

APPENDIX A ZONING*

SECTION 1. Districts.

For the purposes of this ordinance, the City of Everett is hereby divided into eight (8) classes of districts, as follows:

Dwelling Districts

Apartment Districts

Business Districts

Industrial Districts

Business Limited Districts

Industrial Limited Districts

Telecommunications Overlay District

River Front Overlay District

Lower Broadway Economic Development District (Ord. Of 4-29-91) (Ord. Of 10-22-1999)(Ord. of 9-23-2004) (Ord. of 11-2013)

The boundaries of each of these districts are hereby established as indicated on a map Entitles “the Zoning Map”, of the City Of Everett, Massachusetts, dated February, 1926, which accompanies and is hereby declared to be a part of this ordinance. These districts boundary lines are intended to follow lot lines as they existed at the time of passage of this ordinance, but where any such boundary line obviously does not follow such lot lines, it shall be deemed to de one hundred (100) feet back from the nearest street line it is drawn parallel, unless otherwise dimensioned on the zoning map.

SECTION 2. Definitions.

For the purposes of this ordinance, a lot is defined as a parcel of ground under one (1) sole or undivided ownership separate from that of any adjoining lots. A corner lot for the purposes of this ordinance is any lot which occupies the interior angle at the intersection of two (2) street lines which make an angle of more than forty-five (45) degrees and less than one hundred thirty-five (135) degrees with each other. The owner shall, for the purposes of this ordinance, have the privilege of calling either street lot line the front, without reference to the building arrangement. A street is any existing street, square, lane, terrace, court, place or way set aside as a permanent right-of-way for street purposes, and including any such right-of way as may be created after the enactment of this ordinance provided that it is forty (40) feet or more in width.

- **Editor’s Note**—Printed herein is the building zone ordinance of City of Everett adopted by the city on August 2, 1926, as amended through September 23, 2004. Amendments to the original ordinance adopted since January, 1976, are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision derives unchanged from the ordinance as amended since January, 1976. A uniform system of punctuation and capitalization has been used. Obvious misspellings have been corrected without notation and material in brackets [] has been added for clarity. The map referred to in Section 1 of this Appendix is not printed herein, but is on file in the office of the City Clerk.

Cross references—Buildings and building regulations, Ch. 4; fire prevention and protection, Ch. 8; flood damage prevention, Ch. 9 streets and sidewalks, Ch. 17.

State law reference—Authority of cities as to zoning, M.G.L.A. c. [40A](#).

A public garage is any garage for three (3) or more motor vehicles. One (1) horse and wagon shall be considered to be the equivalent of one (1) motor vehicle.

The height of a building or structure shall be measured from the curb level at the center of the front of the building, or where not adjoining the street, from the average natural ground level adjoining the building, up to the highest level of the main roof thereon. No story shall be deemed a first story if its floor level is more than nine (9) feet above the ground.

Frontage:

(1) The distance measured as a straight line along the street between the intersection of the street boundary and the lot lines or along the curve of the street and the intersection of the street boundary and the lot lines.

(2) The distance measured parallel to the intersection of the street boundary and the lot lines at a distance of twenty-five (25) feet measured on a line perpendicular to the line between the intersection of the street boundaries and the lot lines (Ord. of 6-29-87)

Front Yard. The shortest distance measured from the closest point of the building to the nearest point of the intersection of the street boundary and the lot lines. (Ord. of 6-29-87)

Side Yard. The shortest distance measures from the closest point of the building to the nearest point of a lot boundary line which is not designated a front or rear yard boundary line. (Ord. of 6-29-87)

Rear Yard. The shortest distance measured from the closest point of the building to the nearest point of a lot boundary line which is not considered a front or side yard boundary line. (Ord. of 6-29-87)

Floor Area Ratio. The result of dividing the gross floor area of the building or buildings on a lot by the total area expressed as a decimal number. (Ord. of 6-29-87)

(End of Section)

SECTION 3. General Requirements.

A. Except as hereinafter specified, no building, structures or premises or part thereof shall hereafter be used, and no building or part thereof or other structure shall be constructed, reconstructed, extended, enlarged, or substantially altered, except in conformity with the regulations herein prescribed for the district in which it is located.

B. The provisions of this ordinance shall not apply to any existing buildings or structures, nor to the existing use of any building, structure or premises as long they remain unchanged.

C. Existing non-conforming structure or uses may be extended or altered, provided that such extension, alteration or change of use shall be permitted only upon the grant of a Special Permit by the zoning board of appeals after a public hearing and a finding by the board that such extension, alteration or change of use shall not be substantially more detrimental to the neighborhood than the existing non-conforming use or structure. (Ord. of 4-29-91)

D. No non-conforming use, if once changed to a use permitted in the district in which it is located shall never be changed back to a non-conforming use. No non-conforming use or structure which has been abandoned or not used for a period of two (2) years or more shall be resumed or replaced by any other non-conforming use or structure. (Ord. of 4-29-91)

E. Alteration, reconstruction, extension or structural change to a single, two or three family non-conforming, residential structure shall be permitted provided such change does not increase the non-conforming nature of said structure. (Ord. of 6-29-87; Ord. of 4-29-91)

F. Pre-existing, non-conforming structures or uses may be extended, altered or changed in use, providing that such extensions, alterations or changes of use shall be permitted only upon the grant of a Special Permit by the Zoning Board of Appeals and after a public hearing, a finding by the Board that such extension, alteration or change of use shall not be substantially more detrimental to the neighborhood than the existing non-conforming use or structure. (Ord. of 4-29-91)

G. Except for a one, two or three family dwellings, a non-conforming use damaged or destroyed by fire, flood, earthquake, war, riot, or by an Act of God, or an act of the public enemy to the extent of less than seventy-five (75) percent of its reproduction value at the time of such occurrence shall be reconstructed and used as before such calamity provided that a building permit, where required, is obtained and such work started within three (3) years of the date of such occurrence and the work of restoration of the use is completed within two (2) years of the date of the issuance of the building permit. (Ord. of 4-29-91)

H. With reference to the provisions of section 29, Chapter 93, General Laws, no billboard, sign or other advertising device, subject to the rules and regulations of the Commonwealth of Massachusetts, Outdoor Advertising Board, shall be erected or maintained in any district. This restriction shall not apply to such billboards, signs, or other advertising devices, in existence on January 1, 1985, and for which licenses have been issued by said outdoor advertising board in accordance with the provisions of Chapter 93 and Chapter 93D, General Laws. (Ord. of 6-29-87; Ord. 4-29-91)

I. Any application for zoning approval for any residential use which provides more than three (3) dwelling units or any other use which produces more than five hundred (500) gallons per day of sewage flow when calculated in accordance with the flow estimates of CMR (Mass. Sewer System Extension and Connection Permit Program) Section 7.15 shall require an impact report to be filed with and approved by the Building Inspector, the Department of City Services and the City Engineer, which shall show the total flow; the size, material and slope of all pipes; the ability of the system to carry the flow; locations of manholes and other appurtenances, and invert elevations. (Ord. 6-29-87; Ord. of 4-29-91; C0031-14)

- J. Any applications for zoning approval for use which produces an impermeable surface of more than thirty (30) percent of the lot area of that use shall require an impact report to be filed with and approved by the Building Inspector, Department of City Services and the City Engineer, which shall show the total surface flow, the means of providing the drainage, the method of disposal and if connected to the municipal storm sewer system, shall show the size, material and slope of all pipes; the ability of the system to carry the flow; locations of manholes and other appurtenances, and invert elevations. The provision shall not apply to any application to residential dwellings, three (3) units or less, in dwelling, apartment and business districts. (Ord. of 6-29-87; Ord. 4-29-91; C0031-14)
- K. Providing the total floor area for any building located in more than one zoning district does not exceed the total of the floor areas for each separate zone, then the building shall not be required to comply with the floor area ratio of the individual zone providing furthermore that the building complies with all other dimensional requirements within each zone in which it is located. (Ord. of 4-29-91)
- L. Nothing herein contained shall prevent the strengthening or restoring to a safe condition of any part of a building which shall have been declared unsafe by the Inspector of Buildings of from complying with these lawful requirements. (Ord. 4-29-91)
- M. Any lot, which is to be occupied for residential purpose shall have a frontage of at least twenty (20) feet wide on one or more streets and there shall be not more than one (1) structure of the type permitted for each such lot. (Ord. of 4-11-88; Ord. of 4-29-91)
- N. No lot shall hereafter be subdivided so as to reduce the area of any yard, court or open space to less than is required by this Ordinance for the lot involved, but such yard or court may include one-half of the width of an alley, railroad right of way, body of water, or another permanently open space along which it extends. (Ord. of 4-29-91)
- O. Construction or operations under a building or special permit shall conform to any subsequent amendment of this ordinance unless the use or construction is commenced within a period of not more than six (6) months after the permit and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as reasonable. (Ord. of 4-29-91)
- P. Up to three (3) dwelling units shall be prohibited except by the grant of a Special Permit by the Zoning board of Appeals in the Business, Business Limited, Industrial and Industrial Limited Districts. (Ord. of 4-29-91)
- Q. The City of Everett shall be exempt from the provisions of the Building Zone Ordinance in the exercise of its municipal functions. (Ord. of 4-29-91)

(End of Section)

SECTION 3A. Second Class Motor Vehicles

- A. Definition. Second class Motor Vehicles shall mean used motor vehicles, and shall include, but not limited to automobiles, trucks, buses and motorcycles.
- B. No license to sell second class motor vehicles shall be granted by the city council for less than four (4) motor vehicles. The city council is the licensing authority. (C0031-14)
- C. Lot Size. The minimum lot size shall be 5,000 square feet.
- D. Frontage. The lot shall have frontage on an accepted street of a minimum of forty (40) feet.
- E. Front Yard. There shall be a minimum front yard of ten (10) feet measured from the street line, one half (five feet) of which shall be landscaped in accordance with Section 20.C.3 of the Zoning Ordinances. This area cannot be used for vehicle parking.
- F. Side Yard. The side yard shall be a minimum of ten (10) feet, unless the lot abuts a lot used for residential purposes, in which case the side yard shall be a minimum of twenty-five (25) feet.
- G. Rear Yard. The rear yard shall be a minimum of twenty-five (25) feet.
- H. Access. The lot shall have an access road a minimum of eighteen (18) feet wide from an accepted street to allow ingress and exiting at the same time.
- I. Building. The lot shall have a permanent building with toilet facilities. The building shall contain at least one (1) repair bay with a floor area of not less than two hundred fifty (250) square feet.
- J. Parking. For every four vehicles for sale, there shall be two (2) parking spaces for the exclusive use by customers. The maximum number of customer parking spaces required is ten (10). There shall be a minimum of three (3) parking spaces for employee parking.

K. Signs. Signs shall be limited to those allowed below and shall be subject to the following provisions.

1. Wall Signs: Individual wall signs identifying on-site tenants shall not exceed one hundred twenty (120) square feet in area on any wall and the total wall area of all wall signs on a building shall not exceed three hundred sixty (360) feet in area.
2. Free Stranding Signs: Free standing signs identifying on-site tenants shall not be more than a total of twenty-four (24) square feet in area, shall be set back at least ten (10) feet from any lot line, and the total height above grade shall not exceed four (4) feet.
3. Sign Restrictions: No sign shall have moving parts or flashing or alternating lighting. No sign shall be attached to or located above any roof surface.
4. Accessory Signs: Accessory signs required to provide directions or information shall not exceed six (6) square feet in area and may be located on walls or at grade.

L. No other business licensed by the city council shall be conducted on the licensed premises except for a first class motor dealer's license. (C0031-14)

(End of Section)

SECTION 3B. Auto Body Shops

- A. Definition. Autobody shall mean motor vehicles, and shall include, but limited to automobiles, trucks, buses and motorcycles.
- B. The city council is the licensing authority. (C0031-14)
- C. Lot Size. The minimum lot size area shall be 8,000 square feet.
- D. Frontage. The lot shall have frontage on an accepted street of a minimum of forty (40) feet.
- E. Front Yard. There shall be a minimum front yard of ten (10) feet measured from the street line, one half (five feet) of which shall be landscaped in accordance with Section 20.C.3 of the Zoning Ordinances. This area cannot be used for vehicle parking.
- F. Side Yard. The side yard shall be a minimum of ten (10) feet, unless the lot abuts a lot used for residential purposes, in which case the side yard shall be a minimum of twenty-five (25) feet.
- G. Rear Yard. The rear yard shall be a minimum of twenty-five (25) feet.
- H. Access. The lot shall have an access road a minimum of eighteen (18) feet wide from an accepted street to allow ingress and exiting at the same time.
- I. Building. The lot shall have a permanent building with toilet facilities. The building shall contain at least one (1) repair bay with a floor area of not less than two hundred fifty (250) square feet.
- J. Parking. There shall be two (2) parking spaces for the exclusive use by customers. There shall be a minimum of three (3) parking spaces for employee parking. For each repair bay over two (2) there shall be one (1) parking space provided on the lot for vehicles waiting for, or that have had recently completed work.
- K. Signs. Signs shall be limited to those allowed below and shall be subject to the following provisions.

1. Wall Signs. Individual wall signs identifying on-site tenants shall not exceed one hundred twenty (120) square feet in area on any wall and the total wall area of all wall signs on a building shall not exceed three hundred sixty (360) square feet in area.
2. Free Stranding Signs: Free standing signs identifying on-site tenants shall not be more than a total of twenty-four (24) square feet in area, shall be set back at least ten (10) feet from any lot line, and the total height above grade shall not exceed four (4) feet.
3. Sign Restrictions: No sign shall have moving parts or flashing or alternating lighting. No sign shall be attached to or located above any roof surface.
4. Accessory Signs: Accessory signs required to provide directions or information shall not exceed six (6) square feet in area and may be located on walls or at grade.

L. No other business licensed by the city council shall be conducted on the licensed premises except for a first class motor dealer's license. (C0031-14)

(End of Section)

SECTION 3C. Auto Repair Shops

- A. Definitions. Auto Repair shall mean motor vehicles, and shall include, but not limited to automobiles, trucks, buses and motorcycles.
- B. The city council is the licensing authority. (C0031-14)
- C. Lot Size. The minimum lot size area shall be 8,000 square feet.
- D. Frontage. The lot shall have frontage on an accepted street of a minimum of forty (40) feet.
- E. Front Yard. There shall be a minimum front yard of ten (10) feet measured from the street line, one half (five feet) of which shall be landscaped in accordance with Section 20.C.3 of the Zoning Ordinances. This area cannot be used for vehicle parking.
- F. Side Yard. The side yard shall be a minimum of ten (10) feet, unless the lot abuts a lot used for residential purposes, in which case the side yard shall be a minimum of twenty-five (25) feet.
- G. Rear Yard. The rear yard shall be a minimum of twenty-five (25) feet.
- H. Access. The lot shall have an access road a minimum of eighteen (18) feet wide from an accepted street to allow ingress and exiting at the same time.
- I. Building. The lot shall have a permanent building with toilet facilities. The building shall contain at least one (1) repair bay with a floor area of not less than two hundred fifty (250) square feet.
- J. Parking. There shall be two (2) parking spaces for the exclusive use by customers. There shall be a minimum of three (3) parking spaces for employee parking. For each repair bay over two (2) there shall be one (1) parking space provided on the lot for vehicles waiting for, or that have had recently completed work.
- K. Signs. Signs shall be limited to those allowed below and shall be subject to the following provisions.
1. Wall Signs. Individual wall signs identifying on-site tenants shall not exceed one hundred twenty (120) square feet in area on any wall and the total wall area of all wall signs on a building shall not exceed three hundred sixty (360) square feet in area.
 2. Free Stranding Signs: Free standing signs identifying on-site tenants shall not be more than a total of twenty-four (24) square feet in area, shall be set back at least ten (10) feet from any lot line, and the total height above grade shall not exceed four (4) feet.
 3. Sign Restrictions: No sign shall have moving parts or flashing or alternating lighting. No sign shall be attached to or located above any roof surface.
 4. Accessory Signs: Accessory signs required to provide directions or information shall not exceed six (6) square feet in area and may be located on walls or at grade.
- L. No other business licensed by the city council shall be conducted on the licensed premises except for a first class motor dealer's license. (C0031-14)

(End of Section)

SECTION 4. Dwelling Districts.

A. Uses. Within any dwelling district as indicated on the zoning map, no building, structure or premises shall be used and no building or structure shall be erected which is intended or designed to be used in whole or in part for any industry, trade, manufacturing, or commercial purposes, or for other than the following specified purposes:

1. A single or double semi-detached dwelling existing at the time of the first enactment of the Zoning Ordinance may be converted to provide not more than a total of three (3) dwelling units provided that the following standards are met:

Any addition shall comply with the front, side and rear yard requirements and height limitations of the Zoning Ordinance.

Where the existing building is already non-conforming, any alteration shall not increase the existing non-conformity. Parking in accordance with this Zoning Ordinance shall be provided for any additional dwelling units. (Ord. of 4-29-91)

2. The offices of a doctor, dentist or other member of a recognized profession, teacher or musician residing on the premises; provided there is no display or advertising except for a small professional name plate.
3. Customary home occupations, such as dressmaking or millinery or the leasing of rooms or the taking of boarders, conducted by owner occupants only; provided there is no display or advertising visible from outside, except for an

announcement card or sign of not more than two (2) feet square area, and that such uses be confined to not over one-third of the total floor area occupied by each family.

4. Schools, except private vocational schools, public libraries, fire stations, art museums, churches, parish houses and Sunday School buildings, membership clubs and social and recreational buildings and premises, park, water supply reservations, soldiers and sailors memorial buildings, except those chief activity of which is one customarily carried on as a gainful business.
5. Real estate signs, referring only to the premises or tract on which they are located, and having an area not exceeding eight (8) square feet.
6. Truck gardens and greenhouses, provided that any greenhouse heating plant shall be distant not less than twenty (20) feet from any street or lot line.
7. Hospitals, not for the insane or feeble-minded; provided that no building be within thirty (30) feet of any street or lot line.
8. Public or charitable institutional buildings not of a correctional nature, providing that no building thereon be within thirty (30) feet of any street or lot line.
9. Railroad or street railroad passenger stations or rights-of-way including customary accessory services therein; not including switching, storage, or freight yards or sidings.
10. Cemeteries, including any crematory therein, which is not within a distance of thirty feet of any street or lot line.
11. Telephone central buildings without garages or yards for service or storage.
12. A garage in which no business, service or industry is conducted is permitted but only on the same lot with a principal building to which it is accessory. On any such lot, such garage space may be provided for two (2) motor vehicles, and for one (1) additional motor vehicle for each two thousand (2,000) square feet by which the area of the lot exceeds three thousand (3,000) square feet. However, garage space for one (1) motor vehicle may be provided in any case for each family for which residence is arranged on the lot. Not more than one (1) such vehicle shall be a commercial vehicle, and it shall not exceed two and one-half, (2 ½) tons capacity. In such a garage, space shall not be leased to non-residents for a commercial vehicle, nor for more than one (1) vehicle of any kind for each resident on the lot. Such a conforming garage may be erected on the lot previous to the erection of a principal building on the same lot but where thus erected earlier than the principal building the garage shall be so placed on the lot as not to prevent the eventual practicable and conforming location of the principal building. Community or group garages: which may be permitted on the otherwise vacant lot, shall only be permitted in the Dwelling District upon the grant of a Special Permit by the Zoning Board of Appeals. There shall be no service for gain to other the owners or tenants of such garages. No such garage shall conduct a repair shop. (Ord. of 4-29-91)
13. Agriculture, horticulture or floriculture and the expansion or reconstruction of existing structures thereon for the primary purpose of agriculture, horticulture or floriculture. (Ord. of 4-29-91)
14. Temporary mobile home placed on the site of a residence destroyed by fire or other holocaust, for the purpose of providing temporary shelter while the residence is being rebuilt, but not to exceed twelve (12) months. (Ord. of 4-29-91)
15. The following uses shall only be permitted in the Dwelling District upon the grant of a Special Permit by the Zoning Board of Appeals:
 - a. Uses, whether or not on the same parcel as activities permitted as a matter of right, accessory to activities permitted as a matter of right, which activities are necessary in connection with scientific research or scientific development or related production. The Zoning Board of Appeals may grant such permit provided that it finds that the proposed accessory use does not substantially derogate from the public good.
 - b. Community or group garages which may be permitted on an otherwise vacant lot. There shall be no service for gain to other than the owners or tenants of such garages. No such garages shall conduct a repair shop.
16. Open-air markets of any type shall be prohibited. The sale of used household goods by residential occupants on their premises, normally referred to as garage sales, shall be allowed providing that such sale not continue for a period of more than seven (7) days in any year, except by Special Permit of the Zoning Board of Appeals. (Ord. of 4-29-91)
17. Conversion of Dwelling. No new dwelling unit created by the conversion of an existing dwelling shall be permitted unless the requirements of minimum lot area and off street parking are satisfied for all dwelling units in existence and proposed in the dwelling after the conversion or enlargement. (Ord. 02-046 of Oct. 22, 2003)

B. Dimensional Requirements.

1. Frontage:

- a. 50 (Fifty) Feet minimum

Residential lots in existence prior to the passage of this ordinance shall be exempt from The frontage requirement in this ordinance for a period of five (5) years from the date of passage of this ordinance, but shall conform to the requirements in effect prior to passage of this ordinance (Note: 30 feet Minimum) (Ord. of 6-29-87; Ord. of 7/16/2002 Ord. 11/13/2007)

2. Lot Area:

- a. Single Family Dwelling ---5500 Square Feet
b. Two Family Dwelling-----7000 Square Feet

Residential lots in existence prior to the passage of this ordinance shall be exempt from the lot size in this ordinance for a period of five (5) years from the date of passage of this ordinance, but shall conform to the requirements in effect prior to passage of this ordinance (Note: 30 feet Minimum)

(Please note former requirements)

- i. Single family dwelling---2800 square feet minimum
ii. Two family dwelling-----3200 square feet minimum
iii. All other uses-----0.5 maximum floor area ratio (Ord. of 6-29-87; Ord. of 4-29-91 Ord. of 7/16/2002; Ord. of 11/13/2007)

3. Height:

- a. No structure shall exceed the average height of buildings within two-hundred (200) feet of the lot, exceed three stories, or exceed a height of forty-five (45) feet maximum.
i. Not applicable to church spires, belfries, cupolas, chimneys, radio and flag poles, water tanks or hose towers are not more than fifty (50) percent higher than the average height of the roof of the main structure. (Ord. of 6-29-87; Ord. of 4-29-91; Ord. of 11/13/2007)

4. Front Yard:

Twenty (20) feet minimum except where the average front yard of a least two (2) buildings on the same side of the street and within two hundred (200) feet of the lot are less than twenty (20) feet, and the front yard may be equal to the average of those buildings but not less than ten (10) feet. Porches may encroach ten (10) feet onto the required front yard. Stairs shall be excluded from any front yard restrictions. (Ord. of 6-29-87)

5. Corner Lots:

Seven (7) feet minimum on one (1) side of the corner. (Ord. of 6-29-87)

6. Side Yard:

- a. Four (4) feet minimum with a total of sixteen (16) feet
b. Garages and sheds—Two (2) feet minimum (Ord. of 6-29-87)

7. Rear Yard:

- a. Twenty-five (25) feet minimum, except for open decks and porches which may encroach into the required rear yard providing that in no case shall the rear yard be less than fifteen (15) feet measured to any part of the porch or deck.
b. Garages and sheds---four (4) feet minimum.
c. Swimming pools-----Six (6) feet minimum from any lot line. (Ord. of 6-29-87; Ord. of 4-29-91)

(End of Section)

SECTION 5. Apartment Districts.

A. Uses. In any apartment district, as indicated on the Zoning map, no building, structure or premises shall be used and no building or structure shall be erected which is intended or designed to be used in whole or in part for any industry, trade, manufacturing or commercial purposes or for other than one of the following specified purposes:

1. Any use specified above in section 4 as permitted in dwelling districts.
2. Detached apartment or tenement houses.
3. Hotels and lodging houses, dormitories, providing there is no display or advertising visible from the street except for a small name sign.
4. The following uses shall only be permitted in the Apartment District upon the grant of a Special Permit by the Zoning Board of Appeals:

- a. Uses, whether or not on the same parcel as activities permitted as a matter of right, accessory to activities permitted as a matter of right, which activities are necessary in connection with scientific research or scientific development or related production. The Zoning Board of Appeals may grant such permit provided that it finds that the proposed accessory use does not substantially derogate from the public good. (Ord. Of 4-29-91)

5. Open air markets of any type shall be prohibited. The sale of used household goods by residential occupants on their premises, normally referred to as garage sales, shall be allowed providing that such sale shall not continue for a period or more than seven (7) days in any year, except by Special Permit of the Zoning Board of Appeals. (Ord. of 4-29-91)

B. Dimensional Requirements.

1. Residential dwelling units, except one or two family units, which will be subject to Section 4, Dimensional requirements.

- a. Frontage:

Forty (40) feet plus five (5) feet per unit up to seventy (70) feet maximum required.

- b. Four thousand (4,000) square feet plus one thousand (1,000) square feet per unit up to a total of ten (10) units, then five hundred (500) square feet per unit for all units in excess of ten (10) units. (Ord. of 6-29-87)

2. All other residential: Floor area ratio, 1 to 1 maximum (Ord. of 6-29-87)

3. All other uses: Floor area ratio, 1 to 1 maximum (Ord. of 6-29-87)

4. Height:

Four (4) stories, not to exceed sixty (60) feet maximum. Penthouses shall not be subject to four-story limitations provided the total height of the building including penthouses does not exceed sixty (60) feet. Total floor area of church spires, belfries, cupolas, chimneys, radio and flag poles, water tanks, hose towers and penthouses shall not exceed in aggregate twenty-five (25) percent of the floor area of the first floor, and provided that such church spires, belfries, cupolas, chimneys, radio and flag poles, water tanks and hose towers, penthouses and shall not be more than fifty (50) percent higher than the average height of the roof of the main structure. (Ord. of 6-29-87; Ord. of 4-11-88)

5. Front Yard:

- a. Twenty (20) feet minimum of which ten (10) feet shall be used for landscaping.

- b. Corner lots, seven (7) feet minimum on one (1) side of corner. (Ord. of 6-29-87)

6. Side Yard:

- a. Ten (10) feet minimum up to and including three (3) stories and forty-five (45) feet in height.

- b. Twelve (12) feet minimum for four (4) stories and over forty-five (45) feet in height. (Ord. of 6-29-87)

7. Rear Yard:

Twenty-five,(25) feet minimum. (Ord. of 6-29-87)

8. Accessory Building:

Shall be located only within the rear yard and shall occupy not more than thirty-three (33) percent of the rear yard area and shall not exceed two (2) stories and/or twenty (20) feet in height nor be located any closer than seven (7) feet from any lot line. (Ord. of 6-29-87)

9. Inground Swimming Pools:

Six (6) feet minimum form any lot line. (Ord. of 6-29-87)

(End of Section)

SECTION 6. Business Districts.

A. Uses. In any business district, as indicated on the Zoning map, buildings and premises may be used in any part for any purpose herein before permitted in any dwelling or apartment district and also for any store or stand or other structure where goods are sold or service rendered, primarily at retail, also for any public building, places of amusement or assembly, restaurant, bank or office, also for any stable, garage or filling station under limitations hereinafter prescribed.

1. Wholesale merchandising incidental and subordinate to a primary retail business shall be permitted.
2. Manufacturing, producing, processing, fabricating, printing, converting, altering, finishing or assembling is permitted to cover on all floors together not more than one-half the area of the lot or on a scale requiring not more than a total of five (5) horsepower or steam pressure in excess of fifteen (15) pounds gauge pressure, and no use prohibited in section 7 below shall be permitted.
3. Gas shall not be stored in quantities exceeding five hundred (500) cubic feet; nor in quantities exceeding fifty (50) cubic feet if the pressure is greater than one hundred (100) pounds per square inch; or within ten (10) feet of any street line or party lot line, except in the case of gas contained or generated in fire extinguishers.
4. No junk yard is permitted.
5. The operation of electric lighting and power stations, gas works and steam laundries, and any use prohibited in industrial districts is not permitted.
6. No public garage shall use machinery except as an incidental accessory to automobile storage not shall it have any part of its shop on the first floor within twenty (20) feet of any entrance or exit for vehicles. No commercial work on motor vehicles shall be done out of doors, except that emergency repairs may be made in a public street in the case of a breakdown.
7. There shall be no door or driveway for vehicles in connection with any public garage within fifty (50) feet of any dwelling or apartment district boundary line, nor shall any filling station or gas pump be located within such distances. No gasoline filling appliance shall be located within ten (10) feet of any street line or of any other property line unless it is within a building.
8. Special Exception:

The intent of this paragraph is to provide by special exception granted by the City Council, a mixture of residential apartments: retail trade and services, offices, off street parking, and accompanying accessory uses all within one structure that normally would be in harmony with the general purpose and intent of the requirements of the Business District except building height and area.

- a. Special exception may be granted only by the City council subject to the following regulations:
 1. Minimum lot area of 30,000 square feet and a minimum frontage of 200 feet.
 2. No building or structure shall be constructed unless the lot is at least ninety (90) percent within the Business District and the building completely within the Business District.
 3. Compliance with section 6, except building height and area, and Section 17.
 4. All uses to be within the same structure, provided all residential uses shall be located not lower than the second floor of the structure.
 5. City council conformation with Chapter 40A section 4,15,16,17 and 21, Massachusetts General Laws.

Uses specifically prohibited:

- a. Manufacturing and industrial.
 - b. Wholesale and warehousing.
 - c. Salvage and junk operations.
9. The following uses shall only be permitted in the business District upon the grant of a Special Permit by the Zoning board of Appeals:
- a. Uses, whether or not on the same parcel as activities permitted as a matter of right, accessory to activities permitted as a matter of right, which activities are necessary in connection with scientific research or scientific development or

related production. The Zoning Board of Appeals may grant such permit provided that it finds that the proposed accessory use does not substantially derogate from the public good.

10. Open air markets of any type, unless already regulated by City Ordinance, shall be prohibited except by Special Permit of the Zoning Board of Appeals. Open air markets which have been granted a Special Permit by the Zoning Board of Appeals shall be required to provide adequate parking, as outlined and required in Section 17, within five hundred (500) feet of the location of the market if the market is to remain open for a period in excess of one (1) day. (Ord. 4-29-91)

B. Dimensional Requirements.

1. Frontage:

- a. None required except for residential uses.
- b. Residential----Twenty (20) feet minimum. (Ord. of 6-29-87)

2. Lot Area:

- a. Residential----1.5 to 1 maximum floor area ratio.
- b. All other uses----2 to 1 maximum floor area ratio. (Ord. of 6-29-87)

3. Height:

- a. Four (4) stories, not to exceed sixty-five (65) feet maximum, but not applicable to church spires, belfries, cupolas, chimneys, radio and flag poles and gas holders, which shall not exceed thirty-three (33) percent of the floor area of the first floor, and provided that such church spires, belfries, cupolas, chimneys, radio and flag poles and gas holders shall not be more than fifty (50) percent higher than the average height of the roof of the main structure. (Ord. of 6-29-87; Ord. of 4-11-88)
- b. Domes, ornamental towers, observation towers, water towers, hose towers, penthouses, head houses, water tanks and scenery lofts may be built within the sixty-five (65) height and shall not be considered a story provided they do not exceed thirty-three (33) percent of the floor area of the first floor.

4. Front Yard:

None required, except when used for residential purposes there shall be a ten (10) foot minimum of which no less than five (5) feet shall be used for landscaping. (Ord. of 6-29-87)

5. Side Yard:

None required unless a lot line adjoins lot used for one or two family or three family dwelling use, in which case the side yard shall be not less than four (4) feet in width for a building proposed to be not more than thirty (30) feet in height; and seven (7) feet for buildings proposed to be more than thirty (30) feet in height. Where a side lot line serves as a boundary between dwelling and apartment districts, the side yard shall be a minimum of seven (7) feet in width, There shall be no projections allowed within the required side yards. (Ord. of 6-29-87)

6. Rear Yard:

Twenty-five (25) feet minimum unless the lot extends from one (1) street to another street, in which case no rear yard is required, except for any residential use which shall require a ten foot minimum. (Ord. of 6-29-87)

7. Accessory buildings:

Shall be located within the rear yard and shall occupy not more than thirty-three (33) percent of the rear yard and shall not exceed two (2) stories and twenty (20) feet in height nor be located closer than five (5) feet from the rear yard line. (Ord. of 6-29-87)

8. Corner Lot:

None required except seven (7) feet required when residential use. (Ord. of 6-29-87)

9. In-ground swimming pools:

Six (6) feet minimum from any lot line. (Ord. of 6-29-87)

(End of Section)

SECTION 7. Industrial Districts.

