per 434 population, the Park District will create a new demand for approximately 8 full time equivalent (FTE) police staff (commissioned and civilian) at an average household size of 2.43 residents per dwelling unit. See FEIS, pages 1-22, 5-1.

G. With respect to fire services, the FEIS states that the Park District will create a new demand for up to 15.6 FTE firefighters and associated equipment and firefighting apparatuses at an average household size of 2.43 residents per dwelling unit. See FEIS, page 5-3 to 5-4.

H. In EMC 19.43.230, the City adopted "specific policies to achieve the environmental goals of the Everett community." The policy for police and fire is EMC 19.43.230B.4.a, which states the City's specific policy is to "encourage and approve development only where adequate public services, including fire and police protection, are available or will be made available to serve the proposal."



I. In accordance with EMC 19.43.230, the City published an EIS Addendum on July 9, 2024, to provide further information about the SEPA payments required to mitigate the financial costs of the services, equipment, and station described in Recitals F and G above, in order to ensure that adequate fire and police protection are available to serve the Park District.

J. Based on the analysis in the FEIS and the EIS Addendum, and consistent with EMC 19.43.230 and EMC 19.43.240, the purpose of this Mitigation Agreement is to provide, pursuant to SEPA and the Interlocal Cooperation Act (chapter 39.34 RCW), for mitigation payments to address the impact of the Park District on City police and fire services.

### **AGREEMENT**

The Parties agree as follows:

#### **SECTION 1: SEPA MITIGATION PAYMENTS**

EHA will make mitigation payments to the City as set forth in this Section 1 (collectively, “**SEPA Mitigation Payments**”):

A. Calculation of SEPA Mitigation Payments. Beginning on the date of this Mitigation Agreement, and continuing for as long as this Mitigation Agreement is in effect, EHA will pay SEPA Mitigation Payments for each Park District Dwelling Unit as follows:

<b>Year</b>	<b>Police SEPA Mitigation Payment per Park District Dwelling Unit</b>	<b>Fire SEPA Mitigation Payment per Park District Dwelling Unit</b>
2024	\$103.06/year	\$126.92/year
2025 and each year after	Previous year’s payment, increased in accordance with Section 1.D.1 below	Previous year’s payment, increased in accordance with Section 1.D.2 below
A “ <b>Park District Dwelling Unit</b> ” for this Mitigation Agreement is a residential unit in the Park District (such as, for example, an apartment unit or a townhouse) that has a final certificate of occupancy issued after the date of this Mitigation Agreement; provided, however, that a residential unit is not a “Park District Dwelling Unit” if it is occupied by a household whose income at initial occupancy (determined in a manner consistent with determinations of lower -income families under Section 8 of the United States Housing Act of 1937, as amended) does not exceed (a) 60% of area median gross income, adjusted for household size, or (b) if such unit is located within a qualified low-income housing project utilizing the average income test under Section 42(g)(1)(C) of the Internal Revenue Code of 1986, as amended, the applicable imputed income limitation for such unit designated under such section. The average of the imputed income limitations designated shall not exceed 60% of area median gross income. As two of many possible examples of (b): (Example 1): if a qualified low-income housing project has ten units, with eight units without income restrictions, one unit with an income limitation at 50% AMI, and a second unit with an income limitation at 70% AMI, then the two income restricted units will not be Park District Dwelling Units so long as they are occupied in accordance with their income		



limitations, with the other eight units as Park District Dwelling Units. (Example 2): if a qualified low-income housing project has 100 units, with 50 units with an income limitation at 40% AMI and 50 units with an income limitation at 80% AMI, then all 100 units will not be Park District Dwelling Units so long as they are occupied in accordance with their income limitations.

No later than thirty (30) days after the end of each quarter, EHA will provide the City a list of Park District Dwelling Units, together with payment of the SEPA Mitigation Payments for the preceding quarter. EHA will provide any back-up information for EHA's calculation of the SEPA Mitigation Payments as reasonably requested by the City.

B. Credit for Tax Payments. Consistent with the SEPA analysis in the EIS Addendum, to the extent the City collects property tax under Title 84 RCW (or successor statute) or leasehold excise tax under Title 82.29A RCW (or successor statute) arising from Property, then the City will credit the amount so collected against SEPA Mitigation Payments due (such credits, "**Mitigation Credits**"). Unused Mitigation Credits may be carried forward from year-to-year for application against subsequent SEPA Mitigation Payments when due, but in no case will any credit under this Section 1.B result in any refund of tax collected by the City.

C. Cessation of Service. If the City ceases to provide fire or police service to the Property, then the SEPA Mitigation Payments for that service shall terminate. As an example, should a fire protection district assume responsibility for fire service for the Property while the City continues to provide police protection, the City shall no longer collect Fire SEPA Mitigation Payments, but the City may still collect Police SEPA Mitigation Payments.

D. Annual Increase in SEPA Mitigation Payments.

1. Police Service SEPA Mitigation Payment. Beginning January 1, 2025, the Police SEPA Mitigation Payment per Park District Dwelling Unit will increase each January 1 by the percentage increase in annual salary of a City Police Officer Second Class (or successor classification) from the previous calendar year to the current calendar year.

2. Fire Service SEPA Mitigation Payment. Beginning January 1, 2025, the Fire SEPA Mitigation Payment per Park District Dwelling Unit will increase each January 1 by the percentage increase in annual salary of a City Firefighter/Paramedic (or successor classification) from the previous calendar year to the current calendar year.

E. Fifteen-Year Waiver After Certificate of Occupancy. SEPA Mitigation Payments are waived for each Park District Dwelling Unit for fifteen years after issuance of the certificate of occupancy for that Park District Dwelling Unit. EHA will begin making Fire and Police SEPA Mitigation Payments for that Park District Dwelling Unit starting after the end of the fifteenth waiver year. If the end of the fifteenth waiver year occurs mid-calendar year, Fire and Police SEPA Mitigation Payments for that time period will be prorated based on a 365-day year.

F. Illustrative Calculations. Exhibit B to this Mitigation Agreement contains illustrative reference calculations of the payments required in this Section 1.



## SECTION 2. TRANSFER OF PROPERTY/RELEASE

A. EHA Responsible. Except as otherwise provided in Section 2.B below, EHA is solely responsible for payment of SEPA Mitigation Payments for all Property and the EHA is the sole recipient of Mitigation Credits arising from all Property.

B. Partial Release Due to Transfer. At such time as EHA or EHA Park District LLC or other transferor transfers the fee interest in the Property or a portion thereof, then the transferor will be released from any obligation to pay SEPA Mitigation Payments arising after the transfer date, so long as at the closing of such transfer the parties thereto (and the City, if necessary) execute and record an instrument reasonably acceptable to the City (which may be in the form of an amendment to this Mitigation Agreement or a new separate agreement for the transferred Property or in a form otherwise as the Parties may determine) that provides for the transferee to assume the obligation for payment of SEPA Mitigation Payments arising after the date of transfer from the transferred Property, and that provides for Mitigation Credits arising after the transfer date from the transferred Property to be credited to the transferee. In lieu of such assumption of obligations with respect to SEPA Mitigation Payments by the transferee, the Parties may instead jointly agree to release the transferred Property from this Mitigation Agreement.

## SECTION 3: GENERAL PROVISIONS

A. Administration. Each Party to this Mitigation Agreement shall serve as an administrator of this Mitigation Agreement for purposes of compliance with RCW 39.34.030 for each Party's respective actions in performance of this Mitigation Agreement. To the extent required by applicable law, each Party is responsible for financing and maintaining a budget for its activities under this Mitigation Agreement.