A. Uses. In any industrial district as shown on the Zoning Map, as most recently amended, any use shall be allowed except that the following shall be prohibited. Provided, however, that nothing in this section shall be construed as limiting the powers of the city council as now established by law. (C0031-14)

1. Uses which produce offensive odors, emissions, fumes, gases, or smoke, which produce noise or vibrations which are discernible beyond the limits of the property lines or which produce dust or waste on the exterior of the building.
2. Expansion of existing bulk storage or processing plants involving the use of flammable liquids, gases or solids, except upon the grant of a Special License by the city council. (C0031-14)
3. Industrial plants for the generation of power, steam or any other type of energy involving the use of solid fuel.
4. Any new bulk storage or processing plants involving the use of flammable or combustible liquids, gases or solids except upon the grant of a Special License by the city council. (Ord. of 4-29-91, C0031-14)

The following uses shall only be permitted in the Industrial District upon the grant of a Special Permit by the Zoning Board of Appeals:

1. Uses, whether or not on the same parcel as activities permitted as a matter of right, accessory to activities permitted as a matter of right, which activities are necessary in connection with scientific research or scientific development or related production. The Zoning board of Appeals may grant such permit provided that it finds that the proposed accessory use does not substantially derogate from the public good. (Ord. of 4-29-91)
2. Open air markets shall be allowed in the Industrial "Districts providing that no such operation is located within three hundred (300) feet of a Dwelling, Apartment, Business Limited, or Industrial Limited District, or a building used for any of the following purposes: hospitals, nursing home, school, cemeteries, religious worship, or residential. (Ord. of 4-29-91)

B. Dimensional Requirements:

1. Frontage:
 - a. None required except for residential uses.
 - b. Residential—Twenty (20) feet minimum. (Ord. of 6-29-87)
2. Lot Area:
 - a. 4 to 1 maximum floor area ratio. (Ord. of 6-29-91)
3. Height:

Six (6) stories, not to exceed one hundred (100) feet maximum. The height of church spires, belfries, cupolas, chimneys, and gasholders shall be limited to a maximum of one hundred fifty (150) feet. Domes, ornamental towers, observation towers, water towers, hose towers, penthouses, head houses, water tanks and scenery lofts which do not occupy an area exceeding twenty-five (25) percent of the floor area of the first story shall not be subject to any height limitations. (Ord. of 6-29-87; Ord. of 4-11-88; Ord. of 4-29-91)

4. Front Yard:

Except for residential uses, there shall be no front yard required when the street is forty (40) or more feet in width. For streets less than forty (40) feet in width there shall be a front yard of at least one (1) foot for every foot that the street is less than forty (40) feet in width. Portions of buildings or structures, except for residential uses, which are twelve (12) feet or more above the highest elevation of the ground along the adjacent sidewalk shall not require a front yard setback. Buildings, which contain residential uses shall require a front yard of at least ten (10) feet which no less than five (5) feet shall be used for landscaping. (Ord. of 6-29-87; Ord. of 4-29-91)

5. Side Yard:

None required unless lot line adjoins lot used for a one or two family or three family dwelling use, in which case the side yard shall be not less than ten (10) feet in width for a building proposed to be not more than thirty (30) feet in height; and twelve (12) feet for buildings proposed to be more than thirty (30) feet in height. Where a side lot line serves as a boundary between dwelling and apartment districts, the side yard shall be a minimum of seven (7) feet in width, There shall be no projections allowed within the required side yard. (Ord. of 6-29-87)

6. Rear Yard:

- a. None required except for residential uses.
- b. Residential –Twenty (25) feet minimum. (Ord. of 6-29-87)

7. Accessory Buildings:

Limited to two (2) stories and/or twenty (20) feet in height and shall not be located closer than fifteen (15) feet from the rear lot line when accessory to a residential use. (Ord. of 6-29-87)

8. Corner Lot:

Seven (7) feet required on one (1) side (Ord. of 6-29-87)

9. In-ground Swimming Pools:

Six (6) feet minimum from any lot lines (Ord. of 6-29-87)

(End of Section)

SECTION 8. Courts.

A. Wherever any room in which persons live, sleep or work, except stores and storage rooms, cannot be reasonably and exclusively lighted and ventilated from a street or from a side yard or rear yard as required above, a court conforming with the provisions of this section shall be required, on which such room shall open. A court is any open space on the lot other than a setback front yard, rear yard or side yard. An outer court is one, which extends to a street, a front yard or a rear yard. An inner court is any other court. The width of the court is its least horizontal dimension including the width or any open space within the lot on which its long side abuts.

B. No inner court shall have a length, which is less than twice its width. No outer court shall have a length, which is greater than four times its width. No court shall have an opening less than its width. No court need extend below the lowest story, which it is required to serve. Widths of courts shall not be less than as follows:

No. of stories Above the bottom Of the court	Required Width of Court			
	Residential Use		Nonresidential Use	
	Outer (feet)	Inner (feet)	Outer (feet)	Inner (feet)
1	5	9	4	7 ½
2	10	16	6	10
3	12	20	8	12 ½
4	14	24	10	15
5	16	28	12	17 ½
6	18	32	14	20

In any dwelling district or apartment district. No accessory building shall be permitted within any court.

C. Projections into yards and courts.

Except as herein specified, all yard and courts shall be open, unobstructed to the sky.

Cornices and eaves may project not more than three (3) feet over any front or rear yard; and over any side yard to an extent not exceeding one-third of the width of such yard or court and not exceeding two (2) feet except within five (5) feet of the front wall, where they may project in any case not more than three (30) feet. Sills, leaders, belt courses and ornamental features may project not more than six (6) inches into or over any yard or court. A bay window not exceeding ten (10) feet in width may project into a front, side or rear yard not more than three (3) feet and not more the one-third of the width of the side yard in any case and an open fire-escape may not thus project more than five (5) feet, provided neither shall project within five (5) feet of any side lot line.

(End of Section)

SECTION 9. Enforcement.

Before proceeding with any work of the kind specified in Section 3 of this ordinance, an application for a certificate of occupancy shall be filed with the Inspector of Buildings. Applications shall include plans in duplicate drawn to scale in ink or blueprint, giving dimensions, radii and angles of the lot, the heights, dimensions and locations thereon of all buildings whether existing or proposed, their existing and intended uses, the number of families to be housed and such other information as may be necessary

to determine and provide for the enforcement of this ordinance. One (1) copy of any such plans, if and when approved by the Inspector of Buildings, shall be returned to the applicant with such permit as may be granted.

(End of Section)

SECTION 10. Certificate of Occupancy.

It shall be unlawful to use any part of any building or structure hereafter erected, until a certificate of occupancy shall have been issued therefor by the Inspector of Buildings, showing that the proposed use and construction are in accordance with this ordinance. No permit for excavation or construction shall be issued by the Inspector until he is satisfied that the plans and intended use of the building conform to the provisions of this ordinance, when required in accordance with the Massachusetts State Building Code. (Ord. of 4-29-91)

No application for a certificate of occupancy shall be received by the Inspector of Buildings, relating to the manufacturing or processing of anything containing animal, poultry or vegetable matter, unless such application shall contain the written approval of the Board of Health.

(End of Section)

SECTION 11. Board of Appeals.

A. A Board of Appeals is hereby established in accordance with M.G.L., chapter 40A and shall consist of five (5) members who shall be citizens of Everett, and shall serve, one (1) for the term of one (1) year, one (1) for the term of two (2) years, one (1) for the term of three (3) years, one (1) for the term of four (4) years, and one (1) for the term of five years, and thereafter one (1) member shall be chosen annually for a term of five (5) years to succeed the member whose term expired. Members of the Board of Appeals shall be selected and appointed by the mayor, subject to confirmation by the city council. Vacancies shall be filled in the same manner as appointments.

The Board of Appeals shall have the following powers:

1. To hear and decide appeals in accordance with M.G.L., Chapter 40A, Section 8.
2. To hear and decide applications for Special Permits upon which the board is empowered to act under this Ordinance.
3. To hear and decided petitions for Variances as set forth in M.G.L., Chapter 40A, section 10, including variances for uses not permitted by this Ordinance.
4. To hear and decide appeals from decisions of a Zoning Administrator, if any, in accordance with M.G.L., Chapter 40A, section 13.

B. Associate members of the Board of Appeals may be selected and appointed by the mayor in the manner established by Section 11.A Above.

C. In exercising the powers granted by this section, a Board of Appeals may, in conformity with the provisions of M.G.L., Chapter 40A, make orders or decisions, reverse or affirm in whole or in part, or modify any orders or decisions, and to that end shall have all the powers of the officer from whom the appeal is taken and may issue or direct the issuance of a permit.

D. The Board of appeals shall annually elect a chairman from within its own membership and a clerk. (Ord. of 4-29-91)

(End of Section)

SECTION 12. Amendments.

The council may from time to time, after publishing notice and hearing, amend, supplement or change these regulations or districts as provided by statute. Upon petition of any party or parties interested, the city council may amend these regulations, after a public hearing has been held, notice of which shall be published at least thirty (30) days before the date of the hearing, at the expense of the petitioner, in some newspaper published in Everett.

(End of Section)

SECTION 13. Violations and Penalties.

Whoever shall violate any provision of this ordinance shall, for each offense, and for each and every day that such offense continues, be subject to a fine of not more than twenty dollars (\$20.00).

(End of Section)

SECTION 14. Validity.

The invalidity of any section or provision of this ordinance shall not invalidate any other section or provision thereof.

(End of Section)

SECTION 15. In Effect.

This ordinance shall take effect immediately upon passage and publication as provided by law.

(End of Section)

SECTION 16. Trailers and Mobile Homes.

A. For the prevention of fire and the preservation of health, safety, morals and general welfare, the location, use, parking, storage, and occupancy of "trailers" and "mobile homes" in the City of Everett is hereby regulated pursuant to the provisions of General Laws, chapter 40A, section 6, and chapter 143, section 3.

B. Definitions.

1. In this ordinance the term "trailer" or "mobile home" shall mean any of the various types of vehicles or structures which depend for mobility on an attached vehicle or other propelling apparatus, and which are used or equipped to be used for human or animal habitation, or for a business purpose, but excluding vehicles used for the transportation of materials and products. Any "trailer" or "mobile home" or similar structure from which the wheels are removed, whether or not it is anchored to a foundation, or supported by a foundation, or by incorporation into a fixed structure, or otherwise has its mobility reduced, shall be considered a building or dwelling and shall be subject to all laws applicable to buildings and structures.

2. Person shall mean and including any person, firm, partnership, association, corporation or any organization of any kind.

C. Occupancy or use. No person shall occupy or use a "trailer" or "mobile home" or similar structure for living or business purpose except in an approved trailer park established in accordance with the provisions of Chapter 140, General Laws, Commonwealth of Massachusetts. A "trailer" may be occupied and used as a construction office and related use for a period not exceeding ninety (90) days, subject to the approval of the inspector of buildings as location, facilities, etc. Additional extensions of time may be granted by the inspector of buildings if deemed necessary.

D. Parking.

1. Parking of trailers or mobile homes. No person shall park or store a trailer or mobile home or similar structure, on any premises in a dwelling district or apartment district as indicated on the Zoning Map, except in a garage, or so located as to be at least twenty (20) feet from any street line, and at least eight (8) feet from any building on the adjacent lot.

2. Parking of trailers or mobile homes. No person shall park or store a "trailer" or "mobile home" or similar structure, on any premises in a business district or industrial district, as indicated on the Zoning Map, except in a garage, or so located as to be at least twenty (20) feet from any street line, and at least eight (8) feet from any building on the adjacent lot.

3. No such parking or storing as provided in paragraphs 1 and 2 above shall permitted for a period in excess of eight (8) months in any twelve (12) month period.

E. No provision of the Zoning Ordinance, or any other ordinance or regulation pertaining to the location, use or construction of buildings or structures shall be nullified by the provisions hereof.

F. Whoever violates any of the provisions of this section shall be punished by a fine not exceeding twenty dollars (\$20.00) for each offense and to a like penalty for each day's continuance of such violation.

All ordinances or parts of ordinances in conflict with the foregoing are hereby repealed.

(End of Section)

SECTION 17. Off-Street Parking.

A. Off-street parking facilities shall be provided in accordance with the requirements as outlined below. Where the Term "gross square feet" is used, it shall mean the total occupiable floor area measured within the exterior walls of the building. (Original Ord. Of 2-26-1965, 6-29-87)

- | | | |
|----|---|-----------------------------|
| 1. | One and two family dwellings | 2 spaces per dwelling unit. |
| 2. | Multifamily dwellings | 2 spaces per dwelling unit. |
| 3. | Hotels, Motels, Lodging Houses, Rehabilitation Centers,
Halfway Houses and Hospitals | 1 space for each 2 beds |
| 4. | Nursing Homes, Rest Homes and Dormitories | 1 space for each 4 beds. |
| 5. | Restaurants | 1 space for each 4 seats. |
| 6. | Cocktail Lounge | 1 space for each 3 seats. |
| 7. | Places of Assembly. | |

Schools, Auditoriums Museums, Theaters and Cinemas 1 space for each room plus 1 space for each 3 persons designated for the largest single room occupancy.

7A.

Places of Assembly:

Churches, Synagogues and other Places of Assembly used as Places of Worship- 1 space for each room plus 1 space for each space for every 5 persons designated for the largest single room occupancy

8.

Office Use 1 space for each 500 gross square feet of use.

9.

Retail Use 1 space for each 300 gross square feet of use.

10.

Industrial 1 space for each 1,000 square feet of use.

11.

Warehouse 1 space for each 3,000 gross square feet of use.

12.

Quick Service, Fast Food, Drive-In Establishments 1 space for each 40 gross square feet of floor Area.

13.

Public Assisted Elderly and Handicapped Housing 0.5 spaces per unit.

(Ord. of 6-29-87)

B. Where there is more than one (1) use in a building, parking shall be required in accordance with the provisions for each use, and the total number of spaces shall be based on the sum of spaces for all such uses. (Ord. of 6-29-87)

C. No permit shall be issued by the inspector of buildings for the erection of a new building or structure subject to paragraph (A) or (B) of this section, or the substantial alteration or change of use of any building or structure which would result in said building or structure being subject to paragraph (A) or (B) of this section, unless the plans show the specific locations and size of the off street parking facilities to be provided in accordance with said paragraphs (A) or (B) of this section. (Ord. of 6-29-87)

D. Any existing business or industrial use which was previously in compliance with the requirements of the building zone ordinance for use and for parking shall not be subject to these requirements for parking, including any change of use to a use which also would be allowed in the same district.

E. In the event of the enlargement of a building or structure existing on the effective date of this ordinance, the regulation set forth in this section shall apply only to the area added and shall not apply to the existing portions of such buildings provided that the use of these portions remain unchanged.

F. Buildings in existence or for which building permits have been issued on the effective date of this ordinance shall not be subject to these parking requirements as long as the use of such buildings remain unchanged. However, any parking facilities thereafter established to serve such buildings may not in the future be reduced below the requirements specified in paragraph (A) or (B). One and two family dwellings constructed prior to 1988 shall not be subject to these requirements so long as the use remains unchanged. However, any driveway constructed thereafter to serve such building shall be designed so that no vehicle shall be parked closer to the street line than the existing building. (Ord. of 5-15-2000)

G. Where the computation of required parking spaces results in a fractional number, only the fraction of one-half (1/2) or more shall be counted as one (1).

H. Required off street parking facilities shall be provided on the same lot as the principal building they are required to serve with the exception that (in the case of new buildings) the required parking facilities may be provided on lots the entire area of which is located not more than two hundred (200) feet away from the building to be served providing such lots are located in a similar zoning district as the building to be served or a less restricted district.

I. Each required car space shall be not less than 9 feet in width and 18 feet in length exclusive of drives and maneuvering space, and the total area of any parking facility for more than five (5) cars shall average two hundred seventy-five (275) square feet per car. No driveways or curb cuts shall exceed thirty (30) feet in width. (Ord. 01-046/2001)

J. Parking facilities shall be designed so that each motor vehicle may proceed to and from the parking space provided for it without requiring the moving of any other motor vehicle. The Board of Appeals, however, may by special permit modify this requirement and the dimensional requirements of paragraph (I) of this section, where a parking facility is under full-time attendant supervision.

- K. Parking facilities shall be designed so that no vehicles shall be parked nearer to any street lines than the minimum specified building setback for the Zoning District in which the parking facility is located.
- L. All properties which abut such parking lots shall be protected from headlight glare by either:
1. A strip at least four (4) feet wide, densely planted with shrubs or trees which are at least four (4) feet high at the time of planting and which are of a type may be expected to form a year round dense screen at least six (6) feet high within three (3) years, or
 2. A wall, barrier, or fence of uniform appearance at least five (5) feet high, but not more than six (6) feet above finish grade, or above the roof level if on a roof. Such wall, barrier or fence may be opaque or perforated, provided that not more than fifty (50) percent of the face open.
 3. Such screening shall be maintained in good condition at all times, and shall not be permitted to exceed six (6) feet in height. Such wall, barrier or fence shall have no signs attached thereto or painted thereon other than those permitted in the district.
- M. No parking stall shall be located within eight (8) feet of any window of habitable rooms in the basement or first story level of any building.
- N. Off-street parking facilities as regulated by this section shall not be used for automobile sales, gasoline sales, dead storage, repair work (except emergency repairs), dismantling or servicing of any kind, and any lighting that is provided shall be installed in a manner that will prevent direct light from shining onto any street or adjacent property. Such facilities shall be designed and used so that as not to constitute a nuisance, or a hazard, or an unreasonable impediment to traffic.
- O. The design of parking lots for the parking of more than five (5) vehicles shall be submitted to the inspector of buildings for review and approval and shall be subject to the following requirements:
1. All plans shall be drawn to scale and show the existing and proposed lot contours, numbered parking spaces, loading docks, proposed method of ingress and egress, driveways and aisles, curb cuts existing and proposed, lighting, drainage, landscaping, setbacks, berms, curbing, fences and walkways and surface finish.
 2. The site shall be designed to drain surface water away from the site through approved catch basins and other approved means to prevent drainage onto other properties.
 3. The inspector of buildings shall examine the plans with respect to access, drainage, capacity, circulation, safety to pedestrians and vehicles using the facility and the adjoining street.
 4. Except for one and two family dwellings, parking shall be designed so that it is not necessary to drive over sidewalks or curbs or to back into the street or driveway.
 5. All parking areas shall have an access road with a minimum of eighteen (18) feet to Allow ingress and exiting at same time.
- P. Applications for more than eight (8) new parking spaces shall be subject to the approval by the Planning Board and the following requirements:
1. Applications shall be filed in accordance with the procedures of Section [19.B.1](#) through 8.
 2. In addition to the requirements of Section [19.B.1](#) through 8, the plans shall also be designed to comply with the requirements of Section [17.O.1.](#) through 5.
 3. A traffic study of an estimate of traffic generated and the circulation patterns shall be prepared by a qualified architect, engineer or consultant and submitted with the application. (Ord. of 4-29-91)
- Q. The preceding provisions of this section shall not apply to parking lots built and in use before the effective date of this ordinance except as follows:
1. Where parking lots are increased in capacity after the effective date of this ordinance, the expanded portion shall be designed in accordance with the provisions of this section.

[Note: Section 17 paragraphs (D) through (P) were changed to paragraphs (E) through (Q) by the Ordinance of June 29, 1987.]

Cross-reference—Parking, stopping and standing, § 18-131 et seq.

(End of Section)

SECTION 18. Interim Overlay District.

A. Purpose. The purpose of this section are declared to be:

1. To provided for the controlled and most appropriate development of the designated area during the period of time required to study and modify the Everett Building Zone Ordinance.
2. To ensure that the area is developed so that it will not adversely affect traffic circulation, traffic safety or pedestrian safety.
3. To ensure that public utilities will be adequate to service the area.
4. To ensure that the development of the area does not adversely affect residential areas in close proximity.

B. Interim overlay boundaries. The interim overlay district shall be bounded as follows:

Starting at the northeast corner of the intersection of the Boston and Maine Railroad right-of way and Broadway and extending southerly along the west side of Broadway to the southeast corner of the intersection of Broadway and Chemical Lane and extending along the northerly side of Chemical Lane 300 feet from the westerly side of Broadway, then on a line northerly to the easterly side of Charlton Street, then northerly along Charlton Street to the intersection of the Boston and Maine Railroad right-of-way, then along the Boston and Maine Railroad right-of-way to Broadway.

C. Regulations.

1. The interim Overlay District shall be in effect for a period of five (5) years from the date of adoption.
2. The effective period of the Interim Overlay District may be extended by a two-thirds (2/3) vote of the city council, but under no circumstances may the total period of extension exceed two (2) years. (C0031-14)
3. No building permit shall be issued within the Interim Overlay District without Site Plan approval by the Planning Board in accordance with section 19 of the Everett Building Zone Ordinance.

D. Use restrictions. A building permit shall not be issued for any of the following uses within the interim overlay district:

1. Power, gas or fuel generating facilities.
2. Open lot storage, handling or hauling of used materials including, but not limited to building materials, metal junk, scrap, paper, rags or motor vehicles.
3. Industrial operations, either outside or inside the building, which produce outside noxious odors, smoke, steam, or other emissions, or which produce industrial noise or require excessive use of large trucks or trailers or transfer of large amounts of industrial materials.
4. Open lot or enclosed storage of coal, coke, sand or similar materials.
5. Service stations, auto, truck or bus repair, auto, truck body repair, car washes, automobile, truck or bus service, motor freight terminal, truck showrooms or agencies for the sale of new or used trucks.
6. Storage and sale of building materials or machinery.
7. Manufacture, assembly, processing, packing or other industrial operations associated with medium to heavy industry which involves machining, welding, shearing, forging, stamping or similar operations.

E. Dimensional requirements. No building within the overlay district may be located closer than thirty (30) feet to the street lot line at the closest point.

Exception: Any lot whose least depth measures not more than one hundred fifty (150) feet measured perpendicular to the Broadway street line may deduct six (6) inches from the thirty (30) foot distance required by section (E), 1., for every foot that it is less than one hundred fifty (150) feet in depth measured perpendicular to the Broadway street line, providing, however, that no building may be located closer than twenty (20) feet from the Broadway street line.

F. Landscaping requirements. There shall be an area of landscaping along the front and side lot lines as follows:

1. Along the street lot line there shall be an area of landscaping at least ten (10) feet in width.
2. Along the side lot lines there shall be an area of landscaping at least five (5) feet wide.

G. Landscaping standards. Landscaping required for compliance with the provisions of the overlay district shall consist of trees and/or shrubs at least three (3) feet in height when planted, over at least sixty (60) percent of the landscaped area. The remaining forty (40) percent may be planted at any height.

H. Parking requirements. The following provisions shall regulate parking within the overlay district in addition to any other provisions of this ordinance.

1. There shall be no parking allowed within the thirty (30) foot, distance required by section (E) above.

Exception: Where landscaping in accordance with these provisions is provided which is at least twenty (20) feet in width along the street lot line, then a single line of parking spaces may be located between the building and the landscaping, arranged head in, at an angle or parallel to the building, with the total number of such spaces not to exceed fifteen (15) percent of the total required parking.

2. All required parking, except as provided above, shall be located at least fifty (50) feet, back from the street lot line.

Exception: Where there is at least five (5) square feet of landscaping provided, in accordance with section (G) above, evenly distributed through the parking area, for each required parking space, the parking may be located within thirty (30) feet of the street lot line, except as provided in paragraph (H) 1. Above.

I. Sign requirements. Signs within the overlay district shall be limited to those allowed below and shall be subject to the following provisions:

1. Wall signs: Individual wall signs identifying on-site tenants shall not exceed one hundred twenty (120) square feet in area on any wall and the total area of all wall signs on a building shall not exceed three hundred and sixty (360) square feet in area.
2. Free standing signs: Free standing signs identifying on-site tenants shall be not more than a total of twenty-four (24) square feet in area, shall set back at least ten (10) feet from any lot line, and the total height above grade shall not exceed four (4) feet.
3. Sign restrictions:
 - a. No sign within the overlay district shall have moving parts or flashing or alternating lighting.
 - b. No sign shall be attached to or located above any roof surface.
4. Accessory signs: Accessory signs required to provide directions or information shall not exceed six (6) square feet in area and may be located on walls or at grade, in accordance with the provisions of this section.

J. Exceptions. The following shall be exempt from the applications of this section

1. Repairs to existing structures.
2. Reconstruction in accordance with the building zone ordinance of any structure damaged by casualty.
3. Any plan which received, prior to the date of adoption of this section, preliminary subdivision approval from the planning board and/or for which an application for a special permit or variance was filed, provided that such special permit or variance is granted by the zoning board of appeals as the result of such application.
4. Construction or renovation of any dwelling units subsidized by the federal or state government for low or moderate income persons including the state chapter 667 program for the elderly, the state chapter 689 program for the disabled persons, the state chapter 705 programs for families, the State Housing Assistance for Rental Production (SHARP) Program, The State Tax Exempt Local Loans to Encourage Rental Housing (TELLER) Program, the State Home Ownership Opportunity Program, and any other federal, state, county or municipal programs which may be utilized for the production of, or restoration of housing for low or moderate income persons under the provisions of chapter 121B of the Massachusetts General Laws or other statute, regulation or by-law.

K. Severability. If any provisions of Section 18 is determined to be unenforceable or is found to be in conflict with State or Federal law, then that provision shall be severed from this section and the remaining portions shall remain in full force. (Ord. of 6-29-87)

(End of Section)

SECTION 19. Site Plan Review.

A. Purpose. For the purposes of protecting and promoting the health, safety, convenience and general welfare of the inhabitants of the city, promoting acceptable site planning practices and standards within the City of Everett and ensuring compliance with good zoning practices, notwithstanding any other provision of this ordinance to the contrary, no structure or premises exceeding five thousand (5,000) square feet in nonresidential gross building area or containing four (4) or more residential dwelling units

shall be constructed, reconstructed, enlarged, altered or used, except in accordance with a site plan submitted to and approved by the planning board in accordance with the request of this section.

B. Any application for approval of a site plan review under this section shall be accompanied by twelve (12) copies of a site plan, which shall be at a scale to be established by the planning board and, according to the size of the development, shall include twelve (12) copies of all information required for a definitive plan. The plan shall contain the following information:

1. Location and dimensions of all buildings and other construction;
2. Location and dimensions of all parking areas, loading areas, walkways and driveways;
3. Location and dimensions of internal roadways and accessways to adjacent public roadways;
4. Location and type of external lighting;
5. Location, type, dimensions and quantities of landscaping and screening;
6. Location and dimensions of utilities, gas, telephone, electrical, communications, water, drainage, sewer and other waste disposal;
7. Location of snow storage areas;
8. Location of all existing natural features, including ponds, brooks, streams and wetlands;
9. Topography of the site, with two-foot contours;
10. Conceptual drawings of buildings to be erected, including elevations, showing architectural styles.

Such site plan shall also be accompanied by a brief narrative, as requested by the planning board, addressing these site plan requirements and other appropriate concerns in the following defined categories.

11. Buildings;
12. Parking and loading;
13. Traffic flow and circulation;
14. External lighting;
15. Landscaping and screening;
16. Utilities;
17. Snow removal;
18. Natural area protection and enhancement;
19. Compatibility of the architecture of the proposed development with existing architecture of the surrounding area.

The planning board shall review such submitted information in accordance with accepted site planning standards and attempt to promote such standards and make certain that the development, if approved, takes place in a manner, which shall in all aspects be an asset to the city. The planning board shall request changes in such plans and information submitted to promote the quality of the development and its impact upon the health, convenience and general welfare of the inhabitants of the city. The planning board may also request, in their sole discretion, additional studies which may include but are not limited to, traffic, noise, and a comprehensive environmental studies. The planning board shall review and amend all such submitted plans in accordance with the following criteria:

20. Adequacy of the parking facilities and number of parking spaces proposed for each development;
21. Adequacy of loading facilities;
22. Adequacy of traffic circulation system;
23. Adequacy of access points and routes to and from the land parcel to adjoining streets and ways;
24. Adequacy of type and amount of external lighting to be provided on the parcel;
25. Adequacy of type, quality and quantity of landscaping to promote an aesthetically pleasing environment and to properly screen the development from adjacent land uses;

26. Adequacy of type, quality and quantity of vegetative screening to protect adjacent and nearby land parcels from structures not aesthetically pleasing or wholly compatible with such parcels;
27. Adequacy of the methods of disposal of sewage, refuse, and other waste;
28. Adequacy of the method of surface drainage across from the site;
29. Adequacy of the method of water distribution to and from the parcel and its structures;
30. Adequacy of pedestrian circulation systems to and from parking areas and structures;
31. Adequacy of protection or enhancement of natural areas;
32. Compatibility of the architecture of structures with the architecture of surrounding or nearby buildings.

C. The Planning Board shall, within seven (7) days after receipt of said application transmit one (1) copy of said application and plans to the inspector of buildings, city engineer, board of health, conservation commission and director of community development, who may at their discretion investigate the application and report in writing their recommendations to the planning board. The planning board shall not take final action on such plan until it has received a report thereon from the inspector of buildings, city engineer, board of health and conservation commission or until thirty-five (35) days have elapsed after distribution of such application without submission of a report. Notice of the filing of the application shall be given to the city clerk, fire department, police department, superintendent of streets and school department and further notice shall be given as required by the planning board, and a public hearing shall be held within sixty-five (65) days after filing of an application in accordance with Massachusetts General Laws, Chapter [40A](#).

D. Failure of the planning board to take final action upon an application within ninety (90) days, following the date of the final public hearing shall be deemed to be a grant of the approval applied for.

E. After a notice and public hearing as set forth above, the planning board, by a two-thirds (2/3) vote, may approve the plan provided that:

1. The proposed development shall properly screen itself, its buildings, structures and other construction with vegetative landscaping, earth berms, fencing or other appropriate screening as determined by the planning board.
2. To protect the quality of the surrounding area and environment, if such surrounding area is residential in nature, is land reserved for conservation use or is land which the board determines to be appropriate for such a requirement, a buffer zone shall exist along the property line within which no construction or destruction of land shall take place. The size of such zone shall be determined by the planning board according to the size of the proposed development, the land uses of the surrounding area, the aesthetic aspects of the development, and all impacts of the proposed development upon such surrounding areas which can be alleviated through such a buffer zone.
3. In specific instances where the planning board deems such to be appropriate, it shall assess the compatibility of the architecture of a proposed development with the architecture of the surrounding structures and land uses and may request alterations to the architecture of such proposed development to ensure compatibility.
4. The planning board may, in appropriate cases as it determined, impose further restrictions upon the development or parts thereof as a condition to granting the approval and may waive any defined restrictions.

F. In exercising its jurisdiction, the planning board shall conform to all requirements of procedure applicable under Massachusetts General Laws, Chapter [40A](#), as amended, and the Everett Zoning Ordinance.

G. Any approval granted hereunder shall lapse within two (2) years if substantial construction thereof has not commenced by such date except for good cause.

H. Site Plan Review Fee: A fee of \$1,500.00 or \$.10/square foot, whichever is greater, will be imposed for site plan review.

(End of Section)

SECTION 20. Business Limited District.

IDENTIFICATION:

Beginning at a point on the Southerly line of Revere Beach Parkway one hundred (100) feet Westerly of the Westerly line of Revere Street and running in an Easterly direction along the Southerly line of Revere Beach Parkway to a point at the Southwest corner of the intersection of Everett Avenue and Revere Beach Parkway; thence running in a Southerly direction on the Westerly line of Everett Avenue to the intersection of the Westerly line of Everett Avenue and the Chelsea city boundary line; thence running in Southwesterly direction along the Chelsea city boundary line two hundred fifty (250) feet to a point; thence running in a

Westerly direction parallel to the Southerly line of Revere Beach Parkway and at a distance of three hundred (300) feet Southerly of the Southerly line of Revere Beach Parkway measured along a line drawn perpendicular to the Southern line of Revere Beach Parkway to a point on the Easterly line of Revere Street; thence running in a Southerly direction along the Easterly line of Revere Street to a point on the Northerly line of Paris Street; thence running in a Westerly direction on the Northerly line of Paris Street to a point one hundred and ninety six hundred (100.96) feet from the Westerly line of Revere Street; thence running Northerly on the existing property lines to the point of beginning.

Also:

Starting at the northeast corner of the intersection of the Boston and Maine Railroad right-of way and Broadway and extending southerly along the west side of Broadway to the southeast corner of the intersection of Broadway and Chemical Lane and extending along the northerly side of Chemical Lane 300 feet from the westerly side of Broadway, then on a line northerly to the easterly side of Charlton Street, then northerly along Charlton Street to the intersection of the Boston and Maine Railroad right-of-way, then along the Boston and Maine Railroad right-of-way to Broadway.

A. Uses. In any Business Limited District, as indicated on the zoning map, no building, structure or premises shall be used and no building or structure shall be erected which is intended or designed to be used except as provided herein:

1. Residential uses limited to multifamily dwellings, hotels and motels.
2. Research and development facilities except those associated with the emission of noxious odors, smoke, steam or produce excessive noise.
3. Retail uses where goods are sold or services rendered primarily at retail.
4. Offices and banks.
5. Restaurants, including fast food, provided that there are no drive through facilities.
6. Auto showrooms for the sale and service facilities, which are associated with the sales facilities in the same building, by Special Permit.

B. Dimensional Requirements.

1. Frontage: Minimum of one hundred (100) feet except lots existing on the effective date of this provision with less than one hundred (100) feet of frontage shall not require one hundred (100) feet of frontage providing that the existing footage shall not be further reduced.
2. Front yard: Minimum twenty (20) feet or $H/3$ where H = height of building. EXCEPTION: Where landscaping in accordance with Section [20.C.3](#), is provided which is at least ten (10) feet wide, the building may be located five (5) feet closer to the front lot line.
3. Side yard: Five (5) feet unless lot abuts a lot used for residential building on multiple dwelling units, in which case there shall be a minimum of at least five (5) feet but not less than $H/4$ where H = height of building.
4. Rear yard: Ten (10) feet.
5. Height: All buildings shall be limited to a maximum of fifty (50) feet. Other structures on the roof shall not count towards the height unless the area of such structure exceeds thirty-three (33) percent of the area of the roof. The height of any building may be increased to a maximum of Seventy-five (75) feet upon the grant of a Special Permit.
6. FAR (Floor Area Ratio): The floor area ratio shall not exceed 4 to 1. The floor area ratio may be increased to a maximum of 6 to 1 by the grant of a Special Permit.
7. Open Space: At least fifteen (15) percent of the lot area shall be dedicated to open space, which shall not include area used for parking or buildings or areas that are paved. The total area required by this section may be reduced by two (2) percent for every one (1) percent of the area which is landscaped on accordance with the requirements of Section [20.C.3](#).

C. Landscaping Requirements.

1. There shall be an area of landscaping required along the lot line at least ten (10) feet in depth as measured from the street to the rear of the lot, with landscaping provided in accordance with Section [20.C.3](#).
2. There shall be an area of landscaping required along the rear lot line at least five (5) feet in depth measured from the rear lot line toward the front of the lot, with landscaping provided in accordance with Section [20.C.3](#), or a substantial opaque fence six (6) feet in height.

3. Landscaping shall consist of trees or shrubs at least three (3) feet in height when planted covering at least sixty (60) percent of the landscaping area with the remaining forty (40) percent planted at any height.

D. Parking requirements. The following provisions shall regulate parking within the Business Limited District in addition to any other provision of this ordinance.

1. There shall be no parking allowed within the front yard subject to the following exception: Where an area of landscaping at least ten (10) feet in depth measured from the front yard line to the rear of the lot is provided in accordance with Section [20.C.3](#). Along the front lot line, parking may be located five (5) feet closer to the front lot line.

E. Sign Requirements. Signs within the Business Limited District shall be subject to the following requirements:

1. Wall signs shall be limited to individual signs identifying on-site tenants and each shall not exceed one-hundred twenty (120) square feet in area on any wall and the total area of all wall signs on a building shall not exceed three hundred sixty (360) feet in area.

2. Free Standing Signs: Free standing signs identifying on-site tenants shall not be more than a total of twenty-four (24) square feet in area, shall be set back at least ten (10) feet from any lot line, and the total height above grade shall not exceed four (4) feet.

3. Sign Restrictions:

a. No sign on the Business Limited District shall have moving parts or flashing or alternating lighting.

b. No sign shall be attached to or located above any roof surface.

4. Accessory Signs: Accessory signs required to provide directions or information shall not exceed six (6) square feet in area and may be located on walls or at grade in accordance with provisions of this section.

F. Site Plan Review. All proposed buildings with a gross floor area greater than five thousand (5,000) square feet or a volume in excess of fifty thousand (50,000) cubic feet shall be subject to a site plan review in accordance with the provisions of Section 19 of the Building Zone Ordinance. (Ord. of 4-29-91)

(End of Section)

SECTION 21. Industrial Limited District.

Identification:

Beginning on a point at the intersection of the Easterly line of Revere Street and the Northerly line of Paris Street; thence running Westerly on the Northerly line of Paris Street to a point on the Easterly line of Bailey Street extended; thence running Southerly on the Easterly line of Bailey Street extended to a point on the Northerly boundary of the Boston and Maine and Boston and Albany Railroads; thence running Easterly on the Northerly line of the Boston and Maine and the Boston and Albany Railroads to a point on the Chelsea city boundary line; thence running Northeasterly on the Chelsea city boundary line to a point two hundred fifty (250) feet Southwesterly of the Southerly line of Everett Avenue; thence running Westerly parallel to the southerly line of Revere Beach Parkway and at a distance of three hundred (300) feet Southerly line of Revere Beach Parkway along a line drawn perpendicular to the Southern line of Revere Beach Parkway to a point on the Easterly line of Revere Street; thence running Southerly on the Easterly line of Revere Street to a point of beginning.

A. Uses. In any Industrial Limited District, as indicated on the Zoning Map, no building, structure or premises shall be used and no building or structure shall be erected which is intended or designed to be used in whole or in part for any use except as provided herein:

1. Hotels and motels.

2. Research and development facilities.

3. Retail uses where goods are sold or services rendered primarily at retail.

4. Offices and banks.

5. Storage of goods in containers where all storage is contained within the building, not including storage of any raw or natural materials.

6. Light manufacturing entirely contained within the structure with no associated emissions of noxious odors or noise.

7. Heavy manufacturing by Special Permit providing there is no outside storage work and there is no emissions of noxious odors, smoke or noise, and no vibration discernible on the exterior of the building.

B. Dimensional Requirements.

1. Frontage: None except for twenty (20) foot minimum for residential use.
2. Front Yard: Five (5) feet.
3. Side Yard: None required unless lot abuts a lot used for residential use of not more than three (3) dwelling units, in which case there shall be a minimum of four (4) feet but not less than $H/6$ where H = height of building.
4. Rear Yard: None required unless lot abuts lot used for residential use of multiple dwelling units, in which case, there shall be a minimum of five (5) feet but not less than $H/4$ where H = height of building.
5. Height: All buildings shall be limited to a maximum of sixty (60) feet. Other structures on the roof shall not count towards the height unless the area of such structures exceed thirty-three (33) percent of the area of the roof. The height of any building may be increased to a maximum of one hundred (100) feet upon the grant of a Special Permit.
6. FAR (Floor Area Ratio); the floor area ratio shall not exceed 6 to 1. The floor area ratio may be increased up to 8 to 1 by the grant of a Special Permit.

C. Site Plan Review. All proposed buildings with a gross floor area greater than ten thousand (10,000) square feet or which exceed one hundred thousand (100,000) cubic feet in volume shall be subject to a site plan review in accordance with the provisions of Section 19 of the Building zone Ordinance.

D. Parking Requirements.

1. Subject to the requirements of Section 17 of the Building Zone Ordinance.

(End of Section)

SECTION 21A. Adult Entertainment Land Use.

A. Declaration of Purpose.

1. There is documented experience in cities across the United States showing that adult entertainment uses degrade the quality of life in the areas of a community where they are located, with impacts including increased levels of crime, blight, and depreciation of property values.
2. The City of Everett desires to protect its residential lands from encroachment by commercial adult uses and to ensure and promote the City's image as a safe, pleasant and attractive place of residence. The City also desires to preserve and protect the safety of young people and children in the vicinity of schools and public parks.
3. The City further desires that young people and children not be subjected to confrontation with the existence of adult entertainment uses in the vicinity of schools and parks.
4. The commercial areas of the City of Everett reflect greatly on the City's image and it is the desire of the city to promote a positive business community image, and to retain and promote safe, attractive business areas free of crime and nuisances.
5. The purpose of this Ordinance is to regulate adult entertainment uses within the City by Special Permit pursuant to Chapter [40A](#) section [9](#) and [9A](#) of the General Laws in order to promote the safety and welfare of the inhabitants of Everett.
6. Pawn Shops - Any natural person, partnership or corporation, either as principal, agent or employee thereof, within the County who loans money on deposits or pledge of personal property or other valuable thing; who deals in the purchasing of personal property or other valuable item on condition of selling that same item back again at a stipulated price; or who loans money secured by a mortgage on personal property, taking possession of the property or any part thereof so mortgaged. To the extent that a business includes buying personal property previously used, rented or leased, or selling it on consignment, the provision of this section shall be applicable. Any bank, savings and loan association or credit union shall not be deemed a pawnbroker for purposes of this section.
7. Body Piercing Studio. A business that as one of its principal uses implants, perforates, or pierces the skin or other body part to make a hole, mark or scar for a non-medical purpose. A Body Piercing Studio shall not include a Jewelry Store, Boutique, Beauty Parlor or similar establishment that uses a mechanized, pre-sterilized ear piercing system that penetrates the outer perimeter or lobe of the ear or both as an accessory use to a principal use;
8. Check-Cashing Establishment - means a business engaged in cashing checks for the general public as an element of its operation, which exceeds 50% of its gross revenues and which is not licensed by the appropriate state or federal agency as a bank, savings and loan association, or credit union.

9. Tattoo Studio. A business that marks the skin with any indelible design, letter, scroll figure, symbol or any other mark that is placed by the aid of needles or other instruments upon or under the skin with a substance that will leave color under the skin and that cannot be removed, repaired or reconstructed without a surgical procedure. A Tattoo Studio may or may not be operated in conjunction with a Body Piercing Studio. And

10. Gun Shop - the premises of any federally licensed firearms dealer where the primary Business or commercial enterprise conducted on the premises is the purchase or sale of firearms or firearm ammunition.

B. Definitions:

1. Adult Bookstore- an establishment having as a substantial or significant portion of its stock in trade books, magazines, and other matter which are distinguished as characterized by their emphasis depicting or relating to sexual conduct or sexual excitement as defined in M.G.L. Chapter [272](#), section [31](#).

2. Adult Club- an establishment having as a form of entertainment nude dancing and/or persons performing in a state of nudity or distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. Chapter [272](#), section [31](#).

3. Adult Theater – an enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. Chapter [272](#), section [31](#).

4. Adult Video Store – an establishment having as a substantial or significant portion of its stock in videos and other matter which are distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. Chapter [272](#), section [31](#). Adult Paraphernalia Store – an establishment having as a substantial or significant portion of its stock in devices, tools, or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in M.G.L. Chapter [272](#), section [31](#).

5. Fortune Teller(s) – person(s) who for a fee engage in the telling of fortunes, forecasting of futures, or reading the past, by means of any occult, psychic power, faculty, force, clairvoyance, artomancy, psychometry, phrenology, spirits, tea leaves, tarot cards, scrying, coins, sticks, dice, sand, coffee grounds, crystal gazing or other such reading, or through mediumship, seership, prophecy, augury, astrology, palmistry, necromancy, mindreading, telepathy or other craft, art, science, talisman, charm, potion, magnetism, magnetized article or substance, or by any such similar thing or act. It shall also include effecting spells, charms, or incantations, or placing, or removing curses or advising the taking or administering of what are commonly called love powders or potions in order, for example, to get or recover property, stop bad luck, give good luck, put bad luck on a person or animal, stop or injure the business or health of a person or shorten a person's life, obtain success in business, enterprise, speculation and games of chance, win the affection of a person, make one person marry or divorce another, induce a person to make or alter a will, tell where money or other property is hidden, make a person to dispose of property in favor of another, or other such similar activity. Fortunetelling shall also include pretending to perform these actions

C. Adult Use Restrictions

1. Adult Bookstores, Adult Clubs, Adult Theaters, Adult Video Stores, Fortune Tellers and Adult Paraphernalia Stores, Pawn Shops, Body Piercing Studios, Check Cashing Establishments, Tattoo Studios and Gun Shop may not be located:

a. Within one thousand (1,000) feet of each other;

b. Within five hundred (500) feet of the nearest lot line of:

i. a Residential District, or

ii. a place of worship or a building used for religious purposes unless the Board of Appeals first determines in writing that the use will not be detrimental to the spiritual activities;

c. Within one thousand (1,000) feet of a non-profit educational use, library, or museum;

d. Within one thousand (1,000) feet of a park or playground; or

e. Within one thousand (1,000) feet of any establishment licensed under the provisions of section 12 of Chapter [138](#) of the General Laws.

2. All Adult Bookstores, Adult clubs, Adult theaters, Adult Video Stores, Fortune Tellers and Adult Paraphernalia Stores, Pawn Shops, Body Piercing Studios, Check Cashing Establishments, Tattoo Studios and Gun Shop shall have no advertisement, display, or other promotional material visible to the public from any public way including held within limited to pedestrian walkways.

D. Applications, Special Permits

Adult Bookstores, Adult Clubs, Adult Theaters, Adult Video Stores, Fortune Tellers, and Adult Paraphernalia Stores Body Piercing Studios, Check Cashing Establishments, Tattoo Studios and Gun Shop may be allowed, by Special Permit, within Industrial and Industrial Limited Districts subject to the restrictions of Section 3 and subject to the regulations imposed by the Special Permit Granting Authority. For the purpose of this section the Special Permit Granting Authority shall be the city council of the City of Everett. (C0031-14)

- a. Special Permits shall only be issued following a public hearing held within sixty-five days after the filing of an application with the special Permit Granting Authority, a copy of which shall forthwith be given to the city or town clerk by the applicant.
- b. Such Special Permit Granting Authority shall adopt and from time to time amend rules relative to the issuance of such permits and shall file a copy of said rules in the office of the City Clerk.
- c. The Special Permit Granting Authority shall act within ninety days following a public hearing for which notice has been given by publication or posting as provided in G.L.c. 40A s. 11 and by mailing to all the parties in interest.
- d. Failure by the Special Permit Granting Authority to take final action upon an application for a Special Permit within ninety days following the date of a public hearing shall be deemed to be a grant of the permit applied for.
- e. Special Permits issued to an Adult Bookstore, Adult Club, Adult Theater, Adult Video Store, Fortune Tellers or Adult Paraphernalia Store, Pawn Shops, Body Piercing Studios, Check Cashing Establishments, Tattoo Studios and Gun Shop shall expire one year from the date of the issuing of the permit, and including such time required to pursue or await the determination of an appeal referred to in G.L.c. 40A s. 17, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of a permit for construction, if construction has not begun by such date except for good cause. (Ord. of 1996)
- f. The application for a Special Permit must include the following information:
 1. Name and address of the legal owner of the establishment;
 2. Name and address of all persons having a lawful, equity, security interest in the establishment;
 3. A sworn statement the neither the applicant nor any person having an equity or security interest in the establishment has been convicted of violating M.G.L. c. [119](#),s.63 or M.G.L. c. [272](#), s, 28; and a statement from the Chief of Police that the information provided by a Criminal Offender RecOrd. Check (CORI) is satisfactory
 4. Proposed security precautions; and
 5. The number of employees.
- g. No Special permit shall be issued under this section to any person convicted of violating M.G.L. c.[119](#) § [63](#). (Amended by Ord. 0326-08, Amended Ord. A0004-10)

(End of Section)

SECTION 22. Signs.

A. Location: Illuminated portable signs shall be prohibited in the following districts:

1. Dwelling
2. Apartment
3. Business Limited
4. Industrial Limited.

B. In the business district, illuminated portable signs, not to exceed 6' x 3' 5' high, (six feet by three feet by five feet high), shall be allowed by special Permit of the Zoning board of Appeals.

C. In the industrial district, illuminated portable signs, not to exceed 6' x3' x5' high, shall be allowed provided that not sign shall be located within three hundred (300) feet of a dwelling, apartment, business limited, industrial limited district or any business used for the following purposes: hospitals, nursing homes, schools, cemeteries, religious worship, or residential. (Ord. of 4-29-91)

(End of Section)

SECTION 23. Building Department Fee Schedule.

The following Building Department Fee Schedule replaces the existing Building Department Fee Schedule in those areas covered in this Ordinance. Areas existing in the present Building Department Fee Schedule, which are not covered by this Ordinance shall remain in effect until amended or replaced.

In accordance with the provisions of the Ordinances of the City of Everett and Section 118 of the Massachusetts State Building Code, no permit shall be issued by the Inspector of Buildings until the required fee has been paid to the City Collector or Building Department or other authorized city agency in accordance with the following table of rates. At his sole discretion, the Inspector of Buildings may require that costs computations verified by Registered Architect or Registered Professional Engineer (or other person satisfactory to the Inspector of Buildings) be submitted to substantiate disputed estimates.

The fee for issuing a building permit will double the established amounts if construction has started prior to the issuance of a building permit.

BUILDING DEPARTMENT FEE SCHEDULE

Application	Fee
1. Construction, Alteration, Repairs, Demolition & Reconstruction of a Building or structure	\$15/\$1,000 of estimated costs Minimum Fee \$40.00
2. Woodstoves	\$40.00
3. Demolition of Buildings:	
1 & 2 Motor Vehicle Garages	\$15/\$1,000 of Estimated Cost, Minimum of \$40.00
All other Structures	\$15/\$1,000 of Estimated Cost, Minimum of \$40.00
4. Moved Buildings:	\$15/\$1,000 of Estimated Cost, Minimum of \$40.00
5. Amendments to Plans:	\$15/\$1,000 of Estimated Cost, Minimum of \$40.00
6. Wall Signs and Projection Signs:	\$15/\$1,000 of Estimated Cost, Minimum of \$40.00
7. Free Standing Ground Signs:	\$15/\$1,000 of Estimated Cost, Minimum of \$100.00
8. Roof Signs:	\$15/\$1,000 of Estimated Cost, Minimum of \$100.00
9. Certificate of Occupancy:	
Single-Family	\$50.00
Two Family	\$75.00
Three Family	\$100.00
All Others	\$40.00 per 1,000 Square Feet
10. Swimming Pools:	\$15/\$1,000 of Estimated Cost, Minimum of \$40.00
11. Sheds and Similar Structures:	\$15/\$1,000 of Estimated Cost, Minimum of \$40.00
12. Certificate of Inspections:	
As prescribed by the Commonwealth of Massachusetts State Building Code. Table 106 Exception: Three (3) Family Homes to be inspected every five (5) years, \$75.00, as modified and amended by section 106.5 of the Massachusetts State Building Code.	
13. Work Started without permit:	Double the fee as a Fine plus the Fee also.
14. Re-inspection Fee per Inspection:	\$40.00

(Amended Ord. C0074-10)

PLUMBING DIVISION FEES

1. Plumbing and gas fitting in new and existing residential and commercial buildings, additions or alterations.

Minimum Permit Fee: \$40.00 for up to 3 fixtures or appliances plus \$10.00 per fixture or appliance thereafter for each unit or separate use.

2. Gas fired boiler and/or gas fired furnace/heater permit fee:

Permit Fee: \$ 25.00 per appliance, exclusive of all other plumbing and gas permit fees.

3. Plumbing and gas inspection fee:

Any additional inspections required for deficient work by failure to meet the requirements of the Massachusetts Plumbing and Gas Fitting Code or any other applicable codes and regulations or transfer of plumbing and gas permit(s) to another license holder shall require re-inspection permit:

Re-inspection permit fee: \$40.00 per fixture, per visit.

Transfer of permit fee shall be the cost of the original permit.

4. Refrigeration and air conditioning systems:

Rooftop HVAC equipment, commercial air conditioning equipment, split system HVAC equipment and the like:

Permit Fee: \$40.00 per unit or each condenser and compressor pair.

Note: A permit is not required for air conditioning units for single rooms 200 sq.ft. in area or less.

5. Capping water and sewer prior to demolition:

Permit fee for capping service inside or within 10 ft. of building: \$40.00

6. Work started prior to the issuance of a permit:

Double the permit fee, plus the permit fee. (Amended A0301-10)

(End of Section)

SECTION 24. Telecommunications Overlay District

A. Purpose:

To encourage flexible development options consistent with the overall objective to provide a distinctive and visually attractive economic center, primarily supporting the telecommunications industry and including public access to the Malden River Park.

B. Overlay District Boundaries:

The overlay district shall be bounded as follows:

Beginning at the southeast corner of the intersection of the Revere Beach Parkway and the boundary of the Cities of Everett and Malden, thence running in a northerly direction along the Malden River to the Malden city line, thence running in an easterly direction along the boundary of the cities of Everett and Malden to the Boston and Maine Railroad right of way, thence running in a southerly direction along the Boston and Maine railroad right of way to Air Force Road, thence along Air Force Road in a southerly direction to Norman Street, thence running along Norman Street in a westerly direction to Santilli Highway, thence along Santilli Highway to the Revere Beach parkway in a westerly direction to the point of beginning.

C. Regulations:

1. The overlay district shall be in effect for a period of five (5) years from the date of adoption.
2. The effective period of the Overlay District may be extended by a two-thirds vote of the City Council, but under no circumstances may the total period of extension exceed five (5) years.
3. A public hearing before the City Council shall be held to solicit comments from the public. A report of such public hearing shall be submitted to the Planning Board.
4. No building permit shall be issued within the Overlay District without site plan approval by the Planning Board in accordance with section 19 of the Everett Building Zone Ordinance.

D. Use Restrictions:

The following uses shall be permitted within the Overlay District:

1. Communications Infrastructure
2. Industrial Uses related to research and development facilities.
3. Offices.
4. Research and Development Facilities whose principle uses are related to telecommunications, electronics, engineering, and physics.

5. Retail Sales and Services.
6. Financial Institutions.
7. Telecommunications Facilities.
8. Medical research and Development Institutions.
9. Accessory Use or Structure customarily incidental and subordinate to the principle use or principle structure.

The following uses shall not be permitted within the Overlay District:

10. Trailer Parks.
11. Animal processing.
12. Food processing.
13. Excavating and mining.
14. Gasoline stations and motor vehicle facilities.
15. Recycling stations.
16. Entertainment facilities.
17. Warehousing, except as permitted in connection with an Industrial use allowed under Section 4.0-2 above.
18. Trucking terminals and free standing product distribution centers.

E. Dimensional Requirements:

1. Floor Area Ration (FAR). The maximum FAR shall be 0.50.
2. Maximum Height. Ten stories and 120 feet. However, communications antennae permitted by special permit may extend up to 200 feet above grade, either as a free standing structure or attached to structures.
3. Minimum Open Space. The minimum open space shall be 40 %.
4. Maximum Lot Coverage. No more than 60 % of the total lot may be covered by structures, buildings, parking facilities and other impervious surfaces.
5. Riverfront Setback. In no instance shall any structure, parking facility, sign, or paved roadway be located within 75 feet of the average high water mark of the Malden River.

F. Exceptions.

The following shall be exempt from the application of this section:

1. Repairs to existing structures.
2. Reconstruction in accordance with the Building Zone Ordinance of any structure damaged by casualty.
3. Any plan which received, prior to the adoption of this section, preliminary subdivision approval from the Planning Board and/or for which an application for a special permit or variance was filed, provided that such special permit or variance is granted by the Zoning Board of Appeals as a result of such application.
4. Construction or renovation of any dwelling units subsidized by the Federal or State government for low or moderate income persons including the State Chapter 667 program for the elderly, the State Chapter 689 program for disabled persons, the State Chapter 705 programs for families, the State Housing Assistance for Rental Housing (SHARP) Program, the State Tax Exempt Local Loans to Encourage Rental Housing (TELLER) Program, the State Home Ownership Opportunity Program, any other Federal, State, County or Municipal programs which may be utilized for the production of, restoration of housing for low or moderate income persons under the provisions of Chapter 121B of the Massachusetts General Laws or statute, regulation or by-law.

G. Appeal.

Anyone denied a building permit under this section shall have the right of the appeal to the Everett Zoning Board of Appeals as well as Chapter 40 A of the Massachusetts General laws.

H. Severability.

If any provisions of this section is determined to be unenforceable or is found to be in conflict with State, Federal Law, then that provision shall be severed from this section and the remaining portions shall remain in full force. (Ord. of 10/22/1999)

(End of Section)

SECTION 25. Substance Abuse Treatment Centers

A. Purpose. The City of Everett desires to protect its residential lands from encroachment by substance abuse treatment centers and to ensure and promote the City's image as a safe, pleasant and attractive place of residence. The City also desires to preserve and protect the safety of young children in the vicinity of schools and public parks. The City further desires that young people and children not be subjected to confrontation with the existence of substance abuse treatment center uses in the vicinity of schools and parks. The commercial areas of the City of Everett reflect greatly on the City's image and it is the desire of the city to promote a positive business community image, and to retain and promote safe, attractive business areas free of crime and nuisance.

The purpose of this section is to regulate Substance Abuse Treatment Center uses within the City by Special Permit to Chapter 40A, Sections 9 and 9A of the Massachusetts General Laws. In order to promote the safety and welfare of the inhabitants of Everett.

B. Definitions.

1. Substance Abuse Treatment center:

A facility providing substance abuse treatment services, including but not limited to counseling services, therapy sessions and/or the dispensing of medication to treat substance abuse.

2. Medical Center:

An institution providing varied medical services, including but not limited to ambulatory care. Route medical visits, surgical care, physical rehabilitation, or mental health services, on an out-patient basis. "Hospitals" and "Substance Abuse treatment Centers" are specifically excluded from this definition.

C. Restrictions.

A Substance Abuse Treatment Center shall not be located:

1. Within one thousand (1,000) feet of each other;
2. Within five hundred (500) feet of the nearest lot line of:
 - a. A residential District, or
 - b. A place of worship or a building used for religious purposes unless the Board of Appeals first determines in writing the use will not be detrimental to the spiritual activities.
3. Within one thousand (1,000) feet of a non-profit educational use, library, or museum;
4. Within one thousand (1,000) feet of a park or playground; or
5. Within one thousand (1,000) feet of any established/establishment licensed under the provisions of Massachusetts General Laws, Chapter [138](#), Section [12](#);
6. Adjacent properties shall be adequately protected from noise, odors and unsightly appearances;
7. The hours of operation shall not negatively impact surrounding areas in terms of traffic flow, nor create increases in traffic volume during peak periods in surrounding areas.

D. The application for special permit must include the following information:

1. Name and address of the legal owner of the establishment;
2. Name and address of all persons having a lawful equity, or security interest in the establishment;
3. A sworn statement the neither the applicant nor any person having equity or security interest in the establishment has been convicted of violating M.G.L. [119](#), Section [63](#) or M.G.L. Chapter [272](#), Section [28](#);
4. Proposed security precautions; and

5. The number of employees;

6. No Special Permit shall be issued under this section to any person convicted of violating M.G.L. Chapter 119, Section 63.

E. Applications. Substance Abuse Treatment Centers may be allowed, by Special Permit, within Industrial Limited Districts subject to the restrictions of Section 3 and subject to regulations imposed by the Special Permit Granting Authority. For the purpose of this section, the Special Permit Granting Authority shall be the city council of the City of Everett. (C0031-14)

1. Special Permits shall only be issued following a public hearing held within sixty-five days after the filing of an application with the Special Permit Granting Authority, a copy of which shall forthwith be given to the City Clerk by the Applicant.

2. Such Special Permit Granting Authority shall adopt and from time to time amend rules relative to the issuance of such Special Permits and shall file a copy of said rules in the Office of the City Clerk.

3. The Special Permit Granting Authority shall act within ninety days following a public hearing for which notice has been given by publication or posting as provided in M.G.L. [40A](#), Section [11](#) and by mailing to the parties in interest.

4. Failure by the Special Permit Granting Authority to take final action following the date of a public hearing shall be deemed to be a grant permit applied for.

5. Special Permits for Substance Abuse Treatment Center shall expire one year from the date of the issuing of the permit, and including such time required to pursue or await the determination of an appeal referred to in M.G.L., Chapter 40A Section 17, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause. (Ord. of August 21, 2002)

(End of Section)

SECTION 26. River Front Overlay District

The overlay district shall be bounded as follows:

Beginning at the southeast corner of the intersection of the Revere Beach Parkway and the boundary of the Cities of Everett and Malden, thence running in a Northerly direction along the Malden River to the Malden city line, thence running in an Easterly direction along the boundary of the cities of Everett and Malden to a point approximately 390 feet +/- from the intersection of Wyllis Avenue and Bellrock Streets then turning in a southerly direction to Tremont Street, then following the southerly side of Tremont Street to the intersection of Elton Street and then turning northeasterly direction to the intersection of Valley Street and then turning in a southeasterly direction and following Valley Street to the intersection of Waters Avenue, then turning and running westerly on Waters Avenue to the intersection of Elm Way and then turning Southerly to a point thirty six and sixty five hundreds (36.65) feet from the intersection of Waters Avenue and Elm Way and continuing to a point forty seven (47.00) feet from the intersection of Elm Way and Appleton Street then crossing the street at a point at the Boston and Maine Railroad and then running along said railroad for a distance of approximately one hundred six and seventy one hundreds (106.71) feet then turning in an easterly direction for a distance of approximately one hundred eighty five and ninety two hundreds (185.92) feet then turning in an southerly direction for a distance of two hundred fifty six (256.00) feet to Laurel Street and then running along Laurel Street to the intersection of Tileston Street cross Tileston Street and then turn westerly and run approximately ninety seven and sixty five hundreds (97.65) Feet to the Boston and Maine Railroad and turn and run southerly along said railroad for a distance of approximately seventy six and ninety seven hundreds (76.97) feet then turn and run easterly for a distance of approximately one hundred sixty seven and ninety hundreds (167.90) feet then turning and running for a distance of approximately five hundred fifty (550) feet to a point on Park Terrace then turning and running easterly direction for a distance of approximately two hundred fifty (250) Feet +/- along the back of the property on Spaulding Street and then turning southerly for a distance of fifty (50) feet then turning easterly for fifty (50) feet then turning southerly for a distance of one hundred (100) feet to Spaulding Street then turn and run along the northerly side of said Spaulding Street to the Boston and Maine Railroad and cross said railroad to a point at the intersection of Plymouth Street and the Revere Beach Parkway then turn and run along the easterly side of Plymouth Street for a distance of approximately one hundred thirty eight and eighty seven hundreds (138.87) feet then turn and run in a northeasterly direction to the Boston and Maine Railroad (behind the homes on Wellington and Fleet Streets) then turning and following the Boston and Maine railroad for a distance of approximately six hundred fifty and fourteen hundreds (650.14) feet to Tileston Street then turn and run for a distance of one thousand two hundred twenty eight and nine hundreds (1228.09) feet +/- to the intersection of Tileston Street and Santilli Highway then turn and run southerly for a distance of approximately two hundred ninety five and forty seven hundreds (295.47) feet +/- then turn and run easterly for a distance of one hundred sixty eight and ninety hundreds (168.90) feet then turn and run southerly for a distance of approximately one hundred (100) feet then turn an run easterly for a distance of approximately two hundred sixteen and fifty five hundreds (216.55) feet +/- then turning and running approximately three hundred seventy (370.00) feet behind the house's on Kelvin Street to the Revere Beach parkway and then turning and running along the Revere Beach parkway in a westerly direction to the point of beginning.

A. Definitions.

Gross Floor Area: The sum, in square feet, of the floor area of all the roofed portions of a building as measured from the interior faces of the external walls. Underground parking structures shall not be calculated as part of the Gross Floor Area and shall not be subject to setback requirements.

B. Uses. In the Riverfront Overlay District, as indicated on the zoning map, no building, structure or premises shall be used and no building or structure shall be erected which is intended or designed to be used except as provided herein:

1. Residential uses limited to multifamily dwellings.
2. Hotels and Motels by Special Permit.
3. Research and development facilities except those associated with the emission of noxious odors, smoke, steam or produce excessive noise.
4. a. Retail sales and services which are not the principal uses of the building in which they are located to a maximum of 20% of the Gross Floor Area of the building.
b. Free-standing retail sales and services uses, by Special Permit.
5. Offices and banks.
6. Restaurants, including fast food, provided that there are no drive through facilities.

C. Dimensional Requirements.

1. Frontage: Minimum of one hundred (100) feet except lots existing on the effective date of this provision with less than one hundred (100) feet of frontage shall not require one hundred (100) feet of frontage providing that the existing footage shall not be further reduced.
2. Front yard: Minimum ten (10) feet.
3. Side yard: A total of thirty (30) feet, with a minimum of ten (10) feet on either side.
4. Rear yard: Twenty-five (25) feet.
5. Height: All buildings shall be limited to a maximum of sixty-five (65) feet, with a maximum of five (5) stories. Exceptions Stair towers, elevator penthouses and mechanical equipment shall not be included and roof decks shall be permitted but shall not exceed 33% of the roof area.
6. FAR (Floor Area Ratio): The floor area ratio shall not exceed 2.25 to 1. The floor area ratio may be increased to a maximum of 4 to 1 by the grant of a Special Permit.
7. Maximum Number of Units Per Acre: The maximum number of units per acre shall be seventy (70) residential units.
8. Open Space: At least fifteen (15) percent of the lot area shall be dedicated to open space, which shall not include area used for parking or buildings or areas that are paved.
9. Accessory Uses: Uses that are customarily accessory to the uses permitted as of right of by Special Permit under this section and that are included within buildings shall be allowed and shall be exempt from the Floor Area Ratio (FAR). However, the total gross square feet of all accessory uses in any building shall not exceed 5% of the total gross floor area of one floor of the building.

D. Landscaping Requirements.

1. There shall be an area of landscaping required along the lot line at least ten (10) feet in depth as measured from the street to the rear of the lot, with landscaping provided in accordance with Section [20.C.3](#).
2. There shall be an area of landscaping required along the rear lot line at least ten (10) feet in depth measured from the rear lot line toward the front of the lot, with landscaping provided in accordance with Section [20.C.3](#), or a substantial opaque fence six (6) feet in height.
3. Landscaping shall consist of trees or shrubs at least three (3) feet in height when planted covering at least sixty (60) percent of the landscaping area with the remaining forty (40) percent planted at any height.

E. Parking requirements. The following provisions shall regulate parking within the Riverfront Overlay District in addition to any other provision of this ordinance.

1. There shall be no parking allowed within the front yard set back.

2. Please see Section 17 Off-Street Parking for parking requirements based on use.

F. Sign Requirements. Signs within the River Front Overlay District shall be subject to the following requirements:

1. Wall signs shall be limited to individual signs identifying on-site tenants and each shall not exceed fifty (50) square feet in area on any wall and the total area of all wall signs on a building shall not exceed one hundred fifty (150) feet in area.

2. Free Standing Signs: Free standing signs identifying on-site tenants shall not be more than a total of fifty (50) square feet in area, shall be set back at least ten (10) feet from any lot line, and the total height above grade shall not exceed six (6) feet.

3. Sign Restrictions:

a. No sign in the Riverfront Overlay District shall have moving parts or flashing or alternating lighting.

b. No sign shall be attached to or located above any roof surface.

4. Accessory Signs: Accessory signs required to provide directions or information (i.e.: exit signs hours of operation) shall not exceed six (6) square feet in area and may be located on walls or at grade in accordance with provisions of this section.

G. Site Plan Review. Refer to Section 19 Site Plan review for site plan requirements (Ord. 04-046 9:23:2004)

(End of section)

SECTION 27. Materials Recovery Facilities, Incinerators, Landfills, Junk Yards and Facilities, and Transfer Stations

A. Purpose.

The City of Everett intends to protect its residential lands, waterways and natural environments from the encroachment by materials recycling facilities, incinerators, landfills, junk yards and facilities and transfer stations and to ensure and promote the City's image as a pleasant and attractive place of residence. Additionally, the City of Everett desires to foster sound, environmentally friendly economic development opportunities within all commercial and industrial districts in the City.

The purpose of this section is to regulate the use of materials recycling facilities, incinerators, landfills, junk yards and facilities, and transfer stations within the City of Everett by Special Permit as authorized pursuant to Massachusetts General Laws Chapter 40A, Section 9.

B. Definitions.

As used within this section, the following definitions shall apply:

Incinerator: a furnace or apparatus, whether enclosed within a structure or not, for burning trash, garbage, and other refuse materials to ashes.

Junk Yard/Facility: an area or structure used for the storage and/or sale of old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris; waste, junked dismantled or wrecked automobiles, or parts thereof; iron, steel, and other old or scrap ferrous or non-ferrous materials; and any item that contains a hazardous material as defined by the Massachusetts Department of Environmental Protection.

Landfill: a low area of land that is built upon from deposits of solid refuse in layers covered by soil.

Materials Recovery Facility (MRF): an area in conjunction with a building/structure intended and designed to receive and process materials such as wood, paper, metals, or plastics for the purpose of recycling said materials into usable products and/or materials for resale to industry and commerce; it shall not be construed that an MRF can be utilized for the production of energy for either public or private purposes.

Solid Refuse: all solid or liquid waste materials, including garbage and rubbish, and sludge, but not including sewage, and those materials defined as hazardous wastes in section two of chapter twenty-one C and those materials defined as source, special nuclear or by-product material under the provisions of the Atomic Energy Act of 1954.

Transfer Station: a place where residential garbage and commercial wastes are compressed, baled, and loaded on vehicles for moving to disposal sites, as for landfill.

C. Restrictions.

Any materials recycling facility, incinerator, landfill, junkyard and facility, or transfer station shall not be located:

1. Within one thousand (1,000) feet of each other;

2. Within five hundred (500) feet of the nearest lot line of:
 - a. A Residential District;
 - b. A place of worship or a building used for religious purposes unless the Board of Appeals first determines in writing that the use will not be detrimental to the spiritual activities therein;
 - c. A designated School Safety Zone;
3. Within one thousand (1,000) feet of a non-profit educational use, museum or library;
4. Within one thousand (1,000) feet of a park or playground;
5. Within one thousand (1,000) feet of any waterway, as that term may be defined by Massachusetts General Laws, within the City of Everett;
6. Adjacent properties shall be adequately protected from noise, odors and unsightly appearances; and
7. The hours of operation shall not negatively impact on surrounding areas in terms of traffic flow, nor create increases in traffic volume during peak periods in surrounding areas.