B. Duration/Termination. This Mitigation Agreement shall take effect when it has (i) been duly executed by both Parties, and (ii) as provided by RCW 39.34.040, either been filed with the County Auditor or posted on the Interlocal Agreements website of either Party. This Mitigation Agreement will remain in effect unless it is terminated in accordance with Section 2.B above. The EHA acknowledges that public services will need to be provided to the Property long after the expiration or termination of the Development Agreement, accordingly the Parties agree that this Mitigation Agreement does not terminate or expire when the Development Agreement terminates or expires.

C. Governing Law. The laws of the State of Washington, without giving effect to principles of conflict of laws, govern all matters arising out of or relating to this Mitigation Agreement.

D. Venue. The Parties shall bring any litigation arising out of or relating to this Mitigation Agreement only before the Snohomish County Superior Court.

E. Complete Agreement. Except for the Development Agreement, this Mitigation Agreement constitutes the entire agreement of the parties relating to the subject matter of this Mitigation Agreement. This Mitigation Agreement supersedes and replaces all other written or oral agreements thereto.



F. Amendment. No amendment to this Mitigation Agreement will be effective unless in writing and signed by the Mayor of the City Everett and by an authorized representative of EHA. If Property is transferred under Section 2.B with an instrument for the assumption of obligations, that instrument will provide for how the obligations thereunder may be amended.

G. Waiver. No waiver of satisfaction of any condition or nonperformance of an obligation under this Mitigation Agreement will be effective unless it is in writing and signed by the party granting the waiver, and no such waiver will constitute a waiver of satisfaction of any other condition or nonperformance of any other obligation.

H. Severability. If any provision of this Mitigation Agreement is unenforceable to any extent, the remainder of this Mitigation Agreement, or the application of that provision to any persons or circumstances other than those as to which it is held unenforceable, will not be affected by that unenforceability and will be enforceable to the fullest extent permitted by law.

I. Notice. For a notice under this Mitigation Agreement to be valid, it must be in writing and the sending party must use one of the following methods of delivery: (A) personal delivery to the address stated below; (B) first class postage prepaid U.S. Mail to the address stated below; or (C) nationally recognized courier to the address stated below, with all fees prepaid.

Notice to City	Notice to EHA
Planning Director City of Everett 2930 Wetmore Ave Everett, WA 98201	Executive Director Everett Housing Authority 3107 Colby Avenue Everett, WA 98201

A party may change its address by delivering written notice to the other party of the new address.

J. No Third-Party Beneficiaries. The provisions of this Mitigation Agreement are for the sole benefit of the parties to this Mitigation Agreement. No other persons have any rights or remedies under this Mitigation Agreement.

K. Compliance with the Washington State Public Records Act. The parties acknowledge they are subject to the Public Records Act, chapter 42.56 RCW. Both parties shall cooperate with each other so that each may comply with all of its obligations under the Public Records Act.

L. Recording of this Agreement. This Mitigation Agreement or memorandum thereof shall be recorded with the Snohomish County Auditor against the Property. Notwithstanding the foregoing, neither this Mitigation Agreement nor any obligation to pay SEPA Mitigation Payments under this Mitigation Agreement shall constitute a lien or charge upon any Property.

M. Ownership of Property. Except as may be expressly provided to the contrary in this Mitigation Agreement, any real or personal property used or acquired by either party in



connection with its performance under this Mitigation Agreement will remain the sole property of such party, and the other party shall have no interest therein.

N. No Joint Venture. Nothing contained in this Mitigation Agreement shall be construed as creating any type or manner of partnership, joint venture or other joint enterprise between the parties.

O. Remedies. If the EHA fails to pay any SEPA Mitigation Payment properly due and owing in accordance with this Agreement and such SEPA Mitigation Payment remains unpaid more than 90 days after written notice thereof is provided by the City to the EHA, the City may: (1) institute any proceeding at law or equity, including without limitation an action to compel specific performance by the EHA of its obligations to pay SEPA Mitigation Payments hereunder, and/or (2) the City may refuse to issue Property permits and approvals (including without limitation building permits and certificates of occupancy) so long as such SEPA Mitigation Payment remains unpaid.