D. Application for Special Permit

A materials recycling facility, incinerator, landfill, junk yard and facility, or transfer station may be allowed, by Special Permit, within any Riverfront Overlay District, Telecommunications Overlay District, or Industrial Limited District, subject to the restrictions of Section 3 herein, and further subject to regulations imposed by the Special Permit Granting Authority. As referenced in this Section, the city council of the City of Everett shall constitute the Special Permit Granting Authority. (C0031-14)

The following shall govern the issuance of Special Permits under this Section:

1. Special Permits shall only be issued following a public hearing held within sixty-five (65) days after the filing of an application with the Special Permit Granting Authority, a copy of which shall be immediately transmitted to the Everett City Clerk;
2. The Special Permit Granting Authority shall adopt, and from time to time, amend rules governing the issuance of Special Permits and shall file a copy of said rules with the Everett City Clerk;
3. The Special Permit Granting Authority shall act within ninety (90) days following a public hearing for which notice has been given by publication or posting as provided in Massachusetts General Laws Chapter 40A, Section 11 and by mailing to the parties in interest;
4. Failure by the Special Permit Granting Authority to take final action following the date of a public hearing shall be deemed to be a grant of the Special Permit applied for; and
5. Special permits for a materials recycling facility, incinerator, landfill, junk yard and facility, or transfer station shall expire one (1) year from the date of issuance thereof, and including such time required to pursue or await the determination of an appeal as set forth in Massachusetts General Laws Chapter 40A, Section 17, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of a permit for construction, if construction has not begun by such date, except for good cause.

(End of Section)

SECTION 28. Storm Water Management and Land Disturbance.

A. Purpose.

1. The harmful impacts of soil erosion and sedimentation are:
 - a. Impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater;
 - b. Contamination of drinking water supplies;
 - c. Alteration or destruction of aquatic and wildlife habitat;
 - d. Flooding; and,
 - e. Overloading or clogging of municipal catch basins and storm drainage systems.
2. The objectives of this bylaw are to:

- a. Protect water resources;
- b. Require practices that eliminate soil erosion and sedimentation and control the volume and rate of storm water runoff resulting from land disturbance activities;
- c. Promote infiltration and the recharge of groundwater;
- d. Ensure that soil erosion and sedimentation control measures and storm water runoff control practices are incorporated into the site planning and design process and are implemented and maintained;
- e. Require practices to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality;
- f. Comply with state and federal statutes and regulations relating to storm water discharges; and,
- g. Establish Everett's legal authority to ensure compliance with the provisions of this Ordinance through inspection, monitoring, and enforcement.

B. Definitions.

ABUTTER: The owner(s) of land abutting the activity.

AGRICULTURE: The normal maintenance or improvement of land in agricultural or aquacultural use, as defined by the Massachusetts Wetlands Protection Act and its implementing regulations.

APPLICANT: Any person, individual, partnership, association, firm, company, corporation, trust, authority, agency, department, or political subdivision, of the Commonwealth or the Federal government to the extent permitted by law requesting a soil erosion and sediment control permit for proposed land-disturbance activity.

AUTHORIZED ENFORCEMENT AGENCY: The Planning Board its employees or agents designated to enforce this Ordinance.

CERTIFIED PROFESSIONAL IN EROSION AND SEDIMENT CONTROL (CPESC): A certified specialist in soil erosion and sediment control. This certification program, sponsored by the Soil and Water Conservation Society in cooperation with the American Society of Agronomy, provides the public with evidence of professional qualifications.

CONSTRUCTION AND WASTE MATERIALS: Excess or discarded building or site materials, including but not limited to concrete truck washout, chemicals, litter and sanitary waste at a construction site that may adversely impact water quality.

CLEARING: Any activity that removes the vegetative surface cover.

EROSION: The wearing away of the land surface by natural or artificial forces such as wind, water, ice, gravity, or vehicle traffic and the subsequent detachment and transportation of soil particles.

EROSION AND SEDIMENTATION CONTROL PLAN: A document containing narrative, drawings and details developed by a qualified professional engineer (PE) or a Certified Professional in Erosion and Sedimentation Control (CPESC), which includes best management practices, or equivalent measures designed to control surface runoff, erosion and sedimentation during pre-construction and construction related land disturbance activities.

ESTIMATED HABITAT OF RARE WILDLIFE AND CERTIFIED VERNAL POOLS: Habitats delineated for state-protected rare wildlife and certified vernal pools for use with the Wetlands Protection Act Regulations (310 CMR 10.00) and the Forest Cutting Practices Act Regulations (304 CMR 11.00).

LAND-DISTURBING ACTIVITY: Any activity that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material.

MASSACHUSETTS ENDANGERED SPECIES ACT: (G.L. c. [131A](#)) and its implementing regulations at (321 CMR 10.00) which prohibit the "taking" of any rare plant or animal species listed as Endangered, Threatened, or of Special Concern.

MASSACHUSETTS STORMWATER MANAGEMENT POLICY: The Policy issued by the Department of Environmental Protection, and as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act G.L. c. [131](#) §. 40 and Massachusetts Clean Waters Act G.L. c. [21](#), §. 23-56. The Policy addresses storm water impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or municipal storm drain system: The system of conveyances designed or used for collecting or conveying storm-water, including any road with a drainage system, street, gutter, curb, inlet, piped storm

drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the City of Everett.

OWNER: A person with a legal or equitable interest in property.

PERSON: An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

PRE-CONSTRUCTION: All activity in preparation for construction.

PRIORITY HABITAT OF RARE SPECIES: Habitats delineated for rare plant and animal populations protected pursuant to the Massachusetts Endangered Species Act and its regulations.

RUNOFF: Rainfall, snowmelt, or irrigation water flowing over the ground surface.

SEDIMENT: Mineral or organic soil material that is transported by wind or water, from its origin to another location; the product of erosion processes.

SEDIMENTATION: The process or act of deposition of sediment.

SITE: Any lot or parcel of land or area of property where land-disturbing activities are, were, or will be performed.

SLOPE: The incline of a ground surface expressed as a ratio of horizontal distance to vertical distance.

SOIL: Any earth, sand, rock, gravel, or similar material.

STABILIZATION: The use, singly or in combination, of mechanical, structural, or vegetative methods, to prevent or retard erosion.

STORMWATER: Storm water runoff, snow melt runoff, and surface water runoff and drainage.

STRIP: Any activity which removes the vegetative ground surface cover, including tree removal, clearing, grubbing, and storage or removal of topsoil.

VERNAL POOLS: Temporary bodies of freshwater which provide critical habitat for a number of vertebrate and invertebrate wildlife species.

WATERCOURSE: A natural or man-made channel through which water flows or a stream of water, including a river, brook, or underground stream.

WETLAND RESOURCE AREA: Areas specified in the Massachusetts Wetlands Protection Act G.L. c. [131](#), § [40](#) and in the (city or town's) wetland bylaw/ordinance.

WETLANDS: Tidal and non-tidal areas characterized by saturated or nearly saturated soils most of the year that are located between terrestrial (land-based) and aquatic (water-based) environments, including freshwater marshes around ponds and channels (rivers and streams), brackish and salt marshes; common names include marshes, swamps and bogs.

C. Authority. This bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and pursuant to the regulations of the federal Clean Water Act found at [40 CFR 122.34](#)

D. Applicability. This bylaw shall apply to all activities that result in disturbance of one or more acres of land that drains to the municipal separate storm sewer system. Except as authorized by the The Planning Board hereafter known as "The Board" in a Land Disturbance Permit or as otherwise provided in this bylaw, no person shall perform any activity that results in disturbance of an acre or more of land. Normal maintenance and improvement of land in agricultural or aquacultural use, as defined by the Wetlands Protection Act regulation 310 CMR 10.4, are exempt. In addition, as authorized in the Phase II Small MS4 General Permit for Massachusetts, storm water discharges resulting from the above activities that are subject to jurisdiction under the Wetlands Protection Act and demonstrate compliance with the Massachusetts Storm Water Management Policy as reflected in an Order of Conditions issued by the Conservation Commission are exempt from compliance with this bylaw.

E. Responsibility for Administration.

1. The Board shall administer, implement and enforce this bylaw. Any powers granted to or duties imposed upon the Board may be delegated in writing by the Board to its employees or agents.

2. Waiver. The Board may waive strict compliance with any requirement of this Ordinance or the rules and regulations promulgated hereunder, where:

a. such action is allowed by federal, state and local statutes and/or regulations,

- b. is in the public interest, and
 - c. is not inconsistent with the purpose and intent of this Ordinance.
3. Rules and Regulations. The Board may adopt, and periodically amend rules and regulations to effectuate the purposes of this Ordinance. Failure by the Board to promulgate such rules and regulations shall not have the effect of suspending or invalidating this Ordinance.

F. Permits and Procedure.

1. Application A completed application for a Land Disturbance Permit shall be filed with The Board. A permit must be obtained prior to the commencement of land disturbing activity that may result in the disturbance of an area of one acre or more. The Land Disturbance Permit Application package shall include:
 - a. A completed Application Form with original signatures of all owners;
 - b. A list of abutters, certified by the Assessors Office;
 - c. Three (3) copies of the Erosion and Sediment Control Plan as specified in Section VI of this bylaw;
 - d. Payment of the application and review fees; and,
 - e. One (1) copy each of the application Form and the list of abutters filed with the Town Clerk.
2. Entry. Filing an application for a permit grants The Board or its agent, permission to enter the site to verify the information in the application and to inspect for compliance with permit conditions.
3. Other Boards. The Board shall notify the Town Clerk of receipt of the application, and shall give one copy of the application package to the Planning Board and the Board of Health
4. Public Hearing. The Board shall hold a public hearing within twenty-one (21) days of the receipt of a complete application and shall take final action within twenty-one (21) days from the time of the close of the hearing unless such time is extended by written agreement between the applicant and The Board. Notice of the public hearing shall be given by publication and posting and by first-class mailings to abutters at least seven (7) days prior to the hearing. The Board shall make the application available for inspection by the public during business hours at the City of Everett's Building Department
5. Information requests. The applicant shall submit all additional information requested by The Board prior to issuance of a decision on the application.
6. Action by the Board. The Board may:
 - a. Approve the Land Disturbance Permit Application and issue a permit if it finds that the proposed plan will protect water resources and meets the objectives and requirements of this Ordinance;
 - b. Approve the Land Disturbance Permit Application and issue a permit with conditions, modifications or restrictions that The Board determines are required to ensure that the project will protect water resources and meets the objectives and requirements of this Ordinance;
 - c. Disapprove the Land Disturbance Permit Application and deny the permit if it finds that the proposed plan will not protect water resources or fails to meet the objectives and requirements of this Ordinance.
7. Failure of the Board to take final action upon an Application within the time specified above shall be deemed to be approval of said Application. Upon certification by the Town Clerk that the allowed time has passed without the Board's action, the Land Disturbance Permit shall be issued by The Board.
8. Fee Structure. Each application must be accompanied by the appropriate application fee as established by the Board. Applicants shall pay review fees as determined by the Board sufficient to cover any expenses connected with the public hearing and review of the Land Disturbance Permit Application before the review process commences. The Board is authorized to retain a Registered Professional Engineer or other professional consultant to advise The Board on any or all aspects of the Application.
9. Project Changes. The permittee, or their agent, must notify The Board in writing of any change or alteration of a land-disturbing activity authorized in a Land Disturbance Permit before any change or alteration occurs. If The Board determines that the change or alteration is significant, based on the design requirements listed in Section 7.B. and accepted construction practices, The Board may require that an amended Land Disturbance Permit application be filed and a public hearing held. If any change or alteration from the Land Disturbance Permit occurs during any land disturbing activities, The Board may require the installation of interim erosion and sedimentation control measures before approving the change or alteration.

G. Erosion and Sediment Control Plan.

1. The Erosion and Sediment Control Plan shall contain sufficient information to describe the nature and purpose of the proposed development, pertinent conditions of the site and the adjacent areas, and proposed erosion and sedimentation controls. The applicant shall submit such material as is necessary to show that the proposed development will comply with the design requirements listed in Section 7.G.2 below.
2. The design requirements of the Erosion and Sediment Control Plan are:
 - a. Minimize total area of disturbance;
 - b. Sequence activities to minimize simultaneous areas of disturbance;
 - c. Minimize peak rate of runoff in accordance with the Massachusetts Storm-water Policy;
 - d. Minimize soil erosion and control sedimentation during construction, provided that prevention of erosion is preferred over sedimentation control;
 - e. Divert uncontaminated water around disturbed areas;
 - f. Maximize groundwater recharge;
 - g. Install, and maintain all Erosion and Sediment Control measures in accordance with the manufacturers specifications and good engineering practices;
 - h. Prevent off-site transport of sediment;
 - i. Protect and manage on and off-site material storage areas (overburden and stockpiles of dirt, borrow areas, or other areas used solely by the permitted project are considered a part of the project);
 - j. Comply with applicable Federal, State and local laws and regulations including waste disposal, sanitary sewer or septic system regulations, and air quality requirements, including dust control;
 - k. Prevent adverse impact from the proposed activities to habitats mapped by the Massachusetts Natural Heritage & Endangered Species Program as Endangered, Threatened or Of Special Concern, Estimated Habitats of Rare Wildlife and Certified Vernal Pools, and Priority Habitats of Rare Species;
 - l. Institute interim and permanent stabilization measures, which shall be instituted on a disturbed area as soon as practicable but no more than 14 days after construction activity has temporarily or permanently ceased on that portion of the site;
 - m. Properly manage on-site construction and waste materials; and
 - n. Prevent off-site vehicle tracking of sediments.
3. Erosion and Sedimentation Control Plan Content. The Plan shall contain the following information:
 - a. Names, addresses, and telephone numbers of the owner, applicant, and person(s) or firm(s) preparing the plan;
 - b. Title, date, north arrow, names of abutters, scale, legend, and locus map;
 - c. Location and description of natural features including:
 - i. Watercourses and water bodies, wetland resource areas and all floodplain information, including the 100-year flood elevation based upon the most recent Flood Insurance Rate Map, or as calculated by a professional engineer for areas not assessed on these maps;
 - ii. Existing vegetation including tree lines, canopy layer, shrub layer and ground cover, and trees with a caliper twelve (12) inches or larger, noting specimen trees and forest communities;
 - iii. Habitats mapped by the Massachusetts Natural Heritage & Endangered Species Program as Endangered, Threatened or of Special Concern, Estimated Habitats of Rare Wildlife and Certified Vernal Pools, and Priority Habitats of Rare Species within five hundred (500) feet of any construction activity.
 - d. Lines of existing abutting streets showing drainage and driveway locations and curb cuts;
 - e. Existing soils, volume and nature of imported soil materials

- f. Topographical features including existing and proposed contours at intervals no greater than two (2) feet with spot elevations provided when needed;
- g. Surveyed property lines showing distances and monument locations, all existing and proposed easements, rights-of-way, and other encumbrances, the size of the entire parcel, and the delineation and number of square feet of the land area to be disturbed;
- h. Drainage patterns and approximate slopes anticipated after major grading activities (Construction Phase Grading Plans);
- i. Location and details of erosion and sediment control measures with a narrative of the construction sequence/phasing of the project, including both operation and maintenance for structural and non-structural measures, interim grading, and material stockpiling areas;
- j. Path and mechanism to divert uncontaminated water around disturbed areas, to the maximum extent practicable;
- k. Location and description of industrial discharges, including stormwater discharges from dedicated asphalt plants and dedicated concrete plants, which are covered by this permit;
- l. Storm water runoff calculations in accordance with the Department of Environmental Protection's Storm water Management Policy;
- m. Location and description of and implementation schedule for temporary and permanent seeding, vegetative controls, and other stabilization measures;
- n. A description of construction and waste materials expected to be stored on-site. The Plan shall include a description of controls to reduce pollutants from these materials, including storage practices to minimize exposure of the materials to storm water, and spill prevention and response;
- o. A description of provisions for phasing the project where one acre of area or greater is to be altered or disturbed;
- p. Plans must be stamped and certified by a qualified Professional Engineer registered in Massachusetts or a Certified Professional in Erosion and Sediment Control and
- q. Such other information as is required by The Board.

H. Inspection and Site Supervision.

1. Pre-construction Meeting. Prior to starting clearing, excavation, construction, or land disturbing activity the applicant, the applicant's technical representative, the general contractor or any other person with authority to make changes to the project, shall meet with The Board, to review the permitted plans and their implementation.
2. Board Inspection. The Board or its designated agent shall make inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the land disturbance permit as approved. The Permit and associated plans for grading, stripping, excavating, and filling work, bearing the signature of approval of The Board, shall be maintained at the site during the progress of the work. In order to obtain inspections, the permittee shall notify The Board at least two (2) working days before each of the following events:
 - a. Erosion and sediment control measures are in place and stabilized;
 - b. Site Clearing has been substantially completed;
 - c. Rough Grading has been substantially completed;
 - d. Final Grading has been substantially completed;
 - e. Close of the Construction Season; and
 - f. Final Landscaping (permanent stabilization) and project final completion.
3. Permittee Inspections. The permittee or his/her agent shall conduct and document inspections of all control measures) no less than weekly or as specified in the permit, and prior to and following anticipated storm events. The purpose of such inspections will be to determine the overall effectiveness of the control plan, and the need for maintenance or additional control measures. The permittee or his/her agent shall submit monthly reports to The Board or designated agent in a format approved by The Board.

4. Access Permission. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, The Board its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this Ordinance and may make or cause to be made such examinations, surveys or sampling as The Board deems reasonably necessary to determine compliance with the permit.

I. Surety. The Board may require the permittee to post before the start of land disturbance activity, a surety bond, irrevocable letter of credit, cash, or other acceptable security. The form of the bond shall be approved by town counsel, and be in an amount deemed sufficient by The Board to ensure that the work will be completed in accordance with the permit. If the project is phased, The Board may release part of the bond as each phase is completed in compliance with the permit but the bond may not be fully released until the Board has received the final report as required by Section 10 and issued a certificate of completion.

J. Final Reports. Upon completion of the work, the permittee shall submit a report (including certified as-built construction plans) from a Professional Engineer (P.E.), surveyor, or Certified Professional in Erosion and Sediment Control (CPESC), certifying that all erosion and sediment control devices, and approved changes and modifications, have been completed in accordance with the conditions of the approved permit. Any discrepancies should be noted in the cover letter.

K. Enforcement.

1. The Board or an authorized agent of The Board shall enforce this Ordinance, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

2. Orders

a. The Board or an authorized agent of the The Board may issue a written order to enforce the provisions of this Ordinance or the regulations thereunder, which may include:

i. A requirement to cease and desist from the land-disturbing activity until there is compliance with the bylaw and provisions of the land-disturbance permit;

ii. Maintenance, installation or performance of additional erosion and sediment control measures;

iii. Monitoring, analyses, and reporting

iv. Remediation of erosion and sedimentation resulting directly or indirectly from the land-disturbing activity.

b. If the enforcing person determines that abatement or remediation of erosion and sedimentation is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the City of Everett may, at its option, undertake such work, and the property owner shall reimburse the City of Everett's expenses.

c. Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner shall be notified of the costs incurred by the City of Everett], including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with The Board within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of The Board affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate, as provided in G.L. Ch. 59, § 57, after the thirty-first day following the day on which the costs were due.

3. Criminal Penalty. Any person who violates any provision of this Ordinance, regulation, order or permit issued there under, shall be punished by a fine of not more than \$500.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

4. Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the City of Everett may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, §21D and Chapter 1-8 of the Revised Ordinances of the City of Everett in which case Building Inspector of the City of Everett shall be the enforcing person.

5. Appeals. The decisions or orders of The Board shall be final. Further relief shall be to a court of competent jurisdiction.

6. Remedies Not Exclusive. The remedies listed in this Ordinance are not exclusive of any other remedies available under any applicable federal, state or local law.

L. Certificate of Completion. The issuing authority will issue a letter certifying completion upon receipt and approval of the final reports and/or upon otherwise determining that all work of the permit has been satisfactorily completed in conformance with this

bylaw.

M. Severability. If any provision, paragraph, sentence, or clause of this Ordinance shall be held invalid for any reason, all other provisions shall continue in full force and effect.

LAND DISTURBANCE PERMIT

To The Board:

The undersigned wishes to submit a Land Disturbance Permit Application as defined in the Zoning Ordinances of the City of Everett Section and requests a review and determination by The Board of said Land Disturbance Plan.

The Land Disturbance Plan involves property where owner's title to the land is derived under deed from , dated , and recorded in the [Insert] County Registry of Deeds, Book , Page , or Land Court Certificate of Title No. , Registered in District, Book , Page

Give a brief summary of the nature of the project.

The property (building) is described as being located at ; it is currently used as , and the changes proposed to be made are .

The project is located on the parcel shown on Assessors Map , Parcel .

Applicant's Signature Owners' Signature(s)

Applicant's Name (print) Owners' Names(s)

Applicant's Address Owners' Address

Date Received by Town Clerk:

Signature

Please note: 1) An applicant for a Land Disturbance Plan Review must file with the Board a completed Land Disturbance Permit Application, a list of abutters, three (3) copies of the Land Disturbance Plan Package, and the application and review fees as noted in the Land Disturbance Plan Review Fee Schedule. 2) The applicant shall also file a copy of the Land Disturbance Plan and the application with the Town Clerk. The date of receipt by the Town Clerk shall be the official filing date.

Land Disturbance Plan Review Fee Schedule

The following fee schedules are minimum fees. The Board may require higher fees if deemed necessary for proper review of an application or to ensure compliance.

Lot Area Professional Review Fee Application Fee

1 and 2 family dwelling \$ cost of consultant \$ 50

Less Than 3 Acres \$ cost of consultant \$ 500

3 to 10 Acres \$ cost of consultant \$ 1000

Greater than 10 Acres \$ cost of consultant \$ 2000

Re-submittal/Amendment

Filing Fee \$50

GENERAL

1. Any application not accompanied by the appropriate fee shall be deemed incomplete. Payment must be made to The Board in cash, money order, bank or certified check payable to the Town of [insert name].
2. An Applicant's failure to pay any additional review or inspection fee within five business days of receipt of the notice that further fees are required shall be grounds for disapproval.
3. The Board will publish the public notice and send abutter notifications. Abutter notification shall be by certified mail-return receipt requested. The applicant shall pay all costs associated with the publication and notification requirements. These costs shall not be imposed on the applicant if the applicant completes the public notice and abutter notification requirements, and provides The Board with copies of the public notices and the return receipt cards.

Professional review fees include engineering review, legal review, and clerical fees associated with the public hearing and permit processing. A fee estimate may be provided by [the Board's] consulting engineer. (Inserted by Ord. A0026-10)

(End of Section)

SECTION 29. Governing Post-construction Storm Water Managements of New Developments And Redevelopments.

A. Purpose.

1. Regulation of discharges to the municipal separate storm sewer system (MS4) is necessary for the protection of the City of Everett's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment. Increased and contaminated storm water runoff associated with developed land uses and the accompanying increase in impervious surface are major causes of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater;
 - a. Impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater,
 - b. Contamination of drinking water supplies,
 - c. Erosion of stream channels;
 - d. Alteration or destruction of aquatic and wildlife habitat; and
 - e. Flooding. Therefore, this bylaw establishes storm water management standards for the final conditions that result from development and redevelopment projects to minimize adverse impacts offsite and downstream which would be born by abutters, townspeople and the general public.
2. The objectives of this Ordinance are:
 - a. To require practices to control the flow of storm water from new and redeveloped sites into the [town/city] storm drainage system in order to prevent flooding and erosion;
 - b. To protect groundwater and surface water from degradation;
 - c. To promote groundwater recharge;
 - d. (4) To prevent pollutants from entering the City of Everett's municipal separate storm sewer system (MS4) and to minimize discharge of pollutants from the MS4;
 - e. To ensure adequate long-term operation and maintenance of structural storm water best management practices so that they work as designed;
 - f. To comply with state and federal statutes and regulations relating to storm water discharges; and
 - g. To establish the City of Everett's legal authority to ensure compliance with the provisions of this Ordinance through inspection, monitoring, and enforcement.

B. Definitions.

ALTERATION OF DRAINAGE CHARACTERISTICS: Any activity on an area of land that changes the water quality, force, direction, timing or location of runoff flowing from the area. Such changes include: change from distributed runoff to confined, discrete discharge, change in the volume of runoff from the area; change in the peak rate of runoff from the area; and change in the recharge to groundwater on the area.

BEST MANAGEMENT PRACTICE (BMP): An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of storm water runoff.

THE BOARD – City of Everett's Planning Board

CLEARING: Any activity that removes the vegetative surface cover.

DEVELOPMENT: The modification of land to accommodate a new use or expansion of use, usually involving construction.

DISTURBANCE OF LAND: Any action that causes a change in the position, location, or arrangement of soil, sand rock, gravel of similar earth material.

GRADING: Changing the level or shape of the ground surface.

GRUBBING: The act of clearing land surface by digging up roots and stumps.

IMPERVIOUS SURFACE: Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and roof tops.

MASSACHUSETTS STORMWATER MANAGEMENT POLICY: The Policy issued by the Department of Environmental Protection, and as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act G.L. c. [131 § 40](#) and Massachusetts Clean Waters Act G.L. c. [21](#), §. 23-56. The Policy addresses storm water impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM: The system of conveyances designed or used for collecting or conveying storm water, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the city of Everett.

OPERATION AND MAINTENANCE PLAN: A plan setting up the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a storm water management system to insure that it continues to function as designed.

OUTFALL: The point at which storm water flows out from a point source discernible, confined and discrete conveyance into waters of the Commonwealth.

OUTSTANDING RESOURCE WATERS (ORWs): Waters designated by Massachusetts Department of Environmental Protection as ORWs. These waters have exceptional sociologic, recreational, ecological and/or aesthetic values and are subject to more stringent requirements under both the Massachusetts Water Quality Standards (314 CMR 4.00) and the Massachusetts Storm water Management Standards. ORWs include vernal pools certified by the Natural Heritage Program of the Massachusetts Department of Fisheries and Wildlife and Environmental Law Enforcement, all Class A designated public water supplies with their bordering vegetated wetlands, and other waters specifically designated.

OWNER: A person with a legal or equitable interest in property.

PERSON: An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

POINT SOURCE: Any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or may be discharged.

REDEVELOPMENT: Development, rehabilitation, expansion, demolition or phased projects that disturb the ground surface or increase the impervious area on previously developed sites.

RUNOFF: Rainfall, snowmelt, or irrigation water flowing over the ground surface.

STORMWATER MANAGEMENT PLAN: A plan required as part of the application for a Stormwater Management Permit. See Section [29.G](#).

STORMWATER: Storm water runoff, snow melt runoff, and surface water runoff and drainage.

TSS: Total Suspended Solids.

C. Authority. This bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes and pursuant to the regulations of the federal Clean Water Act found at [40 CFR 122.34](#).

D. Applicability.

1. No person may, by development or redevelopment activity, alter the drainage characteristics of one or more acres of land draining to the City of Everett municipal separate storm sewer system without a permit from The Board. The regulated projects shall include without limitation:

- a. Land disturbance associated with construction or reconstruction of structures;
- b. Development or redevelopment involving multiple separate activities in discontinuous locations or on different schedules if the activities are part of a larger common plan of development that all together disturbs one or more acres.
- c. Paving or other change in surface material causing a significant reduction of permeability or increase in runoff;
- d. Construction of a new drainage system or alteration of an existing drainage system or conveyance serving a drainage area of one or more acres

e. Any activity that will, or may, result in increased rate or volume of storm water runoff flowing from the property into a public way or the MS4.

2. Exemptions

a. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.04;

b. Maintenance of existing landscaping, gardens or lawn areas associated with a single family dwelling

c. The construction of fencing that will not substantially alter existing terrain or drainage patterns;

d. Construction of utilities other than drainage (gas, water, electric, telephone, etc.) which will not alter terrain or drainage patterns;

e. As authorized in the Phase II Small MS4 General Permit for Massachusetts, storm water discharges resulting from the activities identified in Section [29.D](#) that are wholly subject to jurisdiction under the Wetlands Protection Act and demonstrate compliance with the Massachusetts Storm Water Management Policy as reflected in an Order of Conditions issued by the Conservation Commission are exempt from compliance with this bylaw.

E. Administration.

1. The Board, shall administer, implement and enforce this bylaw. Any powers granted to or duties imposed upon The Board may be delegated in writing by The Board to its employees or agents.

2. Rules and Regulations. The Board may adopt, and periodically amend, rules and regulations relating to the procedures and administration of this Storm water Management Ordinance, by majority vote of The Board, after conducting a public hearing to receive comments on any proposed revisions. Such hearing dates shall be advertised in a newspaper of general local circulation, at least seven (7) days prior to the hearing date.

F. Permits and Procedure.

1. Filing Application. The site owner or his agent shall file with The Board hereinafter the Board, three (3) copies of a completed application package for a Storm water Management Permit (SMP). Permit issuance is required prior to any site altering activity. While the applicant can be a representative, the permittee must be the owner of the site. The SMP Application package shall include:

a. A completed Application Form with original signatures of all owners;

b. A list of abutters, certified by the Assessors Office;

c. Three (3) copies of the Storm water Management Plan and project description as specified in Section [29.G.1](#);

d. Three (3) copies of the Operation and Maintenance Plan as required by Section [29.H](#) of this bylaw;

e. One (1) copy of the application form, the Storm water Management Plan, the Operation & Maintenance Plan, and the list of abutters filed with the Town Clerk; and

f. Payment of the application and review fees.

2. Entry. Filing an application for a permit grants The Board, or its agent, permission to enter the site to verify the information in the application and to inspect for compliance with the resulting permit

3. Other Boards. The Board shall notify the Town Clerk of receipt of the application, and shall give one copy of the application package to Building Official, Health Department, City Engineer, Conservation Commission and City Services.

4. Fee Structure. The Board shall obtain with each submission an Application Fee established by The Board to cover expenses connected with the public hearing and application review of the Storm-water Management Permit and a technical Review Fee sufficient to cover professional review. The Board is authorized to retain a Registered Professional Engineer or other professional consultant to advise The Board on any or all aspects of these plans. Applicants must pay review fees before the review process may begin.

5. Public Hearing. The Board shall hold a public hearing within twenty-one (21) days of the receipt of a complete application and shall take final action within twenty-one (21) days from the close of the hearing unless such time is extended by agreement between the applicant and [insert appropriate board or department]. Notice of the public hearing shall be given by publication in a local paper of general circulation, by posting and by first-class mailings to abutters at least seven (7) days prior to the hearing.

6. Actions. The Boards action, rendered in writing, shall consist of:

- a. Approval of the Storm water Management Permit Application based upon determination that the proposed plan meets the Standards in Section [29.G](#) and will adequately protect the water resources of the community and is in compliance with the requirements set forth in this Ordinance;
- b. Approval of the Storm water Management Permit Application subject to any conditions, modifications or restrictions required by the The Board which will ensure that the project meets the Standards in Section [29.G](#) and adequately protect water resources, set forth in this Ordinance
- c. Approval of the Storm water Management Permit Application based upon a determination that the proposed plan, as submitted, does not meet the Standards in Section [29.G](#) or adequately protect water resources, as set forth in this Ordinance.

7. Failure of The Board to take final action upon an Application within the time specified above shall be deemed to be approval of said Application. Upon certification by the Town Clerk that the allowed time has passed without Board action, The Board must issue a Storm water Management Permit.

8. Plan Changes. The permittee must notify The Board in writing of any drainage change or alteration in the system authorized in a Storm water Management Permit before any change or alteration is made. If The Board determines that the change or alteration is significant, based on the Storm water Management Standards in Section [29.G.2](#) and accepted construction practices, The Board may require that an amended application be filed and a public hearing held.

9. Project Completion. At completion of the project the permittee shall submit as-built recOrd. drawings of all structural storm water controls and treatment best management practices required for the site. The as-built drawing shall show deviations from the approved plans, if any, and be certified by a Registered Professional Engineer.

G. Stormwater Management Plan.

1. The application for a storm water management permit shall consist of submittal of a Storm water Management Plan to the Board. This Storm water Management Plan shall contain sufficient information for the Board to evaluate the environmental impact, effectiveness, and acceptability of the measures proposed by the applicant for reducing adverse impacts from storm water. The Plan shall be designed to meet the Massachusetts Storm water Management Standards as set forth in Part B of this section and DEP Storm water Management Handbook Volumes I and II. The Storm water Management Plan shall fully describe the project in drawings, and narrative. It shall include:

- a. A locus map,
- b. The existing zoning, and land use at the site,
- c. The proposed land use,
- d. The location(s) of existing and proposed easements,
- e. The location of existing and proposed utilities,
- f. The site's existing & proposed topography with contours at 2 foot intervals,
- g. The existing site hydrology,
- h. A description & delineation of existing storm water conveyances, impoundments, and wetlands on or adjacent to the site or into which storm water flows.
- i. A delineation of 100-year flood plains, if applicable
- j. Estimated seasonal high groundwater elevation (November to April) in areas to be used for storm water retention, detention, or infiltration.
- k. The existing and proposed vegetation and ground surfaces with runoff coefficient for each,
- l. A drainage area map showing pre and post construction watershed boundaries, drainage area and storm water flow paths,
- m. A description and drawings of all components of the proposed drainage system including:
 - i locations, cross sections, and profiles of all brooks, streams, drainage swales and their method of stabilization,
 - ii. all measures for the detention, retention or infiltration of water,

- iii. all measures for the protection of water quality,
 - iv. the structural details for all components of the proposed drainage systems and storm water management facilities,
 - v. notes on drawings specifying materials to be used, construction specifications, and typicals, and
 - vi. expected hydrology with supporting calculations.
- n. Proposed improvements including location of buildings or other structures, impervious surfaces, and drainage facilities, if applicable,
 - o. Timing, schedules, and sequence of development including clearing, stripping, rough grading, construction, final grading, and vegetative stabilization,
 - p. A maintenance schedule for the period of construction, and
 - q. Any other information requested by the Board.
2. Standards. Projects shall meet the Standards of the Massachusetts Storm water Management Policy, which are as follows:
- a. No new storm water conveyances (e.g. outfalls) may discharge untreated storm water directly to or cause erosion in wetlands or water of the Commonwealth.
 - b. Storm water management systems must be designed so that post-development peak discharge rates do not exceed pre-development peak discharge rates.
 - c. Loss of annual recharge to groundwater should be minimized through the use of infiltration measures to the maximum extent practicable. The annual recharge from the post-development site should approximate the annual recharge rate from the predevelopment or existing site conditions, based on soil types.
 - d. For new development, storm water management systems must be designed to remove 80% of the average annual load (post development conditions) of Total Suspended Solids (TSS). It is presumed that this standard is met when:
 - i. Suitable nonstructural practices for source control and pollution prevention and implemented;
 - ii. Storm water management best management practices (BMPs) are sized to capture the prescribed runoff volume; and
 - iii. Storm water management BMPs are maintained as designed.
 - e. Storm water discharges from areas with higher potential pollutant loads require the use of specific storm water management BMPs (see Storm water Management Volume I: Storm water Policy Handbook). The use of infiltration practices without pretreatment is prohibited.
 - f. Storm water discharges to critical areas must utilize certain storm water management BMPs approved for critical areas (see Storm water Management Volume I: Storm water Policy Handbook). Critical areas are Outstanding Resource Waters (ORWs), shellfish beds, swimming beaches, cold water fisheries and recharge areas for public water supplies.
 - g. Redevelopment of previously developed sites must meet the Storm water Management Standards to the maximum extent practicable. However, if it is not practicable to meet all The Standards, new (retrofitted or expanded) storm water management systems must be designed to improve existing conditions.
 - h. Erosion and sediment controls must be implemented to prevent impacts during disturbance and construction activities.
 - i. All storm water management systems must have an operation and maintenance plan to ensure that systems function as designed.

When one or more of the Standards cannot be met, an applicant may demonstrate that an equivalent level of environmental protection will be provided.

3. Project Changes. The permittee, or their agent, shall notify The Board in writing of any change or alteration of a land-disturbing activity authorized in a Storm water Management Permit before any change or alteration occurs. If The Board determines that the change or alteration is significant, based on the design requirements listed in Section _____ and accepted construction practices, The Board may require that an amended Storm water Management Permit application be

filed and a public hearing held. If any change or deviation from the Storm water Management Permit occurs during a project, The Board may require the installation of interim measures before approving the change.

H. Operation and Maintenance Plans. An Operation and Maintenance plan (O&M Plan) is required at the time of application for all projects. The maintenance plan shall be designed to ensure compliance with the Permit, this Bylaw and that the Massachusetts Surface Water Quality Standards, 314, CMR 4.00 are met in all seasons and throughout the life of the system. The Board shall make the final decision of what maintenance option is appropriate in a given situation. The Board will consider natural features, proximity of site to water bodies and wetlands, extent of impervious surfaces, size of the site, the types of storm water management structures, and potential need for ongoing maintenance activities when making this decision. The Operation and Maintenance Plan shall remain on file with The Board and shall be an ongoing requirement. The O&M Plan shall include:

1. The name(s) of the owner(s) for all components of the system
2. Maintenance agreements that specify:
 - a. The names and addresses of the person(s) responsible for operation and maintenance
 - b. The person(s) responsible for financing maintenance and emergency repairs.
 - c. A Maintenance Schedule for all drainage structures, including swales and ponds.
 - d. A list of easements with the purpose and location of each.
 - e. The signature(s) of the owner(s).
3. Storm water Management Easement(s).
 - a. Storm water management easements shall be provided by the property owner(s) as necessary for:
 - i. access for facility inspections and maintenance,
 - ii. preservation of storm water runoff conveyance, infiltration, and detention areas and facilities, including flood routes for the 100-year storm event.
 - iii. direct maintenance access by heavy equipment to structures requiring regular cleanout.
 - b. The purpose of each easement shall be specified in the maintenance agreement signed by the property owner.
 - c. Storm water management easements are required for all areas used for off-site storm water control, unless a waiver is granted by the Board.
 - d. Easements shall be recorded with the Middlesex Registry of Deeds prior to issuance of a Certificate of Completion by the [Board].
4. Changes to Operation and Maintenance Plans
 - a. The owner(s) of the storm water management system must notify The Board of changes in ownership or assignment of financial responsibility.
 - b. The maintenance schedule in the Maintenance Agreement may be amended to achieve the purposes of this Ordinance by mutual agreement of The Board and the Responsible Parties. Amendments must be in writing and signed by all Responsible Parties.

Responsible Parties shall include owner(s), persons with financial responsibility, and persons with operational responsibility.

I. Surety. The Board may require the permittee to post before the start of land disturbance or construction activity, a surety bond, irrevocable letter of credit, cash, or other acceptable security. The form of the bond shall be approved by town counsel, and be in an amount deemed sufficient by The Board to ensure that the work will be completed in accordance with the permit. If the project is phased, The Board may release part of the bond as each phase is completed in compliance with the permit but the bond may not be fully released until the Board has received the final inspection report as required by Section [29.J](#) and issued a Certificate of Completion.

J. Inspections. The Board shall inspect the project site at the following stages:

1. Initial Site Inspection: prior to approval of any plan.
2. Erosion Control Inspection: to ensure erosion control practices are in accOrd. with the filed plan.

3. Bury Inspection: prior to backfilling of any underground drainage or storm water conveyance structures.
4. Final Inspection. After the storm water management system has been constructed and before the surety has been released, the applicant must submit a recOrd. plan detailing the actual storm water management system as installed. The Board shall inspect the system to confirm its "as-built" features. This inspector shall also evaluate the effectiveness of the system in an actual storm. If the inspector finds the system to be adequate he shall so report to The Board which will issue a Certificate of Completion.

If the system is found to be inadequate by virtue of physical evidence of operational failure, even though it was built as called for in the Storm water Management Plan, it shall be corrected by the permittee before the performance guarantee is released. If the permittee fails to act the City of Everett may use the surety bond to complete the work. Examples of inadequacy shall be limited to: errors in the infiltrative capability, errors in the maximum groundwater elevation, failure to properly define or construct flow paths, or erosive discharges from basins.

K. Waivers.

1. The Board may waive strict compliance with any requirement of this Ordinance or the rules and regulations promulgated hereunder, where:
 - a. such action is allowed by federal, state and local statutes and/or regulations,
 - b. is in the public interest, and
 - c. is not inconsistent with the purpose and intent of this Ordinance.
2. Any applicant may submit a written request to be granted such a waiver. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of the Ordinance does not further the purposes or objectives of this bylaw.
3. All waiver requests shall be discussed and voted on at the public hearing for the project.
4. If in the City of Everett's opinion, additional time or information is required for review of a waiver request, The Board may continue a hearing to a date certain announced at the meeting. In the event the applicant objects to a continuance, or fails to provide requested information, the waiver request shall be denied.

L. Certificate of Completion. The Board will issue a letter certifying completion upon receipt and approval of the final inspection reports and/or upon otherwise determining that all work of the permit has been satisfactorily completed in conformance with this bylaw.

M. Enforcement.

1. The Board or an authorized agent of The Board shall enforce this Ordinance, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.
2. Orders
 - a. The Board or an authorized agent of the Board may issue a written order to enforce the provisions of this Ordinance or the regulations there-under, which may include requirements to:
 - i. cease and desist from construction or land disturbing activity until there is compliance with the Ordinance and the storm water management permit;
 - ii. repair, maintain; or replace the storm water management system or portions thereof in accordance with the operation and maintenance plan.
 - iii. perform monitoring, analyses, and reporting;
 - iv. remediate adverse impact resulting directly or indirectly from malfunction of the storm water management system.
 - b. If the enforcing person determines that abatement or remediation of adverse impacts is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the City of Not Exclusive Th its option, undertake such work, and the property owner shall reimburse the City of Everett's expenses.
 - c. Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner shall be notified of the costs incurred by the City of Everett, including administrative

costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with The Board within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of The Board affirming or reducing the costs, or from a Final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in G.L. Ch. 59, § 57, after the thirty-first day at which the costs first become due.

3. Criminal Penalty. Any person who violates any provision of this Ordinance, or regulation, order or permit issued thereunder, shall be punished by a fine of not more than \$ 500. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

4. Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the City of Everett may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, §21D and Chapter 1-8 of the Revised Ordinances of the City of Everett

5. Remedies Not Exclusive. The remedies listed in this Ordinance are not exclusive of any other remedies available under any applicable federal, state or local law.

N. Severability. If any provision, paragraph, sentence, or clause of this Ordinance shall be held invalid for any reason, all other provisions shall continue in full force and effect.

STORMWATER MANAGEMENT PERMIT APPLICATION

To The Board:

The undersigned wishes to submit a Storm water Management Permit Application as defined in the Zonings Ordinances of the City of Everett Section and requests a review and determination by The Board of the Storm water Management Plan.

The Storm water Management Plan involves property where owner's title to the land is derived under deed from, dated, and recorded in the [Insert] County Registry of Deeds, Book, Page, or Land Court Certificate of Title No., Registered in District, Book, Page.

Give a brief summary of the nature of the project.

The property (building) is described as being located at; it is currently used as, and the changes proposed to be made are.

The project is located on the parcel shown on Assessors Map, Parcel.

Applicant's Signature Owners' Signature(s)

Applicant's Name (print) Owners' Names(s)

Applicant's Address Owners' Address

Date Received by Town Clerk:

Signature

Please note: 1) An applicant for a Storm water Management Plan Review must file with The Board a completed Storm water Management Permit Application Form, a list of abutters, three (3) copies of the Storm water Management Plan Package, three (3) copies of the Operation and Maintenance Plan, and the Application and Review Fees as noted in the Storm water Management Plan Review Fee Schedule. 2) The applicant shall also file a copy of the Storm water Management Plan, Operation & Maintenance Plan, and the Application Form with the Town Clerk. The date of receipt by the Town Clerk shall be the official filing date. 3) This application grants the Board and its agents permission to enter the property for inspection and verification of information submitted in the application.

Storm water Management Plan Review Fee Schedule

The following fee schedules are minimum fees. The Board may require higher fees if deemed necessary for proper review of an application or to ensure compliance.

Lot Area Professional Review Fee Application Fee

1 and 2 family dwelling \$ cost of consultant \$ 50

Less Than 3 Acres \$ cost of consultant \$ 500

3 to 10 Acres \$ cost of consultant \$ 1000

Greater than 10 Acres \$ cost of consultant \$ 2000

Re-submittal/Amendment

Filing Fee \$50

GENERAL

1. Any application not accompanied by the appropriate fee shall be deemed incomplete. Payment must be made to The Board in cash, money order, bank or certified check payable to the City of Everett.
2. An Applicant's failure to pay any additional review or inspection fee within five business days of receipt of the notice that further fees are required shall be grounds for disapproval.
3. The Board will publish the public notice and send abutter notifications. Abutter notification shall be by certified mail-return receipt requested. The applicant shall pay all costs associated with the publication and notification requirements. These costs shall not be imposed on the applicant if the applicant completes the public notice and abutter notification requirements, and provides The Board with copies of the public notices and the return receipt cards.

Professional review fees include engineering review, legal review, and clerical fees associated with the public hearing and permit processing. A fee estimate may be provided by The Board's consulting engineer.

(End of Section)

SECTION 30. LOWER BROADWAY ECONOMIC DEVELOPMENT DISTRICT ("LBEDD").

A. General Provisions.

1. Purposes. The purposes of this Lower Broadway Economic Development District ("this Ordinance") are:
 - a. To establish zoning regulations in accordance with the land use policy objectives in the Lower Broadway Master Plan.
 - b. To encourage economic development, job creation and to strengthen the tax base in the City of Everett.
 - c. To encourage high-quality and high density mixed-use development that takes advantage of the Mystic River access and views of the Boston skyline.
 - d. To designate Priority Development Sites (PDS) to encourage redevelopment by providing expedited permitting processes pursuant to G.L. c. [43D](#).
 - e. In Mixed-Use Districts, to encourage neighborhood scale mixed-use development compatible with the residential and retail/commercial scale of Lower Broadway.
 - f. In Employment District, to encourage a diverse range of employment-generating land uses ranging from small scale automotive repair/maintenance to large scale light industrial/flex-tech/R&D, and to provide a transition between the industrial uses to the southeast and the commercial and residential uses along the Broadway corridor.
 - g. In Commercial Districts, to encourage neighborhood-oriented commercial/retail development to service a local and regional market, and to provide services to the residents and employees in Lower Broadway.
 - h. In Residential (Multi-Family) Districts, to encourage a broad range of medium density residential development that provides housing options and choices for current and future residents of Everett.
 - i. In Residential (Detached) Districts, to encourage the development of 1-3-family dwelling units at an urban neighborhood density as found throughout the City of Everett, including high quality streets and a walkable residential neighborhood.
2. Applicability.
 - a. In accordance with these purposes, and for the purposes set forth in G.L. c. [40A](#) and all acts in amendment thereof and in addition thereto, and under the authority thereof and any other enabling laws, the construction, alteration, repair, enlargement, movement, height, area, location, and use of buildings and structures and the use of land within the Lower Broadway Economic Development District as shown on the Zoning Map of the City of Everett are hereby regulated as herein provided. For parcels of land that are partly within the City of Everett and partly within an abutting municipality, this Ordinance shall govern the portion within the City of Everett.

b. Pursuant to G.L. c. [40A](#), [§6](#), the provisions of this Ordinance shall not apply to any existing buildings or structures, nor to the existing use of any building, structure or premises as long as they remain unchanged.

c. The City of Everett shall be exempt from the provisions of this Ordinance in the exercise of its municipal functions.

3. Amendments. All amendments to this Ordinance shall be made as provided in G.L. s.40A, §5.

4. Relationship to Other Ordinances. Development Projects proceeding under this Ordinance shall be governed solely by the provisions of this Section 28A and shall be deemed exempt from other standards and/or procedures of the Zoning Ordinance except as specified herein, and with the exception of the following sections, each as may be amended from time to time:

a. Section 11 Board of Appeals;

b. Section 21A Adult Entertainment Land Use;

c. Section 23 Building Department Fee Schedule;

d. Section 24 Telecommunications Overlay District;

e. Section 25 Substance Abuse Treatment Centers;

f. Section 27 Materials Recovery Facilities, Incinerators, Landfills, Junk Yards and Facilities, and Transfer Stations;

g. Section 28 Storm-water Management and Land Disturbance Ordinance; and

h. Section 29 Governing Post-Construction Storm-water Managements of New Developments and Redevelopments.

B. Definitions. Definitions of words and terms in this Ordinance are contained in Appendix C.

C. Establishment of District and Sub-district Boundaries.

1. Lower Broadway Economic Development District. In addition to the Districts established by Section 1 of the Zoning Ordinance, this Ordinance establishes a new Lower Broadway Economic Development District (LBEDD). The boundaries of the LBEDD are hereby established as indicated on a map entitled "the Zoning Map", of the City of Everett, Massachusetts, dated February, 1926, as amended, which accompanies and is hereby declared to be a part of the Zoning Ordinance.

2. LBEDD Sub-districts. The LBEDD is divided into six (6) zoning Sub-districts, designated as follows, and as shown on the Zoning Map:

a. LB-WMU: Lower Broadway, Waterfront Mixed-Use

b. LB-MU: Lower Broadway, Mixed-Use

c. LB-C: Lower Broadway, Commercial

d. LB-E: Lower Broadway, Employment

e. LB-RMF: Lower Broadway, Residential Multi-Family

f. LB-RD: Lower Broadway, Residential Detached

3. Resort Casino Overlay District. In addition to the Districts established by Section 1 of the Zoning Ordinance, this Ordinance establishes a new Resort Casino Overlay District (RCOD). The boundaries of the RCOD are hereby established as indicated on the Zoning Map, as amended.

4. Location of Boundaries. These District and Sub-district boundary lines are intended to follow lot lines as they existed on the effective date of this Ordinance, but where any such boundary line obviously does not follow such lot lines, it shall be deemed to be parallel to the nearest street at a distance estimated by the Applicant based on the Zoning Map and determined by the Building Commissioner, unless otherwise dimensioned on the Zoning Map. Where the District or Sub-district boundary is a street, the boundary line shall be the centerline of the street.

5. Interpretation of Boundaries. Whenever any dispute arises on District or Sub-district boundaries as to the exact location of a District or Sub-district boundary line, the location of such line shall be determined by the Building Commissioner, subject to appeal to the Zoning Board of Appeals in accordance with G.L. c. [40A](#), [§§8](#) and [15](#).

D. Resort Casino Overlay District (RCOD).

1. Purposes. The purposes of this District are:

- a. To provide for redevelopment of long-vacant property abutting the Mystic River by establishing standards for development of a Gaming Establishment.
 - b. To encourage high-quality and high density mixed-use development that takes advantage of the Mystic River access and views of the Boston skyline.
 - c. To encourage economic development and job creation, and to conserve the value of land and buildings, in the City of Everett.
2. Applicability.
- a. The RCOD shall be deemed to overlay the land as shown on the Zoning Map of the City of Everett, as amended. Within the RCOD, a landowner may elect to develop or apply for permits pursuant to the zoning controls set forth in this Section [30.D](#) or to comply with all applicable zoning controls set forth in the Underlying Zoning.
 - b. Uses and dimensional controls allowable only by special permit pursuant to the Underlying Zoning shall be permitted by Site Plan Review if included in a Gaming Establishment.
 - c. Upon election to proceed under this Section [30.D](#), uses and dimensional controls shall be governed solely by the provisions of this Section [30.D](#) and shall be exempt from other standards and/or procedures of the Zoning Ordinance except as specified in this Ordinance.
3. Permitted Uses. The following uses are allowed By-Right in the RCOD:
- a. Gaming Establishment.
 - b. Any use allowed By-Right or by special permit in the Underlying Zoning.
4. Procedures for Issuance of a Building Permit. Buildings and uses allowed herein require Site Plan Approval in accordance with the procedures defined in the Lower Broadway Economic Development District Ordinance.
5. Performance Standards. In addition to the required findings for Site Plan Approval pursuant to the Lower Broadway Economic Development District Ordinance, Site Plan Approval in the RCOD shall require the following findings by the Approving Authority:
- a. Overall site development shall provide for public access to the waterway to the extent permitted pursuant to G.L. c.[91A](#).
 - b. Overall site development shall include at least one structure greater than two hundred and fifty (250) feet in height designed to enhance the Everett skyline when viewed from Boston and the Mystic River.
 - c. Non-gaming amenities such as hotel, retail, dining, entertainment, spa/gym, and meeting facilities and other service functions shall make up over 75% of the total development gross square footage.
 - d. To the maximum extent practicable, multiple publicly accessible uses on the site shall include both indoor and outdoor options for pedestrian access between and among them.
 - e. At least 90% of on-site parking to serve the RCOD Development, including employee parking, shall be provided in parking structures, which may include sub-surface parking structures.
 - f. Site development shall incorporate accessible, landscaped outdoor public open spaces with seating, pedestrian level lighting and pedestrian amenities to facilitate public viewing of the Mystic River and access to water-based transportation.
6. Waivers. The Approving Authority may approve a proposed Development Project that deviates From the standards set forth in this Section [30.D](#), or in the Design Standards, upon a finding that such waiver(s) will not adversely affect public safety, and will equally or better serve the purposes of the RCOD.

E. Use Regulations.

1. Allowable Use Designations. Uses allowed in any LBEDD Sub-district and within the RCOD are specified in the Table of Use Regulations, included as Appendix A to this Ordinance, based on the following notations:
 - a. Uses Permitted By-Right.
 - i. "Y" indicates that a use is allowed By-Right in the district. Note that some uses may also require a Site Plan Approval or an Administrative Site Plan Approval, as prescribed in this Ordinance.

- ii. Site Plan Approval is required for a use where the letter "R" appears and is not required where the letters "NR" appear.
 - b. Special Permit Uses. "SP" indicates that a use is allowed only if approved by the Special Permit Granting Authority ("SPGA"), in accordance with the special permit review procedures prescribed in this Ordinance.
 - c. Uses Not Permitted. "-" indicates that a use is not allowed in the district.
 - d. Determination of Use Category. For specific uses which are not listed but are clearly within a category listed in the Table of Use Regulations, the Building Commissioner shall determine whether the proposed use is permitted, and if so, into which category it will be classified. The Building Commissioner shall note the applicable use classification in the issuance of a building permit in the LBEDD.
2. Notes to Table of Use Regulations.
 - a. Special Permit Required based on scale of proposed Development Project. Notwithstanding the Allowable Use Designations in the Table of Use Regulations, a Development Project that includes one or more Commercial or Industrial Uses shall require a special permit if it includes greater than 20,000 GSF of development, is greater than thirty-five feet (35') in height, or is located on a lot that directly abuts a lot that includes a building in residential use.
 - b. Allowance for Multi-Family in Commercial and Employment Sub-Districts. Multi-Family Residential Use may be permitted by special permit in the LB-C and LB-E Sub-districts provided it is located within a Mixed-Use Development Project, and provided that the first level of any such Development Project is, with the exception of access to such Multi-Family Use, comprised entirely of one or more non-residential use(s).
 - c. Projects in More than one Zoning District. Notwithstanding the Allowable Use Designations in the Table of Use Regulations, a Development Project that includes land in both the LB-C and the LB-E Sub-districts may be allowed by special permit to include one or more uses permitted in the LB-C Sub-district on land located within the LB-E Sub-district, subject to applicable Design Standards.
3. Accessory Uses.
 - a. Allowed Uses. Accessory Uses are permitted in the LBEDD as specified in the Table of Use Regulations, included as Appendix A to this Ordinance.
 - b. Special Dimensional Restrictions on Accessory Uses.
 - i. The total area of uses accessory to the principal use is limited to twenty-five (25) percent of the floor area of the Principal Use(s) to which it is accessory, and the total area of uses or buildings accessory to the principal use except that parking facilities and driveways may not occupy more than fifteen (15) percent of the entire area of the lot.
 - ii. In the LB-RD and LB-RMF Sub-districts, an accessory building shall not be located within ten (10) feet of a principal building or within five (5) feet of any side or rear lot line, or within the front yard setback of the zoning Sub-district in which it is located.
 - iii. In a Commercial, Mixed-Use, or Employment Sub-district, off-site parking may be allowed by special permit, as an accessory use, provided that: it is located within 1,320 feet of the principal building on a separate lot; and, no charge is made for any such surface (as opposed to structured) parking area; and no automotive sales or service operations are performed in any such parking area; and provided the Applicant provides improvements to the benefit of pedestrians to the corridor between the parking area and the premises to which they are appurtenant. Said improvements may include but are not necessarily limited to sidewalks, benches, lighting, bicycle racks and street trees, the adequacy of said improvements to be determined by the Approving Authority based an evaluation of the benefit of the proposed improvements proportionate to the amount of pedestrian activity projected to be generated between the accessory off-site parking and the use(s) proposed to be served by the parking.
4. Mixed-Use Development.
 - a. Mixed Use Development is permitted subject to approval of the Approving Authority. In Mixed-Use Development, multiple permitted uses within a single building are permitted, provided that all applicable health and safety regulations and all requirements of this Ordinance are followed.
 - b. In Mixed-Use Development, more than one principal use may be permitted on a Lot, and permitting shall follow the Table of Use Regulations. For example if one use is allowed by right and another is by special permit, then a special permit must be obtained for that use prior to its establishment. If both uses are permitted By-Right in the Table of Use Regulations, then no special permit is required. Where a special permit is required, the SPGA shall make a specific

finding that there exists, or will exist as a result of the proposed Mixed-Use Development, adequate parking to serve the proposes uses, and that any and all uses proposed in Mixed -Use Development are compatible with one another.

5. Use Variances Prohibited. Notwithstanding the provisions of Section 11 of the Zoning Ordinance, the Zoning Board of Appeals is not authorized to grant variances for uses not permitted by this Ordinance.

F. Dimensional Regulations (See Table on Next Page)

1. Table of Dimensional Standards.

Table of Dimensional Standards													
		Minimum Lot Dimensions			FAR Range		Res. Density		Setbacks (1)				
		Area (SF unless noted)		Frontage (Feet)			Min. Lot Area per Dwelling Unit		Front (2)		Side	Rear	Min. Open Space
Zoning Sub-Districts		As of Right	Special Permit		As of Right	Special Permit	As of Right	Special Permit	Min.	Max.	Min. Setbacks		
Resort Casino Overlay District	Gaming Establishment	20 ac.	-	-	n/a	n/a	n/a	n/a	-	-	-	-	30%
Waterfront Mixed Use		10,000	5,000	40	1.5	5.0	-	360	0	12	-	-	15%
Mixed-Use		5,000	2,000	40	2.0	4.0	-	360	0	12	-	-	15%
Employment		5,000	2,000	40	1.0	4.0	-	2,000	10	-	10	20	5%
Commercial		5,000	2,000	40	1.0	4.0	-	1,450	0	12	-	20	5%
Residential (MF)	Buildings with up to 24 units	10,000	4,000	40	1.0	3.0	-	900	0	12	-	-	15%
	Buildings with 25 to 200 units	26,572	26,572	80	1.5	3.0	-	435	0	12	-	-	20%
Residential (Detached)	SF Dwelling	3,500	2,000	40	1.0	1.0	3,500	2,000	0	12	4 (3)	25	35%
	2-unit Building	5,000	2,500	40	0.8	1.2	2,500	1,250	0	12	4 (3)	25	35%
	3-unit Building	7,500	3,600	60	1.0	1.5	2,500	1,200	0	12	0	25	25%

2. Notes to Table of Dimensional Standards.

a. Setbacks on Broadway. Required minimum front setbacks for buildings on lots with frontage on the western side of Broadway shall be of a width adequate to provide for sidewalks along the lot frontage of a minimum width of twelve (12) feet, measured from the inside curb edge of Broadway, in accordance with the Lower Broadway Master Plan. Such sidewalks shall incorporate street trees with planting grates, hardscape elements such as alternate paving materials, benches, trash receptacles and way-finding signage. The compliance of a proposed Development Project with this section is not intended to reduce the allowable development size (measured in GSF or housing unit count) from what would otherwise be allowable on the Lot, and the Applicant may request waivers from dimensional standards in this Ordinance upon demonstration that the changes are insubstantial, and that the combination of elements provided comply with the intent and purpose of this subsection.

b. Projections.

i. Projecting eaves, chimneys, bay windows, balconies, open fire escapes and like projections which do not project more than three and one-half (3 ½) feet, and which are part of a building not more than thirty-five (35) feet in height, may extend beyond the minimum side and rear yard regulations; provided however, that the yard areas over which these project may not be included in the minimum yard area and open space requirements.

ii. Projecting eaves, bay windows, balconies, and like projections may extend beyond the minimum front yard regulations; provided however, that the total width of projecting features may not exceed the lesser of thirty percent (30%) of the total width of the lot or fifty percent (50%) of the width of the building, and the yard areas over which these project are excluded in the calculation of the minimum yard area and open space requirements.

c. Restriction on Lot division. No lot shall hereafter be divided so as to reduce the area of any yard, court or open space to less than is required by a Site Plan Approval for a constructed Development Project on the lot involved.

d. Single-Family and Two-Family Side Yard Setbacks. The side yard setbacks for Single-family Detached and for Two-family Dwellings must, when combined be at least twelve (12) feet. This may be satisfied by a 12 foot setback on one side (and a zero foot setback on the opposite side). Alternatively, the setback may be divided between the two sides, provided that a shared driveway is legally available to be adequately constructed for the use of both residences, or there is another means of adequate direct vehicular access to the rear of the lot.

3. Building Height.

a. Table of Height Allowances.

Table of Height Allowances				
Zoning Sub-Districts	Use	Min. Height (Stories)	Max Height (Feet)	
			By-Right	Special Permit
Resort Casino Overlay		-	400	n/a
Waterfront Mixed-Use		3	150	280
Mixed-Use		2	45	85
Employment		1	45	65 (1)
Commercial		2	35	85 (1)
Residential (MF)	Up to 24 Units	2	35	45
	25 to 200 Units	3	-	65
Residential (Detached)	SF Dwelling	2	35	-
	2-Unit Dwelling	2	35	45
	3-Unit Dwelling	2	35	45
(1) As detailed in this sub-section, maximum allowable building heights is some locations May be increased above these limits by special permit.				

b. Notes to Table of Height Regulations.

i. For any structure proposed for renovation or rehabilitation that was erected prior to the effective date of this Ordinance, the maximum allowable height shall be the greater of the maximum allowable height permitted by the Table of Height and Bulk Regulations, or the height of such structure as of the effective date of this Ordinance.

ii. Accessory or appurtenant structures or elements necessary to the operation of a structure (for example, elevator or stairway enclosures and associated visual screening) may exceed the maximum height limit defined herein by up to fifteen (15) feet provided that they occupy in the aggregate less than twenty (20) percent of the area of the roof on which they are located.

4. Increased Height Allowances by Special Permit. In order to promote overall development patterns within the LBEDD that result in a visually interesting urban environment within a cohesive overall design effect, the SPGA may by special permit authorize increased allowable building heights in specific locations as follows:

a. Buildings in the block bounded by Broadway, Dexter Street, Robin Street and et may be increased to a maximum of one-hundred and twenty-five (125) feet.

b. Buildings in the block bounded by Broadway, Mystic Street, Robin Street and Lynde Street may be increased to a maximum of one-hundred and five (105) feet.

c. Buildings in the block bounded by Bow Street, Lynde Street, Robin Street and Thorndike Street may be increased to a maximum of eighty-five (85) feet.

d. Buildings in the block bounded by Bow Street, Thorndike Street, Robin Street and Courtland Street may be increased to a maximum of sixty-five (65) feet.

e. Buildings in the block bounded by Bow Street, Courtland Street, Robin Street and Beacham Street may be increased to a maximum of sixty-five (65) feet.

In its consideration of a request for a special permit pursuant to this subsection, the SPGA may require additional information from the Applicant as it deems necessary to evaluate the impacts of the proposal on existing structures and properties relative to views, shadows, lighting and/or wind.

5. Contiguous Lots. In the LBEDD, where two or more lots are contiguous or are separated only by a street, such lots may be considered by the Approving Authority as one lot for the purpose of calculating maximum FAR, lot coverage, parking requirements, minimum on-site open space, and dwelling units per acre provided that the Approving Authority determines that adequate provision for safe pedestrian crossing of the Street exists to serve the residents, employees and/or patrons of the Development Project, or will be provided by the Applicant as part of the Development Project.

6. Number of Buildings on a Lot. In the LBEDD, more than one principal structure may be erected on a lot upon a determination by the Approving Authority that the entire lot and all structures are planned and designed as a unified complex and appropriate provisions are made for parking, access, drainage and utilities.

G. Parking and Loading Standards.

1. Table of Parking Requirements.

Table of Parking Requirements	
Use	Minimum Required Parking
Auto Sale and display	1 per each 7 autos licensed for sale
Bar, Cocktail Lounge, Pub Tavern	1 space for each 4 seats
Churches, Synagogues and other Places of Assembly used as Places of Worship	1 space for each 50 square feet of assembly area
Dwelling, Multi-Family	1 space per 1-bedroom unit; 2 spaces for 2-bedroom or larger unit
Dwelling, three or fewer units	2 spaces per unit
Elderly and Handicap Housing	0.5 spaces per unit
Gaming Establishment	2 spaces per 1,000 GSF of total development area, including any and all on-site employee parking
Gasoline Station or Service Station	1 per 100 GSF
Hotel	0.8 Spaces per hotel room
Industrial	1 space per usable SF
Medical or Dental Office	1 space per 250 GSF
Motel	1 space per motel room
Office Use	1 space per 350 GSF
Places of Assembly, including Schools, Auditoriums, Museums, Theaters and Cinemas	1 space for each room plus 1 space for each 3 persons designated for the largest single room occupancy
Fast Order Food Establishment, with Drive-in	1 space per 50 SF of dining area
Restaurants	1 space per 300 SF of dining area
Retail Use	1 space per 300 GSF
Warehouse	1 space per 3,000 GSF
All other uses	To be determined by the Approving Authority

Based on a similar use in this table, taking into account data as may be submitted by the Applicant

2. Notes to Table of Parking Requirements.

a. The Approving Authority shall be the Building Commissioner for Projects requiring only a building permit, a business certificate and/or Administrative Site Plan Approval, and the Planning Board for Development Projects requiring Site Plan Approval.

b. If a change of use from one use to another use is proposed and the new use requires a greater number of parking spaces than the existing use, review by the Building Commissioner is required. Depending on the permitting

requirements applicable to the proposed use, review by the Approving Authority may also be required.

- c. When the application of the minimum required parking standards in the Table of Parking Requirements results in a number that includes a fraction, the fraction shall be rounded up to the next whole number if the fraction is 0.5 or more. If the result includes a fraction below 0.5, the fraction shall be rounded down to the next whole number.
 - d. Parking spaces shall be at least nine feet wide and at least eighteen feet long. At the Applicant's option, up to fifteen percent of required parking spaces may be compact parking spaces, which shall be at least eight feet wide and at least eighteen feet long.
 - e. Commercial establishments of less than 3,000 square feet gross floor area may count municipal on- and off-street parking spaces within 1,000 feet of such establishment to meet this requirement. Commercial establishments of 3,000 square feet gross floor area or greater may use municipal off-street parking spaces within 1,000 feet of such establishment to account for 1/3 of this requirement.
3. Location of Required Parking.
- a. Newly constructed surface parking for new Development Projects shall be located exclusively at the side or rear of a new building relative to any Street right-of-way. Parking for new construction is not permitted to be located within the required front yard setbacks.
 - b. Parking areas shall not be used for automobile sales, gasoline sales, dead storage, repair work, dismantling or servicing of any kind, and any lighting that is provided shall be installed in a manner that will prevent direct light from shining onto any street or adjacent property.
 - c. Parking shall be provided on the same lot as the Development Project served by the parking except where the Approving Authority authorizes the provision of dedicated off-site parking spaces pursuant to Section [30.E.3](#) of this Ordinance.
 - d. No garage shall be provided nearer to the front street line than the prescribed minimum setback distance of the zoning district in which the lot is located. Garages for automobiles in the LB-RD Districts shall have a front setback at least six (6) feet greater than the building's front setback.
 - e. Any open parking facility for more than three (3) automobiles shall be screened from abutting residence, church or public property in a manner which will provide an effective visual screen, either by a vegetated strip of at least five (5) feet in width containing plantings not less than three (3) feet in width and at least six (6) feet in height, or a solid fence or wall six (6) feet high, or a combination of fencing and plantings. At least fifty (50) percent of any such plantings shall be evergreen.
 - f. Three-Family buildings may include garage parking at grade, provided access to the parking space(s) is provided from the side or rear of the building. Garages located internal to Three-Family Dwelling Units shall be limited in width to one parking bay, but may include space for more than one vehicle parked end to end.
4. Reduction of Required Parking. Notwithstanding anything to the contrary herein, any minimum required number of parking spaces may be reduced by the Approving Authority by up to twenty-five percent (25%) as a condition of special permit, provided the Applicant demonstrates that the fewer parking will not cause excessive congestion, endanger public safety, or that fewer parking spaces will provide positive environmental or other benefits, taking into consideration:
- a. The availability of a sufficient amount, in the opinion of the Approving Authority, of available public or commercial parking in the vicinity of the use(s) being served, and including parking dedicated to the use(s) being served; and/or
 - b. The availability of a Fixed Public Transportation Stop within six hundred (600) linear feet of a pedestrian entrance to the Development Project, taking into account the proposed use(s) and the extent to which residents, employees and/or patrons of the proposed use(s) may be reasonably expected to access the site via public transit; and/or
 - c. The availability of shared use of parking spaces serving other uses having peak user demands at different times, subject to the following:
 - i. At the discretion of the Approving Authority, shared use may be made of required parking spaces by intermittent use establishments such as churches, assembly halls, or theaters whose peak parking demand is only at night or on Sundays and by other uses whose peak demand is only during the day.
 - ii. In order for such shared parking to be eligible to satisfy required off-street parking standards in whole or in part, prior to Site Plan Approval a contract, agreement, or suitable legal instrument acceptable to Everett legal counsel shall be filed with the application for Site Plan Approval which shall specify the location of all spaces to be jointly

used, the number of such spaces, the hours during the day that such parking shall be available, and the duration or limit, if any on such parking.