P. No Separate Entity Necessary. The parties agree that no separate legal or administrative entities are necessary to carry out this Mitigation Agreement.

Q. Signatures. This Agreement is signed by the Parties with AdobeSign, which is fully binding.

***[SIGNATURES ON FOLLOWING PAGE]***



**CITY:**

City of Everett,  
a Washington municipal corporation

By: \_\_\_\_\_

Cassie Franklin, Mayor

Attest:

\_\_\_\_\_

Office of the City Clerk

STATE OF WASHINGTON       )  
  ) ss.  
COUNTY OF SNOHOMISH    )

This record was acknowledged before me on \_\_\_\_\_ by Cassie Franklin as the Mayor  
of the City of Everett, a Washington municipal corporation.

[Stamp Below]

\_\_\_\_\_  
*Signature*  
Notary Public in and for the State of Washington  
My Commission Expires \_\_\_\_\_



**EHA:**

HOUSING AUTHORITY OF THE CITY OF EVERETT,  
a body corporate and politic of the State of  
Washington

By: \_\_\_\_\_

Mary Swenson, Interim Executive Director

STATE OF WASHINGTON        )  
  ) ss.  
COUNTY OF SNOHOMISH     )

This record was acknowledged before me on \_\_\_\_\_ by Mary Swenson as the Interim  
Executive Director of the Housing Authority of the City of Everett, a body corporate and politic of the State  
of Washington.

*[Stamp Below]*

\_\_\_\_\_  
*Signature*

Notary Public in and for the State of Washington

My Commission Expires \_\_\_\_\_



**EXHIBIT A TO MITIGATION AGREEMENT**  
**PROPERTY LEGAL DESCRIPTION**

THAT PORTION OF THE PLAT OF BAKER HEIGHTS, ACCORDING TO THE PLAT THEREOF  
RECORDED IN VOLUME 14 OF PLATS, PAGE 111, IN SNOHOMISH COUNTY, WASHINGTON,  
BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL OF BLOCK 1, BLOCK 2, BLOCK 3, BLOCK 4 AND BLOCK 5 OF SAID PLAT OF BAKER HEIGHTS;

TOGETHER WITH ANY PORTION OF VACATED STREET THAT WOULD ATTACH BY OPERATION OF  
LAW PER ORDINANCE NO. 1034-84, RECORDED UNDER RECORDING NO. 8610130077, IN  
SNOHOMISH COUNTY, WASHINGTON.

TOGETHER WITH THE PORTIONS OF LARCH, HEMLOCK, AND FIR STREETS VACATED BY  
ORDINANCE NO. 4036-24

PARCEL B:

LOT 2, BINDING SITE PLAN NO. BSP 20-004, RECORDED MARCH 2, 2021 AS RECORDING NO.  
202103245015, IN SNOHOMISH COUNTY, WASHINGTON.



**EXHIBIT B TO MITIGATION AGREEMENT**  
**ILLUSTRATIVE CALCULATIONS**

This example calculates SEPA Mitigation Payments due for two hypothetical Park District buildings, which have 100 Dwelling Units each. Building A receives its certificate of occupancy on February 6, 2026, and Building B on February 6, 2032. These illustrations assume no Mitigation Credits. **These examples are based on illustrative percentage salary increases from year-to-year for the purposes of demonstrating calculation methodology, and do not reflect what actual SEPA Mitigation Payments will be. Actual SEPA Mitigation Payments will require use of actual year-to-year salary percentage increase information.**