Where such reduction is authorized, the Approving Authority shall indicate in its written decision the basis for such reduction and may within the special permit impose conditions of use or occupancy appropriate to such reduction.

5. Guest Parking. As a condition of Site Plan Approval, the Approving Authority may require the provision of up to one (1) off-street parking space for every ten (10) Dwelling Units, in addition to the requirements in this Ordinance, where it determines that public safety or convenience so requires.

6. Accessibility. Parking shall be designed and constructed to comply with all applicable disability access requirements including but not limited to the Americans with Disabilities Act (ADA) and the regulations of the Massachusetts Architectural Access Board (MAAB).

H. Design Standards.

1. Purposes. To encourage new development of high quality, Design Standards are hereby adopted and included as Appendix B.

2. Applicability. The Design Standards shall apply to review of and approval or approval with conditions of Development Projects proposed pursuant to this Ordinance. Certain Design Standards apply only to Development Projects requiring a special permit, as indicated within the Design Standards.

3. Inconsistency. In the case of conflict between the requirements or prohibitions of the District Ordinance and the Design Standards, the District Ordinance shall govern. In the case of inconsistency between applicable state or federal laws, including, without limitation, state building codes or life safety codes, and the Design Standards, the applicable state and federal laws, rules and regulations shall govern.

I. Non-Conforming Structures or Uses.

1. The provisions of this Ordinance shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing on this Ordinance as required by G.L. c. [40A §5](#).

2. Existing non-conforming structure or uses may be extended or altered, provided that such extension, alteration or change of use shall be permitted only upon the grant of a special permit by the Zoning Board of Appeals after a public hearing and a finding that such extension, alteration or change of use shall not be substantially more detrimental to the neighborhood than the existing non-conforming use or structure.

3. No non-conforming use, if once changed to a use permitted in the district in which it is located shall be changed back to a non-conforming use. No non-conforming use or structure which has been not used for a period of two (2) years or more shall be resumed or replaced by any other non-conforming use or structure.

4. Alteration, reconstruction, extension or structural change to a single or two-family non-conforming, residential structure shall be permitted provided such change does not increase the non-conforming nature of said structure.

5. A non-conforming use damaged or destroyed by fire, flood, earthquake, war, riot, or by an Act of God, or an act of the public enemy to the extent of less than seventy-five (75) percent of its reproduction value at the time of such occurrence may be reconstructed and used as before such calamity, provided that a building permit, where required, is obtained and such work started within two (2) years of the date of such occurrence and the work of restoration of the use is completed within two (2) years of the date of the issuance of the building permit.

J. Administration.

1. Determination of Use Category and Permit Requirements. An Applicant may apply for a Determination of Use Category and Permit Requirements from the Building Commissioner, who shall within thirty (30) days provide a written determination of the use(s) proposed with a list of required zoning approvals necessary for construction of the Development Project. Where a Determination of Use Category and Permit Requirements is issued relative to a building or structure for which a building permit will be required, there shall be no appeal other than an appeal of the building permit.

2. Designation of Priority Development Sites.

a. Purposes.

i. To designate Priority Development Sites (PDS) to encourage redevelopment by providing expedited permitting processes pursuant to G.L. c. [43D](#).

- ii. To promote commercial, industrial, residential and mixed-use development on sites that have been identified as priority sites for such development.
 - b. Applicability. The provisions of this Section [30.J.2](#) apply to all lots located within the LBEDD and RCOD.
 - c. Special Permit and Site Plan Review Decisions. All special permit or Site Plan Review decisions by the Approving Authority on Development Projects located within the boundaries of a Priority Development Site shall be issued within 180 calendar days after the filing of a complete application with the appropriate body. Decisions may include approval, approval with conditions, or denial of the proposed Development Project.
3. Site Plan Review.
- a. Purposes. The purpose of this section is to protect the health, safety, convenience and general welfare of the inhabitants of the City by providing for a review of plans for uses and structures which may have significant impacts both within the site and in relation to adjacent properties and streets on pedestrian and vehicular traffic, public services and infrastructure, environmental, historic resources, or on abutting properties or community needs, and to minimize potential adverse impacts of such development.
 - b. Applicability. Uses designated “Y” in the Table of Use Regulations may be allowed within the LBEDD By-Right, subject to the restrictions of this Ordinance and to the regulations adopted by the Approving Authority.
 - c. Religious and Educational Uses and Day Care Centers – Modified Site Plan Review.
 - i. Applicability. Religious and educational uses, Day Care Centers, and school age child care programs, which are partially exempted from local zoning regulation by G.L. c. [40A](#), [§3](#), shall be subject to a modified Site Plan Review process.
 - ii. Demonstration of Qualification. In order to qualify for these modified Site Plan Review standards, an applicant must satisfy the Building Commissioner that the use is exempt under G.L. c. [40A](#), [§3](#).
 - iii. General Review Procedure. Site Plan Review for these uses shall be reviewed by the Approving Authority subject to the specific review criteria specified herein.
 - d. Permitting Procedures.
 - i. An application for Site Plan Review shall be filed by the Applicant with the City Clerk and a copy of the application including the date of filing certified by the City Clerk shall be filed forthwith with the Approving Authority. The Applicant shall also file the required number of copies of the application with the Approving Authority including any required forms provided by the Approving Authority.
 - ii. Upon receipt by the Approving Authority, applications for Site Plan Review shall be distributed to other city departments for review. Any reports from these parties shall be submitted to the Approving Authority within sixty (60) days of filing of the application. The Approving Authority or its designee shall forward to the Applicant, with its report, copies of all recommendations received to date from other boards, commissions or departments.
 - iii. Within thirty (30) days of filing of an application with the Approving Authority, the Approving Authority or its designee shall evaluate the proposal with regard to its completeness and in the event of incompleteness shall submit an advisory report in writing to the Applicant outlining required items that were missing from the application. The Applicant shall be provided reasonable opportunity to provide the required information provided however that the required time for action by the Approving Authority
 - e. Contents of an Application for Site Plan Review. The application for Site Plan Review shall include the following information although the Approving Authority may, upon written request from the Applicant, modify any of the following provided such modification will not negatively impact the Approving Authority's ability to make an informed decision on the application, and the Approving Authority must state in writing their reasons for such modified requirements as part of their decision:
 - i. Completed Application form with all fees in accordance with a printed fee schedule as established by the Approving Authority, and as may be amended from time to time.
 - ii. Complete list of abutters certified by the City Assessor, including printed address labels.
 - iii. Development Plan Summary including proposed housing unit count and/or square footage of nonresidential development; proposed number, location, configuration and design of proposed off-street parking spaces; and proposed off-site improvements (if any).

iv. Proposed Site Plan drawings at 1"=40' scale or greater stamped by a Massachusetts Registered Professional Engineer or other appropriate professional including one (1) original and ten (10) copies at 24" x 36" dimension; and fifteen (15) paper copies at 11" x 17". The and purposes of shall contain the following information:

- (a) Names and address of Applicant and project engineer.
- (b) Development Project name, boundaries, north arrow, date scale.
- (c) Existing conditions on the lot(s), including the location and purposes of existing easements, if any.
- (d) Assessors parcel numbers of lot(s) subject to the Application.
- (e) Existing and proposed building footprints, parking areas, loading areas, pedestrian ways, driveway openings, driveways, access and egress points, service areas.
- (f) Existing and proposed topographic features on the lot and adjoining areas within 50 feet of said lot at two foot contours, including walks, fences, walls, planting areas, and greenbelts.
- (g) The amount(s) in sq. ft. of proposed building(s), impervious surface area and open space (natural and landscaped) of the lot.
- (h) Proposed names of new street(s), if any.
- (i) Data to determine location, direction, width and length of every street line, lot line, easement, zoning district and boundary line.
- (j) A description of proposed ownership and maintenance of all traveled ways internal to the site, including vehicular ways and sidewalks.
- (k) Indication of purpose for proposed easements, if any.
- (l) Existing and proposed recreation areas and other open spaces, including dimensions.
- (m) Water supply systems, storm drainage systems, utilities, sites for enclosed refuse containers.
- (n) Storm-water management plan in the form required by the General Ordinance and/or the Zoning Ordinance.
- (o) Proposed landscaping plan which shall include the species, size, number, location and characteristics of proposed planting, landscaping, buffers, and screening.
- (p) Proposed lighting plan which shall show:
 - (i) The location and type of any outdoor lighting Luminaires, including the height of the Luminaire.
 - (ii) The Luminaire manufacturer's specification data, including lumen output and photometric data showing cutoff angles.
 - (iii) The type of lamp such as: metal halide, compact fluorescent, high-pressure sodium, etc.
 - (iv) A photometric plan showing the intensity of illumination at ground level, expressed in foot-candles.
- (q) Where common open space and facilities are proposed as part of a Development Project, plans and any necessary supporting documents shall be submitted showing the proposed location, size and landscaping plan for such open space and facilities.
- (r) Building elevation drawings at 1"=4'.
- (s) Renderings of the architectural design of the building(s) to be constructed and/or renovated, including identification of all major exterior materials, colors and finishes in sufficient detail for the Approving Authority to determine consistency with this Ordinance.
- (t) Traffic Impact Study. When a proposed Development Project is projected to generate more than one hundred (100) Peak Hour Trips based on ITE standards or more than seven hundred and fifty (750) Average Daily Trips, a traffic impact study shall be required, to include:
 - (i) A report on existing traffic conditions, including estimated average daily and peak hour traffic volumes, average and peak speeds, sight distances, motor vehicle accident data for the previous three years, and

levels of service (LOS) of intersections and streets likely to be impacted by the proposed Development Project. Generally, such data shall be presented for all major streets and intersections within 1,000 linear feet of the project boundaries.

(ii) Projected traffic conditions for design year of occupancy, including statement of design year of occupancy, average annual background traffic growth, impacts of proposed developments which have already been approved or are pending before City boards.

(iii) Projected peak hour and daily levels and directional flows resulting from the proposed Development Project; sight lines at the intersections of the proposed driveways and streets; existing and proposed traffic controls in the vicinity of the proposed development; and projected post development traffic volumes and levels of service of intersections and streets likely to be affected by the proposed Development Project.

(iv) Proposed methods as necessary to mitigate the estimated traffic impact and methodology and sources used to derive existing data and estimations. The Approving Authority may accept the Applicant's proposal to substitute a contribution of funds for the purpose of partial design and/or construction of off-site traffic improvements provided the funding is proportional to the impacts of the traffic impacts resulting from the proposed Development Project.

The Applicant may satisfy this requirement by submittal of a traffic study completed in compliance with the Massachusetts Environmental Policy Act (MEPA) if the Development Project is subject to MEPA.

(u) Sewage Impact Report. Any application for Site Plan Approval for any use which produces more than five hundred (500) gallons per day of sewage flow when calculated in accordance with the flow estimates of CMR (Mass. Sewer System Extension and Connection Permit Program) SECTION 7.15 shall require an impact report to be filed with and approved by the Building Commissioner, the City Services Department and the City Engineer, which report shall indicate the total flow; the size, material and slope of all pipes; the ability of the system to carry the flow; locations of manholes and other appurtenances, and invert elevations.

f. Public Hearing. The Approving Authority shall hold a public hearing to consider applications for Site Plan Review, including notice of such hearing to abutters to abutters within three hundred (300) feet of the project locus, and shall review all applications according to the procedure set forth herein.

g. Decision.

i. The Approving Authority shall by majority vote approve, approve with conditions, or deny site plan approval to a proposed Development Project and shall file its decision with the City Clerk within 120 days of the receipt of the site plan application by the City Clerk. The time limit for public hearing and decision by the Approving Authority may be extended by written agreement between the Applicant and the Approving Authority with a copy of any such agreement filed with the City Clerk.

ii. The Approving Authority's findings, including the basis of such findings, shall be stated in a written decision of approval, conditional approval or denial of the Site Plan Approval application. The written decision shall contain the name and address of the Applicant, identification of the land affected and its ownership, and reference by date and title to the plans that were the subject of the decision.

h. Criteria for Approval. The Approving Authority shall approve an application for Site Plan Review upon finding that the Development Project complies with the requirements of this Ordinance and, to a degree consistent with a reasonable use of the site for the purposes permitted or permissible by the regulations of the district in which it is located:

i. Will not be detrimental to or endanger the public health, safety, convenience, or general welfare;

ii. Protects adjoining premises against detrimental or offensive uses on the site, including provision of adequate landscaping and screening of adjacent uses;

iii. Will not be injurious to the use and enjoyment of the surrounding property;

iv. Will not impede the efficient, orderly, and normal development of the surrounding property;

v. Provides adequate access, utilities, landscaping, buffering, and other improvements; and

vi. Provides pedestrian and vehicle ingress, egress, and circulation in a manner that maintains adequate public safety and efficient movement.

i. Review Standards for Religious, Educational and Child Care Uses. The Approving Authority may impose reasonable conditions, at the expense of the Applicant, to ensure that the following conditions have been satisfied. In reviewing the

Site Plan submittal for an exempt use, the Approving Authority shall consider the following:

- i. Relationship of the bulk and height of structures and adequacy of open spaces to the natural landscape, existing buildings and other community assets in the area, which includes, but is not limited to, building coverage requirements, yard sizes, lot areas and setbacks;
 - ii. Physical layout of the plan as it relates to convenience and safety of vehicular and pedestrian movement within the site, the location of driveway openings in relation to traffic or to adjacent streets and, when necessary, compliance with other regulations for the handicapped, minors and the elderly; and
 - iii. Adequacy of the arrangement of parking and loading spaces and safety of proposed access and egress in relation to the proposed uses of the premises.
- j. Conditional Approval. The Approving Authority may impose reasonable conditions, at the expense of the applicant, to ensure that the requirements of this Ordinance have been satisfied, and may further require provision of an operations and maintenance plan for traveled ways and associated drainage facilities, for sidewalks within public rights-of-way adjacent to the site, and for all common open space and facilities.
- k. Criteria for Denial. The Approving Authority may deny an application for Site Plan Approval pursuant to this Ordinance if the Approving Authority finds one or more of the following:
- i. The Development Project does not meet the conditions and requirements set forth in this Ordinance; or
 - ii. The Applicant failed to submit information and fees required by this Ordinance and necessary for an adequate and timely review of the Development Project; or
 - iii. It is not possible to adequately mitigate significant adverse Development Project impacts on nearby properties or the general public by means of suitable conditions.
- l. Waivers. The Approving Authority may within its reasonable discretion waive application or other procedural site plan requirements upon a determination that such waivers are insubstantial and are consistent with the intent and purposes of the LBEDD district, but may not waive any zoning requirement by means of Site Plan Approval.
- m. Filing of Decision. The decision of the Approving Authority, together with the detailed reasons therefore, shall be filed with the City Clerk and the Building Commissioner. A copy of the decision shall be mailed by the Approving Authority to the Applicant and to the owner if other than the Applicant certifying that a copy of the decision has been filed with the City Clerk and that all plans referred to in the decision are on file with the Approving Authority. A notice of the decision shall be sent to parties in interest and to persons who requested a notice at the public hearing.
- n. Appeals. The appeal of any decision of the Planning Board hereunder shall be made in accordance with the provisions of G.L. c. [40A §17](#).
- o. Lapse. Site Plan Approval shall lapse after two (2) years from the grant thereof if a substantial use thereof has not sooner commenced except for good cause. Such approval may, for good cause, be extended in writing by the Approving Authority upon the written request of the applicant.
- p. Change in Plans after Approval by Approving Authority.
- i. Minor Change. After issuance of Site Plan Approval, an Applicant may apply to make minor changes in a Development Project, that do not affect the overall build out or building envelope of the site, or provision of open space, or number of housing units, such as minor utility or building orientation adjustments, or minor adjustments to parking or other site details. An application for a minor change shall be submitted to the Approving Authority on redlined prints of the approved plan, reflecting the proposed change, and on application forms provided by the Approving Authority. The Approving Authority may authorize such changes at any regularly scheduled meeting, without the need to hold a public hearing. The Approving Authority shall set forth any decision to approve or deny such minor change by motion and written decision, and provide a copy to the Applicant for filing with the City Clerk.
 - ii. Major Change. Those changes deemed by the Approving Authority or its Administrator to constitute a major change in a Development Project because of the nature of the change in relation to the prior approved plan, or because such change is excluded from the definition of a minor change as indicated above, shall be processed by the Approving Authority as a new application for Site Plan Approval pursuant to this Ordinance.
4. Administrative Site Plan Review.
- a. Eligibility. If a proposed Project includes buildings that satisfy all dimensional requirements of this Ordinance and Uses that are allowable By-Right, the Administrator of the Approving Authority may issue an Administrative Site Plan

Approval, which shall be identical in legal effect to a Site Plan Approval issued by the Approving Authority. Although subject to different procedural requirements as provided herein, any such Project shall be subject to the same use, dimensional and other performance standards included in this Ordinance as if such Project were a Development Project requiring Site Plan Approval.

b. Procedures.

i. A Project seeking Administrative Site Plan Approval shall file all application materials required for Site Plan Approval with the City Clerk. The Administrator of the Approving Authority shall, within thirty (30) days of such filing, make a written determination as to whether the Project may be approved administratively, or whether Site Plan Approval will be required, and shall include in the written determination the reasons for such finding.

ii. In the case of a Project determined by the Administrator of the Approving Authority to qualify for Administrative Site Plan Approval, the Administrator of the Approving Authority shall issue a written decision approving the application. In all other cases, the Administrator shall refer the application to the Approving Authority for Site Plan Review within a public hearing and other requirements of the Section C. above.

iii. All decisions of the Administrator of the Approving Authority shall be filed with the City Clerk.

c. Waivers. An Administrative Site Plan Approval may not authorize waivers.

d. Date of Effect. The date of effect of an Administrative Site Plan Approval shall be the date it is filed with the City Clerk.

e. Appeals. Where an Administrative Site Plan Approval is issued relative to a building or structure for which a building permit will be required, there shall be no appeal other than an appeal of the building permit.

5. Special Permits. Certain uses, structures or conditions are designated as special permit uses in the Table of Use Regulations at §5 of this Ordinance. Upon written application duly made, the SPGA may, in the exercise of its discretion and consistent with the purposed of this Ordinance and the district zoning purposes and, subject to the applicable conditions set forth in this Ordinance and subject to other appropriate conditions and safeguards, grant a special permit for such exceptions. Uses designated "SP" in the Table of Use Regulations may be allowed within the LBEDD by special permit.

a. Special Permit Granting Authority. For the purpose of this Ordinance the Special Permit Granting Authority ("SPGA") shall be the Planning Board of the City of Everett.

b. Application and Review Procedures.

i. Application. The applicant shall file an application for a special permit together with the required filing fee with the City Clerk. The application shall include a Site Plan and other materials as required at §10. C above. A copy of the application including the date and time filed, as certified by the City Clerk, shall be filed forthwith with the SPGA. The procedures set forth in G.L. c. [40A §9](#) shall be followed. The following additional materials shall be provided:

(a) A statement of the Applicant's specific infrastructure improvements, with a proposed schedule for completion of such improvements, or contributions to Identified Infrastructure Investments within the LBEDD, if any, in proportion to the number of residents, employees, and/or patrons of the proposed Development Project and the estimated need for or benefit from such Identified Infrastructure Investments as may result from the Development Project, including impacts on residents, employees and/or patrons, within then entire LBEDD, and, where applicable, to the City of Everett or portions thereof.

(b) A statement of proposed traffic mitigation, if any, which shall, at a minimum, include a plan to minimize traffic and safety impacts through such means as physical design and layout, staggered employee work schedules, promoting use of public transit or car-pooling, or other effective means. Measures shall be proposed as necessary to achieve the following post-development standards:

(i) Level of Service (LOS) at nearby intersections shall not be degraded more than one level as a result of traffic generated by the proposed Development Project, nor shall any intersections within the area of traffic effect be degraded below the level of D, except in exceptional circumstances as determined by the SPGA.

(ii) Adjacent streets shall not exceed design capacity at the peak hour as a result of traffic generated by the proposed Development Project.

(iii) Safety hazards shall not be created or increased as a result of traffic generated by the proposed Development Project.

- (c) In order to assist the SPGA to visualize a proposal for new construction abutting an existing residential use or exceeding thirty-five (35) feet in height, the Applicant shall submit an electronic 3-D model, or alternative form of representation satisfactory to the SPGA, of existing conditions on the site, and of the proposed Development Project. The model shall include the proposed height and massing of the proposed building(s), as well as existing or approved (but unconstructed) buildings located entirely within 300 feet of the proposed building(s). The model need not include full architectural detail, but shall be scaled to accurately represent the existing and proposed developed conditions.
- ii. Reports from City Boards or Departments. The SPGA shall transmit forthwith a copy of the application and plan(s) to other boards, departments, or committees as it deems necessary or appropriate, for their written reports. Any such entity to which applications are referred for review shall make such recommendation or submit such reports as they deem appropriate and shall send a copy thereof to the SPGA and to the applicant. Failure of any such entity to make a recommendation or submit a report within 21 days of receipt of the application shall be deemed a lack of opposition.
- iii. Public Hearing.
- (a) Special permits may be granted following a public hearing opened within sixty-five days after the filing of an application with the SPGA, a copy of which shall forthwith be given to the City Clerk by the applicant.
- (b) The SPGA shall hold a public hearing for which notice has been given by publication or posting as provided in G.L. c. [40A §11](#) and by mailing to all the parties in interest, and shall make its decision within ninety days following the close of the hearing. The time limits for public hearing and decision may be extended by written agreement between the applicant and the SPGA, with a copy filed in the office of the City Clerk.
- (c) Consolidation of Public Hearings. When the Planning Board serves as the SPGA for proposed work, it may at the request of the Applicant consolidate its Site Plan Review and special permit public hearings to the extent feasible.
- iv. Constructive Approval.
- (a) As provided in G. L. c. 40A, §9, failure by the SPGA to take final action upon an application for a special permit by its decision with the City Clerk within ninety days following the date of a public hearing shall be deemed to be a grant of the special permit.
- (b) An Applicant who seeks constructive approval because of the Approving Authority's failure to act on an application within the time provided in this Ordinance, or extended time, if applicable, shall notify the City Clerk in writing, within fourteen (14) days from the expiration of ninety days or such extended time for a decision, of such approval and that notice has been sent by the Applicant to parties in interest by mail and that each such notice specifies that appeals, if any, shall be made pursuant to G.L. c. [40A](#) and shall be filed within twenty (20) days after the date the City Clerk received such written notice from the Applicant that the Approving Authority failed to act within the time prescribed
- v. Conditions. The SPGA may impose in addition to any other condition specified in this Ordinance such additional conditions as it finds reasonable and appropriate to minimize impacts on abutters, safeguard the neighborhood, or otherwise serve the purposes of this Ordinance and the specific purposes of the District in which the Development Project is located. Such conditions shall be stated in the special permit decision, and the Applicant may be required to post bond or other security for compliance with said conditions in an amount satisfactory to the SPGA. Conditions of a special permit may include, but are not limited to the following:
- (a) Dimensional requirements greater than the minimum required by this Ordinance.
- (b) Screening of parking areas or other parts of the premises from adjoining premises or from the street by specified walls, fences, plantings or other devices.
- (c) Modification of the exterior features or appearance of the structure.
- (d) Limitation of size, number of occupants, method and time of operation, and extent of facilities, or duration of the permit.
- (e) If the completion of and/or contribution to Identified Infrastructure Improvements proposed by the Applicant is deemed by the SPGA to be inadequate to achieve the standards set forth in this Ordinance, the Applicant may be required to provide alternative methods to meet the standards, which may include reduction in the size of the Development Project; change in proposed uses on the lot; contributions to specified Infrastructure Improvements, or construction of specified Infrastructure Improvements. Where the alternative proposals

submitted by the Applicant are determined by the SPGA to be inadequate, and where it is determined by the SPGA that the primary traffic impacts of the Development Project as proposed will negatively affect particular locations where the City of Everett has engineered plans for infrastructure improvements that are in the planning or implementation stage, the Applicant may agree, in lieu of denial of the special permit, as a condition of special permit to contribute funds to a public infrastructure investment fund in an amount proportional to the impact of the proposed Development Project on the public infrastructure.

- (f) Regulation of number, design and location of access drives, drive-up windows and other traffic features.
- (g) Regulation of off-street parking or loading. The SPGA may require that adequate parking be made available as a condition of the issuance of a special permit, and it may impose such reasonable conditions and safeguards as it deems appropriate.
- (h) Requirements for performance bonds or other security.
- (i) Installation and certification of mechanical or other devices to limit present or potential hazard to human health, safety, or welfare of the City or of the environment resulting from smoke, odor, particulate matter, toxic matter, fire or explosive hazard, glare, noise, vibration or any other objectionable impact generated by any given use of land.

vi. Required Findings for Approval. The SPGA may grant special permits for certain uses or structures as specified in the Table of Use Regulations in this Ordinance. Before granting a special permit, the SPGA, with due regard to the nature and condition of all adjacent structures and uses, shall find all of the following conditions to be fulfilled:

- (a) The proposal is in harmony with the general purpose and intent of this Ordinance and the purposes of the zoning district and it will not be detrimental to the health, safety or welfare of the neighborhood or the City.
- (b) The proposal is compatible with existing uses and development patterns in the neighborhood and will be harmonious with the visual character of the neighborhood in which it is proposed.
- (c) The proposal will not create a nuisance to the neighborhood due to impacts such as noise, dust, vibration, or lights.
- (d) The proposal will not create undue traffic congestion nor impair pedestrian safety, and provides safe vehicular and pedestrian circulation within the site.
- (e) The proposal ensures adequate space onsite for loading and unloading of goods, products, materials, and equipment incidental to the normal operation of the establishment or use.
- (f) The proposal will not overload any public water, drainage or sewer system or any other municipal system to such an extent that the proposed use or any existing use will create significant hazards to health, safety, or the general welfare.
- (g) The proposal minimizes environmental impacts including erosion, siltation, detriment to ground and/or surface water levels, or detriment to ground or surface water quality.
- (h) All uses proposed in a Mixed Use Development Project shall be compatible with one another.

vii. Provision for Density Bonus. By issuance of a special permit, the Approving Authority may authorize increased building height, number of stories, residential density, FAR and/or may authorize reduced parking requirements, setback requirements, lot coverage requirements and open space requirements for Development Projects that include one or more public benefits as found by vote of the Approving Authority. Such public benefits may include, individually or in combination and without limitation:

- (a) A commitment by the Applicant to invest in Identified Infrastructure Improvements to the public infrastructure in the LBEDD, including without limitation roadways, intersections, sidewalks, public parks, other public space or facilities, weather-protected transit stops or bicycle racks, off-site pedestrian and/or cycling facilities, and/or installation of a network of way-finding signage, in addition to any required public improvements as may be required to mitigate the impacts of the proposed Development Project.
- (b) An increased amount of on-site Open Space;
- (c) Provision of structured parking;
- (d) Buildings that meet or exceed the stretch energy code requirements in the Massachusetts building energy code (in effect at the time construction documents are finalized); or an equivalent commitment to advanced

energy efficiency as determined by the Approving Authority based on evidence on the recOrd. from qualified persons.

viii. Decision. As provided in G.L. c. [40A §9](#), the grant of a special permit shall be by a four-fifths vote. The SPGA may approve, approve with conditions, or deny a special permit for the proposed Development Project. Failure to obtain the necessary vote constitutes denial of the special permit.

(a) The Approving Authority's findings, including the basis of such findings, shall be stated in a written decision of approval, conditional approval or denial of the special permit application. The written decision shall contain the name and address of the Applicant, identification of the land affected and its ownership, and reference by date and title to the plans that were the subject of the decision.

(b) The decision of the Approving Authority, together with the detailed reasons therefore, shall be filed with the City Clerk and the Building Commissioner. A copy of the decision shall be mailed by the Approving Authority to the Applicant and to the owner if other than the Applicant certifying that a copy of the decision has been filed with the City Clerk and that all plans referred to in the decision are on file with the Approving Authority. A notice of the decision shall be sent to parties in interest and to persons who requested a notice at the public hearing.

ix. Effective Date of Special Permit. If twenty (20) days have elapsed after the decision has been filed in the office of the City Clerk without an appeal having been filed or if such appeal, having been filed, is dismissed or denied, the City Clerk shall so certify on a copy of the decision. If the application is approved by reason of the failure of the Approving Authority to timely act, the City Clerk shall issue a certificate in compliance with G. L. c. 40A, §9. A copy of the decision or certification of constructive approval shall be recorded with the title of the land in question in the Middlesex South District Registry of Deeds, and indexed in the grantor index under the name of the owner of recOrd. or recorded and noted on the owner's certificate of title. The Applicant shall bear responsibility and the cost of said recording and transmittal to the Registry of Deeds, with proof of recording provided forthwith to the Approving Authority.

x. Time Limitation on Special Permit. Special permits shall expire two years from the date of the issuance of the permit, which period shall not include such time required to pursue or await the determination of an appeal referred to in G.L. c. [40A §17](#), from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of a permit for construction, if construction has not begun by such date except for good cause.

xi. Extension of Special Permit. An extension may be granted by the SPGA for good cause upon the submission of an application and letter which explains the reasons for the requested extension. Such application shall follow the normal procedure as provided above, and must be filed with the City Clerk prior to the expiration date of the special permit. Any such extension shall be for a period of no more than one year.

xii. Repetitive Applications. No application which has been unfavorably acted upon by the SPGA shall be again considered by said Board within two years after the date of such unfavorable action unless the Planning Board and Zoning Board of Appeals consent thereto under the provisions of G.L. c. [40A §16](#).

6. Consultant Review. The Approving Authority may promulgate rules that provide for the imposition of reasonable fees to be paid by an Applicant for Special Permit for the employment of a professional engineer, architect, or landscape architect, or other outside consultants to advise the Board on any or all aspects of the site plan. The costs of such review shall be borne by the Applicant pursuant to G.L. c. [44 §53C](#). Such funds shall be held by the City of Everett in an interest-bearing escrow account, and shall be used only for expenses associated with the use of outside consultants employed by the Approving Authority in reviewing the Plan application. Any excess funds remaining after the completion of such review, including any interest accrued, shall be repaid to the Applicant or the Applicant's successor at the completion of the Development Project and a final report of said account shall be made available to the applicant or to the applicant's successor in interest.

7. Certificate of Occupancy. It shall be unlawful to use any part of any building or structure hereafter erected, until a certificate of occupancy shall have been issued therefor by the Building Commissioner, showing that the proposed use and construction are in accordance with this Ordinance. No permit for excavation or construction shall be issued by the Building Commissioner until he is satisfied that the plans and intended use of the building conform to the provisions of this Ordinance and the Massachusetts State Building Code. No application for a certificate of occupancy shall be issued relating to the manufacturing or processing of anything containing animal, poultry or vegetable matter, unless such application shall contain the written approval of the Board of Health. One (1) copy of any such plans, if and when approved by the Building Commissioner, shall be returned to the applicant with such permit as may be granted.

8. Enforcement.

a. Zoning Enforcement Officer. This Ordinance shall be administered and enforced by the Building Commissioner of the City of Everett, who shall issue no permit for the erection or alteration of any structure or part thereof, the plans,

specifications, and intended use of which are not in all respects in conformity with the provisions of this Ordinance.

b. Maintenance of Common Areas, Landscaping and Improvements. The recipient of any permit under this Ordinance, or any successor, shall be responsible for maintaining all common areas, landscaping and other improvements or facilities required by this Ordinance or any permit issued in accordance with its provisions. Those areas, improvements, or facilities for which an offer of dedication to the public has been accepted by the appropriate public authority are excluded. Such improvements shall include, but are not limited to, private roads and parking areas, water and sewer lines, passive and active recreational facilities, and vegetation and trees used for screening and landscaping. Such improvements shall be properly maintained so that they can be used in the manner intended. Vegetation and trees indicated on approved site plans shall be replaced within one growing system if they die or are destroyed.

c. Penalties.

i. Notwithstanding Section 13 of the Zoning Ordinance, any violation of the provisions of this Ordinance, or any violation of any plan or permit approved under the provisions of this Ordinance, including any conditions placed thereon, shall be subject to the following fines:

First offense: one hundred dollars (\$100) Proposed Zoning Amendments, City of Everett October 24, 2013

Second and subsequent offenses: three hundred dollars (\$300)

Each day that such violation continues shall constitute a separate offense.

ii. Such violation shall be noticed in the form of a ticket written by the Building Commissioner of the City of Everett under the authority of the Non-Criminal Disposition Ordinance under Article II of the General Ordinances, as amended.

9. Adoption of Regulations. The Approving Authority may adopt and from time to time amend rules relative to the issuance of such permits and shall file a copy of said rules in the office of the City Clerk.

K. Severability. A determination that any portion or provision of this Ordinance is invalid shall not invalidate any other portion or provision thereof, nor shall it invalidate any permit previously issued thereunder.

SECTION 31. Registered Medical Marijuana Dispensaries (Facilities)

(C0114-14)

A. General Provisions.

1. Purposes. The purposes of this section are as follows:

a. To provide for the limited establishment of registered marijuana dispensaries (facilities) in appropriate places and under strict conditions in acknowledgement of the passage of Initiative Petition 11-11 (Question #3 on November 2012 state ballot), Chapter 369 of the Acts of 2012 and 105 CMR 725.000 Implementation of an Act for the Humanitarian Medical Use of Marijuana.

b. To minimize the adverse impacts of registered marijuana dispensaries on adjacent properties, residential neighborhoods, schools and other places where children congregate, local historic districts, and other land uses potentially incompatible with said facilities.

c. To regulate siting, design, placement, safety, monitoring, modification and removal of registered marijuana dispensaries.

d. To limit the overall number of registered marijuana dispensaries in the city to what is essential to serve the public convenience and necessity.

2. Applicability.

a. The cultivation, production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of marijuana for medical use is prohibited unless permitted as a registered marijuana dispensary in compliance with the provisions of this section.

b. No facility shall be established except in compliance with the provisions of this section.

c. Notwithstanding the provisions of 21 U.S. Code s. 812(c)(a)(c)(10), nothing in this ordinance shall be construed to supersede federal and state laws governing the sale and distribution of narcotic drugs.

d. If any provision of this section or in the application of any such provision to any person or circumstance shall be held invalid, the remainder of this section, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this section are severable.

B. Definitions.

1. Registered marijuana dispensary (facility) – shall mean any medical marijuana center, as defined under state law (as defined and in accordance with the provisions of Chapter 369 of the Acts of 2012 and 105 CMR 725.000 Implementation of an Act for the Humanitarian Medical Use of Marijuana) as a Massachusetts not-for-profit entity that acquires, cultivates, possesses, processes (including but not limited to the development of related products such as food, tinctures, aerosols, oils or and/or ointments), transfers, transports, sells, distributes, dispenses and/or administers marijuana, products containing marijuana, related supplies, and/or educational materials to qualifying patients and/or their personal caregivers, which is properly licensed and registered by the Massachusetts Department of Public Health pursuant to all applicable state laws and regulations.

2. Marijuana for medical use – Marijuana that is designed and restricted for use by, and for the benefit of, qualifying patients in the treatment of debilitating medical conditions in accordance with Chapter 369 of the Acts of 2012 and 105 CMR 725.000 Implementation of an Act for the Humanitarian Medical Use of Marijuana.

3. Marijuana – In accordance with Chapter 94C of the Massachusetts General Laws, all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include 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.

C. Special Permit.

1. Special Permit Granting Authority (SPGA). Registered marijuana dispensaries shall be permitted only upon the grant of a special permit approved by the special permit granting authority (SPGA) after a public hearing and a finding that the uses are in accordance with the requirements set forth in this section.

a. For the purpose of this section, the special permit granting authority (“SPGA”) shall be the planning board of the city.

b. The SPGA may issue only for a site that has been expressly designated in the certificate of registration issued by the Massachusetts Department of Public Health.

c. A special permit for a registered marijuana dispensary shall be limited to one or more of the following uses that shall be prescribed by the SPGA:

i. Cultivation of marijuana for medical use (horticulture);

ii. Processing and packaging of marijuana for medical use, including marijuana that is in the form of smoking materials, food products, oils, aerosols, ointments and other products;

iii. Retail sale or distribution of marijuana for medical use to qualifying patients;

iv. Wholesale sale of marijuana for medical use to other registered marijuana dispensary.

d. A special permit granted under this section shall have a term limited to the duration of the applicant's ownership and use of the premises as a registered marijuana dispensary, and shall expire upon the expiration or termination of the applicant's certificate of registration from the Massachusetts Department of Public Health whichever is sooner. A special permit may be transferred only with the approval of the SPGA in the form of an amendment to the special permit.

e. Any violation of the section shall be grounds for revocation of a special permit issued under this section.

2. Application Procedures. The applicant shall file an application for a special permit together with the required filing fee with the city clerk. The application shall include a site plan and other materials as required by the SPGA. A copy of the application including the date and time filed, as certified by the city clerk, shall be filed forthwith with the SPGA. The procedures set forth in G.L. c. [40A §9](#) shall be followed.

3. Application Content. The application shall include the following information below although the SPGA may, upon written request from the applicant, modify any of the following provided such modification will not negatively impact the approving authority's ability to make an informed decision on the application, and the approving authority must state in writing their reasons for such modified requirements as part of their decision:

- a. Completed application form with all fees in accordance with a printed fee schedule as established by the approving authority, and as may be amended from time to time.
- b. Complete list of abutters certified by the city assessor, including printed address labels.
- c. Certified statement of encumbrances from the applicant and property owner.
- d. Any application for approval under this section shall be accompanied by fifteen (15) copies of a site plan drawings at 1"=40" scale or greater stamped by a Massachusetts registered professional engineer or other appropriate professional including one (1) original and ten (10) copies at 24"x36" dimension; fifteen (15) paper copies at 11"x17"; and one electronic copy of all drawings in PDF format. The plan drawings shall contain the following information:
 - i. Names and address of applicant, owner of property (if different) and project engineer.
 - ii. Development project name, boundaries, north arrow, date scale.
 - iii. Existing conditions on the lot(s), including the location and purposes of existing easements, if any.
 - iv. Assessor's parcel numbers of lot(s) subject to the application.
 - v. Existing and proposed building footprints, parking areas, loading areas, pedestrian ways, driveway openings, driveways, access and egress points, service areas.
 - (a) Existing and proposed topographic features on the lot and adjoining areas within 50 feet of said lot at two foot contours, including walks, fences, walls, planting areas, and greenbelts.
 - (b) The amount(s) in sq. ft. of proposed buildings(s), impervious surface area and open space (natural and landscaped) of the lot.
 - (c) Proposed names of new street(s), if any.
 - (d) Data to determine location, direction, width and length of every street line, lot line, easement, zoning district and boundary line.
 - (e) A description of proposed ownership and maintenance of all traveled ways internal to the site, including vehicular ways and sidewalks.
 - (f) Indication of purpose for proposed easements, if any.
 - (g) Existing and proposed recreation areas and other open spaces, including dimensions.
 - (h) Water supply systems, storm drainage systems, utilities, sites for enclosed refuse containers.
 - (i) Storm-water management plan in the form required by the General Ordinance and/or the Zoning Ordinance.
 - (j) Proposed landscaping plan which shall include the species, size, number, location and characteristics of proposed planning, landscaping, buffers, and screening.
 - (k) Proposed lighting plan which shall show:
 - (i) The location and type of any outdoor lighting luminaires, including the height of the luminaire.
 - (ii) The luminaire manufacturer's specification data, including lumen output and photometric data showing cutoff angles.
 - (iii) The type of lamp such as: metal halide, compact fluorescent, high-pressure sodium, etc.
 - (iv) A photometric plan showing the intensity of illumination at ground level, expressed in footcandles.
 - (l) Where common open space and facilities are proposed as part of the project, plans and any necessary supporting documents shall be submitted showing the proposed location, size and landscaping plan for such open space and facilities.
 - (m) Building elevation drawings at 1"=4'.
 - (n) Renderings of the architectural design of the building(s) to be constructed and /or renovated, including identification of all major exterior materials, colors and finishes in sufficient detail for the approving authority to determine consistency with this section.

- vi. A statement of the applicant's specific infrastructure improvements, with a proposed schedule for completion of such improvements, that are identified as required to support the facility.
 - vii. A statement of proposed traffic mitigation, if any, which shall, at a minimum, include a plan to minimize traffic and safety impacts through such means as physical design and layout, staggered employee work schedules, promoting use of public transit or car-pooling, or other effective means. Measures shall be proposed as necessary to achieve the following post-development standards:
 - (a) Level of service (LOS) at nearby intersections shall not be degraded more than one level as a result of traffic generated by the proposed facility, nor shall any intersections within the area of traffic effect be degraded below the level of D, except in exceptional circumstances as determined by the SPGA.
 - (b) Adjacent streets shall not exceed design capacity at the peak hour as a result of traffic generated by the proposed facility.
 - (c) Safety hazards shall not be created or increased as a result of traffic generated by the proposed facility.
 - viii. In order to assist the SPGA to visualize a proposal for new construction, the applicant shall submit model, architectural rendering or alternative form of representation satisfactory to the SPGA, of existing conditions on the site, and of the proposed facility. The model shall include the proposed height and massing of the proposed building(s), as well as, existing or approved (but unconstructed) buildings located entirely within 300 feet of the proposed building(s). The model need not include full architectural detail, but shall be scaled to accurately represent the existing and proposed developed conditions.
 - ix. The name and address of each owner, manager, member, partner and employee of the facility, and a statement indicating whether the application complies with subsections 10 and 11 below.
 - x. The source of all marijuana that will be sold or distributed at the facility.
 - xi. The source of all marijuana that will be cultivated, processed and/or packaged at the facility.
 - xii. If the marijuana is to be cultivated, processed and/or packaged at the facility, the name of each purchaser of said marijuana.
 - xiii. The applicant must be a non-profit organization. The applicant must submit a copy of its articles of organization, a current certificate of legal existence form the Secretary of the Commonwealth, and the most recent annual report.
 - xiv. The applicant must submit copies of all licenses and permits issued by the Commonwealth of Massachusetts and any of its agencies for the facility.
 - xv. The applicant must submit evidence of the applicant's right to use the site for a facility, such as a deed, lease, purchase and sale agreement or other legally binding document
 - xvi. If any owners, shareholders, partners, members, managers, directors, officers are entities rather than persons, the applicant must disclose the identity of the owners of such entities until the disclosure contains the names of individuals
 - xvii. The applicant must submit proposed security measures for the facility including lighting and alarms, to ensure the safety of persons and to protect the premises from theft.
 - xviii. The applicant must submit the resumes of the applicant and all members of the facility's management.
 - xix. Any project which produces more than five hundred (500) gallons per day of sewage flow when calculated in accordance with the flow estimates of CMR (Mass. Sewer System Extension and Connection Permit Program) Section 7-15 shall require an impact report to be filed with and approved by the building commissioner, the department of public works and the city engineer, which report shall indicate the total flow; the size, material and slope of all pipes; the ability of the system to carry the flow; locations of manholes and other appurtenances, and invert elevations.
4. Waivers. The SPGA may within its reasonable discretion waive application or other procedural requirements upon a determination that such waivers are insubstantial and are consistent with the intent and purposes of this ordinance, but may not waive any zoning requirement by means of this permitting process.
 5. Reports from City Boards or Departments. The SPGA shall transmit forthwith a copy of the application and plan(s) to other boards, departments, or committees as it deems necessary or appropriate, for their written reports. Any such entity to

which applications are referred for review shall make such recommendation or submit such reports as they deem appropriate and shall send a copy thereof to the SPGA and to the applicant.

6. Public Hearing.

a. Special permits may be granted following a public hearing opened within sixty-five days after the filing of an application with the SPGA, a copy of which shall forthwith be given to the city clerk by the applicant.

b. The SPGA shall hold a public hearing for which notice has been given by publication or posting as provided in G.L.

c. [40A §11](#) and by mailing to all the parties in interest, and shall make its decision within ninety days following the close of the hearing. The time limits for public hearing and decision may be extended by written agreement between the applicant and the SPGA, with a copy filed in the office of the city clerk.

7. Filing of Decision. The decision of the SPGA, together with the detailed reasons therefore, shall be filed with the city clerk and the building commissioner. A copy of the decision shall be mailed by the approving authority to the applicant and to the owner if other than the applicant certifying that a copy of the decision has been filed with the city clerk and that all plans referred to in the decision are on file with the SPGA. A notice of the decision shall be sent to parties in interest and to persons who requested a notice at the public hearing.

8. General Requirements and Conditions. The SPGA may impose, in addition to any other conditions specified in this section, such additional conditions as it finds reasonable and appropriate to minimize impacts on abutters, safeguard the neighborhood, or otherwise serve the purposes of this section. Such conditions shall be stated in the special permit decision, and the applicant may be required to post bond or other security for compliance with said conditions in an amount satisfactory to the SPGA. Conditions of a special permit may include, but are not limited to the following:

a. A registered marijuana dispensary shall be located in a permanent building and not within a mobile facility.

b. No facility used a dispensary only shall have gross floor area in excess of two thousand five hundred (2,500) square feet. A facility used a dispensary only may be located in buildings that exceed two thousand five hundred (2,500) square feet of floor area, provided that the gross floor area of the facility shall not exceed two thousand five hundred (2,500) square feet.

c. No facility used as cultivation or processing facility shall have a gross floor area in excess of twenty-five thousand (25,000) square feet.

d. The hours of operation of facilities shall be set by the SPGA, but in no event shall said hours be open and/or operating between the hours of 9:00PM and 8:00AM.

e. No special permit for a facility shall be issued to a person who has been convicted of a felony or a violation of a state or federal statute prohibiting the unlawful possession, sale or distribution of narcotic drugs or prescription drugs. Further no special permit for a facility shall be issued to a non-profit corporation which an owner, shareholder, member, officer, manager, or employee has been convicted of a violation of a felony or a state or federal statute prohibiting the unlawful possession, sale or distribution of narcotic drugs or prescription drugs.

f. No special permit for a facility shall be issued to a person who has been convicted of a violation of Massachusetts General Laws Chapter 119, section 63 Inducing or Abetting Delinquency of Child or Massachusetts General Laws Chapter 272, section 28 Matter harmful to Minors, dissemination; possession; defenses. Further, no special permit for a facility shall be issued to a non-profit corporation in which the owner, shareholder, member, officer, manager or employee has been convicted of a violation of Chapter 119, section 63 M or Massachusetts General Laws Chapter 272, section 28.

g. No facility shall be located within 500 feet of a residential zoning district. The distance under this subsection shall be measured in a straight line from the nearest point of the property line of the uses and structures identified to the nearest point of the property line of a facility.

h. No facility shall be located within 1,000 feet of any of the following uses or structures:

i. Any school attended by children under the age of 18;

ii. Any licensed child care facility;

iii. Any drug or alcohol rehabilitation facility;

iv. Any correctional facility, half-way house, or similar facility; or

v. Any other registered marijuana dispensary.

For the purposes of this subsection, the distance under this subsection shall be measured in a straight line from the nearest point of the property line of the uses and structures identified to the nearest point of the property line of a facility.

- i. No facility shall be located within 500 feet of any playground, public athletic field, park, multi-use path, or other recreational facility. The distance under this subsection shall be measured in a straight line from the nearest point of the property line of the uses and structures identified to the nearest point of the property line of a facility.
- j. The distance required under this section may be reduced by up to 25% upon determination by the SPGA that the facility would otherwise be effectively prohibited within the city, or the applicant demonstrates that the facility will employ adequate security measures to prevent diversion of marijuana to minors or to persons who are not qualifying patients pursuant to 105 CMR 725.
- k. No smoking or burning marijuana-related products shall be permitted on the premises of a facility.
- l. No facility shall be located inside a building containing residential units, including transient housing such as hotels, motels, dormitories or inside a movable or mobile structure.
- m. Facilities shall not sell, distribute or dispense more than one ounce of dried cannabis per qualified patient or primary caregiver per visit to the facility. Facilities may not maintain or store more than ninety-nine (99) cannabis plants in up to one hundred (100) square feet of total garden canopy measured by the combined vegetative growth area. If a qualified patient or a primary caregiver has a doctor's recommendation that this quantity does not meet the qualified patient's medical needs, the qualified patient or the primary caregiver may possess and the facility may dispense an amount of dried cannabis and maintain a number cannabis plants consistent with those needs. Only the dried, mature processes flowers of female cannabis plant or the plant conversion shall be considered when determining allowable quantities of cannabis under the section.
- n. Signage for facility shall be limited to one wall sign not to exceed ten (10) square feet in area, and one identifying sign not to exceed two (2) square feet in area; such signs shall not be directly illuminated. Any wall sign, or the identifying sign of the medical marijuana dispensary has no exterior wall sign, shall include the following language, "Only individuals with a registration card issued by the state Department of Public Health may obtain cannabis from medical marijuana dispensaries". The required text shall be a minimum of two (2) inches in height.
- o. All print and electronic advertisements for facilities, including but not limited to flyers, general advertising signs, and newspapers and magazine advertisements, shall include that following language. "Only individuals with a registration card issued by the state Department of Public Health may obtain cannabis from medical marijuana dispensaries". Oral advertisements for medical cannabis dispensaries, including but not limited to radio and television advertisements shall include the same language.
- p. Facilities shall provide the SPGA and all neighbors located within 500 feet of the establishment with the name, phone number and email address of an on-site community relations staff person to whom one can provide notice if there are operating problems associated with the establishment.
- q. Facilities may sell or distribute cannabis only to individuals possessing a medical cannabis registration card issued by the state Department of Public Health.
- r. All employees of the facility shall be at least 18 years of age.
- s. No person who is not at least 18 years of age shall be permitted on the premises of a facility during the hours of operation unless that person is a qualified patient or caregiver with a valid registration card issued by the state Department of Public Health.
- t. Dimensional requirements greater than the minimum required by this section.
- u. Screening of parking areas or other parts of the premises from adjoining premises or from the street by specified walls, fences, plantings or other devices.
- v. Modification of the exterior features or appearance of the structure.
- w. Limitation of size, number of occupants, method and time of operation, and extent of facilities, or duration of the permit.
- x. Regulation of off-street parking or loading. The SPGA may require that adequate parking be made available as a condition of the issuance of a special permit, and it may impose such reasonable conditions and safeguards as it deems appropriate.

- y. Requirements for performance bonds or other security. Installation and certification of mechanical or other devices to limit present or potential hazard to human health, safety, or welfare of the city or of the environment resulting from smoke, odor, particulate matter, toxic matter, fire or explosive hazard, glare, noise, vibration or any other objectionable impact generated by any given use of land.
- z. The police department will have full access to security camera data and any other security plan in order to make recommendation or requirements for security of the premises.

9. Required Findings for Approval. Before granting a special permit, the SPGA, with due regard to the nature and condition of all adjacent structures and uses, shall find all of the following conditions to be fulfilled:

- a. The proposal is in harmony with the general purpose and intent of this section and the purposes of the zoning district and it will not be detrimental to the health, safety or welfare of the neighborhood or the city.
- b. The proposal is compatible with existing uses and development patterns in the neighborhood and will be harmonious with the visual character of the neighborhood in which it is proposed.
- c. The proposal will not create a nuisance to the neighborhood due to impacts such as noise, dust, vibration, or lights.
- d. The proposal will not create undue traffic congestion nor impair pedestrian safety, and provides safe vehicular and pedestrian circulation within the site.
- e. The proposal ensures adequate space onsite for loading and unloading of goods, products, materials, and equipment incidental to the normal operation of the establishment or use.
- f. The proposal will not overload any public water, drainage or sewer system or any other municipal system to such an extent that the proposed use or any existing use will create significant hazards to health, safety, or the general welfare.
- g. The proposal minimizes environmental impacts including erosion, siltation, detriment to ground and/or surface water levels, or detriment to ground or surface water quality.
- h. The facility is fully permitted by all applicable agencies within the Commonwealth of Massachusetts and is in compliance with all applicable state laws and regulations.
- 1. In the case of retail sale or distribution, the facility is serving a measurable demand for marijuana for medical use that is currently unmet within the municipality
- i. The applicant has not provided materially false documents of testimony.
- j. The applicant has satisfied all of the conditions and requirements of subsections entitled General Requirements and Conditions for All Registered Marijuana Dispensaries and Special Permit Requirements.

10. Decision. As provided in G. L. c. 40A, §9, the grant of a special permit shall be by a four-fifths vote. The SPGA may approve, approve with conditions, or deny a special permit for the proposed development project. Failure to obtain the necessary vote constitutes denial of the special permit.

- a. The SPGA's findings, including the basis of such findings, shall be stated in a written decision of approval, conditional approval or denial of the special permit application. The written decision shall contain the name and address of the applicant, identification of the land affected and its ownership, and reference by date and title to the plans that were the subject of the decision.
- b. The decision of the SPGA, together with the detailed reasons therefore, shall be filed with the city clerk and the building commissioner. A copy of the decision shall be mailed by the SPGA to the applicant and to the owner if other than the applicant certifying that a copy of the decision has been filed with the city clerk and that all plans referred to in the decision are on file with the SPGA. A notice of the decision shall be sent to parties in interest and to persons who requested a notice at the public hearing.

D. Outside Consultant and Review Fees.

1. General; Qualification of Consultant. The SPGA may determine that the size, complexity or impact of a proposed facility warrants the services of one or more outside consultants, which may include, but are not limited to engineers, planners and/or lawyers, for the purpose of plan review, impact analysis, inspections, or other technical assistance in relation to the proposal. Such professional shall be selected and retained by the SPGA as provided in G.L. c44, Section 53G, with the reasonable costs for consultant services to be paid by the application. The minimum qualification of a consultant shall be either an educational degree in or related to the field at issue or three or more years of practice in the field at issue or a related field.

2. Selection of Consultant; Cost Estimate; Administrative Appeal. The SPGA shall provide written notice to the applicant of the name of the selected consultant(s) at least seven calendar days prior to initiation of work by the consultant, unless this notice period is waived in writing by the applicant. The estimate of the cost of the services of such consultant shall be based upon the size and complexity of the project and the number of reviews and meetings likely to be required. The applicant may administratively appeal the selection of the consultant(s) to the city council by filing notice with the city clerk within five working days after the date of the SPGA's notice of its consultant selection, the grounds for such an appeal being limited pursuant to G.L. c.44, Section 53G to the claim that the proposed consultant has a conflict of interest or does not possess the minimum required qualifications. The consultant shall not begin work until any appeal has been decided or thirty (30) calendar days have elapsed without a decision by the city council, in which case the selection of the SPGA shall become final. Required time limits for action by the SPGA upon an application shall be automatically extended by the duration of any administrative appeal.

3. Treatment of Consultant Funds. The funds shall be deposited by the city treasurer into a special interest bearing account as provided by G.L. c. 44, Section 53G. The funds in the special account, including accrued interest, shall be expended at the direction of the SPGA without further appropriation; provided such funds are expended only in connection with carrying out its responsibilities under this section. If the unexpended balance falls below 30% of the initial estimate, or the estimate is raised to pay for additional services deemed necessary by the SPGA, the account shall be restored to its original level or such lower level as determined to be reasonable and necessary by the SPGA. Upon completion of the project and final payment of the outside consultant(s), any unexpended balance, including accrued interest, shall be repaid to the applicant or the applicant's successor in interest.

4. Reports. At the completion of any project for which consultant fees were collected from an applicant, the SPGA shall provide a final report of the consultant fee account to the applicant. The city auditor shall submit annually a report of said special account to the SPGA, the mayor and for their review. This annual report shall be published in the Annual City Report and a copy shall be submitted by the city auditor to the state Director of the Bureau of Accounts.

5. Remedy. Failure of an applicant to pay fees required hereunder (or any other fees required in other parts of this ordinance) shall be grounds for the SPGA to suspend or continue hearings or disapprove the application for lack of information.

E. Annual Reporting

1. Requirements. Each facility permitted in accordance with this ordinance shall file an annual report to the SPGA and the city clerk no later than January 31, providing a copy of all current applicable state licenses for the facility and/or its owners and containing a statement under the pains and penalties of perjury that answers each of the following questions:

- a. The name and address of each owner, manager, member, partner and employee of the facility, and a statement indicating whether the application complies with sections entitled General Requirements and Conditions for All Registered Marijuana Dispensary and Special Permit Requirements.
- b. The source of all marijuana that was sold or distributed at the facility.
- c. The source of all marijuana that was cultivated, processed and/or packaged at the facility.
- d. The quantity of marijuana that was cultivated, processed and/or packaged at the facility.
- e. If the marijuana was cultivated, processed and/or packaged at the facility, the name of each purchaser of said marijuana.

(End of Section)

Appendix A: Table of Use Regulations Proposed Zoning Amendments, City of Everett October 24, 2013

APPENDIX A: TABLE OF USE REGULATIONS								
USE CATEGORY	Comm./Emp.		Residential		Mixed			Site Plan Review
	LB-C	LB-E	LB-RMF	LB-RD	LB-WMU	LB-MU	RCOD	
Renovation								
Adaptive reuse of existing building to permitted use	Y	Y	SP	Y	-	SP		R
Residential								
Single Family Dwelling	-	-	Y	Y	-	-		NR

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USE CATEGORY	Comm./Emp.		Residential		Mixed			Site Plan Review
	LB-C	LB-E	LB-RMF	LB-RD	LB-WMU	LB-MU	RCOD	
Two Family Dwelling	-	-	Y	Y	-	-		NR
Three Family Dwelling	-	-	Y	Y	-	-		R
Attached Dwelling Development	SP	SP	SP	SP	SP	SP		R
Multifamily Residential	SP	SP	SP	-	SP	SP		R
COMMERCIAL								
Active boating, water taxi, recreational boating	-	-	-	-	Y	-		R
Amusement, including indoor entertainment facilities	Y	Y	-	-	Y	Y		R
Arts Center	Y	Y	-	-	Y	Y		R
Auto showrooms for the sale of automobiles and light trucks, and service facilities which are associated with the sales facilities in the same building	-	SP	-	-	-	-		R
Bank	Y	Y	-	-	Y	Y		NR
Bank with drive-through window(s)	SP	SP	-	-	SP	SP		R
Bar, Pub, Tavern, Cocktail Lounge	Y	SP	-	-	SP	SP		R
Business, Finance or other Professional Office Use	Y	Y	-	-	Y	Y		R
Car wash	-	SP	-	-	-	-		R
Convenience Store	SP	SP	SP	-	SP	SP		R
Dance club / night club	SP	SP	-	-	SP	SP		R
Entertainment facilities including Concert Venue	SP	SP	-	-	SP	-		R
Fast Order Food Establishment	SP	-	-	-	SP	SP		R
Gaming Establishment	-	-	-	-	-	-	Y	R
Gasoline Station	-	SP	-	-	-	-		R
Gazebo, outdoor performance space	SP	-	-	-	SP	SP		R
Hotel	Y	SP	-	-	SP	SP		R
Kennel, pet day care establishment	SP	SP	-	-	-	-		R
Marina	-	-	-	-	Y	-		R
Medical Services	Y	Y	-	-	SP	SP		R
Membership Club	Y	Y	-	-	-	-		R
Motel	-	-	-	-	-	SP		R
Movie theater or cinema	SP	SP	SP	-	SP	SP		R
Neighborhood Market	Y	-	-	-	SP	SP		R

APPENDIX A: TABLE OF USE REGULATIONS								
USE CATEGORY	Comm./Emp.		Residential		Mixed			Site Plan Review
	LB-C	LB-E	LB-RMF	LB-RD	LB-WMU	LB-MU	RCOD	
Parking garage (including sub-surface) provided there shall be no door or driveway for vehicles in connection with any public garage within fifty (50) feet of any Residential sub-district boundary line	SP	SP	SP	-	SP	SP		R
Recreational use such as bowling alley, arcade, billiards/pool hall, roller rink, tennis courts, swimming, theater, etc.	Y	Y	-	-	SP	SP		R
Research and development facilities except those associated with the emission of noxious odors, smoke, steam or produce excessive noise.	Y	Y	-	-	Y	Y		R
Resort Casino	-	-	-	-	-	-	Y	R
Restaurants, not including Fast Order Food Establishments, and provided that there are no drive through facilities.	SP	SP	-	-	Y	Y		R
Retail sales and services which are not the principal uses of the building in which they are located to a maximum of 20% of the Gross Floor Area of the building.	-	-	SP	-	SP	SP		R
Retail sales & service, w/outside storage	Y	SP	-	-	SP	SP		R
Retail sales & service, w/no outside storage	Y	SP	-	-	SP	SP		R
Service and repair stations for automobile or light truck, but not including gasoline stations	-	SP	-	-	-	-		R
Sports/Fitness Facilities; Health Club and Spa	Y	Y	-	-	Y	Y		R
Taxicab business	-	SP	-	-	-	-		R
Transportation related uses including railroad or street railroad passenger stations including customary accessory services therein; not including switching, storage, or freight yards or sidings.	-	Y	-	-	-	-	-	R
Veterinary or pet grooming establishment	Y	Y	-	-	-	SP		R
Industrial								
Assembly Related Uses	-	SP	-	-	-	-		R
Automotive Supply and Repair	-	SP	-	-	-	-		R
Electric Generation Plants / Substation	-	SP	-	-	-	-		R

APPENDIX A: TABLE OF USE REGULATIONS								
USE CATEGORY	Comm./Emp.		Residential		Mixed			Site Plan Review
	LB-C	LB-E	LB-RMF	LB-RD	LB-WMU	LB-MU	RCOD	
Industrial operations, either outside or inside the building, which produce outside noxious odors, smoke, steam, or other emissions, or which produce industrial noise or require excessive use of large trucks or trailers or transfer of large amounts of industrial materials.	-	-	-	-	-	-	-	n/a
Industrial plants for the generation of power, steam or any other type of energy involving the use of solid fuel.	-	-	-	-	-	-	-	n/a
Open lot or enclosed storage of coal, coke, sand or similar materials.	-	-	-	-	-	-	-	n/a
Open lot storage, handling or hauling of used materials including, but not limited to building materials, metal junk, scrap, paper, rags or motor vehicles.	-	-	-	-	-	-	-	n/a
Parking (surface lot) as a principal use	-	-	-	-	-	-	-	n/a
Pawn Shop ²	-	-	-	-	-	-	-	n/a
Power, gas or fuel generating facilities.	-	-	-	-	-	-	-	n/a
Salvage operations or junk yard Storage and sale of building materials or machinery.	-	-	-	-	-	-	-	n/a
Trucking terminals and free standing product distribution centers.	-	-	-	-	-	-	-	n/a
Uses which produce offensive odors, emissions, fumes, gases, or smoke, which produce noise or vibrations which are discernible beyond the limits of the property lines or which produce dust or waste on the exterior of the building.	-	-	-	-	-	-	-	n/a
Notes to Table of Use Regulations								
(1) Multi-Family Residential Use may be permitted by special permit in the LB-C and LB-E Sub-districts only if it is located within a Mixed-Use Development Project, and provided that the first story of any such Development Project shall, with the exception of access to such Multi-Family Use, be comprised entirely of one or more non-residential use(s)								
(2) As defined in the Everett Zoning Ordinance.								

Appendix B: Lower Broadway Economic Development District Design Standards

Introduction. These Design Standards are adopted pursuant to the authority of G.L. c.40A §9, and Section 28A of the City of Everett Zoning Ordinance (the “District Ordinance”). They are incorporated into the District Ordinance, and provide the City of Everett with a regulatory framework that will define the site and building design requirements for development within the Lower Broadway Economic Development District (“LBEDD”).

These Design Standards shall be used by the Approving Authority in their review and consideration of Development Projects proposed pursuant to the District Ordinance. Conditions may be added to a Site Plan Approval or special permit as may be necessary to ensure consistency with the Design Standards through construction and occupancy.

A. General.

1. The relationship of the buildings to the site, including the siting of new buildings, structures and open spaces shall be designed to permit, to the extent practicable, passive solar energy and natural light into them and onto adjacent sidewalks during cooler seasons. Site design and building locations shall be designed to afford, to the extent practicable, protection of pedestrian areas from adverse impact of winds, vapors or other emissions, shadows and/or noise.
2. All new utilities shall be placed underground, to the maximum extent feasible.
3. Service elements such as trash dumpsters, utility/service areas, loading docks and mechanical equipment, shall be consolidated, screened from view, and be located away from the street front where possible.
4. Mechanical equipment, including metal chimneys, and elevator penthouses at grade, attached to, or
5. Mechanical equipment, including metal chimneys, and elevator penthouses at grade, attached to, or on the roof of a building, shall be screened from view from streets; or they shall be integrated into the overall design of the building by use of materials, placement, roof shape or form, or other means.
6. Appropriate provision shall be made for waste disposal, refuse removal, drainage, dust and erosion control and other utilities and their appurtenances, in accordance with applicable City regulations.
7. Protection of public safety. Site design shall include adequate water supply distribution and storage for fire protection. Vehicular circulation shall meet the access needs of emergency and public safety vehicles. The adequacy of the foregoing public safety measures shall be based on the reasonable requirements of the Everett Chief of Police and Fire Chief, in their respective fields.

B. Building Setbacks.

1. In order to maintain and reinforce a consistent street line, primary building facades with direct frontage on a Primary Street shall be built parallel to the principal frontage line along a minimum of 70% of the length of the building.
2. In general, except for recessed entries, arcades, and similar features that provide benefit for pedestrians, setbacks for new buildings in the LBEDD should be consistent with setbacks of neighboring buildings. A new building may have an inconsistent setback from neighboring buildings if the front setback is to be used for a well-landscaped open space. Where differing front setbacks are approved, design elements such as a wall, fencing or landscaping of a minimum height of four (4) feet above grade may be used to reinforce the street line.
3. A portion of the façade of a primary building on a lot, including its front door, must be located between the minimum and maximum front yard setbacks listed. Where multiple primary buildings on a lot are built within the maximum front yard setback, each must have a front door on the street facing façade of the building that is located between the minimum and maximum front yard setbacks.
4. Buildings on corner lots should be oriented to the corner and visible from both public street fronts in order to reinforce the traditional setbacks in proximity to the Development Project.
5. Residential buildings shall be sited to allow for front steps, balconies, and porches with access to adjacent public space or pedestrian and bicycle paths. Where proposed multi-family residential buildings are not located adjacent to public spaces, site design shall include new public and/or private open spaces or yards accessible to building residents.
6. Alternative paving materials such as brick or brick pavers should be used to differentiate the setback area from the sidewalk and to visually reinforce the existing street wall.
7. Required minimum front setbacks for buildings on lots with frontage on the western side of Broadway shall be of a width adequate to provide for sidewalks along the lot frontage of a minimum width of twelve (12) feet.
8. The ground floor of new Dwelling Units shall be raised above grade by at least three feet to provide separation between the street and the home, and to ensure privacy for those dwelling units with first floor windows.
9. New construction of Single-Family, Two-Family and Attached Dwelling Units shall include a front yard in order to create a transition space between the public domain and the privacy of the home.

C. Building Proportion. In order to modulate their scale, multi-story buildings should articulate the base, middle, and top, separated by cornices, string cornices, step-backs or other articulating features in order to create or maintain a visual distinction between upper and lower floors.

1. Ground Floor. Transparent, open facades are encouraged for commercial uses at street level (e.g. windows that cover between 60 to 80 percent of the ground floor façade area and begin approximately 24 to 30 inches above the sidewalk rather than continuing down to street level). The windows should be divided by muntins and framed with a casing trim.

2. Middle Floor(s). Architectural features may include: belt courses or horizontal bands to distinguish individual floors; change in materials and color and/or texture that enhance specific form elements or vertical elements of the building; a pattern of windows; and/or bay windows to give scale to the structure.