Year	Illustrative Year-to-Year Salary Increase for Police Officer Second Class	Illustrative Year-to-Year Salary Increase for Firefighter/ Paramedic	Result of Formula for Police SEPA Mitigation Payment per Park District Dwelling Unit (Agreement Section 1A)	Result of Formula for Fire SEPA Mitigation Payment per Park District Dwelling Unit (Agreement Section 1A)	Total SEPA Mitigation Payments Due from EHA for Example Building A  = (Fire payment per unit + Police payment per Unit) X 100 units	Total SEPA Mitigation Payments Due from EHA for Example Building B  = (Fire payment per unit + Police payment per Unit) X 100 units
2024			\$103.06*	\$126.92*	None for 2024, because no certificate of occupancy	None for 2024, because no certificate of occupancy
2025	3% increase from 2024 to 2025	4% increase from 2024 to 2025	\$106.15	\$132.00	None for 2025, because no certificate of occupancy	None for 2025, because no certificate of occupancy
2026	3% increase from 2025 to 2026	4% increase from 2025 to 2026	\$109.33	\$137.28	None for 2026, because no certificate of occupancy (prior to 2.6.26) and waiver (2.6.26 to 12.31.26)	None for 2026, because no certificate of occupancy



2027	3% increase from 2026 to 2027	4% increase from 2026 to 2027	\$112.61	\$142.77	None for 2027, because of waiver	None for 2027, because no certificate of occupancy
2028	1% increase from 2026 to 2027	2% increase from 2026 to 2027	\$113.74	\$145.63	None for 2028, because of waiver	None for 2028, because no certificate of occupancy
2029	2% increase from 2028 to 2029	2% increase from 2028 to 2029	\$116.01	\$148.54	None for 2029, because of waiver	None for 2029, because no certificate of occupancy
2030	1% increase from 2029 to 2030	2% increase from 2029 to 2030	\$117.17	\$151.51	None for 2030, because of waiver	None for 2030, because no certificate of occupancy
2031	1% increase from 2030 to 2031	3% increase from 2030 to 2031	\$118.34	\$156.06	None for 2031, because of waiver	None for 2031, because no certificate of occupancy
2032	1.5% increase from 2031 to 2032	3% increase from 2031 to 2032	\$120.12	\$160.74	None for 2032, because of waiver	None for 2032, because no certificate of occupancy (prior to 2.6.32) and waiver (2.6.32 to 12.31.32)
2033	4% increase from 2032 to 2033	3% increase from 2032 to 2033	\$124.92	\$165.56	None for 2033, because of waiver	None for 2033, because of waiver
2034	4% increase from 2033 to 2034	3% increase from 2033 to 2034	\$129.92	\$170.53	None for 2034, because of waiver	None for 2034, because of waiver
2035	7% increase from 2034 to 2035	4% increase from 2034 to 2035	\$139.02	\$177.35	None for 2035, because of waiver	None for 2035, because of waiver



2036	7% increase from 2035 to 2036	6% increase from 2035 to 2036	\$148.75	\$187.99	None for 2036, because of waiver	None for 2036, because of waiver
2037	0.5% increase from 2036 to 2037	0.5% increase from 2036 to 2037	\$149.49	\$188.93	None for 2037, because of waiver	None for 2037, because of waiver
2038	1% increase from 2037 to 2038	1% increase from 2037 to 2038	\$150.99	\$190.82	None for 2038, because of waiver	None for 2038, because of waiver
2039	2% increase from 2038 to 2039	2% increase from 2038 to 2039	\$154.01	\$194.63	None for 2039, because of waiver	None for 2039, because of waiver
2040	0% increase from 2039 to 2040	2% increase from 2039 to 2040	\$154.01	\$198.53	None for 2040, because of waiver	None for 2040, because of waiver
2041	3% increase from 2040 to 2041	2% increase from 2040 to 2041	\$158.63	\$202.50	Waiver until 2.6.41; then total SEPA Mitigation Payments for remainder of 2041 = \$32,451.67, which is the 2.7.41 to 12.31.41 proration of \$36,112.38	None for 2041, because of waiver
2042	2.75% increase from 2041 to 2042	2.75% increase from 2041 to 2042	\$162.99	\$208.07	Total SEPA Mitigation Payments for 2042 = \$37,105.47	None for 2042, because of waiver
2043	1.75% increase from 2042 to 2043	2.75% increase from 2042 to 2043	\$165.84	\$213.79	Total SEPA Mitigation Payments for 2043 = \$37,962.88	None for 2043, because of waiver