3. Roof.

a. In general, the roof line or top of the structure shall be clearly distinguished from its façade walls by way of horizontal divisions, varying materials and/or traditional roof lines.

b. Roof forms shall be varied within a block, and may be varied within a building such as by incorporating parapets, decorative cornice treatments, belt courses, and window bays.

D. Building Façade Articulation.

1. Building frontage shall incorporate recessed entries, recessed or projecting bays, expression of architectural or structural modules and detail, and/or variations such as surface relief, expressed joints and details, color and texture.

2. Any façade of the building that has frontage on a sidewalk or street shall include windows, doors, or other signs of human occupancy, such as porches or balconies.

3. Buildings more than forty (40) feet wide with frontage on a public way shall be broken down into a series of smaller elements or "bays". No uninterrupted length of any façade shall be permitted to exceed 40% of the façade's total length, or forty (40) horizontal feet, whichever is less, without incorporating at least one of the following design elements: color change, material change, or texture change; and at least one of the following design elements: architectural projections or recesses, trellises, balconies, or windows.

4. The portion of side and rear facades that are visible from streets or other public areas shall be articulated in a manner consistent with the design of the front façade, although such façades may include less architectural detail than the primary façades.

E. Building Materials, Texture and Color.

1. New building materials should be selected to convey a sense of quality, durability and permanence. Buildings shall use materials that are durable, economically maintained, and of a quality that will retain their appearance over time. A combination of materials should be used in order to create visual interest.

2. Where more than one material is used, traditionally heavier materials (stone, brick, concrete with stucco, etc.) should be located below lighter materials (wood, fiber cement board, siding, etc.). The change in material should occur along a horizontal line, preferably at the floor level.

3. Building façade materials permitted within the district include but are not limited to, brick, wood, cementitious fiber board, manufactured limestone, cast stone, masonry, stone, glass, terra cotta, cellular PVC trim, tile and sustainable materials.

4. Full size brick veneer is preferable to brick tile. Brick veneers should be mortared to give the appearance of structural brick. If used, brick tile applications should use wraparound corner and bullnose pieces to minimize a veneer appearance.

5. Stone and stone veneers are acceptable as a basic building material or as a special material for wall panels or sills in combination with other materials such as brick and concrete.

6. Poured-in-place concrete and pre-cast concrete are acceptable as a basic building material provided special consideration is given to formwork, pigments, and aggregates that can create rich surfaces. Stone or tile accents are recommended.

7. Prohibited materials. Vinyl siding or the use of exterior insulation finishing system (EIFS) is prohibited. Materials on the "Red List" issued by Living Building Challenge (in effect when construction documents are submitted) are prohibited.

a. The current Red List includes: Asbestos; Cadmium; Chlorinated Polyethylene and Chlorosulfonated Polyethylene; Chlorofluorocarbons (CFCs); Chloroprene (Neoprene); Formaldehyde (added); Halogenated Flame Retardants;

Hydrochlorofluorocarbons (HCFCs); Lead (added); Mercury; Petrochemical Fertilizers and Pesticides; Phthalates; Polyvinyl Chloride (PVC); and Wood treatments containing Creosote, Arsenic or Pentachlorophenol.

F. Building Step-Backs.

1. Purpose. Building step-backs are required for the purpose of providing a comfortable street environment by preventing fortress-like facades, providing light and air at the street level, and providing features of interest to pedestrians along select streets in the district.
2. Applicability. Building Step-Backs are required for all new construction, on the façade(s) of the proposed building(s) fronting on Broadway or Bow Street.
3. Standards. Step-back requirements may be achieved, at the option of the Applicant, by one of two methods:
 - a. Floors above the second floor shall be stepped back a minimum of six feet (6') for the first story above two, and an additional six feet (6') for floors above three (3). The maximum step-back under this method shall not be required to exceed twelve feet (12'); or
 - b. A building shall be stepped-back by an appropriate amount from the plane of the street so as to maintain an angle not greater than sixty (60) degrees between the top of the building facade fronting on to the street and the back of the sidewalk of the opposite side of the same street.
4. Waiver. Upon petition of the applicant, building step-back requirements may be waived by issuance of a special permit provided that, in addition to other required findings for issuance of waiver, the SPGA finds that the proposed Development Project:
 - a. Includes window treatments, entry placement, facade relief and other architectural treatments to provide visual interest and pedestrian-sensitive design at the street level and to maintain a human scale in the streetscape;
 - b. Extends the same architectural features described in paragraph (a) above the ground floor level through variations in design, detail, and proportion, and by avoiding designs featuring a monolithic street facade; and
 - c. Is designed so as not to obstruct sunlight from falling on the back of the sidewalk on the opposite side of the street for more than four hours of any given day between March 21 and September 21.

G. Parking Design. New construction of structured or surface parking shall comply with the following Design Standards. Alteration to pre-existing non-conforming uses or the parking accessory to such uses shall comply with the Design Standards to the maximum extent practicable.

1. Parking Garages.
 - a. Parking garage design shall be located within the interior of the block to minimize visibility from streets. Design should match the proportions of neighboring buildings.
 - b. The ground level of a parking garage shall be screened from any adjacent Street with habitable space such as retail, office, or residential. The SPGA may authorize alternate method of screening, such as landscaping, and/or the use of façade scale print graphics, adjacent to Secondary or Tertiary Streets. Blank walls on parking garages are not permitted.
 - c. Entrances to structured parking shall be located on side streets or alleys wherever practicable. Vehicular entries shall be clearly marked with architectural devices and/or signage and should be of minimum width necessary for vehicular access and egress.
 - d. Signage and light sources internal to the parking structure shall not be visible from outside the parking structure. Lighting shall not illuminate or produce glare to adjacent properties.
 - e. No door or driveway for vehicles in connection with any parking garage shall be permitted within fifty (50) feet of any Residential Sub-district boundary line.
2. Surface Parking.
 - a. Surface parking shall be minimized and, where proposed, should be decentralized into the smallest groupings practical.
 - b. Parking areas shall be graded, surfaced with asphalt, concrete or other suitable non-erosive material, and drained in a manner approved by the City's Engineering Department to prevent nuisance of standing water, erosion or excessive

water flow across abutting streets or ways, within the proposed parking area, to abutting properties and to wetland resource areas.

c. Surface parking areas shall not be permitted to front on a public street or sidewalk, and shall be screened from view. Screening may include transparent and well-maintained cast-iron and brick fencing or plantings. Screening shall be at least four feet (4') high at time of planting.

d. Surface parking lots shall have landscaped islands to divide large parking areas. Landscaping is required in the interior of parking lots and should incorporate existing trees, berms and other landforms where possible. The following minimum landscape coverage standards shall apply:

(i) Parking lots with less than 100 spaces shall have at least five (5) percent of the interior lot area landscaped.

(ii) Parking lots with more than 100 spaces shall have at least seven (7) percent of the interior lot area landscaped.

H. Transportation Access and Pedestrian Environment.

1. In order to advance the policy objectives of the Lower Broadway Master Plan, the overall site design of a Development Project shall include a cohesive transportation network providing for vehicular, pedestrian and bicycle circulation to and within the site. The principal roadway(s) serving the site shall be designed to conform to the standards of the City where the roadway is intended for dedication and acceptance by the City. Private ways shall be adequate for the intended use and vehicular, pedestrian and bicycle traffic and shall be maintained by an association of unit owners or by the Applicant. Design and construction shall incorporate best practices in engineering and construction standards including adequate provisions for drainage.

2. The proposed development shall be designed so as to provide safe interior circulation within the site by separating pedestrian, bike ways and vehicular traffic. The use of different paving materials or colors, or landscaping, is encouraged to provide a clear distinction between pedestrian and vehicular traffic areas.

3. Development Projects shall be designed to preserve and enhance the pedestrian environment by providing for continuous sidewalks that are unencumbered by parked vehicles and are minimally broken by vehicular access within a block.

4. Pedestrian access shall connect to all building entrances with further connections to local pedestrian arteries. Sidewalks, crosswalks or walkways may be required to provide access to adjacent properties and among buildings within a development. All development and redevelopment shall allow for possible future pedestrian and bicyclist connections with adjoining properties, where appropriate.

5. Development Projects with frontage on more than one street that do not intersect with one another may be required to provide for pedestrian access through the site.

6. Sidewalk Construction.

a. All new sidewalks shall be designed and constructed to be accessible to the handicapped in accordance with applicable laws including the Americans with Disabilities Act (ADA) and the Rules and Regulations of the Massachusetts Architectural Access Board (MAAB).

b. Sidewalks shall be surfaced with concrete, brick, or stone, and be of a minimum unobstructed width of at least five (5) feet. Sidewalks along the western side of Broadway shall be of a minimum width of at least twelve (12) feet.

c. Where existing sidewalks within rights-of-way abutting the proposed development are cracked, broken or uneven, applicants are strongly encouraged to propose improvements to said sidewalks. Where development is proposed adjacent to sidewalks that are not accessible to the handicapped in accordance with applicable laws including the ADA and the Rules and Regulations of the MAAB, improvements to sidewalks may be required as a condition of special permit or Site Plan Approval.

7. Pedestrian and Cycling Amenities.

a. Benches for seating may be required to be provided near retail entrances and at bus stops. At bus stops, such benches should offer protection from the weather.

b. Way-finding signage should be installed as appropriate to encourage walking and the use of public transit.

c. A minimum of one bicycle rack place shall be provided on site or, with the approval of the City, in the public right-of-way, for every ten required vehicular parking spaces.

8. Site Specific Performance Standards. Due to particular conditions affecting specific sites within the LBEDD, the following performance standards must be met by proposed Development Projects:

- a. Employment uses with frontage on Robin Street shall have a 25' landscaped setback to provide a transition from the industrial land uses to the southeast.
- b. Redevelopment of assessor's parcel H4-13 will not be permitted unless access to the lot is provided through extension of Beacham Street, or alternative access deemed suitable by the Approving Authority.
- c. Redevelopment of assessor's parcel H1-84 will not be permitted unless a street is constructed to connect the terminus of Bartlett Street to the terminus of Orient Avenue, such street determined by the Approving Authority to be of adequate width, grade and construction to provide regular and emergency access between these two streets, or alternative access deemed suitable by the Approving Authority.
- d. Redevelopment of assessor's parcel H1-51 or H1-39 will not be permitted unless a street is constructed to connect the terminus of Orient Avenue to the terminus of Factory Street, such street determined by the Approving Authority to be of adequate width, grade and construction to provide regular and emergency access between these two streets, or alternative access deemed suitable by the Approving Authority.

I. Location of Building and Garage Entrances.

1. Building entrances should be oriented toward the street and, on corner lots, should be visible from both adjacent public streets.
2. Vehicular access points should be consolidated wherever possible; multiple curb cuts to serve a single Development Project are discouraged where consolidated access is feasible.
3. Driveways including garage entrances shall be sited to minimize the impact of vehicular turning movements on safe and efficient movement of vehicles, pedestrians and cyclists within streets. Acceptable sight distance based on sound engineering practices shall be provided and maintained at all access and egress locations.
4. New curb cuts shall not be located within fifty (50) linear feet, measured on center, from nearby vehicular Intersections.
5. Buildings should include protected pedestrian entry for both business and upper story residential uses. Recessed doorways are preferred, in order to break up the building façade, provide a welcoming space, and provide protection from sun and rain. Where a recessed doorway is not used, an awning can have a similar effect.

J. Landscaping.

1. Landscaping shall be incorporated into the overall site design in order to enhance the visual appeal and pedestrian experience in the LBEDD. Landscape design should take advantage of special on-site conditions, such as view corridors and existing significant trees. Substantial greenery should be provided, so that streets and access drives are lined with shade trees, large paved areas are visually divided and screened and buffers are provided within and around the development.
2. Landscaping shall be provided along streets and within and around parking areas. Landscape elements may be used as buffering features in the forms of walls and fencing strategically placed along streets and parking areas. Where a Development Project is adjacent to a street without street trees, and where feasible based on roadway geometry, the Approving Authority may require that street trees be planted with tree grates or in planter strips, using species that provide summer shade and winter light.
3. Landscaping should be selected to minimize necessary water usage, and to satisfy both functional objectives such as screening and aesthetic objectives such as color and visual interest. Plantings shall be of native species. The selection of plant materials shall be based on the City's climate and site conditions. Emphasis shall be placed on drought- and disease-resistant landscape selections that are native to the area and sustainable over the long term. All plants shall be A-Grade or No. 1 Grade and free of defects. All plants shall be normal health, height, leaf density, and spread as defined by the American Standard for Nursery Stock, ANSI Z60.1 (latest available edition), or the American Association of Nurserymen. Plants shall have full, even, well-developed branching and a dense, fibrous, and vigorous root system. In areas of high pedestrian use (where salt is likely to be used during winter months) trees shall be chosen that have been observed to have some salt tolerance.
4. Deciduous trees shall be at least two (3") inches in caliper as measured six (6") inches above the root ball at time of planting. Deciduous trees shall be expected to reach a height of 20 feet within ten years after planting. Evergreens shall be a minimum of eight (8') feet in height at the time of planting.

5. Where a Nonresidential use is proposed adjacent to a Residential District or use, the lot line(s) with the Residential District(s) or use(s) shall be screened from the residential district(s) or use(s) by means of plantings or maintenance of trees of a species common to the area and appropriate for screening, spaced to minimize visual intrusion, and providing an opaque year-round visual buffer between uses. Such plantings shall be provided and maintained by the owner of the property used for nonresidential purposes. No part of any building or structure or paved space intended for or used as a parking area may be located within the buffer area.

6. Uses in an Employment Sub-district that abut Residential, Commercial and Mixed-Use Sub-districts or uses shall provide for screening acceptable to the Approving Authority.

K. On-Site Open Space.

1. Open space should serve as a central organizing element within overall site design to encourage public gathering of groups of people and to promote a pedestrian friendly and visually appealing environment.

2. A variety of public gathering spaces and open spaces incorporating both landscaping and “hard-scaping,” such as plazas and seating areas, shall be provided in locations where they complement adjacent uses, with special focus on corner landscape treatments and courtyard entries. Open space areas within the Development Project should be visible to public view where practical.

L. Service and Loading Areas.

1. Service and loading areas shall not face an open space or public street directly, and shall be screened from streets and abutting properties to the greatest extent possible through the provision of architectural screening, landscaping, and fencing. Chain link fencing is not acceptable for screening purposes.

2. Trash receptacles should be located and designed for ease of trash service to the site. Trash receptacles may be located in the garage of buildings or in free-standing trash houses. Trash houses shall be located and architecturally designed to minimize their aesthetic impacts.

M. Signage.

1. Signs within the LBEDD shall be governed, without limitation, by Section 12A of the General Ordinance, Signs and Billboard.

2. Signs within the LB-RD and LB-RMF Sub-districts shall be governed, without limitation, by Section [12A-53](#) of the General Ordinance, Signs in Residential Districts.

3. Signs within the LB-C, LB-E, LB-MU and LB-WMU Sub-districts shall be governed, without limitation, by Section [12A-54](#) of the General Ordinance, On-Premise Signs in Non-Residential Districts.

N. Exterior Lighting.

1. Outdoor lighting shall be designed to ensure safety, functionality and convenience through illumination of the site while conserving energy and limiting the visibility of the lighting outside the site. Adequate lighting shall be provided for doorways to residential and mixed-use buildings including residential uses.

2. Lighting fixtures should be scaled appropriately to their function such that lighting fixtures serving sidewalks are pedestrian scale, while lighting fixtures serving vehicular streets and parking areas may be taller.

3. Fixtures that produce glare or that spill light to adjoining sites are prohibited. Except as provided herein, all outdoor lighting shall comply with the following shielding provision: Direct light emitted by exterior luminaire shall not emit directly by a lamp, off a reflector, or through a refractor above a horizontal plane (90 degrees) through the fixture's lowest light-emitting part.

4. Up-lighting is permitted when used as follows:

a. To light a primary entrance, when the lighting fixture is wall-mounted under an architectural element (e.g., roofs over walkways/entries or overhanging, non-translucent eaves) so this up-light is captured.

b. To light local, state, or national flags, when no more than two light fixtures per flagpole are used, with an equivalent total lumen maximum of a 150 watt bulb (incandescent). The fixtures must be shielded such that the lamp is not visible outside of a fifteen-foot radius.

5. In a LB-RD Sub-district no outdoor floodlighting or decorative lighting, except lighting primarily designed to illuminate walks, driveways, doorways, outdoor living areas or outdoor recreational facilities, and except temporary lighting in use for

no longer than a four-week period in any calendar year, shall be permitted. Any permanent lighting permitted by the preceding sentence shall be continuous, indirect and installed in a manner that will prevent direct light from shining onto any street or adjacent property or the night sky.

6. All light fixtures shall emit a steady and constant light and shall not emit a flashing or irregular light, unless specifically required by Federal, State, or municipal authorities.

7. Energy efficient lighting with timers or motion sensors is strongly encouraged, and may be required as a condition of special permit or Site Plan Approval.

O. Renovation.

1. On a building proposed for renovation pursuant to this Ordinance, distinctive architectural features should be restored, and elements that cover up original details should be removed. Architectural features that are important to preserve include, but are not limited to: roof shape and height, structural framework, window size and symmetry, transom windows, columns on the façade, the cornice, sign band, and other details including medallions and decorative panels. Architectural features that should be removed include: siding that covers original brick, metal or wood siding and detail; and shed roofs or false fronts over first floor shop fronts, which may be replaced with awnings or traditional building sign bands. Original copper flashing on roofs and cornices should be restored where feasible.

2. On a building proposed for renovation pursuant to this Ordinance, the covering or removal of original façade elements (columns, pilasters, fenestration, arches, lintels, or decorative elements) is discouraged, and may be prohibited by the Approving Authority. Proposals for a façade renovation that uses a particular historical style should utilize accurate elements and materials of that style.

Appendix C: Definitions

The Definitions are subject to the following rules of interpretation. Except when the context clearly indicates or requires otherwise:

- Words used or defined in one tense or form shall include other tenses and derivative forms.
- Words in the singular number shall include the plural number and words in the plural number shall include the singular number.
- The masculine gender shall include the feminine and the feminine gender shall include the masculine.
- The word "shall" is mandatory when applied to an applicant or other individual.
- The word "may" is permissive.
- The word "person" includes individuals, firms, corporations, associations, trusts and any other similar entities or groupings of such entities.
- The word "building" shall be construed as though followed by the words "or structure or part or parts thereof."
- The words "built" and "erected" shall each contain the other and shall include the words "constructed," "reconstructed," "altered," "enlarged," "moved," and any others of like significance.
- The words "occupied" or "used" shall be considered as though followed by the phrase "or intended, arranged, or designed to be used or occupied."
- In the case of any difference of meaning or implication between the text of this Ordinance and any caption, number, illustration or table, the text shall control, unless otherwise specifically noted herein. Terms and words not defined herein but defined in the Commonwealth of Massachusetts State Building Code shall have the meanings given therein unless a contrary intention clearly appears. Words not defined in either place shall have the meaning given in the most recent edition of Webster's Unabridged Dictionary.

Definitions

Administrator of the Approving Authority – the Approving Authority's designated administrative entity for purposes as set forth in this Ordinance.

Americans with Disabilities Act or "ADA" – the Americans with Disabilities Act of 1990, as amended, is a law that prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, State and local government services, public accommodations, commercial facilities, and transportation.

Applicant – the person or persons, including a corporation or other legal entity, who applies for issuance of a permit subject to the provisions of this Ordinance. The Applicant must own, or be the beneficial owner of, all the land included in the proposed site, or

have authority from the owner(s) to act for him/her/it/them or hold an option or contract duly executed by the owner(s) and the Applicant giving the latter the right to acquire the land to be included in the site.

Approving Authority – the Planning Board of the City of Everett.

Attached Dwelling Development – a row of at least three one-family attached dwelling units whose sidewalls are separated from other dwelling units by a fire wall or walls. Each unit in the row house or townhouse may be owned by a separate owner and shall have its own at-grade access.

Business - a corporation, sole proprietorship, partnership, limited liability company or any other organization formed for the purpose of carrying on a commercial enterprise.

By-Right Development Project – a Development Project allowable under this Ordinance without recourse to a special permit, variance, zoning amendment, or other form of zoning relief. A Development Project that is subject to the Site Plan Review requirement of this Ordinance shall be considered a By-Right Development Project.

Certificate of Occupancy – a statement signed by the Building Commissioner setting forth either that a building or structure complies with this chapter or that a building, structure or lot of land may lawfully be employed for specified uses, or both.

Cinema – a theater designed and constructed for the primary intended purpose of showing films or movies for a fee.

Convenience Store – retail stores of 5,000 square feet or less in gross floor area, which carry a range of merchandise oriented to convenience and travelers' shopping needs. These stores may be part of a service station or an independent facility.

Determination of Applicability – a written opinion of the Building Commissioner in response to petition of an Applicant regarding the applicable Use Category and permit requirements for a proposed or potential Development Project.

Development Project – a Project undertaken pursuant to this Ordinance that requires Site Plan Approval.

District Ordinance – section 30 of the City of Everett Zoning Ordinance, inclusive.

Dwelling Unit – a residence, including studio units. Each residence shall contain a living area, bathroom and, except in studio units, one or more bedrooms, and shall contain a kitchen area or combination kitchen/living area.

Dwelling, Attached – a one-family dwelling unit in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit and each unit is separated from any other unit by one or more common fire-resistant walls. Attached dwellings are also referred to as "townhouses," "townhouse dwellings" or "row houses."

Dwelling, Single Family – a residence on a single lot.

Dwelling, Two-Family – a house on a single lot containing two dwelling units. This definition includes residential buildings containing two Dwelling Units adjoining side by side, in which no part of one dwelling unit is over any part of the other dwelling unit.

Dwelling, Three-Family – a residential building containing three Dwelling Units. The individual Dwelling Units may but need not be located on separate lots.

Dwelling, Multi-Family – a residential building containing four or more dwelling units designed for occupancy by the same number of families as the number of dwelling units. A Mixed-Use Development Project may include Multi-Family Dwelling Units.

Fast Order Food Establishment – an establishment whose primary business is the sale of food for consumption on or off the premises which is primarily intended for immediate consumption rather than for use as an ingredient or component of meals, available upon a short waiting time and packaged or presented in such a manner that it can be readily eaten inside or outside the premises where it is sold.

Fixed Public Transportation Stop – a stop on a fixed-location public transit route operated by the MBTA provided that for the purposes of this Ordinance such stop shall be located within thirty (30) feet of weather protected seating and provisions for bicycle parking.

Floor Area Ratio or "FAR" – the result of dividing the gross floor area of the building or buildings on a lot by the total area of the lot, expressed as a decimal number.

Frontage –

- (a) The distance measured as a straight line along the street between the intersection of the street boundary and the lot lines or along the curve of the street and the intersection of the street boundary and the lot lines.

- (b) The distance measured parallel to the intersection of the street boundary and the lot lines at a distance of twenty-five (25) feet measured on a line perpendicular to the line between the intersection of the street boundaries and the lot lines.

Game – a banking or percentage game played with cards, dice, tiles, dominoes or an electronic, electrical or mechanical device or machine played for money, property, checks, credit or any other representative of value which has been approved by the commission.

Gaming – dealing, operating, carrying on, conducting, maintaining or exposing any game for pay.

Gaming Area – the portion of the premises of a gaming establishment in which or on which gaming is conducted.

Gaming Establishment – the premises approved under a category 1 gaming license issued by the Massachusetts Gaming Commission under G.L. c.23K which includes a gaming area and any other nongaming structures or uses which may include, but shall not be limited to, hotels, restaurants, retail, bars, meeting areas, health club, spa, indoor or outdoor entertainment areas, live entertainment, active or passive recreation areas, waterfront improvements or other uses allowed by-right or by special permit pursuant to this Ordinance.

Gasoline Station – a building, facility or part thereof with at least one and no more than two service bays whose chief activity is the selling of gasoline, oil and related products for motor vehicles and the provisions for lubricating service or auto repair limited to: tire service and repair (but not recapping or re-grooving), replacement of miscellaneous parts and minor adjustments to parts of the motor not involving removal of the head, crankcase or motor.

General Ordinances – the Revised Ordinances of the City of Everett, Massachusetts, 2007, as amended.

Gross Square Feet (“GSF”) – the measure of floor area of space on all floors inclusive of heated basements, hallways, mechanical rooms, storage space and other miscellaneous space not exclusively occupied by a single tenant or occupant, measured from the exterior faces of exterior walls. Gross floor area does not include covered walkways, open roofed-over areas, porches, exterior terraces or steps, chimneys, roof overhangs, parking garages and unheated basements.

Gun Shop – the premises of any federally licensed firearms dealer where the primary business or commercial enterprise conducted on the premises is the purchase or sale of firearms or firearm ammunition.

Height – the vertical distance of the highest point of the roof beam in the case of a flat roof and of the mean level of the highest gable of a sloping roof as measured from the mean ground level at all elevations of a building.

Home Occupation – the use of a room or rooms in a dwelling or building accessory thereto by a person resident on the premises as an office, studio, or workroom for a home occupation provided that:

- i. Such use is clearly incidental and secondary to the use of the premises for dwelling purposes, with such use confined to not over one-third of the total floor area occupied by each family, and
- ii. Not more than one employee other than a resident of the premises is regularly employed thereon in connection with such use, and
- iii. No offensive noise, vibration, smoke, dust, odor, heat or glare is produced, and
- iii. There is no exterior display and no exterior sign, except for an announcement card or sign of not more than two (2) square feet in area, and
- iv. There is no exterior storage of material or equipment (including the exterior parking of more than one commercial vehicle) and no other exterior indication of such use or variation from the residential character of the premises.

Hotel – an establishment that provides temporary lodging for transient guests in a building greater than three (3) stories in height and having a common entrance or entrances; usually includes a public dining room; and may provide facilities for entertainment and various personal services for guests, but not including a boardinghouse, lodging house or rooming house.

Identified Infrastructure Improvements – street network, open space and pedestrian improvements conceptually designed and recommended in the Lower Broadway Master Plan, as amended.

Level of Service (“LOS”) – a measure of the performance of an intersection as determined according to criteria set forth by the most recent edition of the manual of the Transportation Research Board of the National Research Council.

Lot – a parcel of land under one (1) sole or undivided ownership separate from that of any adjoining lots. A corner lot for the purposes of this Ordinance is any lot which occupies the interior angle at the intersection of two (2) street lines which make an angle of more than forty-five (45) degrees and less than one hundred thirty-five (135) degrees with each other. The Applicant

shall, for the purposes of this Ordinance, have the privilege of calling either street lot line the front, without reference to the building arrangement.

License – a license issued by the Massachusetts Gaming Commission under G.L. c.[23K](#) that permits the licensee to operate a gaming establishment with table games and slot machines.

Lower Broadway Master Plan or “LBMP” – the public plan of this name dated February 26, 2013 on file with the Everett Department of Planning and Development, prepared by Sasaki Associates, Inc. with and on behalf of the City of Everett to guide and inform land use policy and public improvements in the Lower Broadway Economic Development District.

Luminaire – a complete lighting system, including a lamp or lamps and a fixture.

Marina – a boat basin that has docks, slips, supplies and repair facilities for small boats.

Massachusetts Architectural Access Board or “MAAB” – a regulatory agency within the Massachusetts Office of Public Safety charged by 521 CMR 1.00 with developing and enforcing regulations designed to make public buildings accessible to, functional for, and safe for use by persons with disabilities.

Membership Club – a noncommercial social, sports or fraternal association or organization which is used exclusively by members and their guests.

Motel – an establishment that provides temporary lodging for transient guests in a building that is three (3) stories in height or less and in which the rooms are directly accessible from an outdoor parking area, but not including a boardinghouse, lodging house or rooming house.

Mixed Use Development Project – a Development Project combining residential use and commercial use, or multiple different commercial uses, on a single lot or in a single building.

Neighborhood Market – A pedestrian-oriented grocery/specialty market store offering food products packaged for preparation and consumption away from the site of the store and oriented to the daily shopping needs of surrounding residential areas. Neighborhood markets are less than 15,000 square feet in size and operate eighteen (18) or fewer hours per day. Neighborhood markets may include deli or beverage tasting facilities that are ancillary to the market/grocery portion of the use.

Non-gaming vendor – a supplier or vendor including, but not limited to, a construction company, vending machine provider, linen supplier, garbage handler, maintenance company, limousine service company, food purveyor or supplier of alcoholic beverages, which provides goods or services to a gaming establishment or gaming licensee, but which is not directly related to games.

Office – a place for the regular performance of business transactions and services, generally intended for administrative, professional and clerical activities, including a medical or dental office or health clinic.

Open Space – an area of land such as a square, green, park, and linear park which is located and designed for access primarily or exclusively by residents, employees and/or patrons of a Development Project, including provision for access by pedestrians and/or bicyclists for passive or active recreation.

Open Space, Public – an area of land such as a square, green, neighborhood park, pocket park, and linear park which is located and designed for public access by pedestrians and/or bicyclists for passive or active recreation.

Parties in Interest – the Applicant, abutters, owners of land directly opposite on any public or private street or way, and abutters to the abutters within three hundred feet of the property line of the Applicant as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town, the Everett Planning Board, and the planning board of every abutting city or town.

Priority Development Site – a location shown on the Zoning Map as having been designated as a Priority Development Sites in accordance with G.L. c.[43D](#).

Project – construction or renovation undertaken pursuant to this Ordinance that may be authorized by Administrative Site Plan Review, and that does not require Site Plan Review. A Project is subject to different procedural requirements than a Development Project, but in all other respects is subject to the same performance standards as would be applicable to a Development Project.

Recreational Use – the principal use or intended principal use of land or structures for relaxation, entertainment, amusement, sports, or the like, whether on a fee or non-fee basis, but not including a cinema.

Restaurant – any business establishment principally engaged in serving food, drink, or refreshments, whether prepared on or off the premises provided, however, that drive through windows are not allowed.

Retail Sales and Service – business establishments selling goods and/or services to customers on-site, generally for end use personal, business or household consumption. A reasonable amount of storage of said goods shall also be assumed to be an integral part of retail use.

Service and repair stations for automobile or light truck, but not including gasoline stations – an establishment where passenger vehicles are serviced and repaired, including repair or rebuilding of engines, routine maintenance services such as oil changes, repairs to exhaust systems, and other general repair but not including auto body work. Such buildings may be required to be sound-insulated and designed to protect the neighborhood from vehicle exhaust and other by-products of vehicle servicing.

Setback – the shortest horizontal distance from the front lot line to the nearest building wall or building part except as otherwise noted.

Site Plan – a plan depicting a proposed Development Project which is submitted to the Approving Authority for its review and approval in accordance with the provisions of this Ordinance.

Site Plan Approval - the Approving Authority's authorization for a proposed Development Project in accordance with this Ordinance after the conduct of a Site Plan Review.

Site Plan Approval, Administrative – the authorization for a proposed Project by the Administrator of the Approving Authority in accordance with this Ordinance.

Site Plan Review - the Approving Authority's review of a proposed Development Project in accordance with this Ordinance.

Special Permit – a use of a structure or lot or any action upon a premises which may be permitted under this Ordinance only upon application to and the approval of the Special Permit Granting Authority.

Special Permit Granting Authority or "SPGA" – the Planning Board of the City of Everett unless as otherwise specified.

Story – the portion of a building or structure which is between any floor and the floor or roof above. A cellar, basement or parking area shall be deemed to be a story only if a) more than half of the clear height is above the average elevation of the finished lot grade, OR, b) more than five feet of the front elevation is above the grade at the front of the structure. Steeples and projections used or intended to be used exclusively for utility service or access to the roof shall not be deemed a story. An attic used for storage or structural support shall not be deemed to be a story if unfinished and not used for human occupancy.

Street – any existing street, square, lane, court or way set aside as a permanent right-of-way for street purposes, and including any such right-of way as may be created after the enactment of this Ordinance provided that it is at least forty (40) feet or more in width and of adequate width, grade and construction to serve its intended purpose in the reasonable judgment of the Approving Authority. For the purposes of this Ordinance, the Streets located within the LBEDD have been classified based on their function to the vehicular and pedestrian transportation network, as follows:

Street, Primary – this category includes Broadway, Bow Street and Beacham Street.

Street, Secondary – this category includes Bartlett Street, Orient Avenue, Lynde Street and Robin Street.

Street, Future Secondary – this category includes Charlton Street, Bernard Avenue, and Factory Street.

Street, Tertiary – this category includes Hadley Court, Dane Street, Langdon Street, Jacobs Place, Courtland Street, Thorndike Street and Mystic Street.

Street, Future Tertiary – this category includes Bowdoin Street.

Street, Closed/Modified – this category includes Horizon Way (f/k/a Chemical Lane), Ashland Street, Washburn Street, Jerome Court, Gardner Court and Simonelli Place.

Sub-district – a specific and geographically defined area of land within the LBEDD that is subject to specific requirements for allowable uses or dimensional requirements that may differ from the requirements for allowable uses or dimensional requirements in other specific and defined areas within the LBEDD.

Tattoo Studio – a business that marks the skin with any indelible design, letter, scroll figure, symbol or any other mark that is placed by the aid of needles or other instruments upon or under the skin with a substance that will leave color under the skin and that cannot be removed, repaired or reconstructed without a surgical procedure. A Tattoo Studio may or may not be operated in conjunction with a Body Piercing Studio.

Underlying Zoning – the zoning requirements adopted pursuant to G.L. c. [40A](#) that are otherwise applicable to the geographic area in which an Overlay Zoning District is located, as said requirements may be amended from time to time.

Use, Accessory – an Accessory Use is a use subordinate to the Principal Use on the same lot or in the same structure and serving a purpose customarily incidental to the Principal Use, and which does not, in effect, constitute conversion of the Principal Use of the lot, site or structure to a use not otherwise permitted in the LBEDD.

Use, Principal – the main or primary purpose for which a structure, building, or lot is designed, arranged, licensed, or intended, or for which it may be used, occupied, or maintained.

Yard, Front - the shortest distance measured from the closest point of the building to the nearest point of the intersection of the street boundary and the lot lines.

Yard, Rear – the shortest distance measured from the closest point of the building to the nearest point of a lot boundary line which is not considered a front or side yard boundary line.

Yard, Side – the shortest distance measured from the closest point of the building to the nearest point of a lot boundary line which is not designated a front or rear yard boundary line.

Zoning Map – the Zoning Map of the City of Everett, as amended.

Zoning Ordinance – the Zoning Ordinance of the City of Everett, also referred to as Appendix A of the General Ordinances, as amended.

(End of Section)

[Mobile Version](#)